

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549  
Form 10-K**

(Mark One)

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

**For the fiscal year ended January 31, 2021**

or

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

**For the transition period from to  
Commission File Number 001-34956**

**CONN'S, INC.**

(Exact name of registrant as specified in its charter)

**Delaware**

(State or other jurisdiction of incorporation or organization)

**06-1672840**

(I.R.S. Employer Identification Number)

**2445 Technology Forest Blvd., Suite 800, The Woodlands, TX**

(Address of principal executive offices)

**77381**

(Zip Code)

Registrant's telephone number, including area code: **(936) 230-5899**

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

Title of Each Class	Trading Symbol	Name of Each Exchange on Which Registered
<b>Common Stock, par value \$0.01 per share</b>	<b>CONN</b>	<b>NASDAQ Global Select Market</b>

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

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

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

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

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

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

Large accelerated filer	<input type="checkbox"/>	Accelerated filer	<input checked="" type="checkbox"/>
Non-accelerated filer	<input type="checkbox"/>	Smaller reporting company	<input type="checkbox"/>
		Emerging growth company	<input type="checkbox"/>

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

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

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

The aggregate market value of the voting and non-voting common equity held by non-affiliates as of July 31, 2020, was \$140.4 million based on the closing price of the registrant's common stock as reported on the NASDAQ Global Select Market on such date.

There were 29,314,850 shares of common stock, \$0.01 par value per share, outstanding on March 22, 2021.

**DOCUMENTS INCORPORATED BY REFERENCE**

Certain information required to be furnished pursuant to Part III of this Form 10-K is set forth in, and is hereby incorporated by reference herein from, Conn's definitive proxy statement for its 2021 Annual Meeting of Stockholders, to be filed by Conn's with the Securities and Exchange Commission ("SEC") pursuant to Regulation 14A within 120 days after January 31, 2021.

**CONN'S INC. AND SUBSIDIARIES**  
**FORM 10-K**  
**FOR THE FISCAL YEAR ENDED JANUARY 31, 2021**  
**TABLE OF CONTENTS**

	<b>Page No.</b>
<b>PART I</b>	
ITEM 1. <a href="#">BUSINESS</a>	<a href="#">3</a>
ITEM 1A. <a href="#">RISK FACTORS</a>	<a href="#">12</a>
ITEM 1B. <a href="#">UNRESOLVED STAFF COMMENTS</a>	<a href="#">33</a>
ITEM 2. <a href="#">PROPERTIES</a>	<a href="#">33</a>
ITEM 3. <a href="#">LEGAL PROCEEDINGS</a>	<a href="#">33</a>
ITEM 4. <a href="#">MINE SAFETY DISCLOSURES</a>	<a href="#">34</a>
<b>PART II</b>	
ITEM 5. <a href="#">MARKET FOR REGISTRANT'S COMMON EQUITY, AND RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES</a>	<a href="#">35</a>
ITEM 6. <a href="#">SELECTED FINANCIAL DATA</a>	<a href="#">37</a>
ITEM 7. <a href="#">MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS</a>	<a href="#">39</a>
ITEM 7A. <a href="#">QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK</a>	<a href="#">58</a>
ITEM 8. <a href="#">FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA</a>	<a href="#">59</a>
ITEM 9. <a href="#">CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE</a>	<a href="#">96</a>
ITEM 9A. <a href="#">CONTROLS AND PROCEDURES</a>	<a href="#">96</a>
ITEM 9B. <a href="#">OTHER INFORMATION</a>	<a href="#">99</a>
<b>PART III</b>	
ITEM 10. <a href="#">DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE</a>	<a href="#">99</a>
ITEM 11. <a href="#">EXECUTIVE COMPENSATION</a>	<a href="#">99</a>
ITEM 12. <a href="#">SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS</a>	<a href="#">99</a>
ITEM 13. <a href="#">CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS AND DIRECTOR INDEPENDENCE</a>	<a href="#">99</a>
ITEM 14. <a href="#">PRINCIPAL ACCOUNTANT FEES AND SERVICES</a>	<a href="#">99</a>
<b>PART IV</b>	
ITEM 15. <a href="#">EXHIBITS AND FINANCIAL STATEMENT SCHEDULES</a>	<a href="#">100</a>
<a href="#">EXHIBIT INDEX</a>	<a href="#">100</a>
ITEM 16. <a href="#">FORM 10-K SUMMARY</a>	<a href="#">105</a>
<a href="#">SIGNATURES</a>	<a href="#">106</a>

This Annual Report on Form 10-K includes our trademarks such as “Conn’s,” “Conn’s HomePlus,” “YE\$ YOU’RE APPROVED,” “YES Money,” “YE\$ Money,” “YES Lease,” “YE\$ Lease,” and our logos, which are protected under applicable intellectual property laws and are the property of Conn’s, Inc. This report also contains trademarks, service marks, trade names and copyrights of other companies, which are the property of their respective owners. Solely for convenience, trademarks and trade names referred to in this Annual Report may appear without the ® or TM symbols, but such references are not intended to indicate, in any way, that we will not assert, to the fullest extent under applicable law, our rights or the rights of the applicable licensor to these trademarks and trade names.

References to “we,” “our,” “us,” “the Company,” “Conn’s” or “CONN” refer to Conn’s, Inc. and, as apparent from the context, its consolidated bankruptcy-remote variable-interest entities (“VIEs”), and its wholly-owned subsidiaries.

## PART I

### Forward-Looking Statements

This report contains forward-looking statements within the meaning of the federal securities laws, including but not limited to, the Private Securities Litigation Reform Act of 1995, that involve risks and uncertainties. Such forward-looking statements include information concerning our future financial performance, business strategy, plans, goals and objectives. Statements containing the words “anticipate,” “believe,” “could,” “estimate,” “expect,” “intend,” “may,” “plan,” “project,” “should,” “predict,” “will,” “potential,” or the negative of such terms or other similar expressions are generally forward-looking in nature and not historical facts. Such forward-looking statements are based on our current expectations. We can give no assurance that such statements will prove to be correct, and actual results may differ materially. A wide variety of potential risks, uncertainties, and other factors could materially affect our ability to achieve the results either expressed or implied by our forward-looking statements, including, but not limited to: general economic conditions impacting our customers or potential customers; our ability to execute periodic securitizations of future originated customer loans on favorable terms; our ability to continue existing customer financing programs or to offer new customer financing programs; changes in the delinquency status of our credit portfolio; unfavorable developments in ongoing litigation; increased regulatory oversight; higher than anticipated net charge-offs in the credit portfolio; the success of our planned opening of new stores; expansion of our e-commerce business; technological and market developments and sales trends for our major product offerings; our ability to manage effectively the selection of our major product offerings; our ability to protect against cyber-attacks or data security breaches and to protect the integrity and security of individually identifiable data of our customers and employees; our ability to fund our operations, capital expenditures, debt repayment and expansion from cash flows from operations, borrowings from our Revolving Credit Facility (as defined herein); proceeds from accessing debt or equity markets; the effects of epidemics or pandemics, including the COVID-19 outbreak; the impact of the restatement and correction of the Company’s previously issued financial statements; and other risks detailed in Part I, Item 1A, Risk Factors, of this Annual Report on Form 10-K and other reports filed with the SEC. If one or more of these or other risks or uncertainties materialize (or the consequences of such a development changes), or should our underlying assumptions prove incorrect, actual outcomes may vary materially from those reflected in our forward-looking statements. You are cautioned not to place undue reliance on these forward-looking statements, which speak only as of the date of this report. We disclaim any intention or obligation to update publicly or revise such statements, whether as a result of new information, future events or otherwise, or to provide periodic updates or guidance. All forward-looking statements attributable to us, or to persons acting on our behalf, are expressly qualified in their entirety by these cautionary statements.

### ITEM 1. BUSINESS.

#### Company Overview

Conn’s, Inc., a Delaware corporation, is a holding company with no independent assets or operations other than its investments in its subsidiaries. References to “we,” “our,” “us,” “the Company,” “Conn’s” or “CONN” refer to Conn’s, Inc. and, as apparent from the context, its subsidiaries. Conn’s is a leading specialty retailer that offers a broad selection of quality, branded durable consumer goods and related services in addition to proprietary credit solutions for its core credit-constrained consumers. We operate an integrated and scalable business through our retail stores and website. Our complementary product offerings include furniture and mattresses, home appliances, consumer electronics and home office products from leading global brands across a wide range of price points. Our credit offering provides financing solutions to a large, under-served population of credit-constrained consumers who typically have limited credit alternatives. We provide customers the opportunity to comparison shop across brands with confidence in our competitive prices as well as affordable monthly payment options, next day delivery and installation in the majority of our markets and product repair service. We believe our large, attractively merchandised stores and credit solutions offer a distinctive value proposition compared to other retailers that target our core customer demographic.

Our fiscal year ends on January 31. References to a fiscal year refer to the calendar year in which the fiscal year ends.

#### Operating Segments

We operate two reportable segments: retail and credit. Information regarding segment performance is included in Part II, Item 7., *Management’s Discussion and Analysis of Financial Condition and Results of Operations*, and Part II, Item 8. in Note 14, *Segment Information*, of the Consolidated Financial Statements of this Annual Report on Form 10-K.

**Retail Segment.** We began as a small plumbing and heating business in 1890 and started selling home appliances to the retail market in 1937 through one store located in Beaumont, Texas. As of January 31, 2021, we operated 146 retail stores located in 15 states. Our stores typically range in size from 25,000 to 50,000 square feet and are predominantly located in areas densely populated by our core customers.

We utilize a merchandising strategy that offers a wide range of quality, branded products across a broad spectrum of price points. This wide selection allows us to offer products and price points that appeal to the majority of our core consumers. Our primary retail product categories include:

- Furniture and mattress, including furniture and related accessories for the living room, dining room and bedroom, as well as both traditional and specialty mattresses. We offer brands such as Corinthian, Catnapper, Serta and Simmons Beautyrest.
- Home appliance, including refrigerators, freezers, washers, dryers, dishwashers and ranges. We offer brands such as Samsung, LG, General Electric, and Frigidaire.
- Consumer electronics, including LED, OLED, QLED, 4K Ultra HD, 8K televisions, gaming products, next generation video game consoles and home theater and portable audio equipment. We offer brands such as Samsung, LG, Sony, Bose and Microsoft Xbox.
- Home office, including computers, printers and accessories. We offer brands such as HP, Apple, and Microsoft.

We strive to ensure that our customers' shopping experience at Conn's is equal to, or exceeds, their experience with other providers of durable consumer goods targeting our core customer demographic. We offer a high level of customer service through our commissioned and trained sales force, next day delivery and installation in the majority of our markets and product repair or replacement services for most items sold in our stores. We also sell and offer our services through our website. Flexible payment alternatives offered through our proprietary in-house credit programs and third-party financing alternatives provide our customers the ability to make aspirational purchases. We believe our extensive brand and product selection, competitive pricing, financing alternatives and supporting services, combined with our customer service-focused store, delivery and service associates make us an attractive alternative to appliance and electronics superstores, department stores and other national, regional, local and internet retailers. We believe our attractive credit programs generate strong customer loyalty and repeat business.

**Credit Segment.** Our in-house consumer credit programs are an integral part of our business and are a major driver of customer loyalty. We believe our in-house credit programs are a significant competitive advantage that we have developed over our 50-plus years in providing credit. We have developed proprietary underwriting models that provide standardized credit decisions, including down payment, limit amounts and credit terms, based on customer risk and income level. We use our proprietary auto-decision algorithms as well as in-depth evaluations of creditworthiness performed by qualified in-house credit underwriters to complete all credit decisions. In order to improve the speed and consistency of underwriting decisions, we continually review our auto-decision algorithms. Additionally, we provide access to alternative financing options to a wider range of consumers through our relationship with third-party payment solution providers. These third parties manage their own respective underwriting decisions and are responsible for their own collections. Our in-house credit programs and access to third-party payment solutions allows us to provide credit to a large and under-served customer base and differentiates us from our competitors that do not offer similar programs.

Our goal is to provide every customer that enters our stores or applies for credit on our website an affordable monthly payment option. Currently, we make the following payment options available to our customers based on a review of their credit worthiness:

- For customers with credit scores that are typically above 650, we offer special no-interest or lower interest option financing programs on select products through a Conn's branded revolving credit card from Synchrony or we may offer an in-house financing program;
- For customers with credit scores that are typically between 550 and 650, we offer our proprietary in-house financing program, which is a fixed term, fixed payment installment and consumer loan contract; and
- For customers that do not qualify for our credit programs, we offer a lease-to-own payment option through an arrangement with our third-party lease-to-own providers.

We continuously evaluate alternative financing programs that may give us the ability to provide more customers with the ability to purchase the products and services we offer.

Our retail business and credit business operate independently from each other. The retail segment is not involved in credit approval decisions or collections. Decisions to extend consumer credit to our retail customers under our in-house programs are made by our internal credit underwriting department. In addition to underwriting, we manage the collection process of our in-house consumer credit portfolio. Sales financed through our in-house credit programs are secured by the products purchased, which we believe gives us a distinct advantage over other creditors when pursuing collections. Also, the products we sell and finance are typically necessities for the home.

We mitigate credit risk by originating to a substantial number of customers who have purchased from us in the past. These repeat customers have historically exhibited a lower probability of default than new customers. For fiscal year 2021 and 2020, 50% and 49%, respectively, of our originations were to repeat customers who financed a purchase through our in-house credit programs more than five months after financing an initial purchase through our in-house credit programs. As of January 31, 2021 and 2020, 60% and 60%, respectively, of balances due under our in-house credit programs were from repeat customers who have previously financed with us.

### **Industry and Market Overview**

The products we sell are typically considered home necessities, used by our customers in their everyday lives. Many factors influence sales, including consumer confidence, economic conditions, and household formations. We also benefit from the introduction of new products and technologies driving consumers to upgrade existing appliances, electronics and home office products.

As of January 31, 2021, we operated 71 of our 146 stores in Texas. According to the U.S. Department of Commerce's Bureau of Economic Analysis (the "Bureau of Economic Analysis"), Texas was the second largest state by nominal GDP in 2020. In addition, from calendar year 2015 to 2020, Texas experienced population growth of 6.9% compared to the United States ("U.S.") population growth of 2.7% over the same period.

**Furniture and Mattress.** According to the Bureau of Economic Analysis, personal consumption expenditures for household furniture and mattresses were \$152.2 billion for calendar year 2020, an increase of 14.5% from \$132.9 billion in 2019. The household furniture and mattress market is highly fragmented with sales coming from manufacturer-owned stores, independent dealers, furniture centers, specialty sleep product stores, national and local chains, mass market retailers, department stores, internet retailers, and, to a lesser extent, home improvement centers, decorator showrooms, wholesale clubs and catalog retailers. For fiscal year 2021, we generated 33.2% of total product sales from the sale of furniture and mattresses. The furniture and mattress category generated our highest individual product category gross margin. Given our ability to provide customer financing and next day delivery, we believe that we have strong competitive advantages and significant growth opportunities in this market and expect to continue to grow the balance of sale of our furniture and mattress product category. Product design, innovation and technological advancements have been key drivers of sales in this market.

**Home Appliance.** According to the Bureau of Economic Analysis, personal consumption expenditures for home appliances were \$63.4 billion for calendar year 2020, an increase of 7.8% from \$58.8 billion in 2019. Major household appliances, such as refrigerators and washer/dryers, accounted for 83.0% of this total at \$52.6 billion in 2020. For fiscal year 2021, we generated 40.2% of total product sales from the sale of home appliances. The retail appliance market is large and concentrated among a few major dealers, with sales coming primarily from home improvement centers, large appliance and electronics superstores, national chains, warehouse clubs, department stores, regional chains, local dealers/single-store operators, manufacturer-direct websites and internet retailers.

Key drivers of sales in the appliance market include product design and innovation, brand and quality. In addition, there was an increase in the demand for appliances during the COVID-19 pandemic as a result of stay at home orders. We carry products with features that include large-capacity, high-efficiency laundry appliances, refrigerator design innovation, technological advancements such as smart home connectivity and variations on these features from leading brands.

**Consumer Electronics and Home Office.** According to the Bureau of Economic Analysis, electronics spending was \$295.6 billion for calendar year 2020, an increase of 13.4% from \$260.7 billion for calendar year 2019. Televisions accounted for \$35.6 billion of the overall personal consumption expenditures, versus \$34.8 billion in the prior year. Personal computers and peripheral equipment accounted for \$68.7 billion of the overall expenditures, compared to \$57.3 billion in the prior year. For fiscal year 2021, we generated 17.8% of total product sales from the sale of consumer electronics and 6.7% of total product sales from the sale of home office products. The electronics market is highly fragmented with sales coming from large appliance and electronics superstores, national chains, warehouse clubs, regional chains, local dealers/single-store operators, manufacturer-direct websites, manufacturer-direct stores, consumer electronics departments of selected department and discount stores and internet retailers.

Technological advancements and the introduction of new products largely drive demand in the electronics market. Historically, industry growth has been fueled primarily by the introduction of products that incorporate new technologies and advances in existing technologies, including OLED, QLED, 4K Ultra HD, 8K televisions, gaming products, next generation video game consoles, home theater and touch-screen computers. New technologies offer better clarity and quality of video, increased computer processing speed, availability of additional 4K content and other significant advantages.

**Consumer Credit.** Based on data from the Federal Reserve System, estimated total consumer credit outstanding, which primarily excludes loans secured by real estate, was \$4.2 trillion as of December 31, 2020, remaining flat from \$4.2 trillion at December 31, 2019. Consumers obtain credit from banks, credit unions, finance companies and non-financial businesses that

offer credit, including retailers. The credit obtained takes many forms, including revolving (e.g., credit cards) and fixed-term (e.g., automobile loans), and at times is secured by the products being purchased.

**Competition.** Our competitive strength is based on offering financing options, including our proprietary in-house credit programs, to our core credit-constrained customers, enhanced customer service and customer shopping experience through our unique sales force training and product knowledge, next day delivery capabilities, low payment guarantee, and product repair service. Currently, we compete against a diverse group of retailers, including national mass merchants such as Wal-Mart, Target, Sam's Club, Sears and Costco, specialized national retailers such as Best Buy, Ashley Furniture and Mattress Firm, home improvement stores such as Lowe's and Home Depot, and locally-owned regional or independent retail specialty stores that sell furniture and mattresses, home appliances, and consumer electronics similar, and often identical, to those items we sell. We also compete with internet retailers such as Amazon, Wayfair and manufacturer-direct websites. In addition, there are few barriers to entry into our current and contemplated markets, and new competitors may enter our current or future markets at any time. Certain of our competitors are beginning to offer third party financing or provide other forms of credit, which compete with our in-house credit programs for credit-constrained consumers. We also compete against companies offering credit-constrained consumers products for the home similar to those offered by us under weekly or monthly lease-to-own payment options. Competitors include Aaron's and Rent-A-Center, as well as many smaller, independent companies.

### **Customers**

We have a well-defined core consumer base that is comprised of working individuals who typically earn between \$25,000 to \$60,000 in annual income, live in densely populated and mature neighborhoods, and typically shop at our stores to replace older household goods with newer items. Our product line is comprised of durable home necessities which enables us to appeal to a diverse range of cultural and socioeconomic backgrounds and to operate stores in diverse markets. No single customer accounts for more than 10% of our total revenues and we do not have a significant concentration of sales with any individual customer. Therefore, the loss of any one customer would not have a material impact on our business.

### **Seasonality**

Our business is seasonal which typically means that a higher portion of sales and operating profit are realized during the fourth quarter due primarily to the holiday selling season. In addition, during the first quarter, our portfolio performance benefits from the timing of personal income tax refunds received by our customers, which typically results in higher cash collection rates.

### **Merchandising**

**Vendors.** We purchase products from a wide range of manufacturers and distributors. Our agreements with these manufacturers and distributors typically cover a one-year time period and are renewable at the option of the parties. Similar to other specialty retailers, we purchase a significant portion of our total inventory from a limited number of vendors. During fiscal year 2021, 76.0% of our total inventory purchases were from six vendors, including 28.9%, 15.4% and 14.0% of our total inventory purchases from Samsung, LG and GE, respectively. The loss of any one or more of these key vendors or our failure to establish and maintain relationships with these and other vendors could have a material adverse effect on our results of operations and financial condition. During the year ended January 31, 2021, the COVID-19 pandemic caused industry-wide shortages of merchandise due to supply chain disruptions that negatively impacted our in-stock position. However, our relationship with our vendors allowed us to maintain a competitive in-stock position.

**Merchandise.** We focus on providing a selection of quality merchandise at a wide range of price points to appeal to a broad range of potential customers. We primarily sell brand name merchandise with manufacturer's warranties. Our established relationships with furniture and mattress, home appliance and consumer electronics vendors give us purchasing power that allows us to offer name brand appliances and electronics at prices that are comparable with national retailers and provides us a competitive selling advantage over smaller independent retailers. We are able to purchase furniture inventory in volumes that allow us to import container load quantities that reduce our costs and allow us to offer our products at competitive prices. Additionally, we provide next-day delivery to a majority of our customers, giving us a competitive advantage over smaller furniture retailers in the marketplace today.

### **Credit Operations**

**General.** We sell our products by offering our customers financing through our proprietary in-house credit programs, the use of third-party financing, and by taking cash or credit card payments. For the fiscal year 2021, approximately 52.1% of purchases were financed through our proprietary in-house credit programs, approximately 28.9% of purchases were financed through the use of third-party financing, and approximately 19.0% of purchases were made with cash or credit card.

**Underwriting.** Decisions to extend credit to our retail customers are made by our internal credit underwriting department, which is separate and distinct from our other operations, including credit monitoring and collections and retail sales. In addition to auto-decision algorithms, we employ a team of credit underwriting personnel of approximately 50 individuals to make credit granting decisions using our proprietary underwriting process. Our underwriting process considers one or more of

the following elements: credit bureau information; income and address verification; current income and debt levels; a review of the customer's previous credit history with us; and the particular products being purchased. Our underwriting models determine the finance terms, including down payment, limit amounts and credit terms. During fiscal year 2021, for the credit applications that were approved and utilized, 71.2% were approved automatically. The remaining credit decisions were based on the evaluation of the customer's creditworthiness by a qualified in-house credit underwriter or required additional documentation from the applicant. For certain credit applicants that may have past credit problems, lack credit history or be potential fraudulent applications, we use stricter underwriting criteria. The additional requirements include verification of employment and recent work history, heightened ID verification and potentially a required down payment. Our underwriting employees are trained and monitored to ensure they follow our methodology in approving credit.

Part of our ability to control delinquency and net charge-off is based on the total approval amount, the finance product offering, i.e. interest free period or down payment amounts, the maximum contract terms we allow and the purchase money security interest that we obtain in the product financed, which reduce our credit risk and increase our customers' ability and willingness to meet their future obligations. We require the customer to provide proof of property insurance coverage on all purchases financed through our credit offerings to offset potential losses relating to theft or damage of the product financed. We do not require customers to purchase property insurance from us if they have or acquire such insurance from another third-party.

**Credit monitoring and collections.** Our collection activities involve a combination of efforts that take place primarily in our San Antonio, Texas and Tempe, Arizona, collection centers. As of January 31, 2021, we employed approximately 360 full and part time individual collectors and support personnel who service our active customer credit portfolio. We also utilize collection agencies to service portions of our charged-off portfolio, which provide approximately 200 additional agents. Our in-house, credit-financed sales are secured by the products purchased, which we believe gives us a distinct advantage over other creditors when pursuing collections, especially given that many of the products we finance are generally necessities for the home. We utilize a credit collection strategy that includes telephone calls and messages, internal collectors that contact borrowers, collection letters, e-mails, text messages and third-party legal services that process claims and attend bankruptcy hearings and voluntary repossession. Our employees are trained to follow our methodology in collecting our accounts and charging off any uncollectible accounts based on pre-determined aging criteria, depending on their area of responsibility. All collection personnel are required to complete classroom training, which includes negotiation techniques and credit policy training to ensure customer retention and compliance with debt collection regulations. Post-graduation, the collection trainees undergo skill assessment training, coaching and call monitoring within their respective departments. Our personnel are required to complete regular refresher training and testing.

We closely monitor the credit portfolio to identify delinquent accounts early and dedicate resources to contact customers concerning past due accounts. We believe that our unique underwriting models, secured interest in the products financed, required down payments and credit limits, local presence, ability to work with customers relative to their product and service needs, and our flexible financing alternatives help mitigate the loss experience on our portfolio.

Customers can make payments through our web portal, over the phone, by ACH, third-party bill pay arrangements, by mail to our lock box or in-person at our store locations. During fiscal year 2021, we received 21.1% of the payments on credit accounts in our store locations, which helps us maintain a relationship with the customer that keeps losses lower while encouraging repeat purchases. We may extend or "re-age" a portion of our delinquent customer accounts as a part of our normal collection procedures to protect our investment. Generally, extensions are granted to customers who have experienced a financial difficulty (such as the temporary loss of employment), which is subsequently resolved and when the customer indicates a willingness and ability to resume making monthly payments. These re-ages involve modifying the payment terms to defer a portion of the cash payments currently required of the debtor to help the debtor improve his or her financial condition and eventually be able to pay the account balance. Our re-aging of customer accounts does not change the interest rate or the total principal amount due from the customer and typically does not reduce the monthly contractual payments. We typically charge the customer an extension fee, where permitted, which approximates the interest owed for the time period the contract was past due. Our re-age programs consist of extensions and two payment updates, which include unilateral extensions to customers who make two full payments in three calendar months in certain states. During the second quarter of fiscal year 2021, we changed our re-age policy to increase the number of days required for a customer to qualify for a unilateral re-age. Re-ages are not granted to debtors who demonstrate a lack of intent or ability to service the obligation or have reached our limits for account re-aging. To a much lesser extent, we may provide the customer the ability to re-age their obligation by refinancing the account, which does not change the total principal amount due from the customer but does reduce the monthly contractual payments and extends the term. Under these options the customer must demonstrate a willingness and ability to resume making contractual monthly payments.

We deem an account to be uncollectible and charge it off when the account is more than 209 days past due at the end of a month. Our credit and accounting staff consistently monitor trends in charge-offs by examining the various characteristics of the charge-offs, including by market, product type, customer credit and income information, down payment amounts and other identifying information. We track our charge-offs both gross, before recoveries, and net, after recoveries. We periodically

adjust our credit granting, collection and charge-off policies based on this information. It is to our advantage to manage the portfolio to balance the combined servicing costs and net losses on the credit portfolio with the benefit of repeat retail sales. We may incur higher servicing costs in order to build customer relationships that may result in future retail sales. Collection activity continues after an account is charged off by both internal staff and third-party collection agencies who are typically paid on a contingency basis.

### Store Operations

**Stores.** We operate retail stores in 15 states. The following table summarizes the number of stores in operation at January 31, 2021 in each of our markets:

Geographic Location	Number of Locations	Retail Square Feet	Other Square Feet
Alabama	5	195,548	33,830
Arizona	11	384,283	73,936
Colorado	7	243,383	47,623
Florida	1	35,555	11,350
Georgia	1	40,935	8,446
Louisiana	10	407,899	98,227
Mississippi	2	73,780	13,892
Nevada	3	118,511	26,072
New Mexico	4	138,285	23,325
North Carolina	11	419,584	83,889
Oklahoma	4	135,215	27,740
South Carolina	4	140,145	21,516
Tennessee	6	214,116	46,455
Texas	71	2,552,300	405,863
Virginia	6	207,538	43,235
Store totals	146	5,307,077	965,399
Distribution and Service Centers and Cross-dock Facilities (excluding cross-docks within stores)	21	—	3,613,515
Corporate Offices	5	—	159,073
<b>Total</b>	<b>172</b>	<b>5,307,077</b>	<b>4,737,987</b>

Our stores have an average selling space of approximately 36,000 square feet, plus a storage area for fast-moving and smaller products that customers prefer to carry out rather than wait for in-home delivery. Thirty-three of our retail stores also contain cross-dock facilities.

We continuously evaluate our existing and potential sites to position our stores in desirable locations and relocate stores that are not properly positioned. We typically lease rather than purchase our stores, distribution and service centers and cross-dock facilities to retain the flexibility of managing our financial commitment to a location if we later decide that a store or market is performing below our standards or the market would be better served by a relocation. As of January 31, 2021, we leased almost all of our store, distribution and service center and cross-dock locations.

**Personnel and compensation.** We staff a typical store with a store manager, an assistant manager, an operations manager, an average of 17 sales personnel and other support staff, including cashiers and porters based on store size and location. Managers have an average tenure with us of approximately five years and typically have prior sales floor experience. In addition to store managers, we have 19 district managers.

We compensate the majority of our sales associates on a straight commission arrangement. Store managers and assistant store managers receive a salary and are eligible for a bonus. We believe that our store compensation plans, which are primarily tied to sales, generally help us attract and motivate employees.

### Advertising

We design our marketing programs to increase awareness of our brand, which we expect will create and maintain customer loyalty, increase the number of customers that shop in our stores and on our website and increase sales. We employ a multi-touch point approach utilizing direct mail, television, newspaper, digital, radio and out-of-home targeted advertising. Our

promotional programs include the use of free delivery and free product promotions, in conjunction with product discounts and various no-interest option financing offers.

### **E-Commerce**

We are focused on expanding the capabilities of our website to generate customer traffic for both our digital and physical stores. Our website provides new and existing customers with the ability to purchase substantially all of our product offerings, view prices, apply for credit and make payments on their credit accounts. We update our website regularly to reflect new products, product availability and current promotional offers. Our website is a significant component of our advertising strategy. We believe our website represents a possible source for future sales and growth in our credit collections. We are focused on improving the customer experience by making it easier for customers to apply for and be approved for credit on-line. In late fiscal year 2019, we started to offer certain credit-qualified customers the ability to complete an entire purchase transaction financed online through our proprietary in-house credit programs. Our website averaged approximately 68,000 credit applications per month during fiscal year 2021. This compares to average monthly website applications of approximately 65,000 and 59,000 during fiscal year 2020 and 2019, respectively. In fiscal year 2021, we updated our website to begin accepting personal credit cards, further improving the customer experience by expanding online payment options.

The website is supported by a call center, allowing us to better assist customers with their credit and product needs.

### **Distribution and Inventory Management**

We currently operate 11 regional distribution centers, which are located in Houston, San Antonio, Dallas, El Paso, and McAllen, Texas; Port Allen, Louisiana; Phoenix, Arizona; Denver, Colorado; Charlotte, North Carolina; Nashville, Tennessee; and Lakeland, Florida, one service center located in Houston, Texas, 9 smaller cross-dock facilities and 33 stores with cross-dock facilities. This enables us to deliver products to our customers quickly, reduces inventory requirements at the individual stores and facilitates regional inventory and accounting controls.

In our retail stores, we maintain an inventory of certain fast-moving items and products that the customer is likely to carry out of the store. Our computer system and the use of scanning technology in our distribution centers allow us to determine, on a real-time basis, the location of any product we sell. If we do not have a product at the desired retail store at the time of sale, we can typically provide it through one of our distribution centers on a next day basis.

We primarily use third-party providers to move products from distribution centers to stores and between markets to meet customer needs. We outsource our in-home deliveries to third-party providers and, for most purchases, we offer next day delivery to our customers. These third-party providers use a fleet of home delivery vehicles that enables a highly trained staff of delivery and installation specialists to quickly complete the sales process and provide a high-quality customer experience. We also may receive a delivery fee based on the products sold and the services needed to complete the delivery.

### **Product Support Services**

**Next-day delivery and installation.** We provide next-day delivery and installation services in most of the markets in which we operate. We believe next-day delivery of our goods is a highly valued service to our customers.

**Credit insurance.** Acting as licensed agents for third-party insurance companies, we offer property, life, disability and involuntary unemployment credit insurance, which we collectively refer to as credit insurance, at all of our stores on sales financed through our in-house credit programs. These insurance products protect the customer's purchase by covering their payments on their credit account if covered events occur. Property insurance purchased through us can be canceled at any time with proof of alternative coverage. We receive sales commissions from the third-party insurance companies at the time we sell the coverage, and we may receive retrospective commissions, which are additional commissions paid by the insurance carrier if insurance claims are less than earned premiums.

We require proof of property insurance on all purchases financed through our in-house credit offerings; however, we do not require that customers purchase this insurance from us if they have or acquire such insurance from another third-party provider. Premiums charged on the credit products we sell are regulated and vary by state.

**Product repair service.** We believe that providing product repair and replacement services is an important differentiation and reinforces customer loyalty. We provide in-home and shop repair services for most of the products we sell and primarily service products purchased from us. Customer repair needs are primarily serviced with an employee-based technician workforce. We believe this staffing model allows us to control the post-sale customer service experience.

**Repair service agreements.** Customers may purchase repair service agreements that we sell for third-party insurers at the time a product is purchased. These agreements broaden and extend the period of covered manufacturer warranty service for up to four years from the date of purchase, depending on the product, and protect the customer against repair costs. Customers may finance the cost of the agreements along with the purchase price of the associated product.

We have contracts with third-party insurers that issue the initial repair service agreements to cover the costs of repairs performed under these agreements. The initial service agreement is between the customer and the third-party insurance company, and, through our agreements with the third-party insurance company, we provide service when it is needed under each agreement sold. We receive a commission on the sale of the contract and we may receive retrospective commissions, which are additional commissions paid by the insurance carrier over time if the cost of repair claims are less than earned premiums. Additionally, we bill the insurance company for the cost of the service work that we perform.

### **Human Capital Management**

We employ approximately 4,100 full-time employees and 160 part-time employees in the U.S. across 15 states, all of whom are expected to be guided by our values and by an underlying set of ethical principles. Incorporated into our Code of Business Conduct & Ethics, our values and principles define our culture and strengthen our workforce. We strive to demonstrate to our customers, shareholders, business partners, communities and employees that we are worthy of their trust and continually strive to enhance our brand reputation. We invest in employees at all levels who are expected to integrate our values and principles in all that we do.

Our Board of Directors oversees human capital management activities (including assessing the effectiveness of employee programs and advising management with regard to the quality of the workforce to carry out our strategic goals and overall human resource strategies), other committees of the Board of Directors also have responsibilities that impact our human capital management as outlined in their respective charters. Our Human Resources function has management responsibility for advising and assisting the business on human resource matters and executing our overall human capital management strategies.

We are committed to fostering work environments that value diversity and inclusion. A variety of perspectives enriches our culture, leads to innovative solutions for our business and enables us to better meet the needs of a diverse customer base and reflects the communities we serve. Our aim is to develop inclusive leaders and an inclusive culture, while also recruiting, developing, mentoring, training, and retaining a diverse workforce.

We have a Diversity and Inclusion function which is responsible for strategic management and planning for diversity and inclusion within the Company, as well as enhancing our understanding, providing training and development, and partnering with and assisting all of us to be accountable. During the year, our Diversity and Inclusion function drove a number of initiatives to enhance our focus on diversity and inclusion and raise our awareness. We have a number of these and related initiatives disclosed on our website at [conns.com/esg](https://conns.com/esg).

We strive to engage and retain our employees throughout the employment life-cycle with effective recruiting and onboarding; competitive pay, benefits and other rewards; mandatory and optional programs for professional development and career advancement; compliance training; and a safe, healthy and respectful workplace.

In response to the COVID-19 pandemic, we quickly implemented safety and health standards and protocols for our employees while continuing to offer a safe environment as an essential service to our customers. Many of our employees in our corporate offices have been working from home from time to time since March 2020. Our store locations are provided with personal protective equipment, other equipment and enhanced cleaning supplies, and are required to adhere to appropriate protocols for social distancing, limiting density, reporting and documenting exposures and wearing masks at all times, all as recommended by the Centers for Disease Control or mandated by local regulations.

We maintain an Ethics Hotline that is available to all employees to report (anonymously if desired) any matter of concern. Communications to the hotline are routed to appropriate functions (whether Human Resources, Legal or other departments) for investigation and resolution. In addition, any shareholder or other interested party may send communications to the Board of Directors, either individually or as a group.

### **Regulation**

The extension of credit to consumers is a highly regulated area of our business. Numerous federal and state laws impose disclosure and other requirements and limitations on the origination, servicing and enforcement of retail installment sale accounts and consumer loans as well as our acts and practices in connection with these activities. Applicable federal laws include, but are not limited to, the Truth in Lending Act ("TILA"), the Equal Credit Opportunity Act ("ECOA"), the Fair Credit Reporting Act ("FCRA"), the Fair Debt Collection Practices Act ("FDCPA"), the Telephone Consumer Protection Act ("TCPA"), the Gramm-Leach-Bliley Act ("GLBA"), the Electronic Fund Transfer Act ("EFTA"), the Military Lending Act ("MLA"), the Servicemembers Civil Relief Act ("SCRA") and the implementing regulations of the foregoing statutes. The Federal Trade Commission ("FTC") has broad consumer protection enforcement authority under Section 5 of the Federal Trade Commission Act ("FTCA"), which prohibits "unfair or deceptive acts or practices in or affecting commerce." The FTC also can enforce specific consumer protection statutes, such as the ECOA, FCRA, FDCPA, TCPA, GLBA, EFTA, MLA, SCRA and TILA, and has authority to issue regulations in respect of certain of these.

The Consumer Financial Protection Bureau (“CFPB”) was created in 2010 upon the enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”). The CFPB has rulemaking and enforcement authority over nonbanks engaging in offering or providing a consumer financial product or service (such as extending credit and servicing loans) as well as any affiliate of such “covered person” that acts as a “service provider” to such covered person. The federal consumer financial laws over which the CFPB has enforcement and rulemaking authority include TILA, ECOA, FCRA, FDCPA, and GLBA as well as authority under Title X of the Dodd-Frank Act to prohibit “unfair, deceptive or abusive acts or practices” (“UDAAP”) in connection with consumer financial products and services. The scope of UDAAP is broad and often uncertain, but the CFPB has been active in enforcing UDAAP claims. The CFPB has broad power to impose civil monetary penalties, restitution, and other corrective action under the various laws described above and, for this reason, poses a significant regulatory risk to the origination, servicing, and collection of our retail installment contracts and consumer loans.

In addition to its rulemaking and enforcement authority described in the preceding paragraph, the CFPB also has supervisory and examination authority over mortgage lending, payday lending, and private student lending, as well as “larger participants” in other markets for consumer financial products or services (including debt collection), and any covered person if the CFPB has “reasonable cause to determine” that such covered person is engaging, or has engaged, in conduct that poses risks to consumers with regard to the offering or provision of consumer financial products or services, whether based on consumer complaints or “information from other sources.” Although we are not automatically subject to CFPB supervisory or examination authority based on the foregoing categories, the CFPB has authority to investigate and take enforcement action against us with respect to any alleged violation by us of a federal consumer financial law over which the CFPB has jurisdiction, including the prohibition on UDAAP. The mere receipt by us of a “civil investigative demand” from the CFPB requiring production of documents, written responses, reports or oral testimony could result in required public disclosure, adverse publicity, and substantial cost to us regardless of the outcome. The CFPB may become more active in its investigations and enforcement due to changes in the political landscape.

Regulatory rulemaking by the CFPB could adversely affect origination, servicing, and collection of our retail installment sale and consumer loan products by making it more difficult and costly for us to offer, service or collect these products. In addition, CFPB rulemaking could make it possible, or easier for our customers to bring class action claims against us, or prohibit or limit the use of arbitration clauses and class action waivers, both of which we include in our installment contracts and loan agreements.

In Texas, Oklahoma, Louisiana and Tennessee, Conn Credit Corporation, Inc., an affiliate of Conn Appliances, Inc., offers a consumer loan product to our customers. In conjunction with our direct loan program, Conn Credit Corporation, Inc., Conn Appliances, Inc., and Conn Credit I, LP, each hold consumer lender licenses as required by their respective state laws. For customers of most stores located outside of Texas, Oklahoma, Louisiana, and Tennessee, Conn Appliances, Inc. offers a retail installment sale contract.

State laws impose disclosure and other requirements and limitations on retail installment sale contracts and consumer loan agreements and impose maximum amounts of finance charges and interest, as well as regulation of other fees and charges, together with restrictions on credit terms, collection and enforcement and other aspects of extending and collecting consumer credit. State consumer finance laws vary from state to state. The originating and servicing of consumer loans typically requires state licensing which entails heightened supervision, examination, and other requirements which may not be applicable to retail sellers extending credit under retail installment sale contracts. Pursuant to the Dodd-Frank Act, state attorneys general and designated state consumer finance regulatory agencies may enforce specified federal consumer finance laws and impose penalties and remedies for their violation. We routinely review our contracts and procedures to ensure compliance with applicable consumer credit laws. Failure on our part to comply with applicable laws could expose us to consumer litigation and government enforcement action, possibly resulting in substantial penalties and claims for damages and, in certain circumstances, may subject us to injunctions, require us to refund finance charges already paid, forgo finance charges not yet paid under credit accounts, change our credit extension, servicing, collection, and marketing practices or a combination of the foregoing. We believe that we are in substantial compliance with all applicable federal and state consumer credit and collection laws.

Our sale of credit insurance products, insured by an unaffiliated third-party insurance provider, that include property, life, disability and involuntary unemployment credit insurance is also highly regulated. These products are only offered with a retail installment sales or loan contract agreement purchase. State laws currently impose disclosure obligations and other restrictions with respect to our sales of these products, impose limitations on the amount of premiums that we may charge and require licensing of certain of our employees and operating entities. State laws with respect to these products vary from state to state. Failure to comply with these laws could expose us to consumer litigation and government enforcement action, possibly resulting in substantial penalties and claims for damages, and in certain circumstances, may subject us to injunctions or require us to refund premiums or change our policies and procedures with respect to these products and the marketing of these products or a combination of the foregoing. We believe that we are in substantial compliance with all applicable federal and state consumer credit and collection laws.

In conjunction with the sale of merchandise, we offer our customers the opportunity to purchase repair service agreements on specified products. These contracts are entered into between the customer and an unaffiliated third-party service provider. The contracts enable the customer to obtain repair and/or replacement of certain eligible products in the event of specified failures as described in the terms and conditions of the contract. The service provider, which is financially and legally obligated to perform under these contracts, has entered into a contract with our affiliate to administer the contracts. We post descriptions of these contracts and links to the contract terms on our website. Service contracts require payment of a segregated fee which may be paid by cash, check or financed by customers entering into retail installment sale contracts with Conn Appliances, Inc. or loan agreements with Conn Credit Corporation, Inc. The federal Magnusson-Moss Warranty Act governs written warranties and service contracts. For service contracts entered into with Texas customers, state law requires registration of the service provider and Conn Appliances, Inc. as an administrator, a reimbursement insurance policy and other requirements on the service provider, responsibilities on service contract sellers, record-keeping requirements, restrictions on the sale or marketing of service contracts, required contract terms and disclosures, and cancellation requirements, among other requirements and prohibitions. Other states vary in their regulation of these contracts. Violation of these laws can result in injunctive relief, civil penalties, and/or other remedies. We believe that we are in substantial compliance with all applicable federal and state consumer credit and collection laws.

### **Tradenames and Trademarks**

We have registered the trademarks “Conn’s,” “Conn’s HomePlus,” “YES YOU’RE APPROVED,” “YES Money,” “YES Money,” “YES Lease,” “YES Lease,” and our logos, which are protected under applicable intellectual property laws and are the property of Conn’s, Inc. Our trademark registrations generally last for ten-year periods and are renewed prior to expiration for additional ten-year periods.

### **Available Information**

We are subject to reporting requirements of the Securities and Exchange Act of 1934, as amended (“Exchange Act”), and the rules and regulations promulgated thereunder. The Exchange Act requires us to file reports, proxy and other information statements and other information with the SEC. You may also obtain these materials electronically by accessing the SEC’s website at [www.sec.gov](http://www.sec.gov).

The Board of Directors of the Company (“Board of Directors”) has adopted a code of business conduct and ethics for our employees, code of ethics for our Chief Executive Officer and senior financial professionals and a code of business conduct and ethics for our Board of Directors. A copy of these codes are published on our website at [www.conns.com](http://www.conns.com) under “Investor Relations — Corporate Governance.” We intend to make all required disclosures concerning any amendments to, or waivers from, these codes on our website. In addition, we make available, free of charge on our website, our Annual Report on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K and amendments to these reports filed or furnished pursuant to Section 13(a) or 15(d) of the Exchange Act as soon as reasonably practicable after we electronically file this material with, or furnish it to, the SEC. You may review these documents, under the heading “Investor Relations — SEC Filings,” by accessing our website at [www.conns.com](http://www.conns.com).

We make available on our website at [www.conns.com](http://www.conns.com) under “Investor Relations — Asset Backed Securities” updated monthly reports to the holders of our asset-backed notes. This information reflects the performance of the securitized portfolio only, in contrast to the financial statements contained herein, which reflect the performance of all of the Company’s outstanding receivables, including those originated subsequent to those included in the securitized portfolio.

Our website and the information contained on our website is not incorporated in this Annual Report on Form 10-K or any other document filed with the SEC.

### **ITEM 1A. RISK FACTORS.**

*You should consider carefully the risks described below and other information presented in this Form 10-K, including Item 7. Management’s Discussion and Analysis of Financial Condition and Results of Operations and the consolidated financial statements and related notes included in this Form 10-K, as well as information provided in other reports, registration statements and materials that we file with the SEC and the other information incorporated by reference in this Form 10-K. If any of the risks described below or elsewhere in this Form 10-K were to materialize, our business, financial condition, results of operations, cash flows or prospects could be materially adversely affected. In such case, the trading price of our common stock could decline and you could lose part or all of your investment. Additional risks and uncertainties not currently known to us or that we currently deem immaterial may also adversely affect our business, financial condition, results of operations, cash flows, prospects or stock price, which we refer to collectively as a material adverse effect on us (or comparable phrases).*

#### **Summary Risk Factors**

##### ***Risks Related to Our Business***

- The COVID-19 outbreak in the United States may continue to cause, and other pandemics, epidemics or outbreaks may cause, effects which materially and adversely affect our business, results of operations and financial condition.
- An economic downturn, outbreaks, including the COVID-19 outbreak, or other events may affect consumer purchases from us as well as their ability to repay their credit obligations to us, which could result in a material adverse effect on us.
- We may not be able to open or profitably operate new stores in existing, adjacent or new geographic markets.
- We have plans for significant future capital needs and the inability to access our Revolving Credit Facility or the capital markets on favorable terms or at all may have a material adverse effect on us.
- Our existing and future levels of indebtedness could adversely affect our financial health, ability to obtain financing in the future, ability to react to changes in our business and ability to fulfill our obligations under such indebtedness.
- Our debt securities may receive ratings that may increase our borrowing costs.
- We might not be able to access the securitization market for capital from time to time in the future, which may require us to seek alternative and more costly sources of financing.
- One of our operating subsidiaries may be required to repurchase certain finance receivables if representations and warranties about the quality and nature of such receivables are breached, which may negatively impact our results of operations, financial condition, and liquidity.
- A decrease in our credit sales, a decline in credit quality of our customers or other factors outside of our control could lead to a decrease in our product sales and profitability.
- Covenants in our debt agreements impose various operating and financial restrictions on us, and if we are not able to comply with such covenants, our lenders could accelerate our indebtedness, proceed against certain collateral we have provided or exercise other remedies, which could have a material adverse effect on us.
- Deterioration in the performance of our customer receivables portfolio could materially adversely affect our liquidity position and profitability.
- In deciding whether to extend credit to customers, we rely on the accuracy and completeness of information furnished to us by or on behalf of our credit customers, and we assume certain behavior and attributes on the basis of prior customers. If we and our systems are unable to detect any misrepresentations in this information, or if our assumptions prove inaccurate, it may have a material adverse effect on us.
- Our policy of re-aging certain delinquent borrowers affects our delinquency statistics and the timing and amount of our write-offs, and may lead to higher delinquency statistics in the future, which could have a material adverse effect on our financial results.
- We rely on internal models to manage risk and to provide accounting estimates. We could suffer a material adverse effect if those models do not provide reliable accounting estimates or predictions of future activity.
- We benefit from the collection of customer and non-customer recoveries on our customer accounts receivables. Our inability to continue to collect these recoveries could adversely affect our financial results.
- Our reported results require the judgment of management, and we could be subject to risks associated with these judgments or could be adversely affected by the implementation of new, or changes in the interpretation of existing, accounting principles or financial reporting requirements.
- Changes in customer demand and product mix could materially adversely affect our business.
- We may experience significant price pressures over the life cycle of our products from competing technologies and our competitors.
- A disruption in our relationships with, the operations of, or the supply of product from any of our key suppliers, including those suppliers and manufacturers located in Asia and Mexico, whether due to COVID-19 or otherwise, could have a material adverse effect on us.
- Our stores are concentrated in the southern region of the U.S., especially Texas, which subjects us to regional risks, such as the economy, outbreaks, the performance of energy markets, weather conditions, hurricanes and other natural or man-made disasters.
- Our information technology systems for our key business processes are vulnerable to damage that could harm our business.

- Our information technology systems may not be adequate to meet our evolving business and emerging regulatory needs and the failure to successfully implement new systems could negatively impact our business and financial results.
- If we cannot continue to offer third party payment solutions for customers who do not qualify for our proprietary credit offerings, our business may be impaired.
- If we are unable to continue to offer third-party repair service agreements to our customers, we could incur additional costs or repair expenses, which could materially adversely affect us.
- Our costs to protect our intellectual property rights, infringement of which could impair our name and reputation, could be significant.
- Failure to protect the security of our customers', employees' or suppliers' information or failure to comply with data privacy and protection laws could expose us to litigation, compromise the integrity of our products, damage our reputation and materially adversely affect us.
- Failure to successfully utilize and manage e-commerce, and to compete effectively with the growing e-commerce sector, could materially adversely affect our business and prospects.
- If we fail to maintain adequate systems and processes to detect and prevent fraudulent activity, including in our e-commerce business, our business could be materially adversely impacted.
- Because we maintain a significant supply of cash and inventories in our stores, we may be subject to employee and third-party robberies, burglaries, thefts, riots and looting, and may be subject to liability as a result of crimes at our stores.
- We face risks with respect to product liability claims and product recalls, which could materially adversely affect our reputation, our business, and our consolidated results of operations.

#### ***Risks Related to Laws and Regulation***

- Our business could be materially adversely affected by changes in consumer protection laws and regulations.
- The CFPB may reshape the consumer financial laws and there continues to be uncertainty as to how the agency's actions will impact our business.
- Judicial or administrative decisions, CFPB rule-making or amendments to the Federal Arbitration Act could render the arbitration agreements we use illegal or unenforceable.
- We are required to comply with laws and regulations regulating extensions of credit and other dealings with customers and our failure to comply with applicable laws and regulations, or any adverse change in those laws or regulations, could have a negative impact on our business.
- We face the risk of litigation resulting from calls and text messages in violation of the TCPA.
- A large number of our stores are located in the State of Texas, which subjects us to concentrated regulatory risks.

#### ***Risks Related to Our Business***

***The COVID-19 outbreak in the United States may continue to cause, and other pandemics, epidemics or outbreaks may cause, effects which materially and adversely affect our business, results of operations and financial condition.*** COVID-19 has created significant worldwide volatility, uncertainty and disruption. In particular, COVID-19 has resulted in a substantial decline in business activities, a significant number of business closures, slowdowns, suspensions or delays of production and commercial activity, and weakened economic conditions, both in the U.S. and abroad.

In response to the continuing COVID-19 outbreak in the United States, further store closure and stay-at-home orders may reduce our customer traffic and lead to additional temporary reductions in operating hours. Furthermore, the COVID-19 outbreak may impact the number and timing of new store openings. The extent of these disruptions to our business and operations, and the full scale and scope of their effect, is currently uncertain and not possible to reasonably predict at this time.

In addition, the significant economic disruption caused by the outbreak could have an adverse effect on our credit segment if, for example, customers are unable to make timely payments on their accounts due to job loss, reduction of hours or furlough.

As the COVID-19 pandemic continues to unfold, or if other widespread epidemics, pandemics, or outbreaks were to occur, particularly if any such epidemic, pandemic or outbreak were to affect regions where we derive a significant amount of our revenue or profit or where our suppliers are located (as with the COVID-19 pandemic), governmental and public responses could materially and adversely disrupt our business and operations, and our business and results of operations may be materially and adversely affected.

We could also be materially and adversely affected if government authorities impose restrictions (or additional restrictions) on operations of retailers, or restrict the import or export of products, or if suppliers issue mass recalls of products. Even if such measures are not implemented and an outbreak of virus or other disease does not spread significantly, the perceived risk of infection or health risk may adversely affect our business, results of operations and financial condition.

In addition, the impacts of COVID-19 and efforts to contain it have heightened the other risks described in this Annual Report on Form 10-K.

***An economic downturn, outbreaks, including the COVID-19 outbreak, or other events may affect consumer purchases from us as well as their ability to repay their credit obligations to us, which could result in a material adverse effect on us.*** Many factors affect consumer spending, including regional or world events, war, diseases, outbreaks or epidemics (including the ongoing COVID-19 crisis), conditions in financial markets, local, state and national budgets and fiscal operations and conditions, general business conditions, interest rates, inflation, energy prices, consumer debt levels, the availability of consumer credit, taxation, unemployment trends and other matters that influence consumer confidence. Consumer purchases of our products and customers making payments to us decline during periods when disposable income is lower or periods of actual or perceived unfavorable economic conditions. Decreases in consumer confidence, instability in financial markets and political environment and volatile oil prices have negatively impacted our markets and may present significant challenges to our operations in the future. Additionally, we believe a portion of our customer base continues to experience significant economic challenges and uncertainty, including stagnant incomes or incomes that have not returned to pre-recession levels, and that those challenges could be intensified by various macroeconomic factors, including increasing inflationary pressures and significant recent disruption in financial markets in connection with the COVID-19 outbreak, increased unemployment, dramatic price swings in the cost of energy, and other factors.

***We may not be able to open or profitably operate new stores in existing, adjacent or new geographic markets.*** There are a number of factors that could affect our ability to successfully execute our store growth strategy, including:

- The duration, scope, and severity of COVID-19;
- Difficulties associated with the hiring, training and retention of skilled personnel, including store managers;
- The availability of financial resources;
- The availability of favorable sites in existing, adjacent or new markets on terms, including price, consistent with our business plan;
- Competition in existing, adjacent or new markets;
- Competitive conditions, consumer tastes and discretionary spending patterns in adjacent or new markets that are different from those in our existing markets or changes in competitive conditions, consumer tastes and discretionary spending patterns in our existing markets;
- A lack of consumer demand for our products or financing programs at levels that can support store growth or the profitability of existing stores;
- Inability to make customer financing programs available that allow consumers to purchase products at levels that can support store growth;
- An inability to manage a greater number of new customers from new stores;
- Limitations created by covenants and conditions under our debt agreements, including our Revolving Credit Facility, the indenture governing our senior notes and our asset-backed notes;
- An inability or unwillingness of vendors to supply product on a timely basis or at competitive prices;
- An inability to secure consumer lending licenses in new or adjacent states or markets;
- The failure to open enough stores in new markets to achieve a sufficient market presence and realize the benefits of leveraging our advertising and distribution systems;
- Unfamiliarity with local real estate markets and demographics in adjacent and new markets;
- Problems in adapting our distribution and other operational and management systems to an expanded network of stores; and
- Higher costs for direct mail, television, newspaper, digital, radio and out-of-home targeted advertising.

These and other similar factors may also limit the ability of any newly opened stores to achieve sales and profitability levels consistent with our projections or comparable with our existing stores or to become profitable at all. As a result, we may

determine that we need to close or reduce the hours of operation of certain stores, which could have a material adverse effect on us.

***If we are unable to effectively manage the growth of our business, our revenues may not increase, our cost of operations may rise and our results of operations may decline.*** As we continue to grow and expand our store base, we will face various business risks associated with growth, including the risk that our management, financial controls and information systems will be inadequate to support our expansion. Our growth will require management to expend significant time, effort, and additional resources to ensure the continuing adequacy of our financial controls, operating procedures, information systems, product purchasing, warehousing and distribution systems and employee training programs. While we have engaged in and focused on these elements, we cannot predict whether we will be able to effectively manage the increased demand resulting from expansion in current markets or into new markets, or respond on a timely basis to the changing demands that our expansion will impose on our management, financial controls and information systems. If we fail to successfully manage the challenges of growth, do not continue to improve our systems and controls or encounter unexpected difficulties during expansion, our growth plan may not yield the results we currently anticipate and we could be materially adversely affected.

***We have plans for significant future capital needs and the inability to access our Revolving Credit Facility or the capital markets on favorable terms or at all may have a material adverse effect on us.*** We generally finance our operations primarily through a combination of cash flow generated from operations, borrowings under our Revolving Credit Facility, and securitizations of customer receivables through the capital markets. Our ability to access capital through our existing Revolving Credit Facility, raise additional capital by expanding our Revolving Credit Facility, or undertake future securitization or other debt or equity transactions on economically favorable terms or at all, depends in large part on factors that are beyond our control, including:

- Conditions in the securities and finance markets generally, including as a result of the COVID-19 outbreak, and for securitized instruments in particular;
- A negative bias toward our industry by capital market participants;
- Our credit rating or the credit rating of any securities we may issue;
- General economic conditions and the results of our earnings, cash flows and balance sheet;
- Security or collateral requirements;
- The credit quality and performance of our customer receivables;
- Regulatory restrictions applicable to us;
- Our overall business and industry prospects;
- Our overall sales performance, profitability, cash flow, balance sheet quality, regulatory restrictions;
- Our ability to provide or obtain financial support for required credit enhancement;
- Our ability to adequately service our financial instruments;
- Our ability to make required representations and warranties;
- Our ability to meet debt covenant requirements; and
- Prevailing interest rates.

The amount of our planned capital expenditures may be limited by, among other factors, the availability of capital to fund new store openings and customer receivable portfolio growth. If adequate capital is not available at the time we need it, we may have to curtail future growth or change our expansion plans, which could have a material adverse effect on us.

We use our customer receivables, in addition to our inventory, as collateral to support our capital needs. As the aggregate amount and performance of our customer receivables has fluctuated, from time to time we have required amendments to our credit facilities in order to stay in compliance with our obligations thereunder. If we require such amendments in the future and are unable to obtain them, or if we are unable to arrange substitute financing facilities or other sources of capital, then we may be unable to continue drawing funds under our Revolving Credit Facility, which would force us to limit or cease offering credit through our finance programs. Likewise, if the borrowing base under our Revolving Credit Facility is reduced, or otherwise becomes unavailable, or we are unable to arrange substitute financing facilities or other sources of capital, we may have to limit the amount of credit that we make available through our customer credit programs. A reduction in our ability to offer customer credit could have a material adverse effect on us. Further, our inability, or limitations on our ability, to obtain funding through securitization facilities or other sources may materially adversely affect our ability to provide additional credit to existing customers, which could have a material adverse effect on our profitability under our credit programs if such existing customers fail to repay outstanding credit. Additionally, the inability of any of the financial institutions providing our financing facilities

to fund their respective commitments could materially adversely affect our ability to fund our credit programs, capital expenditures and other general corporate needs.

***Our existing and future levels of indebtedness could adversely affect our financial health, ability to obtain financing in the future, ability to react to changes in our business and ability to fulfill our obligations under such indebtedness.*** As of January 31, 2021, we had aggregate outstanding indebtedness, including under our Revolving Credit Facility, senior notes and various classes of asset-backed notes, of \$607.2 million. This level of indebtedness could:

- Make it more difficult for us to satisfy our obligations with respect to our outstanding notes and other indebtedness, resulting in possible defaults on and acceleration of such indebtedness;
- Require us to dedicate a substantial portion of our cash flow from operations to the payment of principal and interest on our indebtedness, thereby reducing the availability of such cash flows to fund working capital, acquisitions, new store openings, capital expenditures and other general corporate purposes;
- Limit our ability to obtain additional financing for working capital, acquisitions, new store openings, capital expenditures, debt service requirements and other general corporate purposes;
- Limit our ability to refinance indebtedness or cause the associated costs of such refinancing to increase;
- Increase our vulnerability to general adverse economic and industry conditions, including interest rate fluctuations (because a portion of our borrowings are at variable rates of interest); and
- Place us at a competitive disadvantage compared to our competitors with proportionately less debt or comparable debt at more favorable interest rates which, as a result, may be better positioned to withstand economic downturns.

Any of the foregoing impacts of our level of indebtedness could have a material adverse effect on us.

***Our debt securities may receive ratings that may increase our borrowing costs.*** We may elect to issue securities for which we may seek to obtain a rating from a rating agency. It is possible, however, that one or more rating agencies may independently determine to assign a rating to any of our issued debt securities. If any ratings are assigned to any of our debt, or the asset-backed notes or other securities with a rating, such ratings, if they are lower than market expectations or are subsequently lowered or withdrawn, whether as a result of our actions or factors which are beyond our control, could increase our future borrowing costs and impair our ability to access capital and credit markets on terms commercially acceptable to us, or at all. Inability to access the credit markets on acceptable terms, if at all, could have a material adverse effect on our financial condition.

***We might not be able to access the securitization market for capital from time to time in the future, which may require us to seek alternative and more costly sources of financing.*** We have successfully consummated a number of securitization transactions, however, there can be no assurances that we will be able to complete additional securitization transactions if securitization markets become constrained. The economic recession that began in 2009 and events in the securitization markets, as well as the debt markets and the economy generally, caused significant dislocations, lack of liquidity in the market for asset-backed securities, and a severe disruption in the wider global financial markets, including a significant reduction of investor demand for, and purchases of, asset-backed securities and structured financial products. Additional or prolonged disruptions in the securitization market, such as a recession triggered by the effects of the ongoing COVID-19 crisis, could preclude our ability to use securitization as a financing source, or could render it an inefficient source of financing making us more dependent on alternative sourcing of financing that might not be as favorable as securitizations or might be otherwise unfavorable or unavailable altogether.

***Securitization structures are subject to an evolving regulatory environment that may affect the availability and attractiveness of securitization as a financing option.*** In the U.S., following the economic recession that began in 2009, there has been increased political and regulatory scrutiny of the asset-backed securities industry, which has resulted in increased regulation. The impact of such regulations on investors in securitization markets and the incentives for certain investors to hold asset-backed securities remain unclear, and may have a material adverse effect on the liquidity of such securities, which could have a material adverse effect on our liquidity. Additionally, rules from various agencies now require sponsors of asset-backed securities to retain an ownership stake in securitization transactions. Any adverse changes to these regulations could effectively limit our access to securitization as a source of financing or alter the structure of securitizations, which could pose risks to our participation in any securitizations or could reduce or eliminate the economic incentives to us of participating in securitizations.

***One of our operating subsidiaries may be required to repurchase certain finance receivables if representations and warranties about the quality and nature of such receivables are breached, which may negatively impact our results of operations, financial condition, and liquidity.*** We have entered into certain financing arrangements, including issuances of asset-backed notes and a warehouse financing facility (collectively, "Financing Transactions"), that are secured by retail installment contracts and direct consumer loans originated by our operating subsidiaries (the "Receivables"). In connection

with the Financing Transactions, our operating subsidiaries sold the Receivables to certain of our wholly-owned special purpose VIEs and made certain representations and warranties about the quality and nature of the Receivables.

If there is a breach of those representations and warranties, one of our operating subsidiaries may be obligated to repurchase the affected Receivables. If our operating subsidiary is required to repurchase Receivables that were previously sold in connection with the Financing Transactions, this could have a materially adverse impact on our results of operations, financial condition, and liquidity.

***A decrease in our credit sales, a decline in credit quality of our customers or other factors outside of our control could lead to a decrease in our product sales and profitability.*** A significant portion of our credit portfolio is comprised of credit provided to customers considered to be sub-prime borrowers who have limited credit history, low income or past credit problems. Entering into credit arrangements with such customers entails a higher risk of customer default, higher delinquency rates and higher losses than extending credit to more creditworthy customers. While we believe that our pricing and the underwriting criteria and collection methods we employ enable us to effectively and appropriately manage the higher risks inherent in issuing credit to sub-prime customers, no assurance can be given that such pricing and underwriting criteria and methods will afford adequate protection against such risks. We have experienced volatility in delinquency and charge-off rates on our customer receivables, each of which has the effect of decreasing our profitability. Some of our customer receivables become delinquent from time to time. Some accounts end up in default, due to various factors, such as general and local economic conditions, including the impact of rising interest rates, living costs and unemployment rates. As we continue to expand into new markets, we will obtain new customer receivables that may present a higher risk than our existing customer receivables since new customer receivables do not have an established credit history with us.

If we reduce the amount of credit we grant to our customers (whether due to financial or regulatory constraints, including regulatory constraints relating to interest rates), or if our customers curtail entering into credit arrangements with us, whether as a result of prolonged economic uncertainty in the U.S., increases in unemployment or other factors, we likely would sell fewer products, which could result in a material adverse effect on us. Further, because a significant number of payments we receive on credit accounts are made in person by customers in one of our store locations, any decrease in credit sales could reduce traffic in our stores and result in lower revenues. A decline in the credit quality of our credit accounts could also cause an increase in our credit losses, which would result in an adverse effect on our earnings. A decline in credit quality could also lead to stricter underwriting criteria which could have a negative impact on net sales.

We maintain an allowance for doubtful accounts on our customer accounts receivable. If the allowance for doubtful accounts is inadequate, we would recognize losses in excess of the allowance, which could have a material adverse effect on us.

***Covenants in our debt agreements impose various operating and financial restrictions on us, and if we are not able to comply with such covenants, our lenders could accelerate our indebtedness, proceed against certain collateral we have provided or exercise other remedies, which could have a material adverse effect on us.*** The covenants in our Revolving Credit Facility, the indenture governing our senior notes, and our asset-backed notes contain a number of restrictions that impose operating and financial restrictions on us and may limit our ability to execute our growth strategy or engage in acts that may be in our long-term best interest, including restrictions on our ability to incur additional indebtedness, grant liens on assets, make distributions on equity interests, dispose of assets, make loans, pay other indebtedness, engage in mergers, and other matters. In addition, we must maintain compliance with certain financial covenants. Our ability to meet those financial covenants can be affected by events beyond our control, and we may be unable to meet them.

A breach of the covenants could result in an event of default under our Revolving Credit Facility or the indenture governing our senior notes or our asset backed notes. Such a default may allow the applicable creditors to accelerate the related debt and may result in the acceleration of any other debt to which a cross-default provision applies. Furthermore, if we are unable to repay the amounts due and payable under our Revolving Credit Facility, the lenders thereunder could proceed against the collateral granted to them to secure that indebtedness, which could have a material adverse effect on us. In the event our lenders accelerate the repayment of our borrowings, we may not have sufficient funds to repay that indebtedness.

***Increased borrowing costs will negatively impact our results of operations.*** Because most of our consumer credit programs have interest rates equal to the highest rate allowable under applicable state law, we would generally not be able to pass higher borrowing costs along to future consumer credit customers and our results of operations could be negatively impacted. The interest rates on our Revolving Credit Facility are variable based upon an applicable margin determined by a pricing grid plus a London Interbank Offered Rate (“LIBOR”) or alternate base rate, and increases in such rates would reduce our margins. The level of interest rates in the market in general will impact the interest rate on any debt instruments we issue in the future. Additionally, we may issue debt securities or enter into credit facilities under which we pay interest at a higher rate than we have historically paid, which would further reduce our earnings and negatively impact our results of operations.

***We may be adversely affected by changes in the method of determining LIBOR or the replacement of LIBOR with an alternative reference rate, including the Secured Overnight Financing Rate (“SOFR”).*** As of January 31, 2021, we had approximately \$52.0 million of variable-rate indebtedness, which uses LIBOR as a benchmark for establishing the interest rate.

The U.K. Financial Conduct Authority (the “FCA”) has announced its expectation that the publication of non-U.S. dollar LIBOR rates will cease after publication on December 31, 2021 and the publication of U.S. dollar LIBOR rates for the most common tenors (overnight and one, three, six and twelve months) will cease after publication on June 30, 2023, instead of on December 31, 2021 as previously expected. The FCA and the LIBOR Administrator have emphasized that, despite any continued publication of U.S. dollar LIBOR rates through June 30, 2023, no new contracts using U.S. dollar LIBOR rates should be entered into after December 31, 2021. Accordingly, the transition away from the widespread use of LIBOR to alternative rates is expected to occur over the next couple of years. Further, there is no assurance that LIBOR, of any particular currency and tenor, will continue to be published until any particular date. The timing of the transition and the consequences of these developments cannot be entirely predicted but could include an increase in the cost of our variable-rate indebtedness and other commercial arrangements tied to LIBOR.

Furthermore, the Federal Reserve Board and the Federal Reserve Bank of New York organized the Alternative Reference Rates Committee (“ARRC”), which identified the Secured Overnight Financing Rate (“SOFR”) as its preferred alternative to U.S. dollar-LIBOR in derivatives and other financial contracts. SOFR is a broad U.S. Treasury repo financing rate that represents overnight secured funding transactions and is fundamentally different from LIBOR for two key reasons. First, SOFR is a secured rate, while LIBOR is an unsecured rate. Second, SOFR is an overnight rate, while LIBOR represents interbank funding over different maturities. As a result, there can be no assurance that SOFR will perform in the same way as LIBOR would have at any time, including as a result of changes in interest and yield rates in the market, market volatility or global or regional economic, financial, political, regulatory, judicial or other events, and since its publication began in 2018, daily changes in SOFR have, on occasion, been more volatile than daily changes in comparable benchmark or other market rates. Accordingly, we cannot predict whether changes related to the phase-out of LIBOR, including insufficient liquidity in the SOFR markets, alternative reference rates or other reforms, as they occur, will not have an adverse effect on the amount of interest paid on, or the market value of, our current or future debt obligations.

In addition, we have incurred and expect to incur further expenses to renegotiate or clarify the rate provisions in certain of our variable-rate arrangements to affect the transition away from LIBOR-based rates and implement replacement indices, as necessary, but may not be able to do so on terms favorable to us. Furthermore, uncertainty regarding the continued use and reliability of LIBOR as a benchmark rate and uncertainty regarding its replacement could disrupt the financial markets or adversely affect the value of our arrangements tied to LIBOR.

***Deterioration in the performance of our customer receivables portfolio could materially adversely affect our liquidity position and profitability.*** Our liquidity position and profitability are heavily dependent on our ability to collect our customer receivables. If the performance of our customer receivables portfolio were to substantially deteriorate, that could have a material adverse effect on the liquidity available to us and our ability to comply with the covenants and borrowing base calculations under our Revolving Credit Facility, and our earnings may decline due to higher provisions for bad debt expense, higher servicing costs, higher net charge-off rates and lower interest and fee income.

***Our ability to collect from credit customers may be impaired by store closings.*** In the event of store closings, whether due to the COVID-19 outbreak or otherwise, credit customers may not pay balances in a timely fashion, or may not pay at all, since a large number of our customers remit payments in store and have not traditionally made payments to a non-store location.

***In deciding whether to extend credit to customers, we rely on the accuracy and completeness of information furnished to us by or on behalf of our credit customers, and we assume certain behavior and attributes on the basis of prior customers. If we and our systems are unable to detect any misrepresentations in this information, or if our assumptions prove inaccurate, it may have a material adverse effect on us.*** In deciding whether to extend credit to customers, we rely heavily on information furnished to us by or on behalf of our credit customers, including employment and personal financial information, and our ability to validate such information through third-party services. We also assume certain behavior and attributes observed for prior customers. Our ability to effectively manage our credit risk could be impaired, and could have a material adverse effect on us, if a significant percentage of our credit customers intentionally or negligently misrepresent any of this information, and our systems do not detect such misrepresentations, or if unexpected changes in behavior caused by macroeconomic conditions, changes in consumer preferences, availability of alternative products or other factors cause our assumptions to be inaccurate.

***Our policy of re-aging certain delinquent borrowers affects our delinquency statistics and the timing and amount of our write-offs, and may lead to higher delinquency statistics in the future, which could have a material adverse effect on our financial results.*** Re-aging is offered to certain of our past-due customers if they meet the conditions of our re-age policy. Our decision to offer a delinquent customer a re-age program is based on that borrower’s specific condition, our history with the borrower, the amount of the loan and various other factors. When we re-age a customer’s account, we move the account from a delinquent status to a current status. Management exercises a considerable amount of discretion over the re-aging process and has the ability to re-age an account multiple times during its life. Treating an otherwise uncollectible account as current affects our delinquency statistics, as well as impacts the timing and amount of charge-offs and, potentially, our future financial results. If these accounts had been charged off sooner, our net loss rates for earlier periods might have been higher. If the customer

defaults on the re-aged account, our re-aging may have simply postponed a delinquency, and our future delinquency statistics will be correspondingly higher.

***If we fail to properly staff and train our collections personnel or timely contact delinquent borrowers, the number of delinquent customer receivables eventually being charged off could increase.*** We contact customers with delinquent credit account balances soon after the account becomes delinquent. During periods of increased delinquencies, it is important that we are proactive in dealing with customers rather than simply allowing customer receivables to go to charge-off. Historically, when our servicing becomes involved at an earlier stage of delinquency with credit counseling and workout programs, there is a greater likelihood that the customer receivable will not be charged off.

The success of our collection efforts depends on our collection center being properly staffed and our staff being properly trained to assist borrowers in bringing delinquent balances current and ultimately avoiding charge-off. If we do not properly staff and train our collections personnel, or if we incur any downtime or other issues with our information systems that assist us with our collection efforts, then the number of accounts in a delinquent status or charged-off could increase. In addition, managing a substantially higher volume of delinquent customer receivables typically increases our operational costs. A rise in delinquencies or charge-offs could result in a material adverse effect on us.

***We rely on internal models to manage risk and to provide accounting estimates. We could suffer a material adverse effect if those models do not provide reliable accounting estimates or predictions of future activity.*** We make significant use of business and financial models in connection with our efforts to measure and monitor our risk exposures and to manage our credit portfolio. For example, we use models as a basis for credit underwriting decisions, portfolio delinquency, charge-off and collection expectations and other market risks, based on economic factors and our experience. The information provided by these models is used in making business decisions relating to strategies, initiatives, transactions and pricing, as well as the size of our allowance for doubtful accounts, among other accounting estimates.

Models are inherently imperfect predictors of actual results because they are based on current and historical data available to us and our assumptions about factors such as credit demand, payment rates, default rates, delinquency rates and other factors that may overstate or understate future experience. Our models could produce unreliable results for a number of reasons, including the limitations of historical data to predict results due to unprecedented or unforeseen events or circumstances, invalid or incorrect assumptions underlying the models, the need for manual adjustments in response to rapid changes in economic conditions, changes in credit policies, incorrect coding of the models, incorrect data being used by the models or inappropriate application of a model to products or events outside of the model's intended use. In particular, models are less dependable when the prevailing economic environment is different than historical experience.

In addition, we continually receive new economic data. Our critical accounting estimates, such as the size of our allowance for doubtful accounts, are subject to change, often significantly, due to the nature and magnitude of changes in economic conditions. However, there is generally a lag between the availability of this economic information and the preparation of corresponding internal models. When economic conditions change quickly or in unforeseen ways, there is increased risk that the assumptions and inputs reflected in our models are not representative of current economic conditions.

Changes in the economy, regulatory landscape, credit policies and practices, and the credit and capital markets have required, and will continue to require, frequent adjustments to our models and the application of greater management judgment in the interpretation and adjustment of the results produced by our models, including in connection with market uncertainty driven by the COVID-19 pandemic and other matters. The application of greater management judgment reflects the need to take into account updated information while continuing to maintain controlled processes for model updates, including model development, testing, independent validation and implementation. As a result of the time and resources, including technical and staffing resources, that are required to perform these processes effectively, it may not be possible to replace existing models quickly enough to ensure that they will always properly account for the impacts of recent information and actions.

If circumstances prove our models to be undependable or not representative of our results, then we may deem it necessary to increase our allowance for doubtful accounts in the future. If our actual charge-offs exceed the assumption used to establish the allowance, our provision for losses would increase and could result in a material adverse effect on us.

***We benefit from the collection of customer and non-customer recoveries on our customer accounts receivables. Our inability to continue to collect these recoveries could adversely affect our financial results.*** Once an account is charged-off, we continue to pursue collections from various recovery sources, including the customer, various state taxing jurisdictions in which sales tax was remitted and our third party insurance and warranty carriers that sold insurance and warranty products. If we are unable to continue to pursue our collections efforts as a result of operational, legislative, contractual or other changes, our financial results could be adversely affected.

***Our reported results require the judgment of management, and we could be subject to risks associated with these judgments or could be adversely affected by the implementation of new, or changes in the interpretation of existing, accounting principles or financial reporting requirements.*** The preparation of our financial statements requires management to make

estimates and assumptions that affect the reported amounts of assets and liabilities, and disclosure of contingent assets and liabilities, at the dates of the consolidated financial statements and the reported amounts of revenue and expenses during the reporting periods. In addition, we prepare our financial statements in accordance with generally accepted accounting principles (“GAAP”), and GAAP and its interpretations are subject to change over time. If new rules, different judgments, or interpretations of existing rules require us to change our financial reporting, our results of operations and financial condition could be materially adversely affected, and we could be required to restate historical financial reporting.

***Some of our customers may be recent immigrants and some may not be US citizens. Changes in immigration policies that affect states that share a border with Mexico may negatively impact our retail sales.*** We follow customer identification procedures including accepting government-issued picture identification, but we do not verify the immigration status of our customers. If we or the retail credit offering sector receive negative publicity around making loans to potentially undocumented immigrants, it may draw additional attention from regulatory agencies or advocacy groups, which may harm our sales and collections results. While our credit models look to approve customers who have stability of residency and employment, it is possible that a significant change in immigration patterns, policies or enforcement could cause our customers to reduce their business with us, or not engage in business transactions with us, and cause a reduction in sales or an increase in account delinquencies. Changes in immigration policies that affect states that share a border with Mexico may continue to create sales challenges and to negatively impact our retail sales in stores along the Mexican border. There is no assurance that a significant change in US immigration patterns, laws, regulations or enforcement will not occur, and any such significant change could have a material adverse impact on us.

***If we lose key management or are unable to attract and retain the qualified sales and credit granting and collection personnel required for our business, our operating results could suffer.*** Our success depends to a significant degree on the skills, experience and continued service of our key executives and the identification of suitable successors for them. While our key executives are subject to non-competition restrictions and other negative contractual covenants, if we lose the services of any of these individuals and we are unable to identify a suitable successor, or if one or more of them or other key personnel decide to join a competitor or otherwise compete directly or indirectly with us, our business and operations could be harmed, and we could have difficulty in implementing our strategy. In addition, our sales and credit operations are largely dependent upon our labor force. As our business grows, and as we incur turnover in current positions, we will need to locate, hire and retain additional qualified sales personnel in a timely manner and develop, train and manage an increasing number of management level sales associates and other employees. Additionally, if we are unable to attract and retain qualified credit granting and collection personnel, our ability to perform quality underwriting of new credit transactions and maintain workloads for our collections personnel at a manageable level could be materially adversely affected, and our operations could be materially adversely impacted, resulting in higher delinquency and net charge-offs on our credit portfolio. Competition for qualified employees could require us to pay higher wages, and increases in the federal, state or local minimum wage or other employee benefits costs could increase our operating expenses. If we are unable to attract and retain personnel as needed in the future or our operating expenses increase, our net sales and operating results could suffer.

***We depend on hiring an adequate number of hourly employees to run our business and are subject to government regulations concerning these and our other employees, including wage and hour regulations.*** Our workforce is comprised primarily of employees who work on an hourly basis. In certain markets where we operate, there is significant competition for hourly employees. The lack of availability of an adequate number of hourly employees or an increase in wages and benefits to current employees could have a material adverse effect on us. We are subject to applicable rules and regulations relating to our relationship with our employees, including wage and hour regulations, health and workers’ compensation benefits, unemployment taxes, overtime and working conditions and immigration status. Accordingly, legislated increases in the federal, state or local minimum wage, as well as increases in additional labor cost components such as employee benefit costs, workers’ compensation insurance rates, compliance costs and fines, would increase our labor costs, which could have a material adverse effect on us.

***We face significant competition from national, regional, local and internet retailers of furniture and mattresses, home appliances, and consumer electronics.*** The retail market for consumer electronics, furniture and mattresses is highly fragmented and intensely competitive and the market for home appliances is concentrated among a few major dealers. We currently compete against a diverse group of retailers, including national mass merchants, specialized national retailers, home improvement stores, and locally-owned regional or independent retail specialty stores that sell furniture and mattresses, home appliances, and consumer electronics, similar, and often identical, to those items we sell. We also compete with retailers that market products using store catalogs and the internet. In addition, there are few barriers to entry into our current and contemplated markets, and new competitors may enter our current or future markets at any time. Additionally, we compete to some extent against companies offering weekly or monthly lease-to-own payment options to credit constrained consumers for products for the home similar to those offered by us.

We may not be able to compete successfully against existing and future competitors. Some of our competitors have financial resources that may be substantially greater than ours and they may be able to purchase inventory at lower costs and better

endure economic downturns. If we cannot offer competitive prices to our customers, our sales may decline or we may be required to accept lower profit margins. Our competitors may respond more quickly to new or emerging technologies and may have greater resources to devote to promotion and sale of products and services. If two or more competitors consolidate their businesses or enter into strategic partnerships, they may be able to compete more effectively against us.

Our existing competitors or new entrants into our industry may use a number of different strategies to compete against us, including:

- Expansion by our existing competitors or entry by new competitors into markets where we currently operate;
- Lower pricing;
- Aggressive advertising and marketing;
- Extension of credit to customers on terms more favorable than we offer;
- Extension of credit options to customers with lower credit quality than qualifies for the credit programs we offer;
- Larger store size, or innovative store formats, which may result in greater operational efficiencies; and
- Adoption of improved retail sales methods.

Competition from any of these sources could cause us to lose market share, sales and customers, limit our ability to attract new customers, increase expenditures or reduce prices, any of which could have a material adverse effect on us.

***Changes in customer demand and product mix could materially adversely affect our business.*** Our products must appeal to a broad range of consumers whose preferences cannot be predicted with certainty and are subject to change. Our ability to maintain and increase sales depends to a large extent on the introduction and availability of new products and technologies and our ability to respond timely to customer demands and preferences for such new products. It is possible that the introduction of new products will never achieve widespread consumer acceptance or will be supplanted by alternative products and technologies that do not offer us a similar sales opportunity or are sold at lower price points or margins. We may be unable to anticipate these buying patterns, which could result in a material adverse effect on us. In addition, we often make commitments to purchase products from our vendors several months in advance of proposed delivery dates. Significant deviation from the projected demand for products that we sell could affect our inventory strategies, which may have an adverse effect on us, either from lost sales or lower margins due to the need to reduce prices to dispose of excess inventory.

Furthermore, due to our increasing emphasis on furniture and mattress offerings, we are building larger new stores and investing additional capital to expand existing stores to accommodate those offerings. If we are unable to execute on our furniture and mattress offering strategy, it could have a material adverse effect on us.

***We may experience significant price pressures over the life cycle of our products from competing technologies and our competitors.*** Prices for many of our products decrease over their life cycle. Such decreases often result in decreased gross profit margins. Suppliers may also take various steps, including manufacturing lower-cost inventory in higher volumes, to increase their own profitability, which may negatively impact our margins and, as a result, our profitability. Typically, new products, such as OLED, QLED, 4K Ultra HD and 8K televisions are introduced at relatively high price points that are then gradually reduced as the product becomes mainstream. To sustain same store sales growth, unit sales must increase at a rate greater than the decline in product prices. The affordability of products helps drive unit sales growth. However, as a result of relatively short product life cycles in the consumer electronics industry, which limit the amount of time available for sales volume to increase, combined with rapid price erosion in the industry, retailers are challenged to maintain overall gross margin levels and positive same store sales. We continue to adjust our marketing strategies to address this challenge through the introduction of new product categories, new products within our existing categories and product innovations. If we fail to accurately anticipate the introduction of new technologies, we may possess significant amounts of obsolete inventory that can only be sold at substantially lower prices than we anticipated. In addition, we may not be able to maintain our historical margin levels in the future due to increased sales of lower margin products, such as personal electronics products, and declines in average selling prices of key products, such as consumer electronics and home appliances. If sales of lower margin items continue to increase and replace sales of higher margin items, or if our consumer electronics products average selling prices decrease due to the maturity of their life cycle, our gross margin and overall gross profit levels may be materially adversely affected.

***A disruption in our relationships with, the operations of, or the supply of product from any of our key suppliers, including those suppliers and manufacturers located in Asia and Mexico, whether due to COVID-19 or otherwise, could have a material adverse effect on us.*** The success of our business and growth strategies depends to a significant degree on our relationships with our suppliers, particularly our brand name suppliers. We do not have long-term supply agreements or exclusive arrangements with a number of our vendors. We typically order our inventory through the issuance of individual purchase orders to vendors. We have limited contractual assurance of the continued supply of merchandise we currently, or

would like to, offer our customers. We also rely on our suppliers for funds in the form of vendor allowances. We may be subject to rationing by suppliers with respect to a number of limited distribution items. In addition, while we purchase products from approximately 75 manufacturers and distributors, we rely heavily on a relatively small number of suppliers. For example, during fiscal year 2021, 76.0% of our total inventory purchases were from six vendors. The loss of any one or more of our key suppliers or failure to establish and maintain relationships with these and other vendors, and limitations on the availability of inventory or repair parts, could have a material adverse effect on our supply and assortment of products, as we may not be able to find suitable replacements to supply products at competitive prices, and on our results of operations and financial condition.

If one of our vendors were to go out of business or were to be unable to fund amounts due to us, including payments due for returns of product and warranty claims, it could have a material adverse effect on our results of operations and financial condition. Catastrophic or other unforeseen events, including outbreaks such as COVID-19, whether inside or outside the U.S., could materially adversely impact the supply and delivery to us of products manufactured far from our sales facilities, including manufacturers or suppliers located in Asia and Mexico, which could materially adversely impact our results of operations. In addition, because many of the products we sell are manufactured outside of the U.S., we may experience labor unrest or an increase in the cost of imported vendor products, or an inability to secure imported merchandise, as a result of border taxes, tariffs, or trade disputes at any time for reasons beyond our control. Any slow-downs, disruptions or strikes at any of the ports may have a material adverse effect on our relationships with our customers and our business, potentially resulting in canceled orders by customers and reduced revenues and earnings. If imported merchandise becomes more expensive, unavailable or difficult to obtain, we may not be able to meet the demands of our customers. Products from alternative sources may also be more expensive than those our vendors currently import.

Our ability to enter new markets successfully depends, to a significant extent, on the willingness and ability of our vendors to supply merchandise to additional distribution centers and stores. If vendors are unwilling or unable to supply some or all of their products to us at acceptable prices in one or more markets, we could be materially adversely affected.

Furthermore, we rely on credit from vendors to purchase our products. A substantial change in credit terms from vendors or vendors' willingness to extend credit to us, including providing inventory under consignment arrangements, would reduce our ability to obtain the merchandise that we sell, which could have a material adverse effect on us. In addition, if our vendors fail to continue to offer vendor allowances, or we are restricted in our ability to earn such funds, our results of operations could be materially adversely affected.

Turmoil in financial markets and economic disruptions around the world may also negatively impact our suppliers' access to capital and liquidity with which to maintain their inventory, production levels, and product quality, and operate their businesses, all of which could materially adversely affect our supply chain. It may also cause them to change their pricing policies, which could adversely impact demand for their products. Economic disruptions and market instability may make it difficult for us and our suppliers to accurately forecast future product demand trends, which could cause us to carry too much or too little merchandise in various product categories. In addition, to the extent that any manufacturer utilizes labor practices that are not commonly accepted in the U.S., we could be materially adversely affected by any resulting negative publicity.

***Our same store sales fluctuate significantly.*** Our same store sales have fluctuated significantly from quarter to quarter historically and may fluctuate in the future. A number of factors have historically affected, or may in the future affect, our same store sales, including:

- Changes in competition, such as pricing pressure, and the opening of new stores by competitors in our markets;
- General economic conditions;
- Economic challenges faced by our customer base;
- New product introductions;
- Changes in our marketing programs;
- Consumer trends;
- Changes in our merchandise mix;
- Changes in the relative sales price points of our major product categories;
- Underwriting standards for our customers purchasing merchandise on credit;
- Our ability to offer credit programs attractive to our customers;
- The impact of any new stores on our existing stores;
- Our ability to manage our supply chain and inventory as a result of relocations of and restructurings to our distribution centers;

- Weather events and conditions in our markets;
- COVID-19 and other outbreaks;
- Timing of promotional events;
- Timing, location and participants of major sporting events;
- The number of new store openings;
- The percentage of our stores that are mature stores that tend to be smaller or have fewer assortment of higher margin products, such as furniture;
- The locations of our stores and the traffic drawn to those areas;
- How often we update our stores;
- Our ability to execute our business strategy effectively;
- Staffing levels; and
- Lease-to-own penetration rates.

***We have been named as a defendant in multiple securities class action lawsuits and shareholder derivative lawsuits. Potential similar or related litigation or investigations could result in substantial damages and may divert management's time and attention from our business.*** We and certain of our current and former officers and directors are named as defendants in securities class action lawsuits and in related shareholder derivative lawsuits. Each of these matters is described in more detail in Part II, Item 8., in Note 12, *Contingencies*, of the Consolidated Financial Statements of this Annual Report on Form 10-K.

The lawsuits could result in the diversion of management's time and attention away from business operations, which could harm our business and also harm our relationships with existing customers and vendors. They may also materially damage our reputation and the value of our brand. Our legal expenses incurred in defending the lawsuits could be significant, and a ruling against us, or a settlement of any of these matters, could have a material adverse effect on us.

There can be no assurance that any litigation to which we are, or in the future may become, a party will be resolved in our favor. These lawsuits and any other lawsuits that we may become party to are subject to inherent uncertainties, and the costs to us of defending litigation matters will depend upon many unknown factors. Any claim that is successfully decided against us may require us to pay substantial damages, including punitive damages, and other related fees, or prevent us from selling certain of our products. Regardless of whether lawsuits are resolved in our favor or if we are the plaintiff or the defendant in the litigation, any lawsuits to which we are or may become a party will likely be expensive and time consuming to defend or resolve.

***Pending litigation relating to the sale of credit insurance and the sale of repair service agreements in the retail industry could have a material adverse effect on us.*** State attorneys generals and private plaintiffs have filed lawsuits against other retailers relating to improper practices in connection with the sale of credit insurance and repair service agreements in several jurisdictions around the country. We offer credit insurance in our stores on sales financed under our credit programs and require customers to purchase credit insurance from us, or provide evidence from a third-party insurance provider, at their election, in connection with sales of merchandise on credit. Therefore, similar litigation could be brought against us. While we believe we are in full compliance with applicable laws and regulations, if we are found liable in any future lawsuit regarding credit insurance or repair service agreements, we could be required to pay substantial damages or incur substantial costs as part of an out-of-court settlement or require us to modify or suspend certain operations, any of which could have a material adverse effect on us. An adverse judgment or any negative publicity associated with our repair service agreements or any potential credit insurance litigation could also affect our reputation, which could have a negative impact on our cash flow and results of operations.

***Pending or unforeseen litigation and the potential for adverse publicity associated with litigation could have a material adverse effect on us.*** We are involved from time to time in various legal proceedings arising in the ordinary course of our business, including primarily commercial, consumer finance, debt collections, product liability, employment and intellectual property claims. We currently do not expect the outcome of any pending matters to have a material adverse effect on our consolidated results of operations, financial position or cash flows. Litigation, however, is inherently unpredictable, and it is possible that the ultimate outcome of one or more pending claims asserted against us, or claims that may be asserted in the future that we are currently not aware of, or adverse publicity resulting from any such litigation, could adversely impact our business, reputation, sales, profitability, cash flows and financial condition.

In recent years many participants in the manufacturing, retail and software industries have been the target of patent litigation claimants making demands or filing claims based upon alleged patent infringement through the manufacturing and selling,

either in merchandise or through software and internet websites, of product or merely providing access through website portals. We, in conjunction with multiple other parties, have been (and remain) the targets of such claims. While we believe that we have not violated or infringed any third-party alleged patent rights, and intend to defend vigorously any such claims, the cost to defend, settle or pay any such claims could be substantial and could have a material adverse effect on us.

**Failure to effectively manage our costs could have a material adverse effect on our profitability.** Certain elements of our cost structure are largely fixed in nature. Consumer spending remains uncertain, which makes it more challenging for us to maintain or increase our operating income. The competitiveness in our industry and increasing price transparency means that the focus on achieving efficient operations is greater than ever. As a result, we must continuously focus on managing our cost structure. Failure to manage our labor and benefit rates, advertising and marketing expenses, operating leases, charge-offs, other store expenses or indirect spending could materially adversely affect us.

**Our stores are concentrated in the southern region of the U.S., especially Texas, which subjects us to regional risks, such as the economy, outbreaks, the performance of energy markets, weather conditions, hurricanes and other natural or man-made disasters.** If the southern region of the U.S. suffers an economic downturn or any other adverse regional event, such as an outbreak, a collapse of the oil and gas market, or inclement weather, it could have a material adverse effect on us as a result of the concentration of our stores in such region. Several of our competitors operate stores in various regions across the U.S. and thus may not be as vulnerable to the risks associated with operating in a concentrated region. The states and the local economies where many of our stores are located are dependent, to a degree, on the oil and gas industries, which can be very volatile due to fluctuations of commodities prices or other causes. Because of fears of climate change and adverse effects of drilling explosions and oil spills, legislation has been considered, and governmental regulations and orders have been issued, which, combined with the local economic and employment conditions caused by both, could materially adversely impact the oil and gas industries and the economic health of areas in which a significant number of our stores are located.

**Acts of violence at or threatened against our stores or the centers in which they are located, including active shooter situations, protests and terrorism, could unfavorably impact our sales, which could have a material adverse effect on us.** Any act of violence at or threatened against our stores or the centers in which they are located, including active shooter situations, protests and terrorist activities, may result in restricted access to our stores and/or store closures in the short-term, and in the long-term, may cause our customers to avoid our stores. Any such situation could adversely impact cash flows and make it more difficult to fully staff our stores, which could have a material adverse effect on us.

**Our information technology systems for our key business processes are vulnerable to damage that could harm our business.** Our ability to operate our business, including our ability to manage our credit and collections, operations and inventory levels, largely depends on the efficient operation of our computer hardware and software systems. We use management information systems, including our credit underwriting, loan management, inventory management and collections systems, to track inventory information at the store level, communicate customer information, aggregate daily sales and expense information and manage our credit portfolio, including processing credit applications and managing collections. In addition, we license these systems from third parties. These systems and our operations are subject to damage or interruption from, among other things:

- Power loss, computer systems failures and internet, telecommunications or data network failures;
- Operator negligence, unauthorized access or improper operation by, or supervision of, employees;
- Physical and electronic loss of data or security breaches, misappropriation and similar events;
- Computer viruses;
- Intentional acts of vandalism and similar events;
- Failures on behalf of third parties from which we license certain of these systems to provide timely, quality and regular access to or maintenance of such systems; and
- Hurricanes, fires, floods and other natural disasters.

In addition, the software that we have developed internally to use in our daily operations may contain undetected errors that could cause our network to fail or our expenses to increase. Any failure of our owned or licensed systems due to any of these or other causes could cause an interruption in our operations and result in reduced net sales and results of operations. Though we have implemented contingency and disaster recovery processes in the event of one or several technology failures, any unforeseen failure, interruption or compromise of our systems or our security measures could adversely affect our business and harm our reputation. The risk of possible failures or interruptions may not be adequately addressed by us or the third-parties on which we rely, and such failures or interruptions could occur. The occurrence of any failures or interruptions could have a material adverse effect on us.

**Our information technology systems may not be adequate to meet our evolving business and emerging regulatory needs and the failure to successfully implement new systems could negatively impact our business and financial results.** We are

investing capital in new information technology systems and implementing modifications and upgrades to existing systems to support our growth plan. These investments include replacing legacy systems, making changes to existing systems, building redundancies, and acquiring new systems and hardware with updated functionality. We are taking actions to ensure the successful implementation of these initiatives, including the testing of new systems and the transfer of existing data, with minimal disruptions to our business and collections, but there can be no guarantee of success. These efforts may take longer and may require greater financial and other resources than anticipated, may cause distraction of key personnel, may cause disruptions to our existing systems and our business, and may not provide the anticipated benefits. Any disruption in our information technology systems, or our inability to improve, or failure to upgrade, integrate or expand our systems to meet our evolving business and emerging regulatory requirements, could impair our ability to achieve critical strategic initiatives and could have a material adverse effect on us.

***We could lose our access to customer and credit data sources, which could cause us competitive harm and have a material adverse effect on us.*** We are heavily dependent on customer and credit data provided by third party providers. Our data providers could stop providing data, provide untimely, incorrect or incomplete data, or increase the costs for their data for a variety of reasons, including a perception that our systems are insecure as a result of a data security breach or regulatory concerns or for competitive reasons. We could also become subject to increased legislative, regulatory or judicial restrictions or mandates on the collection, disclosure or use of such data, in particular if such data is not collected by our providers in a way that allows us to legally use the data. If we were to lose access to this external data or if our access or use were restricted or were to become less economical or desirable, our business would be negatively impacted, which would adversely affect our operating results and financial condition. We cannot provide assurance that we will be successful in maintaining our relationships with these external data source providers or that we will be able to continue to obtain data from them on acceptable terms or at all. Furthermore, we cannot provide assurance that we will be able to obtain comparable data from alternative sources on favorable terms or at all if our current sources become unavailable.

***If we cannot continue to offer third party payment solutions for customers who do not qualify for our proprietary credit offerings, our business may be impaired.*** Currently, if a customer does not qualify for our credit offering for a particular purchase in our stores, but qualifies with a payment solutions provider not affiliated with us but with whom we have a commercial relationship, then we sell the applicable merchandise to such payment solutions provider, which leases the merchandise to the customer under a lease-to-own arrangement, and we record a cash sale. In fiscal year 2021, our third-party payment solution providers providing lease-to-own arrangements, represented approximately 8.5% of our retail revenue. Our third-party payment and credit solutions providers' business models are subject to various risks that are outside of our control. If, as a result of any of these risks, our third-party payment and credit solutions providers are unable to, or otherwise determine not to continue operating with us at a level or on terms similar to the level or on terms we have historically operated, or if we are unable to establish new partnerships with different providers on favorable terms or at all, then we could lose sales or revenue, our financial results could be adversely affected, our ability to execute our growth plan could be impeded and we could otherwise suffer a material adverse effect.

***If we are unable to continue to offer third-party repair service agreements to our customers, we could incur additional costs or repair expenses, which could materially adversely affect us.*** There are a limited number of insurance carriers that provide repair service agreement programs. If repair service agreement programs become unavailable from our current providers for any reason, we may be unable to provide repair service agreements to our customers on the same or similar terms, or at all. Even if we are able to obtain a substitute provider, higher premiums may be required, which could have a material adverse effect on our profitability if we are unable to pass along the increased cost of such coverage to our customers. Inability to maintain the repair service agreement program could cause fluctuations in our repair expenses, impact our credit portfolio losses, and cause greater volatility of earnings and could require us to become the obligor under new contracts we sell.

***If we are unable to maintain group credit insurance policies from insurance carriers, which allow us to offer their credit insurance products to our customers purchasing our merchandise on credit, our revenues may be reduced or our credit losses may increase.*** There are a limited number of insurance carriers that provide credit insurance coverage for sale to our customers. If credit insurance becomes unavailable for any reason we may be unable to offer substitute coverage on the same or similar terms, or at all. Even if we are able to obtain substitute coverage, it may be at higher rates or reduced coverage, which could affect customer acceptance of these products, reduce our revenues or increase our credit losses.

***We utilize a limited number of home delivery service providers. The loss of any one provider could have a material negative impact on our home delivery operations.*** If our third-party merchandise delivery services are unable to meet our promised delivery schedule, unable to maintain expense controls, or cease operations, including due to the economic impact of various factors including the COVID-19 outbreak or energy market disruption, our net sales may decline due to a decline in customer satisfaction, and profitability levels may be negatively impacted. For many purchases, we offer next day delivery to our customers that we outsource to one of our third-party delivery service providers. The loss of any one service provider, or the failure to establish and maintain relationships with these or other similar service providers, could have a material negative impact on our home delivery operations. These third-parties are subject to risks that are beyond our control and, if they fail to

timely or satisfactorily deliver our products, we may lose business from customers in the future and could suffer damage to our reputation. The loss of customers or damage to our reputation could have a material adverse effect on us. Further, if our third-party delivery service providers are unable to maintain expense controls, our profitability and results of operations may be negatively impacted.

***Changes in trade policy, currency exchange rate fluctuations and other factors beyond our control could materially adversely affect our business.*** A significant portion of our inventory is manufactured or assembled overseas in Asia and in Mexico. Changes in U.S. and foreign governments' trade policies have resulted in, and may continue to result in, tariffs on imports into and exports from the U.S. Throughout 2018 and 2019, the U.S. imposed tariffs on imports from several countries, including China, and created the potential for significant additional changes in trade policies. While the impact of the tariffs was minimal to the Company in fiscal year 2020 and 2021, because many of the products that we sell are manufactured in foreign jurisdictions, including China, such tariffs could have a negative impact on our business in the future. The new administration in Washington, D.C. may likely take a different view on tariffs with China and other nations than the preceding administration, but the impact of any changes cannot be predicted accurately at this time. Additionally, in November 2018, the U.S., Mexico and Canada signed the United States-Mexico-Canada Agreement (the "USMCA"), which is designed to overhaul and update the North American Free Trade Agreement ("NAFTA"). The three countries agreed to a revised version of the USMCA in December 2019. The USMCA has been ratified by all three countries, and as a result, has replaced NAFTA. If the U.S. were to withdraw from or materially modify other international trade agreements, certain foreign-sourced goods that we sell may no longer be available at commercially attractive prices or at all, resulting in a material adverse effect on us. Continued diminished trade relations between the U.S. and other countries, as well as the continued escalation of tariffs, could have a material adverse effect on us. Additionally, currency fluctuations, including a devaluation of the U.S. dollar, border taxes, import tariffs, or other factors beyond our control may increase the cost of items we purchase or create shortages of these items, which in turn could have a material adverse effect on us. Conversely, significant reductions in the cost of these items in U.S. dollars may cause a significant reduction in the retail prices of those products, resulting in a material adverse effect on us.

***Our costs to protect our intellectual property rights, infringement of which could impair our name and reputation, could be significant.*** We believe that our success and ability to compete depends in part on consumer identification of the name "Conn's" and we rely on certain trademark registrations and common law rights to protect the distinctiveness of our brand. We intend to protect vigorously our trademarks against infringement, misappropriation or dilution by others. A third-party, however, could attempt to misappropriate our intellectual property or claim that our intellectual property infringes or otherwise violates third-party trademarks in the future. Any litigation or claims relating to our intellectual property brought by or against us, whether with or without merit, or whether successful or not, could result in substantial costs and diversion of our resources, which could have a material adverse effect on us.

***Failure to protect the security of our customers', employees' or suppliers' information or failure to comply with data privacy and protection laws could expose us to litigation, compromise the integrity of our products, damage our reputation and materially adversely affect us.*** Our business regularly captures, collects, handles, processes, transmits and stores significant amounts of sensitive information about our customers, employees, suppliers and others, including financial records, credit and business information, and certain other personally identifiable or other sensitive personal information. A number of other retailers have experienced security breaches, including a number of highly publicized incidents involving well-known retailers. To our knowledge, we have not suffered a significant security breach. While we have implemented systems and processes to protect against unauthorized access to or use of secured data and to prevent data loss and theft, there is no guarantee that these procedures are adequate to safeguard against all data security breaches or misuse of data. In addition, we rely on the secure operation of our website and other third-party systems generally to assist us in the collection and transmission of the sensitive data we collect. Our information systems are vulnerable to damage or interruption from power outages, computer and telecommunications failures, computer viruses, security breaches (including credit card information breaches), vandalism, catastrophic events and human error or malfeasance. A compromise of our information security controls or of those businesses with which we interact, which results in confidential information being accessed, obtained, damaged, or used by unauthorized or improper persons, could harm our reputation and expose us to regulatory actions and claims from customers, employees, financial institutions, payment card associations and other persons, any of which could materially adversely affect us. Moreover, a data security breach could require that we expend significant resources related to our information systems and infrastructure, and could distract management and other key personnel from performing their primary operational duties. If our information systems are damaged, fail to work properly or otherwise become unavailable, we may incur substantial costs to repair or replace them, and may experience loss of critical information, customer disruption and interruptions or delays in our ability to perform essential functions and implement new and innovative services. In addition, compliance with changes in privacy and information security laws and standards may result in considerable expense due to increased investment in technology and the development of new operational processes.

We maintain data breach and network security liability insurance, but we cannot be certain that our coverage will be adequate for any liabilities actually incurred or that insurance will continue to be available to us on economically reasonable terms or at

all. We may need to devote significant resources to protect against security breaches or to address problems caused by breaches, which would divert resources from the growth and expansion of our business.

***Our tax liabilities could be materially impacted by any changes in the tax laws of the jurisdictions in which we operate, beginning operations in new states, and assessments as a result of tax audits.*** Legislation could be introduced at any time that changes our tax liabilities in a way that has a material adverse effect on us. In particular, because of the extent of our operations in Texas, the Texas margin tax, which is based on gross profit rather than earnings, can create significant volatility in our effective tax rate. In addition, our entry into new states in the future could subject us to additional tax rate volatility, dependent upon the tax laws in place in those states. Moreover, we periodically review our indirect tax audit reserve based on recent assessments of prior year periods. In the event that actual results differ from our estimate, we may revise our estimate of post-audit periods, which could materially impact our financial condition and results of operations.

***We are subject to sales, income and other taxes, which can be difficult and complex to calculate due to the nature of our business. A failure to correctly calculate and pay such taxes could result in substantial tax liabilities and have a material adverse effect on us.*** The application of indirect taxes, such as sales tax, is a complex and evolving issue and we may not have accrued or remitted required amounts to various jurisdictions. Many of the fundamental statutes and regulations that impose these taxes were established before the growth of e-commerce and, therefore, in many cases it is not clear how existing statutes apply to certain aspects of our business and we rely on advice from our third-party tax advisors. In addition, governments are increasingly looking for ways to increase revenues, which has resulted in discussions about tax reform and other legislative action to increase tax revenues, including through indirect taxes. This also could result in other adverse changes in or interpretations of existing sales, income and other tax regulations, the exact nature or effect of which cannot be reasonably calculated, but which could have a material adverse effect on us.

***Failure to successfully utilize and manage e-commerce, and to compete effectively with the growing e-commerce sector, could materially adversely affect our business and prospects.*** Our website provides new and existing customers with the ability to review our product offerings and prices, apply for credit, and make payments on their credit accounts. Customers may apply for credit, be approved for credit, and complete a transaction to purchase merchandise on our website. Customers may also purchase certain products on our website using a credit card. Our website is a significant component of our advertising strategy. We believe our website represents a possible source for future sales and growth in our credit sales. In order to promote our products and services, allow our customers to complete credit applications in the privacy of their homes and on their mobile devices and make payments on their accounts, and drive traffic to our stores, we must effectively create, design, publish and distribute content over the internet. In late fiscal year 2020, we started to offer certain credit-qualified customers the ability to complete an entire purchase transaction financed online through our proprietary in-house credit programs. We are monitoring and adjusting the availability of our new online sales channels for credit performance and profitability. There can be no assurance that we will be able to design and publish web content with a high level of effectiveness or grow our e-commerce business in a profitable manner. Certain of our competitors, and a number of e-commerce retailers, have established e-commerce operations against which we compete for customers. It is possible that the increasing competition from the e-commerce sector may reduce our market share, gross margin or operating margin, and may have a material adverse effect on us.

