

**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 fifty-two weeks ended January 31, 2009

**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 0-23071

**THE CHILDREN'S PLACE RETAIL STORES, INC.**

(Exact name of registrant as specified in its charter)

**Delaware**  
(State or other jurisdiction of  
incorporation or organization)

**31-1241495**  
(I.R.S. employer  
identification number)

**915 Secaucus Road**  
**Secaucus, New Jersey**  
(Address of Principal Executive  
Offices)

**07094**  
(Zip Code)

**(201) 558-2400**

(Registrant's Telephone Number, Including Area Code)

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

<u>Title of Class</u>	<u>Name of each exchange on which registered</u>
Common Stock, \$0.10 par value	Nasdaq Global Select Market

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

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

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

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

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

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

Large accelerated filer

Accelerated filer

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

Smaller reporting company

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

The aggregate market value of common stock held by non-affiliates was \$925,406,115 at the close of business on August 2, 2008 (the last business day of the registrant's fiscal 2008 second fiscal quarter) based on the closing price of the common stock as reported on the Nasdaq Global Select Market. For purposes of this disclosure, shares of common stock held by persons who hold more than 10% of the outstanding shares of common stock and shares held by executive officers and directors of the registrant have been excluded because such persons may be deemed affiliates. This determination of executive officer or affiliate status is not necessarily a conclusive determination for other purposes.

Indicate the number of shares outstanding of each of the registrant's classes of common stock, as of the latest practicable date: Common Stock, par value \$0.10 per share, outstanding at March 26, 2009: 29,471,432.

Documents Incorporated by Reference: Portions of The Children's Place Retail Stores, Inc. Definitive Proxy Statement for its Annual Meeting of Stockholders to be held in 2009 are incorporated by reference into Part III.

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THE CHILDREN'S PLACE RETAIL STORES, INC.

ANNUAL REPORT ON FORM 10-K  
FOR THE FIFTY-TWO WEEKS ENDED JANUARY 31, 2009  
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## SPECIAL NOTE REGARDING FORWARD LOOKING STATEMENTS

The Business section and other parts of this Annual Report on Form 10-K may contain certain forward-looking statements regarding future circumstances. Forward-looking statements provide current expectations of future events based on certain assumptions and include any statement that does not directly relate to any historical or current fact. Forward-looking statements can also be identified by words such as "anticipates," "believes," "estimates," "expects," "intends," "plans," "predicts," and similar terms. These forward-looking statements are based upon current expectations and assumptions of The Children's Place Retail Stores, Inc. (the "Company") and are subject to various risks and uncertainties that could cause actual results to differ materially from those contemplated in such forward-looking statements including, but not limited to, those discussed in the subsection entitled "Risk Factors" under Part I, Item 1A of this Annual Report on Form 10-K. Actual results, events, and performance may differ significantly from the results discussed in the forward-looking statements. Readers of this Annual Report on Form 10-K are cautioned not to place undue reliance on these forward-looking statements, which speak only as of the date hereof. The Company undertakes no obligation to release publicly any revisions to these forward-looking statements that may be made to reflect events or circumstances after the date hereof or to reflect the occurrence of unanticipated events. The inclusion of any statement in this Annual Report on Form 10-K does not constitute an admission by the Company or any other person that the events or circumstances described in such statement are material.

The following discussion should be read in conjunction with the Company's audited financial statements and notes thereto included elsewhere in this Annual Report on Form 10-K.

## PART I

### ITEM 1.—BUSINESS

As used in this Annual Report on Form 10-K, references to the "Company", "The Children's Place", "we", "us", "our" and similar terms refer to The Children's Place Retail Stores, Inc. and its subsidiaries. Our fiscal year ends on the Saturday nearest to January 31. All references to "Fiscal 2008" represent the 52 weeks ended January 31, 2009, all references to "Fiscal 2007" represent the 52 weeks ended February 2, 2008, and all references to "Fiscal 2006" represent the 53 weeks ended February 3, 2007.

#### General

The Children's Place Retail Stores, Inc. is a leading specialty retailer of children's apparel and accessories, ages newborn to 14 years old. We design, contract to manufacture and sell high-quality, value-priced merchandise under the proprietary "The Children's Place" brand name. We offer current fashion trends in a broad color palette as coordinated outfits specifically designed for children. We create freshness in our stores by introducing seasonal merchandise lines throughout the year. Each store offers spacious, bright and airy shopping that is a friendly and convenient atmosphere for both children and adults. The Children's Place has clearly identified departments and is dedicated to serving the needs of Girls and Boys (sizes 4-14), Baby Girls and Boys (sizes 6 mos.-4T) and Newborn (sizes 0-12 mos.). Display racks and shelves are neatly arranged to distinctly separate each department and provide easy viewing of the latest collection available. We also make our merchandise available at our online store located at [www.childrensplace.com](http://www.childrensplace.com). Our customers are able to shop at our online store, at their convenience, and receive the same high quality, value-priced merchandise and customer service that are available in our physical stores.

The Children's Place Retail Stores, Inc. was incorporated in June 1988 operating less than 100 stores. At the time of our initial public offering in September 1997, we had grown to approximately 200 stores located in 26 states in the eastern half of the United States. By April 2003, we had grown to 656

stores and our geographical coverage included 47 states and a newly established presence in Canada. The successful growth of the Children's Place stores and brand has since continued, and as of January 31, 2009, we owned and operated 917 stores throughout North America as well as our online store. During Fiscal 2008, we opened 26 stores compared to 54 in Fiscal 2007, and we closed 13 stores in Fiscal 2008, compared to 16 in Fiscal 2007. Our store growth plan for fiscal 2009 includes opening approximately 35 new The Children's Place stores.

### **The Disney Store Business**

From November 2004 through April 2008, through four wholly owned subsidiaries, the Company operated the Disney Store retail chain in North America (the "Disney Store Business") under a license agreement (the "License Agreement") with the Walt Disney Company ("Disney"). On March 20, 2008, after a thorough review of the Disney Store Business, including its potential for earnings growth, its capital needs and its ability to fund such needs from its own resources, we decided to exit the Disney Store Business. On March 26, 2008, the Company's subsidiaries that operated the Disney Store Business, Hoop Holdings, LLC, Hoop Retail Stores, LLC, Hoop Canada Holdings, Inc. and Hoop Canada Inc. (collectively "Hoop"), each filed a voluntary petition for relief under bankruptcy provisions in their respective jurisdictions. On April 30, 2008, with approval of the respective bankruptcy courts, Hoop sold the Disney Store Business to affiliates of Disney, including a majority of the Disney stores and related assets and effectively ended the License Agreement. During the remainder of Fiscal 2008, those stores not acquired by Disney were closed, and the remaining affairs of Hoop were mostly wound down. For further discussion of the Disney Store Business, see Note 2 to the Consolidated Financial Statements.

As a result of our decision to exit the Disney Store Business and in accordance with generally accepted accounting principles in the United States ("U.S. GAAP"), we have reclassified the Disney Store Business as a discontinued operation in our consolidated financial statements for all periods presented. Related to the Disney Store Business during Fiscal 2008, Fiscal 2007 and Fiscal 2006, we recorded income (loss) from discontinued operations of \$8.4 million, \$(69.5) million and \$3.1 million, respectively. Included in income (loss) from discontinued operations for Fiscal 2008, Fiscal 2007, and Fiscal 2006 were net sales of \$129 million, \$642 million and \$612 million, respectively.

### **Key Capabilities**

Our objective is to deliver high-quality merchandise at value prices and we employ a variety of techniques to achieve that objective as follows:

**Merchandising Strategy.** Our merchandising strategy is built on offering interchangeable outfits and accessories to create a coordinated look distinctive to the brand. We offer an updated, focused assortment of styles in a variety of colors and patterns, with the aim of consistently creating a fresh, youthful look at value prices that we believe distinguishes "The Children's Place" brand. We divide the year into quarterly merchandising seasons: spring, summer, back-to-school and holiday. Within each season, we typically deliver two merchandise lines. Each season is built around a color palette that includes an assortment of coordinated basic and fashion apparel with matching accessories.

**High Quality/Value Pricing.** We believe that our high quality, value price positioning is an important component of our long-term strategy. We offer high-quality clothing and accessories under "The Children's Place" brand name at prices below most of our direct mall-based competitors. We employ this value pricing strategy across our entire merchandise offering.

**Brand Image.** We strive to build our brand image and customer loyalty for "The Children's Place" by:

- Offering high-quality products at value prices;

- Providing colorful, coordinated and interchangeable outfits and accessories;
- Maintaining a uniform merchandise presentation;
- Emphasizing our image in our marketing visuals;
- Using our customer database to effectively target direct mailers to customers;
- Maintaining a marketing presence in targeted print publications; and
- Selling our merchandise exclusively in our The Children's Place stores and on our website.

**Low-Cost Sourcing.** We control the design, sourcing and presentation of our products. We believe that this control is essential in assuring the consistency and quality of our merchandise, as well as our ability to deliver value to our customers. We have established long-standing relationships with our vendors and suppliers. Through these relationships and our extensive knowledge of low cost sourcing, we are able to offer our customers high-quality products at value prices. Our offices in Hong Kong, Shanghai and New Delhi allow us to capitalize on new sourcing opportunities, increase our control over product quality and enable us to respond to changing merchandise trends effectively and efficiently.

### **Merchandising Process**

To execute our merchandising strategies, we rely on the coordinated efforts of our design, merchandising, planning and sourcing teams. These teams, in conjunction with senior management, review prior season results and fashion trends, colors and design concepts that we will offer in upcoming seasons. Merchandising selects items for production from the assortment of merchandise designs that are created by the design team. Then, based upon detail design specifications and production quantities determined by merchandising and planning, the sourcing team arranges for the issuance of purchase orders and manufacture of the selected items.

Work on each of our seasonal lines begins approximately one year before the season. However, the Company maintains, and at times exercises, the ability to develop and deliver product on an expedited timeline. The merchandising process includes purchasing of samples and gathering market intelligence on fashion trends, which involves extensive European and domestic market research, studying media and fashion magazines, attending trade shows, engaging the services of fashion and color forecast organizations, and analyzing prior season performance. After the design teams present their ideas, the designers, with the direction of the merchandising team, translate those ideas into a merchandise assortment that reflects the theme of the season. These interpretations include variations in fabric and other materials, product color, decoration and age-appropriate silhouettes. Potential items are designed using computer aided design technology, which allows for a wide range of style and fashion options. Our sourcing teams and Asian offices coordinate the production of prototype samples which enable our merchandising teams to ensure that our merchandise will properly reflect our design concepts. We also work with prototype samples in a simulated in-store environment.

The merchandise management teams create a detailed purchasing plan for the season covering each department, category and key item, based on historical, current and emerging category trends. The production process takes approximately five to six months from order confirmation to receipt of merchandise at our distribution facilities. Our planning teams monitor current and projected inventory levels on a weekly basis and analyze sales patterns to predict future demand for various items and categories. We regularly monitor sales and maintain some flexibility to adjust merchandise on order for future seasons or to accelerate delivery of merchandise. Our merchandise allocation teams are responsible for planning and allocating merchandise to each store based on sales levels, merchandise turns and other factors.

## Sourcing and Procurement

We combine management's extensive apparel sourcing experience with a cost-based buying strategy to control merchandise costs, infuse quality features into our products and deliver value to our customers. We believe that our understanding of the economics of apparel manufacturing, including costs of materials and components enables us to identify cost-effective countries and manufacturers from which to source each item and obtain high quality at low product cost.

Four times a year, our U.S. sourcing team makes on-site visits to our independent agents and various manufacturers to negotiate product costs, finalize technical specifications for each product and confirm delivery of merchandise manufactured to our specifications. During Fiscal 2008, we engaged approximately 175 independent manufacturers located primarily in Asia. To support our inventory needs and to control merchandise costs, we continue to pursue global sourcing opportunities and consider such factors as product quality, cost, reliability of the manufacturer, service, product lead times, and other factors.

We have no exclusive or long-term contracts with our manufacturers and typically transact business on an item-by-item basis under purchase orders at freight on board cost in U.S. dollars. We are party to agency agreements with commissioned independent agents who oversee production, assist in sourcing and pre-production approval, provide quality inspection and ensure timely delivery of merchandise. During Fiscal 2008, we purchased approximately 25% of our products through the support of a commissioned, independent agent in Taiwan, and approximately 14% of our products through an independent Hong Kong-based trading company. This trading company is responsible for procurement from wholly-owned facilities as well as contract manufacturers located throughout Asia. In addition, we believe our offices in Hong Kong, Shanghai and New Delhi enable us to obtain more favorable material and manufacturing costs and quickly identify and act on new sourcing and supplier opportunities. Our Asian offices also facilitate our prototype sample production and enable us to foster stronger relationships with our suppliers, manufacturers, agents and trading companies. During Fiscal 2008, we purchased approximately 50% of our total merchandise without the aid of commissioned buying agents or trading companies, and approximately 41% of our total goods were sourced from China. Using our purchase order, advanced shipping notification and tracking systems, our independent agents and our sourcing department actively monitor the status of each purchase order from order confirmation to merchandise receipt.

We augment our manufacturers' testing requirements with our own in-house quality assurance laboratory to test and evaluate fabric, trimming materials and pre-production samples against a comprehensive range of physical performance standards before production begins. The quality control personnel in our Asian offices, independent agents and trading company visit the various manufacturing facilities to monitor the quality control and production process. Our Asian offices enhance our quality control by enabling us to monitor component and manufacturing quality at close range and address related problems at an early stage. With this focus on pre-production quality, we are generally able to detect and correct quality-related problems before bulk production begins. We do not accept finished goods until each purchase order receives formal certification of compliance from our own quality assurance associates, agents or appointed third-party inspectors.

In addition to our quality control procedures, we administer a social compliance program designed to promote compliance with local legal regulations, as well as ethical and socially responsible business practices. This program is comprised of four components as follows:

- *Vendor Code of Conduct*—By formally acknowledging and agreeing to our code of conduct, our vendors affirm their commitment to integrate our corporate compliance standards into their manufacturing and sourcing practices. These standards cover the areas of: child labor, forced labor, coercion/harassment, non-discrimination, health and safety, compensation, environment, subcontracting, monitoring & compliance and publication.

- *Ongoing Monitoring Program*—We administer a corporate monitoring program as performed by our internal social compliance team and/or professional third party auditors who visit factory locations to assess the working conditions in all factories that manufacture The Children's Place products. The Ongoing Monitoring Program involves (1) visual inspection of work facilities and dormitories; (2) interview of factory management regarding policies and practices; (3) interview of factory workers to verify workplace policies and practices; and (4) review of wage, hour, age and other records. At the conclusion of the factory audit/visit, our auditor will review the Corrective Action Plan Acknowledgement Report together with factory management.
- *Corrective Action Plan Acknowledgement Report ("CAPAR")*—The CAPAR contains findings from the factory visit for each of the areas covered by our standards, a remediation plan for any violations found (if applicable), as well as a re-audit timeframe. If violations are not remediated in accordance with the remediation plan, we cease using that factory or vendor.
- *Ongoing Training and Seminars*—We continually conduct training programs and seminars to communicate with our internal and external partners regarding the requirements of our program. Additionally, our social compliance team attends third party seminars, industry courses and training in the Corporate Social Responsibility area.

We require all entities that produce or manufacture The Children's Place merchandise to undergo a Social Compliance audit and, at a minimum, demonstrate compliance with the requirements of our Vendor Code of Conduct. By requiring our manufacturers and suppliers to participate in our social compliance program, we are able to monitor closely whether we are sourcing from factories that operate using safe and humane working conditions, and whether we are working with factory managers that appreciate and support socially responsible practices. Additionally, because our social compliance program requires us to be diligent about changes in local laws and other conditions (e.g., political instability) in the countries where we source, we are able to make informed decisions about where we are sourcing our products and, prior to placing orders, analyze potential risks to our sourcing capabilities arising as a result of factors external to a factory's production capabilities. In the event that external risks to our sourcing capabilities arise with respect to one or more factories, our social compliance program helps to identify such risks early and enables us to source to another factory thereby mitigating the risk and reducing the potential disruption to our business.

## **Company Stores**

The following section highlights various store information for The Children's Place brand as of January 31, 2009.

### ***Existing Stores***

As of January 31, 2009, we operated a total of 917 The Children's Place stores, most of which are clustered in and around major metropolitan areas, and our internet store at [www.childrensplace.com](http://www.childrensplace.com). We have 674 stores located in regional malls, 79 in strip centers, 121 in outlet centers and 43 street

stores. The following table sets forth the number of stores in each U.S. state, Puerto Rico and Canadian provinces as of the current and prior fiscal year end:

<u>Location</u>	<u>Number of Stores</u>	
	<u>January 31, 2009</u>	<u>February 2, 2008</u>
<b><i>United States &amp; Puerto Rico</i></b>		
Alabama	9	9
Arizona	18	15
Arkansas	5	5
California	85	82
Colorado	14	14
Connecticut	14	14
Delaware	4	4
District of Columbia	1	—
Florida	47	47
Georgia	22	22
Hawaii	4	4
Idaho	1	1
Illinois	40	41
Indiana	18	18
Iowa	7	6
Kansas	5	5
Kentucky	8	8
Louisiana	13	13
Maine	4	4
Maryland	22	23
Massachusetts	24	25
Michigan	23	23
Minnesota	12	12
Mississippi	7	6
Missouri	14	15
Montana	1	1
Nebraska	2	3
New Hampshire	4	4
New Jersey	45	45
New Mexico	3	3
New York	77	76
Nevada	7	7
North Carolina	20	21
North Dakota	1	1
Ohio	29	30
Oklahoma	3	3
Oregon	9	9
Pennsylvania	49	48
Rhode Island	3	3
South Carolina	13	13
South Dakota	1	1
Tennessee	18	17
Texas	58	57
Utah	7	7
Vermont	1	1
Virginia	18	18
Washington	12	12
West Virginia	1	1
Wisconsin	13	13
Puerto Rico	15	14
<b><i>Total United States &amp; Puerto Rico</i></b>	<b><i>831</i></b>	<b><i>824</i></b>
<b><i>Canada</i></b>		
Alberta	9	7
British Columbia	11	9
Manitoba	2	2
New Brunswick	3	3
Nova Scotia	2	2
Ontario	40	38
Quebec	17	17
Saskatchewan	2	2
<b><i>Total Canada</i></b>	<b><i>86</i></b>	<b><i>80</i></b>
<b>Total Stores</b>	<b>917</b>	<b>904</b>

At The Children's Place, our store concepts consist of "Apple-Maple", "Technicolor" and "Outlet" formats, as follows:

*Apple-Maple*—These stores feature light wood floors, fixtures and trim. They are brightly lit, featuring floor-to-ceiling glass windows that allow our colorful fashions to attract customers from the outside. A customized grid system throughout the store's upper perimeter displays featured merchandise, marketing photographs and promotions. The average store is approximately 4,400 square feet and as of January 31, 2009, approximately 51% of our stores were of this concept.

*Technicolor*—These stores have an atmosphere that is unique, bright, fun and use color to create boutique-like settings that better differentiate the various departments within the store. These stores also feature wider aisles than the Apple-Maple format for customers with strollers, and more wall space allowing for enhanced merchandise presentation and ease of shopping. The

average store is approximately 5,200 square feet and as of January 31, 2009, approximately 37% of our stores were of this concept.

*Outlet*—The average store is approximately 6,400 square feet. As of January 31, 2009, approximately 12% of our stores were in this format. Our outlet stores are strategically placed within each market to liquidate clearance merchandise from nearby stores. Given the brand's value orientation, we also sell an assortment of full-priced merchandise in our outlet stores.

### **Store Expansion Program**

During Fiscal 2008, we opened 26 stores, remodeled 15 and closed 13, compared to opening 54 stores, remodeling 21 and closing 16 in Fiscal 2007. We plan to open approximately 35 stores and remodel approximately 10 Children's Place in the fiscal year ending January 30, 2010 (Fiscal 2009).

In Fiscal 2007, we launched a new 'store-within-a-store' shoe store during the back-to-school season. As of January 31, 2009, our expanded shoe assortment has been featured in 58 stores and our online store. We are currently evaluating our shoe business and will not commit to expanding it until the concept has been thoroughly proven.

### **Internet Sales ("e-commerce")**

Our e-commerce business has been growing at a rapid pace, and we expect it to continue to grow in Fiscal 2009. Over the past three years, e-commerce net sales have grown aggregately over 200%. Our e-commerce sales were \$88.9 million, \$54.5 million, and \$40.2 million for Fiscal 2008, Fiscal 2007 and Fiscal 2006, respectively. As a percentage of total net sales, e-commerce revenue was approximately 5.5%, 3.6% and 2.9% for Fiscal 2008, Fiscal 2007 and Fiscal 2006, respectively. Our commitment to our e-commerce business is reflected in a focus on our customer service and brand awareness strategies, as well as our investments in our infrastructure. We use third party resources to fully manage the hosting of our website, while all other fulfillment services are provided in house. By outsourcing the management of our website, we are provided <sup>24/7</sup> support and have immediate scalability to handle increased customer orders. In addition, we are in the process of relocating our fulfillment operations from a 150,000 square foot distribution center to a section of one that is 700,000 square feet, which will provide that same scalability to our fulfillment services.

### **Store Operations**

The Children's Place store operations are organized into ten regions. We employ two Zone Vice Presidents who oversee our operations and to whom regional managers report. A regional manager oversees each region and has several district managers reporting to them. Each district manager is responsible for approximately eight to ten stores. Our stores are staffed by a store management team and approximately 10 part-time sales associates, with additional part-time associates hired to support seasonal needs. Our store leadership teams spend a high percentage of their time on the store selling floors providing direction, motivation, and development to store personnel. To maximize selling productivity, our teams emphasize greeting, replenishment, presentation standards, procedures and controls. In order to motivate our store leadership, we offer a monthly incentive compensation plan that awards bonuses for achieving certain financial goals.

### **Seasonality**

Our business is subject to seasonal influences, with heavier concentrations of sales during the back-to-school and holiday seasons. Our first quarter results are heavily dependent upon sales during the period leading up to the Easter holiday. Our third quarter results are dependent upon back-to-school sales at The Children's Place. Our fourth quarter results are dependent upon sales

during the holiday season. The following table shows the quarterly distribution, as a percentage of the full year, of net sales and operating income (loss):

	First Quarter	Second Quarter	Third Quarter	Fourth Quarter	Full Year
<b>Fiscal 2008</b>					
Net sales	400.2	338.0	450.6	441.5	1,630.3
<b>As a % of full year</b>	<b>24.5%</b>	<b>20.7%</b>	<b>27.6%</b>	<b>27.1%</b>	<b>100.0%</b>
Operating Income(1)	34.0	4.9	50.9	32.5	122.4
<b>As a % of full year</b>	<b>27.8%</b>	<b>4.0%</b>	<b>41.6%</b>	<b>26.6%</b>	<b>100.0%</b>
<b>Fiscal 2007</b>					
Net sales(1)	356.0	290.5	430.6	443.3	1,520.3
<b>As a % of full year</b>	<b>23.4%</b>	<b>19.1%</b>	<b>28.3%</b>	<b>29.2%</b>	<b>100.0%</b>
Operating Income (loss)	29.6	(31.6)	23.3	7.9	29.2
<b>As a % of full year</b>	<b>101.4%</b>	<b>(108.2)%</b>	<b>79.8%</b>	<b>27.1%</b>	<b>100.0%</b>

(1) Does not add across due to rounding

For more information regarding the seasonality of our business, refer to Item 7.—Management's Discussion and Analysis of Financial Condition and Results of Operations—Quarterly Results and Seasonality.

### Marketing

We build our brand recognition and equity by marketing our products, value message and image primarily through our direct mail program, magazine advertising, store front windows, in-store marketing, and "The Children's Place" private label credit card.

We view The Children's Place private label credit card as an important marketing and communication tool. Pursuant to a merchant services agreement, private label credit cards are issued to our customers for use exclusively at The Children's Place stores, and credit is extended to such customers through a third-party financial institution on a non-recourse basis to us. Our private label credit card accounts for approximately 15% of The Children's Place net sales. We believe that our private label credit card promotes affinity and loyalty through specialized incentive programs and facilitates communication with such customers through delivery of coupons and promotional materials.

### Logistics

We support the distribution of product to our stores through five strategically located warehouses throughout North America. Our leased warehouse facilities include a 525,000 square foot distribution center in South Brunswick Township, New Jersey; a 250,000 square foot distribution center in Ontario, California; a 95,000 square foot distribution center in Ontario, Canada and a 150,000 square foot online fulfillment center in Secaucus, New Jersey. In addition, we own a 700,000 square foot distribution center in Fort Payne, Alabama, which opened in August 2007 to support projected growth. On occasion, we may operate other leased facilities to support seasonal warehousing needs. As a result of the continued growth in our e-commerce business, the processing of online orders will be relocated from the fulfillment center in Secaucus, New Jersey ("Secaucus Facility") to our warehouse facilities in Fort Payne, Alabama in June of 2009. We anticipate that after this relocation, we will no longer occupy the fulfillment center in Secaucus, New Jersey. As more fully described in Note 17 of the consolidated financial statements, in March 2009, we signed an agreement with our landlord which terminated our lease obligations for the Secaucus Facility.

## Competition

The children's apparel and accessories retail markets are highly competitive. We compete in substantially all of our markets with GapKids, babyGap and Old Navy (each of which is a division of The Gap, Inc.); The Gymboree Corporation; Tween Brands, Inc.; Babies "R" Us and Toys "R" Us (each of which is a division of Toys "R" Us, Inc.); J.C. Penney Company, Inc.; Sears (a division of Sears Holdings Corporation); Kohl's and other department stores as well as discount stores such as Wal-Mart Stores, Inc.; Target Corporation; and K-Mart (a division of Sears Holdings Corporation). In addition, given our expansion into the shoe category, we now compete with stores such as Stride Rite and Payless, as well as smaller shoe retailers. We also compete with a wide variety of specialty stores, other national and regional retail chains, catalog companies and Internet retailers. One or more of our competitors are present in substantially all of the areas in which we have stores.

## Trademarks and Service Marks

"The Children's Place," "babyPLACE," "Place," "The Place," "TCP," "PLC" and certain other marks have been registered as trademarks and/or service marks with the United States Patent and Trademark Office. The registration of the trademarks and the service marks may be renewed to extend the original registration period indefinitely, provided the marks are still in use. We intend to continue to use and protect our trademarks and service marks and maintain their registrations. We have also registered our trademarks in Canada and certain other countries and we are continuing to take steps to register our trademarks in other countries. We believe our trademarks and service marks have received broad recognition and are of significant value to our business.

## Government Regulation

We are subject to all federal, state and local laws and regulations affecting our business, including consumer protection and truth-in-advertising laws and regulations and zoning and occupancy ordinances that regulate retailers generally and/or govern the promotion and sale of merchandise and the operation of retail stores. We also are subject to similar international laws and regulations affecting our business. We believe that we are in material compliance with these laws and regulations.

We are committed to product quality and safety. We focus our efforts to adhere to all applicable laws and regulations affecting our business, including the provisions of the Consumer Product Safety Act (the "CPSA") and the Flammable Fabrics Act, the Textile Fiber Product Identification Act and regulations of the Consumer Products Safety Commission ("CSPC") and various environmental laws and regulations. With the passage of the Consumer Product Safety Improvement Act of 2008 (the "CSPIA") in August 2008, which amended the CPSA, there are new requirements mandated for all children's products. These requirements relate to all metal and painted trim items and certain other raw materials and embellishments used in products for children age 12 and under. Among other things, the CPSIA introduces new regulatory limits, testing, certification, packaging, labeling and advertising and reporting requirements with respect to such products and has increased penalties for violations thereof. While the full scope and impact of the CPSIA is not currently known because it directs the CSPC to create new regulations and procedures on an ongoing basis, we have been working to ensure that our products covered by the CSPIA are appropriately tested to comply with all requirements currently in effect. The compliance with current requirements and any future requirements could be costly, and any failure to comply with such requirements could result in significant penalties, require us to recall products and harm our reputation. See "Risk Factors—The cost of compliance with the Consumer Product Safety Act of 2008 or our inability to comply with such act could have a material adverse effect on our business and results of operations."

Most of our merchandise is manufactured by factories located outside of the United States. These products are imported and are subject to U.S. customs laws, which impose tariffs, anti-dumping and

countervailing duties on imported products including textiles and apparel. We currently are not restricted by any such duties in the operation of our business. While importation of goods from some countries from which we buy our products may be subject to embargo by U.S. customs authorities if shipments exceed quota limits, we currently are not restricted by quotas in the operation of our business. In addition, custom duties and tariffs do not comprise a material portion of the cost of our products.

## **Employees**

As of January 31, 2009, we had approximately 23,100 employees, of whom approximately 1,500 are based at our corporate offices. We had approximately 3,100 full-time store employees and approximately 18,500 part-time and seasonal store employees. None of our employees are covered by a collective bargaining agreement. We believe we have good relations with our employees.

## **Internet Access to Reports**

We are a public company and are subject to the informational requirements of the Securities Exchange Act of 1934, as amended (the "Exchange Act"). Accordingly, we file periodic reports, proxy statements and other information with the Securities and Exchange Commission ("SEC"). Such reports, proxy statements and other information may be obtained by visiting the Public Reference Room of the SEC at 100 F Street, NE, Room 1580, Washington, D.C. 20549 or by calling the SEC at 1-800-SEC-0330. In addition, the SEC maintains a website (<http://www.sec.gov>) that contains reports, proxy and information statements and other information regarding us and other issuers that file electronically.

Our website address is [www.childrensplace.com](http://www.childrensplace.com). We make available, without charge, through our website, copies of our Annual Report on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K and amendments to those reports filed or furnished pursuant to Section 13(a) or 15(d) of the Exchange Act as soon as reasonably practicable after such reports are filed with or furnished to the SEC. References in this document to our website are not and should not be considered part of this Annual Report on Form 10-K, and the information on our website is not incorporated by reference into this Annual Report on Form 10-K.

We also make available our corporate governance materials, including our code of business conduct, on our website. If we make any substantive amendments to our code of business conduct or grant any waiver, including any implicit waiver, from a provision of the code to our CEO, Executive Vice President of Finance and Administration, Chief Financial Officer ("CFO") or Corporate Controller, we will disclose the nature of such amendment or waiver on that website or in a Current Report on Form 8-K.

## ITEM 1A.—RISK FACTORS

Investors in the Company should consider the following risk factors as well as the other information contained herein:

***We depend on generating sufficient cash flow, together with our existing cash balances and availability under our credit facility to fund our ongoing operations, capital expenditures and debt repayment.***

Our ability to fund our ongoing operations, planned capital expenditures and debt repayment obligations will depend on our ability to generate cash flow. Our cash flow is dependent on many factors, including:

- seasonal fluctuations in our net sales and net income, which typically are lowest in the second fiscal quarter;
- the timing of inventory purchases for upcoming seasons, which typically result in increased cash outlays in the second fiscal quarter as we purchase merchandise for the back-to-school season;
- vendor and other supplier terms and related conditions, which may be less favorable to us as a smaller company since our exit from the Disney Store business; and
- general business conditions, economic uncertainty or slowdown, including the recent significant slowdown in the overall economy.

Some of these factors are beyond our control. It is difficult to assess the impact that the general economic downturn will continue to have on consumer spending and our financial results. However, we believe that it will likely result in reduced spending by our customers, which would reduce our revenues and our cash flows from operating activities from those that otherwise would have been generated. In addition, steps that we take to limit cash outlays, such as delaying the purchase of inventory, may not be successful or could delay the arrival of merchandise for future selling seasons, which could reduce our net sales or profitability. If we are unable to generate sufficient cash flow, we may not be able to fund our ongoing operations, planned capital expenditures and debt repayment obligations and may be required to seek additional sources of liquidity.

***In prior years, we have experienced deterioration in our profitability. If we are unable to anticipate and respond to merchandise trends, we may again suffer adverse business consequences.***

We have previously experienced deterioration in our sales trends and profitability. Our continued success will depend in part on our ability to anticipate and respond to fashion trends and consumer preferences. Our design, manufacturing and distribution process generally takes up to one year, during which time fashion trends and consumer preferences may change. For the majority of Fiscal 2007, our merchandise was not widely accepted by consumers and, as a result, our sales declined and inventory levels were too high. While we were able to achieve profitability in Fiscal 2008, failure to anticipate, identify or respond to future fashion trends could again adversely affect customer acceptance of our products and require substantial markdowns, which could have a material adverse effect on our profitability and business.

***Changes in comparable store sales results from period to period could have a material adverse effect on the market price of our common stock.***

Numerous factors affect our comparable store sales results, including, among others, merchandise assortment, retail prices, fashion trends, weather conditions, macro-economic conditions, the retail sales environment and our success in executing our business strategy. Many of our stores are located in malls, and as such, a decrease in mall traffic could have a negative effect on our sales, which in turn would reduce our comparable store sales. During Fiscal 2008, we reported a comparable store sales

increase of 2%, compared to a 3% comparable store sales increase achieved during Fiscal 2007 and a 10% comparable store sales increase achieved during Fiscal 2006. Our monthly comparable store sales results have fluctuated significantly in the past and we anticipate that our monthly comparable store sales will continue to fluctuate in the future, particularly in the current difficult economic climate, which may result in further declines in consumer spending. Moreover, comparable store sales for any particular period may decrease in the future. The investment community often follows comparable store sales results closely and fluctuations in these results may affect the price of our common stock. Accordingly, any significant variations in our comparable store sales results could have a material adverse effect on the market price of our common stock.

***Because the trading price of our common stock has significantly declined over the past two years, it is possible that one or more parties may seek to acquire us. There is no assurance that any proposal to acquire us will be made or that a sale of our company will occur, nor has our Board determined that a sale of our company is advisable.***

On February 6, 2008, Ezra Dabah, our former CEO, submitted a letter to our Board of Directors requesting that the Board authorize, pursuant to Section 203 of the Delaware General Corporation Law, Mr. Dabah to enter into one or more agreements with Golden Gate Private Equity, Inc. for the purpose of making a proposal to the Board to acquire our outstanding stock. In response, the Board waived the provisions of Section 203 of the Delaware General Corporation Law with respect to Mr. Dabah's arrangements with Golden Gate Private Equity, Inc., and in addition, consistent with its fiduciary duties, the Board engaged an investment banking firm to act as its financial advisor in undertaking a review of strategic alternatives to improve operations and enhance shareholder value. This review was concluded in February 2009 with no sale of our company having been made. While we may be approached by other parties in addition to Mr. Dabah, there can be no assurance that any proposal to acquire our company will be made by Mr. Dabah or any other party or as to the terms of any such proposal.

Mr. Dabah and Stanley Silverstein, who is also a member of our Board, and certain members of their families beneficially own a significant percentage of our outstanding common stock. As a result, Mr. Dabah and Mr. Silverstein have, and will continue to have, significant influence on the election of our directors and on determining the outcome of any matter submitted to a vote of our stockholders for approval.

In the event that Mr. Dabah, either acting alone or in combination with others, or any other party were to make an offer to acquire our company, the analysis and any negotiations relating to any such offer will likely require substantial time and attention of our Board and senior management that could distract them from focusing on our business, as well as result in significant expense to us.

***Recalls and post-manufacture repairs of our products and/or product liability claims against our products could harm our reputation, increase costs or reduce sales.***

We are subject to regulation by the Consumer Product Safety Commission and similar state and international regulatory authorities, and our products could be subject to involuntary recalls and other actions by these authorities. Concerns about product safety, including but not limited to concerns about those manufactured in China or other developing countries, where substantially all of our merchandise is manufactured, may lead us to recall selected products, either voluntarily, or at the direction of a governmental authority. Product safety concerns, recalls, defects or errors could result in the rejection of our products by customers, damage to our reputation, lost sales, product liability litigation and increased costs, any of which could harm our business.

***The cost of compliance with the Consumer Product Safety and Improvement Act of 2008 or our inability to comply with such act could have a material adverse effect on our business and results of operations.***

With the passage of the Consumer Product Safety Improvement Act of 2008 (the "CSPIA") in August 2008, there are new requirements mandated for all children's products. These requirements relate to all metal and painted trim items and certain other raw materials and embellishments used in products for children age 12 and under. Among other things, the CPSIA introduces new regulatory limits, testing, certification, packaging, labeling and advertising and reporting requirements with respect to such products and has increased penalties for violations thereof. While the full scope and impact of the CPSIA is not currently known because it directs the Consumer Product Safety Commission ("CSPC") to create new regulations and procedures, we have been working to ensure that our products covered by the CSPIA are appropriately tested to comply with all requirements currently in effect. The cost of compliance with current requirements and any future requirements could have a negative impact on the cost of our products, which could materially adversely affect our results of operations. In addition, any failure to comply with such requirements could result in significant penalties, require us to recall products and harm our reputation, any or all of which would have a material adverse effect on our business and results of operations.

***Currency exchange rate fluctuations may adversely affect our business and results of operations.***

The market has recently seen significant volatility in the value of the dollar against other foreign markets and currency. While our business is primarily conducted in U.S. dollars, we purchase substantially all of our products overseas, and we generate significant revenues in Canada. Cost increases caused by currency exchange rate fluctuations could make our products less competitive or have an adverse effect on our profitability. Currency exchange rate fluctuations could also disrupt the business of the third-party manufacturers that produce our products by making their purchases of raw materials more expensive and more difficult to finance.

Approximately 12% of our consolidated net sales and 12% of our operating expenses are transacted in foreign currencies. As a result, fluctuations in exchange rates impact the amount of our reported sales and expenses. Additionally, we have foreign currency denominated receivables and payables that when settled, could result in transaction gains or losses. To date, we have not hedged against foreign currency fluctuations; however, we may pursue hedging alternatives in the future. Therefore, foreign currency fluctuations could have a material adverse effect on our business and results of operations.

***Any disruption in, or changes to, our consumer credit arrangements, including our private label credit card agreement with Citibank, N.A., may adversely affect our ability to provide consumer credit and write credit insurance.***

During Fiscal 2008, our private label credit card sales approximated 15.1% of our net sales. Our agreement with Citibank, N.A., which provides financing for our customers to purchase merchandise through our private label credit card, enhances our ability to provide consumer credit. Any disruption in, or change to, this agreement could have a material adverse effect on our business, especially to the extent that it materially limits credit availability to our customer base.

During fiscal year 2008, total non-private label credit sales, including major credit cards such as Visa, MasterCard, American Express and others, constituted approximately 38.1% of our net sales. The loss or any substantial modification of any of these arrangements could have a material adverse effect on our results of operations or financial condition. During periods of increasing consumer credit delinquencies in the retail industry generally, financial institutions may reexamine their lending practices and procedures. There can be no assurance that increased delinquencies being experienced by providers of consumer credit generally would not cause providers of third party credit offered by us to

decrease the availability or increase the cost of such credit, which could have a material impact on our business.

***Because we operate certain stores outside the United States and purchase most of our products overseas, some of our revenues, product costs and other expenses are subject to foreign economic risks.***

We have operations in Canada and Puerto Rico. We cannot guarantee that we will be able to address in a timely manner the risks of operating stores in countries outside the U.S. such as governmental requirements over merchandise importation, employment, taxation and multi-lingual requirements. Our failure to address such risks in a timely manner or at all could adversely affect our business and results of operations.

***Because we use foreign manufacturers, an unaffiliated manufacturer's failure to comply with acceptable labor practices could have an adverse effect on our business.***

Our business is subject to the risks generally associated with purchasing from foreign countries, particularly China, from where approximately 41% of our merchandise is imported. Some of these risks are foreign governmental regulations, political instability, currency and exchange risks, quotas on the amounts and types of merchandise which may be imported into the United States and Canada from other countries, pressures from non-governmental organizations, disruptions or delays in shipments and changes in economic conditions in countries in which our manufacturing sources are located. Recent media scrutiny and well-publicized failures of the safety of a wide range of imported products manufactured in China may lead consumers to avoid such goods. We cannot predict the effect that such factors will have on our business arrangements with foreign manufacturing sources. If any of these factors rendered the conduct of business in a particular country undesirable or impractical, or if our current foreign manufacturing sources ceased doing business with us for any reason, our business could be materially adversely affected. Our business is also subject to the risks associated with changes in U.S. and Canadian legislation and regulations relating to imported apparel products, including quotas, duties, taxes and other charges or restrictions on imported apparel. Such changes or other changes or restrictions with regard to China could have a material adverse impact on our business. We cannot predict whether such changes or other charges or restrictions will be imposed upon the importation of our products in the future.

We require our independent manufacturers to operate in compliance with applicable laws and our internal requirements. While our purchasing guidelines promote ethical business practices, we do not control these manufacturers or their labor practices. Any violation of labor or other laws by one of the independent manufacturers we use or any divergence of an independent manufacturer's labor practices from standards generally accepted as ethical in the United States and Canada could have a material adverse effect on our business.

***We depend on our relationships with unaffiliated manufacturers and independent agents and our inability to maintain these relationships or the failure of these manufacturers or agents to sustain their business in the current economic environment could adversely affect our business and results of operations.***

We do not own or operate any manufacturing facilities, and therefore, are dependent upon independent third parties for the manufacture of all of our products. Our products are currently manufactured to our specifications, pursuant to purchase orders, by approximately 175 independent manufacturers located primarily in Asia. In addition, in Fiscal 2008, we sourced approximately 41% of our merchandise from China. We have no exclusive or long-term contracts with our manufacturers and compete with other companies for manufacturing facilities. We purchased approximately 14% of our products in Fiscal 2008 through a Hong Kong-based trading company, with whom we have no formal written agreement, using negotiated purchase orders. We also purchased approximately 25% of our products in Fiscal 2008 through the support of a single agent in Taiwan, which has an exclusive

arrangement with us, but is not obligated to sell exclusively to us. Although we believe that we have established close relationships with our trading company, independent agents and principal manufacturers, the inability to maintain such relationships or to find additional sources to support our current needs and future growth could have a material adverse effect on our business.

If our trading company, independent agents and principal manufacturers experience negative financial consequences in the current economic environment, the inability to use these sources or find additional financially stable sources to support our current manufacturing needs and future growth in a timely manner could have a material adverse effect on our business.

***If we are unable to open and operate new stores successfully, our future operating results will be adversely impacted.***

We anticipate opening approximately 35 The Children's Place stores during fiscal 2009. Our ability to open and operate new stores successfully depends on many factors, including, among others, the availability of suitable store locations, the ability to negotiate acceptable lease terms, the ability to timely complete necessary construction, the ability to successfully integrate new stores into our existing operations, the ability to hire and train store personnel and the ability to recognize and respond to regional and climate-related differences in customer preferences.

We cannot guarantee that we will achieve our planned expansion on a timely and profitable basis or that we will be able to achieve results similar to those achieved in existing locations in prior periods. In Fiscal 2008, our total store base grew by 1% compared to 4% during Fiscal 2007, and is anticipated to grow at a rate of approximately 3% in fiscal 2009. Operating margins may also be adversely affected during periods in which we have incurred expenses in anticipation of new store openings.

We need to continually evaluate the adequacy of our store management and our information and distribution systems to manage our planned expansion. Any failure to successfully and profitably execute our expansion plans could have a material adverse effect on our business.

***Our success depends upon the continuing service and capabilities of our management team. The failure to retain management could have a material adverse effect on our business.***

On September 26, 2007, the Board appointed Charles Crovitz, a member of our Board of Directors, to serve as Interim CEO. The Board of Directors is currently conducting a search for a permanent CEO. Leadership transitions can be inherently difficult to manage and may cause disruption to our business or further turnover in our workforce or management team. The loss of services of one or more other members of senior management, or the inability to attract additional qualified managers or other personnel, could have a material adverse effect on our business. We are not protected by any key-man or similar life insurance for any of our executive officers.

***An unfavorable result from the informal investigation of the SEC and the U.S. Attorney for the District of New Jersey into our historic stock option granting practices could lead to regulatory or criminal fines and penalties, adverse publicity, and other negative consequences.***

On September 29, 2006, the Division of Enforcement of the SEC initiated an informal investigation into our historic stock option practices, as did the Office of the U.S. Attorney for the District of New Jersey. We have cooperated with these investigations and have briefed both authorities on the results of the Special Committee's investigation. There have been no developments in these matters since that time. We cannot provide assurance that we will not be subject to adverse publicity, regulatory or criminal fines or penalties, as well as other sanctions or other contingent liabilities or adverse customer reactions in connection with this matter.

***Pending legal and regulatory actions are inherent in our businesses and could adversely affect our results of operations or financial position or harm our businesses or reputation.***

We are, and in the future may be, subject to legal and regulatory actions in the ordinary course of our business. Material pending litigation and regulatory matters affecting us, and certain risks to our businesses presented by such matters, are discussed under Item 3. Legal Proceedings of Part I of this Annual Report on Form 10-K. Some of these proceedings have been brought on behalf of various alleged classes of complainants. In certain of these matters, the plaintiffs are seeking large and/or indeterminate amounts, including punitive or exemplary damages. Substantial legal liability in these or future legal or regulatory actions could have an adverse affect on us or cause us reputational harm, which in turn could harm our business prospects.

Our litigation and regulatory matters are subject to many uncertainties, and given their complexity and scope, their outcome cannot be predicted. Our reserves for litigation and regulatory matters may prove to be inadequate. It is possible that our results of operations or cash flow in a particular quarterly or annual period could be materially affected by an ultimate unfavorable resolution of pending litigation and regulatory matters depending, in part, upon the results of operations or cash flow for such period. In light of the unpredictability of our litigation and regulatory matters, it is also possible that in certain cases an ultimate unfavorable resolution of one or more pending litigation or regulatory matters could have a material adverse effect on our financial position.

***Disruptions in receiving and distribution could have a material adverse effect on our business.***

Our merchandise is shipped directly from manufacturers through freight consolidators to our distribution and fulfillment centers. Our operating results depend in large part on the orderly operation of our receiving and distribution process, which depends on manufacturers' adherence to shipping schedules and our effective management of our distribution facilities and capacity. Furthermore, it is possible that events beyond our control, such as a military action, strike, natural disaster or other disruption, could result in delays in delivery of merchandise to our stores. Any such event could have a material adverse effect on our business.

***We face significant competition in the retail industry, which could impact our ability to compete successfully against existing or future competition.***

The children's apparel retail market is highly competitive. We compete in substantially all of our markets with GapKids, babyGap and Old Navy (each of which is a division of The Gap, Inc.); The Gymboree Corporation; Tween Brands, Inc.; Toys "R" Us, Inc. Babies "R" Us (which is a division of Toys "R" Us, Inc.); J.C. Penney Company, Inc.; Sears (a division of Sears Holdings Corporation); Kohl's and other department stores, as well as discount stores such as Wal-Mart Stores, Inc.; Target Corporation; and K-Mart (a division of Sears Holdings Corporation). In addition, our new store-within-a-store shoe store competes with well-known national retailers such as Stride Rite and Payless as well as smaller shoe retailers. We also compete with a wide variety of specialty stores, other national and regional retail chains, catalog companies and Internet retailers. One or more of our competitors are present in substantially all of the areas in which we have stores. Many of our competitors are larger than us and have access to significantly greater financial, marketing and other resources than we have. We may not be able to continue to compete successfully against existing or future competition.

***An inability to execute our business strategies could have a negative impact on our sales and expenses, and consequently on our results of operations and cash flows.***

During Fiscal 2008, we discontinued the operations of our Disney Store business, reduced our workforce and reduced our capital expenditures. We also announced plans for Fiscal 2009 that include a relocation of our e-commerce fulfillment center, company-wide cost control initiatives designed to

save approximately \$20 million of pre-tax expenses, and implemented an inventory strategy to reduce our overall inventory levels. While we believe the strategies employed during Fiscal 2008 have been effective thus far, there can be no assurance that they will continue to be effective, or that our strategies for Fiscal 2009 will be effective. If the relocation of our e-commerce fulfillment center should cause disruptions in our business, if we are unable to realize the desired savings from our cost control initiatives, or if we are not able to maintain proper levels of inventory, or if our investments in capital expenditures are not beneficial, it could have a material adverse effect on our business, operating results and cash flows.

***If our landlords should suffer financial difficulty, it could have an adverse effect on our business and results of operations and cash flows.***

Approximately 70% of our stores are located in regional malls. If any of our landlords should suffer financial difficulty, it could render them unable to fulfill their duties under our lease agreements. Such duties include providing a sufficient number of mall co-tenants, common area maintenance, utilities, and payment of real estate taxes. We have certain remedies under our lease agreements, however, the loss of business that could result if a mall should close or if mall traffic were to significantly decline as a result of lost mall tenants or improper care of the facilities could have a material adverse effect on our business, operating results and cash flows.

***A material disruption in our information technology systems could adversely affect our business or results of operations and cash flows.***

We rely on various information systems to manage our operations and regularly make investments to upgrade, enhance or replace such systems. Any delays or difficulties in transitioning to these or other new systems, or in integrating these systems with our current systems, or any other disruptions affecting our information systems, could have a material adverse effect on our business.

***Our ability to discourage, delay or prevent a takeover attempt could reduce the market value of our common stock.***

Certain provisions of our Amended and Restated Certificate of Incorporation (the "Certificate of Incorporation") and Amended and Restated By-laws (the "By-laws") may have anti-takeover effects and discourage, delay or prevent a takeover attempt that a stockholder might consider in the stockholder's best interest. These provisions include, among other things:

- Classify our Board into three classes, each of which will serve for different three year periods;
- Provide that only the Chairman of the Board or Secretary may call special meetings of the stockholders;
- Provide that a director may be removed by stockholders only for cause by a vote of the holders of more than two-thirds of the shares entitled to vote;
- Provide that all vacancies on our Board, including any vacancies resulting from an increase in the number of directors, may be filled by a majority of the remaining directors, even if the number is less than a quorum;
- Establish certain advance notice procedures for nominations of candidates for election as directors and for stockholder proposals to be considered at stockholders' meetings; and
- Require a vote of the holders of more than three quarters of the shares entitled to vote in order to amend the foregoing provisions and certain other provisions of the Certificate of Incorporation and By-laws.

In addition, the Board, without further action of the stockholders, is permitted to issue and fix the terms of preferred stock, which may have rights senior to those of the common stock. Moreover, we are subject to the provisions of Section 203 of the Delaware General Corporation Law, as amended, which would require a two-thirds vote of stockholders for any business combination (such as a merger or sales of all or substantially all of our assets) between us and an "interested stockholder," unless such transaction is approved by a majority of the disinterested directors or meets certain other requirements. On February 6, 2008, Mr. Dabah submitted a letter to the Board of Directors of the Company requesting that the Board authorize, pursuant to Section 203, Mr. Dabah to enter into one or more agreements with Golden Gate Private Equity, Inc. for the purpose of making a proposal to the Board to acquire our outstanding stock. The Board waived the provisions of Section 203 for such purposes and in addition, consistent with its fiduciary duties, the Board engaged an investment banking firm to act as its financial advisor in undertaking a review of strategic alternatives to improve operations and enhance shareholder value. This review was concluded in February 2009 with no sale of our company having been made.

The existence of these provisions, which inhibit or discourage takeover attempts, could reduce the market value of our common stock.

***We are sensitive to economic, regional and other business conditions, which could adversely affect our future operating results and cash flows.***

Our business is sensitive to customers' spending patterns which are subject to prevailing regional and national economic conditions such as consumer confidence, recession, interest rates, energy prices and taxation. The current difficult economic climate has had, and is expected to continue to have, a negative impact on consumer confidence and spending, which could result in lower sales at our stores. Some of the factors influencing this deterioration in consumer spending include fluctuating interest rates and credit availability, fluctuating fuel and other energy costs, fluctuating commodity prices, higher levels of unemployment, higher consumer debt levels, reductions in net worth based on market declines, home foreclosures and reductions in home values, and general uncertainty regarding the overall future economic environment. Consumer purchases of discretionary items, including our merchandise, generally, decline during periods where disposable income is adversely affected or there is economic uncertainty, and this could adversely impact our results of operations. We are, and will continue to be, susceptible to changes in national and regional economic conditions, weather conditions, demographics, hourly wage legislation, consumer preferences and other regional factors.

***A privacy breach could adversely affect our business.***

The protection of customer, employee, and company data is critical. The regulatory environment surrounding information security and privacy is demanding, with the frequent imposition of new and changing requirements. In addition, customers have a high expectation that we will adequately protect their personal information. A significant breach of customer, employee, or company data could damage our reputation and result in lost sales, fines, or lawsuits.

Despite our considerable efforts and technology to secure our computer network, security could be compromised, confidential information, such as customer credit card numbers, could be misappropriated, or system disruptions could occur. We are currently in the process of upgrading our systems and procedures to meet the Payment Card Industry ("PCI") data security standards, which require periodic audits by independent third parties to assess compliance. Failure to comply with the security requirements or rectify a security issue may result in fines and the imposition of restrictions on our ability to accept payment cards. There can be no assurance that we will be able to satisfy PCI security standards. In addition, PCI is controlled by a limited number of vendors who have the ability to impose changes in PCI's fee structure and operational requirements on us without negotiation. Such

changes in fees and operational requirements may result in our failure to comply with PCI security standards, as well as significant unanticipated expenses.

***Our profitability could be adversely affected if we are unable to successfully negotiate acceptable lease terms.***

We generally lease our stores for an initial term of ten years. Our operating results and cash flows could be adversely affected if we are unable to continue to negotiate acceptable lease and renewal terms.