***If we fail to maintain adequate systems and processes to detect and prevent fraudulent activity, including in our e-commerce business, our business could be materially adversely impacted.*** Criminals are using increasingly sophisticated methods to engage in illegal activities such as paper instrument counterfeiting, fraudulent payment or refund schemes and identity theft. As we make more of our services available over the internet and other media, and as we expand into new geographic regions without an established customer base, we subject ourselves to increased consumer fraud risk. While we believe past incidents of fraudulent activity have been relatively isolated, we cannot be certain that our systems and processes will always be adequate in the face of increasingly sophisticated and ever-changing fraud schemes. We use a variety of tools to protect against fraud, but these tools may not always be successful at preventing such fraud. Instances of fraud may result in increased costs, including possible settlement and litigation expenses, and could have a material adverse effect on us.

***Our reputation, ability to do business and operating results may be impaired by improper conduct by any of our employees, agents or business partners.*** Our employees, agents or business partners may violate the policies and procedures we have implemented to ensure compliance with applicable laws. Improper actions by any of the foregoing could subject us to civil, criminal or administrative investigations, could lead to substantial civil and criminal, monetary and non-monetary penalties, and related shareholder lawsuits, could cause us to incur significant legal fees, and could damage our reputation.

***Because we maintain a significant supply of cash and inventories in our stores, we may be subject to employee and third-party robberies, burglaries, thefts, riots and looting, and may be subject to liability as a result of crimes at our stores.*** Our business requires us to maintain a significant supply of cash, loan collateral and inventories in most of our stores. As a result, we are subject to the risk of robberies, burglaries, thefts, riots and looting. Although we have implemented various programs in an effort to reduce these risks, maintain insurance coverage for robberies, burglaries and thefts and utilize various security measures at our facilities, there can be no assurance that robberies, burglaries, thefts, riots and looting will not occur. The extent of our cash, loan collateral and inventory, losses or shortages could increase as we expand the nature and scope of our

products and services. Robberies, burglaries, thefts, riots and looting could lead to losses and shortages and could have a material adverse effect on us. It is also possible that violent crimes such as armed robberies may be committed at our stores. We could experience liability or adverse publicity arising from such crimes. For example, we may be liable if an employee, customer, guard or bystander suffers bodily injury or other harm. Any such event may have a material adverse effect on us.

***We are subject to risks associated with leasing substantial amounts of space, including future increases in occupancy costs.*** We lease almost all of our store locations, our corporate headquarters and our distribution centers. Our continued growth and success depends in part on our ability to locate property for new stores and renew leases for existing locations. There is no assurance that we will be able to locate real estate and negotiate leases for new stores, or renegotiate leases for existing locations, on the same or similar terms, or on favorable terms at all, and we could be forced to move or exit a market as a result. Furthermore, a significant rise in real estate prices or real property taxes could result in an increase in store lease expense as we open new locations and renew leases for existing locations, thereby negatively impacting our results of operations. Our inability to enter into new leases or renew existing leases on terms acceptable to us, or be released from our obligations under leases for stores that we close, could materially adversely affect us.

We depend primarily on cash flow from operations to pay our lease expenses. If our business does not generate sufficient cash flow from operating activities to fund these expenses, we may not be able to service our lease expenses, which could materially adversely affect us. If an existing or future store is not profitable, and we decide to close it, we may be nonetheless committed to perform our obligations under the applicable lease including, among other things, paying the base rent for the balance of the lease term. Moreover, even if a lease has an early cancellation clause, we might not satisfy the contractual requirements for early cancellation under that lease.

***Failure to maintain positive brand perception and recognition could have a negative impact on our business.*** Maintaining a good reputation is critical to the success of our business. The considerable expansion of the use of social media by our customers (including, but not only, as a result of our technological outreach), has increased the risk that our reputation could be negatively impacted in a short amount of time. If we are unable to quickly and effectively respond to criticism of our brand or reputation (on any basis), we may suffer declines in customer loyalty and traffic, vendor relationship issues, and other consequences, all of which could have a material adverse effect on us.

***We face risks with respect to product liability claims and product recalls, which could materially adversely affect our reputation, our business, and our consolidated results of operations.*** We purchase merchandise from third-parties and offer this merchandise to customers for sale. This merchandise could be subject to recalls and other actions by regulatory authorities. Changes in laws and regulations could also impact the type of merchandise we offer to customers. We have experienced, and may in the future experience, recalls of merchandise. In addition, individuals may in the future assert claims that they have sustained injuries from third-party merchandise offered by us, and we may be subject to future lawsuits relating to these claims. These claims or liabilities may exceed, or fall outside the scope of, our insurance coverage. Any of the issues mentioned above could result in damage to our reputation, diversion of management resources, or reduced sales and increased costs, any of which could have a material adverse effect on us.

***We previously identified a material weakness in our internal controls over financial reporting. If we fail to maintain an effective system of internal controls, our ability to produce accurate and timely financial statements could be impaired, which could harm our business and have a material adverse effect on the price of our common stock.*** In 2020, management and our independent registered public accounting firm identified a material weakness in our internal controls over financial reporting related to information technology general controls (“ITGCs”). During fiscal year 2021, we implemented measures to remediate this material weakness, and we concluded that it had been fully remediated as of January 31, 2021. However, our remedial actions may not prevent this or similar weaknesses from occurring in the future.

We are required to comply with a variety of reporting, accounting and other rules and regulations. As a result, we maintain a system of internal control over financial reporting, but there are limitations inherent in internal control systems and significant deficiencies or material weaknesses are possible. A control system can provide only reasonable, not absolute, assurance that the objectives of the control system are met. In addition, the design of a control system must reflect the fact that there are resource constraints and the benefit of controls must be appropriate relative to their costs. Furthermore, compliance with existing requirements is expensive and we may need to implement additional finance and accounting and other systems, procedures and controls to satisfy our reporting requirements. If our internal control over financial reporting is determined to be ineffective, or if we are unable to appropriately or timely remediate any such effectiveness, such failure could cause us to restate financial results that have been made public, cause investors to lose confidence in our reported financial information, negatively affect the market price of our common stock, subject us to regulatory investigations and penalties, require us to expend significant resources to remediate the deficiencies, impair our access to capital and otherwise materially adversely impact us.

***Our governance documents and Delaware law provide certain anti-takeover measures which could discourage, delay or prevent a change in control of the Company, even if such changes would be beneficial to our stockholders.*** Provisions of our amended and restated certificate of incorporation and amended and restated bylaws, as well as provisions of the Delaware

General Corporation Law (“DGCL”) could discourage, delay or prevent a merger, acquisition or other change in control of the Company, even if such change in control would be beneficial to our stockholders. These provisions include:

- A prohibition on stockholder action without a meeting, unless such action has been approved in advance by our Board of Directors;
- A prohibition on stockholders’ ability to call special meetings of stockholders;
- Express powers to adjourn, postpone, reschedule or cancel meetings of stockholders, and rules regarding presiding, and conduct, at such meetings;
- Significant advance notice requirements for nominations for election to the Board of Directors or for proposing matters that can be acted upon by stockholders at stockholder meetings; and
- Authorization of the issuance of “blank check” preferred stock that could be issued by our Board of Directors to increase the number of outstanding shares and thwart a takeover attempt.

Further, we are subject to Section 203 of the DGCL, which limits certain transactions and business combinations between a corporation and a stockholder owning 15% or more of the corporation’s outstanding voting stock for a period of three years from the date the stockholder becomes a 15% stockholder. These provisions and our stockholders’ rights plan, either alone or in combination with each other, could delay, deter or prevent a change of control, whether or not it is desired by, or beneficial to, our stockholders.

***Our corporate actions may be substantially controlled by our principal stockholders and affiliated entities.*** A large proportion of our outstanding common stock is beneficially owned by a small group of principal stockholders and their affiliates, including Stephens Inc., Stephens Group, BlackRock, Inc. and Dimensional Fund Advisors LP. Large holders, such as these, may be able to affect matters requiring approval by Company stockholders, including the election of directors and the approval of mergers or other business combination transactions. The concentration of ownership of our shares of common stock by the relatively small number of investors and hedge funds may:

- Have significant influence in determining the outcome of any matter submitted to stockholders for approval, including the election of directors, mergers, consolidations, and the sale of all or substantially of our assets or other significant corporate actions;
- Delay or deter a change of control of the Company;
- Deprive stockholders of an opportunity to receive a premium for their shares as part of a sale of the Company; and
- Affect the market price volatility and liquidity of our shares of common stock.

The interests of these investors and their respective affiliates may differ from or be adverse to the interests of our other stockholders. If any of these investors sells a substantial number of shares in the public market, the market price of our shares could fall. The perception among the public that these sales will occur could also contribute to a decline in the market price of our shares.

#### **Risk Related to Laws and Regulations**

***We may expand our retail or credit offerings and become subject to different operating, regulatory or legal requirements.*** In addition to the retail and consumer finance products we currently offer, we may offer other products and services in the future, including new financing products and services. These products and services may require additional or different operating and compliance systems or have additional or different legal or regulatory requirements than the products and services we currently offer.

To the extent we undertake expansion into additional states that allow for direct consumer lending, and do not have the proper legal and regulatory compliance infrastructure, consumer lending licenses or personnel, or otherwise do not successfully execute such an expansion, or our customers do not positively respond to such an expansion, it could have a material adverse effect on us.

***Our business could be materially adversely affected by changes in consumer protection laws and regulations.*** Federal and state consumer protection laws, regulations and agencies, such as the FCRA and the CFPB, heavily regulate the way we conduct business and could limit the manner in which we may offer and extend credit and collect on our accounts. Because a substantial portion of our sales are financed through our credit offerings any adverse change in the regulation of consumer credit could have a material adverse effect on us.

New laws or regulations, or new interpretations of existing laws or regulations, could limit the amount of interest or fees that may be charged on consumer credit accounts, including by reducing the maximum interest rate that can be charged in the states in which we operate, or impose limitations on our ability to collect on account balances, which could have a material adverse

effect on us. New consumer protection laws and regulations are more likely due to the changes in the Presidency and Congress following the 2020 election. Compliance with existing and future laws or regulations, including regulations that may be applicable to us under the Dodd-Frank Act, could require the expenditure of substantial resources. Failure to comply with these laws or regulations, even if inadvertent, could result in negative publicity, fines or additional licensing expenses, any of which could result in a material adverse effect on us.

We have procedures and controls in place that we believe are reasonable to monitor compliance with the numerous federal and state laws and regulations and believe we are in compliance with such laws and regulations. However, these laws and regulations are complex, differ between jurisdictions and are often subject to interpretation. As we expand into additional jurisdictions and offer new credit products such as our direct consumer loans, the complexities grow. Compliance with these laws and regulations is expensive and requires the time and attention of management. If we do not successfully comply with laws, regulations, or policies, we could incur fines or penalties, lose existing or new customers, or suffer damage to our reputation. Changes in these laws and regulations can significantly alter our business environment, limit business operations, and increase costs of doing business, and we may not be able to predict the impact such changes would have on our profitability.

***The CFPB may reshape the consumer financial laws and there continues to be uncertainty as to how the agency's actions will impact our business.*** The Dodd-Frank Act comprehensively overhauled the financial services industry within the U.S. and established the CFPB. The CFPB has enforcement and rulemaking authority under certain federal consumer financial laws, including, but not limited to, the TILA, ECOA, FCRA, FDCPA, and GLBA. This means, for example, that the CFPB has the ability to adopt rules that interpret provisions of the FDCPA, potentially affecting all facets of debt collection. Recently the CFPB published a revised final rule under the FDCPA that would, among other things, limit the timing and number of calls that can be made to a consumer debtor by a third-party collection agency. This rule could impact our ability to contact our consumers and collect amounts owed. In addition, the CFPB has issued guidance in the form of bulletins on debt collection and credit furnishing activities generally, including bulletins that address furnisher requirements and the application of the CFPB's prohibition on "unfair, deceptive, or abusive" acts or practices with respect to debt collection.

In addition, the CFPB maintains an online complaint system that allows consumers to log complaints with respect to the products we offer. The system could inform future agency decisions with respect to regulatory, enforcement, or examination focus. The CFPB is authorized to collect fines and provide consumer restitution in the event of violations of certain consumer financial service laws, engage in consumer financial education, request data, and promote the availability of financial services to under-served consumers and communities. There continues to be uncertainty as to how, or if, the CFPB and its strategies and priorities will impact our businesses and our results of operations going forward and could result in new regulatory requirements and regulatory costs for us.

Although we have committed substantial resources to enhancing our compliance programs, changes in regulatory expectations, interpretations or practices could increase the risk of enforcement actions, fines and penalties. Actions by the CFPB, FTC and various state agencies could result in requirements to alter our products and services that would make our products less attractive to consumers or impair our ability to offer them profitably. Future actions by regulators that discourage the use of products we offer or steer consumers to other products or services could result in reputational harm and a loss of customers. Should the CFPB, FTC and various state agencies change regulations adopted in the past by other regulators, or modify past regulatory guidance, our compliance costs and litigation exposure could increase. This additional focus and regulatory oversight could significantly increase operating costs.

***Judicial or administrative decisions, CFPB rule-making or amendments to the Federal Arbitration Act could render the arbitration agreements we use illegal or unenforceable.*** Dispute arbitration provisions are commonplace in our customer credit arrangements. These provisions are designed to allow us to resolve customer disputes through individual arbitration rather than in court. Our arbitration provisions explicitly provide that all arbitrations will be conducted on an individual and not on a class basis. In the past, various courts and administrative authorities have concluded that arbitration agreements with class action waivers are unenforceable, particularly where a small dollar amount is in controversy on an individual basis.

Any judicial or administrative decisions, federal legislation or final CFPB or other administrative rule that would impair our ability to enter into and enforce consumer dispute arbitration agreements with class action waivers could significantly increase our exposure to class action litigation as well as litigation in plaintiff-friendly jurisdictions. Such litigation could have a material adverse effect on us.

***We are required to comply with laws and regulations regulating extensions of credit and other dealings with customers and our failure to comply with applicable laws and regulations, or any adverse change in those laws or regulations, could have a negative impact on our business.*** A substantial portion of our customers finance purchases through our credit offerings. The extension of credit to consumers and related collection efforts is a highly regulated area of our business. Numerous federal and state laws impose disclosure and other requirements on the origination, servicing and enforcement of credit accounts. These laws include, but are not limited to, TILA, ECOA, the Dodd-Frank Act, FCRA, GLBA, FTCA, FDCPA, MLA, SCRA, the

Texas Debt Collection Act and the Telephone Consumer Protection Act (“TCPA”). Our business practices, marketing and advertising terms, procedures and practices for credit applications and underwriting, terms of credit extensions and related disclosures, data privacy and protection practices, and collection practices, may be subject to periodic or special reviews by regulatory and enforcement authorities under the foregoing laws. These reviews could range from investigations of specific consumer complaints or concerns to broader inquiries into our practices generally. If, as part of these reviews, the regulatory authorities conclude that we are not complying with applicable laws or regulations, they could request or impose a wide range of sanctions and remedies including requiring changes in advertising and collection practices, changes in our credit application and underwriting practices, changes in our data privacy or protection practices, changes in the terms of our credit or other financial products (such as decreases in interest rates or fees), the imposition of fines or penalties, or the paying of restitution or the taking of other remedial action with respect to affected customers. They also could require us to stop offering some of our credit or other financial products within one or more states, or nationwide.

Negative publicity relating to any specific inquiry or investigation, regardless of whether we have violated any applicable law or regulation or the extent of any such violation, could negatively affect our reputation, our brand and our stock price, which could have a material adverse effect on us. If any deficiencies or violations of law or regulations are identified by us or asserted by any regulator or other person, or if any regulatory or enforcement authority or court requires us to change any of our practices, the correction of such deficiencies or violations, or the making of such changes, could have a material adverse effect on us. We face the risk that restrictions or limitations resulting from the enactment, change, or interpretation of federal or state laws and regulations, such as the Dodd-Frank Act, could negatively affect our business activities, require us to make significant expenditures or effectively eliminate credit products or other financial products currently offered to customers.

Any failure on our part to comply with legal requirements in connection with credit or other financial products, or in connection with servicing or collecting our accounts or otherwise dealing with consumers, could significantly impair our ability to collect the full amount of the account balances and could subject us to substantial liability for damages or penalties. The institution of any litigation of this nature, or the rendering of any judgment against us in any litigation of this nature, could have a material adverse effect on us.

We may also expand into additional jurisdictions or offer new credit products in existing jurisdictions. We must comply with the laws of each jurisdiction we operate in, which are not uniform. New or different laws in new jurisdictions into which we expand, or changes to the laws in those jurisdictions or the ones in which we currently operate, could increase our compliance costs, expose us to litigation risk or otherwise have a material adverse effect on us.

***We face the risk of litigation resulting from calls and text messages in violation of the TCPA.*** Contacting current and prospective customers in connection with delinquent accounts and marketing efforts are parts of our business. The TCPA restricts certain calling and the use of automated SMS text messages without proper consent. This has resulted and may in the future result in civil claims against us. The scope and interpretation of the TCPA applicable to calling and texting are continuously evolving and developing, and there are differing interpretations of the TCPA among the jurisdictions in which we operate. In some cases, violations of the TCPA may be enforced by individual customers through class actions, and statutory penalties for TCPA violations range from \$500 to \$1,500 per violation. If we do not comply with the TCPA or if we become liable under the TCPA, we could face direct liability and our business and financial condition could be materially adversely affected.

***A large number of our stores are located in the State of Texas, which subjects us to concentrated regulatory risks.*** Negative or unexpected legislative or regulatory changes in Texas could have a material adverse effect on us. In Texas, the Office of the Consumer Credit Commissioner (“OCCC”) issues the consumer loan licenses that permit us to offer direct consumer loans. The OCCC also regulates us as a licensee. We currently have 71 retail stores in Texas. If we fail to establish or implement a proper regulatory infrastructure to comply with Texas’ regulatory requirements, the OCCC could restrict or rescind our consumer loan licenses. A restriction on or a loss of such licenses issued could have a material adverse effect on our financial performance and cause reputational harm. Failure on our part to comply with applicable consumer lending laws of the State of Texas could also expose us to consumer litigation and regulatory enforcement action, possibly resulting in substantial penalties and claims for damages and, in certain circumstances, may subject us to injunctions, require us to refund finance charges already paid, forgo finance charges not yet paid under credit accounts, change our credit extension, servicing, collection, and marketing practices or a combination of the foregoing. Should Texas or the OCCC change laws, regulations or codes related to consumer loans, or modify past regulatory guidance, our compliance costs and litigation exposure could increase. We believe that we are in substantial compliance with the applicable consumer credit laws in the State of Texas.

***Our inability to maintain our insurance licenses requirements in the states in which we operate and changes in premium and commission rates on the insurance products we sell could have a material adverse effect on us.*** We derive a significant portion of our revenues and operating income from the commissions we earn from the sale of various insurance products of third-party insurers to our customers. These products include credit insurance, repair service agreements and product replacement policies. Most states and many local jurisdictions in which we operate require registration and licenses to sell these products or otherwise conduct our business. These states and local jurisdictions have, in many cases, established criteria

we must satisfy in order to obtain, maintain and renew these licenses. For example, certain states or other jurisdictions require us to meet or exceed certain operational, advertising, disclosure, collection and recordkeeping requirements and to maintain a minimum amount of net worth or equity. From time to time, we are subject to audits in these jurisdictions to ensure we are satisfying the applicable requirements in order to maintain these necessary licenses. If, for any reason, we are unable to satisfy these requirements, we might be unable to maintain our insurance licenses in the states and other jurisdictions in which we operate, we might be subject to various fines and penalties or store closures, or our requests for new or renewed licenses may be denied, any of which consequences could have a material adverse effect on us. In addition, any material claims or future material litigation involving our credit insurance agreements, repair service agreements or product replacement policies, or any decline in the commissions we retain from our sales of these insurance products, may have a material adverse effect on us. Commissions earned on our credit insurance, repair service agreement or product replacement agreement products could also be materially adversely affected by changes in statutory premium rates, commission rates, adverse claims experience and other factors.

### **General Risk Factors**

***Stock market volatility may materially adversely affect the market price of our common stock.*** Our common stock price has been and is likely to continue to be subject to significant volatility. A variety of factors could cause the price of our common stock to fluctuate substantially, including:

- General market fluctuations resulting from factors not directly related to our operations or the inherent value of our common stock;
- State or federal legislative or regulatory proposals, initiatives, actions or changes that are, or are perceived to be, adverse to our operations;
- Announcements of developments related to our business or our competitors;
- Fluctuations in our operating results and the provision for bad debts;
- General conditions in the consumer financial service industry, the domestic or global economy or the domestic or global credit or capital markets;
- Changes in financial estimates by securities analysts;
- Our failure to meet the expectations of securities analysts or investors;
- Negative commentary regarding us and corresponding short-selling market behavior;
- Adverse developments in our relationships with our customers or vendors;
- Legal proceedings brought against us or our officers and directors; and
- Changes in our senior management team.

Due to the volatility of our stock price, we are and may be in the future the target of securities litigation. Such lawsuits generally result in the diversion of management's time and attention away from business operations, which could materially adversely affect us. In addition, the costs of defense and any damages resulting from such litigation, a ruling against us, or a settlement of any such litigation could materially adversely affect our financial results.

***We may incur property, casualty or other losses not covered by insurance.*** We maintain a program of insurance coverage for various types of property, casualty and other risks. The types and amounts of insurance that we obtain vary from time to time, depending on availability, cost and our decisions with respect to risk retention. The insurance policies are subject to deductibles and exclusions that result in our retention of a level of risk on a self-insurance basis. Losses not covered by insurance could be substantial and may increase our expenses, which could harm our results of operations and financial condition.

### **ITEM 1B. UNRESOLVED STAFF COMMENTS.**

None.

### **ITEM 2. PROPERTIES.**

The number of stores, distribution centers/cross-dock facilities, and corporate offices we operate, together with location and square footage information, are disclosed in Part I, Item 1., *Business*, under the caption "Store Operations," of this Annual Report on Form 10-K and is incorporated herein by reference.

### **ITEM 3. LEGAL PROCEEDINGS.**

The information set forth in Part II, Item 8., in Note 12, *Contingencies*, of the Consolidated Financial Statements of this Annual Report on Form 10-K is incorporated herein by reference.

**ITEM 4. MINE SAFETY DISCLOSURES.**

Not applicable.

**PART II****ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES.****Market Information and Holders**

As of March 22, 2021, we had approximately 461 common stockholders of record and an estimated 5,965 beneficial owners of our common stock. The principal market for our common stock is the NASDAQ Global Select Market, where it is traded under the symbol "CONN."

**Dividends**

No cash dividends were declared or paid in fiscal year 2021 or fiscal year 2020. We do not anticipate paying dividends in the foreseeable future. Any future payment of dividends will be at the discretion of our Board of Directors and will depend upon our results of operations, financial condition, cash requirements and other factors deemed relevant by the Board of Directors, including the terms of our indebtedness. Provisions in agreements governing our long-term indebtedness restrict the amount of dividends that we may pay to our stockholders. See Item 7., *Management's Discussion and Analysis of Financial Condition and Results of Operations*, under the heading "Liquidity and Capital Resources."

**Securities Authorized for Issuance Under Equity Compensation Plans**

The following table summarizes information as of January 31, 2021, relating to our equity compensation plans to which grants of options, restricted stock units or other rights to acquire shares of our common stock may be granted from time to time:

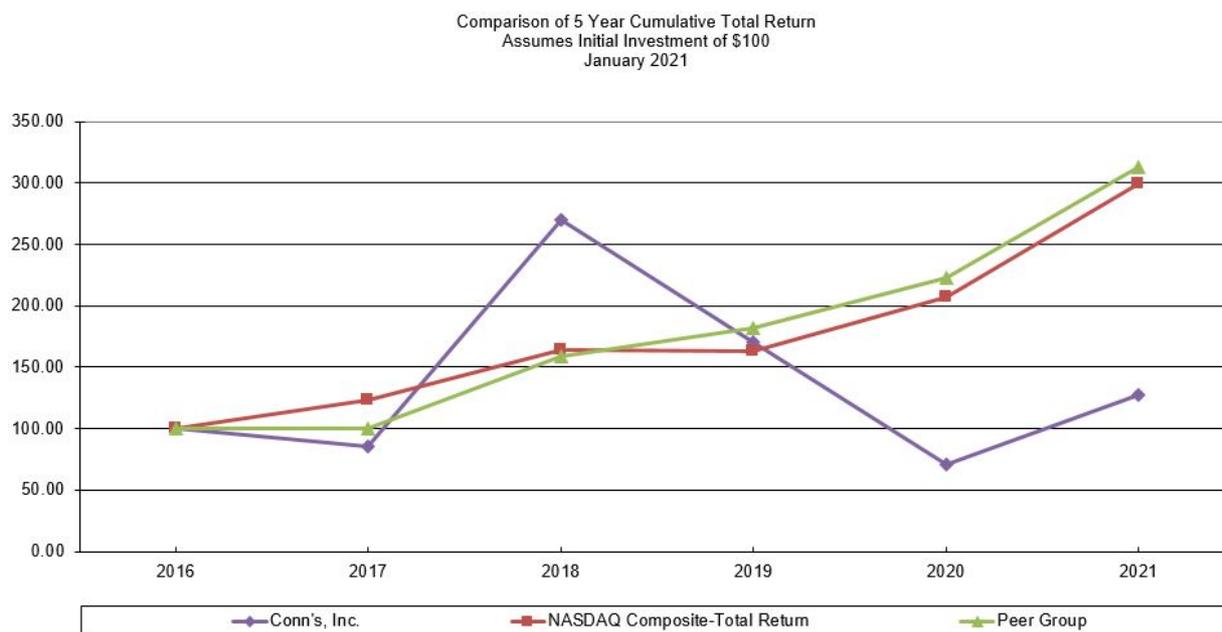
<b>Plan Category:</b>	<b>Number of Securities to be Issued upon Exercise of Outstanding Options, Warrants and Rights (a) (1)</b>	<b>Weighted-Average Exercise Price of Outstanding Options, Warrants and Rights (b) (2)</b>	<b>Number of Securities Remaining Available for Future Issuance Under Equity Compensation Plans (Excluding Securities Reflected in Column (a))</b>
Equity compensation plans approved by stockholders	1,739,640	\$ 12.62	3,209,718
Equity compensation plans not approved by stockholders	—	—	—
<b>Total</b>	<b>1,739,640</b>	<b>\$ 12.62</b>	<b>3,209,718</b>

(1) Inclusive of 720,166 stock options, 749,894 restricted stock units ("RSUs") and 269,580 performance-based RSUs ("PSUs").

(2) The \$12.62 is inclusive of the 749,894 shares related to RSUs which only have a service requirement and the 269,580 PSUs that have a service, performance and/or market requirement. Neither the RSUs nor PSUs have an exercise price. The weighted-average exercise price of the 720,166 outstanding stock options is \$30.49.

**Performance Graph**

The following graph compares the cumulative total stockholder return on our common stock for the last five fiscal years with the cumulative total returns of the NASDAQ U.S. Stock Market Index and a customized peer group index comprised of Restoration Hardware, First Cash, Aaron’s, Rent-A-Center, La-Z-Boy, Sleep Number, Ethan Allen, EZCORP, Haverty Furniture and Tuesday Morning (the “Peer Group”). The graph assumes an investment of \$100 at the close of trading on January 31, 2016, and reinvestment of any dividends. The stock performance shown below is based solely on historical data and is not necessarily indicative of future performance.



Company/Index:	Base Period	Value for the Fiscal Years Ended January 31,				
	January 31, 2016	2017	2018	2019	2020	2021
Conn’s, Inc.	\$ 100.00	\$ 85.63	\$ 270.29	\$ 169.97	\$ 71.10	\$ 127.68
NASDAQ U.S. Stock Market Index	\$ 100.00	\$ 123.23	\$ 164.43	\$ 163.31	\$ 207.46	\$ 298.92
Peer Group	\$ 100.00	\$ 99.88	\$ 158.26	\$ 181.54	\$ 222.76	\$ 313.25

The information set forth under the heading “Performance Graph” is not deemed to be “soliciting material” or to be “filed” with the SEC or subject to the SEC’s proxy rules or to the liabilities of Section 18 of the Exchange Act, and the graph shall not be deemed to be incorporated into any of our prior or subsequent filings under the Securities Act of 1933, as amended (“Securities Act”), or the Exchange Act.

**ITEM 6. SELECTED FINANCIAL DATA.**

The following table sets forth selected historical financial information and should be read in conjunction with *Management's Discussion and Analysis of Financial Condition and Results of Operations* and our consolidated financial statements and related notes included elsewhere in this Annual Report on Form 10-K. Historical data is not necessarily indicative of our future results of operations or financial condition. Refer to Part 1, Item 1A., *Risk Factors*, included in this Annual Report on Form 10-K. We have derived the selected statement of operations and balance sheet data as of and for each of the years ended January 31, 2021, 2020, 2019, 2018 and 2017 from our audited consolidated financial statements.

(dollars in thousands, except per share amounts)	As of and for the Year Ended January 31,				
	2021	2020	2019	2018	2017
<b>Statement of Operations Data:</b>					
<b>Revenues:</b>					
Total net sales	\$ 1,064,311	\$ 1,163,235	\$ 1,194,674	\$ 1,191,967	\$ 1,314,471
Finance charges and other revenues	321,714	380,451	355,139	324,064	282,377
<b>Total revenues</b>	<b>\$ 1,386,025</b>	<b>\$ 1,543,686</b>	<b>\$ 1,549,813</b>	<b>\$ 1,516,031</b>	<b>\$ 1,596,848</b>
Operating income <sup>(1)</sup>	\$ 30,614	\$ 134,519	\$ 161,255	\$ 115,068	\$ 64,098
Net income (loss) <sup>(2)</sup>	\$ (3,137)	\$ 56,004	\$ 73,849	\$ 6,463	\$ (25,562)
<b>Earnings (loss) per common share:</b>					
Basic	\$ (0.11)	\$ 1.85	\$ 2.33	\$ 0.21	\$ (0.83)
Diluted	\$ (0.11)	\$ 1.82	\$ 2.28	\$ 0.20	\$ (0.83)
<b>Balance Sheet Data:</b>					
Working capital	\$ 632,307	\$ 896,596	\$ 776,826	\$ 915,906	\$ 920,292
Inventories	\$ 196,463	\$ 219,756	\$ 220,034	\$ 211,894	\$ 164,856
Customer accounts receivable portfolio balance	\$ 1,233,717	\$ 1,602,037	\$ 1,589,828	\$ 1,527,862	\$ 1,556,439
<b>Total assets</b>	<b>\$ 1,755,084</b>	<b>\$ 2,168,769</b>	<b>\$ 1,884,907</b>	<b>\$ 1,900,799</b>	<b>\$ 1,941,134</b>
Total debt, net	\$ 609,569	\$ 1,026,140	\$ 955,331	\$ 1,091,012	\$ 1,145,242
<b>Total stockholders' equity</b>	<b>\$ 557,155</b>	<b>\$ 627,180</b>	<b>\$ 619,975</b>	<b>\$ 535,068</b>	<b>\$ 517,790</b>
<b>Selected Operating Data:</b>					
Change in same stores sales <sup>(3)</sup>	(12.8)%	(8.2)%	(2.2)%	(11.4)%	(6.3)%
Retail gross margin <sup>(4)</sup>	37.2 %	40.0 %	41.2 %	39.6 %	37.4 %
Interest income and fee yield	21.7 %	21.8 %	21.3 %	19.3 %	15.4 %
Selling, general and administrative expense as a percent of total revenues	34.5 %	32.6 %	31.0 %	29.7 %	28.9 %
Provision for bad debts as a percentage of average outstanding balance <sup>(5)</sup>	14.4 %	13.0 %	12.9 %	14.4 %	15.5 %
Bad debt charge-offs, net of recoveries, as a percentage of average outstanding balance	16.3 %	12.6 %	12.7 %	15.1 %	14.4 %
Operating margin	2.2 %	8.7 %	10.4 %	7.6 %	4.0 %
Return on average equity <sup>(6)</sup>	(0.5)%	9.0 %	12.8 %	1.2 %	(4.8)%
Percent of retail sales financed in-house, including down payment received	52.1 %	67.6 %	70.1 %	71.0 %	72.0 %
Weighted-average monthly payment rate <sup>(7)</sup>	5.41 %	4.92 %	5.03 %	5.04 %	4.92 %
<b>Number of stores:</b>					
Beginning of fiscal year	137	123	116	113	103
Opened	9	14	7	3	10
Closed	—	—	—	—	—
<b>End of fiscal year</b>	<b>146</b>	<b>137</b>	<b>123</b>	<b>116</b>	<b>113</b>

- (1) Operating income includes the following charges and credits:

<i>(in thousands)</i>	Year Ended January 31,				
	2021	2020	2019	2018	2017
Store and facility closure and relocation costs	\$ —	\$ 1,933	\$ —	\$ 2,381	\$ 1,089
Legal and professional fees, securities-related litigation, a legal judgment and other legal matters	3,589	—	5,100	1,177	101
Indirect tax audit reserve	—	—	1,943	2,595	1,434
Impairment from disposal	—	—	—	—	1,986
Employee severance	2,737	—	737	1,317	1,868
Write-off of capitalized software costs	—	1,209	—	5,861	—
Charges and credits	<u>\$ 6,326</u>	<u>\$ 3,142</u>	<u>\$ 7,780</u>	<u>\$ 13,331</u>	<u>\$ 6,478</u>

- (2) Net income (loss) includes pre-tax loss (gain) from extinguishment of debt for fiscal years 2021, 2020, 2019 and 2018 of \$(0.4) million, \$1.1 million, \$1.8 million and \$3.3 million, respectively.
- (3) Change in same store sales is calculated by comparing the reported sales for all stores that were open during both comparative fiscal years, starting in the first period in which the store has been open for a full quarter. Sales from closed stores, if any, are removed from each period. Sales from relocated stores have been included in each period as each such store was relocated within the same general geographic market. Sales from expanded stores have also been included in each period.
- (4) Retail gross margin percentage is defined as total net sales, which includes product sales, repair service agreement commissions, and service revenues, less cost of goods sold divided by total net sales. The presentation of our retail gross margin and costs and expenses may not be comparable to other retailers since we include delivery, transportation and handling costs in cost of goods sold, and we include the cost of merchandising our products in selling, general and administrative expense (“SG&A”). Other retailers may treat such costs differently.
- (5) Amount does not include retail segment provision for bad debts.
- (6) Return on average equity is calculated as net income (loss) divided by the average of the beginning and ending equity.
- (7) Represents the weighted-average of monthly gross cash collections received on the credit portfolio as a percentage of the average monthly beginning portfolio balance for each period.

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

We continue to monitor the evolving nature of COVID-19 and respond to its impact on our business. We have experienced and continue to experience challenges related to the pandemic. These challenges have increased the complexity of our business and impacted our supply chain and sales for fiscal year 2021 and we expect it to continue into fiscal year 2022. Increased complexity, supply chain issues and reduced sales will likely continue until the effects of COVID-19 diminish. The full impact of COVID-19 remains uncertain and will depend on future developments, including the duration and spread of the pandemic and related actions taken by federal, state and local government officials to prevent and manage disease spread, all of which are uncertain and unpredictable.

This section provides a discussion of our historical financial condition, cash flows and results of operations for the periods indicated herein. We encourage you to read this *Management's Discussion and Analysis of Financial Condition and Results of Operations* in conjunction with the consolidated financial statements and related notes included herein and the discussion in Item 1. *Business* of this annual report on Form 10-K. This discussion contains forward-looking statements that involve numerous risks and uncertainties. The forward-looking statements are subject to a number of important factors, including those factors discussed in Item 1A. *Risk Factors* and Part I *Forward-Looking Statements* that could cause actual results to differ materially from the results described or implied by such forward-looking statements.

Our fiscal year ends on January 31. References to a fiscal year refer to the calendar year in which the fiscal year ends.

**Executive Summary**

Total revenues were \$1.39 billion for fiscal year 2021 compared to \$1.54 billion for fiscal year 2020, a decrease of \$157.7 million or 10.2%. Retail revenues were \$1.07 billion for fiscal year 2021 compared to \$1.16 billion for fiscal year 2020, a decrease of \$98.9 million or 8.5%. The decrease in retail revenue was primarily driven by a decrease in same store sales of 12.8% and a decrease in RSA commissions, partially offset by new store sales growth. The decrease in same store sales reflects proactive tightening of underwriting standards, reductions in store hours, state mandated stay-at-home orders and industry wide supply chain disruptions in certain product categories, each of which was the result of the COVID-19 pandemic. Credit revenues were \$320.9 million for the fiscal year 2021 compared to \$379.6 million for fiscal year 2020, a decrease of \$58.7 million or 15.5%. The decrease in credit revenue was primarily due to a decrease of 11.0% in the average outstanding balance of the customer accounts receivable portfolio, a decrease in insurance commissions due to a decline in the balance of sale of our in-house credit financing and a decrease in insurance retrospective income. The yield rate for the year ended January 31, 2021 was 21.7% compared to 21.8% for the year ended January 31, 2020.

Retail gross margin for fiscal year 2021 was 37.2%, a decrease of 280 basis points from the 40.0% reported in fiscal year 2020. The year-over-year decrease in retail gross margin was primarily driven by the impact of fixed logistics costs on lower sales, a decrease in RSA commissions and retrospective income and a shift in sales from higher margin products to lower margin products.

SG&A for fiscal year 2021 was \$478.8 million compared to \$503.0 million for fiscal year 2020, a decrease of \$24.2 million, or 4.8%, over the prior year. The SG&A decrease in the retail segment was primarily due to a decrease in advertising, labor and general operating costs partially offset by an increase in occupancy costs and corporate overhead allocation. The SG&A decrease in the credit segment was primarily due to a decrease in labor costs and third-party legal expenses partially offset by an increase in corporate overhead allocation. The increase in the corporate overhead allocation made to each of the segments was driven by an increase in employee incentive compensation costs.

Provision for bad debts was \$202.0 million for fiscal year 2021 compared to \$205.2 million in fiscal year 2020, a decrease of \$3.2 million, or 1.6%. The decrease was driven by a decrease in the allowance for bad debts during the year ended January 31, 2021 compared to an increase during the year ended January 31, 2020, partially offset by an increase in net charge-offs of \$28.0 million. The decrease in the allowance for bad debts was primarily driven by the year-over-year decrease in the customer accounts receivable portfolio partially offset by a \$42.5 million increase driven by an increase in forecasted unemployment rates stemming from the COVID-19 pandemic and the impact of COVID-19 on portfolio performance related to accounts that received a COVID-19 deferral.

Interest expense decreased to \$50.4 million for fiscal year 2021 compared to \$59.1 million for fiscal year 2020, a decrease of \$8.7 million, or 14.7%. The decrease was driven by a lower weighted average cost of borrowing and a lower average outstanding balance of debt.

Net loss for fiscal year 2021 was \$3.1 million, or \$0.11 per diluted share, compared to net income of \$56.0 million, or \$1.82 per diluted share, for fiscal year 2020.

## How We Evaluate Our Operations

Senior management focuses on certain key indicators to monitor our performance including:

- Same store sales - Our management considers same store sales, which consists of both brick and mortar and e-commerce sales, to be an important indicator of our performance because they are important to our attempts to leverage our SG&A costs, which include rent and other store expenses, and they have a direct impact on our total net sales, net income, cash and working capital. Same store sales is calculated by comparing the reported sales for all stores that were open during both comparative fiscal years, starting in the first period in which the store has been open for a full quarter. Sales from closed stores, if any, are removed from each period. Sales from relocated stores have been included in each period as each such store was relocated within the same general geographic market. Sales from expanded stores have also been included in each period.
- Retail gross margin - Our management views retail gross margin as a key indicator of our performance because it reflects our pricing power relative to the prices we pay for our products. Retail gross margin is calculated by comparing retail total net sales to the cost of goods sold.
- 60+ Day Delinquencies - Our management views customer account delinquencies as a key indicator of our performance because it is a reflection of the quality of our credit portfolio, it drives future credit performance and credit offerings, and it impacts the interest rates we pay on our asset-backed securitizations. Delinquencies are measured as the percentage of balances that are 60+ days past due.
- Net Yield - Our management considers yield to be a key performance metric because it drives future credit decisions and credit offerings and directly impacts our net income. Yield reflects the amount of interest we receive from our portfolio.

## Company Initiatives

In fiscal year 2021, we took decisive actions to respond to the COVID-19 pandemic and focused on supporting our employees, customers, and communities, while de-risking our business and enhancing our balance sheet. Our financial results demonstrate the resiliency of our business model, which is supported by the benefits of our home related product focus and the diversity of our financing options. This allowed us to mitigate credit risk associated with the COVID-19 pandemic, while supporting retail sales through our third-party partnerships. We delivered the following financial and operational results in fiscal year 2021:

Fiscal Year 2021 Financial Highlights:

- Grew cash and third-party credit sales by 32%, reflecting strong demand for home-related products and our ability to serve a broader customer segment;
- Same store sales declined 12.8% for the fiscal year, primarily due to a nearly 22.9% decline in sales financed by Conn's in-house credit because of tighter underwriting associated with the COVID-19 crisis;
- Increased e-commerce sales by \$13.7 million, or 109.4% during fiscal year 2021, compared to the prior fiscal year period;
- Improved net cash provided by operating activities to \$462.1 million for the fiscal year 2021 as compared to \$80.1 million for fiscal year 2020;
- Reduced overall debt balance by \$416.6 million as compared to January 31, 2020, representing the lowest level in seven fiscal years;
- Carrying value of customer accounts receivable 60+ days past due at January 31, 2021 24% lower than the prior fiscal year period; and
- Carrying value of re-aged customer accounts receivable at January 31, 2021 33% lower than the prior fiscal year period.

## Management's Response to the COVID-19 Pandemic:

We responded to the COVID-19 pandemic by focusing on protecting the health and safety of our customers, employees, and communities. We made adjustments to respond to national, state and local restrictions on retail sales activities, including some such restrictions that uniquely affected consumer retail companies with in-person sales and purchases. Despite these unprecedented challenges, the Company continued to offer, sell and deliver essential home merchandise as consumers also adjusted to the societal and economic impacts of the pandemic. Throughout fiscal year 2021, the Company successfully executed the following operational changes in the face of the pandemic:

- Instituted health and safety measures, including enhanced cleaning in our stores and offices, a mask requirement for in-store personnel, and social distancing;

- Kept a majority of stores open while observing local and state emergency declaration restrictions;
- Temporarily increased hourly wages by \$2 per hour to support our front-line employees and implemented a work from home program for our corporate teams;
- Implemented payment deferral programs to provide relief to credit customers who were economically impacted by COVID-19; and
- Tightened underwriting standards to control delinquencies and charge-offs, which included reducing originations of higher risk applicants, selectively increasing down payments and lowering credit limits

Despite the challenges presented by COVID-19 during the fiscal year 2021, we believe we are at an inflection point in our growth strategy and have identified the following strategic priorities for fiscal year 2022:

- Increase net income by improving performance across our core operational financial metrics: same store sales, retail margin, portfolio yield, charge-off rate and interest expense;
- Grow sales by leveraging the best mix of Conn's in-house financing and our multiple third-party credit options;
- Increase e-commerce sales by accelerating investments in our digital and e-commerce offerings;
- Continue to refine and enhance our underwriting platform; and
- Open 9 to 11 stores in our current geographic footprint to leverage our existing infrastructure.

## Results of Operations

The following tables present certain financial and other information, on a consolidated basis:

<b>Consolidated:</b> (in thousands)	<b>Year Ended January 31,</b>			<b>Change</b>	
	<b>2021</b>	<b>2020</b>	<b>2019</b>	<b>2021 vs. 2020</b>	<b>2020 vs. 2019</b>
<b>Revenues:</b>					
Total net sales	\$ 1,064,311	\$ 1,163,235	\$ 1,194,674	\$ (98,924)	\$ (31,439)
Finance charges and other revenues	321,714	380,451	355,139	(58,737)	25,312
<b>Total revenues</b>	<b>1,386,025</b>	<b>1,543,686</b>	<b>1,549,813</b>	<b>(157,661)</b>	<b>(6,127)</b>
<b>Costs and expenses:</b>					
Cost of goods sold	668,315	697,784	702,135	(29,469)	(4,351)
Selling, general and administrative expense	478,767	503,024	480,561	(24,257)	22,463
Provision for bad debts	202,003	205,217	198,082	(3,214)	7,135
Charges and credits	6,326	3,142	7,780	3,184	(4,638)
<b>Total costs and expenses</b>	<b>1,355,411</b>	<b>1,409,167</b>	<b>1,388,558</b>	<b>(53,756)</b>	<b>20,609</b>
<b>Operating income</b>	<b>30,614</b>	<b>134,519</b>	<b>161,255</b>	<b>(103,905)</b>	<b>(26,736)</b>
Interest expense	50,381	59,107	62,704	(8,726)	(3,597)
(Gain) loss on extinguishment of debt	(440)	1,094	1,773	(1,534)	(679)
<b>Income (loss) before income taxes</b>	<b>(19,327)</b>	<b>74,318</b>	<b>96,778</b>	<b>(93,645)</b>	<b>(22,460)</b>
Provision (benefit) for income taxes	(16,190)	18,314	22,929	(34,504)	(4,615)
<b>Net income (loss)</b>	<b>\$ (3,137)</b>	<b>\$ 56,004</b>	<b>\$ 73,849</b>	<b>\$ (59,141)</b>	<b>\$ (17,845)</b>

## Supplementary Operating Segment Information

Operating segments are defined as components of an enterprise that engage in business activities and for which discrete financial information is available that is evaluated on a regular basis by the chief operating decision maker to make decisions about how to allocate resources and assess performance. We are a leading specialty retailer and offer a broad selection of quality, branded durable consumer goods and related services in addition to a proprietary credit solution for our core credit-constrained consumers. We have two operating segments: (i) retail and (ii) credit. Our operating segments complement one another. The retail segment operates primarily through our stores and website and its product offerings include furniture and mattresses, home appliances, consumer electronics and home office products from leading global brands across a wide range of price points. Our credit segment offers affordable financing solutions to a large, under-served population of credit-constrained consumers who typically have limited credit alternatives. Our operating segments provide customers the opportunity to comparison shop across brands with confidence in our competitive prices as well as affordable monthly payment options, next

day delivery and installation in the majority of our markets, and product repair service. We believe our large, attractively merchandised retail stores and credit solutions offer a distinctive value proposition compared to other retailers that target our core customer demographic. The operating segments follow the same accounting policies used in our consolidated financial statements.

We evaluate a segment's performance based upon operating income (loss). SG&A includes the direct expenses of the retail and credit operations, allocated corporate overhead expenses, and a charge to the credit segment to reimburse the retail segment for expenses it incurs related to occupancy, personnel, advertising and other direct costs of the retail segment which benefit the credit operations by sourcing credit customers and collecting payments. The reimbursement received by the retail segment from the credit segment is calculated using an annual rate of 2.5% multiplied by the average outstanding portfolio balance for each applicable period.

The following table represents total revenues, costs and expenses, operating income (loss) and income (loss) before taxes attributable to these operating segments for the periods indicated:

<b>Retail Segment:</b> (dollars in thousands)	<b>Year Ended January 31,</b>			<b>Change</b>	
	<b>2021</b>	<b>2020</b>	<b>2019</b>	<b>2021 vs. 2020</b>	<b>2020 vs. 2019</b>
<b>Revenues:</b>					
Product sales	\$ 973,031	\$ 1,042,424	\$ 1,078,635	\$ (69,393)	\$ (36,211)
Repair service agreement commissions	78,838	106,997	101,928	(28,159)	5,069
Service revenues	12,442	13,814	14,111	(1,372)	(297)
Total net sales	1,064,311	1,163,235	1,194,674	(98,924)	(31,439)
Finance charges and other	816	810	447	6	363
<b>Total revenues</b>	<b>1,065,127</b>	<b>1,164,045</b>	<b>1,195,121</b>	<b>(98,918)</b>	<b>(31,076)</b>
<b>Costs and expenses:</b>					
Cost of goods sold	668,315	697,784	702,135	(29,469)	(4,351)
Selling, general and administrative expense <sup>(1)</sup>	335,954	346,108	328,628	(10,154)	17,480
Provision for bad debts	443	905	1,009	(462)	(104)
Charges and credits	4,092	1,933	2,980	2,159	(1,047)
<b>Total costs and expenses</b>	<b>1,008,804</b>	<b>1,046,730</b>	<b>1,034,752</b>	<b>(37,926)</b>	<b>11,978</b>
<b>Operating income</b>	<b>\$ 56,323</b>	<b>\$ 117,315</b>	<b>\$ 160,369</b>	<b>\$ (60,992)</b>	<b>\$ (43,054)</b>
<b>Number of stores:</b>					
Beginning of fiscal year	137	123	116		
Opened	9	14	7		
End of fiscal year	146	137	123		

<b>Credit Segment:</b> (in thousands)	<b>Year Ended January 31,</b>			<b>Change</b>	
	<b>2021</b>	<b>2020</b>	<b>2019</b>	<b>2021 vs. 2020</b>	<b>2020 vs. 2019</b>
<b>Revenues:</b>					
Finance charges and other revenues	\$ 320,898	\$ 379,641	\$ 354,692	\$ (58,743)	\$ 24,949
<b>Costs and expenses:</b>					
Selling, general and administrative expense <sup>(1)</sup>	142,813	156,916	151,933	(14,103)	4,983
Provision for bad debts	201,560	204,312	197,073	(2,752)	7,239
Charges and credits	2,234	1,209	4,800	1,025	(3,591)
<b>Total costs and expenses</b>	<b>346,607</b>	<b>362,437</b>	<b>353,806</b>	<b>(15,830)</b>	<b>8,631</b>
<b>Operating income (loss)</b>	<b>(25,709)</b>	<b>17,204</b>	<b>886</b>	<b>(42,913)</b>	<b>16,318</b>
Interest expense	50,381	59,107	62,704	(8,726)	(3,597)
(Gain) loss on extinguishment of debt	(440)	1,094	1,773	(1,534)	(679)
<b>Loss before income taxes</b>	<b>\$ (75,650)</b>	<b>\$ (42,997)</b>	<b>\$ (63,591)</b>	<b>\$ (32,653)</b>	<b>\$ 20,594</b>

(1) For the years ended January 31, 2021, 2020 and 2019, the amount of overhead allocated to each segment reflected in SG&A was \$32.0 million, \$30.0 million and \$36.4 million, respectively. For the years ended January 31, 2021, 2020 and 2019, the amount of reimbursement made to the retail segment by the credit segment was \$34.8 million, \$39.1 million and \$38.1 million, respectively.

**Year ended January 31, 2021 compared to the year ended January 31, 2020**

**Revenues.** The following table provides an analysis of retail net sales by product category in each period, including repair service agreement commissions and service revenues, expressed both in dollar amounts and as a percent of total net sales:

<i>(dollars in thousands)</i>	Year Ended January 31,				Change	% Change	Same Store % Change
	2021	% of Total	2020	% of Total			
Furniture and mattress	\$ 322,770	30.3 %	\$ 370,931	31.9 %	\$ (48,161)	(13.0)%	(17.5)%
Home appliance	390,964	36.7	360,441	31.0	30,523	8.5	3.8
Consumer electronics	172,932	16.2	221,449	19.0	(48,517)	(21.9)	(25.2)
Home office	65,405	6.1	73,074	6.3	(7,669)	(10.5)	(14.2)
Other	20,960	2.0	16,529	1.4	4,431	26.8	22.6
Product sales	973,031	91.3	1,042,424	89.6	(69,393)	(6.7)	(10.9)
Repair service agreement commissions <sup>(3)</sup>	78,838	7.4	106,997	9.2	(28,159)	(26.3)	(26.9)
Service revenues	12,442	1.3	13,814	1.2	(1,372)	(9.9)	
Total net sales	\$ 1,064,311	100.0 %	\$ 1,163,235	100.0 %	\$ (98,924)	(8.5)%	(12.8)%

(1) The total change in sales of repair service agreement commissions includes retrospective commissions, which are not reflected in the change in same store sales.

The decrease in product sales for the year ended January 31, 2021 was primarily due to a decrease in same store sales of 12.8% and a decrease in RSA commissions, partially offset by new store growth. The decrease in same store sales reflects proactive tightening of underwriting standards, reductions in store hours, state mandated stay-at-home orders and industry wide supply chain disruptions in certain product categories, each of which was the result of the COVID-19 pandemic.

The following table provides the change of the components of finance charges and other revenues:

<i>(in thousands)</i>	Year Ended January 31,		Change
	2021	2020	
Interest income and fees	\$ 303,209	\$ 341,224	\$ (38,015)
Insurance income	17,689	38,417	(20,728)
Other revenues	816	810	6
Finance charges and other revenues	\$ 321,714	\$ 380,451	\$ (58,737)

The decrease in finance charges and other revenues was primarily due to a decrease of 11.0% in the average outstanding balance of the customer accounts receivable portfolio, a decrease in insurance commissions due to a decline in the balance of sale of our in-house credit financing and a decrease in insurance retrospective income. The yield rate for the year ended January 31, 2021 was 21.7% compared to 21.8% for the year ended January 31, 2020.

The following table provides key portfolio performance information:

<i>(dollars in thousands)</i>	Year Ended January 31,		Change
	2021	2020	
Interest income and fees	\$ 303,209	\$ 341,224	\$ (38,015)
Net charge-offs	(227,134)	(196,795)	(30,339)
Interest expense	(50,381)	(59,107)	8,726
Net portfolio income	\$ 25,694	\$ 85,322	\$ (59,628)
Average outstanding portfolio balance	\$ 1,395,428	\$ 1,567,878	\$ (172,450)
Interest income and fee yield	21.7 %	21.8 %	
Net charge-off %	16.3 %	12.6 %	

### Retail Gross Margin

<i>(dollars in thousands)</i>	Year Ended January 31,		Change
	2021	2020	
Retail total net sales	\$ 1,064,311	\$ 1,163,235	\$ (98,924)
Cost of goods sold	668,315	697,784	(29,469)
Retail gross margin	\$ 395,996	\$ 465,451	\$ (69,455)
Retail gross margin percentage	37.2 %	40.0 %	

The year-over-year decrease in retail gross margin was primarily driven by the impact of fixed logistics costs on lower sales, a decrease in RSA commissions and retrospective income and a shift in sales from higher margin products to lower margin products.

### Selling, General and Administrative Expense

<i>(dollars in thousands)</i>	Year Ended January 31,		Change
	2021	2020	
Retail segment	\$ 335,954	\$ 346,108	\$ (10,154)
Credit segment	142,813	156,916	(14,103)
Selling, general and administrative expense - Consolidated	\$ 478,767	\$ 503,024	\$ (24,257)
Selling, general and administrative expense as a percent of total revenues	34.5 %	32.6 %	

The SG&A decrease in the retail segment was primarily due to a decrease in advertising, labor and general operating costs partially offset by an increase in occupancy costs and corporate overhead allocation. The SG&A decrease in the credit segment was primarily due to a decrease in labor costs and third-party legal expenses partially offset by an increase in corporate overhead allocation. As a percent of average total customer portfolio balance, SG&A for the credit segment for the year ended January 31, 2021 increased 20 basis points as compared to the year ended January 31, 2020. The increase in the corporate overhead allocation made to each of the segments was driven by an increase in employee incentive compensation costs.

### Provision for Bad Debts

<i>(dollars in thousands)</i>	Year Ended January 31,		Change
	2021	2020	
Retail segment	\$ 443	\$ 905	\$ (462)
Credit segment	201,560	204,312	(2,752)
Provision for bad debts - Consolidated	\$ 202,003	\$ 205,217	\$ (3,214)
Provision for bad debts - Credit segment, as a percent of average outstanding portfolio balance	14.4 %	13.0 %	

The provision for bad debts decreased to \$202.0 million for the year ended January 31, 2021 from \$205.2 million for the year ended January 31, 2020, a decrease of \$3.2 million. The decrease was driven by a decrease in the allowance for bad debts during the year ended January 31, 2021 compared to an increase during the year ended January 31, 2020, partially offset by an increase in net charge-offs of \$28.0 million. The decrease in the allowance for bad debts was primarily driven by the year-over-year decrease in the customer accounts receivable portfolio partially offset by a \$42.5 million increase driven by an increase in forecasted unemployment rates stemming from the COVID-19 pandemic and the impact of COVID-19 on portfolio performance related to accounts that received a COVID-19 deferral.

**Charges and Credits**

<i>(in thousands)</i>	<b>Year Ended January 31,</b>		<b>Change</b>
	<b>2021</b>	<b>2020</b>	
Store and facility closure and relocation costs	\$ —	\$ 1,933	\$ (1,933)
Legal and professional fees, securities-related litigation, a legal judgment and other legal matters	3,589	—	3,589
Employee severance	2,737	—	2,737
Write-off of capitalized software costs	—	1,209	(1,209)
	<u>\$ 6,326</u>	<u>\$ 3,142</u>	<u>\$ 3,184</u>

During the year ended January 31, 2021, we recognized \$3.6 million in professional fees associated with non-recurring expenses and \$2.7 million in severance costs related to a change in the executive management team. During the year ended January 31, 2020, we recognized \$3.2 million in impairments from the exiting of certain leases upon the relocation of three distribution centers into one facility. These facility closure costs were offset by a \$0.7 million gain from increased sublease income related to the consolidation of our corporate headquarters and a \$0.6 million gain from the sale of a cross-dock. In addition, we recognized \$1.2 million in impairments of software costs for a loan management system that was abandoned during the third quarter of fiscal year 2020 related to the implementation of a new loan management system.

**Interest Expense**

Interest expense decreased to \$50.4 million for the year ended January 31, 2021 from \$59.1 million for the year ended January 31, 2020, a decrease of \$8.7 million. The decrease was driven by a lower weighted average cost of borrowing and a lower average outstanding balance of debt.

**(Gain) loss on Extinguishment of Debt**

During the year ended January 31, 2021, we incurred a gain of \$0.4 million related to the retirement of \$85.8 million aggregate principal amount of our 7.250% senior notes due 2022 (“Senior Notes”) in connection with a tender offer. During the year ended January 31, 2020, we wrote-off \$1.1 million of debt issuance costs related to an amendment of our revolving credit facility that effected the resignation of Bank of America, N.A. as agent and lender, and replaced it with JPMorgan Chase Bank, N.A. as agent.

**Provision (benefit) for Income Taxes**

<i>(dollars in thousands)</i>	<b>Year Ended January 31,</b>		<b>Change</b>
	<b>2021</b>	<b>2020</b>	
Provision (benefit) for income taxes	\$ (16,190)	\$ 18,314	\$ (34,504)
Effective tax rate	83.8 %	24.6 %	

The decrease in the income tax expense for the year ended January 31, 2021 compared to the year ended January 31, 2020 was primarily driven by a \$93.6 million decrease of pre-tax book income at the statutory rate of 21%. In addition, a benefit of \$14.9 million was also recognized for the year ended January 31, 2021 as a result of net operating loss provisions within the CARES Act that provide for a five year carryback of losses.

**Year ended January 31, 2020 compared to the year ended January 31, 2019**

**Revenues.** The following table provides an analysis of retail net sales by product category in each period, including RSA commissions and service revenues, expressed both in dollar amounts and as a percent of total net sales:

<i>(dollars in thousands)</i>	<b>Years Ended January 31,</b>				<b>Change</b>	<b>% Change</b>	<b>Same store % change</b>
	<b>2020</b>	<b>% of Total</b>	<b>2019</b>	<b>% of Total</b>			
Furniture and mattress	\$ 370,931	31.9 %	\$ 382,975	32.1 %	\$ (12,044)	(3.1)%	(7.8)%
Home appliance	360,441	31.0	332,609	27.8	27,832	8.4	2.3
Consumer electronics	221,449	19.0	262,088	21.9	(40,639)	(15.5)	(20.4)
Home office	73,074	6.3	86,260	7.2	(13,186)	(15.3)	(18.4)
Other	16,529	1.4	14,703	1.2	1,826	12.4	4.9
Product sales	1,042,424	89.6	1,078,635	90.2	(36,211)	(3.4)	(8.3)
Repair service agreement commissions <sup>(1)</sup>	106,997	9.2	101,928	8.5	5,069	5.0	(7.3)
Service revenues	13,814	1.2	14,111	1.3	(297)	(2.1)	
<b>Total net sales</b>	<b>\$ 1,163,235</b>	<b>100.0 %</b>	<b>\$ 1,194,674</b>	<b>100.0 %</b>	<b>\$ (31,439)</b>	<b>(2.6)%</b>	<b>(8.2)%</b>

(1) The total change in sales of repair service agreement commissions includes retrospective commissions, which are not reflected in the change in same store sales.

The decrease in product sales for the year ended January 31, 2020 was primarily due to a decrease in same store sales of 8.2%, partially offset by new store growth. The decrease in same store sales was 14.0% in markets impacted by Hurricane Harvey and 7.1% in markets not impacted by Hurricane Harvey. We believe the decrease in markets impacted by Hurricane Harvey were impacted by rebuilding efforts during the year ended January 31, 2019. The decrease in same store sales reflects a combination of significant price deflation for premium large screen televisions and an increase in production by second- and third-tier manufacturers, which has made cash purchases of large screen televisions more accessible to our core customer, negatively impacted same store sales during the year ended January 31, 2020. In addition, underwriting adjustments made during the year ended January 31, 2020 further negatively impacted same store sales.

The following table provides the change of the components of finance charges and other revenues:

<i>(in thousands)</i>	<b>Year Ended January 31,</b>		
	<b>2020</b>	<b>2019</b>	<b>Change</b>
Interest income and fees	\$ 341,224	\$ 325,136	\$ 16,088
Insurance income	38,417	29,556	8,861
Other revenues	810	447	363
Finance charges and other revenues	<b>\$ 380,451</b>	<b>\$ 355,139</b>	<b>\$ 25,312</b>

The increase in interest income and fees was due to an increase in the yield rate to 21.8% for the year ended January 31, 2020 from 21.3% for the year ended January 31, 2019, an increase of 50 basis points, and by an increase of 2.7% in the average outstanding balance of the customer accounts receivable portfolio. The increase in the yield rate resulted from the origination of our higher-yielding direct loan product, which represented approximately 75% of our fiscal year 2020 originations. In addition, insurance income contributed to an increase in credit revenue over the prior year period primarily due to an increase in insurance retrospective income for the year ended January 31, 2020.

The following table provides key portfolio performance information:

<i>(dollars in thousands)</i>	Year Ended January 31,		Change
	2020	2019	
Interest income and fees	\$ 341,224	\$ 325,136	\$ 16,088
Net charge-offs	(196,795)	(194,017)	(2,778)
Interest expense	(59,107)	(62,704)	3,597
Net portfolio loss	\$ 85,322	\$ 68,415	\$ 16,907
Average outstanding portfolio balance	\$ 1,567,878	\$ 1,526,728	\$ 41,150
Interest income and fee yield	21.8 %	21.3 %	
Net charge-off %	12.6 %	12.7 %	

#### **Retail Gross Margin**

<i>(dollars in thousands)</i>	Year Ended January 31,		Change
	2020	2019	
Retail total net sales	\$ 1,163,235	\$ 1,194,674	\$ (31,439)
Cost of goods sold	697,784	702,135	(4,351)
Retail gross margin	\$ 465,451	\$ 492,539	\$ (27,088)
Retail gross margin percentage	40.0 %	41.2 %	

The decrease in retail gross margin was primarily driven by higher margins realized in fiscal year 2019 due to the one-time benefit of increases in appliance retail pricing related to tariff adjustments and the associated forward purchases of inventory, coupled with increased logistics costs to help support future growth in fiscal year 2020. The decrease was partially offset by an increase in retrospective income on our RSAs for the year ended January 31, 2020.

#### **Selling, General and Administrative Expense**

<i>(dollars in thousands)</i>	Year Ended January 31,		Change
	2020	2019	
Retail segment	\$ 346,108	\$ 328,628	\$ 17,480
Credit segment	156,916	151,933	4,983
Selling, general and administrative expense - Consolidated	\$ 503,024	\$ 480,561	\$ 22,463
Selling, general and administrative expense as a percent of total revenues	32.6 %	31.0 %	

The SG&A increase in the retail segment was primarily due to an increase in new store occupancy costs, compensation costs and advertising expense, partially offset by a decrease in the corporate overhead allocation. The SG&A increase in the credit segment was primarily due to an increase in general operational expenses and third-party legal expenses related to collection efforts on charged off accounts. As a percent of average total customer portfolio balance, SG&A for the credit segment for the year ended January 31, 2020 remained flat at 10.0% as compared to the year ended January 31, 2019. The decrease in the corporate overhead allocation made to each of the segments was driven by a decrease in employee incentive compensation costs.

#### **Provision for Bad Debts**

<i>(dollars in thousands)</i>	Year Ended January 31,		Change
	2020	2019	
Retail segment	\$ 905	\$ 1,009	\$ (104)
Credit segment	204,312	197,073	7,239
Provision for bad debts - Consolidated	\$ 205,217	\$ 198,082	\$ 7,135
Provision for bad debts - Credit segment, as a percent of average outstanding portfolio balance	13.0 %	12.9 %	

The provision for bad debts increased to \$205.2 million for the year ended January 31, 2020 from \$198.1 million for the year ended January 31, 2019, an increase of \$7.1 million. The increase was driven by a greater increase in the allowance for bad debts during the year ended January 31, 2020 compared to the year ended January 31, 2019, and by a year-over-year increase in

net charge-offs of \$2.8 million. The increase in the allowance for bad debts for the year ended January 31, 2020 was primarily driven by a year-over-year increase in the incurred loss rate, first payment default and delinquency rates compared to the year ended January 31, 2019, partially offset by an increase in customer recovery rate.

### **Charges and Credits**

<i>(in thousands)</i>	<b>Year Ended January 31,</b>		<b>Change</b>
	<b>2020</b>	<b>2019</b>	
Store and facility closure and relocation costs	\$ 1,933	\$ —	\$ 1,933
Legal and professional fees and related reserves associated with the exploration of strategic alternatives, securities-related litigation and other legal matters	—	5,100	(5,100)
Indirect tax audit reserve	—	1,943	(1,943)
Employee severance	—	737	(737)
Write-off of capitalized software costs	1,209	—	1,209
	<u>\$ 3,142</u>	<u>\$ 7,780</u>	<u>\$ (4,638)</u>

During the year ended January 31, 2020, we recognized \$3.2 million in impairments from the exiting of certain leases upon the relocation of three distribution centers into one facility. These facility closure costs were offset by a \$0.7 million gain from increased sublease income related to the consolidation of our corporate headquarters and a \$0.6 million gain from the sale of a cross-dock. In addition, we recognized \$1.2 million in impairments of software costs for a loan management system that was abandoned during the third quarter of fiscal year 2020 related to the implementation of a new loan management system. During the year ended January 31, 2019, we recorded a contingency reserve related to a regulatory matter, a charge related to an increase in our indirect tax audit reserve, severance costs related to a change in the executive management team and costs related to a judgment in favor of TF LoanCo (“TFL”) requiring Conn’s to pay approximately \$4.8 million to TFL related to a breach of contract lawsuit brought by the Company.

### **Interest Expense**

Interest expense decreased to \$59.1 million for the year ended January 31, 2020 from \$62.7 million for the year ended January 31, 2019, a decrease of \$3.6 million. The decrease was driven by a lower weighted average cost of borrowing and a lower average outstanding balance of debt.

### **Loss on Extinguishment of Debt**

During the year ended January 31, 2020, we wrote-off \$1.1 million of debt issuance costs related to an amendment of our revolving credit facility that effected the resignation of Bank of America, N.A. as agent and lender, and replaced it with JPMorgan Chase Bank, N.A. as agent. During the year ended January 31, 2019, we recorded a \$1.8 million loss on extinguishment of debt primarily related to the early retirement of our Series 2016-B Class B Notes (the “2016-B Redeemed Notes”) and the Series 2017-A Class B and Class C Notes (the “2017-A Redeemed Notes”).

### **Provision (benefit) for Income Taxes**

<i>(dollars in thousands)</i>	<b>Year Ended January 31,</b>		<b>Change</b>
	<b>2020</b>	<b>2019</b>	
Provision for income taxes	\$ 18,314	\$ 22,929	\$ (4,615)
Effective tax rate	24.6 %	23.7 %	

The decrease in the income tax expense for the year ended January 31, 2020 compared to the year ended January 31, 2019 was primarily driven by a \$22.5 million decrease of pre-tax book income.

### **Impact of Inflation and Changing Prices**

We do not believe that inflation has had a material effect on our net sales or results of operations. However, significant increases in oil and gasoline prices could adversely affect our customers’ shopping decisions and payment patterns. We rely heavily on our distribution system and our next day delivery policy to satisfy our customers’ needs and desires, and increases in oil and gasoline prices could result in increased distribution costs and delivery charges. If we are unable to effectively pass increased transportation costs on to the consumer, either by increased delivery costs or higher prices, such costs could adversely affect our results of operations. Conversely, significant decreases in oil and gasoline prices could negatively impact certain local economies in regions in which we have stores, impacting our customer’s employment or income, which could adversely affect our sales and collection of customer receivables. In addition, the cost of items we purchase may increase or shortages of these items may arise as a result of changes in trade regulations, currency fluctuations, border taxes, import tariffs, or other

factors beyond our control. Throughout 2018, 2019, and 2020 the U.S. imposed tariffs on imports from several countries, including China. It is unclear if, or to what extent, those tariffs will remain under the newly elected President and Congress. While many of the products that we sell are manufactured in foreign jurisdictions, including China, such tariffs have had a minimal impact on our business to date.

### **Seasonality**

Our business is seasonal which typically means that a higher portion of sales and operating profit are realized during the fourth quarter due primarily to the holiday selling season. In addition, during the first quarter, our portfolio performance benefits from the timing of personal income tax refunds received by our customers, which typically results in higher cash collection rates.

### **Quarterly Results of Operations**

Our quarterly results may fluctuate materially depending on factors such as the following:

- timing of new product introductions, new store openings and store relocations;
- sales contributed by new stores;
- changes in our merchandise mix;
- increases or decreases in comparable store sales;
- changes in delinquency rates and amount of charge-offs with respect to customer accounts receivable;
- the pace of growth or decline in the customer accounts receivable balance;
- adverse weather conditions;
- shifts in the timing of certain holidays and promotions; and
- charges incurred in connection with store closures or other non-routine events.

Results for any quarter are not necessarily indicative of the results that may be achieved for any other quarter or for a full fiscal year.

### **Customer Accounts Receivable Portfolio**

We provide in-house financing to individual consumers on a short- and medium-term basis (contractual terms generally range from 12 to 36 months) for the purchase of durable products for the home. A significant portion of our customer credit portfolio is due from customers that are considered higher-risk, subprime borrowers. Our financing is executed using contracts that require fixed monthly payments over fixed terms. We maintain a secured interest in the product financed. If a payment is delayed, missed or paid only in part, the account becomes delinquent. Our collection personnel attempt to contact a customer once their account becomes delinquent. Our loan contracts generally reflect an interest rate of between 18% and 36%. We have implemented our direct consumer loan program across all Texas, Louisiana, Tennessee and Oklahoma locations. The states of Texas, Louisiana, Tennessee and Oklahoma represent approximately 74% of our fiscal year 2021 originations, with maximum equivalent interest rates of up to 27% in Oklahoma, up to 30% in Texas and Tennessee, and up to 36% in Louisiana. In states where regulations do not generally limit the interest rate charged, our loan contracts generally reflect an interest rate between 29.99% and 35.99%. These states represented 12.7% of our fiscal year 2021 originations.

We offer qualified customers a 12-month no-interest option finance program. If the customer is delinquent in making a scheduled monthly payment or does not repay the principal in full by the end of the no-interest option program period (grace periods are provided), the account does not qualify for the no-interest provision and none of the interest earned is waived.

We regularly extend or “re-age” a portion of our delinquent customer accounts as a part of our normal collection procedures to protect our investment. Generally, extensions are granted to customers who have experienced a financial difficulty (such as the temporary loss of employment), which is subsequently resolved, and when the customer indicates a willingness and ability to resume making monthly payments. These re-ages involve modifying the payment terms to defer a portion of the cash payments currently required of the debtor to help the debtor improve his or her financial condition and eventually be able to pay the account balance. Our re-aging of customer accounts does not change the interest rate or the total principal amount due from the customer and typically does not reduce the monthly contractual payments. We may also charge the customer an extension fee, which approximates the interest owed for the time period the contract was past due. Our re-age programs consist of extensions and two payment updates, which include unilateral extensions to customers who make two full payments in three calendar months in certain states. During the second quarter of fiscal year 2021, we changed our re-age policy to increase the number of days required for a customer to qualify for a unilateral re-age. Re-ages are not granted to debtors who demonstrate a lack of intent or ability to service the obligation or have reached our limits for account re-aging. To a much lesser extent, we may provide the customer the ability to re-age their obligation by refinancing the account, which typically does not change the interest rate or the total principal amount due from the customer but does reduce the monthly contractual payments and extends

the term. Under these options, as with extensions, the customer must resolve the reason for delinquency and show a willingness and ability to resume making contractual monthly payments.

On March 27, 2020 the CARES Act was signed into law to address the economic impact of the COVID-19 pandemic. Under the CARES Act, modifications deemed to be COVID-19 related are not considered a TDR if the loan was current (not more than 30 days past due as of March 31, 2020) and the deferral was executed between April 1, 2020 and the earlier of 60 days after the termination of the COVID-19 national emergency or December 31, 2020. In response to the CARES Act, the Company implemented short-term deferral programs for our customers. The carrying value of the customer receivables on accounts which were current prior to receiving a COVID-19 related deferment was \$65.2 million as of January 31, 2021. All COVID-19 specific deferral programs ended during the third quarter of fiscal year 2021.

The following tables present, for comparison purposes, information about our managed portfolio (information reflects on a combined basis the securitized receivables transferred to the VIEs and receivables not transferred to the VIEs):

	January 31,		
	2021	2020	2019
Weighted average credit score of outstanding balances <sup>(1)</sup>	600	591	593
Average outstanding customer balance	\$ 2,463	\$ 2,734	\$ 2,677
Balances 60+ days past due as a percentage of total customer portfolio carrying value <sup>(2)(3)</sup>	12.4 %	12.5 %	9.5 %
Re-aged balance as a percentage of total customer portfolio carrying value <sup>(2)(3)</sup>	25.9 %	29.4 %	25.7 %
Carrying value of account balances re-aged more than six months (in thousands) <sup>(3)</sup>	\$ 92,883	\$ 112,410	\$ 94,404
Allowance for bad debts and uncollectible interest as a percentage of total customer accounts receivable portfolio balance <sup>(4)</sup>	24.2 %	14.6 %	13.5 %
Percent of total customer accounts receivable portfolio balance represented by no-interest option receivables	20.5 %	17.7 %	22.9 %
	Year Ended January 31,		
	2021	2020	2019
Total applications processed	1,251,002	1,235,712	1,221,262
Weighted average origination credit score of sales financed <sup>(1)</sup>	615	608	609
Percent of total applications approved and utilized	21.5 %	27.0 %	29.6 %
Average income of credit customer at origination	\$ 47,100	\$ 45,800	\$ 44,800
Percent of retail sales paid for by:			
In-house financing, including down payments received	52.1 %	67.6 %	70.1 %
Third-party financing	20.4 %	17.8 %	15.7 %
Third-party lease-to-own option	8.5 %	7.0 %	7.5 %
	<u>81.0 %</u>	<u>92.4 %</u>	<u>93.3 %</u>

(1) Credit scores exclude non-scored accounts.

(2) Accounts that become delinquent after being re-aged are included in both the delinquency and re-aged amounts.

(3) Carrying value reflects the total customer accounts receivable portfolio balance, net of deferred fees and origination costs, the allowance for no-interest option credit programs and the allowance for uncollectible interest.

(4) For the period ended January 31, 2021, the allowance for bad debts and uncollectible interest is based on the current expected credit loss methodology required under ASC 326. For the period ended January 31, 2020, the allowance for bad debts and uncollectible interest is based on the incurred loss methodology.

Our customer portfolio balance and related allowance for uncollectible accounts are segregated between customer accounts receivable and restructured accounts. Customer accounts receivable include all accounts for which payment term has not been cumulatively extended over three months or refinanced. Restructured accounts includes all accounts for which payment term has been re-aged in excess of three months or refinanced.

For customer accounts receivable (excluding restructured accounts), the allowance for uncollectible accounts as a percentage of the total customer accounts receivable portfolio balance increased to 21.0% as of January 31, 2021 from 10.5% as of January 31, 2020. The increase in our allowance for uncollectible accounts was primarily related to the implementation of

CECL during the first quarter of fiscal year 2021, which transitioned our allowance from an incurred loss reserve to a lifetime reserve, and an increase in our economic adjustment related to the COVID-19 pandemic.

The percentage of the carrying value of non-restructured accounts greater than 60 days past due decreased 80 basis points over the prior year period to 8.9% as of January 31, 2021 from 9.7% as of January 31, 2020.

For restructured accounts, the allowance for uncollectible accounts as a percentage of the portfolio balance was 41.6% as of January 31, 2021 as compared to 40.0% as of January 31, 2020. This 160 basis point increase reflects the impact of higher restructured account delinquencies.

The percent of bad debt charge-offs, net of recoveries, to average outstanding portfolio balance was 16.3% for fiscal year 2021 compared to 12.6% for fiscal year 2020. The increase was driven by a decrease in the average portfolio balance and an increase in bad debt charge-offs, net of recoveries. Bad debt charge-offs, net of recoveries, increased primarily due to an increase in new customer mix and the impact of difficulties in collection efforts related to the implementation of our new loan management system during the fourth quarter of fiscal year 2020.

As of January 31, 2021 and 2020, balances under no-interest programs included within customer receivables were \$252.8 million and \$283.2 million, respectively.

### **Liquidity and Capital Resources**

We require liquidity and capital resources to finance our operations and future growth as we add new stores to our operations, which in turn requires additional working capital for increased customer receivables and inventory. We generally finance our operations through a combination of cash flow generated from operations, the use of our Revolving Credit Facility, and through periodic securitizations of originated customer receivables. We plan to execute periodic securitizations of future originated customer receivables.

We believe, based on our current projections, that we have sufficient sources of liquidity to fund our operations, store expansion and renovation activities, and capital expenditures for at least the next 12 months.

**Operating cash flows.** For the year ended January 31, 2021, net cash provided by operating activities was \$462.1 million compared to \$80.1 million for the year ended January 31, 2020. The increase in net cash provided by operating activities was primarily driven by a decrease in receivables resulting from both an increase in collections on customer accounts and a decrease in loan originations, a decrease in inventory driven by industry wide supply chain disruptions in certain product categories and the general timing of payments. These increases were partially offset by a decrease in net income when adjusted for non-cash activity.

For the year ended January 31, 2020, net cash provided by operating activities was \$80.1 million compared to \$151.8 million for the year ended January 31, 2019. The decrease in net cash provided by operating activities was primarily driven by a decrease in cash provided by working capital, primarily due to general timing of payments and a decrease in accrued compensation, the collection of an income tax refund of \$34.5 million during fiscal year 2019 and a decrease in net income when adjusted for non-cash activity.

**Investing cash flows.** For the year ended January 31, 2021, net cash used in investing activities was \$55.9 million compared to \$56.8 million for the year ended January 31, 2020. The cash used during the year ended January 31, 2021 was primarily for investments in new stores, two new distribution centers and technology investments. The cash used during the year ended January 31, 2020 was primarily for investments in new stores, renovations and expansions of select existing stores and a new distribution center.

For the year ended January 31, 2020, net cash used in investing activities was \$56.8 million compared to \$32.8 million for the year ended January 31, 2019. The increase was primarily the result of higher capital expenditures due to investments in new stores, renovations and expansions of select existing stores and a new distribution center.

**Financing cash flows.** For the year ended January 31, 2021, net cash used in financing activities was \$426.8 million compared to net cash used in financing activities of \$7.3 million for the year ended January 31, 2020 and net cash used in financing activities of \$150.2 million for the year ended January 31, 2019. During the year ended January 31, 2021, we issued 2020-A VIE asset backed notes resulting in net proceeds to us of approximately \$238.5 million, net of transaction costs. The proceeds from the 2020-A VIE asset-backed notes were used to pay down the balance of the Company's Revolving Credit Facility outstanding at the time of issuance and for other general corporate purposes. Cash collections from the securitized receivables were used to make payments on the asset-backed notes of approximately \$599.1 million during the year ended January 31, 2021 compared to approximately \$559.1 million in the comparable prior year period. During the year ended January 31, 2021, net borrowings under our Revolving Credit Facility were \$22.9 million compared to net payments of \$239.6 million during the year ended January 31, 2020. During the year ended January 31, 2021, we retired \$85.8 million aggregate principal amount of our Senior Notes in connection with a tender offer, resulting in a payment on extinguishment of debt of \$84.3 million, net of transaction costs paid.

During the year ended January 31, 2020, we issued 2019-A VIE and 2019-B VIE asset-backed notes resulting in net proceeds to us of approximately \$862.0 million, net of transaction costs and restricted cash held by the Issuer, which were used to pay down the balance of the Company's Revolving Credit Facility outstanding at the time of issuance and for other general corporate purposes. During the year ended January 31, 2019, the issuance of asset-backed notes resulted in net proceeds to us of approximately \$355.7 million, net of transaction costs and restricted cash held by the Issuer, which were used to repay indebtedness under the Company's asset-based credit facility and for other general corporate purposes.

**Share Repurchase Program.** On May 30, 2019, we entered into a stock repurchase program pursuant to which we had the authorization to repurchase up to \$75.0 million of our outstanding common stock. The stock repurchase program expired on May 30, 2020. No shares were repurchased during the year ended January 31, 2021. For the year ended January 31, 2020, we repurchased 3,485,441 shares of our common stock at an average weighted cost per share of \$19.02 for an aggregate amount of \$66.3 million.

**Senior Notes.** On July 1, 2014, we issued \$250.0 million of the unsecured Senior Notes due July 2022 bearing interest at 7.25%, pursuant to an indenture dated July 1, 2014 (as amended, the "Indenture"), among Conn's, Inc., its subsidiary guarantors (the "Guarantors") and U.S. Bank National Association, as trustee. The effective interest rate of the Senior Notes after giving effect to the discount and issuance costs is 7.8%.

The Indenture restricts the Company's and certain of its subsidiaries' ability to: (i) incur indebtedness; (ii) pay dividends or make other distributions in respect of, or repurchase or redeem, our capital stock ("restricted payments"); (iii) prepay, redeem or repurchase debt that is junior in right of payment to the notes; (iv) make loans and certain investments; (v) sell assets; (vi) incur liens; (vii) enter into transactions with affiliates; and (viii) consolidate, merge or sell all or substantially all of our assets. These covenants are subject to a number of important exceptions and qualifications. During any time when the Senior Notes are rated investment grade by either of Moody's Investors Service, Inc. or Standard & Poor's Ratings Services and no default (as defined in the Indenture) has occurred and is continuing, many of such covenants will be suspended and we will cease to be subject to such covenants during such period. As of January 31, 2021, \$188.6 million was free from the restricted payments covenant contained in the Indenture. Events of default under the Indenture include customary events, such as a cross-acceleration provision in the event that we fail to make payment of other indebtedness prior to the expiration of any applicable grace period or upon acceleration of indebtedness prior to its stated maturity date in an amount exceeding \$25.0 million, as well as in the event a judgment is entered against us in excess of \$25.0 million that is not discharged, bonded or insured.

On December 28, 2020, the Company retired \$85.8 million aggregate principal amount of its Senior Notes in connection with a tender offer.

**Asset-backed Notes.** From time to time, we securitize customer accounts receivables by transferring the receivables to various bankruptcy-remote VIEs. In turn, the VIEs issue asset-backed notes secured by the transferred customer accounts receivables and restricted cash held by the VIEs.

Under the terms of the securitization transactions, all cash collections and other cash proceeds of the customer receivables go first to the servicer and the holders of issued notes, and then to us as the holder of non-issued notes, if any, and residual equity. We retain the servicing of the securitized portfolios and receive a monthly fee of 4.75% (annualized) based on the outstanding balance of the securitized receivables. In addition, we, rather than the VIEs, retain all credit insurance income together with certain recoveries related to credit insurance and repair service agreements on charge-offs of the securitized receivables, which are reflected as a reduction to net charge-offs on a consolidated basis.

The asset-backed notes were offered and sold to qualified institutional buyers pursuant to the exemptions from registration provided by Rule 144A under the Securities Act. If an event of default were to occur under the indenture that governs the respective asset-backed notes, the payment of the outstanding amounts may be accelerated, in which event the cash proceeds of the receivables that otherwise might be released to the residual equity holder would instead be directed entirely toward repayment of the asset-backed notes, or if the receivables are liquidated, all liquidation proceeds could be directed solely to repayment of the asset-backed notes as governed by the respective terms of the asset-backed notes. The holders of the asset-backed notes have no recourse to assets outside of the VIEs. Events of default include, but are not limited to, failure to make required payments on the asset-backed notes or specified bankruptcy-related events.

The asset-backed notes outstanding as of January 31, 2020 consisted of the following:

(dollars in thousands)

Asset-Backed Notes	Original Principal Amount	Original Net Proceeds <sup>(1)</sup>	Current Principal Amount	Issuance Date	Maturity Date	Contractual Interest Rate	Effective Interest Rate <sup>(2)</sup>
2019-A Class A Notes	\$ 254,530	\$ 253,026	\$ 19,521	4/24/2019	10/16/2023	3.40%	4.43%
2019-A Class B Notes	64,750	64,276	25,069	4/24/2019	10/16/2023	4.36%	4.84%
2019-A Class C Notes	62,510	61,898	24,202	4/24/2019	10/16/2023	5.29%	5.74%
2019-B Class A Notes	317,150	315,417	17,860	11/26/2019	6/17/2024	2.66%	4.32%
2019-B Class B Notes	85,540	84,916	85,540	11/26/2019	6/17/2024	3.62%	4.16%
2019-B Class C Notes	83,270	82,456	83,270	11/26/2019	6/17/2024	4.60%	4.96%
2020-A Class A Notes	174,900	173,716	93,326	10/16/2020	6/16/2025	1.71%	4.08%
2020-A Class B Notes	65,200	64,754	65,200	10/16/2020	6/16/2025	4.27%	5.12%
<b>Total</b>	<b>\$ 1,107,850</b>	<b>\$ 1,100,459</b>	<b>\$ 413,988</b>				

(1) After giving effect to debt issuance costs.

(2) For the year ended January 31, 2021, and inclusive of the impact of changes in timing of actual and expected cash flows.

On October 16, 2020, the Company completed the issuance and sale of \$240.1 million aggregate principal amount of asset-backed notes secured by the transferred customer accounts receivables and restricted cash held by a consolidated VIE, which resulted in net proceeds to us of \$238.5 million, net of debt issuance costs. Net proceeds from the offering were used to repay indebtedness under the Company's Revolving Credit Facility, as defined below, and for other general corporate purposes. The asset-backed notes mature on June 16, 2025 and consist of \$174.9 million of 1.71% Asset Backed Fixed Rate Notes, Class A, Series 2020-A and \$65.2 million of 4.27% Asset Backed Fixed Rate Notes, Class B, Series 2020-A. Additionally, the Company issued \$62.9 million in aggregate principal amount of 7.10% Asset Backed Fixed Rate Notes, Class C, Series 2020-A which mature on June 16, 2025. The interest rate on the Class C, Series 2020-A Notes was reduced to 4.20% in connection with a sale of such notes on February 24, 2021. See Note 17. *Subsequent Events*, for details.

**Revolving Credit Facility.** On May 23, 2018, Conn's, Inc. and certain of its subsidiaries (the "Borrowers") entered into the Fourth Amended and Restated Loan and Security Agreement (the "Fourth Amendment"), dated as of October 30, 2015, with certain lenders, which provides for a \$650.0 million asset-based revolving credit facility (as amended, the "Revolving Credit Facility") under which credit availability is subject to a borrowing base and a maturity date of May 23, 2022.

The Revolving Credit Facility provides funding based on a borrowing base calculation that includes customer accounts receivable and inventory, and provides for a \$40.0 million sub-facility for letters of credit to support obligations incurred in the ordinary course of business. The obligations under the Revolving Credit Facility are secured by substantially all assets of the Company, excluding the assets of the VIEs. As of January 31, 2021, we had immediately available borrowing capacity of \$336.0 million under our Revolving Credit Facility, net of standby letters of credit issued of \$22.5 million. We also had \$239.5 million that may become available under our Revolving Credit Facility if we grow the balance of eligible customer receivables and total eligible inventory balances.

On June 5, 2020 we entered into the Third Amendment to our Revolving Credit Facility (the "Third Amendment"). Under the Third Amendment, loans under the Revolving Credit Facility bear interest, at our option, at a rate of LIBOR plus a margin ranging from 3.00% to 3.75% per annum (depending on a pricing grid determined by our total leverage ratio) or the alternate base rate plus a margin ranging from 2.00% to 2.75% per annum (depending on a pricing grid determined by our total leverage ratio). The alternate base rate is a rate per annum equal to the greatest of the prime rate, the federal funds effective rate plus 0.5%, or LIBOR for a 30-day interest period plus 1.0%. We also pay an unused fee on the portion of the commitments that is available for future borrowings or letters of credit at a rate ranging from 0.25% to 0.50% per annum, depending on the average outstanding balance and letters of credit of the Revolving Credit Facility in the immediately preceding quarter. The weighted-average interest rate on borrowings outstanding and including unused line fees under the Revolving Credit Facility was 5.9% for the year ended January 31, 2021.

The Revolving Credit Facility places restrictions on our ability to incur additional indebtedness, grant liens on assets, make distributions on equity interests, dispose of assets, make loans, pay other indebtedness, engage in mergers, and other matters. The Revolving Credit Facility restricts our ability to make dividends and distributions unless no event of default exists and a liquidity test is satisfied. Subsidiaries of the Company may pay dividends and make distributions to the Company and other obligors under the Revolving Credit Facility without restriction. As of January 31, 2021, we were restricted from making distributions, including repayments of the Senior Notes or other distributions, in excess of \$240.1 million as a result of the

Revolving Credit Facility distribution restrictions. The Revolving Credit Facility contains customary default provisions, which, if triggered, could result in acceleration of all amounts outstanding under the Revolving Credit Facility.

**Debt Covenants.** We were in compliance with our debt covenants at January 31, 2021. A summary of the significant financial covenants that govern our Revolving Credit Facility compared to our actual compliance status at January 31, 2021 is presented below:

	<b>Actual</b>	<b>Required Minimum/ Maximum</b>
Interest Coverage Ratio for the quarter must equal or exceed minimum	5.05:1.00	1.00:1.00
Interest Coverage Ratio for the trailing two quarters must equal or exceed minimum	4.53:1.00	1.50:1.00
Leverage Ratio must not exceed maximum	1.61:1.00	4.50:1.00
ABS Excluded Leverage Ratio must not exceed maximum	0.95:1.00	2.50:1.00
Capital Expenditures, net, must not exceed maximum	\$34.7 million	\$100.0 million

All capitalized terms in the above table are defined by the Revolving Credit Facility and may or may not agree directly to the financial statement captions in this document. The covenants are calculated quarterly, except for capital expenditures, which is calculated for a period of four consecutive fiscal quarters, as of the end of each fiscal quarter.

**Capital Expenditures.** We lease the majority of our stores under operating leases, and our plans for future store locations anticipate operating leases, but do not exclude store ownership. Our capital expenditures for future new store projects should primarily be for our tenant improvements to the property leased (including any new distribution centers and cross-dock facilities), the cost of which is estimated to be between \$1.6 million and \$2.5 million per store (before tenant improvement allowances), and for our existing store remodels, estimated to range between \$0.7 million and \$1.2 million per store remodel (before tenant improvement allowances), depending on store size. In the event we purchase existing properties, our capital expenditures will depend on the particular property and whether it is improved when purchased. We are continuously reviewing new relationships and funding sources and alternatives for new stores, which may include “sale-leaseback” or direct “purchase-lease” programs, as well as other funding sources for our purchase and construction of those projects. If we do not purchase the real property for new stores, our direct cash needs should include only our capital expenditures for tenant improvements to leased properties and our remodel programs for existing stores. We opened 9 new stores during fiscal year 2021, and currently plan to open 9 to 11 new stores during fiscal year 2022. Additionally, we plan to renovate several of our showrooms during fiscal year 2022. Our anticipated capital expenditures for fiscal year 2022 are between \$35.0 and \$45.0 million.

**Cash Flow.** We periodically evaluate our liquidity requirements, capital needs and availability of resources in view of inventory levels, expansion plans, debt service requirements and other operating cash needs. To meet our short- and long-term liquidity requirements, including payment of operating expenses, funding of capital expenditures and repayment of debt, we rely primarily on cash from operations. As of January 31, 2021, beyond cash generated from operations we had (i) immediately available borrowing capacity of \$336.0 million under our Revolving Credit Facility and (ii) \$9.7 million of cash on hand. However, we have, in the past, sought to raise additional capital.

We expect that, for the next 12 months, cash generated from operations, proceeds from potential accounts receivable securitizations and our Revolving Credit Facility will be sufficient to provide us the ability to fund our operations, provide the increased working capital necessary to support our strategy and fund planned capital expenditures discussed above in *Capital Expenditures*.

We may repurchase or otherwise retire our debt and take other steps to reduce our debt or otherwise improve our financial position. These actions could include open market debt repurchases, negotiated repurchases, other retirements of outstanding debt and opportunistic refinancing of debt. The amount of debt that may be repurchased or otherwise retired, if any, will depend on market conditions, the Company’s cash position, compliance with debt covenant and restrictions and other considerations.

## Off-Balance Sheet Liabilities and Other Contractual Obligations

We do not have any off-balance sheet arrangements as defined by Item 303(a)(4) of Regulation S-K. The following table presents a summary of our minimum contractual commitments and obligations as of January 31, 2021:

(in thousands)	Total	Payments due by period			
		Less Than 1 Year	1-3 Years	3-5 Years	More Than 5 Years
Debt, including estimated interest payments <sup>(1)(2)</sup> :					
Revolving Credit Facility <sup>(1)(3)</sup>	\$ 54,548	\$ 1,950	\$ 52,598	\$ —	\$ —
Senior Notes <sup>(4)(5)</sup>	156,034	10,235	145,799	—	—
2019-A Class A Notes <sup>(4)</sup>	21,318	664	20,654	—	—
2019-A Class B Notes <sup>(4)</sup>	28,028	1,093	26,935	—	—
2019-A Class C Notes <sup>(4)</sup>	27,667	1,280	26,387	—	—
2019-B Class A Notes <sup>(4)</sup>	19,464	475	950	18,039	—
2019-B Class B Notes <sup>(4)</sup>	96,001	3,097	6,193	86,711	—
2019-B Class C Notes <sup>(4)</sup>	96,209	3,830	7,661	84,718	—
2020-A Class A Notes <sup>(4)</sup>	100,309	1,596	3,192	95,521	—
2020-A Class B Notes <sup>(4)</sup>	77,381	2,784	5,568	69,029	—
Financing lease obligations	8,005	1,247	2,058	1,506	3,194
Operating leases:					
Real estate	541,180	82,792	161,800	126,116	170,472
Equipment	333	227	83	23	—
Contractual commitments <sup>(6)</sup>	114,488	106,217	7,762	509	—
Total	<u>\$ 1,340,965</u>	<u>\$ 217,487</u>	<u>\$ 467,640</u>	<u>\$ 482,172</u>	<u>\$ 173,666</u>

- (1) Estimated interest payments are based on the outstanding balance as of January 31, 2021 and the interest rate in effect at that time.
- (2) On February 24, 2021, the Company completed the sale of \$62.9 million of 4.20% Asset Backed Fixed Rate Notes, Class C, Series 2020-A which were previously issued and retained by the Company. The asset-backed notes are secured by the transferred customer accounts receivables and restricted cash held by a consolidated VIE, which resulted in net proceeds to us of \$62.5 million, net of debt issuance costs. Net proceeds from the sale were used to repay amounts outstanding under the Company's Revolving Credit Facility. See Note 17., *Subsequent Events*, for details.
- (3) On March 29, 2021, the Company entered into the Fifth Amended and Restated Loan and Security Agreement (the "Fifth Amended and Restated Loan Agreement"). The Fifth Amended and Restated Loan Agreement, among other things, extended the maturity date of our existing revolving credit facility to March 2025 (originally scheduled to mature in May 2022). See Note 17., *Subsequent Events*, for details.
- (4) The payments due by period for the Senior Notes and asset-backed notes were based on their respective maturity dates at their respective fixed annual interest rate. Actual principal and interest payments on the asset-backed notes will reflect actual proceeds from the securitized customer accounts receivables.
- (5) On March 15, 2021, the Company issued a notice of redemption to holders of our 7.250% Senior Notes due 2022 (the "Senior Notes") for the redemption of all \$141,172,000 outstanding aggregate principal amount of the Senior Notes. See Note 17., *Subsequent Events*, for details.
- (6) Contractual commitments primarily include commitments to purchase inventory of \$87.9 million.

### Issuer and Guarantor Subsidiary Summarized Financial Information

Conn's, Inc. is a holding company with no independent assets or operations other than its investments in its subsidiaries. The Senior Notes, which were issued by Conn's, Inc., are fully and unconditionally guaranteed on a joint and several senior unsecured basis by the Guarantors. As of January 31, 2021, the direct or indirect subsidiaries of Conn's, Inc. that were not Guarantors (the "Non-Guarantor Subsidiaries") were the VIEs and minor subsidiaries. There are no restrictions under the Indenture on the ability of any of the Guarantors to transfer funds to Conn's, Inc. in the form of dividends or distributions.

The following tables present on a combined basis for the Issuer and the Guarantor Subsidiaries, a summarized Balance Sheet as of January 31, 2021 and a summarized Statement of Operations on a consolidated basis for the twelve months ended January 31, 2021. The information presented below excludes eliminations necessary to arrive at the information on a consolidated basis. Investments in subsidiaries are accounted for by the parent company using the equity method for purposes of this presentation. Amounts provided do not represent our total consolidated amounts, as of January 31, 2021 and for the twelve months ended January 31, 2021:

<i>(in thousands)</i>	<b>January 31,</b>	
	<b>2021</b>	
<b>Assets</b>		
Cash, cash equivalents and restricted cash	\$	11,638
Customer accounts receivable, net of allowances		218,923
Inventories		196,463
Net due from non-guarantor subsidiary		8,571
Other current assets		108,606
<b>Total current assets</b>		<b>544,201</b>
Long-term portion of customer accounts receivable, net of allowances		246,445
Property and equipment, net		190,962
Right of use assets, net		265,798
Other assets		23,512
<b>Total assets</b>	<b>\$</b>	<b>1,270,918</b>
<b>Liabilities</b>		
Current portion of debt	\$	934
Lease liability operating - current		44,011
Other liabilities		163,429
<b>Total current liabilities</b>		<b>208,374</b>
Lease liability operating - non current		354,598
Long-term debt		197,084
Other long-term liabilities		21,068
<b>Total liabilities</b>	<b>\$</b>	<b>781,124</b>
<i>(in thousands)</i>	<b>Year Ended</b>	
	<b>January 31, 2021</b>	
<b>Revenues:</b>		
Net sales and finances charges	\$	1,231,577
Servicing fee revenue from non-guarantor subsidiary		36,170
<b>Total revenues</b>		<b>1,267,747</b>
<b>Total costs and expenses</b>		<b>1,273,212</b>
<b>Net loss</b>	<b>\$</b>	<b>(5,465)</b>

## Critical Accounting Policies and Estimates

The preparation of financial statements and related disclosures in conformity with U.S. GAAP requires us to make estimates that affect the reported amounts of assets, liabilities, revenues and expenses, and the disclosure of contingent assets and liabilities. Certain accounting policies, as described below, are considered “critical accounting policies” because they are particularly dependent on estimates made by us about matters that are inherently uncertain and could have a material impact to our consolidated financial statements. We base our estimates on historical experience and on other assumptions that we believe are reasonable. As a result, actual results could differ because of the use of estimates. A summary of all of our significant accounting policies is included in Note 1, *Summary of Significant Accounting Policies*, of the Consolidated Financial Statements in Part II, Item 8., of this Annual Report on Form 10-K.

**Allowance for doubtful accounts.** The determination of the amount of the allowance for credit losses is, by nature, highly complex and subjective. Future events that are inherently uncertain could result in material changes to the level of the allowance for credit losses. General economic conditions, changes to state or federal regulations and a variety of other factors that affect the ability of borrowers to service their debts or our ability to collect will impact the future performance of the portfolio.

We establish an allowance for credit losses, including estimated uncollectible interest, to cover expected credit losses on our customer accounts receivable resulting from the failure of customers to make contractual payments. Our customer accounts receivable portfolio balance consists of a large number of relatively small, homogeneous accounts. None of our accounts are large enough to warrant individual evaluation for impairment.

On February 1, 2021, we adopted ASU 2016-13, Financial Instruments–Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments (“ASC 326”). The allowance for credit losses is measured on a collective (pool) basis where similar risk characteristics exist. The allowance for credit losses is determined for each pool and added to the pool’s carrying amount to establish a new amortized cost basis.

We have elected to use a risk-based, pool-level segmentation framework to calculate the expected loss rate. This framework is based on our historical gross charge-off history. In addition to adjusted historical gross charge-off rates, estimates of post-charge-off recoveries, including cash payments from customers, sales tax recoveries from taxing jurisdictions, and payments received under credit insurance and repair service agreement (“RSA”) policies are also considered. We also consider forward-looking economic forecasts based on a statistical analysis of economic factors (specifically, forecast of unemployment rates over the reasonable and supportable forecasting period). To the extent that situations and trends arise which are not captured in our model, management will layer on additional qualitative adjustments.

Pursuant to ASC 326 requirements, the Company uses a 24-month reasonable and supportable forecast period for the Customer Accounts Receivable portfolio. We estimate losses beyond the 24-month forecast period based on historic loss rates experienced over the life of our historic loan portfolio by loan pool type. We revisit our measurement methodology and assumption annually, or more frequently if circumstances warrant.

As of January 31, 2021 and 2020, the balance of allowance for doubtful accounts and uncollectible interest for non-TDR customer receivables was \$219.7 million and \$145.7 million, respectively. As of January 31, 2021 and 2020, the amount included in the allowance for doubtful accounts associated with principal and interest on TDR accounts was \$78.3 million and \$88.1 million, respectively. A 100 basis point increase in our estimated gross charge-off rate would increase our allowance for doubtful accounts on our customer accounts receivable by \$8.1 million based on the balance outstanding at January 31, 2021.

**Interest income on customer accounts receivable.** Interest income, which includes interest income and amortization of deferred fees and origination costs, is recorded using the interest method and is reflected in finance charges and other revenues. Typically, interest income is recorded until the customer account is paid off or charged-off, and we provide an allowance for estimated uncollectible interest. Any contractual interest income received from customers in excess of the interest income calculated using the interest method is recorded as deferred revenue on our balance sheets. At January 31, 2021 and 2020, there were \$8.9 million and \$10.6 million, respectively, of deferred interest included in deferred revenues and other credits and other long-term liabilities. The deferred interest will ultimately be brought into income as the accounts pay off or charge-off.

We offer a 12-month no-interest option program. If the customer is delinquent in making a scheduled monthly payment or does not repay the principal in full by the end of the no-interest option program period (grace periods are provided), the account does not qualify for the no-interest provision and none of the interest earned is waived. Interest income is recognized based on estimated accrued interest earned to date on all no-interest option finance programs with an offsetting reserve for those customers expected to satisfy the requirements of the program based on our historical experience.

We recognize interest income on TDR accounts using the interest income method, which requires reporting interest income equal to the increase in the net carrying amount of the loan attributable to the passage of time. Cash proceeds and other adjustments are applied to the net carrying amount such that it equals the present value of expected future cash flows.

We place accounts in non-accrual status when legally required. Payments received on non-accrual loans will be applied to principal and reduce the amount of the loan. At January 31, 2021 and 2020, the carrying value of customer accounts receivable in non-accrual status was \$8.5 million and \$12.5 million. At January 31, 2021 and 2020, the carrying value of customer accounts receivable that were past due 90 days or more and still accruing interest totaled \$111.5 million and \$132.7 million, respectively. At January 31, 2021 and 2020, the carrying value of customer accounts receivable in a bankruptcy status that were less than 60 days past due of \$5.2 million and \$12.1 million, respectively, were included within the customer receivables balance carried in non-accrual status.

**Inventories.** Inventories consist of merchandise purchased for resale and service parts and are recorded at the lower of cost or net realizable value. The carrying value of the inventory is reduced to its net realizable value for any product lines with excess of carrying amount, typically weighted-average cost, over the amount we expect to realize from the ultimate sale or other disposition of the inventory, with a corresponding charge to cost of sales. The write-down of inventory to net realizable value is estimated based on assumptions regarding inventory aging and historical product sales. A 10% difference in our actual inventory reserve at January 31, 2021, would have affected our cost of goods sold by \$0.5 million.

**Impairment of Long-Lived Assets.** Long-lived assets are evaluated for impairment, primarily at the asset group level. The asset group is defined as stores and cross-docks within a distribution center's service area. We monitor asset group performance in order to assess if events or changes in circumstances indicate that the carrying amount of the assets may not be recoverable. The most likely condition that would necessitate an assessment would be an adverse change in historical and estimated future results of an asset group's performance. For property and equipment held and used, we recognize an impairment loss if the carrying amount is not recoverable through its undiscounted cash flows and measure the impairment loss based on the difference between the carrying amount and estimated fair value. During the year ended January 31, 2020, we recognized \$3.2 million in impairments from the exiting of certain leases. See Note 4, *Charges and Credits*, for details. For the years ended January 31, 2021 and 2019 there were no impairments.

**Vendor allowances.** We receive funds from vendors for price protection, product rebates (earned upon purchase or sale of product), marketing, and promotion programs, collectively referred to as vendor allowances, which are recorded on an accrual basis. We estimate the vendor allowances to accrue based on the progress of satisfying the terms of the programs based on actual and projected sales or purchase of qualifying products. If the programs are related to product purchases, the vendor allowances are recorded as a reduction of product cost in inventory still on hand with any remaining amounts recorded as a reduction of cost of goods sold. During the years ended January 31, 2021, 2020 and 2019, we recorded \$122.7 million, \$156.6 million and \$143.3 million, respectively, as reductions in cost of goods sold from vendor allowances.

#### **Recent Accounting Pronouncements**

The information related to recent accounting pronouncements as set forth in Note 1, *Summary of Significant Accounting Policies*, of the Consolidated Financial Statements in Part II, Item 8., of this Annual Report on Form 10-K is incorporated herein by reference.

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

The market risk inherent in our financial instruments represents the potential loss arising from adverse changes in interest rates. We have not been materially impacted by fluctuations in foreign currency exchange rates, as substantially all of our business is transacted in, and is expected to continue to be transacted in, U.S. dollars or U.S. dollar-based currencies. Our Senior Notes and asset-backed notes bear interest at a fixed rate and would not be affected by interest rate changes.

Loans under the Revolving Credit Facility bear interest, at our option, at a rate of LIBOR plus a margin ranging from 3.00% to 3.75% per annum (depending on a pricing grid determined by our total leverage ratio) or the alternate base rate plus a margin ranging from 2.00% to 2.75% per annum (depending on a pricing grid determined by our total leverage ratio). The alternate base rate is a rate per annum equal to the greatest of the prime rate, the federal funds effective rate plus 0.5%, or LIBOR for a 30-day interest period plus 1.0%. Accordingly, changes in our total leverage ratio and LIBOR or the alternate base rate will affect the interest rate on, and therefore our costs under, the Revolving Credit Facility. As of January 31, 2021, the balance outstanding under our Revolving Credit Facility was \$52.0 million. A 100 basis point increase in interest rates on the Revolving Credit Facility would increase our borrowing costs by \$0.5 million over a 12-month period, based on the balance outstanding at January 31, 2021.

**ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA.**

**INDEX TO CONSOLIDATED FINANCIAL STATEMENTS**

	<b>Page No.</b>
<a href="#">Report of Independent Registered Public Accounting Firm</a>	<a href="#">60</a>
<a href="#">Consolidated Balance Sheets</a>	<a href="#">62</a>
<a href="#">Consolidated Statements of Operations</a>	<a href="#">63</a>
<a href="#">Consolidated Statements of Stockholders' Equity</a>	<a href="#">64</a>
<a href="#">Consolidated Statements of Cash Flows</a>	<a href="#">65</a>
<a href="#">Notes to Consolidated Financial Statements</a>	<a href="#">66</a>

## Report of Independent Registered Public Accounting Firm

To the Stockholders and the Board of Directors of Conn's, Inc.

### Opinion on the Financial Statements

We have audited the accompanying consolidated balance sheets of Conn's, Inc. and subsidiaries (the "Company") as of January 31, 2021 and 2020, the related consolidated statements of operations, stockholders' equity and cash flows for each of the three years in the period ended January 31, 2021, and the related notes (collectively referred to as the "consolidated financial statements"). In our opinion, the consolidated financial statements present fairly, in all material respects, the financial position of the Company at January 31, 2021 and 2020, and the results of its operations and its cash flows for each of the three years in the period ended January 31, 2021, in conformity with U.S. generally accepted accounting principles.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (the "PCAOB"), the Company's internal control over financial reporting as of January 31, 2021, based on criteria established in Internal Control-Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (2013 framework) and our report dated March 31, 2021 expressed an unqualified opinion thereon.

### Adoption of New Accounting Standards

As discussed in Note 1 to the consolidated financial statements, the Company changed its method of accounting for 1) credit losses in fiscal year 2021 due to the adoption of ASU No. 2016-13, *Credit Losses* 2) leases in fiscal year 2020 due to the adoption of ASU No. 2016-02, *Leases* and 3) internal-use software in fiscal year 2020 due to the adoption of ASU No. 2018-15, *Intangibles Goodwill and Other-Internal-Use Software*.

### Basis for Opinion

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

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud. Our audits included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that our audits provide a reasonable basis for our opinion.

### Critical Audit Matter

The critical audit matter communicated below is a matter arising from the current period audit of the financial statements that was communicated or required to be communicated to the audit committee and that: (1) relates to accounts or disclosures that are material to the financial statements and (2) involved our especially challenging, subjective or complex judgments. The communication of the critical audit matter does not alter in any way our opinion on the consolidated financial statements, taken as a whole, and we are not, by communicating the critical audit matter below, providing a separate opinion on the critical audit matter or on the accounts or disclosures to which it relates.

### ***Allowance for Credit Losses***

***Description of the Matter*** At January 30, 2021 the Company's balance of customer accounts receivable was \$1.233 billion and the related allowance for credit losses was \$276.6 million. As discussed in Note 1 to the consolidated financial statements, the Company recognizes an allowance for expected credit losses over the life of customer accounts receivable. Management measures expected losses on a pool basis where similar risk characteristics exist using historical charge-off experience to estimate an allowance. In addition to adjusted historical gross charge-off rates, estimates of post-charge-off recoveries as well as forward-looking macro-economic forecasts are also considered. To the extent that situations and trends arise which are not captured in management's model, management will layer on additional qualitative adjustments.

Auditing management's estimates of the allowance for credit losses for customer accounts receivable involves a high degree of complexity in testing the model and modeling assumptions used to derive the segmentation level loss estimates utilized in the allowance calculation. Additionally, in light of the current economic environment, auditing the estimate is complex due to the judgments necessary to evaluate management's qualitative assessments of how to adjust the historical charge-off and recovery experiences, as well as the macro-economic forecast to estimate current expected credit losses over the life of the customer accounts receivable portfolio.

***How We Addressed the Matter in Our Audit*** We obtained an understanding, evaluated the design, and tested the operating effectiveness of the Company's controls over the allowance for credit losses process, including management's review and approval of models used to calculate the estimate and the evaluation of the completeness and accuracy of data inputs, assumptions, and outputs of those models. We also evaluated the Company's controls over the identification and measurement of qualitative adjustments, review of portfolio trends and overall evaluation of the recorded allowance estimate, as well as the controls specific to the adoption of ASU 2016-13.

With the assistance of our specialists, we tested the quantitative model methodology, modeling assumptions, model calculation and clerical accuracy of the segmentation level loss estimates. We tested the completeness and accuracy of historical data. We evaluated management's identification of historical loss periods used in the models. We also assessed management's adjustments to historical loss data and evaluated whether those adjustments were reflective of management's current expected loss estimates, and consistent with the underlying supporting documentation for any such quantitative adjustments. We evaluated the inputs used by management in determining the qualitative adjustments for consistency with management's evaluation framework. We tested the completeness and accuracy of underlying portfolio and macro-economic data considered by management in determining the qualitative adjustments. We also inspected management's documentation of the evaluation of adjustments considered for consistency with the underlying data and evaluated the reasonableness of the qualitative adjustments recorded. We evaluated the reasonableness of the overall allowance estimate, inclusive of the adjustments for qualitative factors, through comparison of historical estimation results to actual recorded losses. We also reviewed subsequent events and transactions and considered whether they corroborated or contradicted the Company's estimation conclusion.

/s/ Ernst & Young LLP

We have served as the Company's auditor since 2001.

Houston, Texas  
March 31, 2021

**CONN'S, INC. AND SUBSIDIARIES**  
**CONSOLIDATED BALANCE SHEETS**  
(dollars in thousands, except per share amounts)

	January 31,	
	2021	2020
<b>Assets</b>		
<b>Current assets:</b>		
Cash and cash equivalents	\$ 9,703	\$ 5,485
Restricted cash (includes VIE balances of \$48,622 and \$73,214, respectively)	50,557	75,370
Customer accounts receivable, net of allowance (includes VIE balances of \$259,811 and \$393,764, respectively)	478,734	673,742
Other accounts receivable	61,716	68,753
Inventories	196,463	219,756
Income taxes receivable	38,059	4,315
Prepaid expenses and other current assets	8,831	11,445
<b>Total current assets</b>	<b>844,063</b>	<b>1,058,866</b>
Long-term portion of customer accounts receivable, net of allowances (includes VIE balances of \$184,304 and \$420,454, respectively)	430,749	663,761
Property and equipment, net	190,962	173,031
Operating lease right-of-use assets	265,798	242,457
Deferred income taxes	9,448	18,599
Other assets	14,064	12,055
<b>Total assets</b>	<b>\$ 1,755,084</b>	<b>\$ 2,168,769</b>
<b>Liabilities and Stockholders' Equity</b>		
<b>Current liabilities:</b>		
Current finance lease obligations	\$ 934	\$ 605
Accounts payable	69,367	48,554
Accrued compensation and related expenses	24,944	10,795
Accrued expenses	58,046	52,295
Operating lease liability - current	44,011	35,390
Income taxes payable	1,447	2,394
Deferred revenues and other credits	13,007	12,237
<b>Total current liabilities</b>	<b>211,756</b>	<b>162,270</b>
Operating lease liability - non current	354,598	329,081
Long-term debt and finance lease obligations (includes VIE balances of \$411,551 and \$768,121 respectively)	608,635	1,025,535
Other long-term liabilities	22,940	24,703
<b>Total liabilities</b>	<b>1,197,929</b>	<b>1,541,589</b>
<b>Commitments and contingencies</b>		
<b>Stockholders' equity:</b>		
Preferred stock (\$0.01 par value, 1,000,000 shares authorized; none issued or outstanding)	—	—
Common stock (0.01 par value, 100,000,000 shares authorized; 32,711,623 and 32,125,055 shares issued, respectively)	327	321
Treasury stock (at cost; 3,485,441 shares and 3,485,441 shares, respectively)	(66,290)	(66,290)
Additional paid-in capital	132,108	122,513
Retained earnings	491,010	570,636
<b>Total stockholders' equity</b>	<b>557,155</b>	<b>627,180</b>
<b>Total liabilities and stockholders' equity</b>	<b>\$ 1,755,084</b>	<b>\$ 2,168,769</b>

See notes to consolidated financial statements.

**CONN'S, INC. AND SUBSIDIARIES**  
**CONSOLIDATED STATEMENTS OF OPERATIONS**  
(dollars in thousands, except per share amounts)

	<b>Year Ended January 31,</b>		
	<b>2021</b>	<b>2020</b>	<b>2019</b>
<b>Revenues:</b>			
Product sales	\$ 973,031	\$ 1,042,424	\$ 1,078,635
Repair service agreement commissions	78,838	106,997	101,928
Service revenues	12,442	13,814	14,111
<b>Total net sales</b>	<b>1,064,311</b>	<b>1,163,235</b>	<b>1,194,674</b>
Finance charges and other revenues	321,714	380,451	355,139
<b>Total revenues</b>	<b>1,386,025</b>	<b>1,543,686</b>	<b>1,549,813</b>
<b>Costs and expenses:</b>			
Cost of goods sold	668,315	697,784	702,135
Selling, general and administrative expense	478,767	503,024	480,561
Provision for bad debts	202,003	205,217	198,082
Charges and credits	6,326	3,142	7,780
<b>Total costs and expenses</b>	<b>1,355,411</b>	<b>1,409,167</b>	<b>1,388,558</b>
<b>Operating income</b>	<b>30,614</b>	<b>134,519</b>	<b>161,255</b>
Interest expense	50,381	59,107	62,704
(Gain) loss on extinguishment of debt	(440)	1,094	1,773
<b>Income (loss) before income taxes</b>	<b>(19,327)</b>	<b>74,318</b>	<b>96,778</b>
Provision (benefit) for income taxes	(16,190)	18,314	22,929
<b>Net income (loss)</b>	<b>\$ (3,137)</b>	<b>\$ 56,004</b>	<b>\$ 73,849</b>
<b>Earnings (loss) per share:</b>			
Basic	\$ (0.11)	\$ 1.85	\$ 2.33
Diluted	\$ (0.11)	\$ 1.82	\$ 2.28
<b>Weighted average common shares outstanding:</b>			
Basic	29,060,512	30,275,662	31,668,370
Diluted	29,060,512	30,814,775	32,374,375

See notes to consolidated financial statements.

**CONN'S, INC. AND SUBSIDIARIES**  
**CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY**  
(in thousands, except for number of shares)

	Common Stock		Additional Paid-in Capital	Retained Earnings	Treasury Stock		Total
	Shares	Amount			Shares	Amount	
<b>Balance January 31, 2018</b>	<b>31,435,775</b>	<b>\$ 314</b>	<b>\$ 101,087</b>	<b>\$ 433,667</b>	<b>—</b>	<b>\$ —</b>	<b>\$ 535,068</b>
Adoption of ASU 2014-09	—	—	—	956	—	—	956
Exercise of options and vesting of restricted stock, net of withholding tax	317,465	3	(2,957)	—	—	—	(2,954)
Issuance of common stock under Employee Stock Purchase Plan	34,922	1	838	—	—	—	839
Stock-based compensation	—	—	12,217	—	—	—	12,217
Net income	—	—	—	73,849	—	—	73,849
<b>Balance January 31, 2019</b>	<b>31,788,162</b>	<b>\$ 318</b>	<b>\$ 111,185</b>	<b>\$ 508,472</b>	<b>—</b>	<b>\$ —</b>	<b>\$ 619,975</b>
Adoption of ASU 2016-02	—	—	—	6,160	—	—	6,160
Exercise of options and vesting of restricted stock, net of withholding tax	283,434	2	(1,987)	—	—	—	(1,985)
Issuance of common stock under Employee Stock Purchase Plan	53,459	1	765	—	—	—	766
Stock-based compensation	—	—	12,550	—	—	—	12,550
Common stock repurchase	—	—	—	—	(3,485,441)	(66,290)	(66,290)
Net income	—	—	—	56,004	—	—	56,004
<b>Balance January 31, 2020</b>	<b>32,125,055</b>	<b>\$ 321</b>	<b>\$ 122,513</b>	<b>\$ 570,636</b>	<b>(3,485,441)</b>	<b>\$ (66,290)</b>	<b>\$ 627,180</b>
Adoption of ASU 2016-13	—	—	—	(76,489)	—	—	(76,489)
Exercise of options and vesting of restricted stock, net of withholding tax	445,895	5	(1,687)	—	—	—	(1,682)
Issuance of common stock under Employee Stock Purchase Plan	140,673	1	697	—	—	—	698
Stock-based compensation	—	—	10,585	—	—	—	10,585
Net loss	—	—	—	(3,137)	—	—	(3,137)
<b>Balance January 31, 2021</b>	<b>32,711,623</b>	<b>\$ 327</b>	<b>\$ 132,108</b>	<b>\$ 491,010</b>	<b>(3,485,441)</b>	<b>\$ (66,290)</b>	<b>\$ 557,155</b>

See notes to consolidated financial statements.

**CONN'S, INC. AND SUBSIDIARIES**  
**CONSOLIDATED STATEMENTS OF CASH FLOWS**  
(in thousands)

	Year Ended January 31,		
	2021	2020	2019
<b>Cash flows from operating activities:</b>			
Net income (loss)	\$ (3,137)	\$ 56,004	\$ 73,849
Adjustments to reconcile net income (loss) to net cash provided by operating activities:			
Depreciation	41,068	36,841	31,584
Change in right-of-use asset	29,956	27,577	—
Amortization of debt issuance costs	8,527	9,828	10,640
Provision for bad debts and uncollectible interest	265,929	269,295	250,076
Stock-based compensation expense	9,330	12,550	12,217
Charges, net of credits	6,326	3,142	—
Deferred income taxes	31,323	7,488	(6,224)
Gain on early termination of debt	(440)	—	—
Loss (gain) from current and deferred sale/disposal of property and equipment	497	90	(809)
Tenant improvement allowances received from landlords	21,224	25,914	16,821
Change in operating assets and liabilities:			
Customer accounts receivable	63,871	(266,997)	(300,745)
Other accounts receivables	6,595	(5,346)	5,582
Inventories	23,293	278	(8,140)
Other assets	393	(6,983)	20,950
Accounts payable	17,507	(23,041)	(499)
Accrued expenses	15,905	(21,689)	11,158
Operating leases	(40,384)	(35,816)	—
Income taxes	(35,270)	(9,930)	49,685
Deferred revenues and other credits	(398)	861	(14,344)
<b>Net cash provided by operating activities</b>	<b>462,115</b>	<b>80,066</b>	<b>151,801</b>
<b>Cash flows from investing activities:</b>			
Purchases of property and equipment	(55,927)	(57,546)	(32,814)
Proceeds from asset dispositions	—	724	—
<b>Net cash used in investing activities</b>	<b>(55,927)</b>	<b>(56,822)</b>	<b>(32,814)</b>
<b>Cash flows from financing activities:</b>			
Proceeds from issuance of asset-backed notes	240,100	867,750	358,300
Payments on asset-backed notes	(599,144)	(505,442)	(739,875)
Borrowings under revolving credit facility	1,355,362	1,625,440	1,836,822
Payments on revolving credit facility	(1,332,462)	(1,865,069)	(1,647,322)
Borrowings from warehouse facility	—	—	173,286
Payments on warehouse facility	—	(53,635)	(119,650)
Payment for share repurchases	—	(66,290)	—
Payment of debt issuance costs and amendment fees	(4,753)	(7,876)	(7,418)
Proceeds from stock issued under employee stock purchase plan	698	988	1,237
Tax payments associated with equity-based compensation transactions	(1,682)	(2,216)	(3,342)
Payment for extinguishment of debt	(84,324)	—	(1,178)
Other	(578)	(976)	(1,068)
<b>Net cash used in financing activities</b>	<b>(426,783)</b>	<b>(7,326)</b>	<b>(150,208)</b>
<b>Net change in cash, cash equivalents and restricted cash</b>	<b>(20,595)</b>	<b>15,918</b>	<b>(31,221)</b>
Cash, cash equivalents and restricted cash, beginning of period	80,855	64,937	96,158
<b>Cash, cash equivalents and restricted cash, end of period</b>	<b>\$ 60,260</b>	<b>\$ 80,855</b>	<b>\$ 64,937</b>

(continued on next page)

	Year Ended January 31,		
	2021	2020	2019
<b>Non-cash investing and financing activities:</b>			
Right-of-use assets obtained in exchange for new operating lease liabilities	\$ 72,741	\$ 75,296	\$ —
Right-of-use assets obtained in exchange for new financing lease liabilities	\$ 1,653	\$ 1,110	\$ —
Capital lease asset additions and related obligations	\$ —	\$ —	\$ 1,193
Property and equipment purchases not yet paid	\$ 7,890	\$ 9,717	\$ 5,557
<b>Supplemental cash flow data:</b>			
Cash interest paid	\$ 41,059	\$ 50,491	\$ 50,568
Cash income taxes paid (refunded), net	\$ (11,586)	\$ 17,169	\$ (20,447)

See notes to consolidated financial statements.

**CONN'S, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

## **1. Summary of Significant Accounting Policies**

**Business.** Conn's, Inc., a Delaware corporation, is a holding company with no independent assets or operations other than its investments in its subsidiaries. References to "we," "our," "us," "the Company," "Conn's" or "CONN" refer to Conn's, Inc. and, as apparent from the context, its subsidiaries. Conn's is a leading specialty retailer that offers a broad selection of quality, branded durable consumer goods and related services in addition to proprietary credit solutions for its core credit-constrained consumers. We operate an integrated and scalable business through our retail stores and website. Our complementary product offerings include furniture and mattresses, home appliances, consumer electronics and home office products from leading global brands across a wide range of price points. Our credit offering provides financing solutions to a large, under-served population of credit-constrained consumers who typically have limited credit alternatives.

We operate two reportable segments: retail and credit. Our retail stores bear the "Conn's HomePlus" name with all of our stores providing the same products and services to a common customer group. Our stores follow the same procedures and methods in managing their operations. Our retail business and credit business are operated independently from each other. The credit segment is dedicated to providing short- and medium-term financing to our retail customers. The retail segment is not involved in credit approval decisions or collection efforts. Our management evaluates performance and allocates resources based on the operating results of the retail and credit segments.

The consolidated financial statements have been prepared in accordance with U.S. generally accepted accounting principles ("GAAP") and prevailing industry practices.

**Fiscal Year.** Our fiscal year ends on January 31. References to a fiscal year refer to the calendar year in which the fiscal year ends.

**Principles of Consolidation.** The consolidated financial statements include the accounts of Conn's, Inc. and its wholly-owned subsidiaries. All material intercompany transactions and balances have been eliminated in consolidation.

**Variable Interest Entities.** Variable Interest Entities ("VIEs") are consolidated if the Company is the primary beneficiary. The primary beneficiary of a VIE is the party that has (i) the power to direct the activities that most significantly impact the performance of the VIE and (ii) the obligation to absorb losses or the right to receive benefits that could potentially be significant to the VIE.

We securitize customer accounts receivables by transferring the receivables to various bankruptcy-remote VIEs. We retain the servicing of the securitized portfolio and have a variable interest in each corresponding VIE by holding the residual equity. We have determined that we are the primary beneficiary of each respective VIE because (i) our servicing responsibilities for the securitized portfolio give us the power to direct the activities that most significantly impact the performance of the VIE and (ii) our variable interest in the VIE gives us the obligation to absorb losses and the right to receive residual returns that potentially could be significant. As a result, we consolidate the respective VIEs within our consolidated financial statements.

Refer to Note 6, *Debt and Financing Lease Obligations*, and Note 13, *Variable Interest Entities*, for additional information.

**Use of Estimates.** The preparation of financial statements in accordance with GAAP requires management to make informed judgments and estimates that affect the reported amounts of assets, liabilities, revenues and expenses, and the disclosure of contingent assets and liabilities. Changes in facts and circumstances or additional information may result in revised estimates, and actual results may differ, even significantly, from these estimates. Management evaluates its estimates and related assumptions regularly, including those related to the allowance for doubtful accounts and allowances for no-interest option credit programs, which are particularly sensitive given the size of our customer portfolio balance.

**Cash and Cash Equivalents.** As of January 31, 2021 and 2020, cash and cash equivalents included cash, credit card deposits in transit, and highly liquid debt instruments purchased with a maturity date of three months or less. Credit card deposits in transit included in cash and cash equivalents were \$7.9 million and \$4.0 million as of January 31, 2021 and 2020, respectively.

**Restricted Cash.** The restricted cash balance as of January 31, 2021 and 2020 includes \$41.6 million and \$59.7 million, respectively, of cash we collected as servicer on the securitized receivables that was subsequently remitted to the VIEs and \$7.0 million and \$13.9 million, respectively, of cash held by the VIEs as additional collateral for the asset-backed notes.

**Customer Accounts Receivable.** Customer accounts receivable reported in the Consolidated Balance Sheet includes total receivables managed, including both those transferred to the VIEs and those not transferred to the VIEs. Customer accounts receivable are recognized at the time the customer takes possession of the product. As discussed in more detail below, effective February 1, 2020 the Company adopted ASC 2016-13, *Financial Instruments-Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments*. Under the newly adopted standard, expected lifetime losses on customer accounts receivable are recognized upon origination through an allowance for credit losses account that is deducted from the customer account receivable balance and presented net thereof. Customer accounts receivable include the net of unamortized deferred

**CONN'S, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

fees charged to customers and origination costs. Customer receivables are considered delinquent if a payment has not been received on the scheduled due date. Accounts that are delinquent more than 209 days as of the end of a month are charged-off against the allowance for doubtful accounts along with interest accrued subsequent to the last payment.

In an effort to mitigate losses on our accounts receivable, we may make loan modifications to a borrower experiencing financial difficulty. The loan modifications are intended to maximize net cash flow after expenses and avoid the need to exercise legal remedies available to us. We may extend or “re-age” a portion of our customer accounts, which involves modifying the payment terms to defer a portion of the cash payments due. Our re-aging of customer accounts does not change the interest rate or the total principal amount due from the customer and typically does not reduce the monthly contractual payments. To a much lesser extent, we may provide the customer the ability to refinance their account, which typically does not change the interest rate or the total principal amount due from the customer but does reduce the monthly contractual payments and extend the term. We consider accounts that have been re-aged in excess of three months or refinanced as Troubled Debt Restructurings (“TDR” or “Restructured Accounts”).

On March 27, 2020 the Coronavirus Aid, Relief and Economic Security Act (“CARES Act”) was signed into law to address the economic impact of the COVID-19 pandemic. Under the CARES Act, modifications deemed to be COVID-19 related are not considered a TDR if the loan was current (not more than 30 days past due as of March 31, 2020) and the deferral was executed between April 1, 2020 and the earlier of 60 days after the termination of the COVID-19 national emergency or December 31, 2020. In response to the CARES Act, the Company implemented short-term deferral programs for our customers. The carrying value of the customer receivables on accounts which were current prior to receiving a COVID-19 related deferment was \$65.2 million as of January 31, 2021.

**Interest Income on Customer Accounts Receivable.** Interest income, which includes interest income and amortization of deferred fees and origination costs, is recorded using the interest method and is reflected in finance charges and other revenues. Typically, interest income is recorded until the customer account is paid off or charged-off, and we provide an allowance for estimated uncollectible interest. We reserve for interest that is more than 60 days past due. Any contractual interest income received from customers in excess of the interest income calculated using the interest method is recorded as deferred revenue on our balance sheets. At January 31, 2021 and 2020, there were \$8.9 million and \$10.6 million, respectively, of deferred interest included in deferred revenues and other credits and other long-term liabilities. The deferred interest will ultimately be brought into income as the accounts pay off or charge-off.

We offer a 12-month no-interest option program. If the customer is delinquent in making a scheduled monthly payment or does not repay the principal in full by the end of the no-interest option program period (grace periods are provided), the account does not qualify for the no-interest provision and none of the interest earned is waived. Interest income is recognized based on estimated accrued interest earned to date on all no-interest option finance programs with an offsetting reserve for those customers expected to satisfy the requirements of the program based on our historical experience.

We recognize interest income on TDR accounts using the interest income method, which requires reporting interest income equal to the increase in the net carrying amount of the loan attributable to the passage of time. Cash proceeds and other adjustments are applied to the net carrying amount such that it equals the present value of expected future cash flows.

We place accounts in non-accrual status when legally required. Payments received on non-accrual loans will be applied to principal and reduce the balance of the loan. At January 31, 2021 and 2020, the carrying value of customer accounts receivable in non-accrual status was \$8.5 million and \$12.5 million, respectively. At January 31, 2021 and 2020, the carrying value of customer accounts receivable that were past due 90 days or more and still accruing interest totaled \$111.5 million and \$132.7 million, respectively. At January 31, 2021 and January 31, 2020, the carrying value of customer accounts receivable in a bankruptcy status that were less than 60 days past due of \$5.2 million and \$12.1 million, respectively, were included within the customer receivables balance carried in non-accrual status.

**Inventories.** Inventories consist of merchandise purchased for resale and service parts and are recorded at the lower of cost or net realizable value. The carrying value of the inventory is reduced to its net realizable value for any product lines with excess of carrying amount, typically weighted-average cost, over the amount we expect to realize from the ultimate sale or other disposition of the inventory, with a corresponding charge to cost of sales. The write-down of inventory to net realizable value is estimated based on assumptions regarding inventory aging and historical product sales.

**Vendor Allowances.** We receive funds from vendors for price protection, product rebates (earned upon purchase or sale of product), marketing, and promotion programs, collectively referred to as vendor allowances, which are recorded on an accrual basis. We estimate the vendor allowances to accrue based on the progress of satisfying the terms of the programs based on actual and projected sales or purchase of qualifying products. If the programs are related to product purchases, the vendor allowances are recorded as a reduction of product cost in inventory still on hand with any remaining amounts recorded as a

**CONN'S, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

reduction of cost of goods sold. During the years ended January 31, 2021, 2020 and 2019, we recorded \$122.7 million, \$156.6 million and \$143.3 million, respectively, as reductions in cost of goods sold from vendor allowances.

**Property and Equipment.** Property and equipment, including any major additions and improvements to property and equipment, are recorded at cost. Normal repairs and maintenance that do not materially extend the life of property and equipment are expensed as incurred. Depreciation, which includes amortization of financed leases, is computed using the straight-line method over the estimated useful lives of the assets, or in the case of leasehold improvements, over the shorter of the estimated useful lives or the remaining terms of the leases.

**Internal-Use Software Costs.** Costs related to software developed or obtained for internal use and cloud-based computing arrangements are expensed as incurred until the application development stage has been reached. Once the application development stage has been reached, certain qualifying costs are capitalized until the software is ready for its intended use. Costs incurred during the post implementation stage are expensed as incurred. Once placed into service, capitalized costs are amortized over periods of up to 10 years. No software costs were written-off in the years ended January 31, 2021 and 2019. For the year ended January 31, 2020, we incurred a \$1.2 million loss on impairments of software costs for a loan management system that was abandoned during fiscal year 2020. See Note 4, *Charges and Credits*, for further details regarding fiscal year 2020 write-offs.

**Impairment of Long-Lived Assets.** Long-lived assets are evaluated for impairment, primarily at the asset group level. The asset group is defined as stores and cross-docks within a distribution center's service area. We monitor asset group performance in order to assess if events or changes in circumstances indicate that the carrying amount of the assets may not be recoverable. The most likely condition that would necessitate an assessment would be an adverse change in historical and estimated future results of an asset group's performance. For property and equipment held and used, we recognize an impairment loss if the carrying amount is not recoverable through its undiscounted cash flows and measure the impairment loss based on the difference between the carrying amount and estimated fair value. During the year ended January 31, 2020, we recognized \$3.2 million in impairments from the exiting of certain leases. See Note 4, *Charges and Credits*, for details. For the years ended January 31, 2021 and 2019 there were no impairments.

**Leases.** We determine if an arrangement is a lease at inception. Operating lease right-of-use assets and liabilities are recognized at the commencement date based on the present value of lease payments over the lease term. As most of our leases do not provide an implicit rate, we use our estimated incremental borrowing rate based on the information available at the commencement date in determining the present value of lease payments. If the estimate of our incremental borrowing rate was changed, our operating lease assets and liabilities could differ materially.

We record lease incentives as a reduction to the operating lease right-of-use assets upon commencement of the lease and amortize the balance on a straight-line basis over the life of the lease. Leases with an initial term of 12 months or less are not recorded on the balance sheet. Lease terms may include options to extend or terminate the lease when it is reasonably certain that we will exercise the option. Lease expense is recognized on a straight-line basis over the lease term.

We have made a policy election for all classifications of leases to combine lease and non-lease components and to account for them as a single lease component.

**Debt Issuance Costs.** Costs that are direct and incremental to debt issuance are deferred and amortized to interest expense using the effective interest method over the expected life of the debt. All other costs related to debt issuance are expensed as incurred. We present debt issuance costs associated with long-term debt as a reduction of the carrying amount of the debt. Unamortized costs related to the Revolving Credit Facility, as defined in Note 6, *Debt and Financing Lease Obligations*, are included in other assets on our Consolidated Balance Sheet and were \$3.5 million and \$3.5 million as of January 31, 2021 and 2020, respectively.

**Revenue Recognition.** The Company accounts for revenue under ASC 606 and has the following material revenue streams: the sale of products (e.g. appliances, electronics) including delivery; the sale of third party warranty and insurance programs, including retrospective income; service income; interest income generated from the financing of point of sale transactions; and volume rebate incentives received from a third party financier.

**Sale of Products Including Delivery:** The Company has a single performance obligation associated with these contracts: the delivery of the product to the customer, at which point control transfers. Revenue for the sale of products is recognized at the time of delivery, net of any adjustments for sales incentives such as discounts, coupons, rebates or other free products or services. Sales financed through third-party no-interest option programs typically require us to pay a fee to the third party on each completed sale, which is recorded as a reduction of net sales in the retail segment.

**Sale of Third Party Warranty and Insurance Programs, Including Retrospective Income:** We sell repair service agreements ("RSA") and credit insurance contracts on behalf of unrelated third-parties. The Company has a single performance obligation

**CONN'S, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

associated with these contracts: the delivery of the product to the customer, at which point control transfers. Commissions related to these contracts are recognized in revenue upon delivery of the product. We also may serve as the administrator of the RSAs sold and defer 5% of the revenue received from the sale of RSAs as compensation for this performance obligation as 5% represents the estimated stand-alone sales price to serve as the administrator. The deferred RSA administration fee is recorded in income ratably over the life of the RSA contract sold. Retrospective income on RSA contracts is recognized upon delivery of the product based on an estimate of claims and is adjusted throughout the life of the contracts as actual claims materialize. Retrospective income on insurance contracts is recognized when earned as that is the point at which we no longer believe a significant reversal of income is probable as the consideration is highly susceptible to factors outside of our influence.

*Service Income:* The Company has a single performance obligation associated with these contracts: the servicing of the RSA claims. Service revenues are recognized at the time service is provided to the customer.

*Volume Rebate Incentive:* As part of our agreement with our third-party provider of no-interest option programs, we may receive a volume rebate incentive based on the total dollar value of sales made under our third-party provider. The Company has a single performance obligation associated with this contract: the delivery of the product to the customer, at which point control transfers. Revenue for the volume rebate incentive is recognized upon delivery of the product to the customer based on the projected total annual dollar value of sales to be made under our third-party provider.

*Deferred Revenue.* Deferred revenue related to contracts with customers consists of deferred customer deposits and deferred RSA administration fees. During the twelve months ended January 31, 2021, we recognized \$1.2 million of revenue for customer deposits deferred as of the beginning of the period compared to \$1.0 million recognized during the twelve months ended January 31, 2020. During the twelve months ended January 31, 2021, we recognized \$4.0 million of revenue for RSA administrative fees deferred as of the beginning of the period compared to \$5.1 million recognized during the twelve months ended January 31, 2020.

*Expense Classifications.* We record as cost of goods sold, the direct cost of products and parts sold and related costs for delivery, transportation and handling, inbound freight, receiving, inspection, and other costs associated with the operations of our distribution system, including occupancy related to our warehousing operations. The costs associated with our merchandising, advertising, sales commissions, and all store occupancy costs, are included in selling, general and administrative expense ("SG&A").

*Advertising Costs.* Advertising costs are expensed as incurred. For fiscal years 2021, 2020 and 2019, advertising expense was \$72.5 million, \$84.8 million and \$80.5 million, respectively.

*Stock-based Compensation.* Stock-based compensation expense is recorded for share-based compensation awards, net of actual forfeitures, over the requisite service period using the straight-line method. For equity-classified share-based compensation awards, expense is recognized based on the grant-date fair value. For stock option grants, we use the Black-Scholes model to determine fair value. For grants of restricted stock units, the fair value of the grant is the market value of our stock at the date of issuance. For grants of performance-based restricted stock units, the fair value of the grant is the market value of our stock at the date of issuance adjusted for any market conditions.

*Self-insurance.* We are self-insured for certain losses relating to group health, workers' compensation, automobile, general and product liability claims. We have stop-loss coverage to limit the exposure arising from these claims. Self-insurance losses for claims filed and claims incurred, but not reported, are accrued based upon our estimates of the net aggregate liability for claims incurred using development factors based on historical experience.

*Income Taxes.* We are subject to U.S. federal income tax as well as income tax in multiple state jurisdictions. We follow the liability method of accounting for income taxes. Under this method, deferred tax assets and liabilities are determined based on temporary differences between GAAP and tax bases of assets and liabilities and for operating loss and tax credit carryforwards, as measured using the enacted tax rates expected to be in effect when the temporary differences are expected to be realized or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in income in the period in which the enactment occurs. A valuation allowance is provided when it is more-likely-than-not that some portion or all of a deferred tax asset will not be realized. The ultimate realization of deferred tax assets is dependent upon the generation of future taxable income during the periods in which those temporary differences become realizable. To the extent penalties and interest are incurred, we record these charges as a component of our provision for income taxes.

We review and update our tax positions as necessary to add any new uncertain tax positions taken, or to remove previously identified uncertain positions that have been adequately resolved. Additionally, uncertain positions may be remeasured as warranted by changes in facts or law. Accounting for uncertain tax positions requires estimating the amount, timing and likelihood of ultimate settlement.

**CONN'S, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

**Earnings per Share.** Basic earnings per share is calculated by dividing net income by the weighted-average number of common shares outstanding during the period. Diluted earnings per share includes the dilutive effects of any stock options, restricted stock unit awards (“RSUs”) and performance stock awards (“PSUs”), which are calculated using the treasury-stock method. The following table sets forth the shares outstanding for the earnings per share calculations:

	Year Ended January 31,		
	2021	2020	2019
Weighted-average common shares outstanding - Basic	29,060,512	30,275,662	31,668,370
Dilutive effect of stock options, RSUs and PSUs	—	539,113	706,005
Weighted-average common shares outstanding - Diluted	29,060,512	30,814,775	32,374,375

For the years ended January 31, 2021, 2020 and 2019, the weighted-average number of stock options, RSUs, and PSUs not included in the calculation due to their anti-dilutive effect, was 1,097,996, 898,449 and 578,951, respectively.

**Contingencies.** An estimated loss from a contingency is recorded if it is probable that an asset has been impaired or a liability has been incurred at the date of the financial statements and the amount of the loss can be reasonably estimated. Gain contingencies are not recorded until realization is assured beyond a reasonable doubt. Legal costs related to loss contingencies are expensed as incurred.

**Fair Value of Financial Instruments.** Fair value is defined as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. Assets and liabilities recorded at fair value are categorized using defined hierarchical levels related to subjectivity associated with the inputs to fair value measurements as follows:

- Level 1 – Inputs represent unadjusted quoted prices in active markets for identical assets or liabilities.
- Level 2 – Inputs other than quoted prices included within Level 1 that are observable for the asset or liability, either directly or indirectly (for example, quoted market prices for similar assets or liabilities in active markets or quoted market prices for identical assets or liabilities in markets not considered to be active, inputs other than quoted prices that are observable for the asset or liability, or market-corroborated inputs).
- Level 3 – Inputs that are not observable from objective sources such as our internally developed assumptions used in pricing an asset or liability (for example, an estimate of future cash flows used in our internally developed present value of future cash flows model that underlies the fair-value measurement).

In determining fair value, we use observable market data when available, or models that incorporate observable market data. When we are required to measure fair value and there is not a market-observable price for the asset or liability or for a similar asset or liability, we use the cost or income approach depending on the quality of information available to support management’s assumptions. The cost approach is based on management’s best estimate of the current asset replacement cost. The income approach is based on management’s best assumptions regarding expectations of future net cash flows and discounts the expected cash flows using a commensurate risk-adjusted discount rate. Such evaluations involve significant judgment, and the results are based on expected future events or conditions such as sales prices, economic and regulatory climates, and other factors, most of which are often outside of management’s control. However, we believe assumptions used reflect a market participant’s view of long-term prices, costs, and other factors and are consistent with assumptions used in our business plans and investment decisions.

In arriving at fair-value estimates, we use relevant observable inputs available for the valuation technique employed. If a fair-value measurement reflects inputs at multiple levels within the hierarchy, the fair-value measurement is characterized based on the lowest level of input that is significant to the fair-value measurement.

The fair value of cash and cash equivalents, restricted cash and accounts payable approximate their carrying amounts because of the short maturity of these instruments. The fair value of customer accounts receivable, determined using a Level 3 discounted cash flow analysis, approximates their carrying value, net of the allowance for doubtful accounts. The fair value of our Revolving Credit Facility approximates carrying value based on the current borrowing rate for similar types of borrowing arrangements. At January 31, 2021, the fair value of the Senior Notes outstanding approximates their carrying value and was determined using Level 1 inputs. At January 31, 2021, the fair value of the asset-backed notes was \$416.3 million, compared to the carrying value of \$414.0 million, which was determined using Level 2 inputs based on inactive trading activity.

**Recent Accounting Pronouncements Adopted.** In June 2016, the FASB issued ASU 2016-13, *Financial Instruments-Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments* (“ASC 326”). ASU 2016-13 replaces the incurred loss methodology with an expected loss methodology that is referred to as the current expected credit loss (CECL)

**CONN'S, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

methodology. Under the new guidance entities must reserve an allowance for expected credit losses over the life of the loan. The measurement of expected credit losses is applicable to financial assets measured at amortized cost. The allowance for credit losses is a valuation account that is deducted from the customer account receivable's amortized cost basis to present the net amount expected to be collected. Customer receivables are charged off against the allowance when management deems an account to be uncollectible. In April 2019, the FASB issued ASU 2019-04, *Codification Improvements to Topic 326, Financial Instruments - Credit Losses*. ASU 2019-04 requires that the current estimate of recoveries are included in the allowance for credit losses.

Effective February 1, 2020, the Company adopted ASU 2016-13 and ASU 2019-04 using the modified retrospective approach. The Company has reviewed its entire portfolio of assets recognized on the balance sheet as of January 31, 2020 and identified Customer Accounts Receivables as the materially impacted asset in-scope of ASC 326. The risk of credit losses from the remaining portfolio of assets was concluded to be immaterial. Upon adoption of ASC 326 the Company recorded a net decrease to retained earnings of \$76.5 million as of February 1, 2020. Results for reporting periods prior to February 1, 2020 are not adjusted and continue to be reported in accordance with the Company's historic accounting policies under previously applicable GAAP.

The allowance for credit losses is measured on a collective (pool) basis where similar risk characteristics exist. Upon adoption of ASC 326, the Company elected to maintain the pools of customer accounts receivable that were previously accounted for under ASC 310 (Non-TDR Non-Re-aged, Non-TDR Re-aged, and TDR). These pools are further segmented based on shared risk attributes, which include the borrower's FICO score, product class, length of customer relationship and delinquency status. The allowance for credit losses is determined for each pool and added to the pool's carrying amount to establish a new amortized cost basis. Changes to the allowance for credit losses after adoption are recorded through provision expense.

We have elected to use a risk-based, pool-level segmentation framework to calculate the expected loss rate. This framework is based on our historical gross charge-off history. In addition to adjusted historical gross charge-off rates, estimates of post-charge-off recoveries, including cash payments from customers, sales tax recoveries from taxing jurisdictions, and payments received under credit insurance and repair service agreement ("RSA") policies are also considered. We also consider forward-looking economic forecasts based on a statistical analysis of economic factors (specifically, forecast of unemployment rates over the reasonable and supportable forecasting period). To the extent that situations and trends arise which are not captured in our model, management will layer on additional qualitative adjustments.

The Company uses a 24-month reasonable and supportable forecast period for the Customer Accounts Receivable portfolio. We estimate losses beyond the 24-month forecast period based on historic loss rates experienced over the life of our historic loan portfolio by loan pool type. We revisit our measurement methodology and assumption annually, or more frequently if circumstances warrant.

The cumulative effect of the changes made to the Company's Consolidated Balance Sheet as a result of the adoption of ASC 326 were as follows:

(in thousands)	<b>Impact of Adoption of ASC 326</b>		
	Balance at January 31, 2020	Adjustments due to ASC 326	Balance at February 1, 2020
<b>Assets</b>			
Customer accounts receivable	\$ 673,742	\$ (49,700)	\$ 624,042
Long-term portion of customer accounts receivable	663,761	(48,962)	614,799
Deferred Income Taxes	18,599	22,173	40,772
<b>Stockholders' Equity</b>			
Retained Earnings	\$ 570,636	\$ (76,489)	\$ 494,147

**Leases.** In February 2016 the Financial Accounting Standards Board ("FASB") issued ASU 2016-02, *Leases (Topic 842)*, which requires lessees to recognize assets and liabilities for most leases. Effective February 1, 2019, the Company adopted ASU 2016-02 using the modified retrospective approach. For most leases, a liability was recorded on the balance sheet based on the present value of future lease obligations with a corresponding right-of-use asset. Primarily for those leases currently classified by us as operating leases, we recognize a single lease cost on a straight line basis. Other leases are required to be accounted for as financing arrangements similar to how we previously accounted for capital leases. Upon adoption we elected a package of practical expedients permitted under the transition guidance within the new standard. The practical expedients adopted allowed us to carry forward the historical lease classification, allowed us to not separate and allocate the consideration paid between lease and non-lease components included within a contract and allowed us to carry forward our

**CONN'S, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

accounting treatment for land easements on existing agreements. We also adopted an optional transition method that waived the requirement to apply this ASU in the comparative periods presented within the financial statements in the year of adoption.

Additionally, we have elected the short-term policy election for the Company for any lease that, at the commencement date, has a lease term of twelve months or less. We will not recognize a lease liability or right-of-use asset on the balance sheet for any of our short-term leases. Rather, the short-term lease payments will be recognized as an expense on a straight-line basis over the lease term. The current period short-term lease expense reasonably reflects our short-term lease commitments.

The cumulative effect of the changes made to the Company's Condensed Consolidated Balance Sheet as a result of the adoption of ASC 842 were as follows (in thousands):

(in thousands)	Impact of Adoption of ASC 842		
	Balance at January 31, 2019	Adjustments due to ASC 842	Balance at February 1, 2019
<b>Assets</b>			
Current assets <sup>(1)</sup>	\$ 1,014,394	\$ (2,983)	\$ 1,011,411
Operating lease right-of-use assets <sup>(2)</sup>	—	227,421	227,421
Deferred income taxes <sup>(3)</sup>	27,535	(1,447)	26,088
<b>Liabilities</b>			
Current liabilities <sup>(4)</sup>	237,568	(12,426)	225,142
Operating lease liability - current <sup>(5)</sup>	—	29,815	29,815
Deferred rent <sup>(4)</sup>	93,127	(93,127)	—
Operating lease liability - non-current <sup>(5)</sup>	—	300,170	300,170
Other long-term liabilities <sup>(3)</sup>	33,015	(7,606)	25,409
Stockholder's equity <sup>(3)</sup>	619,975	6,160	626,135

(1) Reclassification of the \$3.0 million January 31, 2019 balance of accounts receivable for tenant improvement allowances to a reduction in the operating lease liability.

(2) The operating lease right-of-use assets represent the present value of the lease liability offset by the full value of deferred rent and tenant improvement allowances received from the lessor which had not been utilized as of the date of adoption.

(3) A net cumulative-effect adjustment to increase retained earnings by \$6.2 million to recognize the \$7.6 million January 31, 2019 balance of deferred gains which resulted from sale and operating leaseback transactions made at off-market terms offset by the \$1.4 million impact on our deferred tax asset related to the sale-leaseback transactions.

(4) Reclassification of the full value of deferred rent and tenant improvement allowances received from lessors, which were previously recorded as liabilities as they had not been utilized as of the date of adoption, to a reduction of the operating lease right-of-use assets.

(5) The operating lease liability represents the \$340.5 million present value of future operating lease obligations as of January 31, 2019, offset by \$10.5 million of accounts receivable for tenant improvement allowances.

**Cloud Computing Arrangements.** In August 2018, the FASB issued ASU 2018-15, *Customer's Accounting for Implementation Costs Incurred in a Cloud Computing Arrangement That Is a Service Contract*. ASU 2018-15 requires companies to apply the accounting guidance as prescribed by ASC 350-40, *Internal Use Software*, in determining which cloud-based implementation costs should be capitalized as assets or expensed as incurred. The internal-use software guidance requires the capitalization of certain costs incurred during the application development stage of an internal-use software project, while requiring companies to expense all costs incurred during preliminary project and post-implementation project stages. The standard may be applied either prospectively to all implementation costs incurred after the adoption date or retrospectively. ASU 2018-15 is effective for annual and interim periods beginning after December 15, 2019, with early adoption permitted. The Company elected to early adopt ASU 2018-15 on a prospective basis effective February 1, 2019. Costs eligible for capitalization are capitalized within prepaid expenses and other assets and expensed through operating expenses in the consolidated balance sheets and statements of operations, respectively. Prior to adoption, eligible costs were capitalized within property and equipment and expensed through depreciation.

**Changes due to Securities and Exchange Commission Regulation S-X Rules 13-01 and 13-02.** In March 2020, the Securities and Exchange Commission ("SEC") amended Regulation S-X to create Rules 13-01 and 13-02. These new rules reduce and

**CONN'S, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

simplify financial disclosure requirements for issuers and guarantors of registered debt offerings. Previously, with limited exceptions, a parent entity was required to provide detailed disclosures with regard to guarantors of registered debt offerings within the footnotes to the consolidated financial statements. Under the new regulations, disclosure exceptions have been expanded and required disclosures may be provided within Item 2. *Management's Discussion and Analysis of Financial Condition and Results of Operations* rather than in the notes to the financial statements. Further, summarized guarantor balance sheet and income statements are permitted, with the requirement to provide guarantor cash flow statements eliminated. Summarized guarantor financial statements only need be disclosed for the current fiscal year rather than all years presented in the financial statements as was previously required. The guidance will become effective for filings on or after January 4, 2021, with early adoption permitted.

The Company elected to early adopt the new regulations beginning with the first quarter of fiscal year 2021. Our summarized guarantor financial statements are presented outside the audited financial statements in Item 2. *Management's Discussion and Analysis of Financial Condition and Results of Operations*.

**Recent Accounting Pronouncements Yet To Be Adopted.**

**Simplifying the Accounting for Income Taxes.** In December 2019, the FASB issued ASU 2019-12, Income Taxes (Topic 740): *Simplifying the Accounting for Income Taxes*, an update intended to simplify various aspects related to accounting for income taxes. This guidance removes certain exceptions to the general principles in Topic 740 and also clarifies and amends existing guidance to improve consistent application. This accounting standards update will be effective for us beginning in the first quarter of fiscal 2022, with early adoption permitted. We do not expect the adoption to have a material impact on our consolidated financial statements.

**Reference Rate Reform on Financial Reporting.** In March 2020, the FASB issued ASU 2020-04, Reference Rate Reform (Topic 848): *Facilitation of the Effects of Reference Rate Reform on Financial Reporting*, an update that provides optional expedients and exceptions for applying GAAP to contracts, hedging relationships, and other transactions affected by reference rate reform if certain criteria are met. The amendments in this update apply only to contracts, hedging relationships, and other transactions that reference LIBOR or another reference rate expected to be discontinued because of reference rate reform. This accounting standards update was effective upon issuance, with adoption permitted through December 31, 2022. We expect to adopt ASC 2020-04 in the first quarter of fiscal 2022. We do not expect the adoption to have a material impact on our consolidated financial statements.

No other new accounting pronouncements issued or effective as of January 31, 2021 have had or are expected to have a material impact on our consolidated financial statements.

**2. Customer Accounts Receivable**

Customer accounts receivable consisted of the following:

<i>(in thousands)</i>	January 31, 2021	January 31, 2020
Customer accounts receivable <sup>(1)</sup>	\$ 1,233,717	\$ 1,602,037
Deferred fees and origination costs, net	(14,212)	(15,746)
Allowance for no-interest option credit programs	(11,985)	(14,984)
Allowance for uncollectible interest	(21,427)	(23,662)
Carrying value of customer accounts receivable	1,186,093	1,547,645
Allowance for credit losses <sup>(2)</sup>	(276,610)	(210,142)
Carrying value of customer accounts receivable, net of allowance for bad debts	909,483	1,337,503
Short-term portion of customer accounts receivable, net	(478,734)	(673,742)
Long-term customer accounts receivable, net	\$ 430,749	\$ 663,761

<i>(in thousands)</i>	Carrying Value	
	January 31, 2021	January 31, 2020
Customer accounts receivable 60+ days past due <sup>(3)</sup>	\$ 146,820	\$ 193,797
Re-aged customer accounts receivable <sup>(4)</sup>	306,845	455,704
Restructured customer accounts receivable <sup>(5)</sup>	178,374	211,857

**CONN'S, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

- (1) As of January 31, 2021 and 2020, the customer accounts receivable balance included \$31.1 million and \$43.7 million, respectively, in interest receivable. Net of the allowance for uncollectible interest, interest receivable outstanding as of January 31, 2021 and 2020 was \$9.7 million and \$20.0 million, respectively.
- (2) Our current methodology to estimate expected credit losses utilized macroeconomic forecasts as of January 31, 2021, which incorporated the continued estimated impact of the global COVID-19 outbreak on the U.S. economy. Our forecast utilized economic projections from a major rating service reflecting an increase in unemployment. The allowance for credit losses as of January 31, 2020 is based on an incurred loss model, which reserves for incurred losses in the portfolio as of January 31, 2020.
- (3) As of January 31, 2021 and 2020, the carrying value of customer accounts receivable past due one day or greater was \$340.8 million and \$527.0 million, respectively. These amounts include the 60+ days past due balances shown above.
- (4) The re-aged carrying value as of January 31, 2021 and 2020 includes \$88.0 million and \$131.4 million, respectively, in carrying value that are both 60+ days past due and re-aged.
- (5) The restructured carrying value as of January 31, 2021 and 2020 includes \$57.1 million and \$64.8 million, respectively, in carrying value that are both 60+ days past due and restructured.

The allowance for credit losses included in the current and long-term portion of customer accounts receivable, net as shown in the Condensed Consolidated Balance Sheet were as follows:

<i>(in thousands)</i>	<b>January 31, 2021</b>
Customer accounts receivable - current	\$ 643,903
Allowance for credit losses for customer accounts receivable - current	(165,169)
<b>Customer accounts receivable, net of allowances</b>	<b>478,734</b>
Customer accounts receivable - non current	563,617
Allowance for credit losses for customer accounts receivable - non current	(132,868)
<b>Long-term portion of customer accounts receivable, net of allowances</b>	<b>430,749</b>
<b>Total customer accounts receivable, net</b>	<b>\$ 909,483</b>

The following presents the activity in our allowance for credit losses and uncollectible interest for customer accounts receivable:

<i>(in thousands)</i>	<b>January 31, 2021</b>		
	<b>Customer Accounts Receivable</b>	<b>Restructured Accounts</b>	<b>Total</b>
Allowance at beginning of period	\$ 145,680	\$ 88,124	\$ 233,804
Impact of adoption ASC 326	95,136	3,526	98,662
Provision <sup>(1)</sup>	185,210	80,276	265,486
Principal charge-offs <sup>(2)(5)</sup>	(178,777)	(81,142)	(259,919)
Interest charge-offs	(50,060)	(22,721)	(72,781)
Recoveries <sup>(3)</sup>	22,550	10,235	32,785
Allowance at end of period	<u>\$ 219,739</u>	<u>\$ 78,298</u>	<u>\$ 298,037</u>
Average total customer portfolio balance	<u>\$ 1,184,174</u>	<u>\$ 211,254</u>	<u>\$ 1,395,428</u>

**CONN'S, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

	January 31, 2020		
<i>(in thousands)</i>	Customer Accounts Receivable	Restructured Accounts	Total
Allowance at beginning of period	\$ 147,123	\$ 67,756	\$ 214,879
Provision <sup>(4)</sup>	177,250	91,356	268,606
Principal charge-offs <sup>(2)</sup>	(158,773)	(63,074)	(221,847)
Interest charge-offs	(37,850)	(15,037)	(52,887)
Recoveries <sup>(2)</sup>	17,930	7,123	25,053
Allowance at end of period	\$ 145,680	\$ 88,124	\$ 233,804
Average total customer portfolio balance	\$ 1,367,260	\$ 200,618	\$ 1,567,878

	January 31, 2019		
<i>(in thousands)</i>	Customer Accounts Receivable	Restructured Accounts	Total
Allowance at beginning of period	\$ 148,856	\$ 54,716	\$ 203,572
Provision <sup>(4)</sup>	174,552	74,514	249,066
Principal charge-offs <sup>(2)</sup>	(157,789)	(55,024)	(212,813)
Interest charge-offs	(32,432)	(11,310)	(43,742)
Recoveries <sup>(2)</sup>	13,936	4,860	18,796
Allowance at end of period	\$ 147,123	\$ 67,756	\$ 214,879
Average total customer portfolio balance	\$ 1,355,011	\$ 171,717	\$ 1,526,728

(1) Includes provision for uncollectible interest, which is included in finance charges and other revenues, and changes in expected future recoveries.

(2) Charge-offs include the principal amount of losses (excluding accrued and unpaid interest). Recoveries include the principal amount collected during the period for previously charged-off balances. Net charge-offs are calculated as the net of principal charge-offs and recoveries.

(3) Recoveries include the principal amount collected during the period for previously charged-off balances.

(4) Includes provision for uncollectible interest, which is included in finance charges and other revenues.

(5) The increase in bad debt charge-offs, net of recoveries, was primarily due to an increase in new customer mix and the impact of difficulties in collection efforts related to the implementation of our new loan management system during the fourth quarter of fiscal year 2020.

We manage our Customer Accounts Receivable portfolio using delinquency as a key credit quality indicator. The following table presents the delinquency distribution of the carrying value of customer accounts receivable by calendar year of origination as of January 31, 2021:

<i>(dollars in thousands)</i>							
Delinquency Bucket	2021	2020	2019	2018	Prior	Total	% of Total
Current	\$53,855	\$458,502	\$249,148	\$75,599	\$8,146	\$845,250	71.2%
1-30	—	60,308	61,061	25,190	4,964	151,523	12.8%
31-60	—	14,216	17,613	8,302	2,369	42,500	3.6%
61-90	—	10,601	13,753	6,589	2,009	32,952	2.8%
91+	—	28,041	52,722	24,962	8,143	113,868	9.6%
Total	\$53,855	\$571,668	\$394,297	\$140,642	\$25,631	\$1,186,093	100.0%

**CONN'S, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

### 3. Property and Equipment

Property and equipment consist of the following:

<i>(dollars in thousands)</i>	<b>Estimated Useful Lives</b>	<b>January 31,</b>	
		<b>2021</b>	<b>2020</b>
Land	—	\$ 1,644	\$ 1,644
Buildings	30 years	4,115	4,115
Leasehold improvements	5 to 15 years	313,926	285,524
Equipment and fixtures	3 to 5 years	97,407	92,634
Finance leases	3 to 20 years	9,027	8,032
Construction in progress	—	14,702	8,846
		440,821	400,795
Less accumulated depreciation		(249,859)	(227,764)
		<u>\$ 190,962</u>	<u>\$ 173,031</u>

Depreciation expense was approximately \$41.1 million, \$36.8 million and \$31.6 million for the years ended January 31, 2021, 2020 and 2019, respectively. Construction in progress is comprised primarily of the construction of leasehold improvements related to unopened retail stores and internal-use software under development. Finance lease assets primarily include retail locations.

### 4. Charges and Credits

Charges and credits consisted of the following:

<i>(in thousands)</i>	<b>Year Ended January 31,</b>		
	<b>2021</b>	<b>2020</b>	<b>2019</b>
Store and facility closure and relocation costs	\$ —	\$ 1,933	\$ —
Legal and professional fees, securities-related litigation, a legal judgment and other legal matters	3,589	—	5,100
Indirect tax audit reserve	—	—	1,943
Employee severance	2,737	—	737
Write-off of capitalized software costs	—	1,209	—
	<u>\$ 6,326</u>	<u>\$ 3,142</u>	<u>\$ 7,780</u>

During the year ended January 31, 2021, we recognized \$3.6 million in professional fees associated with non-recurring expenses. In addition, we recognized \$2.7 million in severance costs related to a change in the executive management team. During the year ended January 31, 2020, we recognized \$3.2 million in impairments from the exiting of certain leases upon the relocation of three distribution centers into one facility. These facility closure costs were offset by a \$0.7 million gain from increased sublease income related to the consolidation of our corporate headquarters and a \$0.6 million gain from the sale of a cross-dock. In addition, we recognized \$1.2 million in impairments of software costs for a loan management system that was abandoned during the third quarter of fiscal year 2020 related to the implementation of a new loan management system. During the year ended January 31, 2019, we recorded a contingency reserve related to a regulatory matter, a charge related to an increase in our indirect tax audit reserve, severance costs related to a change in the executive management team and costs related to a judgment in favor of TF LoanCo (“TFL”) requiring Conn’s to pay approximately \$4.8 million to TFL related to a breach of contract lawsuit brought by the Company.

**CONN'S, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

**5. Finance Charges and Other Revenues**

Finance charges and other revenues consisted of the following:

<i>(in thousands)</i>	<b>Year Ended January 31,</b>		
	<b>2021</b>	<b>2020</b>	<b>2019</b>
Interest income and fees	\$ 303,209	\$ 341,224	\$ 325,136
Insurance income	17,689	38,417	29,556
Other revenues	816	810	447
Total finance charges and other revenues	<u>\$ 321,714</u>	<u>\$ 380,451</u>	<u>\$ 355,139</u>

Interest income and fees and insurance income are derived from the credit segment operations, whereas other revenues are derived from the retail segment operations. Insurance income is comprised of sales commissions from third-party insurance companies that are recognized when coverage is sold and retrospective income paid by the insurance carrier if insurance claims are less than earned premiums.

For the years ended January 31, 2021, 2020 and 2019, interest income and fees reflected provisions for uncollectible interest of \$63.9 million, \$64.1 million and \$52.0 million, respectively. The amount included in interest income and fees related to TDR accounts for the years ended January 31, 2021, 2020 and 2019 is \$37.5 million, \$35.3 million and \$27.2 million, respectively.

**6. Debt and Financing Lease Obligations**

Debt and financing lease obligations consisted of the following:

<i>(in thousands)</i>	<b>January 31,</b>	
	<b>2021</b>	<b>2020</b>
Revolving Credit Facility	\$ 52,000	\$ 29,100
Senior Notes	141,172	227,000
2017-B VIE Asset-backed Class C Notes	—	59,655
2018-A VIE Asset-backed Class A Notes	—	34,112
2018-A VIE Asset-backed Class B Notes	—	20,572
2018-A VIE Asset-backed Class C Notes	—	20,572
2019-A VIE Asset-backed Class A Notes	19,521	76,241
2019-A VIE Asset-backed Class B Notes	25,069	64,750
2019-A VIE Asset-backed Class C Notes	24,202	62,510
2019-B VIE Asset-backed Class A Notes	17,860	265,810
2019-B VIE Asset-backed Class B Notes	85,540	85,540
2019-B VIE Asset-backed Class C Notes	83,270	83,270
2020-A VIE Asset-backed Class A Notes	93,326	—
2020-A VIE Asset-backed Class B Notes	65,200	—
Financing lease obligations	6,072	5,209
Total debt and financing lease obligations	613,232	1,034,341
Less:		
Discount on debt	(524)	(1,404)
Deferred debt issuance costs	(3,139)	(6,797)
Current maturities of long-term debt and financing lease obligations	(934)	(605)
Long-term debt and financing lease obligations	<u>\$ 608,635</u>	<u>\$ 1,025,535</u>

Future maturities of debt, excluding financing lease obligations, as of January 31, 2021 are as follows:

**CONN'S, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

(in thousands)

<b>Year Ended January 31,</b>	
2022	\$ —
2023	193,172
2024	68,792
2025	186,670
2026	158,526
Total	<u>\$ 607,160</u>

**Senior Notes.** On July 1, 2014, we issued \$250.0 million of unsecured Senior Notes due July 2022 bearing interest at 7.25%, (the “Senior Notes”) pursuant to an indenture dated July 1, 2014 (as amended, the “Indenture”), among Conn’s, Inc., its subsidiary guarantors (the “Guarantors”) and U.S. Bank National Association, as trustee. The effective interest rate of the Senior Notes after giving effect to the discount and issuance costs is 7.8%.

The Indenture restricts the Company’s and certain of its subsidiaries’ ability to: (i) incur indebtedness; (ii) pay dividends or make other distributions in respect of, or repurchase or redeem, our capital stock (“restricted payments”); (iii) prepay, redeem or repurchase debt that is junior in right of payment to the notes; (iv) make loans and certain investments; (v) sell assets; (vi) incur liens; (vii) enter into transactions with affiliates; and (viii) consolidate, merge or sell all or substantially all of our assets. These covenants are subject to a number of important exceptions and qualifications. During any time when the Senior Notes are rated investment grade by either of Moody’s Investors Service, Inc. or Standard & Poor’s Ratings Services and no default (as defined in the Indenture) has occurred and is continuing, many of such covenants will be suspended and we will cease to be subject to such covenants during such period. As of January 31, 2021, \$188.6 million was free from the restricted payments covenant contained in the Indenture. Events of default under the Indenture include customary events, such as a cross-acceleration provision in the event that we fail to make payment of other indebtedness prior to the expiration of any applicable grace period or upon acceleration of indebtedness prior to its stated maturity date in an amount exceeding \$25.0 million, as well as in the event a judgment is entered against us in excess of \$25.0 million that is not discharged, bonded or insured.

On December 28, 2020, the Company retired \$85.8 million aggregate principal amount of its Senior Notes in connection with a tender offer.

**Asset-backed Notes.** From time to time, we securitize customer accounts receivables by transferring the receivables to various bankruptcy-remote VIEs. In turn, the VIEs issue asset-backed notes secured by the transferred customer accounts receivables and restricted cash held by the VIEs.

Under the terms of the securitization transactions, all cash collections and other cash proceeds of the customer receivables go first to the servicer and the holders of issued notes, and then to us as the holder of non-issued notes, if any, and residual equity. We retain the servicing of the securitized portfolios and receive a monthly fee of 4.75% (annualized) based on the outstanding balance of the securitized receivables. In addition, we, rather than the VIEs, retain all credit insurance income together with certain recoveries related to credit insurance and repair service agreements on charge-offs of the securitized receivables, which are reflected as a reduction to net charge-offs on a consolidated basis.

The asset-backed notes were offered and sold to qualified institutional buyers pursuant to the exemptions from registration provided by Rule 144A under the Securities Act. If an event of default were to occur under the indenture that governs the respective asset-backed notes, the payment of the outstanding amounts may be accelerated, in which event the cash proceeds of the receivables that otherwise might be released to the residual equity holder would instead be directed entirely toward repayment of the asset-backed notes, or if the receivables are liquidated, all liquidation proceeds could be directed solely to repayment of the asset-backed notes as governed by the respective terms of the asset-backed notes. The holders of the asset-backed notes have no recourse to assets outside of the VIEs. Events of default include, but are not limited to, failure to make required payments on the asset-backed notes or specified bankruptcy-related events.

**CONN'S, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

The asset-backed notes outstanding as of January 31, 2021 consisted of the following:

(dollars in thousands)

Asset-Backed Notes	Original Principal Amount	Original Net Proceeds <sup>(1)</sup>	Current Principal Amount	Issuance Date	Maturity Date	Contractual Interest Rate	Effective Interest Rate
2019-A Class A Notes	\$ 254,530	\$ 253,026	\$ 19,521	4/24/2019	10/16/2023	3.40%	4.43%
2019-A Class B Notes	64,750	64,276	25,069	4/24/2019	10/16/2023	4.36%	4.84%
2019-A Class C Notes	62,510	61,898	24,202	4/24/2019	10/16/2023	5.29%	5.74%
2019-B Class A Notes	317,150	315,417	17,860	11/26/2019	6/17/2024	2.66%	4.32%
2019-B Class B Notes	85,540	84,916	85,540	11/26/2019	6/17/2024	3.62%	4.16%
2019-B Class C Notes	83,270	82,456	83,270	11/26/2019	6/17/2024	4.60%	4.96%
2020-A Class A Notes	174,900	173,716	93,326	10/16/2020	6/16/2025	1.71%	4.08%
2020-A Class B Notes	65,200	64,754	65,200	10/16/2020	6/16/2025	4.27%	5.12%
<b>Total</b>	<b>\$ 1,107,850</b>	<b>\$ 1,100,459</b>	<b>\$ 413,988</b>				

(1) After giving effect to debt issuance costs.

(2) For the year ended January 31, 2021, and inclusive of the impact of changes in timing of actual and expected cash flows.

On October 16, 2020, the Company completed the issuance and sale of \$240.1 million aggregate principal amount of asset-backed notes secured by the transferred customer accounts receivables and restricted cash held by a consolidated VIE, which resulted in net proceeds to us of \$238.5 million, net of debt issuance costs. Net proceeds from the offering were used to repay indebtedness under the Company's Revolving Credit Facility, as defined below, and for other general corporate purposes. The asset-backed notes mature on June 16, 2025 and consist of \$174.9 million of 1.71% Asset Backed Fixed Rate Notes, Class A, Series 2020-A and \$65.2 million of 4.27% Asset Backed Fixed Rate Notes, Class B, Series 2020-A. Additionally, the Company issued \$62.9 million in aggregate principal amount of 7.10% Asset Backed Fixed Rate Notes, Class C, Series 2020-A which mature on June 16, 2025. The interest rate on the Class C, Series 2020-A Notes was reduced to 4.20% in connection with a sale of such notes on February 24, 2021. See Note 17. *Subsequent Events*, for details.

**Revolving Credit Facility.** On May 23, 2018, Conn's, Inc. and certain of its subsidiaries (the "Borrowers") entered into the Fourth Amended and Restated Loan and Security Agreement (the "Fourth Amendment"), dated as of October 30, 2015, with certain lenders, which provides for a \$650.0 million asset-based revolving credit facility (as amended, the "Revolving Credit Facility") under which credit availability is subject to a borrowing base and a maturity date of May 23, 2022.

The Revolving Credit Facility provides funding based on a borrowing base calculation that includes customer accounts receivable and inventory, and provides for a \$40.0 million sub-facility for letters of credit to support obligations incurred in the ordinary course of business. The obligations under the Revolving Credit Facility are secured by substantially all assets of the Company, excluding the assets of the VIEs. As of January 31, 2021, we had immediately available borrowing capacity of \$336.0 million under our Revolving Credit Facility, net of standby letters of credit issued of \$22.5 million. We also had \$239.5 million that may become available under our Revolving Credit Facility if we grow the balance of eligible customer receivables and total eligible inventory balances.

On June 5, 2020 we entered into the Third Amendment to our Revolving Credit Facility (the "Third Amendment"). Under the Third Amendment, loans under the Revolving Credit Facility bear interest, at our option, at a rate of LIBOR plus a margin ranging from 3.00% to 3.75% per annum (depending on a pricing grid determined by our total leverage ratio) or the alternate base rate plus a margin ranging from 2.00% to 2.75% per annum (depending on a pricing grid determined by our total leverage ratio). The alternate base rate is a rate per annum equal to the greatest of the prime rate, the federal funds effective rate plus 0.5%, or LIBOR for a 30-day interest period plus 1.0%. We also pay an unused fee on the portion of the commitments that is available for future borrowings or letters of credit at a rate ranging from 0.25% to 0.50% per annum, depending on the average outstanding balance and letters of credit of the Revolving Credit Facility in the immediately preceding quarter. The weighted-average interest rate on borrowings outstanding and including unused line fees under the Revolving Credit Facility was 5.9% for the year ended January 31, 2021.

The Revolving Credit Facility places restrictions on our ability to incur additional indebtedness, grant liens on assets, make distributions on equity interests, dispose of assets, make loans, pay other indebtedness, engage in mergers, and other matters. The Revolving Credit Facility restricts our ability to make dividends and distributions unless no event of default exists and a liquidity test is satisfied. Subsidiaries of the Company may pay dividends and make distributions to the Company and other obligors under the Revolving Credit Facility without restriction. As of January 31, 2021, we were restricted from making

**CONN'S, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

distributions, including repayments of the Senior Notes or other distributions, in excess of \$240.1 million as a result of the Revolving Credit Facility distribution restrictions. The Revolving Credit Facility contains customary default provisions, which, if triggered, could result in acceleration of all amounts outstanding under the Revolving Credit Facility.

**Debt Covenants.** We were in compliance with our debt covenants at January 31, 2021. A summary of the significant financial covenants that govern our Revolving Credit Facility compared to our actual compliance status at January 31, 2021 is presented below:

	<b>Actual</b>	<b>Required Minimum/ Maximum</b>
Interest Coverage Ratio for the quarter must equal or exceed minimum	5.05:1.00	1.00:1.00
Interest Coverage Ratio for the trailing two quarters must equal or exceed minimum	4.53:1.00	1.50:1.00
Leverage Ratio must not exceed maximum	1.61:1.00	4.50:1.00
ABS Excluded Leverage Ratio must not exceed maximum	0.95:1.00	2.50:1.00
Capital Expenditures, net, must not exceed maximum	\$34.7 million	\$100.0 million

All capitalized terms in the above table are defined by the Revolving Credit Facility and may or may not agree directly to the financial statement captions in this document. The covenants are calculated quarterly, except for capital expenditures, which is calculated for a period of four consecutive fiscal quarters, as of the end of each fiscal quarter.

## 7. Income Taxes

Deferred tax assets and liabilities consisted of the following:

<i>(in thousands)</i>	<b>January 31,</b>	
	<b>2021</b>	<b>2020</b>
<b>Deferred tax assets:</b>		
Allowance for doubtful accounts	\$ —	\$ 18,642
Deferred revenue	788	807
Employment tax	1,661	—
Indirect tax reserve	2,927	3,039
Inventories	1,866	1,796
Lease liability	89,411	81,241
Stock-based compensation	2,121	1,982
Net operating loss carryforwards	25,131	904
Other	2,192	2,614
<b>Total deferred tax assets</b>	<b>126,097</b>	<b>111,025</b>
<b>Deferred tax liabilities:</b>		
Allowance for doubtful accounts	(9,829)	—
Right-of-use asset	(59,725)	(54,492)
Vendor prepayments	(1,165)	(1,147)
Sales tax receivable	(5,085)	(4,842)
Property and equipment	(40,454)	(31,627)
Other	(391)	(318)
<b>Total deferred tax liabilities</b>	<b>(116,649)</b>	<b>(92,426)</b>
<b>Net deferred tax asset</b>	<b>\$ 9,448</b>	<b>\$ 18,599</b>

As of January 31, 2021, the Company had a tax-effected federal net operating loss carryforward of \$21.1 million and tax-effected state net operating loss carryforwards of \$4.0 million. Our state net operating loss carryforwards begin to expire starting with fiscal year 2030.

Realization of our deferred tax asset ultimately depends on the existence of sufficient taxable income, which may include future taxable income and tax planning strategies. Based on the weight of available evidence at January 31, 2021, we believe that it is more likely than not that we will generate sufficient taxable income to utilize our entire deferred tax asset prior to its expiration.

**CONN'S, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

Provision for income taxes consisted of the following:

<i>(in thousands)</i>	Year Ended January 31,		
	2021	2020	2019
<b>Current:</b>			
Federal	\$ (47,829)	\$ 9,215	\$ 29,919
State	316	1,611	2,308
Total current	(47,513)	10,826	32,227
<b>Deferred:</b>			
Federal	31,083	7,590	(9,419)
State	240	(102)	121
Total deferred	31,323	7,488	(9,298)
Provision (benefit) for income taxes	\$ (16,190)	\$ 18,314	\$ 22,929

A reconciliation of the provision (benefit) for income taxes at the U.S. federal statutory tax rate and the total tax provision for each of the periods presented in the statements of operations follows:

<i>(in thousands)</i>	Year Ended January 31,		
	2021	2020	2019
Income tax provision (benefit) at U.S. federal statutory rate	\$ (4,059)	\$ 15,607	\$ 20,323
State income taxes, net of federal benefit	843	2,011	2,068
Tax Act and other deferred tax adjustments	(15,009)	(910)	—
Employee benefits	1,350	1,873	1,096
Other	685	(267)	(558)
Provision (benefit) for income taxes	\$ (16,190)	\$ 18,314	\$ 22,929

A benefit of \$14.9 million was recognized in the current period as a result of net operating loss provisions within the CARES Act (the "Tax Act") that provide for a five-year carryback of losses.

Federal tax returns for fiscal years subsequent to January 31, 2017, remain subject to examination. Generally, state tax returns for fiscal years subsequent to January 31, 2017 remain subject to examination.

Changes in the balance of unrecognized tax benefits, including interest and penalties on uncertain tax positions, were as follows:

<i>(in thousands)</i>	Year Ended January 31,		
	2021	2020	2019
Balance at February 1	\$ (11,384)	\$ (11,625)	\$ —
Increases related to prior year tax positions	—	—	(12,084)
Decreases related to prior year tax positions	1,531	241	459
Balance at January 31	\$ (9,853)	\$ (11,384)	\$ (11,625)

As of January 31, 2021, 2020 and 2019 there are \$5.3 million, \$3.5 million, and \$3.5 million, respectively of unrecognized tax benefits that, if recognized, would favorably affect the Company's annual effective tax rate.

The Company recognizes interest and penalties related to unrecognized tax benefits in its provision for income taxes. During the years ended January 31, 2021, 2020 and 2019, the Company recognized interest and penalties of approximately \$1.0 million, \$0.7 million and \$0.1 million, respectively.

**CONN'S, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

**8. Leases**

We lease most of our current store locations and certain of our facilities and operating equipment under operating leases. The fixed, non-cancelable terms of our real estate leases are generally five years to fifteen years and generally include renewal options that allow us to extend the term beyond the initial non-cancelable term. However, prior to the expiration of the existing contract, the Company will typically renegotiate any lease contracts as opposed to continuing in the current lease under the renewal terms. As such, the lease renewal options are not recognized as part of the right-of-use assets and liabilities. Most of the real estate leases require payment of real estate taxes, insurance and certain common area maintenance costs in addition to future minimum lease payments. Equipment leases generally provide for initial lease terms of three years to five years and provide for a purchase right at the end of the lease term at the then fair market value of the equipment.

Certain operating leases contain tenant allowance provisions, which obligate the landlord to remit cash to us as an incentive to enter into the lease agreement. We record the full amount to be remitted by the landlord as a reduction to the operating lease right-of-use assets upon commencement of the lease and amortize the balance on a straight-line basis over the life of the lease.

Supplemental lease information is summarized below:

<i>(in thousands)</i>	<i>Balance sheet classification</i>	<b>January 31,</b>	
		<b>2021</b>	<b>2020</b>
<b>Assets</b>			
Operating lease assets	Operating lease right-of-use assets	\$ 265,798	\$ 242,457
Finance lease assets	Property and equipment, net	5,813	5,028
<b>Total leased assets</b>		<b>\$ 271,611</b>	<b>\$ 247,485</b>
<b>Liabilities</b>			
Operating <sup>(1)</sup>	Operating lease liability - current	\$ 53,958	\$ 47,118
Finance	Current maturities of debt and finance lease obligations	934	605
Operating	Operating lease liability - non current	354,598	329,081
Finance	Long-term debt and finance lease obligations	5,138	4,604
<b>Total lease liabilities</b>		<b>\$ 414,628</b>	<b>\$ 381,408</b>

(1) Represents the gross operating lease liability before tenant improvement allowances. As of January 31, 2021 and 2020, we had \$9.9 million and \$11.7 million of tenant improvement allowances to be remitted by the landlord.

<i>(in thousands)</i>	<i>Income statement classification</i>	<b>Year Ended January 31,</b>	
		<b>2021</b>	<b>2020</b>
<b>Lease Cost</b>			
Operating lease costs <sup>(1)</sup>	Selling, general and administrative expense	\$ 63,970	\$ 57,501
Impairment of ROU asset	Charges and credits	—	1,933
<b>Total operating lease cost</b>		<b>\$ 63,970</b>	<b>\$ 59,434</b>

(1) Includes short-term and variable lease costs, which are not significant.

Operating lease right-of-use assets (“ROU Assets”) and liabilities are recognized at the commencement date based on the present value of lease payments over the lease term. As most of our leases do not provide an implicit rate, we use our estimated incremental borrowing rate based on the information available at commencement date in determining the present value of lease payments.

Operating lease ROU Assets are regularly reviewed for impairment under the long-lived assets impairment guidance in *ASC Subtopic 360-10, Property, Plant, and Equipment - Overall*. No impairment was recognized for the year ended January 31, 2021. For the year ended January 31, 2020, we recognized \$1.9 million of impairments of ROU Assets on the consolidated statement of operations from the exiting of certain leases upon relocation of three of our distribution centers into one facility. See Note 4, *Charges and Credits*, for additional details.

**CONN'S, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

Additional details regarding the Company's leasing activities as a lessee are presented below:

<b>Other Information</b> (dollars in thousands)	<b>Year Ended January 31,</b>	
	<b>2021</b>	<b>2020</b>
Cash paid for amounts included in the measurement of lease liabilities		
Operating cash flows for operating leases	\$ 73,983	\$ 69,829
Weighted-average remaining lease term (in years)		
Finance leases	9.5	11.2
Operating leases	7.2	7.1
Weighted-average discount rate		
Finance leases	5.1 %	6.1 %
Operating leases <sup>(1)</sup>	7.7 %	8.3 %

(1) Upon adoption of ASC 842, discount rates for existing operating leases were established as of February 1, 2019.

For the years ended January 31, 2021, 2020 and 2019, total rent expense was \$65.1 million, \$58.1 million and \$52.7 million, respectively.

The following table presents a summary of our minimum contractual commitments and obligations as of January 31, 2021:

<i>(in thousands)</i>	<b>Operating Leases</b>	<b>Finance Leases</b>	<b>Total</b>
<b>Year ending January 31,</b>			
2022	\$ 83,433	\$ 1,247	\$ 84,680
2023	82,826	994	83,820
2024	78,176	1,064	79,240
2025	67,984	900	68,884
2026	56,372	606	56,978
Thereafter	165,334	3,194	168,528
Total undiscounted cash flows	534,125	8,005	542,130
Less: Interest	125,569	1,933	127,502
Total lease liabilities	<u>\$ 408,556</u>	<u>\$ 6,072</u>	<u>\$ 414,628</u>

## 9. Stock-Based Compensation

On May 28, 2020, our stockholders approved the Conn's, Inc. 2020 Omnibus Incentive Plan ("2020 Plan"). Upon the effectiveness of the 2020 Plan, no further awards were, or may in the future, be granted under any of our prior plans, which include the 2016 Omnibus Incentive Plan ("2016 Plan"), 2011 Non-Employee Director Restricted Stock Plan ("2011 Director Plan") and the 2003 Non-Employee Director Stock Option Plan ("2003 Director Plan"). The 2020 plan provides for the issuance of 1,800,000 shares of Company common stock plus such number of shares as were, and may become, available under our prior plans. As such, shares subject to an award under the 2020 Plan, the 2016 Plan, the 2011 Plan, the 2011 Director Plan, the 2003 Director Plan or our Amended and Restated 2003 Incentive Stock Option Plan ("2003 Plan") that lapse, expire, are forfeited or terminated, or are settled in cash will again become available for future grant under the 2020 Plan. During fiscal year 2021, a total of 937,514 shares were transferred to the 2020 Plan from the prior plans: 746,299 shares from the 2016 Omnibus Incentive Plan, 2,224 shares from the 2011 Omnibus Incentive Plan, and 48,991 shares from the 2011 Non-Employee Director Restricted Stock Plan, 140,000 shares from the 2003 Non-Employee Director Stock Option Plan.

Our 2020 Plan is an equity-based compensation plan that allows for the grant of a variety of awards, including stock options, restricted stock awards, RSUs, PSUs, stock appreciation rights and performance and cash awards. Awards are generally granted once per year, with the amount and type of awards determined by the Compensation Committee of our Board of Directors (the "Committee"). Stock options, RSUs and PSUs are subject to early termination provisions but generally vest over a period of three years or four years from the date of grant. Stock options under the various plans are issued with exercise prices equal to the market value on the date of the grant and, typically, expire ten years after the date of grant.

In the event of a change in control of the Company, as defined in the 2020 Plan, the Board of Directors of the Company ("Board of Directors") may cause some or all outstanding awards to fully or partially vest, either upon the change in control or upon a subsequent termination of employment or service, and may provide that any applicable performance criteria be deemed

**CONN'S, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

satisfied at the target or any other level. The Board of Directors may also cause outstanding awards to terminate in exchange for a cash or stock payment or to be substituted or assumed by the surviving corporation.

As of January 31, 2021, shares authorized for future issuance were: 2,632,127 under the 2020 Plan.

**Stock-Based Compensation Expense.** Total stock-based compensation expense, recognized primarily in SG&A, from stock-based compensation consisted of the following:

<i>(in thousands)</i>	Year Ended January 31,		
	2021	2020	2019
Stock options	\$ 3,908	\$ 3,978	\$ 3,414
RSUs and PSUs	5,058	8,316	8,540
Employee stock purchase plan	364	256	263
Accelerated RSU expense charged to severance	1,255	—	—
	\$ 10,585	\$ 12,550	\$ 12,217

During the years ended January 31, 2021, 2020, and 2019, we recognized tax benefits related to stock-based compensation of \$2.3 million, \$1.4 million and \$1.7 million, respectively. As of January 31, 2021, the total unrecognized compensation cost related to all unvested stock-based compensation awards was \$7.9 million and is expected to be recognized over a weighted-average period of 1.9 years. The total fair value of RSUs, PSUs and stock options vested during fiscal years 2021, 2020 and 2019 was \$5.1 million, \$8.4 million and \$12.6 million, respectively, based on the market price at the vesting date.

**Stock Options.** No stock options were awarded during fiscal year 2021 and 2020. During fiscal year 2019, 620,166 stock options were awarded with an exercise price of \$32.35 per share. The stock options awarded vest in equal installments three years and four years from the date of grant and expire ten years from the date of grant. The fair values of the stock options at grant date ranged from \$20.00 to \$21.67 per share. The fair values of the stock option awards were determined using the Black-Scholes option pricing model. The weighted-average assumptions for the option awards granted in fiscal year 2019 included expected volatility of 68%, an expected term of six years to seven years and risk-free interest rate of 2.69%. No dividend yield was included in the weighted-average assumptions for the options awards granted in fiscal year 2019.

The following table summarizes the activity for outstanding stock options:

	Shares Under Option	Weighted- Average Exercise Price	Weighted- Average Remaining Contractual Life
Outstanding, January 31, 2020	744,191	\$ 29.73	
Granted	—	\$ —	
Exercised	—	\$ —	
Forfeited and expired	(24,025)	\$ 6.81	
Outstanding, January 31, 2021	720,166	\$ 30.49	7.0
Vested and expected to vest, January 31, 2021	720,166	\$ 30.49	7.0
Exercisable, January 31, 2021	100,000	\$ 18.98	5.9

No stock options were exercised during the year ended January 31, 2021. During the years ended January 31, 2020 and 2019, the total intrinsic value of stock options exercised was \$0.4 million and \$0.4 million, respectively. The aggregate intrinsic value of stock options outstanding, vested and expected to vest and exercisable at January 31, 2021 was approximately \$0.1 million. The total fair value of common stock options vested during fiscal years 2021, 2020 and 2019 was \$0.3 million, \$0.3 million and \$0.5 million, respectively, based on the market price at the vesting date.

**Restricted Stock Units.** The restricted stock program consists of a combination of PSUs and RSUs. As of January 31, 2021 there are two PSU awards outstanding. Under the first award, the number of PSUs issued is dependent upon a measurement of earnings before interest, taxes, depreciation and amortization (“EBITDA”) target for the period identified in the grant, which is two fiscal years. In the event EBITDA exceeds the respective predefined target, shares for up to a maximum of 150% of the target award may be awarded. In the event the EBITDA falls below the respective predefined target, a reduced number of shares may be awarded. If the EBITDA falls below the respective threshold performance level, no shares will be awarded. Under the second PSU award the number of PSUs issued is dependent upon attainment of an annualized Total Shareholder Return (“TSR”) target for the period identified in the award, which is three fiscal years. In the event TSR exceeds the

**CONN'S, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

respective defined target, shares for up to a maximum of 150% of the target award will be awarded. In the event TSR falls below the respective predefined target, a reduced number of shares will be awarded. If TSR falls below the respective threshold level, no shares will be awarded. PSUs vest on predetermined schedules, which occurs over three years. RSUs vest on a straight-line basis over their term, which is generally three years to five years.

The following table summarizes the activity for RSUs and PSUs:

	Time-Based RSUs		Performance-Based RSUs		Total Number of Units
	Number of Units	Weighted-Average Grant Date Fair Value	Number of Units	Weighted-Average Grant Date Fair Value	
<b>Balance, January 31, 2020</b>	588,823	\$ 19.92	493,894	\$ 12.47	1,082,717
Granted	625,808	\$ 9.17	270,828	\$ 8.36	896,636
Vested and converted to common stock	(336,304)	\$ 15.93	(356,844)	\$ 11.67	(693,148)
Forfeited	(128,433)	\$ 15.32	(138,298)	\$ 12.08	(266,731)
<b>Balance, January 31, 2021</b>	<b>749,894</b>	<b>\$ 13.53</b>	<b>269,580</b>	<b>\$ 9.61</b>	<b>1,019,474</b>

The total fair value of restricted and performance shares vested during fiscal years 2021, 2020 and 2019 was \$4.8 million, \$8.1 million, and \$12.1 million, respectively, based on the market price at the vesting date. The total fair value of restricted and performance shares granted during fiscal years 2021, 2020 and 2019 was \$8.0 million, \$2.9 million and \$7.6 million, respectively.

**Employee Stock Purchase Plan.** Our Employee Stock Purchase Plan is available to our employees, subject to minimum employment conditions and maximum compensation limitations. At the end of each calendar quarter, employee contributions are used to acquire shares of common stock at 85% of the lower of the fair market value of the common stock on the first or last day of the calendar quarter. During the years ended January 31, 2021, 2020 and 2019, we issued 140,672, 53,459 and 34,922 shares of common stock, respectively, to employees participating in the plan, leaving 577,591 shares remaining reserved for future issuance under the plan as of January 31, 2021.

#### 10. Significant Vendors

As shown in the table below, a significant portion of our merchandise purchases were made from six vendors:

	Year Ended January 31,		
	2021	2020	2019
Vendor A	28.9 %	33.6 %	25.3 %
Vendor B	15.4	16.3	16.1
Vendor C	14.0	11.0	7.0
Vendor D	7.8	9.6	6.7
Vendor E	6.8	9.5	5.2
Vendor F	3.1	5.7	5.0
	<b>76.0 %</b>	<b>85.7 %</b>	<b>65.3 %</b>

The vendors shown above represent the top six vendors with the highest volume in each period shown. The same vendor may not necessarily be represented in all periods presented.

#### 11. Defined Contribution Plan

We have established a defined contribution 401(k) plan for eligible employees. Employees may contribute up to 50% of their eligible pretax compensation to the plan and we match 100% of the first 3% of the employees' contributions and an additional 50% of the next 2% of the employees' contributions. At our option, we may make supplemental contributions to the plan, but have not made such supplemental contributions in the past three years. Due to the COVID-19 pandemic, matching contributions were suspended in fiscal year 2021. The matching contributions made by us totaled \$1.9 million and \$1.4 million during the years ended January 31, 2020 and 2019, respectively.

**CONN'S, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

## 12. Contingencies

**Securities Litigation.** On April 2, 2018, MicroCapital Fund, LP, MicroCapital Fund, Ltd., and MicroCapital LLC (collectively, "MicroCapital") filed a lawsuit against us and certain of our former executive officers in the U.S. District Court for the Southern District of Texas, Cause No. 4:18-CV-01020 (the "MicroCapital Action"). The plaintiffs in this action allege that the defendants made false and misleading statements or failed to disclose material facts about our credit and underwriting practices, accounting and internal controls. Plaintiffs allege violations of sections 10(b) and 20(a) of the Securities Exchange Act of 1934 and Rule 10b-5 promulgated thereunder, Texas and Connecticut common law fraud, and Texas common law negligent misrepresentation against all defendants; as well as violations of section 20A of the Securities Exchange Act of 1934; and Connecticut common law negligent misrepresentation against certain defendants arising from plaintiffs' purchase of Conn's, Inc. securities between April 3, 2013 and February 20, 2014. The complaint does not specify the amount of damages sought.

The Court previously stayed the MicroCapital Action pending resolution of other outstanding litigation (In re Conn's Inc. Sec. Litig., Cause No. 14-CV-00548 (S.D. Tex.) (the "Consolidated Securities Action")), which was settled in October 2018. After that settlement, the stay was lifted, and the defendants filed a motion to dismiss plaintiff's complaint in the MicroCapital Action on November 6, 2018. On July 26, 2019, the magistrate judge issued a report recommending that defendants' motion to dismiss the complaint be granted in part and denied in part. On September 25, 2019, the district court adopted the magistrate judge's report, which permitted MicroCapital to file an amended complaint, which MicroCapital filed on October 30, 2019. Defendants filed their answer to the amended complaint on November 27, 2019.

We intend to vigorously defend our interests in the MicroCapital Action. It is not possible at this time to predict the timing or outcome of this litigation, and we cannot reasonably estimate the possible loss or range of possible loss from these claims.

**Derivative Litigation.** On December 1, 2014, an alleged shareholder, purportedly on behalf of the Company, filed a derivative shareholder lawsuit against us and certain of our current and former directors and former executive officers captioned as Robert Hack, derivatively on behalf of Conn's, Inc., v. Theodore M. Wright (former executive officer and former director), Bob L. Martin, Jon E.M. Jacoby (former director), Kelly M. Malson, Douglas H. Martin, David Schofman, Scott L. Thompson (former director), Brian Taylor (former executive officer) and Michael J. Poppe (former executive officer) and Conn's, Inc., Case No. 4:14-cv-03442 (S.D. Tex.) (the "Original Derivative Action"). The complaint asserts claims for breach of fiduciary duty, unjust enrichment, gross mismanagement, and insider trading based on substantially similar factual allegations as those asserted in the Consolidated Securities Action. The plaintiff seeks unspecified damages against these persons and does not request any damages from Conn's. Setting forth substantially similar claims against the same defendants, on February 25, 2015, an additional federal derivative action, captioned 95250 Canada LTEE, derivatively on Behalf of Conn's, Inc. v. Wright et al., Cause No. 4:15-cv-00521 (S.D. Tex.), which was consolidated with the Original Derivative Action.

The Court previously approved a stipulation among the parties to stay the Original Derivative Action pending resolution of the Consolidated Securities Action. The stay was lifted on November 1, 2018, and the defendants filed a motion to dismiss plaintiff's complaint. Briefing on the motion to dismiss was completed December 3, 2018. On May 29, 2019, the magistrate judge issued a report, recommending that defendants' motion to dismiss the complaint be granted, but recommended that the plaintiff be permitted to replead his claims. The district court adopted the recommendation on July 5, 2019.

On July 19, 2019, plaintiff filed an amended complaint. On November 1, 2019, the magistrate judge heard argument on the motion to dismiss and postponed certain deadlines. Adopting the report and recommendation issued by the magistrate judge on July 22, 2020, the district court entered an order on September 25, 2020 denying defendant's motion on the breach of fiduciary duty claims and granting defendants' motion on the insider trading claims. The district court also allowed plaintiff leave to amend to add 95250 Canada LTEE, which had been omitted from the amended complaint, as a party to the case. Plaintiffs filed a corrected amended complaint on October 21, 2020 in accordance with the district court's order.

Another derivative action was filed on January 27, 2015, captioned as Richard A. Dohn v. Wright, et al., Cause No. 2015-04405, in the 281st Judicial District Court, Harris County, Texas. This action makes substantially similar allegations to the Original Derivative Action against the same defendants. This case is stayed until at least July 15, 2021.

Prior to filing a lawsuit, an alleged shareholder, Robert J. Casey II ("Casey"), submitted a demand under Delaware law, which our Board of Directors refused. On May 19, 2016, Casey, purportedly on behalf of the Company, filed a lawsuit against us and certain of our current and former directors and former executive officers in the 55th Judicial District Court, Harris County, Texas, captioned as Casey, derivatively on behalf of Conn's, Inc., v. Theodore M. Wright (former executive officer and former director), Michael J. Poppe (former executive officer), Brian Taylor (former executive officer), Bob L. Martin, Jon E.M. Jacoby (former director), Kelly M. Malson (former director), Douglas H. Martin, David Schofman, Scott L. Thompson (former director) and William E. Saunders Jr., and Conn's, Inc., Cause No. 2016-33135. The complaint asserts claims for breach of fiduciary duties and unjust enrichment based on substantially similar factual allegations as those asserted in the Original

**CONN'S, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

Derivative Action. The complaint does not specify the amount of damages sought. This case is abated until at least July 31, 2021.

Other than Casey, none of the plaintiffs in the other derivative actions made a demand on our Board of Directors prior to filing their respective lawsuits. The defendants in the derivative actions intend to vigorously defend against these claims. It is not possible at this time to predict the timing or outcome of any of this litigation, and we cannot reasonably estimate the possible loss or range of possible loss from these claims.

We are involved in other routine litigation and claims, incidental to our business from time to time which, individually or in the aggregate, are not expected to have a material adverse effect on us. As required, we accrue estimates of the probable costs for the resolution of these matters. These estimates have been developed in consultation with counsel and are based upon an analysis of potential results, assuming a combination of litigation and settlement strategies. However, the results of these proceedings cannot be predicted with certainty, and changes in facts and circumstances could impact our estimate of reserves for litigation. The Company believes that any probable and reasonably estimable loss associated with the foregoing has been adequately reflected in the accompanying financial statements.

**13. Variable Interest Entities**

From time to time, we securitize customer accounts receivables by transferring the receivables to various bankruptcy-remote VIEs. Under the terms of the respective securitization transactions, all cash collections and other cash proceeds of the customer receivables go first to the servicer and the holders of the asset-backed notes, and then to the residual equity holder. We retain the servicing of the securitized portfolio and receive a monthly fee of 4.75% (annualized) based on the outstanding balance of the securitized receivables, and we currently hold all of the residual equity. In addition, we, rather than the VIEs, will retain certain credit insurance income together with certain recoveries related to credit insurance and RSAs on charge-offs of the securitized receivables, which will continue to be reflected as a reduction of net charge-offs on a consolidated basis for as long as we consolidate the VIEs.

We consolidate VIEs when we determine that we are the primary beneficiary of these VIEs, we have the power to direct the activities that most significantly impact the performance of the VIEs and our obligation to absorb losses and the right to receive residual returns are significant.

**CONN'S, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

The following table presents the assets and liabilities held by the VIEs (for legal purposes, the assets and liabilities of the VIEs will remain distinct from Conn's, Inc.):

<i>(in thousands)</i>	<b>January 31, 2021</b>	<b>January 31, 2020</b>
<b>Assets:</b>		
Restricted cash	\$ 48,622	\$ 73,214
(Due to) due from Conn's, Inc., net	(5,661)	307
Customer accounts receivable:		
Customer accounts receivable	509,574	838,210
Restructured accounts	105,395	147,971
Allowance for uncollectible accounts	(159,849)	(151,263)
Allowance for no-interest option credit programs	(5,502)	(12,445)
Deferred fees and origination costs	(5,503)	(8,255)
Total customer accounts receivable, net	444,115	814,218
<b>Total assets</b>	<b>\$ 487,076</b>	<b>\$ 887,739</b>
<b>Liabilities:</b>		
Accrued expenses	\$ 3,707	\$ 5,517
Other liabilities	4,459	7,584
Long-term debt:		
2017-B Class C Notes	—	59,655
2018-A Class A Notes	—	34,112
2018-A Class B Notes	—	20,572
2018-A Class C Notes	—	20,572
2019-A Class A Notes	19,521	76,241
2019-A Class B Notes	25,069	64,750
2019-A Class C Notes	24,202	62,510
2019-B Class A Notes	17,860	265,810
2019-B Class B Notes	85,540	85,540
2019-B Class C Notes	83,270	83,270
2020-A Class A Notes	93,326	—
2020-A Class B Notes	65,200	—
	413,988	773,032
Less deferred debt issuance costs	(2,437)	(4,911)
Total debt	411,551	768,121
<b>Total liabilities</b>	<b>\$ 419,717</b>	<b>\$ 781,222</b>

The assets of the VIEs serve as collateral for the obligations of the VIEs. The holders of asset-backed notes have no recourse to assets outside of the respective VIEs.

#### 14. Segment Information

Operating segments are defined as components of an enterprise that engage in business activities and for which discrete financial information is available that is evaluated on a regular basis by the chief operating decision maker to make decisions about how to allocate resources and assess performance. We are a leading specialty retailer and offer a broad selection of quality, branded durable consumer goods and related services in addition to a proprietary credit solution for our core credit-constrained consumers. We have two operating segments: (i) retail and (ii) credit. Our operating segments complement one another. The retail segment operates primarily through our stores and website. Our retail segment product offerings include furniture and mattresses, home appliances, consumer electronics and home office products from leading global brands across a wide range of price points. Our credit segment offers affordable financing solutions to a large, under-served population of

**CONN'S, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

credit-constrained consumers who typically have limited credit alternatives. Our operating segments provide customers the opportunity to comparison shop across brands with confidence in our competitive prices as well as affordable monthly payment options, next day delivery and installation in the majority of our markets, and product repair service. The operating segments follow the same accounting policies used in our consolidated financial statements.

We evaluate a segment's performance based upon operating income before taxes. SG&A includes the direct expenses of the retail and credit operations, allocated overhead expenses, and a charge to the credit segment to reimburse the retail segment for expenses it incurs related to occupancy, personnel, advertising and other direct costs of the retail segment which benefit the credit operations by sourcing credit customers and collecting payments. The reimbursement received by the retail segment from the credit segment is calculated using an annual rate of 2.5% times the average outstanding portfolio balance for each applicable period.

As of January 31, 2021, we operated retail stores in 15 states with no operations outside of the United States. No single customer accounts for more than 10% of our total revenues.

Financial information by segment is presented in the following tables:

<i>(in thousands)</i>	<b>Year Ended January 31, 2021</b>		
	<b>Retail</b>	<b>Credit</b>	<b>Total</b>
<b>Revenues:</b>			
Furniture and mattress	\$ 322,770	\$ —	\$ 322,770
Home appliance	390,964	—	390,964
Consumer electronics	172,932	—	172,932
Home office	65,405	—	65,405
Other	20,960	—	20,960
Product sales	973,031	—	973,031
Repair service agreement commissions	78,838	—	78,838
Service revenues	12,442	—	12,442
Total net sales	1,064,311	—	1,064,311
Finance charges and other revenues	816	320,898	321,714
<b>Total revenues</b>	<b>1,065,127</b>	<b>320,898</b>	<b>1,386,025</b>
<b>Costs and expenses:</b>			
Cost of goods sold	668,315	—	668,315
Selling, general and administrative expense <sup>(1)</sup>	335,954	142,813	478,767
Provision for bad debts	443	201,560	202,003
Charges and credits	4,092	2,234	6,326
<b>Total costs and expenses</b>	<b>1,008,804</b>	<b>346,607</b>	<b>1,355,411</b>
<b>Operating income (loss)</b>	<b>56,323</b>	<b>(25,709)</b>	<b>30,614</b>
Interest expense	—	50,381	50,381
(Gain) on extinguishment of debt	—	(440)	(440)
<b>Income (loss) before income taxes</b>	<b>\$ 56,323</b>	<b>\$ (75,650)</b>	<b>\$ (19,327)</b>
<b>Additional Disclosures:</b>			
Property and equipment additions	\$ 55,172	\$ 824	\$ 55,996
Depreciation expense	\$ 39,968	\$ 1,100	\$ 41,068
	<b>January 31, 2021</b>		
<i>(in thousands)</i>	<b>Retail</b>	<b>Credit</b>	<b>Total</b>
<b>Total assets</b>	<b>\$ 655,666</b>	<b>\$ 1,099,418</b>	<b>\$ 1,755,084</b>

**CONN'S, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

<i>(in thousands)</i>	<b>Year Ended January 31, 2020</b>		
	<b>Retail</b>	<b>Credit</b>	<b>Total</b>
<b>Revenues:</b>			
Furniture and mattress	\$ 370,931	\$ —	\$ 370,931
Home appliance	360,441	—	360,441
Consumer electronics	221,449	—	221,449
Home office	73,074	—	73,074
Other	16,529	—	16,529
Product sales	1,042,424	—	1,042,424
Repair service agreement commissions	106,997	—	106,997
Service revenues	13,814	—	13,814
Total net sales	1,163,235	—	1,163,235
Finance charges and other revenues	810	379,641	380,451
<b>Total revenues</b>	<b>1,164,045</b>	<b>379,641</b>	<b>1,543,686</b>
<b>Costs and expenses:</b>			
Cost of goods sold	697,784	—	697,784
Selling, general and administrative expense <sup>(1)</sup>	346,108	156,916	503,024
Provision for bad debts	905	204,312	205,217
Charges and credits	1,933	1,209	3,142
<b>Total costs and expenses</b>	<b>1,046,730</b>	<b>362,437</b>	<b>1,409,167</b>
<b>Operating income</b>	<b>117,315</b>	<b>17,204</b>	<b>134,519</b>
Interest expense	—	59,107	59,107
Loss on extinguishment of debt	—	1,094	1,094
<b>Income (loss) before income taxes</b>	<b>\$ 117,315</b>	<b>\$ (42,997)</b>	<b>\$ 74,318</b>
<b>Additional Disclosures:</b>			
Property and equipment additions	\$ 62,244	\$ 200	\$ 62,444
Depreciation expense	\$ 35,783	\$ 1,058	\$ 36,841
	<b>January 31, 2020</b>		
<i>(in thousands)</i>	<b>Retail</b>	<b>Credit</b>	<b>Total</b>
<b>Total assets</b>	<b>\$ 641,812</b>	<b>\$ 1,526,957</b>	<b>\$ 2,168,769</b>

**CONN'S, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

<i>(in thousands)</i>	Year Ended January 31, 2019		
	Retail	Credit	Total
<b>Revenues:</b>			
Furniture and mattress	\$ 382,975	\$ —	\$ 382,975
Home appliance	332,609	—	332,609
Consumer electronics	262,088	—	262,088
Home office	86,260	—	86,260
Other	14,703	—	14,703
Product sales	1,078,635	—	1,078,635
Repair service agreement commissions	101,928	—	101,928
Service revenues	14,111	—	14,111
Total net sales	1,194,674	—	1,194,674
Finance charges and other revenues	447	354,692	355,139
<b>Total revenues</b>	<b>1,195,121</b>	<b>354,692</b>	<b>1,549,813</b>
<b>Costs and expenses:</b>			
Cost of goods sold	702,135	—	702,135
Selling, general and administrative expense <sup>(1)</sup>	328,628	151,933	480,561
Provision for bad debts	1,009	197,073	198,082
Charges and credits	2,980	4,800	7,780
<b>Total costs and expenses</b>	<b>1,034,752</b>	<b>353,806</b>	<b>1,388,558</b>
<b>Operating income</b>	<b>160,369</b>	<b>886</b>	<b>161,255</b>
Interest expense	—	62,704	62,704
Loss on extinguishment of debt	—	1,773	1,773
<b>Income (loss) before income taxes</b>	<b>\$ 160,369</b>	<b>\$ (63,591)</b>	<b>\$ 96,778</b>
<b>Additional Disclosures:</b>			
Property and equipment additions	\$ 36,110	\$ 1,384	\$ 37,494
Depreciation expense	\$ 30,739	\$ 845	\$ 31,584
	<b>January 31, 2019</b>		
<i>(in thousands)</i>	<b>Retail</b>	<b>Credit</b>	<b>Total</b>
<b>Total assets</b>	<b>\$ 405,542</b>	<b>\$ 1,479,365</b>	<b>\$ 1,884,907</b>

(1) For the years ended January 31, 2021, 2020 and 2019, the amount of overhead allocated to each segment reflected in SG&A was \$32.0 million, \$30.0 million and \$36.4 million, respectively. For the years ended January 31, 2021, 2020 and 2019, the amount of reimbursement made to the retail segment by the credit segment was \$34.8 million, \$39.1 million and \$38.1 million, respectively.

#### 15. Stockholders' Equity

**Share Repurchases.** On May 30, 2019, we entered into a stock repurchase program pursuant to which we had the authorization to repurchase up to \$75.0 million of our outstanding common stock. The stock repurchase program expired on May 30, 2020. No shares were repurchased during the year ended January 31, 2021. For the year ended January 31, 2020, we repurchased 3,485,441 shares of our common stock at an average weighted cost per share of \$19.02 for an aggregate amount of \$66.3 million.