***Because of conditions impacting our quarterly results of operations, including seasonality and other factors, our quarterly results fluctuate.***

As is the case with many retailers, we experience seasonal fluctuations in our net sales and net income. Our net sales and net income are generally weakest during the first two fiscal quarters, and are lower during the second fiscal quarter than during the first fiscal quarter. For example, in Fiscal 2008, 24%, 21%, 28% and 27% of our consolidated net sales occurred in the first, second, third and fourth quarters, respectively. In most fiscal years, we experience operating losses in the second quarter, while in Fiscal 2008 we experienced minimal income in the second quarter. It is reasonably possible that we will experience second quarter losses in future periods. It is also possible that we could experience losses in other quarters. Our first quarter results are heavily dependent upon sales during the period leading up to the Easter holiday. Our third quarter results are heavily dependent upon back-to-school sales. Our fourth quarter results are heavily dependent upon sales during the holiday season.

Our quarterly results of operations may also fluctuate significantly from quarter to quarter as a result of a variety of other factors, including overall macro-economic conditions, the timing of new store openings and related pre-opening and other start-up costs, net sales contributed by new stores, increases or decreases in comparable store sales, weather conditions, shifts in the timing of certain holidays, changes in our merchandise mix and pricing strategy. Any failure by us to meet our business plans for, in particular, the third and fourth quarter of any fiscal year, as we experienced in Fiscal 2007, would have a material adverse effect on our earnings, which in all likelihood would not be offset by satisfactory results achieved in other quarters of the same fiscal year. In addition, because our expense levels are based in part on expectations of future sales levels, a shortfall in expected sales could result in a disproportionate decrease in our net income.

***We may be unable to protect our trademarks and other intellectual property rights.***

We believe that our trademarks and service marks are important to our success and our competitive position due to their name recognition with our customers. We devote substantial resources to the establishment and protection of our trademarks and service marks on a worldwide basis. In order to more effectively protect them from infringement and to defend against claims of infringement, the marks are owned by a separate subsidiary whose purpose is to maintain and manage existing and future marks, thereby increasing their value to us. We are not aware of any material claims of infringement or material challenges to our right to use any of our trademarks and service marks in the United States. Nevertheless, the actions we have taken to establish and protect our trademarks and service marks may not be adequate to prevent imitation of our products by others or to prevent others from seeking to block sales of our products as a violation of the trademarks, service marks and proprietary rights of others. Also, others may assert rights in, or ownership of, trademarks and other proprietary rights of ours and we may not be able to successfully resolve these types of conflicts to our satisfaction. In addition, the laws of certain foreign countries may not protect proprietary rights to the same extent as do the laws of the United States.

***The volatility of our stock price could adversely affect the market price of our common stock.***

Our common stock, which is quoted on the Nasdaq Global Select Market, has experienced and is likely to continue to experience significant price and volume fluctuations, which could adversely affect the market price of the common stock without regard to our operating performance. In addition, we believe that factors such as quarterly fluctuations in our financial results, our comparable store sales results, announcements by other retailers, the overall economy, the geopolitical environment and the condition of the financial markets could cause the price of our common stock to fluctuate substantially.

***Legislative actions and new accounting pronouncements could result in us having to increase our administrative expenses to remain compliant.***

In order to comply with the Sarbanes-Oxley Act of 2002 and any subsequent guidance that may come from the Public Company Accounting Oversight Board ("PCAOB"), future changes in listing standards by Nasdaq, or future accounting guidance or disclosure requirements by the SEC, we may be required to enhance our internal controls, hire additional personnel and utilize additional outside legal, accounting and advisory services, all of which could cause our general and administrative expenses to increase. Any changes in the accounting rules, including legislative and other proposals could increase the expenses we report under U.S. GAAP and affect our operating results.

***A major terrorist act that impacts consumer shopping could have a material adverse effect on our business.***

We are dependent upon the continued popularity of malls as shopping destinations and the ability of mall anchor tenants and other attractions to generate customer traffic in the malls where our stores are located. A major terrorist act that decreases the level of mall traffic or other shopping traffic could have a material adverse effect on our business. In addition, military actions could negatively impact mall traffic, which would have a material adverse effect on our business.

***Changes in federal, state or local law, or our failure to comply with such laws, could increase our expenses and expose us to legal risks.***

Our business is subject to a wide array of laws and regulations. Significant legislative changes, such as the proposed Employee Free Choice Act ("EFCA"), that impact our relationship with our workforce could increase our expenses and adversely affect our operations. None of our employees are currently represented by a collective bargaining agreement. However, from time to time there have been efforts to organize our employees at various locations. There is no assurance that our employees will not unionize in the future, particularly if legislation is passed that facilitates unionization such as the EFCA. Changes in other regulatory areas, such as consumer credit, privacy and information security, product safety or environmental protection, among others, could cause our expenses to increase. In addition, if we fail to comply with applicable laws and regulations, particularly wage and hour laws, we could be subject to legal risk, including government enforcement action and class action civil litigation, which could adversely affect our results of operations. Changes in tax laws, the interpretation of existing laws, or our failure to sustain our reporting positions on examination could adversely affect our effective tax rate.

***Since a portion of our available cash is located in foreign jurisdictions, if we need such cash to fund domestic needs we may not be able to do so on favorable terms.***

We manage our cash and liquidity within each business according to the country and currency of operations. Because a portion of our cash balances and working capital is located in foreign jurisdictions, we could have a liquidity issue in one country while adequate liquidity exists in other countries. If such a liquidity need were to arise in our domestic operations, there is no guarantee that we would have the ability to make the appropriate intercompany transfer from our foreign subsidiaries

on favorable terms and our financial position and results of operations could be materially adversely impacted.

***Although our management has concluded that our internal control over financial reporting, as such term is defined in Exchange Act Rules 13a-15(f) and 15d-15(f), was effective as of January 31, 2009, we have previously identified material weaknesses in our internal controls. If we are unable to maintain appropriate internal controls and procedures, it could cause us to fail to meet our reporting obligations on a timely basis, result in the restatement of our financial statements, harm our operating results, limit our access to credit facilities necessary to fund our operations, subject us to regulatory scrutiny and sanction, cause investors to lose confidence in our reported financial information and have a negative effect on the market price for shares of our common stock.***

Our management evaluated the design and effectiveness of our internal control over financial reporting as of January 31, 2009 and determined that it was effective. However, management reported three material weaknesses and concluded that our internal control over financial reporting was not effective as of February 3, 2007 in controls over the granting of stock options; controls to ensure adherence to certain policies and procedures surrounding our control environment; and controls over the period-end financial close and reporting process. A material weakness is a deficiency, or combination of deficiencies, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of our annual or interim financial statements will not be prevented or detected on a timely basis.

We have taken remedial actions to address the material weaknesses identified as of February 3, 2007 and concluded that our internal control over financial reporting as of January 31, 2009 was effective. However, if additional material weaknesses in our internal control are discovered in the future, we may fail to meet our future reporting obligations on a timely basis, our financial statements may contain material misstatements, our operating results may be harmed, our access to credit facilities could be limited and we may be subject to regulatory scrutiny and sanctions and to litigation. Any failure to address any additional material weaknesses in our internal control could also adversely affect the results of future management evaluations regarding the effectiveness of our "internal control over financial reporting" that are required under Section 404 of the Sarbanes-Oxley Act of 2002. Internal control deficiencies could also cause investors to lose confidence in our reported financial information and have a negative effect on the market price of our common stock.

***The creditors of Hoop could attempt to make claims against the Company, such as claims under piercing the corporate veil, alter ego, control person or related theories. If successful, these claims would have a material adverse effect on our financial condition and liquidity.***

Though neither the Company nor any of its subsidiaries other than Hoop has commenced a Chapter 11 proceeding, it is possible that a creditor of Hoop could attempt to make claims against the Company, including under piercing the corporate veil, alter ego, control person or other related theories. Factors that are generally considered in determining whether the parent company is an "alter ego" of the subsidiary include: the failure to follow corporate formalities; the day-to-day control of the subsidiary by the parent; inadequate capitalization of the subsidiary; overlap in directors, officers and personnel; commingling of assets; and use of the subsidiary for unjust or fraudulent purposes. A court could resolve the issue in a manner adverse to us and make the Company's assets available to satisfy obligations of Hoop. If a court were to allow such claims against the Company, we could be required to devote considerable resources to defending them. If these claims were determined adversely to us, a judgment could have a material adverse effect on us and our ability to make payments on our obligations, and could ultimately cause us to seek to restructure under the protection of the bankruptcy laws.

***Our failure to successfully manage our online business could have a negative impact on our business.***

The operation of our online business depends on our ability to maintain the efficient and uninterrupted operation of our order-taking and fulfillment operations for our online stores. Disruptions or slowdowns in these areas could result from disruptions in telephone service or power outages, inadequate system capacity, system issues, computer viruses, human error, changes in programming, natural disasters or adverse weather conditions. Our online business is generally vulnerable to additional risks and uncertainties associated with the Internet, including changes in required technology and other technical failures as well as changes in applicable federal and state regulation, security breaches, and consumer privacy concerns. Problems in any of these areas could result in a reduction in sales, increased selling, general and administrative expenses and damage to our reputation and brand.

***Tax Matters could impact the Company's Results of Operations and Financial Condition.***

The company is subject to income taxes in both the United States and foreign jurisdictions. Our provision for income taxes and cash tax liability in the future could be adversely affected by numerous factors including, but not limited to, income before taxes being lower than anticipated in countries with lower statutory tax rates and higher than anticipated in countries with higher statutory tax rates, changes in the valuation of deferred tax assets and liabilities, and changes in tax laws, regulations, accounting principles or interpretations thereof, which could adversely impact our results of operations and financial condition in future periods. In addition, we are subject to the examination of our income tax returns by the Internal Revenue Service and other tax authorities. We regularly assess the likelihood of adverse outcomes resulting from these examinations to determine the adequacy of our provision for income taxes. There can be no assurance that the outcomes from these continuous examinations will not have an adverse effect on our provision for income taxes and cash tax liability.

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

On January 27, 2009, we received a comment letter (the "Letter") from the Staff of the Securities and Exchange Commission regarding our Form 10-K for the fiscal year ended February 2, 2008 filed April 2, 2008, our Definitive Proxy Statement on Schedule 14A filed May 20, 2008, and our Form 10-Q for the fiscal quarter ended November 1, 2008 filed December 9, 2008. On February 26, 2009, we submitted to the Securities and Exchange Commission our responses to the comments in the Letter. On March 25, 2009, we received a second letter from the Staff containing follow-up comments and questions to certain of our responses (the "Second Letter"). On April 1, 2009, prior to our filing this 10-K, we responded to the Second Letter. All of our proposed disclosure changes included in our responses, where appropriate, have been incorporated into this filing. We do not believe that any of the unresolved Staff's comments would cause a material change to our financial statements, should the Staff, upon review of our responses, have a different conclusion than ours.

**ITEM 2.—PROPERTIES**

We lease all of our existing store locations with the lease terms expiring through 2023. The average unexpired lease term for our stores is 4.5 years. The leases for most of our existing stores are for initial terms of 10 years and provide for contingent rent based upon a percentage of sales in excess of specific minimums. We anticipate that we will be able to extend those leases on satisfactory terms as they expire, or relocate to desirable locations.

The following table sets forth information with respect to our non store leases as of January 31, 2009:

<u>Location</u>	<u>Use</u>	<u>Approximate Sq. Footage</u>	<u>Current Lease Term Expiration</u>
South Brunswick Township, NJ	Warehouse Distribution Center	525,000	1/31/2016
Ontario, CA	Warehouse Distribution Center	250,000	10/31/2010
Ontario, Canada	Warehouse Distribution Center	95,000	4/30/2014
Fort Payne, AL	Warehouse Distribution Center	700,000	Owned
915 Secaucus Rd, Secaucus, NJ(1)	Corporate Offices, Design, ecommerce Fulfillment Center	200,000	1/31/2012
Two Emerson Lane, Secaucus, NJ(1)	Not in use		
East Rutherford, NJ(2)	Corporate Administrative Offices	31,000	6/30/2009
Lyndhurst, NJ(2)	Information Systems	16,000	3/31/2009
Hong Kong, China	Product Support	32,000	4/30/2009
Shanghai, China	Product Support	14,000	7/14/2010
New Delhi, India	Product Support	7,100	3/12/2012

- (1) In March 2009, we entered into an agreement with the landlord of this facility whereby in the fall of 2009 we will be relieved of our existing lease obligations in favor of a new facility located in Secaucus, N.J. See Note 17 of the accompanying consolidated financial statements for further discussion of the agreement.
- (2) In the fall of 2009, employees at this location will be relocated to the new facility mentioned above, and this location will be vacated.

On occasion, we may operate other leased facilities to support seasonal warehousing needs.

### ITEM 3.—LEGAL PROCEEDINGS

On September 29, 2006, the Division of Enforcement of the SEC informed us that it had initiated an informal investigation into our stock option granting practices. In addition, the Office of the U.S. Attorney for the District of New Jersey has initiated an investigation into our option granting practices. We have cooperated with these investigations and have briefed both authorities on the results of an investigation conducted by a sub-committee appointed by the Board of Directors. There have been no developments in these matters since that time. The Company has not accrued any losses relating to these matters. There can be no assurances that we will not incur any costs or fines, but it is not believed that resolution of these matters would have a material impact on our financial position, results of operations and cash flows.

On January 17, 2007, a stockholder derivative action was filed in the United States District Court, District of New Jersey against certain current members of the Board of Directors and certain current and former senior executives. The Company has been named as a nominal defendant. The complaint alleges, among other things, that certain of our current and former officers and directors (i) breached their fiduciary duties to the Company and its stockholders and were unjustly enriched by improperly backdating certain grants of stock options to officers and directors of the Company, (ii) caused the Company to file false and misleading reports with the SEC, (iii) violated the Securities Exchange Act of 1934 (the "Exchange Act") and common law, (iv) caused the Company to issue false and misleading

public statements and (v) were negligent and abdicated their responsibilities to the Company and its stockholders. The complaint sought money damages, an accounting by the defendants for the proceeds of sales of any allegedly backdated stock options, and the costs and disbursements of the lawsuit, as well as equitable relief. The plaintiff filed amended complaints adding, among other things, a claim for securities fraud under SEC rule 10b-5 and additional defendants and claims. In May 2008, the parties entered into a stipulation settlement to resolve this action, which settlement was approved by the court on July 21, 2008. The only monetary portion of the settlement was to pay \$0.7 million of attorneys' fees and reimbursement of expenses to plaintiffs' counsel. The majority of this cost was covered by our insurance.

On September 21, 2007 a second stockholder class action was filed in the United States District Court, Southern District of New York against the Company and certain of its current and former senior executives. The complaint alleges, among other things, that certain of the Company's current and former officers made statements to the investing public which misrepresented material facts about the business and operations of the Company, or omitted to state material facts required in order for the statements made by them not to be misleading, causing the price of the Company's stock to be artificially inflated in violation of provisions of the Exchange Act, as amended. It alleges that subsequent disclosures establish the misleading nature of these earlier disclosures. The complaint seeks monetary damages plus interest as well as costs and disbursements of the lawsuit. On October 10, 2007, a third stockholder class action was filed in the United States District Court, Southern District of New York, against the Company and certain of its current and former senior executives. This complaint alleges, among other things, that certain of the Company's current and former officers made statements to the investing public which misrepresented material facts about the business and operations of the Company, or omitted to state material facts required in order for the statements made by them not to be misleading, thereby causing the price of the Company's stock to be artificially inflated in violation of provisions of the Exchange Act, as amended. According to this complaint, subsequent disclosures establish the misleading nature of these earlier disclosures. This complaint seeks, among other relief, compensatory damages plus interest, and costs and expenses of the lawsuit, including counsel and expert fees. These two actions have been consolidated and the plaintiff filed a consolidated amended class action complaint on February 28, 2008. The Company's motion to dismiss was denied by the court on July 18, 2008. The outcome of this litigation is uncertain and no estimate can be made at this time of any potential loss or range of loss. While we believe there are valid defenses to the claims and we will defend ourselves vigorously, no assurance can be given as to the outcome of this litigation. The litigation could distract our management and directors from the Company's affairs, the costs and expenses of the litigation could have a material adverse effect on the Company's financial position, results of operations and cash flows and an unfavorable outcome could adversely affect the reputation of the Company.

On or about July 12, 2006, Joy Fong, a former Disney Store manager in the San Francisco district, filed a lawsuit against the Company and its subsidiary Hoop Retail Stores, LLC in the Superior Court of California, County of Los Angeles. The lawsuit alleges violations of the California Labor Code and California Business and Professions Code and sought class action certification on behalf of Ms. Fong and other individuals similarly situated. We filed our answer on August 11, 2006 denying any and all liability, and on January 14, 2007, Ms. Fong filed an amended complaint, adding Disney as a defendant. Effective as of March 26, 2008, the prosecution of this lawsuit against Hoop was stayed under the automatic stay provisions of the U.S. Bankruptcy Code by reason of Hoop's petition for relief filed that same day. The case is currently proceeding against the other defendants and, on December 18, 2008, the Court granted the plaintiff's motion for class certification on the misclassification claim. The outcome of this litigation is uncertain; while we believe there are valid defenses to the claims, we cannot conclude as to the amount of loss or range of loss that might be incurred as a result of this matter, however, we do not believe that such losses could have a material effect our financial position, results of operations and cash flows.

On or about September 28, 2007, Meghan Ruggiero filed a complaint against the Company and its subsidiary, Hoop Retail Stores, LLC, in the United States District Court, Northern District of Ohio on behalf of herself and other similarly situated individuals. The lawsuit alleges violations of the Fair and Accurate Credit Transactions Act ("FACTA") and seeks class certification, an award of statutory and punitive damages, attorneys' fees and costs, and injunctive relief. The plaintiff filed an amended complaint on January 25, 2008. Effective as of March 26, 2008, the prosecution of this lawsuit against Hoop was stayed under the automatic stay provisions of the U.S. Bankruptcy Code by reason of Hoop's petition for relief filed that same day. On March 2, 2009, the Court granted the plaintiff's motion to dismiss the Company as a defendant and to replace the Company with its subsidiary, The Children's Place Services Company, LLC. The outcome of this litigation is uncertain; while we believe there are valid defenses to the claims, we cannot conclude as to the amount of loss or range of loss that might be incurred as a result of this matter, however, we do not believe that such losses if incurred could have a material effect on our financial position, results of operations and cash flows.

We are also involved in various legal proceedings arising in the normal course of business. In the opinion of management, any ultimate liability arising out of these proceedings will not have a material adverse effect on our financial condition.

**ITEM 4.—SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS**

None.

**PART II****ITEM 5.—MARKET FOR REGISTRANT'S COMMON EQUITY AND RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES**

Our common stock is listed on the Nasdaq under the symbol "PLCE." The following table sets forth the range of high and low sales prices on the Nasdaq of our common stock for the fiscal periods indicated.

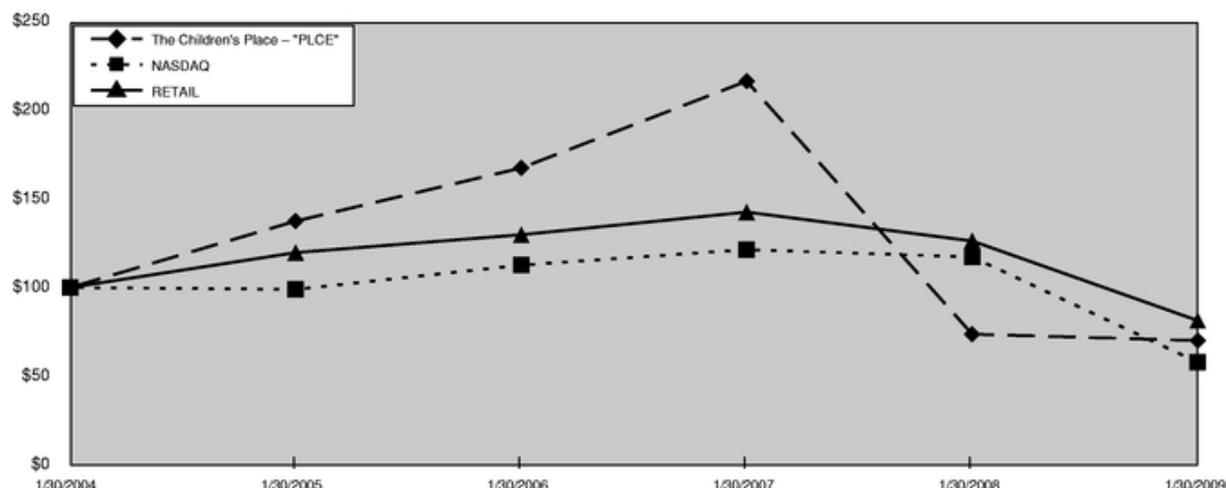
	<u>High</u>	<u>Low</u>
<b>2008</b>		
First Quarter	\$27.55	\$17.71
Second Quarter	42.59	25.78
Third Quarter	43.40	25.02
Fourth Quarter	34.00	16.45
<b>2007</b>		
First Quarter	\$58.89	\$49.49
Second Quarter	57.89	31.04
Third Quarter	35.43	20.56
Fourth Quarter	30.73	14.92

On March 26, 2009, the last reported sale price of our common stock was \$24.00 per share, the number of holders of record of our common stock was approximately 103 and the number of beneficial holders of our common stock was approximately 9,500.

We have never paid dividends on our common stock. Our Board presently intends to retain any future earnings to finance our operations and the expansion of the Company. Our credit facilities prohibit or limit significantly any payment of dividends and limit the amount of purchases of our common stock. Pursuant to restrictions imposed by our equity plan during black-out periods, we withhold and retire shares of vesting stock awards in exchange for payments to satisfy the withholding tax requirements of certain recipients. Our payment of the withholding taxes in exchange for the shares constitutes a purchase of our common stock. During Fiscal 2008, we retired approximately 27,000 shares and made related withholding tax payments of approximately \$0.6 million. Aside from this activity, we do not have a share buyback program. Any determination in the future to pay dividends or purchase any of our common stock under a share buyback program will depend upon our earnings, financial condition, cash requirements, future prospects, covenants in our credit facilities and any future debt instruments and such other factors as the Board deems appropriate at the time.

### Performance Graph

The following graph compares the cumulative stockholder return on our common stock with the return on the Total Return Index for the NASDAQ Stock Market (US) and the NASDAQ Retail Trade Stocks. The graph assumes that \$100 was invested on January 30, 2004.



### Equity Plan Compensation Information

The following table provides information as of January 31, 2009, about the shares of our Common Stock that may be issued upon exercise of options granted to employees or members of our Board under all of our existing equity compensation plans, including our 1997 Stock Option Plan and 2005 Equity Plan.

Plan Category	COLUMN (A) Securities to be issued upon exercise of outstanding options	COLUMN (B) Weighted average exercise price of outstanding options	COLUMN (C) Securities remaining available for future issuances under equity compensation plans (excluding securities reflected in Column (A))
Equity Compensation Plans Approved by Security Holders	1,186,512(1)	\$ 31.73	1,100,871(2)
Equity Compensation Plans Not Approved by Security Holders	N/A	N/A	N/A
<b>Total</b>	<b>1,186,512</b>	<b>\$ 31.73</b>	<b>1,100,871</b>

- (1) Amount consists of 1,047,012 shares issuable under our 1997 Stock Option Plan and 139,500 shares issuable under our 2005 Equity Plan
- (2) Effective upon approval of our 2005 Equity Plan by our stockholders, we agreed not to make any further grants under our 1996 Stock Option Plan and 1997 Stock Option Plan, thus all securities remaining available for future issuance relate to our 2005 Equity Plan. Excluded from this amount are approximately 463,000 shares issuable upon vesting of deferred stock awards and approximately 141,000 shares issuable upon vesting of performance awards, assuming the performance awards are earned at 100%. If it is estimated that the performance awards will be earned at 200%, the amount of securities remaining available for future issuances under equity compensation plans, excluding outstanding stock options would be 959,871.

**ITEM 6.—SELECTED FINANCIAL DATA**

The Children's Place is a leading specialty retailer of children's merchandise. As of January 31, 2009 we owned and operated 917 The Children's Place stores across North America and an online store at [www.childrensplace.com](http://www.childrensplace.com). The following table sets forth certain historical financial and operating data for The Children's Place Retail Stores, Inc. and its subsidiaries. The statement of operations data for the three fiscal years ended January 31, 2009, and the balance sheet data as of January 31, 2009 and February 2, 2008 have been derived from the audited financial statements presented elsewhere herein. The statement of operations data for the two fiscal years ended January 28, 2006, the balance sheet data as of February 3, 2007, January 28, 2006 and January 29, 2005, and all other data presented herein, have not been audited. The information contained in this table should be read in conjunction with Management's Discussion and Analysis of Financial Condition and Results of Operations, and the audited consolidated financial statements and notes thereto included elsewhere herein.

Statement of Operations Data (in thousands, except per share data):	Fiscal Year Ended(1)				
	January 31, 2009	February 2, 2008	February 3, 2007	January 28, 2006	January 29, 2005
Net sales	\$1,630,323	\$1,520,329	\$1,405,429	\$1,171,036	\$994,125
Cost of sales	958,510	924,187	794,985	663,737	592,295
Gross profit	671,813	596,142	610,444	507,299	401,830
Selling, general and administrative expenses	471,302	479,142	435,758	354,765	291,705
Asset impairment charges(2)	6,491	16,565	418	244	164
Other costs(3)	213	5,870	—	—	—
Depreciation and amortization	71,410	65,326	57,964	51,236	49,049
Operating income	122,397	29,239	116,304	101,054	60,912
Interest income (expense), net	(4,939)	(366)	2,707	(753)	(178)
Income from continuing operations before income taxes	117,458	28,873	119,011	100,301	60,734
Provision for income taxes	43,523	18,913	34,740	37,774	23,729
Income from continuing operations	73,935	9,960	84,271	62,527	37,005
Diluted income per common share from continuing operations	2.50	0.34	2.82	\$ 2.18	\$ 1.34

**Selected Operating Data for Continuing Operations:**

Number of stores open at end of period	917	904	866	802	750
Comparable store sales increase(4)	2%	3%	10%	9%	16%
Average net sales per store(5)	\$ 1,703	\$ 1,654	\$ 1,643	\$ 1,488	\$ 1,344
Average square footage per store(6)	4,914	4,733	4,647	4,536	4,528
Average net sales per gross square foot(7)	\$ 350	\$ 355	\$ 361	\$ 329	\$ 300

**Balance Sheet Data (in thousands):**

Working capital(8)	\$ 312,595	\$ 200,381	\$ 282,049	\$ 230,052	\$ 178,956
Total assets(9)	939,757	997,537	936,985	758,170	614,067
Long-term debt	55,000	—	—	—	—
Stockholders' equity	547,879	472,233	521,787	395,650	303,124

(1) All periods presented were 52-week years, except for Fiscal 2006 which was a 53-week year.

(2) Asset impairment charges generally relate to underperforming stores. In Fiscal 2007, we also recorded an impairment charge of \$14.8 million related to our decision to cease construction on our Emerson Lane administrative office building.

- (3) Other costs include \$5.9 million in lease exit costs related to our decision not to proceed with the construction of the Emerson Lane administrative office building. (See Note 1-in the Consolidated Notes to the Financial Statements).
- (4) We define comparable store sales as net sales from stores that have been open for at least 14 full months and that have not been substantially remodeled during that time.
- (5) Average net sales per store represents net sales from stores open throughout the full period divided by the number of such stores.
- (6) Average square footage per store represents the square footage of stores open on the last day of the period divided by the number of such stores.
- (7) Average net sales per gross square foot represent net sales from stores open throughout the full period divided by the gross square footage of such stores.
- (8) Working capital is calculated by subtracting the Company's current liabilities from its current assets.
- (9) Beginning in Fiscal 2007, the Company began reclassifying its cash disbursement account overdraft balance from accounts payable to cash, to the extent a right of offset exists. All prior periods have been restated to conform to this presentation. As a result, total assets as of February 3, 2007, January 28, 2006, and January 29, 2005, were reduced by \$2.5 million, \$5.8 million and \$3.8 million, respectively.

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

*The following discussion should be read in conjunction with our audited financial statements and notes thereto included in "Item 15.—Exhibits and Financial Statement Schedules." The following discussion contains forward-looking statements that reflect our plans, estimates and beliefs. Our actual results could differ materially from those discussed in the forward-looking statements. Factors that could cause or contribute to such differences include, but are not limited to, those discussed below and elsewhere in this Annual Report on Form 10-K, particularly in "Item 1A—Risk Factors."*

### OVERVIEW

#### *Our Business*

We are a leading specialty retailer of children's apparel and accessories. We design, contract to manufacture and sell high-quality, value-priced merchandise under our proprietary "The Children's Place" brand name. Our objective is to deliver high-quality merchandise at value prices. As of January 31, 2009, we owned and operated 917 stores across North America and an online store at [www.childrensplace.com](http://www.childrensplace.com).

#### *The Disney Store Business*

After a thorough review of the Disney Store business, its potential earnings growth, its capital needs and its ability to fund such needs from its own resources, the Company announced on March 20, 2008 that it had decided to exit the Disney Store business. Our subsidiaries that operated the Disney Store business are referred to herein interchangeably and collectively as "Hoop".

After assessing the above factors and considering Hoop's liquidity, Hoop's Board of Directors determined that the best way to complete an orderly wind-down of Hoop's affairs was for Hoop to seek relief under Chapter 11 of the United States Bankruptcy Code (the "Bankruptcy Code"). On March 26, 2008, Hoop Holdings, LLC, Hoop Retail Stores, LLC and Hoop Canada Holdings, Inc. each filed a

voluntary petition for relief under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware (the "U.S. Bankruptcy Court") (Case Nos. 08-10544, 08-10545, and 08-10546, respectively, the "Cases"). On March 27, 2008, Hoop Canada, Inc. filed for protection pursuant to the Companies' Creditors Arrangement Act (the "CCAA") in the Ontario Superior Court of Justice (Commercial List) ("Canadian Bankruptcy Court") (Court File No. 08-CL-7453, and together with the Cases, the "Filings"). Each of the foregoing Hoop entities are referred to collectively herein as the "Hoop Entities."

After receiving the approval of the U.S. Bankruptcy Court and the Canadian Bankruptcy Court, on April 30, 2008, Hoop transferred the Disney Store business in the U.S. and Canada and a substantial portion of the Disney Store assets to affiliates of Disney in an asset sale (the "Sale"), pursuant to an asset purchase agreement dated as of April 3, 2008 among the Hoop Entities and affiliates of Disney (the "Sale Agreement") and section 363 of the Bankruptcy Code (and a similar provision under the CCAA.) Upon closing, affiliates of Disney paid approximately \$61.6 million, including certain post-closing adjustments, for the acquired assets of the Disney Store business. The proceeds received from the Sale are included in the assets of the Hoop Entities' for distribution to their creditors pursuant to the plan of reorganization that was approved by the U.S. Bankruptcy Court on December 15, 2008 (the "Plan"). A similar plan was approved by the Canadian Bankruptcy Court.

According to the terms of the Sale, Hoop transferred 217 Disney Stores to affiliates of Disney and granted such affiliates the right to operate and wind-down the affairs of the remaining stores. The lease obligations associated with the stores that were not sold were rejected and resulting damage claims were administered pursuant to the Plan.

In April 2008, the Company entered into a settlement and release of claims agreement with Hoop and the official committee of unsecured creditors in the Cases (the "Settlement Agreement"), which was approved by the U.S. Bankruptcy Court on April 29, 2008. Under the Settlement Agreement, the Company agreed to provide transitional services and to forgive all pre- and post-bankruptcy petition claims against the Hoop Entities. Such claims included intercompany charges for shared services of approximately \$24.9 million, a capital contribution made on March 18, 2008 of approximately \$8.3 million, payment of severance and other employee costs for the Company's employees servicing Hoop of approximately \$7.9 million, and \$7.0 million of professional fees and other costs the Company has incurred during the Cases, as well as claims that might be asserted against the Company in the Cases. As of January 31, 2009, the Company has paid approximately \$44 million related to the Settlement Agreement, and has remaining accruals of \$4.1 million, primarily for severance, legal claims and related costs.

On December 15, 2008, the U.S. Bankruptcy Court approved the Plan, pursuant to which the Hoop Entities that were U.S. debtors were dissolved and all assets and liabilities were transferred to a trust (the "Trust"), which is overseen by a trustee appointed by the U.S. Bankruptcy Court under the Plan and a trust oversight committee. Hoop Canada, Inc., which currently remains under the jurisdiction of the Canadian Bankruptcy Court, has not yet been legally dissolved but is a wholly owned subsidiary of the Trust and is effectively part of the Trust's assets.

In accordance with generally accepted accounting principles in the United States ("U.S. GAAP"), the Disney Store business has been segregated from continuing operations and included in "Discontinued operations, net of taxes" in the consolidated statements of operations. In discontinued operations, the Company has reversed its allocation of shared services to the Disney Stores and has charged discontinued operations with the administrative and distribution expenses that were directly attributable to the Disney Stores.

Upon effectiveness of the Plan, the Company has deconsolidated all Hoop Entities. As a result, all intercompany balances, including investments in subsidiaries, have been eliminated, and the net liabilities in excess of assets transferred have resulted in a \$25.5 million gain on the relief of

indebtedness of the Hoop Entities. The Company may continue to incur charges related to the wind-down of the Disney Store business and such costs will be expensed through discontinued operations as incurred.

During Fiscal 2008, we reported net income from discontinued operations of \$8.4 million, which included a \$22.2 million pre-tax gain on the Sale, a \$25.5 million pre-tax gain on the relief of indebtedness of the Hoop Entities, as noted above, largely offset by pre-tax operating losses of \$13.4 million and restructuring charges of \$18.5 million.

#### *Operating Highlights*

Net sales in Fiscal 2008 increased \$110.0 million, or 7%, to \$1.630 billion, compared to net sales of \$1.520 billion reported in Fiscal 2007. During Fiscal 2008, our comparable store sales increased 2% compared to a 3% increase in Fiscal 2007. We define comparable store sales as net sales from stores that have been open at least 14 full months and that have not been substantially remodeled during that time. In Fiscal 2008, we opened 26 stores, remodeled 15 stores and closed 13 stores.

Based on information from NPD Group, a consumer and retail market research firm, we believe our market share of children's apparel for The Children's Place brand increased to 3.9% in Fiscal 2008 from 3.6% in Fiscal 2007.

During Fiscal 2008, we reported income from continuing operations of \$73.9 million, or \$2.50 per diluted share, as compared to income from continuing operations of \$10.0 million, or \$0.34 per diluted share, in Fiscal 2007. During Fiscal 2008, the following factors significantly impacted our business:

- Lower markdowns, partially offset by lower initial mark-up on inventory and higher levels of shrink;
- Reductions in selling, general and administrative expenses;
- The decrease in value of the Canadian dollar versus the U.S. Dollar; and
- A downturn in the U.S. economic environment, particularly during the fourth quarter holiday season.

Additionally, income from continuing operations in Fiscal 2008 included:

- Approximately \$11.6 million of transition service income, net of variable expenses, related to administrative and distribution services provided to affiliates of Disney's as part of the Sale.
- Approximately \$6.5 million in impairments related to underperforming stores (refer to Note 4—Property and Equipment in the accompanying consolidated financial statements for more information).

We have subsidiaries in Canada, Hong Kong and Shanghai whose operating results are based in foreign currencies and are thus subject to the fluctuations of the corresponding translation rates into U.S. dollars. The below table summarizes the average translation rates impacting our operating results,

and the resulting effect of related rate changes on net sales, gross profit and income from continuing operations, for each fiscal year presented in our consolidated statements of operations:

	Fiscal 2008	Fiscal 2007	Fiscal 2006
<b>Average Translation Rates(1)</b>			
Canadian Dollar	0.9301	0.9465	0.8812
Hong Kong Dollar	0.1285	0.1282	0.1287
China Yuan Renminbi	0.1446	0.1323	0.1257
<b>Effect on Operating Results (in millions)</b>			
Net sales(2)	\$ (7.2)	\$ 14.6	\$ 8.7
Gross profit	(2.9)	7.7	4.4
Income before taxes	(0.7)	3.0	1.7

- (1) The average translation rates are the average of the 12 monthly translation rates used during each fiscal year to translate the respective income statements. The rates represent the U.S. dollar equivalent of each foreign currency.
- (2) Net sales are affected only by the Canadian Dollar translation rates.

In addition to the translation impact noted above, the gross margin of our Canadian subsidiary is also impacted by its purchases of inventory in U.S. Dollars. The effect of these purchases on Fiscal 2008 is approximately \$1.1 million.

During Fiscal 2008, our gross margin (gross profit expressed as a percentage of sales) from continuing operations improved by approximately 200 basis points due primarily to reduced markdowns resulting from a reduction in inventory levels, an improved merchandise assortment and a better balance of product on hand, partially offset by an increase in shrink levels.

In July 2008, we entered into an \$85 million term loan agreement and a new credit facility agreement. These new borrowing arrangements provide us with additional working capital and greater borrowing flexibility. Refer to Note 5—Credit Facilities and Note 6—Term Loan in the accompanying consolidated financial statements for additional information regarding amendments to our credit facilities.

## CRITICAL ACCOUNTING POLICIES

The preparation of consolidated financial statements in conformity with U.S. GAAP requires us to make estimates and assumptions that affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the financial statements, as well as the reported revenues and expenses during the reported period. Actual results could differ from our estimates. The accounting policies that we believe are the most critical to aid in fully understanding and evaluating the financial results include the following:

**Inventory Valuation**—Merchandise inventories are stated at the lower of average cost or market, using the retail inventory method. Under the retail inventory method, the valuation of inventories at cost and the resulting gross margins are calculated by applying a cost-to-retail ratio, for each merchandise department, to the retail value of inventories. An initial mark-up is applied to inventory at cost to establish a cost-to-retail ratio. Permanent markdowns, when taken, reduce both the retail and cost components of inventory on hand so as to maintain the already established cost-to-retail relationship. At any one time, inventories include items that have been marked down to our best estimate of the lower of their cost or fair market value and an estimate of our inventory shrinkage.

We base our decision to mark down merchandise upon its current rate of sale, the season, and the age and sell-through of the item. We estimate sell-through rates based upon historical and forecasted

information. Markdown reserves are assessed and adjusted each quarter based on current sales trends and their resulting impact on forecasts. Our success is largely dependent upon our ability to gauge the fashion taste of our customers, and to provide a well-balanced merchandise assortment that satisfies customer demand. Throughout the year, we review our inventory in order to identify slow moving items and generally use markdowns to clear them. Any inability to provide the proper quantity of appropriate merchandise in a timely manner, or to correctly estimate the sell-through rate, could have a material impact on our consolidated financial statements. Our historical estimates have not differed materially from actual results; however, a 10% difference in our markdown reserve as of January 31, 2009 would have impacted net income by approximately \$0.8 million. Our markdown reserve balance at January 31, 2009 and February 2, 2008 was \$13.1 million and \$11.4 million, respectively.

Additionally, we adjust our inventory based upon an annual physical inventory, which is taken during the last quarter of the fiscal year. Based on the results of our historical physical inventories, an estimated shrink rate is used for each successive quarter until the next annual physical inventory, or sooner if facts or circumstances should indicate differently. A 100 basis point difference in our shrinkage rate at retail could impact each quarter's net income by approximately \$0.7 million.

**Equity Compensation**—Effective January 29, 2006, we adopted the provisions of SFAS No. 123(R) using the modified prospective transition method. The provisions of SFAS 123(R) apply to new stock options and stock options outstanding, but not yet vested, as of the effective date. Prior to January 29, 2006, we accounted for stock option grants under the recognition and measurement provisions of APB 25 and related interpretations.

#### *Stock Options*

During Fiscal 2008, we ceased issuing stock options in favor of deferred stock awards. The fair value of all outstanding stock options was estimated using the Black-Scholes option pricing model based on a Monte Carlo simulation, which requires extensive use of accounting judgment and financial estimates, including estimates of how long employees will hold their vested stock options before exercise, the estimated volatility of our common stock over the expected term, and the number of options that will be forfeited prior to the completion of vesting requirements. All exercise prices were based on the average of the high and low of the selling price of our common stock on the grant date. Application of other assumptions could have resulted in significantly different estimates of fair value of stock-based compensation and consequently, the related expense recognized in our financial statements. Additionally, we estimate a forfeiture rate for those awards not expected to vest. While actual forfeitures could vary significantly from those estimated, a 10% difference would not have a material impact on our net income.

#### *Restricted Stock, Deferred Stock and Performance Awards*

We grant restricted shares and deferred stock awards to our employees and non-employee directors and performance awards to certain key members of management. The fair value of these awards is based on the average of the high and low selling price of our common stock on the grant date. Compensation expense is recognized ratably over the related service period reduced for estimated forfeitures of those awards not expected to vest due to employee turnover. While actual forfeitures could vary significantly from those estimated, a 10% difference would impact our net income by \$0.5 million. In addition, the number of performance shares earned is dependant upon our operating results over a specified time period. The expense for performance shares is based on an estimate of the number of shares we think will vest based on our earnings-to-date plus our estimate of future earnings for the performance period. To the extent that actual operating results differ from our estimates, future performance share compensation expense could be materially different. The impact on our equity compensation expense resulting from a 10% change in our projected future earnings would not have a material impact on our net income.

**Insurance and Self-Insurance Liabilities**—Based on our assessment of risk and cost efficiency, we self-insure as well as purchase insurance policies to provide for workers' compensation, general liability, and property losses, as well as directors' and officers' liability, vehicle liability and employee medical benefits. We estimate risks and record a liability based upon historical claim experience, insurance deductibles, severity factors and other actuarial assumptions. These estimates include inherent uncertainties due to the variability of the factors involved, including type of injury or claim, required services by the providers, healing time, age of claimant, case management costs, location of the claimant, and governmental regulations. While we believe that our risk assessments are appropriate, these uncertainties or a deviation in future claims trends from recent historical patterns could result in our recording additional or reduced expenses, which may be material to our results of operations. Our historical estimates have not differed materially from actual results; however, a 10% difference in our insurance reserves as of January 31, 2009 would have impacted net income by approximately \$0.8 million.

**Impairment of Long-Lived Assets**—We periodically review our long-lived assets when events indicate that their carrying value may not be recoverable. Such events include a history trend or projected trend of cash flow losses or a future expectation that we will sell or dispose of an asset significantly before the end of its previously estimated useful life. In reviewing for impairment, we group our long-lived assets at the lowest possible level for which identifiable cash flows are largely independent of the cash flows of other assets and liabilities. In that regard, we group our assets into two categories; corporate-related and store-related. Corporate-related assets consist of those associated with our corporate offices, distribution centers and our information technology systems. Store-related assets consist of leasehold improvements, furniture and fixtures, certain computer equipment and lease related assets associated with individual stores.

For store-related assets, we review all stores that have been open for at least two years, or sooner if circumstances should dictate, on at least an annual basis. For each of these stores, we project future cash flows over the remaining life of the lease and compare the total undiscounted cash flows to the net book value of the related long-lived assets. If the undiscounted cash flows are less than the related net book value of the long-lived assets, they are written down to their fair market value. We primarily determine fair market value to be the discounted future cash flows associated with those assets. In evaluating future cash flows, we consider external and internal factors. External factors comprise the local environment in which the store resides, including mall traffic, competition, and their effect on sales trends. Internal factors include our ability to gauge the fashion taste of our customers, control variable costs such as cost of sales and payroll, and in certain cases, our ability to renegotiate lease costs. Historically, less than 2% of our stores required impairment charges in any one year. If external factors should change unfavorably, if actual sales should differ from our projections, or if our ability to control costs is insufficient to sustain the necessary cash flows, future impairment charges could be material. At January 31, 2009, the average net book value per store was \$0.2 million.

**Income Taxes**—We utilize the liability method of accounting for income taxes as set forth in SFAS No. 109, *Accounting for Income Taxes*. Under the liability method, deferred taxes are determined based on the temporary differences between the financial statement and tax basis of assets and liabilities using tax rates expected to be in effect during the years in which the basis differences reverse. A valuation allowance is recorded when it is more likely than not that some of the deferred tax assets will not be realized. In determining the need for valuation allowances we consider projected future taxable income and the availability of tax planning strategies. If, in the future we determine that we would not be able to realize our recorded deferred tax assets, an increase in the valuation allowance would decrease earnings in the period in which such determination is made.

We assess our income tax positions and record tax benefits for all years subject to examination based upon our evaluation of the facts, circumstances and information available at the reporting date. For those tax positions where it is more likely than not that a tax benefit will be sustained, we have

recorded the largest amount of tax benefit with a greater than 50% likelihood of being realized upon ultimate settlement with a taxing authority that has full knowledge of all relevant information. For those income tax positions where it is not more likely than not that a tax benefit will be sustained, no tax benefit has been recognized in the financial statements.

Prior to 2007 the Company determined its tax contingencies in accordance with SFAS No. 5, *Accounting for Contingencies*. The Company recorded estimated tax liabilities to the extent the contingencies were probable and could be reasonably estimated.

### **Newly Issued Accounting Pronouncements**

In September 2006, the FASB issued SFAS No. 157, "Fair Value Measurements" ("SFAS 157") which provides guidance for using fair value to measure assets and liabilities, defines fair value, establishes a framework for measuring fair value in U.S. GAAP, and expands disclosures about fair value measurements. SFAS 157 is effective for fiscal years beginning after November 15, 2007 and for interim periods within those years, with the exception of all non-financial assets and liabilities which will be effective for years beginning after November 15, 2008. The adoption of SFAS 157 did not have a material effect on our consolidated balance sheets and results of operations.

In February 2007, the FASB issued SFAS No. 159, "The Fair Value Option for Financial Assets and Financial Liabilities"—Including an Amendment of FASB Statement No. 115 ("SFAS 159"). This standard permits an entity to choose to measure many financial instruments and certain other items at fair value. Most of the provisions in SFAS 159 are elective; however, the amendment to SFAS 115, *Accounting for Certain Investments in Debt and Equity Securities*, applies to all entities with available-for-sale and trading securities. The fair value option established by SFAS 159 permits all entities to choose to measure eligible items at fair value at specified election dates. A business entity will report unrealized gains and losses on items for which the fair value option has been elected in earnings (or another performance indicator if the business entity does not report earnings) at each subsequent reporting date. The fair value option: (a) may be applied instrument by instrument, with a few exceptions, such as investments otherwise accounted for by the equity method; (b) is irrevocable (unless a new election date occurs); and (c) is applied only to entire instruments and not to portions of instruments. SFAS 159 is effective as of the beginning of an entity's first fiscal year that begins after November 15, 2007. The adoption of this statement did not have a material effect on our consolidated balance sheets and results of operations.

In December 2007, the FASB issued SFAS No. 141 (revised 2007), "Business Combinations" ("SFAS 141R"), which replaces FASB Statement No. 141. SFAS 141R establishes the principles and requirements for how an acquirer recognizes and measures in its financial statements the identifiable assets acquired, and any noncontrolling interest in the acquiree, recognizes and measures the goodwill acquired in the business or a gain from a bargain purchase and determines what information to disclose to enable the users of the financial statements to evaluate the nature and financial effects of the business combination. The provisions of SFAS 141R shall be applied prospectively to business combinations with acquisition dates on or after the beginning of the first annual reporting period in which it is initially applied. SFAS 141R is effective for fiscal years, and interim periods within those fiscal years, beginning on or after December 15, 2008. The Company does not expect SFAS 141R to have an impact on its consolidated financial statements upon adoption.

**RESULTS OF OPERATIONS**

The following table sets forth, for the periods indicated, selected income statement data expressed as a percentage of net sales. We primarily evaluate the results of our operations as a percentage of net sales rather than in terms of absolute dollar increases or decreases by analyzing the year over year change in our business expressed as a percentage of net sales (i.e., "basis points"). For example, our selling, general and administrative expenses decreased approximately 260 basis points to 28.9% of net sales during the fiscal year ended January 31, 2009 from 31.5% during the fiscal year ended February 2, 2008. Accordingly, to the extent that our sales have increased at a faster rate than our costs (i.e., "leveraging"), the more efficiently we have utilized the investments we have made in our business. Conversely, if our costs grow at a faster pace than our sales (i.e., "de-leveraging"), we have less efficiently utilized the investments we have made in our business.

	Fiscal Year Ended		
	January 31, 2009	February 2, 2008	February 3, 2007
Net sales	100.0%	100.0%	100.0%
Cost of sales	58.8	60.8	56.6
Gross profit	41.2	39.2	43.4
Selling, general and administrative expenses	28.9	31.5	31.0
Asset impairment charge	0.4	1.1	—
Other costs	—	0.4	—
Depreciation and amortization	4.4	4.3	4.1
Operating income	7.5	1.9	8.3
Interest income (expense), net	(0.3)	—	0.2
Income from continuing operations before income taxes	7.2	1.9	8.5
Provision for income taxes	2.7	1.2	2.5
Income from continuing operations	4.5	0.7	6.0
Income (loss) from discontinued operations, net of income taxes	0.5	(4.6)	0.2
Net income (loss)	5.1%	(3.9)%	6.2%
Number of stores in continuing operations, end of period	917	904	866

Note: Table may not add due to rounding.

**Year Ended January 31, 2009 Compared to Year Ended February 2, 2008**

Net sales increased \$110.0 million, or 7%, to \$1.630 billion during Fiscal 2008 from \$1.520 billion during Fiscal 2007. Comparable store sales increased 2% compared to a 3% comparable store sales increase in Fiscal 2007 and contributed \$29.0 million to our net sales increase in Fiscal 2008. E-commerce sales increased \$34.4 million during Fiscal 2008. Net sales from our new stores, as well as other stores that did not qualify as comparable stores, increased our net sales by \$46.6 million. Fluctuations in foreign exchange rates had the effect of reducing our Fiscal 2008 net sales by \$7.2 million compared to Fiscal 2007.

Our 2% comparable store sales increase was primarily the result of a 2% increase in our average dollar transaction size while the number of units per transaction remained constant. Our higher dollar transaction size was driven primarily by higher average retail prices, reflecting the decreased markdowns during Fiscal 2008. During Fiscal 2008, we achieved our strongest comparable store sales increases in the Metro NY, Northeast, Mid Atlantic and Southwest regions, partially offset by decreases in comparable store sales in the West and Canada. The decrease in Canada's comparable store sales

was driven primarily by a lower foreign exchange rate in Fiscal 2008. Excluding the effect of foreign currency, Canada's comparable store sales were flat. By department, Accessories and Boys reported the strongest comparable store sales increases, partially offset by flat comparable store sales in Girls and a low to mid single-digit comparable store sales decrease in the Newborn department. We reported high single-digit comparable store sales in our outlets and street stores, while comparable store sales in our mall locations were flat.

During Fiscal 2008, we opened 26 The Children's Place stores, which included 19 stores in the United States, 6 stores in Canada and 1 store in Puerto Rico. We closed 13 The Children's Place stores in Fiscal 2008, all in the United States.

Gross profit increased by \$75.7 million to \$671.8 million during Fiscal 2008 from \$596.1 million in Fiscal 2007. Gross margin increased 200 basis points to 41.2% during Fiscal 2008 from 39.2% during Fiscal 2007. This increase in gross margin resulted primarily from lower markdowns of approximately 230 basis points, lower production, design, buying and other internal costs of approximately 30 basis points, partially offset by a lower initial markup of approximately 10 basis points, increased inventory shrinkage of approximately 20 basis points, and higher distribution costs of approximately 30 basis points. Decreased markdowns resulted from lower inventory levels, an improved merchandise assortment and a better balance of product on hand.

Selling, general and administrative expenses decreased \$7.8 million to \$471.3 million during Fiscal 2008 from \$479.1 million during Fiscal 2007. As a percentage of net sales, selling, general and administrative expenses decreased approximately 260 basis points to 28.9% during Fiscal 2008 from 31.5% during Fiscal 2007. This decrease benefited from the following items, which we consider to be unusual:

- Fiscal 2008 included:
  - Approximately \$11.6 million or 70 basis points of transition service income, net of variable expenses, related to administrative and distribution services provided to affiliates of Disney as part of the Sale;
  - Approximately \$2.3 million or 10 basis points of gain related to the sale of a store lease; and
  - Professional fees, net of recoveries, of approximately \$3.1 million, or 20 basis points, primarily legal costs related to the stock option investigation and strategic review.
- Fiscal 2007 included:
  - Professional fees, of approximately \$10.2 million or 70 basis points, which included \$6.7 million of legal, consulting and audit fees related to the stock option investigation, \$1.9 million of legal and consulting fees related to our strategic review, and \$1.7 million of legal fees related to the special investigation;
  - Severance costs of approximately \$4.7 million or 30 basis points related to the resignations of our former CEO and a brand president and;
  - Stock compensation expense of approximately \$3.0 million or 20 basis points related to the modification of certain stock awards in conjunction with the stock option investigation,

Excluding the effect of the above, selling, general and administrative expenses increased approximately \$21.0 million, but as a percentage of net sales, decreased approximately 80 basis points. We were able to leverage these expenses primarily as a result of the following:

- Favorable variances include:
  - Store payroll and benefit costs increased \$6.8 million but as a percentage of sales, decreased approximately 50 basis points. This leveraging was the result of increased comparable store sales coupled with no increase in units per sale;
  - Store supplies decreased approximately \$4.0 million, or 40 basis points. This decrease resulted primarily from a decrease in the cost of our bags and gift boxes, as well as the increase in our average retail price;
  - Administrative payroll decreased approximately \$0.6 million, or 30 basis points, resulting from a decrease in headcount during Fiscal 2008;
  - Marketing expenses decreased approximately \$1.0 million and 30 basis points, which was primarily attributable to a reduction in our direct mailing programs; and
  - Preopening expenses decreased approximately \$7.7 million, or 50 basis points, resulting from opening 28 fewer stores in Fiscal 2008 compared to Fiscal 2007.
- The above favorable variances were partially offset by the following unfavorable variances:
  - Incentive bonus increased approximately \$9.4 million or 60 basis points resulting from better operating results in Fiscal 2008 compared to Fiscal 2007, thus a higher bonus was earned;
  - Foreign currency transaction losses of \$2.7 million in Fiscal 2008 compared to transaction gains of \$1.9 million in Fiscal 2007 resulted in a de-leverage of approximately 30 basis points. This was due to unfavorable changes in foreign currency rates, primarily the Canadian Dollar;
  - Information technology costs increased approximately \$3.2 million or 20 basis points, resulting from upgrading and expanding our information infrastructure, including our procurement and e-commerce systems; and
  - Equity compensation, exclusive of the unusual amount noted above, increased \$4.5 million, or 30 basis points. This increase resulted from the issuance of stock awards during the fourth quarter of Fiscal 2007, after a one year moratorium on stock awards resulting from the stock option investigation. Additionally, most stock awards issued prior to Fiscal 2006 had their vesting accelerated prior to Fiscal 2006.