**CONN'S, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

<i>(dollars in thousands, except per share amounts)</i>	<b>Fiscal Year 2019</b>			
	<b>Quarter Ended</b>			
	<b>April 30</b>	<b>July 31</b>	<b>October 31</b>	<b>January 31</b>
<b>Revenues:</b>				
Retail Segment	\$ 275,770	\$ 296,411	\$ 284,053	\$ 338,887
Credit Segment	82,617	88,209	89,771	94,095
<b>Total revenues</b>	<b>\$ 358,387</b>	<b>\$ 384,620</b>	<b>\$ 373,824</b>	<b>\$ 432,982</b>
Percent of annual revenues	23.1 %	24.8 %	24.1 %	28.0 %
<b>Costs and expenses:</b>				
Cost of goods sold	\$ 166,589	\$ 173,627	\$ 166,886	\$ 195,033
<b>Operating income (loss):</b>				
Retail Segment	\$ 31,169	\$ 39,238	\$ 35,250	\$ 54,712
Credit Segment	1,595	14	223	(946)
<b>Total operating income</b>	<b>\$ 32,764</b>	<b>\$ 39,252</b>	<b>\$ 35,473</b>	<b>\$ 53,766</b>
<b>Net income</b>	<b>\$ 12,732</b>	<b>\$ 17,011</b>	<b>\$ 14,630</b>	<b>\$ 29,476</b>
<b>Income per share</b>				
Basic <sup>(1)</sup>	\$ 0.40	\$ 0.54	\$ 0.46	\$ 0.93
Diluted <sup>(1)</sup>	\$ 0.39	\$ 0.53	\$ 0.45	\$ 0.91

(1) The sum of the quarterly earnings per share amounts may not equal the fiscal year amount due to rounding and use of weighted-average shares outstanding.

**CONN'S, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

**17. Subsequent Events**

**Sale of Asset Backed Notes.** On February 24, 2021, the Company completed the sale of \$62.9 million aggregate principal amount of 4.20% Asset Backed Fixed Rate Notes, Class C, Series 2020-A, which were previously issued and held by the Company. The asset-backed notes are secured by the transferred customer accounts receivables and restricted cash held by a consolidated VIE, which resulted in net proceeds to us of \$62.5 million, net of debt issuance costs. Net proceeds from the sale were used to repay amounts outstanding under the Company's Revolving Credit Facility.

**Amendment and Restatement of Revolving Credit Facility.** On March 29, 2021 the Company entered into the Fifth Amended and Restated Loan and Security Agreement (the "Fifth Amended and Restated Loan Agreement"), by and among the Company, as parent and guarantor, Conn Appliances, Inc., Conn Credit I, LP and Conn Credit Corporation, Inc., as borrowers, certain banks and financial institutions named therein, as lenders, and JPMorgan Chase Bank, N.A., as Administrative Agent for the Lenders.

The Fifth Amended and Restated Loan Agreement, among other things, (1) extended the maturity date of the existing revolving credit facility to March 2025 (originally scheduled to mature in May 2022), (2) expanded the eligibility criteria of certain component definitions of the borrowing base and increased the inventory advance rate thereunder, (3) changed the rates included in the definition of Applicable Margin (as defined in the Fifth Amended and Restated Loan Agreement) and the rate floor included in the definition of LIBOR contained in the Fifth Amended and Restated Loan Agreement, (4) permitted borrowings under the Letter of Credit Subline (as defined in the Fifth Amended and Restated Loan Agreement) to exceed the cap of \$40 million to \$100 million, solely at the discretion of the Lenders for such amounts in excess of \$40 million, (5) modified the incremental facility provisions to hardwire the ability for the borrowers to have such incremental facilities structured as a first-in, last-out (FILO) tranche, and (6) eliminated the additional covenants and certain other restrictions placed on the borrowers during the covenant relief period provided for under the existing revolving credit facility, which included removing the (i) minimum liquidity covenant, (ii) minimum availability covenant, (iii) anti-cash hoarding covenant and (iv) restrictions on (x) making acquisitions and certain other investments, (y) making certain non-ordinary course restricted payments and (z) prepaying certain indebtedness.

The foregoing description of the Fifth Amended and Restated Loan Agreement does not purport to be complete and is qualified in its entirety by the full text of the Fifth Amended and Restated Loan Agreement, which is filed with this Annual Report on Form 10-K as Exhibit 10.15, which is incorporated by reference herein.

**High Yield Note Redemption.** On March 15, 2021, we issued a notice of redemption to holders of our Senior Notes for the redemption of all 141,172,000 outstanding aggregate principal amount of the Senior Notes. The redemption date for the Senior Notes will be April 15, 2021. The redemption price for the Senior Notes will be calculated in accordance with the indenture governing the Senior Notes and will be equal to 100% of the principal amount of the Senior Notes being redeemed plus accrued and unpaid interest to, but excluding, the redemption date. After such redemptions, no Senior Notes will remain outstanding. We expect to fund the redemption with borrowings under our revolving credit agreement. The foregoing does not constitute a notice of redemption with respect to the Senior Notes.

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

None.

**ITEM 9A. CONTROLS AND PROCEDURES.**

**Evaluation of Disclosure Controls and Procedures**

In connection with the preparation of this Annual Report on Form 10-K, our management conducted an assessment of the effectiveness of our internal controls over financial reporting as of the end of the period covered by this report (under the supervision and with the participation of our Chief Executive Officer (“CEO”) and Chief Financial Officer (“CFO”)). Based on that assessment, our CEO and CFO have concluded that our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act) are effective to ensure that information required to be disclosed by us in reports that we file or submit under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in SEC rules and forms, and is accumulated and communicated to management, including our principal executive officer and principal financial officer, as appropriate to allow timely decisions regarding required disclosure.

**Remediation of Previously Identified Material Weakness**

As previously described in Part II, Item 9A of our Annual Report on Form 10-K for the fiscal year ended January 31, 2020 (“2020 10-K”), in connection with the preparation of our 2020 10-K, our CEO and CFO concluded that our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act) were not effective because of certain individual control deficiencies in our information technology general controls (“ITGCs”) in the areas of user access and program change management related to the implementation of certain new financially significant applications that, when viewed in combination, aggregated to the material weakness described in our 2020 10-K. As previously disclosed, during fiscal year 2021, we implemented a remediation plan to address this material weakness. We believe these actions have strengthened our ITGCs. Based on our testing of these strengthened controls, management determined that, as of January 31, 2021, we have remediated the material weakness previously disclosed in our 2020 10-K.

**Changes in Internal Controls Over Financial Reporting**

There have been no changes in our internal controls over financial reporting that occurred in the quarter ended January 31, 2021 that have materially affected, or are reasonably likely to materially affect, our internal controls over financial reporting.

**Management’s Report on Internal Control Over Financial Reporting**

Our management is responsible for establishing and maintaining adequate internal control over financial reporting as defined in Rule 13a-15(f) or Rule 15(d)-15(f) under the Exchange Act. Our internal control over financial reporting is designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Therefore, even those systems determined to be effective can provide only reasonable assurance with respect to financial statement preparation and presentation.

Our management (under the supervision and with the participation of our principal executive officer and our principal financial officer) assessed the effectiveness of our internal control over financial reporting as of January 31, 2021. In making this assessment, management used the criteria established in Internal Control – Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (2013 framework) (the COSO criteria). Based on our assessment and those criteria, management believes that, as of January 31, 2021, our internal controls over financial reporting is effective.

The effectiveness of our internal control over financial reporting as of January 31, 2021 has been audited by Ernst & Young LLP, an independent registered public accounting firm, as stated in their report which is included elsewhere herein.

Conn’s, Inc.  
The Woodlands, Texas  
March 31, 2021

/s/ George L. Bchara

George L. Bchara

*Executive Vice President and Chief Financial Officer*

/s/ Norman Miller

Norman Miller

*Chief Executive Officer and President*

## Report of Independent Registered Public Accounting Firm

To the Stockholders and the Board of Directors of Conn's, Inc.

### Opinion on Internal Control over Financial Reporting

We have audited Conn's, Inc. and subsidiaries' internal control over financial reporting as of January 31, 2021, based on criteria established in Internal Control-Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (2013 framework) (the COSO criteria). In our opinion, Conn's, Inc. and subsidiaries (the Company) maintained, in all material respects, effective internal control over financial reporting as of January 31, 2021, based on the COSO criteria.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the consolidated balance sheets of the Company as of January 31, 2021 and 2020, the related consolidated statements of operations, stockholders' equity, and cash flows for each of the three years in the period ended January 31, 2021, and the related notes and our report dated March 31, 2021 expressed an unqualified opinion thereon.

### Basis for Opinion

The Company's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting included in the accompanying Management's Report on Internal Control Over Financial Reporting. Our responsibility is to express an opinion on the Company's internal control over financial reporting based on our audit. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audit in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects.

Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

### Definition and Limitations of Internal Control Over Financial Reporting

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

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

/s/ Ernst & Young LLP

Houston, Texas

March 31, 2021

**ITEM 9B. OTHER INFORMATION.**

**Amendment and Restatement of Revolving Credit Facility.**

On March 29, 2021 the Company entered into the Fifth Amended and Restated Loan and Security Agreement (the “Fifth Amended and Restated Loan Agreement”), by and among the Company, as parent and guarantor, Conn Appliances, Inc., Conn Credit I, LP and Conn Credit Corporation, Inc., as borrowers, certain banks and financial institutions named therein, as lenders, and JPMorgan Chase Bank, N.A., as Administrative Agent for the Lenders.

The Fifth Amended and Restated Loan Agreement, among other things, (1) extended the maturity date of the existing revolving credit facility to March, 2025 (originally scheduled to mature in May, 2022), (2) expanded the eligibility criteria of certain component definitions of the borrowing base and increased the inventory advance rate thereunder, (3) changed the rates included in the definition of Applicable Margin (as defined in the Fifth Amended and Restated Loan Agreement) and the rate floor included in the definition of LIBOR contained in the Fifth Amended and Restated Loan Agreement, (4) permitted borrowings under the Letter of Credit Subline (as defined in the Fifth Amended and Restated Loan Agreement) to exceed the cap of \$40 million to \$100 million, solely at the discretion of the Lenders for such amounts in excess of \$40 million, (5) modified the incremental facility provisions to hardwire the ability for the borrowers to have such incremental facilities structured as a first-in, last-out (FILO) tranche, and (6) eliminated the additional covenants and certain other restrictions placed on the borrowers during the covenant relief period provided for under the existing revolving credit facility, which included removing the (i) minimum liquidity covenant, (ii) minimum availability covenant, (iii) anti-cash hoarding covenant and (iv) restrictions on (x) making acquisitions and certain other investments, (y) making certain non-ordinary course restricted payments and (z) prepaying certain indebtedness.

The foregoing description of the Fifth Amended and Restated Loan Agreement does not purport to be complete and is qualified in its entirety by the full text of the Fifth Amended and Restated Loan Agreement, which is filed with this Annual Report on Form 10-K as Exhibit 10.15, which is incorporated by reference herein.

**PART III**

**ITEM 10. DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE.**

The information required by this Item is incorporated herein by reference to our definitive Proxy Statement in connection with the 2021 Annual Meeting of Stockholders.

**ITEM 11. EXECUTIVE COMPENSATION.**

The information required by this Item is incorporated herein by reference to our definitive Proxy Statement in connection with the 2021 Annual Meeting of Stockholders.

**ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT.**

The information required by this Item is incorporated herein by reference to our definitive Proxy Statement in connection with the 2021 Annual Meeting of Stockholders.

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

The information required by this Item is incorporated herein by reference to our definitive Proxy Statement in connection with the 2021 Annual Meeting of Stockholders.

**ITEM 14. PRINCIPAL ACCOUNTANT FEES AND SERVICES.**

The information required by this Item is incorporated herein by reference to our definitive Proxy Statement in connection with the 2021 Annual Meeting of Stockholders.

## PART IV

## ITEM 15. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES.

(a) The following documents are filed as a part of this report:

(1) Financial statements:

See listing of financial statements included in Item 8. of this Annual Report on Form 10-K.

(2) Financial Statement Schedules:

Financial statement schedules are omitted because they are not applicable or the required information is shown in the consolidated financial statements or notes thereto.

(3) Exhibits:

Exhibit Number	Description of Document
3.1	<a href="#">Certificate of Incorporation of Conn's, Inc. (incorporated herein by reference to Exhibit 3.1 to Conn's, Inc. registration statement on Form S-1 (File No. 333-109046) as filed with the Securities and Exchange Commission on September 23, 2003)</a>
3.1.1	<a href="#">Certificate of Amendment to the Certificate of Incorporation of Conn's, Inc. dated June 3, 2004 (incorporated herein by reference to Exhibit 3.1.1 to Form 10-Q for the quarterly period ended April 30, 2004 (File No. 000-50421) as filed with the Securities and Exchange Commission on June 7, 2004)</a>
3.1.2	<a href="#">Certificate of Amendment to the Certificate of Incorporation of Conn's, Inc. dated May 30, 2012 (incorporated herein by reference to Exhibit 3.1.2 to Form 10-Q for the quarterly period ended April 30, 2012 (File No. 001-34956) as filed with the Securities and Exchange Commission on June 5, 2012)</a>
3.1.3	<a href="#">Certificate of Correction to the Certificate of Amendment to Conn's, Inc. Certificate of Incorporation (incorporated herein by reference to Exhibit 3.1.3 to Form 10-K for the annual period ended January 31, 2014 (File No. 001-34956) as filed with the Securities and Exchange Commission on March 27, 2014)</a>
3.1.4	<a href="#">Certificate of Amendment to the Certificate of Incorporation of Conn's, Inc. as filed on May 29, 2014 (incorporated herein by reference to Exhibit 3.1.4 to Form 10-Q for the quarterly period ended April 30, 2014 (File No. 001-34956) as filed with the Securities and Exchange Commission on June 2, 2014)</a>
3.2	<a href="#">Third Amended and Restated Bylaws of Conn's, Inc. effective as of December 7, 2020 (incorporated herein by reference to exhibit 3.2 to Form 10-Q for the quarterly period ended October 31, 2020 (File No. 001-34956) as filed with the Securities and Exchange Commission on December 4, 2020)</a>
4.1	<a href="#">Specimen of certificate for shares of Conn's, Inc.'s common stock (incorporated herein by reference to Exhibit 4.1 to registration statement on Form S-1 (File No. 333-109046) as filed with the Securities and Exchange Commission on October 29, 2003)</a>
4.2	<a href="#">Indenture, dated as of July 1, 2014, by and among Conn's, Inc., as issuer, the several guarantors named therein and U.S. Bank National Association, as trustee (incorporated herein by reference to Exhibit 4.1 to Form 8-K (File No. 001-34956) as filed with the Securities and Exchange Commission on July 2, 2014)</a>
4.2.1	<a href="#">First Supplemental Indenture, dated September 10, 2015, by and among Conn's, Inc., as issuer, the guarantors party thereto and U.S. Bank National Association, as trustee (incorporated herein by reference to Exhibit 10.9 to Form 10-Q for the quarterly period ended October 31, 2015 (File No. 001-34956) as filed with the Securities and Exchange Commission on December 8, 2015)</a>
4.2.2	<a href="#">Second Supplemental Indenture, dated October 30, 2015, by and among Conn's Inc., as issuer, the guarantors party thereto and U.S. Bank National Association, as trustee (incorporated herein by reference to Exhibit 10.3 to Form 8-K (File No. 001-34956) as filed with the Securities and Exchange Commission on November 2, 2015)</a>
4.2.3	<a href="#">Form of 7.250% Senior Notes due 2022 (incorporated herein by reference to Exhibit A to Exhibit 4.1 to Form 8-K (File No. 001-34956) as filed with the Securities and Exchange Commission on July 2, 2014)</a>
4.3	<a href="#">Base Indenture, dated as of April 24, 2019, by and between the Issuer and the Trustee (incorporated herein by reference to Exhibit 4.1 to Form 8-K (File No. 001-34956) as filed with the Securities and Exchange Commission on April 25, 2019)</a>
4.3.1	<a href="#">Series 2019-A Supplement to the Base Indenture, dated as of April 24, 2019, by and between the Issuer and the Trustee (incorporated herein by reference to Exhibit 4.2 to Form 8-K (File No. 001-34956) as filed with the Securities and Exchange Commission on April 25, 2019)</a>

4.4	<a href="#">Base Indenture, dated as of November 26, 2019, by and between the Issuer and the Trustee (incorporated herein by reference to Exhibit 4.1 to Form 8-K (File No. 001-34956) as filed with the Securities and Exchange Commission on November 27, 2019)</a>
4.4.1	<a href="#">Series 2019-B Supplement to the Base Indenture, dated as of November 26, 2019, by and between the Issuer and the Trustee (incorporated herein by reference to Exhibit 4.2 to Form 8-K (File No. 001-34956) as filed with the Securities and Exchange Commission on November 27, 2019)</a>
4.5	<a href="#">Description of Registrant’s Securities (filed herewith)</a>
4.6	<a href="#">Base Indenture, dated as of October 16, 2020, by and between the Issuer and the Trustee (incorporated herein by reference to Exhibit 4.1 to Form 8-K (File No. 001-34956) as filed with the Securities and Exchange Commission on October 20, 2020)</a>
4.7	<a href="#">Series 2020-A Supplement to the Base Indenture, dated as of October 16, 2020, by and between the Issuer and the Trustee (incorporated herein by reference to Exhibit 4.2 to Form 8-K (File No. 001-34956) as filed with the Securities and Exchange Commission on October 20, 2020)</a>
* 10.1	<a href="#">Amended and Restated 2003 Incentive Stock Option Plan (incorporated herein by reference to Exhibit 10.1 to registration statement on Form S-1 (File No. 333-109046) as filed with the Securities and Exchange Commission on September 23, 2003)</a>
* 10.1.1	<a href="#">Amendment to the Conn’s, Inc. Amended and Restated 2003 Incentive Stock Option Plan (incorporated herein by reference to Exhibit 10.1.1 to Form 10-Q for the quarterly period ended April 30, 2004 (File No. 000-50421) as filed with the Securities and Exchange Commission on June 7, 2004)</a>
* 10.1.2	<a href="#">Form of Stock Option Agreement under the Amended and Restated 2003 Incentive Stock Option Plan (incorporated herein by reference to Exhibit 10.1.2 to Form 10-K for the annual period ended January 31, 2005 (File No. 000-50421) as filed with the Securities and Exchange Commission on April 5, 2005)</a>
* 10.2	<a href="#">2011 Employee Omnibus Incentive Plan (incorporated by reference to Exhibit 10.1.3 to Form 10-Q for the quarterly period ended April 30, 2011 (File No. 001-34956) filed the Securities and Exchange Commission on May 26, 2011)</a>
* 10.2.1	<a href="#">Form of Restricted Stock Award Agreement under the 2011 Employee Omnibus Incentive Plan (incorporated herein by reference to Exhibit 10.1.4 to Form 10-Q for the quarterly period ended April 30, 2011 (File No. 001-34956) as filed with the Securities and Exchange Commission on May 26, 2011)</a>
* 10.3	<a href="#">2003 Non-Employee Director Stock Option Plan (incorporated herein by reference to Exhibit 10.2 to registration statement on Form S-1 (File No. 333-109046) as filed with the Securities and Exchange Commission on September 23, 2003)</a>
* 10.3.1	<a href="#">Form of Stock Option Agreement under the 2003 Non-Employee Director Stock Option Plan (incorporated herein by reference to Exhibit 10.2.1 to Form 10-K for the annual period ended January 31, 2005 (File No. 000-50421) as filed with the Securities and Exchange Commission on April 5, 2005)</a>
* 10.4	<a href="#">2011 Non-Employee Director Restricted Stock Plan (incorporated by reference to Exhibit 10.2.2 to Form 10-Q for the quarterly period ended April 30, 2011 (File No. 001-34956) as filed with the Securities and Exchange Commission on May 26, 2011)</a>
*10.4.1	<a href="#">First Amendment to 2011 Non-Employee Director Restricted Stock Plan effective August 27, 2013 (incorporated herein by reference to Exhibit 10.1 to Form 10-Q for the quarterly period ended July 31, 2013 (File No. 001-34956) as filed with the Securities and Exchange Commission on September 5, 2013)</a>
*10.4.2	<a href="#">Form of Restricted Stock Award Agreement under the 2011 Non-Employee Director Restricted Stock Plan (incorporated by reference to Exhibit 10.2.3 to Form 10-Q for the quarterly period ended April 30, 2011 (File No. 001-34956) as filed with the Securities and Exchange Commission on May 26, 2011)</a>
*10.4.3	<a href="#">Revised Form of Restricted Stock Award Agreement under the 2011 Non-Employee Director Restricted Stock Plan (incorporated herein by reference to Exhibit 10.2 to Form 10-Q for the quarterly period ended July 31, 2013 (File No. 001-34956) as filed with the Securities and Exchange Commission on September 5, 2013)</a>
*10.4.4	<a href="#">Revised Form of Restricted Stock Award Agreement under the 2011 Non-Employee Director Restricted Stock Plan (incorporated herein by reference to Exhibit 10.1 to Form 10-Q for the quarterly period ended April 30, 2015 (File No. 001-34956) as filed with the Securities and Exchange Commission on June 2, 2015)</a>
*10.4.5	<a href="#">Form of Deferral Election Form under the 2011 Non-Employee Director Restricted Stock Plan (incorporated herein by reference to Exhibit 10.3 to Form 10-Q for the quarterly period ended July 31, 2013 (File No. 001-34956) as filed with the Securities and Exchange Commission on September 5, 2013)</a>

*10.4.6	<a href="#">Revised Form of Deferral Election Form under the 2011 Non-Employee Director Restricted Stock Plan (incorporated herein by reference to Exhibit 10.2 to Form 10-Q for the quarterly period ended April 30, 2015 (File No. 001-34956) as filed with the Securities and Exchange Commission on June 2, 2015)</a>
* 10.5	<a href="#">2016 Omnibus Stock Incentive Plan (incorporated herein by reference to Exhibit 99.1 to registration statement on Form S-8 (File No. 333-211584) as filed with the Securities and Exchange Commission on May 25, 2016)</a>
*10.5.1	<a href="#">Amended 2016 Omnibus Stock Incentive Plan (incorporated herein by reference to Appendix A to Conn's, Inc. Definitive Proxy Statement on Schedule 14A (File No. 001-34956) as filed with the Securities and Exchange Commission on April 17, 2017)</a>
*10.5.2	<a href="#">Form of Restricted Stock Unit Award Agreement (Time-based and Performance-based Vesting) under the 2016 Omnibus Stock Incentive Plan (incorporated herein by reference to Exhibit 10.4 to Form 10-Q for the quarterly period ended July 31, 2016 (File No. 001-34956) as filed with the Securities and Exchange Commission on September 8, 2016)</a>
*10.5.3	<a href="#">Form of Restricted Stock Unit Award Agreement (Time-based vesting) under the 2016 Omnibus Stock Incentive Plan (incorporated herein by reference to Exhibit 10.5 to Form 10-Q for the quarterly period ended July 31, 2016 (File No. 001-34956) as filed with the Securities and Exchange Commission on September 8, 2016)</a>
*10.5.4	<a href="#">Form of Performance-Based Restricted Stock Unit Award Agreement relating to fiscal year 2017 Special Equity Awards under the 2016 Omnibus Stock Incentive Plan (incorporated herein by reference to Exhibit 10.5.3 to Form 10-K for the annual period ended January 31, 2017 (File No. 001-34956) as filed with the Securities and Exchange Commission on April 4, 2017)</a>
*10.5.5	<a href="#">Form of Restricted Stock Unit Award Agreement relating to fiscal year 2017 Special Equity Awards under the 2016 Omnibus Stock Incentive Plan (incorporated herein by reference to Exhibit 10.5.4 to Form 10-K for the annual period ended January 31, 2017 (File No. 001-34956) as filed with the Securities and Exchange Commission on April 4, 2017)</a>
*10.6	<a href="#">Conn's, Inc. 2020 Omnibus Equity Plan (incorporated herein by reference to Appendix A of the Company's Definitive Proxy Statement on Schedule 14A (File No. 001-34956) as filed with the Securities and Exchange Commission on April 14, 2020)</a>
* 10.7	<a href="#">Employee Stock Purchase Plan (incorporated herein by reference to Exhibit 10.3 to registration statement on Form S-1 (File No. 333-109046) as filed with the Securities and Exchange Commission on September 23, 2003)</a>
* 10.8	<a href="#">Conn's 401(k) Retirement Savings Plan (incorporated herein by reference to Exhibit 10.4 to registration statement on Form S-1 (File No. 333-109046) as filed with the Securities and Exchange Commission on September 23, 2003)</a>
* 10.9	<a href="#">Executive Severance Agreement by and between Norman Miller and Conn's Inc., dated as of September 7, 2015 (incorporated herein by reference to Exhibit 10.2 to Form 8-K (File No. 001-34956) as filed with the Securities and Exchange Commission on September 9, 2015)</a>
*10.9.1	<a href="#">Letter Agreement from Conn's, Inc. to Norman L. Miller, dated as of January 2, 2017 (incorporated by reference to Exhibit 10.1 to Form 8-K (File No. 001-34956) filed with the Securities and Exchange Commission on January 6, 2017)</a>
*10.10	<a href="#">Offer of employment from Conn's Inc. to Lee A. Wright, dated as of May 31, 2016 (incorporated herein by reference to Exhibit 10.1 to Form 8-K (File No. 001-34956) filed with the Securities and Exchange Commission on June 2, 2016)</a>
*10.10.1	<a href="#">Executive Severance Agreement by and between Lee A. Wright and Conn's Inc., dated as of May 31, 2016 (incorporated herein by reference to Exhibit 10.2 to Form 8-K (File No. 001-34956) filed with the Securities and Exchange Commission on June 2, 2016)</a>
*10.11	<a href="#">Offer of employment from Conn's Inc. to George Bchara, dated as of December 9, 2016 (incorporated by reference to Exhibit 10.1 to Form 8-K (File No. 001-34956) filed with the Securities and Exchange Commission on December 14, 2016)</a>
*10.12	<a href="#">Executive Severance Agreement by and between Rodney Lastinger and Conn's Inc., dated as of June 3, 2019 (incorporated herein by reference to Exhibit 10.1 to Form 10-Q (File No. 001-34956) filed with the Securities and Exchange Commission on September 3, 2019)</a>
*10.13	<a href="#">Executive Severance Plan (incorporated herein by reference to Exhibit 10.14 to Form 10-Q for the quarterly period ended October 31, 2014 (File No. 001-34956) as filed with the Securities and Exchange Commission on December 8, 2015)</a>
10.14	<a href="#">Amended and Restated Executive Severance Plan (incorporated herein by reference to Exhibit 10.1 to Form 10-Q for the quarterly period ended July 31, 2020 (File No. 001-34956) as filed with the Securities and Exchange Commission on September 3, 2020)</a>

**10.15	<a href="#">Fifth Amended and Restated Loan Agreement, dated March 29, 2021, by and among the Company, as parent and guarantor, Conn Appliances, Inc., Conn Credit I, LP and Conn Credit Corporation, Inc., as borrowers, certain banks and financial institutions named therein, as lenders, and Bank of America N.A., in its capacity as agent for lenders (filed herewith)</a>
10.16	<a href="#">Omnibus Amendment and Reaffirmation of Existing Ancillary Documents, dated as of October 30, 2015, by and among Conn's Inc., Conn Appliances, Inc., Conn Credit I, LP, and Conn Credit Corporation, Inc., the guarantors party thereto and Bank of America, N.A., in its capacity as agent for lenders (incorporated herein by reference to Exhibit 10.2 to Form 8-K (File No. 001-34956) as filed with the Securities and Exchange Commission on November 2, 2015)</a>
10.17	<a href="#">Form of Indemnification Agreement (incorporated herein by reference to Exhibit 10.16 to registration statement on Form S-1 (file no. 333-109046) as filed with the Securities and Exchange Commission on September 23, 2003)</a>
10.18	<a href="#">Note Purchase Agreement, dated December 12, 2017, by and among Conn's Inc., Conn's Receivables Funding 2017-B, LLC, Conn Appliances, Inc., Credit Suisse Securities (USA) LLC, JP Morgan Securities LLC, MUFG Securities Americas Inc. and Deutsche Bank Securities Inc., as initial purchasers (incorporated herein by reference to Exhibit 1.1 to Form 8-K (File No. 001-34956) as filed with the Securities and Exchange Commission on December 26, 2017)</a>
10.19	<a href="#">First Receivables Purchase Agreement, dated December 20, 2017, by and between Conn Credit I, L.P. and Conn Appliances Receivables Funding, LLC (incorporated herein by reference to Exhibit 10.1 to Form 8-K (File No. 001-34956) as filed with the Securities and Exchange Commission on December 26, 2017)</a>
10.20	<a href="#">Second Receivables Purchase Agreement, dated December 20, 2017, by and between Conn Credit I, L.P. and Conn Appliances Receivables Fund, LLC (incorporated herein by reference to Exhibit 10.2 to Form 8-K (File No. 001-34956) as filed with the Securities and Exchange Commission on December 26, 2017)</a>
10.21	<a href="#">Purchase and Sale Agreement, dated December 20, 2017 by and between Conn Appliances Receivables Funding, LLC and Conn's Receivables 2017-B Trust (incorporated herein by reference to Exhibit 10.3 to Form 8-K (File No. 001-34956) as filed with the Securities and Exchange Commission on December 26, 2017)</a>
10.22	<a href="#">Servicing Agreement dated as of December 20, 2017, among Conn's Receivables Funding 2017-B, LLC, Conn's Receivables 2017-B Trust, Conn Appliances, Inc. and Wilmington Trust, National Association (incorporated herein by reference to Exhibit 10.4 to Form 8-K (File No. 001-34956) as filed with the Securities and Exchange Commission on December 26, 2017)</a>
10.23	<a href="#">First Receivables Purchase Agreement, dated August 15, 2018, by and between the Seller and the Depositor (incorporated herein by reference to Exhibit 10.1 to Form 8-K (File No. 001-34956) as filed with the Securities and Exchange Commission on August 17, 2018)</a>
10.24	<a href="#">Second Receivables Purchase Agreement, dated August 15, 2018, by and between the Seller and the Receivables Trust (incorporated herein by reference to Exhibit 10.2 to Form 8-K (File No. 001-34956) as filed with the Securities and Exchange Commission on August 17, 2018)</a>
10.25	<a href="#">Purchase and Sale Agreement, dated August 15, 2018, by and between the Seller and the Receivables Trust (incorporated herein by reference to Exhibit 10.3 to Form 8-K (File No. 001-34956) as filed with the Securities and Exchange Commission on August 17, 2018)</a>
10.26	<a href="#">Servicing Agreement dated as of August 15, 2018, by and among the Issuer, the Receivables Trust, the Servicer and the Trustee (incorporated herein by reference to Exhibit 10.4 to Form 8-K (File No. 001-34956) as filed with the Securities and Exchange Commission on August 17, 2018)</a>
10.27	<a href="#">First Receivables Purchase Agreement, dated April 24, 2019, by and between the Seller and the Depositor (incorporated herein by reference to Exhibit 10.1 to Form 8-K (File No. 001-34956) as filed with the Securities and Exchange Commission on April 25, 2019)</a>
10.28	<a href="#">Second Receivables Purchase Agreement, dated April 24, 2019, by and between the Seller and the Receivables Trust (incorporated herein by reference to Exhibit 10.2 to Form 8-K (File No. 001-34956) as filed with the Securities and Exchange Commission on April 25, 2019)</a>
10.29	<a href="#">Purchase and Sale Agreement, dated April 24, 2019, by and between the Seller and the Receivables Trust (incorporated herein by reference to Exhibit 10.3 to Form 8-K (File No. 001-34956) as filed with the Securities and Exchange Commission on April 25, 2019)</a>
10.30	<a href="#">Servicing Agreement dated as of April 24, 2019, by and among the Issuer, the Receivables Trust, the Servicer and the Trustee (incorporated herein by reference to Exhibit 10.4 to Form 8-K (File No. 001-34956) as filed with the Securities and Exchange Commission on April 25, 2019)</a>
10.31	<a href="#">Note Purchase Agreement, dated November 19, 2019, by and among Conn Appliances, Inc., Conn's Receivables Funding 2019-B, LLC, Conn Appliances Receivables Funding, LLC, Conn's, Inc. and the Initial Purchasers (incorporated herein by reference to Exhibit 1.1 to Form 8-K (File No. 001-34956) as filed with the Securities and Exchange Commission on November 22, 2019)</a>

10.32	<a href="#">First Receivables Purchase Agreement, dated November 26, 2019, by and between the Seller and the Depositor (incorporated herein by reference to Exhibit 10.1 to Form 8-K (File No. 001-34956) as filed with the Securities and Exchange Commission on November 27, 2019)</a>
10.33	<a href="#">Second Receivables Purchase Agreement, dated November 26, 2019, by and between the Seller and the Receivables Trust (incorporated herein by reference to Exhibit 10.2 to Form 8-K (File No. 001-34956) as filed with the Securities and Exchange Commission on November 27, 2019)</a>
10.34	<a href="#">Purchase and Sale Agreement, dated November 26, 2019, by and between the Seller and the Receivables Trust (incorporated herein by reference to Exhibit 10.3 to Form 8-K (File No. 001-34956) as filed with the Securities and Exchange Commission on November 27, 2019)</a>
10.35	<a href="#">Servicing Agreement dated as of November 26, 2019, by and among the Issuer, the Receivables Trust, the Servicer and the Trustee (incorporated herein by reference to Exhibit 10.4 to Form 8-K (File No. 001-34956) as filed with the Securities and Exchange Commission on November 27, 2019)</a>
10.36	<a href="#">Note Purchase Agreement, dated October 9, 2020, by and among Conn Appliances, Inc., Conn's Receivables Funding 2020-A, LLC, Conn Appliances Receivables Funding, LLC, Conn's, Inc. and the Initial Purchasers (incorporated herein by reference to Exhibit 1.1 to Form 8-K (File No. 001-34956) as filed with the Securities and Exchange Commission on October 13, 2020)</a>
10.37	<a href="#">First Receivables Purchase Agreement, dated October 16, 2020, by and between the Seller and the Depositor (incorporated herein by reference to Exhibit 10.1 to Form 8-K (File No. 001-34956) as filed with the Securities and Exchange Commission on October 20, 2020)</a>
10.38	<a href="#">Second Receivables Purchase Agreement, dated October 16, 2020, by and between the Seller and the Receivables Trust (incorporated herein by reference to Exhibit 10.2 to Form 8-K (File No. 001-34956) as filed with the Securities and Exchange Commission on October 20, 2020)</a>
10.39	<a href="#">Purchase and Sale Agreement, dated October 16, 2020, by and between the Seller and the Receivables Trust (incorporated herein by reference to Exhibit 10.3 to Form 8-K (File No. 001-34956) as filed with the Securities and Exchange Commission on October 20, 2020)</a>
10.40	<a href="#">Servicing Agreement dated as of October 16, 2020, by and among the Issuer, the Receivables Trust, the Servicer and the Trustee (incorporated herein by reference to Exhibit 10.4 to Form 8-K (File No. 001-34956) as filed with the Securities and Exchange Commission on October 20, 2020)</a>
10.41	<a href="#">Third Omnibus Amendment, dated as of February 6, 2018, among Conn's Receivables Warehouse, LLC, Conn Appliances, Inc., Wells Fargo Bank, National Association, Credit Suisse AG, New York Branch, Conn's Receivables Warehouse Trust, Conn Appliances Receivables Funding, LLC, Credit Suisse AG, Cayman Islands Branch and Conn Credit I, LP (incorporated herein by reference to Exhibit 10.1 to Form 8-K/A (File No. 001-34956) as filed with the Securities and Exchange Commission on February 13, 2018)</a>
10.42	<a href="#">Fourth Omnibus Amendment, dated as of July 9, 2018, among Conn's Receivables Warehouse, LLC, Conn Appliances, Inc., Wells Fargo Bank, National Association, Credit Suisse AG, New York Branch, Conn's Receivables Warehouse Trust, Conn Appliances Receivables Funding, LLC, Credit Suisse AG, Cayman Islands Branch and Conn Credit I, LP (incorporated herein by reference to Exhibit 10.1 to Form 8-K (File No. 001-34956) as filed with the Securities and Exchange Commission on July 12, 2018)</a>
10.43	<a href="#">Master Services Agreement for Professional Services, dated April 14, 2020, between Conn Appliances, Inc. and John Davis (incorporated herein by reference to Exhibit 10.2 to Form 10-Q (File No. 001-34956) as filed with the Securities and Exchange Commission on June 9, 2020)</a>
*10.44	<a href="#">General Release and Waiver, dated as of January 29, 2021, between Conn's, Inc. and Lee Wright (filed herewith)</a>
21	<a href="#">Subsidiaries of Conn's, Inc. (filed herewith)</a>
23.1	<a href="#">Consent of Ernst &amp; Young LLP (filed herewith)</a>
31.1	<a href="#">Rule 13a-14(a)/15d-14(a) Certification (Chief Executive Officer) (filed herewith)</a>
31.2	<a href="#">Rule 13a-14(a)/15d-14(a) Certification (Chief Financial Officer) (filed herewith)</a>
32.1	<a href="#">Section 1350 Certification (Chief Executive Officer and Chief Financial Officer) (furnished herewith)</a>
101	The following financial information from our Annual Report on Form 10-K for the annual period ended January 31, 2021, filed with the SEC on March 31, 2021, formatted in Inline Extensible Business Reporting Language (iXBRL): (i) consolidated balance sheets as of January 31, 2021 and 2020, (ii) consolidated statements of operations for the fiscal years ended January 31, 2021, 2021 and 2020, (iii) consolidated statements of comprehensive income for the fiscal years ended January 31, 2021, 2020 and 2019, (iv) consolidated statements of stockholders' equity for the fiscal years ended January 31, 2021, 2020 and 2019, (v) consolidated statements of cash flows for the fiscal years ended January 31, 2021, 2020 and 2019, and (vi) notes to consolidated financial statements

104 Cover Page Interactive Data File (embedded within the Inline XBRL Document and included in Exhibit 101)

\* Management contract or compensatory plan or arrangement.

\*\* Schedules and exhibits to this Exhibit have been omitted pursuant to Item 601(a)(5) of Regulation S-K. The Company hereby undertakes to furnish supplemental copies of any of the omitted schedules and exhibits upon request by the SEC.

**ITEM 16. FORM 10-K SUMMARY.**

None.

**SIGNATURES**

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

**CONN'S, INC.**

(Registrant)

By: /s/ Norman Miller  
 Norman Miller  
*Chief Executive Officer and President*

Date:  
 March 31, 2021

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

<b>Signature</b>	<b>Title</b>	<b>Date</b>
<u>/s/ Norman Miller</u> Norman Miller	Chairman of the Board, Chief Executive Officer and President (Principal Executive Officer)	March 31, 2021
<u>/s/ George L. Bchara</u> George L. Bchara	Executive Vice President and Chief Financial Officer (Principal Financial Officer)	March 31, 2021
<u>/s/ Ryan R. Nelson</u> Ryan R. Nelson	Chief Accounting Officer (Principal Accounting Officer)	March 31, 2021
<u>/s/ Bob L. Martin</u> Bob L. Martin	Director	March 31, 2021
<u>/s/ William E. Saunders Jr.</u> William E. Saunders Jr.	Director	March 31, 2021
<u>/s/ Douglas H. Martin</u> Douglas H. Martin	Director	March 31, 2021
<u>/s/ David Schofman</u> David Schofman	Director	March 31, 2021
<u>/s/ James Haworth</u> James Haworth	Director	March 31, 2021
<u>/s/ Oded Shein</u> Oded Shein	Director	March 31, 2021
<u>/s/ Sue Gove</u> Sue Gove	Director	March 31, 2021

**DESCRIPTION OF THE REGISTRANT'S SECURITIES REGISTERED PURSUANT TO SECTION 12 OF THE SECURITIES EXCHANGE ACT OF 1934**

Throughout this exhibit, references to “the Company,” “we,” “our,” and “us” refer to Conn’s, Inc. The following summary of terms of our common stock, par value \$0.01 per share (the “common stock”), and preferred stock, \$0.01 value per share (the “preferred stock”), is based upon our Certificate of Incorporation (as amended, our “Certificate of Incorporation”) and Third Amended and Restated Bylaws (as amended, our “Bylaws”). This summary is not complete and is subject to, and qualified in its entirety by reference to, our Certificate of Incorporation and our Bylaws. For a complete description of the terms and provisions of the common stock, refer to our Certificate of Incorporation and our Bylaws. We encourage you to read these documents and the applicable portions of the Delaware General Corporation Law (the “DGCL”) carefully.

**Authorized Capital Stock**

Our authorized capital stock consists of 100,000,000 shares of common stock, \$0.01 par value per share, and 1,000,000 shares of preferred stock, \$0.01 par value per share.

**Common Stock**

Subject to the provisions of our Certificate of Incorporation and limitations prescribed by law or the rules of any stock exchange or automated quotation system on which our securities may be listed or traded, we may issue our common stock from time to time upon such terms and for such consideration as may be determined by our board of directors. Generally, the issuance of common stock, up to the aggregate amounts authorized by our Certificate of Incorporation and any limitations prescribed by law or the rules of any stock exchange or automated quotation system on which our securities may be listed or traded, will not require approval of our stockholders. The shares of common stock have no preemptive rights to participate in future stock offerings.

**Voting**

For all matters submitted to a vote of stockholders, the holders of our common stock, subject to any rights that may be granted to any preferred stockholders, elect all directors and are entitled to one vote for each share registered in the stockholder’s name on all other matters coming before a stockholders’ meeting. Our common stock does not have cumulative voting rights. Accordingly, holders of a majority of the shares of common stock entitled to vote in any uncontested election of directors may elect all of the directors standing for election. In a contested election, directors are elected by a plurality of the shares voting in person or by proxy. A plurality means receiving the largest number of votes, regardless of whether that is a majority.

**Dividends**

Holders of common stock are entitled to share ratably in any dividends declared by our board of directors, subject to any preferential dividend rights of any outstanding preferred stock. Dividends consisting of shares of common stock may be paid to holders of shares of common stock.

**Liquidation and Dissolution**

If we are liquidated or dissolve, the holders of our common stock will be entitled to share ratably in all the assets that remain after we pay our liabilities, subject to the prior rights of any outstanding preferred stock.

**Other Rights and Restrictions**

Holders of our common stock do not have preemptive rights, are not entitled to the benefits of any sinking fund, and have no right to convert their common stock into any other securities. Our common stock is not subject to redemption by us. Our Certificate of Incorporation and Bylaws do not restrict the ability of a holder of common stock to transfer the stockholder’s shares of common stock.

The rights, powers, preferences and privileges of holders of our common stock are subject to, and may be adversely affected by, the rights of the holders of any series of our preferred stock.

**Listing**

Our common stock is listed on the NASDAQ Global Select Market under the symbol “CONN.”

**Transfer Agent and Registrar**

The transfer agent and registrar for our common stock is Computershare Trust Company, Inc.

## **Anti-Takeover Provisions of Our Certificate of Incorporation and Bylaws and the Delaware General Corporation Laws**

Our Certificate of Incorporation and Bylaws and the DGCL contain provisions that could have the effect of delaying, deferring or discouraging another party from acquiring control of us. These provisions, which are summarized below, are designed to, among other things, discourage coercive takeover practices and inadequate takeover bids and encourage persons seeking to acquire control of us to first negotiate with our board of directors in hopes of improving the terms of any such takeover bids.

### ***Authorized but Unissued Capital Stock***

We currently have 100,000,000 authorized shares of common stock and 1,000,000 authorized shares of preferred stock. Due to our authorized but unissued common stock and preferred stock, our board of directors may be able to discourage or make any attempt to obtain control of us more difficult. If, in the exercise of its fiduciary obligations, our board of directors determines that a takeover proposal is not in our best interest, the board of directors could issue a portion of these shares without stockholder approval, subject to any limitations prescribed by law or the rules of any stock exchange or automated quotation or system on which our securities may be listed or traded. These shares could be issued in one or more transactions that might prevent or make the completion of a proposed change of control transaction more difficult or costly by:

- diluting the voting or other rights of the proposed acquiror or insurgent stockholder group;
- creating a substantial voting block in institutional or other hands that might undertake to support the position of the incumbent board of directors; or
- effecting an acquisition that might complicate or preclude the takeover.

In this regard, our Certificate of Incorporation grants our board of directors broad power to establish the rights, preferences and limitations of the authorized and unissued shares of our preferred stock. For example, our board of directors could establish one or more series of preferred stock that entitle holders to:

- vote separately as a class on any proposed merger or consolidation;
- cast a proportionately larger vote together with our common stock on any proposed transaction or other voting matter;
- elect directors having terms of office or voting rights greater than those of our other directors;
- convert preferred stock into a greater number of shares of our common stock or other securities;
- demand redemption at a specified price under prescribed circumstances related to a change of control of us; or
- exercise other rights designed to impede a takeover.

### ***Stockholder Action, Special Meeting of Stockholders, Advance Notice Requirements for Stockholder Proposals and Director Nominations***

Our Bylaws establish an advance notice procedure for stockholders to make nominations of candidates for election as directors and to bring other business before an annual meeting of our stockholders. For notice of stockholder nominations and other business to be timely, the notice must be received by our secretary not less than 90 days nor more than 120 days prior to the first anniversary of the date of the preceding year's annual meeting; provided, however, that in the event that the date of the annual meeting is more than 30 days before or more than 60 days after such anniversary date, notice by the stockholder to be timely must be delivered, or mailed and received, not earlier than the 120th day prior to the annual meeting and not later than the 90th day prior to the annual meeting or, if later, the 10th day following the day on which public disclosure of the date of such annual meeting was first made. In addition to these procedures, a stockholder's notice proposing to nominate a person for election as a director or relating to the conduct of business other than the nomination of directors must contain certain specified information. Except for proposals properly made in accordance with Section 14a-8 under the Securities Exchange Act of 1933, as amended (including the rules and regulations promulgated thereunder), and included in the notice of meeting given by or at the direction of the board of directors, the procedures summarized in this paragraph are the exclusive means for a stockholder to nominate a person for election as a director or propose business to be brought before an annual meeting of our stockholders and failure to comply with such procedures may result in a determination that an individual was not nominated or the other business was not properly brought before the meeting.

### ***No Stockholder Action by Written Consent; Special Meetings.***

Any action required or permitted to be taken by our stockholders must be effected at a duly called annual or special meeting of stockholders and may not be effected by written consent without a meeting unless approved in advance by our board of directors. Special meetings of our stockholders for any purpose or purposes may be called only by our Chairman, our President or by a majority of our board of directors.

### ***Amendment of our Certificate of Incorporation and Bylaws***

Amendments to our Certificate of Incorporation generally must be approved by our board of directors and by a majority of the outstanding shares of our common stock entitled to vote on the amendment, except that amendments to certain articles of our Certificate of Incorporation related to (a) amendments to the Certificate of Incorporation or Bylaws, (b) elimination of liability of our directors for breach of fiduciary duties (as further described below), (c) the size and construction of the board of directors, and (d) the prohibition on the taking of action by our stockholders by written consent, require the approval of 75% of the outstanding shares of our common stock entitled to vote on the amendment.

Our Bylaws may be amended or repealed, and new bylaws may be adopted, by a majority vote of our board of directors. Bylaws relating to (a) special meetings of stockholders, (b) the prohibition on the taking of action by our stockholders by written consent, (c) advance notice of nominations for election and other business to be considered at stockholder meetings, (d) the size and construction of the board of directors, and (e) amendments insofar as they relate to the foregoing, may be amended by the affirmative vote of the holders of at least 75% of the combined voting power of the then outstanding shares of all classes and series of capital stock entitled generally to vote in the election of directors, voting together as a single class.

#### ***Delaware Anti-Takeover Provisions***

We are subject to Section 203 of the DGCL. In general, the statute prohibits a publicly-held Delaware corporation from engaging in any “business combination” with any person deemed to be an “interested stockholder” for a period of three years following the date that the stockholder became an interested stockholder unless:

- prior to the date that the person became an interested stockholder, the board of directors of the corporation approved either the business combination or the transaction that resulted in the stockholder becoming an interested stockholder;
- upon consummation of the transaction that resulted in the stockholder becoming an interested stockholder, the interested stockholder owned at least 85% of the voting stock of the corporation outstanding at the time the transaction commenced, excluding those shares owned by persons who are directors and also officers and by employee stock plans in which employee participants do not have the right to determine confidentially whether shares held subject to the plan will be tendered in a tender or exchange offer; or
- on or subsequent to the date that the person became an interested stockholder, the business combination is approved by the board of directors and authorized at an annual or special meeting of stockholders by the affirmative vote of at least two-thirds of the outstanding voting stock not held by the interested stockholder.

Section 203 of the DGCL defines “business combination” to include:

- any merger or consolidation involving the corporation and the interested stockholder;
- any sale, lease, transfer, pledge, or other disposition involving the interested stockholder of 10% or more of the assets of the corporation;
- subject to certain exceptions, any transaction that results in the issuance or transfer by the corporation of any stock of the corporation to the interested stockholder;
- any transaction involving the corporation which directly or indirectly materially increases the proportionate share of stock owned by the interested stockholder; or
- the receipt by the interested stockholder of the benefit of any loans, advances, guarantees, pledges or other financial benefits provided by or through the corporation.

In general, Section 203 of the DGCL defines an interested stockholder as any person beneficially owning 15% or more of the outstanding voting stock of the corporation and any person controlling, controlled by or under common control with that person.

Section 203 of the DGCL may make it more difficult for an interested stockholder to effect various business combinations with us for a three-year period.

The above description of Section 203 of the DGCL is intended as a summary only and is qualified in its entirety by reference to Section 203 of the DGCL.

#### **Exclusive Forum**

Our Bylaws provide that unless the Company consents in writing to the selection of an alternative forum, subject to applicable jurisdictional requirements, the Court of Chancery of the State of Delaware (or, if the Court of Chancery of the State of Delaware lacks subject matter jurisdiction over any such action or proceeding, another state or federal court located within the State of Delaware) is the sole and exclusive forum for (i) any derivative action or proceeding brought on behalf of the Company, (ii) any action asserting a claim of breach of a fiduciary duty owed by any director, officer or other employee or agent of the Company to the Company or the Company’s stockholders, including a claim alleging the aiding and abetting of

such a breach of fiduciary duty, (iii) any action asserting a claim arising out of or relating to any provision of the DGCL, our Certificate of Formation or our Bylaws, (iv) any action asserting a claim related to or involving the Company or any director, officer, stockholder, employee or agent of the Company that is governed by the internal affairs doctrine, or (v) any action asserting an “internal corporate claim” as that term is defined in Section 115 of the DGCL. Our Bylaws further provide that the U.S. Federal District Courts of the United States shall be the sole and exclusive forum for any action asserting a cause of action arising under the Securities Act of 1933, as amended. Any person or entity purchasing or otherwise acquiring any interest in shares of our capital stock shall be deemed to have notice of, and consented to, the forum provisions in our Bylaws. The enforceability of similar forum provisions in other companies’ certificates of incorporation has been challenged in legal proceedings, and it is possible that a court could find these types of provisions to be inapplicable or unenforceable.

#### **Limitations on Liability and Indemnification of Directors and Officers**

The DGCL authorizes corporations to limit or eliminate the personal liability of directors to corporations and their stockholders for monetary damages for breaches of directors’ fiduciary duties, subject to certain exceptions and conditions. Our Certificate of Incorporation and Bylaws eliminate the personal liability of a director to the Company for monetary damages for breach of a fiduciary duty as a director, except for liability (i) for any breach of the director’s duty of loyalty to the Company or our stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the DGCL, or (iv) for any transaction from which the director derived an improper personal benefit.

In addition, our Certificate of Incorporation and Bylaws provide that we must indemnify our directors, officers, incorporators, employees and agents to the fullest extent permitted by the DGCL, which includes advancement of expenses upon receipt of an undertaking by or on behalf of the applicable indemnified person to repay all amounts so advanced in the event that it is ultimately determined that such person is not entitled to be indemnified.

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**FIFTH AMENDED AND RESTATED LOAN AND SECURITY AGREEMENT**

Dated as of March 29, 2021

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**CONN'S, INC.,**  
as Parent and Guarantor  
and  
**CONN APPLIANCES, INC.,**  
**CONN CREDIT I, LP,**  
and  
**CONN CREDIT CORPORATION, INC.,**  
as Borrowers

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**CERTAIN FINANCIAL INSTITUTIONS,**  
as Lenders,  
**JPMORGAN CHASE BANK, N.A.,**  
as Administrative Agent and Collateral Agent,  
**REGIONS BANK,** and  
**MUFG UNION BANK, N.A.,**  
as Co-Syndication Agents,  
**JPMORGAN CHASE BANK, N.A.,**  
**REGIONS CAPITAL MARKETS, a division of REGIONS BANK,**  
and  
**MUFG UNION BANK, N.A.,**  
as Joint Lead Arrangers and Joint Bookrunners,  
and  
**CITIZENS BANK,**  
as Documentation Agent

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## TABLE OF CONTENTS

<b>SECTION 1.</b>	<b>DEFINITIONS; RULES OF CONSTRUCTION</b>	<b><u>2</u></b>
	1.1 Definitions	<u>2</u>
	1.2 Accounting Terms	<u>49</u>
	1.3 Uniform Commercial Code	<u>49</u>
	1.4 Certain Matters of Construction	<u>49</u>
	1.5 Payment and Performance	<u>50</u>
	1.6 Compliance with this Agreement	<u>50</u>
	1.7 Classification	<u>50</u>
	1.8 Certain Calculations	<u>50</u>
	1.9 Interest Rates; LIBOR Notification	<u>50</u>
	1.10 Divisions	<u>51</u>
<b>SECTION 2.</b>	<b>CREDIT FACILITIES</b>	<b><u>51</u></b>
	2.1 Revolver Commitment	<u>51</u>
	2.2 Increase in Revolver Commitments	<u>52</u>
	2.3 Letter of Credit Facility	<u>53</u>
<b>SECTION 3.</b>	<b>INTEREST, FEES AND CHARGES</b>	<b><u>56</u></b>
	3.1 Interest	<u>56</u>
	3.2 Fees	<u>57</u>
	3.3 Computation of Interest, Fees, Yield Protection	<u>58</u>
	3.4 Reimbursement Obligations	<u>58</u>
	3.5 Illegality	<u>58</u>
	3.6 Alternate Rate of Interest	<u>58</u>
	3.7 Increased Costs; Capital Adequacy	<u>60</u>
	3.8 Mitigation	<u>61</u>
	3.9 Funding Losses	<u>61</u>
	3.10 Maximum Interest	<u>61</u>
<b>SECTION 4.</b>	<b>LOAN ADMINISTRATION</b>	<b><u>61</u></b>
	4.1 Manner of Borrowing and Funding Revolver Loans	<u>62</u>
	4.2 Defaulting Lender	<u>63</u>
	4.3 Number and Amount of LIBOR Revolver Loans; Determination of Rate	<u>64</u>
	4.4 Borrower Agent	<u>65</u>
	4.5 One Obligation	<u>65</u>
	4.6 Effect of Termination	<u>65</u>
<b>SECTION 5.</b>	<b>PAYMENTS</b>	<b><u>65</u></b>

5.1 General Payment Provisions	<a href="#">65</a>
5.2 Repayment of Revolver Loans	<a href="#">65</a>
5.3 Curative Equity	<a href="#">66</a>
5.4 Reserved	<a href="#">66</a>
5.5 Marshaling; Payments Set Aside	<a href="#">66</a>
5.6 Application and Allocation of Payments	<a href="#">66</a>
5.7 Dominion Account	<a href="#">67</a>
5.8 Account Stated	<a href="#">67</a>
5.9 Taxes	<a href="#">67</a>
5.10 Lender Tax Information	<a href="#">69</a>
5.11 Nature and Extent of Each Borrower's Liability	<a href="#">70</a>
<b>SECTION 6.        CONDITIONS PRECEDENT</b>	<a href="#">72</a>
6.1 Conditions Precedent to Initial Revolver Loans	<a href="#">72</a>
6.2 Conditions Precedent to All Credit Extensions	<a href="#">73</a>
<b>SECTION 7.        COLLATERAL</b>	<a href="#">73</a>
7.1 Grant of Security Interest	<a href="#">73</a>
7.2 Lien on Deposit Accounts; Cash Collateral	<a href="#">74</a>
7.3 Reserved	<a href="#">75</a>
7.4 Reserved	<a href="#">75</a>
7.5 Other Collateral	<a href="#">75</a>
7.6 Contract Legend	<a href="#">75</a>
<b>SECTION 8.        COLLATERAL ADMINISTRATION</b>	<a href="#">75</a>
8.1 Collateral Reports	<a href="#">75</a>
8.2 Administration of Contracts	<a href="#">76</a>
8.3 Administration of Inventory	<a href="#">78</a>
8.4 Administration of Equipment	<a href="#">78</a>
8.5 Administration of Deposit Accounts	<a href="#">78</a>
8.6 Administration of Credit Card Accounts	<a href="#">78</a>
8.7 General Provisions	<a href="#">78</a>
8.8 Power of Attorney	<a href="#">79</a>
<b>SECTION 9.        REPRESENTATIONS AND WARRANTIES</b>	<a href="#">80</a>
9.1 General Representations and Warranties	<a href="#">80</a>
9.2 Complete Disclosure	<a href="#">84</a>
<b>SECTION 10.       COVENANTS AND CONTINUING AGREEMENTS</b>	<a href="#">84</a>

10.1 Affirmative Covenants	<a href="#">84</a>
10.2 Negative Covenants	<a href="#">87</a>
10.3 Financial Covenants	<a href="#">96</a>
10.4 Curative Equity	<a href="#">97</a>
10.5 Contract Forms	<a href="#">97</a>
10.6 Reserved	<a href="#">98</a>
<b>SECTION 11. EVENTS OF DEFAULT; REMEDIES ON DEFAULT</b>	<a href="#">98</a>
11.1 Events of Default	<a href="#">98</a>
11.2 Remedies upon Default	<a href="#">99</a>
11.3 License	<a href="#">100</a>
11.4 Setoff	<a href="#">100</a>
11.5 Remedies Cumulative; No Waiver	<a href="#">100</a>
<b>SECTION 12. AGENT</b>	<a href="#">101</a>
12.1 Appointment, Authority and Duties of Agent	<a href="#">101</a>
12.2 Agreements Regarding Collateral and Borrower Materials	<a href="#">102</a>
12.3 Reliance By Agent	<a href="#">102</a>
12.4 Action Upon Default	<a href="#">103</a>
12.5 Ratable Sharing	<a href="#">103</a>
12.6 Indemnification	<a href="#">103</a>
12.7 Limitation on Responsibilities of Agent	<a href="#">103</a>
12.8 Successor Agent and Co-Agents	<a href="#">103</a>
12.9 Acknowledgments of Lenders and Secured Parties	<a href="#">104</a>
12.10 Remittance of Payments and Collections	<a href="#">105</a>
12.11 Individual Capacities	<a href="#">105</a>
12.12 Titles	<a href="#">106</a>
12.13 Bank Product Providers	<a href="#">106</a>
12.14 No Third Party Beneficiaries	<a href="#">106</a>
12.15 Lender Representations and Warranties	<a href="#">106</a>
<b>SECTION 13. BENEFIT OF AGREEMENT; ASSIGNMENTS</b>	<a href="#">107</a>
13.1 Successors and Assigns	<a href="#">108</a>
13.2 Participations	<a href="#">108</a>
13.3 Assignments	<a href="#">108</a>
13.4 Replacement of Certain Lenders	<a href="#">109</a>
13.5 Assignments/Participations with Respect to Securities Laws	<a href="#">110</a>
<b>SECTION 14. MISCELLANEOUS</b>	<a href="#">110</a>
14.1 Consents, Amendments and Waivers	<a href="#">110</a>

14.2 Indemnity	<a href="#">111</a>
14.3 Notices and Communications	<a href="#">111</a>
14.4 [Reserved.]	<a href="#">114</a>
14.5 Credit Inquiries	<a href="#">114</a>
14.6 Severability	<a href="#">114</a>
14.7 Cumulative Effect; Conflict of Terms	<a href="#">114</a>
14.8 Counterparts; Electronic Execution	<a href="#">114</a>
14.9 Entire Agreement	<a href="#">115</a>
14.10 Relationship with Lenders	<a href="#">115</a>
14.11 No Advisory or Fiduciary Responsibility	<a href="#">115</a>
14.12 Confidentiality	<a href="#">115</a>
14.13 Intentionally Omitted	<a href="#">116</a>
14.14 GOVERNING LAW	<a href="#">116</a>
14.15 Consent to Forum; Bail-In of Affected Financial Institutions	<a href="#">116</a>
14.16 Waivers by Borrowers	<a href="#">117</a>
14.17 Patriot Act Notice	<a href="#">117</a>
14.18 NO ORAL AGREEMENT	<a href="#">117</a>
14.19 Existing Loan Agreement, No Novation	<a href="#">117</a>
14.20 Acknowledgement Regarding Any Supported QFCs	<a href="#">118</a>

**LIST OF EXHIBITS AND SCHEDULES**

Exhibits to Fifth Amended and Restated Loan and Security Agreement

Exhibit A	Revolver Note
Exhibit B	Assignment and Acceptance
Exhibit C	Assignment Notice
Exhibit D	Compliance Certificate

Schedules to Fifth Amended and Restated Loan and Security Agreement

Schedule 1.1	Revolver Commitments of Lenders
Schedule 1.1E(1)	Existing Bank Products
Schedule 1.1E(2)	Existing Letters of Credit
Schedule 7.1(j)	Equity Interests
Schedule 8.5	Deposit Accounts
Schedule 8.6.1	Credit Card Agreements
Schedule 8.7.1	Business Locations
Schedule 9.1.4	Names and Capital Structure
Schedule 9.1.5	Former Names and Companies
Schedule 9.1.11	Patents, Trademarks, Copyrights and Licenses
Schedule 9.1.14	Environmental Matters
Schedule 9.1.16	Litigation
Schedule 9.1.20	Labor Contracts
Schedule 10.2.2	Existing Liens
Schedule 10.2.5	Restricted Investments

**FIFTH AMENDED AND RESTATED LOAN AND SECURITY AGREEMENT**

**THIS FIFTH AMENDED AND RESTATED LOAN AND SECURITY AGREEMENT** (this “Agreement”) is dated as of March 29, 2021, by and among **CONN’S, INC.**, a Delaware corporation, as parent and guarantor (“Parent”), **CONN APPLIANCES, INC.**, a Texas corporation (“CAI”), **CONN CREDIT I, LP**, a Texas limited partnership (“CCI”), and **CONN CREDIT CORPORATION, INC.**, a Texas corporation (“CCCI”), and together with CAI and CCI, each, a “Borrower” and collectively, the “Borrowers”), the financial institutions party to this Agreement from time to time as lenders (collectively, “Lenders”), and **JPMORGAN CHASE BANK, N.A.**, a national banking association (“JPM”), as successor to Bank of America, N.A., in its capacity as Administrative Agent and Collateral Agent for the Lenders (in such capacity, “Agent”).

**RECITALS:**

**WHEREAS**, Borrowers, Agent and various lenders originally entered into that certain Loan and Security Agreement, dated as of August 14, 2008 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “Original Loan Agreement”) and certain other loan documents relating to the same.

**WHEREAS**, Borrowers, Agent and various lenders amended and restated the Original Loan Agreement in its entirety and entered into that certain Amended and Restated Loan and Security Agreement, dated as of November 30, 2010 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “First Amended and Restated Loan Agreement”) and certain other loan documents relating to the same.

**WHEREAS**, Borrowers, Agent and various lenders amended and restated the First Amended and Restated Loan Agreement in its entirety and entered into that certain Second Amended and Restated Loan and Security Agreement, dated as of September 26, 2012 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “Second Amended and Restated Loan Agreement”) and certain other loan documents relating to the same.

**WHEREAS**, Borrowers, Agent and various lenders, amended and restated the Second Amended and Restated Loan Agreement in its entirety and entered into that certain Third Amended and Restated Loan and Security Agreement, dated as of October 30, 2015 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “Third Amended and Restated Loan Agreement”) and certain other loan documents relating to the same.

**WHEREAS**, Borrowers, Agent and various lenders, amended and restated the Third Amended and Restated Loan Agreement in its entirety and entered into that certain Fourth Amended and Restated Loan and Security Agreement, dated as of May 23, 2018 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “Fourth Amended and Restated Loan Agreement”; and together with the Original Loan Agreement, First Amended and Restated Loan Agreement, Second Amended and Restated Loan Agreement and Third Amended and Restated Loan Agreement, the “Existing Loan Agreement”) and certain other loan documents relating to the same.

**WHEREAS**, Borrowers have requested that Agent and Lenders amend and restate the Existing Loan Agreement in its entirety to, among other things, make available to Borrowers a revolving line of credit for loans and letters of credit in an aggregate amount not to exceed \$650,000,000, which extensions of credit Borrowers will use for the purposes permitted hereunder.

**WHEREAS**, Agent and Lenders have agreed to amend and restate the Existing Loan Agreement in its entirety in accordance with the terms and conditions of this Agreement.

**NOW, THEREFORE**, in consideration of the mutual conditions and agreements set forth in this Agreement, and for good and valuable consideration, the receipt of which is hereby acknowledged, Lenders, Agent, Parent and Borrowers hereby agree to amend and restate the Existing Loan Agreement as follows:

## SECTION 1. DEFINITIONS; RULES OF CONSTRUCTION

1.1 **Definitions.** As used herein, the following terms have the meanings set forth below:

**ABS Contract Portfolio:** portfolio of Contracts subject to the Existing Securitization Facility and any other Permitted ABS Transaction.

**ABS Excluded Leverage Ratio:** the ratio, determined as of the end of any Fiscal Quarter for Parent and its Subsidiaries, on a consolidated basis, of (a) the result of (x) all items that would be included as liabilities on a balance sheet in accordance with GAAP (but excluding, for avoidance of doubt, any lease which is not treated as a Capital Lease in accordance with the definition of "Capital Lease", which exclusion shall be made by reducing the amount of such liabilities on the balance sheet by an amount equal to the remainder of (1) the sum of current and long term "operating leases" minus (2) deferred rent ) as of the last day of such Fiscal Quarter (excluding Debt resulting from the Existing Securitization Facility and any other Permitted ABS Transaction), minus (y) Qualified Cash as of such date of measurement, to (b) Tangible Net Worth as of the last day of such Fiscal Quarter.

**ABS Qualified Cash:** as of any date of determination, the aggregate amount of cash of Parent and its Subsidiaries that is restricted pursuant to the Existing Securitization Facility or any other Permitted ABS Transaction as required under the applicable documents setting forth the terms of the Existing Securitization Facility or any other Permitted ABS Transaction.

**Acquisition:** a transaction or series of transactions resulting in (a) the acquisition of a business, division or substantially all assets of a Person; (b) the acquisition of record or beneficial ownership of 50% or more of the Equity Interests of a Person (including, in any event, any Investment in (x) any Subsidiary which increases Parent's interest, directly or indirectly, in such Subsidiary or (y) any joint venture for the purpose of increasing Parent's interest (directly or indirectly) in such joint venture); or (c) the merger, consolidation or combination of a Borrower or Subsidiary with another Person.

**Adjusted LIBO Rate:** with respect to any Borrowing of LIBOR Revolver Loan for any Interest Period, an interest rate *per annum* (rounded upwards, if necessary, to the next 1/16 of 1%) equal to (a) LIBOR for such Interest Period multiplied by (b) the Statutory Reserve Rate.

**Adjusted Tangible Assets:** all assets of Parent and Borrowers on a consolidated basis, except (a) patents, copyrights, trademarks, trade names, franchises, goodwill, and other similar intangibles; (b) assets constituting intercompany Accounts; (c) assets located and notes and receivables due from obligors domiciled outside the United States of America or Canada; and (d) fixed assets to the extent of any write-up in the book value thereof.

**Administrative Questionnaire:** an Administrative Questionnaire in a form supplied by the Agent.

**Affected Financial Institution:** (a) any EEA Financial Institution or (b) any UK Financial Institution.

**Affiliate:** with respect to a specified Person, any other Person that directly, or indirectly through one or more intermediaries, Controls, is Controlled by or is under common Control with the specified Person.

**Agent:** as defined in the Preamble to this Agreement.

**Agent Indemnitees:** Agent and its officers, directors, employees, Affiliates, agents and attorneys.

**Agent Professionals:** attorneys, accountants, appraisers, auditors, business valuation experts, environmental engineers or consultants, turnaround consultants, and other professionals and experts retained by Agent.

Agreement: as defined in the Preamble to this Agreement.

Allocable Amount: as defined in **Section 5.11.3(b)**.

Ancillary Document: as defined in **Section 14.8.2**.

Anti-Terrorism Law: any law relating to terrorism or money laundering, including the Patriot Act.

Applicable Law: all laws, rules, regulations and binding governmental guidelines applicable to the Person or matter in question, including all applicable statutory law, common law and equitable principles, as well as applicable provisions of constitutions, treaties, statutes, rules, regulations, orders and decrees of Governmental Authorities and all Consumer Finance Laws.

Applicable Margin: the margin set forth in the chart below, as determined by reference to the Leverage Ratio for the most recently ended Fiscal Quarter:

Level	Leverage Ratio	Base Rate	LIBOR
1	≤ 2.25x	1.50%	2.50%
2	> 2.25 ≤ 3.00x	1.75%	2.75%
3	> 3.00x ≤ 3.75x	2.00%	3.00%
4	> 3.75x	2.25%	3.25%

Changes in the Applicable Margin resulting from a change in the Leverage Ratio shall become effective on the first day of the calendar month following Agent's receipt of the financial statements pursuant to **Section 10.1.2(a)(i), (a)(ii) or (b)**, as applicable, and Compliance Certificate pursuant to **Section 10.1.2(d)** with respect thereto. If any financial statement or Compliance Certificate has not been delivered within the time periods specified herein, then the Applicable Margin shall be determined as if Level 4 were applicable, from such day until the first day of the calendar month following the date Borrower delivers such financial statements and the related Compliance Certificate.

Approved Electronic Platform: as defined in **Section 14.3.3**.

Approved Fund: any entity that is owned or Controlled by a Lender or Affiliate of a Lender, and is engaged in making or investing in commercial loans in its ordinary course of activities.

Asset Disposition: a sale, lease, license, consignment, transfer or other disposition (in one transaction or in a series of transactions and whether effected pursuant to a division or otherwise) of Property of an Obligor, including a disposition of Property in connection with a sale-leaseback transaction or synthetic lease.

Assignment and Acceptance: an assignment agreement between a Lender and Eligible Assignee, in the form of **Exhibit B** or otherwise satisfactory to Agent and, to the extent the Borrowers' consent in respect of the applicable assignment is necessary, the Borrower Agent.

Available Tenor: as of any date of determination and with respect to the then-current Benchmark, as applicable, any tenor for such Benchmark or payment period for interest calculated with reference to such Benchmark, as applicable, that is or may be used for determining the length of an Interest Period pursuant to this Agreement as of such date and not including, for the avoidance of doubt, any tenor for such Benchmark that is then-removed from the definition of "Interest Period" pursuant to **clause (f) of Section 3.6**.

Availability: the Borrowing Base minus Revolver Usage.

Bail-In Action: the exercise of any Write-Down and Conversion Powers by the applicable Resolution Authority in respect of any liability of an Affected Financial Institution.

**Bail-In Legislation:** (a) with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law, regulation rule or requirement for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule and (b) with respect to the United Kingdom, Part I of the United Kingdom Banking Act 2009 (as amended from time to time) and any other law, regulation or rule applicable in the United Kingdom relating to the resolution of unsound or failing banks, investment firms or other financial institutions or their affiliates (other than through liquidation, administration or other insolvency proceedings).

**Bank Product:** any of the following products or services extended to Parent, a Borrower or any Subsidiary (other than any Securitization Subsidiary) of a Borrower: (a) Cash Management Services; (b) products under Hedging Agreements; (c) commercial credit card and merchant card services; and (d) leases and other banking products or services other than Letters of Credit, including the Existing Bank Products.

**Bank Product Reserve:** the aggregate amount of reserves established by Agent from time to time in its Permitted Discretion with respect to Secured Bank Product Obligations.

**Bankruptcy Code:** Title 11 of the United States Code.

**Base Rate:** for any day, a rate per annum equal to the greatest of (a) the Prime Rate in effect on such day, (b) the NYFRB Rate in effect on such day plus ½ of 1% and (c) the Adjusted LIBO Rate for a 30-day Interest Period on such day (or, if such day is not a Business Day, the immediately preceding Business Day) plus 1%; provided that for the purpose of this definition, the Adjusted LIBO Rate for any day shall be based on the LIBOR Screen Rate (or if the LIBOR Screen Rate is not available for such 30-day Interest Period, the Interpolated Rate) at approximately 11:00 a.m. London time on such day. Any change in the Base Rate due to a change in the Prime Rate, the NYFRB Rate or the Adjusted LIBO Rate shall be effective from and including the effective date of such change in the Prime Rate, the NYFRB Rate or the Adjusted LIBO Rate, respectively. If the Base Rate is being used as an alternate rate of interest pursuant to **Section 3.6** (for the avoidance of doubt, only until the Benchmark Replacement has been determined pursuant to **Section 3.6(b)**), then the Base Rate shall be the greater of clauses (a) and (b) above and shall be determined without reference to clause (c) above.

**Base Rate Revolver Loan:** a Revolver Loan that bears interest based on the Base Rate.

**Benchmark:** initially, LIBOR; provided that if a Benchmark Transition Event, a Term SOFR Transition Event or an Early Opt-in Election, as applicable, and its related Benchmark Replacement Date have occurred with respect to LIBOR or the then-current Benchmark, then “Benchmark” means the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate pursuant to **clause (b)** or **clause (c)** of **Section 3.6**.

**Benchmark Replacement:** for any Available Tenor, the first alternative set forth in the order below that can be determined by Agent for the applicable Benchmark Replacement Date:

(1) the sum of: (a) Term SOFR and (b) the related Benchmark Replacement Adjustment;

(2) the sum of: (a) Daily Simple SOFR and (b) the related Benchmark Replacement Adjustment;

(3) the sum of: (a) the alternate benchmark rate that has been selected by Agent and the Borrower Agent as the replacement for the then-current Benchmark for the applicable Corresponding Tenor giving due consideration to (i) any selection or recommendation of a replacement benchmark rate or the mechanism for determining such a rate by the Relevant Governmental Body or (ii) any evolving or then-prevailing market convention for determining a benchmark rate as a replacement for the then-current Benchmark for dollar-denominated syndicated credit facilities at such time and (b) the related Benchmark Replacement Adjustment;

provided that, in the case of clause (1), such Unadjusted Benchmark Replacement is displayed on a screen or other information service that publishes such rate from time to time as selected by Agent in its reasonable discretion; provided, further, that, notwithstanding anything to the contrary in this Agreement or in any other Loan Document, upon the occurrence of a Term SOFR Transition Event, and the delivery of a Term SOFR Notice, on the

applicable Benchmark Replacement Date the “Benchmark Replacement” shall revert to and shall be deemed to be the sum of (a) Term SOFR and (b) the related Benchmark Replacement Adjustment, as set forth in clause (1) of this definition (subject to the first proviso above).

If the Benchmark Replacement as determined pursuant to clause (1), (2) or (3) above would be less than the Floor, the Benchmark Replacement will be deemed to be the Floor for the purposes of this Agreement and the other Loan Documents.

Benchmark Replacement Adjustment: with respect to any replacement of the then-current Benchmark with an Unadjusted Benchmark Replacement for any applicable Interest Period and Available Tenor for any setting of such Unadjusted Benchmark Replacement:

(1) for purposes of clauses (1) and (2) of the definition of “Benchmark Replacement,” the first alternative set forth in the order below that can be determined by Agent:

(a) the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) as of the Reference Time such Benchmark Replacement is first set for such Interest Period that has been selected or recommended by the Relevant Governmental Body for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement for the applicable Corresponding Tenor;

(b) the spread adjustment (which may be a positive or negative value or zero) as of the Reference Time such Benchmark Replacement is first set for such Interest Period that would apply to the fallback rate for a derivative transaction referencing the ISDA Definitions to be effective upon an index cessation event with respect to such Benchmark for the applicable Corresponding Tenor; and

(2) for purposes of clause (3) of the definition of “Benchmark Replacement,” the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) that has been selected by Agent and the Borrower Agent for the applicable Corresponding Tenor giving due consideration to (i) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement by the Relevant Governmental Body on the applicable Benchmark Replacement Date or (ii) any evolving or then-prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement for dollar-denominated syndicated credit facilities;

provided that, in the case of clause (1) above, such adjustment is displayed on a screen or other information service that publishes such Benchmark Replacement Adjustment from time to time as selected by Agent in its reasonable discretion.

Benchmark Replacement Conforming Changes: with respect to any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of “Base Rate”, the definition of “Business Day”, the definition of “Interest Period”, timing and frequency of determining rates and making payments of interest, timing of borrowing requests or prepayment, conversion or continuation notices, length of lookback periods, the applicability of breakage provisions, and other technical, administrative or operational matters) that Agent decides may be appropriate to reflect the adoption and implementation of such Benchmark Replacement and to permit the administration thereof by Agent in a manner substantially consistent with market practice (or, if Agent decides that adoption of any portion of such market practice is not administratively feasible or if Agent determines that no market practice for the administration of such Benchmark Replacement exists, in such other manner of administration as Agent decides is reasonably necessary in connection with the administration of this Agreement and the other Loan Documents).

Benchmark Replacement Date: the earliest to occur of the following events with respect to the then-current Benchmark:

(1) in the case of clause (1) or (2) of the definition of “Benchmark Transition Event,” the later of (a) the date of the public statement or publication of information referenced therein and (b) the date on which the

administrator of such Benchmark (or the published component used in the calculation thereof) permanently or indefinitely ceases to provide all Available Tenors of such Benchmark (or such component thereof);

(2) in the case of clause (3) of the definition of “Benchmark Transition Event”, the date of the public statement or publication of information referenced therein; or

(3) in the case of a Term SOFR Transition Event, the date that is thirty (30) days after the date a Term SOFR Notice is provided to the Lenders and the Borrower Agent pursuant to **Section 3.6(c)**; or

(4) in the case of an Early Opt-in Election, the sixth (6th) Business Day after the date notice of such Early Opt-in Election is provided to the Lenders, so long as Agent has not received, by 5:00 p.m. (New York City time) on the fifth (5th) Business Day after the date notice of such Early Opt-in Election is provided to the Lenders, written notice of objection to such Early Opt-in Election from Lenders comprising the Required Lenders.

For the avoidance of doubt, (i) if the event giving rise to the Benchmark Replacement Date occurs on the same day as, but earlier than, the Reference Time in respect of any determination, the Benchmark Replacement Date will be deemed to have occurred prior to the Reference Time for such determination and (ii) the “Benchmark Replacement Date” will be deemed to have occurred in the case of clause (1) or (2) with respect to any Benchmark upon the occurrence of the applicable event or events set forth therein with respect to all then-current Available Tenors of such Benchmark (or the published component used in the calculation thereof).

Benchmark Transition Event: the occurrence of one or more of the following events with respect to the then-current Benchmark:

(1) a public statement or publication of information by or on behalf of the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that such administrator has ceased or will cease to provide all Available Tenors of such Benchmark (or such component thereof), permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof);

(2) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof), the Board of Governors, the NYFRB, an insolvency official with jurisdiction over the administrator for such Benchmark (or such component), a resolution authority with jurisdiction over the administrator for such Benchmark (or such component) or a court or an entity with similar insolvency or resolution authority over the administrator for such Benchmark (or such component), which states that the administrator of such Benchmark (or such component) has ceased or will cease to provide all Available Tenors of such Benchmark (or such component thereof) permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof); or

(3) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that all Available Tenors of such Benchmark (or such component thereof) are no longer representative.

For the avoidance of doubt, a “Benchmark Transition Event” will be deemed to have occurred with respect to any Benchmark if a public statement or publication of information set forth above has occurred with respect to each then-current Available Tenor of such Benchmark (or the published component used in the calculation thereof).

Benchmark Unavailability Period: the period (if any) (x) beginning at the time that a Benchmark Replacement Date pursuant to clauses (1) or (2) of that definition has occurred if, at such time, no Benchmark Replacement has replaced the then-current Benchmark for all purposes hereunder and under any Loan Document in accordance with **Section 3.6** and (y) ending at the time that a Benchmark Replacement has replaced the then-current Benchmark for all purposes hereunder and under any Loan Document in accordance with **Section 3.6**.

Beneficial Ownership Certification: a certification regarding beneficial ownership required by the Beneficial Ownership Regulation.

Beneficial Ownership Regulation: 31 C.F.R. § 1010.230.

Benefit Plan: any of (a) an “employee benefit plan” (as defined in ERISA) that is subject to Title I of ERISA, (b) a “plan” as defined in Section 4975 of the Code or (c) any Person whose assets include (for purposes of ERISA Section 3(42) or otherwise for purposes of Title I of ERISA or Section 4975 of the Code) the assets of any such “employee benefit plan” or “plan.”

Board of Governors: the Board of Governors of the Federal Reserve System.

Borrowed Money: with respect to any Obligor, without duplication, its (a) Debt of the type set forth in clause (a) of the definition of Debt; (b) Capital Leases; (c) Letter of Credit reimbursement obligations; and (d) Debt of the type set forth in clause (b) of the definition of Debt in respect of Debt described in clauses (a), (b) and (c) of this definition of Borrowed Money, in each case other than obligations owing to any Flooring Lender.

Borrower: as defined in the Preamble to this Agreement.

Borrower Agent: as defined in **Section 4.4**.

Borrower Materials: Borrowing Base Reports, Compliance Certificates and other information, reports, financial statements and other materials delivered by Borrowers hereunder, as well as other Reports and information provided by Agent to Lenders.

Borrowing: a group of Revolver Loans that are made or converted together on the same day and have the same interest option and, if applicable, Interest Period.

Borrowing Base: on any date of determination, an amount equal to the lesser of (a) the aggregate amount of Revolver Commitments; or (b) the sum of the CCI Borrowing Base plus the CAI Borrowing Base.

Notwithstanding anything to the contrary in this Agreement, (a) no Reserves shall be established or increased except upon not less than three (3) Business Days’ (or shorter period as agreed to by Borrower Agent) prior written notice to Borrower Agent, which notice shall include a reasonably detailed description of such Reserve being established (during which period (i) Agent shall, if requested, discuss any such Reserve or increase with Borrower Agent and (ii) Borrower Agent may take such action as may be required so that the event, condition or matter that is the basis for such Reserve or increase thereto no longer exists or exists in a manner that would result in the establishment of a lower Reserve or result in a lesser increase thereto, in a manner and to the extent reasonably satisfactory to Agent), and (b) the amount of any Reserve established by Agent, and any increase in the amount of any Reserve, shall have a reasonable relationship to the event, condition or other matter that is the basis for such Reserve or such increase. Notwithstanding clause (a) of the preceding sentence, (i) changes to the Reserves solely for purposes of correcting mathematical or clerical errors shall not be subject to such notice period, (ii) no Default or Event of Default shall be deemed to result from the imposition of any Reserve for a period of three (3) Business Days (or shorter period as agreed to by Borrower Agent) following notice to Borrower Agent and (iii) Borrowers shall not request any Revolver Loans or Letters of Credit and Agent, Lenders and Issuing Bank shall not be required to fund any Revolver Loan or issue any Letters of Credit hereunder during such period of three (3) Business Days (or shorter period as agreed to by Borrower Agent).

Borrowing Base Report: a report of the Borrowing Base by Borrowers, in form satisfactory to Agent.

Business Day: any day other than a Saturday, Sunday or any other day on which commercial banks are authorized to close under the laws of, or are in fact closed in, Illinois and Texas, and if such day relates to a LIBOR Revolver Loan, any such day on which dealings in Dollar deposits are conducted between banks in the London interbank Eurodollar market.

CAI: as defined in the Preamble to this Agreement.

CAI Availability Reserve: the sum of (without duplication when taken into account with the CCI Availability Reserve, the Credit Card Account Formula Amount, the Inventory Formula Amount, the Contract Advance Rate Amount or any of their respective component definitions) (a) the Inventory Reserve; (b) the Rent and Charges Reserve; (c) the Bank Product Reserve; (d) the Sales Tax Reserve; (e) the Gift Card Reserve; (f) the Customer Deposit Reserve; (g) the aggregate amount of liabilities secured by Liens upon Collateral included in the CAI Borrowing Base that are senior to Agent's Liens (but imposition of any such reserve shall not cure an Event of Default, if any, arising therefrom); and (h) such additional reserves, in such amounts and with respect to such matters, as Agent in its Permitted Discretion may elect to impose from time to time.

CAI Borrowing Base: the sum of the Credit Card Account Formula Amount, plus the Inventory Formula Amount, plus the Contract Advance Rate Amount applicable to CAI (without duplication when taken into account with the Contract Advance Rate Amount applicable to CCI), minus any CAI Availability Reserve.

CAIC: CAI Credit Insurance Agency, Inc., a Louisiana corporation.

CAIH: CAI Holding, LLC, a Delaware limited liability company.

CAI Revolver Usage: (a) the aggregate amount of outstanding Revolver Loans under the CAI Borrowing Base; plus (b) the aggregate Stated Amount of outstanding Letters of Credit under the CAI Borrowing Base, except to the extent Cash Collateralized.

Capital Expenditures: for any period of calculation with respect to Parent and its Subsidiaries, the aggregate of all expenditures incurred by Parent and its Subsidiaries during such period that, in accordance with GAAP, are required to be classified as capital expenditures, including Capital Leases incurred; provided that the following items shall be excluded:

- (a) the purchase price of fixed or capital assets made with the proceeds of any combination of (A) used or surplus fixed or capital assets traded in at the time of such purchase and (B) the proceeds of a concurrent sale of used or surplus fixed or capital assets;
- (b) expenditures made in connection with the replacement, substitution, restoration, upgrade, development or repair of assets to the extent financed with (x) insurance or settlement proceeds paid on account of the loss of or damage to the assets being replaced, substituted, restored, upgraded, developed or repaired or (y) awards of compensation arising from the taking by eminent domain or condemnation of the assets being replaced;
- (c) the purchase price of assets that are purchased simultaneously with the trade-in of existing assets to the extent that the gross amount of such purchase price is reduced by the credit granted by the seller of such property for the property being traded in at such time;
- (d) the purchase price of property, plant or equipment or software in an amount equal to the identifiable proceeds of Asset Dispositions of fixed or capital assets;
- (e) expenditures that are accounted for as capital expenditures by Parent and its Subsidiaries that are actually paid for, or reimbursed to Parent and its Subsidiaries in cash or cash equivalents, by a Person other than Parent and its Subsidiaries;
- (f) expenditures to the extent constituting any portion of an Acquisition (or Investment permitted hereunder);
- (g) any capitalized interest expense reflected on a consolidated balance sheet of Parent and its Subsidiaries;
- (h) expenditures relating to the construction, acquisition, replacement, reconstruction, development, refurbishment, renovation or improvement of any property which has been transferred to a Person other than Parent and its Subsidiaries during the same Fiscal Year in which such expenditures were made pursuant

to a sale and leaseback transaction to the extent of the cash proceeds received by Parent and its Subsidiaries pursuant to such Sale and Leaseback Transaction; or

(i) expenditures financed with the proceeds of an issuance of Equity Interests of Parent so long as the proceeds of such issuance are received within 60 days of the applicable expenditure.

**Capital Lease:** any lease required to be capitalized for financial reporting purposes in accordance with GAAP. Notwithstanding anything to the contrary contained herein, any change in accounting for leases pursuant to GAAP resulting from the adoption of Financial Accounting Standards Board Accounting Standards Update No. 2016-02, Leases (Topic 842), to the extent such adoption would require treating any lease (or similar arrangement conveying the right to use) as a capital lease where such lease (or similar arrangement) would not have been required to be so treated under GAAP as in effect on December 31, 2018, such lease shall not be considered a capital lease for purposes of any financial ratios, covenants and similar calculations and deliverables (other than, for the avoidance of doubt, financial statements, which shall be prepared in accordance with GAAP as in effect from time to time) under this Agreement or any other Loan Document shall be made or delivered, as applicable, in accordance therewith (and, for the avoidance of doubt, such adjustment shall be effected as set forth in the definitions of ABS Excluded Leverage Ratio and Leverage Ratio in the manner set forth therein).

**Capped Synergies:** as defined in “Pro Forma Basis.”

**Cash Collateral:** cash delivered to Agent to Cash Collateralize any Obligations, and all interest, dividends, earnings and other proceeds earned thereon.

**Cash Collateralize:** the delivery of cash to Agent, as security for the payment of Obligations, in an amount equal to (a) with respect to LC Obligations, (i) if prior to the Revolver Termination Date, 100% of the aggregate LC Obligations and (ii) if on or after the Revolver Termination Date, 102% of the aggregate LC Obligations; (b) with respect to the Fronting Exposure of any Defaulting Lender (other than LC Obligations), 100% of the aggregate Fronting Exposure of such Defaulting Lender; and (c) in the case of **Section 5.2**, 100% of the outstanding LC Obligations. “Cash Collateralization” has a correlative meaning.

**Cash Equivalents:** (a) marketable obligations issued or unconditionally guaranteed by, and backed by the full faith and credit of, the United States government, maturing within 12 months of the date of acquisition; (b) certificates of deposit, time deposits and bankers’ acceptances maturing within 24 months of the date of acquisition, and overnight bank deposits, in each case which are issued by JPM or a commercial bank organized under the laws of the United States or any state or district thereof, rated A 1 (or better) by S&P or P-1 (or better) by Moody’s at the time of acquisition, and (unless issued by a Lender) not subject to offset rights; (c) repurchase obligations with a term of not more than 30 days for underlying investments of the types described in clauses (a) and (b) entered into with any bank described in clause (b); (d) commercial paper issued by JPM or rated A 1 (or better) by S&P or P-1 (or better) by Moody’s, and maturing within 24 months of the date of acquisition; and (e) shares of any money market fund that has substantially all of its assets invested continuously in the types of investments referred to above, has net assets of at least \$500,000,000 and has the highest rating obtainable from either Moody’s or S&P.

**Cash Management Services:** services relating to operating, collections, payroll, trust, or other depository or disbursement accounts, including automated clearinghouse, e-payable, electronic funds transfer, wire transfer, controlled disbursement, overdraft, depository, information reporting, lockbox and stop payment services.

**Cash Recovery Percent:** the percent, calculated as of the end of the last day of each month, equal to the amount determined by dividing (a) the actual Gross Cash Collections received by Borrowers from payments made by Contract Debtors during the previous three (3) months by (b) the sum of the Gross Contract Payments outstanding as of the beginning of the first day of each of the previous three (3) months. The Cash Recovery Percent shall be calculated based on the Managed Contract Portfolio; provided, however, that if for a period of 18 months after the closing of any Permitted ABS Transaction that is not a “revolving” transaction entered into after the Closing Date at least 85% of the value of all Contracts of Borrowers that are eligible to be included in such Permitted ABS Transaction as of any Cut-Off Date of such Permitted ABS Transaction are not transferred to such Permitted ABS Transaction, then the Cash Recovery Percent shall be determined based on the lower of (i) the Cash

Recovery Percent determined based on the Owned Contract Portfolio, and (ii) the Cash Recovery Percent determined based on the Managed Contract Portfolio.

CCCI: as defined in the Preamble to this Agreement.

CCI: as defined in the Preamble to this Agreement.

CCI Availability Reserve: the sum of (without duplication when taken into account with the CAI Availability Reserve, the Contract Advance Rate Amount or any of their respective component definitions) (a) the Rent and Charges Reserve; (b) the Bank Product Reserve; (c) the Sales Tax Reserve; (d) the aggregate amount of liabilities secured by Liens upon Collateral included in the CCI Borrowing Base that are senior to Agent's Liens (but imposition of any such reserve shall not cure an Event of Default, if any, arising therefrom); and (e) such additional reserves, in such amounts and with respect to such matters, as Agent in its Permitted Discretion may elect to impose from time to time.

CCI Borrowing Base: the Contract Advance Rate Amount applicable to CCI (without duplication when taken into account with the Contract Advance Rate Amount applicable to CAI) minus any CCI Availability Reserve.

CCI Revolver Usage: (a) the aggregate amount of outstanding Revolver Loans under the CCI Borrowing Base; plus (b) the aggregate Stated Amount of outstanding Letters of Credit under the CCI Borrowing Base, except to the extent Cash Collateralized.

CERCLA: the Comprehensive Environmental Response Compensation and Liability Act (42 U.S.C. § 9601 et seq.).

Change in Law: the occurrence, after the date hereof, of (a) the adoption, taking effect or phasing in of any law, rule, regulation or treaty; (b) any change in any law, rule, regulation or treaty or in the administration, interpretation or application thereof; or (c) the making, issuance or application of any request, guideline, requirement or directive (whether or not having the force of law) by any Governmental Authority; provided, that "Change in Law" shall include, regardless of the date enacted, adopted or issued, all requests, rules, guidelines, requirements or directives (i) under or relating to the Dodd-Frank Wall Street Reform and Consumer Protection Act, or (ii) promulgated pursuant to Basel III by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any similar authority) or any other Governmental Authority.

Change of Control: (a) any "person" or "group" (within the meaning of Section 13(d) or 14(d) of the Securities Exchange Act of 1934), other than the Permitted Holders, shall at any time have acquired direct or indirect beneficial ownership of Equity Interests of Parent representing aggregate voting power for the election of directors of Parent (without regard to the happening of any contingency) representing more than the greater of (i) 40% of such Equity Interests and (ii) the percentage of such Equity Interests owned by the Permitted Holders; (b) Parent ceases to own and control, beneficially and of record, directly or indirectly, all Equity Interests in CAI; (c) CAI ceases to own and control, beneficially and of record, directly or indirectly, all Equity Interests of CCI and CCCI; (d) Persons who were (i) directors of Parent on the Closing Date, (ii) nominated, appointed or approved for consideration for election by the board of directors of Parent or (iii) appointed or elected by directors who were directors of Parent on the Closing Date or were nominated, appointed, or approved as provided in clause (ii) above, cease to occupy a majority of the seats (excluding vacant seats) on the board of directors of Parent; or (e) all or substantially all of a Borrower's assets are sold or transferred, other than as permitted pursuant to **Section 10.2.9**.

Claims: all claims, liabilities, obligations, losses, damages, penalties, judgments, proceedings, interest, costs and expenses of any kind (including remedial response costs, reasonable attorneys' fees and Extraordinary Expenses (but limited, in the case of attorneys' fees and expenses, to the reasonable and documented out-of-pocket fees, charges and disbursements of one lead firm of counsel to Agent and, if necessary, one (1) local counsel in each relevant local jurisdiction to Agent and, in the case of an actual or potential conflict of interest, one (1) additional firm of lead counsel to all affected Indemnitees, taken as a whole and, in each case, without duplication of attorneys' fees and expenses included in the definition of Claims)) at any time (including after Full Payment of the Obligations, or replacement of Agent, or any Lender) incurred by any Indemnitee or asserted against any

Indemnitee by any Obligor or other Person in any way relating to (a) any Revolver Loans, Letters of Credit, Loan Documents, Borrower Materials, or the use thereof or transactions relating thereto, (b) any action taken or omitted in connection with any Loan Documents, including the payment of principal, interest and fees, (c) the existence or perfection of any Liens, or realization upon any Collateral, (d) exercise of any rights or remedies under any Loan Documents or Applicable Law, (e) failure by any Obligor to perform or observe any terms of any Loan Document, in each case including all costs and expenses relating to any investigation, litigation, arbitration or other proceeding (including an Insolvency Proceeding or appellate proceedings), whether or not the applicable Indemnitee is a party thereto, or (f) failure by any Obligor (directly or indirectly), Credit and Collection Guideline, Contract or Third Party Contract to comply with or otherwise satisfy any Consumer Finance Law in any respect.

CLL: Conn Lending, LLC, a Delaware limited liability company.

Closing Date: as defined in **Section 6.1**.

Code: the Internal Revenue Code of 1986.

Collateral: all Property described in **Section 7.1**, all Property described in any Security Documents as security for any Obligations, and all other Property that now or hereafter secures (or is intended to secure) any Obligations; provided that “Collateral” shall not include any Excluded Collateral.

Collateral Adjustment Percentage: calculated as of the first day of each month, the sum of the Past Due Percent and the Net Charge-Off Percent. The Collateral Adjustment Percentage shall be calculated based on the higher of (x) the Collateral Adjustment Percentage determined based on the Owned Contract Portfolio, and (y) the Collateral Adjustment Percentage determined based on the Managed Contract Portfolio.

Commodity Exchange Act: the Commodity Exchange Act (7 U.S.C. § 1 et seq.).

Compliance Certificate: a certificate in the form of **Exhibit D** in which Borrowers certify compliance with **Sections 10.2.3** and **10.3** and calculate the applicable level for the Applicable Margin.

Confidential Information: as defined in **Section 10.1.1(c)**.

Connection Income Taxes: Other Connection Taxes that are imposed on or measured by net income (however denominated), or are franchise or branch profits Taxes.

Consumer Finance Laws: all laws, rules, regulations, and binding governmental guidelines of any kind relating to the extension, securing or administration of consumer credit, whether relating to secured or unsecured credit, real or personal security, advertising, solicitation, marketing, underwriting, origination, documentation, brokering, purchase, assignment, administration, servicing, collection or other activities relating thereto, in each case applicable to the Person, including any of the foregoing relating to consumer protection, usury, privacy, discriminatory or predatory practices, or unfair, deceptive or abusive acts or practices, and specifically including the Federal Consumer Credit Protection Act, Federal Fair Credit Reporting Act, Fair and Accurate Credit Transactions Act, Equal Credit Opportunity Act, Fair Debt Collections Practices Act, RESPA, Magnuson-Moss Warranty Act, Servicemember’s Civil Relief Act, Gramm-Leach-Bliley Act, Dodd-Frank Wall Street Reform and Consumer Protection Act, Federal Trade Commission Act, Consumer Financial Protection Bureau Regulations B, M, N, O P, V, X and Z, and Federal Reserve Board Regulations B and Z.

Contingent Obligation: any obligation of a Person (without duplication) guaranteeing or having the economic effect of guaranteeing any Debt, lease, dividend or other obligation (“primary obligations”) of another obligor (“primary obligor”) in any manner, whether directly or indirectly, including any obligation of such Person under any (a) guaranty; (b) obligation to make take-or-pay or similar payments regardless of nonperformance by any other party to an agreement; and (c) arrangement (i) to purchase any primary obligation or security therefor, (ii) to supply funds for the purchase or payment of any primary obligation, (iii) to maintain or assure working capital, equity capital, net worth or solvency of the primary obligor, (iv) to purchase Property or services for the purpose of assuring the ability of the primary obligor to perform a primary obligation, or (v) otherwise to assure or hold harmless the holder of any primary obligation against loss in respect thereof; provided, however, that the term

“Contingent Obligations” shall not include endorsements of instruments for deposit or collection in the ordinary course of business or customary and reasonable indemnity obligations entered into in connection with any transaction permitted or not restricted by this Agreement (other than such obligations with respect to Indebtedness). The amount of any Contingent Obligation shall be deemed to be the stated or determinable amount of the primary obligation (or, if less, the maximum amount for which such Person may be liable under the instrument evidencing the Contingent Obligation) or, if not stated or determinable, the maximum reasonably anticipated liability with respect thereto.

**Contract Advance Rate Amount:** 80% of Net Eligible Contract Payments; provided, that such percentage shall be subject to reduction as of the first day of each month, based on the then existing Collateral Adjustment Percentage and Cash Recovery Percent (whichever results in a lower percentage), as follows:

(a) the percentage above shall be reduced by 1% for each whole percentage or fraction thereof that the Collateral Adjustment Percentage exceeds 22%; and

(b) the percentage above shall be reduced by 1% for each incremental range of the Cash Recovery Percent, beginning with 4.79%, as illustrated by the table set forth below:

<b>Cash Recovery Percent</b>	<b>Contract Advance Rate Amount</b>
Less than or equal to 4.79% but greater than 4.74%	79% of Net Eligible Contract Payments
Less than or equal to 4.74% but greater than 4.69%	78% of Net Eligible Contract Payments
Less than or equal to 4.69% but greater than 4.64%	77% of Net Eligible Contract Payments
Less than or equal to 4.64% but greater than 4.59%	76% of Net Eligible Contract Payments
Less than or equal to 4.59% but greater than 4.54%	75% of Net Eligible Contract Payments
Less than or equal to 4.54% but greater than 4.49%	74% of Net Eligible Contract Payments
Less than or equal to 4.49% but greater than 4.44%	73% of Net Eligible Contract Payments
Less than or equal to 4.44% but greater than 4.39%	72% of Net Eligible Contract Payments
Less than or equal to 4.39% but greater than 4.34%	71% of Net Eligible Contract Payments
Less than or equal to 4.34% but greater than 4.29%	70% of Net Eligible Contract Payments
Less than or equal to 4.29% but greater than 4.25%	69% of Net Eligible Contract Payments
<i>The Cash Recovery Percent table shall continue to be reduced in exact increments as set forth above</i>	<i>The Contract Advance Rate Amount table shall continue to be reduced by 1% for each incremental reduction of the Cash Recovery Percent</i>

Notwithstanding the above, the portion of the Contract Advance Rate Amount supported by Eligible Revolving Contracts shall at no time exceed 10% of the CCI Borrowing Base.

**Contract Debtor:** each Person who is obligated to a Borrower to perform any duty under or to make any payment pursuant to the terms of a Contract.

**Contracts:** all of each Borrower’s now owned and hereafter acquired loan agreements, accounts, revolving credit agreements, retail installment sale contracts, consumer loans, Instruments, notes, documents, chattel paper, and all other forms of obligations owing to such Borrower, including any collateral for any of the foregoing, including all rights under any and all security documents and merchandise returned to or repossessed by such Borrower, in each case excluding any Third Party Contract.

**Control:** the possession, directly or indirectly, of the power to direct or cause the direction of a Person’s management or policies, whether through the ability to exercise voting power, by contract or otherwise.

**Corresponding Tenor:** with respect to any Available Tenor, as applicable, either a tenor (including overnight) or an interest payment period having approximately the same length (disregarding business day adjustment) as such Available Tenor.

Credit and Collection Guidelines: Borrowers' guidelines which state the credit criteria used by Borrowers in extending credit to Contract Debtors and the collection criteria used by Borrowers in collection of amounts due from Contract Debtors.

Credit Card Account: Accounts together with all income, payments and proceeds thereof, owed by a Credit Card Issuer or Credit Card Processor to a Borrower resulting from charges by a retail customer of a Borrower on credit or debit cards in connection with the sale of goods by a Borrower, or services performed by a Borrower, in each case in the Ordinary Course of Business.

Credit Card Account Formula Amount: 90% of the Value of Eligible Credit Card Accounts.

Credit Card Agreements: with respect to each Borrower, all agreements now or hereafter entered into by such Borrower with any Credit Card Issuer or any Credit Card Processor.

Credit Card Issuers: any Person (other than a Borrower) who issues or whose members issue credit cards, including, MasterCard or VISA bank credit or debit cards or other bank credit or debit cards issued through MasterCard International, Inc., VISA, U.S.A., Inc. or Visa International and American Express, Discover, Diners Club, Carte Blanche and other non-bank credit or debit cards.

Credit Card Processors: with respect to each Borrower, any servicing or processing agent or any financial intermediary who facilitates, services, processes or manages the credit authorization, billing transfer and/or payment procedures with respect to any of such Borrower's sales transactions involving credit card or debit card purchases by customers using credit cards or debit cards issued by any Credit Card Issuer.

Curative Equity: common equity contributions made to Parent which Parent contributes as additional common equity contributions to any Borrower and which is designated "Curative Equity" by Borrower Agent under **Section 10.4** at the time it is contributed.

Customer Deposit Reserve: as of any measurement date, a reserve equal to the aggregate amount of deposits paid by the customers of any Borrower for the purchase of goods.

Customs Broker Agreement: an agreement, in form and substance reasonably satisfactory to the Agent, among an Obligor, a customs broker or other carrier and Agent, in which the customs broker or other carrier acknowledges that it has control over and holds the documents evidencing ownership of the subject Inventory or other property for the benefit of Agent, and agrees, upon notice from Agent, to hold and dispose of the subject Inventory and other property solely as directed by Agent.

Cut-Off Date: with respect to any pool of Contracts to be transferred to a Securitization Subsidiary pursuant to a Permitted ABS Transaction on any date, the date specified in the documentation with respect to such pool.

CWA: the Clean Water Act (33 U.S.C. §§ 1251 *et seq.*).

Daily Simple SOFR: for any day, SOFR, with the conventions for this rate (which will include a lookback) being established by Agent in accordance with the conventions for this rate selected or recommended by the Relevant Governmental Body for determining "Daily Simple SOFR" for business loans; provided that if Agent decides that any such convention is not administratively feasible for Agent, then Agent may establish another convention in its reasonable discretion.

Debt: as to any Person at a particular time, without duplication, all of the following, to the extent included as indebtedness or liabilities (excluding footnotes) in accordance with GAAP:

(a) all indebtedness of such Person for borrowed money and all indebtedness of such Person evidenced by bonds, debentures, notes or other similar instruments;

- (b) the maximum amount of all Contingent Obligations of such Person in respect of the Debt of any other Person of the type set forth in clauses (a), (c), (d) and (f) of this definition of “Debt” which are monetary obligations once they become primary obligations;
- (c) net obligations of such Person under any Hedging Agreement;
- (d) all obligations of such Person to pay the deferred purchase price of property (other than (i) trade accounts payable and accrued liabilities, in each case in the Ordinary Course of Business and (ii) earn out obligations until such obligations appear in the liabilities section of the balance sheet and have not been paid within 60 days);
- (e) Debt of the type set forth in clauses (a), (c), (d) and (f) of this definition of “Debt” (excluding prepaid interest thereon) secured by a Lien on property owned or being purchased by such Person (including indebtedness arising under conditional sales or other title retention agreements), whether or not such indebtedness shall have been assumed by such Person or is limited in recourse but, in the case of limited recourse indebtedness, the amount of such Debt shall be deemed equal to the lesser of aggregate unpaid amount of such Debt and the fair market value (as reasonably estimated by the Borrower Agent) of the encumbered property;
- (f) all obligations of such Person in respect of Capital Leases; and
- (g) the amount of all obligations of such Person with respect to the redemption, repayment or other repurchase of any Disqualified Stock (excluding accrued dividends that have not increased the liquidation preference of such Disqualified Stock).

For all purposes hereof, (i) the Debt of any Person shall include the Debt of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company) in which such Person is a general partner or a joint venturer, unless such Debt is expressly made non-recourse to such Person and (ii) Debt shall not include (A) amounts owed to Flooring Lenders on account of flooring arrangements paid in the Ordinary Course of Business (B) Permitted Convertible Notes Hedging Agreements (C) the endorsement of negotiable instruments for collection in the ordinary course of business, (D) prepaid or deferred revenue in the ordinary course of business and (E) any obligations that have been defeased in accordance with the agreements or instruments governing such obligations or where an amount in cash and cash equivalents equal to the aggregate principal amount of such obligations has been deposited with (or pledged for the benefit of) the holders of such obligations (or any trustee or agent acting on their behalf). The amount of any net obligation under any Hedging Agreement on any date shall be deemed to be the swap termination value thereof as of such date.

Default: an event or condition that, with the lapse of time or giving of notice, would constitute an Event of Default.

Default Rate: for any Obligation under the Loan Documents (including, to the extent permitted by law, interest not paid when due), 2% plus the highest level of interest set forth in the Applicable Margin grid.

Defaulting Lender: any Lender that (a) has failed to comply with its funding obligations hereunder, and such failure is not cured within two Business Days; (b) has notified Agent or any Borrower that such Lender does not intend to comply with its funding obligations hereunder or generally under other credit facilities, or has made a public statement to that effect; (c) has failed, within three Business Days following request by Agent or any Borrower, to confirm in a manner satisfactory to Agent and Borrowers that such Lender will comply with its prospective funding obligations hereunder; or (d) has, or has a direct or indirect parent company that has, become the subject of an Insolvency Proceeding (including reorganization, liquidation, or appointment of a receiver, custodian, administrator or similar Person by the Federal Deposit Insurance Corporation or any other regulatory authority) or Bail-In Action; provided, that a Lender shall not be a Defaulting Lender solely by virtue of a Governmental Authority’s ownership of an equity interest in such Lender or parent company unless the ownership provides immunity for such Lender from jurisdiction of courts within the United States or from enforcement of judgments or writs of attachment on its assets, or permits such Lender or Governmental Authority to repudiate, disavow, disaffirm or otherwise to reject any contracts or agreements made with such Lender.

Deposit Account Control Agreements: the deposit account control agreements executed by each institution maintaining a Deposit Account for a Borrower, in favor of Agent as security for the Obligations; provided that it is understood and agreed that no Deposit Account Control Agreement shall be required for Excluded Accounts.

Designated Jurisdiction: a country or territory that is the target of a Sanction.

Disqualified Stock: means, with respect to any person, any Equity Interests of such person that, 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 (a) matures or is mandatorily redeemable (other than solely for Qualified Equity Interests), pursuant to a sinking fund obligation or otherwise (except as a result of a change of control or asset sale so long as any rights of the holders thereof upon the occurrence of a change of control or asset sale event shall be subject to the prior Full Payment of the Obligations that are accrued and payable), (b) is redeemable at the option of the holder thereof (other than solely for Qualified Equity Interests), in whole or in part, (c) provides for the scheduled payment of dividends in cash or (d) is or becomes convertible into or exchangeable for Debt or any other Equity Interests that would constitute Disqualified Stock, in each case, prior to the date that is ninety-one (91) days after the Revolver Termination Date in effect at the time of issuance thereof (provided, that only the portion of the Equity Interests that so mature or are mandatorily redeemable, are so convertible or exchangeable or are so redeemable at the option of the holder thereof prior to such date shall be deemed to be Disqualified Stock). Notwithstanding the foregoing: (i) any Equity Interests issued to any employee or to any plan for the benefit of employees of the Borrowers or the Subsidiaries or by any such plan to such employees shall not constitute Disqualified Stock solely because they may be required to be repurchased by any Borrower in order to satisfy applicable statutory or regulatory obligations or as a result of such employee's termination, death or disability and (ii) any class of Equity Interests of such person that by its terms authorizes such person to satisfy its obligations thereunder by delivery of Equity Interests that are not Disqualified Stock shall not be deemed to be Disqualified Stock.

Distribution: (a) any payment of a distribution, interest or dividend on any Equity Interest and (b) any purchase, redemption, or other acquisition or retirement for value of any Equity Interest, excluding any distribution related to equity compensation plans of Parent and its Subsidiaries.

Dollars: lawful money of the United States.

Dominion Accounts: special accounts established by Borrowers at JPM, any Lender or other banks reasonably acceptable to Agent, over which Agent has "springing" exclusive control for withdrawal purposes.

Dominion Trigger Period: the period (a) commencing on the day that (i) an Event of Default occurs; (ii) average Availability during any month (as reflected in the Loan Account) is less than 10% of the Borrowing Base; or (iii) Availability (as reflected in the Loan Account) is at any time less than 7.5% of the Borrowing Base, and (b) ending on the day on which, during the preceding 60 consecutive days, (x) no Event of Default has existed, (y) average Availability during any month during such period (as reflected in the Loan Account) has at all times been greater than 12.5% of the Borrowing Base.

Early Opt-in Election: if the then-current Benchmark is LIBOR, the occurrence of:

(1) a notification by Agent to (or the request by the Borrower Agent to Agent to notify) each of the other parties hereto that at least five currently outstanding dollar-denominated syndicated credit facilities at such time contain (as a result of amendment or as originally executed) a SOFR-based rate (including SOFR, a term SOFR or any other rate based upon SOFR) as a benchmark rate (and such syndicated credit facilities are identified in such notice and are publicly available for review), and

(2) the joint election by Agent and the Borrower Agent to trigger a fallback from LIBOR and the provision by Agent of written notice of such election to the Lenders.

EBITDA: for any period of measurement, determined on a consolidated basis for Parent and its Subsidiaries derived from financial statements prepared in accordance with GAAP, net income, calculated before

(a) interest expense,

(b) provision for taxes, including, without limitation, foreign, federal, state, local, franchise, excise and similar taxes, foreign withholding taxes (including penalties and interest related to such taxes or arising from tax examinations, and including pursuant to any tax sharing arrangements),

(c) depreciation and amortization expense,

(d) stock based compensation,

(e) gains or losses arising from the sale of assets (other than the bulk sale of Contracts) outside the Ordinary Course of Business,

(f) any extraordinary, unusual or non-recurring gains or losses (in each case, to the extent included in determining net income and including any book loss reserve with respect to Contracts),

(g) any non-cash asset write-offs relating to construction in process,

(h) any other non-cash charges, losses or expenses (other than the book loss reserve with respect to Contracts),

(i) **[reserved]**,

(j) **[reserved]**,

(k) any increases in loss reserve resulting solely from a Borrower's repurchase of Contracts subject to a Permitted ABS Transaction occurring after such Permitted ABS Transaction has been deconsolidated from Parent and its Subsidiaries financial statements prepared in accordance with GAAP,

(l) any gain or loss from the Ordinary Course of Business sale of residual interests of cash flows subject to a Permitted ABS Transaction,

(m) business optimization expenses and restructuring charges and reserves (which, for the avoidance of doubt, shall include retention, severance, systems establishment costs, excess pension charges, contract termination costs (including future lease commitments) and costs to consolidate facilities and relocate employees); provided that with respect to each business optimization expense or restructuring charge or reserve, Borrower Agent shall have delivered to Agent a certificate of a Senior Officer of Borrower Agent specifying and quantifying such expense, charge or reserve and stating that such expense, charge or reserve is a business optimization expense or restructuring charge or reserve, as the case may be; provided further that the aggregate amount added back to EBITDA pursuant to this clause (m), in any period shall not exceed 20% of the EBITDA for such period (prior to giving effect to any such add back),

(n) fees, costs and expenses incurred directly in connection with any transaction, including any equity issuance or offering, Investment, acquisition, disposition, recapitalization or incurrence, repayment, amendment, restatement, amendment and restatement, supplement, modification, replacement, renewal, extension and refinancing of Debt, including such fees, costs and expenses related to this Agreement, any Existing Securitization Facility, any other Permitted ABS Transaction, the Existing HY Notes, any Permitted Additional HY Notes, any Permitted Convertible Notes or any Refinancing Debt (in each case, (A) not prohibited under this Agreement and (B) whether or not consummated) during such period,

(o) to the extent reimbursable by third parties pursuant to indemnification provisions, insurance or similar contract, other transaction fees, costs and expenses, provided that Borrower in good faith expects to receive reimbursement for such fees, costs and expenses within the next 4 Fiscal Quarters,

(p) costs of legal settlement, fines, judgments or orders,

(q) any unrealized losses in the fair market value of any Hedging Agreements,

(r) (A) any charges or expenses incurred pursuant to any management equity plan or stock option plan or any other management or employee benefit plan or agreement, pension plan, any stock subscription or shareholder agreement or any distributor equity plan or agreement and (B) any charges, costs, expenses, accruals or reserves in connection with the rollover, acceleration or payout of equity interests held by management, in each case under this clause (B), to the extent such charges, costs, expenses, accruals or reserves are funded with the net cash proceeds of any issuance of Equity Interests, and

(s) the proceeds of business interruption insurance, in an amount not to exceed the earnings for the applicable period that such proceeds are intended to replace; provided that Borrower in good faith expects to receive such business interruption proceeds within the next 4 Fiscal Quarters.

EEA Financial Institution: (a) any credit institution or investment firm established in an EEA Member Country that is subject to the supervision of an EEA Resolution Authority; (b) any entity established in an EEA Member Country that is a parent of an institution described in clause (a) above; or (c) any financial institution established in an EEA Member Country that is a subsidiary of an institution described in the foregoing clauses (a) or (b) and is subject to consolidated supervision with its parent.

EEA Member Country: any of the member states of the European Union, Iceland, Liechtenstein and Norway.

EEA Resolution Authority: any public administrative authority or any Person entrusted with public administrative authority of an EEA Member Country (including any delegatee) having responsibility for the resolution of any EEA Financial Institution.

Electronic Signature: an electronic sound, symbol, or process attached to, or associated with, a contract or other record and adopted by a Person with the intent to sign, authenticate or accept such contract or record.

Electronic System: any electronic system, including e-mail, e-fax, web portal access for such Borrower and any other Internet or extranet-based site, whether such electronic system is owned, operated or hosted Agent or any Issuing Bank and any of its respective Related Parties or any other Person, providing for access to data protected by passcodes or other security system.

Eligible Assignee: (a) a Lender, an Affiliate of a Lender or an Approved Fund; (b) an assignee approved by Borrower Agent (which approval shall not be unreasonably withheld or delayed) and Agent; or (c) during an Event of Default, any assignee acceptable to Agent in its discretion.

Eligible Contracts: Contracts fulfilling the following requirements:

(a) such Contract is owned by a Borrower and such Borrower has good title to such Contract;

(b) except as otherwise agreed by the Agent, the Contract complies in all material respects with all of Borrowers' representations and warranties contained herein relating to such Contracts;

(c) no payment due under the Contract is more than 60 days contractually delinquent;

(d) no Borrower has during the term of any Contract granted to the Contract Debtor more than six extensions of time (each no longer than 30 days) for the payment of any sum due under the Contract;

(e) the Contract or payments due thereunder are not subject to any defense, counterclaim, offset, discount, or allowance other than discounts provided in connection with promotional credit, such as same as cash offerings or deferred interest programs (to the extent of such defense, counterclaim, offset, discount, or allowance);

(f) the terms of the Contract and all related documents and Instruments comply in all material respects with all Requirement of Law;

(g) the Contract Debtor is not an Affiliate or an employee of an Obligor;

(h) the Contract (i) conforms to the Credit and Collection Guidelines in all material respects and (ii) has conformed at the time of origination in all material respects to Borrowers' then-applicable underwriting standards (taking into account the permissible exceptions therein);

(i) the Contract Debtor is not subject to an active or pending Insolvency Proceeding under federal law or any similar proceeding under state law;

(j) the first scheduled payment pursuant to the terms of the Contract is, or was, due within 45 days following the execution of the Contract and all other payments are scheduled to be made on the same date of each month thereafter;

(k) the payment schedule for such Contract is fully amortizing on a monthly basis;

(l) with respect to installment Contracts only, the original term of the Contract is not more than 48 months;

(m) repayment of the Contract is secured by a first priority interest in any merchandise sold in connection therewith, the merchandise subject to such Contract has been delivered and such merchandise has not been repossessed by a Borrower or returned by the Contract Debtor to a Borrower;

(n) to the extent that the balance of the Contract includes sums representing the financing of "service maintenance plans," such plans are in compliance with all applicable Consumer Finance Laws, including any and all special insurance laws relating thereto;

(o) the Contract is not a Modified Contract;

(p) the Contract is originated or acquired in the Ordinary Course of Business; and

(q) Agent has a first priority perfected Lien in the Contract.

Notwithstanding the above, Eligible Contracts shall not include Contracts which do not satisfy other criteria determined by Agent in its Permitted Discretion.

Eligible Credit Card Accounts: Credit Card Accounts fulfilling the following requirements:

(a) such Credit Card Account is owned by a Borrower and such Borrower has good title to such Credit Card Account;

(b) such Credit Card Account constitutes a "Payment Intangible" or an "Account" (as defined in the UCC) and such Credit Card Account has not been outstanding for more than 5 Business Days or such longer period as may be approved by the Agent;

(c) **[reserved]**;

(d) **[reserved]**;

(e) such Credit Card Account is subject to a properly perfected first priority Lien in favor of Agent (it being the intent that chargebacks in the ordinary course by the Credit Card Processor shall not be deemed violative of this clause);

(f) **[reserved]**;

(g) **[reserved]**;

(h) [reserved];

(i) [reserved];

(j) such Credit Card Account has been earned by performance and originated in the Ordinary Course of Business;

(k) such Credit Card Account has not been disputed, is without recourse, and with respect to which no claim, counterclaim, offset, or chargeback has been asserted (to the extent of such claim, counterclaim, offset, or chargeback) (it being the intent that chargebacks in the ordinary course by the Credit Card Processor shall not be deemed violative of this clause); or

Notwithstanding the above, Eligible Credit Card Accounts shall not include Credit Card Accounts due from Credit Card Issuers or Credit Card Processors (other than Visa, Mastercard, American Express, Diners club and Discover) which Agent determines in its Permitted Discretion are unlikely to be collected.

Eligible In-Transit Inventory: as of any date of determination (without duplication of other Eligible Inventory), Inventory:

(a) (i) that has been delivered to a carrier in a foreign port or foreign airport for receipt by an Obligor in the United States within sixty (60) days of the date of determination, but which has not yet been received by an Obligor or (ii) that has been delivered to a carrier in the United States for receipt by an Obligor in the United States within five (5) Business Days of the date of determination, but which has not yet been received by an Obligor;

(b) for which the purchase order is in the name of an Obligor and title has passed to an Obligor;

(c) except as otherwise agreed by Agent, for which the document of title or waybill reflects an Obligor as consignee (along with delivery to an Obligor or its customs broker of the documents of title, to the extent applicable, with respect thereto);

(d) as to which Agent has control over the documents of title, to the extent applicable, which evidence ownership of the subject Inventory (such as by the delivery of a Customs Broker Agreement);

(e) that is insured in accordance with the provisions of this Agreement and the other Loan Documents, including, without limitation marine cargo insurance; and

(f) that otherwise is not excluded from the definition of "Eligible Inventory"; provided that Agent may, upon notice to the Borrowers, exclude any particular Inventory from the definition of "Eligible In-Transit Inventory" in the event that Agent determines that such Inventory is subject to any Person's right or claim which is (or is capable of being) senior to, or *pari passu* with, the Lien of Agent, or may otherwise adversely impact the ability of Agent to realize upon such Inventory; provided, further, that, as of any date of determination, the aggregate NOLV Percentage of Eligible In-Transit Inventory and Eligible Letter of Credit Inventory shall not exceed 10% of the Borrowing Base.

Eligible Inventory: Inventory fulfilling the following requirements:

(a) such Inventory is finished goods or raw materials, and not work-in-process, packaging or shipping materials, labels, samples, bags, replacement parts or manufacturing supplies;

(b) such Inventory is neither held on consignment, nor subject to any deposit or down payment;

(c) such Inventory is in new and saleable condition and is not damaged, defective, shopworn or otherwise unfit for sale;

(d) is not obsolete or unmerchantable, and does not constitute returned or repossessed goods (in each case, without duplication of items included in the determined NOLV Percentage or Inventory reserve);

(e) such Inventory is in compliance in all material respects with all standards imposed by any Governmental Authority and has not been acquired from a Person subject to any Sanction or any specially designated nationals list maintained by OFAC;

(f) except as otherwise agreed by the Agent, such Inventory complies in all material respects with the representations and warranties herein relating to such Inventory;

(g) such Inventory is subject to (i) Agent's duly perfected, first priority Lien and (ii) no other Lien other than Permitted Liens (and is not subject to any warehouse receipt or other negotiable Document in which Agent does not have a first priority Lien);

(h) such Inventory (other than any Eligible Letter of Credit Inventory and Eligible In-Transit Inventory) is within the continental United States, is not in transit (except between locations of Borrowers), is not consigned to any Person and is not located in a clearance center or service center;

(i) such Inventory is not subject to any License or other arrangement that restricts such Borrower's or Agent's right to dispose of such Inventory, unless Agent has received an appropriate Lien Waiver;

(j) such Inventory (other than any Eligible Letter of Credit Inventory and Eligible In-Transit Inventory) is not located on leased premises or in the possession of a warehouseman, processor, repairman, mechanic, shipper, freight forwarder or other Person, unless the lessor or such Person has delivered a Lien Waiver or an appropriate Rent and Charges Reserve has been established as set forth in **Section 6.4.1**;

(k) such Inventory is reported net of shrinkage accrual;

(l) such Inventory is reflected in the details of a current perpetual inventory report of Borrowers; and

(m) such Inventory is insured in compliance with the provisions of **Section 8.7.2** hereof.

Notwithstanding the above, Eligible Inventory shall not include Inventory which do not satisfy other criteria determined by Agent in its Permitted Discretion.

**Eligible Letter of Credit Inventory:** as of any date of determination (without duplication of other Eligible Inventory), Inventory:

(a) (i) that has been delivered to a carrier in a foreign port or foreign airport for receipt by an Obligor in the United States within sixty (60) days of the date of determination, but that has not yet been received by an Obligor, or (ii) that has been delivered to a carrier in the United States for receipt by an Obligor in the United States within five (5) Business Days of the date of determination, but which has not yet been received by an Obligor;

(b) the purchase order for which is in the name of an Obligor, title has passed to an Obligor and the purchase of which is supported by a Letter of Credit issued under either this Agreement or otherwise permitted hereunder having an initial expiry, subject to the proviso hereto, within 120 days after the date of initial issuance of such Letter of Credit; provided that ninety percent (90%) of the maximum Stated Amount of all such Letters of Credit shall not, at any time, have an initial expiry greater than ninety (90) days after the original date of issuance of such Letters of Credit;

(c) for which the document of title or waybill reflects an Obligor as consignee (along with delivery to an Obligor or its customs broker of the documents of title, to the extent applicable, with respect thereto);

(d) as to which Agent has control over the documents of title, to the extent applicable, which evidence ownership of the subject Inventory (such as by the delivery of a Customs Broker Agreement);

(e) that is insured in accordance with the provisions of this Agreement and the other Credit Documents, including, without limitation marine cargo insurance; and

(f) that otherwise is not excluded from the definition of “Eligible Inventory”;

provided that Agent may, upon notice to the Borrowers, exclude any particular Inventory from the definition of “Eligible Letter of Credit Inventory” in the event that Agent determines that such Inventory is subject to any Person’s right or claim which is (or is capable of being) senior to, or *pari passu* with, the Lien of Agent, or may otherwise adversely impact the ability of Agent to realize upon such Inventory; provided, further, that, as of any date of determination, the aggregate amount attributable to Eligible In-Transit Inventory and Eligible Letter of Credit Inventory shall not exceed 10% of the Borrowing Base.

Eligible Revolving Contract: Eligible Contract under which the applicable Contract Debtor may borrow, repay and re-borrow up to the credit limit thereunder.

Enforcement Action: any action to enforce any Obligations (other than Secured Bank Product Obligations) or Loan Documents or to exercise any rights or remedies relating to any Collateral, whether by judicial action, self-help, notification of Account Debtors, setoff or recoupment, credit bid, deed in lieu of foreclosure, action in an Insolvency Proceeding or otherwise.

Environmental Laws: Applicable Laws (including programs, permits and guidance promulgated by regulators) relating to public health in respect of exposure to hazardous materials (other than occupational safety and health regulated by OSHA) or the protection or pollution of the environment, including CERCLA, RCRA and CWA.

Environmental Notice: a written notice from any Governmental Authority or other Person of any possible noncompliance with, investigation of a possible violation of, litigation relating to, or potential fine or liability under any Environmental Law, or with respect to any Environmental Release, environmental pollution or hazardous materials, including any complaint, summons, citation, order, claim, demand or request for correction, remediation or otherwise.

Environmental Release: a release as defined in CERCLA or under any other Environmental Law.

Equity Interest: the interest of any (a) shareholder in a corporation; (b) partner in a partnership (whether general, limited, limited liability or joint venture); (c) member in a limited liability company; or (d) other Person having any other form of equity security or ownership interest.

Equity Interest Pledge Agreement: a pledge agreement, in form and substance satisfactory to Agent, executed by Parent, CAIH and CLL, granting a security interest in the Equity Interests in each of such grantor’s Subsidiaries in favor of Agent for the benefit of the Secured Parties.

ERISA: the Employee Retirement Income Security Act of 1974, as amended, and the rules and regulations promulgated thereunder.

ERISA Affiliate: any trade or business (whether or not incorporated) under common control with an Obligor within the meaning of Section 414(b) or (c) of the Code (and Sections 414(m) and (o) of the Code for purposes of provisions relating to Section 412 of the Code).

ERISA Event:

(a) Reportable Event with respect to a Pension Plan;

(b) withdrawal of an Obligor or ERISA Affiliate from a Pension Plan subject to Section 4063 of ERISA during a plan year in which it was a substantial employer (as defined in Section 4001(a)(2) of ERISA) or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA;

(c) complete or partial withdrawal of an Obligor or ERISA Affiliate from a Multiemployer Plan or notification that a Multiemployer Plan is in reorganization;

(d) filing of a notice of intent to terminate, the treatment of a Pension Plan amendment as a termination under Section 4041 or 4041A of ERISA, or the institution of proceedings by the PBGC to terminate a Pension Plan;

(e) determination that a Pension Plan is considered an at-risk plan or a plan in critical or endangered status under the Code or ERISA;

(f) an event or condition that constitutes grounds under Section 4042 of ERISA for termination of, or appointment of a trustee to administer, any Pension Plan;

(g) imposition of any liability on an Obligor or ERISA Affiliate under Title IV of ERISA, other than for PBGC premiums due but not delinquent under Section 4007 of ERISA; or

(h) failure by an Obligor or ERISA Affiliate to meet all applicable requirements under the Pension Funding Rules in respect of a Pension Plan, whether or not waived, or to make a required contribution to a Multiemployer Plan.

EU Bail-In Legislation Schedule: the EU Bail-In Legislation Schedule published by the Loan Market Association, as in effect from time to time.

Event of Default: as defined in **Section 11.1**.

Excluded Accounts: any Deposit Account or Securities Account (i) exclusively used for Tax and Trust Funds or to hold funds constituting collateral for Permitted Liens of the type described in **Section 10.2.2**, (ii) used to service Third Party Contracts or to hold the proceeds of Third Party Contracts and (iii) containing not more than \$10,000 at any time.

Excluded Assets: (i) motor vehicles subject to certificate-of-title statutes; (ii) Excluded Accounts; (iii) any intent-to-use trademark application prior to the filing of a “Statement of Use” or “Amendment to Allege Use” (or equivalents thereof) with respect thereto, to the extent, if any, that, and solely during the period, if any, in which, the grant of a security interest therein would impair the validity or enforceability of such intent-to-use trademark application under applicable federal law and (iv) any property to the extent that such grant of a security interest of the type otherwise created hereby (A) is prohibited by any Applicable Law, (B) requires a consent not obtained of any Governmental Authority pursuant to such Law or (C) is prohibited by a negative pledge or anti-assignment provision or gives rise to any type of right of termination or default remedy under any contract, license, agreement, instrument or other document evidencing or giving rise to such property, except, in each case, to the extent that such Law or the term in such contract, license, agreement, instrument or other document or shareholder or similar agreement providing for such prohibition, breach, default or termination or requiring such consent is ineffective under Applicable Law (including Sections 9-406, 9-407, 9-408 or 9 409 of the UCC).

Excluded Collateral: (i) any Excluded Assets, (ii) the Equity Interests of any Foreign Subsidiary to the extent such Equity Interests exceed 65% of the voting power of all classes of Equity Interests of such Foreign Subsidiary entitled to vote or (iii) the Equity Interests of a Subsidiary of a Foreign Subsidiary.

Excluded Swap Obligation: with respect to an Obligor, each Swap Obligation as to which, and only to the extent that, such Obligor’s guaranty of or grant of a Lien as security for such Swap Obligation is or becomes illegal under the Commodity Exchange Act because the Obligor does not constitute an “eligible contract participant” as defined in the act (determined after giving effect to any keepwell, support or other agreement for the benefit of such Obligor and all guarantees of Swap Obligations by other Obligor(s) when such guaranty or grant of Lien becomes

effective with respect to the Swap Obligation. If an agreement, contract or transaction governs more than one Swap Obligation, only the Swap Obligation(s) or portions thereof described in the foregoing sentence shall be Excluded Swap Obligation(s) for the applicable Obligor.

Excluded Taxes: (a) Taxes imposed on or measured by a Recipient's net income (however denominated), franchise Taxes and branch profits Taxes (i) as a result of such Recipient being organized under the laws of, or having its principal office or applicable Lending Office located in, the jurisdiction imposing such Tax, or (ii) constituting Other Connection Taxes; (b) U.S. federal withholding Taxes imposed on amounts payable to or for the account of a Lender with respect to its interest in a Loan or Commitment pursuant to a law in effect when the Lender acquires such interest (except pursuant to an assignment request by Borrower Agent under **Section 13.4**) or changes its Lending Office, unless the Taxes were payable to its assignor immediately prior to such assignment or to the Lender immediately prior to its change in Lending Office; (c) Taxes attributable to a Recipient's failure to comply with **Section 5.10**; and (d) U.S. federal withholding Taxes imposed pursuant to FATCA.

Existing Bank Products: Bank Products provided by (a) Agent and/or its Affiliates in existence on the Closing Date and (b) under the Existing Loan Agreement and in existence on the Closing Date consisting of those listed on **Schedule 1.1E(1)**.

Existing HY Note Indenture: that certain Senior Notes Indenture, dated as of July 1, 2014, by and among Parent, the guarantors party thereto and U.S. Bank National Association, as trustee, as amended.

Existing HY Notes: Parent's 7.250% Senior Notes due 2022 issued pursuant to the Existing HY Note Indenture.

Existing HY Notes Reserve: a reserve equal to the aggregate outstanding principal amount of the Existing HY Notes.

Existing Letters of Credit: the issued and outstanding letters of credit as set forth in **Schedule 1.1E(2)**.

Existing Loan Agreement: as defined in the recitals to this Agreement.

Existing Securitization Facilities: (a) the transaction established pursuant to that Note Purchase Agreement, dated April 16, 2019, by and among Conn's Inc., Conn's Receivables Funding 2019-A, LLC, Conn Appliances, Inc., Credit Suisse Securities (USA) LLC, JP Morgan Securities LLC, MUFG Securities Americas Inc. and Deutsche Bank Securities Inc., as initial purchasers; (b) the transaction established pursuant to that certain Note Purchase Agreement, dated November 19, 2019, by and among Conn Appliances, Inc., Conn's Receivables Funding 2019-B, LLC, Conn Appliances Receivables Funding, LLC, Conn's, Inc. and the Initial Purchasers (as defined therein); and (c) the transaction established pursuant to that certain Note Purchase Agreement, dated October 9, 2020, by and among Conn Appliances, Inc., Conn's Receivables Funding 2020-A, LLC, Conn Appliances Receivables Funding, LLC, Conn's, Inc. and the Initial Purchasers (as defined therein); provided that any reference in this Agreement to "the Existing Securitization Facility" shall be a reference to any of the foregoing.

Extraordinary Expenses: all reasonable and documented out-of-pocket costs, expenses or advances that Agent may incur during the existence an Event of Default, or during the pendency of an Insolvency Proceeding of an Obligor in accordance with the terms of this Agreement and the other applicable Loan Documents, including those relating to (a) any audit, inspection, repossession, storage, repair, appraisal, insurance, manufacture, preparation or advertising for sale, sale, collection, or other preservation of or realization upon any Collateral; (b) any action, arbitration or other proceeding (whether instituted by or against Agent, any Lender, any Obligor, any representative of creditors of an Obligor or any other Person) in any way relating to any Collateral (including the validity, perfection, priority or avoidability of Agent's Liens with respect to any Collateral), Loan Documents, Letters of Credit or Obligations, including any lender liability or other Claims; (c) the exercise, protection or enforcement of any rights or remedies of Agent in, or the monitoring of, any Insolvency Proceeding; (d) settlement or satisfaction of any taxes, charges or Liens with respect to any Collateral; (e) any Enforcement Action; (f) negotiation and documentation of any modification, waiver, workout, restructuring or forbearance with respect to any Loan Documents or Obligations; and (g) Protective Advances in each case in accordance with this Agreement. Such costs, expenses and advances include transfer fees, Other Taxes, storage fees, insurance costs, permit fees,

utility reservation and standby fees, legal fees, appraisal fees, brokers' fees and commissions, auctioneers' fees and commissions, accountants' fees, environmental study fees, wages and salaries paid to employees of any Obligor or independent contractors in liquidating any Collateral, and travel expenses; provided, that, notwithstanding the foregoing or anything to the contrary contained herein (a) attorneys' fees and expenses shall be limited to the reasonable and documented out-of-pocket fees, charges and disbursements of one lead firm of counsel to Agent and, if necessary, one (1) local counsel in each relevant local jurisdiction to Agent and, in the case of any actual or potential conflict of interest, one (1) additional counsel to all Lenders, taken as a whole and (b) Extraordinary Expenses shall be subject to the limitations set forth herein including the limitations on inspections and appraisals set forth in **Section 10.1.1**.

FATCA: Sections 1471 through 1474 of the Code (including any amended or successor version if substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof and any agreements entered into pursuant to Section 1471(b)(1) of the Code and any fiscal or regulatory legislation, rules or practice adopted pursuant to any intergovernmental agreement, treaty or convention among Governmental Authorities and implementing such Sections of the Code.

Federal Funds Effective Rate: for any day, the rate calculated by the NYFRB based on such day's federal funds transactions by depository institutions, as determined in such manner as shall be set forth on the NYFRB's Website from time to time, and published on the next succeeding Business Day by the NYFRB as the effective federal funds rate; provided that if the Federal Funds Effective Rate as so determined would be less than 0.00%, such rate shall be deemed to be 0.00% for the purposes of this Agreement.

Fee Letter: one or more fee letter agreements between Agent and Borrowers dated as of even date herewith.

FILO Tranche: as defined in **Section 2.2**.

First Amended and Restated Loan Agreement: as defined in the recitals to this Agreement.

Fiscal Quarter: each period of three months, commencing on the first day of a Fiscal Year.

Fiscal Year: the fiscal year of Parent and its Subsidiaries for accounting and tax purposes, ending on January 31 of each year.

Floor: the benchmark rate floor, if any, provided in this Agreement initially (as of the execution of this Agreement, the modification, amendment or renewal of this Agreement or otherwise) with respect to LIBOR.

Flooring Intercreditor Agreement: each intercreditor agreement entered into by Agent and a Flooring Lender, in form and substance reasonably satisfactory to Agent.

Flooring Lender: any lender which provides financing for the purchase of Inventory by a Borrower.

FLSA: the Fair Labor Standards Act of 1938.

Flood Laws: the National Flood Insurance Act of 1968, Flood Disaster Protection Act of 1973 and related laws.

Foreign Lender: any Lender that is not a U.S. Person.

Foreign Plan: any employee benefit plan or arrangement (a) maintained or contributed to by any Obligor or its Subsidiary that is not subject to the laws of the United States; or (b) mandated by a government other than the United States for employees of any Obligor or its Subsidiary.

Foreign Subsidiary: a Subsidiary of Parent that is a "controlled foreign corporation" under Section 957 of the Code, such that a guaranty by such Subsidiary of the Obligations or a Lien on the assets of such Subsidiary to secure the Obligations would result in material tax liability to Borrowers.

**Fronting Exposure:** a Defaulting Lender's interest in LC Obligations, Swingline Loans and Protective Advances, except to the extent Cash Collateralized by the Defaulting Lender or allocated to other Lenders hereunder.

**Full Payment:** with respect to any Obligation (a) the full cash payment thereof (other than contingent obligations for which no claim or demand has been made), including any interest, fees and other charges accruing during an Insolvency Proceeding (whether or not allowed in the proceeding); and (b) if such Obligations are LC Obligations or contingent in nature (other than contingent obligations (other than LC Obligations) for which no claim or demand has been made), Cash Collateralization thereof (or delivery of a standby letter of credit reasonably acceptable to Agent in its discretion, in the amount of required Cash Collateral). A Full Payment of Revolver Loans shall not be deemed to have occurred unless all Revolver Commitments related to such Revolver Loans are terminated or have expired.

**GAAP:** generally accepted accounting principles in effect in the United States from time to time. If Borrower Agent notifies Agent that it is required to report under IFRS or has elected to do so through an early adoption policy, upon the execution and effectiveness of an amendment hereof in accordance therewith to accommodate such change in accordance with **Section 1.2**, "GAAP" means international financial reporting standards pursuant to IFRS, it being understood and agreed that all financial statements shall be prepared in accordance with IFRS.

**Gift Card Reserve:** a reserve equal to 50% of the face amount of gift cards which are issued by a Borrower and are outstanding as of any measurement date.

**Governmental Approval:** any authorization, consent, approval, license or exemption of, or any registration or filing with, any Governmental Authority.

**Governmental Authority:** any federal, state, local, foreign or other agency, authority, body, commission, court, instrumentality, political subdivision, central bank, or other entity or officer exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions for any governmental, judicial, investigative, or regulatory authority (including the Consumer Financial Protection Bureau, the Financial Conduct Authority, the Prudential Regulation Authority and any supra-national bodies such as the European Union or European Central Bank).

**Gross Cash Collections:** total Contracts payments received from Contract Debtors and applied to such Contracts during any applicable period.

**Gross Contract Payments:** as of the date of determination, (i) with respect to an interest-bearing Contract, the outstanding balance thereof including all accrued but unpaid interest, fees and other charges (including administrative fees and escrow fees but excluding late charges), owing by the Contract Debtor, and (ii) with respect to a precomputed Contract, the outstanding balance thereof including all unearned interest, fees, and charges (including administrative fees and escrow fees but excluding late charges), owing by the Contract Debtor.

**Guarantor Payment:** as defined in **Section 5.11.3(b)**.

**Guarantors:** Parent, CAIH, CAIC, CLL and each other Person who guarantees payment or performance of the Obligations pursuant to the Guaranty.

**Guaranty:** a guaranty agreement in the form executed by the Guarantors in favor of Agent on the Closing Date.

**Hedging Agreement:** any agreement with respect to any swap, forward, future or derivative transaction or option or similar agreement involving, or settled by reference to, one (1) or more rates, currencies, commodities, equity or debt instruments or securities, or economic, financial or pricing indices or measures of economic, financial or pricing risk or value or any similar transaction or any combination of these transactions; provided that no phantom stock or other employee benefit plan providing for payments only on account of services provided by

current or former directors, officers, employees, members of management or consultants of Parent, Borrowers or any of their Subsidiaries shall be a Hedging Agreement.

HY Note Indenture: the Existing HY Note Indenture and any Permitted Additional HY Note Indenture.

HY Note Subordination Agreement: one or more lien subordination agreements entered into between Agent and the trustee with respect to a HY Note Indenture, in form and substance reasonably satisfactory to Agent.

HY Notes: the Existing HY Notes and any Permitted Additional HY Notes.

Impacted Interest Period: as defined in the definition of "LIBOR".

Increased Reporting Period: at any time after (a) an Event of Default occurs, (b) average Availability during any month (as reflected in the Loan Account) is less than 12.5% of the Borrowing Base, or (c) Availability (as reflected in the Loan Account) is less than 10% of the Borrowing Base at any time for four or more consecutive days. When in place, such Increased Reporting Period shall be deemed continuing so long as (i) such Event of Default has not been waived, and/or (ii) if the Increased Reporting Period arises as a result of Borrowers' failure to achieve Availability as required hereunder, until average Availability during any month (as reflected in the Loan Account) has exceeded 15% of the Borrowing Base for ninety (90) consecutive days, in which case an Increased Reporting Period shall no longer be deemed to be continuing for purposes of this Agreement; provided that an Increased Reporting Period shall be deemed continuing (even if an Event of Default is no longer continuing and/or Availability exceeds the required amount for ninety (90) consecutive days) at all times after an Increased Reporting Period has occurred and been discontinued on two (2) occasions after the Closing Date.

Indemnified Taxes: (a) Taxes, other than Excluded Taxes, imposed on or relating to any payment of an Obligation; and (b) to the extent not otherwise described in clause (a), Other Taxes.

Indemnities: Agent Indemnities, Lender Indemnities, Issuing Bank Indemnities and JPM Indemnities.

Insolvency Proceeding: any case or proceeding commenced by or against a Person under any state, federal or foreign law for, or any agreement of such Person to, (a) the entry of an order for relief under the Bankruptcy Code, or any other insolvency, debtor relief or debt adjustment law; (b) the appointment of a receiver, trustee, liquidator, administrator, conservator or other custodian for such Person or any part of its Property; or (c) an assignment or trust mortgage for the benefit of creditors.

Intellectual Property: all intellectual and similar Property of a Person, including inventions, designs, patents, copyrights, trademarks, service marks, trade names, trade secrets, confidential or proprietary information, customer lists, know-how, software and databases; all embodiments or fixations thereof and all related documentation, applications, registrations and franchises; all Licenses or other rights to use any of the foregoing; and all books and records relating to the foregoing.

Intellectual Property Claim: any claim or assertion (whether in writing, by suit or otherwise) that a Borrower's or its Subsidiary's ownership, use, marketing, sale or distribution of any Inventory, Equipment, Intellectual Property or other Property violates another Person's Intellectual Property.

Interest Coverage Ratio: the ratio, determined as of the end of any Fiscal Quarter on a consolidated basis for Parent and its Subsidiaries (including EBITDA and Interest Expense under the Existing Securitization Facility and any other Permitted ABS Transactions whether or not consolidated in Parent's financial statements), of (a) EBITDA divided by 2 in the case of **Section 10.3.1(a)** and 4 in the case of **Section 10.3.1(b)** to (b) Interest Expense.

Interest Expense: with respect to Parent and its Subsidiaries on a consolidated basis, for any period of measurement, the interest expense (net of interest income to the extent not included in the calculation of EBITDA) for such period in each case paid in cash (excluding (i) the amortization of debt discounts, (ii) the amortization of all closing fees incurred with respect to the initial closing of, any amendment to, or redemption or termination of (a) an Existing Securitization Facility or any other Permitted ABS Transaction, (b) the HY Notes, Permitted Additional HY Notes or any Permitted Convertible Notes, (c) the Loan Documents and (d) any other documents evidencing

Debt payable in connection with the incurrence of Debt to the extent included in interest expense, and (iii) backup servicing fees, field exam and other non-interest expenses but only if such expenses are otherwise deducted from ordinary operating expenses or the definition of EBITDA for covenant calculation purposes, and including (x) commissions, discounts and other fees and charges incurred in respect of letters of credit, (y) the portion of any payments or accruals with respect to Capital Leases allocable to interest expense and (z) net payments and receipts (if any) pursuant to interest rate Hedging Agreements).

**Interest Payment Date:** (a) with respect to any Base Rate Loan (other than a Swingline Loan), the first day of each month and the Revolver Termination Date, (b) with respect to any LIBOR Revolver Loan, the last day of each Interest Period applicable to the Borrowing of which such Revolver Loan is a part and, in the case of a Borrowing of LIBOR Revolver Loans 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 Revolver Termination Date and (c) with respect to any Swingline Loan, the day that such Swingline Loan is required to be repaid and the Revolver Termination Date.

**Interest Period:** as defined in **Section 3.1.3**.

**Interpolated Rate:** at any time, for any Interest Period, the rate per annum (rounded to the same number of decimal places as the LIBOR Screen Rate) determined by Agent (which determination shall be conclusive and binding absent manifest error) to be equal to the rate that results from interpolating on a linear basis between: (a) the LIBOR Screen Rate for the longest period for which the LIBOR Screen Rate is available) that is shorter than the Impacted Interest Period; and (b) the LIBOR Screen Rate for the shortest period (for which that LIBOR Screen Rate is available) that exceeds the Impacted Interest Period, in each case, at such time.

**Inventory:** as defined in the UCC, including all goods intended for sale, lease, display or demonstration; all work in process; and all raw materials, and other materials and supplies of any kind that are or could be used in connection with the manufacture, printing, packing, shipping, advertising, sale, lease or furnishing of such goods, or otherwise used or consumed in a Borrower's business (but excluding Equipment).

**Inventory Formula Amount:** the lesser of (i) 33.33% of the Revolver Commitments then in effect; or (ii) 90% of the NOLV Percentage of the Value of Eligible Inventory.

**Inventory Reserve:** reserves established by Agent in its Permitted Discretion to reflect factors that may negatively impact the Value of Eligible Inventory and are not reflected in the determination of the NOLV Percentage and without duplication of items addressed in the eligibility criterion of Eligible Inventory. Without limiting the generality of the foregoing, Inventory Reserves may include (but are not limited to) reserves based on change in salability, obsolescence, seasonality, theft, imbalance, change in composition or mix, markdowns and vendor chargebacks.

**Investment:** as to any Person, an Acquisition, an acquisition of record or beneficial ownership of any Equity Interests of another Person, or a loan or advance of money, or capital contribution to, another Person.

**IRS:** the United States Internal Revenue Service.

**ISDA Definitions:** the 2006 ISDA Definitions published by the International Swaps and Derivatives Association, Inc. or any successor thereto, as amended or supplemented from time to time, or any successor definitional booklet for interest rate derivatives published from time to time by the International Swaps and Derivatives Association, Inc. or such successor thereto.

**Issuing Bank:** JPM, Regions Bank, MUFG Union Bank, N.A. and any other Lender acceptable to Borrower Agent including any Lending Office of JPM or such Lender, or any replacement issuer appointed pursuant to **Section 2.3.4**.

**Issuing Bank Indemnitees:** Issuing Bank and its officers, directors, employees, Affiliates, agents and attorneys.

JPM: as defined in the Preamble to this Agreement.

JPM Indemnitees: JPM and its officers, directors, employees, Affiliates, agents and attorneys.

Junior Lien Debt: Debt secured by Liens that are contractually subordinated to the Liens securing the Obligations pursuant to the terms of a customary intercreditor agreement or other lien subordination agreement in form and substance reasonably satisfactory to Agent (including a HY Note Subordination Agreement).

LC Application: an application by Borrower Agent to Issuing Bank for issuance of a Letter of Credit, in form and substance satisfactory to Issuing Bank and Agent.

LC Conditions: upon giving effect to issuance of a Letter of Credit, (a) the conditions in **Section 6.2** are satisfied; (b) total LC Obligations do not exceed the Letter of Credit Subline, Revolver Usage does not exceed the Borrowing Base, CAI Revolver Usage does not exceed the CAI Borrowing Base and CCI Revolver Usage does not exceed the CCI Borrowing Base; (c) the Letter of Credit and payments thereunder are denominated in Dollars or other currency reasonably satisfactory to Agent and Issuing Bank; and (d) the form of the proposed Letter of Credit is reasonably satisfactory to the Issuing Bank.

LC Documents: all documents, instruments and agreements (including LC Requests and LC Applications) delivered by Borrowers or any other Person to Issuing Bank or Agent in connection with any Letter of Credit.

LC Obligations: the sum of (a) all amounts owing by Borrowers for any drawings under Letters of Credit; and (b) the Stated Amount of all outstanding Letters of Credit.

LC Request: a request for issuance of a Letter of Credit, to be provided by Borrower Agent to Issuing Bank in form reasonably satisfactory to Agent and Issuing Bank.

LCT Election: as defined in **Section 1.8**.

LCT Test Time: as defined in **Section 1.8**.

Legal Action: any judicial action, suit, or proceeding at law, in equity, or before any Governmental Authority.

Lender Indemnitees: Lenders and their officers, directors, employees, Affiliates, agents and attorneys.

Lenders: lenders party to this Agreement, including Agent in its capacity as a provider of Swingline Loans and any Person who hereafter becomes a "Lender" pursuant to an Assignment and Acceptance, in each case including any Lending Office of any Lender.

Lending Office: the office (including any domestic or foreign Affiliate or branch) designated as such by Agent, a Lender or Issuing Bank by notice to Borrower Agent and, if applicable, Agent.

Letter of Credit: any standby or documentary letter of credit, foreign guaranty, documentary bankers acceptance or similar instrument issued by Issuing Bank for the account or benefit of a Borrower or Affiliate of a Borrower.

Letter of Credit Subline: means, at any time, an amount equal to the lesser of (a) \$40,000,000, as such amount may be increased to an amount not to exceed \$100,000,000 to the extent requested by the Borrower Agent and consented to by any Issuing Bank (with notice to the Agent) that is willing to provide a Letter of Credit in excess of the then existing Letter of Credit Subline, and (b) the aggregate amount of the Revolver Commitments as in effect at such time. The Letter of Credit Subline is part of, and not in addition to, the Revolver Commitments.

Leverage Ratio: the ratio, determined as of the end of any Fiscal Quarter for Parent and its Subsidiaries, on a consolidated basis, of (a) the result of (i) all items that would be included as liabilities on a balance sheet in accordance with GAAP (but excluding, for avoidance of doubt, any lease which is not treated as a Capital Lease in

accordance with the definition of “Capital Lease”, which exclusion shall be made by reducing the amount of such liabilities on the balance sheet by an amount equal to the remainder of (1) the sum of current and long term “operating leases” minus (2) deferred rent) as of the last day of such Fiscal Quarter (including debt under the Existing Securitization Facility and any other Permitted ABS Transactions whether or not included as a liability on the balance sheet), minus (ii) the sum of Qualified Cash and ABS Qualified Cash as of such date of measurement to (b) Tangible Net Worth as of the last day of such Fiscal Quarter.

LIBOR: with respect to any Borrowing of LIBOR Revolver Loans for any Interest Period, the LIBOR Screen Rate at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period; provided that if the LIBOR Screen Rate shall not be available at such time for such Interest Period (an “Impacted Interest Period”) then LIBOR shall be the Interpolated Rate.

LIBOR Revolver Loan: a Revolver Loan that bears interest based on the Adjusted LIBO Rate.

LIBOR Screen Rate: for any day and time, with respect to any Borrowing of LIBOR Revolver Loans for any Interest Period, the London interbank offered rate as administered by ICE Benchmark Administration (or any other Person that takes over the administration of such rate for Dollars for a period equal in length to such Interest Period as displayed on such day and time on pages LIBOR01 or LIBOR02 of the Reuters screen that displays such rate (or, in the event such rate does not appear on a Reuters page or screen, on any successor or substitute page on such screen that displays such rate, or on the appropriate page of such other information service that publishes such rate from time to time as selected by Agent in its reasonable discretion); provided that if the LIBOR Screen Rate as so determined would be less than 0.00%, such rate shall be deemed to be 0.00% for the purposes of this Agreement.

License: any written license or agreement under which an Obligor is authorized to use Intellectual Property in connection with any manufacture, marketing, distribution or disposition of Collateral, any use of Property or any other conduct of its business.

Licensor: any Person from whom an Obligor obtains the right to use any Intellectual Property.

Lien: with respect to any asset, mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), charge or other security interest or any preference, priority or other security agreement or preferential arrangement of any kind or nature whatsoever (including 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 the foregoing), in each case, relating to such asset and in the nature of security.

Lien Waiver: an agreement, in form and substance reasonably satisfactory to Agent, by which (a) for any material Collateral located on leased premises, the lessor waives or subordinates any Lien it may have on the Collateral, and agrees to permit Agent to enter upon the premises and remove the Collateral or to use the premises to store or dispose of the Collateral; (b) for any Collateral held by a warehouseman, processor, shipper, customs broker or freight forwarder, such Person waives or subordinates any Lien it may have on the Collateral, agrees to hold any Documents in its possession relating to the Collateral as agent for Agent, and agrees to deliver the Collateral to Agent upon request; (c) for any Collateral held by a repairman, mechanic or bailee, such Person acknowledges Agent’s Lien, waives or subordinates any Lien it may have on the Collateral, and agrees to deliver the Collateral to Agent upon request; and (d) for any Collateral subject to a Licensor’s Intellectual Property rights, the Licensor grants to Agent the right, vis à vis such Licensor, to enforce Agent’s Liens with respect to the Collateral, including the right to dispose of it with the benefit of the Intellectual Property, whether or not a default exists under any applicable License.

Limited Condition Transaction: means (a) any Permitted Acquisition that the Parent or one or more of its Subsidiaries has contractually committed to consummate, the terms of which do not condition the Parent’s or its Subsidiary’s, as applicable, obligations to close such Permitted Acquisition on the availability of third-party financing and (b) any redemption, repurchase, defeasance, satisfaction and discharge or repayment of Debt requiring irrevocable notice in advance of such redemption, repurchase, defeasance, satisfaction and discharge or repayment.

**Limited Repurchase Obligations:** any obligation of a Person that is a seller of Contracts directly or indirectly to a Securitization Subsidiary to repurchase such Contracts arising as a result of a breach of a representation, warranty or covenant, including as a result of a Contract or portion thereof becoming subject to any asserted defense, dispute, offset or counterclaim 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.

**Loan Account:** the loan account established by each Lender on its books pursuant to **Section 5.8**.

**Loan Documents:** this Agreement, Other Agreements, Security Documents and the Flooring Intercreditor Agreements.

**Loan Year:** each 12-month period commencing on the Closing Date or an anniversary thereof.

**Managed Contract Portfolio:** the Owned Contract Portfolio and ABS Contract Portfolio.

**Margin Stock:** as defined in Regulation U of the Board of Governors.

**Material Adverse Effect:** (a) a material adverse effect on the business, operations, Properties or financial condition of Obligors, taken as a whole; (b) a material adverse effect on the validity or enforceability of the Loan Documents or the rights or remedies of the Agent and the Lenders thereunder, taken as a whole; or (c) a material adverse impairment of the ability of the Obligors, collectively, to perform any obligations under the Loan Documents, including repayment of any Obligations, or on the ability of Agent or any Lender to enforce or collect any Obligations under the Loan Documents or to realize upon any Collateral.

**Material Contract:** any agreement or arrangement to which any Obligor is a party (other than the Loan Documents) (a) for which breach, termination, nonperformance or failure to renew could reasonably be expected to have a Material Adverse Effect; or (b) that relates to Debt with an aggregate outstanding principal amount of \$35,000,000 or more.

**Modified Contract:** a Contract which, at any time, was in payment default for more than 60 days and such payment default was cured by execution of a new Contract in order to adjust, amend, or reduce the payment terms of the original Contract.

**Moody's:** Moody's Investors Service, Inc.

**Multiemployer Plan:** any employee benefit plan of the type described in Section 4001(a)(3) of ERISA, to which any Obligor or ERISA Affiliate makes or is obligated to make contributions, or during the preceding five plan years, has made or been obligated to make contributions.

**Net Balance:** as of the date of determination, the Gross Contract Payments of a Contract less all unearned interest owing by the Contract Debtor.

**Net Charge-Off:** for any period, the aggregate amount of all unpaid payments due under Contracts which have been charged off during such period, as reduced by the amount of unearned interest, unearned insurance, accrued but unpaid interest, unpaid late charges, repossession recoveries, cash recoveries and amounts recovered in cash from other third parties, with respect to Contracts which had been charged off during previous periods or during such period.

**Net Charge-Off Percent:** the percent, calculated as of the last day of each month, equal to the (a) aggregate amount of Net Charge-Offs for the 3 preceding months then ended multiplied by 4, divided by (b) the sum of the Net Balance owing under all Contracts outstanding during the trailing 3 months then ended, divided by 3.

**Net Eligible Contract Payments:** as of the date of determination, the remainder of (a) the Gross Contract Payments owing under all Eligible Contracts, minus (b) the sum of (i) the aggregate amount, to the extent included within the definition of Gross Contract Payments, of all unearned interest, fees, and charges applicable to the

Eligible Contracts and (ii) the unearned insurance commissions, in each case, as presented on the books and records of Borrowers.

Net Proceeds: with respect to an Asset Disposition, proceeds (including, when received, any deferred or escrowed payments) received by a Borrower or any of its Subsidiaries in cash from such disposition, net of (a) reasonable and customary costs and expenses actually incurred in connection therewith, including legal fees and sales commissions; (b) amounts applied to repayment of Debt secured by a Permitted Lien senior to Agent's Liens on Collateral sold; (c) transfer or similar taxes; and (d) reserves for indemnities, until such reserves are no longer needed.

NOLV Percentage: the net orderly liquidation value of Inventory, expressed as a percentage, expected to be realized at an orderly, negotiated sale held within a reasonable period of time, net of all liquidation expenses, as determined from the most recent appraisal of Borrowers' Inventory performed by an appraiser and on terms reasonably satisfactory to Agent.

Non-Consenting Lender: any Lender that does not approve any consent, waiver or amendment that (i) requires the approval of all Lenders, or all affected Lenders, or Supermajority Lenders in accordance with the terms of **Section 14.1.1** and (ii) has been approved by the Required Lenders.

Notice of Borrowing: a request by Borrower Agent for a Borrowing of Revolver Loans, in form reasonably satisfactory to Agent.

Notice of Conversion/Continuation: a request by Borrower Agent for conversion or continuation of any Revolver Loan as a LIBOR Revolver Loan, in form reasonably satisfactory to Agent.

NYFRB: the Federal Reserve Bank of New York.

NYFRB's Website: the website of the NYFRB at <http://www.newyorkfed.org>, or any successor source.

NYFRB Rate: for any day, the greater of (a) the Federal Funds Effective Rate in effect on such day and (b) the Overnight Bank Funding Rate in effect on such day (or for any day that is not a Business Day, for the immediately preceding Business Day); provided that if none of such rates are published for any day that is a Business Day, the term "NYFRB Rate" means the rate for a federal funds transaction quoted at 11:00 a.m. on such day received by Agent from a federal funds broker of recognized standing selected by it; provided, further, that if any of the aforesaid rates as so determined be less than 0.00%, such rate shall be deemed to be 0.00% for purposes of this Agreement.

Obligations: all (a) principal of and premium, if any, on the Revolver Loans, (b) LC Obligations and other obligations of Obligor with respect to Letters of Credit, (c) interest, expenses, fees, indemnification obligations, Extraordinary Expenses and other amounts payable by Obligor under the Loan Documents, (d) Secured Bank Product Obligations, and (e) other Debts, obligations and liabilities of any kind owing by Obligor pursuant to the Loan Documents, in each case, whether now existing or hereafter arising, whether evidenced by a note or other writing, whether allowed in any Insolvency Proceeding, whether arising from an extension of credit, issuance of a letter of credit, acceptance, loan, guaranty, indemnification or otherwise, and whether direct or indirect, absolute or contingent, due or to become due, primary or secondary, or joint or several; provided, that Obligations of an Obligor shall not include its Excluded Swap Obligations.

Obligor: each Borrower, Guarantor or other Person that is liable for payment of any Obligations or that has granted a Lien on its assets in favor of Agent to secure any Obligations.

OFAC: Office of Foreign Assets Control of the U.S. Treasury Department.

Ordinary Course of Business: the ordinary course of business of any Borrower or any of its Subsidiaries or consistent with past practices.

**Organic Documents:** with respect to any Person, its charter, certificate or articles of incorporation, bylaws, articles of organization, limited liability agreement, operating agreement, members agreement, shareholders agreement, partnership agreement, certificate of partnership, certificate of formation, voting trust agreement, or similar agreement or instrument governing the formation or operation of such Person.

**Original Loan Agreement:** as defined in the recitals to this Agreement.

**OSHA:** the Occupational Safety and Hazard Act of 1970.

**Other Agreement:** each Revolver Note, LC Document, Fee Letter, Permitted ABS Intercreditor Agreement or other subordination or intercreditor agreement entered into by Agent in connection with Debt permitted under **Section 10.2.1(b)**.

**Other Connection Taxes:** Taxes imposed on a Recipient due to a present or former connection between it and the taxing jurisdiction (other than connections arising from the Recipient having executed, delivered, become party to, performed obligations or received payments under, received or perfected a Lien or engaged in any other transaction pursuant to, enforced, or sold or assigned an interest in, any Revolver Loan or Loan Document).

**Other Taxes:** all present or future stamp, court, documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a Lien under, or otherwise with respect to, any Loan Document, except Other Connection Taxes imposed with respect to an assignment (other than an assignment made pursuant to **Section 13.4(c)**).

**Overadvance:** as defined in **Section 2.1.5**.

**Overnight Bank Funding Rate:** for any day, the rate comprised of both overnight federal funds and overnight eurodollar borrowings by U.S.-managed banking offices of depository institutions, as such composite rate shall be determined by the NYFRB as set forth on the NYFRB's Website from time to time, and published on the next succeeding Business Day by the NYFRB as an overnight bank funding rate.

**Owned Contract Portfolio:** portfolio of Contracts subject to Agent's Lien pursuant to the Security Documents.

**Parent:** as defined in the Preamble to this Agreement.

**Participant:** as defined in **Section 13.2.1**.

**Past Due Percent:** the percent, calculated as of the beginning of the first day of each month, equal to (a) the aggregate amount of Gross Contract Payments owing under all Contracts (excluding Contracts charged-off), as to which any portion of an installment due thereunder is more than 30 days past due as determined on a contractual basis as of the last day of the month immediately preceding the date of calculation, divided by (b) the aggregate amount of Gross Contract Payments owing under all Contracts (excluding Contracts charged-off) as of the last day of the month immediately preceding the date of calculation.

**Patriot Act:** the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Pub. L. No. 107-56, 115 Stat. 272 (2001).

**Payment Conditions:** with respect to (a) any Permitted Distribution, incurrence of Debt, payment of Debt or Permitted Acquisition or other Investment permitted hereunder, so long as immediately before and after giving effect thereto, (i) no Event of Default exists and (ii) the sum of (A) Qualified Cash plus (B) Availability is greater than 25% of the sum of (x) Qualified Cash plus (y) the Borrowing Base and (b) in the case of a Permitted Distribution, so long as (i) immediately before and after giving effect thereto, no Event of Default exists and (ii) financial statements and Compliance Certificates delivered by Parent to Agent pursuant to **Section 10.1.2** for the most recent Fiscal Quarter ended reflect that Parent has achieved, on a Pro Forma Basis, an Interest Coverage Ratio

of greater than or equal to 1.75:1.00 for the trailing two Fiscal Quarters ending immediately prior to giving effect to such Distribution or payment.

Payment: as defined in **Section 12.9.2**.

Payment Item: each check, draft or other item of payment payable to a Borrower, including those constituting proceeds of any Collateral.

Payment Notice: as defined in **Section 12.9.2**.

PBGC: the Pension Benefit Guaranty Corporation.

Pension Funding Rules: Code and ERISA rules regarding minimum required contributions (including installment payments) to Pension Plans set forth in, for plan years ending prior to the Pension Protection Act of 2006 effective date, Section 412 of the Code and Section 302 of ERISA, both as in effect prior to such act, and thereafter, Sections 412, 430, 431, 432 and 436 of the Code and Sections 302, 303, 304 and 305 of ERISA.

Pension Plan: any employee pension benefit plan (as such term is defined in Section 3(2) of ERISA), other than a Multiemployer Plan, that is subject to Title IV of ERISA and is sponsored or maintained by any Obligor or ERISA Affiliate or to which the Obligor or ERISA Affiliate contributes or has an obligation to contribute, or in the case of a multiple employer or other plan described in Section 4064(a) of ERISA, has made contributions at any time during the preceding five plan years.

Permitted ABS Agent: with respect to a Permitted ABS Transaction, the entity acting as trustee, collateral agent or other secured party or pledgee under such Permitted ABS Transaction.

Permitted ABS Documents: the Permitted ABS Financing Agreements, the Permitted ABS Purchase Agreements and all documents, instruments and agreements executed in connection therewith.

Permitted ABS Financing Agreement: an agreement entered into in connection with a Permitted ABS Transaction, including an indenture, by and between a Securitization Subsidiary and a Permitted ABS Agent, whereby a Securitization Subsidiary grants a security interest in, or deposits into trust, Contracts and which prior to its execution by such Securitization Subsidiary.

Permitted ABS Intercreditor Agreement: an intercreditor agreement by and among Permitted ABS Agent and Agent.

Permitted ABS Purchase Agreement: any agreement by and between one or more Borrowers and a Securitization Subsidiary in connection with a Permitted ABS Transaction for the purpose of effecting one or more transfers of Contracts.

Permitted ABS Transaction: (A) any Existing Securitization Facility or (B) any other transaction pursuant to which a direct or indirect Subsidiary of Parent acquires or has the right to acquire by capital contribution or sale Contracts originated or acquired by one or more Borrowers or other direct or indirect Subsidiaries of Parent or a Borrower, which such Subsidiary acquires or has the right to acquire either (i) from time to time or (ii) in one or more contemporaneous transfers that taken together constitute one transaction, in either case for the purpose of pooling such assets and pledging or granting a security interest in such pool to secure indebtedness (whether in the form of a term or revolving loan or the issuance of securities, certificates or notes, including term notes or variable funding notes) or depositing such pool with a trustee for the purpose of issuing certificates or other instruments representing a beneficial interest in the assets of a trust, in each case so long as:

(a) on each day on which a Borrower transfers a pool of Contracts thereunder, after giving effect to such transfer and any prepayment of the aggregate principal amount of Revolver Loans, the Revolver Usage shall not exceed the Borrowing Base;

(b) such transactions are entered into without recourse to any Obligor, other than Limited Repurchase Obligations and customary representations, warranties, covenants and indemnities made in connection with such transactions;

(c) such transaction is on current market terms for facilities of such type (as reasonably determined by Borrowers);

(d) upon the closing of such transaction or within 10 days (or such later date as shall be reasonably acceptable to Agent) thereafter, Agent has received all of the material documentation related to such transaction; and

(e) in the case of any Permitted ABS Transaction entered into after the Closing Date:

(i) if (and only if) a Dominion Trigger Period exists before or would exist, after giving effect to any transfer of a pool of Contracts under such transaction, the net cash proceeds of such Permitted ABS Transaction payable to the Borrowers shall be used to repay an aggregate principal amount of Revolver Loans outstanding in an amount equal to the net cash proceeds of such Permitted ABS Transaction received by the Borrowers;

(ii) if such Permitted ABS Transaction is a “revolving” transaction, for each transfer of a pool of Contracts thereunder, Agent has received (x) evidence reasonably acceptable to it that such pool of Contracts is randomly selected as of the related Cut-Off Date from the Contracts owned by the Obligors that are eligible to be advanced against under such Permitted ABS Transaction at such time (it being understood that, for purposes of determining whether such pool of Contracts is randomly selected, any Securitized Contracts with respect to any other Permitted ABS Transaction that are assigned and transferred to a Borrower upon the termination of such Permitted ABS Transaction shall be disregarded) and (y) a pro forma Borrowing Base Report; and

(iii) if such Permitted ABS Transaction is not a “revolving” transaction, (x) if fewer than 85% of the Contracts owned by the Obligors at such time are contributed or sold to a Securitization Subsidiary as part of such Permitted ABS Transaction, Agent has received evidence reasonably acceptable to it that (A) the pool of Contracts to be transferred pursuant to such Permitted ABS Transaction is randomly selected as of the related Cut-Off Date from the Contracts owned by the Obligors that are eligible to be advanced against under such Permitted ABS Transaction (it being understood that, for purposes of determining whether such pool of Contracts is randomly selected, any Securitized Contracts with respect to any other Permitted ABS Transaction that are assigned and transferred to a Borrower upon the termination of such Permitted ABS Transaction shall be disregarded) or (B) immediately after giving effect to such Permitted ABS Transaction the characteristics of the pool of Contracts (excluding delinquent and charged-off Contracts and Contracts that are not eligible to be advanced against under the terms of such Permitted ABS Transaction) that remain part of the Collateral shall, in the Agent’s reasonable determination, remain consistent in all material respects with the pool of Contracts (excluding delinquent and charged-off Contracts and Contracts that are not eligible to be advanced against under the terms of such Permitted ABS Transaction) that was part of the Collateral as it existed immediately prior to such Permitted ABS Transaction and (y) Borrower Agent shall deliver to Agent a pro forma Borrowing Base Report.

Permitted Acquisition: any Acquisition as long as:

(a) the assets, business or Person being acquired is located or organized within the United States;

(b) the Acquisition is consensual;

(c) the Payment Conditions are satisfied with respect to such Acquisition;

(d) Obligors are in compliance with the financial covenants set forth in Section 10.3 after giving effect to such Acquisition on a Pro Forma Basis and Parent has delivered to Agent a certificate demonstrating such compliance; and

(e) Borrowers deliver to Agent a certificate stating that the Acquisition is a “Permitted Acquisition” and demonstrating compliance with the foregoing requirements.

Permitted Additional HY Note Indenture: an indenture to be entered into in respect of any Permitted Additional HY Notes between Parent and an indenture trustee.

Permitted Additional HY Notes: senior or senior subordinated notes issued by Parent after the Closing Date with the following terms and conditions:

and (a) the obligations of Parent or any other Person (including guarantees by any Obligor) to repay such Debt are unsecured;

(b) no principal payments are required to be paid with respect thereto prior to the date which is 91 days after the Revolver Termination Date other than principal payments which are required to be paid after acceleration of such Debt and principal payments due in connection with customary asset sale or change of control provisions.

Permitted Asset Disposition: an Asset Disposition that is:

(a) a sale of Inventory in the Ordinary Course of Business;

(b) a disposition of Equipment (other than those set forth in clause (e) below), that, in the aggregate during any 12-month period, has a book value of \$20,000,000 or less;

(c) a disposition of Inventory or Property that is obsolete, worn out, unmerchantable or otherwise unsalable in the Ordinary Course of Business;

(d) a termination of a lease of real or personal Property that is not necessary for the Ordinary Course of Business;

(e) a disposition of any Borrower’s Real Estate and related Equipment affixed thereto in connection with a sale or sale-leaseback transaction;

(f) a Permitted Contract Transfer;

(g) an exchange of like property for use in a similar business of Parent and its Subsidiaries;

(h) a sale, lease, assignment, sublease, license or sublicense of any real or personal property in the Ordinary Course of Business;

(i) exercise of termination rights under any lease, sublease, license, sublicense, concession or other agreement or pursuant to buy/sell arrangements under any joint venture or similar agreement or arrangement;

(j) the grant in the Ordinary Course of Business of any licenses or sublicenses of Intellectual Property;

(k) a discount of Inventory or notes receivable or the conversion of accounts receivable to notes receivable in the Ordinary Course of Business;

(l) any surrender or waiver of contract rights or the settlement, release, recovery on or surrender of contract, tort or other claims of any kind;

(m) a disposition in connection with the outsourcing of services in the Ordinary Course of Business;

(n) termination or unwinding of Hedging Agreements not resulting in an Event of Default pursuant to **Section 11.1(f)**;

(o) a sale or other disposition of Equity Interests under any compensation plan or agreement and other sales of Equity Interests which do not result in a Change of Control;

(p) an Asset Disposition constituting a merger, combination, consolidation, liquidation, wind-up, dissolution or the disposition of all or substantially all of the assets of any Borrower or its Subsidiaries, in each case as permitted under **Section 10.2.9(a)**;

(q) sales of accounts receivable in connection with the collection, settlement or compromise thereof or in an Insolvency Proceeding of the relevant account debtor, in each case, in the Ordinary Course of Business;

(r) to the extent constituting a disposition, a Permitted Distribution or Investments permitted by the definition of “Restricted Investment”;

(s) a disposition of cash and Cash Equivalents in the Ordinary Course of Business; and

(t) approved in writing by the Required Lenders, such approval not to be unreasonably withheld, delayed or conditioned.

Permitted Contingent Obligations: Contingent Obligations:

(a) arising from endorsements of Payment Items for collection or deposit in the Ordinary Course of Business;

(b) arising from Hedging Agreements permitted hereunder;

(c) existing on the Closing Date, and any amendment, restatement, amendment and restatement, supplement, modification, replacement, renewal, extensions or refinancing which does not increase the amount of such Contingent Obligation except by an amount equal to accrued and unpaid interest, penalties and premiums (including tender premiums) and defeasance costs, in each case on the primary obligation, and fees, commissions and expenses related to any such amendment, restatement, amendment and restatement, supplement, modification, replacement, renewal, extensions or refinancing of the Contingent Obligation and the underlying primary obligation;

(d) incurred in the Ordinary Course of Business with respect to bids, trade contracts (other than for Borrowed Money), leases (other than Capital Leases), statutory obligations, surety, stay, customs and appeal bonds, performance, performance and completion and return of money bonds, government contracts, financial assurances and completion guarantees and similar obligations, including those incurred to secure health, safety and environmental obligations in the ordinary course of business (including Debt in respect of letters of credit, bank guarantees or similar instruments in lieu of such items to support the issuance thereof);

(e) arising from agreements of Parent and its Subsidiaries providing for indemnification, adjustment of purchase or acquisition price or similar obligations (including without limitation earn-out obligations), in each case, incurred or assumed in connection with any acquisition or Disposition of any business or assets (including Equity Interests of Subsidiaries) of any Subsidiary of Parent permitted by **Section 10.2.5** or **Section 10.2.6**, other than Contingent Obligations of Debt incurred by any Person acquiring all or any portion of such business or assets for the purpose of financing such acquisition;

(f) arising under the Loan Documents;

(g) relating to indemnification, guaranty or repurchase obligations arising under Permitted ABS Documents or Third Party Contract sales; and

(h) (i) all other Contingent Obligations in an aggregate amount not to exceed \$30,000,000 at any time outstanding and (ii) any amendment, restatement, amendment and restatement, supplement, modification, replacement, renewal, extensions or refinancing which does not increase the outstanding principal amount thereof except by an amount equal to accrued and unpaid interest, penalties and premiums (including tender premiums) and defeasance costs on the underlying obligation, and fees, commissions and expenses related to such any amendment, restatement, amendment and restatement, supplement, modification, replacement, renewal, extensions or refinancing.

Permitted Contract Transfer: (a) a sale or other transfer by a Borrower to a Securitization Subsidiary of Contracts pursuant to the Permitted ABS Purchase Agreement, (b) a sale or other transfer of Contracts between Borrowers in connection with a Permitted ABS Transaction, (c) a sale or other transfer of Contracts between two Securitization Subsidiaries in connection with a Permitted ABS Transaction, (d) a capital contribution of Contracts by a Borrower to a Securitization Subsidiary in connection with a Permitted ABS Transaction with the consent of Agent and (e) the granting by a Securitization Subsidiary to a Permitted ABS Agent of a security interest in Contracts subject to a Permitted ABS Transaction.

Permitted Convertible Notes: senior and/or subordinated convertible debt securities of Parent (a) that are unsecured, (b) that may be guaranteed by any or all of the Subsidiaries of Parent, including, without limitation, any Borrower, (c) that are not subject to any sinking fund or any prepayment, redemption or repurchase requirements, whether scheduled, triggered by specified events or at the option of the holders thereof (it being understood that none of (i) a customary "change in control" or "fundamental change" put, (ii) a right to convert such securities into common stock of the Company, cash or a combination thereof as the Company may elect or (iii) an acceleration upon an event of default will be deemed to constitute such a sinking fund or prepayment, redemption or repurchase requirement), (d) that have the benefit of covenants and events of default customary for comparable convertible securities (as determined by Parent in good faith) and (e) have a scheduled maturity date at least 91 days later than the Revolver Termination Date (as in effect on the date of issuance of the Permitted Convertible Notes).

Permitted Convertible Notes Hedging Agreements: (a) a Hedging Agreement pursuant to which Parent acquires a call or a capped call option requiring the counterparty thereto to deliver to Parent shares of common Equity Interests of Parent, the cash value of such shares or a combination thereof from time to time upon exercise of such option and (b) if entered into by Parent in connection with any Hedging Agreement described in clause (a) above, a Hedging Agreement pursuant to which Parent issues to the counterparty thereto warrants to acquire common Equity Interests of Parent, in each case, entered into by Parent in connection with, and prior to or concurrently with, the issuance of any Permitted Convertible Notes; provided that the terms, conditions and covenants of each such Hedging Agreement shall be such as are typical and customary for hedging agreements of such type (as determined by Parent in good faith).

Permitted Discretion: a determination made by Agent in the exercise of its reasonable credit judgment, exercised in good faith in accordance with customary business practices for comparable asset-based lending transactions in the retail and consumer finance industry, as applicable to the relevant component of the Borrowing Base and as it relates to the establishment of reserves or eligibility criteria, shall require that the amount of any such reserve or category of ineligibility so established or the effect of any adjustment shall, as it relates to a reserve, be a reasonable quantification (as reasonably determined by Agent in good faith) of the incremental dilution of the Borrowing Base attributable to such contributing factors and, as it relates to an ineligible category, be reasonably related (as reasonably determined by Agent in good faith) to facts or circumstances discovered by Agent after the Closing Date or a material change in facts or circumstances that existed and were discovered by Agent prior to the Closing Date.

Permitted Distribution:

(a) Distributions declared and made by Parent or any of its Subsidiaries solely for the purpose of making, or permitting Parent to make, payments on account of obligations owed under any HY Notes, Permitted Additional HY Notes and Permitted Convertible Notes which payments are permitted to be made under **Section 10.2.8(c)**;

(b) payable solely in Equity Interests of Parent;

(c) consisting of or constituting a Permitted Tax Distribution;

(d) deemed to occur upon the exercise of stock options or warrants if such Equity Interests represent a portion of the exercise price of such options or warrants;

(e) by Borrowers, or by Borrowers to Parent to enable Parent, to purchase or redeem fractional shares (or cash payments in lieu thereof) of Equity Interests in connection with the exercise of warrants, options, other rights to acquire Equity Interests or other securities convertible or exchangeable for Equity Interests of Parent;

(f) as shall be necessary to allow Parent to pay (i) operating expenses in the Ordinary Course of Business and other corporate overhead, legal, accounting and other professional fees and expenses (including, without limitation, those owing to third parties plus any customary indemnification claims made by directors, officers, employees, members of management or consultants of Parent, (ii) fees and expenses related to any debt or equity offering, Investment or acquisition permitted hereunder (in each case, whether or not successful), (iii) franchise or similar taxes and other fees and expenses required in connection with the maintenance of its existence and its ownership of Borrower, (iv) the consideration to finance any Investment permitted hereunder (provided that such Distribution under this clause (f)(iv) shall be made substantially concurrently with the closing of such Investment), (v) customary salary, bonus, severance, indemnification obligations and other fees, benefits or expense reimbursements payable to directors, officers, employees, members of management and consultants of Parent and any payroll, social security or similar taxes thereof, (vi) any incremental state or local income or franchise tax (net of any federal income tax benefits, as determined in good faith by Parent) payable by Parent as a result of any Permitted Distribution to such entity permitted hereby, and (vii) any amounts permitted to be paid pursuant to clauses (b), (c), (d), (e) and (g) of **Section 10.2.17**;

(g) made or expected to be made by Borrowers in respect of withholding or similar Taxes payable by any future, present or former officers, directors, employees, members of management or consultants of Parent or any of its Subsidiaries (or the estate, heirs, family members, spouse, former spouse, domestic partner or former domestic partner of the foregoing) and any repurchases of Equity Interests in consideration of such payments including demand repurchases in connection with the exercise of stock options;

(h) made within 60 days after the date of declaration thereof, if at the date of declaration such Distribution would have complied with the provisions of this Agreement;

(i) made by any Subsidiary of CAI to the holders of its Equity Interests on a pro rata basis according to their interests; and

(j) other Distributions which satisfy the Payment Conditions as of the date such Distribution is paid.

Permitted Holders: the shareholders of Parent that, as of the Closing Date, own more than 12.5% of the Equity Interest of Parent, their respective Affiliates, and any Person with whom such shareholders or their Affiliates form a “group” (within the meaning of Section 13(d) and 14(d) of the Securities Act of 1934).

Permitted Liens: as defined in **Section 10.2.2**.

Permitted Originator Notes: one or more promissory notes made by a Securitization Subsidiary or a Borrower, as a purchaser of Contracts in a Permitted Contract Transfer, in favor of a Borrower or any Subsidiary of a Borrower, as a seller of Contracts in a Permitted Contract Transfer, evidencing that portion of the purchase price represented by Debt incurred by such purchaser in connection with its purchase of Contracts and related assets from such seller.

Permitted Purchase Money Debt: Purchase Money Debt and Capital Leases of Borrowers and its Subsidiaries that is unsecured or secured only by a Purchase Money Lien, as long as the aggregate outstanding principal amount does not exceed \$50,000,000 at any time.

Permitted Tax Distributions: for each taxable year or portion thereof with respect to which Parent, any Borrower and/or any of its Subsidiaries are members (or constituent parts) of a consolidated, combined, unitary or

similar income or franchise tax group for U.S. federal and/or applicable state or local income or franchise Tax purposes of which Parent is the common parent (a “Tax Group”), aggregate distributions to Parent to pay the portion of any consolidated, combined, unitary or similar U.S. federal, state or local income and franchise Taxes (as applicable) of such Tax Group for such taxable year that are attributable to the income of the Subsidiaries of Parent; provided that (i) the amount of such dividends or other distributions for any taxable year or portion thereof shall not exceed the amount of such Taxes that the Subsidiaries would have paid had the Subsidiaries been a stand-alone corporate taxpayer (or a stand-alone corporate group).

Person: any individual, corporation, limited liability company, partnership, joint venture, association, joint stock company, land trust, business trust, unincorporated organization, Governmental Authority or other entity.

Plan: an employee benefit plan (as defined in Section 3(3) of ERISA) maintained by any Obligor or any Subsidiary of an Obligor for its employees, or to which any Obligor or any Subsidiary of an Obligor is required to contribute on behalf of its employees.

Prime Rate: the rate of interest last quoted by The Wall Street Journal as the “Prime Rate” in the U.S. or, if The Wall Street Journal ceases to quote such rate, the highest per annum interest rate published by the Board of Governors in Federal Reserve Statistical Release H.15 (519) (Selected Interest Rates) as the “bank prime loan” rate or, if such rate is no longer quoted therein, any similar rate quoted therein (as determined by Agent) or any similar release by the Board of Governors (as determined by Agent). Each change in the Prime Rate shall be effective from and including the date such change is publicly announced or quoted as being effective.

Pro Forma Basis: as to any calculation of the Interest Coverage Ratio, the Leverage Ratio or the ABS Excluded Leverage Ratio or other financial ratio or metric for any events as described below that occur subsequent to the commencement of any relevant measurement period (the “Reference Period”) for which the financial effect of such events is being calculated, and giving effect to the events for which such calculation is being made, such calculation as will give pro forma effect to such events as if such events occurred after giving effect thereto (it being understood and agreed that (x) unless otherwise specified for the calculation of any such financial ratio or metric, such Reference Period shall be deemed to be the relevant measurement period for such financial ratio or metric ending on the last day of the most recently ended Fiscal Quarter of Parent for which financial statements are available and such pro forma adjustments shall be excluded to the extent already accounted for in the calculation of EBITDA for such period and (y) if any Person that became a Subsidiary or was merged, amalgamated or consolidated with or into a Borrower or any Subsidiary of Parent shall have experienced any event requiring adjustments pursuant to this definition, then such calculation shall give pro forma effect thereto for such period as if such event occurred at the beginning of such period): (i) in making any determination of EBITDA, pro forma effect shall be given to any Asset Disposition of a Subsidiary of Parent or line of business, to any Acquisition, any discontinued operation or any operational change in each case that occurred during the Reference Period (or, in the case of determinations made with respect to any action the taking of which hereunder is subject to compliance on a Pro Forma Basis or otherwise with any ratio (any such action, a “Restricted Action”) occurring during the Reference Period or thereafter and through and including the date of such determination) and (ii) in making any determination on a Pro Forma Basis, (x) all Debt (including Debt incurred or assumed and for which the financial effect is being calculated, whether incurred under this Agreement or otherwise, but excluding normal fluctuations in revolving Debt incurred for working capital purposes) incurred or permanently repaid, returned, redeemed or extinguished during the Reference Period (or, in the case of determinations made with respect to any Restricted Action, occurring during the Reference Period or thereafter and through and including the date of such determination) shall be deemed to have been incurred or repaid, returned, redeemed or extinguished at the beginning of such period (it being understood that for purposes of any calculation of any ratio and or financial metric, the use of proceeds of any such Debt shall be taken into account in such calculation) and (y) Interest Expense of such Person attributable to (A) interest on any Debt, for which pro forma effect is being given as provided in the preceding clause (x), bearing floating interest rates shall be computed on a pro forma basis utilizing the rate which is or would be in effect with respect to such Debt as at the relevant date of determination as if such rate had been actually in effect during the period for which pro forma effect is being given taking into account any interest hedging arrangements applicable to such Debt, (B) any Capital Lease shall be deemed to accrue at an interest rate reasonably determined by a Senior Officer of Parent or Borrower Agent to be the rate of interest implicit in such Capital Lease in accordance with GAAP and (C) interest on any Debt 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 determined to have been based

upon the rate actually chosen, or if none, then based upon such optional rate chosen as Parent or any Subsidiary may designate.

Pro forma calculations made pursuant to the definition of the term “Pro Forma Basis” shall be determined in good faith by a Senior Officer of Parent or Borrower Agent and, for any fiscal period ending on or prior to the date that is 12 months following the date of any such Acquisition, Asset Disposition, discontinued operation or operational change, may include adjustments to reflect operating expense reductions and other operating improvements or synergies reasonably expected to result from such Acquisition, Asset Disposition, discontinued operation or operational change and for purposes of determining compliance with the such adjustments may reflect additional operating expense reductions and other additional operating improvements and synergies that (x) would be includable in pro forma financial statements prepared in accordance with Regulation S-X and (y) such other adjustments not includable in Regulation S-X under the Securities Act for which substantially all of the steps necessary for the realization thereof have been taken or are reasonably anticipated by Borrower to be taken in the next 12-month period following the consummation thereof and, are estimated on a good faith basis by Parent or Borrower Agent (this clause (y), the “Capped Synergies”); provided, however that the aggregate amount of any such adjustments pursuant to clause (y) shall not exceed (together with the aggregate add backs to EBITDA pursuant to clause (m) of the definition of EBITDA with respect to the applicable period) 20% of the EBITDA of Parent and its Subsidiaries for any such period (prior to giving effect to any such add backs).

Pro Rata: with respect to any Lender, a percentage (rounded to the ninth decimal place) determined (a) by dividing the amount of such Lender’s Revolver Commitment by the aggregate outstanding Revolver Commitments; or (b) following termination of the Revolver Commitments, by dividing the amount of such Lender’s Revolver Loans and LC Obligations by the aggregate amount of all outstanding Revolver Loans and LC Obligations.

Properly Contested: with respect to any obligation of an Obligor, (a) the obligation is subject to a bona fide dispute regarding amount or the Obligor’s liability to pay; (b) the obligation is being properly contested in good faith by appropriate proceedings promptly instituted and diligently pursued; (c) appropriate reserves have been established in accordance with GAAP; (d) non-payment could not reasonably be expected to have a Material Adverse Effect; and (e) if the obligation results from entry

of a judgment or other order, such judgment or order is stayed pending appeal or other judicial review.

Property: any interest in any kind of property or asset, whether real, personal or mixed, or tangible or intangible.

Protective Advances: as defined in **Section 2.1.6**.

PTE: a prohibited transaction class exemption issued by the U.S. Department of Labor, as such exemption may be amended from time to time.

Purchase Money Debt: Debt incurred for the payment of the acquisition, construction, repair, replacement, additions, accessions and/or improvements (including any industrial revenue bond, industrial development bond and similar financings) incurred prior to or within two hundred seventy (270) days after the acquisition, construction, repair, replacement, addition, accession and/or improvement of the respective asset in order to finance such acquisition, construction, repair, replacement, addition, accession and/or improvement or to reimburse the costs thereof.

Purchase Money Lien: a Lien that secures Purchase Money Debt, encumbering only the fixed or capital assets acquired with such Debt (and any construction, repairs, replacements, additions, accessions and improvements thereto, any proceeds thereof or of the foregoing) or constituting a Capital Lease (it being understood that individual financings that constitute Purchase Money Debt or a Capital Lease provided by any lender may be cross-collateralized to other financings of such type provided by such lender or its affiliates).

Qualified Cash: as of any date of determination, the aggregate amount of unrestricted cash of Parent and its Subsidiaries that (i) is subject to a first priority Lien in favor of Agent for the benefit of Secured Parties and (ii) if not maintained in a Deposit Account or a Securities Account with Agent, is subject to (x) a Deposit Account Control Agreement if maintained in a Deposit Account and (y) a Securities Account Control Agreement if maintained in a Securities Account.

**Qualified ECP:** an Obligor with total assets exceeding \$10,000,000, or that constitutes an “eligible contract participant” under the Commodity Exchange Act and can cause another Person to qualify as an “eligible contract participant” under Section 1a(18)(A)(v)(II) of such act.

**Qualified Equity Interests:** any Equity Interest other than Disqualified Stock.

**RCRA:** the Resource Conservation and Recovery Act (42 U.S.C. §§ 6991-6991i).

**Real Estate:** all right, title and interest (whether as owner, lessor or lessee) in any real Property and any buildings, structures, parking areas or other improvements thereon.

**Recipient:** Agent, Issuing Bank, any Lender or any other recipient of a payment to be made by an Obligor under a Loan Document or on account of an Obligation under the Loan Documents.

**Reference Time:** with respect to any setting of the then-current Benchmark, (1) if such Benchmark is LIBOR, 11:00 a.m. (London time) on the day that is two London banking days preceding the date of such setting, and (2) if such Benchmark is not LIBOR, the time determined by Agent in its reasonable discretion.

**Refinancing Conditions:** the following conditions for Refinancing Debt:

(a) the Refinancing Debt is in an aggregate principal amount that does not exceed the principal amount of the Debt being extended, renewed or refinanced (plus an amount necessary to pay all accrued and unpaid interest, penalties, premiums (including tender premiums) thereon and defeasance costs, and the fees, commissions and expenses related to such extension, renewal or refinancing) unless (i) such excess is otherwise permitted to be incurred under **Section 10.2.1** or (ii) the excess is used to repay the outstanding Revolver Loans and, at the election of Required Lenders, the Revolver Commitments are reduced by the amount of the repayment (and if no Revolver Loans are outstanding, at the election of Required Lenders, the Revolver Commitments are reduced by the excess);

(b) in respect of **Sections 10.2.1(l), (m)** and **Section 10.2.1(i)** (as it relates to Refinancing Debt in respect of Debt incurred under **Sections 10.2.1(l)** and **(m)**), it has a final maturity no sooner than, a weighted average life no less than, and an interest rate no greater than, the Debt being extended, renewed or refinanced;

(c) if the Debt being extended, renewed, or refinanced is subordinated to the Obligations such Debt being extended, renewed or refinanced is subordinated to the Obligations at least to the same extent as the Debt being extended, renewed or refinanced;

(d) the representations, covenants and defaults applicable to it are not materially less favorable to Borrowers than those applicable to the Debt being extended, renewed or refinanced or such terms are current market terms (as determined by Borrower Agent);

(e) no additional Lien is granted to secure it except to the extent otherwise permitted by **Section 10.2.2**; and

(f) no additional Person is obligated on such Debt to the extent otherwise permitted under **Section 10.2.1**.

**Refinancing Debt:** Debt that is the result of an extension, renewal, refinancing or replacement of Debt permitted under **Section 10.2.1(b), (c), (d), (e), (h), (k), (l), (m)** and **(aa)**, including any expenses and premiums in connection therewith and under **Section 10.2.1(i)** in respect of the foregoing or any prior Refinancing Debt.

**Regulatory Event:** either: (a) a “Level One Regulatory Event”, which shall mean the formal commencement by written notice by any Governmental Authority of any Legal Action against any of Borrowers or any of their Subsidiaries, or to the knowledge of Borrowers, any servicer or asset manager of their respective or collective portfolios of Contracts or Third Party Contracts owned or serviced by a Borrower or its Subsidiary, denying its authority to originate, hold, own, service, collect or enforce any category or group of Contracts or such

Third Party Contracts, in each case that would reasonably be expected to have a material adverse effect on the business or financial condition of Borrowers and their Subsidiaries taken as a whole, which Legal Action is not released or terminated within 180 calendar days of commencement thereof; or (b) a “Level Two Regulatory Event”, which shall mean the issuance or entering of any stay, cease and desist order, injunction, temporary restraining order, or other judicial or non-judicial sanction (other than the imposition of a monetary fine), against any of Borrowers or any of their Subsidiaries, or to the knowledge of Borrowers, any servicer or asset manager of their respective or collective portfolios of Contracts or Third Party Contracts owned or serviced by a Borrower or its Subsidiary, for material violations of Applicable Law regarding the originating, holding, pledging, collecting, servicing or enforcing of any Contracts or such Third Party Contracts, in each case that would reasonably be expected to have a material adverse effect on the business or financial condition of Borrowers and their Subsidiaries taken as a whole.

Reimbursement Date: as defined in **Section 2.3.2**.

Related Parties: as to any Person, its officers, directors, employees, Affiliates, agent and attorneys.

Relevant Governmental Body: the Board of Governors or the NYFRB, or a committee officially endorsed or convened by the Board of Governors or the NYFRB, or any successor thereto.

Rent and Charges Reserve: the aggregate of (a) all past due rent and other amounts owing by an Obligor to any landlord, warehouseman, processor, repairman, mechanic, shipper, freight forwarder, broker or other Person who possesses any Collateral included in the Borrowing Base or could assert a Lien on any such Collateral; and (b) a reserve of up to three months’ rent and other charges that could be payable to any such Person (if any), unless it has executed a Lien Waiver.

Report: as defined in **Section 12.2.3**.

Reportable Event: any event set forth in Section 4043(c) of ERISA, other than an event for which the 30-day notice period has been waived.

Required Lenders: Lenders holding more than 50% of (a) the aggregate outstanding Revolver Commitments; or (b) after termination of the Revolver Commitments, the aggregate outstanding Revolver Loans, LC Obligations and other Obligations under the Loan Documents; provided, that Revolver Commitments, Revolver Loans and other Obligations held by a Defaulting Lender and its Affiliates shall be disregarded in making such calculation.

Requirement of Law: as to any Person, any law (statutory or common), treaty, rule or regulation or determination of an arbitrator or of a Governmental Authority, in each case applicable to or binding upon the Person or any of its property or to which the Person or any of its property is subject.

Reserve: (a) the CAI Availability Reserve, the CCI Availability Reserve and their respective component parts including, without limitation, the Inventory Reserve, Rent and Charges Reserve, Bank Product Reserve, Sales Tax Reserve, Gift Card Reserve, and Customer Deposit Reserve and (b) the Existing HY Note Reserve.

Resolution Authority: an EEA Resolution Authority or, with respect to any UK Financial Institution, a UK Resolution Authority.

Restricted Investment: any Investment by Parent, a Borrower or any of their Subsidiaries, other than

(a) Investments in its Subsidiaries to the extent existing on the Closing Date;

(b) Investments (i) by the Obligors in Subsidiaries that are Obligors, (ii) by any non-Obligor in an Obligor or any other Subsidiary and (iii) by any Obligor in any non-Obligor in an outstanding amount not to exceed \$10,000,000 at any time;

(c) Cash Equivalents;

(d) Permitted Originator Notes;

(e) Investments by CAI which are consistent with the corporate investment policy of CAI from time to time in effect, as approved by Agent (such approval not to be unreasonably withheld);

(f) Investments (i) in and by a Securitization Subsidiary permitted under a Permitted ABS Transaction and (ii) other Investments in a Securitization Subsidiary in the form of (x) a direct investment in cash, (y) the purchase of any securities issued by a Securitization Subsidiary (whether by tender offer or otherwise) or (z) the transfer of any pool of Contracts by any Borrower to a Securitization Subsidiary (which may be in exchange for an underperforming pool of Contracts), in each case so long as (A) immediately before and after giving effect to such other Investment, no Event of Default exists, (B) the financial statements and Compliance Certificates delivered by Parent to Agent pursuant to **Section 10.1.2** for the most recent Fiscal Quarter ended reflect that Parent is in compliance with the applicable financial covenants set forth in **Section 10.3** measured on a Pro Forma Basis for such Fiscal Quarter and (C) the aggregate amount of such Investments under this clause (f)(ii) (and with respect to clause (f)(ii)(z) above, following the application of the Contract Advance Rate Amount in measuring the amount of any such Investment) do not exceed \$50,000,000 at any time outstanding;

(g) Investments for the purpose of funding the repurchase of Contracts which are subject to a Permitted ABS Transaction from a Securitization Subsidiary so long as immediately before and after giving effect to each such repurchase, no Event of Default exists;

(h) Permitted Acquisitions;

(i) Investments arising out of the receipt by Borrowers or any Subsidiary of promissory notes and other non-cash consideration for any Asset Dispositions permitted under **Section 10.2.6**;

(j) accounts receivable, notes receivable, security deposits and prepayments arising and trade credit granted in the Ordinary Course of Business and any Investments received in satisfaction or partial satisfaction thereof from financially troubled account debtors and other credits to suppliers made in the Ordinary Course of Business;

(k) Investments existing on, or contractually committed as of, the Closing Date and set forth on **Schedule 10.2.5**;

(l) Investments received in connection with the bankruptcy or reorganization of any Person, or settlement of obligations of, or other disputes with or judgments against, or foreclosure or deed in lieu of foreclosure with respect to any Lien held as security for an obligation, in each case in the Ordinary Course of Business;

(m) Investments consisting of Debt, Liens, capital expenditures, Permitted Distributions, Asset Dispositions, payments and repurchases of Debt, fundamental change transactions, and affiliate transactions permitted under **Sections 10.2.1, 10.2.2, 10.2.3, 10.2.4, 10.2.6, 10.2.8, 10.2.9 and 10.2.17**;

(n) Investments by Borrowers or any Subsidiary in an outstanding aggregate amount (valued at the time of the making thereof, and without giving effect to any write-downs or write-offs thereof) not to exceed \$10,000,000 at any time (plus any returns, profits, distributions and similar amounts, repayments of loans and the release of guarantees in respect of Investments theretofore made by it pursuant to this clause (n));

(o) Investments in the Ordinary Course of Business consisting of (i) endorsements for collection or deposit or (ii) customary trade arrangements with customers;

(p) Investments made in the Ordinary Course of Business in connection with obtaining, maintaining or renewing client and customer contracts and loans or advances made to, and guarantees with respect to obligations of, distributors, suppliers, licensors and licensees in the Ordinary Course of Business;

(q) Investments made by any Subsidiary that is not an Obligor to the extent such Investments are made with the proceeds received by such Subsidiary from an Investment made by an Obligor in such Subsidiary which is permitted hereunder;

(r) any Investment upon the satisfaction the Payment Conditions with respect thereto;

(s) Investments in connection with Hedging Agreements, in each case entered into in the Ordinary Course of Business and not for speculative purposes (it being agreed that the Permitted Convertible Notes Hedging Agreements are permitted);

(t) advances to any director, officer, employee, member or management or consultant for salary, travel expenses, commissions and similar items in the Ordinary Course of Business in an aggregate amount outstanding at any time not to exceed \$5,000,000;

(u) prepaid expenses and extensions of trade credit made in the Ordinary Course of Business;

(v) deposits with financial institutions permitted hereunder;

(w) loans made by a Borrower to a Contract Debtor pursuant to a Contract entered into in the Ordinary Course of Business;

and

(x) loans made pursuant to any Permitted Originator Note.

**Restricted Lease:** as defined in **Section 7.3.3**.

**Restrictive Agreement:** any agreement that prohibits, restricts or imposes any condition upon (a) the ability of Borrowers or any their respective Subsidiaries to create, incur or permit to exist any Lien upon any of its property to secure the Obligations, or (b) the ability of any Subsidiary of Borrowers to pay dividends or other distributions with respect to any of its Equity Interests or to make or repay loans or advances to Borrowers or any other Subsidiary.

**Reuters:** as applicable, Thomson Reuters Corp., Refinitiv, or any successor thereto.

**Revolver Commitment:** for any Lender, its obligation to make Revolver Loans and to participate in LC Obligations up to the maximum principal amount shown on **Schedule 1.1**, or as hereafter determined pursuant to each Assignment and Acceptance to which it is a party. "**Revolver Commitments**" means the aggregate amount of such commitments of all Lenders which, as of the Closing Date, is \$650,000,000.

**Revolver Commitment Termination Date:** the earliest to occur of (a) the Revolver Termination Date; (b) the date on which Borrowers terminate the Revolver Commitments pursuant to **Section 2.1.4**; or (c) the date on which the Revolver Commitments are terminated pursuant to **Section 11.2**.

**Revolver Exposure:** as to any Lender at any time, without duplication, the aggregate principal amount at such time of its outstanding Revolver Loans (including its participation in Swingline Loans) and such Lender's participation in LC Obligations at such time.

**Revolver Loan:** any loan made pursuant to **Section 2.1** or as a Swingline Loan.

**Revolver Note:** a promissory note to be executed by Borrowers in favor of a Lender in the form of **Exhibit A**, which shall be in the amount of such Lender's Revolver Commitment and shall evidence the Revolver Loans made by such Lender.

**Revolver Termination Date:** (a) March 29, 2025 and (b) with respect to any FILO Tranche, the maturity date applicable to such FILO Tranche as specified in the applicable amendment implementing such FILO Tranche.

Revolver Usage: (a) the aggregate amount of outstanding Revolver Loans; plus (b) the aggregate Stated Amount of outstanding Letters of Credit, except to the extent Cash Collateralized.

Royalty: all royalties, fees, expense reimbursement and other amounts payable by a Borrower under a License.

S&P: Standard & Poor's Financial Services LLC, a subsidiary of The McGraw-Hill Companies, Inc.

Sales Tax Reserve: a reserve equal to 100% of the aggregate sales tax obligations of Borrowers as set forth in Borrowers' books and records as of any measurement date which have not been prepaid by Borrowers.

Sanction: any economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by (a) the U.S. government, including those administered by OFAC or the U.S. Department of State, or (b) the United Nations Security Council, the European Union, any European Union member state or Her Majesty's Treasury of the United Kingdom or other relevant sanctions authority in each case having jurisdiction over any Borrower or its Subsidiaries.

Scheduled Unavailability Date: as defined in **Section 3.6(b)(ii)**.

Second Amended and Restated Loan Agreement: as defined in the recitals to this Agreement.

Secured Bank Product Notice: written notice from Borrower Agent and the applicable Secured Bank Product Provider to Agent, in form reasonably satisfactory to Agent, within 30 days (or such longer period as shall be acceptable to Agent and Borrower Agent) following the later of the Closing Date or creation of the applicable Bank Product, (i) describing the Bank Product and setting forth the maximum amount to be secured by the Collateral and the methodology to be used in calculating such amount, and (ii) agreeing to be bound by **Section 12.13**.

Secured Bank Product Obligations: Debt, obligations and other liabilities with respect to Bank Products to a Secured Bank Product Provider; provided, that Secured Bank Product Obligations of an Obligor shall not include (i) its Excluded Swap Obligations or (ii) any Bank Product unless designated in writing (it being acknowledged that any Existing Bank Products and Bank Products with Agent or any Affiliate of Agent shall not require such written notice) by the Borrower Agent and the relevant Secured Bank Product Provider as a Secured Bank Product Obligation.

Secured Bank Product Provider: (a) JPM or any of its Affiliates; and (b) any other Lender or Affiliate of a Lender that is providing a Bank Product (i) on the Closing Date and which has delivered a Secured Bank Product Notice to Agent prior to the Closing Date or (ii) after the Closing Date, and with respect to which such provider and Borrower Agent delivers a Secured Bank Product Notice; provided, that no Secured Bank Product Notice shall be required with respect to any Bank Products provided by JPM or any of its Affiliates.

Secured Parties: Agent, Issuing Bank, Lenders and Secured Bank Product Providers.

Securities Account Control Agreements: the account control agreements executed by each institution maintaining a Securities Account for a Borrower, in favor of Agent as security for the Obligations; provided that it is understood and agreed that no Securities Account Control Agreement shall be required for Excluded Accounts.

Security Agreement: a security agreement, in form and substance satisfactory to Agent, executed by each Guarantor pursuant to which such Guarantor shall grant to Agent a Lien (for the benefit of the Lenders) in all of such Guarantor's assets.

Security Documents: the Guaranty, each Security Agreement, Deposit Account Control Agreements, Securities Account Control Agreements, Equity Interest Pledge Agreement, and all other documents, instruments and agreements now or hereafter securing (or given with the intent to secure) any Obligations.

**Securitization Subsidiary:** one or more direct or indirect Subsidiaries of Parent formed for the purposes of entering into a Permitted ABS Transaction, including Conn Appliances Receivables Funding, LLC, Conn's Receivables Funding I, LP, Conn's Receivables Funding I GP, LLC, and Conn's Receivables, LLC, Conn's Receivables Funding 2019-A, LLC, Conn's Receivables Funding 2019-B, LLC, Conn's Receivables Funding 2020-A, LLC, Conn's Receivables Warehouse, LLC, and Conn's Receivables Warehouse Trust.

**Securitized Contracts:** the Contracts and related assets which are subject to a Permitted ABS Transaction.

**Senior Officer:** the chairman of the board, president, chief executive officer, chief financial officer (or other officer holding a similar role), chief operating officer, treasurer or assistant treasurer of a Borrower or, if the context requires, an Obligor.

**Settlement Report:** a report summarizing Revolver Loans and participations in LC Obligations outstanding as of a given settlement date, allocated to Lenders on a Pro Rata basis in accordance with their Revolver Commitments.

**SOFR:** means, with respect to any Business Day, a rate per annum equal to the secured overnight financing rate for such Business Day published by the SOFR Administrator on the SOFR Administrator's Website at approximately 8:00 a.m. (New York City time) on the immediately succeeding Business Day.

**SOFR Administrator:** the NYFRB (or a successor administrator of the secured overnight financing rate).

**SOFR Administrator's Website:** the NYFRB's website, currently at <http://www.newyorkfed.org>, or any successor source for the secured overnight financing rate identified as such by the SOFR Administrator from time to time.

**Solvent:** as to any Person, such Person (a) owns Property whose fair salable value is greater than the amount required to pay all of its debts (including contingent, subordinated, unmatured and unliquidated liabilities); (b) owns Property whose present fair salable value (as defined below) is greater than the probable total liabilities (including contingent, subordinated, unmatured and unliquidated liabilities) of such Person as they become absolute and matured; (c) is able to pay all of its debts as they mature; (d) has capital that is not unreasonably small for its business and is sufficient to carry on its business and transactions and all business and transactions in which it is about to engage; (e) is not "insolvent" within the meaning of Section 101(32) of the Bankruptcy Code; and (f) has not incurred (by way of assumption or otherwise) any obligations or liabilities (contingent or otherwise) under any Loan Documents, or made any conveyance in connection therewith, with actual intent to hinder, delay or defraud either present or future creditors of such Person or any of its Affiliates. "Fair salable value" means the amount that could be obtained for assets within a reasonable time, either through collection or through sale under ordinary selling conditions by a capable and diligent seller to an interested buyer who is willing (but under no compulsion) to purchase.

**Specified Financial Covenants:** as defined in **Section 10.4.1**.

**Specified Obligor:** an Obligor that is not then an "eligible contract participant" under the Commodity Exchange Act (determined prior to giving effect to **Section 5.11**).

**Stated Amount:** at any time the amount available to be drawn under a Letter of Credit, including any automatic increase in such amount provided by such Letter of Credit or the related LC Documents; provided that, other than with respect to calculation and payment of fees, with respect to any Letter of Credit that, by its terms or the terms of any related LC Documents, provides for one or more automatic increases in the available amount thereof, the Stated Amount of such Letter of Credit shall be deemed to be the maximum amount of such Letter of Credit after giving effect to all such increases, whether or not such maximum amount is available to be drawn at such time.

**Statutory Reserve Rate:** 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 percentage (including any marginal, special, emergency or supplemental reserves) expressed as a decimal established by the Board of

Governors to which Agent is subject with respect to the Adjusted LIBO Rate, for eurocurrency funding (currently referred to as “Eurocurrency liabilities” in Regulation D). Such reserve percentage shall include those imposed pursuant to Regulation D. LIBOR Revolver Loans shall be deemed to constitute eurocurrency funding and to be subject to such reserve requirements without benefit of or credit for proration, exemptions or offsets that may be available from time to time to any Lender under Regulation D or any comparable regulation. The Statutory Reserve Rate shall be adjusted automatically on and as of the effective date of any change in any reserve percentage.

**Subordinated Debt:** Debt incurred by a Borrower that is expressly subordinate and junior in right of payment to the Obligations and has a maturity no shorter than, at the time of such incurrence or issuance, ninety-one (91) days after the Revolver Termination Date and has subordination terms reasonably satisfactory to Agent.

**Subsidiary:** as to any Person, a corporation, partnership, limited liability company or other entity of which shares of stock or other ownership interests having ordinary voting power (other than stock or such other ownership interests having such power only by reason of the happening of a contingency) to elect a majority of the board of directors (or equivalent governing body) or other managers of such corporation, partnership or other entity are at the time owned, or the management of which is otherwise controlled, directly or indirectly through one or more intermediaries, or both, by such Person. Unless otherwise qualified, all references to a “Subsidiary” or to “Subsidiaries” in this Agreement shall refer to a direct or indirect Subsidiary or Subsidiaries of Parent.

**Supermajority Lenders:** Lenders holding more than 66 2/3% of (a) the aggregate outstanding Revolver Commitments; or (b) after termination of the Revolver Commitments, the aggregate outstanding Revolver Loans, LC Obligations and other Obligations under the Loan Documents; provided, that Revolver Commitments, Revolver Loans and other Obligations held by a Defaulting Lender and its Affiliates shall be disregarded in making such calculation.

**Swap Obligations:** with respect to an Obligor, its obligations under an agreement, contract or transaction that constitutes a “swap” within the meaning of Section 1a(47) of the Commodity Exchange Act.

**Swingline Lender:** JPM (including any Lending Office of JPM).

**Swingline Loan:** any Borrowing of Base Rate Revolver Loans funded with Agent’s funds, until such Borrowing is settled among Lenders or repaid by Borrowers.

**Tangible Net Worth:** at any date, an amount equal to: (i) the net book value (after deducting related depreciation, obsolescence, amortization, valuation and other proper reserves) at which the Adjusted Tangible Assets of a Person would be shown on a balance sheet at such date in accordance with GAAP, less (ii) the amount at which such Person’s liabilities would be shown on such balance sheet, and including as liabilities all reserves for contingencies and other potential liabilities, in each case, in accordance with GAAP.

**Tax and Trust Funds:** cash, cash equivalents or other assets comprised solely of

(a) funds used for payroll and payroll taxes and other employee benefit payments to or for the benefit of such Person’s employees in the current period (which may be monthly or quarterly, as applicable),

(b) all taxes required to be collected, remitted or withheld in the current period (which may be monthly or quarterly, as applicable) (including, without limitation, federal and state withholding taxes (including the employer’s share thereof)) and

(c) any other funds which such Person holds in trust or as an escrow or fiduciary for another Person (which is not an Obligor) in the ordinary course of business.

**Taxes:** all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

**Term SOFR:** for the applicable Corresponding Tenor as of the applicable Reference Time, the forward-looking term rate based on SOFR that has been selected or recommended by the Relevant Governmental Body.

**Term SOFR Notice:** a notification by Agent to the Lenders and the Borrower Agent of the occurrence of a Term SOFR Transition Event.

**Term SOFR Transition Event:** the determination by Agent that (a) Term SOFR has been recommended for use by the Relevant Governmental Body, (b) the administration of Term SOFR is administratively feasible for Agent and (c) a Benchmark Transition Event or an Early Opt-in Election, as applicable, has previously occurred resulting in a Benchmark Replacement in accordance with **Section 3.6** that is not Term SOFR.