During Fiscal 2008, we recorded asset impairment charges of \$6.5 million, compared to \$16.6 million during Fiscal 2007. Asset impairment charges in Fiscal 2008 relate to 18 underperforming stores. Asset impairment charges in Fiscal 2007 included \$14.8 million related to our decision to cease construction of our Emerson Lane administrative office building and \$1.8 million related to 12 underperforming stores.

During Fiscal 2007, we recorded other costs of \$5.9 million related to our decision to exit the Emerson Lane administrative office lease. In Fiscal 2008, we recorded \$0.2 million of related interest accretion.

Depreciation and amortization was \$71.4 million, or 4.4% of net sales, during Fiscal 2008, compared to \$65.3 million, or 4.3% of net sales, during Fiscal 2007. The \$6.1 million increase in depreciation expense in Fiscal 2008 was due primarily to our new stores and remodels, as well as investments made in our distribution facilities.

Interest expense, net, was \$4.9 million in Fiscal 2008, compared to \$0.4 million in Fiscal 2007. In July 2008, we closed on an \$85 million term loan, and as a result, our weighted average debt outstanding increased approximately \$19.6 million. In addition, our weighted average effective interest rate for Fiscal 2008 was approximately 9.7% compared to approximately 7.2% in Fiscal 2007. Other factors contributing to the increase in interest expense include: \$0.6 million of capitalized interest in Fiscal 2007 versus none in Fiscal 2008, a \$0.5 million increase in amortization of deferred financing costs, and a \$0.6 million decrease in interest income resulting primarily from the sale of all of our short term investments during Fiscal 2007.

Our provision for income taxes was approximately \$43.5 million during Fiscal 2008, compared to \$18.9 million during Fiscal 2007, and our effective tax rate was 37.1% in Fiscal 2008, compared to 65.5% in Fiscal 2007. The increase in the provision for income taxes was due primarily to the \$88.6 million increase in income from continuing operations before income taxes. The decrease in the effective tax rate resulted primarily from a discretionary item in the fourth quarter of Fiscal 2007; we provided \$6.1 million of U.S. taxes related to a cash dividend of approximately \$45 million from our Hong Kong subsidiary.

Income from discontinued operations, net of income taxes, in Fiscal 2008 was approximately \$8.4 million compared to a loss from discontinued operations, net of income taxes, of approximately \$69.5 million during Fiscal 2007. The income in Fiscal 2008 is due primarily to a \$22.2 million pre-tax gain on the Sale, and a \$25.5 million gain on the relief of indebtedness of the Hoop Entities. The loss in Fiscal 2007 includes a pre-tax \$80.3 million impairment charge taken on the Disney Store assets.

Due to the factors discussed above, we recorded net income of \$82.4 million in Fiscal 2008, compared to a net loss of \$59.6 million in Fiscal 2007.

#### **Year Ended February 2, 2008 Compared to Year Ended February 3, 2007**

Net sales increased \$114.9 million, or 8%, to \$1.520 billion during Fiscal 2007 from \$1.405 billion during Fiscal 2006. Since Fiscal 2006 was a 53-week year, with the extra week contributing approximately \$21.4 million in net sales, Fiscal 2007 net sales increased approximately \$136.3 million on a comparable 52-week basis. Comparable store sales increased 3% compared to a 10% comparable store sales increase in Fiscal 2006 and contributed \$32.4 million to our net sales increase in Fiscal 2007. Net sales from our new stores, as well as other stores that did not qualify as comparable stores, increased our sales by \$104.9 million. Our closed stores partially offset our consolidated sales increase by approximately \$1.0 million. Fluctuations in foreign exchange rates had the effect of increasing our Fiscal 2007 net sales by \$14.6 million compared to Fiscal 2006.

Our 3% comparable store sales increase was primarily the result of a 4% increase in the number of comparable store sales transactions, partially offset by a 1% decrease in our average dollar transaction size. Our lower dollar transaction size was driven primarily by lower average retail prices, reflecting the increased markdowns we took to clear inventory, offset partially by an increase in the number of items sold in each transaction. During Fiscal 2007, we achieved our strongest comparable store sales increases at The Children's Place business in the Metro NY, Canada, Rocky Mountain and Southwest regions, partially offset by low single-digit comparable store sales decreases in the Southeast and Midwest. By department, Accessories and Boys reported the strongest comparable store sales increases, partially offset by low single-digit comparable store sales decreases in the Girls and Newborn departments. All store types reported comparable store sales increases, except for our "C" mall stores.

During Fiscal 2007, we opened 54 The Children's Place stores, 44 in the United States, eight in Canada and two in Puerto Rico. We closed 16 The Children's Place stores in Fiscal 2007.

Gross profit decreased by \$14.3 million to \$596.1 million during Fiscal 2007 from \$610.4 million during Fiscal 2006. As a percentage of net sales, gross profit decreased 420 basis points to 39.2%

during Fiscal 2007 from 43.4% during Fiscal 2006. This decrease in consolidated gross profit, as a percentage of net sales, resulted primarily from higher markdowns of approximately 380 basis points, higher distribution costs of approximately 40 basis points, and increased inventory shrinkage of approximately 30 basis points, partially offset by a higher initial markup of approximately 40 basis points. Significant markdowns were required to sell through inventory that we purchased to support a higher comparable store sales increase than we experienced and to clear through merchandise that did not resonate with our customers.

Selling, general and administrative expenses increased \$43.3 million to \$479.1 million during Fiscal 2007 from \$435.8 million during Fiscal 2006. As a percentage of net sales, selling, general and administrative expenses increased approximately 50 basis points to 31.5% during Fiscal 2007 from 31.0% during Fiscal 2006. Selling, general and administrative expenses were unfavorably impacted in Fiscal 2007 primarily as a result of:

- Higher store payroll and benefit costs of approximately \$19.3 million, or approximately 40 basis points, which reflect an increase in the number of stores and lower sales per store;
- Higher administrative payroll and benefit costs which approximated \$8.8 million, or approximately 20 basis points, which reflects an increase in our infrastructure primarily to support shared services as well as an increase in the number of stores;
- Higher store supplies costs approximated \$6.8 million, or approximately 30 basis points. A significant portion of our store supply increase related to increased bag costs, reflecting our increased units sold during Fiscal 2007 compared to Fiscal 2006;
- Higher severance costs of approximately \$4.6 million, or approximately 20 basis points. We incurred severance costs of approximately \$4.7 million in Fiscal 2007 due to the resignation of our former CEO and the President of the Children's Place business;
- Higher utility and variable store expenses of approximately \$5.5 million, or approximately 10 basis points. The higher utility expenses result primarily from the opening of our new distribution center in Alabama;
- Costs associated with our strategic alternatives initiatives approximated \$2.2 million, or approximately 10 basis points, which includes \$1.7 million of consulting and legal fees associated with assessing alternatives for the Disney Stores business and related implications to The Children's Place business, and \$0.5 million of consulting fees relating to a review of our shared service cost structure; and
- Increased marketing of approximately \$4.2 million, which was leveraged as a percentage of net sales, due to increased marketing efforts to promote our brands primarily through our direct mailing programs.

As a percentage of net sales, these increases in selling, general and administrative expenses were partially offset by:

- Lower store and management incentive bonuses of approximately \$8.5 million, or approximately 60 basis points resulting from a decrease in operating profits;
- Lower stock and special investigation fees of approximately \$4.7 million or approximately 30 basis points;
- During Fiscal 2007 stock option and special investigation costs approximated \$11.4 million, or approximately 50 basis points, and included;
  - Legal, forensic accounting and other professional fees of \$7.3 million;

- Non-cash compensation expense associated with option terms that were extended due to the suspension of option exercises during the investigation, which approximated \$1.9 million;
  - Incremental external audit fees of approximately \$1.3 million;
  - A tender offer to re-price stock options to re-mediate adverse tax consequences approximated \$0.9 million.
- 
- During Fiscal 2006, stock option investigation fees approximated \$16.1 million, or 80 basis points, and included;
    - Legal, forensic accounting and other professional fees of \$8.1 million;
    - The tax consequences associated with discounted employee stock options, which approximated \$6.3 million;
    - Non-cash compensation expense associated with option terms that were extended due to the suspension of option exercises during the investigation, which approximated \$1.7 million.
  - Lower legal settlement expenses of approximately \$1.9 million, or approximately 10 basis points, primarily due to the settlement of two class action litigations during Fiscal 2006.

During Fiscal 2007, we recorded asset impairment charges of \$16.6 million, or approximately 1.1% of net sales, compared to asset impairment charges of \$0.4 million during Fiscal 2006. During Fiscal 2007, our \$16.6 million in asset impairment charges were comprised of \$14.8 million in impairments related to our decision to cease construction of our Emerson Lane administrative office building and \$1.8 million of impairment related to 12 underperforming The Children's Place stores. The impairment of the Emerson Lane administrative office reflects our decision to cease construction on the project and to seek a sublease for this space. During Fiscal 2006, our asset impairment charges of \$0.4 million related to the write down of leasehold improvements and fixtures in five underperforming The Children's Place stores.

During Fiscal 2007, we recorded other costs of \$5.9 million, or 0.4% of net sales related to our decision to exit the Emerson Lane administrative office lease.

Depreciation and amortization was \$65.3 million or 4.3% of net sales, during Fiscal 2007, compared to \$58.0 million, or 4.1% of net sales, during Fiscal 2006. The \$7.3 million increase in depreciation expense in Fiscal 2007 was due primarily to our new stores and remodels, as well as investments made in our distribution facilities.

Interest expense, net, was \$0.4 million in Fiscal 2007 compared to interest income, net of \$2.7 million, or 0.2% of net sales, in Fiscal 2006. During Fiscal 2007, we utilized our cash investments and borrowed under our credit facility to fund our working capital needs. During Fiscal 2006, we generated net interest income, due to our net cash investment position and the utilization of our credit facilities only to support our letter of credit needs.

Our income tax provision was approximately \$18.9 million during Fiscal 2007 compared to \$34.7 million during Fiscal 2006. Our effective tax rate was 65.5% during Fiscal 2007 compared to 29.2% in Fiscal 2006. During Fiscal 2007, we received a cash dividend of approximately \$45 million from our Hong Kong subsidiary. Since we are no longer permanently reinvested in the earnings of our Hong Kong subsidiary, we were required to provide U.S. taxes on our earnings in Hong Kong. Our Fiscal 2007 tax provision was increased by approximately \$6.1 million due to this transaction. The reduction in our effective tax rate in Fiscal 2006 primarily resulted from a one time cash dividend from some of our Canadian subsidiaries, which also brought foreign tax credits that can be utilized to reduce

U.S. income taxes. Our Fiscal 2006 tax provision was reduced by approximately \$9.5 million due to this transaction.

During Fiscal 2007, we recorded a loss from discontinued operations, net of income taxes, of approximately \$69.5 million compared to income from discontinued operations, net of income taxes, of approximately \$3.1 million during Fiscal 2006. Our Fiscal 2007 loss from discontinued operations, net of income taxes, included:

- Approximately \$80.3 million, before income taxes, in asset impairment charges related to our decision to exit the Disney Store business.
- Approximately \$10.5 million, before income taxes, for the Disney Store "maintenance refresh" program and accelerated depreciation of the Mickey Stores. The "maintenance refresh" program approximated \$6.9 million, and was recorded in selling, general and administrative expenses, and accelerated depreciation of the Mickey Stores approximated \$3.6 million. We accelerated depreciation for certain Mickey Stores assets, which we determined would be disposed at the time of their scheduled renovation.
- Approximately \$7.5 million in fees, before income taxes, paid to Disney based on a percentage of sales made through the Disney Internet e-commerce website, which commenced in July 2007.
- Approximately \$6.1 million, before income taxes, in costs associated primarily with the cancellation of the Disney Store remodeling program.

Additionally, our discontinued operations in the fourth quarter of 2007 were negatively impacted by late merchandise deliveries and a lack of customer enthusiasm for our toy offering during the holiday season, which resulted in significant markdowns to reduce inventory levels.

During Fiscal 2006, discontinued operations, net of taxes included \$16.7 million in asset impairment charges, before income taxes, including \$9.6 million in impairments at 29 of our Mickey prototype stores and \$7.1 million in disposals of property and equipment resulting primarily from our decisions not to proceed with a New York City Disney Store location and infrastructure investments that were written off in conjunction with our decision to form an e-commerce alliance with a Disney affiliate in which select Disney Store merchandise is sold on the [disneyshopping.com](#) website.

Due to the factors discussed above, we recorded a net loss of \$59.6 million in Fiscal 2007 compared to net income of \$87.4 million in Fiscal 2006.

## **LIQUIDITY AND CAPITAL RESOURCES**

### ***Debt Service/Liquidity***

Our working capital needs follow a seasonal pattern, peaking during the third quarter when inventory is purchased for the back-to-school and holiday selling seasons. Our primary uses of cash are the financing of new store openings and providing working capital, principally used for inventory purchases.

As of January 31, 2009, we had no short-term borrowings under our credit facility and had \$85 million in borrowings under a five year term loan which we entered into at the end of the second quarter of fiscal 2008 (the "Note Purchase Agreement"). Concurrent with the term loan, we also replaced our then existing credit facility with the 2008 Credit Agreement (as defined below), which provides for borrowings up to \$200 million, to increase our liquidity. We expect to be able to meet our capital requirements principally by using the proceeds from our term loan, cash flows from operations and seasonal borrowings under our credit facility.

During Fiscal 2008, we paid approximately \$44.0 million of costs to wind down the Disney Store business. These costs include the forgiveness of all pre- and post- petition claims against the Hoop estate, including intercompany charges for shared services of approximately \$23.6 million, a cash capital contribution of approximately \$8.3 million, severance and other employee costs for our employees servicing Hoop Entities of approximately \$6.6 million, and legal and other costs of approximately \$5.6 million. As of January 31, 2009, we have remaining accruals of \$4.1 million for severance, legal and other costs. As the wind down of the Hoop Entities continues, we may incur additional charges or claims.

Pursuant to the Note Purchase Agreement, we estimate that we are required to make a mandatory prepayment of approximately \$30 million in the first half of fiscal 2009.

### **Credit Facilities**

On July 31, 2008, the Company and certain of its domestic subsidiaries entered into a five year credit agreement (the "2008 Credit Agreement") with Wells Fargo Retail Finance, LLC ("Wells Fargo"), as Administrative Agent, Collateral Agent, and Swing Line Lender, Bank of America, N.A., HSBC Bank Business Credit (USA), and JP Morgan Chase Bank, N.A. (collectively, the "Lenders"). The 2008 Credit Agreement replaces a \$130 million credit agreement and a \$60 million letter of credit facility which, except in certain limited circumstances was set to expire coterminously on November 1, 2010 (the "Prior Credit Agreements").

The 2008 Credit Agreement consists of a \$200 million asset based revolving credit facility, which includes a \$175 million letter of credit sub-facility. Amounts outstanding under the 2008 Credit Agreement bear interest, at the Company's option, at:

- (i) the prime rate; or
- (ii) LIBOR plus a margin of 1.50% to 2.00% based on the amount of the Company's average excess availability under the facility.

In addition, an unused line fee of 0.25% will accrue on the unused portion of the commitments under the facility. Letter of credit fees range from 0.75% to 1.25% for commercial letters of credit and range from 1.50% to 2.00% for standby letters of credit. Letter of credit fees are determined based on the level of availability under the 2008 Credit Agreement and accrue on the undrawn amount of such outstanding letters of credit, respectively. The 2008 Credit Agreement will mature on July 31, 2013. The amount available for loans and letters of credit under the 2008 Credit Agreement at any time depends on the Company's levels of inventory and accounts receivable at such time.

The outstanding obligations under the 2008 Credit Agreement may be accelerated upon the occurrence of certain events, including, among others, breach of covenants, the institution of insolvency proceedings, certain defaults under certain other indebtedness and a change of control, subject, in the case of certain defaults, to a failure to cure such defaults prior to the expiration of applicable grace periods. Should the 2008 Credit Agreement be terminated prior to August 1, 2010 for any reason, whether voluntarily by the Company or by reason of acceleration by the Lenders upon the occurrence of an event of default, the Company would be responsible for an early termination fee in the amount of (i) 0.50% of the revolving credit facility ceiling then in effect if such termination occurs on or prior to July 31, 2009 and (ii) 0.25% of the revolving credit facility ceiling then in effect if such termination occurs after July 31, 2009, but on or prior to July 31, 2010. No early termination fee would be due and payable for termination after July 31, 2010.

The 2008 Credit Agreement contains covenants, which include limitations on annual capital expenditures and limitations on the payment of dividends or similar payments. Credit extended under the 2008 Credit Agreement is secured by a first or second priority security interest in substantially all of the Company's assets and substantially all of the assets of its domestic subsidiaries.

The Company capitalized approximately \$1.6 million in deferred financing costs related to the 2008 Credit Agreement, which will be amortized on a straight-line basis over the term of the 2008 Credit Agreement.

The following table presents the components (in millions) of the Company's credit facilities:

	January 31, 2009	February 2, 2008
Credit facility maximum	\$ 200.0	\$ 130.0
Borrowing Base(1)	155.0	117.0
Borrowings outstanding	—	69.6
Letters of credit outstanding—merchandise(2)	32.3	—
Letters of credit outstanding—standby	14.6	14.3
Utilization of credit facility at end of period	46.9	83.9
Availability	108.1	33.1
Average loan balance during the period	20.5	44.1
Highest borrowings during the period	80.6	116.8
Average interest rate	5.4%	7.2%
Interest rate at end of period	3.3%	6.0%

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- (1) Under the 2008 Credit Agreement, the Borrowing Base is the lesser of a calculation based on certain credit card receivables and inventory balances or \$200 million. The Prior Credit Agreements had similar restrictions.
  - (2) Merchandise letters of credit totaling approximately \$26.5 million were drawn under the Prior Credit Agreements that did not reduce availability under the credit facility, as they were drawn under the separate \$60 million letter of credit facility.

#### Letter of Credit Fees

Letter of credit fees, which are included in cost of sales, approximated \$0.4 million and \$0.5 million in Fiscal 2008 and Fiscal 2007, respectively.

#### Term Loan

On July 31, 2008, concurrently with the execution of the 2008 Credit Agreement, the Company and certain of its domestic subsidiaries and Sankaty Credit Opportunities III, L.P., Sankaty Credit Opportunities IV, L.P., RGIP, LLC, Crystal Capital Fund, L.P., Crystal Capital Onshore Warehouse LLC, 1903 Onshore Funding, LLC, and Bank of America, N.A. (collectively, the "Note Purchasers"), together with Sankaty Advisors, LLC, as Collateral Agent, and Crystal Capital Fund Management, L.P., as Syndication Agent, entered into a note purchase agreement ("Note Purchase Agreement").

Under the Note Purchase Agreement, the Company issued \$85 million of non-amortizing secured notes (the "Notes") which will be due and payable on July 31, 2013. Amounts outstanding under the Note Purchase Agreement bear interest at LIBOR, with a floor of 3.00%, plus a margin between 8.50% and 9.75% depending on the Company's leverage ratio. As of January 31, 2009, the interest rate applicable to the outstanding principal amount of the Notes was 11.50%.

The outstanding obligations under the Note Purchase Agreement may be accelerated upon the occurrence of certain events, including, among others, breach of covenants, certain defaults under certain other indebtedness, the institution of insolvency proceedings and a material adverse effect,

subject, in the case of certain defaults, to a failure to cure such defaults prior to the expiration of applicable grace periods. The Company is also required to make mandatory prepayments if a change of control occurs, if it receives cash in excess of certain defined thresholds for the sale of assets or as a result of other defined events, if it issues equity or other debt securities, or if annual cash flows are in excess of defined thresholds for any fiscal year. In addition, the outstanding obligations under the Note Purchase Agreement may be prepaid at any time at the discretion of the Company. In the event of any prepayment prior to July 31, 2010 (including by reason of acceleration, but excluding a prepayment relating to excess cash flows and certain extraordinary receipts), the Company would be responsible for a prepayment premium in the amount of (i) 2.00% of the aggregate principal amount of the Notes prepaid if such prepayment occurs on or prior to July 30, 2009 and (ii) 1.50% of the aggregate principal amount of the Notes prepaid if such prepayment occurs after July 30, 2009, but on or prior to July 30, 2010. No prepayment premium would be due and payable in respect of prepayments made on or after July 31, 2010. Based on the Company's cash flow for Fiscal 2008, a mandatory prepayment of approximately \$30 million is expected to be made in the first half of fiscal 2009. Accordingly, Notes in an outstanding principal amount of \$30 million are classified as current in the accompanying consolidated balance sheet at January 31, 2009. The Company also has the option, based in its cash flow for Fiscal 2008, to make an additional prepayment of up to approximately \$15 million free of prepayment premium. The Company has not yet determined whether an additional prepayment will be made.

The Note Purchase Agreement contains covenants, which include limitations on annual capital expenditures, required levels of EBITDA, a maximum leverage ratio, a minimum fixed charge coverage ratio and limitations on the payment of dividends or similar payments. The Company's obligations under the Note Purchase Agreement are secured by a first or second priority security interest in substantially all of the Company's assets and substantially all of the assets of its domestic subsidiaries.

On July 31, 2008, a portion of the proceeds from the Note Purchase Agreement were used to repay in full the Company's outstanding obligations under the Prior Credit Agreements.

The Company capitalized approximately \$2.2 million in deferred financing costs related to the Note Purchase Agreement, which will be amortized on a straight-line basis over the term of the Note Purchase Agreement, except that in the event of prepayments, the portion of the deferred financing costs related to the prepayment is accelerated.

#### ***Cash Flows/Capital Expenditures***

Cash flows provided by operating activities were \$218.4 million in Fiscal 2008, compared to cash flows used by operating activities of \$1.2 million in Fiscal 2007.

Cash flows provided by operating activities of continuing operations were \$205.8 million and \$36.1 million, during Fiscal 2008 and Fiscal 2007, respectively. In Fiscal 2008, our increased cash flows provided by operating activities were driven by higher income from continuing operations of \$73.9 million during Fiscal 2008 compared to \$10.0 million during Fiscal 2007. Significant non-cash expenses in Fiscal 2008 included approximately \$32.2 million of deferred tax expense while Fiscal 2007 included a \$56.8 million deferred tax benefit. During Fiscal 2008, we made net cash payments of approximately \$11.6 million for taxes compared to \$58.5 million in Fiscal 2007.

Cash flows provided by operating activities of discontinued operations were \$12.6 million during Fiscal 2008 compared to \$37.3 million used in operating activities during Fiscal 2007. The increase is primarily due to the parent funding of operating losses during Fiscal 2008.

Cash flows used in investing activities were \$60.8 million and \$124.6 million in Fiscal 2008 and Fiscal 2007, respectively.

Cash flows used in investing activities of continuing operations were \$49.4 million and \$121.8 million during Fiscal 2008 and Fiscal 2007, respectively. Cash paid for capital expenditures were \$51.7 million in Fiscal 2008 compared to \$168.7 million in Fiscal 2007. This decrease of \$117.0 million resulted primarily from fewer store openings and the completion of a distribution center during Fiscal 2007. Fiscal 2007 also included the net sale of \$46.7 million of short term investments to fund working capital needs. We had no short term investments in Fiscal 2008.

Cash flows used in investing activities of discontinued operations were \$11.4 million in Fiscal 2008 compared to \$2.8 million in Fiscal 2007. This increase of \$8.6 million is primarily due to \$28.3 million of net investments sold in Fiscal 2007 offset by \$22.0 million fewer payments on property and equipment in Fiscal 2008.

Cash flows used in financing activities were \$4.4 million in Fiscal 2008 compared to \$89.9 million of cash flows provided by financing activities in Fiscal 2007.

Cash flows provided by financing activities of continuing operations were \$7.4 million and \$70.5 million in Fiscal 2008 and Fiscal 2007, respectively. Fiscal 2008 includes \$85 million of proceeds received from the Note Purchase Agreement and \$4.7 million of proceeds from the exercise of stock options, mostly offset by \$69.6 million of net repayments on our credit facility, an \$8.3 million capital contribution to our subsidiary in bankruptcy and \$3.8 million of deferred financing costs associated with the Note Purchase Agreement. Fiscal 2007 includes \$69.6 million of net borrowings on our credit facility and \$0.9 million of cash flows related to stock option exercises.

Cash flows used in financing activities of discontinued operations were \$11.9 million in Fiscal 2008 compared to \$19.4 million of cash flows provided by financing activities in Fiscal 2007. Fiscal 2008 includes a net \$19.4 million repayment of borrowings and \$0.7 million of deferred financing costs, partially offset by an \$8.3 million cash contribution. Fiscal 2007 includes net borrowings under the Amended Hoop Loan Agreement.

We anticipate that total capital expenditures will be in the range of approximately \$75 to \$85 million in fiscal 2009. Our increased planned capital expenditures for fiscal 2009 reflects the anticipation of opening 35 stores and remodeling 20 stores compared to 26 store openings and 15 remodels in Fiscal 2008. Approximately \$40 million of our planned capital expenditures will provide for the store openings and remodels, and we anticipate receiving approximately \$7.4 million in related lease incentives during fiscal 2009. We also anticipate spending approximately \$15 to \$20 million on the build out of a new office facility. The remainder of our 2009 capital expenditure budget will be utilized for information technology and other initiatives.

Our ability to meet our capital requirements in fiscal 2009 depends on our ability to generate cash flows from operations and our borrowings under our credit facilities. Cash flow generated from operations depends on our ability to achieve our financial plans. During fiscal 2009, we will focus on conserving our capital resources, particularly during the second quarter of 2009 when our revenues are lowest and we are building inventory to support the back-to-school season. We believe that cash on hand, cash generated from operations and funds available to us through our credit facility will be sufficient to fund our capital and other cash flow requirements over the next 12 months.

Historically, we have funded our capital expenditures primarily from operations, with occasional seasonal advances on our debt facilities. In Fiscal 2008, our cash generated from operations along with \$85 million received on the Note Purchase Agreement provided sufficient funds for our capital requirements. In Fiscal 2007, we completed building a new distribution center and incurred significant construction costs on new corporate offices. This increase in capital expenditures coupled with a decrease in operating profit, required us to fund our capital expenditures, in part, through advances on our credit facility and the sale of investments. Our ability to meet our capital requirements in fiscal 2009 will depend on our ability to achieve our financial plans and generate sufficient cash flows from

operations. We enter Fiscal 2009 with cash balances of approximately \$226 million at January 31, 2009, along with approximately \$108 million of availability in our credit facility.

## CONTRACTUAL OBLIGATIONS AND COMMERCIAL COMMITMENTS

The following tables summarize our contractual and commercial obligations for continuing operations as of January 31, 2009:

Contractual Obligations (dollars in thousands)	Payment Due By Period				
	Total	1 year or less	1-3 years	3-5 years	More than 5 years
Operating leases(1)	\$757,187	\$146,901	\$242,000	\$160,401	\$207,885
Employment contracts(2)	9,200	9,200	—	—	—
New store and remodel capital expenditure commitments—(3)	15,200	15,200	—	—	—
Long-term debt	85,000	30,000	—	55,000	—
Capital leases	—	—	—	—	—
	<u>\$866,587</u>	<u>\$201,301</u>	<u>\$242,000</u>	<u>\$215,401</u>	<u>\$207,885</u>

Other Commercial Commitments (dollars in thousands)	Amounts of Commitment Expiration Per Period				
	Total	1 year or less	1-3 years	3-5 years	More than 5 years
Credit facilities	\$ —	\$ —	\$ —	\$ —	\$ —
Purchase commitments(4)	229,482	229,482	—	—	—
Merchandise letters of credit	32,300	32,300	—	—	—
Standby letters of credit(5)	14,600	14,600	—	—	—
Total—Other Commercial Commitments	<u>276,382</u>	<u>276,382</u>	<u>—</u>	<u>—</u>	<u>—</u>
Total—Contractual Obligations and Other Commercial Commitments	<u>\$1,142,969</u>	<u>\$477,683</u>	<u>\$242,000</u>	<u>\$215,401</u>	<u>\$207,885</u>

- (1) Certain of our operating leases include common area maintenance charges in our monthly rental expense. For other leases which do not include these charges in the minimum lease payments, we incur monthly charges, which are billed and recorded separately. These additional charges approximated 60% of our minimum lease payments in each of the last three fiscal years. Additionally, our minimum lease obligation does not include contingent rent based upon sales volume, which represented approximately 1.5% of our minimum lease payments in each of the last three fiscal years.
- (2) The Company has entered into employment agreements with certain of its executives which provide for the payment of severance up to two times the executive's salary and certain benefits following any termination without cause. These contracts commit the Company, in the aggregate, to approximately \$1.0 million of employment termination costs, of which approximately \$0.7 million represents severance payments. In the event of a change in control of the Company, certain executives will receive, in the aggregate, approximately \$8.2 million of severance benefits should they either be terminated or suffer a degradation of duties as defined in their agreement.
- (3) As of January 31, 2009, we had executed 17 leases for new stores and 5 remodels. This amount represents our estimate of the capital expenditures required to open and begin operating the new and remodeled stores.

- (4) Represents purchase orders for merchandise for re-sale of approximately \$229.0 million and equipment, construction and other non-merchandise commitments of approximately \$0.5 million.
- (5) Represents letters of credit issued to landlords, banks, insurance companies.

We self-insure and purchase insurance policies to provide for workers' compensation, general liability, and property losses, as well as directors' and officers' liability, vehicle liability and employee medical benefits, as described in Note 1 of the Notes to our Consolidated Financial Statements. Insurance reserves of \$7.2 million are included in other long term liabilities as of January 31, 2009. The long-term portion represents the total amount estimated to be paid beyond one year. We are not able to further estimate in which periods the long-term portion will be paid.

On February 4, 2007, we adopted FIN 48 as previously discussed and more fully described in Note 11 of the Notes to our Consolidated Financial Statements. Our long-term liabilities for unrecognized tax benefits were \$17.1 million at January 31, 2009. We cannot make a reasonable estimate of the amount and period of related future payments for any of this amount.

#### ***Off-Balance Sheet Arrangements***

None.

#### **QUARTERLY RESULTS AND SEASONALITY**

Our quarterly results of operations have fluctuated and are expected to continue to fluctuate materially depending on a variety of factors, including overall economic conditions, the timing of new store openings and related pre-opening and other startup costs, net sales contributed by new stores, increases or decreases in comparable store sales, weather conditions, shifts in timing of certain holidays, changes in our merchandise mix and pricing strategy. The combination and severity of one or more of these factors could result in material fluctuations.

The following table sets forth certain statement of operations data and selected operating data for each of our last four fiscal quarters. Quarterly information for Fiscal 2007 and Fiscal 2006 is included in Note 15—Quarterly Financial Data (unaudited) of the Notes to Consolidated Financial Statements. The quarterly statement of operations data and selected operating data set forth below were derived from our unaudited consolidated financial statements and reflect, in our opinion, all adjustments

(consisting only of normal recurring adjustments) necessary to fairly present the results of operations for these fiscal quarters (in thousands, except per share data) (Unaudited):

	<b>Fiscal Year Ended January 31, 2009</b>			
	<b>First Quarter</b>	<b>Second Quarter</b>	<b>Third Quarter</b>	<b>Fourth Quarter(1)</b>
Net sales	\$400,212	\$338,029	\$450,623	\$441,459
Gross profit	171,092	128,549	196,384	175,788
Selling, general and administrative expenses	119,355	105,741	126,645	119,561
Asset impairment charges	—	127	954	5,410
Other costs	55	52	71	35
Depreciation and amortization	17,652	17,709	17,791	18,258
Operating income	34,030	4,920	50,923	32,524
Income from continuing operations before income taxes	33,537	4,522	49,011	30,388
Provision for income taxes	14,117	1,786	20,563	7,057
Income from continuing operations	19,420	2,736	28,448	23,331
Income (loss) from discontinued operations, net of taxes	98	(2,725)	(4,391)	15,453
Net income	19,518	11	24,057	38,784
<b>Basic earnings (loss) per share amounts</b>				
Income from continuing operations	\$ 0.67	\$ 0.09	\$ 0.97	\$ 0.79
Income (loss) from discontinued operations	0.00	(0.09)	(0.15)	0.53
Net income	0.67	0.00	0.82	1.32
Basic weighted average common share outstanding	29,182	29,255	29,364	29,428
<b>Diluted earnings (loss) per share amounts</b>				
Income from continuing operations	\$ 0.66	\$ 0.09	\$ 0.96	\$ 0.79
Income (loss) from discontinued operations	0.00	(0.09)	(0.15)	0.52
Net income	0.67	0.00	0.81	1.31
Diluted weighted average common share outstanding	29,275	29,599	29,725	29,575

\* Table may not add due to rounding.

(1) Significant items impacting the fourth quarter of Fiscal 2008 include \$5.4 million of impairment charges related to 9 underperforming stores.

#### ITEM 7A—QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

In the normal course of business, our financial position and results of operations are routinely subject to market risk associated with interest rate movements on borrowings and investments and currency rate movements on non-U.S. dollar denominated assets, liabilities and income. We utilize cash from operations and short-term borrowings to fund our working capital and investment needs.

##### *Cash, Cash Equivalents and Investments*

Cash, cash equivalents and investments are normally invested in short-term financial instruments that will be used in operations within a year of the balance sheet date. Because of the short-term nature of these investments, changes in interest rates would not materially affect the fair value of these financial instruments.

### *Interest Rates*

We have an \$85 million term loan that bears interest at LIBOR, with a floor of 3.00% plus a margin between 8.50% and 9.75% based on our leverage ratio. Our credit facility bears interest at either the prime rate or a floating rate equal to LIBOR plus a calculated spread based on our average excess availability. As of January 31, 2009, we had no borrowings under the credit facility. During Fiscal 2008, our weighted average borrowings under all debt agreements were \$63.7 million and the weighted average interest rate was 9.7%. For Fiscal 2008, a 120 basis point change in the respective interest rates would either increase or decrease our interest expense by \$0.8 million.

### *Foreign Assets and Liabilities*

Assets and liabilities outside the United States are primarily located in Canada and Hong Kong. Our investments in our Canadian subsidiaries are considered long-term; however, we are not deemed to be permanently reinvested in our Hong Kong subsidiary. We do not hedge these net investments nor are we party to any derivative financial instruments. As of January 31, 2009, net assets in Canada and Hong Kong were \$71.4 million and \$45.2 million, respectively. A 10% increase or decrease in the Canadian and Hong Kong Dollars would increase or decrease the corresponding net investment by \$7.1 million and \$4.5 million, respectively. All changes in the net investment of our foreign subsidiaries are recorded in other comprehensive income as unrealized gains or losses.

As of January 31, 2009, we had approximately \$78.6 million of our cash and investment balances held in foreign countries, of which approximately \$38.1 million was in Canada and approximately \$40.5 million was in Hong Kong.

### *Foreign Operations*

Approximately 12% of our consolidated net sales and 12% of our operating costs are transacted in foreign currencies. As a result, fluctuations in exchange rates impact the amount of our reported sales and expenses. Assuming a 10% change in foreign exchange rates, Fiscal 2008 net sales and operating expenses could have decreased or increased by approximately \$20.2 million and \$16.8 million, respectively. Additionally, we have foreign currency denominated receivables and payables that when settled, result in transaction gains or losses. At January 31, 2009, we had foreign currency denominated receivables and payables of \$5.6 million and \$0.2 million, respectively. We have not used derivatives to manage foreign currency exchange risk, and no foreign currency exchange derivatives were outstanding at January 31, 2009.

While the Company does not have substantial financial assets in China, it imports a large percentage of its merchandise from that country. Consequently, any significant or sudden change in China's political, foreign trade, financial, banking or currency policies and practices could have a material adverse impact on the Company's financial position, results of operations or cash flows.

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

The information required by this Item is incorporated herein by reference to the consolidated financial statements and supplementary data set forth in "Item 15—Exhibits and Financial Statement Schedules" of this Annual Report on Form 10-K.

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

Not Applicable

## ITEM 9A.—CONTROLS AND PROCEDURES

### *Evaluation of Disclosure Controls and Procedures*

Management, including our principal executive officers (our Interim Chief Executive Officer and our Executive Vice President—Finance and Administration, who is also our principal financial officer), evaluated the effectiveness of our disclosure controls and procedures as defined in Rule 13a-15(e) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), as of January 31, 2009. Based on that evaluation, our principal executive officers and principal financial officer concluded that our disclosure controls and procedures were effective as of January 31, 2009 to ensure that all information required to be disclosed in the reports that it files or submits 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 our management, including our principal executive and principal financial officer, or persons performing similar functions, as appropriate to allow timely decisions regarding required disclosure.

### *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 Securities Exchange Act Rule 13a-15(f). Internal control over financial reporting is a process to provide reasonable assurance regarding the reliability of our financial reporting for external purposes in accordance with accounting principles generally accepted in the United States of America. Because of its inherent limitations, internal control over financial reporting is not intended to provide absolute assurance that a misstatement of our financial statements would be prevented or detected.

Under the supervision and with the participation of our management, including our principal executive officers, we conducted an evaluation of the design and effectiveness of our internal control over financial reporting based on the criteria set forth in Internal Control—Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission ("COSO"). Based on our evaluation under the framework in *Internal Control—Integrated Framework*, our management concluded that our internal control over financial reporting was effective as of January 31, 2009. Our independent registered public accounting firm that audited the financial statements included in this annual report has issued an attestation report on our internal control over financial reporting.

### *Changes in Internal Control Over Financial Reporting*

There has been no change in our internal control over financial reporting that occurred during our last fiscal quarter that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

## Report of Independent Registered Public Accounting Firm

To the Stockholders and Board of Directors of  
The Children's Place Retail Stores, Inc.  
Secaucus, New Jersey:

We have audited The Children's Place Retail Stores, Inc.'s. (the "Company") internal control over financial reporting as of January 31, 2009, based on criteria established in *Internal Control—Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission (the COSO criteria). 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, "Item 9A, Management's Report on Internal Control Over Financial Reporting." Our responsibility is to express an opinion on the company's internal control over financial reporting based on our audit.

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

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.

In our opinion, The Children's Place Retail Stores, Inc. maintained, in all material respects, effective internal control over financial reporting as of January 31, 2009, based on the COSO criteria.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the consolidated balance sheets of The Children's Place Retail Stores, Inc. as of January 31, 2009 and February 2, 2008 and the related consolidated statements of operations, changes in stockholders' equity, and cash flows for each of the three years in the period ended January 31, 2009 and our report dated March 28, 2009 expressed an unqualified opinion thereon.

/s/ BDO Seidman, LLP  
New York, NY  
March 28, 2009

**ITEM 9B.—OTHER INFORMATION**

None.

**PART III**

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

The registrant incorporates by reference herein information to be set forth in its definitive proxy statement for its annual meeting of stockholders to be held in 2009 that is responsive to the information required with respect to this Item 10; *provided, however*, that such information shall not be incorporated herein:

- if the information that is responsive to the information required with respect to this Item 10 is provided by means of an amendment to this Annual Report on Form 10-K filed with the Securities and Exchange Commission prior to the filing of such definitive proxy statement; or
- if such proxy statement is not mailed to stockholders and filed with the Securities and Exchange Commission within 120 days after the end of the registrant's most recently completed fiscal year, in which case the registrant will provide such information by means of an amendment to this Annual Report on Form 10-K.

**ITEM 11. EXECUTIVE COMPENSATION**

The registrant incorporates by reference herein information to be set forth in its definitive proxy statement for its annual meeting of stockholders to be held in 2009 that is responsive to the information required with respect to this Item 11; *provided, however*, that such information shall not be incorporated herein:

- if the information that is responsive to the information required with respect to this Item 11 is provided by means of an amendment to this Annual Report on Form 10-K filed with the Securities and Exchange Commission prior to the filing of such definitive proxy statement; or
- if such proxy statement is not mailed to stockholders and filed with the Securities and Exchange Commission within 120 days after the end of the registrant's most recently completed fiscal year, in which case the registrant will provide such information by means of an amendment to this Annual Report on Form 10-K.

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

The registrant incorporates by reference herein information to be set forth in its definitive proxy statement for its annual meeting of stockholders to be held in 2009 that is responsive to the information required with respect to this Item 12; *provided, however*, that such information shall not be incorporated herein:

- if the information that is responsive to the information required with respect to this Item 12 is provided by means of an amendment to this Annual Report on Form 10-K filed with the Securities and Exchange Commission prior to the filing of such definitive proxy statement; or
- if such proxy statement is not mailed to stockholders and filed with the Securities and Exchange Commission within 120 days after the end of the registrant's most recently completed fiscal year, in which case the registrant will provide such information by means of an amendment to this Annual Report on Form 10-K.

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

The registrant incorporates by reference herein information to be set forth in its definitive proxy statement for its annual meeting of stockholders to be held in 2009 that is responsive to the information required with respect to this Item 13; *provided, however*, that such information shall not be incorporated herein:

- if the information that is responsive to the information required with respect to this Item 13 is provided by means of an amendment to this Annual Report on Form 10-K filed with the Securities and Exchange Commission prior to the filing of such definitive proxy statement; or
- if such proxy statement is not mailed to stockholders and filed with the Securities and Exchange Commission within 120 days after the end of the registrant's most recently completed fiscal year, in which case the registrant will provide such information by means of an amendment to this Annual Report on Form 10-K.

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

The registrant incorporates by reference herein information to be set forth in its definitive proxy statement for its annual meeting of stockholders to be held in 2009 that is responsive to the information required with respect to this Item 14; *provided, however*, that such information shall not be incorporated herein:

- if the information that is responsive to the information required with respect to this Item 14 is provided by means of an amendment to this Annual Report on Form 10-K filed with the Securities and Exchange Commission prior to the filing of such definitive proxy statement; or
- if such proxy statement is not mailed to stockholders and filed with the Securities and Exchange Commission within 120 days after the end of the registrant's most recently completed fiscal year, in which case the registrant will provide such information by means of an amendment to this Annual Report on Form 10-K.

**PART IV**

**ITEM 15.—EXHIBITS AND FINANCIAL STATEMENT SCHEDULES**

**(a)(1) Financial Statements**

The following documents are filed as part of this report:

<a href="#">Report of Independent Registered Public Accounting Firm</a>	<a href="#">56</a>
<a href="#">Consolidated Balance Sheets as of January 31, 2009 and February 2, 2008</a>	<a href="#">57</a>
<a href="#">Consolidated Statements of Operations for the fiscal years ended January 31, 2009, February 2, 2008 and February 3, 2007</a>	<a href="#">58</a>
<a href="#">Consolidated Statements of Changes in Stockholders' Equity for the fiscal years ended January 31, 2009, February 2, 2008 and February 3, 2007</a>	<a href="#">59</a>
<a href="#">Consolidated Statements of Cash Flows for the fiscal years ended January 31, 2009, February 2, 2008 and February 3, 2007</a>	<a href="#">60</a>
<a href="#">Notes to Consolidated Financial Statements</a>	<a href="#">61</a>

**Report of Independent Registered Public Accounting Firm**

To the Stockholders and Board of Directors of  
The Children's Place Retail Stores, Inc.  
Secaucus, New Jersey:

We have audited the accompanying consolidated balance sheets of The Children's Place Retail Stores, Inc. and Subsidiaries (the "Company") as of January 31, 2009 and February 2, 2008 and the related consolidated statements of operations, changes in stockholders' equity, and cash flows for each of the three fiscal years in the period ended January 31, 2009. In connection with our audits of the financial statements, we have also audited the financial statement schedule listed in the accompanying index. These financial statements and schedule are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements and schedule based on our audits.

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

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of The Children's Place Retail Stores, Inc. and Subsidiaries at January 31, 2009 and February 2, 2008, and the results of its operations and its cash flows for each of the three years in the period ended January 31, 2009, in conformity with accounting principles generally accepted in the United States.

Also, in our opinion, the financial statement schedule, when considered in relation to the basic consolidated financial statements taken as a whole, presents fairly, in all material respects, the information set forth therein.

As discussed in Note 11 to the consolidated financial statements, effective February 4, 2007 the Company adopted FASB Interpretation No. 48, *Accounting for Uncertainty in Income Taxes—an Interpretation of FASB No. 109*.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), The Children's Place Retail Stores, Inc.'s internal control over financial reporting as of January 31, 2009, based on criteria established in *Internal Control—Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) and our report dated March 28, 2009 expressed an unqualified opinion thereon.

/s/ BDO Seidman, LLP

New York, NY  
March 28, 2009

## THE CHILDREN'S PLACE RETAIL STORES, INC. AND SUBSIDIARIES

## CONSOLIDATED BALANCE SHEET

(In thousands, except shares issued, authorized and outstanding)

	Fiscal Year Ended	
	January 31, 2009	February 2, 2008
<b>ASSETS</b>		
Current assets:		
Cash and cash equivalents	\$ 226,206	\$ 81,626
Accounts receivable	19,639	41,143
Inventories	211,227	196,606
Prepaid expenses and other current assets	42,674	67,589
Deferred income taxes	19,844	25,321
Assets of discontinued operations held for sale	—	98,591
<b>Total current assets</b>	<b>519,590</b>	<b>510,876</b>
Long-term assets:		
Property and equipment, net	318,116	354,141
Deferred income taxes	96,104	125,292
Other assets	5,947	3,065
Assets of discontinued operations held for sale	—	4,163
<b>Total assets</b>	<b>\$ 939,757</b>	<b>\$ 997,537</b>
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>		
<b>LIABILITIES:</b>		
Current liabilities:		
Revolving loan	\$ —	\$ 88,976
Short term portion of term loan	30,000	—
Accounts payable	73,333	80,807
Income taxes payable	3,166	3,845
Accrued expenses and other current liabilities	100,496	136,867
<b>Total current liabilities</b>	<b>206,995</b>	<b>310,495</b>
Long-term liabilities:		
Deferred rent liabilities	105,565	136,708
Deferred royalty	—	42,988
Other tax liabilities	17,150	23,520
Long term portion of term loan	55,000	—
Other long-term liabilities	7,168	11,593
<b>Total liabilities</b>	<b>391,878</b>	<b>525,304</b>
<b>COMMITMENTS AND CONTINGENCIES</b>		
<b>STOCKHOLDERS' EQUITY:</b>		
Preferred stock, \$1.00 par value, 1,000,000 shares authorized, 0 shares issued and outstanding at January 31, 2009	—	—
Common stock, \$0.10 par value, 100,000,000 shares authorized, 29,465,065 and 29,139,664 issued and outstanding at January 31, 2009 and February 2, 2008, respectively	2,947	2,914
Additional paid-in capital	205,858	195,591
Accumulated other comprehensive (loss) income	(3,090)	13,934
Retained earnings	342,164	259,794
<b>Total stockholders' equity</b>	<b>547,879</b>	<b>472,233</b>
<b>Total liabilities and stockholders' equity</b>	<b>\$ 939,757</b>	<b>\$ 997,537</b>

See accompanying notes to these consolidated financial statements

**THE CHILDREN'S PLACE RETAIL STORES, INC. AND SUBSIDIARIES**

**CONSOLIDATED STATEMENTS OF OPERATIONS**

(In thousands, except per share amounts)

	Fiscal Year Ended		
	January 31, 2009	February 2, 2008	February 3, 2007
Net sales	\$1,630,323	\$1,520,329	\$1,405,429
Cost of sales	958,510	924,187	794,985
Gross profit	671,813	596,142	610,444
Selling, general and administrative expenses	471,302	479,142	435,758
Asset impairment charges	6,491	16,565	418
Other costs	213	5,870	—
Depreciation and amortization	71,410	65,326	57,964
Operating income	122,397	29,239	116,304
Interest (expense) income, net	(4,939)	(366)	2,707
Income from continuing operations before income taxes	117,458	28,873	119,011
Provision for income taxes	43,523	18,913	34,740
Income from continuing operations	73,935	9,960	84,271
Income (loss) from discontinued operations, net of income taxes	8,435	(69,527)	3,119
Net income (loss)	<u>\$ 82,370</u>	<u>\$ (59,567)</u>	<u>\$ 87,390</u>
<b>Basic earnings (loss) per share</b>			
Income from continuing operations	\$ 2.52	\$ 0.34	\$ 2.92
Income (loss) from discontinued operations	0.29	(2.39)	0.11
Net income (loss)	<u>\$ 2.81</u>	<u>\$ (2.05)</u>	<u>\$ 3.03</u>
Basic weighted average common shares outstanding	29,307	29,090	28,828
<b>Diluted earnings (loss) per share</b>			
Income from continuing operations	\$ 2.50	\$ 0.34	\$ 2.82
Income (loss) from discontinued operations	0.29	(2.35)	0.10
Net income (loss)	<u>\$ 2.79</u>	<u>\$ (2.01)</u>	<u>\$ 2.92</u>
Diluted weighted average common shares outstanding	29,548	29,648	29,907

See accompanying notes to these consolidated financial statements

**THE CHILDREN'S PLACE RETAIL STORES, INC. AND SUBSIDIARIES**  
**CONSOLIDATED STATEMENTS OF CHANGES IN STOCKHOLDERS' EQUITY**

(In thousands)

	Common Stock		Additional Paid-In Capital	Retained Earnings	Accumulated Other Comprehensive Income	Total Stockholders' Equity	Comprehensive Income (loss)
	Shares	Amount					
BALANCE, January 28, 2006	27,954	\$2,796	\$ 147,065	\$ 238,578	\$ 7,211	\$ 395,650	
Exercise of stock options and employee stock purchases	1,130	113	27,048			27,161	
Tax benefit of stock option exercises			11,001			11,001	
Stock-based compensation expense—stock options			3,452			3,452	
Change in cumulative translation adjustment					(2,867)	(2,867)	\$ (2,867)
Net income				87,390		87,390	87,390
Comprehensive income							\$ 84,523
BALANCE, February 3, 2007	29,084	\$2,909	\$ 188,566	\$ 325,968	\$ 4,344	\$ 521,787	
Exercise of stock options and employee stock purchases	52	5	804			809	
Tax benefit of stock option exercises			156			156	
Adjustment to tax benefit of previously exercised stock options			(954)			(954)	
Vesting of restricted stock	4	—	—			—	
Adoption of FIN 48				(6,607)		(6,607)	
Stock-based compensation expense			5,156			5,156	
Modifications of stock option awards, net of \$1,058 payable in cash			(174)			(174)	
Modifications of stock options— reclassification between liability and equity awards			237			237	
Fair value of land donated to Company for distribution center			1,800			1,800	
Change in cumulative translation adjustment					9,590	9,590	\$ 9,590
Net (loss)				(59,567)		(59,567)	(59,567)
Comprehensive (loss)							\$ (49,977)
BALANCE, February 2, 2008	29,140	\$2,914	\$ 195,591	\$ 259,794	\$ 13,934	\$ 472,233	
Exercise of stock options and employee stock purchases	219	22	4,714			4,736	
Adjustment to tax benefit of canceled and vested stock awards			(1,392)			(1,392)	
Vesting of restricted stock	133	13	(13)			—	
Stock-based compensation expense			7,598			7,598	
Purchase of, and retirement of shares	(27)	(2)	(640)			(642)	
Change in cumulative translation adjustment					(17,024)	(17,024)	\$ (17,024)
Net income				82,370		82,370	82,370
Comprehensive income							\$ 65,346
BALANCE, January 31, 2009	29,465	\$2,947	\$ 205,858	\$ 342,164	\$ (3,090)	\$ 547,879	

See accompanying notes to these consolidated financial statements

**THE CHILDREN'S PLACE RETAIL STORES, INC. AND SUBSIDIARIES**

**CONSOLIDATED STATEMENTS OF CASH FLOWS**

(In thousands)

	Fiscal Year Ended		
	January 31, 2009	February 2, 2008	February 3, 2007
<b>CASH FLOWS FROM OPERATING ACTIVITIES:</b>			
Net income (loss)	\$ 82,370	\$ (59,567)	\$ 87,390
Less income (loss) from discontinued operations	8,435	(69,527)	3,119
Income from continuing operations	73,935	9,960	84,271
Reconciliation of income from continuing operations to net cash (used in) provided by operating activities of continuing operations:			
Depreciation and amortization	71,410	65,326	57,964
Other amortization	718	282	206
(Gain) loss on disposal of property and equipment	(1,252)	1,553	1,030
Asset impairments	6,491	16,565	417
Other costs	—	5,870	—
Stock-based compensation	7,391	4,890	3,844
Deferred taxes	32,152	(56,813)	(29,881)
Deferred rent expense and lease incentives	(16,228)	(14,884)	(11,738)
Changes in operating assets and liabilities:			
Accounts receivable	12,468	(8,022)	(6,392)
Inventories	(19,855)	(22,818)	(20,506)
Prepaid expenses and other current assets	1,222	(4,654)	(11,193)
Other assets	(95)	(810)	(291)
Accounts payable	47,294	(26,264)	7,811
Accrued expenses, interest and other current liabilities	2,754	815	26,309
Intercompany—discontinued operations	(29,302)	76,603	24,540
Income taxes payable, net of prepayments	4,737	(34,263)	(37,119)
Deferred rent liabilities	12,900	22,495	20,334
Other liabilities	(990)	283	(116)
Total adjustments	131,815	26,154	25,219
Net cash provided by operating activities of continuing operations	205,750	36,114	109,490
Net cash provided by (used in) operating activities of discontinued operations	12,628	(37,313)	29,443
Net cash provided by (used in) operating activities	218,378	(1,199)	138,933
<b>CASH FLOWS FROM INVESTING ACTIVITIES:</b>			
Property and equipment purchases, lease acquisition and software costs	(51,693)	(168,682)	(108,950)
Purchase of investments	—	(776,405)	(1,165,108)
Sale of investments	—	823,255	1,118,258
Sale of store leases and property and equipment	2,300	—	1,023
Net cash used in investing activities of continuing operations	(49,393)	(121,832)	(154,777)
Net cash used in investing activities of discontinued operations	(11,372)	(2,759)	(74,444)
Net cash used in investing activities	(60,765)	(124,591)	(229,221)
<b>CASH FLOWS FROM FINANCING ACTIVITIES:</b>			
Borrowings under revolving credit facilities	746,714	456,189	148,518
Repayments under revolving credit facilities	(816,275)	(386,628)	(148,518)
Exercise of stock options and employee stock purchases	4,736	809	27,161
Borrowings on Term Loan	85,000	—	—
Deferred Financing Costs	(3,839)	—	—
Capital contribution to subsidiary in discontinued operations	(8,250)	—	—
Purchase of common stock	(642)	—	—
Excess tax benefit for stock option exercises	—	156	11,001
Net cash provided by financing activities of continuing operations	7,444	70,526	38,162
Net cash (used in) provided by financing activities of discontinued operations	(11,878)	19,415	—
Net cash (used in) provided by financing activities	(4,434)	89,941	38,162
Effect of exchange rate changes on cash of continuing operations	(6,577)	2,873	(1,702)
Effect of exchange rate changes on cash of discontinued operations	(2,022)	586	817
Effect of exchange rate changes on cash	(8,599)	3,459	(885)
Net increase (decrease) in cash and cash equivalents	144,580	(32,390)	(53,011)
Cash and cash equivalents, beginning of year	81,626	114,016	167,027
Cash and cash equivalents, end of year	\$ 226,206	\$ 81,626	\$ 114,016
<b>OTHER CASH FLOW INFORMATION:</b>			
Cash paid during the year for income taxes, net of refunds	11,620	58,525	92,459
Cash paid during the year for interest	6,811	4,625	1,063
Decrease (increase) in accrued purchases of property and equipment, lease acquisition and software costs	(3,357)	11,535	(19,915)
Land received for distribution center	—	1,800	—

See accompanying notes to these consolidated financial statements

## THE CHILDREN'S PLACE RETAIL STORES, INC. AND SUBSIDIARIES

### NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

#### 1. BASIS OF PRESENTATION AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The Children's Place Retail Stores, Inc. and subsidiaries (the "Company") is a specialty retailer of merchandise for children from newborn to ten years of age. The Company designs, contracts to manufacture and sells high-quality, value priced apparel and accessories and other children's-oriented merchandise under the proprietary "The Children's Place" brand name. As of January 31, 2009, the Company operated 917 The Children's Place stores in the United States, Canada and Puerto Rico. In addition, the Company operated an Internet store at [www.childrensplace.com](http://www.childrensplace.com). In accordance with generally accepted accounting principles ("U.S. GAAP"), and reflecting the Company's exit of the Disney Store business, the accompanying consolidated financial statements have classified the Disney Store business as discontinued operations. In December 2008, the Company deconsolidated those subsidiaries operating the Disney Store business (see Note 2). In addition to corporate offices and distribution facilities in the United States and Canada, the Company also has business operations in Asia.

#### **Fiscal Year**

The Company's fiscal year is a 52-week or 53-week period ending on the Saturday nearest to January 31. The results for fiscal 2008 represent the 52-week period ended January 31, 2009 ("Fiscal 2008"), the results for fiscal 2007 represent the 52-week period ended February 2, 2008 ("Fiscal 2007"), and the results for fiscal 2006 represent the 53-week period ended February 3, 2007 ("Fiscal 2006").

#### **Use of Estimates**

The preparation of financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, disclosure of contingent assets and liabilities at the date of the financial statements, and amounts of revenues and expenses reported during the period. Actual results could differ from the assumptions used and estimates made by management, which could have a material impact on the Company's financial position or results of operations.

#### **Consolidation**

The consolidated financial statements include the accounts of the Company and its wholly-owned subsidiaries. Intercompany balances and transactions have been eliminated. As of January 31, 2009, the Company does not have any investments in unconsolidated affiliates. The principles of the Financial Accounting Standards Board ("FASB") Interpretation ("FIN") No. 46 (revised December 2003), "Consolidation of Variable Interest Entities" and Accounting Research Bulletin ("ARB") No. 51, "Consolidated Financial Statements" are considered when determining whether an entity is subject to consolidation.

#### **Cash and Cash Equivalents**

The Company considers all highly liquid investments with an original maturity of three months or less to be cash equivalents.

#### **Revenue Recognition**

The Company recognizes revenue, including shipping and handling fees billed to customers, upon purchase at the Company's retail stores or when received by the customer if the product was purchased

**THE CHILDREN'S PLACE RETAIL STORES, INC. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

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

via the Internet, net of coupon redemptions and anticipated sales returns. The Company deferred approximately \$0.5 million and \$0.3 million as of January 31, 2009 and February 2, 2008, respectively, for Internet shipments sent but not yet received by the customer. Sales tax collected from customers is excluded from revenue.

An allowance for estimated sales returns is calculated based upon the Company's sales return experience and is recorded in accrued expenses and other current liabilities. The allowance for estimated sales returns was approximately \$3.2 million as of January 31, 2009 and February 2, 2008.

The Company's policy with respect to gift cards is to record revenue as the gift cards are redeemed for merchandise. Prior to their redemption, gift cards are recorded as a liability, included in accrued expenses and other current liabilities. The Company recognizes income from gift cards that are not expected to be redeemed based upon an extended period of dormancy where statutorily permitted. The Company recognized income for gift card dormancy of approximately \$0.5 million and \$0.6 million during fiscal 2008 and fiscal 2007, respectively.

The Company offers a private label credit card to its Children's Place customers that provides a discount on future purchases once a minimum annual purchase threshold has been exceeded. The Company estimates the future discounts to be provided based on history, the number of customers who have earned or are likely to earn the discount and current year sales trends on the private label credit card. The Company defers a proportionate amount of revenue from customers based on an estimated value of future discounts. The Company recognizes such deferred revenue as future discounts are taken on sales above the annual minimum. This is done by utilizing estimates based upon sales trends and the number of customers who have earned the discount privilege. The Company's private label customers must earn the discount privilege on an annual basis, and such privilege expires at fiscal year end. Accordingly, deferred revenue for a given fiscal year is recognized by the end of that fiscal year. The Company commenced its 2009 private label program in January 2009. Accordingly, the Company recognized \$0.1 million in deferred revenue at January 31, 2009.

**Inventories**

Inventories, which consist primarily of finished goods, are stated at the lower of average cost or market, calculated using the retail inventory method. Under the retail inventory method, the valuation of inventories at cost and the resulting gross margins are calculated by applying a cost-to-retail ratio by merchandise department to the retail value of inventories. Inventory includes items that have been marked down to the Company's best estimate of their fair market value and an estimate for inventory shrinkage. The Company bases its decision to mark down merchandise upon its current rate of sale, the season and the sell-through of the item. The Company adjusts its inventory based upon an annual physical inventory and shrinkage is estimated in interim periods based upon the historical results of physical inventories in the context of current year facts and circumstances.

**Cost of Sales**

In addition to the cost of inventory sold, the Company includes buying, design and distribution expenses, shipping and handling costs on merchandise sold directly to customers, and letter of credit fees in its cost of sales. The Company records all occupancy costs in its cost of sales, except

**THE CHILDREN'S PLACE RETAIL STORES, INC. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

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

administrative office buildings, which are recorded in selling, general and administrative expenses. All depreciation is reported on a separate line on the Company's consolidated statements of operations.

**Accounting for Equity Compensation**

The Company maintains several equity compensation plans, which are administered by the Compensation Committee of the Board of Directors (the "Compensation Committee"). The Compensation Committee is comprised of independent members of the Board of Directors (the "Board"). The Company has granted stock options under its 1996 Stock Option Plan (the "1996 Plan"), its 1997 Stock Option Plan (the "1997 Plan"), and its 2005 Equity Incentive Plan (the "2005 Equity Plan") (collectively, the "Plans"). The Plans allow the Compensation Committee to grant multiple forms of equity compensation such as stock options, stock appreciation rights, restricted stock awards, deferred stock awards and performance awards. Effective with the adoption of the 2005 Equity Plan, the Compensation Committee resolved to cease issuing stock awards under the 1996 Plan and the 1997 Plan.

Effective January 29, 2006, the Company adopted Statement of Financial Accounting Standards ("SFAS") No. 123 (Revised 2004) "Accounting for Share-Based Payments" ("SFAS 123(R)"), using the modified prospective transition method, which provides that prior periods are not restated. SFAS 123(R) requires, among other things: (a) the fair value of all stock awards be expensed over their respective vesting periods, including those awards that were unvested at the time of adoption; (b) a company must make a policy decision about whether to recognize compensation cost for awards with a graded vesting schedule on either (i) a straight-line basis over the requisite service period for each separately vesting portion of the award as if the award was, in-substance, multiple awards or (ii) on a straight-line basis over the requisite service period for the entire award. Under either method, the amount of cumulative compensation cost recognized at any date must at least be equal to the portion of the grant-date value of the award that is vested at that date and (c) that compensation expense include a forfeiture estimate for those shares not expected to vest. The Company has elected to recognize compensation cost on a straight-line basis over the requisite service period for the entire award.

***Stock Options***

During Fiscal 2008, the Company ceased issuing stock options in favor of deferred stock awards. Outstanding stock options that were issued prior to the adoption of SFAS 123(R) are fully vested. All stock options currently outstanding were valued using the Black-Scholes option pricing model based on a Monte Carlo simulation, which requires extensive use of accounting judgment and financial estimates, including estimates of how long an employee will hold their vested stock options before exercise, the estimated volatility of the Company's common stock over the expected term, and the number of options that will be forfeited prior to the completion of vesting requirements. Application of other assumptions could result in significantly different estimates of fair value of stock-based compensation and the related expense recognized in the Company's financial statements.

**THE CHILDREN'S PLACE RETAIL STORES, INC. AND SUBSIDIARIES****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)****1. BASIS OF PRESENTATION AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)*****Deferred and Restricted Stock Awards ("Deferred Awards")***

Deferred Awards are granted to various employees on an annual basis for merit purposes or in conjunction with hirings. Board members also receive deferred stock awards as part of their annual compensation. The fair value of Deferred Awards is defined as the average of the high and low trading price of the Company's common stock on the grant date. Deferred Awards generally vest over a three or four year period.

***Performance Awards***

Performance awards are granted to members of senior management and are shares of common stock that are earned if performance criteria, as defined by the Compensation Committee, are met. Performance criteria generally consist of earnings per share or operating income targets over multiple years along with a service requirement on the part of the awardees.

**Net Income (Loss) per Common Share**

The Company reports its earnings (loss) per share in accordance with SFAS No. 128, "Earnings Per Share" ("SFAS 128"), which requires the presentation of both basic and diluted earnings (loss) per share on the statements of operations.

In accordance with SFAS 128, the following table reconciles income (loss) and share amounts utilized to calculate basic and diluted net income (loss) per common share (in thousands):

	For Fiscal Year Ended		
	January 31, 2009	February 2, 2008	February 3, 2007
Income from continuing operations	\$73,935	\$ 9,960	\$84,271
Income (loss) from discontinued operations, net of income taxes	8,435	(69,527)	3,119
Net income (loss)	<u>\$82,370</u>	<u>\$ (59,567)</u>	<u>\$87,390</u>
Basic weighted average common shares	29,307	29,090	28,828
Dilutive effect of stock awards	241	558	1,079
Diluted weighted average common shares	<u>29,548</u>	<u>29,648</u>	<u>29,907</u>
Antidilutive stock awards	1,157	988	23

In accordance with SFAS 128, since the Company had income from continuing operations it considered the dilutive effect of stock awards in computing its diluted earnings-per-share amount. Additionally, the diluted effect of the Company's stock awards were considered in computing all other reported diluted per-share amounts even if those amounts were antidilutive to their respective basic per-share amounts.

Antidilutive stock awards represent stock options that had an exercise price greater than the average market price during the period and unvested deferred and restricted shares which would have been antidilutive in the application of SFAS 128.

**THE CHILDREN'S PLACE RETAIL STORES, INC. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

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

**Accounts Receivable**

Accounts receivable consists of credit card receivables, landlord construction allowance receivables and other miscellaneous items. Credit card receivables represent credit card sales for which the respective credit card service company has yet to remit the cash. The unremitted balance approximates the last few days of credit card sales for each reporting period. Bad debt associated with credit card sales is not material. Landlord construction allowance receivables represent landlord contributions to our construction costs of building out the related real estate, primarily new and remodeled stores. Total construction costs are capitalized as property and equipment and the landlord construction allowances are recorded as a lease incentive, a component of deferred rent, which is amortized as a reduction of rent expense over the lease term. Landlord construction allowance receivables were approximately \$8.1 million and \$24.0 million at January 31, 2009 and February 2, 2008, respectively.

**Insurance and Self-Insurance Reserves**

The Company self-insures and purchases insurance policies to provide for workers' compensation, general liability and property losses, as well as director and officer's liability, vehicle liability and employee medical benefits. The Company estimates risks and records a liability based on historical claim experience, insurance deductibles, severity factors and other actuarial assumptions. The Company records the current portions of employee medical benefits, workers compensation and general liability reserves in accrued expenses and other current liabilities. As of January 31, 2009, the current portion of these reserves were approximately \$6.2 million. The Company records the long-term portions of employee medical benefits, workers compensation and general liability reserves in other long-term liabilities. As of January 31, 2009, the long-term portions of these reserves were approximately \$7.2 million.

**Property and Equipment**

Property and equipment are stated at cost. Leasehold improvements are depreciated on a straight-line basis over the life of the lease or the estimated useful life of the asset, whichever is shorter. All other property and equipment is depreciated on a straight-line basis based upon their estimated useful lives, which generally range from three to twenty-five years. Interest costs related to the construction of property and equipment are capitalized as incurred as part of the cost of the constructed asset. Repairs and maintenance are expensed as incurred.

The Company accounts for internally developed software intended for internal use in accordance with SOP 98-1, "Accounting for the Costs of Computer Software Developed or Obtained for Internal Use." The Company capitalizes development-stage costs such as direct external costs, direct payroll related costs and interest costs incurred to develop the software prior to implementation. When development is substantially complete, the Company amortizes the cost of the software on a straight-line basis over the expected life of the software. Preliminary project costs and post-implementation costs such as training, maintenance and support are expensed as incurred.

**Accounting for Impairment of Long-Lived Assets**

In accordance with SFAS No. 144, "Accounting for the Impairment or Disposal of Long-Lived Assets" ("SFAS 144"), the Company periodically reviews its assets when events indicate that their

**THE CHILDREN'S PLACE RETAIL STORES, INC. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

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

carrying value may not be recoverable. Such events include a history of operating or cash flow losses or an expectation that an asset will be sold or disposed of significantly before the end of its previously estimated useful life. The Company also evaluates all stores that have been open for at least two years, or sooner if circumstances should dictate, on at least an annual basis. For each of these stores, projected future cash flows over the remaining life of the lease are compared to the net book value of the related long-lived assets, primarily leasehold improvement and furniture and fixtures. If the undiscounted cash flows are less than the related net book value of the long-lived assets, they are written down to their fair market value. We primarily determine fair market value to be the discounted future cash flows associated with those assets. These cash flows are comprised of store sales less related cost of sales, less store payroll, occupancy costs, and other store level direct expenses.

**Accounting for Exit or Disposal Activities**

The Company accounts for its exit and disposal costs in accordance with SFAS No. 146, "Accounting Associated with Exit or Disposal Activities" (SFAS 146") and records costs at fair value to terminate an operating lease or contract when termination occurs before the end of its term and without future economic benefit to the Company. Included in Other costs for Fiscal 2007, are approximately \$5.9 million of lease exit costs related to the Company's decision not to proceed forward with the construction of the Emerson Lane administrative office building. Fiscal 2008 includes \$0.2 million of related interest accretion. During Fiscal 2008, the Company made \$1.7 million in payments and at January 31, 2009 had a remaining accrual of \$4.4 million.

**Deferred Financing Costs**

The Company capitalizes costs directly associated with acquiring third-party financing. Deferred financing costs are included in other assets and are generally amortized on a straight-line basis as interest expense over the term of the related indebtedness. In cases where financing costs are based on amounts borrowed, the portion of those costs related to prepayments, if any, is accelerated. At January 31, 2009, deferred financing costs were approximately \$3.4 million, net of accumulated amortization of \$0.4 million. At February 2, 2008, deferred financing costs were approximately \$0.1 million, net of accumulated amortization of \$25 thousand.

**Pre-opening Costs**

Store pre-opening costs consist primarily of occupancy costs, payroll, supply, and marketing expenses, and are expensed as incurred in selling, general and administrative expenses.

**Advertising and Marketing Costs**

The Company expenses the cost of advertising when the advertising is first run or displayed. Included in selling, general and administrative expenses for Fiscal 2008, Fiscal 2007 and Fiscal 2006 are advertising and other marketing costs of approximately \$49.6 million, \$50.5 million and \$46.3 million, respectively.

**THE CHILDREN'S PLACE RETAIL STORES, INC. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

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

**Rent Expense and Deferred Rent**

Rent expense and lease incentives, including landlord construction allowances, are recognized on a straight-line basis over the lease term, commencing generally on the date the Company takes possession of the leased property. The Company records rent expense and the impact of lease incentives for its stores and distribution centers as a component of cost of sales. The unamortized portion of deferred rent is included in deferred rent liabilities.

**Income Taxes**

We utilize the liability method of accounting for income taxes as set forth in SFAS No. 109, *Accounting for Income Taxes*. Under the liability method, deferred taxes are determined based on the temporary differences between the financial statement and tax basis of assets and liabilities using tax rates expected to be in effect during the years in which the basis differences reverse. A valuation allowance is recorded when it is more likely than not that some of the deferred tax assets will not be realized. In determining the need for valuation allowances we consider projected future taxable income and the availability of tax planning strategies. If, in the future we determine that we would not be able to realize our recorded deferred tax assets, an increase in the valuation allowance would decrease earnings in the period in which such determination is made.

We assess our income tax positions and record tax benefits for all years subject to examination based upon our evaluation of the facts, circumstances and information available at the reporting date. For those tax positions where it is more likely than not that a tax benefit will be sustained, we have recorded the largest amount of tax benefit with a greater than 50% likelihood of being realized upon ultimate settlement with a taxing authority that has full knowledge of all relevant information. For those income tax positions where it is not more likely than not that a tax benefit will be sustained, no tax benefit has been recognized in the financial statements.

Prior to 2007 the Company determined its tax contingencies in accordance with SFAS No. 5, *Accounting for Contingencies*. The Company recorded estimated tax liabilities to the extent the contingencies were probable and could be reasonably estimated.

**Fair Value of Financial Instruments**

SFAS No. 107, "Disclosures about Fair Values of Financial Instruments," requires entities to disclose the fair value of financial instruments, both assets and liabilities, recognized and not recognized in the balance sheets, for which it is practicable to estimate fair value. For purposes of this disclosure, the fair value of a financial instrument is the amount at which the instrument could be exchanged in a current transaction between willing parties, other than in a forced or liquidation sale. Fair value is based on quoted market prices for the same or similar financial instruments.

As cash and cash equivalents, accounts receivable and payable, the Company's credit facilities and certain other short-term financial instruments are all short-term in nature, their carrying amounts approximate fair value.

**THE CHILDREN'S PLACE RETAIL STORES, INC. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

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

**Foreign Currency Translation**

The Company has determined that the local currencies of its Canadian and Asian subsidiaries are their functional currencies. In accordance with SFAS No. 52, "Foreign Currency Translation," the assets and liabilities denominated in foreign currency are translated into U.S. dollars at the current rate of exchange existing at period-end and revenues and expenses are translated at average monthly exchange rates. Related translation adjustments are reported as a separate component of stockholders' equity. The Company also transacts certain business in foreign denominated currencies, primarily its Canadian subsidiary purchases inventory in U.S. Dollars, and there are intercompany charges between various subsidiaries. In Fiscal 2008, Fiscal 2007, and Fiscal 2006, the Company recorded realized and unrealized gains (losses) on such transactions of \$(2.7) million, \$1.9 million and \$(0.1) million, respectively.

In conjunction with the Company's deconsolidation of its Canadian subsidiary, Hoop Canada, Inc. (See Note 2 below), approximately \$0.5 million of cumulative translation adjustment was credited to income (loss) from discontinued operations.

**Legal Contingencies**

The Company reserves for litigation settlements and contingencies when it determines an adverse outcome is probable and can estimate losses. Estimates are adjusted as facts and circumstances require. The Company expenses the costs to settle litigation as incurred.

**Newly Issued Accounting Pronouncements**

In September 2006, the FASB issued SFAS No. 157, "Fair Value Measurements" ("SFAS 157") which provides guidance for using fair value to measure assets and liabilities, defines fair value, establishes a framework for measuring fair value in U.S. GAAP, and expands disclosures about fair value measurements. SFAS 157 is effective for fiscal years beginning after November 15, 2007 and for interim periods within those years, with the exception of all non-financial assets and liabilities which will be effective for years beginning after November 15, 2008. The Company adopted SFAS 157 on February 3, 2008, the first day of fiscal year 2008. The adoption did not have any impact on the Company's consolidated financial statements.

In February 2007, the FASB issued SFAS No. 159, "The Fair Value Option for Financial Assets and Financial Liabilities—Including an Amendment of FASB Statement No. 115" ("SFAS 159"). This standard permits an entity to choose to measure many financial instruments and certain other items at fair value. Most of the provisions in SFAS 159 are elective; however, the amendment to SFAS 115, "Accounting for Certain Investments in Debt and Equity Securities", applies to all entities with available-for-sale and trading securities. The fair value option established by SFAS 159 permits all entities to choose to measure eligible items at fair value at specified election dates. A business entity will report unrealized gains and losses on items for which the fair value option has been elected in earnings (or another performance indicator if the business entity does not report earnings) at each subsequent reporting date. The fair value option: (a) may be applied instrument by instrument, with a few exceptions, such as investments otherwise accounted for by the equity method; (b) is irrevocable (unless a new election date occurs); and (c) is applied only to entire instruments and not to portions of instruments. SFAS 159 is effective as of the beginning of an entity's first fiscal year that begins after

**THE CHILDREN'S PLACE RETAIL STORES, INC. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

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

November 15, 2007. The Company has chosen not to adopt the elective provisions of SFAS 159 and the remaining provisions did not have any impact on the Company's consolidated financial statements.

In December 2007, the FASB issued SFAS No. 141 (revised 2007), "Business Combinations" ("SFAS 141R"), which replaces FASB Statement No. 141. SFAS 141R establishes the principles and requirements for how an acquirer recognizes and measures in its financial statements the identifiable assets acquired, and any noncontrolling interest in the acquiree, recognizes and measures the goodwill acquired in the business or a gain from a bargain purchase and determines what information to disclose to enable the users of the financial statements to evaluate the nature and financial effects of the business combination. The provisions of SFAS 141R shall be applied prospectively to business combinations with acquisition dates on or after the beginning of the first annual reporting period in which it is initially applied. SFAS 141R is effective for fiscal years, and interim periods within those fiscal years, beginning on or after December 15, 2008. The Company does not expect SFAS 141R to have an impact on its consolidated financial statements.

**2. DISCONTINUED OPERATIONS**

After a thorough review of the Disney Store business, its potential earnings growth, its capital needs and its ability to fund such needs from its own resources, the Company announced on March 20, 2008 that it had decided to exit the Disney Store business. The Company's subsidiaries that operated the Disney Store business are referred to herein interchangeably and collectively as "Hoop".

After assessing the above factors and considering Hoop's liquidity, Hoop's Board of Directors determined that the best way to complete an orderly wind-down of Hoop's affairs was for Hoop to seek relief under Chapter 11 of the United States Bankruptcy Code (the "Bankruptcy Code"). On March 26, 2008, Hoop Holdings, LLC, Hoop Retail Stores, LLC and Hoop Canada Holdings, Inc. each filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware (the "U.S. Bankruptcy Court") (Case Nos. 08-10544, 08-10545, and 08-10546, respectively, the "Cases"). On March 27, 2008, Hoop Canada, Inc. filed for protection pursuant to the Companies' Creditors Arrangement Act (the "CCAA") in the Ontario Superior Court of Justice (Commercial List) ("Canadian Bankruptcy Court") (Court File No. 08-CL-7453, and together with the Cases, the "Filings"). Each of the foregoing Hoop entities are referred to collectively herein as the "Hoop Entities."

After receiving the approval of the U.S. Bankruptcy Court and the Canadian Bankruptcy Court, on April 30, 2008, Hoop transferred the Disney Store business in the U.S. and Canada and a substantial portion of the Disney Store assets to affiliates of Disney in an asset sale (the "Sale"), pursuant to an asset purchase agreement dated as of April 3, 2008 among the Hoop Entities and affiliates of Disney (the "Sale Agreement") and section 363 of the Bankruptcy Code (and a similar provision under the CCAA.) Upon closing, affiliates of Disney paid approximately \$61.6 million, including certain post-closing adjustments, for the acquired assets of the Disney Store business. The proceeds received from the Sale are included in the assets of the Hoop Entities' for distribution to their creditors pursuant to the plan of reorganization that was approved by the U.S. Bankruptcy Court on December 15, 2008 (the "Plan"). A similar plan was approved by the Canadian Bankruptcy Court.

According to the terms of the Sale, Hoop transferred 217 Disney Stores to affiliates of Disney and granted such affiliates the right to operate and wind-down the affairs of the remaining stores. The lease

**THE CHILDREN'S PLACE RETAIL STORES, INC. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**2. DISCONTINUED OPERATIONS (Continued)**

obligations associated with the stores that were not sold were rejected and resulting damage claims were administered pursuant to the Plan.

In April 2008, the Company entered into a settlement and release of claims agreement with Hoop and the official committee of unsecured creditors in the Cases (the "Settlement Agreement"), which was approved by the U.S. Bankruptcy Court on April 29, 2008. Under the Settlement Agreement, the Company agreed to provide transitional services and to forgive all pre- and post-bankruptcy petition claims against the Hoop Entities. Such claims included intercompany charges for shared services of approximately \$24.9 million, a capital contribution made on March 18, 2008 of approximately \$8.3 million, payment of severance and other employee costs for the Company's employees servicing Hoop of approximately \$7.9 million, and \$7.0 million of professional fees and other costs the Company has incurred during the Cases, as well as claims that might be asserted against the Company in the Cases. As of January 31, 2009, the Company has paid approximately \$44 million related to the Settlement Agreement, and has remaining accruals of \$4.1 million, primarily for severance, legal claims and related costs.

On December 15, 2008, the U.S. Bankruptcy Court approved the Plan, pursuant to which the Hoop Entities that were U.S. debtors were dissolved and all assets and liabilities were transferred to a trust (the "Trust"), which is overseen by trustee appointed by the U.S. Bankruptcy Court under the Plan and a trust oversight committee. Hoop Canada, Inc., which currently remains under the jurisdiction of the Canadian Bankruptcy Court, has not yet been legally dissolved but is a wholly owned subsidiary of the Trust and is effectively part of the Trust's assets.

The Disney Store business has been segregated from continuing operations and included in "Discontinued operations, net of taxes" in the consolidated statements of operations. In discontinued operations, the Company has reversed its allocation of shared services to the Disney Stores and has charged discontinued operations with the administrative and distribution expenses that were directly attributable to the Disney Stores.

Upon effectiveness of the Plan, the Company has deconsolidated all Hoop Entities. As a result, all intercompany balances, including investments in subsidiaries, have been eliminated, and the net liabilities in excess of assets transferred have resulted in a \$25.5 million gain on the relief of indebtedness of discontinued operations. The Company may continue to incur charges related to the wind-down of the Disney Store business and such costs will be expensed through discontinued operations as incurred.

**THE CHILDREN'S PLACE RETAIL STORES, INC. AND SUBSIDIARIES****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)****2. DISCONTINUED OPERATIONS (Continued)**

Discontinued operations were comprised of (in thousands):

	<b>Fiscal Year Ended</b>		
	<b>January 31, 2009</b>	<b>February 2, 2008</b>	<b>February 3, 2007</b>
Net sales	\$ 129,177	\$ 642,230	\$ 612,284
Cost of sales	93,367	439,909	394,315
Gross profit	35,810	202,321	217,969
Selling, general and administrative expenses	48,909	219,448	189,732
Asset impairment charges	—	80,286	16,648
Restructuring charges	18,800	6,150	761
Depreciation and amortization	—	14,374	7,737
Operating income (loss)	(31,899)	(117,937)	3,091
Gain on disposal of assets and liabilities of discontinued operations	47,720	—	—
Interest income (expense), net	(114)	313	1,226
Income (loss) before income taxes	15,707	(117,624)	4,317
Provision (benefit) for income taxes	7,272	(48,097)	1,198
Income (loss) from discontinued operations, net of income taxes	<u>\$ 8,435</u>	<u>\$ (69,527)</u>	<u>\$ 3,119</u>

Fiscal 2008 includes the Disney Store business through April 30, 2008. The gain on disposal of assets and liabilities of discontinued operations includes a \$22.2 million gain related to the Sale and a \$25.5 million gain related to the relief of indebtedness of the Hoop Entities. Restructuring charges include legal and consulting fees incurred during the wind-down of the Hoop Entities.

During Fiscal 2007, in conjunction with the Company's renovation of certain "Mickey" stores, the Company reduced the estimated useful lives of certain store assets and accordingly, recognized approximately \$3.6 million of accelerated depreciation. The impairment charges of \$80.3 million are for the write-down of store and administrative offices to their respective fair value, reflecting the Company's decision to divest of the operations of the Disney Stores.

During Fiscal 2006, the Company recorded asset impairment charges of \$16.6 million, comprised of a \$9.6 million charge related to the renovation of 29 Mickey prototype stores and \$7.1 million related to the Company's decision not to proceed with a New York City Disney Store location and infrastructure investments that were written off in conjunction with the Company's decision to form an e-commerce alliance with a Disney affiliate in which select Disney Store merchandise is sold on the [disneyshopping.com](http://disneyshopping.com) website.

**THE CHILDREN'S PLACE RETAIL STORES, INC. AND SUBSIDIARIES****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)****2. DISCONTINUED OPERATIONS (Continued)**

Upon effectiveness of the Plan, the Hoop Entities were dissolved in December 2008, therefore, there is no balance sheet as of January 31, 2009 for the Hoop Entities. For the consolidated balance sheet as of February 2, 2008, "Assets held for sale" reflect the assets subsequently sold to affiliates of Disney. They are detailed as follows (in thousands):

	<u>February 2, 2008</u>
<b>Current assets held for sale:</b>	
Accounts receivable	\$ 4,555
Inventories	88,674
Prepaid expenses and other current assets	5,362
	<u>\$98,591</u>
<b>Non-current assets held for sale:</b>	
Property and equipment, net	3,317
Other assets—security deposits	846
	<u>\$ 4,163</u>

In the consolidated balance sheet as of February 2, 2008, the remaining assets and liabilities of Hoop are included in their respective balance sheet categories and were included in the following asset and liability categories (in thousands):

	<u>February 2, 2008</u>
Cash and cash equivalents	\$ 12,644
Accounts receivable	8,627
Prepaid expenses and other current assets(1)	11,214
<b>Total current assets</b>	32,485
Other assets	497
<b>Total assets</b>	<u>\$ 32,982</u>
Revolving loan	\$ 19,415
Accounts payable	51,795
Accrued expenses and other current liabilities(2)	41,662
<b>Total current liabilities</b>	112,872
Deferred rent liabilities	25,518
Deferred royalty	42,988
Other long-term liabilities	1,863
<b>Total liabilities</b>	<u>\$ 183,241</u>

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- (1) Prepaid expenses and other current assets are comprised of \$6,754 of prepaid property expenses and \$4,460 of other prepaid expenses.
- (2) Accrued expenses include \$8,635 of construction-in-progress, \$8,281 of salaries and benefits, \$5,725 of exit costs, \$5,483 of store expenses, \$2,555 of real estate expenses, \$2,171 of customer liabilities and \$8,812 of other accrued expenses.

**THE CHILDREN'S PLACE RETAIL STORES, INC. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**2. DISCONTINUED OPERATIONS (Continued)**

Cash flows from the Company's discontinued operations were as follows (in thousands):

	Fiscal Year Ended		
	January 31, 2009	February 2, 2008	February 3, 2007
<b>CASH FLOWS FROM OPERATING ACTIVITIES:</b>			
Income (loss) from discontinued operations	\$ 8,435	\$ (69,527)	\$ 3,119
Reconciliation of net income (loss) to net cash (used in) provided by operating activities:			
Depreciation and amortization	—	14,374	7,737
Gain on sale of the Disney Store North America business	(47,720)	—	—
Asset impairments	—	80,286	16,648
Stock-based compensation	207	490	537
Deferred income taxes	—	1,911	18,789
Other non cash expenses	(1,434)	7,867	5,876
Changes in operating assets and liabilities:			
Assets	28,212	(21,369)	1,933
Liabilities	(4,374)	25,258	(656)
Intercompany with continuing operations	29,302	(76,603)	(24,540)
Total adjustments	4,193	32,214	26,324
Net cash (used in) provided by operating activities	12,628	(37,313)	29,443
<b>CASH FLOWS FROM INVESTING ACTIVITIES:</b>			
Property and equipment purchases, lease acquisition and software costs	(9,046)	(31,084)	(46,119)
Cash received from sale of Disney Store assets	61,202	—	—
Restriction of cash	(63,528)	—	—
Purchase of investments	—	(263,620)	(704,411)
Sale of investments	—	291,945	676,086
Net cash used in investing activities	(11,372)	(2,759)	(74,444)
<b>CASH FLOWS FROM FINANCING ACTIVITIES:</b>			
Borrowings under revolving credit facilities	160,237	166,942	98,449
Repayments under revolving credit facilities	(179,652)	(147,527)	(98,449)
Cash contribution from parent company	8,250	—	—
Deferred financing fees	(713)	—	—
Net cash provided by financing activities	(11,878)	19,415	—
Effect of exchange rate changes on cash	(2,022)	586	817
Net (decrease) in cash and cash equivalents	(12,644)	(20,071)	(44,184)
Cash and cash equivalents, beginning of year	12,644	32,715	76,899
Cash and cash equivalents, end of year	\$ —	\$ 12,644	\$ 32,715

**THE CHILDREN'S PLACE RETAIL STORES, INC. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**3. STOCK-BASED COMPENSATION**

The following tables summarize the Company's equity and other stock-based compensation expense (in thousands):

	Fiscal Year Ended January 31, 2009			
	Cost of Goods Sold	Selling, General & Administrative	Discontinued Operations	Total
Deferred stock expense	\$ 979	\$ 3,948	\$ 242	\$ 5,169
Performance award expense	—	1,168	—	1,168
Restricted stock expense	—	719	—	719
Stock option expense	—	577	(35)	542
<b>Total stock-based compensation expense</b>	<b>\$ 979</b>	<b>\$ 6,412</b>	<b>\$ 207</b>	<b>\$ 7,598</b>

	Fiscal Year Ended February 2, 2008			
	Cost of Goods Sold	Selling, General & Administrative	Discontinued Operations	Total
Stock option expense	\$ —	\$ 1,221	\$ —	\$1,221
Stock compensation expense related to the issuance of liability awards	—	147	(18)	129
Deferred stock expense	97	415	191	703
Restricted stock expense	—	141	—	141
Expense related to the modification of previously issued stock options, primarily tolling(1)(2)	383	3,253	339	3,975
Fair market value adjustments of tolled stock options accounted for as liability awards(2)	(543)	(224)	(22)	(789)
<b>Total stock-based compensation expense</b>	<b>\$ (63)</b>	<b>\$ 4,953</b>	<b>\$ 490</b>	<b>\$5,380</b>

	Fiscal Year Ended February 3, 2007			
	Cost of Goods Sold	Selling, General & Administrative	Discontinued Operations	Total
Stock option expense	\$ —	\$ 1,508	\$ 436	\$1,944
Stock compensation expense related to the issuance of liability awards(3)	—	47	50	97
Expense related to the modification of previously issued stock options, primarily tolling(2)	26	1,453	29	1,508
Tolled stock options accounted for as liability awards and related fair market value adjustments(2)	552	258	22	832
<b>Total stock-based compensation expense</b>	<b>\$ 578</b>	<b>\$ 3,266</b>	<b>\$ 537</b>	<b>\$4,381</b>

- (1) Terminated employees have 90 days from date of termination to exercise their vested options. Due to the suspension of stock option exercises on September 14, 2006, the Company modified options held by terminated employees to extend their expiration dates until after the date the suspension is

**THE CHILDREN'S PLACE RETAIL STORES, INC. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**3. STOCK-BASED COMPENSATION (Continued)**

lifted (i.e., tolled stock options). After the suspension was lifted on December 10, 2007, terminated employees had the same number of days to exercise their options as if the suspension had not occurred. Options that were tolled for employees terminated prior to September 14, 2006 were accounted for as liability awards because the option holders were no longer employees at the time of the modification and because of the Company's inability to provide shares upon exercise. These options were reclassified to equity awards after the suspension was lifted. Options that were tolled for employees terminated after September 14, 2006 were accounted for as equity awards because their options were tolled in conjunction with their termination.

- (2) During the fourth quarter of fiscal 2007, the Company modified 730,742 stock options that had been previously issued with exercise prices below the fair market value of the Company's common stock on the date the options were granted. The modification increased the exercise price of each option to its grant date fair market value. For 284,633 of the repriced stock options, the modification also included an agreement to pay the option holders a cash payment equal to the change in the exercise price for each option modified. As a result, the Company recorded a stock compensation charge of \$0.9 million, a cash payable of \$1.1 million, and a reduction to equity of \$0.2 million.
- (3) During fiscal 2006, the Company promised stock options and deferred stock awards for which it was unable to complete the granting process due to the suspension of equity award grants. Based on the Company's commitment to honor these grants, liability awards were established. In fiscal 2007 after the suspension was lifted, these awards were converted to equity awards and the related liabilities were transferred to equity.

The Company recognized tax benefits related to equity compensation expense of approximately \$3.0 million, \$2.1 million and \$1.7 million in Fiscal 2008, Fiscal 2007 and Fiscal 2006, respectively.

During the fourth quarter of fiscal 2007, the Compensation Committee approved the 2008 Long Term Incentive Plan (the "LTIP"). The LTIP provides for the issuance of deferred stock awards and performance awards to key members of management (the "Participants"). Each Participants' award was based on salary level and the fair market value of the Company's common stock on the date the Compensation Committee approves the grant. The deferred stock awards vest on a graded basis over three years and have a service requirement only. Key features of the performance awards are as follows:

- Each performance award has a defined number of shares that a Participant can earn (the "Target Shares"). Based on performance levels, Participants can earn up to 200% of their Target Shares.
- Performance awards cliff-vest over three years and have a service requirement and performance criteria that must be achieved for the awards to vest.
- The performance criteria is based on the Company's achievement of operating income levels in each of the fiscal years 2008, 2009 and 2010, as well as in the aggregate.
- Shares may be earned in each of the fiscal years based upon meeting the established performance criteria for that year. Additional shares can be earned based on each fiscal year's operating results, provided that the aggregate operating income level is achieved.

**THE CHILDREN'S PLACE RETAIL STORES, INC. AND SUBSIDIARIES****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)****3. STOCK-BASED COMPENSATION (Continued)**

- Participants, except in certain circumstances, must be employed by the Company at the end of the three year performance period or their awards are forfeited.

***Deferred Awards***

During Fiscal 2008 and Fiscal 2007, the Company issued Deferred Awards of 303,596 and 536,127, respectively. These awards consisted of annual equity awards to associates, awards to Board members, awards to senior management under the LTIP, a transitional award to each non-employee director on the Board of Directors, new hire and promotional awards. The total awards issued in Fiscal 2007 included a catch up award as no awards were issued in Fiscal 2006 due to the Company's stock option investigation.

Changes in the Company's unvested deferred stock for the fiscal year ended January 31, 2009 were as follows:

	<u>Number of Deferred Awards</u> (in thousands)	<u>Weighted Average Grant Date Fair Value</u>
Unvested Deferred Awards, beginning of year	493	\$ 29.74
Granted	304	34.62
Vested(1)	(132)	30.45
Forfeited	(202)	30.08
Unvested Deferred Awards, end of year	<u>463</u>	<u>\$ 32.59</u>

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- (1) The Company withheld approximately 26,600 shares from those that vested to satisfy withholding tax requirements, which were then retired.

Total unrecognized equity compensation expense related to unvested Deferred Awards approximated \$12.3 million as of January 31, 2009, which will be recognized over a weighted average period of approximately 2.2 years.

***Performance Awards***

Pursuant to the LTIP, the Compensation Committee approved the granting of performance awards during Fiscal 2008 and Fiscal 2007 that provide for the issuance of 42,645 and 245,681 Target Shares, respectively. The awards granted in Fiscal 2007 were not valued nor did expensing begin until the performance criteria were approved in the first quarter of Fiscal 2008 and a valid grant date under SFAS 123(R) was established.

Based on the operating results of Fiscal 2008 and the performance criteria established, Participants in the LTIP have earned the maximum number of shares possible for Fiscal 2008. That includes 33% of their Target Shares, and a potential 33% more provided that the aggregate performance criteria is met. Assuming the performance criteria for fiscal years 2009 and 2010 are met at 100%, Participants will earn a total of 133% of their Target Shares.

**THE CHILDREN'S PLACE RETAIL STORES, INC. AND SUBSIDIARIES****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)****3. STOCK-BASED COMPENSATION (Continued)**

During the first quarter of fiscal 2006, the Company issued performance awards to certain key members of management. Each performance award provided for the issuance of a targeted number of shares of the Company's common stock with the aggregate number of target shares for all performance awards aggregating 566,500 shares. The awards were based on, among other conditions, achieving a minimum earnings per share level in fiscal 2007 and a minimum cumulative earnings per share level for fiscal years 2005, 2006, and 2007. The number of shares earned would be equal to the number of target shares multiplied by a factor between 0% and 200% based on the cumulative earnings per share achieved. During the first quarter of fiscal 2006, the Company recorded \$2.3 million of related expense based on an estimated factor of 100%. Prior to filing its fiscal 2006 second quarter results on Form 10-Q, the Company estimated that the minimum target would not be met and accordingly reversed the previously recorded \$2.3 million. That assessment remained unchanged and at February 2, 2008, it was concluded that the minimum requirements were not achieved and no shares were earned.

Changes in the Company's unvested Performance Awards for the fiscal year ended January 31, 2009 were as follows:

	<u>Number of Performance Shares(1)</u> (in thousands)	<u>Weighted Average Grant Date Fair Value</u>
Unvested performance shares, beginning of year	210	\$ 20.97
Authorized	43	31.92
Vested	—	—
Forfeited	(112)	20.97
Unvested performance shares, end of year	<u>141</u>	<u>\$ 24.28</u>

- (1) The number of unvested performance shares is based on the Participants earning their Target Shares at 100%. As of January 31, 2009, the Company estimates that Participants will earn 133% of their Target Shares. The cumulative expense recognized reflects that estimate.

Total unrecognized equity compensation expense related to unvested performance awards approximated \$3.3 million as of January 31, 2009, which will be recognized over a weighted average period of approximately 2.0 years.

**Stock Options**

During Fiscal 2008, Fiscal 2007 and Fiscal 2006, the Company issued stock options of 30,000, 113,696 and 3,000, respectively. The awards in Fiscal 2008 and Fiscal 2007 were to Board members.

**THE CHILDREN'S PLACE RETAIL STORES, INC. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**3. STOCK-BASED COMPENSATION (Continued)**

The fair value of issued stock options has been estimated on the date of grant using the Black-Scholes option pricing model, incorporating the following assumptions:

	For the Fiscal Year Ended		
	January 31, 2009	February 2, 2008	February 3, 2007
Dividend yield	0%	0%	0%
Volatility factor(1)	45.6%	45.8%	41.4%
Weighted average risk-free interest rate(2)	3.2%	3.3%	4.4%
Expected life of options(3)	5.1 years	4.9 years	4.8 years
Weighted average fair value on grant date	\$12.81 per share	\$10.67 per share	\$19.37 per share

- (1) Expected volatility is based on a 50:50 blend of the historical and implied volatility with a two-year look back on the date of each grant.
- (2) The risk-free interest rate is based on the risk-free rate corresponding to the grant date and expected term.
- (3) The expected option term used in the Black-Scholes calculation is based on a Monte Carlo simulation incorporating a forward-looking stock price model and a historical model of employee exercise and post-vest forfeiture behavior. Changes in stock options under equity plans for the three fiscal years in the period ended January 31, 2009 are summarized below:

	January 31, 2009		Fiscal Year Ended February 2, 2008		February 3, 2007	
	Options	Weighted Average Exercise Price	Options	Weighted Average Exercise Price	Options	Weighted Average Exercise Price
Options outstanding at beginning of year	2,220,904	\$ 32.20	2,321,805	\$ 30.36	3,494,061	\$ 28.34
Repricing(1)	—	—	—	4.69	—	—
Granted	30,000	29.05	113,696	24.46	3,000	46.24
Exercised(2)	(219,928)	21.29	(52,049)	15.55	(1,117,286)	23.77
Forfeited	(844,464)	35.58	(162,548)	35.21	(57,970)	36.01
Options outstanding at end of year(3)	1,186,512	\$ 31.73	2,220,904	\$ 32.20	2,321,805	\$ 30.36
Options exercisable at end of year(4)	1,104,843	\$ 32.24	2,093,289	\$ 32.52	2,172,138	\$ 30.32

- (1) During the fourth quarter of Fiscal 2007, the Company repriced 1,015,505 stock options that had a weighted average exercise price of \$31.75. After the repricing, these stock options had a weighted average exercise price of \$36.44.
- (2) The aggregate intrinsic value of options exercised was approximately \$2.6 million, \$0.5 million and \$37.0 million for Fiscal 2008, Fiscal 2007 and Fiscal 2006, respectively.

**THE CHILDREN'S PLACE RETAIL STORES, INC. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**3. STOCK-BASED COMPENSATION (Continued)**

(3) The aggregate intrinsic value of options outstanding at the end of Fiscal 2008 was approximately \$0.5 million.

(4) The aggregate intrinsic value of options exercisable at the end of Fiscal 2008 was \$0.5 million.

The following table summarizes information regarding options outstanding at January 31, 2009:

Range of Exercise Prices	Options Outstanding			Options Exercisable		
	Options	Weighted Average Exercise Price	Weighted Average Remaining Contractual Life	Options	Weighted Average Exercise Price	Weighted Average Remaining Contractual Life
\$ 8.74–\$18.04	98,576	\$ 13.75	3.7	98,576	\$ 13.75	3.7
\$19.00–\$26.94	360,013	22.34	3.7	330,011	22.65	3.2
\$27.08–\$42.15	375,590	32.81	5.3	323,923	33.54	4.7
\$44.12–\$50.81	352,333	45.19	5.0	352,333	45.19	5.0
\$ 8.74–\$50.81	<u>1,186,512</u>	<u>\$ 31.73</u>	<u>4.6</u>	<u>1,104,843</u>	<u>\$ 32.24</u>	<u>4.3</u>

Changes in the Company's unvested stock options for the fiscal year ended January 31, 2009 were as follows:

	Number of Options (in thousands)	Weighted Average Grant Date Fair Value
Unvested options, beginning of year	128	\$ 11.43
Granted	30	12.81
Vested	(20)	14.77
Forfeited	(56)	11.80
Unvested options, end of year	<u>82</u>	<u>\$ 10.87</u>

Total unrecognized equity compensation expense related to unvested stock options approximated \$0.3 million as of January 31, 2009, which will be recognized over a weighted average period of approximately 1.6 years.

**THE CHILDREN'S PLACE RETAIL STORES, INC. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**3. STOCK-BASED COMPENSATION (Continued)**

As of January 31, 2009, the Company had the following shares available for grant under its 2005 Equity Plan, assuming that the performance awards are earned at the minimum, the target and the maximum percentages:

	0%	100%	200%
<b>Performance share target assumption</b>			
Shares available at February 3, 2007	1,896,400	1,352,421	808,442
Equity award activity during fiscal 2007:			
Stock options granted	113,696	113,696	113,696
Stock options forfeited	(20,000)	(20,000)	(20,000)
Deferred stock granted	536,127	536,127	536,127
Deferred stock forfeited	(39,459)	(39,459)	(39,459)
Performance shares authorized	—	245,681	491,362
2006 performance shares cancelled	—	(543,979)	(1,087,958)
2007 performance shares cancelled	—	(35,709)	(71,418)
Net equity award activity during fiscal 2007	590,364	256,357	(77,650)
Shares available at February 2, 2008	<u>1,306,036</u>	<u>1,096,064</u>	<u>886,092</u>
Equity award activity during fiscal 2008:			
Stock options granted	30,000	30,000	30,000
Stock options forfeited	(67,196)	(67,196)	(67,196)
Deferred stock granted	303,596	303,596	303,596
Deferred stock forfeited	(202,232)	(202,232)	(202,232)
Performance shares authorized	—	42,645	85,290
2007 performance shares cancelled	—	(111,620)	(223,240)
Net equity award activity during fiscal 2008	64,168	(4,807)	(73,782)
Shares available at January 31, 2009	<u>1,241,868</u>	<u>1,100,871</u>	<u>959,874</u>

**THE CHILDREN'S PLACE RETAIL STORES, INC. AND SUBSIDIARIES****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)****4. PROPERTY AND EQUIPMENT**

Property and equipment consist of the following (in thousands):

	<u>Asset Life</u>	<u>January 31, 2009</u>	<u>February 2, 2008</u>
Property and equipment:			
Land and land improvements	—	\$ 3,403	\$ 3,403
Building and improvements	25 yrs	30,451	30,450
Material handling equipment	15 yrs	31,243	31,086
Leasehold improvements	Lease life	353,636	337,536
Store fixtures and equipment	3–10 yrs	244,124	243,552
Capitalized software	5 yrs	60,403	51,286
Construction in progress	—	7,073	12,033
		<u>730,333</u>	<u>709,346</u>
Less accumulated depreciation and amortization		(412,217)	(355,205)
Property and equipment, net		<u>\$ 318,116</u>	<u>\$ 354,141</u>

During Fiscal 2008, the Company recorded \$6.5 million of impairment charges related to 18 underperforming stores. During fiscal 2007, the Company recorded asset impairment of \$16.6 million, comprised of \$14.8 million of impairments related to the Company's decision to cease construction of its Emerson Lane administrative office building, and \$1.8 million of impairment charges related to 12 underperforming stores. During fiscal 2006, the Company recorded approximately \$0.4 million of impairment charges related to five underperforming stores.

During fiscal 2007, the Company began operations in a new distribution center in Fort Payne, Alabama. The land on which the distribution center was constructed was donated in return for the Company's commitment to operate the center in Fort Payne. The fair value of the land was estimated at \$1.8 million and was recorded as a credit to additional paid-in capital. In addition, the Company capitalized construction costs of \$67.3 million to complete the project.

The Company capitalized approximately \$4.8 million in external software and approximately \$0.5 million in programming and development costs of employees in Fiscal 2008. Amortization expense of capitalized software was \$8.0 million, \$7.2 million and \$5.3 million in Fiscal 2008, Fiscal 2007 and Fiscal 2006, respectively.

During fiscal 2007, the Company capitalized approximately \$0.6 million of interest costs primarily relating to the construction of the Company's Fort Payne distribution center and its Emerson Lane administrative facility. The Company capitalized no interest costs in Fiscal 2008 and Fiscal 2006.