**Third Amended and Restated Loan Agreement:** as defined in the recitals to this Agreement.

**Third Party Contracts:** any loan agreement, account, revolving credit agreement, retail installment sale contract, consumer loan, Instrument, note, document, chattel paper, and all other forms of obligations owing to any Borrower or any Subsidiary of a Borrower, including any collateral for any of the foregoing, including all rights under any and all security documents, in each case which does not satisfy the credit criteria under the Credit and Collection Policy and is intended to be sold to a third party in the Ordinary Course of Business promptly following the execution thereof (and delivery of the product financed thereby); provided, that (x) any purchase and sale agreement related to such Third Party Contract shall provide that such Third Party Contract shall be purchased by such third party within 2 Business Days of its origination and the applicable Borrower or Subsidiary shall take commercially reasonable efforts to consummate such sale within 2 Business Days of origination and (y) the aggregate outstanding balance of Third Party Contracts owned by Borrowers and their Subsidiaries shall at no time exceed \$1,000,000.

**Threshold Amount:** \$25,000,000.

**Transferee:** any actual or potential Eligible Assignee, Participant or other Person acquiring an interest in any Obligations.

**UCC:** the Uniform Commercial Code as in effect in the State of New York or, when the laws of any other jurisdiction govern the perfection or enforcement of any Lien, the Uniform Commercial Code of such jurisdiction.

**UK Financial Institutions:** any BRRD Undertaking (as such term is defined under the PRA Rulebook (as amended from time to time) promulgated by the United Kingdom Prudential Regulation Authority) or any person falling within IFPRU 11.6 of the FCA Handbook (as amended from time to time) promulgated by the United Kingdom Financial Conduct Authority, which includes certain credit institutions and investment firms, and certain affiliates of such credit institutions or investment firms.

**UK Resolution Authority:** the Bank of England or any other public administrative authority having responsibility for the resolution of any UK Financial Institution.

**Unadjusted Benchmark Replacement:** the applicable Benchmark Replacement excluding the related Benchmark Replacement Adjustment.

**Unused Line Fee Percentage:** for any day, a percentage equal to (a) 0.25% per annum if the average daily balance of Revolver Loans and Stated Amount of Letters of Credit during the immediately preceding quarter is greater than 66% of the Revolver Commitments, (b) 0.375% per annum if the average daily balance of Revolver Loans and Stated Amount of Letters of Credit during the immediately preceding quarter is greater than 33% of the Revolver Commitments but equal to or less than 66% of the Revolver Commitments, and (c) 0.50% per annum if the average daily balance of Revolver Loans and Stated Amount of Letters of Credit during the immediately preceding quarter is equal to or less than 33% of the Revolver Commitments.

**U.S. Person:** "United States Person" as defined in Section 7701(a)(30) of the Code.

**U.S. Tax Compliance Certificate:** as defined in **Section 5.10.2(b)(iii)**.

**Value:** (a) for Inventory, its value determined on the basis of the lower of cost or market, calculated on a moving weighted average cost basis, and excluding any portion of cost attributable to intercompany profit among Borrowers and their Affiliates; and (b) for a Credit Card Account, its face amount.

**Write-Down and Conversion Powers:** (a) with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule, and (b) with respect to the United Kingdom, any powers of the applicable Resolution Authority under the Bail-In Legislation to cancel, reduce, modify or change the form of a liability of any UK Financial Institution or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers.

1.2 **Accounting Terms.** Except as otherwise expressly provided herein, all terms of an accounting or financial nature shall be construed in accordance with GAAP, as in effect from time to time; provided that if Borrower Agent notifies Agent that Borrowers request an amendment to any provision hereof to eliminate the effect of any change occurring after the Closing Date in GAAP or in the application thereof on the operation of such provision (or if Agent notifies Borrower Agent that the Agent requests 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 and, if an amendment is requested by Borrower Agent or Agent, then Borrower Agent and Agent shall negotiate in good faith to enter into an amendment of such affected provisions (without the payment of any amendment or similar fees to Agent or the Lenders) to preserve the original intent thereof in light of such change in GAAP or the application thereof subject to the approval of the Required Lenders (not to be unreasonably withheld, conditioned or delayed).

1.3 **Uniform Commercial Code.** As used herein, the following terms are defined in accordance with the UCC in effect in the State of New York from time to time: “Account”, “Account Debtor”, “Chattel Paper”, “Commercial Tort Claim”, “Deposit Account”, “Document”, “Equipment”, “General Intangibles”, “Goods”, “Instrument”, “Investment Property”, “Letter-of-Credit Right”, “Securities Account” and “Supporting Obligation”.

1.4 **Certain Matters of Construction.** The terms “herein,” “hereof,” “hereunder” and other words of similar import refer to this Agreement as a whole and not to any particular section, paragraph or subdivision. Any pronoun used shall be deemed to cover all genders and the neuter form. In the computation of periods of time from a specified date to a later specified date, “from” means “from and including,” and “to” and “until” each mean “to but excluding.” The terms “including” and “include” shall mean “including, without limitation” and, for purposes of each Loan Document, the parties agree that the rule of ejusdem generis shall not be applicable to limit any provision. Section titles appear as a matter of convenience only and shall not affect the interpretation of any Loan Document. All references to (a) laws include all related regulations, interpretations, supplements, amendments and successor provisions; (b) any document, instrument or agreement (including any Loan Document and any Organic Document) include any amendments, restatements, amendments and restatements, supplements, modifications, replacements, renewals, extensions and refinancings from time to time (to the extent permitted or not restricted by the Loan Documents); (c) any section means, unless the context otherwise requires, a section of this Agreement; (d) any exhibits or schedules mean, unless the context otherwise requires, exhibits and schedules attached hereto, which are hereby incorporated by reference; (e) any Person include successors and permitted assigns; and (f) time of day means Central time (daylight or standard, as applicable). All determinations (including calculations of Borrowing Base and financial covenants) made from time to time under the Loan Documents shall be made in light of the circumstances existing at such time. No provision of any Loan Documents shall be construed against any party by reason of such party having, or being deemed to have, drafted the provision. Reference to a Borrower’s “knowledge” or words of similar import means actual knowledge of a Senior Officer, or knowledge that a Senior Officer would have obtained in good faith and diligent performance of his or her duties.

1.5 **Payment and Performance.** When the payment of any obligation or the performance of any covenant, duty or obligation is stated to be due or performance required on a day which is not a Business Day, the date of such payment (other than as described in the definition of Interest Period) or performance shall extend to the immediately succeeding Business Day.

1.6 **Compliance with this Agreement.** For purposes of determining the permissibility of any action, change, transaction or event that by the terms of the Loan Documents requires a calculation of any financial ratio or test, such financial ratio or test shall be calculated at the time such action is taken, such change is made, such transaction is consummated or such event occurs, as the case may be, and no Default or Event of Default shall be deemed to have occurred solely as a result of a change in such financial ratio or test occurring after the time such action is taken, such change is made, such transaction is consummated or such event occurs, as the case may be.

1.7 **Classification.** For purposes of determining compliance at any time with **Sections 10.2.1, 10.2.2, 10.2.4, 10.2.5, 10.2.6, 10.2.8, 10.2.9, 10.2.14, and 10.2.17** (and, in each case, any definition used therein) in the event that any Debt, Lien, Distribution, Restricted Investment, Asset Disposition, payment, prepayment, redemption, repurchase, retirement, defeasance or acquisition, merger, combination, consolidation, liquidation, winding up or dissolution, Restrictive Agreement, or Affiliate transaction meets the criteria of more than one (1) of the categories of transactions or items permitted pursuant to any clause of such **Sections 10.2.1, 10.2.2, 10.2.4, 10.2.5, 10.2.6, 10.2.8, 10.2.9, 10.2.14, and 10.2.17** (and, in each case, any definition used therein), Borrower, in its sole discretion, may classify or reclassify such transaction or item (or portion thereof) and will only be required to include the amount and type of such transaction (or portion thereof) in any one (1) category.

1.8 **Certain Calculations.**

(a) Subject to the immediately succeeding clauses (b) and (c) and **Section 1.6** above, notwithstanding anything to the contrary contained herein, financial ratios and tests (including the Interest Coverage Ratio, the Leverage Ratio and the ABS Excluded Leverage Ratio) pursuant to this Agreement shall be calculated in the manner prescribed by the definition of “Pro Forma Basis.”

(b) Notwithstanding anything to the contrary herein (including in connection with any calculation made on a Pro Forma Basis), to the extent that the terms of this Agreement require (i) compliance with any financial ratio or test (including the Interest Coverage Ratio, the Leverage Ratio and the ABS Excluded Leverage Ratio and the component definitions of any of the foregoing), (ii) the absence of a Default or Event of Default (or any type of Default or Event of Default) or (iii) the making of any representation or warranty, in each case as a condition to (A) the consummation of any transaction in connection with any acquisition or similar Investment (including the assumption or incurrence of Debt), (B) the making of any Distribution and/or (C) the making of any restricted Debt payment, in each case in connection with a Limited Condition Transaction, at the election of Borrowers (the “**LCT Election**”), the determination of whether the relevant condition is satisfied may be made at the time (the “**LCT Test Time**”) of (or on the basis of the financial statements for the most recently ended fiscal period at the time of) the execution of the definitive agreement with respect to such Limited Condition Transaction. If Borrowers have made an LCT Election, then, in connection with any calculation of any financial ratio or test (other than with respect to determining the Applicable Margin and actual (as opposed to pro forma) compliance with the Financial Covenants) following such LCT Test Time and prior to the earlier of the date on which such Limited Condition Transaction is consummated or the definitive agreement with respect thereto is terminated, any such financial ratio or test shall be calculated (and tested) on a Pro Forma Basis assuming such Limited Condition Transaction and other subject transactions in connection therewith have been consummated.

(c) Notwithstanding anything to the contrary contained in this **Section 1.8** or otherwise, for purposes of determining actual compliance with the financial covenants set forth in **Section 10.3**, any such adjustments shall only include events that occurred during the relevant measurement period for such financial covenant.

1.9 **Interest Rates; LIBOR Notification.** The interest rate on LIBOR Revolver Loans is determined by reference to LIBOR, which is derived from the London interbank offered rate. The London interbank offered rate is intended to represent the rate at which contributing banks may obtain short-term borrowings from each other in the London interbank market. In July 2017, the U.K. Financial Conduct Authority announced that, after the end

of 2021, it would no longer persuade or compel contributing banks to make rate submissions to the ICE Benchmark Administration (together with any successor to the ICE Benchmark Administrator, the “**IBA**”) for purposes of the IBA setting the London interbank offered rate. As a result, it is possible that commencing in 2022, the London interbank offered rate may no longer be available or may no longer be deemed an appropriate reference rate upon which to determine the interest rate on LIBOR Revolver Loans. In light of this eventuality, public and private sector industry initiatives are currently underway to identify new or alternative reference rates to be used in place of the London interbank offered rate. Upon the occurrence of a Benchmark Transition Event, a Term SOFR Transition Event or an Early Opt-in Election, **Section 3.6(b)** and **(c)** provide the mechanism for determining an alternative rate of interest. Agent will promptly notify the Borrower Agent, pursuant to **Section 3.6(e)**, of any change to the reference rate upon which the interest rate on LIBOR Revolver Loans is based. However, Agent does not warrant or accept any responsibility for, and shall not have any liability with respect to, the administration, submission or any other matter related to the London interbank offered rate or other rates in the definition of “LIBOR” or with respect to any alternative or successor rate thereto, or replacement rate thereof (including, without limitation, (i) any such alternative, successor or replacement rate implemented pursuant to **Section 3.6(b)** or **(c)**, whether upon the occurrence of a Benchmark Transition Event, a Term SOFR Transition Event or an Early Opt-in Election, and (ii) the implementation of any Benchmark Replacement Conforming Changes pursuant to **Section 3.6(d)**), including without limitation, whether the composition or characteristics of any such alternative, successor or replacement reference rate will be similar to, or produce the same value or economic equivalence of, LIBOR or have the same volume or liquidity as did the London interbank offered rate prior to its discontinuance or unavailability (it being understood that this sentence does not limit Agent’s obligation to make any determination or calculation of such reference rate as expressly required to be made by Agent pursuant to the terms of this Agreement).

1.10 **Divisions.** For all purposes under the Loan Documents, in connection with any division or plan of division under Delaware law (or any comparable event under a different jurisdiction’s laws): (a) if any asset, right, obligation or liability of any Person becomes the asset, right, obligation or liability of a different Person, then it shall be deemed to have been transferred from the original Person to the subsequent Person, and (b) if any new Person comes into existence, such new Person shall be deemed to have been organized and acquired on the first date of its existence by the holders of its Equity Interests at such time.

## SECTION 2. CREDIT FACILITIES

### 2.1 **Revolver Commitment.**

2.1.1 **Revolver Loans.** Each Lender agrees, severally on a Pro Rata basis up to its Revolver Commitment, on the terms set forth herein, to make Revolver Loans to Borrowers from time to time until the Revolver Commitment Termination Date. The Revolver Loans may be repaid and reborrowed as provided herein. In no event shall Lenders have any obligation to honor a request for a Revolver Loan (x) by CAI if the CAI Revolver Usage would exceed the CAI Borrowing Base, (y) by CCI or CCCI if the CCI Revolver Usage would exceed the CCI Borrowing Base, or (z) by any Borrower if the Revolver Usage would exceed the Borrowing Base.

2.1.2 **Revolver Notes.** The Revolver Loans made by each Lender and interest accruing thereon shall be evidenced by the records of Agent and such Lender. At the request of any Lender, Borrowers shall deliver a Revolver Note to such Lender.

2.1.3 **Use of Proceeds.** The proceeds of Revolver Loans shall be used by Borrowers solely (a) to pay fees and transaction expenses associated with the closing of this credit facility; (b) to pay Obligations in accordance with this Agreement; and (c) for working capital and other lawful corporate purposes of Borrowers and their Subsidiaries. No Borrower shall, directly or, to its knowledge, indirectly, use any Letter of Credit or Loan proceeds, nor use, lend, contribute or otherwise make available any Letter of Credit or Loan proceeds to any Subsidiary, joint venture partner or other Person, (i) to fund any activities of or business with any Person, or in any Designated Jurisdiction, that, at the time of issuance of the Letter of Credit or funding of the Loan, is the target of any Sanction; or (ii) in any manner that would result in a violation of a Sanction by such Person.

2.1.4 **Voluntary Reduction or Termination of Revolver Commitments.**

(a) The Revolver Commitments shall terminate on the Revolver Termination Date, unless sooner terminated in accordance with this Agreement. Upon at least three Business Day's (or such shorter period of time as may be reasonably acceptable to Agent and which advance notice may be waived by Agent in its sole discretion) prior written notice to Agent, Borrowers may, at their option, terminate the Revolver Commitments and this Agreement. Any notice of termination given by Borrowers shall be irrevocable; provided that such notice may state that such notice is conditioned upon the effectiveness of other credit facilities or transactions, in which case such notice may be revoked by Borrowers (by notice to Agent on or prior to the specified effective date) if such condition is not satisfied. Unless such notice is revoked, on the date specified in such notice of termination, Borrowers shall make Full Payment of all Obligations under the Loan Documents.

(b) The Borrowers may permanently reduce the Revolver Commitments, on a Pro Rata basis for each Lender, upon at least three Business Day's (or such shorter period of time as may be reasonably acceptable to Agent and which advance notice may be waived by Agent in its sole discretion) prior written notice to Agent, which notice shall specify the amount of the reduction and shall be irrevocable once given; provided that Borrowers may not permanently reduce the Revolver Commitments to an amount less than \$250,000,000. Each reduction shall be in a minimum amount of \$25,000,000, or an increment of \$5,000,000 in excess thereof.

2.1.5 Overadvances. If the CAI Revolver Usage exceeds the CAI Borrowing Base, CCI Revolver Usage exceeds the CCI Borrowing Base, or Revolver Usage exceeds the Borrowing Base (in each case, an "Overadvance"), the excess amount shall be payable by Borrowers within the time period set forth in **Section 5.2.1**, but all such Revolver Loans shall nevertheless constitute an Obligation secured by the Collateral entitled to all benefits of the Loan Documents. Agent may require Lenders to fund Base Rate Revolver Loans that cause or constitute an Overadvance and to forbear from requiring Borrowers to cure an Overadvance, (a) unless its authority has been revoked in writing by Required Lenders, as long as the total Overadvance does not exceed \$15,000,000 in the aggregate and does not continue for more than 30 consecutive days and (b) if Agent discovers an Overadvance not previously known by it to exist, as long as from the date of such discovery, the Overadvance (i) is not increased by more than \$5,000,000, and (ii) does not continue for more than 30 consecutive days. In no event shall Revolver Loans be made that would cause the Revolver Usage to exceed the aggregate Revolver Commitments. The making or existence of any Overadvance shall not create nor constitute a Default or an Event of Default; it being understood that funding or continuance of an Overadvance shall not constitute a waiver by Agent or Lenders of any Event of Default then existing. No Obligor shall be a beneficiary of this Section nor authorized to enforce any of its terms.

2.1.6 Protective Advances. Agent shall be authorized, in its sole discretion, at any time that any conditions in **Section 6** are not satisfied, to make Base Rate Revolver Loans (a) up to an aggregate amount not to exceed at any time the lesser of (i) the aggregate Revolver Commitments, and (ii) the outstanding amount of \$15,000,000, if Agent deems such Revolver Loans necessary or desirable to preserve or protect Collateral, or to enhance the collectability or repayment of Obligations; or (b) to pay any other amounts chargeable to Obligors under any Loan Documents, including costs, fees and expenses (such Revolver Loans are referred to herein as "Protective Advances"). Each Lender shall participate in each Protective Advance on a Pro Rata basis. Required Lenders may at any time revoke Agent's authority to make further Protective Advances by written notice to Agent. Absent such revocation, Agent's determination that funding of a Protective Advance is appropriate shall be conclusive.

## 2.2 Increase in Revolver Commitments.

2.2.1 The Borrowers may request an increase in Revolver Commitments (including through the establishment of a separate FILO Tranche, which may be in the form of term loans) from time to time upon notice to Agent, as long as (a) the requested increase is in a minimum amount of \$10,000,000 and, subject to **Section 2.2.2** with respect to any FILO Tranche, is offered on the same terms as existing Revolver Commitments, other than in respect of fees specified by Borrowers, (b) total aggregate increases in the Revolver Commitments pursuant to this Section do not exceed \$300,000,000, and (c) no more than six (6) (or such greater number as shall be reasonably acceptable to Agent) such increases are requested during the term of this Agreement. Agent shall promptly notify Lenders of the requested increase and, within 5 Business Days thereafter, each Lender shall notify Agent if and to what extent such Lender commits to increase its Revolver Commitment. Any Lender not responding within such period shall be deemed to have declined an increase. If Lenders fail to commit to the full requested increase,

Eligible Assignees may issue additional Revolver Commitments and become Lenders hereunder. Agent may allocate, in its discretion and with the consent of Borrower Agent, the increased Revolver Commitments among committing Lenders and, if necessary, Eligible Assignees. Total Revolver Commitments shall be increased by the requested amount (or such lesser amount committed by Lenders and Eligible Assignees) on a date agreed upon by Agent and Borrower Agent, provided that the conditions set forth in **Section 6.2(a)** and **(b)** are satisfied or waived by the Lenders providing such Revolver Commitment increase at such time. On the effective date of an increase, the Revolver Usage and other exposures under the Revolver Commitments shall be reallocated among Lenders, and settled by Agent as necessary, in accordance with Lenders' adjusted shares of such Revolver Commitments. Notwithstanding the foregoing or anything to the contrary contained in the Loan Documents (including **Section 14.1**), but subject to **Section 2.2.2**, if the rate of interest, the Unused Line Fee or similar fee or interest rate applicable to the increase in Revolver Commitments exceeds the rate of interest, the Unused Line Fee or similar fee or interest rate of the existing Revolver Loans, (i) the Borrowers may, at the sole option of Borrower Agent, decline such increase in the Revolver Commitments or (ii) the rate of interest and/or fees on the existing Revolver Loans shall be increased to match that applicable to the increased Revolver Commitment without the consent of any Person, other than the Lenders and other Persons providing the relevant increased Revolver Commitment, Agent and the Borrowers. Any amendment hereto for such increase or addition shall be in form and substance satisfactory to Agent and the Borrowers and shall only require the written signatures of Agent, the Borrowers and the Lender(s) being added or increasing their Revolver Commitment.

2.2.2 The increased Revolver Commitments may be in the form of a separate "first-in, last-out" or "last-out" tranche (a "FILO Tranche") with interest rate margins, rate floors, upfront fees, funding discounts and original issue discounts, in each case to be agreed upon (which, for the avoidance of doubt, shall not require any adjustment to the Applicable Margin of other Revolver Loans) among the Borrowers and the Lenders providing the FILO Tranche so long as (a) any Revolver Loans and related Obligations in respect of the FILO Tranche are not to be guaranteed by any Person other than the applicable Guarantors and are not secured by any assets other than Collateral, (b) as between (x) the Revolver Loans (other than the FILO Tranche) and (y) the FILO Tranche, all proceeds from the liquidation or other realization of the Collateral or application of funds in accordance with **Section 5.6** shall be applied, first to obligations owing under, or with respect to, the Revolver Loans (other than the FILO Tranche) and second to the FILO Tranche; (c) the Borrowers may not prepay Revolver Loans under the FILO Tranche or terminate or reduce the commitments in respect thereof at any time that other Revolver Loans (including Swingline Loans) and/or any LC Obligations described in clause (a) of the definition thereof (unless Cash Collateralized or otherwise provided for in a manner reasonably satisfactory to Agent) are outstanding, except to the extent permitted by **Section 10.2.8(a)**; (d) the Required Lenders (calculated as including the FILO Tranche) shall control exercise of remedies in respect of the Collateral; (e) no changes affecting the priority status of the Revolver Commitments (other than the FILO Tranche) vis-à-vis the FILO Tranche may be made without the consent of the Required Lenders under the Revolver Commitments, other than such changes which affect only the FILO Tranche; (f) the final maturity of any FILO Tranche shall not occur, and no FILO Tranche shall require mandatory commitment reductions prior to, the Revolver Termination Date (other than with respect to any FILO Tranche) as in effect when such FILO Tranche is first added to the Agreement; and (g) except as otherwise set forth in this **Section 2.2.2**, the terms of any FILO Tranche are not materially less favorable to the Borrowers than those hereunder (including, without limitation, the inclusion of any additional financial or other material covenant without the consent of Agent).

### 2.3 Letter of Credit Facility.

2.3.1 Issuance of Letters of Credit. Issuing Bank agrees to issue Letters of Credit from time to time until the Revolver Commitment Termination Date, on the terms set forth herein, including the following:

(a) Each Borrower acknowledges that Issuing Bank's issuance of any Letter of Credit is conditioned upon Issuing Bank's receipt of a LC Application with respect to the requested Letter of Credit, as well as such other instruments and agreements as Issuing Bank may customarily require for issuance of a letter of credit of similar type and amount. Issuing Bank shall have no obligation to issue any Letter of Credit unless (i) Issuing Bank receives a LC Request and LC Application prior to 9:00 a.m., at least three (3) Business Days prior to the requested date of issuance (which shall be a Business Day); (ii) each LC Condition is satisfied and (iii) if a Defaulting Lender exists and the Fronting Exposure of such Defaulting Lender in respect of such Letter of Credit cannot be reallocated to non-Defaulting Lenders pursuant to **Section 4.2**, Borrower shall have Cash Collateralized

the applicable Fronting Exposure as set forth in **Section 2.3.3**. If, in sufficient time to act, Issuing Bank receives written notice from Agent or Required Lenders that a LC Condition has not been satisfied, Issuing Bank shall have no obligation to issue the requested Letter of Credit (or any other) until such notice is withdrawn in writing by the Required Lenders or until Required Lenders have waived such condition in accordance with this Agreement. Prior to receipt of any such notice, Issuing Bank shall not be deemed to have knowledge of any failure of LC Conditions.

(b) Letters of Credit may be requested by a Borrower to support working capital and other lawful corporate purposes. Increase, renewal or extension of a Letter of Credit shall be treated as an issuance of a new Letter of Credit, except that Issuing Bank may require a new LC Application in its reasonable discretion.

(c) The Borrowers assume all risks of the acts, omissions or misuses of any Letter of Credit by the beneficiary. In connection with any Letter of Credit, none of Agent, Issuing Bank or any Lender shall be responsible for the existence, character, quality, quantity, condition, packing, value or delivery of any goods purported to be represented by any Documents; any differences or variation in the character, quality, quantity, condition, packing, value or delivery of any goods from that expressed in any Documents; the form, validity, sufficiency, accuracy, genuineness or legal effect of any Documents or of any endorsements thereon; the time, place, manner or order in which shipment of goods is made; partial or incomplete shipment of, or failure to ship, any goods referred to in a Letter of Credit or Documents; any deviation from instructions, delay, default or fraud by any shipper or other Person in connection with any goods, shipment or delivery; any breach of contract between a shipper or vendor and a Borrower; errors, omissions, interruptions or delays in transmission or delivery of any messages, by mail, cable, telegraph, telex, telecopy, e mail, telephone or otherwise; errors in interpretation of technical terms; the misapplication by a beneficiary of any Letter of Credit or the proceeds thereof; or any consequences arising from causes beyond the control of Issuing Bank, Agent or any Lender, including any act or omission of a Governmental Authority. Issuing Bank shall be fully subrogated to the rights and remedies of any beneficiary whose claims against any Borrower are discharged with proceeds of a Letter of Credit. The rights and remedies of Issuing Bank under the Loan Documents shall be cumulative.

(d) In connection with its administration of and enforcement of rights or remedies under any Letters of Credit or LC Documents, Issuing Bank shall be entitled to act, and shall be fully protected in acting, upon any certification, documentation or communication in whatever form believed by Issuing Bank, in good faith, to be genuine and correct and to have been signed, sent or made by a proper Person. Issuing Bank uses legal counsel, accountants and other experts to advise it concerning its obligations, rights and remedies, and shall be entitled to act upon, and shall be fully protected in any action taken in good faith reliance upon, any advice given by such experts. Issuing Bank may employ agents and attorneys-in-fact in connection with any matter relating to Letters of Credit or LC Documents, and shall not be liable for the negligence of agents and attorneys-in-fact selected with reasonable care.

(e) All Existing Letters of Credit shall be deemed to have been issued pursuant to this Agreement, and from and after the Closing Date shall be subject to and governed by the terms and conditions set forth herein.

(f) Notwithstanding the foregoing or anything to the contrary contained in the Loan Documents, the Agent, Issuing Bank and/or Lender, as applicable, shall confirm that Documents and certificates required to be submitted in connection with any Letter of Credit, on their face, comply with the terms of such Letter of Credit as may be required by the Uniform Customs and Practice for Documentary Credits, as most recently published by the International Chamber of Commerce at the time of issuance of the applicable Letter of Credit or the "International Standby Practices 1998" published by the Institute of International Banking Law & Practice, Inc., as applicable.

### 2.3.2 Reimbursement; Participations.

(a) If an Issuing Bank honors any request for payment under a Letter of Credit, such Issuing Bank shall give written notice of such payment to Agent and Borrower Agent, and Borrowers shall pay to Issuing Bank (i) to the extent Borrower Agent receives written notice from the relevant Issuing Bank by 9:00 a.m., on the date of such payment, on the same day and (ii) otherwise, on the immediately succeeding Business Day ("Reimbursement Date"), the amount paid by Issuing Bank under such Letter of Credit, together with interest at the

interest rate for Base Rate Revolver Loans from the Reimbursement Date until payment by Borrowers. Subject to the rights of Borrowers' under **Section 2.3.2(d)**, the obligation of Borrowers to reimburse Issuing Bank for any payment made under a Letter of Credit shall be absolute, unconditional, irrevocable, and joint and several, and shall be paid without regard to any lack of validity or enforceability of any Letter of Credit or the existence of any claim, setoff, defense or other right that Borrowers may have at any time against the beneficiary. Whether or not Borrower Agent submits a Notice of Borrowing, Borrowers shall be deemed to have requested a Borrowing of Base Rate Revolver Loans in an amount necessary to pay all amounts due Issuing Bank on any Reimbursement Date and each Lender shall fund its Pro Rata share of such Borrowing whether or not the Revolver Commitments have terminated, an Overadvance exists or is created thereby, or the conditions in **Section 6.2** are satisfied.

(b) Each Lender hereby irrevocably and unconditionally purchases from Issuing Bank, without recourse or warranty, an undivided Pro Rata participation in all LC Obligations outstanding from time to time. Issuing Bank is issuing Letters of Credit in reliance upon this participation. If Borrowers do not make a payment to Issuing Bank when due hereunder, Agent shall promptly notify Lenders and each Lender shall within one Business Day after such notice pay to Agent, for the benefit of Issuing Bank, the Lender's Pro Rata share of such payment. Upon request by a Lender, Issuing Bank shall provide copies of Letters of Credit and LC Documents in its possession at such time.

(c) The obligation of each Lender to make payments to Agent for the account of Issuing Bank in connection with Issuing Bank's payment under a Letter of Credit shall be absolute, unconditional and irrevocable, not subject to any counterclaim, setoff, qualification or exception whatsoever, and shall be made in accordance with this Agreement under all circumstances, irrespective of any lack of validity or unenforceability of any Loan Documents; any draft, certificate or other document presented under a Letter of Credit having been determined to be forged, fraudulent, noncompliant, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect; any waiver by Issuing Bank of a requirement that exists for its protection (and not a Borrower's protection) or that does not materially prejudice a Borrower; any honor of an electronic demand for payment even if a draft is required; any payment of an item presented after a Letter of Credit's expiration date if authorized by the UCC or applicable customs or practices; or any setoff or defense that an Obligor may have with respect to any Obligations. Issuing Bank does not assume any responsibility for any failure or delay in performance or any breach by any Borrower or other Person of any obligations under any LC Documents. Issuing Bank does not make to Lenders any express or implied warranty, representation or guaranty with respect to any Letter of Credit, Collateral, LC Document or Obligor. Issuing Bank shall not be responsible to any Lender for any recitals, statements, information, representations or warranties contained in, or for the execution, validity, genuineness, effectiveness or enforceability of any LC Documents; the validity, genuineness, enforceability, collectability, value or sufficiency of any Collateral or the perfection of any Lien therein; or the assets, liabilities, financial condition, results of operations, business, creditworthiness or legal status of any Obligor.

(d) No Issuing Bank Indemnitee shall be liable to any Lender or other Person for any action taken or omitted to be taken in connection with any Letter of Credit or LC Document except as a result of its gross negligence, willful misconduct or bad faith.

2.3.3 **Cash Collateral.** Subject to **Section 2.1.5**, at Agent's or Issuing Bank's request, Borrowers shall Cash Collateralize (a) the Fronting Exposure of any Defaulting Lender which has not been reallocated to non-Defaulting Lenders as set forth in **Section 4.2.1** or Cash Collateralized pursuant to **Section 4.2.2**, and (b) if an Event of Default exists or the Revolver Commitment Termination Date has occurred, all outstanding Letters of Credit. If Borrowers fail to provide any Cash Collateral as required hereunder, Lenders may (and shall upon direction of Agent) advance, as Revolver Loans, the amount of Cash Collateral required (whether or not the Revolver Commitments have terminated, an Overadvance exists or the conditions in **Section 6** are satisfied).

2.3.4 **Resignation of Issuing Bank.** Issuing Bank may resign at any time upon notice to Agent and Borrowers, and any resignation of Agent hereunder shall automatically constitute its concurrent resignation as Issuing Bank. From the effective date of its resignation, Issuing Bank shall have no obligation to issue, amend, renew, extend or otherwise modify any Letter of Credit, but shall otherwise have all rights and obligations of an Issuing Bank hereunder relating to any Letter of Credit then outstanding and issued by it prior to such date. A replacement Issuing Bank may be appointed by written agreement among Agent, Borrower Agent and the new Issuing Bank. From and after the effective date of any such replacement, (a) the 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 (b) 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.

2.3.5 Inconsistencies with LC Documents. In the event of any conflict or inconsistency between terms and conditions contained in both this Agreement and in any LC Document (as distinguished from additional terms contained in the LC Documents covering matters not addressed in this Agreement, as to which this provision shall not apply), the terms and conditions of this Agreement shall control.

2.3.6 Issuing Bank Reports to Agent. Unless otherwise agreed by Agent, Issuing Bank (other than Agent) shall, in addition to its notification obligations set forth elsewhere in this Section, report in writing to Agent and/or any Affiliate of Agent designated by it (i) periodic activity (for such period or recurrent periods as shall be requested by Agent) in respect of Letters of Credit issued by Issuing Bank, including all issuances, extensions, amendments and renewals, all expirations and cancelations and all disbursements and reimbursements, (ii) reasonably prior to the time that Issuing Bank issues, amends, renews or extends any Letter of Credit, the date of such issuance, amendment, renewal or extension, and the Stated Amount of the Letters of Credit issued, amended, renewed or extended by it and outstanding after giving effect to such issuance, amendment, renewal or extension (and whether the amounts thereof shall have changed), (iii) on each Business Day on which Issuing Bank honors any request for payment under a Letter of Credit, the date and amount of such payment, (iv) on any Business Day on which any Borrower fails to reimburse Issuing Bank pursuant to **Section 2.3.2(a)**, the date of such failure and the amount owed pursuant to **Section 2.3.2(a)**, and (v) on any other Business Day, such other information as Agent shall reasonably request as to the Letters of Credit issued by Issuing Bank.

### SECTION 3. INTEREST, FEES AND CHARGES

#### 3.1 Interest.

##### 3.1.1 Rates and Payment of Interest.

(a) The Obligations under the Loan Documents shall bear interest (i) if a Base Rate Revolver Loan, on the outstanding principal amount thereof at a rate per annum equal to the Base Rate in effect from time to time, plus the Applicable Margin; (ii) if a LIBOR Revolver Loan, on the outstanding principal amount thereof at the Adjusted LIBO Rate for the applicable Interest Period, plus the Applicable Margin; and (iii) if any other Obligation under the Loan Documents (including, to the extent permitted by law, interest not paid when due) to the extent not paid when due, at the Base Rate in effect from time to time, plus the Applicable Margin for Base Rate Revolver Loans. Interest shall accrue from the date the Revolver Loan is advanced or the Obligation is payable, until paid by Borrowers. If a Revolver Loan is repaid on the same day made, one day’s interest shall accrue.

(b) During an Insolvency Proceeding with respect to any Borrower, or during any other Event of Default if Agent or Required Lenders in their discretion so elect, Obligations under the Loan Documents shall bear interest at the Default Rate (whether before or after any judgment), payable on demand.

(c) Interest accrued on the Revolver Loans shall be due and payable in arrears, (i) on each Interest Payment Date and (ii) on the Revolver Commitment Termination Date. Interest accrued on any Secured Bank Product Obligations shall be due and payable as provided in the applicable agreements between the relevant Secured Bank Product Provider and the relevant Obligor.

(d) If due to inaccurate reporting in any Borrower Materials, prior to the Revolver Termination Date, it is determined that a higher Applicable Margin should have applied to a period than was actually applied, then the proper margin shall be applied retroactively and Borrowers shall promptly pay to Agent, for the ratable benefit of Lenders (for the account of the Lenders that hold the Revolving Credit Commitments and Revolver Loans at the time such payment is received, regardless of whether those Lenders held the Revolving Credit Commitments and the Revolver Loans during the relevant period), an amount equal to the difference between the amount of interest and fees that would have accrued using the proper margin and the amount actually paid. All amounts payable by Borrowers under this Section shall be due promptly on demand and, for the avoidance of doubt, such deficiency shall be due and payable within three Business Days of the date of such demand and no Default or

Event of Default shall be deemed to have occurred with respect to such deficiency prior to such date; provided that upon payment of any such deficiency by the Borrowers, no Lender (including Lenders who held the applicable Revolving Credit Commitments and Revolver Loans during the relevant period) shall have any claim against any Loan Party as a result of the failure to pay the proper margin and fees originally.

### 3.1.2 Application of LIBOR to Outstanding Revolver Loans.

(a) The Borrowers may on any Business Day, elect to convert any portion of the Base Rate Revolver Loans to, or to continue any LIBOR Revolver Loan at the end of its Interest Period as, a LIBOR Revolver Loan. During the existence of any Event of Default, Agent may (and shall, at the direction of Required Lenders), declare that no Revolver Loan may be made, converted to or continued as a LIBOR Revolver Loan.

(b) To convert or continue Revolver Loans as LIBOR Revolver Loans, Borrower Agent shall give Agent a Notice of Conversion/Continuation, no later than 10:00 a.m. at least three (3) Business Days (or such shorter period agreed by Agent) before the requested conversion or continuation date. Promptly after receiving any such notice, Agent shall notify each Lender thereof. Each Notice of Conversion/Continuation shall be irrevocable, and shall specify the amount of Revolver Loans to be converted or continued, the conversion or continuation date (which shall be a Business Day), and the duration of the Interest Period (which shall be deemed to be one month if not specified). If, upon the expiration of any Interest Period for any LIBOR Revolver Loans, Borrowers shall have failed to deliver a Notice of Conversion/Continuation, they shall be deemed to have elected to convert such Revolver Loan into a Base Rate Revolver Loan.

3.1.3 Interest Periods. The Borrowers shall select an interest period ("Interest Period") of one month, three months or six months to apply to each LIBOR Revolver Loan; provided, that:

(a) the Interest Period shall begin on the date the Revolver Loan is made or continued as, or converted into, a LIBOR Revolver Loan, and shall expire on the numerically corresponding day in the calendar month at its end;

(b) if any Interest Period begins on a day for which there is no corresponding day in the calendar month at its end or if such corresponding day falls after the last Business Day of such month, then the Interest Period shall expire on the last Business Day of such month; and if any Interest Period would otherwise expire on a day that is not a Business Day, the period shall expire on the next Business Day; and

(c) no Interest Period shall extend beyond the Revolver Termination Date.

## 3.2 Fees.

3.2.1 Unused Line Fee. The Borrowers shall pay to Agent, for the Pro Rata benefit of Lenders (other than any Defaulting Lender), a fee equal to the Unused Line Fee Percentage times the amount by which the Revolver Commitments (other than the Revolver Commitments of Defaulting Lenders) exceed the average daily Revolver Usage during any month. Such fee shall be payable monthly in arrears, on the first day of each month and on the Revolver Commitment Termination Date.

3.2.2 LC Facility Fees. The Borrowers shall pay (a) to Agent, for the Pro Rata benefit of Lenders, a fee equal to the Applicable Margin in effect for LIBOR Revolver Loans times the average daily Stated Amount of Letters of Credit, which fee shall be payable monthly in arrears, on the first day of each month; (b) to each Issuing Lender, for its own account, a fronting fee equal to 0.125% per annum on the Stated Amount of each Letter of Credit issued by such Issuing Lender, which fee shall be payable monthly in arrears, on the first day of each month; and (c) to each Issuing Bank, for its own account, all customary charges associated with the issuance, amending, negotiating, payment, processing, transfer and administration of Letters of Credit issued by such Issuing Lender, which charges shall be paid as and when incurred.

3.2.3 Agent Fees. In consideration of arrangement and syndication of the Revolver Commitments and other services provided hereunder, Borrowers shall pay to Agent the fees described in the Fee Letter.

3.3 **Computation of Interest, Fees, Yield Protection.** All interest, as well as fees and other charges calculated on a per annum basis, shall be computed for the actual days elapsed (including the first day but excluding the last day), based on a year of 360 days, except that interest computed by reference to the Base Rate at times when the Base Rate is based on the Prime Rate shall be computed on the basis of a year of 365 days (or 366 days in a leap year). Each determination by Agent of any interest, fees or interest rate hereunder shall be final, conclusive and binding for all purposes, absent manifest error. All fees shall be fully earned when due and shall not be subject to rebate, refund or proration. All fees payable under **Section 3.2** are compensation for services and are not, and shall not be deemed to be, interest or any other charge for the use, forbearance or detention of money. A certificate setting forth in reasonable detail the calculation of the amount or amounts payable by Borrowers under **Section 3.4, 3.6, 3.7, 3.9** or **5.9**, submitted to Borrower Agent by Agent or the affected Lender, as applicable, shall be final, conclusive and binding for all purposes, absent manifest error; provided that such certificate from each such Lender or Issuing Bank shall contain a certification to Borrowers that such Lender or Issuing Bank is generally requiring reimbursement for the relevant amounts from similarly situated borrowers under comparable syndicated credit facilities. The Borrowers shall pay such amounts to the appropriate party within 30 days following receipt of the certificate.

3.4 **Reimbursement Obligations.** The Borrowers shall pay all Extraordinary Expenses within 30 days of receipt of an invoice (in reasonable detail and accompanied by backup documentation). The Borrowers shall also reimburse Agent within 30 days of receipt of an invoice (in reasonable detail and accompanied by backup documentation) for all reasonable and documented out-of-pocket legal, examination and appraisal fees and expenses (in the case of legal fees and expenses, fees and expenses of one lead firm of counsel to Agent and, if necessary, one (1) local counsel in each relevant local jurisdiction to Agent) incurred by it in connection with (a) negotiation and preparation of any Loan Documents, including any modification thereof; (b) administration of and actions relating to any Collateral, Loan Documents and transactions contemplated thereby, including any actions taken to perfect or maintain priority of Agent's Liens on any Collateral, to maintain any insurance required hereunder or to verify Collateral; and (c) subject to the limits of **Section 10.1.1(b)**, any examination or appraisal with respect to any Obligor or Collateral by Agent's personnel or a third party (including any insurance review).

3.5 **Illegality.** If any Lender reasonably determines that any Applicable Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for any Lender to make, maintain or fund LIBOR Revolver Loans, or to determine or charge interest based on LIBOR, or any Governmental Authority has imposed material restrictions on the authority of such Lender to purchase or sell, or to take deposits of, Dollars in the London interbank market, then, on written notice thereof by such Lender to Agent and Borrower Agent, any obligation of such Lender to make or continue LIBOR Revolver Loans or to convert Base Rate Revolver Loans to LIBOR Revolver Loans, shall be suspended until such Lender notifies Agent that the circumstances giving rise to such determination no longer exist. Upon delivery of such notice, Borrowers shall prepay or, if applicable, convert all LIBOR Revolver Loans of such Lender to Base Rate Revolver Loans, either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such LIBOR Revolver Loans to such day, or immediately, if such Lender may not lawfully continue to maintain such LIBOR Revolver Loans. Upon any such prepayment or conversion, Borrowers shall also pay accrued interest on the amount so prepaid or converted.

### 3.6 **Alternate Rate of Interest.**

(a) Subject to **clauses (b), (c), (d), (e), (f)** and **(g)** of this **Section 3.6**, if prior to the commencement of any Interest Period for a Borrowing of LIBOR Revolver Loans:

(i) Agent determines (which determination shall be conclusive absent manifest error) that adequate and reasonable means do not exist for ascertaining the Adjusted LIBO Rate or LIBOR, as applicable (including because the LIBOR Screen Rate is not available or published on a current basis), for such Interest Period; provided that no Benchmark Transition Event shall have occurred at such time; or

(ii) Agent is advised by the Required Lenders that the Adjusted LIBO Rate or LIBOR, as applicable, for such Interest Period will not adequately and fairly reflect the cost to such Lenders (or Lender) of making or maintaining their Revolver Loans (or its Revolver Loan) for such Interest Period;

then Agent shall give notice thereof to the Borrower Agent and the Lenders by telephone, telecopy or electronic mail as promptly as practicable thereafter and, until Agent notifies the Borrower Agent and the Lenders that the circumstances giving rise to such notice no longer exist (which Agent agrees to deliver promptly when such circumstances cease to exist), (A) any request for the conversion of any Revolver Loan to, or continuation of any Revolver Loan as, a LIBOR Revolver Loan shall be ineffective and (B) if any Notice of Borrowing requests a Borrowing of LIBOR Revolver Loans, such Borrowing shall be made as a Borrowing of Base Rate Loans.

(b) Notwithstanding anything to the contrary herein or in any other Loan Document (and any Hedging Agreement shall be deemed not to be a “Loan Document” for purposes of this **Section 3.6**), if a Benchmark Transition Event or an Early Opt-in Election, as applicable, and its related Benchmark Replacement Date have occurred prior to the Reference Time in respect of any setting of the then-current Benchmark, then (x) if a Benchmark Replacement is determined in accordance with clause (1) or (2) of the definition of “Benchmark Replacement” for such Benchmark Replacement Date, such Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Loan Document in respect of such Benchmark setting and subsequent Benchmark settings without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document and (y) if a Benchmark Replacement is determined in accordance with clause (3) of the definition of “Benchmark Replacement” for such Benchmark Replacement Date, such Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Loan Document in respect of any Benchmark setting at or after 5:00 p.m. (New York City time) on the fifth (5th) Business Day after the date notice of such Benchmark Replacement is provided to the Lenders without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document so long as Agent has not received, by such time, written notice of objection to such Benchmark Replacement from Lenders comprising the Required Lenders.

(c) Notwithstanding anything to the contrary herein or in any other Loan Document and subject to the proviso below in this paragraph, if a Term SOFR Transition Event and its related Benchmark Replacement Date have occurred prior to the Reference Time in respect of any setting of the then-current Benchmark, then the applicable Benchmark Replacement will replace the then-current Benchmark for all purposes hereunder or under any Loan Document in respect of such Benchmark setting and subsequent Benchmark settings, without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document; provided that, this clause (c) shall not be effective unless Agent has delivered to the Lenders and the Borrower Agent a Term SOFR Notice. For the avoidance of doubt, Agent shall not be required to deliver a Term SOFR Notice after a Term SOFR Transition Event and may do so in its sole discretion.

(d) In connection with the implementation of a Benchmark Replacement, Agent will have the right to make Benchmark Replacement Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such Benchmark Replacement Conforming Changes will become effective without any further action or consent of any other party to this Agreement or any other Loan Document.

(e) Agent will promptly notify the Borrower Agent and the Lenders of (i) any occurrence of a Benchmark Transition Event, a Term SOFR Transition Event or an Early Opt-in Election, as applicable, and its related Benchmark Replacement Date, (ii) the implementation of any Benchmark Replacement, (iii) the effectiveness of any Benchmark Replacement Conforming Changes, (iv) the removal or reinstatement of any tenor of a Benchmark pursuant to clause (d) below and (v) the commencement or conclusion of any Benchmark Unavailability Period. Any determination, decision or election that may be made by Agent or, if applicable, any Lender (or group of Lenders) pursuant to this **Section 3.6**, including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action or any selection, will be conclusive and binding absent manifest error and may be made in its or their sole discretion and without consent from any other party to this Agreement or any other Loan Document, except, in each case, as expressly required pursuant to this **Section 3.6**.

(f) Notwithstanding anything to the contrary herein or in any other Loan Document, at any time (including in connection with the implementation of a Benchmark Replacement), (i) if the then-current Benchmark is a term rate (including Term SOFR or LIBO Rate) and either (A) any tenor for such Benchmark is not displayed on a screen or other information service that publishes such rate from time to time as selected by Agent in

its reasonable discretion or (B) the regulatory supervisor for the administrator of such Benchmark has provided a public statement or publication of information announcing that any tenor for such Benchmark is or will be no longer representative, then Agent may modify the definition of "Interest Period" for any Benchmark settings at or after such time to remove such unavailable or non-representative tenor and (ii) if a tenor that was removed pursuant to clause (i) above either (A) is subsequently displayed on a screen or information service for a Benchmark (including a Benchmark Replacement) or (B) is not, or is no longer, subject to an announcement that it is or will no longer be representative for a Benchmark (including a Benchmark Replacement), then Agent may modify the definition of "Interest Period" for all Benchmark settings at or after such time to reinstate such previously removed tenor.

(g) Upon the Borrower Agent's receipt of notice of the commencement of a Benchmark Unavailability Period, the Borrower Agent may revoke any request for a Borrowing of, conversion to or continuation of LIBOR Revolver Loans to be made, converted or continued during any Benchmark Unavailability Period and, failing that, the Borrower Agent will be deemed to have converted any such request into a request for a Borrowing of or conversion to Base Rate Loans. During any Benchmark Unavailability Period or at any time that a tenor for the then-current Benchmark is not an Available Tenor, the component of the Base Rate based upon the then-current Benchmark or such tenor for such Benchmark, as applicable, will not be used in any determination of the Base Rate.

### 3.7 **Increased Costs; Capital Adequacy.**

#### 3.7.1 **Increased Costs Generally.** If any Change in Law shall:

(a) Impose, modify or deem applicable any reserve, special deposit or similar requirement against assets of, deposits with or for the account of, or credit extended by, any Lender (except any reserve requirement reflected in calculating LIBOR) or Issuing Bank;

(b) subject any Recipient to Taxes (other than (i) Indemnified Taxes, (ii) Taxes described in clauses (b) through (d) of the definition of Excluded Taxes, and (iii) Connection Income Taxes) with respect to any Revolver Loan, Letter of Credit, Revolver Commitment or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto; or

(c) impose on any Lender or Issuing Bank or the London interbank market any other condition affecting this Agreement or any other Loan Document or any LIBOR Revolver Loans made by such Lender or any Letter of Credit, participation in LC Obligations;

and the result of any of the foregoing shall be to increase the cost to such Lender of making or maintaining, converting or continuing any LIBOR Revolver Loan (or of maintaining its obligation to make any such LIBOR Revolver Loan) or to increase the cost to a Lender or Issuing Bank of participating in, issuing or maintaining any Letter of Credit (or of maintaining its obligation to participate in or to issue any Letter of Credit), or to reduce the amount of any sum received or receivable by a Lender or Issuing Bank hereunder (whether of principal, interest or any other amount) then, within 30 days of receipt of a certificate of the type specified in **Section 3.3** from such Lender or Issuing Bank, as applicable, Borrowers will pay to it such additional amount(s) as will compensate it for the additional costs incurred or reduction suffered.

3.7.2 **Capital Requirements.** If a Lender or Issuing Bank determines that a Change in Law affecting such Lender or Issuing Bank or such Lender's or Issuing Bank's holding company, if any, regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on such Lender's, Issuing Bank's or holding company's capital as a consequence of this Agreement, or such Lender's or Issuing Bank's Revolver Commitments, or the Revolver Loans made by, or participations in LC Obligations or Swingline Loans held by such Lender, or the Letters of Credit issued by such Issuing Bank, to a level below that which such Lender, Issuing Bank or such Lender's or Issuing Bank's holding company could have achieved but for such Change in Law (taking into consideration such Lender's or Issuing Bank's policies and the policies of such Lender's or Issuing Bank's holding company with respect to capital adequacy), then from time to time within 30 days of receipt of a certificate of the type specified in **Section 3.3**, Borrowers will pay to such Lender or Issuing

Bank, as the case may be, such additional amounts as will compensate it or such Lender's or Issuing Bank's holding company for the reduction suffered.

3.7.3 **Compensation.** Failure or delay on the part of any Lender or Issuing Bank to demand compensation pursuant to this Section shall not constitute a waiver of its right to demand such compensation, but Borrowers shall not be required to compensate a Lender or Issuing Bank for any increased costs or reductions suffered more than 90 days (plus any period of retroactivity of the Change in Law giving rise to the demand) prior to the date that the Lender or Issuing Bank notifies Borrower Agent of the applicable Change in Law and of such Lender's or Issuing Bank's intention to claim compensation therefor.

3.8 **Mitigation.** If any Lender gives a notice under **Section 3.5** or requests compensation under **Section 3.7**, or if Borrowers are required to pay any Indemnified Taxes or additional amounts with respect to a Lender under **Section 5.9**, then such Lender shall use reasonable efforts to designate a different Lending Office 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 (a) would eliminate the need for such notice or reduce amounts payable or to be withheld in the future, as applicable; and (b) would not subject the Lender to any unreimbursed cost or expense and would not otherwise be materially disadvantageous to it or unlawful. The Borrowers shall pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

3.9 **Funding Losses.** If for any reason (a) any Borrowing, conversion or continuation of a LIBOR Revolver Loan does not occur on the date specified therefor in a Notice of Borrowing or Notice of Conversion/Continuation (whether or not withdrawn), (b) any repayment or conversion of a LIBOR Revolver Loan occurs on a day other than the end of its Interest Period, (c) Borrowers fail to repay a LIBOR Revolver Loan when required hereunder, or (d) a Lender (other than a Defaulting Lender) is required to assign a LIBOR Revolver Loan prior to the end of its Interest Period pursuant to **Section 13.4**, then Borrowers shall pay to each Lender all losses, expenses and fees (other than loss of margin) arising from redeployment of funds or termination of match funding. For purposes of calculating amounts payable under this Section, a Lender shall be deemed to have funded a LIBOR Revolver Loan by a matching deposit or other borrowing in the London interbank market for a comparable amount and period, whether or not the Revolver Loan was in fact so funded. Such loss and expense to any Lender shall be deemed to be the amount reasonably 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 LIBOR Revolver Loan had such event not occurred, at the Adjusted LIBO Rate that would have been applicable to such LIBOR Revolver Loan but exclusive of the Applicable Margin relating thereto, 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 LIBOR Revolver 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 any amount or amounts that such Lender is entitled to receive pursuant to this Section shall be delivered to Borrower and shall be conclusive absent manifest error. The Borrowers shall pay such Lender the amount shown as due on any such certificate within thirty (30) days after receipt thereof.

3.10 **Maximum Interest.** Notwithstanding anything to the contrary contained in any Loan Document, the interest paid or agreed to be paid under the Loan Documents shall not exceed the maximum rate of non-usurious interest permitted by Applicable Law ("maximum rate"). If Agent or any Lender shall receive interest in an amount that exceeds the maximum rate, the excess interest shall be applied to the principal of the Obligations under the Loan Documents or, if it exceeds such unpaid principal, refunded to Borrowers. In determining whether the interest contracted for, charged or received by Agent or a Lender exceeds the maximum rate, such Person may, to the extent permitted by Applicable Law, (a) characterize any payment that is not principal as an expense, fee or premium rather than interest; (b) exclude voluntary prepayments and the effects thereof; and (c) amortize, prorate, allocate and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the Obligations under the Loan Documents.

#### SECTION 4. LOAN ADMINISTRATION

#### 4.1 Manner of Borrowing and Funding Revolver Loans.

##### 4.1.1 Notice of Borrowing.

(a) To request Revolver Loans, Borrower Agent shall give Agent a Notice of Borrowing no later than (i) 11:00 a.m. on the requested funding date, in the case of Base Rate Revolver Loans, and (ii) 12:00 noon, at least three (3) Business Days (or such shorter period agreed by Agent) prior to the requested funding date, in the case of LIBOR Revolver Loans. Notices received by Agent after such time shall be deemed received on the next Business Day. Each Notice of Borrowing shall be irrevocable and shall specify (A) which Borrower is requesting a Revolver Loan, (B) the amount of the Borrowing, (C) the requested funding date (which must be a Business Day), (D) whether the Borrowing is to be made as a Base Rate Revolver Loan or LIBOR Revolver Loan, and (E) in the case of a LIBOR Revolver Loan, the applicable Interest Period (which shall be deemed to be one month if not specified).

(b) Unless payment is otherwise made by Borrowers, the due date of any Obligation under the Loan Documents (whether principal, interest, fees or other charges under the Loan Documents, including Extraordinary Expenses, LC Obligations and Cash Collateral but, for purposes of clarity, excluding Secured Bank Product Obligations unless otherwise agreed by the Borrower Agent and the Secured Bank Product Provider in writing) shall be deemed to be a request for a Base Rate Revolver Loan on the due date in the amount due and the Loan proceeds shall be disbursed as direct payment of such Obligation. In addition, Agent may, at its option, charge such amount against any Deposit Account (other than an Excluded Account) of a Borrower maintained with Agent or any of its Affiliates.

(c) If a Borrower maintains a disbursement account with Agent or any of its Affiliates, then presentation for payment of a Payment Item in the account when there are insufficient funds to cover it shall be deemed to be a request for a Base Rate Revolver Loan on the presentation date, in the amount of the Payment Item. Proceeds of such Loan may be disbursed directly to the account.

4.1.2 Funding by Lenders. Agent shall promptly notify Lenders of each Notice of Borrowing (or deemed request for a Borrowing) by 12:00 noon on the proposed funding date for a Base Rate Revolver Loan or by 3:00 p.m. two (2) Business Days before a proposed funding of a LIBOR Revolver Loan. Each Lender shall fund its Pro Rata share of a Borrowing in immediately available funds not later than 2:00 p.m. on the requested funding date, unless Agent's notice is received after the time provided above, in which case Lender shall fund by 1:00 p.m. on the next Business Day; provided that Swingline Loans shall be made as provided in **Section 4.1.3**. Subject to its receipt of such amounts from Lenders, Agent shall disburse the Borrowing proceeds in a manner directed by Borrower Agent. Unless Agent receives (in sufficient time to act) written notice from a Lender that it will not fund its Pro Rata share of a Borrowing, Agent may assume that such Lender has deposited or promptly will deposit its share with Agent, and Agent may disburse a corresponding amount to Borrowers. If a Lender's share of a Borrowing or of a settlement under **Section 4.1.3(b)** is not received by Agent, then Borrowers agree to repay to Agent on demand the amount of such share, together with interest thereon from the date disbursed until repaid, at the rate applicable to such Borrowing; provided that such Lender shall continue to be a Defaulting Lender and Borrowers payments hereunder shall not constitute a waiver or release of claims of Borrowers against such Lender. Agent, a Lender or Issuing Bank may fulfill its obligations under Loan Documents through one or more Lending Offices, and this shall not affect any obligation of Obligors under the Loan Documents or with respect to any Obligations.

##### 4.1.3 Swingline Loans; Settlement.

(a) To fulfill any request for a Base Rate Revolver Loan hereunder, Agent may in its discretion advance Swingline Loans to Borrowers, up to an aggregate outstanding amount not to exceed 20% of the Revolver Commitments. Each Swingline Loan shall constitute a Revolver Loan for all purposes, except that payments thereon shall be made to Agent for its own account until settled with or funded by Lenders hereunder. The obligation of Borrower to repay Swingline Loans shall be evidenced by the records of Agent and need not be evidenced by any promissory note.

(b) Settlement of Revolver Loans, including Swingline Loans, among Lenders and Agent shall take place on a date determined from time to time by Agent (but at least weekly, unless the settlement amount is de minimis), on a Pro Rata basis in accordance with the Settlement Report delivered by Agent to Lenders. Each Lender (other than the Swingline Lender, in the case of the Swingline Loans) shall transfer the amount of such Lender's Pro Rata share of the outstanding principal amount of the applicable Loan with respect to which settlement is requested to such account of Agent as Agent may designate, not later than 1:00 p.m. on such settlement date. Between settlement dates, Agent may in its discretion apply payments on Revolver Loans to Swingline Loans, regardless of any designation by Borrowers or anything herein to the contrary. Each Lender hereby purchases, without recourse or warranty, an undivided Pro Rata participation in all Swingline Loans outstanding from time to time until settled. If a Swingline Loan cannot be settled among Lenders, whether due to an Obligor's Insolvency Proceeding or for any other reason, each Lender shall pay the amount of its participation in the Loan to Agent, in immediately available funds, within one Business Day after Agent's request therefor. Lenders' obligations to make settlements and to fund participations are absolute, irrevocable and unconditional, without offset, counterclaim or other defense, and whether or not the Revolver Commitments have terminated, an Overadvance exists or the conditions in **Section 6** are satisfied.

4.1.4 Notices. The Borrowers may request, convert or continue Revolver Loans, select interest rates or transfer funds based on telephonic or electronic instructions to Agent. The Borrowers shall confirm each such request by prompt delivery to Agent of a Notice of Borrowing or Notice of Conversion/Continuation, as applicable. Neither Agent nor any Lender shall have any liability for any loss suffered by a Borrower as a result of Agent acting on its understanding of telephonic or electronic instructions from a Person believed in good faith to be a Person authorized to give such instructions on a Borrower's behalf.

4.2 Defaulting Lender. Notwithstanding anything herein to the contrary:

4.2.1 Reallocation of Pro Rata Share; Amendments. For purposes of determining Lenders' obligations or rights to fund, participate in or receive collections with respect to Revolver Loans and Letters of Credit (including existing Swingline Loans, Protective Advances and LC Obligations), all or any part of such Defaulting Lender's participation in LC Obligations and Swingline Loans shall be reallocated among the non-Defaulting Lenders in accordance with their respective Pro Rata shares (calculated without regard to such Defaulting Lender's Revolver Commitment) but only to the extent that such reallocation does not cause the aggregate Revolver Exposure of any non-defaulting Lender to exceed such non-defaulting Lender's Revolver Commitment. A Defaulting Lender shall have no right to vote on any amendment, waiver or other modification of a Loan Document, except as specifically provided in **Section 14.1.1(c)**.

4.2.2 Payments; Fees. Any payment of principal, interest, fees or other amounts received by Agent for the account of a Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article XI or otherwise, and including any amounts made available to Agent by that Defaulting Lender pursuant to **Section 9.06**), shall be applied at such time or times as may be determined by Agent as follows:

*first*, to the payment of any amounts owing by that Defaulting Lender to Agent hereunder;

*second*, to the payment on a Pro Rata basis of any amounts owing by that Defaulting Lender to any applicable Issuing Banks and Swingline Lenders hereunder;

*third*, if so reasonably determined by Agent or the Borrower Agent or reasonably requested by the applicable Issuing Bank or Swingline Lender, to be held as Cash Collateral at a rate of 100% of the Fronting Exposure of such Defaulting Lender;

*fourth*, to the funding of any Revolver Loan in respect of which that Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by Agent;

*fifth*, if so determined by Agent or Borrower, to be held in a deposit account and released in order to satisfy obligations of that Defaulting Lender to fund Revolver Loans under this Agreement and to Cash Collateralize any Issuing Bank's Fronting Exposure with respect to such Defaulting Lender;

*sixth*, to the payment of any amounts owing to the Lenders, the Issuing Banks or Swingline Lenders as a result of any judgment of a court of competent jurisdiction obtained by any Lender, any Issuing Bank or any Swingline Lender against that Defaulting Lender as a result of that Defaulting Lender's breach of its obligations under this Agreement;

*seventh*, to the payment of any amounts owing to Borrower as a result of any judgment of a court of competent jurisdiction obtained by Borrower against that Defaulting Lender as a result of that Defaulting Lender's breach of its obligations under this Agreement; and

*eighth*, to that Defaulting Lender or as otherwise directed by a court of competent jurisdiction;

provided that if (x) such payment is a payment of the principal amount of any Revolver Loans or LC Obligations in respect of which that Defaulting Lender has not fully funded its appropriate share and (y) such Revolver Loans or LC Obligations were made at a time when the conditions set forth in **Section 6.2** were satisfied or waived, such payment shall be applied solely to pay the Revolver Loans of, and LC Obligations owed to, all non-Defaulting Lenders on a Pro Rata basis prior to being applied to the payment of any Revolver Loans of, or LC Obligations owed to, that Defaulting Lender. Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to Cash Collateralize pursuant to this **Section 4.2.2** shall be deemed paid to and redirected by that Defaulting Lender, and each Lender irrevocably consents hereto. A Lender shall not be entitled to receive any fees accruing hereunder during the period in which it is a Defaulting Lender, and the unfunded portion of its Revolver Commitment shall be disregarded for purposes of calculating the Unused Line Fee Percentage under **Section 4.2.2**. To the extent any LC Obligations owing to a Defaulting Lender are reallocated to other Lenders, Letter of Credit fees attributable to such LC Obligations under **Section 3.2.2** shall be paid to such other Lenders. Agent shall be paid all Letter of Credit fees attributable to LC Obligations that are not Cash Collateralized by a Person on behalf of Borrowers or reallocated to such other non-Defaulting Lenders. A Lender shall not be entitled to receive any fees accruing hereunder while it is a Defaulting Lender and its unfunded Revolver Commitment shall be disregarded for purposes of calculating the unused line fee under **Section 3.2.1**. If any LC Obligations owing to a Defaulted Lender are reallocated to other Lenders, fees attributable to such LC Obligations under **Section 3.2.2** shall be paid to such Lenders. Except to the extent the LC Obligations of a Lender are Cash Collateralized by any Person on behalf of Borrowers, Agent shall be paid all fees attributable to LC Obligations that are not reallocated.

4.2.3 Status; Cure. The Borrowers, Agent and Issuing Bank may agree in writing that a Lender has ceased to be a Defaulting Lender subject to any conditions set forth therein (which may include arrangements with respect to any Cash Collateral) Pro Rata shares shall be reallocated without exclusion of the reinstated Lender's Revolver Commitments and Revolver Loans, and the Revolver Usage and other exposures under the Revolver Commitments shall be reallocated among Lenders and settled by Agent (with appropriate payments by the reinstated Lender, including its payment of breakage costs for reallocated LIBOR Revolver Loans) in accordance with the readjusted Pro Rata shares; provided that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of a Borrower while that Lender was a Defaulting Lender. Unless expressly agreed by Borrowers, Agent and Issuing Bank, no reallocation of Revolver Commitments and Revolver Loans to non-Defaulting Lenders or reinstatement of a Defaulting Lender shall constitute a waiver or release of claims of any party hereunder against a Defaulting Lender as a result of such Lender having been a Defaulting Lender. The failure of any Lender to fund a Loan, to make a payment in respect of LC Obligations or otherwise to perform obligations hereunder shall not relieve any other Lender of its obligations under any Loan Document. No Lender shall be responsible for default by another Lender.

4.3 Number and Amount of LIBOR Revolver Loans; Determination of Rate. Each Borrowing of LIBOR Revolver Loans when made shall be in a minimum amount of \$5,000,000, or an increment of \$1,000,000 in excess thereof.

No more than 8 Borrowings (or such greater number as is acceptable to Agent) of LIBOR Revolver Loans may be outstanding at any time, and all LIBOR Revolver Loans having the same length and beginning date of their Interest Periods shall be aggregated together and considered one Borrowing for this purpose. Upon determining

LIBOR for any Interest Period requested by Borrowers, Agent shall promptly notify Borrowers thereof by telephone or electronically and, if requested by Borrowers, shall confirm any telephonic notice in writing.

4.4 **Borrower Agent.** Each Borrower hereby designates CAI ("Borrower Agent") as its representative and agent for all purposes under the Loan Documents, including requests for and receipt of Revolver Loans and Letters of Credit, designation of interest rates, delivery or receipt of communications, delivery of Borrower Materials required to be delivered by Borrowers hereunder, payment of Obligations, requests for waivers, amendments or other modifications, accommodations, actions under the Loan Documents (including in respect of compliance with covenants), and all other dealings with Agent, Issuing Bank or any Lender. Borrower Agent hereby accepts such appointment. Agent and Lenders shall be entitled to rely upon, and shall be fully protected in relying upon, any notice or communication (including any notice of borrowing) delivered by Borrower Agent on behalf of any Borrower. Agent and Lenders may give any notice or communication with a Borrower hereunder to Borrower Agent on behalf of such Borrower. Each of Agent, Issuing Bank and Lenders shall have the right, in its discretion, to deal exclusively with Borrower Agent for any or all purposes under the Loan Documents. Each Borrower agrees that any notice, election, communication, representation, agreement or undertaking by Borrower Agent shall be binding upon and enforceable against such Borrower.

4.5 **One Obligation.** The Revolver Loans, LC Obligations and other Obligations constitute one general obligation, on a joint and several basis, of Borrowers and are secured by Agent's Lien on all Collateral; provided, that Agent and each Lender shall be deemed to be a creditor of, and the holder of a separate claim against, each Borrower to the extent of any Obligations jointly or severally owed by such Borrower.

4.6 **Effect of Termination.** Until Full Payment of all Obligations under the Loan Documents, all undertakings of Borrowers contained in the Loan Documents shall continue, and Agent shall retain its Liens in the Collateral and all of its rights and remedies under the Loan Documents. **Sections 2.3, 3.4, 3.6, 3.7, 3.9, 5.5, 5.9, 5.10, 12, 14.2**, this Section and each indemnity (and related provisions (including the obligation to return any payments to which an indemnitee was not entitled to payment)) or waiver given by an Obligor or Lender in any Loan Document, shall survive Full Payment of the Obligations subject to the limitations set forth in such Sections, if any.

## SECTION 5. PAYMENTS

5.1 **General Payment Provisions.** All payments or prepayments of Obligations under the Loan Documents shall be made in Dollars, without offset, counterclaim or defense of any kind, free and clear of (and without deduction for) any Taxes (except as provided in **Section 5.9**), and in immediately available funds, prior to 2:00 p.m. (or such later time as Agent may agree in its reasonable discretion) on the due date or the date fixed for any prepayment hereunder. Any amounts received after such time may, at the discretion of Agent, be deemed made on the next Business Day for purposes of calculating interest thereon. Except as expressly provided herein, all such payments shall be made to Agent at its offices at 10 South Dearborn Street, Floor L2, Chicago, Illinois 60603. Any payment of a LIBOR Revolver Loan prior to the end of its Interest Period shall be accompanied by all amounts due under **Section 3.9**. Any prepayment of Revolver Loans shall be applied first to Base Rate Revolver Loans and then to LIBOR Revolver Loans.

### 5.2 Repayment of Revolver Loans.

5.2.1 Revolver Loans shall be due and payable in full on the Revolver Termination Date, unless payment is sooner required hereunder. Revolver Loans may be prepaid from time to time, without penalty or premium; provided that voluntary prepayments may be made on a non-pro rata basis to the extent that a FILO Tranche is outstanding; provided, further, that voluntary prepayments shall not be applied to any last-out facility on a greater than pro-rata basis as compared to any non-last out facility, and any voluntary prepayments of any last-out facility shall only be made if the Payment Conditions are satisfied after giving pro forma effect thereto. Subject to **Section 2.1.5**, if an Overadvance exists at any time, Borrowers shall, within three (3) Business Days after any Borrower receives written notice thereof from Agent, repay Revolver Loans in an amount sufficient to reduce Revolver Usage to an amount that does not exceed the Borrowing Base (and thereafter Cash Collateralize such outstanding LC Obligations in an amount equal to such excess).

5.2.2 In the event and on such occasion that Revolver Usage exceeds the aggregate Revolver Commitments, the Borrower shall repay Revolver Loans in an amount sufficient to reduce Revolver Usage to an amount that does not exceed the aggregate Revolver Commitments (and thereafter Cash Collateralize such outstanding LC Obligations in an amount equal to such excess).

5.3 **Curative Equity.** Within 1 Business Day of the date of receipt by any Borrower of the proceeds of any Curative Equity pursuant to **Section 10.4**, such Borrower shall prepay the outstanding principal of the Revolver Loans in accordance with **Section 5.1** in an amount equal to 100% of such proceeds, net of any reasonable out-of-pocket expenses incurred in connection with the issuance of such Curative Equity.

5.4 **Reserved.**

5.5 **Marshaling; Payments Set Aside.** None of Agent or Lenders shall be under any obligation to marshal any assets in favor of any Obligor or against any Obligations. If any payment by or on behalf of Borrowers is made to Agent, Issuing Bank or any Lender, or if Agent, Issuing Bank or any Lender exercises a right of setoff, and any of such payment or setoff is subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, receiver or any other Person in any Insolvency Proceeding, then to the extent of such recovery, the Obligation originally intended to be satisfied, and all Liens, rights and remedies relating thereto, shall be revived and continued in full force and effect as if such payment or setoff had not occurred.

5.6 **Application and Allocation of Payments.**

5.6.1 **Application.** Subject to **Section 5.6.2**, Payments made by Borrowers hereunder shall be applied (a) first, to Obligations under the Loan Documents then due and owing, if any; (b) second, to other Obligations specified by Borrowers; and (c) third, as determined by Agent in its discretion.

5.6.2 **Post-Default Allocation.** Notwithstanding anything in any Loan Document to the contrary, during the existence of an Event of Default under **Section 11.1(j)**, or during any other Event of Default at the discretion of Agent or Required Lenders, monies to be applied to the Obligations, whether arising from payments by Obligors, realization on Collateral, setoff or otherwise, shall be allocated as follows:

*first*, to all fees, indemnification, costs and expenses, including Extraordinary Expenses, owing to Agent;

*second*, to all other amounts owing to Agent, including Swingline Loans, Protective Advances, and Revolver Loans and participations that a Defaulting Lender has failed to settle or fund;

*third*, to all amounts owing to Issuing Bank (other than Cash Collateralization of undrawn Letters of Credit);

*fourth*, to all Obligations (other than Secured Bank Product Obligations) constituting fees, indemnification, costs or expenses owing to Lenders;

*fifth*, to all Obligations (other than Secured Bank Product Obligations) constituting interest;

*sixth*, to all Revolver Loans, and to Secured Bank Product Obligations arising under Hedging Agreements (including Cash Collateralization thereof) up to the amount of Reserves existing with respect to such Hedging Agreements;

*seventh*, to Cash Collateralize all LC Obligations;

*eighth*, to all other Secured Bank Product Obligations;

*ninth*, to all remaining Obligations; and

*LAST*, to Borrowers.

Amounts shall be applied to payment of each category of Obligations only after Full Payment of amounts payable from time to time under all preceding categories. If amounts are insufficient to satisfy a category, they shall be paid ratably among outstanding Obligations in the category. Monies and proceeds obtained from an Obligor shall not be applied to its Excluded Swap Obligations, but appropriate adjustments shall be made with respect to amounts obtained from other Obligors to preserve the allocations in each category. Agent shall have no obligation to calculate the amount of any Secured Bank Product Obligation and may request a reasonably detailed calculation thereof from a Secured Bank Product Provider. If the provider fails to deliver the calculation within five days following request, Agent may assume the amount is zero. The allocations in this Section are solely to determine the priorities among Secured Parties and may be changed by agreement of affected Secured Parties without the consent of any Obligor. No Obligor has any right to direct the application of payments or Collateral proceeds subject to this **Section 5.6.2**.

5.6.3 **Erroneous Application**. Agent shall not be liable for any application of amounts made by it in good faith and, subject to **Section 12.9.2**, if any such application is subsequently determined to have been made in error, the sole recourse of any Lender or other Person to which such amount should have been paid shall be to recover the amount from the Person that actually received it (and, if such amount was received by a Secured Party, the Secured Party agrees to return it).

5.7 **Dominion Account**. The ledger balance in the main Dominion Account as of the end of a Business Day shall be applied to the Obligations at the beginning of the next Business Day, during any Dominion Trigger Period. Any resulting credit balance shall not accrue interest in favor of Borrowers and shall be made available to Borrowers as long as no Event of Default exists.

5.8 **Account Stated**. Agent shall maintain, in accordance with its customary practices, loan account(s) evidencing the Debt of Borrowers hereunder, and each Borrower confirms that such arrangement shall have no effect on the joint and several character of its liability for the Obligations. Any failure of Agent to record anything in a loan account, or any error in doing so, shall not limit or otherwise affect the obligation of Borrowers to pay any amount owing hereunder. Entries made in a loan account shall constitute presumptive evidence of the information contained therein. If any information contained in a loan account is provided to any Person for verification (or inspected in the case of any Person other than Borrowers), the information shall be conclusive and binding on such Person for all purposes absent manifest error, except to the extent such Person notifies Agent in writing within 30 days after receipt (or inspection, as applicable) that specific information is subject to dispute; provided that payment by Borrowers to Agent of any amounts owed hereunder which are under dispute by Borrowers shall not be deemed a waiver of Borrowers' right to continue such dispute.

## 5.9 **Taxes**.

### 5.9.1 **Payments Free of Taxes; Obligation to Withhold; Tax Payment**.

(a) All payments of Obligations by Obligors shall be made without deduction or withholding for any Taxes, except as required by Applicable Law. If Applicable Law (as determined by Agent in its discretion) requires the deduction or withholding of any Tax from any such payment by Agent or an Obligor, then Agent or such Obligor shall be entitled to make such deduction or withholding based on information and documentation provided pursuant to **Section 5.10**.

(b) If Agent or any Obligor is required by the Code to withhold or deduct Taxes, including backup withholding and withholding taxes, from any payment, then (i) Agent shall pay the full amount that it determines is to be withheld or deducted to the relevant Governmental Authority pursuant to the Code, and (ii) to the extent the withholding or deduction is made on account of Indemnified Taxes, the sum payable by the applicable Obligor shall be increased as necessary so that the Recipient receives an amount equal to the sum it would have received had no such withholding or deduction been made.

(c) If Agent or any Obligor is required by any Applicable Law other than the Code to withhold or deduct Taxes from any payment, then (i) Agent or such Obligor, to the extent required by Applicable Law, shall timely pay the full amount to be withheld or deducted to the relevant Governmental Authority, and (ii) to the extent the withholding or deduction is made on account of Indemnified Taxes, the sum payable by the applicable Obligor shall be increased as necessary so that the Recipient receives an amount equal to the sum it would have received had no such withholding or deduction been made.

5.9.2 Payment of Other Taxes. Without limiting the foregoing, Borrowers shall timely pay to the relevant Governmental Authority in accordance with Applicable Law, or at Agent's option, timely reimburse Agent for payment of, any Other Taxes.

5.9.3 Tax Indemnification.

(a) Each Borrower shall indemnify and hold harmless, on a joint and several basis, each Recipient against any Indemnified Taxes (including those imposed or asserted on or attributable to amounts payable under this Section) payable or paid by a Recipient or required to be withheld or deducted from a payment to a Recipient, and any penalties, interest and reasonable out-of-pocket expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. Each Borrower shall indemnify and hold harmless Agent against any amount that a Lender or Issuing Bank fails for any reason to pay to Agent as required pursuant to this Section. Each Borrower shall make payment within 30 days after demand for any amount or liability payable under this Section. A certificate as to the amount of such payment or liability delivered to Borrowers by a Lender or Issuing Bank (with a copy to Agent), or by Agent on its own behalf or on behalf of any Recipient, shall be conclusive absent manifest error.

(b) Each Lender and Issuing Bank shall indemnify and hold harmless, on a several basis, (i) Agent against any Indemnified Taxes attributable to such Lender or Issuing Bank (but only to the extent Borrowers have not already paid or reimbursed Agent therefor and without limiting Borrowers' obligation to do so), (ii) Agent and Obligors, as applicable, against any Taxes attributable to such Lender's failure to maintain a Participant register as required hereunder, and (iii) Agent and Obligors, as applicable, against any Excluded Taxes attributable to such Lender or Issuing Bank, in each case, that are payable or paid by Agent or an Obligor in connection with any Obligations, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. Each Lender and Issuing Bank shall make payment within 10 days after demand for any amount or liability payable under this Section. A certificate as to the amount of such payment or liability delivered to any Lender or Issuing Bank by Agent shall be conclusive absent manifest error.

5.9.4 Evidence of Payments. If Agent or an Obligor pays any Taxes pursuant to this Section, then upon request and as soon as practicable after payment, Agent shall deliver to Borrower Agent or Borrower Agent shall deliver to Agent, respectively, a copy of a receipt issued by the appropriate Governmental Authority evidencing the payment, a copy of any return required by Applicable Law to report the payment or other evidence of payment reasonably satisfactory to Agent or Borrower Agent, as applicable.

5.9.5 Treatment of Certain Refunds. Unless required by Applicable Law, at no time shall Agent have any obligation to file for or otherwise pursue on behalf of a Lender or Issuing Bank, nor have any obligation to pay to any Lender or Issuing Bank, any refund of Taxes withheld or deducted from funds paid for the account of a Lender or Issuing Bank. If a Recipient determines in its discretion that it has received a refund of any Taxes as to which it has been indemnified by Borrowers or with respect to which a Borrower has paid additional amounts pursuant to this Section, it shall pay Borrowers an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, by Borrowers with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) incurred by such Recipient, and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund), provided that Borrowers agree, upon request by the Recipient, to repay the amount paid over to Borrowers (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Recipient if the Recipient is required to repay such refund to the Governmental Authority. Notwithstanding anything herein to the contrary, no Recipient shall be required to pay any amount to Borrowers if such payment would place the Recipient in a less favorable net after-

Tax position than it would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. In no event shall Agent or any Recipient be required to make its tax returns (or any other information relating to its taxes that it deems confidential) available to any Obligor or other Person.

5.9.6 Survival. Each party's obligations under **Sections 5.9** and **5.10** shall survive the resignation or replacement of Agent or any assignment of rights by or replacement of a Lender or Issuing Bank, the termination of the Revolver Commitments, and the repayment, satisfaction, discharge or Full Payment of any Obligations under the Loan Documents.

#### 5.10 Lender Tax Information.

5.10.1 Status of Lenders. Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments of Obligations shall deliver to Borrowers and Agent properly completed and executed documentation reasonably requested by Borrowers or Agent as will permit such payments to be made without or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by Borrowers or Agent, shall deliver such other documentation prescribed by Applicable Law or reasonably requested by Borrowers or Agent to enable them to determine whether such Lender is subject to backup withholding or information reporting requirements. Notwithstanding the foregoing, such documentation (other than documentation described in **Sections 5.10.2(a), (b)** and **(d)**) shall not be required if a Lender reasonably believes delivery of the documentation would subject it to any material unreimbursed cost or expense or would materially prejudice its legal or commercial position.

5.10.2 Documentation. Without limiting the foregoing, if any Borrower is a U.S. Person,

(a) Any Lender that is a U.S. Person shall deliver to Borrowers and Agent on or prior to the date on which such Lender becomes a Lender hereunder (and from time to time thereafter upon reasonable request of Borrowers or Agent), executed originals of IRS Form W 9, certifying that such Lender is exempt from U.S. federal backup withholding Tax;

(b) Any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to Borrowers and Agent (in such number of originals as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender hereunder (and from time to time thereafter upon reasonable request of Borrowers or Agent), whichever of the following is applicable:

(i) in the case of a Foreign Lender claiming the benefits of an income tax treaty to which the United States is a party, (x) with respect to payments of interest under any Loan Document, executed originals of IRS Form W 8BEN or IRS Form W 8BEN-E, as applicable, establishing an exemption from or reduction of U.S. federal withholding Tax pursuant to the "interest" article of such tax treaty, and (y) with respect to other payments under the Loan Documents, IRS Form W 8BEN or IRS Form W 8BEN-E, as applicable, establishing an exemption from or reduction of U.S. federal withholding Tax pursuant to the "business profits" or "other income" article of such tax treaty;

(ii) executed originals of IRS Form W 8ECI;

(iii) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate in form satisfactory to Agent to the effect that such Foreign Lender is not a "bank" within the meaning of Section 881(c)(3)(A) of the Code, a "10 percent shareholder" of a Borrower within the meaning of Section 881(c)(3)(B) of the Code, or a "controlled foreign corporation" described in Section 881(c)(3)(C) of the Code ("U.S. Tax Compliance Certificate"), and (y) executed originals of IRS Form W 8BEN or IRS Form W 8BEN-E, as applicable; or

(iv) to the extent a Foreign Lender is not the beneficial owner, executed originals of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN, IRS Form W-8BEN-E, a U.S. Tax Compliance Certificate in form satisfactory to Agent, IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable; provided, however, that if the Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a U.S. Tax Compliance Certificate on behalf of each such direct or indirect partner;

(c) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to Borrowers and Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender hereunder (and from time to time thereafter upon the reasonable request of Borrowers or Agent), executed originals of any other form prescribed by Applicable Law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by Applicable Law to permit Borrowers or Agent to determine the withholding or deduction required to be made; and

(d) if payment of an Obligation to a Lender would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code), such Lender shall deliver to Borrowers and Agent at the time(s) prescribed by law and otherwise as reasonably requested by Borrowers or Agent, such documentation prescribed by Applicable Law (including Section 1471(b)(3)(C)(i) of the Code) and such additional documentation as may be necessary for them to comply with their obligations under FATCA and to determine that such Lender has complied with its obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this clause (d), "FATCA" shall include any amendments made to FATCA after the date hereof.

5.10.3 Redelivery of Documentation. If any form or certification previously delivered by a Lender pursuant to this Section expires or becomes obsolete or inaccurate in any respect, such Lender shall promptly update the form or certification or notify Borrowers and Agent in writing of its inability to do so.

#### 5.11 Nature and Extent of Each Borrower's Liability.

5.11.1 Joint and Several Liability. Each Borrower agrees that it is jointly and severally liable for, and absolutely and unconditionally guarantees to Agent and Lenders the prompt payment and performance of, all Obligations, except its Excluded Swap Obligations. Each Borrower agrees that its guaranty obligations hereunder constitute a continuing guaranty of payment and not of collection, that such obligations shall not be discharged until Full Payment of the Obligations under the Loan Documents, and that such obligations are absolute and unconditional, irrespective of (a) the genuineness, validity, regularity, enforceability, subordination or any future modification of, or change in, any Obligations or Loan Document, or any other document, instrument or agreement to which any Obligor is or may become a party or be bound; (b) the absence of any action to enforce this Agreement (including this Section) or any other Loan Document, or any waiver, consent or indulgence of any kind by Agent or any Lender with respect thereto; (c) the existence, value or condition of, or failure to perfect a Lien or to preserve rights against, any security or guaranty for any Obligations or any action, or the absence of any action, by Agent or any Lender in respect thereof (including the release of any security or guaranty); (d) the insolvency of any Obligor; (e) any election by Agent or any Lender in an Insolvency Proceeding for the application of Section 1111(b)(2) of the Bankruptcy Code; (f) any borrowing or grant of a Lien by any other Borrower, as debtor-in-possession under Section 364 of the Bankruptcy Code or otherwise; (g) the disallowance of any claims of Agent or any Lender against any Obligor for the repayment of any Obligations under Section 502 of the Bankruptcy Code or otherwise; or (h) any other action or circumstances that might otherwise constitute a legal or equitable discharge or defense of a surety or guarantor, except Full Payment of the Obligations under the Loan Documents.

#### 5.11.2 Waivers.

(a) Each Borrower expressly waives all rights that it may have now or in the future under any statute, at common law, in equity or otherwise, to compel Agent or Lenders to marshal assets or to proceed against any Obligor, other Person or security for the payment or performance of any Obligations before, or as a condition to, proceeding against such Borrower. Each Borrower waives all defenses available to a surety, guarantor or accommodation co-obligor other than Full Payment of Obligations under the Loan Documents and waives, to the maximum extent permitted by law, any right to revoke any guaranty of Obligations as long as it is a Borrower. It is agreed among each Borrower, Agent and Lenders that the provisions of this **Section 5.11** are of the essence of the transaction contemplated by the Loan Documents and that, but for such provisions, Agent and Lenders would decline to make Revolver Loans and issue Letters of Credit. Each Borrower acknowledges that its guaranty

pursuant to this Section is necessary to the conduct and promotion of its business, and can be expected to benefit such business.

(b) During the continuance of an Event of Default, Agent and Lenders may, in their discretion, pursue such rights and remedies as they deem appropriate, including realization upon Collateral by judicial foreclosure or nonjudicial sale or enforcement, without affecting any rights and remedies under this **Section 5.11**. If, in taking any action in connection with the exercise of any rights or remedies, Agent or any Lender shall forfeit any other rights or remedies, including the right to enter a deficiency judgment against any Borrower or other Person, whether because of any Applicable Laws pertaining to “election of remedies” or otherwise, each Borrower consents to such action and waives any claim based upon it, even if the action may result in loss of any rights of subrogation that any Borrower might otherwise have had. Any election of remedies that results in denial or impairment of the right of Agent or any Lender to seek a deficiency judgment against any Borrower shall not impair any other Borrower’s obligation to pay the full amount of the Obligations. Each Borrower waives all rights and defenses arising out of an election of remedies, such as nonjudicial foreclosure with respect to any security for Obligations, even though that election of remedies destroys such Borrower’s rights of subrogation against any other Person. Agent may bid Obligations, in whole or part, at any foreclosure, trustee or other sale, including any private sale, and the amount of such bid need not be paid by Agent but shall be credited against the Obligations. The amount of the successful bid at any such sale, whether Agent or any other Person is the successful bidder, shall be conclusively deemed to be the fair market value of the Collateral, and the difference between such bid amount and the remaining balance of the Obligations shall be conclusively deemed to be the amount of the Obligations guaranteed under this **Section 5.11**, notwithstanding that any present or future law or court decision may have the effect of reducing the amount of any deficiency claim to which Agent or any Lender might otherwise be entitled but for such bidding at any such sale.

#### 5.11.3 Extent of Liability; Contribution.

(a) Notwithstanding anything herein to the contrary, each Borrower’s liability under this **Section 5.11** shall not exceed the greater of (i) all amounts for which such Borrower is primarily liable, as described in clause (c) below, and (ii) such Borrower’s Allocable Amount.

(b) If any Borrower makes a payment under this **Section 5.11** of any Obligations (other than amounts for which such Borrower is primarily liable) (a “Guarantor Payment”) that, taking into account all other Guarantor Payments previously or concurrently made by any other Borrower, exceeds the amount that such Borrower would otherwise have paid if each Borrower had paid the aggregate Obligations satisfied by such Guarantor Payments in the same proportion that such Borrower’s Allocable Amount bore to the total Allocable Amounts of all Borrowers, then such Borrower shall be entitled to receive contribution and indemnification payments from, and to be reimbursed by, each other Borrower for the amount of such excess, ratably based on their respective Allocable Amounts in effect immediately prior to such Guarantor Payment. The “Allocable Amount” for any Borrower shall be the maximum amount that could then be recovered from such Borrower under this **Section 5.11** without rendering such payment voidable under Section 548 of the Bankruptcy Code or under any applicable state fraudulent transfer or conveyance act, or similar statute or common law.

(c) This **Section 5.11.3** shall not limit the liability of any Borrower to pay or guarantee Revolver Loans made directly or indirectly to it (including Revolver Loans advanced hereunder to any other Person and then re-loaned or otherwise transferred to, or for the benefit of, such Borrower), LC Obligations relating to Letters of Credit issued to support its business, Secured Bank Product Obligations incurred to support its business, and all accrued interest, fees, expenses and other related Obligations with respect thereto, for which such Borrower shall be primarily liable for all purposes hereunder. Agent and Lenders shall have the right, at any time in their discretion, to condition Revolver Loans and Letters of Credit upon a separate calculation of borrowing availability for each Borrower and to restrict the disbursement and use of Revolver Loans and Letters of Credit to such Borrower based on that calculation.

(d) Each Obligor that is a Qualified ECP when its guaranty of or grant of Lien as security for a Swap Obligation becomes effective hereby jointly and severally, absolutely, unconditionally and irrevocably undertakes to provide funds or other support to each Specified Obligor with respect to such Swap Obligation as may be needed by such Specified Obligor from time to time to honor all of its obligations under the

Loan Documents in respect of such Swap Obligation (but, in each case, only up to the maximum amount of such liability that can be hereby incurred without rendering such Qualified ECP's obligations and undertakings under this **Section 5.11** voidable under any applicable fraudulent transfer or conveyance act). The obligations and undertakings of each Qualified ECP under this Section shall remain in full force and effect until Full Payment of all Obligations under the Loan Documents. Each Obligor intends this Section to constitute, and this Section shall be deemed to constitute, a guarantee of the obligations of, and a "keepwell, support or other agreement" for the benefit of, each Obligor for all purposes of the Commodity Exchange Act.

5.11.4 Joint Enterprise. Each Borrower has requested that Agent and Lenders make this credit facility available to Borrowers on a combined basis, in order to finance Borrowers' business most efficiently and economically. The Borrowers' business is a mutual and collective enterprise, and the successful operation of each Borrower is dependent upon the successful performance of the integrated group. The Borrowers believe that consolidation of their credit facility will enhance the borrowing power of each Borrower and ease administration of the facility, all to their mutual advantage. The Borrowers acknowledge that Agent's and Lenders' willingness to extend credit and to administer the Collateral on a combined basis hereunder is done solely as an accommodation to Borrowers and at Borrowers' request.

5.11.5 Subordination. Each Borrower hereby subordinates any claims, including any rights at law or in equity to payment, subrogation, reimbursement, exoneration, contribution, indemnification or set off, that it may have at any time against any other Obligor, howsoever arising, to the Full Payment of all Obligations under the Loan Documents.

## SECTION 6. CONDITIONS PRECEDENT

6.1 Conditions Precedent to Initial Revolver Loans. In addition to the conditions set forth in **Section 6.2**, Lenders shall not be required to fund any requested Revolver Loan, issue any Letter of Credit, or otherwise extend credit to Borrowers hereunder, until the date ("Closing Date") that each of the following conditions has been satisfied:

(a) Revolver Notes shall have been executed by Borrowers and delivered to each Lender that requests issuance of a Revolver Note. This Agreement, the Guaranty, the Security Agreement, the Equity Interest Pledge Agreement and the Fee Letter (or reaffirmations thereof) requested by Agent shall have been duly executed and delivered to Agent by each of the signatories thereto, and each Obligor (to the extent a party thereto) shall be in compliance with all terms thereof.

(b) Agent shall have received acknowledgments of all filings or recordations necessary to perfect its Liens in the Collateral, as well as UCC and Lien searches and other evidence reasonably satisfactory to Agent that such Liens are the only Liens upon the Collateral, except Permitted Liens.

(c) Agent shall have received certificates from a Senior Officer of Parent and each Borrower certifying that, after giving effect to the initial Revolver Loans and transactions hereunder, (i) it is Solvent; (ii) no Default or Event of Default exists; and (iii) the representations and warranties set forth in **Section 9** are true and correct.

(d) Agent shall have received a certificate of a duly authorized officer of each Obligor, certifying (i) that attached copies of such Obligor's Organic Documents are true and complete, and in full force and effect, without amendment except as shown; (ii) that an attached copy of resolutions authorizing execution and delivery of the Loan Documents is true and complete, and that such resolutions are in full force and effect, were duly adopted, have not been amended, modified or revoked, and constitute all resolutions adopted with respect to this credit facility; and (iii) to the title, name and signature of each Person authorized to sign the Loan Documents. Agent may conclusively rely on this certificate until it is otherwise notified by the applicable Obligor in writing.

(e) Agent shall have received a written opinion of Sidley Austin LLP with respect to each Obligor.

(f) Agent shall have received copies of the charter documents of each Obligor, certified as of a recent date by the Secretary of State or other appropriate official of such Obligor's jurisdiction of organization. Agent shall have received good standing certificates for each Obligor, issued as of a recent date by the Secretary of State or other appropriate official of such Obligor's jurisdiction of organization.

(g) No material adverse change in the financial condition of any Obligor or in the quality, quantity or value of any Collateral shall have occurred since January 31, 2020.

(h) The Borrowers shall have paid all fees and expenses due and payable to Agent and Lenders on the Closing Date, including, to the extent invoiced at least two (2) Business Days prior to the Closing Date, reimbursement or payment of all out of pocket expenses required to be reimbursed or paid by the Borrowers hereunder.

(i) Agent shall have received a copy of the current Credit and Collection Guidelines in effect on the Closing Date (which may, in the case of Confidential Information, be redacted).

(j) Agent shall have received an updated Borrowing Base Report prepared as of February 28, 2021.

6.2 **Conditions Precedent to All Credit Extensions.** Agent, Issuing Bank and Lenders shall in no event be required to make any credit extension hereunder (excluding (i) with respect to any increased Revolver Commitments or additional Revolver Commitments in respect of a FILO Tranche, (ii) Loans required to be made by Lenders in respect of unpaid drawings on existing Letters of Credit pursuant to **Section 2.2.2** and (iii) settlements and participations in respect of Swingline Loans pursuant to **Section 4.1.3**) or issue Letters of Credit on any date, if the following conditions are not satisfied on such date and upon giving effect thereto:

(a) No Default or Event of Default exists;

(b) The representations and warranties of each Obligor in the Loan Documents are true and correct in all material respects (and in all respects with respect to any representations and warranties which are expressly qualified with materiality) on the date of, and upon giving effect to, such credit extension (except for representations and warranties that relate solely to an earlier date); and

(c) With respect to a Letter of Credit issuance, all LC Conditions are satisfied.

Each request (or deemed request) by a Borrower for any credit extension shall constitute a representation by Borrowers that the foregoing conditions are satisfied on the date of such request and on the date of the credit extension.

## SECTION 7. COLLATERAL

7.1 **Grant of Security Interest.** To secure the prompt payment and performance of all Obligations, each Borrower hereby assigns and transfers to Agent, and hereby grants to Agent, for the benefit of Secured Parties, a continuing security interest in and Lien upon all of the following Property of such Borrower (other than Excluded Collateral), whether now owned or hereafter acquired, and wherever located:

(a) all Contracts and all Third Party Contracts;

(b) all Accounts including Credit Card Accounts;

(c) all Chattel Paper, including electronic chattel paper;

(d) all Commercial Tort Claims, including those shown, as of the Closing Date, on **Schedule 9.1.16**;

- 7.1(j);
- (e) all Deposit Accounts;
  - (f) all Documents;
  - (g) all General Intangibles, including Intellectual Property;
  - (h) all Goods, including Inventory, Equipment and fixtures;
  - (i) all Instruments;
  - (j) all Investment Property, including the Equity Interests of each Borrower in its Subsidiaries set forth on **Schedule**
  - (k) all Letter-of-Credit Rights;
  - (l) all Supporting Obligations;
  - (m) all monies, whether or not in the possession or under the control of Agent, a Lender, or a bailee or Affiliate of Agent or a Lender, including any Cash Collateral;
  - (n) all accessions to, substitutions for, and all replacements, products, and cash and non-cash proceeds of the foregoing, including proceeds of and unearned premiums with respect to insurance policies, and claims against any Person for loss, damage or destruction of any Collateral; and
  - (o) all books and records (including customer lists, files, correspondence, tapes, computer programs, print-outs and computer records) pertaining to the foregoing.

Each Contract and its related assets shall be released from Agent's security interest automatically upon becoming a Securitized Contract without further action by Agent or any other Person. Each Third Party Contract and its related assets shall be released from Agent's security interest automatically upon being sold to a third party in accordance with the terms of the Loan Documents without further action by Agent or any other Person. Notwithstanding the preceding two sentences, Agent shall execute a release releasing such Contract, Third Party Contract and their respective related assets from Agent's security interest upon any Borrower's request; provided that only Agent or its designee may file any UCC-3 financing statements in connection with the foregoing (which Agent agrees to do promptly upon Borrower Agent's request). If a Securitized Contract is transferred from a Securitization Subsidiary back to a Borrower, it shall cease being a Securitized Contract upon such transfer back and, together with its related security shall again constitute Collateral hereunder.

## 7.2 **Lien on Deposit Accounts; Cash Collateral.**

7.2.1 **Deposit Accounts.** To further secure the prompt payment and performance of all Obligations, each Borrower hereby grants to Agent, for the benefit of Secured Parties, a continuing security interest in and Lien upon all amounts credited to any Deposit Account of such Borrower (other than Excluded Accounts), including any sums in any blocked or lockbox accounts (if any) or in any accounts into which such sums are swept. Each Borrower authorizes and directs each bank or other depository to deliver to Agent all balances in each such Deposit Account maintained by such Borrower with such depository for application to the Obligations then outstanding promptly following the receipt by such bank or other depository institution of a notice of such Dominion Trigger Period. Each Borrower irrevocably appoints Agent as such Borrower's attorney-in-fact to collect such balances to the extent any such delivery is not so made.

7.2.2 **Cash Collateral.** At the request of Borrower Agent, any Cash Collateral may be invested in Cash Equivalents (so long as no Event of Default exists). Cash Collateral may be invested, at Agent's discretion, but Agent shall have no responsibility for any investment or loss. As security for its Obligations, each Borrower hereby grants to Agent a security interest in and Lien upon all Cash Collateral delivered hereunder from time to time, whether held in a segregated cash collateral account or otherwise. All Cash Collateral and related deposit accounts shall be under the sole dominion and control of Agent and, subject to **Section 12.2**, no Borrower shall have

any right to any Cash Collateral until the earlier of (a) the date on which the circumstances giving rise to the need for such Cash Collateralization no longer exist, (b) Full Payment of all Obligations in respect of which such Cash Collateral was posted and (c) a determination is made by the party for whose benefit such Cash Collateral was posted that it no longer requires the Cash Collateral.

7.3 **Reserved.**

7.4 **Reserved.**

7.5 **Other Collateral.**

7.5.1 **Commercial Tort Claims.** Borrowers shall promptly notify Agent in writing if any Borrower has a Commercial Tort Claim (other than, as long as no Event of Default exists, a Commercial Tort Claim for less than \$5,000,000), and shall take such actions as Agent deems appropriate to subject such claim to a duly perfected, first priority Lien in favor of Agent for the benefit of the Secured Parties.

7.5.2 **Certain After-Acquired Collateral.** The Borrowers (a) shall promptly notify Agent if a Borrower obtains an interest in any Deposit Account (other than an Excluded Account) and (b) shall notify Agent concurrently with the delivery of any Compliance Certificate delivered pursuant to **Section 10.1.1(d)(i)**, if, during the most recently ended Fiscal Quarter to which such Compliance Certificate relates, any Borrower obtains any interest in Collateral (other than Contracts and related assets) consisting of Chattel Paper, Documents, Instruments, Intellectual Property, Investment Property or Letter-of-Credit Rights (provided that, notwithstanding the foregoing, the Borrowers shall notify Agent promptly but in any event within ten Business Days if any Borrower obtains any interest in Collateral of a type described in this clause (b) with a fair market value in excess of \$15,000,000 individually or in the aggregate) and, in each case, upon Agent's request, shall promptly take such actions as Agent deems appropriate to effect Agent's duly perfected, first priority Lien (subject to Permitted Liens) on such Collateral, including obtaining any appropriate possession, control agreement or Lien Waiver. If any Collateral included in the Borrowing Base is in the possession of a third party, at Agent's reasonable request, Borrowers shall obtain an acknowledgment that such third party holds the Collateral for the benefit of Agent.

7.5.3 **Limitations.** The Lien on Collateral granted hereunder is given as security only and shall not subject Agent or any Lender to, or in any way modify, any obligation or liability of Borrowers relating to any Collateral. In no event shall the grant of any Lien under any Loan Document secure an Excluded Swap Obligation of the granting Obligor.

7.5.4 **Further Assurances.** All Liens granted to Agent for the benefit of the Secured Parties under the Loan Documents are for the benefit of Secured Parties. Promptly upon request, Borrowers shall deliver such instruments and agreements, and shall take such actions, as Agent deems appropriate under Applicable Law to evidence or perfect its Lien on any Collateral, or otherwise to give effect to the intent of this Agreement. Each Borrower authorizes Agent to file any financing statement that describes the Collateral as "all assets" or "all personal property" of such Borrower, or words to similar effect, and ratifies any action taken by Agent before the Closing Date to effect or perfect its Lien on any Collateral.

7.6 **Contract Legend.** If such Contract is tangible chattel paper and has not become a Securitized Contract, Borrowers shall promptly following the execution or receipt of a Contract stamp or type in on the Contract the following:

"This instrument or agreement is assigned as collateral to JPMorgan Chase Bank, N.A."

## SECTION 8. COLLATERAL ADMINISTRATION

8.1 **Collateral Reports.** By the 20th day of each month, Borrowers shall deliver to Agent (and Agent shall promptly deliver same to Lenders) (a) a Borrowing Base Report prepared as of the close of business of the previous month; provided that the NOLV Percentage to be applied to the Value of Eligible Inventory shall be the NOLV Percentage set forth in the most recent appraisal of Inventory satisfactory to Agent, a copy of which has been

delivered to the Borrowers (provided, that Borrowing Base Reports shall be delivered weekly by the third Business Day of each week during an Increased Reporting Period; it being understood that Eligible Contracts, Eligible Inventory, the CAI Availability Reserve and the CCI Availability Reserve shall be provided by Borrower on a monthly basis at all times, (b) an aggregate list of Borrowers' Contracts, aged in 30 day contractual delinquency intervals and separately identifying the revolving Contracts; (c) a calculation of the Past Due Percent, the Cash Recovery Percent, Collateral Adjustment Percentage, the Net Charge-Off Percent; (d) an Inventory turn report of Borrowers' Inventory; (e) a listing of each Borrower's Inventory by location, specifying the amount of Inventory at each location; (f) the summary balances of Borrowers' Owned Contract Portfolio and ABS Contract Portfolio and delinquent balances of such portfolios; and (g) a certificate of an officer of Borrower Agent certifying as to the accuracy and completeness in all material respects of the foregoing. All calculations of Availability in any Borrowing Base Report shall originally be made by Borrowers and certified by a Senior Officer; provided, that Agent may from time to time review and adjust any such calculation, in its Permitted Discretion, to the extent the calculation is not made in accordance with this Agreement or does not accurately reflect the CAI Availability Reserve or CCI Availability Reserve.

## 8.2 Administration of Contracts.

### 8.2.1 Contracts.

(a) The Borrowers hereby represent and warrant to Agent and Lenders with respect to the Contracts included in the Borrowing Base, that: (i) each such Contract represents a bona fide obligation of the Contract Debtor, enforceable in accordance with its terms (except to the extent enforceability may be limited by applicable bankruptcy, insolvency, moratorium, reorganization or similar laws affecting the enforcement of creditors' rights generally or by equitable principles relating to enforceability); (ii) each existing Contract is for a liquidated amount payable by the Contract Debtor thereon on the terms set forth in the Contract therefor or in the schedule thereof delivered to Agent, without any offset, deduction, defense (including the defense of usury), or counterclaim (other than to the extent taken into account in the definition of Eligible Contracts); (iii) to the extent any Contract is in tangible form, there is only one original "Corporate Copy" counterpart and one original "Store Copy" counterpart of such Contract executed by the Contract Debtor and any copies of such original are clearly marked as copies; (iv) the signatures of all Contract Debtors are genuine and, to the knowledge of Borrowers, each Contract Debtor had the legal capacity to enter into and execute such documents on the date thereof; (v) each Borrower maintains policies and procedures designed to achieve compliance with Consumer Finance Laws; and (vi) Borrowers have complied, in all material respects, with all requirements of Applicable Law with respect to all such Contracts and related transactions; and have originated or acquired, serviced, collected and otherwise administered all Contracts and conducted Borrowers' business, in each case in accordance with the Credit and Collection Guidelines and, in all material respects, all applicable Consumer Finance Laws. Notwithstanding anything else to the contrary, the failure of Borrowers to satisfy any of the representations and warranties of this **Section 8.2.1(a)(i)** through **(iv)** with respect to Contracts resulting in an adjustment to the Borrowing Base of \$5,000,000 or less shall not constitute a breach or Event of Default under this Agreement or any Loan Document but shall instead result in such materially affected Contracts being excluded from the determination of, or other appropriate adjustments to, the Borrowing Base.

(b) The Borrowers shall not grant any discount, credit or allowance to any such Contract Debtor without Agent's prior written consent, except for discounts, credits and allowances made or given in the Ordinary Course of Business or in compliance with the Credit and Collection Guidelines.

(c) Except as provided in Borrowers' Credit and Collection Guidelines and with respect to their "direct loan program", Borrowers shall not accept any note or other instrument (except a check or other instrument for the immediate payment of money) with respect to any Contract without Agent's written consent (such consent not to be unreasonably conditioned, withheld, delayed or denied). If Agent consents to the acceptance of any such instrument (which consent shall not be required in the case of the Borrowers' "direct loan program"), it shall be considered as evidence of the Contract and not payment thereof and Borrowers will promptly deliver such instrument to Agent (other than notes in connection with the "direct loan program"), endorsed by the applicable Borrower to Agent in a manner reasonably satisfactory in form and substance to Agent. Regardless of the form of

presentment, demand, notice of protest with respect thereto, the Contract Debtor shall remain liable thereon until such Instrument is paid in full.