As of January 31, 2009, the Company had \$4.1 million in property and equipment for which payment had not been made. \$0.4 million is included in accounts payable and \$3.7 million is included in accrued expenses and other current liabilities.

**5. CREDIT FACILITIES**

On July 31, 2008, the Company and certain of its domestic subsidiaries entered into a five year credit agreement (the "2008 Credit Agreement") with Wells Fargo Retail Finance, LLC ("Wells Fargo"), as Administrative Agent, Collateral Agent, and Swing Line Lender, Bank of America, N.A.,

**THE CHILDREN'S PLACE RETAIL STORES, INC. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**5. CREDIT FACILITIES (Continued)**

HSBC Bank Business Credit (USA) and JP Morgan Chase Bank, N.A. (collectively, the "Lenders"). The 2008 Credit Agreement replaces a \$130 million credit agreement and a \$60 million letter of credit agreement which, except under certain limited circumstances, was set to coterminously expire on November 1, 2010 (the "Prior Credit Agreements").

The 2008 Credit Agreement consists of a \$200 million asset based revolving credit facility, which includes a \$175 million letter of credit sub-facility. Amounts outstanding under the 2008 Credit Agreement bear interest, at the Company's option, at:

- (i) the prime rate; or
- (ii) LIBOR plus a margin of 1.50% to 2.00% based on the amount of the Company's average excess availability under the facility.

In addition, an unused line fee of 0.25% will accrue on the unused portion of the commitments under the facility. Letter of credit fees range from 0.75% to 1.25% for commercial letters of credit and range from 1.50% to 2.00% for standby letters of credit. Letter of credit fees are determined based on the level of availability under the 2008 Credit Agreement and accrue on the undrawn amount of such outstanding letters of credit, respectively. The 2008 Credit Agreement will mature on July 31, 2013. The amount available for loans and letters of credit under the 2008 Credit Agreement at any time depends on the Company's levels of inventory and accounts receivable at such time.

The outstanding obligations under the 2008 Credit Agreement may be accelerated upon the occurrence of certain events, including, among others, breach of covenants, the institution of insolvency proceedings, certain defaults under certain other indebtedness and a change of control, subject, in the case of certain defaults, to a failure to cure such defaults prior to the expiration of applicable grace periods. Should the 2008 Credit Agreement be terminated prior to August 1, 2010 for any reason, whether voluntarily by the Company or by reason of acceleration by the Lenders upon the occurrence of an event of default, the Company would be responsible for an early termination fee in the amount of (i) 0.50% of the revolving credit facility ceiling then in effect if such termination occurs on or prior to July 31, 2009 and (ii) 0.25% of the revolving credit facility ceiling then in effect if such termination occurs after July 31, 2009, but on or prior to July 31, 2010. No early termination fee would be due and payable for termination after July 31, 2010.

The 2008 Credit Agreement contains covenants, which include limitations on annual capital expenditures and limitations on the payment of dividends or similar payments. Credit extended under the 2008 Credit Agreement is secured by a first or second priority security interest in substantially all of the Company's assets and substantially all of the assets of its domestic subsidiaries.

The Company capitalized approximately \$1.6 million in deferred financing costs related to the 2008 Credit Agreement, which will be amortized on a straight-line basis over the term of the 2008 Credit Agreement.

**THE CHILDREN'S PLACE RETAIL STORES, INC. AND SUBSIDIARIES****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)****5. CREDIT FACILITIES (Continued)**

The table below presents the components (in millions) of the Company's credit facilities. As of January 31, 2009, amounts are based on the 2008 Credit Agreement. As of February 2, 2008, amounts are based on the Prior Credit Agreements.

	January 31, 2009	February 2, 2008
Credit facility maximum	\$ 200.0	\$ 130.0
Borrowing Base(1)	155.0	117.0
Borrowings outstanding	—	69.6
Letters of credit outstanding—merchandise(2)	32.3	—
Letters of credit outstanding—standby	14.6	14.3
Utilization of credit facility at end of period	46.9	83.9
Availability	108.1	33.1
Average loan balance during the period	20.5	44.1
Highest borrowings during the period	80.6	116.8
Average interest rate	5.4%	7.2%
Interest rate at end of period	3.3%	6.0%

- (1) Under the 2008 Credit Agreement, the Borrowing Base is the lesser of a calculation based on certain credit card receivables, inventory balances and the fair market value of certain real estate, or \$200 million. The Prior Credit Agreements had similar restrictions.
- (2) Merchandise letters of credit totaling approximately \$26.5 million were drawn under the Prior Credit Agreements that did not reduce availability under the credit facility, as they were drawn under the separate \$60 million letter of credit facility.

**Letter of Credit Fees**

Letter of credit fees, which are included in cost of sales, approximated \$0.4 million and \$0.5 million in Fiscal 2008 and Fiscal 2007, respectively.

**6. TERM LOAN**

On July 31, 2008, concurrently with the execution of the 2008 Credit Agreement, the Company and certain of its domestic subsidiaries and Sankaty Credit Opportunities III, L.P., Sankaty Credit Opportunities IV, L.P., RGIP, LLC, Crystal Capital Fund, L.P., Crystal Capital Onshore Warehouse LLC, 1903 Onshore Funding, LLC, and Bank of America, N.A. (collectively, the "Note Purchasers"), together with Sankaty Advisors, LLC, as Collateral Agent, and Crystal Capital Fund Management, L.P., as Syndication Agent, entered into a note purchase agreement ("Note Purchase Agreement").

Under the Note Purchase Agreement, the Company issued \$85 million of non-amortizing secured notes (the "Notes") which will be due and payable on July 31, 2013. Amounts outstanding under the Note Purchase Agreement bear interest at LIBOR, with a floor of 3.00%, plus a margin between

**THE CHILDREN'S PLACE RETAIL STORES, INC. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**6. TERM LOAN (Continued)**

8.50% and 9.75% depending on the Company's leverage ratio. As of January 31, 2009, the interest rate applicable to the outstanding principal amount of the Notes was 11.50%.

The outstanding obligations under the Note Purchase Agreement may be accelerated upon the occurrence of certain events, including, among others, breach of covenants, certain defaults under certain other indebtedness, the institution of insolvency proceedings and a material adverse effect, subject, in the case of certain defaults, to a failure to cure such defaults prior to the expiration of applicable grace periods. The Company is also required to make mandatory prepayments if a change of control occurs, if it receives cash in excess of certain defined thresholds for the sale of assets or as a result of other defined events, if it issues equity or other debt securities, or if annual cash flows are in excess of defined thresholds for any fiscal year. In addition, the outstanding obligations under the Note Purchase Agreement may be prepaid at any time at the discretion of the Company. In the event of any prepayment prior to July 31, 2010 (including by reason of acceleration, but excluding a prepayment relating to excess cash flows and certain extraordinary receipts), the Company would be responsible for a prepayment premium in the amount of (i) 2.00% of the aggregate principal amount of the Notes prepaid if such prepayment occurs on or prior to July 30, 2009 and (ii) 1.50% of the aggregate principal amount of the Notes prepaid if such prepayment occurs after July 30, 2009, but on or prior to July 30, 2010. No prepayment premium would be due and payable in respect of prepayments made on or after July 31, 2010. Based on the Company's cash flow for Fiscal 2008, a mandatory prepayment of approximately \$30 million is expected to be made in the first half of fiscal 2009. Accordingly, Notes in an outstanding principal amount of \$30 million are classified as current in the accompanying consolidated balance sheet at January 31, 2009. The Company also has the option, based in its cash flow for Fiscal 2008, to make an additional prepayment of up to approximately \$15 million free of prepayment premium. The Company has not yet determined whether an additional prepayment will be made.

The Note Purchase Agreement contains covenants, which include limitations on annual capital expenditures, required levels of EBITDA, a maximum leverage ratio, a minimum fixed charge coverage ratio and limitations on the payment of dividends or similar payments. The Company's obligations under the Note Purchase Agreement are secured by a first or second priority security interest in substantially all of the Company's domestic assets.

On July 31, 2008, a portion of the proceeds from the Note Purchase Agreement were used to repay in full the Company's outstanding obligations under the Prior Credit Agreements.

The Company capitalized approximately \$2.2 million in deferred financing costs related to the Note Purchase Agreement, which will be amortized on a straight-line basis over the term of the Note Purchase Agreement, except that in the event of prepayments, the portion of the deferred financing costs related to the prepayment is accelerated.

**THE CHILDREN'S PLACE RETAIL STORES, INC. AND SUBSIDIARIES****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)****7. INTEREST INCOME (EXPENSE), NET**

The following table presents the components of the Company's interest income (expense), net from continuing operations (in thousands):

	<b>For the Fiscal Year Ended</b>		
	<b>January 31, 2009</b>	<b>February 2, 2008</b>	<b>February 3, 2007</b>
Interest income	\$ 3,114	\$ 2,808	\$ 1,893
Tax-exempt interest income	48	955	1,499
Total interest income	<u>3,162</u>	<u>3,763</u>	<u>3,392</u>
Less:			
Interest expense—term loan	5,083	—	—
Interest expense—credit facilities	1,113	3,205	53
Capitalized interest	—	(594)	—
Unused line fee	287	147	286
Amortization of deferred financing fees	510	59	76
Other fees	1,108	1,312	270
Interest income (expense), net	<u>\$ (4,939)</u>	<u>\$ (366)</u>	<u>\$ 2,707</u>

**8. PREPAID EXPENSES AND OTHER CURRENT ASSETS**

Prepaid expenses and other current assets are comprised of the following (in thousands):

	<b>Fiscal Year Ended</b>	
	<b>January 31, 2009</b>	<b>February 2, 2008</b>
Prepaid income taxes	\$16,833	\$29,092
Prepaid property expense	17,764	17,139
Prepaid maintenance contracts	3,254	3,928
Prepaid advertising	—	3,394
Prepaid insurance	2,144	1,226
Prepaid supplies	321	596
Prepaid assets of Hoop (see Note 2)	—	11,214
Other prepaid expenses	2,358	1,000
Prepaid expenses and other current assets	<u>\$42,674</u>	<u>\$67,589</u>

**THE CHILDREN'S PLACE RETAIL STORES, INC. AND SUBSIDIARIES****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)****9. ACCRUED EXPENSES AND OTHER CURRENT LIABILITIES**

Accrued expenses and other current liabilities are comprised of the following (in thousands):

	January 31, 2009	February 2, 2008
Accrued salaries and benefits	\$ 35,333	\$ 28,098
Customer liabilities	20,774	20,170
Accrued construction-in-progress	3,732	5,560
Accrued store expenses	4,584	5,191
Accrued real estate expenses	7,848	6,090
Accrued professional fees	3,364	6,988
Sales taxes and other taxes payable	4,345	7,109
Accrued marketing	2,947	3,819
Accrued insurance	3,153	2,434
Accrued freight	1,179	1,966
Accrued exit costs	4,384	1,728
Accrued expenses of discontinued operations	3,460	41,662
Other accrued expenses	5,393	6,052
Accrued expenses and other current liabilities	<u>\$ 100,496</u>	<u>\$ 136,867</u>

**10. COMMITMENTS AND CONTINGENCIES*****Operating Lease Commitments***

The Company leases all of its stores, offices and distribution facilities (except the Ft. Payne, Alabama distribution center which the Company owns), and certain office equipment, store fixtures and automobiles, under operating leases expiring through 2023. The leases require fixed minimum annual rental payments plus, under the terms of certain leases, additional payments for taxes, other expenses and additional rent based upon sales.

Store, office and distribution facilities minimum rent, contingent rent and sublease income from continuing operations are as follows (in thousands):

	For the Fiscal Year Ended		
	January 31, 2009	February 2, 2008	February 3, 2007
Minimum rentals	\$ 142,970	\$ 134,848	\$ 121,785
Additional rent based upon sales	2,404	2,025	1,735
Sublease income	(593)	(529)	(559)

**THE CHILDREN'S PLACE RETAIL STORES, INC. AND SUBSIDIARIES****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)****10. COMMITMENTS AND CONTINGENCIES (Continued)**

Future minimum annual lease payments under the Company's operating leases at January 31, 2009 are as follows (in thousands):

	<b>Operating Leases</b>
2009	146,901
2010	131,128
2011	110,872
2012	87,996
2013	72,405
Thereafter	207,885
<b>Total minimum lease payments</b>	<b>\$757,187</b>

***New Store and Remodel Capital Commitments***

As of January 31, 2009, the Company executed 17 leases for new stores and 5 remodels. The Company estimates the capital expenditures required to open and begin operating these stores will be approximately \$15.2 million.

***Purchase Commitments***

As of January 31, 2009, the Company has entered into various purchase commitments for merchandise for re-sale of approximately \$229.0 million and approximately \$0.5 million for equipment, construction and other non-merchandise commitments.

***Employment Agreements***

The Company has entered into employment agreements with certain of its executives which provide for the payment of severance up to one and a half times the executive's salary and certain benefits following any termination without cause. These contracts commit the Company, in the aggregate, to approximately \$1.0 million of employment termination costs, of which approximately \$.7 million represents severance payments. In the event of a change in control of the Company, certain executives will receive, in the aggregate, approximately \$8.2 million of severance benefits should they either be terminated or suffer a degradation of duties as defined in their agreement.

**11. LEGAL AND REGULATORY MATTERS**

On September 29, 2006, the Division of Enforcement of the SEC informed us that it had initiated an informal investigation into our stock option granting practices. In addition, the Office of the U.S. Attorney for the District of New Jersey has initiated an investigation into our option granting practices. We have cooperated with these investigations and have briefed both authorities on the results of an investigation conducted by a sub-committee appointed by the Board of Directors. There have been no developments in these matters since that time. The Company has not accrued any losses relating to these matters. There can be no assurances that the Company will not incur any costs or fines, but it is not believed that resolution of these matters would have a material impact on the Company's financial position, results of operations and cash flows.

**THE CHILDREN'S PLACE RETAIL STORES, INC. AND SUBSIDIARIES****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)****11. LEGAL AND REGULATORY MATTERS (Continued)**

On January 17, 2007, a stockholder derivative action was filed in the United States District Court, District of New Jersey against certain current members of the Board of Directors and certain current and former senior executives. The Company has been named as a nominal defendant. The complaint alleges, among other things, that certain of our current and former officers and directors (i) breached their fiduciary duties to the Company and its stockholders and were unjustly enriched by improperly backdating certain grants of stock options to officers and directors of the Company, (ii) caused the Company to file false and misleading reports with the SEC, (iii) violated the Securities Exchange Act of 1934 (the "Exchange Act") and common law, (iv) caused the Company to issue false and misleading public statements and (v) were negligent and abdicated their responsibilities to the Company and its stockholders. The complaint sought money damages, an accounting by the defendants for the proceeds of sales of any allegedly backdated stock options, and the costs and disbursements of the lawsuit, as well as equitable relief. The plaintiff filed amended complaints adding, among other things, a claim for securities fraud under SEC rule 10b-5 and additional defendants and claims. In May 2008, the parties entered into a stipulation settlement to resolve this action, which settlement was approved by the court on July 21, 2008. The only monetary portion of the settlement was to pay \$0.7 million of attorneys' fees and reimbursement of expenses to plaintiffs' counsel. The majority of this cost was covered by the Company's insurance.

On September 21, 2007 a second stockholder class action was filed in the United States District Court, Southern District of New York against the Company and certain of its current and former senior executives. The complaint alleges, among other things, that certain of the Company's current and former officers made statements to the investing public which misrepresented material facts about the business and operations of the Company, or omitted to state material facts required in order for the statements made by them not to be misleading, causing the price of the Company's stock to be artificially inflated in violation of provisions of the Exchange Act, as amended. It alleges that subsequent disclosures establish the misleading nature of these earlier disclosures. The complaint seeks monetary damages plus interest as well as costs and disbursements of the lawsuit. On October 10, 2007, a third stockholder class action was filed in the United States District Court, Southern District of New York, against the Company and certain of its current and former senior executives. This complaint alleges, among other things, that certain of the Company's current and former officers made statements to the investing public which misrepresented material facts about the business and operations of the Company, or omitted to state material facts required in order for the statements made by them not to be misleading, thereby causing the price of the Company's stock to be artificially inflated in violation of provisions of the Exchange Act, as amended. According to this complaint, subsequent disclosures establish the misleading nature of these earlier disclosures. This complaint seeks, among other relief, compensatory damages plus interest, and costs and expenses of the lawsuit, including counsel and expert fees. These two actions have been consolidated and the plaintiff filed a consolidated amended class action complaint on February 28, 2008. The Company's motion to dismiss was denied by the court on July 18, 2008. The outcome of this litigation is uncertain and no estimate can be made at this time of any potential loss or range of losses. While we believe there are valid defenses to the claims and we will defend ourselves vigorously, no assurance can be given as to the outcome of this litigation. The litigation could distract our management and directors from the Company's affairs, the costs and expenses of the litigation could have a material adverse on effect the Company's financial position, results of operations and cash flows and an unfavorable outcome could adversely affect the reputation of the Company.

**THE CHILDREN'S PLACE RETAIL STORES, INC. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**11. LEGAL AND REGULATORY MATTERS (Continued)**

On or about July 12, 2006, Joy Fong, a former Disney Store manager in the San Francisco district, filed a lawsuit against the Company and its subsidiary Hoop Retail Stores, LLC in the Superior Court of California, County of Los Angeles. The lawsuit alleges violations of the California Labor Code and California Business and Professions Code and sought class action certification on behalf of Ms. Fong and other individuals similarly situated. We filed our answer on August 11, 2006 denying any and all liability, and on January 14, 2007, Ms. Fong filed an amended complaint, adding Disney as a defendant. Effective as of March 26, 2008, the prosecution of this lawsuit against Hoop was stayed under the automatic stay provisions of the U.S. Bankruptcy Code by reason of Hoop's petition for relief filed that same day. The case is currently proceeding against the other defendants and, on December 18, 2008, the Court granted the plaintiff's motion for class certification on the misclassification claim. The outcome of this litigation is uncertain; while the Company believes there are valid defenses to the claims, the Company cannot reasonably estimate the amount of loss or range of loss that might be incurred as a result of this matter, but the Company does not believe that an adverse decision in this case would have a material effect on its financial position, results of operations and cash flows.

On or about September 28, 2007, Meghan Ruggiero filed a complaint against the Company and its subsidiary, Hoop Retail Stores, LLC, in the United States District Court, Northern District of Ohio on behalf of herself and other similarly situated individuals. The lawsuit alleges violations of the Fair and Accurate Credit Transactions Act ("FACTA") and seeks class certification, an award of statutory and punitive damages, attorneys' fees and costs, and injunctive relief. The plaintiff filed an amended complaint on January 25, 2008. Effective as of March 26, 2008, the prosecution of this lawsuit against Hoop was stayed under the automatic stay provisions of the U.S. Bankruptcy Code by reason of Hoop's petition for relief filed that same day. On March 2, 2009, the Court granted the plaintiff's motion to dismiss the Company as a defendant and to replace it with its subsidiary, The Children's Place Services Company, LLC. While the Company believes there are valid defenses to the claims and will defend itself vigorously, no assurance can be given as to the outcome of this litigation but the Company does not believe that an adverse decision in this case would have a material effect on its financial position, results of operations and cash flows.

We are also involved in various legal proceedings arising in the normal course of business. In the opinion of management, any ultimate liability arising out of these proceedings will not have a material effect on the Company's financial condition.

## THE CHILDREN'S PLACE RETAIL STORES, INC. AND SUBSIDIARIES

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

## 12. INCOME TAXES

Components of the Company's (benefit) provision for income taxes consisted of the following (in thousands):

	For the Fiscal Year Ended		
	January 31, 2009	February 2, 2008	February 3, 2007
<b>Continuing Operations</b>			
Current—			
Federal	\$ (4,536)	\$ 37,184	\$ 33,427
State	(6,064)	14,923	11,034
Foreign	21,971	21,774	19,578
Total current	11,371	73,881	64,039
Deferred—			
Federal	22,859	(46,153)	(23,877)
State	9,777	(10,734)	(4,346)
Foreign	(484)	1,919	(1,076)
Total deferred	32,152	(54,968)	(29,299)
Tax provision as shown on the consolidated statements of operations	\$43,523	\$ 18,913	\$ 34,740
Effective tax rate	37.1%	65.5%	29.2%
<b>Discontinued Operations</b>			
Federal	\$ 4,976	\$ (35,667)	\$ 1,069
State	1,287	(10,676)	408
Foreign	1,006	(1,754)	(279)
Total (benefit) provision	\$ 7,269	\$ (48,097)	\$ 1,198

U.S. and foreign pretax income (loss) from continuing operations was as follows (in thousands):

	For the Fiscal Year Ended		
	January 31, 2009	February 2, 2008	February 3, 2007
U.S.	\$ 44,768	\$ (50,308)	\$ 56,042
Foreign	72,690	79,181	62,969
Total	\$ 117,458	\$ 28,873	\$ 119,011

**THE CHILDREN'S PLACE RETAIL STORES, INC. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**12. INCOME TAXES (Continued)**

A reconciliation between the calculated tax provision on income based on the statutory rates in effect and the effective tax rate for continuing operations is as follows (in thousands):

	For the Fiscal Year Ended		
	January 31, 2009	February 2, 2008	February 3, 2007
Calculated income tax (benefit) provision at federal statutory rate	\$41,110	\$10,106	\$41,654
State income taxes, net of federal benefit	4,223	2,723	4,348
Foreign tax rate differential	(6,350)	(4,522)	(5,412)
Stock option related expenses	—	27	(65)
Repatriation of foreign income	4,671	6,122	—
Nondeductible expenses	2,480	3,518	2,564
FIN 48 expense (benefit)	(1,531)	1,360	—
Foreign tax credits	—	—	(9,479)
Other	(1,080)	(421)	1,130
<b>Total tax provision</b>	<b>\$43,523</b>	<b>\$18,913</b>	<b>\$34,740</b>

Temporary differences which give rise to deferred tax assets and liabilities are as follows (in thousands):

	January 31, 2009	February 2, 2008
Current—		
Assets		
Inventory	\$ 10,984	\$ 15,697
Reserves	13,104	15,559
Total current assets	24,088	31,256
Liabilities—prepaid expenses	(4,244)	(5,935)
Total current, net	19,844	25,321
Noncurrent—		
Property and equipment	27,453	62,182
Deferred rent	14,280	19,744
Deferred royalty	—	17,085
Equity compensation	7,149	6,888
Foreign tax credits	15,483	12,704
Reserves	906	5,699
Net Operating Loss Carryover	30,833	—
Other	—	3,207
Total gross noncurrent	96,104	127,509
Valuation allowance	—	(2,217)
Net noncurrent	96,104	125,292
Total deferred tax asset, net	<b>\$ 115,948</b>	<b>\$ 150,613</b>

**THE CHILDREN'S PLACE RETAIL STORES, INC. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**12. INCOME TAXES (Continued)**

During the fourth quarter of 2007, the Company received a cash dividend of approximately \$45 million from its Hong Kong subsidiary. The Company has provided U.S. tax on its foreign earnings associated with the subsidiaries in Hong Kong and Shanghai since it is no longer permanently reinvested in these earnings. The Company's fiscal 2007 tax provision was increased by approximately \$6.1 million due to this transaction.

During the fourth quarter of 2006, the Company received a one time cash dividend of approximately \$17 million from some of its Canadian subsidiaries. This dividend brought with it approximately \$24 million of foreign tax credits. These foreign tax credits can be utilized to reduce U.S. income tax and expire in 2016. The Company's fiscal 2006 tax provision was reduced by approximately \$9.5 million after the effect of this transaction. Foreign tax credits are allowed to be carried back one year and carried forward for 10 years.

As of January 31, 2009, the Company has not provided for Federal taxes on approximately \$62.3 million of unremitted earnings of its foreign subsidiaries located in Canada and Barbados. The Company intends to reinvest these earnings to fund expansion in these markets. Accordingly, the Company has not provided any provision for income tax expense in excess of foreign jurisdiction income tax requirements relative to such unremitted earnings in the accompanying financial statements.

The company has an estimated Federal Consolidated Net Operating Loss (NOL) of approximately \$78.9 million as of January 31, 2009. These NOLs will expire in fiscal 2027 and 2028. The company also has estimated foreign tax credit carryover (FTC) of approximately \$15.2 million which will expire between 2016 and 2018

Deferred tax assets relating to tax benefits of equity compensation have been reduced to reflect exercises of stock options and vesting of restricted shares during the fiscal year ended January 31, 2009 to the extent recognized for financial statement purposes. Some exercises resulted in tax deductions in excess of previously recorded benefits at the time of grant. Although these additional tax benefits were reflected in the NOL disclosed above, pursuant to SFAS 123R, they are not recognized in the deferred tax balances until the deduction reduces taxes payable. Since the windfall deductions do not reduce our current taxes payable in Fiscal 2008 due to the NOL generated in the current year, these windfall tax benefits are not reflected in our NOLs in the deferred tax assets disclosed above. Windfalls included in NOL balance but not reflected in the deferred tax assets were approximately \$2.6 million for Fiscal 2008.

In assessing the realizability of deferred tax assets, management considers whether it is more likely than not that some portion or all of the deferred tax assets 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. Management considers the scheduled reversal of deferred tax liabilities, projected future taxable income, and tax planning strategies in making this assessment. Based upon the projections for future taxable income over the periods in which the deferred tax assets are realizable as of January 31, 2009, management believes the Company has recorded an amount that is more likely than not realizable related to the benefits of these assets.

The Company is subject to tax in the United States and in various states and foreign jurisdictions. The Company, joined by its domestic subsidiaries, files a consolidated income tax return for Federal income tax purposes. With few exceptions, the Company is no longer subject to U.S. Federal, state and local income tax or non-U.S. income tax examinations by tax authorities for tax years before fiscal 2004.

**THE CHILDREN'S PLACE RETAIL STORES, INC. AND SUBSIDIARIES****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)****12. INCOME TAXES (Continued)**

The Internal Revenue Service ("IRS") commenced an examination of the Company's U.S. consolidated income tax returns for the years 2004 through 2006 during the second quarter of fiscal 2007. As of January 31, 2009 the exam is in its final stages and the Company expects to conclude the audit in first quarter of fiscal 2009.

The Company adopted FASB Interpretation No. 48, "Accounting for Uncertainty in Income Taxes—An Interpretation of FASB Statement 109" ("FIN 48") on February 4, 2007. FIN 48 clarifies the accounting and reporting for uncertainty in income taxes recognized in an entity's financial statements in accordance with FASB Statement No. 109, "Accounting for Income Taxes", and prescribes a recognition threshold and measurement criteria for financial statement disclosure of tax positions taken or expected to be taken on a tax return. Under FIN 48, the impact of an uncertain income tax position on the income tax return must be recognized at the largest amount that is more-likely-than-not to be sustained upon audit by the relevant taxing authority. An uncertain income tax position will not be recognized if it has less than a 50% likelihood of being sustained. Additionally, FIN 48 provides guidance on derecognition, classification, interest and penalties, accounting in interim periods, disclosure and transition.

The cumulative effect of adopting FIN 48 was an approximate \$6.6 million decrease to beginning retained earnings as of February 4, 2007. Consistent with the provisions of FIN 48, the Company reclassified approximately \$6.2 million of income tax liabilities from current to non-current liabilities because payment of cash is not anticipated within one year of the balance sheet date and increased its tax reserves approximately \$15.1 million. The total amount of unrecognized tax benefits as of the date of adoption was approximately \$21.3 million. Included in the balance of unrecognized tax benefits on February 4, 2007, is a net amount of approximately \$12.8 million that, if recognized, would favorably affect the Company's effective tax rate and a balance of approximately \$8.5 million relating to offsetting tax benefits associated with the federal tax benefit from state income taxes, the federal and state tax benefit of interest, and timing adjustments.

A reconciliation of the beginning and ending amounts of unrecognized tax benefits, excluding accrued interest and penalties, is as follows (in thousands):

	<u>Amount</u>
Beginning balance at February 4, 2007 (date of adoption)	\$16,109
Additions for current year tax positions	2,038
Additions for prior year tax positions	271
Reductions for prior year tax positions	(1,364)
Settlements	(204)
Reductions due to a lapse of the applicable statute of limitations	(359)
Ending balance at February 2, 2008	<u>\$16,491</u>
Additions for current year tax positions	2,875
Additions for prior year tax positions	754
Reductions for prior year tax positions	(4,057)
Settlements	(63)
Reductions due to a lapse of the applicable statute of limitations	(314)
Ending balance at January 31, 2009	<u>\$15,686</u>

**THE CHILDREN'S PLACE RETAIL STORES, INC. AND SUBSIDIARIES****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)****12. INCOME TAXES (Continued)**

Approximately \$12.4 million of unrecognized tax benefits at January 31, 2009 would affect the Company's effective tax rate if recognized. The company believes it is reasonably possible that there may be a reduction of approximately \$6.3 million of unrecognized tax benefits in the next 12 months as a result of IRS and state audit settlements and payments.

The Company accrued interest and penalties related to unrecognized tax benefits as part of the provision for income taxes. At January 31, 2009 and February 2, 2008 accrued interest and penalties included in the FIN 48 reserve amounted to approximately \$5.5 million and \$7.0 million, respectively. During fiscal 2008, the Company recognized a benefit for interest and penalties of approximately \$0.4 million and \$0.9 million, net of tax benefit, respectively. The Company recorded approximately \$1.6 million of FIN 48 benefit during the fiscal year ended January 31, 2009, which is included in income tax expense in the consolidated statements of operations.

**13. SAVINGS AND INVESTMENT PLANS**

The Company has adopted The Children's Place 401(k) Savings Plan (the "401(k) Plan"), which qualifies under Section 401(k) of the Internal Revenue Code of 1986, as amended (the "Code"). The 401(k) Plan is a defined contribution plan established to provide retirement benefits for employees. The 401(k) Plan is employee funded up to an elective annual deferral and also provides for the Company to make matching contributions to the 401(k) Plan.

The 401(k) Plan is available for all employees who have completed 90 days of service with the Company. Following guidance in IRS Notice 98-52 related to the design-based alternative, or "safe harbor," 401(k) plan method, the Company has modified its 401(k) Plan regarding future Company match contributions for non-highly compensated associates, as defined in the Code. For non-highly compensated associates, the Company matches the first 3% of the participant's contribution and 50% of the next 2% of the participant's contribution and the Company match contribution vests immediately. For highly compensated associates, the Company matches the lesser of 50% of the participant's contribution or 2.5% of the participant's covered compensation and the Company match contribution vests over five years. The Company's Fiscal 2008 Fiscal 2007 and Fiscal 2006 matching contributions were approximately \$2.1 million, \$2.0 million and \$1.8 million, respectively.

Under statutory requirements, the Company contributes to retirement plans for its Canadian and Asian operations. Contributions under these plans were approximately \$0.2 million in each of Fiscal 2008 and Fiscal 2007, and \$0.1 million in Fiscal 2006.

**14. SEGMENT AND GEOGRAPHIC INFORMATION**

The Company operates in one segment; retail sales of children's apparel and accessories.

Revenues attributable to domestic and foreign operations were as follows (in millions):

	<b>For the Fiscal Year Ended</b>		
	<b>January 31, 2009</b>	<b>February 2, 2008</b>	<b>February 3, 2007</b>
United States and Puerto Rico	\$ 1,428.0	\$ 1,325.6	\$ 1,245.4
Canada	202.3	194.7	160.0
<b>Total</b>	<b>\$ 1,630.3</b>	<b>\$ 1,520.3</b>	<b>\$ 1,405.4</b>

**THE CHILDREN'S PLACE RETAIL STORES, INC. AND SUBSIDIARIES****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)****14. SEGMENT AND GEOGRAPHIC INFORMATION (Continued)**

The Company's long-lived assets from continuing operations, by geographic region, are comprised of net property and equipment, long-term deferred income taxes and other assets, and are as follows (in millions):

	As of	
	January 31, 2009	February 2, 2008
United States and Puerto Rico	\$ 389.0	\$ 443.0
Canada	27.2	35.2
Asia	4.0	4.3
Total	<u>\$ 420.2</u>	<u>\$ 482.5</u>

**15. QUARTERLY FINANCIAL DATA (UNAUDITED)**

In the opinion of management, the unaudited consolidated financial statements presented below contain all material adjustments, consisting of normal recurring accruals, necessary to present fairly the Company's financial position and results of operations and have been prepared in a manner consistent with the audited financial statements contained herein. Due to the seasonal nature of the Company's business, the results of operations in any given interim period are not indicative of operating results for a full fiscal year.

**THE CHILDREN'S PLACE RETAIL STORES, INC. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**15. QUARTERLY FINANCIAL DATA (UNAUDITED) (Continued)**

The following tables reflect the quarterly consolidated statements of income for the periods indicated (unaudited):

	Fiscal Year Ended January 31, 2009			
	First Quarter	Second Quarter	Third Quarter	Fourth Quarter(1)
Net sales	\$400,212	\$338,029	\$450,623	\$441,459
Gross profit	171,092	128,549	196,384	175,788
Selling, general and administrative expenses	119,355	105,741	126,645	119,561
Asset impairment charges	—	127	954	5,410
Other costs	55	52	71	35
Depreciation and amortization	17,652	17,709	17,791	18,258
Operating income	34,030	4,920	50,923	32,524
Income from continuing operations before income taxes	33,537	4,522	49,011	30,388
Provision for income taxes	14,117	1,786	20,563	7,057
Income from continuing operations	19,420	2,736	28,448	23,331
Income (loss) from discontinued operations, net of taxes	98	(2,725)	(4,391)	15,453
Net income	19,518	11	24,057	38,784
<b>Basic earnings (loss) per share amounts</b>				
Income from continuing operations	\$ 0.67	\$ 0.09	\$ 0.97	\$ 0.79
Income (loss) from discontinued operations	0.00	(0.09)	(0.15)	0.53
Net income	0.67	0.00	0.82	1.32
Basic weighted average common share outstanding	29,182	29,255	29,364	29,428
<b>Diluted earnings (loss) per share amounts</b>				
Income from continuing operations	\$ 0.66	\$ 0.09	\$ 0.96	\$ 0.79
Income (loss) from discontinued operations	0.00	(0.09)	(0.15)	0.52
Net income	0.67	0.00	0.81	1.31
Diluted weighted average common share outstanding	29,275	29,599	29,725	29,575

- (1) Significant items impacting the fourth quarter of Fiscal 2008 include \$5.4 million of impairment charges related to 9 underperforming stores, and \$4.5 million of a tax benefit relating the resolution of a state tax issue.

## THE CHILDREN'S PLACE RETAIL STORES, INC. AND SUBSIDIARIES

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

## 15. QUARTERLY FINANCIAL DATA (UNAUDITED) (Continued)

	Fiscal Year Ended February 2, 2008			
	First Quarter	Second Quarter	Third Quarter	Fourth Quarter(1)
Net sales	\$355,995	\$290,498	\$430,572	\$443,264
Gross profit	151,974	93,444	172,321	178,403
Selling, general and administrative expenses	107,775	109,219	131,004	131,144
Asset impairment charges	—	635	947	14,983
Other costs	—	—	—	5,870
Depreciation and amortization	14,597	15,154	17,063	18,512
Operating income (loss)	29,602	(31,564)	23,307	7,894
Income (loss) from continuing operations before income taxes	30,602	(31,136)	22,511	6,896
Provision (benefit) for income taxes	11,533	(11,330)	7,586	11,124
Income (loss) from continuing operations	19,069	(19,806)	14,925	(4,228)
(Loss) from discontinued operations, net of taxes	(4,355)	(8,285)	(2,622)	(54,265)
Net income (loss)	14,714	(28,091)	12,303	(58,493)
<b>Basic earnings (loss) per share amounts</b>				
Income (loss) from continuing operations	\$ 0.66	\$ (0.68)	\$ 0.51	\$ (0.15)
(Loss) from discontinued operations	(0.15)	(0.28)	(0.09)	(1.86)
Net income (loss)	0.51	(0.97)	0.42	(2.01)
Basic weighted average common share outstanding	29,084	29,084	29,084	29,107
<b>Diluted earnings (loss) per share amounts</b>				
Income (loss) from continuing operations	\$ 0.64	\$ (0.68)	\$ 0.51	\$ (0.15)
(Loss) from discontinued operations	(0.15)	(0.28)	(0.09)	(1.86)
Net income (loss)	0.49	(0.97)	0.42	(2.01)
Diluted weighted average common share outstanding	30,002	29,084	29,359	29,107

- (1) Significant items impacting the fourth quarter of fiscal 2007 include: (a) \$14.8 million in asset impairment charges related to our decision to cease construction of our Emerson Lane administrative office building; (b) \$5.9 million in other costs related to the Emerson Lane administrative office lease; and (c) \$54.3 million loss from discontinued operations, net of taxes, which was comprised of: (i) \$80.3 million, before income taxes, in asset impairment charges related to our decision to exit the Disney Store business; and (ii) \$6.1 million, before income taxes, in costs associated primarily with the cancellation of the Disney Store remodeling program.

## 16. RELATED PARTY TRANSACTIONS

## Merchandise for Re-Sale

The Company purchases footwear from Nina Footwear Corporation, which is partially owned by Stanley Silverstein, who is a member of the Board of Directors. Mr. Silverstein is also the father-in-law of Ezra Dabah, who is also a member of the Board of Directors and the former CEO. During Fiscal 2008, Fiscal 2007 and Fiscal 2006, the Company made purchases from Nina Footwear Corporation of approximately \$0.4 million, \$6.3 million and \$3.2 million, respectively.

**THE CHILDREN'S PLACE RETAIL STORES, INC. AND SUBSIDIARIES****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)****16. RELATED PARTY TRANSACTIONS (Continued)****Employment of Family Members**

Nina Miner, who is Mr. Silverstein's daughter and Mr. Dabah's sister-in-law, is employed by the Company and serves as Chief Creative Design Director for The Children's Place business. Gary Flaks is employed by the Company and serves as Vice President of Footwear. He is the brother of Richard Flaks, Senior Vice President of Planning, Allocation and Information Technology. Jason Yagoda, Mr. Dabah's son-in-law and the husband of Mr. Silverstein's granddaughter, was employed as Vice President, Marketing, Disney Store and left the employ of the Company effective January 19, 2007. The aggregate compensation paid to Ms. Miner, Mr. Gary Flaks and Mr. Yagoda is as follows (in thousands, except share amounts):

<u>Fiscal year ended:</u>	<u>Cash Compensation</u>	<u>Deferred Awards</u>	<u>Performance Shares</u>
January 31, 2009	922	16,928	14,428
February 2, 2008	765	3,000	—
February 3, 2007(1)(2)	1,583	—	79,019

- 
- (1) Cash compensation in Fiscal 2006 included a housing allowance for Mr. Yagoda.
  - (2) 22,521 performance shares awarded to Mr. Yagoda in Fiscal 2006 were forfeited upon his departure from the Company. The remainder of the Performance Shares awarded in Fiscal 2006 was forfeited when it was determined that the performance criteria would not be achieved.

**17. SUBSEQUENT EVENTS**

Effective as of March 17, 2009, the Company entered into an agreement with one of its landlords; the owner of the Company's corporate headquarters property and a second property, each located in Secaucus, N.J. Under the terms of the agreement, the Company will be relieved of its lease obligations for both properties and will relocate to another building owned by the same landlord also located in Secaucus, N.J. Pursuant to the agreement, the Company will make cash payments of \$6.4 million to exit the existing leases. The Company anticipates capital expenditures of approximately \$15 to \$20 million to build out the new facility, with a move-in date in the fall of 2009. Leases for certain auxiliary offices are expiring in fiscal 2009 and employees based in those locations will also move into the new facility.

## (a)(2) Financial Statement Schedules

## THE CHILDREN'S PLACE RETAIL STORES, INC. AND SUBSIDIARIES

**SCHEDULE II**  
**VALUATION AND QUALIFYING ACCOUNTS**  
**FOR THE YEARS ENDED JANUARY 31, 2009, FEBRUARY 2, 2008 AND FEBRUARY 3, 2007**  
**(in thousands)**

COLUMN A	COLUMN B	COLUMN C	COLUMN D	COLUMN E
	Balance at beginning of year	Charged to expense	Deductions	Balance at end of year
Inventory markdown reserve(1)				
Fiscal year ended January 31, 2009	\$ 11,398	\$ 4,443	\$ (2,758)	\$ 13,083
Fiscal year ended February 2, 2008	\$ 7,854	\$ 5,789	\$ (2,245)	\$ 11,398
Fiscal year ended February 3, 2007	\$ 2,200	\$ 5,654	\$ —	\$ 7,854

- (1) Reflects adjustment of out-of-season merchandise inventories to realizable value. Column C represents increases to the reserve and Column D represents decreases to the reserve based on quarterly assessments of the reserve. Markdowns are taken to sell through out-of-season merchandise inventory.

**(a)(3) Exhibits**

<b>Exhibit</b>	<b>Description</b>
3.1(1)	Amended and Restated Certificate of Incorporation of the Company dated July, 29, 2008 filed as an Exhibit 10.5 to Form 8-K filed September 9, 2008 is incorporated by reference herein.
3.2	Third Amended and Restated By-Laws of the Company filed as exhibit 3.1 to the registrant's current report on Form 8-K filed on March 6, 2009 is incorporated by reference herein.
4.1(1)	Form of Certificate for Common Stock of the Company filed as an exhibit to the registrant's Registration Statement No. 333-31535 on Form S-1, is incorporated by reference herein.
10.1(1)(*)	1996 Stock Option Plan of The Children's Place Retail Stores, Inc. filed as an exhibit to the registrant's Registration Statement No. 333-31535 on Form S-1, is incorporated by reference herein.
10.2(1)(*)	1997 Stock Option Plan of The Children's Place Retail Stores, Inc. filed as an exhibit to the registrant's Registration Statement No. 333-31535 on Form S-1, is incorporated by reference herein.
10.3(*)(+)	Amended and Restated 2005 Equity Incentive Plan of The Children's Place Retail Stores, Inc.
10.4(1)(*)	The Children's Place Retail Stores, Inc.'s Employee Stock Purchase Plan filed as an exhibit to the registrant's Registration Statement No. 333-31535 on Form S-1, is incorporated by reference herein.
10.5(*)	The Children's Place Retail Stores, Inc. 401(k) Plan, as amended filed as an exhibit to the registrant's Annual Report on Form 10-K for the period ended February 3, 2007, is incorporated by reference herein.
10.6(1)	Form of Indemnification Agreement between the Company and the members of its Board of Directors filed as an exhibit 10.7 to the registrant's Registration Statement No. 333-31535 on Form S-1, is incorporated by reference herein.
10.7	Lease for a distribution center and corporate headquarters facility (915 Secaucus Road) between the Company and Hartz Mountain Associates, dated June 30, 1998 filed as Exhibit 10.2 to the registrant's Quarterly Report on Form 10-Q for the period ended August 1, 1998 is incorporated by reference herein.
10.8	Amendment to a lease for a distribution center and corporate headquarters facility (915 Secaucus Road) between the Company and Hartz Mountain Associates, dated November 20, 1998 filed as Exhibit 10.5 to the registrant's Quarterly Report on Form 10-Q for the period ended October 31, 1998 is incorporated by reference herein.
10.9	Lease Termination Agreement for a distribution center and corporate headquarters facility (915-900 Secaucus Road) between the Company and Hartz Mountain Associates, dated May 3, 2006 filed as Exhibit 10.2 to the registrant's Quarterly Report on Form 10-Q for the period ended July 29, 2006 is incorporated by reference herein.

<u>Exhibit</u>	<u>Description</u>
10.10	Rescission of Lease Termination Agreement for a distribution center and corporate headquarters facility (915 Secaucus Road) between the Company and Hartz Mountain Associates, dated November 27, 2006 amended filed as an exhibit to the registrant's Annual Report on Form 10-K for the period ended February 3, 2007, is incorporated by reference herein.
10.11	Lease Agreement between the Company and Haven Gateway LLC (Ontario California Distribution Center), dated as of August 17, 2000 filed as Exhibit 10.3 to the registrant's Quarterly Report on Form 10-Q for the period ended October 28, 2000 is incorporated by reference herein.
10.12	Notification letter dated April 9, 2007 to Haven Gateway LLC indicating that the Company was exercising its right to extend its lease of the Ontario California distribution center for an additional thirty three (33) months as filed as Exhibit 10.1 to Form 8-K dated April 12, 2007.
10.13	Lease Agreement as of August 12, 2003 between Orlando Corporation and The Children's Place (Canada), LP, together with Indemnity Agreement as of August 12, 2003 between the Company and Orlando Corporation, together with Surrender of Lease as of August 12, 2003 between the Company and Orlando Corporation and Orion Properties Ltd. (Canadian Distribution Center) filed as Exhibit 10.2 to the registrant's Quarterly Report on Form 10-Q for the period ending November 1, 2003 is incorporated by reference herein.
10.14	Lease Agreement between the Company and Turnpike Crossing I, LLC (Dayton New Jersey Distribution Center), dated as of July 14, 2004 filed as Exhibit 10.2 to registrant's Quarterly Report on Form 10-Q for the period ended July 31, 2004 is incorporated by reference herein.
10.15	Lease Agreement between the Company and Hartz Mountain Metropolitan (2 Emerson Corporate Headquarters), dated May 3, 2006 filed as Exhibit 10.1 to registrant's Quarterly Report on Form 10-Q for the period ended April 29, 2006 is incorporated by reference herein.
10.16	Lease Modification Agreement between the Company and Hartz Mountain Metropolitan (2 Emerson Corporate Headquarters) dated November 27, 2006 amended filed as an exhibit to the registrant's Annual Report on Form 10-K for the period ended February 3, 2007, is incorporated by reference herein.
10.17	Lease Agreement between the Company and 443 South Raymond Owner, LLC (Administrative offices in Pasadena, CA) as of January 21, 2005 amended filed as an exhibit to the registrant's Annual Report on Form 10-K for the period ended February 3, 2007, is incorporated by reference herein.
10.18	First Amendment to Lease Agreement between the Company and 443 South Raymond Owner, LLC (Administrative offices in Pasadena, CA) as of January 21, 2005 amended filed as an exhibit to the registrant's Annual Report on Form 10-K for the period ended February 3, 2007, is incorporated by reference herein.
10.19	Acquisition Agreement dated as of October 19, 2004 by and among Disney Enterprises, Inc., Disney Credit Card Services, Inc., Hoop Holdings, LLC and Hoop Canada Holdings, Inc. filed as Exhibit 2.1 to registrant's Quarterly Report on Form 10-Q for the period ended October 30, 2004 is incorporated by reference herein.

<u>Exhibit</u>	<u>Description</u>
10.20	License and Conduct of Business Agreement dated as of November 21, 2004 by and among TDS Franchising, LLC, The Disney Store, LLC and The Disney Store (Canada) Ltd. filed as Exhibit 10.4 to registrant's Quarterly Report on Form 10-Q for the period ended October 30, 2004 is incorporated by reference herein. This exhibit omits information for which the Commission has granted our request for confidential treatment.
10.21	Guaranty and Commitment dated as of November 21, 2004 by The Children's Place Retail Stores, Inc. and Hoop Holdings, LLC in favor of The Disney Store, LLC, The Disney Store (Canada) Ltd. and TDS Franchising, LLC. filed as Exhibit 10.5 to registrant's Quarterly Report on Form 10-Q for the period ended October 30, 2004 is incorporated by reference herein.
10.22	Letter Agreement dated April 6, 2006 amending the Internet start date among Hoop Retail Stores, LLC, Hoop Canada, Inc. and TDS Franchising, LLC filed in registrant's Annual Report on Form 10-K for the period ended January 28, 2006 is incorporated by reference herein.
10.23	Letter Agreement dated April 5, 2006 amending the refurbishment commitment among Hoop Retail Stores, LLC, Hoop Canada, Inc. and TDS Franchising, LLC filed in registrant's Annual Report on Form 10-K for the period ended January 28, 2006 is incorporated by reference herein.
10.24	First Amendment to Fifth Amended and Restated Loan and Security Agreement, dated November 2, 2007 by and among The Children's Place Retail Stores, Inc. and each of its subsidiaries that are signatories thereto as borrowers, the financial institutions named therein, and Wells Fargo Retail Finance, LLC, as agent amended filed as an exhibit to the registrant's Annual Report on Form 10-K for the period ended February 3, 2007, is incorporated by reference herein.
10.25	Fourth Amended and Restated Loan and Security Agreement dated as of October 30, 2004 by and among The Children's Place Retail Stores, Inc. and each of its subsidiaries that are signatories thereto, as borrowers, the financial institutions named therein, and Wells Fargo Retail Finance, LLC, as agent filed as Exhibit 10.3 to registrant's Quarterly Report on Form 10-Q for the period ended October 30, 2004 is incorporated by reference herein.
10.26	First Amendment to Fourth Amended and Restated Loan and Security Agreement, dated December 31, 2004 by and among The Children's Place Retail Stores, Inc. and each of its subsidiaries that are signatories thereto, as borrowers, the financial institutions named therein, and Wells Fargo Retail Finance, LLC, as agent filed in registrant's Annual Report on Form 10-K filed April 14, 2005 for the period ended January 29, 2005 is incorporated by reference herein.
10.27	Second Amendment to Fourth Amended and Restated Loan and Security Agreement, dated April 12, 2005 by and among The Children's Place Retail Stores, Inc. and each of its subsidiaries that are signatories, thereto, as borrowers, the financial institutions named therein, and Wells Fargo Retail Finance, LLC, as agent filed as Exhibit 10.1 to registrant's Quarterly Report on Form 10-Q for the period ended April 30, 2005 is incorporated by reference herein.

<u>Exhibit</u>	<u>Description</u>
10.28	Third Amendment to Fourth Amended and Restated Loan and Security Agreement, dated July 29, 2005 by and among The Children's Place Retail Stores, Inc. and each of its subsidiaries that are signatories thereto as borrowers, the financial institutions named therein, and Wells Fargo Retail Finance, LLC, as agent filed as Exhibit 10.01 to registrant's Form 8-K dated July 29, 2005 is incorporated by reference herein.
10.29	Fourth Amendment to Fourth Amended and Restated Loan and Security Agreement dated April 11, 2006 by and among The Children's Place Retail Stores, Inc. and each of its subsidiaries that are signatories thereto as borrowers, the financial institutions named therein, and Wells Fargo Retail Finance, LLC, as agent filed in registrant's Annual Report on Form 10-K for the period ended January 28, 2006 is incorporated by reference herein.
10.30	Fifth Amended and Restated Loan and Security Agreement, dated June 28, 2007 by and among The Children's Place Retail Stores, Inc. and each of its subsidiaries that are signatories thereto as borrowers, the financial institutions named therein, and Wells Fargo Retail Finance, LLC, as agent amended filed as an exhibit to the registrant's Annual Report on Form 10-K for the period ended February 3, 2007, is incorporated by reference herein.
10.31	Letter of Credit Agreement dated June 28, 2007 by and among The Children's Place Retail Stores, Inc. and each of its subsidiaries that are signatories thereto as borrowers, the financial institutions named therein, and Wells Fargo Retail Finance, LLC, as agent amended filed as an exhibit to the registrant's Annual Report on Form 10-K for the period ended February 3, 2007, is incorporated by reference herein.
10.32	Loan and Security Agreement dated as of November 21, 2004 between The Disney Store, LLC and Hoop Retail Stores, LLC, as borrowers, Hoop Canada Holdings, Inc., as guarantor, Hoop Canada, Inc. and The Disney Store (Canada) Ltd., as secondary guarantors, the financial institutions named therein, and Wells Fargo Retail Finance, LLC, as agent filed as Exhibit 10.6 to registrant's Quarterly Report on Form 10-Q for the period ended October 30, 2004 is incorporated by reference herein.
10.33	First Amendment to Loan and Security Agreement dated as of April 11, 2006 between Hoop Retail Stores, LLC, as borrower; Hoop Canada Holdings, Inc., as guarantor; Hoop Canada, Inc., as secondary guarantor; the financial institutions named therein; and Wells Fargo Retail Finance, LLC, as agent filed in registrant's Annual Report on Form 10-K for the period ended January 28, 2006 is incorporated by reference herein.
10.34	Second Amendment to Loan and Security Agreement dated as of June 28, 2007 between Hoop Retail Stores, LLC, as borrower; Hoop Canada Holdings, Inc., as guarantor; Hoop Canada, Inc., as secondary guarantor; the financial institutions named therein; and Wells Fargo Retail Finance, LLC, as agent amended filed as an exhibit to the registrant's Annual Report on Form 10-K for the period ended February 3, 2007, is incorporated by reference herein.
10.35(*)	Offer letter dated September 15, 1995 with Steven Balasiano filed as Exhibit 10.2 to registrant's Quarterly Report on Form 10-Q for the period ended April 29, 2006 is incorporated by reference herein.
10.36(*)	Severance agreement and release dated July 9, 2007 with Steven Balasiano filed as an exhibit to the registrant's Annual Report on Form 10-K for the period ended February 3, 2007, is incorporated by reference herein.

<u>Exhibit</u>	<u>Description</u>
10.37(*)	Amended and restated employment agreement dated May 12, 2006 with Ezra Dabah filed as Exhibit 10.6 to registrant's Quarterly Report on Form 10-Q for the period ended April 29, 2006 is incorporated by reference herein.
10.38(*)	Amended and restated employment agreement dated May 12, 2006 with Neal Goldberg filed as Exhibit 10.7 to registrant's Quarterly Report on Form 10-Q for the period ended April 29, 2006 is incorporated by reference herein.
10.39(*)	Employment agreement dated July 28, 2006 with Tara Poseley filed as Exhibit 10.5 to registrant's Form 10-Q for the period ended July 29, 2006 is incorporated by reference herein.
10.40(*)	Employment Agreement dated April 16, 2007 effective as of February 4, 2007 between The Children's Place Retail Stores, Inc. and Susan Riley filed as Exhibit 99.1 to Form 8-K dated April 19, 2007 is incorporated by reference herein.
10.41	Hardware and Engineering Services Agreement between The Children's Place Services Company, LLC and Dematic Corp. (Material Handling System for the Fort Payne Distribution Center), dated September 29, 2006 filed as Exhibit 10.1 to registrant's Quarterly Report on Form 10-Q for the period ended October 28, 2006 is incorporated by reference herein.
10.42	Mechanical Installation and Electrical Installation Services Agreement between The Children's Place Services Company, LLC and Dematic Corp. (Material Handling System for the Fort Payne Distribution Center), dated September 29, 2006 filed as Exhibit 10.2 to registrant's Quarterly Report on Form 10-Q for the period ended October 28, 2006 is incorporated by reference herein.
10.43	Standard Form of Agreement between The Children's Place Services Company, LLC and Clayco, Inc. (Construction of the Ft. Payne Distribution Center), executed January 18, 2007 filed as an exhibit to the registrant's Annual Report on Form 10-K for the period ended February 3, 2007, is incorporated by reference herein.
10.44	Third Amendment to Loan and Security Agreement dated as of August 9, 2007 between Hoop Retail Stores, LLC, as borrower; Hoop Canada Holdings, Inc., as guarantor; Hoop Canada, Inc., as secondary guarantor; the financial institutions named therein; and Wells Fargo Retail Finance, LLC, as agent filed as an exhibit to the registrant's Annual Report on Form 10-K for the period ended February 3, 2007, is incorporated by reference herein.
10.45	Refurbishment Amendment to License and Conduct of Business Agreement dated as of August 29, 2007 between The Children's Place Retail Stores, Inc., its subsidiaries Hoop Retail Stores, LLC and Hoop Canada, Inc. and TDS Franchising LLC, a subsidiary of The Walt Disney Company. Portions of this exhibit have been redacted and filed separately with the Commission pursuant to a confidential treatment request filed as an exhibit to the registrant's Annual Report on Form 10-K for the period ended February 3, 2007, is incorporated by reference herein.
10.46	Letter Agreement dated November 12, 2007 amending the Internet start date among Hoop Retail Stores, LLC, Hoop Canada, Inc. and TDS Franchising, LLC filed as an exhibit to the registrant's Annual Report on Form 10-K for the period ended February 3, 2007, is incorporated by reference herein.

<u>Exhibit</u>	<u>Description</u>
10.47(*)	Employment Agreement Term Sheet dated November 20, 2007 effective as of October 1, 2007 between The Children's Place Retail Stores, Inc. and Charles Crovitz filed as an exhibit to the registrant's Annual Report on Form 10-K for the period ended February 3, 2007, is incorporated by reference herein.
10.48(*)	Offer letter dated October 19, 2007 with Richard Paradise filed as Exhibit 99.1 to Form 8-K filed December 12, 2007 is incorporated by reference herein.
10.49(*)	Form of Amended and Restated Performance Share Award Agreement filed as Exhibit 99.1 to Form 8-K filed January 24, 2008 is incorporated by reference herein.
10.50(*)	Form of Amended and Restated Deferred Stock Award Agreement filed as Exhibit 99.2 to Form 8-K filed January 24, 2008 is incorporated by reference herein.
10.51(*)	Form of Amended and Restated Change in Control Agreement filed as Exhibit 99.3 to Form 8-K filed January 24, 2008 is incorporated by reference herein.
10.52(*)	Amendment No. 1 to Employment Agreement dated February 27, 2007 with Tara Poseley filed as an exhibit to the registrant's Annual Report on Form 10-K for the period ended February 2, 2008, is incorporated by reference herein.
10.53(*)	Amendment No. 2 to Employment Agreement dated December 12, 2007 with Tara Poseley filed as an exhibit to the registrant's Annual Report on Form 10-K for the period ended February 2, 2008, is incorporated by reference herein.
10.54(*)	Amendment No. 3 to Employment Agreement dated January 24, 2008 with Tara Poseley filed as an exhibit to the registrant's Annual Report on Form 10-K for the period ended February 2, 2008, is incorporated by reference herein.
10.55(*)	Employment Agreement dated September 26, 2007 with Charles Crovitz.
10.56(*)	Agreement and General Release, dated January 29, 2008, between The Children's Place Retail Stores, Inc. and Neal Goldberg filed as Exhibit 10.1 to Form 8-K filed February 4, 2008 is incorporated by reference herein.
10.57	Notice of Discontinuation of Guaranty and Commitment dated March 26, 2008 filed as an exhibit to the registrant's Annual Report on Form 10-K for the period ended February 2, 2008, is incorporated by reference herein.
10.58	Letter Agreement dated February 6, 2008 amending the Internet start date among Hoop Retail Stores, LLC, Hoop Canada, Inc. and TDS Franchising, LLC filed as an exhibit to the registrant's Annual Report on Form 10-K for the period ended February 2, 2008, is incorporated by reference herein.
10.59	Form of Indemnity Agreement between The Children's Place Retail Stores, Inc. and certain members of management and the Board of Directors filed as Exhibit 10.7 to Form 8-K filed September 9, 2008 is incorporated by reference herein.
10.60	Credit Agreement dated July 31, 2008 by and among The Children's Place Retail Stores, Inc. and The Children's Place Services Company, LLC, as borrowers, The Children's Place (Virginia), LLC, The Children's Place Canada Holdings, Inc., The Childrensplace.com, Inc. and Twin Brook Insurance Company, Inc., as guarantors, and Wells Fargo Retail Finance, LLC, as Administrative Agent, Collateral Agent, and Swing Line Lender, Bank of America, N.A., HSBC Bank USA, National Association and JPMorgan Chase Bank, N.A., as lenders, filed as Exhibit 10.8 to Form 8-K filed September 9, 2008 is incorporated by reference herein.

<u>Exhibit</u>	<u>Description</u>
10.61	Note Purchase Agreement dated July 31, 2008 by and among The Children's Place Retail Stores, Inc., and Sankaty Credit Opportunities III, L.P., Sankaty Credit Opportunities IV, L.P., RGIP, LLC, Crystal Capital Fund, L.P., Crystal Capital Onshore Warehouse LLC, 1903 Onshore Funding, LLC, and Bank of America, N.A., the "Note Purchasers", on the other hand, together with Sankaty Advisors, LLC, as Collateral Agent, and Crystal Capital Fund Management, L.P., as Syndication Agent filed as Exhibit 10.8 to Form 8-K filed September 9, 2008 is incorporated by reference herein.
10.62	Asset Purchase Agreement, dated April 3, 2008, by and among T2 Acquisition, LLC, T1 WDC, Inc., The Children's Place Services, LLC, Hoop Retail Stores, LLC and Hoop Canada, Inc. filed as Exhibit 10.1 to the form 8-K filed on April 7, 2008 is incorporated by reference herein.
10.63(*)	Letter Agreement, dated April 8, 2008, between The Children's Place Retail Stores, Inc. and Ezra Dabah filed as Exhibit 10.1 to the Form 8-K filed on April 10, 2008 is incorporated by reference herein.
10.64(*)	Agreement and General Release, dated May 20, 2008, between the Company and Tara Poseley filed as Exhibit 10.1 to the Form 8-K filed on May 20, 2008 is incorporated by reference herein.
10.65(+)	First Amendment to the Credit Agreement, effective as of March 12, 2009, by and among The Children's Place Retail Stores, Inc. and The Children's Place Services Company, LLC, as borrowers, The Children's Place (Virginia), LLC, The Children's Place Canada Holdings, Inc., The Children's Place.com, Inc. and Twin Brook Insurance Company, Inc., as guarantors, and Wells Fargo Retail Finance, LLC, as Administrative Agent, Collateral Agent, and Swing Line Lender, Bank of America, N.A., HSBC Bank USA, National Association and JPMorgan Chase Bank, N.A., as lenders.
10.66(+)	First Amendment to the Note Purchase Agreement, effective as of March 12, 2009, by and among The Children's Place Retail Stores, Inc. and certain of its subsidiaries on the one hand, and Sankaty Credit Opportunities III, L.P., Sankaty Credit Opportunities IV, L.P., RGIP, LLC, Crystal Capital Fund, L.P., Crystal Capital Onshore Warehouse LLC, 1903 Onshore Funding, LLC, and Bank of America, N.A., as note purchasers, on the other hand, together with Sankaty Advisors, LLC, as Collateral Agent, and Crystal Capital Fund Management, L.P., as Syndication Agent.
10.67(+)	Lease Agreement between The Children's Place Services Company, LLC and 500 Plaza Drive Corp. effective as of March 12, 2009 (500 Plaza Drive), Secaucus, New Jersey.
10.68(+)	Guaranty between The Children's Place Retail Stores, Inc. and 500 Plaza Drive Corp. effective as of March 12, 2009.
10.69(+)	Lease Termination Agreement between The Children's Place Services Company, LLC and Hartz Mountain Metropolitan effective as of March 12, 2009 (Emerson Lane Termination Agreement).
10.70(+)	Lease Termination Agreement between The Children's Place Services Company, LLC and Hartz Mountain Associates effective as of March 12, 2009 (Secaucus Road Termination Agreement).
10.71(+)(*)	Amendment to Employment Agreement, dated as of December 31, 2008, by and between The Children's Place Retail Stores, Inc. and Charles K. Crovitz.

<u>Exhibit</u>	<u>Description</u>
10.72(+)(*)	Second Amendment to the Employment Agreement dated February 5, 2009 between The Children's Place Retail Stores, Inc. and Charles Crovitz.
10.73(+)(*)	Amendment to the Amended and Restated Change in Control Severance, dated as of December 31, 2008, is made by and between The Children's Place Retail Stores, Inc. and Susan J. Riley.
10.74(+)(*)	Amendment to Employment Agreement, dated as of December 31, 2008, is made by and between The Children's Place Retail Stores, Inc. and Susan J. Riley.
10.75(+)	Second Amendment to the Note Purchase Agreement, dated as of March 31, 2009, by and among The Children's Place Retail Stores, Inc. and certain of its subsidiaries, on the one hand, and Sankaty Credit Opportunities III, L.P., Sankaty Credit Opportunities IV, L.P., RGIP, LLC, Crystal Capital Fund, L.P., Crystal Capital Onshore Warehouse LLC, 1903 Onshore Funding, LLC, and Bank of America, N.A., as note purchases, on the other hand, together with Sankaty Advisors, LLC, as Collateral Agent, and Crystal Capital Fund Management, L.P., as Syndication Agent.
21.1(+)	Subsidiaries of the Company
23.1(+)	Consent of Independent Registered Public Accounting Firm
31.1(+)	Certificate of Principal Executive Officer pursuant to Section 302 of the Sarbanes Oxley Act of 2002.
31.2(+)	Certificate of Principal Executive Officer and Principal Financial Officer pursuant to Section 302 of the Sarbanes Oxley Act of 2002.
32(+)	Certification pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.

(1) Exhibit numbers are identical to the exhibit numbers incorporated by reference to such registration statement.

(\*) Compensation Arrangement.

(+) Filed herewith.

(b) *Exhibits.* The exhibits required by Item 601 of Regulation S-K are filed herewith or incorporated by reference.

(c) *Financial Statement Schedules and Other Financial Statements.*

#### Schedule II—Valuation and Qualifying Accounts

All other financial statement schedules are omitted from this Annual Report on Form 10-K, as they are not required or applicable or the required information is included in the financial statements or notes thereto.





**AMENDED AND RESTATED**

**2005 EQUITY INCENTIVE PLAN**

**OF**

**THE CHILDREN'S PLACE RETAIL STORES, INC.**

1. **Purpose.** The purpose of this Equity Incentive Plan is to advance the interests of the Corporation by encouraging and enabling the acquisition of a larger personal proprietary interest in the Corporation by key employees and directors of the Corporation and its Subsidiaries upon whose judgment and keen interest the Corporation is largely dependent for the successful conduct of its operations and by providing such key employees and directors with incentives to put forth maximum efforts for the success of the Corporation's business. It is anticipated that the acquisition of such proprietary interests in the Corporation and such incentives will stimulate the efforts of such key employees and directors on behalf of the Corporation and its Subsidiaries and strengthen their desire to remain with the Corporation and its Subsidiaries. It is also expected that such incentives and the opportunity to acquire such a proprietary interest will enable the Corporation and its Subsidiaries to attract desirable employees and directors.
2. **Definitions.** When used in this Plan, unless the context otherwise requires:
- (a) Alternative Rights shall have the meaning as set forth in Section 9 hereof.
- (b) Board of Directors shall mean the Board of Directors of the Corporation, as constituted at any time.
- (c) Except as otherwise provided in the holder's employment agreement (if any) with the Corporation or a Subsidiary, Cause shall mean, with respect to the holder of an Incentive Award, (i) a breach by the holder of any of the material provisions of any employment agreement between the holder and the Corporation or a Subsidiary that the holder fails to remedy or cease within ten (10) days after notice thereof to the holder; (ii) any conduct, action or behavior by the holder that has or may reasonably be expected to have a material adverse effect on the reputation of the Corporation or its Subsidiaries or on the holder's reputation or that is not befitting of an executive officer, employee or director of the Corporation or a Subsidiary; (iii) the commission by the holder of an act involving moral turpitude or dishonesty, whether or not in connection with the holder's employment by, or service as a director of, the Corporation or a Subsidiary; (iv) the holder shall have committed any act of fraud or embezzlement against the Corporation or a Subsidiary or engaged in any other willful misconduct in connection with his duties; or (v) the holder shall have been convicted of a felony (other than a felony relating to motor vehicle laws). Notwithstanding the foregoing, no Cause shall be deemed to exist with respect to the holder's acts described in (ii) above unless the Corporation shall have given prior written notice to the holder specifying the Cause with reasonable particularity and,
- 
- within 30 days after such notice, the holder shall not have cured or eliminated the problem or thing giving rise to such Cause.
- (d) Chairman of the Board shall mean the person who at the time shall be Chairman of the Board of Directors.
- (e) Change in Control shall mean any of the following events: (i) the sale to any purchaser of (A) all or substantially all of the assets of the Corporation or (B) capital stock representing more than 50% of the stock of the Corporation entitled to vote generally in the election of directors of the Corporation; (ii) the merger or consolidation of the Corporation with another corporation if, immediately after such merger or consolidation, less than a majority of the combined voting power of the then outstanding securities entitled to vote generally in the election of directors of the surviving or resulting corporation in such merger or consolidation is held, directly or indirectly, in the aggregate by the holders immediately prior to such transaction of the outstanding securities of the Corporation; (iii) the filing of a report on Schedule 13D or Schedule 14D-1 (or any successor schedule, form, or report or item therein), each promulgated pursuant to the Exchange Act, disclosing that any person (as the term "person" is used in Section 13(d)(3) or Section 14(d)(2) of the Exchange Act) has become the beneficial owner (as the term "beneficial owner" is defined under Rule 13d-3 or any successor rule or regulation promulgated under the Exchange Act) of securities representing 50% or more of the combined voting power of the voting stock of the Corporation; or (iv) the filing by the Corporation of a report or proxy statement with the Securities and Exchange Commission pursuant to the Exchange Act disclosing in response to Form 8-K or Schedule 14A (or any successor schedule, form, or report or item therein) that a change in control of the Corporation has occurred or will occur in the future pursuant to any then existing contract or transaction. Notwithstanding the foregoing, a "Change in Control" shall not be deemed to occur as a result of an event described above if a majority of the individuals who are members of the Board of Directors prior to such event specifically determines that a Change in Control should not be deemed to have occurred.
- (f) Code shall mean the Internal Revenue Code of 1986, as amended.
- (g) Committee shall mean the Committee hereinafter described in Section 3 hereof.
- (h) Corporation shall mean The Children's Place Retail Stores, Inc., a Delaware corporation.
- (i) Deferred Stock Award shall mean an Incentive Award granted in accordance with Section 15 hereof.
- (j) Disability shall mean: (i) with respect to the holder of an Option that is not an incentive stock option, the holder's inability, as a result of physical or mental incapacity or infirmity, to perform the duties of his employment for (a) a continuous period of at least 120 days, or (b) periods aggregating at least 180 days during any period of 12 consecutive months; or (ii) with respect to the holder of an Option that is an
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- incentive stock option, and when used in connection with such incentive stock option following such holder's termination of employment, a "disability" within the meaning of Section 22(e)(3) of the Code.
- (k) Eligible Director shall mean a director of the Corporation who is not also an employee of the Corporation or a Subsidiary.

- (l) “Eligible Persons” shall mean those persons described in Section 4 who are potential recipients of Incentive Awards.
- (m) “Exchange Act” shall mean the Securities Exchange Act of 1934, as amended.
- (n) “Fair Market Value” on a specified date shall mean the average of the highest and lowest selling price at which a Share is traded on the stock exchange, if any, on which Shares are primarily traded or, if the Shares are not then traded on a stock exchange, the average of the closing representative bid and asked price of a Share as reported by the principal securities exchange or securities trading market on which the Shares are listed or approved for trading, but if no Shares were traded on such date, then on the last previous date on which a Share was so traded, or, if none of the above are applicable, the value of a Share as established by the Board of Directors or the Committee for such date using any reasonable method of valuation.
- (o) “Incentive Award” shall mean an Option, Right, Restricted Stock Award, Deferred Stock Award or Performance Award granted pursuant to this Plan.
- (p) “Options” shall mean the stock options granted pursuant to this Plan.
- (q) “Performance Award” shall mean an Incentive Award granted in accordance with Section 16 hereof.
- (r) “Plan” shall mean this 2005 Equity Incentive Plan of The Children’s Place Retail Stores, Inc., as adopted by the Board of Directors on April 18, 2005, as amended and restated on June 23, 2005, as such Plan from time to time may be further amended.
- (s) “President” shall mean the person who at the time shall be the President of the Corporation.
- (t) “Restricted Shares” shall mean the Shares issued as a result of a Restricted Stock Award.
- (u) “Restricted Stock Award” shall mean a grant of Restricted Shares or of the right to purchase Restricted Shares pursuant to Section 13 hereof.
- (v) “Rights” shall mean Alternative Rights and/or Stock Appreciation Rights granted pursuant to the Plan.

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- (w) “Share” shall mean a share of common stock, par value \$.10 per share, of the Corporation.
- (x) “Spread” shall mean the excess of the Fair Market Value of a Share on the date of exercise of a Right over the exercise price per Share of such Right.
- (y) “Stock Appreciation Rights” shall have the meaning as set forth in Section 9 hereof.
- (z) “Subsidiary” shall mean any corporation, limited liability corporation, partnership or limited partnership, 50% or more of whose stock having general voting power, membership interests, or capital or profits interests, as the case may be, is owned by the Corporation, or by another Subsidiary as herein defined, of the Corporation; provided, however, that for purposes of an Option that is an incentive stock option to be granted to an employee of a Subsidiary, the term “Subsidiary” shall mean a subsidiary corporation as defined in Section 424(f) of the Code.

3. **Administration.** The Plan shall be administered by the Compensation Committee of the Board of Directors (the “Committee”), which shall consist of two or more directors of the Corporation, each of whom shall be a “Non-Employee Director” within the meaning of Rule 16b-3 under the Exchange Act and an “outside director” within the meaning of Section 162(m) of the Code.

The Committee shall have full power and authority to administer and interpret the Plan. Determinations of the Committee as to any question which may arise with respect to the interpretation of the provisions of the Plan and Incentive Awards shall be final. The Committee may authorize and establish such rules, regulations and revisions thereof not inconsistent with the provisions of the Plan, as it may deem advisable to make the Plan and Incentive Awards effective or provide for their administration, and may take such other action with regard to the Plan and Incentive Awards as it shall deem desirable to effectuate their purpose.

4. **Participants.** The class of persons who are potential recipients of Incentive Awards granted under this Plan shall consist of key employees and directors of the Corporation or a Subsidiary, as determined by the Committee in its sole discretion. The parties to whom Incentive Awards are granted under this Plan, and the number of Shares subject to each such Incentive Award, shall be determined by the Committee in its sole discretion, subject, however, to the terms and conditions of this Plan. Notwithstanding anything contained herein to the contrary, an Eligible Director shall only be eligible to receive Deferred Stock Awards in accordance with Section 7 hereof.

5. **Shares.** Subject to the provisions of Section 20 hereof, the Committee may grant Incentive Awards with respect to an aggregate of up to 2 million Shares, all of which Shares may be either Shares held in treasury or authorized but unissued Shares, provided, however, that the foregoing limitation shall not apply to Alternative Rights but shall apply to any Option with respect to which the Alternative Rights are granted. The maximum number of Shares which may be the subject of Incentive Awards granted

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during any calendar year to any individual shall not exceed 500,000 Shares. If the Shares that would be issued or transferred pursuant to any Incentive Awards are not issued or transferred and cease to be issuable or transferable for any reason, or if Restricted Shares which are subject to a Restricted Stock Award are forfeited, the number of Shares subject to such Incentive Award will no longer be charged against the limitation provided for herein and may again be made subject to Incentive Awards; provided, however, that Shares as to which an Option has been surrendered in connection with the exercise of an Alternative Right shall not again be available for the grant of any further Incentive Awards. If any portion of a Stock Appreciation Right expires or is forfeited for any reason prior to being exercised, the number of Shares subject to the unexercised portion of such Stock Appreciation Right will no longer be charged against the limitation provided for herein and may again be made subject to Incentive Awards. Notwithstanding the preceding, with respect to any

Option and/or Rights granted to any individual who is a "covered employee" within the meaning of Section 162(m) of the Code that is canceled, the number of shares subject to such Option and/or Rights shall continue to count against the maximum number of shares which may be the subject of Options and Rights granted to such individual during the applicable calendar year. For purposes of the preceding sentence, if, after grant, the exercise price of an Option and/or the base amount of any Rights is reduced, such reduction shall be treated as a cancellation of such Option and/or Rights and the grant of a new Option and/or Rights (if any), and both the cancellation of the Option and/or Rights and the new Option and/or Rights shall reduce the maximum number of Shares for which Options and Rights may be granted to the holder of such Option and/or Rights during the applicable calendar year. In the event Shares are withheld by the Corporation to satisfy income or other tax withholding obligations with respect to any Incentive Award, the Shares withheld for this purpose shall reduce the maximum number of Shares for which Options and/or Rights may be granted to the holder of such Option and/or Rights and shall be charged against the limitations in this Section 5.

6. **Grant of Options.** The number of Options to be granted to any Eligible Person (other than an Eligible Director) shall be determined by the Committee in its sole discretion.

At the time an Option is granted, the Committee may, in its sole discretion, designate whether such Option (a) is to be considered as an incentive stock option within the meaning of Section 422 of the Code, or (b) is not to be treated as an incentive stock option for purposes of this Plan and the Code. Options with respect to which no designation is made by the Committee shall be deemed to be incentive stock options to the extent that the \$100,000 limitation described in the succeeding paragraph is satisfied. No Option which is intended to qualify as an incentive stock option shall be granted under this Plan to any person who, at the time of such grant, is not an employee of the Corporation or a Subsidiary.

Notwithstanding any other provision of this Plan to the contrary, to the extent that the aggregate Fair Market Value (determined as of the date an Option is granted) of the Shares with respect to which Options which are designated as incentive stock options, and any other incentive stock options, granted to an employee (under this Plan, or any

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other incentive stock option plan maintained by the Corporation or any Subsidiary that meets the requirements of Section 422 of the Code) first become exercisable in any calendar year exceeds \$100,000, such Options shall be treated as Options which are not incentive stock options. This paragraph shall be applied by taking Options into account in the order in which they are granted.

Nothing herein contained shall be construed to prohibit the issuance of Options at different times to the same person.

An Option agreement signed by the Chairman of the Board or the President or a Vice President of the Corporation, attested by the Treasurer or an Assistant Treasurer, or Secretary or an Assistant Secretary of the Corporation, shall be issued to each person to whom an Option is granted. The Option agreement shall be in the form as may be determined by the Committee from time to time, and need not be identical with respect to each grantee.

7. **Grants of Deferred Stock Awards to Eligible Directors.** Notwithstanding any other provision of this Plan to the contrary, Deferred Stock Awards having terms and conditions set forth in Section 15 shall be automatically granted to each Eligible Director in accordance with this Section 7 without any additional action by the Committee necessary. On the first day of each fiscal year of the Corporation, each member of the Board of Directors who is an Eligible Director on such date shall be granted a number of Deferred Stock Awards determined by dividing \$100,000 by the Fair Market Value of a Share on such date (which number shall be rounded down to the next whole number of Shares). Each Eligible Director who is initially elected to the Board of Directors by the Corporation during the fiscal year shall be granted a number of Deferred Stock Awards, which number of Shares shall be rounded up to the next whole number of Shares, equal to the quotient of (i) the product of \$100,000 multiplied by a fraction, the numerator of which shall be the number of days remaining during the fiscal year and the denominator of which shall be 365, which number of Shares shall be rounded up to the next whole number of Shares, divided by (ii) the Fair Market Value of a Share on such Eligible Director's date of election. In addition on June 28, 2008, each Eligible Director shall be granted a number of Deferred Stock Awards, which number of Shares shall be rounded up to the next whole number of Shares, equal to the quotient of (i) the product of \$100,000 multiplied by a fraction, the numerator of which shall be the number of days remaining during the fiscal year and the denominator of which shall be 365 and divided by (ii) the Fair Market Value of a Share.

8. **Option Purchase Price.** The price per Share of the Shares to be purchased pursuant to the exercise of any Option shall be fixed by the Committee at the time of grant; provided, however, that in no event shall such purchase price be less than 100% of the Fair Market Value of a Share on the date of grant of the Option.

9. **Grant of Rights.** The Committee, in its sole discretion, shall have the authority to grant Rights to any Eligible Person (other than an Eligible Director), which may be granted separately, or in connection with an Option at the time of the grant of an Option. Any Rights granted in connection with an Option ("Alternative Rights") shall be

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granted with respect to the same number of Shares as are covered by the Option, subject to adjustment pursuant to the provisions of Section 20 hereof, and may be exercised as an alternative to the exercise of the related Option.

Alternative Rights granted in connection with an Option shall entitle the holder thereof to receive Shares from the Corporation, determined as hereinafter provided, only if and to the extent that the related Option is exercisable, by surrendering the Option with respect to the number of Shares as to which such Rights are then exercised. Such Option, to the extent surrendered, shall be deemed exercised for purposes of the limitations under Section 5. Upon any exercise of Alternative Rights, the holder thereof shall be entitled to receive a number of Shares (rounded down to the next whole number of Shares) equal to (i) the product obtained by multiplying (A) the Spread by (B) the number of Shares in respect of which the Rights shall have then been so exercised, divided by (ii) the Fair Market Value of a Share on the date of exercise.

Upon the exercise of Rights granted without relationship to an Option ("Stock Appreciation Rights"), the holder thereof shall be entitled to receive a number of Shares (rounded down to the next whole number of Shares) equal to (i) the product obtained by multiplying (A) the Spread by (B) the number of Shares in respect of which the Stock Appreciation Rights shall have then been so exercised, divided by (ii) the Fair Market Value of a Share on the date of exercise.

Notwithstanding anything contained herein, the Committee, in its sole discretion, may limit the amount payable upon the exercise of Rights. Any such limitation shall be determined as of the date of grant and noted in the Rights agreement evidencing the grant of the Rights.

Rights shall be evidenced by an agreement executed on behalf of the Corporation and by the Eligible Person to whom the Rights are granted. Each Rights agreement shall set forth the number of Shares subject to the Rights being granted, the exercise price per Share thereof, and such other terms and conditions as determined by the Committee at the time of grant; provided, however, that (i) the exercise price per Share of Alternative Rights shall be equal to the purchase price per Share of the Option related thereto, and (ii) in no event shall the exercise price per Share of any Rights be less than 100% of the Fair Market Value of a Share on the date of grant of such Rights. The form of agreement shall be as determined from time to time by the Committee, and need not be identical with respect to each grantee.

10. **Duration of Options and Rights.** The duration of any Option or Right granted under this Plan shall be fixed by the Committee at the time of grant; provided, however, that no Option or Right shall remain in effect for a period of more than ten (10) years from the date upon which it is granted.

The duration of any Alternative Rights granted in connection with any Option shall be coterminous with the duration of the related Option.

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11. **Ten Percent Shareholders.** Notwithstanding any other provision of this Plan to the contrary, no Option which is intended to qualify as an incentive stock option may be granted under this Plan to any employee who, at the time the Option is granted, owns shares possessing more than ten percent (10%) of the total combined voting power of all classes of stock of the Corporation, unless the exercise price under such Option is at least 110% of the Fair Market Value of a Share on the date such Option is granted and the duration of such Option is no more than five (5) years.

12. **Exercise of Options and Rights.** Except as otherwise provided herein or in the holder's employment agreement (if any) with the Corporation or a Subsidiary, Options and Rights shall become vested and exercisable by the holder as determined by the Committee in its sole discretion at the time of grant and as set forth in the applicable Option and/or Rights agreement (such vesting may be based on continued employment or service, or upon the achievement of pre-established corporate or individual performance objectives, or otherwise, including any combination thereof but in no event shall the vesting period be less than one (1) year commencing on the date of the grant if based on achievement of pre-established corporate or individual performance objectives, or otherwise, including any combination thereof).

Notwithstanding the foregoing, all or any part of any remaining unexercised Options and/or Rights granted to any Eligible Person may be exercised, subject to Section 19 hereof, in the following circumstances (but in no event, other than the holder's death, during the six (6) month period commencing on the date of grant, and in no event prior to approval of the Plan by shareholders of the Corporation as provided in Section 26 hereof or after the term of the Option or Rights has expired): (a) upon the holder's retirement from the Corporation and all Subsidiaries on or after his 65th birthday; (b) upon the Disability or death of the holder; (c) upon a Change of Control while the holder is in the employ or service of the Corporation; or (d) upon the occurrence of such special circumstance or event as in the opinion of the Committee merits special consideration.

An Option shall be exercised by the delivery of a written notice duly signed by the holder thereof to such effect, together with the full purchase price of the Shares purchased pursuant to the exercise of the Option, to the Chairman of the Board of Directors or an officer of the Corporation appointed by the Chairman of the Board of Directors for the purpose of receiving the same. Payment of the full purchase price shall be made as follows: in cash or by check payable to the order of the Corporation; by delivery to the Corporation of Shares which shall be valued at their Fair Market Value on the date of exercise of the Option (provided, that a holder may not use any Shares to pay the purchase price unless the holder has beneficially owned such Shares for at least six (6) months); or by such other methods as the Committee may permit from time to time.

Within a reasonable time after the exercise of an Option, the Corporation shall cause to be delivered to the person entitled thereto, a certificate for the Shares purchased pursuant to the exercise of the Option. The Committee may permit deemed or constructive transfers of Shares in lieu of actual transfer and physical delivery of certificates.

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Upon the exercise of an Option with respect to which Alternative Rights were also granted in relation thereto, the number of Shares subject to exercise under the related Alternative Rights shall also be reduced by the number of Shares for which the related Option was exercised.

Alternative Rights or Stock Appreciation Rights shall be exercised by the delivery of a duly signed notice in writing to such effect. Within a reasonable time thereafter, the Corporation shall cause to be delivered to the person entitled thereto, a certificate for the number of Shares determined in accordance with Section 9 hereof. Upon the exercise of Alternative Rights, the number of Shares subject to exercise under the related Option or portion thereof shall be reduced by the number of Shares represented by the Option or portion thereof surrendered.

Notwithstanding any other provision of the Plan or of any Option or Rights agreement, no Option or Rights granted pursuant to the Plan may be exercised at any time when the Option or Rights or the granting or exercise thereof violates any law or governmental order or regulation.

13. **Terms and Conditions of Restricted Stock Awards.** The Committee shall have the authority to grant to any Eligible Person (other than an Eligible Director) a Restricted Stock Award, subject to the following terms and conditions:

(a) All Restricted Shares granted to or purchased by an Eligible Person pursuant to the Plan shall be subject to the following conditions:

(1) except as otherwise provided in the holder's employment agreement (if any) with the Corporation or a Subsidiary, the Restricted Shares shall be subject to such transfer restrictions and risk of forfeiture as the Committee shall determine at the time the Restricted Stock Award is granted, until such specific conditions are met (which conditions may be based on continued employment or service, or achievement of pre-established corporate or individual performance objectives, or otherwise, including any combination thereof), and such restrictions shall lapse, and the Restricted Shares subject to a Restricted Stock Award shall vest, as determined by the Committee in its sole discretion at the time of grant and as set forth in the applicable Restricted Stock Award agreement but in no event shall the vesting period be less than three (3) years commencing on the date of the grant if based on continued employment or service or

less than one (1) year commencing on the date of the grant if based on achievement of pre-established corporate or individual performance objectives, or otherwise, including any combination thereof;

(2) the Restricted Shares may not be sold, transferred, or otherwise alienated or hypothecated until the restrictions are satisfied, removed or expire;

(3) each certificate representing Restricted Shares issued pursuant to a Restricted Stock Award under this Plan shall bear a legend making appropriate reference to the restrictions imposed;

(4) the Committee may impose such other conditions as it may deem advisable on any Restricted Shares granted to or purchased by an Eligible Person pursuant to a Restricted Stock Award under this Plan, including, without limitation, restrictions under the requirements of any stock exchange upon which such Shares or shares of the same class are then listed, and under any securities law applicable to such Shares; and

(5) Notwithstanding the foregoing, all restrictions to which a Restricted Stock Award is subject shall lapse, in the following circumstances: (a) upon the holder's retirement from the Corporation and all Subsidiaries on or after his 65th birthday; (b) upon the Disability or death of the holder; (c) upon a Change of Control while the holder is in the employ or service of the Corporation; or (d) upon the occurrence of such special circumstance or event as in the opinion of the Committee merits special consideration.

(b) Prior to the satisfaction, expiration or lapse of all of the restrictions and conditions imposed upon Restricted Shares, a stock certificate or certificates representing such Restricted Shares shall be registered in the holder's name but shall be retained by the Corporation for the holder's account. The holder shall have the right to vote such Restricted Shares and shall have all other rights and privileges of a beneficial and record owner with respect thereto, including, without limitation, the right to receive dividends, distributions and adjustments with respect thereto; provided, however, that such dividends, distributions and adjustments shall be retained by the Corporation for the holder's account and for delivery to the holder, together with the stock certificate or certificates representing such Restricted Shares, as and when said restrictions and conditions shall have been satisfied, expired or lapsed.

(c) A Restricted Stock Award shall be evidenced by an agreement executed on behalf of the Corporation and by the Eligible Person to whom the Restricted Stock Award is granted. The form of Restricted Stock Award agreement shall be determined from time to time by the Committee, and need not be identical with respect to each grantee.

14. **Restricted Stock Purchase Price.** The purchase price (if any) per Share for Restricted Shares to be purchased pursuant to Restricted Stock Awards shall be fixed by the Committee at the time of the grant of the Restricted Stock Award and shall be set forth in the applicable Restricted Stock Award agreement. Payment of any purchase price (if any) shall be made in cash or by check payable to the order of the Corporation or by such other method as the Committee may permit. If so determined by the Committee, the holder's performance of services for the Corporation or a Subsidiary may serve as the

consideration for issuance of the Restricted Stock Award, and no purchase price need be paid by the holder in such event.

15. **Deferred Stock Awards.** The Committee shall have the authority to grant to any Eligible Person (other than an Eligible Director) a Deferred Stock Award (an Employee Deferred Stock Award). A Deferred Stock Award to an Eligible Director (a "Director Deferred Stock Award") shall be granted pursuant to Section 7. All Deferred Stock Awards shall be subject to the following terms and conditions:

(a) Delivery of, and the issuance of certificates representing, Shares issuable pursuant to a Deferred Stock Award shall occur upon expiration of the applicable deferral period;

(b) Employee Deferred Stock Awards shall be subject to such vesting conditions or other restrictions as the Committee may, in its sole discretion, impose at the time of grant and as set forth in the applicable Deferred Stock Award agreement (such vesting conditions or other restrictions may be based on continued employment or service, upon the achievement of pre-established corporate or individual performance objectives, or such conditions may lapse upon expiration of a specified deferral period or at earlier specified times, separately or in combination, in installments, or otherwise, including any combination thereof, but in no event shall the vesting period be less than three (3) years if based on continued employment or service or less than one (1) year if based upon the achievement of pre-established corporate or individual performance objectives, at the expiration of a specified deferral period or at earlier times, separately or in combination, in installments, or otherwise, including any combination thereof);

(c) A Director Deferred Stock Award shall be evidenced by a Deferred Stock Award agreement. Subject to subparagraph (d) below, a Director Deferred Stock Award shall vest upon the first anniversary of the date of grant under Section 7 provided that the Eligible Director remains in the service or employment of the Corporation throughout the one year period commencing on the date of grant.

(d) Notwithstanding the foregoing, all restrictions to which a Deferred Stock Award is subject shall lapse, in the following circumstances: (i) upon the holder's retirement from the Corporation and all Subsidiaries on or after his 65th birthday; (ii) upon the Disability or death of the holder; (iii) upon a Change of Control while the holder is in the employ or service of the Corporation; or (iv) upon the occurrence of such special circumstance or event as in the opinion of the Committee merits special consideration; and

(e) A Deferred Stock Award shall be evidenced by an agreement executed on behalf of the Corporation and by the Eligible Person to whom the Deferred Stock Award is granted. The form of Deferred Stock Award agreement

shall be determined from time to time by the Committee, and need not be identical with respect to each grantee.

16. **Performance Awards.** The Committee shall have the authority to grant to any Eligible Person a Performance Award, subject to such terms and conditions as shall be determined by the Committee in its sole discretion at the time of grant and as set forth in the applicable Performance Award agreement. The value of a Performance Award may be linked to the market value, book value, net profits or other measure of the value of a Share, or other specific performance criteria determined appropriate by the Committee, in each case on a specified date or dates or over any period or periods determined by the Committee, or may be based upon the appreciation in the market value, book value, net profits or other measure of the value of a specified number of Shares over a fixed period or periods determined by the Committee; provided, however, that the dates or periods described herein shall not be prior to or less than one (1) year following the date of the grant. In making such determinations, the Committee may consider (among such other factors as it deems relevant in light of the specific type of award) the contributions, responsibilities and other compensation of the particular Eligible Person. A Performance Award shall be evidenced by an agreement executed on behalf of the Corporation and by the Eligible Person to whom the Performance Award is granted. The form of Performance Award agreement shall be determined from time to time by the Committee, and need not be identical with respect to each grantee.

17. **Consideration for Incentive Awards.** The Corporation shall obtain such consideration for the grant of an Incentive Award as the Committee in its discretion may determine.

18. **Restrictions on Transferability of Incentive Awards.** Incentive Awards and all other rights thereunder shall be non-transferable and non-assignable by the holder thereof except to the extent that the estate of a deceased holder of an Incentive Award may be permitted to exercise them. Options and Rights may be exercised or surrendered during the holder's lifetime only by the holder thereof.

19. **Termination of Employment or Service.**

(a) Except as otherwise provided herein, in the holder's employment agreement (if any) with the Corporation or a Subsidiary, or in the applicable Option and/or Rights agreement, all or any part of any Option and/or Rights, to the extent unexercised, shall terminate immediately upon the cessation or termination for any reason of the holder's employment by, or service as a director of, the Corporation or any Subsidiary, provided that (except as otherwise provided herein, in the holder's employment agreement (if any) with the Corporation or a Subsidiary, or in the applicable Option and/or Rights agreement) the holder shall have ninety (90) days following the cessation of the holder's employment or service with the Corporation or its Subsidiaries, and no longer, within which to exercise any unexercised Option and/or Rights that such holder could have exercised on the day on which such employment or service terminated; and provided, further, that such exercise must be accomplished prior to the expiration

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of the term of such Option and/or Rights. Notwithstanding the foregoing, if the cessation of employment or service is due to Disability or to death, the holder or the representative of the Estate or the heirs of a deceased holder shall have the privilege of exercising the Options and/or Rights which are vested but unexercised at the time of such Disability or death for a period of time that is no less than one (1) year from the date of the holder's Disability or death. Notwithstanding the foregoing, and except as otherwise provided in the holder's employment agreement (if any) with the Corporation or a Subsidiary, if the employment or service of any holder of an Option and/or Rights with the Corporation or a Subsidiary shall be terminated for Cause, all unexercised Options and/or Rights of such holder shall terminate immediately upon such termination of the holder's employment or service with the Corporation and all Subsidiaries, and a holder of Options and/or Rights whose employment or service with the Corporation and all Subsidiaries is so terminated, shall have no right after such termination to exercise any unexercised Option and/or Rights he might have exercised prior to the termination of his employment or service with the Corporation and all Subsidiaries.

(b) Except as otherwise provided in the holder's employment agreement (if any) with the Corporation or a Subsidiary or Sections 13(a) (5) or 15(d) hereof, the Committee shall determine in its sole discretion at the time of grant of a Restricted Stock Award or a Deferred Stock Award, the affect, if any, that a termination of the holder's employment or service with the Corporation or any Subsidiary shall have on such Incentive Award, and such terms shall be set forth in the applicable Incentive Award agreement. Notwithstanding the foregoing, and except as otherwise provided in the holder's employment agreement (if any) with the Corporation or a Subsidiary, if the employment or service of any holder of a Restricted Stock Award or a Deferred Stock Award with the Corporation or a Subsidiary shall be terminated for Cause, then (i) all Restricted Shares subject to restrictions at the time his employment terminates (and any dividends, distributions and adjustments retained by the Corporation with respect thereto), and (ii) any Shares subject to a Deferred Stock Award with respect to which the deferral period has not expired, shall be forfeited and any consideration received therefor from the holder shall be returned to the holder.

(c) Except as otherwise provided in the holder's employment agreement (if any) with the Corporation or a Subsidiary, the Committee shall determine in its sole discretion at the time of grant of a Performance Award, the affect, if any, that a termination of the holder's employment or service with the Corporation or any Subsidiary shall have on such Performance Award, and such terms shall be set forth in the applicable Performance Award agreement. Notwithstanding the foregoing, and except as otherwise provided in the holder's employment agreement (if any) with the Corporation or a Subsidiary, if the employment or service of any holder of a Performance Award with the Corporation or a Subsidiary shall be terminated for Cause, then such holder's Performance Award shall terminate immediately upon such termination of the holder's employment or service with the Corporation and all Subsidiaries.

(d) Notwithstanding anything contained herein to the contrary, an individual who changes his or her status (e.g., from that of an employee to a director or consultant, or vice versa) shall not be deemed to have ceased being in the employ or service, as applicable, of the Corporation or any Subsidiary for purposes of this Section 19, nor shall a transfer of employment among the Corporation and any Subsidiary be considered a termination of employment; provided, however, if the recipient of an incentive stock option ceases being an employee but continues as a consultant or director, such incentive stock options shall not be deemed to be incentive stock options three months after the date of such cessation.

(d) Notwithstanding anything contained herein to the contrary, the Committee shall have discretion to extend the post-termination exercisability period of any Option or Right longer than is otherwise provided for above; provided, however, that in no event may an extension of the exercise period exceed the term of the Option or Right set forth in Section 10.

20. **Adjustment Provision.** If, prior to the complete exercise of any Option and/or Rights, or prior to the satisfaction, expiration or lapse of all of the restrictions and conditions imposed pursuant to a Restricted Stock Award or Deferred Stock Award, there shall be declared and paid a stock dividend upon the Shares or if the Shares shall be split up, converted, exchanged, reclassified, or in any way substituted for:

(a) in the case of an Option, then the Option, to the extent that it has not been exercised, shall entitle the holder thereof upon the future exercise of the Option to such number and kind of securities or cash or other property subject to the terms of the Option to which he would have been entitled had he actually owned the Shares subject to the unexercised portion of the Option at the time of the occurrence of such stock dividend, split-up, conversion, exchange, reclassification or substitution, and the aggregate purchase price upon the future exercise of the Option shall be the same as if the originally optioned Shares were being purchased thereunder; provided, however, that with respect to an Option that is an incentive stock option, such adjustment shall be made in accordance with Section 424 of the Code;

(b) in the case of an Alternative Right, then the number of Shares subject to the Alternative Right, to the extent that it has not been exercised, shall be adjusted to equal the number of Shares to which the holder would have been entitled had he actually owned the Shares subject to the unexercised portion of the Alternative Right at the time of the occurrence of such stock dividend, split-up, conversion, exchange, reclassification or substitution, and the aggregate exercise price shall proportionately be adjusted so that the aggregate exercise price of such Alternative Right immediately prior to such an event shall be equal to the aggregate exercise price of the adjusted Alternative Right immediately following the occurrence of such event;

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(c) in the case of a Stock Appreciation Right, then the number of Shares subject to the Stock Appreciation Right, to the extent that it has not been exercised, shall be adjusted to equal the number of Shares to which the holder would have been entitled had he actually owned the Shares subject to the unexercised portion of the Stock Appreciation Right at the time of the occurrence of such stock dividend, split-up, conversion, exchange, reclassification or substitution, and the aggregate exercise price shall proportionately be adjusted so that the aggregate exercise price of such Stock Appreciation Right immediately prior to such an event shall be equal to the aggregate exercise price of the adjusted Stock Appreciation Right immediately following the occurrence of such event;

(d) in the case of a Restricted Share issued pursuant to a Restricted Stock Award, the holder of such Restricted Stock Award shall receive, subject to the same restrictions and other conditions of such Restricted Stock Award as determined pursuant to the provisions of Section 13, the same securities or other property as are received by the holders of the Corporation's Shares pursuant to such stock dividend, split-up, conversion, exchange, reclassification or substitution; and

(e) in the case of a Deferred Stock Award, the holder shall receive, at such time as would otherwise apply under such Deferred Stock Award, such number and kind of securities or cash or other property to which he would have been entitled had he actually owned the Shares subject to the Deferred Stock Award at the time of the occurrence of such stock dividend, split-up, conversion, exchange, reclassification or substitution.

With respect to any Incentive Awards other than Rights, any fractional shares or securities issuable as a result of such adjustment shall be payable in cash based upon the Fair Market Value of such shares or securities at the time such shares or securities would have otherwise been issued. With respect to any Rights, any fractional shares or securities issuable as a result of such adjustment shall be rounded down to the nearest whole number of Shares. If any such event should occur, the number of Shares with respect to which Incentive Awards remain to be issued, or with respect to which Incentive Awards may be reissued, shall be adjusted in a similar manner.

In addition to the adjustments provided for in the preceding paragraph, upon the occurrence of any of the events referred to in said paragraph prior to the complete payments pursuant to a Performance Award, the Committee, in its sole discretion, shall determine the amount of cash and/or the number of Shares which shall be paid to the holder of a Performance Award at such time as payment would otherwise be made, so that there shall be no increase or dilution in the cash and/or value of the Shares or other property to which the holder shall be entitled by reason of such events.

Notwithstanding any other provision of the Plan, in the event of a recapitalization, merger, consolidation, rights offering, separation, reorganization or liquidation, or any other change in the corporate structure or outstanding shares, the Committee, in its sole discretion, may make such adjustments to the number of Shares and the class of shares

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available hereunder or to any outstanding Incentive Awards as shall be necessary to prevent dilution or enlargement of rights, and/or make provision for the payment of cash (or other property if received as consideration) in cancellation of any outstanding Incentive Award.

21. **Issuance of Shares and Compliance with Securities Act.** The Corporation may postpone the issuance and delivery of Shares pursuant to the grant or exercise of any Incentive Award until (a) the admission of such Shares to listing on the principal securities exchange or securities trading market on which Shares of the Corporation of the same class are then listed or approved for trading, and (b) the completion of such registration or other qualification of such Shares under any State or Federal law, rule or regulation as the Corporation shall determine to be necessary or advisable. Any holder of an Incentive Award shall make such representations and furnish such information as may, in the opinion of counsel for the Corporation, be appropriate to permit the Corporation, in the light of the then existence or non-existence with respect to such Shares of an effective Registration Statement under the Securities Act of 1933, as from time to time amended (the "Securities Act"), to issue the Shares in compliance with the provisions of the Securities Act or any comparable act. The Corporation shall have the right, in its sole discretion, to legend any Shares which may be issued pursuant to the grant or exercise of any Incentive Award, or may issue stop transfer orders in respect thereof.

22. **Code Section 162(m).** Notwithstanding any other provision of the Plan, if the Committee determines at the time an Incentive Award is granted to an Eligible Person who is, or is likely to be, as of the end of the tax year in which the Corporation would claim a tax deduction in connection with such Incentive Award, a "covered employee" (as defined under Section 162(m) of the Code), then the Committee may provide that this Section 22 is applicable to such Incentive Award. If the Committee determines that an Incentive Award is subject to this Section 22, the lapsing of restrictions thereon and the distribution of cash, Shares or other property pursuant thereto, as applicable, shall be subject to the achievement of one or more objective performance goals established by the Committee, which shall be based on the attainment of specified levels of one or any combination of the following: revenue growth; booking of orders; earnings, or some derivative thereof (including earnings before interest and taxes, earnings before interest, taxes, depreciation and amortization, or earnings per share); operating income; pre- or after-tax income; cash flow; net earnings; return on equity; return on capital (including return on total capital or return on invested capital); return on assets or net assets; economic value added (or an equivalent metric); share price performance; total shareholder return; improvement in or attainment of expense levels; and improvement in or attainment of working capital levels of the Corporation or any Subsidiary, division, business unit or product line of the Corporation for or within which the Eligible Person is primarily employed. Such performance goals

also may be based solely by reference to the Corporation's performance or the performance of a Subsidiary, division, business unit or product line of the Corporation, or based upon the relative performance of other companies or upon comparisons of any of the indicators of performance relative to other companies. The Committee may also exclude the impact of an event or occurrence which the Committee determines should appropriately be excluded, including (i) restructurings,

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discontinued operations, extraordinary items, and other unusual or non-recurring charges, (ii) an event either not directly related to the operations of the Corporation or not within the reasonable control of the Corporation's management, or (iii) the cumulative effects of tax or accounting changes in accounting standards required by generally accepted accounting principles. Such performance goals shall be set by the Committee within the time period prescribed by, and shall otherwise comply with the requirements of, Section 162(m) of the Code, and the regulations thereunder.

23. **Income Tax Withholding.** If the Corporation or a Subsidiary shall be required to withhold any amounts by reason of any Federal, State, local or foreign tax rules or regulations in respect of any Incentive Award, the Corporation or the Subsidiary shall be entitled to take such action as it deems appropriate in order to ensure compliance with such withholding requirements. In order to facilitate payment by the holder of an Incentive Award of his withholding obligations with respect to the Incentive Award, the Corporation or Subsidiary may, at its election, (a) deduct from any cash payment otherwise due to the holder, the appropriate withholding amount, (b) require the holder to pay to the Corporation or Subsidiary in cash the appropriate withholding amount, (c) permit the holder to elect to have the Corporation withhold a portion of the Shares otherwise to be delivered with respect to such Incentive Award, the Fair Market Value of which is equal to the minimum statutory withholding amount, or (d) permit the holder to elect to deliver to the Corporation Shares already owned by the holder for at least six (6) months, the Fair Market Value of which is equal to the appropriate withholding amount; provided, however, that if Shares are to be withheld by the Corporation for purposes of satisfying such withholding obligations, the number of Shares withheld shall be calculated using the minimum statutory withholding rates.

24. **Amendment of the Plan.** Except as hereinafter provided, the Board of Directors or the Committee may at any time withdraw or from time to time amend the Plan as it relates to, and the terms and conditions of, any Incentive Awards not theretofore granted, and the Board of Directors or the Committee may at any time withdraw or from time to time amend the Plan as it relates to, and the terms and conditions of, any outstanding Incentive Award, provided that any amendment of an outstanding Incentive Award that would adversely affect the rights of the holder thereof shall not be effected without the holder's consent. Notwithstanding the foregoing, any material amendment of the Plan by the Board of Directors or the Committee, including an amendment which would increase the number of Shares issuable under the Plan or to any individual or change the class of Eligible Persons, shall be subject to the approval of the shareholders of the Corporation within one (1) year of such amendment.

25. **No Right of Employment or Service.** Nothing contained herein or in an Incentive Award agreement shall be construed to confer on any employee or director any right to be continued in the employ of the Corporation or any Subsidiary or as a director of the Corporation, or derogate from any right of the Corporation and any Subsidiary to retire, request the resignation of, or discharge such employee or director (without or with pay), at any time, with or without Cause.

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26. **Effective Date of the Plan.** This Plan is conditioned upon its approval by the shareholders of the Corporation on or before April 18, 2006; except that this Plan is adopted and approved by the Board of Directors effective April 18, 2005 to permit the grant of Incentive Awards prior to the approval of the Plan by the shareholders of the Corporation as aforesaid. In the event that this Plan is not approved by the shareholders of the Corporation as aforesaid, this Plan and any Incentive Awards granted hereunder shall be void and of no force or effect.

27. **Final Grant Date.** No Incentive Award shall be granted under the Plan after April 18, 2015.