(d) Agent may rely, in determining which Contracts are Eligible Contracts, on all statements and representations made by Borrowers with respect thereto.

(e) The Borrowers hereby represent and warrant to Agent and Lenders with respect to the Third Party Contracts (i) each Borrower maintains policies and procedures designed to achieve compliance with Consumer Finance Laws; and (ii) Borrowers have complied, in all material respects, with all requirements of Applicable Law with respect to all such Third Party Contracts originated by it and, at the time this representation and warranty is made, then serviced, collected or otherwise administered by it and related transactions and have originated, serviced, collected and otherwise administered all Third Party Contracts, in each case in accordance with all applicable Consumer Finance Laws in all material respects.

(f) **[Reserved.]**

(g) If the Contract is in electronic format, (i) none of the Borrowers or a custodian or vaulting agent thereof has communicated an “authoritative copy” (as such term is used in Section 9-105 of the UCC) to any Person other than a Borrower or an Affiliate of a Borrower (which, in the case of an Affiliate of a Borrower, is a Person to whom such Borrower has delegated its duties or has entered into a subservicing arrangement and, in any case, is a Person who has agreed to hold such “authoritative copy” in trust for such Borrower (or its assigns)) and (ii) that is maintained by a custodian or vaulting agent, Borrower shall, upon request by Agent, use commercially reasonable efforts to cause such custodian or vaulting agent to enter into a control agreement with Agent, which shall be in form and substance satisfactory to Agent. If the Contract is in print format, Borrowers shall keep such Contract at the chief executive office or other safe and secure location as designated by Borrower Agent to Agent from time to time.

8.2.2 Taxes. If any collections received from payments made by Contract Debtors includes charges for any Taxes, Agent is authorized, in its discretion, to pay the amount thereof to the proper taxing authority for the account of such Borrower and to charge Borrowers therefor; provided, that neither Agent nor Lenders shall be liable for any Taxes that may be due from Borrowers or with respect to any Collateral.

8.2.3 Contract Verification. In connection with the conduct of any field examination, Agent shall have the right, in the name of Agent, any designee of Agent or any Borrower, to verify the validity, amount or any other matter relating to any Contracts by mail, telephone or otherwise. Borrowers shall cooperate fully with Agent in an effort to facilitate and promptly conclude any such verification process.

8.2.4 Maintenance of Dominion Account. The Borrowers shall maintain Dominion Accounts pursuant to lockbox or other arrangements reasonably acceptable to Agent. The Borrowers shall obtain an agreement (in form and substance reasonably satisfactory to Agent) from each lockbox servicer (if any) and Dominion Account bank, establishing Agent’s control over and Lien in the lockbox (if any) or Dominion Account, which may be exercised by Agent during any Dominion Trigger Period, requiring prompt deposit of all remittances received in the lockbox (if any) to a Dominion Account. If a Dominion Account is not maintained with JPM, Agent may, during any Dominion Trigger Period, require prompt transfer of all funds in such account to a Dominion Account maintained with JPM promptly following the receipt of a notice of such Dominion Trigger Period by the applicable bank or depository institution where such account is maintained. Agent and Lenders assume no responsibility to Borrowers for any lockbox arrangement (if any) or Dominion Account, including any claim of accord and satisfaction or release with respect to any Payment Items accepted by any bank.

8.2.5 Proceeds of Collateral. The Borrowers shall request in writing that all payments on Contracts or otherwise relating to Collateral included in the Borrowing Base are made directly to a Dominion Account (or a lockbox relating to a Dominion Account, if any). If any Borrower or its Subsidiary receives cash or Payment Items with respect to any such Collateral, it shall hold same in trust for Agent and promptly deposit same into a Dominion Account; provided, that payments on Securitized Contracts may be remitted to and held by the Securitization Subsidiary, its agents or the related Permitted ABS Agent and payments on any Third Party Contract

may be remitted to and held by the purchaser of such Third Party Contract or its trustee, agent or other representatives and, in each case, shall not be subject to the requirements set forth above.

### 8.3 Administration of Inventory.

8.3.1 Records and Reports of Inventory. Each Borrower shall keep accurate and complete records of its Inventory, including costs and daily withdrawals and additions, and shall submit to Agent inventory and reconciliation reports in form reasonably satisfactory to Agent, on such periodic basis as Agent may request. Each Borrower shall conduct a physical inventory at each of its locations at least once per calendar year.

8.3.2 Returns of Inventory. No Borrower shall return any Inventory included in the Borrowing Base to a supplier, vendor or other Person, whether for cash, credit or otherwise, unless (a) such return is in the Ordinary Course of Business; (b) no Default, Event of Default or Overadvance exists or would result therefrom; and (c) Agent is promptly notified if the aggregate Value of all Inventory returned in any month exceeds \$15,000,000; and (d) any payment received by a Borrower in excess of the aggregate amount of \$15,000,000 in any month for a return is promptly remitted to Agent for application to the Obligations.

8.3.3 Acquisition and Sale. To Borrowers' knowledge, each Borrower's Inventory included in the Borrowing Base is produced, in all material respects, in accordance with the FLSA.

### 8.4 Administration of Equipment.

8.4.1 Reserved.

8.4.2 Reserved.

8.4.3 Condition of Equipment. The Equipment is in good operating condition and repair, and all necessary replacements and repairs have been made so that its value and operating efficiency are preserved at all times, reasonable wear and tear and casualty and condemnation excepted.

8.5 Administration of Deposit Accounts. Schedule 8.5 lists, as of the Closing Date, all Deposit Accounts maintained by Borrowers, including Dominion Accounts. Each Borrower shall take all actions necessary to establish Agent's first priority Lien (subject to Permitted Liens set forth in **Section 10.2.2(i)**) on each Deposit Account (other than an Excluded Account) and, shall, subject to **Section 10.1.15**, cause all Deposit Accounts and Securities Accounts (other than Excluded Accounts) to be subject to control agreements. A Borrower shall be the sole account holder of each such Deposit Account and shall not allow any Person (other than Agent and the depository bank) to have control over such Deposit Accounts or any Property deposited therein. The Borrowers shall promptly notify Agent of any opening or closing of a Deposit Account (other than an Excluded Account).

### 8.6 Administration of Credit Card Accounts.

8.6.1 Credit Card Agreements. **Schedule 8.6.1** is a list of all Credit Card Agreements as of the Closing Date.

8.6.2 [Reserved].

### 8.7 General Provisions.

8.7.1 Location of Collateral. All tangible items of Collateral, other than Inventory in transit, Collateral out for repair and Collateral such as laptops, phones, mobile hotspots and similar devices utilized by directors, officers, employees and consultants, shall at all times be kept by Borrowers at the business locations set forth in **Schedule 8.7.1** (as such Schedule may be updated by Borrowers from time to time at the time of the delivery of a quarterly Compliance Certificate (it being understood that no violation of this provision shall be deemed to occur as a result of any Collateral being maintained at a new business location not previously set forth in **Schedule 8.7.1**, so long as such Schedule is updated to include such new business location in connection with the

next succeeding delivery of a quarterly Compliance Certificate)), except that Borrowers may (a) make sales or other dispositions of Collateral in accordance with **Section 10.2.6**; and (b) move Collateral to another location not listed on **Schedule 8.7.1** upon 10 Business Days' prior written notice to Agent (or upon such shorter period as Agent may agree in its sole discretion).

#### 8.7.2 Insurance of Collateral; Condemnation Proceeds.

(a) Each Borrower shall maintain insurance with respect to the Collateral, in such amounts, with insurers and against such risks as are customarily maintained by similarly situated businesses operating in the same or similar locations. All proceeds under each policy (other than insurance with respect to business interruption, workers' compensation and similar insurance and directors and officers liability policies) shall name Agent as an additional insured or lender loss payee, as applicable. Unless Agent shall agree otherwise, each such policy shall include satisfactory endorsements to the extent available (i) showing Agent as lender loss payee; (ii) requiring 30 days' prior written notice to Agent in the event of cancellation of the policy for any reason except 10 days' notice shall be given for cancellation due to non-payment of premium; and (iii) specifying that the interest of Agent shall not be impaired or invalidated by any act or neglect of any Borrower or the owner of the Property, nor by the occupation of the premises for purposes more hazardous than are permitted by the policy. From time to time upon Agent's reasonable request, Borrowers shall deliver to Agent the certified copies of its insurance policies and updated flood plain searches. If any Borrower fails to provide and pay for any insurance, Agent may, at its option, but shall not be required to, procure the insurance and charge Borrowers therefor. Each Borrower agrees to deliver to Agent, promptly as rendered, copies of all claims reports made to insurance companies with respect to Collateral included in the Borrowing Base, in each case in excess of \$10,000,000. While no Event of Default exists, Borrowers may settle, adjust or compromise any insurance claim, as long as the proceeds of any insurance with respect to Collateral included in the Borrowing Base are delivered to Agent. If an Event of Default exists, only Agent shall be authorized to settle, adjust and compromise such claims.

(b) Any proceeds of insurance (other than proceeds from business interruption, workers' compensation and similar insurance and directors and officers liability insurance) and any awards arising from condemnation of any Collateral shall be paid to Agent and shall be deposited in the Dominion Account.

(c) After Agent's receipt of any insurance proceeds or condemnation awards relating to any loss or destruction of Equipment or Real Estate, Borrowers may use such proceeds or awards to repair or replace such Equipment or Real Estate as long as (i) no Event of Default exists and is continuing; (ii) such repair or replacement is promptly undertaken and concluded and (iii) the repaired or replaced Property is free of Liens, other than Permitted Liens.

8.7.3 Protection of Collateral. All expenses of protecting, storing, warehousing, insuring, handling, maintaining and shipping any Collateral, all Taxes payable with respect to any Collateral (including any sale thereof), and all other payments required to be made by Agent to any Person to realize upon any Collateral, shall be borne and paid by Borrowers. Agent shall not be liable or responsible in any way for the safekeeping of any Collateral, for any loss or damage thereto (except for reasonable care in its custody while Collateral is in Agent's actual possession), for any diminution in the value thereof, or for any act or default of any warehouseman, carrier, forwarding agency or other Person whatsoever, but the same shall be at Borrowers' sole risk.

8.7.4 Defense of Title to Collateral. Each Borrower shall at all times defend its title to Collateral and Agent's Liens therein against all Persons, claims and demands whatsoever, except Permitted Liens.

#### 8.8 Power of Attorney.

Each Borrower hereby irrevocably constitutes and appoints Agent (and all Persons designated by Agent) as such Borrower's true and lawful attorney (and agent-in-fact) for the purposes provided in this Section. Agent, or Agent's designee, may (but shall have no obligation to), without notice and in either its or a Borrower's name, but at the cost and expense of Borrowers:

(a) Endorse a Borrower's name on any Payment Item or other proceeds of Collateral (including proceeds of insurance) that come into Agent's possession or control for deposit in a Dominion Account; and

(b) During the continuance of an Event of Default, with respect to any Collateral (i) send notices to Contract Debtors of the assignment of their Contracts, demand and enforce payments on Contracts, by legal proceedings or otherwise, and generally exercise any rights and remedies with respect to Contract; (ii) settle, adjust, modify, compromise, discharge or release any claims with respect to amounts due on Contracts or other Collateral, or any legal proceedings brought to collect on Contracts or other Collateral, (iii) collect, liquidate, and receive balances in Deposit Accounts or investment accounts, and take control, in any manner, of proceeds of Collateral; (iv) prepare, file and sign a Borrower's name to a proof of claim or other document in a bankruptcy of a Contract Debtor, or to any notice, assignment or satisfaction of Lien or similar documents; (v) receive, open and dispose of mail addressed to a Borrower, and notify postal authorities to deliver any such mail to an address designated by Agent; (vi) endorse any Chattel Paper, Document, Instrument, bill of lading, or other document or agreement relating to any Contract, Inventory or other Collateral; (vii) use a Borrower's stationery and sign its name to verifications of Contract and notices to Contract Debtors; (viii) use information contained in any data processing, electronic, or other information systems relating to Collateral; (ix) make and adjust claims under insurance policies; (x) take any action as may be necessary or appropriate to obtain payment under any letter of credit, banker's acceptance or other instrument for which a Borrower is a beneficiary; (xi) following three (3) Business Days' written notice to Borrower Agent, exercise any voting or other rights under or with respect to any Investment Property; and (xii) take all other lawful actions as Agent deems appropriate to fulfill any Borrowers' obligations under the Loan Documents.

(c) All powers, authorizations and agencies contained in this Agreement are coupled with an interest and are irrevocable until this Agreement is terminated and the security interests created hereby are released.

## SECTION 9. REPRESENTATIONS AND WARRANTIES

9.1 **General Representations and Warranties.** To induce Agent and Lenders to enter into this Agreement and to make available the Revolver Commitments, Revolver Loans and Letters of Credit, Parent and each Borrower represents and warrants that:

9.1.1 **Organization and Qualification.** Parent and its Subsidiaries are duly organized, validly existing and in good standing under the laws of the jurisdiction of their organization, except where the failure to be so organized or validly existing (other than in the case of a Borrower) or in good standing could not reasonably be expected to have a Material Adverse Effect. Parent and its Subsidiaries are duly qualified, authorized to do business and in good standing in each other jurisdiction where failure to be so qualified could reasonably be expected to have a Material Adverse Effect. No Obligor is an EEA Financial Institution.

9.1.2 **Power and Authority.** Each Obligor is duly authorized to execute, deliver and perform its obligations under the Loan Documents to which it is a party. The execution, delivery and performance by each Obligor of the Loan Documents to which it is a party have been duly authorized by all necessary Corporate or organizational action, and do not (a) require any consent or approval of any holders of Equity Interests of any Obligor, other than those already obtained; (b) contravene the Organic Documents of any Obligor; (c) violate or cause a default under any Applicable Law or Material Contract; or (d) result in or require the imposition of any Lien (other than Permitted Liens) on any Property of any Obligor, except, in the case of clauses (c) and (d), for any contravention, violation or imposition of a Lien as could not reasonably be expected to result in a Material Adverse Effect.

9.1.3 **Enforceability.** Each Loan Document is a legal, valid and binding obligation of each Obligor party thereto, enforceable against such Obligor in accordance with its terms, except as enforceability may be limited by bankruptcy, fraudulent transfer, insolvency, reorganization, moratorium, administration or similar laws relating to, limiting or otherwise affecting creditors' rights or by equitable principles or principles of public order relating to enforceability.

9.1.4 Capital Structure. **Schedule 9.1.4** sets forth, as of the Closing Date, for each Subsidiary of Parent, its name, its jurisdiction of organization and its authorized and issued Equity Interests. Parent or its applicable Subsidiary has good title to its Equity Interests in its Subsidiaries, subject only to Agent's Lien and Permitted Liens, and all such Equity Interests are duly issued, fully paid and non-assessable. As of the Closing Date, except as set forth in **Schedule 9.1.4**, there are no outstanding purchase options, warrants, subscription rights, agreements to issue or sell, convertible interests, phantom rights or powers of attorney relating to Equity Interests of any Subsidiaries of Parent.

9.1.5 Corporate Names; Locations. During the five years preceding the Closing Date, except as shown on **Schedule 9.1.5**, neither Parent nor any of its Subsidiaries has been known as or used any corporate, fictitious or trade names, has been the surviving corporation of a merger or combination, or has acquired any substantial part of the assets of any Person. As of the Closing Date, the chief executive offices and other places of business of Parent and its Subsidiaries are shown on **Schedule 8.7.1**.

9.1.6 Title to Properties; Priority of Liens. Each of Parent and its Subsidiaries has good and indefeasible title to (or valid leasehold interests in) all of its Real Estate, and good title to all of its personal Property reflected in any financial statements delivered to Agent or Lenders, in each case free of Liens except Permitted Liens and minor defects in title to its Real Estate that do not interfere with its ability to conduct its business as currently conducted or to utilize such properties for their intended purpose. Each of Parent and its Subsidiaries has paid and discharged all lawful claims that, if unpaid, could become a Lien on its Properties, in each case other than Permitted Liens. Subject to actions required to be taken by Agent, including the filing of UCC-1 financing statements, all Liens of Agent in the Collateral will be duly perfected, first priority Liens, subject only to Permitted Liens.

9.1.7 Financial Statements. The consolidated balance sheets, and related statements of income, cash flow and shareholder's equity, of Parent and its Subsidiaries that have been delivered to Agent and Lenders, have been prepared in accordance with GAAP, and fairly present the financial positions and results of operations of Parent and its Subsidiaries at the dates and for the periods indicated, subject, in the case of certain interim statements, to the absence of footnotes and normal year-end adjustments. All projections pertaining to Parent and its Subsidiaries heretofore delivered to Agent and Lenders by or on behalf of the Obligor have been prepared in good faith, based on assumptions believed to be reasonable in light of the circumstances at such time, it being understood that (a) whether or not such projections are in fact achieved will depend upon future events which are beyond the control of Parent or any of its Subsidiaries, (b) no assurance can be given that such projections will be realized, (c) actual results may vary from the projections and such variations may be material and (d) the projections should not be regarded as a representation by Parent or any of its Subsidiaries or their management that the projected results will be achieved. Since January 31, 2020, other than as disclosed in Parent's public filings prior to the Closing Date, there has been no change in the financial condition of Parent or any of its Subsidiaries (when taken as a whole) that could reasonably be expected to have a Material Adverse Effect. As of the Closing Date, the Borrowers and their Subsidiaries, taken as a whole on a consolidated basis, are Solvent.

9.1.8 Reserved.

9.1.9 Taxes. Parent and each of its Subsidiaries have filed all federal and other material tax returns that it is required by Applicable Law to file, and has paid, caused to be paid or made provision for the payment of, all material Taxes upon it, its income and its Properties that are due and payable, except in each case to the extent constituting Permitted Liens.

9.1.10 Reserved.

9.1.11 Intellectual Property. Each of Parent and its Subsidiaries owns or has the lawful right to use all Intellectual Property necessary for the conduct of its business, without conflict with any rights of others except for any such failure to own or have rights, conflict or infringement that, individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect. There is no pending or, to Parent's or any Borrower's knowledge, Intellectual Property Claim threatened in writing with respect to Parent, any of its Subsidiaries or any of their Intellectual Property which could reasonably be expected to result in a Material Adverse

Effect. All material Intellectual Property owned, used or licensed by, or otherwise subject to any interests of, Parent or its Subsidiaries is shown on **Schedule 9.1.11** (as such Schedule may be updated by Borrowers from time to time at the time of the delivery of a Compliance Certificate in accordance with **Section 10.1.2**). It is understood and agreed that the representation and warranty set forth in this **Section 9.1.11**, as it relates to items disclosed on **Schedule 9.1.11**, shall be deemed not to have been breached to the extent any information set forth on such Schedule changes, so long as such Schedule is updated to reflect such changes in connection with the next succeeding delivery of a quarterly Compliance Certificate.

9.1.12 **Governmental Approvals.** Each of Parent and its Subsidiaries have, is in compliance with, and is in good standing with respect to, all Governmental Approvals necessary to conduct its business and to own, lease and operate its Properties, except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect. To each Borrowers' knowledge, all necessary import, export or other licenses, permits or certificates for the import or handling of any goods or other Collateral have been procured and are in effect, and Parent and its Subsidiaries have complied with all foreign and domestic laws with respect to the shipment and importation of any goods or Collateral, in each case except where the failure to have such license, permit or certificate or noncompliance could not reasonably be expected to have a Material Adverse Effect.

9.1.13 **Compliance with Laws.** Each of Parent and its Subsidiaries has duly complied, and its Properties and business operations are in compliance, in all material respects with all Applicable Law (including all Consumer Finance Laws), except where noncompliance could not reasonably be expected to have a Material Adverse Effect. There are no citations, notices or orders of material non-compliance issued to Parent or any of its Subsidiaries under any Applicable Law, except as could not reasonably be expected to result in a Material Adverse Effect.

9.1.14 **Compliance with Environmental Laws.** Except as disclosed on **Schedule 9.1.14**, to Parent's or any Borrower's knowledge, neither Parent's nor any of its Subsidiaries' past or present operations, Real Estate or other Properties are subject to any federal, state or local investigation to determine whether any remedial action is needed to address any Environmental Release that could reasonably be expected to have a Material Adverse Effect. Neither Parent nor any of its Subsidiaries has received any Environmental Notice that could reasonably be expected to have a Material Adverse Effect. Neither Parent nor any of its Subsidiaries has knowledge of any facts or conditions that would reasonably be expected to result in any material contingent liability with respect to any Environmental Release, environmental pollution or hazardous material on any Real Estate now or, to Parent's or any Borrower's knowledge, previously owned, leased or operated by it, in each case which could reasonably be expected to result in a Material Adverse Effect.

9.1.15 **Burdensome Contracts.** Neither Parent nor any of its Subsidiaries is a party or subject to any contract, agreement or charter restriction that could reasonably be expected to have a Material Adverse Effect.

9.1.16 **Litigation.** Except as shown on **Schedule 9.1.16**, there are no proceedings or investigations pending or, to Parent's or any Borrower's knowledge, threatened in writing against Parent or its Subsidiaries, or any of their businesses, operations or Properties that (a) as of the Closing Date, relate to any Loan Documents or transactions contemplated thereby or (b) could reasonably be expected to have a Material Adverse Effect. Neither Parent nor its Subsidiaries are in default with respect to any order, injunction or judgment of any Governmental Authority that either individually or in the aggregate could reasonably be expected to have a Material Adverse Effect.

9.1.17 **No Defaults.** No event or circumstance has occurred or exists that constitutes a Default or Event of Default.

9.1.18 **ERISA.** Except as could not reasonably be expected, whether individually or in the aggregate, to result in a Material Adverse Effect:

(a) Each Plan is in compliance in all respects with the applicable provisions of ERISA, the Code, and other federal and state laws. Each Plan that is intended to qualify under Section 401(a) of the Code has received a favorable determination letter from the IRS or an application for such a letter has been submitted to

the IRS with respect thereto and, to the knowledge of Borrowers, nothing has occurred which would prevent, or cause the loss of, such qualification. Each Obligor and ERISA Affiliate has met all applicable requirements under the Code, ERISA and the Pension Protection Act of 2006, and no application for a waiver of the minimum funding standards or an extension of any amortization period has been made with respect to any Plan.

(b) There are no pending or, to the knowledge of Borrowers, threatened claims, actions or lawsuits, or action by any Governmental Authority, with respect to any Plan. To the knowledge of the Borrowers, there has been no prohibited transaction or violation of the fiduciary responsibility rules with respect to any Plan.

(c) (i) No ERISA Event has occurred or is reasonably expected to occur; (ii) as of the most recent valuation date for any Pension Plan, the funding target attainment percentage (as defined in Section 430(d)(2) of the Code) is at least 60% (iii) no Obligor or ERISA Affiliate has incurred any liability to the PBGC except for the payment of premiums, and no premium payments are due and unpaid; (iv) no Obligor or ERISA Affiliate has engaged in a transaction that could be subject to Section 4069 or 4212(c) of ERISA; and (v) no Pension Plan has been terminated by its plan administrator or the PBGC such that there remains material liability in connection therewith.

(d) With respect to any Foreign Plan, (i) all employer contributions required by law or by the terms of the Foreign Plan have been made and (ii) it has been registered as required and has been maintained in good standing with applicable regulatory authorities.

9.1.19 Trade Relations. There exists no actual or threatened termination, limitation or modification of any business relationship between Parent or its Subsidiaries and any customer or supplier, or any group of customers or suppliers, which, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

9.1.20 Labor Relations. Except as described on **Schedule 9.1.20**, as of the Closing Date, neither Parent nor its Subsidiaries are party to or bound by any collective bargaining agreement. There are no material grievances, disputes or controversies with any union or other organization of Parent or its Subsidiaries' employees that could reasonably be expected to have a Material Adverse Effect, or, to any Borrower's knowledge, any asserted or threatened strikes, material work stoppages or material demands for collective bargaining that could reasonably be expected to have a Material Adverse Effect.

9.1.21 Reserved.

9.1.22 Not a Regulated Entity. No Obligor is an "investment company" or a "person directly or indirectly controlled by or acting on behalf of an investment company" within the meaning of the Investment Company Act of 1940.

9.1.23 Margin Stock. Neither Parent nor its Subsidiaries are 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 Revolver Loan proceeds or Letters of Credit will be used by Borrowers to purchase or carry, or to reduce or refinance any Debt incurred to purchase or carry, any Margin Stock or for any related purpose in any manner that would result in a violation of Regulations T, U or X of the Board of Governors.

9.1.24 OFAC. No Borrower, Subsidiary or, to the knowledge of any Borrower, any director, officer, employee, agent or representative thereof, is or is owned or controlled by any individual or entity that is currently the target of any Sanction or is located, organized or resident in a Designated Jurisdiction.

9.1.25 Benefit Plans. Parent and each Borrower represents and warrants as of the Closing Date that Parent nor any of its Subsidiaries is not and will not be using "plan assets" (within the meaning of 29 CFR § 2510.3-101, as modified by Section 3(42) of ERISA) of one or more Benefit Plans in connection with the Revolver Loans, the Letters of Credit or the Revolver Commitments.

9.1.26 Beneficial Ownership Certification. As of the Closing Date, the information included in the Beneficial Ownership Certification, if applicable, is true and correct in all respects.

9.2 Complete Disclosure. As of the Closing Date only, none of the written reports, Loan Documents, financial statements, certificates or other written information (other than any projections, pro formas, budgets, and other forward-looking information and information of a general economic or industry nature) concerning Parent and its Subsidiaries furnished by or at the direction of any Obligor to Agent and the Lenders prior to the Closing Date in connection with the negotiation of this Agreement or any other Loan Document, when taken as a whole, contains, as of the date furnished, any material misstatement of fact or omits to state any material fact necessary to make the statements therein not materially misleading in light of the circumstances under which such statements were made.

## SECTION 10. COVENANTS AND CONTINUING AGREEMENTS

10.1 Affirmative Covenants. As long as any Revolver Commitments are outstanding and the Full Payment of the Obligations has not occurred, Parent and each Borrower shall, and shall cause each of their Subsidiaries to:

### 10.1.1 Inspections; Appraisals.

(a) Permit Agent from time to time, subject (unless a Default or Event of Default exists) to reasonable notice and during normal business hours, to visit and inspect the Properties of the Obligors, inspect, audit and make extracts from Obligors' books and records, and discuss with its officers, employees, agents, advisors and independent accountants Obligors' business, financial condition, assets and results of operations (it being understood that a representative of Parent shall be allowed to be present in any discussions with independent accountants). Lenders may participate in any such visit or inspection, at their own expense. None of Agent, any Issuing Bank or Lenders shall have any duty to any Obligor to make any inspection, nor shall Agent have any obligation to (but Agent may) share any results of any inspection, appraisal or report with any Obligor. The Borrowers acknowledge that all inspections, appraisals and reports are prepared by Agent and Lenders for their purposes, and Borrowers shall not be entitled to rely upon them. No Borrowing Base calculation shall include Collateral acquired in an Acquisition or otherwise outside the Ordinary Course of Business until completion of applicable field examinations and appraisals (which shall not be included in the limits provided in **Section 10.1.1(b)**) satisfactory to Agent and delivery to Agent of any material documents related to such Acquisition (and Agent agrees to use commercially reasonable efforts to complete such field examinations and/or appraisals within 90 days of the consummation of such acquisition).

(b) Reimburse Agent for all its reasonable out-of-pocket charges, costs and expenses in connection with (i) examinations of Obligors' books and records or any other financial or Collateral matters as it deems appropriate, up to two (2) times per Loan Year (provided, that if at all times during such Loan Year, Availability measured as of each month-end (as reflected in the Loan Account) is greater than or equal to 30% of the Borrowing Base, Borrowers shall be obligated to only reimburse Agent for one (1) such examination conducted during such Loan Year); and (ii) appraisals of Inventory up to two (2) times per Loan Year (provided, that if at all times during any Loan Year, the Inventory Formula Amount is less than 10% of the Borrowing Base and Availability measured as of each month-end (as reflected in the Loan Account) is greater than 10% of the Borrowing Base, Borrowers shall be obligated to only reimburse Agent for one (1) such appraisal conducted during such Loan Year); provided, that if an examination or appraisal is initiated during the existence of an Event of Default, all charges, costs and expenses therefor shall be reimbursed by Borrowers without regard to such limits. Subject to and without limiting the foregoing, Parent and Borrowers shall pay Agent's then standard charges for each day that an employee of Agent or its Affiliates is engaged in any examination activities, and shall pay the standard charges of its internal appraisal group.

(c) Notwithstanding anything to the contrary contained in the Loan Documents, none of Parent, Borrowers and any of their Subsidiaries shall be required to disclose or provide any information (i) that constitutes non-financial trade secrets or non-financial proprietary information of such Person or any of its Subsidiaries or any of their respective customers and/or suppliers, (ii) in respect of which disclosure to Agent or any Lender (or any of their respective representatives) is prohibited by any Applicable Law, (iii) that is subject to

attorney-client or similar privilege or constitutes attorney work product or (iv) in respect of which Parent, Borrowers or any Subsidiary owes confidentiality obligations to any third party (information of the type set forth in clauses (i) through (iv) collectively, “Confidential Information”).

10.1.2 Financial and Other Information. Keep adequate records and books of account with respect to its business activities, in which proper entries are made in accordance with GAAP reflecting all financial transactions; and furnish to Agent (provided, that the documents required to be delivered pursuant to **clauses (a), (b) and (h)** below shall be deemed to have been delivered on the date on which such documents are posted on the Securities and Exchange Commission’s website at www.sec.gov):

(a) as soon as available, and in any event no later than (i) 90 days after the close of each Fiscal Year, balance sheets as of the end of such Fiscal Year and the related statements of income, cash flow and shareholders’ equity for such Fiscal Year, on a consolidated basis for Parent and its Subsidiaries, which consolidated statements shall be audited and certified by a firm of independent certified public accountants of nationally recognized standing selected by Parent or otherwise acceptable to Agent (which audit shall be without a “going concern” or like qualification or exception and without any qualification or exception as to the scope of such audit (except for any such qualification pertaining to the maturity of any Debt occurring within 15 months of the relevant audit or any breach or anticipated breach of any financial covenant)), and shall set forth in comparative form corresponding figures for the preceding Fiscal Year; and (ii) 60 days after the end of each Fiscal Year, internal management financial statements (balance sheet, statement of income, and cash flow statement) as of the end of such Fiscal Year, on a consolidated basis for Parent and its Subsidiaries; provided, that the financial statements delivered pursuant to this clause (ii) shall be delivered to Agent for informational purposes only and the calculation of the Applicable Margin in the manner described in the definition thereof;

(b) as soon as available, and in any event no later than 45 days after the end of each Fiscal Quarter that is not the last Fiscal Quarter of a Fiscal Year, unaudited balance sheets as of the end of such Fiscal Quarter and the related statements of income and cash flow for such Fiscal Quarter and for the portion of the Fiscal Year then elapsed, on a consolidated basis for Parent and its Subsidiaries, setting forth in comparative form corresponding figures for the preceding Fiscal Year and certified by the chief financial officer (or other officer holding a similar role) of Parent as prepared in accordance with GAAP and fairly presenting in all material respects the financial position and results of operations of Parent and its Subsidiaries on a consolidated basis as of such date and for such Fiscal Quarter and period, subject to normal year-end adjustments and the absence of footnotes;

(c) as soon as available, and in any event within 30 days after the end of each month that is not the last month of a Fiscal Year or Fiscal Quarter, internal management financial statements (balance sheet, statement of income, and cash flow statement) as of the end of such month, on a consolidated basis for Parent and its Subsidiaries, setting forth in comparative form corresponding figures for (i) the preceding Fiscal Year and (ii) such period set forth in the projections delivered pursuant to **Section 10.1.2(f)** hereof, in each case on a month-to-date and year-to-date basis with respect to profit and loss and cash flow statements, in each case certified by the chief financial officer (or other officer holding a similar role) of Parent as prepared in accordance with its normal internal, interim reporting practices;

(d) within the time frame specified for the delivery of financial statements under clauses (a)(i), (a)(ii) and (b) above, (i) a Compliance Certificate executed by the chief financial officer (or other officer holding a similar role) of Parent; provided, that the Compliance Certificate delivered with the financial statements pursuant to clause (a)(ii) shall be delivered to Agent for informational purposes and the calculation of the Applicable Margin in the manner described in the definition thereof only and (ii) a copy of the Credit and Collection Guidelines if changes have been made since the Closing Date or the date of the most recent delivery of the Credit and Collection Guidelines (which Credit and Collection Guidelines may, in the case of Confidential Information, be redacted);

(e) together with the financial statements delivered pursuant to **Section 10.1.2(a)(i)**, a copy of the final management letters (if any) submitted to Borrowers by their accountants in connection with such financial statements, if any;

(f) not later than 60 days after the commencement of each Fiscal Year, projections of Parent's consolidated balance sheets, results of operations, cash flow and Availability for such Fiscal Year, month by month;

(g) at Agent's reasonable request, a listing of each Borrower's trade payables, specifying the trade creditor and balance due, and a detailed trade payable aging, all in form satisfactory to Agent;

(h) promptly after the sending or filing thereof, copies of any proxy statements, financial statements or reports that Parent or any Borrower has made generally available to its shareholders; copies of any regular, periodic and special reports or registration statements or prospectuses that Parent or any Borrower files with any Governmental Authority, except the Securities and Exchange Commission (which shall be deemed to have been delivered when filed), or any securities exchange; and copies of any press releases or other statements made available by Parent or a Borrower to the public concerning material changes to or developments in the business of Parent or such Borrower;

(i) evidence as to Borrowers' compliance with Consumer Finance Laws as reasonably requested by Agent from time to time;

(j) **reserved;** and

(k) such other reports and information (financial or otherwise) as Agent may reasonably request (in its reasonable discretion or at the reasonable request of any Lender) from time to time in connection with any Collateral or the financial condition or business of any Obligor.

Information required to be delivered pursuant to this **Section 10.1.2** shall be deemed to have been delivered if such information, or one or more annual or quarterly reports containing such information, shall be have been posted by Agent on SyndTrak, IntraLinks or a similar site to which the Agent and the Lenders have been granted access or shall be available on the website of the Securities and Exchange Commission at <http://www.sec.gov> or on the website of Parent. Information required to be delivered pursuant to this **Section 10.1.2** may also be delivered by electronic communications pursuant to procedures approved by the Agent. Each Lender shall be solely responsible for timely accessing posted documents and maintaining its copies of such documents.

10.1.3 **Notices.** Notify Agent and Lenders in writing, promptly after a Senior Officer of Borrower Agent obtains knowledge thereof, of any of the following that affects an Obligor: (a) the commencement of any proceeding or investigation which would reasonably be expected to have a Material Adverse Effect; (b) any default under or termination of a Material Contract; (c) the existence of any Default or Event of Default; (d) the occurrence of any event (including any Intellectual Property Claim, violation or asserted violation of Applicable Law (including ERISA, OSHA, FLSA and Environmental Laws), an Environmental Release, ERISA Event or Regulatory Event) that would reasonably be expected to have a Material Adverse Effect; (e) any judgment in an amount exceeding the Threshold Amount; (f) any written allegation, claim, fact or circumstance indicating that any Third Party Contract, Contract originated by it or, at the time of such event, then serviced, collected or otherwise administered by it, Credit and Collection Guidelines, act, omission or business practice of Parent, any Obligor or any Subsidiary violates or fails to comply with any Consumer Finance Law and which allegation, claim, fact or circumstance claims damages in excess of the Threshold Amount; and (g) the sale of any Inventory on consignment or approval or any other basis under which the customer may return or require a Borrower to repurchase such Inventory other than returns or repurchases in the Ordinary Course of Business.

10.1.4 **Landlord and Storage Agreements.** Upon request, provide Agent with copies of all existing agreements, between an Obligor and any landlord, warehouseman, processor, shipper, bailee or other Person that owns any premises at which any Collateral may be kept or that otherwise may possess or handle any Collateral.

10.1.5 **Compliance with Laws.** Comply with all Applicable Laws, including ERISA, Environmental Laws, FLSA, OSHA, Anti-Terrorism Laws, and laws regarding collection and payment of Taxes, and maintain all Governmental Approvals necessary to the ownership of its Properties or conduct of its business, unless failure to comply (other than failure to comply with Anti-Terrorism Laws with which the Borrowers and their Subsidiaries shall comply in all material respects) or maintain could not reasonably be expected to have a Material

Adverse Effect. Without limiting the generality of the foregoing, if an Environmental Release which could reasonably be expected to result in a Material Adverse Effect requiring remediation under Environmental Laws occurs at or on any Properties of Parent or its Subsidiaries, Parent, the relevant Borrower or the applicable Subsidiary shall act, or shall cause the legally responsible party to act, in each case promptly and diligently to investigate and report to Agent and, as required by Environmental Laws, to all appropriate Governmental Authorities the extent of, and to undertake or cause the legally responsible party to undertake appropriate and necessary remedial action to address such Environmental Release as required by applicable Environmental Laws.

10.1.6 Taxes. Pay and discharge all material Taxes prior to the date on which they become delinquent or penalties attach, unless such Taxes are not overdue by more than 30 days or (i) such Taxes are being Properly Contested or (ii) the failure to pay such Taxes could not reasonably be expected to result in a Material Adverse Effect.

10.1.7 Insurance. Maintain insurance with insurers with respect to the Properties and business of Borrowers and its Subsidiaries of such type, in such amounts, and with such coverages and deductibles as are customary for companies similarly situated and operating in the same or similar locations.

10.1.8 Licenses. Except as could not reasonably be expected to result in a Material Adverse Effect: keep each License affecting any Collateral (including the manufacture, distribution or disposition of Inventory) or any other material Property of Borrowers and its Subsidiaries in full force and effect; notify Agent, upon its request, of any modification to any such License; pay all Royalties when due; and notify Agent of any default or breach asserted by any Person to have occurred under any such License.

10.1.9 Future Subsidiaries. Promptly notify Agent upon any Person becoming a Subsidiary of Parent and, if such Person is neither a Foreign Subsidiary nor a Securitization Subsidiary, cause it to guaranty the Obligations in a manner reasonably satisfactory to Agent, and to execute and deliver such documents, instruments and agreements and to take such other actions as Agent shall reasonably require to evidence and perfect a Lien in favor of Agent (for the benefit of Secured Parties) on all assets of such Person.

10.1.10 Reserved.

10.1.11 Reserved.

10.1.12 Charge-Off Policy. The Borrowers shall establish and implement a policy for charging off the unpaid balance of its delinquent Contracts as set forth in the Credit and Collections Guidelines.

10.1.13 Loss Reserve. Parent and its Subsidiaries shall maintain, on a consolidated basis, loss reserves at all times during the term of the Agreement in amounts required to be maintained under GAAP.

10.1.14 Beneficial Ownership Regulation. Promptly following any request therefor, provide information and documentation reasonably requested by the Agent or any Lender for purposes of compliance with applicable “know your customer” and anti-money-laundering rules and regulations, including, without limitation, the PATRIOT Act and the Beneficial Ownership Regulation.

10.1.15 Control Agreements. Within 90 days of the Closing Date (or such later date as may be agreed by Agent in its reasonable discretion), the Borrowers shall cause all Deposit Accounts and Securities Accounts (other than Excluded Accounts) maintained as of the Closing Date to be subject to a control agreement.

10.2 Negative Covenants. As long as any Revolver Commitments are outstanding and the Full Payment of the Obligations has not occurred, Parent and each Borrower shall not, and shall not permit any of its Subsidiaries to:

10.2.1 Permitted Debt. Create, incur, guarantee or suffer to exist any Debt, except:

- (a) the Obligations;

(b) (i) Subordinated Debt; and (ii) unsecured Debt of Parent or its Subsidiaries so long as, in the case of this clause (b)(ii), after giving effect to such Debt, Parent shall be in Pro Forma Compliance with the covenants set forth in **Section 10.3.2** and **10.3.3** and such Debt shall have a maturity no earlier than the date that is 91 days after the Revolver Termination Date;

(c) Permitted Purchase Money Debt;

(d) Debt (other than the Obligations) outstanding (or pursuant to commitments outstanding) on the Closing Date;

(e) Debt that is assumed or acquired in connection with any Acquisition permitted hereunder or the acquisition of any asset or group of assets so long as (i) such Debt was not incurred in contemplation of such Acquisition or acquisition of assets and (ii) either does not exceed (x) \$25,000,000 in the aggregate outstanding at any time or (y) after giving effect to each such assumption or acquisition of such Debt, the Payment Conditions are satisfied;

(f) Permitted Contingent Obligations;

(g) Debt owed to a Flooring Lender; provided, that such Flooring Lender has entered into a Flooring Intercreditor Agreement with respect to such Debt;

(h) Debt incurred for the acquisition of Real Estate by an Obligor so long as the purchase price of such Real Estate does not exceed the fair market value of the Real Estate at the time of its acquisition (as determined by the Borrower Agent in good faith) and the Debt incurred in connection therewith does not exceed 100% of the purchase price (including fees, costs and expenses, prepaid interest and similar items in connection therewith) of such Real Estate; provided, that the aggregate outstanding Debt permitted under this **subsection (h)** does not at any time exceed \$30,000,000;

(i) Refinancing Debt as long as each Refinancing Condition is satisfied with respect to such Refinancing Debt;

(j) Debt incurred by a Securitization Subsidiary pursuant to one or more Permitted ABS Transactions so long as at or prior to the initial transfer of Contracts under any such transaction, the applicable Permitted ABS Agent has entered into a Permitted ABS Intercreditor Agreement;

(k) Debt incurred under Permitted Originator Notes;

(l) Debt evidenced by the Existing HY Notes;

(m) Debt evidenced by the Permitted Convertible Notes or by the Permitted Additional HY Notes;

(n) Debt in the form of guarantees by Parent or any of its Subsidiaries of Debt permitted under this **Section 10.2.1**;

(o) obligations of Parent or any of its Subsidiaries under any Hedging Agreements not entered into for speculative purposes (including any Hedging Agreement entered into by any Securitization Subsidiary in connection with a Permitted ABS Transaction);

(p) (i) Debt incurred in the Ordinary Course of Business in respect of netting services, overdraft protections, employee credit card programs, Bank Products and otherwise in connection with Deposit Accounts and Securities Accounts and (ii) Debt incurred in connection with letters of credit, bankers' acceptances, bank guarantees, discounted bills of exchange or the discounting or factoring of receivables for credit management purposes, warehouse receipts or similar facilities, in each case incurred or undertaken in the Ordinary Course of Business;

(q) Debt among Parent and its Subsidiaries; provided that (i) Debt of any Subsidiary that is not an Obligor owing to any Obligor shall be permitted under **Section 10.2.5** (other than under clause (m) of the definition of “Restricted Investments”) and (ii) Debt of the Obligors owing to any Subsidiary that is not an Obligor shall be expressly subordinated to the Obligations under the Loan Documents on terms reasonably acceptable to Agent (it being understood that such subordination terms shall permit the repayment of interest and/or principal with respect to such Debt in the absence of notification by Agent during the existence of an Event of Default that such payments shall no longer be made);

(r) Debt consisting of (i) the financing of insurance premiums or (ii) take-or-pay obligations contained in supply arrangements, in each case, in the Ordinary Course of Business;

(s) Debt incurred by Parent and its Subsidiaries representing (i) deferred compensation to directors, officers, employees, members of management and consultants of Parent and its Subsidiaries in the Ordinary Course of Business or in connection with any Permitted Acquisition or any Investment permitted hereby and (ii) deferred purchase price or other similar arrangements in connection with any Permitted Acquisition or any Investment permitted hereby;

(t) Debt arising out of the creation of any Lien (other than for Liens securing debt for Borrowed Money) permitted under **Section 10.2.2**;

(u) Debt incurred in the Ordinary Course of Business in respect of obligations of Parent and its Subsidiaries to pay the deferred purchase price of goods or services or progress payments in connection with such goods and services;

(v) Debt incurred by Parent and its Subsidiaries representing Investments permitted under the definition of “Restricted Investment”;

(w) unfunded pension fund and other employee benefit plan obligations and liabilities incurred in the Ordinary Course of Business to the extent that they are permitted to remain unfunded under Applicable Law;

(x) Debt owed to (including obligations in respect of letters of credit, bank guarantees or similar instruments for the benefit of) any Person providing workers’ compensation, securing unemployment insurance and other social security laws or regulation, health, disability or other employee benefits or property, casualty or liability insurance or self-insurance or other similar obligations to Parent or any Subsidiary;

(y) Debt supported by a Letter of Credit, in a principal amount not in excess of the Stated Amount of such Letter of Credit;

(z) Debt in respect of any letter of credit issued in favor of any Issuing Bank or Swingline Lender to support any Defaulting Lender’s participation in Letters of Credit issued, or Swingline Loans made hereunder;

(aa) Debt with an aggregate principal amount not exceeding \$75,000,000 in the aggregate outstanding at any time;

(bb) [reserved]; and

(cc) all premium (if any), interest (including post-petition interest), fees, expenses, charges and additional or contingent interest on Debt described in paragraphs (a) through (aa) above.

10.2.2 Permitted Liens. Create or suffer to exist any Lien upon any of its Property, except the following (collectively, “Permitted Liens”):

(a) any Lien (i) created under the Loan Documents and (ii) on cash or deposits granted in favor of any Swingline Lender or any Issuing Bank hereunder to Cash Collateralize any Defaulting Lender's participation in Letters of Credit issued, or Swingline Loans made, under this Agreement, as applicable;

(b) Purchase Money Liens securing Permitted Purchase Money Debt;

(c) Liens for Taxes that are not overdue by more than thirty (30) days or, if more than thirty (30) days overdue, (i) which are being Properly Contested or (ii) with respect to which the failure to make payment could not reasonably be expected to have a Material Adverse Effect;

(d) statutory Liens arising in the Ordinary Course of Business including landlord's, carriers', warehousemen's, mechanics', materialmen's, repairmen's, construction or other like Liens arising in the Ordinary Course of Business and securing obligations that are not overdue by more than thirty (30) days or, if more than thirty (30) days overdue, (i) which are being Properly Contested or (ii) are subject to a Lien Waiver, or (iii) with respect to which the failure to make payment could not reasonably be expected to have a Material Adverse Effect;

(e) (i) Liens incurred or pledges or deposits made in the Ordinary Course of Business to secure the performance of bids, trade contracts (other than for Borrowed Money), leases (other than Capital Leases), statutory obligations, surety, stay, customs and appeal bonds, performance, performance and completion and return of money bonds, government contracts, financial assurances and completion guarantees and similar obligations, including those incurred to secure health, safety and environmental obligations in the Ordinary Course of Business or arising as a result of progress payments under government contracts and (ii) obligations in respect of letters of credit, bank guarantees or similar instruments that have been posted to support payment of the items set forth in clause (i) of this **Section 10.2.2(e)**;

(f) Liens arising in the Ordinary Course of Business that are subject to Lien Waivers;

(g) Liens arising by virtue of a judgment or judicial order against Parent or its Subsidiaries, or any Property of Parent or its Subsidiaries, not constituting an Event of Default;

(h) (i) easements, rights-of-way, restrictions, trackage rights, leases (other than Capital Lease Obligations), licenses, special assessments, covenants or other agreements of record, and other similar charges or encumbrances on Real Estate, that do not secure any Borrowed Money and do not materially interfere with the Ordinary Course of Business and (ii) Liens and other matters disclosed in any mortgage title policy and any replacement, modification, extension or renewal of such Lien;

(i) (i) contractual rights of set-off (A) relating to the establishment of depository relationships with banks not given in connection with the issuance of Borrowed Money, (B) relating to pooled deposit, sweep accounts and netting arrangements of Parent and its Subsidiaries to permit satisfaction of overdraft or similar obligations incurred in the Ordinary Course of Business, and (C) relating to purchase orders and other agreements entered into with customers of Parent and its Subsidiaries in the Ordinary Course of Business and (ii) Liens arising solely by virtue of any statutory or common law provision relating to banker's liens, rights of set-off or similar rights (including overdraft protection);

(j) Liens in favor of a Flooring Lender so long as such Liens do not attach to any assets of a Borrower other than the Inventory floored by such Flooring Lender and the proceeds and products thereto;

(k) Liens securing only the Real Estate owned by a Borrower to secure Debt permitted under **Section 10.2.1(h)**;

(l) existing Liens shown on **Schedule 10.2.2**, and any refinancing, modification, replacement, renewal or extension thereof; provided, that the Lien does not extend to any additional property other than after-acquired property that is affixed to or incorporated in the property covered by such Lien and the proceeds and products thereof;

- (m) Liens on the Equity Interests of Parent which are held by Parent, to the extent such Equity Interests are deemed to be Margin Stock;
- (n) Liens on the Securitized Contracts of a Securitization Subsidiary and Liens on the assets of a Securitization Subsidiary, in each case, in favor of a Permitted ABS Agent and subject to a Permitted ABS Intercreditor Agreement;
- (o) Security interests as described in 9-109(a)(3) of the UCC created in connection with sales of accounts, chattel paper, payment intangibles or promissory notes permitted by or not otherwise prohibited by this Agreement or any other Loan Document;
- (p) any interest or title of a lessor, sublessor, licensor or sublicensee under any leases, subleases, licenses or sublicenses entered into by Parent or any Subsidiary in the Ordinary Course of Business;
- (q) (i) leases, subleases, licenses or sublicenses of property in the Ordinary Course of Business or (ii) rights reserved to or vested in any Person by the terms of any lease, license, franchise, grant or permit held by Parent or any Subsidiary or by a statutory provision to terminate any such lease, license, franchise, grant or permit or to require periodic payments as a condition to the continuance thereof;
- (r) 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;
- (s) Liens (i) arising out of conditional sale, title retention, consignment or similar arrangements for sale of goods entered into by Parent or the Subsidiaries in the Ordinary Course of Business and (ii) arising by operation of law under Article 2 of the Uniform Commercial Code;
- Section 10.2.1(r)(i);** (t) Liens on insurance policies and the proceeds thereof securing the financing of Debt permitted pursuant to
- (u) ground leases in the Ordinary Course of Business in respect of Real Estate on which facilities owned or leased by Parent or any Subsidiary are located;
- (v) Liens securing obligations under Hedging Agreements permitted by **Section 10.2.1(o)**;
- (w) 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;
- (x) Liens deemed to exist in connection with permitted repurchase obligations or set-off rights;
- (y) Liens securing Debt permitted under **Section 10.2.1(e)**; provided, however, such Liens are not created or incurred in connection with, or in contemplation of, such acquisition and such Liens shall be limited to all or part of the same assets (including after acquired property to the extent it would have been subject to a Lien in respect of the arrangements under which such Liens arose) that secured the obligations to which the original Liens relate (plus improvements on such Property);
- (z) Liens securing obligations in respect of letters of credit, banker's acceptances, bank guarantees or similar instruments permitted under **Sections 10.2.1(p), (x) and (z)**;
- (aa) Liens (i) solely on any cash earnest money deposits or cash equivalents in connection with any letter of intent or purchase agreement or otherwise in connection with any escrow arrangements with respect to any Permitted Acquisition or other Investment permitted hereunder and (ii) consisting of an agreement to dispose of any property in a transaction permitted hereunder;

(bb) Liens arising from precautionary UCC financing statements (or similar filings under Applicable Law) regarding operating leases or consignment or bailee arrangements;

(cc) other Liens with respect to property or assets of Parent or any of its Subsidiaries; provided that the aggregate principal amount of the Debt or other obligations secured by such Liens does not exceed \$50,000,000 at any time outstanding; provided, further, that if such Liens attach to any Collateral included in the Borrowing Base, such Liens will be subject to an intercreditor agreement in form and substance satisfactory to Agent; and

(dd) Liens (i) securing Borrowers' obligations under the HY Notes and HY Note Indentures, in each case, subject to a HY Note Subordination Agreement, and (ii) on cash or cash equivalents pledged to defease or otherwise satisfy and discharge any Debt or other obligations that are permitted or not prohibited hereunder.

10.2.3 Capital Expenditures. Make Capital Expenditures in excess of \$100,000,000 in the aggregate during any period of four (4) consecutive Fiscal Quarters, measured as at the end of each Fiscal Quarter.

10.2.4 Distributions. Declare or make any Distributions, except Permitted Distributions.

10.2.5 Restricted Investments. Make any Restricted Investment.

10.2.6 Disposition of Assets. Make any Asset Disposition, except:

(a) a Permitted Asset Disposition;

(b) [reserved];

(c) a transfer of Property by (i) an Obligor to a Borrower or any other Obligor, (ii) by a Subsidiary that is not an Obligor to an Obligor or any other Subsidiary or (iii) by an Obligor to a non-Obligor, in each case to the extent permitted by the definition of "Restricted Investments";

(d) an Asset Disposition of Margin Stock by Parent;

(e) the disposition of charged-off receivables in the Ordinary Course of Business;

(f) dispositions of Property subject to casualty, condemnation or similar proceedings (including in lieu thereof) upon receipt of the Net Proceeds therefor;

(g) dispositions of Real Estate and related assets in the Ordinary Course of Business in connection with relocation activities for directors, officers, employees, members of management, or consultants of Parent and the Subsidiaries;

(h) the transfer or abandonment of Intellectual Property rights no longer used or useful in the business in accordance with the reasonable business judgement of Borrower Agent; and

(i) (i) so long as no Default or Event of Default is continuing or would arise therefrom, Dispositions of other assets and property in exchange for reasonably equivalent value, provided that (A) any such Disposition shall be made for fair market value, (B) with respect to any such Disposition of assets included in the Borrowing Base, such Disposition shall be made for cash consideration in an amount not less than the amount advanced against such assets under the Borrowing Base, as applicable, and in connection with any Disposition in excess of \$10,000,000, the Borrower shall deliver an updated Borrowing Base Certificate, (C) such Disposition shall not result in an Overadvance.

10.2.7 Reserved.

10.2.8 Restrictions on Payment of Certain Debt.

- (a) Make any payments (whether voluntary or mandatory, or a prepayment, redemption, repurchase, retirement, defeasance or acquisition) with respect to any Subordinated Debt or Junior Lien Debt, except
- (i) regularly scheduled payments of principal, interest, fees, expenses and indemnities, but only to the extent permitted or not restricted under any subordination agreement or intercreditor agreement relating to such Debt;
  - (ii) payments made in respect of a Permitted Originator Note subject to any subordination provisions in respect of such Permitted Originator Note;
  - (iii) [reserved];
  - (iv) the conversion of any such Subordinated Debt or Junior Lien Debt to, or payment with the proceeds of, Equity Interests;
  - (v) additional payments and prepayments in respect of the Subordinated Debt or Junior Lien Debt with net proceeds from the incurrence of Subordinated Debt, Junior Lien Debt or other unsecured Debt permitted hereunder;
  - (vi) Refinancing Debt in respect of such Subordinated Debt or Junior Lien Debt;
  - (vii) payments of, and cash payments due upon conversion with respect to, any Permitted Convertible Notes in accordance with the terms thereof; and
  - (viii) additional cash payments and prepayments so long as, in each case, the Payment Conditions are satisfied.

(b) Make any payment with respect to a Permitted ABS Transaction other than (i) payments made with the proceeds of the Securitized Contracts of the corresponding Permitted ABS Transaction; (ii) payments made in connection with the repurchase of Contracts which are permitted under clause (g) of the definition of Restricted Investments; (iii) payments so long as immediately before and after giving effect to any such repayment no Default or Event of Default exists and immediately after giving effect thereto Availability exceeds the greater of (x) \$40,000,000 and (y) 10.0% of the Borrowing Base then in effect; (iv) payments using the proceeds of Investments permitted under clause (f)(ii) of the definition of Restricted Investments.

- (c) Make any principal payments (whether voluntary or mandatory, or a prepayment, redemption, repurchase, retirement, defeasance or acquisition) with respect to unsecured Debt (including the HY Notes), except:
- (i) regularly scheduled payments of principal and scheduled payments at maturity;
  - (ii) principal payments made with the proceeds of the incurrence of other unsecured Debt, Permitted Additional HY Notes, and Subordinated Debt permitted hereunder;
  - (iii) [reserved];
  - (iv) the conversion of any such Debt to, or payment with the proceeds of, Equity Interests;
  - (v) Refinancing Debt in respect of such unsecured Debt;
  - (vi) principal payments of, and cash payments due upon conversion with respect to, any Permitted Convertible Notes in accordance with the terms thereof; and

(vii) if the outstanding principal amount of such unsecured Debt is (A) greater than \$15,000,000, any other principal payments with respect to such Debt so long as the Payment Conditions are satisfied with respect to each such payment and (B) \$15,000,000 or less, immediately before and after giving effect to such payment, no Event of Default exists.

#### 10.2.9 Fundamental Changes.

(a) Merge, combine or consolidate with any Person, or liquidate, wind up its affairs or dissolve itself, in each case whether in a single transaction or in a series of related transactions, except (i) Parent and its Subsidiaries may engage in Permitted Acquisitions, (ii) any non-Obligor Subsidiary may be merged into or consolidated with, or transfer all or substantially all of its property to, (1) any Borrower or Guarantor (other than Parent), so long as such Borrower or such Guarantor is the surviving entity or the surviving entity assumes the Obligations in a manner satisfactory to Agent, or (2) another non-Obligor Subsidiary, (iii) any Borrower or Guarantor (other than Parent) may merge into or consolidate with any Borrower so long as a Borrower is the surviving entity or the surviving entity assumes the Obligations in a manner satisfactory to Agent, (iv) any Guarantor (other than Parent) may merge into or consolidate with any other Guarantor (other than Parent) and (v) any Subsidiary may liquidate or dissolve so long as (1) such Subsidiary determines in good faith that such liquidation or dissolution is in its best interest, (2) a Borrower shall only liquidate or dissolve with or into another Borrower with at least one Borrower surviving and (3) a Guarantor shall only liquidate or dissolve into an Obligor or such liquidation or dissolution is an Investment permitted hereunder.

(b) Without providing Agent at least thirty (30) days' prior written notice thereof (or such shorter period as Agent may agree), (i) change its name (ii) change its charter or other organizational identification number or (iii) change its entity type or state of organization.

#### 10.2.10 Reserved.

10.2.11 Organic Documents. Except as required by Applicable Law, amend, modify or otherwise change any of its Organic Documents as in effect on the Closing Date in a manner that would reasonably be expected to be materially adverse to the rights or interests of Agent or Lenders.

#### 10.2.12 Reserved.

10.2.13 Accounting Changes. Change its Fiscal Year without the consent of Agent; provided that the Borrowers and the Subsidiaries may change their fiscal year end to align to that of Parent.

#### 10.2.14 Restrictive Agreements. Become a party to any Restrictive Agreement, except Restrictive Agreements as follows:

(a) in effect on the Closing Date and any replacements, renewals, extensions, refinancings, refundings or exchanges of or any amendment, restatement, amendment and restatement, supplement or other modification expanding the scope of, such restriction or condition, in each case, so long as not done so in a manner materially adverse to the Lenders taken as a whole;

(b) relating to secured Debt permitted hereunder (including any Refinancing Debt in respect thereof), as long as the restrictions apply only to collateral for such Debt (other than the Collateral);

(c) constituting customary restrictions on assignment in leases and other contracts;

(d) the HY Note Indentures (as amended as permitted hereunder);

(e) any guaranty by any Subsidiary of Parent of Parent's obligations under any HY Notes as permitted under

**Section 10.2.1(n);**

(f) pursuant to any Loan Document;

- (g) pursuant to any Permitted ABS Documents entered into by a Securitization Subsidiary or any Organic Document of any Securitization Subsidiary;
- (h) restrictions and conditions imposed by Applicable Law or by any Loan Document;
- (i) in the case of any Subsidiary that is not a wholly-owned Subsidiary, restrictions and conditions imposed by its organizational documents or any related joint venture or similar agreement;
- (j) customary restrictions and conditions contained in agreements relating to Asset Dispositions pending such Asset Disposition; provided such restrictions and conditions apply only to the Person and/or assets subject to such Asset Disposition and such sale is permitted hereunder;
- (k) restrictions and conditions that were binding on a Subsidiary at the time such Subsidiary first becomes a Subsidiary, so long as the agreements providing for such restrictions and conditions were not entered into in contemplation of such Person becoming a Subsidiary;
- (l) restrictions and conditions imposed by agreements relating to non-Obligor Subsidiaries;
- (m) customary provisions in joint venture agreements and other similar agreements entered into in connection with any joint venture;
- (n) restrictions on cash or other deposits imposed by suppliers and customers under contracts entered into in the Ordinary Course of Business; and
- (o) customary net worth provisions contained in Real Estate leases entered into by Parent or any of its Subsidiaries.

10.2.15 Reserved.

10.2.16 Conduct of Business. Engage in any lines of business, other than as a conducted on the Closing Date any activities incidental, ancillary or reasonably related thereto (including providing proprietary credit solutions for customers).

10.2.17 Affiliate Transactions. Enter into or be party to any transaction with an Affiliate except:

- (a) transactions among Parent and its Subsidiaries on the one hand and the Secured Parties on the other hand contemplated by the Loan Documents;
- (b) payment of reasonable compensation to officers and employees for services actually rendered, and loans and advances permitted under this Agreement;
- (c) payment of customary directors' fees and indemnities;
- (d) transactions solely among Obligor to the extent permitted or not restricted hereunder;
- (e) transactions with Affiliates that were consummated prior to the Closing Date or any amendment thereto to the extent such amendment is not adverse to the Lenders in any material respect;
- (f) transactions with Affiliates no less favorable than would be obtained in a comparable arm's-length transaction with a non-Affiliate;
- (g) entry into a Permitted ABS Purchase Agreement, any other Permitted ABS Documents, and Permitted Originator Notes and all transactions contemplated thereunder;

(h) entry into a guaranty of any HY Notes, Permitted Additional HY Notes or Permitted Convertible Notes facility as permitted under **Section 10.2.1** and all transactions contemplated thereunder;

(i) servicing agreements and administration agreements, and all transactions contemplated thereunder, entered into in connection with a Permitted ABS Transaction;

(j) transactions solely among non-Obligor Subsidiaries;

(k) any Investment not prohibited by the definition of “Restricted Investment” or any merger, consolidation or combination not prohibited by **Section 10.2.9**;

(l) (i) any employment or severance agreements or arrangements entered into by Borrowers or any of the Subsidiaries in the Ordinary Course of Business, (ii) any subscription agreement or similar agreement pertaining to the repurchase of Equity Interests pursuant to put/call rights or similar rights with employees, officers, directors, members of management or consultants, and (iii) any employee compensation, benefit plan or arrangement, any health, disability or similar insurance plan which covers employees, and any reasonable employment contract or arrangement and transactions pursuant thereto;

(m) any purchase by Parent of or contributions to, the Equity Interests of Borrowers;

(n) transactions among Borrowers and the Subsidiaries for the purchase or sale of goods, products, parts and services entered into in the Ordinary Course of Business;

(o) transactions with customers, clients, suppliers or joint ventures for the purchase or sale of goods and services entered into in the Ordinary Course of Business; and

(p) Distributions permitted under **Section 10.2.4**.

10.2.18 Reserved.

10.2.19 Amendments to Subordinated Debt and HY Notes.

(a) Amend, supplement or otherwise modify any document, instrument or agreement relating to any Subordinated Debt or HY Notes, if, in any case, such modification (a) increases the principal balance of such Debt except as permitted by **Section 10.2.1**; (b) accelerates the date on which any installment of principal is due; (c) shortens the final maturity date (except to a date that is no earlier than 91 days after the Revolver Termination Date); or (d) in the case of Subordinated Debt, results in the Obligations not being fully benefited by any subordination provisions thereof. This **Section 10.2.19** shall not restrict any amendment, restatement, amendment and restatement, supplement, modification, replacement, renewal, extension and refinancing of Subordinated Debt or HY Notes otherwise not restricted under this Agreement or the applicable subordination agreement.

10.2.20 Reserved.

10.2.21 Amendment to Permitted ABS Documents. Permit any amendment, supplement or other modification in the Permitted ABS Documents, if such amendment, supplement or modification would be materially adverse to the interests of the Secured Parties; it being understood that no amendment, supplement, or other modification is adverse if (x) such amendment, supplement, or modification is permitted under the applicable Permitted ABS Intercreditor Agreement or (y) after giving effect to such amendment, supplement or other modification, the transactions under such Permitted ABS Documents as of the date of such amendment, supplement or other modification constitute a Permitted ABS Transaction.

10.3 Financial Covenants. As long as any Revolver Commitments are outstanding and the Full Payment of the Obligations has not occurred, Parent shall on a consolidated basis with its Subsidiaries:

10.3.1 Minimum Interest Coverage Ratio. Maintain an Interest Coverage Ratio at least (a) 1.50:1.00, measured on a trailing two Fiscal Quarter basis and (b) 1.00:1.00 measured for each Fiscal Quarter, in each case as of the last day of each Fiscal Quarter.

10.3.2 Maximum Leverage Ratio. Maintain a Leverage Ratio not greater than 4.50:1.00, measured quarterly as of the last day of each Fiscal Quarter.

10.3.3 Maximum ABS Excluded Leverage Ratio. Maintain an ABS Excluded Leverage Ratio not greater than 2.50:1.00, measured quarterly as of the last day of each Fiscal Quarter.

#### 10.4 Curative Equity.

10.4.1 Subject to the limitations set forth in **Section 10.4.6**, Borrowers may cure an Event of Default arising out of a breach of any of the financial covenants set forth in **Sections 10.3.1, 10.3.2 and 10.3.3** (the "Specified Financial Covenants") (as the case may be) by way of an investment of Curative Equity prior to the date on which the Compliance Certificate is delivered to Agent pursuant to **Section 10.1.2(d)** in respect of the Fiscal Quarter with respect to which any such breach occurred; provided, that Borrowers' right to so cure an Event of Default shall be contingent on the timely delivery of such Compliance Certificate as required under **Section 10.1.2(d)**.

10.4.2 The Borrowers shall promptly notify Agent of their receipt of any proceeds of Curative Equity and shall apply the same to the payment of the Obligations in the manner specified in **Section 5.3**.

10.4.3 Subject to the limitations set forth in **Section 10.4.6**, any investment of Curative Equity shall be in an amount that is sufficient to cause Parent and its Subsidiaries to be in compliance with all of the Specified Financial Covenants as at the last day of the most recently ended month or Fiscal Quarter (as the case may be), calculated for such purpose as if such amount were additional EBITDA and increase in Tangible Net Worth, and a decrease in total liabilities, as necessary, of Parent and its Subsidiaries as at such date and had been included in the financial calculations of Parent and its Subsidiaries on such date.

10.4.4 In the Compliance Certificate delivered pursuant to **Section 10.1.2(d)** in respect of the month end or Fiscal Quarter end (as the case may be) on which Curative Equity is used to cure any breach of the Specified Financial Covenants, Borrowers shall (i) include evidence of its receipt of Curative Equity proceeds, and (ii) set forth a calculation of the financial results and balance sheet of Parent and its Subsidiaries as at such month end or Fiscal Quarter end (as the case may be) (including for such purposes the proceeds of such Curative Equity as either deemed EBITDA for such month end or Fiscal Quarter end (as the case may be) and the three following month end or Fiscal Quarter end (as the case may be), or increased Tangible Net Worth and decreased total liabilities for such month end or Fiscal Quarter end (as the case may be), as if received on such date), which shall confirm that on a pro forma basis taking into account the application of Curative Equity proceeds, Parent and its Subsidiaries would have been in compliance with the Specified Financial Covenants (as at such date).

10.4.5 Upon delivery of a Compliance Certificate pursuant to **Section 10.1.2(d)** conforming to the requirements of this Section, any Event of Default that is continuing from a breach of any of the Specified Financial Covenants shall be deemed cured with no further action required by the Lenders. In the event Borrowers do not cure all financial covenant violations as provided in this **Section 10.4**, the existing Event of Default shall continue unless waived by the Required Lenders in writing.

10.4.6 Notwithstanding the foregoing, (i) Borrowers' rights under this **Section 10.4** may be exercised not more than two times during the term of this Agreement, and (ii) the amount of each investment of Curative Equity may not be less than \$1,000,000 or greater than \$20,000,000.

10.5 Contract Forms. The Borrowers shall not include in the Borrowing Base Contracts which are not on the printed forms previously approved in writing by Agent, and Borrowers shall not change or vary the printed forms of such Contracts in any material adverse manner without Agent's prior written consent not to be unreasonably withheld, delayed or conditioned, unless such change or variation is required by any Requirement of

Law or recommended by counsel to Borrowers. Agent may reasonably withhold its consent until Agent receives a reasonably satisfactory opinion of Borrowers' counsel regarding compliance of the revised form of Contract with any Requirement of Law.

10.6 Reserved.

## SECTION 11. EVENTS OF DEFAULT; REMEDIES ON DEFAULT

11.1 **Events of Default.** Each of the following shall be an "Event of Default" hereunder, if the same shall occur for any reason whatsoever, whether voluntary or involuntary, by operation of law or otherwise:

(a) A Borrower fails to pay (i) principal on any Revolver Loan when due (whether at stated maturity, on demand, upon acceleration or otherwise) or (ii) any interest, fees or other amounts due under this Agreement within three (3) Business Days of the date due;

(b) Any representation or warranty of an Obligor made in connection with any Loan Document or any certificate or instrument required to be furnished in connection with or pursuant to any Loan Document is incorrect or misleading in any material respect when given;

(c) A Borrower breaches or fail to perform any covenant contained in **Section 8.2.4, 8.2.5, 10.1.1, 10.1.3, 10.2** and **10.3**;

(d) An Obligor breaches or fails to (i) deliver a Borrowing Base Certificate required to be delivered pursuant to **Section 8.1** within three (3) Business Days of the date such Borrowing Base Certificate was required to be delivered, (ii) comply with **Section 7.6** and such failure is not cured within 10 Business Days or (iii) perform any other covenant contained in any Loan Documents, and such breach or failure is not cured within 30 days after a Senior Officer of such Obligor has knowledge thereof or receives written notice thereof from Agent, whichever is sooner;

(e) (i) A Guarantor repudiates, revokes or attempts to revoke its Guaranty; (ii) an Obligor denies in writing or contests the validity or enforceability of any Loan Documents; (iii) other than with respect to items of Collateral with a value not exceeding \$5,000,000 in the aggregate, any Lien granted to the Agent ceases to be a valid and perfected Lien (or the priority of such Lien ceases to be in full force and effect) (to the extent perfection is required hereunder or under any Loan Document), except to the extent that any such loss of validity, perfection or priority results from the failure of the Agent to maintain possession of Collateral requiring perfection through control or to file or record any document delivered to it for filing or recording; or (iv) any Loan Document ceases to be in full force or effect for any reason (other than in accordance with its terms or a waiver or release by Agent and Lenders);

(f) Any material breach or default of an Obligor occurs under (i) any Hedging Agreement or (ii) any instrument or agreement to which it is a party or by which it or any of its Properties is bound, in each case relating to any Debt (other than the Obligations) with an aggregate outstanding principal amount in excess of the Threshold Amount (including the documents related to the Permitted ABS Documents) and beyond the period of grace, if the maturity of or any payment with respect to such Debt may be accelerated or demanded due to such breach, in each case (x) unless such Debt has been paid in full or the failure has been waived or otherwise cured prior to the acceleration of the Obligations under the Loan Documents, (y) with respect to such Debt consisting of obligations under Hedging Agreements, termination events or equivalent events relating to the breach by Parent, any Borrower or any Subsidiary of the terms thereof and (z) this clause (f) shall not apply to secured Debt that becomes due as a result of the voluntary sale, transfer of the property or assets subject to such Debt or as a result of an event not constituting a Change of Control under this Agreement and such Debt is paid when due or prior to acceleration of the Obligations;

(g) Any final judgment or order for the payment of money is entered against an Obligor in an amount that exceeds, individually or cumulatively with all such unsatisfied judgments or orders against all Obligors, the Threshold Amount (net of insurance coverage therefor that has not been denied by the

insurer), and there is a period of 60 consecutive days during which (i) such judgment or order is not discharged, satisfied, vacated or bonded pending appeal or (ii) a stay of enforcement of such judgment or order, by reason of a pending appeal or otherwise, is not in effect;

(h) A loss, theft, damage or destruction occurs with respect to any Collateral included in the Borrowing Base if the amount not covered by insurance exceeds the Threshold Amount;

(i) An Obligor suffers the loss, revocation or termination any material license or permit which is necessary for the continued operation of a material part of such Obligor's business and such loss, revocation or termination could reasonably be expected to have a Material Adverse Effect, an Obligor agrees to or commences any liquidation, dissolution or winding up of its affairs; or an Obligor is not Solvent;

(j) An Insolvency Proceeding is commenced by an Obligor; an Obligor makes an offer of settlement, extension or composition to its unsecured creditors generally; a trustee is appointed to take possession of any substantial Property of or to operate any of the business of an Obligor; or an Insolvency Proceeding is commenced against an Obligor and the Obligor consents to institution of the proceeding (it being understood that any involuntary Insolvency Proceeding, petition or appointment described in this clause (j) shall not constitute an Event of Default unless such proceeding, petition or appointment shall continue undismissed for 60 days or an order for relief is entered in the proceeding, petition or appointment);

(k) (i) An ERISA Event occurs with respect to a Pension Plan or Multiemployer Plan that has resulted or could reasonably be expected to result in liability of an Obligor to a Pension Plan, Multiemployer Plan or PBGC, or that constitutes grounds for appointment of a trustee for or termination by the PBGC of any Pension Plan or Multiemployer Plan; (ii) an Obligor or ERISA Affiliate fails to pay when due any installment payment with respect to its withdrawal liability under Section 4201 of ERISA under a Multiemployer Plan; or (iii) any event similar to the foregoing occurs or exists with respect to a Foreign Plan, but, in each case in this clause (k) only if such occurrence or event would either individually or in the aggregate reasonably be expected to result in an Obligor or the Obligors incurring a liability which would have a Material Adverse Effect;

(l) An Obligor or any of its Senior Officers is criminally indicted or convicted for (i) a felony committed in the conduct of the Obligor's business, or (ii) violating any state or federal law (including the Controlled Substances Act, Money Laundering Control Act of 1986 and Illegal Exportation of War Materials Act) that could lead to forfeiture of any Collateral with an aggregate fair market value in excess of \$10,000,000;

(m) A Change of Control occurs; or

(n) A Level Two Regulatory Event has occurred.

11.2 **Remedies upon Default.** Upon the occurrence and during the continuance of an Event of Default described in **Section 11.1(j)** with respect to any Borrower, then to the extent permitted by Applicable Law, all Obligations (other than Secured Bank Product Obligations) shall become automatically due and payable and all Revolver Commitments shall terminate, without any action by Agent or notice of any kind. In addition, or if any other Event of Default exists, Agent may in its sole discretion (and shall upon written direction of Required Lenders) do any one or more of the following from time to time:

(a) declare any Obligations (other than Secured Bank Product Obligations) immediately due and payable, whereupon they shall be due and payable without diligence, presentment, demand, protest or notice of any kind, all of which are hereby waived by Borrowers to the fullest extent permitted by law;

(b) terminate, reduce or condition any Revolver Commitment, adjust the Borrowing Base, CAI Borrowing Base, or CCI Borrowing Base;

(c) require Obligors to Cash Collateralize LC Obligations or other Obligations under the Loan Documents that are contingent or not yet due and payable, and, if Obligors fail promptly to deposit such Cash Collateral, Agent may (and shall upon the direction of Required Lenders) advance the required Cash Collateral

as Revolver Loans (whether or not an Overadvance exists or is created thereby, or the conditions in **Section 6** are satisfied); and

(d) exercise any other rights or remedies afforded under any agreement, by law, at equity or otherwise, including the rights and remedies of a secured party under the UCC. Such rights and remedies include the rights to (i) take possession of any Collateral; (ii) require Borrowers to assemble Collateral, at Borrowers' expense, and make it available to Agent at a place designated by Agent; (iii) enter any premises where Collateral is located and store Collateral on such premises until sold (and if the premises are owned or leased by a Borrower, Borrowers agree not to charge for such storage); and (iv) sell or otherwise dispose of any Collateral in its then condition, or after any further manufacturing or processing thereof, at public or private sale, with such notice as may be required by Applicable Law, in lots or in bulk, at such locations, all as Agent, in its discretion, deems advisable. Each Borrower agrees that 10 days' notice of any proposed sale or other disposition of Collateral by Agent shall be reasonable, and that any sale conducted on the internet or to a licensor of Intellectual Property shall be commercially reasonable so long as otherwise conducted in accordance with Applicable Law. Agent shall have the right to conduct such sales on any Obligor's premises, without charge, and any sale may be adjourned from time to time in accordance with Applicable Law. Agent shall have the right to sell, lease or otherwise dispose of any Collateral for cash, credit or any combination thereof, and Agent may purchase any Collateral at public or, if permitted by law, private sale and, in lieu of actual payment of the purchase price, may credit bid and set off the amount of such price against the Obligations.

(e) So long as a Level Two Regulatory Event is continuing, Agent shall have the right to immediately substitute a third party acceptable to Agent as servicer or asset manager of Borrowers' respective or collective portfolios of Contracts, and upon and after such substitution, such replacement servicer shall be entitled to receive a commercially reasonable fee for such services; provided, that upon the cure of such Event of Default, Borrowers shall be reinstated as such servicer or asset manager as promptly as practicable.

11.3 **License.** Except as is prohibited by an existing and enforceable anti-assignment provision (other than to the extent that any such term would be rendered ineffective pursuant to the UCC or any other Applicable Law or principles of equity), Agent is hereby granted an irrevocable, non-exclusive license or other right to use, license or sub-license (without payment of royalty or other compensation to any Person) any or all Intellectual Property of Borrowers, computer hardware and software, trade secrets, brochures, customer lists, promotional and advertising materials, labels, packaging materials and other Property, in advertising for sale, marketing, selling, collecting, completing manufacture of, or otherwise exercising any rights or remedies with respect to, any Collateral.

11.4 **Setoff.** At any time during the existence of an Event of Default, Agent, Issuing Bank, Lenders, and any of their Affiliates are authorized, to the fullest extent permitted by Applicable Law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held and other obligations (in whatever currency) at any time owing by Agent, Issuing Bank, such Lender or such Affiliate (other than, for the avoidance of doubt, Tax and Trust Funds) to or for the credit or the account of an Obligor against its Obligations, whether or not Agent, Issuing Bank, such Lender or such Affiliate shall have made any demand under this Agreement or any other Loan Document and although such Obligations may be contingent or unmatured or are owed to a branch or office of Agent, Issuing Bank, such Lender or such Affiliate different from the branch or office holding such deposit or obligated on such indebtedness. The rights of Agent, Issuing Bank, each Lender and each such Affiliate under this Section are in addition to other rights and remedies (including other rights of setoff) that such Person may have. Each Lender and the Issuing Bank agrees to promptly notify the Borrowers and the Agent after any such setoff and application.

#### 11.5 **Remedies Cumulative; No Waiver.**

11.5.1 **Cumulative Rights.** All agreements, warranties, guaranties, indemnities and other undertakings of Obligors under the Loan Documents are cumulative and not in derogation of each other. The rights and remedies of Agent and Lenders are cumulative, may be exercised at any time and from time to time, concurrently or in any order, and are not exclusive of any other rights or remedies available by agreement, by law,

at equity or otherwise. All such rights and remedies shall continue in full force and effect until Full Payment of all Obligations under the Loan Documents.

11.5.2 Waivers. No waiver or course of dealing shall be established by (a) the failure or delay of Agent or any Lender to require strict performance by any Obligor under any Loan Document, or to exercise any rights or remedies with respect to Collateral or otherwise; (b) the making of any Revolver Loan or issuance of any Letter of Credit during a Default, Event of Default or other failure to satisfy any conditions precedent; or (c) acceptance by Agent or any Lender of any payment or performance by an Obligor under any Loan Documents in a manner other than that specified therein. Except as provided in **Section 10.4**, any failure to satisfy a financial covenant on a measurement date shall not be cured or remedied by satisfaction of such covenant on a subsequent date.

## SECTION 12. AGENT

### 12.1 Appointment, Authority and Duties of Agent.

12.1.1 Appointment and Authority. Each Secured Party appoints and designates JPM as Agent under all Loan Documents. Agent may, and each Secured Party authorizes Agent to, enter into all Loan Documents to which Agent is intended to be a party and accept all Security Documents. Any action taken by Agent or Required Lenders in accordance with the provisions of the Loan Documents, and the exercise by Agent or Required Lenders of any rights or remedies set forth therein, together with all other powers reasonably incidental thereto, shall be authorized by and binding upon all Secured Parties. Without limiting the generality of the foregoing, Agent shall have the sole and exclusive authority to (a) act as the disbursing and collecting agent for Lenders with respect to all payments and collections arising in connection with the Loan Documents; (b) execute and deliver as Agent each Loan Document, including any intercreditor or subordination agreement (including any intercreditor or subordination agreement in respect of the Existing HY Notes with the purchaser of (or any trustee, agent or representative for the purchaser of) any Third Party Contract), and accept delivery of each Loan Document; (c) act as collateral agent for Secured Parties for purposes of perfecting and administering Liens under the Loan Documents, and for all other purposes stated therein; (d) manage, supervise or otherwise deal with Collateral; and (e) take any Enforcement Action or otherwise exercise any rights or remedies with respect to any Collateral or under any Loan Documents, Applicable Law or otherwise. Agent alone is authorized to determine eligibility and applicable advance rates under the Borrowing Base, whether to impose or release any reserve, or whether any conditions to funding or issuance of a Letter of Credit have been satisfied, which determinations and judgments, if exercised in good faith, shall exonerate Agent from liability to any Secured Party or other Person for any error in judgment. No Secured Party (other than Agent) shall have any right individually to take any Enforcement Action or otherwise exercise any rights or remedies with respect to any Collateral under the Loan Documents, Applicable Law or otherwise.

12.1.2 Duties. The title of “Agent” is used solely as a matter of market custom and the duties of Agent are administrative in nature only. Agent has no duties except those expressly set forth in the Loan Documents, and in no event does Agent have any agency, fiduciary or implied duty to or relationship with any Secured Party or other Person by reason of any Loan Document or related transaction. The conferral upon Agent of any right shall not imply a duty to exercise such right, unless instructed to do so by Lenders in accordance with this Agreement.

12.1.3 Agent Professionals. Agent may perform its duties through agents and employees. Agent may consult with and employ Agent Professionals, and shall be entitled to act upon, and shall be fully protected in any action taken in good faith reliance upon, any advice given by an Agent Professional. Agent shall not be responsible for the negligence or misconduct of any agents, employees or Agent Professionals selected by it with reasonable care.

12.1.4 Instructions of Required Lenders. The rights and remedies conferred upon Agent under the Loan Documents may be exercised without the necessity of joining any other party, unless required by Applicable Law. In determining compliance with a condition for any action hereunder, including satisfaction of any condition in **Section 6**, Agent may presume that the condition is satisfactory to a Secured Party unless Agent has received

notice to the contrary from such Secured Party before Agent takes the action. Agent may request instructions from Required Lenders or other Secured Parties with respect to any act (including the failure to act) in connection with any Loan Documents or Collateral, and may seek assurances to its satisfaction from Secured Parties of their indemnification obligations against Claims that could be incurred by Agent. Agent may refrain from any act until it has received such instructions or assurances, and shall not incur liability to any Person by reason of so refraining. Instructions of Required Lenders shall be binding upon all Secured Parties, and no Secured Party shall have any right of action whatsoever against Agent as a result of Agent acting or refraining from acting pursuant to instructions of Required Lenders. Notwithstanding the foregoing, instructions by and consent of specific parties shall be required to the extent provided in **Section 14.1.1**. In no event shall Agent be required to take any action that it determines in its discretion is contrary to Applicable Law or any Loan Documents or could subject any Agent Indemnitee to liability.

## 12.2 **Agreements Regarding Collateral and Borrower Materials.**

12.2.1 **Lien Releases; Care of Collateral.** Agent will release (and the Secured Parties authorize Agent to release) any Lien on any Collateral (a) upon Full Payment of the Obligations under the Loan Documents; (b) that is the subject of a disposition or Lien that Borrowers certify in writing is a Permitted Asset Disposition or a Permitted Lien entitled to priority over Agent's Liens (and Agent may rely conclusively on such certificate without further inquiry); (c) that does not constitute a material part of the Collateral (as agreed by Agent and Borrower); or (d) subject to **Section 14.1**, with the consent of Required Lenders. Secured Parties authorize Agent to subordinate its Liens to any Purchase Money Lien or other Lien entitled to priority hereunder. Agent has no obligation to assure that any Collateral exists or is owned by an Obligor, or is cared for, protected or insured, nor to assure that Agent's Liens have been properly created, perfected or enforced, or are entitled to any particular priority, nor to exercise any duty of care with respect to any Collateral.

12.2.2 **Possession of Collateral.** Agent and Secured Parties appoint each Secured Party as agent (for the benefit of Secured Parties) for the purpose of perfecting Liens in Collateral held or controlled by it, to the extent such Liens are perfected by possession or control. If a Secured Party obtains possession or control of any Collateral, it shall notify Agent thereof and, promptly upon Agent's request, deliver such Collateral to Agent or otherwise deal with it in accordance with Agent's instructions.

12.2.3 **Reports.** Agent shall promptly provide to Lenders, when complete, any field examination, audit or appraisal report prepared for Agent with respect to any Obligor or Collateral ("**Report**"). Reports and other Borrower Materials may be made available to Lenders by providing access to them on the Approved Electronic Platform, but Agent shall not be responsible for system failures or access issues that may occur from time to time. Each Lender agrees (a) that Reports are not intended to be comprehensive audits or examinations, and that Agent or any other Person performing an audit or examination will inspect only limited information and will rely significantly upon Borrowers' books, records and representations; (b) that Agent makes no representation or warranty as to the accuracy or completeness of any Borrower Materials and shall not be liable for any information contained in or omitted from any Borrower Materials, including any Report; and (c) to keep all Borrower Materials confidential and strictly for such Lender's internal use, not to distribute any Report or other Borrower Materials (or the contents thereof) to any Person (except to such Lender's Participants, attorneys and accountants in accordance with the requirements of **Section 13**), and to use all Borrower Materials solely for administration of the Obligations. Each Lender shall indemnify and hold harmless Agent and any other Person preparing a Report from any action such Lender may take as a result of or any conclusion it may draw from any Borrower Materials, as well as from any Claims arising as a direct or indirect result of Agent furnishing same to such Lender, via the Approved Electronic Platform or otherwise.

12.3 **Reliance By Agent.** Agent shall be entitled to rely, and shall be fully protected in relying, upon any certification, notice or other communication (including those by telephone, telex, telegram, telecopy, email or other electronic means) believed by it to be genuine and correct and to have been signed, sent or made by the proper Person (including, for the avoidance of doubt, in connection with Agent's reliance on any Electronic Signature transmitted by telecopy, emailed .pdf or any other electronic means that reproduces an image of an actual executed signature page). Agent shall have a reasonable and practicable amount of time to act upon any instruction, notice or other communication under any Loan Document, and shall not be liable for any delay in acting.

12.4 **Action Upon Default.** Agent shall not be deemed to have knowledge of any Default or Event of Default, or of any failure to satisfy any conditions in **Section 6**, unless it has received written notice from a Borrower or Required Lenders specifying the occurrence and nature thereof. If a Lender acquires knowledge of a Default, Event of Default or failure of such conditions, it shall promptly notify Agent and the other Lenders thereof in writing. Each Secured Party agrees that, except as otherwise provided in any Loan Documents or with the written consent of Agent and Required Lenders, it will not take any Enforcement Action, accelerate Obligations (other than Secured Bank Product Obligations) or assert any rights relating to any Collateral.

12.5 **Ratable Sharing.** If any Lender obtains any payment or reduction of any Obligation, whether through set-off or otherwise, in excess of its ratable share of such Obligation, such Lender shall forthwith purchase from Secured Parties participations in the affected Obligation as are necessary to share the excess payment or reduction on a Pro Rata basis or in accordance with **Section 5.6.2**, as applicable. If any of such payment or reduction is thereafter recovered from the purchasing Lender, the purchase shall be rescinded and the purchase price restored to the extent of such recovery, but without interest. Notwithstanding the foregoing, if a Defaulting Lender obtains a payment or reduction of any Obligation, it shall immediately turn over the full amount thereof to Agent for application under **Section 4.2.2** and it shall provide a written statement to Agent describing the Obligation affected by such payment or reduction. No Lender shall set off against a Deposit Account or Securities Account without Agent's prior consent.

12.6 **Indemnification.** EACH SECURED PARTY SHALL INDEMNIFY AND HOLD HARMLESS AGENT INDEMNITEES AND ISSUING BANK INDEMNITEES, TO THE EXTENT NOT REIMBURSED BY OBLIGORS, ON A PRO RATA BASIS, AGAINST ALL CLAIMS THAT MAY BE INCURRED BY OR ASSERTED AGAINST ANY SUCH INDEMNITEE, PROVIDED THAT ANY CLAIM AGAINST AN AGENT INDEMNITEE RELATES TO OR ARISES FROM ITS ACTING AS OR FOR AGENT (IN THE CAPACITY OF AGENT). In Agent's discretion, it may reserve for any Claims made against an Agent Indemnitee or Issuing Bank Indemnitee, and may satisfy any judgment, order or settlement relating thereto, from proceeds of Collateral prior to making any distribution of Collateral proceeds to Secured Parties. If Agent is sued by any receiver, trustee or other Person for any alleged preference or fraudulent transfer, then any monies paid by Agent in settlement or satisfaction of such proceeding, together with all interest, costs and expenses (including attorneys' fees) incurred in the defense of same, shall be promptly reimbursed to Agent by each Secured Party to the extent of its Pro Rata share.

12.7 **Limitation on Responsibilities of Agent.** Agent shall not be liable to any Secured Party for any action taken or omitted to be taken under the Loan Documents, except for losses directly and solely caused by Agent's gross negligence or willful misconduct. Agent does not assume any responsibility for any failure or delay in performance or any breach by any Obligor, Lender or other Secured Party of any obligations under the Loan Documents. Agent does not make any express or implied representation, warranty or guarantee to Secured Parties with respect to any Obligations, Collateral, Liens, Loan Documents or Obligor. No Agent Indemnitee shall be responsible to Secured Parties for any recitals, statements, information, representations or warranties contained in any Loan Documents or Borrower Materials; the execution, validity, genuineness, effectiveness or enforceability of any Loan Documents; the genuineness, enforceability, collectability, value, sufficiency, location or existence of any Collateral, or the validity, extent, perfection or priority of any Lien therein; the validity, enforceability or collectability of any Obligations; or the assets, liabilities, financial condition, results of operations, business, creditworthiness or legal status of any Obligor or Contract Debtor. No Agent Indemnitee shall have any obligation to any Secured Party to ascertain or inquire into the existence of any Default or Event of Default, the observance by any Obligor of any terms of the Loan Documents, or the satisfaction of any conditions precedent contained in any Loan Documents.

#### 12.8 **Successor Agent and Co-Agents.**

12.8.1 **Resignation; Successor Agent.** Agent may resign at any time by giving at least 30 days written notice thereof to Lenders and Borrowers. If Agent is a Defaulting Lender, Borrower Agent or the Required Lenders may, if permitted by Applicable Law, remove such Agent by written notice to Borrowers and Agent. Required Lenders may appoint a successor to replace the resigning or removed Agent that is (a) a Lender or Affiliate of a Lender; or (b) a financial institution reasonably acceptable to Required Lenders and (provided no

Event of Default exists pursuant to **Section 11.1(a) or (j)**) Borrowers. If no successor is appointed by the effective date of Agent's resignation or removal, then on such date, Agent may appoint a successor acceptable to it in its discretion and the Borrowers (provided no Event of Default exists pursuant to **Section 11.1(a) or (j)**) (which shall be a Lender unless no Lender accepts the role) or in the absence of such appointment, Required Lenders automatically assume all rights and duties of Agent, the successor Agent shall thereupon succeed to and become vested with all the powers and duties of the retiring Agent without further act. The retiring or removed Agent shall be discharged from its duties hereunder on the effective date of its resignation or removal, but shall continue to have all rights and protections available to Agent under the Loan Documents with respect to actions, omissions, circumstances or Claims relating to or arising while it was acting or transferring responsibilities as Agent or holding any Collateral on behalf of Secured Parties, including the indemnification set forth in **Sections 12.6 and 14.2**, and all rights and protections under this **Section 12**. Any successor to JPM by merger or acquisition of stock or this loan shall continue to be Agent hereunder without further act on the part of any Secured Party or Obligor.

12.8.2 Co-Collateral Agent. If allowed under Applicable Law, Agent may appoint, subject to the approval of Borrower (such approval not to be unreasonably withheld or delayed) a Person to serve as a co-collateral agent or separate collateral agent under any Loan Document. Each right, remedy and protection intended to be available to Agent under the Loan Documents shall also be vested in such separate agent. Secured Parties shall execute and deliver any instrument or agreement that Agent may request to effect such appointment. If any such agent shall die, dissolve, become incapable of acting, resign or be removed, then all the rights and remedies of such agent, to the extent permitted by Applicable Law, shall vest in and be exercised by Agent until appointment of a new agent.

## 12.9 Acknowledgments of Lenders and Secured Parties.

12.9.1 Each Lender and each Issuing Bank acknowledges and agrees that it has, independently and without reliance upon Agent, any other Lenders or Issuing Banks, and based upon such documents, information and analyses as it has deemed appropriate, made its own credit analysis of each Obligor and its own decision to enter into this Agreement and to fund Revolver Loans and participate in LC Obligations hereunder. Each Secured Party has made such inquiries as it feels necessary concerning the Loan Documents, Collateral and Obligors. Each Secured Party acknowledges and agrees that the other Secured Parties have made no representations or warranties concerning any Obligor, any Collateral or the legality, validity, sufficiency or enforceability of any Loan Documents or Obligations. Each Secured Party will, independently and without reliance upon any other Secured Party, and based upon such financial statements, documents and information as it deems appropriate at the time, continue to make and rely upon its own credit decisions in making Revolver Loans and participating in LC Obligations, and in taking or refraining from any action under any Loan Documents. Except for notices, reports and other information expressly requested by a Lender or Issuing Bank, Agent shall have no duty or responsibility to provide any Secured Party with any notices, reports or certificates furnished to Agent by any Obligor or any credit or other information concerning the affairs, financial condition, business or Properties of any Obligor (or any of its Affiliates) which may come into possession of Agent or its Affiliates.

12.9.2 (a) Each Lender and each Issuing Bank hereby agrees that (i) if Agent notifies such Lender or Issuing Bank that Agent has determined in its sole discretion that any funds received by such Lender or Issuing Bank from Agent or any of its Affiliates (whether as a payment, prepayment or repayment of principal, interest, fees or otherwise; individually and collectively, a "Payment") were erroneously transmitted to such Lender or Issuing Bank (whether or not known to such Lender or Issuing Bank), and demands the return of such Payment (or a portion thereof), such Lender or Issuing Bank shall promptly, but in no event later than one Business Day thereafter, return to Agent the amount of any such Payment (or portion thereof) as to which such a demand was made in same day funds, together with interest thereon in respect of each day from and including the date such Payment (or portion thereof) was received by such Lender or Issuing Bank to the date such amount is repaid to Agent at the greater of the NYFRB Rate and a rate determined by Agent in accordance with banking industry rules on interbank compensation from time to time in effect, and (ii) to the extent permitted by Applicable Law, such Lender or Issuing Bank shall not assert, and hereby waives, as to Agent, any claim, counterclaim, defense or right of set-off or recoupment with respect to any demand, claim or counterclaim by Agent for the return of any Payments received, including without limitation any defense based on "discharge for value" or any similar doctrine. A notice of Agent to any Lender or Issuing Bank under this **Section 12.9.2** shall be conclusive, absent manifest error.

(b) Each Lender and each Issuing Bank hereby further agrees that if it receives a Payment from Agent or any of its Affiliates (i) that is in a different amount than, or on a different date from, that specified in a notice of payment sent by Agent (or any of its Affiliates) with respect to such Payment (a "Payment Notice") or (ii) that was not preceded or accompanied by a Payment Notice, it shall be on notice, in each such case, that an error has been made with respect to such Payment. Each Lender or Issuing Bank agrees that, in each such case, or if it otherwise becomes aware a Payment (or portion thereof) may have been sent in error, such Lender or Issuing Bank shall promptly notify Agent of such occurrence and, upon demand from Agent, it shall promptly, but in no event later than one Business Day thereafter, return to Agent the amount of any such Payment (or portion thereof) as to which such a demand was made in same day funds, together with interest thereon in respect of each day from and including the date such Payment (or portion thereof) was received by such Lender or Issuing Bank to the date such amount is repaid to Agent at the greater of the NYFRB Rate and a rate determined by Agent in accordance with banking industry rules on interbank compensation from time to time in effect.

(c) The Borrowers and each other Obligor hereby agrees that (i) in the event an erroneous Payment (or portion thereof) is not recovered from any Lender or Issuing Bank that has received such Payment (or portion thereof) for any reason, Agent shall be subrogated to all the rights of such Lender or Issuing Bank with respect to such amount if any, under and pursuant to the terms of this Agreement and (ii) an erroneous Payment shall not pay, prepay, repay, discharge or otherwise satisfy any Obligations owed by the Borrowers or any other Obligor, except, in each case, to the extent such erroneous Payment (or any portion thereof) is, and solely with respect to the amount of such erroneous Payment that is, comprised of funds of the Borrower or any other Obligor.

(d) Each party's obligations under this **Section 12.9.2** shall survive the resignation or replacement of Agent or any transfer of rights or obligations by, or the replacement of, a Lender or Issuing Bank, the termination of the Revolver Commitments or the repayment, satisfaction or discharge of all Obligations (or any portion thereof) under any Loan Document.

## 12.10 **Remittance of Payments and Collections.**

12.10.1 **Remittances Generally.** Payments by any Secured Party to Agent shall be made by the time and date provided herein, in immediately available funds. If no time for payment is specified or if payment is due on demand by Agent and request for payment is made by Agent by 12:00 noon, on a Business Day, then payment shall be made by the Secured Party by 2:00 p.m., on such day, and if request is made after 12:00 noon, then payment shall be made by 12:00 noon, on the next Business Day. Payment by Agent to any Secured Party shall be made by wire transfer, in the type of funds received by Agent. Any such payment shall be subject to Agent's right of offset for any amounts due from such payee under the Loan Documents.

12.10.2 **Failure to Pay.** If any Secured Party fails to deliver when due any amount payable by it to Agent hereunder, such amount shall bear interest, from the due date until paid in full, at the greater of the NYFRB Rate or the rate determined by Agent as customary for interbank compensation for two Business Days and thereafter at the Default Rate for Base Rate Revolver Loans. In no event shall Borrowers be entitled to credit for any interest paid by a Secured Party to Agent, nor shall a Defaulting Lender be entitled to interest on amounts held by Agent pursuant to **Section 4.2**.

12.10.3 **Recovery of Payments.** If Agent pays an amount to a Secured Party in the expectation that a related payment will be received by Agent from an Obligor and such related payment is not received, then Agent may recover such amount from the Secured Party. If Agent determines that an amount received by it must be returned or paid to an Obligor or other Person pursuant to Applicable Law or otherwise, then, notwithstanding any other term of any Loan Document, Agent shall not be required to distribute such amount to any Secured Party. If Agent is required to return any amounts applied by it to Obligations held by a Secured Party, such Secured Party shall pay to Agent, on demand, its share of the amounts required to be returned.

12.11 **Individual Capacities.** As a Lender, JPM shall have the same rights and remedies under the Loan Documents as any other Lender, and the terms "Lenders," "Required Lenders" or any similar term shall include JPM in its capacity as a Lender. Agent, Lenders and their Affiliates may accept deposits from, lend money to, provide Bank Products to, act as financial or other advisor to, and generally engage in any kind of business with, Obligors and their Affiliates, as if they were not Agent or Lenders hereunder, without any duty to account therefor

to any Secured Party. In their individual capacities, Agent, Lenders and their Affiliates may receive information regarding Obligors, their Affiliates and their Contract Debtors (including information subject to confidentiality obligations), and shall have no obligation to provide such information to any Secured Party.

12.12 **Titles.** Each Lender, other than JPM, that is designated in connection with this credit facility as an “Arranger,” “Bookrunner” or “Agent” of any kind shall have no right or duty under any Loan Documents other than those applicable to all Lenders, and shall in no event have any fiduciary duty to any Secured Party.

12.13 **Bank Product Providers.** Each Secured Bank Product Provider, by delivery of a notice to Agent of a Bank Product, agrees to be bound by the Loan Documents, including **Sections 5.6, 12, 14.3.3 and 14.16**, and agrees to hold harmless Agent Indemnitees, to the extent not reimbursed by Obligors, against all Claims that may be incurred by or asserted against any Agent Indemnitee in connection with such provider’s Secured Bank Product Obligations.

12.14 **No Third Party Beneficiaries.** This **Section 12** is an agreement solely among Secured Parties and Agent, and shall survive Full Payment of the Obligations under the Loan Documents. Other than with respect to **Sections 12.1, 12.2, 12.4, 12.5, 12.8, 12.9, 12.11 and 12.15**, this **Section 12** does not confer any rights or benefits upon Borrowers or any other Person. As between Borrowers and Agent, any action that Agent may take under any Loan Documents or with respect to any Obligations shall be conclusively presumed to have been authorized and directed by Secured Parties.

12.15 **Lender Representations and Warranties.**

(a) Each Lender (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Agent and the Arranger and their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Obligor, that at least one of the following is and will be true:

(i) such Lender is not using “plan assets” (within the meaning of 29 CFR § 2510.3-101, as modified by Section 3(42) of ERISA) of one or more Benefit Plans in connection with the Revolver Loans, the Letters of Credit or the Revolver Commitments,

(ii) the transaction exemption set forth in one or more PTEs, such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers), is applicable with respect to such Lender’s entrance into, participation in, administration of and performance of the Revolver Loans, the Letters of Credit, the Revolver Commitments and this Agreement,

(iii) (A) such Lender is an investment fund managed by a “Qualified Professional Asset Manager” (within the meaning of Part VI of PTE 84-14), (B) such Qualified Professional Asset Manager made the investment decision on behalf of such Lender to enter into, participate in, administer and perform the Revolver Loans, the Letters of Credit, the Commitments and this Agreement, (C) the entrance into, participation in, administration of and performance of the Revolver Loans, the Letters of Credit, the Revolver Commitments and this Agreement satisfies the requirements of subsections (b) through (g) of Part I of PTE 84-14 and (D) to the best knowledge of such Lender, the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Lender’s entrance into, participation in, administration of and performance of the Revolver Loans, the Letters of Credit, the Revolver Commitments and this Agreement, or

(iv) such other representation, warranty and covenant as may be agreed in writing between the Agent, in its sole discretion, and such Lender.

(b) In addition, unless sub-clause (i) in the immediately preceding clause (a) is true with respect to a Lender or such Lender has not provided another representation, warranty and covenant as provided in sub-clause (iv) in the immediately preceding clause (a), such Lender further (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Agent and the Arranger and their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Obligor, that:

(i) none of the Agent or the Arranger or any of their respective Affiliates is a fiduciary with respect to the assets of such Lender (including in connection with the reservation or exercise of any rights by the Agent under this Agreement, any Loan Document or any documents related to hereto or thereto),

(ii) the Person making the investment decision on behalf of such Lender with respect to the entrance into, participation in, administration of and performance of the Revolver Loans, the Letters of Credit, the Revolver Commitments and this Agreement is independent (within the meaning of 29 CFR § 2510.3-21) and is a bank, an insurance carrier, an investment adviser, a broker-dealer or other Person that holds, or has under management or control, total assets of at least \$50 million, in each case as described in 29 CFR § 2510.3-21(c)(1)(i)(A)-(E),

(iii) the Person making the investment decision on behalf of such Lender with respect to the entrance into, participation in, administration of and performance of the Revolver Loans, the Letters of Credit, the Revolver Commitments and this Agreement is capable of evaluating investment risks independently, both in general and with regard to particular transactions and investment strategies (including in respect of the Obligations),

(iv) the Person making the investment decision on behalf of such Lender with respect to the entrance into, participation in, administration of and performance of the Revolver Loans, the Letters of Credit, the Revolver Commitments and this Agreement is a fiduciary under ERISA or the Code, or both, with respect to the Revolver Loans, the Letters of Credit, the Revolver Commitments and this Agreement and is responsible for exercising independent judgment in evaluating the transactions hereunder, and

(v) no fee or other compensation is being paid directly to the Agent or the Arranger or any their respective Affiliates for investment advice (as opposed to other services) in connection with the Revolver Loans, the Letters of Credit, the Revolver Commitments or this Agreement.

(c) The Agent and the Arranger hereby informs the Lenders that each such Person is not undertaking to provide impartial investment advice, or to give advice in a fiduciary capacity, in connection with the transactions contemplated hereby, and that such Person has a financial interest in the transactions contemplated hereby in that such Person or an Affiliate thereof (i) may receive interest or other payments with respect to the Revolver Loans, the Letters of Credit, the Revolver Commitments and this Agreement, (ii) may recognize a gain if it extended the Revolver Loans, the Letters of Credit or the Revolver Commitments for an amount less than the amount being paid for an interest in the Revolver Loans, the Letters of Credit or the Revolver Commitments by such Lender or (iii) may receive fees or other payments in connection with the transactions contemplated hereby, the Revolver Loan Documents or otherwise, including structuring fees, commitment fees, arrangement fees, facility fees, upfront fees, underwriting fees, ticking fees, agency fees, Agent or collateral agent fees, utilization fees, minimum usage fees, letter of credit fees, fronting fees, deal-away or alternate transaction fees, amendment fees, processing fees, term out premiums, banker's acceptance fees, breakage or other early termination fees or fees similar to the foregoing.

### SECTION 13. BENEFIT OF AGREEMENT; ASSIGNMENTS

13.1 **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of Borrowers, Agent, Lenders, Secured Parties and their respective successors and permitted assigns, except that (a) no Borrower shall have the right to assign its rights or delegate its obligations under any Loan Documents other than as set forth in **Section 10.2.9**; and (b) any assignment by a Lender must be made in compliance with **Section 13.3**. Agent may treat the Person which made any Revolver Loan or Swingline Loan as the owner thereof for all purposes until such Person makes an assignment in accordance with **Section 13.3**. Any authorization or consent of a Lender shall be conclusive and binding on any subsequent transferee or assignee of such Lender.

### 13.2 **Participations.**

13.2.1 **Permitted Participants; Effect.** Subject to **Section 13.3.3**, any Lender may sell to a financial institution (“Participant”) a participating interest in the rights and obligations of such Lender under any Loan Documents. Despite any sale by a Lender of participating interests to a Participant, such Lender’s obligations under the Loan Documents shall remain unchanged, it shall remain solely responsible to the other parties hereto for performance of such obligations, it shall remain the holder of its Revolver Loans and Revolver Commitments for all purposes, all amounts payable by Borrowers shall be determined as if it had not sold such participating interests, and Borrowers and Agent shall continue to deal solely and directly with such Lender in connection with the Loan Documents. Any agreement pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and the other Loan Documents. Each Lender shall be solely responsible for notifying its Participants of any matters under the Loan Documents, and Agent and the other Lenders shall not have any obligation or liability to any such Participant. A Participant that would be a Foreign Lender if it were a Lender shall not be entitled to the benefits of **Section 5.9** unless Borrowers agree otherwise in writing.