**IN WITNESS WHEREOF**, the Corporation has caused this Plan, as amended and restated in the manner presented, to be executed by its duly authorized officer as of \_\_\_\_\_, 2009.

**THE CHILDREN'S PLACE RETAIL STORES, INC.**

**By:** /s/ Steven Balasiano  
**Title:** Senior Vice President, General Counsel and Chief Administrative Officer

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**FIRST AMENDMENT TO CREDIT AGREEMENT**

This First Amendment to Credit Agreement (this "First Amendment") is made as of this 11<sup>th</sup> day of March, 2009 by and among:

THE CHILDREN'S PLACE RETAIL STORES, INC., a Delaware corporation, for itself and as agent (in such capacity, the "Lead Borrower") for the other Borrowers party hereto;

the BORROWERS party hereto;

the GUARANTORS party hereto;

the LENDERS party hereto; and

WELLS FARGO RETAIL FINANCE, LLC, as Administrative Agent, Collateral Agent and Swing Line Lender;

in consideration of the mutual covenants herein contained and benefits to be derived herefrom.

**WITNESSETH:**

WHEREAS, reference is made to that certain Credit Agreement, dated as of July 31, 2008 (as amended, modified, supplemented or restated and in effect from time to time, the "Credit Agreement"), by and among (i) the Borrowers, (ii) the Guarantors, (iii) the Lenders, and (iv) Wells Fargo Retail Finance, LLC, as Administrative Agent, Collateral Agent and Swing Line Lender;

WHEREAS, the Borrowers have notified the Agents and the Lenders that Services Company intends to enter into that certain Lease Agreement, dated as of March 11, 2009 (as amended, modified, supplemented, restated or extended and in effect from time to time, the "New Headquarters Lease"), by and between 500 Plaza Drive Corp., as the landlord, and Services Company, as the tenant, for the leased premises located at 500 Plaza Drive, Secaucus, New Jersey (the "New Headquarters");

WHEREAS, the Borrowers have further notified the Agents and the Lenders that the Lead Borrower intends to guaranty the payment and performance of all obligations of Services Company under the New Headquarters Lease (the "New Headquarters Lease Guaranty");

WHEREAS, the Borrowers have further notified the Agents and the Lenders that they intend to terminate certain existing Leases and make certain payments in connection therewith;

WHEREAS, the Borrowers have requested that the Agents and the Required Lenders consent to the execution and delivery of the New Headquarters Lease Guaranty and certain related transactions and amend certain terms and conditions of the Credit Agreement; and

WHEREAS, the Agents and the Required Lenders hereby consent to the execution and delivery of the New Headquarters Lease Guaranty and certain related transactions and agree to amend certain terms and conditions of the Credit Agreement as set forth herein.

NOW, THEREFORE, it is hereby agreed as follows:

1. Definitions. All capitalized terms used herein and not otherwise defined shall have the same meaning herein as in the Credit Agreement.
2. Amendments to Article I. The provisions of Article I of the Credit Agreement are hereby amended as follows:
  - (a) Clause (h) of the definition of "Permitted Encumbrances" in Article I of the Credit Agreement is hereby amended by deleting the reference to "clause (c) of the definition of Permitted Indebtedness" in its entirety and replacing it with a reference to "clause (d) of the definition of Permitted Indebtedness".
  - (b) The definition of "Permitted Indebtedness" in Article I of the Credit Agreement is hereby amended by relettering clause (l) as clause (o), deleting the word "and" at the end of clause (k) and inserting new clauses (l), (m) and (n) as follows:
 

"(l) the New Headquarters Lease Guaranty;

(m) Indebtedness arising from the obligation to pay a portion of the Emerson Road Lease Termination Payment on a deferred basis pursuant to Section 6 of the Emerson Road Lease Termination Agreement;

(n) Indebtedness arising from the obligation to pay a portion of the Secaucus Road Lease Termination Payment on a deferred basis pursuant to Section 6 of the Secaucus Road Lease Termination Agreement; and"
  - (c) The following new definitions are hereby added to Article I of the Credit Agreement in appropriate alphabetical order:
    - (i) "Emerson Road Lease" means the Agreement of Lease dated May 3, 2006, as amended by Lease Modification Agreement dated November 27, 2006, Letter Agreement dated January 17, 2007, and Consent to License dated January 1, 2008, pursuant to which Hartz Mountain Associates, a New Jersey general partnership, as landlord, leased certain premises at Two Emerson Lane, Secaucus, New Jersey to Services Company, as tenant.
    - (ii) "Emerson Road Lease Termination Agreement" means the Lease Termination Agreement, dated as of March 11, 2009, between Hartz Mountain Metropolitan, a New Jersey general partnership, as landlord, and

Services Company, as tenant, pursuant to which the Emerson Road Lease is terminated prior to the expiration of its stated term.

- (iii) “Emerson Road Lease Termination Payment” means the fee payable by Services Company pursuant to Section 6 of the Emerson Road Lease Termination Agreement in order to terminate the Emerson Road Lease prior to the expiration of its stated term.
- (iv) “New Headquarters Lease” means that certain Lease Agreement, dated as of March 11, 2009, by and between 500 Plaza Drive Corp., as the landlord, and Services Company, as the tenant, for the leased premises located at 500 Plaza Drive, Secaucus, New Jersey (as modified pursuant to the terms of the New Headquarters Lease Side Letter), as amended, modified, supplemented, restated or extended and in effect from time to time.
- (v) “New Headquarters Lease Guaranty” means that certain Guaranty, dated as of March 11, 2009, made by the Lead Borrower in favor of 500 Plaza Drive Corp. (as modified pursuant to the terms of the New Headquarters Lease Side Letter), pursuant to which the Lead Borrower guarantees the payment and performance of all obligations of Services Company under the New Headquarters Lease, in the form attached hereto as Schedule 1.04.
- (vi) “New Headquarters Lease Side Letter” means that certain letter agreement, dated as of March 11, 2009, by and among the Lead Borrower, Services Company and 500 Plaza Drive Corp., in the form attached hereto as Schedule 1.05.
- (vii) “Secaucus Road Lease” means the Agreement of Lease dated June 30, 1998, as amended by Letter Agreement dated June 30, 1998, Lease Modification Agreement dated November 20, 1998, Second Lease Modification Agreement dated November 19, 2004, Consent to Assignment and Assumption of Lease Agreement dated October 30, 2004, Lease Termination Agreement dated May 3, 2006, and Agreement dated November 27, 2006, pursuant to which Hartz Mountain Associates, a New Jersey general partnership, as landlord, leased certain premises at 915 Secaucus Road, Secaucus, New Jersey to Services Company, as tenant.
- (viii) “Secaucus Road Lease Termination Agreement” means the Lease Termination Agreement, dated as of March 11, 2009, between Hartz Mountain Associates, a New Jersey general partnership, as landlord, and Services Company, as tenant, pursuant to which the Secaucus Road Lease is terminated prior to the expiration of its stated term.

- (ix) “Secaucus Road Lease Termination Payment” means the fee payable by Services Company pursuant to Section 6 of the Secaucus Road Lease Termination Agreement in order to terminate the Secaucus Road Lease prior to the expiration of its stated term.

3. Amendment to Article V. The second sentence of Section 5.12(a) of the Credit Agreement is hereby amended by deleting the phrase “a favorable determination letter” in its entirety and replacing it with the phrase “a favorable determination or opinion letter”.
4. Amendment to Article VI. Section 6.18 (Compliance with Terms of Leaseholds) of the Credit Agreement is hereby amended by adding a proviso at the end of the first sentence thereof as follows:  
  
“; provided that Services Company (i) may terminate the Emerson Road Lease and make the Emerson Road Lease Termination Payment in connection therewith and (ii) may terminate the Secaucus Road Lease and make the Secaucus Road Lease Termination Payment in connection therewith, provided that, in each case, Services Company shall, simultaneously with such terminations, enter into the New Headquarters Lease.”
5. Amendment to Article VII. Section 7.10 (Burdensome Agreements) of the Credit Agreement is hereby amended by deleting the parenthetical clause in the second line thereof in its entirety and replacing it with the following:  
  
“(other than the Note Documents, this Agreement, any other Loan Document or the New Headquarters Lease Guaranty)”
6. Amendments to Schedules. New Schedule 1.04 and Schedule 1.05 are hereby added to the Credit Agreement in the form of Schedule 1.04 and Schedule 1.05 attached hereto. Schedules 5.06, 5.13, 5.17, 5.18(c) and 5.24 are hereby amended in the manner indicated on Schedules 5.06, 5.13, 5.17, 5.18(c) and 5.24, respectively, attached hereto.
7. Ratification of Loan Documents. Except as otherwise expressly provided herein, all terms and conditions of the Credit Agreement and the other Loan Documents remain in full force and effect. The Loan Parties hereby ratify, confirm, and reaffirm that all representations and warranties of the Loan Parties contained in the Credit Agreement or any other Loan Document are true and correct in all material respects on and as of the date hereof, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they are true and correct in all material respects as of such earlier date.
8. Conditions to Effectiveness. This First Amendment shall not be effective until each of the following conditions precedent has been fulfilled to the reasonable satisfaction of the Administrative Agent:

- (a) The Administrative Agent shall have received counterparts of this First Amendment duly executed and delivered by each of the parties hereto.

- (b) The Administrative Agent shall have received a copy of the First Amendment to Note Purchase Agreement duly executed by each of the parties thereto.
- (c) The Administrative Agent shall have received and be satisfied with the Secaucus Road Lease Termination Agreement and the Emerson Road Lease Termination Agreement.
- (d) All corporate and shareholder action on the part of the Loan Parties necessary for the valid execution, delivery and performance by the Loan Parties of this First Amendment shall have been duly and effectively taken and evidence thereof reasonably satisfactory to the Administrative Agent shall have been provided to the Administrative Agent.
- (e) The Loan Parties shall have paid in full all reasonable costs and expenses of the Agents (including, without limitation, reasonable attorneys' fees) in connection with the preparation, negotiation, execution and delivery of this First Amendment and related documents.
- (f) After giving effect to this First Amendment, no Default or Event of Default shall have occurred and be continuing.

9. Miscellaneous.

- (a) This First Amendment may be executed in several counterparts and by each party on a separate counterpart, each of which when so executed and delivered shall be an original, and all of which together shall constitute one instrument. Delivery of an executed counterpart of a signature page to this First Amendment by telecopy or other electronic transmission shall be effective as delivery of a manually executed counterpart of this First Amendment.
- (b) This First Amendment expresses the entire understanding of the parties with respect to the transactions contemplated hereby. No prior negotiations or discussions shall limit, modify, or otherwise affect the provisions hereof.
- (c) Any determination that any provision of this First Amendment or any application hereof is invalid, illegal or unenforceable in any respect and in any instance shall not effect the validity, legality, or enforceability of such provision in any other instance, or the validity, legality or enforceability of any other provisions of this First Amendment.
- (d) The Loan Parties represent and warrant that they have consulted with independent legal counsel of their selection in connection with this First Amendment and are

not relying on any representations or warranties of the Agents or the Lenders or their counsel in entering into this First Amendment.

- (e) THIS FIRST AMENDMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties have hereunto caused this First Amendment to be executed and their seals to be hereto affixed as of the date first above written.

THE CHILDREN'S PLACE RETAIL STORES, INC., as Lead Borrower and as a Borrower

By: /s/ Susan J. Riley  
 Name: Susan J. Riley  
 Title: Executive Vice President, Finance & Administration

THE CHILDREN'S PLACE SERVICES COMPANY, LLC, as a Borrower

By: /s/ Susan J. Riley  
 Name: Susan J. Riley  
 Title: Executive Vice President, Finance & Administration

THE CHILDRENSPLACE.COM, INC., as a Guarantor

By: /s/ Adrienne Urban  
 Name: Adrienne Urban  
 Title: Assistant Treasurer

THE CHILDREN'S PLACE (VIRGINIA), LLC, as a Guarantor

By: /s/ Susan J. Riley  
Name: Susan J. Riley  
Title: Senior Vice President and Treasurer

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THE CHILDREN'S PLACE CANADA HOLDINGS, INC., as a Guarantor

By: /s/ Susan J. Riley  
Name: Susan J. Riley  
Title: Senior Vice President and Treasurer

TWIN BROOK INSURANCE COMPANY, INC., as a Guarantor

By: /s/ Susan J. Riley  
Name: Susan J. Riley  
Title: Senior Vice President and Treasurer

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WELLS FARGO RETAIL FINANCE, LLC, as Administrative Agent,  
Collateral Agent, Swingline Lender and as a Lender

By: /s/ Jennifer Blanchette  
Name: Jennifer Blanchette  
Title: Vice President

BANK OF AMERICA, N.A., as a Lender

By: /s/ Jeff Ryan  
Name: Jeff Ryan  
Title: Vice President

HSBC BUSINESS CREDIT (USA) INC., as a Lender

By: /s/ Daniel J. Williams  
Name: Daniel J. William  
Title: Vice President

JPMORGAN CHASE BANK, N.A., as a Lender

By: /s/ Donna DiFiori  
Name: Donna DiFiori  
Title: Vice President

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## FIRST AMENDMENT TO NOTE PURCHASE AGREEMENT

This **FIRST AMENDMENT TO NOTE PURCHASE AGREEMENT** (this "Amendment"), dated as of March 11, 2009 (the "Effective Date"), is by and among The Children's Place Retail Stores, Inc. (the "Issuer"), a corporation incorporated under the laws of Delaware, the parties listed as Guarantors on the signature pages to the Note Purchase Agreement (as defined below) (the "Guarantors", collectively with the Issuer, the "Note Parties", and each such Person a "Note Party"), Sankaty Advisors, LLC as collateral agent (the "Agent"), Crystal Capital Fund Management, L.P. as syndication agent, and each Note Purchaser listed on Schedule I attached to the Note Purchase Agreement, relating to the Note Purchase Agreement (collectively, the "Note Purchasers"), dated as of July 31, 2008 (as amended, restated, supplemented or otherwise modified and in effect from time to time, the "Note Purchase Agreement"), among the Note Parties, the Note Purchasers from time to time party thereto, and the Agent. Terms used but not defined herein shall have the meanings ascribed to such terms in the Note Purchase Agreement.

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

**§1. Amendments.** Effective as of the Effective Date, upon satisfaction of the conditions precedent set forth in §2 hereof, and in reliance upon the representations and warranties of the Note Parties set forth in the Note Purchase Agreement and in this Amendment, the Agent and the Note Purchasers hereby:

(i) amend Section 5.12 (ERISA Compliance) of the Note Purchase Agreement by:

(a) restating the phrase "a favorable determination letter" appearing in the second sentence of subsection 5.12.1 to read "a favorable determination or opinion letter" and

(b) restating the first sentence of subsection 5.12.2 to read in its entirety as follows:

There are no pending or, to the best knowledge of the Issuer, threatened claims, actions or lawsuits, or action by any Governmental Authority, with respect to any Plan (other than claims for benefits in the ordinary course).

(ii) amend Section 7.20 (Compliance with Terms of Leaseholds) of the Note Purchase Agreement by adding the following proviso at the end thereof:

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; provided, that Services Company (i) may terminate the New Headquarters Lease and make the New Headquarters Lease Termination Payment in connection therewith and (ii) may terminate the Secaucus Road Lease and make the Secaucus Road Lease Termination Payment in connection therewith provided, in each case, that Services Company shall, simultaneously with such terminations, enter into the 500 Plaza Lease.

(iii) amend Section 8.10 (Burdensome Agreements) of the Note Purchase Agreement by restating the parenthetical clause therein to read in its entirety as follows:

(other than the Revolving Loan Documents, this Agreement, any other Note Document or the 500 Plaza Lease Guaranty)

(iv) delete Section 8.19 (New Headquarters) of the Note Purchase Agreement in its entirety;

(v) amend the definition of "Permitted Indebtedness" by adding new clauses (o), (p) and (q) at the end thereof, to read in their entirety as follows:

(o) the 500 Plaza Lease Guaranty;

(p) Indebtedness arising from the obligation to pay a portion of the New Headquarters Lease Termination Payment on a deferred basis pursuant to Section 6 of the New Headquarters Lease Termination Agreement; and

(q) Indebtedness arising from the obligation to pay a portion of the Secaucus Road Lease Termination Payment on a deferred basis pursuant to Section 6 of the Secaucus Road Lease Termination Agreement.

(vi) add, in appropriate alphabetical position, the following new definitions to Annex I of the Note Purchase Agreement:

"500 Plaza Lease" means the Lease, dated on or around the date hereof, pursuant to which 500 Plaza Drive Corp., a New Jersey corporation, as landlord, leases certain premises at 500 Plaza Drive, Secaucus, New Jersey to Services Company, as tenant.

"500 Plaza Lease Guaranty" means the Guaranty, dated on or around the date hereof, executed by the Issuer in favor of 500 Plaza Drive Corp., a New Jersey corporation, pursuant to which the Issuer guarantees the obligations of Services Company under the 500 Plaza Lease (as modified pursuant to that certain letter agreement, dated on or around the date hereof, by and among the Issuer, Services Company and 500 Plaza Drive Corp.).

“New Headquarters Lease” means the Agreement of Lease dated May 3, 2006, as amended by Lease Modification Agreement dated November 27, 2006, Letter Agreement dated January 17, 2007, and Consent to License dated January 1, 2008 pursuant to which Hartz Mountain Associates, a New Jersey general partnership, as landlord leased certain premises at 2 Emerson Lane, Secaucus, New Jersey to Services Company, as tenant.

“New Headquarters Lease Termination Payment” means the fee payable by Services Company pursuant to Section 6 of the New Headquarters Lease Termination Agreement in order to terminate such lease prior to the expiration of its term.

“New Headquarters Lease Termination Agreement” means the Lease Termination Agreement, dated on or around the date hereof, between Hartz Mountain Metropolitan, a New Jersey general partnership, as landlord, and Services Company, as tenant, pursuant to which the Lease of the New Headquarters is terminated prior to the expiration of its stated term.

“Secaucus Road Lease” means the Agreement of Lease dated June 30, 1998, as amended by Letter Agreement dated June 30, 1998, Lease Modification Agreement dated November 20, 1998, Second Lease Modification Agreement dated November 19, 2004, Consent to Assignment and Assumption of Lease Agreement dated October 30, 2004, Lease Termination Agreement dated May 3, 2006, and Agreement dated November 27, 2006 (collectively, “the Lease”), pursuant to which Hartz Mountain Associates, a New Jersey general partnership, as landlord leased certain premises at 915 Secaucus Road, Secaucus, New Jersey to Services Company, as tenant.

“Secaucus Road Lease Termination Payment” means the fee payable by Services Company pursuant to Section 6 of the Secaucus Road Lease Termination Agreement in order to terminate the Secaucus Road Lease prior to the expiration of its term.

“Secaucus Road Lease Termination Agreement” means the Lease Termination Agreement, dated on or around the date hereof, between Hartz Mountain Associates, a New Jersey general partnership, as landlord, and Services Company, as tenant, pursuant to which the Secaucus Road Lease is terminated prior to the expiration of its stated term.

The foregoing are limited amendments and the execution and delivery of this Amendment does not constitute a waiver or amendment by the Agent or any Note Purchaser of any other term or condition under the Note Purchase Agreement or any other Note Document.

**§2. Conditions Precedent.** This Amendment shall become effective as of the Effective Date at such time as (i) each of the Note Parties, the Note Purchasers and the

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Agent have duly executed and delivered to the Agent a counterpart signature page to this Amendment, (ii) each of the Guarantors has duly executed and delivered to the Agent a counterpart signature page to the Ratification of Guaranty attached to this Amendment, and (iii) the Agent shall have been provided and be satisfied with the Secaucus Road Lease Termination Agreement and the New Headquarters Lease Termination Agreement.

**§3. Representations and Warranties.** The Note Parties hereby represent and warrant to the Agent and the Note Purchasers as follows:

(a) **Representations and Warranties.** All representations and warranties of each of the Note Parties contained in the Note Purchase Agreement and the other Note Documents are true and correct on and as of the date of this Amendment, in each case as if then made, other than representations and warranties that expressly relate solely to an earlier date (in which case such representations and warranties were true and correct on and as of such earlier date); provided, that, for the avoidance of doubt, for the limited purpose of this Amendment, this Section 3(a) shall not apply to Section 5.5.3 of the Note Purchase Agreement because the Projections referred to therein are currently in progress.

(b) **Default.** Immediately after giving effect to this Amendment, no Default or Event of Default has occurred and is continuing.

(c) **Authority, Etc.** The execution and delivery by the Note Parties, of this Amendment and the Ratification of Guaranty attached to this Amendment and the performance by the Note Parties of all of their agreements and obligations under the Note Purchase Agreement as amended hereby and the other Note Documents to which they are party are within the corporate or limited liability company authority, as applicable, of the Note Parties and have been duly authorized by all necessary corporate or limited liability company action, as applicable, on the part of the Note Parties.

(d) **Enforceability of Obligations.** This Amendment, the Ratification of Guaranty attached to this Amendment, the Note Purchase Agreement, and the other Note Documents constitute the legal, valid and binding obligations of the Note Parties, to the extent parties thereto, enforceable against the Note Parties in accordance with their terms, except as enforceability is limited by bankruptcy, insolvency, reorganization, moratorium or other laws relating to or affecting generally the enforcement of creditors’ rights and by equitable principles of general applicability, regardless of whether enforcement is sought in an action at law or proceeding in equity.

**§4. Ratification of Existing Agreements.** The Note Parties agree that the Note Obligations are, except as otherwise expressly modified in this Amendment upon the terms set forth herein, ratified and confirmed in all respects. In addition, by the execution of this Amendment, the Note Parties represent and warrant that no counterclaim, right of set-off or defense of any kind on the part of the Note Parties exists or is outstanding with respect to such Note Obligations.

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**§5. No Other Amendments.** Except as expressly provided in this Amendment, all of the terms and conditions of the Note Purchase Agreement and the other Note remain in full force and effect. Nothing contained in this Amendment shall (a) be construed to imply a willingness on the part of the Agent or the Note Purchasers to grant any similar or other future waiver or amendment of any of the terms and conditions of the Note Purchase Agreement or the other Note Documents or (b) in any way prejudice, impair or affect any rights or remedies of the Agent or the Note Purchasers under the Note Purchase Agreement or the other Note Documents.

§6. **Execution in Counterparts.** This Amendment may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one instrument. In proving this Amendment, it shall not be necessary to produce or account for more than one such counterpart signed by the party against whom enforcement is sought.

§7. **Expenses.** Pursuant to Section 13.1 of the Note Purchase Agreement, all costs and expenses incurred or sustained by the Agent in connection with this Amendment, including the fees and disbursements of legal counsel for the Agent in producing, reproducing and negotiating the Amendment, will be for the account of the Note Parties.

§8. **Miscellaneous.** **THIS AMENDMENT SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.** The captions in this Amendment are for convenience of reference only and shall not define or limit the provisions hereof. This Amendment shall be a “Note Document” under and as defined in the Note Purchase Agreement.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

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

THE ISSUER:

THE CHILDREN’S PLACE RETAIL STORES, INC.

By: /s/ Susan J. Riley  
Name: Susan J. Riley  
Title: Executive Vice President, Finance & Administration

GUARANTORS:

THE CHILDREN’S PLACE SERVICES COMPANY, LLC

By: /s/ Susan J. Riley  
Name: Susan J. Riley  
Title: Executive Vice President, Finance & Administration

TWIN BROOK INSURANCE COMPANY, INC.

By: /s/ Susan J. Riley  
Name: Susan J. Riley  
Title: President

THECHILDRENSPLACE.COM, INC.

By: /s/ Adrienne Urban  
Name: Adrienne Urban  
Title: Assistant Treasurer

THE CHILDREN’S PLACE CANADA HOLDINGS, INC.

By: /s/ Susan J. Riley  
Name: Susan J. Riley  
Title: Senior Vice President and Treasurer

**\*\*\*Signature Page to  
Limited Waiver to Note Purchase Agreement\*\*\***

THE CHILDREN’S PLACE (VIRGINIA), LLC

By: Adrienne Urban  
Name: Susan J. Riley  
Title: Senior Vice President and Treasurer

COLLATERAL AGENT:

SANKATY ADVISORS, LLC

By: /s/ Stuart E. Davies  
Name: Stuart E. Davies  
Title: Managing Director

NOTE PURCHASERS:

SANKATY CREDIT OPPORTUNITIES III, L.P.

By: /s/ Stuart E. Davies  
Name: Stuart E. Davies  
Title: Managing Director

SANKATY CREDIT OPPORTUNITIES IV, L.P.

By: /s/ Stuart E. Davies  
Name: Stuart E. Davies  
Title: Managing Director

SANKATY CREDIT OPPORTUNITIES IV (OFFSHORE MASTER), L.P.

By: /s/ Stuart E. Davies  
Name: Stuart E. Davies  
Title: Managing Director

RGIP, LLC

By: /s/ Bradford Malt  
Name: Bradford Malt  
Title: Managing Member

[Signatures continue on following page]

CRYSTAL CAPITAL OFFSHORE WAREHOUSE LTD.

By: \_\_\_\_\_  
Name:  
Title:

CRYSTAL CAPITAL ONSHORE WAREHOUSE LLC

As duly authorized: Crystal Capital Fund Management, L.P., as designated manager

By: Crystal Capital Fund Management GP, LLC, its General Partner

By: /s/ Evren Orzagun  
Name: Evren Orzagun  
Title: Director

1903 ONSHORE FUNDING, LLC

By: GB Merchant Partners, LLC, its Investment Manager

By: /s/ Wendy Landon  
Name: Wendy Landon  
Title: Managing Director

1903 OFFSHORE LOANS SPV LIMITED

By: GB Merchant Partners, LLC, its Investment Manager

By: /s/ Wendy Landon  
Name: Wendy Landon  
Title: Managing Director

**\*\*\*Signature Page to  
Limited Waiver to Note Purchase Agreement\*\*\***

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### RATIFICATION OF GUARANTY

Each of the undersigned Guarantors hereby (a) acknowledges and consents to the foregoing Amendment and the Notes Parties' execution thereof; (b) agrees to be bound thereby; and (c) ratifies and confirms all of its obligations and liabilities under the Note Documents to which it is a party and ratifies and confirms that such obligations and liabilities extend to and continue in full force and effect with respect to, and continue to guarantee and secure, as applicable, the Note Obligations of the Note Parties under the Note Purchase Agreement.

**GUARANTORS:**

THE CHILDREN'S PLACE SERVICES COMPANY, LLC

By: /s/ Susan J. Riley  
Name: Susan J. Riley  
Title: Executive Vice President, Finance & Administration

TWIN BROOK INSURANCE COMPANY, INC.

By: /s/ Susan J. Riley  
Name: Susan J. Riley  
Title: President

THECHILDRENSPLACE.COM, INC.

By: /s/ Adrienne Urban  
Name: Adrienne Urban  
Title: Assistant Treasurer

THE CHILDREN'S PLACE CANADA HOLDINGS, INC.

By: /s/ Susan J. Riley  
Name: Susan J. Riley  
Title: Senior Vice President and Treasurer

THE CHILDREN'S PLACE (VIRGINIA), LLC

By: /s/ Susan J. Riley  
Name: Susan J. Riley  
Title: Senior Vice President and Treasurer

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500 PLAZA DRIVE CORP.

Landlord,

and

THE CHILDREN’S PLACE SERVICES COMPANY, LLC

Tenant

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LEASE

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Premises:

Office Premises  
in

500 Plaza Drive  
Secaucus, New Jersey

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**EXHIBITS**

Exhibit A - Demised Premises
Exhibit A-1 - Development
Exhibit B - Description of Land
Exhibit C – Intentionally Omitted
Exhibit D - Rules and Regulations
Exhibit E - Cleaning Specifications
Exhibit F - Letter of Credit
Exhibit G – Form of Guaranty

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**LEASE**, dated February , 2009, between 500 PLAZA DRIVE CORP., a New Jersey corporation having an office at 400 Plaza Drive, P.O. Box 1515, Secaucus, New Jersey 07096-1515 (“Landlord”), and THE CHILDREN’S PLACE SERVICES COMPANY, LLC, a Delaware limited liability company having an office at 915 Secaucus Road, Secaucus, New Jersey (“Tenant”).

**ARTICLE 1 - DEFINITIONS**

1.01. As used in this Lease (including in all Exhibits and any Riders attached hereto, all of which shall be deemed to be part of this Lease) the following words and phrases shall have the meanings indicated:

- A. Intentionally omitted.
- B. Additional Charges: All amounts that become payable by Tenant to Landlord hereunder other than the Fixed Rent.

C. Architect: As Landlord may designate.

D. Base Year: Calendar Year 2009.

E. Broker: Resource Realty-Tom Consiglio

F. Building: The building located on the Land and known as 500 Plaza Drive, Secaucus, New Jersey.

G. Building Fraction: a fraction the numerator of which is the Floor Space of the Building (approximately 445,730 square feet) and the denominator of which is the aggregate Floor Space of the buildings in the Development. If the aggregate Floor Space of the buildings in the Development shall be changed due to any construction or alteration, the denominator of the Building Fraction shall be increased or decreased to reflect such change.

H. Business Days: All days except Saturdays, Sundays, days observed by the federal or state government as legal holidays and such other holidays as shall be designated as holidays by the applicable building service union employees' service contract or by the applicable operating engineers' contract.

I. Business Hours: Generally customary daytime business hours, but not before 8:00 A.M. or after 6:00 P.M.

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J. Calendar Year: Any twelve-month period commencing on a January 1.

K. Commencement Date: June 1, 2009.

L. Common Areas: All areas, spaces and improvements in the Building and on the Land which Landlord makes available from time to time for the common use and benefit of the tenants and occupants of the Building and which are not exclusively available for use by a single tenant or occupant, including, without limitation, parking areas, roads, walkways, sidewalks, landscaped and planted areas, community rooms, if any, the managing agent's office, if any, and public rest rooms, if any.

M. Demised Premises: The space that is or will be located on the third (3<sup>rd</sup>) and fourth (4<sup>th</sup>) floors of the Building and that is indicated on the floor plan(s) attached hereto as Exhibit A. The Demised Premises contains or will contain approximately 119,979 square feet of Floor Space [comprised of 73,554 square feet of Floor Space on the third (3<sup>rd</sup>) floor and 46,425 square feet of Floor Space on the fourth (4<sup>th</sup>) floor] subject to adjustment upon verification by the Architect.

N. Development: All lands and improvements now existing or hereafter constructed, in which Landlord or its related entities has an interest, located north of Route 3, east of the eastern spur of the New Jersey Turnpike, south of 69th Street and west of West Side Avenue. The Development is outlined in red on the attached Exhibit A-1.

O. Development Common Areas: The roads and bridges that from time to time service and provide access to the Development for the common use of the tenants, invitees, occupants of the Development, that are maintained by Landlord or its related entities, including the New Jersey Turnpike overpass and the bridge over Route 3.

P. Expiration Date: The date that is the day before the twentieth (20<sup>th</sup>) anniversary of the Commencement Date if the Commencement Date is the first day of a month, or the twentieth (20<sup>th</sup>) anniversary of the last day of the month in which the Commencement Date occurs if the Commencement Date is not the first day of a month. However, if the Term is extended by Tenant's effective exercise of Tenant's right, if any, to extend the Term, the "Expiration Date" shall be changed to the last day of the last extended period as to which Tenant shall have effectively exercised its right to extend the Term. For the purposes of this definition, the earlier termination of this Lease shall not affect the "Expiration Date." Notwithstanding anything contained herein to the contrary, provided Tenant is in compliance with all of the terms and conditions contained herein, and provided Tenant has not assigned this Lease or sublet all or any portion of the Demised Premises and is itself in occupation and conducting business in the whole of the Demised Premises in accordance with the terms of this Lease, Tenant expressly acknowledging and agreeing that the termination right described below is personal to the original named Tenant, Tenant shall have a one (1) time right ("Tenant's Termination Right"), exercisable by delivery of irrevocable written notice ("Tenant's Termination Notice") given to Landlord on or prior to the fourteenth (14<sup>th</sup>) anniversary of the Commencement Date (the "Termination Notice Date"), to terminate this Lease which termination shall be effective upon the fifteenth (15<sup>th</sup>) anniversary of the Commencement Date (the

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"Early Expiration Date"); provided and upon the express condition that Tenant shall pay to Landlord in consideration of Tenant's exercise of Tenant's Termination Right, in immediately available funds, contemporaneously with the delivery of the Tenant's Termination Notice, the sum of Three Million and No/100 Dollars (\$3,000,000.00) (the "Termination Fee"). In such event, Tenant shall vacate and surrender the Demised Premises no later than the Early Expiration Date in accordance with Article 26 hereof. Tenant agrees that it shall have forever waived its right to exercise Tenant's Termination Right if it shall fail for any reason whatsoever to give such notice to Landlord by the Termination Notice Date, whether such failure is inadvertent or intentional, time being of the essence as to the exercise of Tenant's Termination Right. Tenant further agrees that it shall have forever waived its right to exercise Tenant's Termination Right if it shall fail for any reason whatsoever to make payment of the Termination Fee contemporaneously with the delivery of the Termination Notice.

Q. Fixed Rent: An amount at the annual rate of: (i) Twenty Seven and 50/100 Dollars (\$27.50) per square foot multiplied by the Floor Space of the Demised Premises for the period from the Commencement Date until the day prior to the fifth (5<sup>th</sup>) anniversary of the Commencement Date; and (ii) Twenty Nine and 50/100 Dollars (\$29.50) per square foot multiplied by the Floor Space of the Demised Premises for the period from the fifth (5<sup>th</sup>) anniversary of the Commencement Date until the day prior to the tenth (10<sup>th</sup>) anniversary of the Commencement Date; and (iii) Thirty One and no/100 Dollars (\$31.00) per square foot multiplied by the Floor Space of the Demised Premises for the period from the tenth (10<sup>th</sup>) anniversary of the Commencement Date until the day prior to the fifteenth (15<sup>th</sup>) anniversary of the Commencement Date; and (iv) Thirty Three and 50/100 Dollars (\$33.50) per square foot multiplied by the Floor Space of the Demised Premises from the fifteenth (15<sup>th</sup>) anniversary of the Commencement Date until the Expiration Date. It is intended that the Fixed Rent

shall be an absolutely net return to Landlord throughout the Term, free of any expense, charge or other deduction whatsoever, with respect to the Demised Premises, the Building, the Land and/or the ownership, leasing, operation, management, maintenance, repair, rebuilding, use or occupation thereof, or any portion thereof, with respect to any interest of Landlord therein, except as may otherwise expressly be provided in this Lease.

R Floor Space: As to the Demised Premises, shall be the quotient the numerator of which is the sum of the floor area stated in square feet bounded by the exterior faces of the exterior walls, or by the exterior or Common Area face of any wall between the Demised Premises and any portion of the Common Areas, or by the center line of any wall between the Demised Premises and space leased or available to be leased to a tenant or occupant, and the denominator of which is equal to one minus the Loss Factor (as hereinafter defined). For purposes of this Lease the Loss Factor shall be 13.80 %. Any reference to Floor Space of a building shall mean the floor area of all levels or stories of such building, excluding any roof, except such portion thereof (other than cooling towers, elevator penthouses, mechanical rooms, chimneys and staircases, entrances and exits) as is permanently enclosed, and including any interior basement level or mezzanine area not occupied or used by a tenant on a continuing or repetitive basis, and any mechanical room, enclosed or interior truck dock, interior Common Areas, and areas used by Landlord for storage, for housing meters and/or other equipment or for other purposes. Any reference to the Floor Space is intended to refer to the Floor Space of the entire area in question irrespective of the Person(s) who may be the owner(s) of all or any part thereof.

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S. Guarantor: The Children's Place Retail Stores, Inc. Tenant shall cause the Guarantor to execute and deliver a Guaranty in the form annexed hereto as Exhibit G contemporaneously with the execution and delivery of this Lease.

T. Insurance Requirements: Rules, regulations, orders and other requirements of the applicable board of underwriters and/or the applicable fire insurance rating organization and/or any other similar body performing the same or similar functions and having jurisdiction or cognizance over the Land and Building, whether now or hereafter in force.

U. Land: The Land upon which the Building and Common Areas are located. The Land is described on Exhibit B.

V. Intentionally omitted.

W. Legal Requirements: Laws and ordinances of all federal, state, city, town, county, borough and village governments, and rules, regulations, orders and directives of all departments, subdivisions, bureaus, agencies or offices thereof, and of any other governmental, public or quasi-public authorities having jurisdiction over the Land and Building, whether now or hereafter in force, including, but not limited to, those pertaining to environmental matters.

X. Mortgage: A mortgage and/or a deed of trust.

Y. Mortgagee: A holder of a mortgage or a beneficiary of a deed of trust.

Z. Operating Expenses: The sum of the following: (1) the cost and expense (whether or not within the contemplation of the parties) for the repair, replacement, maintenance, policing, insurance and operation of the Building and Land, and (2) the Building Fraction of the sum of (a) the cost and expense for the repair, replacement, maintenance, policing, insurance and operation of the Development Common Areas; (b) the Real Estate Taxes, if any, attributable to the Development Common Areas and (3) the Parking Charges. The "Operating Expenses" shall, include, without limitation, the following: (i) the cost for rent, casualty, liability, boiler and fidelity insurance, (ii) if an independent managing agent is employed by Landlord, the fees payable to such agent (provided the same are competitive with the fees payable to independent managing agents of comparable facilities in Hudson County), and (iii) costs and expenses incurred for legal, accounting and other professional services (including, but not limited to, costs and expenses for in-house or staff legal counsel or outside counsel at rates not to exceed the reasonable and customary charges for any such services as would be imposed in an arms length third party agreement for such services). In all years subsequent to Base Year, if Landlord is itself managing the Building and has not employed an independent third party for such management, Landlord shall be entitled to 15% of the resulting total of all of the foregoing items making up "Operating Expenses" for Landlord's home office administration and overhead cost and expense. All items included in Operating Expenses shall be determined in accordance with generally accepted accounting principles consistently applied. Notwithstanding anything herein contained to the contrary, Operating Expenses shall not include

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the following: (a) expenses for which Landlord is reimbursed by insurance, or is otherwise directly compensated therefore (other than tenant reimbursements for Operating Expenses); (b) expenses associated with any breach of this Lease by Landlord, or resulting from the breach by any other tenant in the Building of its' lease with Landlord; (c) financing costs in connection with any financing of the Land and/or Building; and (d) brokerage fees and costs incurred for improvements for other tenants in the Building.

AA. Parking Charges: The cost and expense of the repair, replacement, striping, maintenance, policing, insurance, Real Estate Taxes, utilities, and landscaping attributable to the pro rata share of the parking deck(s) allocated to the Building. The pro rata share shall be determined based upon the number of parking spaces allocated to the Building divided by the total number of the parking spaces in the parking deck(s). The parking charges shall include expenses attributable only to the parking deck(s) and shall not include expenses attributable to any other improvements.

BB. Permitted Uses: Executive offices of a character consistent with that of a first class office building.

CC. Person: A natural person or persons, a partnership, a corporation, or any other form of business or legal association or entity.

DD. Intentionally omitted.

EE. Real Estate Taxes: The real estate taxes, assessments and special assessments imposed upon the Building, Land and/or Development by any federal, state, municipal or other governments or governmental bodies or authorities, and any expenses incurred by Landlord in contesting such taxes or assessments and/or the assessed value of the Building, Land, or Development which expenses shall be allocated to the period of time to which such expenses relate. If at any time during the Term the methods of taxation prevailing on the date hereof shall be altered so that in lieu of, or as an addition to or as a substitute for, the whole or any part of such real estate taxes, assessments and special assessments now imposed on real estate there shall be levied, assessed

or imposed (a) a tax, assessment, levy, imposition, license fee or charge wholly or partially as a capital levy or otherwise on the rents received therefrom, or (b) any other such additional or substitute tax, assessment, levy, imposition or charge, then all such taxes, assessments, levies, impositions, fees or charges or the part thereof so measured or based shall be deemed to be included within the term "Real Estate Taxes" for the purposes hereof.

FF. Rent: The Fixed Rent and the Additional Charges.

GG. Rules and Regulations: The reasonable rules and regulations that may be promulgated by Landlord from time to time, which may be reasonably changed by Landlord from time to time. The Rules and Regulations now in effect are attached hereto as Exhibit D.

HH. Security Deposit: \$292,900.00

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II. Intentionally omitted.

JJ. Successor Landlord: As defined in Section 9.03.

KK. Superior Lease: Any lease to which this Lease is, at the time referred to, subject and subordinate.

LL. Superior Lessor: The lessor of a Superior Lease or its successor in interest, at the time referred to.

MM. Superior Mortgage: Any Mortgage to which this Lease is, at the time referred to, subject and subordinate.

NN. Superior Mortgagee: The Mortgagee of a Superior Mortgage at the time referred to.

OO. Tenant's Fraction: The Tenant's Fraction shall mean the fraction, the numerator of which shall be the Floor Space of the Demised Premises and the denominator of which shall be the Floor Space of the Building (predicated on Demised Premises of 119,979 square feet of Floor Space, Tenant's Fraction would be 26.92 %). If the size of the Demised Premises or the Building shall be changed from the initial size thereof, due to any taking, any construction or alteration work or otherwise, the Tenant's Fraction shall be changed to the fraction the numerator of which shall be the Floor Space of the Demised Premises and the denominator of which shall be the Floor Space of the Building. In the event Landlord determines, through reasonable investigation, that Tenant's utilization of any item of Operating Expenses exceeds the fraction referred to above, Tenant's Fraction with respect to such item shall, at Landlord's option, mean the percentage of any such item (but not less than the fraction referred to above) which Landlord reasonably estimates as Tenant's proportionate share thereof.

PP. Tenant's Property: As defined in Section 16.02.

QQ. Tenant's Work: The facilities, materials and work which may be undertaken by or for the account of Tenant (other than the Landlord's Work) to equip, decorate and furnish the Demised Premises for Tenant's occupancy in accordance with the provisions of Exhibit C.

RR. Term: The period commencing on the Commencement Date and ending at 11:59 p.m. of the Expiration Date, but in any event the Term shall end on the date when this Lease is earlier terminated.

SS. Unavoidable Delays: A delay arising from or as a result of a strike, lockout, or labor difficulty, explosion, sabotage, accident, riot or civil commotion, act of war, fire or other catastrophe, Legal Requirement or an act of the other party and any cause beyond the reasonable control of that party, provided that the party asserting such Unavoidable Delay has exercised its best efforts to minimize such delay.

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## ARTICLE 2 - DEMISE AND TERM

2.01. Landlord hereby leases to Tenant, and Tenant hereby hires from Landlord, the Demised Premises, for the Term.

## ARTICLE 3 - RENT

3.01. Tenant shall pay the Fixed Rent in equal monthly installments in advance on the first day of each and every calendar month during the Term. If the Commencement Date occurs on a day other than the first day of a calendar month, the Fixed Rent for the partial calendar month at the commencement of the Term shall be prorated.

3.02. The Rent shall be paid in lawful money of the United States to Landlord at its office, or such other place, or Landlord's agent, as Landlord shall designate by notice to Tenant. Tenant shall pay the Rent promptly when due without notice or demand therefor and without any abatement, deduction or setoff for any reason whatsoever, except as may be expressly provided in this Lease. If Tenant makes any payment to Landlord by check, same shall be by check of Tenant and Landlord shall not be required to accept the check of any other Person, and any check received by Landlord shall be deemed received subject to collection. If any check is mailed by Tenant, Tenant shall post such check in sufficient time prior to the date when payment is due so that such check will be received by Landlord on or before the date when payment is due. Tenant shall assume the risk of lateness or failure of delivery of the mails, and no lateness or failure of the mails will excuse Tenant from its obligation to have made the payment in question when required under this Lease.

3.03. No payment by Tenant or receipt or acceptance by Landlord of a lesser amount than the correct Rent shall be deemed to be other than a payment on account, nor shall any endorsement or statement on any check or any letter accompanying any check or payment be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance or pursue any other remedy in this Lease or at law provided.

3.04. If Tenant is in arrears in payment of Rent, Tenant waives Tenant's right, if any, to designate the items to which any payments made by Tenant are to be credited, and Landlord may apply any payments made by Tenant to such items as Landlord sees fit, irrespective of and notwithstanding any designation or request by Tenant as to the items to which any such payments shall be credited.

3.05. In the event that any installment of Rent due hereunder shall be overdue, a "Late Charge" equal to four percent (4%) or the maximum rate permitted by law, whichever is less ("Late Payment Rate") for Rent so overdue may be charged by Landlord for each month or part thereof that the same remains overdue ("Late Payment Rate"). In the event that any check tendered by Tenant to Landlord is returned for insufficient funds, Tenant shall pay to Landlord, in addition to the charge imposed by the preceding sentence, a fee of \$50.00. Any such Late Charges if not previously paid shall, at the option of the Landlord, be added to and become part of the next succeeding Rent

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payment to be made hereunder. Notwithstanding anything herein contained to the contrary, as to the original named Tenant and any Permitted Assignee(s) (as that term is defined in Article 11.02 hereinbelow), the Late Charge shall be waived once per Calendar Year provided payment is received by Landlord within ten (10) days of its due date.

#### ARTICLE 4 - USE OF DEMISED PREMISES

4.01. Tenant shall use and occupy the Demised Premises for the Permitted Uses, and Tenant shall not use or permit or suffer the use of the Demised Premises or any part thereof for any other purpose. Landlord represents that the Demised Premises are legally zoned for the Permitted Uses.

4.02. If any governmental license or permit, including a Certificate of Occupancy shall be required for the proper and lawful conduct of Tenant's business in the Demised Premises or any part thereof, Tenant shall duly procure and thereafter maintain such license or permit and submit the same to Landlord for inspection. Tenant shall at all times comply with the terms and conditions of each such license or permit. Tenant shall not at any time use or occupy, or suffer or permit anyone to use or occupy the Demised Premises, or do or permit anything to be done in the Demised Premises, in any manner which (a) violates the Certificate of Occupancy for the Demised Premises or for the Building; (b) causes or is liable to cause injury to the Building or any equipment, facilities or systems therein; (c) constitutes a violation of the Legal Requirements or Insurance Requirements; (d) impairs the character, reputation or appearance of the Building as a first-class office building; (e) impairs the proper and economic maintenance, operation and repair of the Building and/or its equipment, facilities or systems; or (f) unreasonably annoys or inconveniences other tenants or occupants of the Building.

#### ARTICLE 5 - PREPARATION OF DEMISED PREMISES

5.01.(a) The Demised Premises shall be delivered to Tenant, and Tenant agrees to accept the same, in "as is" condition; except, however, that prior to delivery of possession of the Demised Premises, Landlord shall (i) remove the staircase between the fourth (4<sup>th</sup>) and fifth (5<sup>th</sup>) floors of the Building and shall replace the floor in the area of the staircase so removed, and (ii) remove all furniture systems (belonging to the existing tenant) from the Demised Premises. Except as expressly provided to the contrary in this Lease, the taking of possession by Tenant of the Demised Premises shall be conclusive evidence as against Tenant that the Demised Premises and the Building were in good and satisfactory condition at the time such possession was taken. Notwithstanding anything herein contained to the contrary, Landlord agrees that the existing mechanical systems will be in good working order upon delivery of the Demised Premises to Tenant.

5.01.(b)(i) Except as expressly set forth in Article 5.01 (a) above, Tenant shall be responsible for all construction and work to prepare the Demised Premises for Tenant's occupancy at Tenant's cost and expense. Such construction shall be in accordance with Section 39.09 of this Lease. Prior to performing any work in the Demised Premises, Tenant shall, within thirty (30) days of the date

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thereof submit to Landlord for approval final plans and specifications for all construction work in the Demised Premises including, but not limited to layout, mechanical, electrical and plumbing plans and finish schedules ("Plans and Specifications"). Tenant shall employ licensed architect(s) and/or engineer(s) for the preparation of the Plans and Specifications. Landlord shall notify Tenant of Landlord's approval or disapproval of such Plans and Specifications no later than twenty (20) days after receipt by Landlord. If Landlord disapproves, Landlord shall specify the reasons for disapproval and Tenant shall, within ten (10) Business Days of receipt of notice of Landlord's disapproval, resubmit revised Plans and Specifications that correct such items. If Landlord has not responded to Tenant's submission of Plans and Specifications within twenty (20) days of receipt thereof, Tenant's Plans and Specifications so submitted shall be deemed approved.

(ii) Tenant shall obtain and provide all design and architectural services necessary to perform Tenant's Work and shall be responsible for complying with all building codes and Legal Requirements in connection with Tenant's Work, prior to commencing any work in the Demised Premises. Upon completion of Tenant's Work, or upon such earlier date that Tenant seeks to occupy the Demised Premises, Tenant shall obtain a permanent certificate of occupancy of the Demised Premises for the Permitted Uses. The construction of the Demised Premises shall be performed in a first class workmanlike manner. At all times when construction of the Demised Premises is in progress and prior to the Commencement Date, Tenant shall maintain or cause to be maintained the insurance coverage required under Section 13.02.

(iii) Tenant shall be solely responsible for the structural integrity of the improvements and for the adequacy or sufficiency of the Plans and Specifications and all the improvements depicted thereon or covered thereby, and Landlord's consent thereto, approval thereof, or incorporation therein of any of its recommendations shall in no way diminish Tenant's responsibility therefor or reduce or mitigate Tenant's liability in connection therewith. Landlord shall have no obligations or liabilities by reason of this Lease in connections with the performance of construction or of the finish, decorating or installation work performed by Tenant, or on its behalf, or in connection with the contracts for the performance thereof entered into by Tenant. Any warranties extended or available to Tenant in connection with the aforesaid work shall be for the benefit also of Landlord. Tenant further agrees that once it commences construction, it shall diligently and continuously proceed with construction to completion.

(iv) Notwithstanding anything contained in this Article to the contrary, in connection with Tenant's engagement of a "Construction Manager" and/or "General Contractor" for the performance of Tenant's Work, Tenant hereby agrees to allow Landlord to participate in Tenant's bid solicitation process. In no event, however, shall Tenant be obligated to engage Landlord as its Construction Manager and/or General Contractor.

5.02. If Landlord is unable to give possession of the Demised Premises on the Commencement Date because of the holding-over or retention of possession by any tenant, undertenant or occupant, Landlord shall not be subject to any liability for failure to give possession, the validity of this Lease shall not be impaired under such circumstances, and the Term shall not be extended, but the Rent shall be abated if Tenant is not responsible for the inability to obtain

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possession.

5.03. Landlord reserves the right, at any time and from time to time, to increase, reduce or change the number, type, size, location, elevation, nature and use of any of the Common Areas and the Building and any other buildings and other improvements on the Land, including, without limitation, the right to move and/or remove same, provided same shall not unreasonably block or interfere with (i) Tenant's means of ingress or egress to and from the Demised Premises, or (ii) Tenant's ability to use and occupy the Demised Premises for purposes of conducting the Permitted Uses therein. If, as a direct and proximate result of Landlord's exercise of its' rights under this Article 5.03, Tenant is physically unable to use and occupy the Demised Premises for purposes of conducting the Permitted Uses therein for a period in excess of three (3) consecutive Business Days [any such period in excess of three (3) consecutive Business Days that Tenant is unable to use and occupy the Demised Premises shall hereinafter be referred to as a "Period of Interruption"], then, upon notice to Landlord, the Rent shall abate during the Period of Interruption until such time as Tenant is once again able to use and occupy the Demised Premises for purposes of conducting the Permitted Uses therein.

5.04. Landlord hereby represents, to the best of its knowledge and belief without investigation, that it is unaware of any structural defects impacting the Demised Premises or the Building.

#### ARTICLE 6 - TAX AND OPERATING EXPENSE PAYMENTS

6.01. Tenant shall pay to Landlord, as hereinafter provided, Tenant's Fraction of the Real Estate Taxes. Tenant's Fraction of the Real Estate Taxes shall be the Real Estate Taxes in respect of the Building for the period in question, less the Real Estate Taxes attributable to the Base Year, multiplied by the Tenant's Fraction, plus the Real Estate Taxes in respect of the Land for the period in question, less the Real Estate Taxes attributable to the Base Year, multiplied by the Tenant's Fraction. If any portion of the Building shall be exempt from all or any part of the Real Estate Taxes, then for the period of time when such exemption is in effect, the Floor Space on such exempt portion shall be excluded when making the above computations in respect of the part of the Real Estate Taxes for which such portion shall be exempt. Landlord shall estimate the annual amount of Tenant's Fraction of the Real Estate Taxes (which estimate may be changed by Landlord at any time and from time to time), and Tenant shall pay to Landlord 1/12th of the amount so estimated on the first day of each month in advance. Tenant shall also pay to Landlord on demand from time to time the amount which, together with said monthly installments, will be sufficient in Landlord's reasonable estimation to pay Tenant's Fraction of any Real Estate Taxes thirty (30) days prior to the date when such Real Estate Taxes shall first become due. When the amount of any item comprising Real Estate Taxes is finally determined for a real estate fiscal tax year, Landlord shall submit to Tenant a statement in reasonable detail of the same (with copies of the appropriate Real Estate Tax bills), and the figures used for computing Tenant's Fraction of the same, and if Tenant's Fraction so stated is more or less than the amount theretofore paid by Tenant for such item based on Landlord's estimate, Tenant shall pay to Landlord the deficiency within ten (10) days after submission

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of such statement, or Landlord shall, at Tenant's option, either refund to Tenant the excess or apply same to future installments of Real Estate Taxes due hereunder. Any Real Estate Taxes for a real estate fiscal tax year, a part of which is included within the Term and a part of which is not so included, shall be apportioned on the basis of the number of days in the real estate fiscal tax year included in the Term, and the real estate fiscal tax year for any improvement assessment will be deemed to be the one-year period commencing on the date when such assessment is due, except that if any improvement assessment is payable in installments, the real estate fiscal tax year for each installment will be deemed to be the one-year period commencing on the date when such installment is due. The above computations shall be made by Landlord in accordance with generally accepted accounting principles, and the Floor Space referred to will be based upon the average of the Floor Space in existence on the first day of each month during the period in question. In addition to the foregoing, Tenant shall be responsible for any increase in Real Estate Taxes attributable to assessments for improvements installed by or for the account of Tenant at the Demised Premises. If the Demised Premises are not separately assessed, the amount of any such increase shall be determined by reference to the records of the tax assessor.