13.2.2 **Voting Rights.** Each Lender shall retain the sole right to approve, without the consent of any Participant, any amendment, waiver or other modification of a Loan Document other than that which forgives principal, interest or fees, reduces the stated interest rate or fees payable with respect to any Revolver Loan or Revolver Commitment in which such Participant has an interest, postpones the Revolver Commitment Termination Date or any date fixed for any regularly scheduled payment of principal, interest or fees on such Revolver Loan or Revolver Commitment, or releases any Borrower, Guarantor or substantially all of the Collateral.

13.2.3 **Participant Register.** Each Lender that sells a participation shall, acting as a non-fiduciary agent of Borrowers (solely for tax purposes), maintain a register in which it enters the Participant’s name, address and interest in Revolver Commitments, Revolver Loans (and stated interest) and LC Obligations. Entries in the register shall be conclusive, absent manifest error, and such Lender shall treat each Person recorded in the register as the owner of the participation for all purposes, notwithstanding any notice to the contrary. No Lender shall have an obligation to disclose any information in such register except to the extent necessary to establish that a Participant’s interest is in registered form under the Code.

13.2.4 **Benefit of Setoff.** Each Participant shall have a right of set-off pursuant to **Section 11.4** in respect of its participating interest to the same extent as if such interest were owing directly to a Lender, and each Lender shall also retain the right of set-off pursuant to **Section 11.4** with respect to any participating interests sold by it. By exercising any right of set-off, a Participant agrees to share with Lenders all amounts received through its set-off, in accordance with **Section 12.5** as if such Participant were a Lender.

13.2.5 **Increased Costs/Break Funding/Taxes.** A Participant shall not be entitled to receive any greater payment under **Section 3.7, 3.9, 5.9** or **5.10** 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 Borrower’s prior written consent expressly acknowledging such Participant may receive a greater benefit. A Participant shall not be entitled to the benefits of **Section 5.9** and **5.10** to the extent such Participant fails to comply with **Section 5.10.1** as though it were a Lender.

### 13.3 **Assignments.**

13.3.1 **Permitted Assignments.** A Lender may assign to an Eligible Assignee any of its rights and obligations under the Loan Documents, as long as (a) each assignment is of a constant, and not a varying, percentage of the transferor Lender's rights and obligations under the Loan Documents and, in the case of a partial assignment, is in a minimum principal amount of \$10,000,000 (unless otherwise agreed by Agent and the Borrower Agent, each in their discretion) and integral multiples of \$1,000,000 in excess of that amount; (b) except in the case of an assignment in whole of a Lender's rights and obligations, the aggregate amount of the Revolver Commitments retained by the transferor Lender is at least \$10,000,000 (unless otherwise agreed by Agent in its discretion); and (c) the parties to each such assignment shall execute and deliver to Agent (i) an Assignment and Acceptance or (ii) to the extent applicable, an agreement incorporating an Assignment and Acceptance by reference pursuant to an Approved Electronic Platform as to which Agent and the parties to the Assignment and Acceptance are participants. Nothing herein shall limit the right of a Lender to pledge or assign any rights under the Loan Documents to secure obligations of such Lender to pledge or assign any rights under this Agreement to (i) any Federal Reserve Bank or the United States Treasury as collateral security pursuant to Regulation A of the Board of Governors and any Operating Circular issued by such Federal Reserve Bank or (ii) counterparties to swap agreements relating to any Revolver Loans; provided, that (x) no such pledge or assignment shall release the Lender from its obligations hereunder nor substitute the pledge or assignee for such Lender as a party hereto and (y) any payment by the Borrowers to the assigning Lender in respect of any Obligations assigned as described in this sentence shall satisfy the Borrowers' obligations hereunder to the extent of such payment, and no such assignment shall release the assigning Lender from its obligations hereunder.

13.3.2 **Effect; Effective Date.** Upon delivery to Agent of an assignment notice in the form of Exhibit C and a processing fee of \$3,500 (unless otherwise agreed by Agent in its discretion), the assignment shall become effective as specified in the notice, if it complies with this **Section 13.3**. From such effective date, (i) the Eligible Assignee shall for all purposes be a Lender under the Loan Documents, and shall have all rights and obligations of a Lender thereunder and (ii) the assignor thereunder shall, to the extent that rights and obligations hereunder have been assigned by it pursuant to such Assignment and Acceptance, relinquish its rights (other than any rights it may have pursuant to **Section 14.2** which will survive) and be released from its obligations under this Agreement (and, in the case of an Assignment and Acceptance covering all or the remaining portion of an assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto). Upon consummation of an assignment, the transferor Lender, Agent and Borrowers shall make appropriate arrangements for issuance of replacement and/or new notes, if applicable. The transferee Lender shall comply with **Section 5.10** and deliver, upon request, an Administrative Questionnaire satisfactory to Agent.

13.3.3 **Certain Assignees.** No assignment or participation may be made to a Borrower, Affiliate of a Borrower, Defaulting Lender or natural person. Agent shall have no obligation to determine whether any assignment is permitted under the Loan Documents. Any assignment by a Defaulting Lender must be accompanied by satisfaction of its outstanding obligations under the Loan Documents in a manner satisfactory to Agent and Borrower Agent, including payment by the Defaulting Lender or Eligible Assignee of an amount sufficient upon distribution (through direct payment, purchases of participations or other methods acceptable to Agent in its discretion) to satisfy all funding and payment liabilities of the Defaulting Lender. If any assignment by a Defaulting Lender (by operation of law or otherwise) does not comply with the foregoing, the assignee shall be deemed a Defaulting Lender for all purposes until compliance occurs.

13.3.4 **Register.** Agent, acting as a non-fiduciary agent of Borrowers (solely for tax purposes), shall maintain (a) a copy (or electronic equivalent) of each Assignment and Acceptance delivered to it, and (b) a register for recordation of the names, addresses and Revolver Commitments of, and the Revolver Loans, stated interest and LC Obligations owing to, each Lender. Entries in the register shall be conclusive, absent manifest error, and Borrowers, Agent and Lenders shall treat each Person recorded in such register as a Lender for all purposes under the Loan Documents, notwithstanding any notice to the contrary. Agent may choose to show only one Borrower as the borrower in the register, without any effect on the liability of any Obligor with respect to the Obligations. The register shall be available for inspection by Borrowers or any Lender, from time to time upon reasonable notice.

**13.4 Replacement of Certain Lenders.** If a Lender (a) is a Non-Consenting Lender, (b) is a Defaulting Lender, or (c) gave a notice under **Section 3.5** or requested payment or compensation under **Section 3.7** or **5.9** (and has not designated a different Lending Office pursuant to **Section 3.8**), then Agent or Borrower Agent may, upon

notice to such Lender and Agent, require it to assign its rights and obligations under the Loan Documents to Eligible Assignee(s), pursuant to appropriate Assignment and Acceptance(s). Agent is irrevocably appointed as attorney-in-fact to execute any such Assignment and Acceptance if the Lender fails to execute it. Such Lender shall be entitled to receive, in cash, concurrently with such assignment, all amounts owed to it under the Loan Documents through the date of assignment.

**13.5 Assignments/Participations with Respect to Securities Laws.** Each Lender agrees that, without the prior written consent of Borrower Agent and Agent, it will not make any assignment or sell a participation hereunder in any manner or under any circumstances that would require registration or qualification of, or filings in respect of, any Revolver Loan or other Obligation under the securities laws of the United States of America or of any jurisdiction.

## SECTION 14. MISCELLANEOUS

### 14.1 Consents, Amendments and Waivers.

14.1.1 Amendment. Subject to clause (ii) of the proviso to **Section 1.2**, **Section 2.2** (including all changes necessary to establish a FILO Tranche) and **Section 3.6(b), (c), (d) and (f)** no modification of any Loan Document, including any extension or amendment of a Loan Document or any waiver of a Default or Event of Default, shall be effective without the prior written agreement of Agent (with the consent of Required Lenders) and each Obligor party to such Loan Document; provided that:

(a) without the prior written consent of Agent, no modification shall alter any provision in a Loan Document that relates to any rights, duties or discretion of Agent;

(b) without the prior written consent of each affected Issuing Bank, no modification shall alter **Section 2.3** or any other provision in a Loan Document that relates to Letters of Credit or any rights, duties or discretion of such Issuing Bank;

(c) without the prior written consent of each Lender directly and adversely affected thereby, including a Defaulting Lender, no modification shall (i) increase the Revolver Commitment of such Lender; (ii) reduce the amount of, or waive or delay payment of, any principal, interest or fees payable to such Lender (except as provided in **Section 4.2**); (iii) extend the Revolver Termination Date applicable to such Lender's Obligations; (iv) amend this clause (c); or (v) alter **Section 5.6.2** (it being understood that any change required to establish a FILO Tranche shall be excluded); provided that for purposes of this clause (c), it being understood that (A) waivers or modifications of conditions precedent, covenants, Defaults or Events of Default or of a mandatory reduction in the aggregate Revolver Commitments shall not constitute an increase of the Revolver Commitments of any Lender; (B) a waiver or reduction of the Default Rate (or other post-petition increase in interest) shall be effective with the consent of the Required Lenders (and shall not require the consent of each directly and adversely affected Lender or any Defaulting Lender); and (C) any modification to the Leverage Ratio or the component definitions thereof shall not constitute a reduction in the rate of interest or a reduction of fees);

(d) without the prior written consent of all Lenders (except any Defaulting Lender), no modification shall (i) alter this **Section 14.1.1**; (ii) release all or substantially all of the Collateral; (iii) amend the definition of Pro Rata, Required Lenders or Supermajority Lenders (other than with respect to Lenders under a FILO Tranche); or (iv) except in connection with a merger, disposition or similar transaction expressly permitted hereby, including pursuant to **Sections 10.2.6** and **10.2.9**, release any Obligor from liability for any Obligations;

(e) **reserved**; and

(f) without the prior written consent of Supermajority Lenders, amend the definition of Borrowing Base (or any defined term used in such definition) if the effect of such amendment is to increase borrowing availability; provided that only the consent of Agent, the Borrowers and the Required Lenders shall be required to approve additional categories of assets to be included in the Borrowing Base.

Notwithstanding anything contained herein (including, without limitation, this **Section 14.1.1**) or any other Loan Document to the contrary, this Agreement may be amended (or amended and restated) with the written consent of the Required Lenders, the Agent and the Borrowers (a) to add one or more additional credit facilities or refinancing facilities to this Agreement and to permit the extensions of credit from time to time outstanding thereunder and the accrued interest and fees in respect thereof to share ratably in the benefits of this Agreement and the other Loan Documents with the Revolver Loans and the accrued interest and fees in respect thereof;(b) to include appropriately the Lenders holding such credit facilities in any determination of the Required Lenders, Supermajority Lenders and other definitions related to such new credit facilities; and/or (c) to modify any of the requirements set forth in **Sections 2.2** and **5.2.1** with respect to any FILO Tranche.

14.1.2 **Limitations.** The agreement of Borrowers shall not be required for any modification of a Loan Document that deals solely with the rights and duties of Lenders, Agent and/or Issuing Bank as among themselves. Only the consent of the parties to any agreement relating to fees or a Bank Product shall be required for modification of such agreement, and no Bank Product provider (in such capacity) shall have any right to consent to modification of any Loan Document other than its Bank Product agreement. Any waiver or consent granted by Agent or Lenders hereunder shall be effective only if in writing and only for the matter specified.

14.1.3 **Payment for Consents.** No Borrower will, directly or indirectly, pay any remuneration or other thing of value, whether by way of additional interest, fee or otherwise, to any Lender (in its capacity as a Lender hereunder) as consideration for agreement by such Lender with any modification of any Loan Documents, unless such remuneration or value is concurrently paid, on the same terms, on a Pro Rata basis to all Lenders providing their consent.

14.1.4 **Errors.** If Agent and the Borrowers shall have jointly identified an obvious error or any error or omission of a technical nature in the Loan Documents, then Agent and the Borrowers shall be permitted to amend such provision without any further action or consent of any other party to such Loan Document if the same is not objected to in writing by the Required Lenders to the Agent within five business days following receipt of notice thereof.

14.2 **Indemnity.** EACH BORROWER SHALL INDEMNIFY AND HOLD HARMLESS THE INDEMNITEES AGAINST ANY CLAIMS THAT MAY BE INCURRED BY OR ASSERTED AGAINST ANY INDEMNITEE, INCLUDING CLAIMS ASSERTED BY ANY OBLIGOR OR OTHER PERSON OR ARISING FROM THE NEGLIGENCE (OTHER THAN GROSS NEGLIGENCE AS SET FORTH BELOW) OF AN INDEMNITEE. In no event shall any party to a Loan Document have any obligation thereunder to indemnify or hold harmless any Indemnatee with respect to a Claim that (i) is determined in a final, non-appealable judgment by a court of competent jurisdiction to result from (x) the gross negligence, bad faith or willful misconduct of such Indemnatee or its Related Parties, or (y) material breach by such Indemnatee or its Related Parties of their obligations hereunder or under the Loan Documents or (ii) is brought by such Indemnatee against another Indemnatee (other than any claim, litigation, investigation or proceeding brought by or against Agent, acting in its capacity as Agent) that does not involve any act or omission of any Obligor and arises out of disputes among the Lenders and/or their transferees.

### 14.3 **Notices and Communications.**

14.3.1 **Notices.** (a) Except in the case of notices and other communications expressly permitted to be given by telephone or Electronic Systems (and subject in each case 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 facsimile, as follows:

- (i) *if to any Obligor, to Borrower Agent at:*  
*2445 Technology Forest Blvd.*  
*Building 4, Suite 800*  
*The Woodlands, TX 77381*  
*Attention: Office of General Counsel*

(ii) if to Agent, JPM in its capacity as an Issuing Bank or the Swingline Lender, to JPMorgan Chase Bank, N.A. at:  
 2200 Ross Avenue, 9th Floor  
 Dallas, TX 75201  
 Attention: Jon Eckhouse  
 Facsimile No: 214 965 2594

(iii) if to any other Lender or Issuing Bank, to it at its address or facsimile number set forth in its Administrative Questionnaire.

All such notices and other communications (A) sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received, (B) sent by facsimile shall be deemed to have been given when sent, provided that if not given during normal business hours of the recipient, such notice or communication shall be deemed to have been given at the opening of business on the next Business Day of the recipient, or (C) delivered through Electronic Systems or Approved Electronic Platforms, as applicable, to the extent provided in paragraph (b) below shall be effective as provided in such paragraph.

(b) Each of Agent and Borrower Agent (on behalf of the Obligors) may, in its discretion, agree to accept notices and other communications to it hereunder by Electronic Systems or Approved Electronic Platforms, as applicable, pursuant to procedures approved by it; provided that approval of such procedures may be limited to particular notices or communications. Unless Agent otherwise proscribes, all such notices and other communications (i) 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 not given during the normal business hours of the recipient, such notice or communication shall be deemed to have been given at the opening of business on the next Business Day for the recipient, and (ii) posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient, at its e-mail address as described in the foregoing clause (i), of notification that such notice or communication is available and identifying the website address therefor; provided that, for both clauses (i) and (ii) above, if such notice, e-mail 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 of the recipient.

(c) Any party hereto may change its address, facsimile number or e-mail address for notices and other communications hereunder by notice to the other parties hereto.

(d) Notwithstanding the foregoing, no notice to Agent pursuant to **Section 2.3, 3.1.2 or 4.1.1** shall be effective until actually received by the individual to whose attention at Agent such notice is required to be sent. Any notice received by Borrower Agent shall be deemed received by all Borrowers.

#### 14.3.2 **[Reserved.]**

#### 14.3.3 Posting of Communications.

(a) Borrowers agree that Agent may, but shall not be obligated to, make any Communications available to the Lenders and the Issuing Bank by posting the Communications on IntraLinks™, DebtDomain, SyndTrak, ClearPar or any other electronic system chosen by Agent to be its electronic transmission system (the "Approved Electronic Platform"). In the event the Borrowers and Agent agree to use an Approved Electronic Platform, notwithstanding anything in this Agreement to the contrary, delivery to Agent for posting to the Approved Electronic Platform of any Borrower Materials, Reports or other notice, certificate or document required pursuant to this Agreement shall constitute delivery in accordance with the terms of this Agreement.

(b) Although the Approved Electronic Platform and its primary web portal are secured with generally-applicable security procedures and policies implemented or modified by Agent from time to time (including, as of the Closing Date, a user ID/password authorization system) and the Approved Electronic Platform is secured through a per-deal authorization method whereby each user may access the Approved Electronic Platform only on a deal-by-deal basis, each of the Lenders, the Issuing Bank and each Borrower acknowledges and agrees

that the distribution of material through an electronic medium is not necessarily secure, that Agent is not responsible for approving or vetting the representatives or contacts of any Lender that are added to the Approved Electronic Platform, and that there may be confidentiality and other risks associated with such distribution except, in each case, for any losses, claims, damages liabilities or expenses with respect to the foregoing if resulting from the gross negligence, bad faith or willful misconduct of Agent. Each of the Lenders, the Issuing Bank and each Borrower hereby approves distribution of the Communications through the Approved Electronic Platform and understands and assumes the risks of such distribution.

(c) THE APPROVED ELECTRONIC PLATFORM AND THE COMMUNICATIONS ARE PROVIDED “AS IS” AND “AS AVAILABLE”. THE APPLICABLE PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE COMMUNICATIONS, OR THE ADEQUACY OF THE APPROVED ELECTRONIC PLATFORM AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS OR OMISSIONS IN THE APPROVED ELECTRONIC PLATFORM AND THE 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 APPLICABLE PARTIES IN CONNECTION WITH THE COMMUNICATIONS OR THE APPROVED ELECTRONIC PLATFORM. IN NO EVENT SHALL AGENT, ANY ARRANGER, ANY DOCUMENTATION AGENT, ANY SYNDICATION AGENT OR ANY OF THEIR RESPECTIVE RELATED PARTIES (COLLECTIVELY, “APPLICABLE PARTIES”) HAVE ANY LIABILITY TO ANY OBLIGOR, ANY LENDER, ANY ISSUING BANK OR ANY OTHER PERSON OR ENTITY FOR DAMAGES OF ANY KIND, INCLUDING DIRECT OR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, LOSSES OR EXPENSES (WHETHER IN TORT, CONTRACT OR OTHERWISE) ARISING OUT OF ANY OBLIGOR’S OR AGENT’S TRANSMISSION OF COMMUNICATIONS THROUGH THE INTERNET OR THE APPROVED ELECTRONIC PLATFORM (OTHER THAN SUCH LOSSES, CLAIMS, DAMAGES, LIABILITIES OR EXPENSES RESULTING FROM THE GROSS NEGLIGENCE, BAD FAITH OR WILLFUL MISCONDUCT OF ANY APPLICABLE PARTY).

“Communications” means, collectively, any notice, demand, communication, information, document or other material provided by or on behalf of any Obligor pursuant to any Loan Document or the transactions contemplated therein which is distributed by Agent, any Lender or Issuing Bank by means of electronic communications pursuant to this Section, including through an Approved Electronic Platform.

(d) Each Lender and Issuing Bank agrees that notice to it (as provided in the next sentence) specifying that Communications have been posted to the Approved Electronic Platform shall constitute effective delivery of the Communications to such Lender for purposes of the Loan Documents. Each Lender and Issuing Bank agrees (i) to notify Agent in writing (which could be in the form of electronic communication) from time to time of such Lender’s or Issuing Bank’s (as applicable) email address to which the foregoing notice may be sent by electronic transmission and (ii) that the foregoing notice may be sent to such email address.

(e) Each of the Lenders, Issuing Bank and each Borrower agrees that Agent may, but (except as may be required by Applicable Law) shall not be obligated to, store the Communications on the Approved Electronic Platform in accordance with Agent’s generally applicable document retention procedures and policies.

(f) Nothing herein shall prejudice the right of Agent, any Lender, Issuing Bank, any Borrower or Guarantor to give any notice or other communication pursuant to any Loan Document in any other manner specified in such Loan Document.

14.3.4 Public Information. Obligors and Secured Parties acknowledge that “public” information may not be segregated from material non-public information on the Approved Electronic Platform. Secured Parties acknowledge that Borrower Materials may include Obligors’ material non-public information, and should not be made available to personnel who do not wish to receive such information or may be engaged in investment or other market-related activities with respect to an Obligor’s securities.

14.3.5 **Non-Conforming Communications.** Agent and Lenders may rely upon any communications purportedly given by or on behalf of any Borrower even if they were not made in a manner specified herein, were incomplete or were not confirmed, or if the terms thereof, as understood by the recipient, varied from a later confirmation. Each Borrower shall indemnify and hold harmless each Indemnitee from any liabilities, losses, costs and expenses arising from any electronic or telephonic communication purportedly given by or on behalf of a Borrower; provided that such indemnity shall not, as to any such Indemnitee, be available to the extent that such liabilities, losses, costs or expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee.

14.4 **[Reserved.]**

14.5 **Credit Inquiries.** Agent and Lenders may (but shall have no obligation) to respond to usual and customary credit inquiries from third parties concerning any Obligor or Subsidiary.

14.6 **Severability.** Wherever possible, each provision of the Loan Documents shall be interpreted in such manner as to be valid under Applicable Law. If any provision is found to be invalid under Applicable Law, it shall be ineffective only to the extent of such invalidity and the remaining provisions of the Loan Documents shall remain in full force and effect.

14.7 **Cumulative Effect; Conflict of Terms.** The provisions of the Loan Documents are cumulative. The parties acknowledge that the Loan Documents may use several limitations, tests or measurements to regulate similar matters, and they agree that these are cumulative and that each must be performed as provided. Except as otherwise provided in another Loan Document (by specific reference to the applicable provision of this Agreement), if any provision contained herein is in direct conflict with any provision in another Loan Document, the provision herein shall govern and control.

14.8 **Counterparts; Electronic Execution.**

14.8.1 Any Loan Document may be executed in counterparts, each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement shall become effective when Agent has received counterparts bearing the signatures of all parties hereto.

14.8.2 Delivery of an executed counterpart of a signature page of (a) this Agreement, (b) any other Loan Document and/or (c) any document, amendment, approval, consent, information, notice (including, for the avoidance of doubt, any notice delivered pursuant to **Section 14.3.1**), certificate, request, statement, disclosure or authorization related to this Agreement, any other Loan Document and/or the transactions contemplated hereby and/or thereby (each an "**Ancillary Document**") that is an Electronic Signature transmitted by telecopy, emailed .pdf or any other electronic means that reproduces an image of an actual executed signature page shall be effective as delivery of a manually executed counterpart of this Agreement, such other Loan Document or such Ancillary Document, as applicable. The words "execution," "signed," "signature," "delivery," and words of like import in or relating to this Agreement, any other Loan Document and/or any Ancillary Document shall be deemed to include Electronic Signatures, deliveries or the keeping of records in any electronic form (including deliveries by telecopy, emailed .pdf or any other electronic means that reproduces an image of an actual executed signature page), each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be; provided that nothing herein shall require Agent to accept Electronic Signatures in any form or format without its prior written consent and pursuant to procedures approved by it; provided, further, without limiting the foregoing, (i) to the extent Agent has agreed to accept any Electronic Signature, (A) Agent and each of the Lenders shall be entitled to rely on such Electronic Signature purportedly given by or on behalf of a Borrower or any other Obligor without further verification thereof and without any obligation to review the appearance or form of any such Electronic Signature and (B) the Obligors shall be entitled to rely on such Electronic Signature purportedly given on behalf of the Administrative Agent, any Lender, any Swingline Lender or any Issuing Bank without further verification thereof and without any obligation to review the appearance or form of any such Electronic Signature and (ii) upon the request of any Obligor, Agent or any Lender, any Electronic Signature shall be promptly followed by a manually executed counterpart. Without limiting the generality of the foregoing, each of the parties hereto hereby (i) agrees that, for all purposes, including

without limitation, in connection with any workout, restructuring, enforcement of remedies, bankruptcy proceedings or litigation among Agent, the Lenders, the Borrowers and the other Obligor, Electronic Signatures transmitted by telecopy, emailed .pdf or any other electronic means that reproduces an image of an actual executed signature page and/or any electronic images of this Agreement, any other Loan Document and/or any Ancillary Document shall have the same legal effect, validity and enforceability as any paper original and (ii) each other party hereto may, at its option, create one or more copies of this Agreement, any other Loan Document and/or any Ancillary Document in the form of an imaged electronic record in any format, which shall be deemed created in the ordinary course of such Person's business, and destroy the original paper document (and all such electronic records shall be considered an original for all purposes and shall have the same legal effect, validity and enforceability as a paper record).

14.9 **Entire Agreement.** Time is of the essence with respect to all Loan Documents and Obligations. The Loan Documents constitute the entire agreement, and supersede all prior understandings and agreements, among the parties relating to the subject matter thereof.

14.10 **Relationship with Lenders.** The obligations of each Lender hereunder are several, and no Lender shall be responsible for the obligations or Revolver Commitments of any other Lender. Amounts payable hereunder to each Lender shall be a separate and independent debt. It shall not be necessary for Agent or any other Lender to be joined as an additional party in any proceeding for such purposes. Nothing in this Agreement and no action of Agent, Lenders or any other Secured Party pursuant to the Loan Documents or otherwise shall be deemed to constitute Agent and any Secured Party to be a partnership, joint venture or similar arrangement, nor to constitute control of any Obligor.

14.11 **No Advisory or Fiduciary Responsibility.** In connection with all aspects of each transaction contemplated by any Loan Document, Borrowers acknowledge and agree that (a)(i) this credit facility and any arranging or other services by Agent, any Lender, any of their Affiliates or any arranger are arm's-length commercial transactions between Borrowers and their Affiliates, on one hand, and Agent, any Lender, any of their Affiliates or any arranger, on the other hand; (ii) Borrowers have consulted their own legal, accounting, regulatory and tax advisors to the extent they have deemed appropriate; and (iii) Borrowers are capable of evaluating, and understand and accept, the terms, risks and conditions of the transactions contemplated by the Loan Documents; (b) each of Agent, Lenders, their Affiliates and any arranger is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary for Borrowers, their Affiliates or any other Person, and has no obligation with respect to the transactions contemplated by the Loan Documents except as expressly set forth therein; and (c) Agent, Lenders, their Affiliates and any arranger may be engaged in a broad range of transactions that involve interests that differ from those of Borrowers and their Affiliates, and have no obligation to disclose any of such interests to Borrowers or their Affiliates. To the fullest extent permitted by Applicable Law, each Borrower hereby waives and releases any claims that it may have against Agent, Lenders, their Affiliates and any arranger with respect to any breach of agency or fiduciary duty in connection with any transaction contemplated by a Loan Document.

14.12 **Confidentiality.** Each of Agent, Lenders and Issuing Bank shall maintain the confidentiality of all Information (as defined below), except that Information may be disclosed (a) to its Affiliates, and to its and their partners, directors, officers, employees, agents, auditors, advisors and representatives (provided they are informed of the confidential nature of the Information and instructed to keep it confidential); (b) to the extent requested by any governmental, regulatory or self-regulatory authority (such as the National Association of Insurance Commissioners) purporting to have jurisdiction over it or its Affiliates; provided that unless specifically prohibited by Applicable Law or it is not practicable to do so prior to the required disclosure, each of Agent and each Lender shall endeavor to notify Borrower Agent (without any liability for a failure to so notify Borrower Agent) of any request made to such Lender or Agent prior to disclosure of such Information; (c) to the extent required by Applicable Law or by any subpoena or other legal process; (d) to any other party hereto; (e) in connection with any action or proceeding relating to any Loan Documents or Obligations; (f) subject to an agreement containing provisions substantially the same as this Section, to any Transferee or Eligible Assignee or any actual or prospective party (or its advisors) to any Bank Product or to any swap, derivative or other transaction under which payments are to be made by reference to an Obligor or Obligor's obligations; (g) to the extent such Information (i) becomes publicly available other than as a result of a breach of this Section or (ii) is available to Agent, any Lender, Issuing Bank or any of their Affiliates on a nonconfidential basis from a source other than Borrowers; (h) on a confidential

basis to a provider of an Approved Electronic Platform; or (i) with the consent of Borrower Agent. Notwithstanding the foregoing, Agent and Lenders may publish or disseminate general information concerning this credit facility for league table, tombstone and advertising purposes, and may use Borrowers' logos, trademarks or product photographs in advertising materials. As used herein, "Information" means information received from or on behalf of an Obligor or Subsidiary relating to it or its business, including any information obtained by Agent, any Secured Party, any Indemnitee and their respective Affiliates and its and their respective directors, officers, employees, agents, advisors and attorneys in connection with any inspection, audit, appraisal or review of properties, assets, books and records of Parent and/or its Subsidiaries and/or discussions with Parent's independent accountants. A Person required to maintain the confidentiality of Information pursuant to this Section shall be deemed to have complied if it exercises a degree of care similar to that accorded its own confidential information. Each of Agent, Lenders and Issuing Bank acknowledges that (i) Information may include material non-public information; (ii) it has developed compliance procedures regarding the use of such information; and (iii) it will handle the material non-public information in accordance with Applicable Law.

14.13 **Intentionally Omitted.**

14.14 **GOVERNING LAW.** UNLESS EXPRESSLY PROVIDED IN ANY LOAN DOCUMENT, THIS AGREEMENT, THE OTHER LOAN DOCUMENTS AND ALL CLAIMS SHALL BE GOVERNED BY THE LAWS OF THE STATE OF NEW YORK, WITHOUT GIVING EFFECT TO ANY CONFLICT OF LAW PRINCIPLES EXCEPT FEDERAL LAWS RELATING TO NATIONAL BANKS.

14.15 **Consent to Forum; Bail-In of Affected Financial Institutions.**

14.15.1 **Forum.** EACH BORROWER HEREBY CONSENTS TO THE EXCLUSIVE JURISDICTION OF ANY STATE COURT SITTING IN THE BOROUGH OF MANHATTAN OR THE UNITED STATES DISTRICT COURT OF THE SOUTHERN DISTRICT OF NEW YORK, IN ANY DISPUTE, ACTION, LITIGATION OR OTHER PROCEEDING RELATING IN ANY WAY TO ANY LOAN DOCUMENTS, AND AGREES THAT ANY DISPUTE, ACTION, LITIGATION OR OTHER PROCEEDING SHALL BE BROUGHT BY IT SOLELY IN ANY SUCH COURT. EACH BORROWER IRREVOCABLY AND UNCONDITIONALLY WAIVES ALL CLAIMS, OBJECTIONS AND DEFENSES THAT IT MAY HAVE REGARDING ANY SUCH COURT'S PERSONAL OR SUBJECT MATTER JURISDICTION, VENUE OR INCONVENIENT FORUM. EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY SUBMITS TO THE JURISDICTION OF SUCH COURTS AND CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN **SECTION 14.3.1**. A final judgment in any proceeding of any such court shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or any other manner provided by Applicable Law.

14.15.2 **Other Jurisdictions.** Nothing herein shall limit the right of Agent or any Lender to bring proceedings against any Obligor in any other court, nor limit the right of any party to serve process in any other manner permitted by Applicable Law. Nothing in this Agreement shall be deemed to preclude enforcement by Agent of any judgment or order obtained in any forum or jurisdiction.

14.15.3 **Acknowledgement and Consent to Bail-In of Affected Financial Institutions.** Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Affected Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the Write-Down and Conversion Powers of the applicable Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

- (a) the application of any Write-Down and Conversion Powers by an the applicable Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an Affected Financial Institution; and
- (b) the effects of any Bail-In Action on any such liability, including, if applicable:
  - (i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such Affected Financial Institution, its parent entity, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or

(iii) the variation of the terms of such liability in connection with the exercise of the Write-Down and Conversion Powers of the applicable Resolution Authority.

#### 14.15.4 Reserved.

14.16 **Waivers by Borrowers.** To the fullest extent permitted by Applicable Law, each Borrower waives (a) the right to trial by jury (which Agent, Issuing Bank, Lenders and all other Secured Parties hereby also waive) in any proceeding or dispute of any kind relating in any way to any Loan Documents, Obligations or Collateral; (b) presentment, demand, protest, notice of presentment, default, non-payment, maturity, release, compromise, settlement, extension or renewal of any commercial paper, accounts, documents, instruments, chattel paper and guaranties at any time held by Agent on which a Borrower may in any way be liable, and hereby ratifies anything Agent may do in this regard; (c) notice prior to taking possession or control of any Collateral; (d) any bond or security that might be required by a court prior to allowing Agent to exercise any rights or remedies; (e) the benefit of all valuation, appraisal and exemption laws; (f) any claim against an Indemnitee, on any theory of liability, for special, indirect, consequential, exemplary or punitive damages (as opposed to direct or actual damages) in any way relating to any Enforcement Action, Obligations, Loan Documents or transactions relating thereto; and (g) notice of acceptance hereof. Each Borrower acknowledges that the foregoing waivers are a material inducement to Agent, Issuing Bank and Lenders entering into this Agreement and that they are relying upon the foregoing in their dealings with Borrowers. Each Borrower has reviewed the foregoing waivers with its legal counsel and has knowingly and voluntarily waived its jury trial and other rights following consultation with legal counsel. In the event of litigation, this Agreement may be filed as a written consent to a trial by the court.

14.17 **Patriot Act Notice.** Agent and Lenders hereby notify Borrowers that pursuant to the Patriot Act, Agent and Lenders are required to obtain, verify and record information that identifies each Borrower, including its legal name, address, tax ID number and other information that will allow Agent and Lenders to identify it in accordance with the Patriot Act. Agent and Lenders will also require information regarding any personal guarantor, and may require information regarding Borrowers' management and owners, such as legal name, address, social security number and date of birth. The Borrowers shall, promptly upon request, provide all documentation and other information as Agent, Issuing Bank or any Lender may request from time to time in order to comply with any obligations under any "know your customer," anti-money laundering or other requirements of Applicable Law.

14.18 **NO ORAL AGREEMENT.** THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS BETWEEN THE PARTIES. THERE ARE NO UNWRITTEN AGREEMENTS BETWEEN THE PARTIES.

14.19 **Existing Loan Agreement, No Novation.** This Agreement does not extinguish the obligations for the payment of money outstanding under the Existing Loan Agreement or discharge or release the obligations or the liens or priority of any mortgage, pledge, security agreement or any other security therefor. Nothing herein contained shall be construed as a substitution or novation of the obligations outstanding under the Existing Loan Agreement or instruments securing the same, which shall remain in full force and effect, except as modified hereby or by instruments executed concurrently herewith. Nothing expressed or implied in this Agreement shall be construed as a release or other discharge of any Borrower from any of its obligations or liabilities under the Existing Loan Agreement or any of the security agreements, pledge agreements, mortgages, or other loan documents executed in connection therewith. Each Borrower hereby (a) confirms and agrees that each Loan Document to which it or its predecessor in interest is a party or to which it is a successor by operation of law is, and shall continue to be, in full force and effect and is hereby ratified and confirmed in all respects except that on and after the Closing Date all references in any such Loan Document to "the Loan Agreement", "thereto", "thereof",

“thereunder” or words of like import referring to the Existing Loan Agreement shall mean the Existing Loan Agreement as amended and restated by this Agreement; and (b) confirms and agrees that to the extent that any such Loan Document purports to assign or pledge to Agent, for the benefit of the Lenders, or to grant to Agent, for the benefit of the Lenders a security interest in or lien on, any collateral as security for the Obligations of Borrowers from time to time existing in respect of the Existing Loan Agreement, such pledge, assignment or grant of the security interest or lien is hereby ratified and confirmed in all respects.

**14.20 Acknowledgement Regarding Any Supported QFCs.** To the extent that the Loan Documents provide support, through a guarantee or otherwise, for any Hedging Agreement or any other agreement or instrument that is a QFC (such support, “QFC Credit Support”, and each such QFC, a “Supported QFC”), the parties acknowledge and agree as follows with respect to the resolution power of the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act and Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (together with the regulations promulgated thereunder, the “U.S. Special Resolution Regimes”) in respect of such Supported QFC and QFC Credit Support (with the provisions below applicable notwithstanding that the Loan Documents and any Supported QFC may in fact be stated to be governed by the laws of the State of New York and/or of the United States or any other state of the United States):

(a) In the event a Covered Entity that is party to a Supported QFC (each, a “Covered Party”) becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of such Supported QFC and the benefit of such QFC Credit Support (and any interest and obligation in or under such Supported QFC and such QFC Credit Support, and any rights in property securing such Supported QFC or such QFC Credit Support) from such Covered Party will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if the Supported QFC and such QFC Credit Support (and any such interest, obligation and rights in property) were governed by the laws of the United States or a state of the United States. In the event a Covered Party or a BHC Act Affiliate of a Covered Party becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under the Loan Documents that might otherwise apply to such Supported QFC or any QFC Credit Support that may be exercised against such Covered Party are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if the Supported QFC and the Loan Documents were governed by the laws of the United States or a state of the United States. Without limitation of the foregoing, it is understood and agreed that rights and remedies of the parties with respect to a Defaulting Lender shall in no event affect the rights of any Covered Party with respect to a Supported QFC or any QFC Credit Support.

(b) As used in this **Section 14.20**, the following terms have the following meanings:

“BHC Act Affiliate” of a party means an “affiliate” (as such term is defined under, and interpreted in accordance with, 12 U.S.C. 1841(k)) of such party.

“Covered Entity” means any of the following: (i) a “covered entity” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b); (ii) a “covered bank” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or (iii) a “covered FSI” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

“Default Right” has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable.

“QFC” has the meaning assigned to the term “qualified financial contract” in, and shall be interpreted in accordance with, 12 U.S.C. 5390(c)(8)(D).

*[Remainder of page intentionally left blank; signatures begin on following page]*

IN WITNESS WHEREOF, this Agreement has been executed and delivered as of the date set forth above.

**PARENT:**

**CONN'S, INC.**, a Delaware corporation

By: /s/ George Bchara

Name: George Bchara

Title: Executive Vice President and Chief Financial Officer

Address:

2445 Technology Forest Blvd.

Building 4, Suite 800

The Woodlands, TX 77381

Attention: Office of General Counsel

**BORROWERS:**

**CONN APPLIANCES, INC.**,

a Texas corporation

By: /s/ George Bchara

Name: George Bchara

Title: Executive Vice President and Chief Financial Officer

**CONN CREDIT I, LP,**

a Texas limited partnership

By: CAI HOLDING, LLC

a Delaware limited liability company,

its General Partner

By: CONN APPLIANCES, INC.

a Texas corporation,

its Sole Member

By: /s/ Mark Prior

Name: Mark Prior

Title: Vice President, General Counsel and Secretary

**CONN CREDIT CORPORATION, INC.**,

a Texas corporation

By: /s/ George Bchara

Name: George Bchara

Title: Executive Vice President and Chief Financial Officer

*[Conn's - Signature Page to Fifth Amended and Restated Loan and Security Agreement]*

Address:  
2445 Technology Forest Blvd.  
Building 4, Suite 800  
The Woodlands, TX 77381  
Attention: Office of General Counsel

**AGENT AND LENDERS:**

**JPMORGAN CHASE BANK, N.A.,**  
as Agent and a Lender

By: /s/ Andrew Rossman  
Name: Andrew Rossman  
Title: Vice President

**MUFG Union Bank, N.A.**  
as a Lender

By: /s/ Adrian Avalos  
Name: Adrian Avalos  
Title: Director

**REGIONS BANK,**  
as a Lender

By: /s/ Evie Krimm  
Name: Evie Krimm  
Title: Director

**DEUTSCHE BANK AG NEW YORK BRACH,**  
as a Lender

By: /s/ Yumi Okabe  
Name: Yumi Okabe  
Title: Vice President

By: /s/ Michael Strobel  
Name: Michael Strobel  
Title: Vice President

**CITIZENS BANK, N.A.,**  
as a Lender

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

**FIFTH THIRD BANK, NATIONAL ASSOCIATION**, as a  
successor to **MB FINANCIAL BANK, N.A.**, as a Lender

By: /s/ Yash Shrimali  
Name: Yash Shrimali  
Title: Vice President

**FIRST HORIZON BANK**,  
as a Lender

By: /s/ Morgan Stanford  
Name: Morgan Stanford  
Title: Vice President

**ZIONS BANCORPORATION, N.A. dba AMEGY BANK**,  
as a Lendor

By: /s/ Mario Gagetta  
Name: Mario Gagetta  
Title: Vice President

**CATHAY BANK**,  
as a Lender

By: /s/ James Campbell  
Name: James Campbell  
Title: First Vice President

**City National Bank**,  
as a Lender

By: /s/ David Knoblauch  
Name: David Knoblauch  
Title: Senior Vice President

**SCHEDULE 1.1**

to

**Fifth Amended and Restated  
Loan and Security Agreement****REVOLVER COMMITMENTS OF LENDERS**

<b><u>Lender</u></b>	<b><u>Revolver Commitment</u></b>
JPMorgan Chase Bank, N.A.	\$135,000,000.00
MUFG Union Bank, N.A.	\$132,500,000.00
Regions Bank	\$122,500,000.00
Deutsche Bank AG New York Branch	\$75,000,000.00
Citizens Bank, N.A.	\$65,000,000.00
Fifth Third Bank, National Association	\$30,000,000.00
First Horizon Bank	\$30,000,000.00
Zions Bancorporation, N.A. dba Amegy Bank	\$30,000,000.00
Cathay Bank	\$15,000,000.00
City National Bank	\$15,000,000.00
<b>Total Revolver Commitments</b>	<b>\$650,000,000.00</b>

Schedule 1.1 to Fifth Amended and Restated Loan and Security Agreement  
Revolver Commitments of Lenders

**SCHEDULE 1.1E(1)**

to

**Fifth Amended and Restated  
Loan and Security Agreement****EXISTING BANK PRODUCTS****BANK NAME****BANK PRODUCTS**

JP Morgan Chase Bank, National Association	Depository Accounts and other Cash Management and Investment Services
BBVA Compass Bank	Depository Accounts and other Cash Management Services
Regions Bank	Depository Accounts and other Cash Management Services
Union Bank, N.A.	Depository Accounts and other Cash Management Services
Amegy Bank National Association	Depository Accounts and other Cash Management Services
Citizens Bank	Depository Accounts and other Cash Management Services

Schedule 1.1E(1) to Fifth Amended and Restated Loan and Security Agreement  
Existing Bank Products

**SCHEDULE 1.1E(2)**

**to**

**Fifth Amended and Restated  
Loan and Security Agreement**

**EXISTING LETTERS OF CREDIT**

1. \$190,292.22 Letter of Credit issued by JPMorgan Chase Bank, N.A. (L/C Reference No. NUSCGS007231)
2. \$2,225,000.00 Letter of Credit issued by JPMorgan Chase Bank, N.A. (L/C Reference No. NUSCG5032352)
3. \$67,977.14 Letter of Credit issued by JPMorgan Chase Bank, N.A. (L/C Reference No. NUSCG5032354)
4. \$20,000,000.00 Letter of Credit issued by JPMorgan Chase Bank, N.A. (L/C Reference No. NUSCG033560)

Schedule 1.1E(2) to Fifth Amended and Restated Loan and Security Agreement  
Existing Letters of Credit

**SCHEDULE 7.1(j)**

to

**Fifth Amended and Restated  
Loan and Security Agreement****EQUITY INTERESTS****Conn Appliances, Inc.**

<b><u>Name</u></b>	<b><u>Percentage Interest Owned</u></b>
CAI Holdings, LLC	100%, as its sole member
Conn's Receivables Funding I GP, LLC	100%, as its sole member

**Conn Credit I, LP**

<b><u>Name</u></b>	<b><u>Percentage Interest Owned</u></b>
Conn Appliances Receivables Funding, LLC	100%, as its sole member

Schedule 7.1(j) to Fifth Amended and Restated Loan and Security Agreement  
Equity Interests

**SCHEDULE 7.3**

**to**

**Fifth Amended and Restated  
Loan and Security Agreement**

**REAL ESTATE**

NONE.

Schedule 7.3 to Fifth Amended and Restated Loan and Security Agreement  
Real Estate

**SCHEDULE 8.6.1**

**to**

**Fifth Amended and Restated  
Loan and Security Agreement**

**CREDIT CARD AGREEMENTS**

1. Retailer Program Agreement by and between Synchrony Bank (as successor to GE Money Bank) and Conn Appliances, Inc., as amended.
2. Merchant Agreement by and between Fiserv, Inc. (as successor to Bank of America, N.A.) and Conn Appliances, Inc.
3. PayPal User Agreement by and between PayPal and Conn Appliances, Inc.
4. Services Master Agreement between Conn Appliances, Inc. and Official Payments Corporation (now ASCI Payments Inc.).

Schedule 8.6.1 to Fifth Amended and Restated Loan and Security Agreement  
Credit Card Agreements

**SCHEDULE 8.7.1**

to

**Fifth Amended and Restated  
Loan and Security Agreement****BUSINESS LOCATIONS**

1. The Chief Executive Office of each of the Borrowers is as set forth below:

2445 Technology Forest Blvd., Suite 800  
The Woodlands, Texas 77381

2. In the five years preceding the Closing Date, Parent and Borrowers have had no office or place of business located in any county other than as set forth above, except:

4055 Technology Forest Blvd., Suite 210, The Woodlands, Texas 77381

3. The Chief Executive Office of each Subsidiary of the Borrowers is as set forth below (if different from paragraph 1, above):

Conn Lending, LLC: 103 Foulk Rd., Ste. 202, Wilmington, DE 19803

4. The locations of the stores, warehouses, service centers and crossdocks of each of the Borrowers and their respective Subsidiaries are as set forth below:

**Retail:**

<b><u>Name</u></b>	<b><u>Address</u></b>	<b><u>City</u></b>	<b><u>State</u></b>	<b><u>Zip</u></b>
Gateway	108 Gateway Shopping Center	Beaumont	TX	77701
Port Arthur	7855 Memorial Blvd.	Port Arthur	TX	77642
Lake Charles	3401 Derek Drive	Lake Charles	LA	70607
Airline	8888 Airline Highway	Baton Rouge	LA	70815
Ambassador Caffrey	3316 Ambassador Caffery	Lafayette	LA	70506
Parkdale	4326 Dowlen Road	Beaumont	TX	77706
Gessner	8201 South Gessner	Houston	TX	77036
Almeda	10025 Almeda Genoa Rd.	Houston	TX	77075
Fry Rd	20051 Katy Freeway	Katy	TX	77450
Humble	19611 Hwy 59	Humble	TX	77338
Willowbrook	7736 FM 1960 West	Houston	TX	77070
Uvalde	13337 I-10 East	Houston	TX	77015
Northline Mall	4446 N. Freeway	Houston	TX	70809
Nasa Road/Webster	1020 W. Nasa Road 1, Ste 266	Webster	TX	77598
McAllen	724 East Expressway 83	McAllen	TX	78501
Harlingen	706 S. Dixieland Road	Harlingen	TX	78550
Brownsville	4465 N. Expressway 77/83	Brownsville	TX	78520
Bandera (relo)	11650 Bandera Road	San Antonio	TX	78249
Corpus	4818 S. Padre Island Drive	Corpus Christi	TX	78411
Tech Ridge	12901 N I-35, Bldg 10, Suites 1010 1100	Austin	TX	78753

SW Military	2514 SW Military Drive	San Antonio	TX	78221
N Loop 410	4999 NW Loop 410	San Antonio	TX	78229
Marbach	1339 SW Loop 410, Suite 105	San Antonio	TX	78227
Southpark Meadows	9900 S. I-35 Bldg H	Austin	TX	78748
Windsor Park	7730 I-H 35 North	San Antonio	TX	78218
Gulfgate	6888 Gulf Freeway	Houston	TX	77087
Northwest Freeway	11051 Northwest Freeway	Houston	TX	77092
Conroe	1420 W Loop 336 N #106	Conroe	TX	77304
SE Military	3143 SE Military Drive	San Antonio	TX	78223
Sugar Land	12730 Fountain Lake Circle	Stafford	TX	77477
Garth Rd	5010 Garth Road	Baytown	TX	77521
West Oaks	14500 Westheimer	Houston	TX	77077
Lufkin	3047 John Redditt Dr., Suite 200	Lufkin	TX	75904
Royal Ln	11250 North Central Expressway	Dallas	TX	75243
Lewisville	2422 S. Stemmons Freeway	Lewisville	TX	75067
Mesquite	2021 Town East Blvd.	Mesquite	TX	75149
Plano	800 W. 15 <sup>th</sup> Street, Suite B	Plano	TX	75075
Hurst	900 NE Loop 820	Hurst	TX	76053
Wheatland	3450 Bainbridge Drive, Ste. 520	Dallas	TX	75237
Hulen	4617 S. Hulen Street	Fort Worth	TX	76132
Arlington	137 Merchants Row	Arlington	TX	76015
Pavilions	25 NE Loop 410	San Antonio	TX	78216
Oak Cliff	4351 DFW Turnpike	Dallas	TX	75211
Pearland	2800 E. Broadway	Pearland	TX	77581
Pasadena	3931 Fairway Plaza Drive	Pasadena	TX	77505
N. McAllen	8317 North 10th Street	McAllen	TX	78504
Burleson	12850 South Freeway	Fort Worth	TX	76028
Midland	3315 NW Expressway	Oklahoma City	OK	73112
Cypresswood	19746 Interstate 45	Spring	TX	77373
Penn Park	1615 Penn Park	Oklahoma City	OK	73106
Waco	230 N. New Road	Waco	TX	76710
El Paso	6101 Gateway West	El Paso	TX	79925
Albuquerque	45 Hotel Circle, Suite 101	Albuquerque	NM	87123
Las Cruces	700 S. Telshor Boulevard, Suite 6702	Las Cruces	NM	88011
Lake Worth	6592 Lake Worth Boulevard	Lake Worth	TX	76135
Laredo	2420 Bob Bullock Loop - Suite 6	Laredo	TX	78043
Tucson	5530 E. Broadway Blvd.	Tucson	AZ	85711
Tulsa	10143 E. 71 <sup>st</sup> Street – Unit # 7	Tulsa	OK	74133
Mesa	1655 South Stapley Drive	Mesa	AZ	85204
Main Street	9567 South Main Street	Houston	TX	77025
Arizona Mills	5000 South Arizona Mills Cir #461	Tempe	AZ	85282
Desert Sky	7333 West Thomas Road # 16	Phoenix	AZ	85033
The Pavilions	9190 Talking Stick Way / E Indian Bend	Scottsdale	AZ	85250
Las Palmillas	1190 S. Castle Dome Ave	Yuma	AZ	85365
Kings Crossing	7081 Youree Drive	Shreveport	LA	71105
Odessa	6976 E. Hwy 191	Odessa	TX	79762
Cottonwood Mall	10000 Coors Blvd Bypass NW #100	Albuquerque	NM	87114
Westgate Plaza	2510 Soncy Road	Amarillo	TX	79124

Tropicana Ave	3185 E. Tropicana Ave - Suite A	Las Vegas	NV	89121
Goodyear Centerpointe	15305 West McDowell Road #E101	Goodyear	AZ	85338
Chandler Festival	2820 W. Chandler Blvd	Chandler	AZ	85224
Aurora City Place	60 S. Abilene	Aurora	CO	80012
Arvada Marketplace	7360 W. 52nd Ave	Arvada	CO	80002
Marana Marketplace	3742 W. River Road - Suite # 150	Tucson	AZ	85741
Sheridan	3950 River Point Parkway	Sheridan	CO	80110
Madison	1655 Gallatin Pike	Madison	TN	37115
Centennial	9555 East County Line Rd – Unit 6A	Centennial	CO	80112
Metro Marketplace	2820 W. Dunlap	Phoenix	AZ	85051
Knoxville	151 N. Peters	Knoxville	TN	37923
Greenville	607 Haywood Road	Greenville	SC	29607
Jackson	1051 E. County Line Road	Jackson	MS	32911
Memphis	3525 Riverdale Road	Memphis	TN	38115
Lubbock	6052 Marsha Sharp Freeway	Lubbock	TX	79407
Florence Crossroads Center	2524/2526 David H McLeod Blvd	Florence	SC	29501
Fort Collins	120 Bockman Drive	Fort Collins	CO	80525
Colorado Springs	345 N. Academy	Colorado Springs	CO	80909
Fayetteville	1748 Skibo Road, #100	Fayetteville	NC	28303
El Mercado, El Paso	1971 C Zaragosa Road	El Paso	TX	79938
Carolina Pavilion	9567 South Blvd	Charlotte	NC	28273
Thornton	550 E. 102nd Ave	Thornton	CO	80229
Antioch	5330 Cane Ridge Road #108	Antioch	TN	37013
Gastonia	197 New Hope Drive #110	Gastonia	NC	28054
University Plaza, Charlotte	8709 JW Clay Blvd.	Charlotte	NC	28262
Austin Peay, Memphis	3260 Austin Peay Highway	Memphis	TN	38128
Winston-Salem	3925 Oxford Station Way	Winston-Salem	NC	27103
Augusta	270 Bobby Jones Expwy, #172	Augusta	GA	30907
Admiral Place	6921 E. Admiral	Tulsa	OK	74115
Spartanburg	106 Peachwood Centre Drive	Spartanburg	SC	29301
Fiesta Plaza	2201 Civic Center Drive, North	Las Vegas	NV	89149
Independence, Charlotte	5704 E. Independence Blvd	Charlotte	NC	28212
Arcadia Crossing, Phoenix	4531 East Thomas Road	Phoenix	AZ	85018
Southaven	570 West Main Street	Southaven	MS	38671
Greensboro	3508 Gate City Blvd.	Greensboro	NC	27407
Monroe	3650 Milhaven Road	Monroe	LA	71203
North Charleston	4960 Center Pointe Drive, #101	North Charleston	SC	29418
SW Albuquerque	4208A Central Avenue SW	Albuquerque	NM	87105
Rainbow Expressway	120 S. Rainbow Blvd.	Las Vegas	NV	89145
Killeen	1101 S Fort Hood Street	Killeen	TX	76541
Alexandria	3437 Masonic Drive, #6704	Alexandria	LA	71301
Hickory	1810 US Hwy 70 SE	Hickory	NC	28602
Eastgate	4969 E. Nine Mile Road	Richmond	VA	23223

Schedule 8.7.1 to Fifth Amended and Restated Loan and Security Agreement  
Business Locations

Chattanooga	5844 Brainerd Road	Chattanooga	TN	27411
Huntsville	6125 University Blvd.	Huntsville	AL	35806
Raleigh	2900 E. Millbrook Road	Raleigh	NC	27604
Rocky Mount	1100 N. Wesleyan Blvd.	Rocky Mount	NC	27804
Burlington	3121-A Garden Road	Burlington	NC	27215
San Marcos	917 TX-80	San Marcos	TX	78666
Spring Rock Green	7300 Midlothian Turnpike A	Richmond	VA	23225
Grand Prairie	3166 SH 161 Ste 120	Grand Prairie	TX	75052
Portsmouth	2550 Airline Blvd	Portsmouth VA	VA	23701
Virginia Beach	3421 Virginia Beach Blvd	Virginia Beach	VA	23452
Hampton	1082 W Mercury Rd	Hampton	VA	23666
Harvey	2424 Manhattan Blvd.	Harvey	LA	70058
Metairie	5245 Veterans Blvd.	Metairie	LA	70006
Siegen Lane	10780 N Mall Dr.	Baton Rouge	LA	70802
Copperfield	6148 Highway 6 North	Houston	TX	77084
Texas City	3405 Palmer Highway	Texas City	TX	77590
Tyler	4931 S Broadway Ave.	Tyler	TX	75703
Colonial Heights	120 Southgate Square	Colonial Heights	VA	23834
Montgomery	2424 Eastern Blvd	Montgomery	AL	36117
Roebuck	9530 East Roebuck	Birmingham	AL	35215
Slidell	150 Northshore Blvd. Suite 5000-A	Slidell	LA	70460
Wildwood	251 Lakeshore Parkway	Homewood	AL	35209
La Gran	4200 South Freeway Ste. 1740	Fort Worth	TX	76125
San Angelo	4001 Sunset Dr Ste 4000	San Angelo	TX	76904
West Commerce	4807 West Commerce Street	San Antonio	TX	78237
Forum	8270 Agora Parkway	Selma	TX	78154
Clearance Center	1401 Rankin Road, Suite 100	Houston	TX	77073
El Paso	750 Sunland Park Dr.	El Paso	TX	79912
Pensacola	7171 N. Davis Hwy, Suite 300	Pensacola	FL	32504
Mobile	3250-B Airport Blvd.	Mobile	AL	33608
Bradenton	4495 14th Street W	Bredenton	FL	34207
Denton	2201 S Interstate 35 Ste C100	Denton	TX	76205
Tampa Horizon Park	3908 W. Hillsborough Ave.	Tampa	FL	33614
College Station	1502 Harvey Rd. Suite 100	College Station	TX	77840
West Colonial	7407 West Colonial Drive	Orlando	FL	32818
East Colonial	2628 East Colonial Drive	Orlando	FL	32803
Wichita Falls	3915 Kell East Blvd.	Wichita Falls	TX	76308
Longview	3510 McCann Road, Suite 102	Longview	TX	75605
San Antonio Clearance Center	5776 Stemmons Drive Ste 107	San Antonio	TX	78238
N. Freeway	9700 North Freeway	Houston	TX	77037

**Distribution:**

<b><u>Name</u></b>	<b><u>Address</u></b>	<b><u>City</u></b>	<b><u>State</u></b>	<b><u>Zip</u></b>
Albuquerque XD	540 Silver Creek Road NW Suite A-1	Albuquerque	NM	87121
Amarillo XD	West Amarillo Industrial Park # 2 3910 NW 12th Street	Amarillo	TX	79106

Austin XD	2900 Oak Springs Road	Austin	TX	78702
Baton Rouge XD (operating out of store #9)	8888 Airline Highway	Baton Rouge	LA	70815
Beaumont Office	3295 College Street	Beaumont	TX	77701
Beaumont WH/Service	650 S. 23 <sup>rd</sup> Street	Beaumont	TX	77701
Charlotte DC	10335 Ridge Creek Drive	Charlotte	NC	28273
Chattanooga XD (operating out of store #219)	5844 Brainerd Road	Chattanooga	TN	27411
Corpus Christi XD (operating out of store #047)	4818 S. Padre Island Drive	Corpus Christi	TX	78411
Dallas DC (relo)	4800 Langdon Road, Suite 100	Dallas	TX	75241
Dallas DC (relo) - Service Center	4803 Langdon Road, Suite 100	Dallas	TX	75244
Denver DC - Airways Business Center, Building 3	2470 Airport Boulevard - Suite D	Aurora	CO	80011
El Paso DC	47 Butterfield Trail Blvd.	El Paso	TX	79906
El Paso DC - Service Center	48 Butterfield Trail Blvd.	El Paso	TX	79907
Greenville XD	105 Fortis Drive	Duncan	SC	29334
Houston Service	2425 Turning Basin	Houston	TX	77029
Houston WH	8550-A Market Street	Houston	TX	77029
Jackson XD (operating out of store # 159)	1051 E. County Line Road	Jackson	MS	32911
Knoxville XD (operating out of store #157)	151 N. Peters	Knoxville	TN	37923
Lafayette XD	124 Bertrand Drive	Lafayette	LA	70506
Laredo XD (currently operating out of store # 122)	2420 Bob Bullock Loop - Suite 6	Laredo	TX	78043
Las Vegas XD (external)	3595 E. Patrick Lane, Suite 900	Las Vegas	NV	89120
Las Vegas XD (operating out of store # 196)	2201 Civic Center Drive, North	Las Vegas	NV	89149
Lubbock XD (operating out of store # 162)	4949 Milwaukee Ave.	Lubbock	TX	79407
McAllen DC	6900 S. International Parkway	McAllen	TX	78503
McAllen DC - Service Center	6901 S. International Parkway	McAllen	TX	78504
Memphis XD	3955 Vantech Drive	Memphis	TN	38115
Nashville DC	7001 Centrepointe Drive	LaVergne	TN	37086
Odessa XD (operating out of store # 137)	6976 E. Hwy 191	Odessa	TX	79762
Oklahoma City XD	1001 Enterprise Avenue, Ste. 14A	Oklahoma City	OK	73128
Phoenix DC	1100 North 127 <sup>th</sup> Ave, #300	Avondale	AZ	85323
Phoenix DC - Service Center	1101 North 127 <sup>th</sup> Ave, #300	Avondale	AZ	85324

Schedule 8.7.1 to Fifth Amended and Restated Loan and Security Agreement  
Business Locations

Portsmouth XD (operating out of store # 237)	2550 Airline Blvd	Portsmouth	VA	23701
Raleigh XD	3208 Spottswood Street, #114	Raleigh	NC	27615
San Antonio Call Center	5776 Stemmons Drive	San Antonio	TX	78238
San Antonio DC (relo)	1710 Cornerway Blvd	San Antonio	TX	78219
San Antonio DC (relo) - Service Center	1711 Cornerway Blvd	San Antonio	TX	78220
Shreveport XD (operating out of store # 136)	7081 Youree Drive	Shreveport	LA	71105
Triangle/Lafayette Service Center	650 S. 23rd Street - Suite A2	Beaumont	TX	77707
Tucson XD	1859 W. Grant Road #107	Tucson	AZ	85745
Tucson XD	4651 Butterfield Rd. Suite 151	Tucson	AZ	85714
Tulsa XD (operating out of store # 127)	10143 E. 71 <sup>st</sup> Street – Unit # 7	Tulsa	OK	74133
Waco XD (operating out of store #117)	230 N. New Road	Waco	TX	76710
Woodlands - Corporate Office	2445 Technology Forest Blvd 7th FL	The Woodlands	TX	77380
Woodlands Corporate Office	2445 Technology Forest Blvd 8th FL	The Woodlands	TX	77380
New Houston DC	1401 Rankin Rd.	Houston	TX	77073
805 - Service Center out of 301	1401 Rankin Rd.	Houston	TX	77073
266 - Clearance Center out of 301	1401 Rankin Rd.	Houston	TX	77073
Corporate Office out of 301	1401 Rankin Rd.	Houston	TX	77073
Port Allen DC	2070 Commercial Dr.	Port Allen	LA	70767
Florida DC	8401 FL 33	Lakeland	FL	33809
Baseline Call Center	4940 S Wendler Dr.	Tempe	AZ	35282

Schedule 8.7.1 to Fifth Amended and Restated Loan and Security Agreement  
Business Locations

**SCHEDULE 9.1.4**

to

**Fifth Amended and Restated  
Loan and Security Agreement****NAMES AND CAPITAL STRUCTURE**

1. The corporate names, jurisdictions of incorporation, and authorized and issued Equity Interests of Parent, Borrowers and their Subsidiaries are as follows:

<b>Name</b>	<b>Jurisdiction</b>	<b>Number and Class of Authorized Shares</b>	<b>Number and Class of Issued Shares</b>
Conn's, Inc.	Delaware	100,000,000 Common Shares. 1,000,000 Preferred Shares.	31,574,968
Conn Appliances, Inc., as a Borrower	Texas	35,000,000 Common Shares. 300,000 Senior Preferred Shares.	Stock Certificate #158; 1,000 Shares.
Conn Credit Corporation, Inc., as a Borrower	Texas	4,000,000 Common Shares.	Stock Certificate #1016; 56,500 Shares.
Conn Credit I, LP, as a Borrower	Texas	N/A	N/A
CAI Holding, LLC	Delaware	N/A	N/A
CAI Credit Insurance Agency, Inc.	Louisiana	100,000 Common Shares.	Stock Certificate #3; 1,000 Shares.
Conn Lending, LLC	Delaware	N/A	N/A
Conn's Receivables Funding I GP, LLC	Texas	N/A	N/A
Conn's Receivables, LLC	Delaware	N/A	N/A
Conn's Receivables Funding I, LP	Texas	N/A	N/A
Conn Appliances, Receivables Funding, LLC	Delaware	N/A	N/A
Conn's Receivables Funding 2017-A, LLC	Delaware	N/A	N/A
Conn's Receivables 2017-A Trust	Delaware	N/A	N/A
Conn's Receivables Funding 2017-B LLC	Delaware	N/A	N/A
Conn's Receivables 2017-B Trust	Delaware	N/A	N/A
Conn's Receivables Warehouse LLC	Delaware	N/A	N/A
Conn's Receivables Warehouse Trust	Delaware	N/A	N/A

3. All agreements binding on holders of Equity Interests of Borrowers and their Subsidiaries with respect to such interests are as follows:

None.

**SCHEDULE 9.1.5**

to

**Fifth Amended and Restated  
Loan and Security Agreement****FORMER NAMES AND COMPANIES**

1. Each Borrower's and its Subsidiary's correct corporate name, as registered with the Secretary of State of its state of incorporation, is shown on **Schedule 9.1.4**.
2. In the conduct of their businesses during five years preceding the Closing Date, Borrowers and its Subsidiaries have used the following names:

<b><u>Entity</u></b>	<b><u>Fictitious, Trade or Other Name</u></b>
Conn Appliances, Inc., as Parent	None
Conn Appliances, Inc., as a Borrower	Conn Appliances Conn's Conn's HomePlus Conn's Home Plus
Conn Credit Corporation, Inc., as a Borrower	Conn Credit Conn Credit Corp.
Conn Credit I, LP, as a Borrower	None
CAI Holding, LLC, as a Subsidiary	CAI Holding Co.
CAIAIR, Inc., as a Subsidiary	None
CAI Credit Insurance Agency, Inc., as a Subsidiary	None
Conn Lending, LLC, as a Subsidiary	None

3. In the five years preceding the Closing Date, no Borrower or its Subsidiary has been the surviving corporation of a merger or combination, except: NONE
4. In the five years preceding the Closing Date, no Borrower or its Subsidiary has acquired any substantial part of the assets of any Person, except: NONE

Schedule 9.1.5 to Fifth Amended and Restated Loan and Security Agreement  
Former Names and Companies

**SCHEDULE 9.1.11**

to

**Fifth Amended and Restated  
Loan and Security Agreement****PATENTS, TRADEMARKS, COPYRIGHTS AND LICENSES**

1. Borrowers' and its Subsidiaries' patents:

**NONE.**

2. Borrowers' and its Subsidiaries' trademarks:

<b><u>Trademark</u></b>	<b><u>Owner</u></b>	<b><u>Status in Trademark Office</u></b>	<b><u>Federal Registration No.</u></b>	<b><u>Registration Date</u></b>
	Conn's Inc.	Registered	5784971	06/25/19
YES LEASE	Conn's Inc.	Registered	5274800	08/29/17
YES LEASE	Conn's Inc.	Registered	5274799	08/29/17
	Conn's Inc.	Registered	5270377	08/22/17
	Conn's Inc.	Registered	4118560	03/27/2012
CONN'S	Conn's Inc.	Registered	2824660	03/23/2004
CONN'S (TX)	Conn's Inc.	Registered	State reg: 800166784	01/15/2003
CONN'S HOME PLUS	Conn's Inc.	Registered	4201352	09/04/2012
YES MONEY	Conn's Inc.	Registered	4339428	05/21/2013
YES MONEY	Conn's Inc.	Registered	4339427	05/21/2013

Schedule 9.1.11 to Fifth Amended and Restated Loan and Security Agreement  
Patents, Trademarks, Copyrights and Licenses

	Conn's Inc.	Registered	4339425	05/21/2013
	Conn's, Inc.	Registered	2758779	09/02/03

3. Borrowers' and its Subsidiaries' copyrights:

**NONE.**

4. Borrowers' and its Subsidiaries' licenses (other than off-the-shelf software licenses and routine business licenses, authorizing them to transact business in local jurisdictions):

**NONE.**

Schedule 9.1.11 to Fifth Amended and Restated Loan and Security Agreement  
Patents, Trademarks, Copyrights and Licenses

**SCHEDULE 9.1.14**

**to**

**Fifth Amended and Restated  
Loan and Security Agreement**

**ENVIRONMENTAL MATTERS**

**NONE.**

Schedule 9.1.14 to Fifth Amended and Restated Loan and Security Agreement  
Environmental Matters

**SCHEDULE 9.1.16**

**to**

**Fifth Amended and Restated  
Loan and Security Agreement**

**LITIGATION**

1. Proceedings and investigations pending against Parent or its Subsidiaries:

None, other than such proceedings or investigations disclosed on the Parent's Form 10-K for the fiscal year ended January 31, 2020.

2. Threatened proceedings or investigations against Parent or its Subsidiaries of which any of Parent or any Borrower is aware:

None, other than such pending or threatened proceedings or investigations disclosed on the Parent's Form 10-K for the fiscal year ended January 31, 2020.

3. Pending Commercial Tort Claim of any Obligor:

**None.**

Schedule 9.1.16 to Fifth Amended and Restated Loan and Security Agreement  
Litigation

**SCHEDULE 9.1.20**

**to**

**Fifth Amended and Restated  
Loan and Security Agreement**

**LABOR CONTRACTS**

Borrowers and its Subsidiaries are party to the following collective bargaining agreements, management agreements and consulting agreements:

**NONE.**

Schedule 9.1.20 to Fifth Amended and Restated Loan and Security Agreement  
Labor Contracts

**SCHEDULE 10.2.2**

to

**Fifth Amended and Restated  
Loan and Security Agreement****EXISTING LIENS**

<b>Debtor: CONN APPLIANCES, INC.</b>				
<b>Secured Party:</b>	<b>File Number:</b>	<b>Date filed:</b>	<b>Jurisdiction</b>	<b>Collateral:</b>
Wells Fargo Commercial Distribution Finance, LLC	9800115926	6/5/1998	Texas Secretary of State	Room air conditioning inventory
Wells Fargo Commercial Distribution Finance, LLC	02-0020382714	2/25/2002	Texas Secretary of State	Room air conditioning inventory
Crown Equipment Corporation	80028513300	8/26/2008	Texas Secretary of State	Lease of equipment
Synchrony Bank	90014992620	5/27/2009	Texas Secretary of State	Accounts, the Reserve Account, the Collateral Account, Unpaid Returned Goods, and proceeds.
Cypress Waters Retail No. 2, LLC	160019712895	6/16/2016	Texas Secretary of State	All of Debtor's trade fixtures, equipment and merchandise from time to time located within the Premises located at 2700 Ranch Trail Drive, Irving, TX 75063
Electrolux Home Products, Inc.	170008949452	3/16/2017	Texas Secretary of State	Inventory manufactured or distributed by Electrolux Home Products, Inc., and its successors and assigns
Function 4, LLC	170041243921	12/8/2017	Texas Secretary of State	Leased equipment
C T Corporation System, as representative	20-0011984308	3/30/2020	Texas Secretary of State	Equipment, personal property and other assets financed under, covered by or described in lease, rental, equipment finance agreement or installment payment agreement
Function 4, LLC	200061228162	12/11/2020	Texas Secretary of State	Equipment financed by or leased to Debtor by Secured Party
<b>Debtor: CONN CREDIT I, LP</b>				
<b>Secured Party:</b>	<b>File Number:</b>	<b>Date filed:</b>	<b>Jurisdiction</b>	<b>Collateral:</b>
Conn Appliances Receivables Funding, LLC	160008744101	3/18/2016	Texas Secretary of State	Receivables
Conn Appliances Receivables Funding, LLC	160034037832	10/14/2016	Texas Secretary of State	Receivables
Conn Appliances Receivables Funding, LLC	170014329744	4/26/2017	Texas Secretary of State	Receivables
Conn Appliances Receivables Funding, LLC	170028175273	8/16/2017	Texas Secretary of State	Receivables
Conn Appliances Receivables Funding, LLC	170029836551	8/31/2017	Texas Secretary of State	Receivables
Conn Appliances Receivables Funding, LLC	170042933514	12/22/2017	Texas Secretary of State	Receivables
Conn Appliances Receivables Funding, LLC	180028845208	8/15/2018	Texas Secretary of State	Receivables

Schedule 10.2.2 to Fifth Amended and Restated Loan and Security Agreement  
Existing Liens

Conn Appliances Receivables Funding, LLC	190015008105	4/24/2019	Texas Secretary of State	Receivables
Conn Appliances Receivables Funding, LLC	190045182909	11/27/2019	Texas Secretary of State	Receivables
Conn Appliances Receivables Funding, LLC	200052769354	10/16/2020	Texas Secretary of State	Receivables

Schedule 10.2.2 to Fifth Amended and Restated Loan and Security Agreement  
Existing Liens

**SCHEDULE 10.2.5**

**to**

**Fifth Amended and Restated  
Loan and Security Agreement**

**RESTRICTED INVESTMENTS**

NONE.

Schedule 10.2.5 to Fifth Amended and Restated Loan and Security Agreement  
Labor Contracts

**EXHIBIT A**  
**to**  
**FIFTH AMENDED AND RESTATED LOAN AND SECURITY AGREEMENT**  
**[FORM OF] REVOLVER NOTE**

\_\_\_\_\_, 20[ ]

\$ \_\_\_\_\_

**CONN APPLIANCES, INC.**, a Texas corporation, **CONN CREDIT I, LP**, a Texas limited partnership, and **CONN CREDIT CORPORATION, INC.**, a Texas corporation (collectively, "**Borrowers**"), for value received, hereby unconditionally promise to pay, on a joint and several basis, to the order of \_\_\_\_\_ ("**Lender**"), the principal sum of \_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_), or such lesser amount as may be advanced by Lender as Revolver Loans and owing as LC Obligations from time to time under the Loan Agreement described below, together with all accrued and unpaid interest thereon. Terms are used herein as defined in the Fifth Amended and Restated Loan and Security Agreement dated as of March 29, 2021, among Borrowers, Conn's, Inc., a Delaware corporation and parent to the Borrowers, the financial institutions party to the Loan Agreement from time to time as lenders (collectively, "**Lenders**") and **JPMORGAN CHASE BANK, N.A.**, a national banking association, as Agent for the Lenders (in such capacity, "**Agent**"), as such agreement may be amended, restated, amended and restated, supplemented, modified, renewed or extended from time to time (the "**Loan Agreement**").

Principal of and interest on this Revolver Note from time to time outstanding shall be due and payable as provided in the Loan Agreement. This Revolver Note is issued pursuant to and evidences Revolver Loans and LC Obligations under the Loan Agreement, to which reference is made for a statement of the rights and obligations of Lender and the duties and obligations of Borrowers. The Loan Agreement contains provisions for acceleration of the maturity of this Revolver Note upon the happening of certain stated events, and for the borrowing, prepayment and reborrowing of amounts upon specified terms and conditions.

The holder of this Revolver Note is hereby authorized by Borrowers to record on a schedule annexed to this Revolver Note (or on a supplemental schedule) the amounts owing with respect to Revolver Loans and LC Obligations and the payment thereof. Failure to make any notation, however, shall not affect the rights of the holder of this Revolver Note or any obligations of Borrowers hereunder or under any other Loan Documents.

Time is of the essence of this Revolver Note. Each Borrower and all endorsers, sureties and guarantors of this Revolver Note hereby severally waive demand, presentment for payment, protest, notice of protest, notice of intention to accelerate the maturity of this Revolver Note, diligence in collecting, the bringing of any suit against any party, and any notice of or defense on account of any extensions, renewals, partial payments, or changes in any manner of or in this Revolver Note or in any of its terms, provisions and covenants, or any releases or substitutions of any security, or any delay, indulgence or other act of any trustee or any holder hereof, whether before or after maturity. Borrowers jointly and severally agree to pay, and to save the holder of this Revolver Note harmless against, any liability for the payment of all costs and expenses (including without limitation reasonable attorneys' fees) if this Revolver Note is collected by or through an attorney-at-law.

In no contingency or event whatsoever shall the amount paid or agreed to be paid to the holder of this Revolver Note for the use, forbearance or detention of money advanced hereunder exceed the highest lawful rate permitted under Applicable Law. If any such excess amount is inadvertently paid by Borrowers or inadvertently received by the holder of this Revolver Note, such excess shall be returned to Borrowers

Exhibit A – Revolver Note

or credited as a payment of principal, in accordance with the Loan Agreement. It is the intent hereof that Borrowers not pay or contract to pay, and that holder of this Revolver Note not receive or contract to receive, directly or indirectly in any manner whatsoever, interest in excess of that which may be paid by Borrowers under Applicable Law.

THIS NOTE REPLACES AND SUPERSEDES IN ITS ENTIRETY ALL PRIOR REVOLVER NOTES ISSUED BY BORROWERS IN FAVOR OF LENDER.

This Revolver Note shall be governed by the laws of the State of New York, without giving effect to any conflict of law principles (but giving effect to federal laws relating to national banks).

*[Signature Page Follows]*

Exhibit A – Revolver Note

IN WITNESS WHEREOF, this Revolver Note is executed as of the date set forth above.

CONN APPLIANCES, INC.,  
a Texas corporation

By:  
Name:  
Title:

CONN CREDIT I, LP,  
a Texas limited partnership

By: CAI HOLDING, LLC  
a Delaware limited liability company,  
its General Partner

By: CONN APPLIANCES, INC.  
a Texas corporation,  
its Sole Member

By:  
Name:  
Title:

CONN CREDIT CORPORATION, INC.,  
a Texas corporation

By:  
Name:  
Title:

Exhibit A – Revolver Note

**EXHIBIT B**  
to  
**FIFTH AMENDED AND RESTATED LOAN AND SECURITY AGREEMENT**  
**[FORM OF] ASSIGNMENT AND ACCEPTANCE**

Reference is made to the FIFTH AMENDED AND RESTATED LOAN AND SECURITY AGREEMENT dated as of March 29, 2021 (as amended, restated, amended and restated, supplemented, renewed, extended or otherwise modified from time to time, the "Loan Agreement"), among **CONN'S, INC.**, a Delaware corporation, as parent and guarantor ("Parent"), **CONN APPLIANCES, INC.**, a Texas corporation ("CAI"), **CONN CREDIT I, LP**, a Texas limited partnership ("CCI"), and **CONN CREDIT CORPORATION, INC.**, a Texas corporation ("CCCI"), and together with CAI and CCI, collectively, "Borrowers"), the financial institutions party to the Loan Agreement from time to time as lenders (collectively, "Lenders") and **JPMORGAN CHASE BANK, N.A.**, a national banking association, as Agent for the Lenders (in such capacity, "Agent"). Terms are used herein as defined in the Loan Agreement.

\_\_\_\_\_ ("Assignor") and \_\_\_\_\_ ("Assignee") agree as follows:

1. Assignor hereby assigns to Assignee and Assignee hereby purchases and assumes from Assignor (a) a principal amount of \$\_\_\_\_\_ of Assignor's outstanding Revolver Loans and \$\_\_\_\_\_ of Assignor's participations in LC Obligations, and (b) the amount of \$\_\_\_\_\_ of Assignor's Revolver Commitment (which represents % of the total Revolver Commitments) (the foregoing items being, collectively, "Assigned Interest"), together with an interest in the Loan Documents corresponding to the Assigned Interest. This Agreement shall be effective as of the date ("Effective Date") indicated in the corresponding Assignment Notice delivered to Agent, provided such Assignment Notice is executed by Assignor, Assignee, Agent and Borrower Agent, if applicable. From and after the Effective Date, Assignee hereby expressly assumes, and undertakes to perform, all of Assignor's obligations in respect of the Assigned Interest, and all principal, interest, fees and other amounts which would otherwise be payable to or for Assignor's account in respect of the Assigned Interest shall be payable to or for Assignee's account, to the extent such amounts accrue on or after the Effective Date.
2. Assignor (a) represents that as of the date hereof, prior to giving effect to this assignment, its Revolver Commitment is \$\_\_\_\_\_, the outstanding balance of its Revolver Loans and participations in LC Obligations is \$\_\_\_\_\_; (b) makes no representation or warranty and assumes no responsibility with respect to any statements, warranties or representations made in or in connection with the Loan Agreement or the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Loan Agreement or any other instrument or document furnished pursuant thereto, other than that Assignor is the legal and beneficial owner of the interest being assigned by it hereunder and that such interest is free and clear of any adverse claim; and (c) makes no representation or warranty and assumes no responsibility with respect to the financial condition of Borrowers or the performance by Borrowers of their obligations under the Loan Documents. [Assignor is attaching the promissory note[s] held by it and requests that Agent exchange such note[s] for new promissory notes payable to Assignee [and Assignor].]
3. Assignee (a) represents and warrants that it is legally authorized to enter into this Assignment; (b) confirms that it has received copies of the Loan Agreement and such other Loan Documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Assignment; (c) agrees that it shall, independently and without reliance upon Assignor and based on such documents and information as it shall deem appropriate at the time, continue to

Exhibit B – Form of Assignment and Acceptance

make its own credit decisions in taking or not taking action under the Loan Documents; (d) confirms that it is an Eligible Assignee; (e) appoints and authorizes Agent to take such action as agent on its behalf and to exercise such powers under the Loan Agreement as are delegated to Agent by the terms thereof, together with such powers as are incidental thereto; (f) agrees that it will observe and perform all obligations that are required to be performed by it as a "Lender" under the Loan Documents; and (g) represents and warrants that the assignment evidenced hereby will not result in a non-exempt "prohibited transaction" under Section 406 of ERISA.

- 4. This Agreement shall be governed by the laws of the State of New York. If any provision is found to be invalid under Applicable Law, it shall be ineffective only to the extent of such invalidity and the remaining provisions of this Agreement shall remain in full force and effect.
- 5. Each notice or other communication hereunder shall be in writing, shall be sent by messenger, by telecopy or facsimile transmission, or by first-class mail, shall be deemed given when sent and shall be sent as follows:

(a) If to Assignee, to the following address (or to such other address as Assignee may designate from time to time):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(b) If to Assignor, to the following address (or to such other address as Assignor may designate from time to time):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Payments hereunder shall be made by wire transfer of immediately available Dollars as follows:

If to Assignee, to the following account (or to such other account as Assignee may designate from time to time):

ABA No.  
Account No.  
Reference:

If to Assignor, to the following account (or to such other account as Assignor may designate from time to time):

ABA No.  
Account No.  
Reference:

*[Signature Page Follows]*

IN WITNESS WHEREOF, this Assignment and Acceptance is executed as of \_\_\_\_\_, \_\_\_\_.

ASSIGNOR

[NAME OF ASSIGNOR]

By:  
Name:  
Title:

ASSIGNEE

[NAME OF ASSIGNEE]

By:  
Name:  
Title:

Exhibit B – Form of Assignment and Acceptance

**EXHIBIT C**  
**to**  
**FIFTH AMENDED AND RESTATED LOAN AND SECURITY AGREEMENT**  
**[FORM OF] ASSIGNMENT NOTICE**

Reference is made to (1) the Fifth Amended and Restated Loan and Security Agreement dated as of March 29, 2021 (as amended, restated, amended and restated, supplemented, renewed, extended or otherwise modified from time to time, the "Loan Agreement"), among **CONN'S, INC.**, a Delaware corporation, as parent and guarantor ("Parent"), **CONN APPLIANCES, INC.**, a Texas corporation ("CAI"), **CONN CREDIT I, LP**, a Texas limited partnership ("CCI"), and **CONN CREDIT CORPORATION, INC.**, a Texas corporation ("CCCI"), and together with CAI and CCI, collectively, "Borrowers"), the financial institutions party to the Loan Agreement from time to time as lenders (collectively, "Lenders") and **JPMORGAN CHASE BANK, N.A.**, a national banking association, as Agent for the Lenders (in such capacity, "Agent"); and (2) the Assignment and Acceptance dated as of \_\_\_\_\_, 20\_\_ ("Assignment"), between \_\_\_\_\_ ("Assignor") and \_\_\_\_\_ ("Assignee"). Terms are used herein as defined in the Loan Agreement.

Assignor hereby notifies Borrowers and Agent of Assignor's intent to assign to Assignee pursuant to the Assignment (a) a principal amount of \$\_\_\_\_\_ of Assignor's outstanding Revolver Loans and \$\_\_\_\_\_ of Assignor's participations in LC Obligations, and (b) the amount of \$\_\_\_\_\_ of Assignor's Revolver Commitment (which represents \_\_\_% of the total Revolver Commitments) (the foregoing items being, collectively, the "Assigned Interest"), together with an interest in the Loan Documents corresponding to the Assigned Interest. This Agreement shall be effective as of the date ("Effective Date") indicated below, provided this Assignment Notice is executed by Assignor, Assignee, Agent and Borrower Agent, if applicable. Pursuant to the Assignment, Assignee has expressly assumed all of Assignor's obligations under the Loan Agreement to the extent of the Assigned Interest, as of the Effective Date.

For purposes of the Loan Agreement, Agent shall deem Assignor's Revolver Commitment to be reduced by \$\_\_\_\_\_, and Assignee's Revolver Commitment to be increased by \$\_\_\_\_\_.

The address of Assignee to which notices and information are to be sent under the terms of the Loan Agreement is:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

The address of Assignee to which payments are to be sent under the terms of the Loan Agreement is shown in the Assignment.

This Notice is being delivered to Borrowers and Agent pursuant to **Section 13.3** of the Loan Agreement. Please acknowledge your acceptance of this Notice by executing and returning to Assignee and Assignor a copy of this Notice.

*[Signature Page Follows]*

Exhibit C – Form of Assignment Notice

IN WITNESS WHEREOF, this Assignment Notice is executed as of .

ASSIGNOR

[NAME OF ASSIGNOR]

By:  
Name:  
Title:

ASSIGNEE

[NAME OF ASSIGNEE]

By:  
Name:  
Title:

[Consent to and Accepted:]

AGENT

JPMORGAN CHASE BANK, N.A.

By:  
Name:  
Title:

[Consented to:]

BORROWER AGENT

CONN APPLIANCES, INC.,  
a Texas corporation

By:  
Name:  
Title:

Exhibit C – Form of Assignment Notice

**EXHIBIT D**  
**to**  
**FIFTH AMENDED AND RESTATED LOAN AND SECURITY AGREEMENT**  
**[FORM OF] COMPLIANCE CERTIFICATE**

This certificate is delivered pursuant to Section 10.1.2(d) of that certain Fifth Amended and Restated Loan and Security Agreement, dated as of March 29, 2021 (as amended, restated, amended and restated, supplemented, renewed, extended or otherwise modified from time to time, the “Loan Agreement”), among Conn’s, Inc., a Delaware corporation (“Company”), Conn Appliances, Inc., a Texas corporation (the “CAI”), Conn Credit Corporation, Inc., a Texas corporation (“CCCI”), and Conn Credit I, LP, a Texas limited partnership (together with CAI and CCCI, each a “Borrower” and collectively, the “Borrowers”), the financial institutions from time to time parties thereto (collectively, the “Lenders”) and JPMorgan Chase Bank, N.A., a national banking association, as Agent for the Lenders (in such capacity, “Agent”). All initially capitalized terms used but not defined in this certificate shall have the respective meanings ascribed thereto in the Loan Agreement.

I hereby certify pursuant to Section 10.1.2(d) of the Loan Agreement the following:

1. The Company and each Borrower has not, and has not allowed any of their Subsidiaries to make Capital Expenditures in excess of \$100,000,000 in the aggregate during the period of the last four consecutive Fiscal Quarters.
2. Attached hereto as Schedule I are reasonably detailed calculations setting forth Interest Coverage Ratio for the most recently ended two Fiscal Quarters, which calculations are true and accurate on and as of the date of this Certificate.
3. Attached hereto as Schedule II are reasonably detailed calculations setting forth Leverage Ratio for the most recently ended Fiscal Quarter, which calculations are true and accurate on and as of the date of this Certificate.
4. Attached hereto as Schedule III are reasonably detailed calculations setting forth ABS Excluded Leverage Ratio for the most recently ended Fiscal Quarter, which calculations are true and accurate on and as of the date of this Certificate.
5. Based on the reasonably detailed calculations setting forth the Leverage Ratio for the most recently ended Fiscal Quarter, the applicable level for the Applicable Margin is: Level [\_\_\_\_\_].
6. [As of the date of this Certificate, no Default or Event of Default exists] OR [As of the date of this Certificate, no Default or Event of Default exists, other than: [\_\_\_\_\_]].
7. [Pursuant to Section 7.5.2, during the most recently ended Fiscal Quarter ending [\_\_\_\_\_], the Borrowers have obtained interest in Collateral (other than Contracts and related assets) consisting of Chattel Paper, Documents, Instruments, Intellectual Property, Investment Property or Letter-of-Credit Rights, as set forth in Schedule IV attached hereto.]
8. [Pursuant to Section 8.7.1 of the Agreement, attached hereto as Schedule V is an updated Schedule 8.7.1 of the Agreement.]
9. [Attached hereto as Schedule VI is a copy of the Credit and Collection Guidelines reflecting changes made since the [Closing Date] [date of the most recent delivery of the Credit and Collection Guidelines], which Credit and Collection Guidelines may, in the case of Confidential Information, be redacted.]

Exhibit D – Form of Compliance Certificate

*[Signature Page Follows]*

Exhibit D – Form of Compliance Certificate

IN WITNESS WHEREOF, this Compliance Certificate is executed as of the date set forth above.

CONN'S, INC., a Delaware corporation

By:  
Name:  
Title:

CONN APPLIANCES, INC.,  
a Texas corporation

By:  
Name:  
Title:

CONN CREDIT I, LP,  
a Texas limited partnership

By: CAI HOLDING, LLC  
a Delaware limited liability company,  
its General Partner

By: CONN APPLIANCES, INC.  
a Texas corporation,  
its Sole Member

By:  
Name:  
Title:

CONN CREDIT CORPORATION, INC.,  
a Texas corporation

By:  
Name:  
Title:

Exhibit D – Form of Compliance Certificate

Schedule I

Interest Coverage Ratio Calculations

(see attached)

Exhibit D – Form of Compliance Certificate

Schedule II

Leverage Ratio Calculations

(see attached)

Exhibit D – Form of Compliance Certificate

Schedule III

ABS Excluded Leverage Ratio Calculations

(see attached)

Exhibit D – Form of Compliance Certificate

Schedule IV

List of Newly Acquired Collateral

(see attached)

Exhibit D – Form of Compliance Certificate

Schedule V

Updated Schedule 8.7.1

(see attached)

Exhibit D – Form of Compliance Certificate

Schedule VI

Changes made to Credit and Collection Guidelines

(see attached)

Exhibit D – Form of Compliance Certificate

**GENERAL RELEASE AND WAIVER**

1. I, Lee Wright, in consideration of the severance benefits to be paid to me by Conn's, Inc., a Delaware corporation (the "Company," and together with its affiliates, the "Company Parties") pursuant to the Executive Severance Agreement between me and the Company effective as of June 22, 2016 (the "Executive Severance Agreement"), do hereby release and forever discharge as of the date hereof the Company Parties and their respective affiliates, subsidiaries and direct or indirect parent entities and all present, former and future shareholders, directors, officers, agents, representatives, employees, successors and assigns of the Company and/or its respective affiliates, subsidiaries and direct or indirect parent entities (collectively, the "Released Parties") to the extent provided below (this "General Release"); provided, however, that it is understood that I am not waiving or releasing: (a) any of my indemnification rights and remedies arising under the common law, statutory law or regulation, the bylaws of the Company, the Indemnification Agreement between the Company and me dated June 22, 2016, or any similar insurance policies, as applicable; (b) my rights to any of the benefits provided for in the Executive Severance Agreement, except to the extent such rights are modified or waived herein; (c) my rights to unemployment insurance benefits; (d) my rights to any vested benefits; (e) any rights that may not be waived as a matter of law; or (f) any claims or rights arising under this General Release, including specifically paragraph 2 below. The Released Parties are intended to be third-party beneficiaries of this General Release, and this General Release may be enforced by each of them in accordance with the terms hereof in respect of the rights granted to such Released Parties hereunder.
2. This General Release is the release contemplated by Section 3(d) of the Executive Severance Agreement. I understand that, except for the payments and benefits specified in Section 3(a) of the Executive Severance Agreement, any payments or benefits paid or granted to me pursuant to the Executive Severance Agreement in connection with my termination of employment represent, in part, consideration for signing this General Release, and are not salary, wages or benefits to which I was already entitled. I understand and agree that I will not receive such payments and benefits unless I execute this General Release and do not revoke this General Release within the time periods permitted hereafter. Such payments and benefits will not be considered compensation for purposes of any employee benefit plan, program, policy or arrangement maintained or hereafter established by the Company or its Affiliates.
3. I understand that the Company is providing me with a thirty (30) day transition period from January 19, 2021 to February 18, 2021 ("Transition Period") during which I will continue in my current employment and continue fulfilling my employment-related duties and responsibilities in connection therewith. My Severance Period (as such term is defined in the Executive Severance Agreement) will commence as of February 19, 2021 and continue until August 20, 2022.

If I sign this General Release prior to February 19, 2021, I agree to sign another General Release releasing my claims contained in Section 4 in substantially the same form as a condition to receiving the benefits described herein. Upon signing this General Release and the expiration of the revocation period in Section 17(f), I will receive, in addition to the severance benefits described in Section 3(b) of the Executive Severance Agreement, \$400,000 (less required tax and other withholdings) ("Supplemental Lump-Sum Payment"), which Supplemental Lump-Sum Payment shall be in full satisfaction of any annual incentive plan bonus or compensation for fiscal year 2021 to which I may be entitled, payment to be made within fourteen (14) days after the expiration of the revocation period in Section 17(f). In further consideration for the above Supplemental Lump-Sum Payment, I understand that (a) I will not be entitled to any other bonus or incentive payment in respect of the Transition Period or for any period thereafter, and (b) for all

periods during and after the Transition Period, I will not be entitled to receive any other bonus or new incentive award, including any equity awards, under any incentive or bonus plan of the Company, including the Conn's Omnibus Incentive Plans, it being understood that, notwithstanding the foregoing, my existing awards under the Conn's 2016 Omnibus Incentive Plan shall continue to vest in accordance with the provisions of the Executive Severance Agreement.

4. Except as provided in Sections 6 and 7 below, I knowingly and voluntarily (for myself, my heirs, executors, administrators and assigns) release and forever discharge the Company and the other Released Parties from any and all claims, suits, controversies, actions, causes of action, cross-claims, counter-claims, demands, debts, compensatory damages, liquidated damages, punitive or exemplary damages, other damages, claims for costs and attorneys' fees, or liabilities of any nature whatsoever in law and in equity, both past and present (through the date that this General Release becomes effective and enforceable) and whether known or unknown, suspected, or claimed against the Company or any of the Released Parties which I, my spouse, or any of my heirs, executors, administrators or assigns, may have, and which arise out of or are connected with my employment with, or my separation or termination from, the Company, in each case as of the date hereof, including, but not limited to, any allegation, claim or violation, arising under: Title VII of the Civil Rights Act of 1964, as amended; the Civil Rights Act of 1991; the Age Discrimination in Employment Act of 1967, as amended (including the Older Workers Benefit Protection Act); the Equal Pay Act of 1963, as amended; the Americans with Disabilities Act of 1990; the Family and Medical Leave Act of 1993; the Worker Adjustment Retraining and Notification Act; the Employee Retirement Income Security Act of 1974; any applicable Executive Order Programs; the Fair Labor Standards Act; Section 1981 of U.S.C. Title 42; the Fair Credit Reporting Act; the Uniform Services Employment and Reemployment Rights Act; the Genetic Information Nondiscrimination Act; the Immigration Reform and Control Act; or their state or local counterparts; or under any other federal, state or local civil or human rights law, or under any other local, state, or federal law, regulation or ordinance; or under any public policy, contract or tort, or under common law; or arising under any policies, practices or procedures of the Company; or any claim for wrongful discharge, breach of contract, infliction of emotional distress, defamation; or any claim for costs, fees, or other expenses, including attorneys' fees incurred in these matters (all of the foregoing collectively referred to herein as the "Claims"). Notwithstanding the foregoing, Claims do not include any claims based upon my rights set forth in Sections 1(a)-1(f), above.
5. I represent that I have made no assignment or transfer of any right, claim, demand, cause of action, or other matter covered by Section 4 above.
6. I agree that this General Release does not waive or release any rights or claims that I may have which arise after the date I execute this General Release, including Claims under the Age Discrimination in Employment Act of 1967, or limits my ability to file a charge or complaint with any court or tribunal in any jurisdiction (domestic or foreign) or any governmental or regulatory body, agency, department, commission, board, bureau, or other authority or instrumentality (domestic or foreign) (a "Governmental Entity") or limits my ability to provide information to or communicate with any Governmental Entity or otherwise participate in any investigation or proceeding that may be conducted by a Governmental Entity in connection with any charge or complaint, whether filed by me, on my behalf, or by any other individual; provided, however, that to the maximum extent permitted by law, I agree that if such a charge or complaint is made, I shall not be entitled to recover any individual monetary relief or other individual remedies; provided, further, that this General Release does not limit or prohibit my right to receive an award for information provided to a Governmental Entity to the extent that such limitation or prohibition is a violation of law. I acknowledge and agree that my separation from employment with the Company

shall not serve as the basis for any claim or action (including, without limitation, any claim under the Age Discrimination in Employment Act of 1967).

7. I agree that I hereby waive all rights to sue or obtain equitable, remedial or punitive relief from any or all Released Parties of any kind whatsoever in respect of any Claims, including, without limitation, reinstatement, back pay, front pay, and any form of injunctive relief. Notwithstanding the above, I further acknowledge that I am not waiving and am not being required to waive any right that cannot be waived under law, including the right to file an administrative charge or participate in an administrative investigation or proceeding; provided, however, that I disclaim and waive any right to share or participate in any monetary award resulting from the prosecution of such charge or investigation or proceeding.
8. I hereby agree not to bring or participate in any class or collective action against the Company and/or the other Released Parties that asserts, in whole or in part, any claims that arose before I signed this General Release, whether or not such claims (if brought by me individually) are released by this General Release.
9. In signing this General Release, I acknowledge and intend that it shall be effective as a bar to each and every one of the Claims hereinabove mentioned or implied. I expressly consent that this General Release shall be given full force and effect according to each and all of its express terms and provisions, including those relating to unknown and unsuspected Claims (notwithstanding any state or local statute that expressly limits the effectiveness of a general release of unknown, unsuspected and unanticipated Claims), if any, as well as those relating to any other Claims hereinabove mentioned or implied. I acknowledge and agree that this waiver is an essential and material term of this General Release and that without such waiver I would not have become entitled to the severance benefits to be provided to me by the Company. I further agree that in the event I should bring a Claim seeking damages against the Company, or in the event I should seek to recover against the Company in any Claim brought by a governmental agency on my behalf, this General Release shall serve as a complete defense to such Claims to the maximum extent permitted by law. I further agree that I am not aware of any pending claim of the type described in Section 4 above as of the execution of this General Release.
10. I agree that neither this General Release, nor the furnishing of the consideration for this General Release, shall be deemed or construed at any time to be an admission by the Company, any Released Party or myself of any improper or unlawful conduct.
11. Any non-disclosure provision in this General Release does not prohibit or restrict me (or my attorney) from responding to any inquiry about this General Release or its underlying facts and circumstances by the Securities and Exchange Commission (SEC), the Financial Industry Regulatory Authority (FINRA), any other insurance regulatory organization or any governmental entity.
12. I represent that I am not aware of any claim by me other than the claims that are released by this General Release. I acknowledge that I may hereafter discover claims or facts in addition to or different than those which I now know or believe to exist with respect to the subject matter of the release set forth in Section 4 above and which, if known or suspected at the time of entering into this General Release, may have materially affected this General Release and my decision to enter into it.
13. I understand and agree that I will not make any false, disparaging or derogatory statements to any person or entity, including any media outlet, regarding the Company or any of the other Released Parties or about the Company's business or financial condition other than truthful statements made to my legal representatives or in connection with any legal proceeding or governmental

investigation. The Company understands and agrees that it will not, and it will instruct its directors and executive officers not to, make any false, disparaging or derogatory statements to any person or entity, including any media outlet, regarding me other than truthful statements made to legal representatives of the Company or in connection with any legal proceeding or governmental investigation.

14. I hereby acknowledge and reaffirm my obligation to keep confidential and not disclose any and all non-public information concerning the Company that I acquired during the course of my employment with the Company, including, but not limited to, any nonpublic information concerning the Company's business affairs, business prospects and financial condition. I further agree to comply with Section 7 (Non-Disclosure, Non-Competition and Non-Solicitation) of my Executive Severance Agreement.
15. Notwithstanding anything herein to the contrary, nothing in this General Release, shall (i) prohibit me from making reports of possible violations of federal law or regulation to any governmental agency or entity in accordance with the provisions of and rules promulgated under Section 21F of the Securities Exchange Act of 1934 or Section 806 of the Sarbanes-Oxley Act of 2002, or of any other whistleblower protection provisions of state or federal law or regulation, or (ii) require notification or prior approval by the Company of any reporting described in clause (i) above.
16. Whenever possible, each provision of this General Release shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this General Release is held to be invalid, illegal or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision or any other jurisdiction, but this General Release shall be reformed, construed and enforced in such jurisdiction as if such invalid, illegal or unenforceable provision had never been contained herein.
17. BY SIGNING THIS GENERAL RELEASE, I REPRESENT AND AGREE THAT:
  - (a) I HAVE READ IT CAREFULLY IN ITS ENTIRETY, AND I UNDERSTAND ALL OF ITS TERMS AND KNOW THAT I AM GIVING UP IMPORTANT RIGHTS, INCLUDING BUT NOT LIMITED TO, RIGHTS UNDER THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967, AS AMENDED, TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, AS AMENDED; THE EQUAL PAY ACT OF 1963; THE AMERICANS WITH DISABILITIES ACT OF 1990; AND THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974, AS AMENDED;
  - (b) I KNOWINGLY, FREELY AND VOLUNTARILY CONSENT TO ALL OF THE TERMS AND CONDITIONS SET OUT IN IT, INCLUDING, WITHOUT LIMITATION, THE WAIVER, RELEASE AND COVENANTS CONTAINED IN IT;
  - (c) I HAVE BEEN ADVISED TO CONSULT WITH AN ATTORNEY BEFORE EXECUTING IT AND I HAVE DONE SO TO THE EXTENT I BELIEVE NECESSARY OR, AFTER CAREFUL READING AND CONSIDERATION, I HAVE CHOSEN NOT TO DO SO OF MY OWN VOLITION;
  - (d) I HAVE SIGNED THIS GENERAL RELEASE, INCLUDING THE WAIVER AND RELEASE INCLUDED HEREIN, IN EXCHANGE FOR GOOD AND VALUABLE CONSIDERATION IN ADDITION TO ANYTHING OF VALUE TO WHICH I AM OTHERWISE ENTITLED;
  - (e) I HAVE HAD AT LEAST TWENTY-ONE (21) DAYS FROM THE DATE OF MY RECEIPT OF THIS GENERAL RELEASE TO CONSIDER IT AND CONSULT WITH COUNSEL OF MY CHOICE, AND THE CHANGES MADE SINCE MY RECEIPT OF



## SUBSIDIARIES OF CONN'S, INC.

<b>Subsidiary</b>	<b>Jurisdiction</b>
Conn Appliances, Inc.	Texas
Conn Credit Corporation, Inc.	Texas
CAI Holding, LLC	Delaware
CAI Credit Insurance Agency, Inc.	Louisiana
Conn Credit I, LP	Texas
Conn Lending, LLC	Delaware
Conn's Receivables Funding I GP, LLC	Texas
Conn's Receivables, LLC	Delaware
Conn's Receivables Funding I, LP	Texas
Conn Appliances Receivables Funding, LLC	Delaware
Conn's Receivables Funding 2018-A, LLC	Delaware
Conn's Receivables 2018-A Trust	Delaware
Conn's Receivables Warehouse LLC	Delaware
Conn's Receivables Warehouse Trust	Delaware
Conn's Receivables Funding 2019-A, LLC	Delaware
Conn's Receivables 2019-A Trust	Delaware
Conn's Receivables Funding 2019-B, LLC	Delaware
Conn's Receivables 2019-B Trust	Delaware
Conn's Receivables Funding 2020-A, LLC	Delaware
Conn's Receivables 2020-A Trust	Delaware

**Consent of Independent Registered Public Accounting Firm**

We consent to the incorporation by reference in the following Registration Statements:

- (1) Registration Statement (Form S-8 No. 333-111280) pertaining to the 2003 Non-Employee Director Stock Option Plan of Conn's, Inc.,
- (2) Registration Statement (Form S-8 No. 333-111281) pertaining to the Amended and Restated 2003 Incentive Stock Option Plan of Conn's, Inc.,
- (3) Registration Statement (Form S-8 No. 333-111282) pertaining to the Employee Stock Purchase Plan of Conn's, Inc.,
- (4) Registration Statement (Form S-8 No. 333-139208) pertaining to the 2003 Non-Employee Director Stock Option Plan and Amended and Restated 2003 Incentive Stock Option Plan of Conn's, Inc.,
- (5) Registration Statement (Form S-8 No. 333-174997) pertaining to the 2011 Omnibus Incentive Plan of Conn's, Inc.,
- (6) Registration Statement (Form S-8 No. 333-174998) pertaining to the 2011 Non-Employee Director Restricted Stock Plan of Conn's, Inc.,
- (7) Registration Statement (Form S-8 No. 333-211584) pertaining to the 2016 Omnibus Incentive Plan of Conn's, Inc.,
- (8) Registration Statement (Form S-3 No. 333-228528) of Conn's, Inc.,
- (9) Registration Statement (Form S-8 No. 333-218555) pertaining to the Amended 2016 Omnibus Incentive Plan of Conn's, Inc.
- (10) Registration Statement (Form S-8 No. 333-252257) pertaining to the Conn's Inc. 2020 Omnibus Equity Plan

of our reports dated March 31, 2021, with respect to the consolidated financial statements of Conn's, Inc. and the effectiveness of internal control over financial reporting of Conn's, Inc. included in this Annual Report (Form 10-K) for the year ended January 31, 2021.

/s/ Ernst & Young LLP

Houston, Texas  
March 31, 2021

**RULE 13a-14(a)/15d-14(a) CERTIFICATION  
(CHIEF EXECUTIVE OFFICER)**

I, Norman L. Miller, certify that:

1. I have reviewed this annual report on Form 10-K of Conn's, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

/s/ Norman L. Miller

Norman L. Miller

Chairman of the Board, Chief Executive Officer and  
President

Date: March 31, 2021

**RULE 13a-14(a)/15d-14(a) CERTIFICATION  
(CHIEF FINANCIAL OFFICER)**

I, George L. Bchara, certify that:

1. I have reviewed this annual report on Form 10-K of Conn's, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

/s/ George L. Bchara

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George L. Bchara

Executive Vice President and Chief Financial Officer

Date: March 31, 2021

**CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Annual Report of Conn's, Inc. (the "Company") on Form 10-K for the period ended January 31, 2020 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), we, Norman L. Miller, Chairman of the Board, Chief Executive Officer and President of the Company, and George L. Bchara, Executive Vice President and Chief Financial Officer of the Company, hereby certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to the best of our knowledge:

- (1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ Norman L. Miller

Norman L. Miller  
Chairman of the Board, Chief Executive Officer and President

/s/ George L. Bchara

George L. Bchara  
Executive Vice President and Chief Financial Officer

Dated: March 31, 2021

A signed original of this written statement required by Section 906 has been provided to Conn's, Inc. and will be retained by Conn's, Inc. and furnished to the Securities and Exchange Commission or its staff upon request. The foregoing certification is being furnished solely pursuant to 18 U.S.C. Section 1350 and is not being filed as part of the Report or as a separate disclosure document.