6.02. Tenant shall pay to Landlord, as hereinafter provided, Tenant's Fraction of the Operating Expenses. Tenant's Fraction of the Operating Expenses shall be the Operating Expenses for the period in question, less the Operating Expenses for the Base Year, multiplied by Tenant's Fraction. Landlord shall estimate Tenant's annual Fraction of the Operating Expenses (which estimate may be reasonably changed by Landlord from time to time), and Tenant shall pay to Landlord 1/12th of the amount so estimated on the first day of each month in advance. If at any time Landlord changes its estimate of Tenant's Fraction of the Operating Expenses for the then current Calendar Year or partial Calendar Year, Landlord shall give notice to Tenant of such change and within ten (10) days after such notice Landlord and Tenant shall adjust for any overpayment or underpayment during the prior months of the then current Calendar Year or partial Calendar Year. After the end of each Calendar Year, including any partial Calendar Year at the beginning of the Term, and after the end of the Term, Landlord shall submit to Tenant a statement in reasonable detail (and accompanied by "back-up" documentation in support of such calculations) stating Tenant's Fraction of the Operating Expenses for such Calendar Year, or partial Calendar Year in the event the Term shall begin on a date other than a January 1st and/or end on a date other than a December 31st, as the case may be, and stating the Operating Expenses for the period in question and the figures used for computing Tenant's Fraction, and if Tenant's Fraction so stated for such period is more or less than the amount paid for such period, Tenant shall pay to Landlord the deficiency within ten (10) days after submission of such statement, or Landlord shall, at Tenant's option, either refund to Tenant the excess or apply same to future installments of Operating Expenses due hereunder. All computations shall be made in accordance with generally accepted accounting principles.

6.03. Each such statement given by Landlord pursuant to Section 6.01 or Section 6.02 shall be conclusive and binding upon Tenant unless within sixty (60) days after the receipt of such statement Tenant shall notify Landlord that it disputes the correctness of the statement, specifying the particular respects in which the statement is claimed to be incorrect. If such dispute is not settled by agreement, either party may (but shall not be obligated to) submit the dispute to arbitration as provided in Article 36. Pending the determination of such dispute by agreement or

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arbitration as aforesaid, Tenant shall, within ten (10) days after receipt of such statement, pay the Additional Charges in accordance with Landlord's statement, without prejudice to Tenant's position. If the dispute shall be determined in Tenant's favor, Landlord shall forthwith pay to Tenant the amount of Tenant's overpayment resulting from compliance with Landlord's statement.

6.04. In determining the amount of Operating Expenses for the Base Year and all subsequent Calendar Years for the purpose of this Article 6 and Article 1.01 Z., Landlord agrees that if less than 95% of the Floor Space in the Building shall have been occupied by tenants and fully used by them at any time during the year, including without limitation the Base Year, Operating Expenses shall be deemed for the purposes of this Article to be increased to an amount equal to the like Operating Expense which would normally be expected to be incurred, had such occupancy been 95% and had such full utilization been made during the entire period.

#### ARTICLE 7 - COMMON AREAS

7.01. So long as Tenant is not in default under this Lease beyond the applicable cure period, subject to the provisions of Section 5.04, Landlord will operate, manage, equip, light, repair and maintain, or cause to be operated, managed, equipped, lighted, repaired and maintained, the Common Areas for their intended purposes and in a manner consistent with that of a first class office building in Hudson County, New Jersey. Landlord reserves the right, at any time and from time to time, to construct within the Common Areas kiosks, fountains, aquariums, planters, pools and sculptures, and to install vending machines, telephone booths, benches and the like, provided same shall not unreasonably block or interfere with Tenant's means of ingress or egress to and from the Demised Premises, and provided the same are consistent with installations in first class office buildings in Hudson County, New Jersey.

7.02. So long as Tenant is not in default under this Lease beyond the applicable cure period, Tenant and its subtenants and concessionaires, and their respective officers, employees, agents, customers and invitees, shall have the non-exclusive right, in common with Landlord and all others to whom Landlord has granted or may hereafter grant such right, but subject to the Rules and Regulations, to use the Common Areas. Landlord reserves the right, at any time and from time to time, to close temporarily all or any portions of the Common Areas when in Landlord's reasonable judgment any such closing is necessary or desirable (a) to make repairs or changes or to effect construction, (b) to prevent the acquisition of public rights in such areas, (c) to discourage unauthorized parking, or (d) to protect or preserve natural persons or property. Landlord may do such other acts in and to the Common Areas as in its judgment may be desirable to improve or maintain same.

7.03. Tenant agrees that it, any subtenant or licensee and their respective officers, employees, contractors and agents will park their automobiles and other vehicles only where and as permitted by Landlord. Tenant will, if and when so requested by Landlord, furnish Landlord with the license numbers of any vehicles of Tenant, any subtenant or licensee and their respective officers,

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employees and agents.

7.04 Tenant shall be entitled to the use of a total of four (4) parking spaces per 1000 square feet of Floor Space of the Demised Premises. 22 of the parking spaces shall be located under the Building and shall be for the exclusive use of Tenant. The remainder of the parking spaces shall be located in the parking deck(s) and grade level parking serving the Building and shall be provided on a non-exclusive basis.

#### ARTICLE 8 - SECURITY

8.01. Tenant has deposited with Landlord the Security Deposit as security for the full and faithful payment and performance by Tenant of Tenant's obligations under this Lease. If Tenant defaults in the full and prompt payment and performance of any of its obligations under this Lease, including, without limitation, the payment of Rent, Landlord may use, apply or retain the whole or any part of the Security Deposit to the extent required for the payment of any Rent or any other sums as to which Tenant is in default or for any sum which Landlord may expend or may be required to expend by reason of Tenant's default in respect of any of Tenant's obligations under this Lease, including, without limitation, any damages or deficiency in the reletting of the Demised Premises, whether such damages or deficiency accrue before or after summary proceedings or other re-entry by Landlord. If Landlord shall so use, apply or retain the whole or any part of the security, Tenant shall upon demand immediately deposit with Landlord a sum equal to the amount so used, applied and retained, as security as aforesaid. If Tenant shall fully and faithfully pay and perform all of Tenant's obligations under this Lease, the Security Deposit or any balance thereof to which Tenant is entitled shall be returned or paid over to Tenant within thirty (30) days after the later of (i) the date on which this Lease shall expire or sooner end or terminate, and (ii) delivery to Landlord of entire possession of the Demised Premises. In the event of any sale or leasing of the Land, Landlord shall have the right to transfer the security to which Tenant is entitled to the vendee or lessee and Landlord shall thereupon be released by Tenant from all liability for the return or payment thereof; and Tenant shall look solely to the new landlord for the return or payment of the same; and the provisions hereof shall apply to every transfer or assignment made of the same to a new landlord. Tenant shall not assign or encumber or attempt to assign or encumber the monies deposited herein as security, and neither Landlord nor its successors or assigns shall be bound by any such assignment, encumbrance, attempted assignment or attempted encumbrance. The Security Deposit shall be considered trust funds for the purpose of carrying out the provisions of this Lease. Any use of the Security Deposit, other than for the purpose of carrying out the provisions of this Lease, shall be deemed a default of this Lease. In the event the Demised Premises are sold and the Security Deposit is transferred to the contract vendee, Landlord shall obtain and provide to Tenant a certification executed by the contract vendee confirming receipt of the Security Deposit by the latter.

8.01(b). In lieu of the cash security required by this Lease, Tenant shall provide to Landlord an irrevocable Letter of Credit in the amount of the Security Deposit in form annexed hereto as Exhibit F and issued by a financial institution approved by Landlord and otherwise conforming

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to Exhibit F, annexed hereto and made a part hereof. Landlord shall have the right, upon written notice to Tenant (except for Tenant's non-payment of Rent or for Tenant's failure to comply with Article 8.03 for which no notice shall be required), and regardless of the exercise of any other remedy the Landlord may have by reason of a default, to draw upon said Letter of Credit to cure any default of Tenant or for any purpose authorized by section 8.01(a) of this Lease and if Landlord does so, Tenant shall, upon demand, additionally fund the Letter of Credit with the amount so drawn so that Landlord shall have the full deposit

on hand at all times during the Term of the Lease and for a period of thirty (30) days' thereafter. In the event of a sale of the Building or a lease of the Building subject to this Lease, Landlord shall have the right to transfer the security to the vendee or lessee.

8.02. The Letter of Credit shall expire not earlier than thirty (30) days after the Expiration Date of this Lease. Upon Landlord's prior consent, the Letter of Credit may be of the type which is automatically renewed on an annual basis (Annual Renewal Date), provided however, in such event Tenant shall maintain the Letter of Credit and its renewals in full force and effect during the entire Term of this Lease (including any renewals or extensions) and for a period of thirty (30) days thereafter. The Letter of Credit will contain a provision requiring the issuer thereof to give the beneficiary (Landlord) sixty (60) days' advance written notice of its intention not to renew the Letter of Credit on the next Annual Renewal Date.

8.03. In the event Tenant shall fail to deliver to Landlord a substitute irrevocable Letter of Credit, in the amount stated above, on or before thirty (30) days prior to the next Annual Renewal Date, said failure shall be deemed a default under this Lease. Landlord may, in its discretion treat the same as a default in the payment of Rent or any other default and pursue the appropriate remedy. In addition, and not in limitation, Landlord shall be permitted to draw upon the Letter of Credit as in the case of any other default by Tenant under the Lease.

#### ARTICLE 9 - SUBORDINATION

9.01. This Lease, and all rights of Tenant hereunder, are and shall be subject and subordinate to all ground leases and underlying leases of the Land and/or the Building now or hereafter existing and to all Mortgages which may now or hereafter affect the Land and/or building and/or any of such leases, whether or not such Mortgages or leases shall also cover other lands and/or buildings, to each and every advance made or hereafter to be made under such Mortgages, and to all renewals, modifications, replacements and extensions of such leases and such Mortgages and spreaders and consolidations of such Mortgages. The provisions of this Section 9.01 shall be self-operative and no further instrument of subordination shall be required. In confirmation of such subordination, Tenant shall promptly execute, acknowledge and deliver any instrument that Landlord, the lessor under any such lease or the Mortgagee of any such Mortgage or any of their respective successors in interest may reasonably request to evidence such subordination; and if Tenant fails to execute, acknowledge or deliver any such instruments within 10 days after request therefor, Tenant hereby irrevocably constitutes and appoints Landlord as Tenant's attorney-in-fact, coupled with an interest, to execute and deliver any such instruments for and on behalf of Tenant.

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9.02. If any act or omission of Landlord would give Tenant the right, immediately or after lapse of a period of time, to cancel or terminate this Lease, or to claim a partial or total eviction, Tenant shall not exercise such right (a) until it has given written notice of such act or omission to Landlord and each Superior Mortgagee and each Superior Lessor whose name and address shall previously have been furnished to Tenant, and (b) until a reasonable period for remedying such act or omission shall have elapsed following the giving of such notice and following the time when such Superior Mortgagee or Superior Lessor shall have become entitled under such Superior Mortgage or Superior Lease, as the case may be, to remedy the same (which reasonable period shall in no event be less than the period to which Landlord would be entitled under this Lease or otherwise, after similar notice, to effect such remedy), provided such Superior Mortgagee or Superior Lessor shall with due diligence give Tenant notice of intention to, and commence and continue to, remedy such act or omission.

9.03. If any Superior Lessor or Superior Mortgagee shall succeed to the rights of Landlord under this Lease, whether through possession or foreclosure action or delivery of a new lease or deed, then at the request of such party so succeeding to Landlord's rights ("Successor Landlord") and upon such Successor Landlord's written agreement to accept Tenant's attornment, Tenant shall attorn to and recognize such Successor Landlord as Tenant's landlord under this Lease and shall promptly execute and deliver any instrument that such Successor Landlord may reasonably request to evidence such attornment. Upon such attornment this Lease shall continue in full force and effect as a direct lease between the Successor Landlord and Tenant upon all of the terms, conditions and covenants as are set forth in this Lease except that the Successor Landlord shall not (a) be liable for any previous act or omission of Landlord under this Lease; (b) be subject to any offset, not expressly provided for in this Lease, which theretofore shall have accrued to Tenant against Landlord; (c) be liable for the return of any Security Deposit, in whole or in part, to the extent that same is not paid over to the Successor Landlord; or (d) be bound by any previous modification of this Lease or by any previous prepayment of more than one month's Fixed Rent or Additional Charges, unless such modification or prepayment shall have been expressly approved in writing by the Superior Lessor of the Superior Lease or the Mortgagee of the Superior Mortgage through or by reason of which the Successor Landlord shall have succeeded to the rights of Landlord under this Lease.

9.04. If any then present or prospective Superior Mortgagee shall require any modification(s) of this Lease, Tenant shall promptly execute and deliver to Landlord such instruments effecting such modification(s) as Landlord shall request, provided that such modification(s) do not adversely affect in any material respect any of Tenant's rights under this Lease.

#### ARTICLE 10 - QUIET ENJOYMENT

10.01. So long as Tenant pays all of the Rent and performs all of Tenant's other obligations hereunder, Tenant shall peaceably and quietly have, hold and enjoy the Demised Premises without hindrance, ejection or molestation by Landlord or any person lawfully claiming through or under Landlord, subject, nevertheless, to the provisions of this Lease and to Superior Leases and Superior Mortgages.

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#### ARTICLE 11 - ASSIGNMENT, SUBLETTING AND MORTGAGING

11.01. Tenant shall not, whether voluntarily, involuntarily, or by operation of law or otherwise, (a) assign or otherwise transfer this Lease, or offer or advertise to do so, (b) sublet the Demised Premises or any part thereof, or offer or advertise to do so, or allow the same to be used, occupied or utilized by anyone other than Tenant, or (c) mortgage, pledge, encumber or otherwise hypothecate this Lease in any manner whatsoever, without in each instance obtaining the prior written consent of Landlord.

Landlord agrees not to unreasonably withhold its consent to the subletting of the Demised Premises or an assignment of this Lease. In determining reasonableness, Landlord may take into consideration all relevant factors surrounding the proposed sublease and assignment, including, without limitation, the following: (i) The business reputation of the proposed assignee or subtenant and its officers or directors in relation to the other tenants or occupants of the Building or Development; (ii) the nature of the business and the proposed use of the Demised Premises by the proposed assignee or subtenant in relation to

the other tenants or occupants of the Building or Development; (iii) whether the proposed assignee or subtenant is then a tenant (or subsidiary, affiliate or parent of a tenant) of other space in the Building or Development, or any other property owned or managed by Landlord or its affiliates; (iv) the financial condition of the proposed assignee or subtenant; (v) restrictions, if any, contained in leases or other agreements affecting the Building and the Development; (vi) the effect that the proposed assignee's or subtenant's occupancy or use of the Demised Premises would have upon the operation and maintenance of the Building and the Development; (vii) the extent to which the proposed assignee or subtenant and Tenant provide Landlord with assurances reasonably satisfactory to Landlord as to the satisfaction of Tenant's obligations hereunder. In any event, at no time shall there be more than two (2) subtenants of the Demised Premises permitted.

In the event the Demised Premises are sublet or this Lease is assigned, Tenant shall pay to Landlord as an Additional Charge the following amounts less the actual reasonable expense incurred by Tenant in connection with such assignment or subletting, as substantiated by Tenant, in writing, to Landlord's reasonable satisfaction, including, without limitation, a reasonable brokerage fee and reasonable legal fees, as the case may be: (i) in the case of an assignment, an amount equal to fifty percent (50%) of all sums and other consideration paid to Tenant by the assignee for or by reason of such assignment, and (ii) in the case of a sublease, fifty percent (50%) of any rents, additional charge or other consideration payable under the sublease to Tenant by the subtenant which is in excess of the Fixed Rent and Additional Charges accruing during the term of the sublease in respect of the subleased space (at the rate per square foot payable by Tenant hereunder) pursuant to the terms hereof.

Notwithstanding anything herein contained to the contrary, any Person which, directly or indirectly, controls or is controlled by or is under common control with Tenant (an "Affiliate") may occupy all or any portion of the Demised Premises along with or in place of Tenant without

the consent of Landlord. Such occupancy by Tenant's Affiliates shall not be deemed an assignment or other transfer of the Lease, nor shall any such Affiliate have any rights under this Lease.

11.02. If at any time (a) the original Tenant named herein, (b) the then Tenant, (c) any Guarantor, or (d) any Person owning a majority of the voting stock of, or directly or indirectly controlling, the then Tenant shall be a corporation or partnership, any transfer of voting stock or partnership interest resulting in the person(s) who shall have owned a majority of such corporation's shares of voting stock or the general partners' interest in such partnership, as the case may be, immediately before such transfer, ceasing to own a majority of such shares of voting stock or general partner's interest, as the case may be, except as the result of transfers by inheritance, shall be deemed to be an assignment of this Lease as to which Landlord's consent shall have been required, and in any such event Tenant shall notify Landlord. The provisions of this Section 11.02 shall not be applicable to any corporation all the outstanding voting stock of which is listed on a national securities exchange (as defined in the Securities Exchange Act of 1934, as amended) or is traded in the over-the-counter market with quotations reported by the National Association of Securities Dealers through its automated system for reporting quotations and shall not apply to transactions with a corporation into or with which the then Tenant is merged or consolidated or to which substantially all of the then Tenant's assets are transferred or to any corporation which controls or is controlled by the then Tenant or is under common control with the then Tenant, provided that in any of such events (i) the successor to Tenant has a net worth computed in accordance with generally accepted accounting principles at least equal to the greater of (1) the net worth of Tenant immediately prior to such merger, consolidation or transfer, or (2) the net worth of the original Tenant on the date of this Lease, and (ii) proof satisfactory to Landlord of such net worth shall have been delivered to Landlord at least 10 days prior to the effective date of any such transaction (the entities referenced in this preceding sentence shall sometimes be referred to collectively as "Permitted Assignees" and individually as a "Permitted Assignee."). For the purposes of this Section, the words "voting stock" shall refer to shares of stock regularly entitled to vote for the election of directors of the corporation. Landlord shall have the right at any time and from time to time during the Term to inspect the stock record books of the corporation to which the provisions of this Section 11.02 apply, and Tenant will produce the same on request of Landlord.

11.03. If this Lease is assigned, whether or not in violation of this Lease, Landlord may collect rent from the assignee. If the Demised Premises or any part thereof are sublet or used or occupied by anybody other than Tenant, whether or not in violation of this Lease, Landlord may, after default by Tenant, and expiration of Tenant's time to cure such default, collect rent from the subtenant or occupant. In either event, Landlord may apply the net amount collected to the Rent, but no such assignment, subletting, occupancy or collection shall be deemed a waiver of any of the provisions of Section 11.01 or Section 11.02, or the acceptance of the assignee, subtenant or occupant as tenant, or a release of Tenant from the performance by Tenant of Tenant's obligations under this Lease. The consent by Landlord to any assignment, mortgaging, subletting or use or occupancy by others shall not in any way be considered to relieve Tenant from obtaining the express written consent of Landlord to any other or further assignment, mortgaging or subletting or use or occupancy by others not expressly permitted by this Article 11. References in this Lease to use or occupancy by others (that is, anyone other than Tenant) shall not be construed as limited to

subtenants and those claiming under or through subtenants but shall be construed as including also licensees and others claiming under or through Tenant, immediately or remotely.

11.04. Any permitted assignment or transfer, whether made with Landlord's consent pursuant to Section 11.01 or without Landlord's consent if permitted by Section 11.02, shall be made only if, and shall not be effective until, the assignee shall execute, acknowledge and deliver to Landlord an agreement in form and substance satisfactory to Landlord whereby the assignee shall assume Tenant's obligations under this Lease and whereby the assignee shall agree that all of the provisions in this Article 11 shall, notwithstanding such assignment or transfer, continue to be binding upon it in respect to all future assignments and transfers. Notwithstanding any assignment or transfer, whether or not in violation of the provisions of this Lease, and notwithstanding the acceptance of Rent by Landlord from an assignee, transferee, or any other party, the original Tenant and any other person(s) who at any time was or were Tenant shall remain fully liable for the payment of the Rent and for Tenant's other obligations under this Lease.

11.05. The liability of the original named Tenant and any other Person(s) (including but not limited to any Guarantor) who at any time are or become responsible for Tenant's obligations under this Lease shall not be discharged, released or impaired by any agreement extending the time of, or modifying any of the terms or obligations under this Lease, or by any waiver or failure of Landlord to enforce, any of this Lease.

11.06. The listing of any name other than that of Tenant, whether on the doors of the Demised Premises or the Building directory, or otherwise, shall not operate to vest any right or interest in this Lease or in the Demised Premises, nor shall it be deemed to be the consent of Landlord to any assignment or transfer of this Lease or to any sublease of the Demised Premises or to the use or occupancy thereof by others. Notwithstanding anything contained in this

Lease to the contrary, Landlord shall have the absolute right to withhold its consent to an assignment or subletting to a Person who is otherwise a tenant or occupant of the Building, or of a building owned or managed by Landlord or its affiliated entities.

11.07. Without limiting any of the provisions of Article 27, if pursuant to the Federal Bankruptcy Code (or any similar law hereafter enacted having the same general purpose), Tenant is permitted to assign this Lease notwithstanding the restrictions contained in this Lease, adequate assurance of future performance by an assignee expressly permitted under such Code shall be deemed to mean the deposit of cash security in an amount equal to the sum of one (1) year's Fixed Rent plus an amount equal to the Additional Charges for the Calendar Year preceding the year in which such assignment is intended to become effective, which deposit shall be held by Landlord for the balance of the Term, without interest, as security for the full performance of all of Tenant's obligations under this Lease, to be held and applied in the manner specified for security in Section 8.01.

11.08. If Tenant shall propose to assign or in any manner transfer this Lease or any interest therein, or sublet the Demised Premises or any part or parts thereof, or grant any concession or license or otherwise permit occupancy of all or any part of the Demised Premises by any person,

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Tenant shall give notice thereof to Landlord, together with a copy of the proposed instrument that is to accomplish same and such financial and other information pertaining to the proposed assignee, transferee, subtenant, concessionaire or licensee as Landlord shall require, and Landlord may, in addition to Landlord's right to give or withhold consent, terminate this Lease by notice ("Landlord's Termination Notice") given to Tenant within thirty (30) days after receipt of said proposed instrument and financial and other information, and upon the date specified in such notice, which date shall be not less than 30 days and not more than 60 days after the giving of said notice, this Lease shall terminate. Landlord's election to terminate this Lease as provided above may be cancelled if, within ten (10) days of Tenant's receipt of Landlord's Notice, Tenant advises Landlord, by written notice to that effect ("Tenant's Rescission Notice") that Tenant has withdrawn its proposal to assign or sublet the Demised Premises, in which event the Lease shall continue uninterrupted in accordance with its' terms. If Landlord does not so terminate this Lease, (or if Landlord terminates this Lease and Tenant rescinds such termination as provided herein) and (if Landlord consents to the subject transaction or if Landlord's consent is not required to same) if Tenant does not consummate the subject transaction within 60 days after the last day on which Landlord might have so terminated this Lease as a result of such transaction, Tenant shall again be required to comply with the provisions of this Section 11.08 in connection with any such transaction as if the notice by Tenant referred to above in this Section 11.08 had not been given. Notwithstanding anything contained in this Lease to the contrary, Landlord shall not be obligated to entertain or consider any request by Tenant to consent to any proposed assignment of this Lease or sublet of all or any part of the Demised Premises unless each request by Tenant is accompanied by a non-refundable fee payable to Landlord in the amount of One Thousand Dollars (\$1,000.00) to cover Landlord's administrative, legal, and other costs and expenses incurred in processing each of Tenant's requests. Neither Tenant's payment nor Landlord's acceptance of the foregoing fee shall be construed to impose any obligation whatsoever upon Landlord to consent to Tenant's request.

#### ARTICLE 12 - COMPLIANCE WITH LAWS

12.01. Tenant shall comply with all Legal Requirements which shall, in respect of the Demised Premises or the use and occupation thereof, or the abatement of any nuisance in, on or about the Demised Premises, impose any violation, order or duty on Landlord or Tenant; and Tenant shall pay all the costs, expenses, fines, penalties and damages which may be imposed upon Landlord or any Superior Lessor by reason of or arising out of Tenant's failure to fully and promptly comply with and observe the provisions of this Section 12.01. However, Tenant need not comply with any such law or requirement of any public authority so long as Tenant shall be contesting the validity thereof, or the applicability thereof to the Demised Premises, in accordance with Section 12.02.

12.02. Tenant may contest, by appropriate proceedings prosecuted diligently and in good faith, the validity, or applicability to the Demised Premises, of any Legal Requirement, provided that (a) Landlord shall not be subject to criminal penalty or to prosecution for a crime or offense, and neither the Demised Premises nor any part thereof shall be subject to being condemned or vacated, by reason of non-compliance or otherwise by reason of such contest; (b) before the commencement of such contest, Tenant shall furnish to Landlord either (i) the bond of a surety company

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satisfactory to Landlord, which bond shall be, as to its provisions and form, satisfactory to Landlord, and shall be in an amount at least equal to 125% of the cost of such compliance (as estimated by a reputable contractor designated by Landlord) and shall indemnify Landlord against the cost thereof and against all liability for damages, interest, penalties and expenses (including reasonable attorneys' fees and expenses), resulting from or incurred in connection with such contest or non-compliance, or (ii) other security in place of such bond satisfactory to Landlord; (c) such non-compliance or contest shall not constitute or result in any violation of any Superior Lease or Superior Mortgage, or if any such Superior Lease and/or Superior Mortgage shall permit such non-compliance or contest on condition of the taking of action or furnishing of security by Landlord, such action shall be taken and such security shall be furnished at the expense of Tenant; and (d) Tenant shall keep Landlord advised as to the status of such proceedings. Without limiting the application of the above, Landlord shall be deemed subject to prosecution for a crime or offense if Landlord, or its managing agent, or any officer, director, partner, shareholder or employee of Landlord or its managing agent, as an individual, is charged with a crime or offense of any kind or degree whatsoever, whether by service of a summons or otherwise, unless such charge is withdrawn before Landlord or its managing agent, or such officer, director, partner, shareholder or employee of Landlord or its managing agent (as the case may be) is required to plead or answer thereto. Notwithstanding anything contained in this Lease to the contrary, Tenant shall not file any Real Estate Tax Appeal with respect to the Land, Building or the Demised Premises.

12.03. Tenant shall not use in any way, or permit or suffer the use of the Demised Premises or any part thereof, to either directly or indirectly prepare, produce, generate, manufacture, refine, treat, transport, store, maintain, handle, dispose of, transfer, or process any Hazardous Substance as defined herein, except that the use of such products and materials as are customarily used in the care, maintenance, cleaning, operation or repair of buildings such as the Building shall be permitted as long as they are used and disposed of in compliance with Legal Requirements. For the purposes of this Lease, "Hazardous Substance" means any pollutant, contaminant, toxic or hazardous waste, dangerous substance, potentially dangerous substance, noxious substance, toxic substance, flammable, explosive, radioactive material, urea formaldehyde foam insulation, asbestos, PCBs, or any other substances the removal of which is required, or the manufacture, preparation, production, generation, use, maintenance, treatment, storage, transfer, handling, or ownership of which is restricted, prohibited, regulated, or penalized by any and all federal, state, county, or municipal statutes or laws now or at any time hereafter in effect, including but not limited to, the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. §§9601 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. §§5101 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. §§6901 et seq.), the Federal Water Pollution Control Act (33 U.S.C. §§1251 et seq.), the Clean Air Act (42 U.S.C. §§7401 et seq.), the Toxic Substances Control Act, as amended (15 U.S.C. §§2601 et seq.), and the

Occupational Safety and Health Act (29 U.S.C. §§651 et seq.), as these laws have been amended or supplemented. Landlord shall be responsible, at Landlord's expense, for compliance with any applicable Legal Requirements, relating to the removal, encapsulation or other treatment of any Hazardous Substance hereafter present within the Demised Premises, unless such Hazardous Substance shall have been placed in, on, or about the Demised Premises by Tenant or by any of Tenant's (or its affiliate's or subtenant's) agents, employees or contractors. If at any time during the Term, Tenant shall deliver a certification of a

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qualified asbestos hygienist certifying that asbestos and/or asbestos-containing materials (collectively, "ACM") is located in the Demised Premises [and which ACM shall not have been placed in, on, or about the Demised Premises by Tenant or by any of Tenant's (or its affiliate's or subtenant's) agents, employees or contractors], Landlord shall, upon Tenant's request, at Landlord's sole cost and expense, remove or encapsulate such ACM in compliance with Legal Requirements relating to the removal and/or encapsulation thereof and restore any alterations previously performed in such portion of the Demised Premises. Landlord hereby represents, to the best of its knowledge and belief without investigation, that there are no Hazardous Substances in violation of applicable laws present in the Demised Premises.

#### ARTICLE 13 - INSURANCE AND INDEMNITY

13.01. Landlord shall maintain or cause to be maintained All Risk insurance in respect of the Building and other improvements on the Land normally covered by such insurance (except for the property Tenant is required to cover with insurance under Section 13.02 and similar property of other tenants and occupants of the Building or buildings and other improvements which are on land neither owned by nor leased to Landlord) for the benefit of Landlord, any Superior Lessors, any Superior Mortgagees and any other parties Landlord may at any time and from time to time designate, as their interests may appear, but not for the benefit of Tenant, and shall maintain rent insurance as required by any Superior Lessor or any Superior Mortgagee. The All Risk insurance will be in the amounts required by any Superior Lessor or any Superior Mortgagee but not less than the full replacement value of the Building. Landlord may also maintain any other forms and types of insurance which Landlord shall deem reasonable in respect of the Building and Land. Landlord shall have the right to provide any insurance maintained or caused to be maintained by it under blanket policies.

13.02. Tenant shall maintain the following insurance: (a) commercial general liability insurance in respect of the Demised Premises and the conduct and operation of business therein, having a limit of liability not less than a \$5,000,000. per occurrence for bodily injury or property damage. coverage to include but not be limited to premises/operations, completed operations, contractual liability and product liability; (b) automobile liability insurance covering all owned, hired and non-owned vehicles used by the Tenant in connection with the premises and any loading or unloading of such vehicles, with a limit of liability not less than \$2,000,000 per accident; (c) worker's compensation and employers liability insurance as required by statutes, but in any event not less than \$500,000. for Employers Liability; (d) All Risk insurance in respect of loss or damage to Tenant's stock in trade, fixtures, furniture, furnishings, removable floor coverings, equipment, signs and all other property of Tenant in the Demised Premises in an amount equal to the full replacement value thereof as same might increase from time to time or such higher amount as either may be required by the holder of any fee mortgage, or is necessary to prevent Landlord and/or Tenant from becoming a co-insurer. Such insurance shall include coverage for property of others in the care, custody and control of Tenant in amounts sufficient to cover the replacement value of such property, to the extent of Tenant's liability therefor; and (e) such other insurance as Landlord may reasonably require. Landlord may at any time and from time to time require that the limits for the general

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liability insurance to be maintained by Tenant be increased to the limits that new tenants in the Building are required by Landlord to maintain. Tenant shall deliver to Landlord and any additional insured(s) certificates for such fully paid-for policies upon execution hereof. Tenant shall procure and pay for renewals of such insurance from time to time before the expiration thereof, and Tenant shall deliver to Landlord and any additional insured(s) certificates therefor at least thirty (30) days before the expiration of any existing policy. All such policies shall be issued by companies acceptable to Landlord, having a Bests Rating of not less than A, Class VII (or an equivalent S&P rating if requested by Landlord), and licensed to do business in New Jersey, and all such policies shall contain a provision whereby the same cannot be canceled unless Landlord and any additional insured(s) are given at least thirty (30) days' prior written notice of such cancellation. The policies and certificates of insurance (such certificates to be on Acord form 27 or its equivalent) to be delivered to Landlord by Tenant pursuant to this Section 13.02 (other than workers compensation insurance) shall name Landlord as an additional insured and, at Landlord's request, shall also name any Superior Lessors or Superior Mortgagees as additional insureds, and the following phrase must be typed on the certificate of insurance: "Hartz Mountain Industries, Inc., and its respective subsidiaries, affiliates, associates, joint ventures, and partnerships, and (if Landlord has so requested) Superior Lessors and Superior Mortgagees are hereby named as additional insureds as their interests may appear. It is intended for this insurance to be primary and non-contributing." Tenant shall give Landlord at least thirty (30) days' prior written notice that any such policy is being canceled or replaced.

13.03. Tenant shall not do, permit or suffer to be done any act, matter, thing or failure to act in respect of the Demised Premises or use or occupy the Demised Premises or conduct or operate Tenant's business in any manner objectionable to any insurance company or companies whereby the fire insurance or any other insurance then in effect in respect of the Land and Building or any part thereof shall become void or suspended or whereby any premiums in respect of insurance maintained by Landlord shall be higher than those which would normally have been in effect for the occupancy contemplated under the Permitted Uses. In case of a breach of the provisions of this Section 13.03, in addition to all other rights and remedies of Landlord hereunder, Tenant shall (a) indemnify Landlord and the Superior Lessors and hold Landlord and the Superior Lessors harmless from and against any loss which would have been covered by insurance which shall have become void or suspended because of such breach by Tenant and (b) pay to Landlord any and all increases of premiums on any insurance, including, without limitation, rent insurance, resulting from any such breach.

13.04. Tenant shall indemnify and hold harmless Landlord and all Superior Lessors and its and their respective partners, joint venturers, directors, officers, agents, servants and employees from and against any and all claims arising from or in connection with (a) the conduct or management of the Demised Premises or of any business therein, or any work or thing whatsoever done, or any condition created (other than by Landlord) in the Demised Premises during the Term or during the period of time, if any, prior to the Commencement Date that Tenant may have been given access to the Demised Premises; (b) any act, omission or negligence of Tenant or any of its subtenants or licensees or its or their partners, joint venturers, directors, officers, agents, employees or contractors; (c) any accident, injury or damage whatever (unless caused solely by Landlord's negligence)

occurring in the Demised Premises; and (d) any breach or default by Tenant in the full and prompt payment and performance of Tenant's obligations under this Lease; together with all costs, expenses and liabilities incurred in or in connection with each such claim or action or proceeding brought thereon, including, without limitation, all attorneys' fees and expenses. In case any action or proceeding is brought against Landlord and/or any Superior Lessor and/or its or their partners, joint venturers, directors, officers, agents and/or employees by reason of any such claim, Tenant, upon notice from Landlord or such Superior Lessor, shall resist and defend such action or proceeding by counsel reasonably satisfactory to Landlord.

13.05. Landlord shall indemnify and hold harmless Tenant and its partners, joint venturers, directors, officers, agents, servants and employees from and against any and all claims arising from or in connection with (a) any work done or any condition created in the Common Areas (other than by Tenant, its, agents, representatives, contractors and employees); and (b) any willful act or negligence of Landlord or its agents, representatives, employees or contractors; together with all costs, expenses and liabilities incurred in or in connection with each such claim or action or proceeding brought thereon, including, without limitation, all reasonable attorneys' fees and expenses. In case any action or proceeding is brought against Tenant and/or its partners, joint venturers, directors, officers, agents and/or employees by reason of any such claim, Landlord, upon notice from Tenant shall resist and defend such action or proceeding by counsel reasonably satisfactory to Tenant. Counsel designated by Landlord's insurance carrier shall be deemed acceptable to Tenant.

13.06. Neither Landlord nor any Superior Lessor shall be liable or responsible for, and Tenant hereby releases Landlord and each Superior Lessor from, all liability and responsibility to Tenant and any person claiming by, through or under Tenant, by way of subrogation or otherwise, for any injury, loss or damage to any person or property in or around the Demised Premises or to Tenant's business irrespective of the cause of such injury, loss or damage, and Tenant shall require its insurers to include in all of Tenant's insurance policies which could give rise to a right of subrogation against Landlord or any Superior Lessor a clause or endorsement whereby the insurer waives any rights of subrogation against Landlord and such Superior Lessors or permits the insured, prior to any loss, to agree with a third party to waive any claim it may have against said third party without invalidating the coverage under the insurance policy.

#### ARTICLE 14 - RULES AND REGULATIONS

14.01. Tenant and its employees and agents shall faithfully observe and comply with the Rules and Regulations and such reasonable changes therein (whether by modification, elimination or addition) as Landlord at any time or times hereafter may make and communicate to Tenant, which in Landlord's judgment, shall be necessary for the reputation, safety, care or appearance of the Land and Building, or the preservation of good order therein, or the operation or maintenance of the Building or its equipment and fixtures, or the Common Areas; provided, however, that in case of any conflict or inconsistency between the provisions of this Lease and any of the Rules and Regulations, the provisions of this Lease shall control. Nothing in this Lease contained shall be construed to impose

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upon Landlord any duty or obligation to enforce the Rules and Regulations against any other tenant or any employees or agents of any other tenant, and Landlord shall not be liable to Tenant for violation of the Rules and Regulations by any other tenant or its employees, agents, invitees or licensees; provided, however, Landlord agrees that it shall not enforce the Rules and Regulations against Tenant in a discriminatory manner *vis-à-vis* the other Tenants in the Building.

#### ARTICLE 15 - ALTERATIONS

15.01. Tenant shall not make any alterations or additions to the Demised Premises, or make any holes or cuts in the walls, ceilings, roofs, or floors thereof, or change the exterior color or architectural treatment of the Demised Premises, without on each occasion first obtaining the consent of Landlord. Notwithstanding anything contained in the previous sentence to the contrary, Landlord's consent shall not be required for any non-structural interior alteration which does not affect (i) the structure of the Building, (ii) the mechanical systems serving the Building, (iii) the roof, or (iv) the exterior of the Building ("Permitted Alterations"), provided, however, Tenant agrees to provide Landlord with written notice of any Permitted Alteration exceeding \$50,000. Tenant shall submit to Landlord plans and specifications for such work at the time Landlord's consent is sought. In the event any proposed alteration will impact upon the structure or mechanical systems in the Building, Landlord shall have the right to engage an outside consultant to review the plans and specifications with respect to same, and in such case, Tenant shall pay to Landlord upon demand the reasonable cost and expense of such outside consultants in (a) reviewing said plans and specifications and (b) inspecting the alterations to determine whether the same are being performed in accordance with the approved plans and specifications and all Legal Requirements and Insurance Requirements, including, without limitation, the fees of any architect or engineer employed by Landlord for such purpose. Tenant shall fully and promptly comply with and observe the Rules and Regulations then in force in respect of the making of alterations. Any review or approval by Landlord of any plans and/or specifications with respect to any alterations is solely for Landlord's benefit, and without any representation or warranty whatsoever to Tenant in respect of the adequacy, correctness or efficiency thereof or otherwise.

15.02. Tenant shall obtain all necessary governmental permits and certificates for the commencement and prosecution of permitted alterations and for final approval thereof upon completion, and shall cause alterations to be performed in compliance therewith and with all applicable Legal Requirements and Insurance Requirements. Alterations shall be diligently performed in a good and workmanlike manner, using new or like-new materials and equipment at least equal in quality and class to the better of (a) the original installations of the Building, or (b) the then standards for the Building established by Landlord. Alterations in or to the mechanical, electrical, sanitary, heating, ventilating, air conditioning or other systems of the Building shall be performed only by the contractor(s) reasonably designated by Landlord. Alterations shall be made in such manner as not to unreasonably interfere with or delay and as not to impose any additional expense upon Landlord in the construction, maintenance, repair or operation of the Building; and if any such additional expense shall be incurred by Landlord as a result of Tenant's making of any alterations, Tenant shall pay any such additional expense upon demand. Throughout the making

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of alterations, Tenant shall carry, or cause to be carried, worker's compensation insurance in statutory limits and general liability insurance, with completed operation endorsement, for any occurrence in or about the Building, under which Landlord and its managing agent and any Superior Lessor whose name and address shall previously have been furnished to Tenant shall be named as parties insured, in such limits as Landlord may reasonably require, with insurers

reasonably satisfactory to Landlord. Tenant shall furnish Landlord with reasonably satisfactory evidence that such insurance is in effect at or before the commencement of alterations and, on request, at reasonable intervals thereafter during the making of alterations.

#### ARTICLE 16 - LANDLORD'S AND TENANT'S PROPERTY

16.01. All fixtures, equipment, improvements and appurtenances attached to or built into the Demised Premises at the commencement of or during the Term, whether or not by or at the expense of Tenant, shall be and remain a part of the Demised Premises, shall be deemed to be the property of Landlord and shall not be removed by Tenant, except as provided in Section 16.02. Further, any carpeting or other personal property in the Demised Premises on the Commencement Date, unless installed and paid for by Tenant, shall be and shall remain Landlord's property and shall not be removed by Tenant.

16.02. All movable partitions, business and trade fixtures, machinery and equipment, communications equipment and office equipment, whether or not attached to or built into the Demised Premises, which are installed in the Demised Premises by or for the account of Tenant without expense to Landlord and can be removed without structural damage to the Building and all furniture, furnishings, and other movable personal property owned by Tenant and located in the Demised Premises (collectively, "Tenant's Property") shall be and shall remain the property of Tenant and may be removed by Tenant at any time during the Term; provided that if any of the Tenant's Property is removed, Tenant shall repair or pay the cost of repairing any damage to the Demised Premises, the Building or the Common Areas resulting from the installation and/or removal thereof, reasonable wear and tear excepted. Any equipment or other property for which Landlord shall have granted any allowance or credit to Tenant shall not be deemed to have been installed by or for the account of Tenant without expense to Landlord, shall not be considered as the Tenant's Property and shall be deemed the property of Landlord.

16.03. At or before the Expiration Date or the date of any earlier termination of this Lease, or within fifteen (15) days after such an earlier termination date, Tenant shall remove from the Demised Premises all of the Tenant's Property (except such items thereof as Landlord shall have expressly permitted to remain, which property shall become the property of Landlord if not removed), and Tenant shall repair any damage to the Demised Premises, the Building and the Common Areas resulting from any installation and/or removal of the Tenant's Property, reasonable wear and tear excepted. Any items of the Tenant's Property which shall remain in the Demised Premises after the Expiration Date or after a period of fifteen (15) days following an earlier termination date, may, at the option of Landlord, be deemed to have been abandoned, and in such case such items may be retained by Landlord as its property or disposed of by Landlord, without accountability, in such

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manner as Landlord shall determine at Tenant's Expense.

#### ARTICLE 17 - REPAIRS AND MAINTENANCE

17.01. Tenant shall, throughout the Term, take good care of the Demised Premises, the fixtures and appurtenances therein. Tenant shall be responsible for all repairs, ordinary and extraordinary, in and to the Demised Premises, and the Building (including the facilities and systems exclusively serving the Demised Premises) and the Common Areas the need for which arises out of (a) the performance or existence of the Tenant's Work or alterations, (b) the installation, use or operation of the Tenant's Property in the Demised Premises, (c) the moving of the Tenant's Property in or out of the Building, or (d) the act, omission, misuse or neglect of Tenant or any of its subtenants or its or their employees, agents, contractors or invitees. Tenant shall promptly repair or replace all scratched, damaged or broken doors and glass in and about the Demised Premises and shall be responsible for all repairs, maintenance and replacement of wall and floor coverings in the Demised Premises and for the repair and maintenance of all sanitary and electrical fixtures and equipment therein. Tenant shall promptly make all repairs in or to the Demised Premises for which Tenant is responsible, and any repairs required to be made by Tenant to the mechanical, electrical, sanitary, heating, ventilating, air-conditioning or other systems of the Building shall be performed only by contractor(s) reasonably designated by Landlord provided such contractors provide services at competitive rates in the local trade area. Tenant shall not permit or suffer the overloading of the floors of the Demised Premises beyond 80 pounds per square foot.

17.02. So long as Tenant is not in default under this Lease beyond the applicable cure period, Landlord shall make all repairs and replacements to (i) the structural components of the Building ("structural," as that term is used herein, shall refer to the structural slab, the load bearing walls, and the structural materials supporting the roof membrane), (ii) the roof membrane, and (iii) the "common" facilities and systems in the Building (except as hereinabove provided in Section 17.01 and except for those repairs and maintenance for which Tenant is responsible pursuant to any of the provisions of this Lease) and the cost thereof shall be included in Operating Expenses (except to the extent any such repair or replacement is necessitated as a result of the act, omission or negligence of Tenant, or its agents, representatives, employees, or contractors, in which event Landlord shall make such repairs at Tenant's sole cost and expense). Landlord shall also maintain the Common Areas in a first class manner and the cost thereof shall be included in the Operating Expenses.

17.03. Except as otherwise expressly provided in this Lease, Landlord shall have no liability to Tenant, nor shall Tenant's covenants and obligations under this Lease be reduced or abated in any manner whatsoever, by reason of any inconvenience, annoyance, interruption or injury to business arising from Landlord's doing any repairs, maintenance, or changes which Landlord is required or permitted by this Lease, or required by Law, to make in or to any portion of the Building.

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#### ARTICLE 18 - ELECTRIC ENERGY

18.01. Tenant shall purchase the electric energy required by it in the Demised Premises at its own expense on a sub-metered basis or, if applicable, on a direct-metered basis from the public utility servicing the Building, and Landlord shall permit the risers, conduits and feeders in the Building, to the extent available, suitable and safely capable, to be used for the purpose of transmitting such electric energy to the Demised Premises. Landlord shall not be liable for any failure, inadequacy or defect in the character or supply of electric current furnished to the Demised Premises. If Landlord is permitted by law to provide electric energy to the Demised Premises by re-registering meters or otherwise and to collect any charges for electric energy, Landlord shall have the right to do so, in which event Tenant shall pay to Landlord upon receipt of bills therefor charges for meter reading, billing, maintaining meters, transformers and switches and charges for electric energy provided the rates for such electric energy shall not be more than the rates Tenant would be charged for electric energy if furnished directly to Tenant by the public utility which would otherwise have furnished electric energy. Tenant agrees to pay such electric energy bills within twenty (20) days of receipt thereof.

18.02. Tenant's use of electric energy in the Demised Premises shall not at any time exceed the capacity of any of the electrical conductors and equipment in or otherwise serving the Demised Premises. In order to insure that such capacity is not exceeded and to avert possible adverse effect upon the Building's electric service, Tenant shall not, without Landlord's prior consent in each instance (which shall not be unreasonably withheld), connect any fixtures, appliances or equipment to the Building's electric distribution system or make any alteration or addition to the electric system of the Demised Premises existing on the Commencement Date. Should Landlord grant such consent, all additional risers or other equipment required therefor shall be provided by Landlord and the reasonable cost thereof shall be paid by Tenant to Landlord within twenty (20) days of Landlord's invoice therefore (which invoice shall include documentation in support of such charges).

#### ARTICLE 19 - HEAT, VENTILATION AND AIR-CONDITIONING

19.01. So long as Tenant is not in default under this Lease beyond the applicable cure period, Landlord shall maintain and operate the heating, ventilating and air-conditioning systems ("HVAC") serving the Demised Premises, and shall furnish HVAC in the Demised Premises as may be reasonably required (except as otherwise provided in this Lease and except for any special requirements of Tenant arising from its particular use of the Demised Premises) for reasonably comfortable occupancy of the Demised Premises, during Business Hours on Business Days within the limits prescribed by the Legal Requirements. If Tenant shall require HVAC at any other time, Landlord shall furnish such service for such times upon not less than six (6) hours advance notice from Tenant, and Tenant shall pay to Landlord upon demand Landlord's then established charges therefore (which charges are, as of the date of this Lease, \$100.00 per hour for HVAC on the third floor and \$50.00 per hour for HVAC on the fourth floor; said charges are subject to change upon prior written notice to Tenant).

19.02. The performance by Landlord of its obligation under Section 19.01 in respect of HVAC is conditioned on the connected electric load within the Demised Premises not exceeding three and one-half (3 1/2) watts per usable square foot in the Demised Premises and the occupancy

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of the Demised Premises not exceeding one (1) person for each two hundred (200) usable square feet. Use of the Demised Premises, or any part thereof, in a manner exceeding the HVAC design conditions (including occupancy and connected electrical load), or rearrangement of partitioning which interferes with normal operation of the HVAC in the Demised Premises, or the use of computer or data processing machines or other machines or equipment, may require changes in the HVAC systems servicing the Demised Premises, in order to provide comfortable occupancy. Such changes, so occasioned, shall be made by Tenant, at its expense, as alterations in accordance with the provisions of Article 15, but only to the extent permitted and upon the conditions set forth in Article 15.

#### ARTICLE 20 - OTHER SERVICES; SERVICE INTERRUPTION

20.01. So long as Tenant is not in default under this Lease beyond the applicable cure period, Landlord shall provide elevator service to the Demised Premises during Business Hours on Business Days, and Landlord shall have at least one (1) elevator subject to call at all other times. The use of the elevators shall be subject to the Rules and Regulations.

20.02. So long as Tenant is not in default under this Lease beyond the applicable cure period, Landlord shall cause the Demised Premises, including the exterior and the interior of the windows thereof, to be cleaned in a manner standard to the Building and in accordance with the standards set forth in Exhibit E. Tenant shall pay to Landlord within twenty (20) days of Landlord's invoice therefore (which invoice shall include reasonable back-up documentation in support of such costs), the reasonable costs incurred by Landlord for (a) extra cleaning work in the Demised Premises required because of (i) misuse or neglect on the part of Tenant or its subtenants or its or their employees or visitors, (ii) use of portions of the Demised Premises for preparation, serving, consumption of food or beverages, training rooms, data processing or reproducing operations, private lavatories or toilets or other special purposes requiring greater or more difficult cleaning work than office areas, (iii) interior glass partitions or unusual quantity of interior glass surfaces, and (iv) non-building standard materials or finishes installed by Tenant or at its request, and (b) removal from the Demised Premises and the Building of any refuse and rubbish of Tenant in excess of that ordinarily accumulated in business office occupancy or at times other than Landlord's standard cleaning times, and (c) the use of the Demised Premises by Tenant other than during Business Hours on Business Days.

20.03. Landlord, its cleaning contractor and their employees shall have access to the Demised Premises after 5:30 P.M. and before 8:00 A.M. and shall have the right to use, without charge therefor, all light, power and water in the Demised Premises reasonably required to clean the Demised Premises as required under Section 20.02.

20.04. So long as Tenant is not in default under this Lease beyond the applicable notice and cure period, Landlord shall furnish adequate hot and cold water to the Demised Premises for drinking, lavatory and cleaning purposes. If Tenant uses water for any other purpose Landlord may install and maintain, at Tenant's expense, meters to measure Tenant's consumption of cold water

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and/or hot water for such other purpose. Tenant shall reimburse Landlord for the quantities of cold water and hot water shown on such meters within twenty (20) days of Landlord's invoice therefore (which invoice shall include reasonable back-up documentation in support of such charges).

#### ARTICLE 21 - ACCESS, CHANGES AND NAME

21.01. Except for the space within the inside surfaces of all walls, hung ceilings, floors, windows and doors bounding the Demised Premises, all of the Building, including, without limitation, exterior Building walls, core corridor walls and doors and any core corridor entrance, any terraces or roofs adjacent to the Demised Premises, and any space in or adjacent to the Demised Premises used for shafts, stacks, pipes, conduits, fan rooms, ducts, electric or other utilities, sinks or other Building facilities and the use thereof, as well as access thereto through the Demised Premises for the purpose of operating, maintenance, decoration and repair, are reserved to Landlord. Landlord also reserves the right, to install, erect, use and maintain pipes, ducts and conduits in and through the Demised Premises, provided such are properly enclosed and provided the same do not otherwise interfere with or interrupt Tenant's use and occupancy of the Demised Premises.

21.02. Landlord and its agents shall have the right to enter and/or pass through the Demised Premises at any time or times upon reasonable prior notice to Tenant (except in the event of an emergency, when the circumstances shall dictate the nature and extent of notice) (a) to examine the Demised

Premises and to show them to actual and prospective Superior Lessors, Superior Mortgagees, or prospective purchasers of the Building, and (b) to make such repairs, alterations, additions and improvements in or to the Demised Premises and/or in or to the Building or its facilities and equipment as Landlord is required or desires to make. Landlord shall be allowed to take all materials into and upon the Demised Premises that may be required in connection therewith, without any liability to Tenant and without any reduction of Tenant's obligations hereunder, provided, however, Landlord agrees to store such materials in locations designated by Tenant so as to minimize any interference with Tenant's use and occupancy of the Demised Premises. During the period of twelve (12) months prior to the Expiration Date, Landlord and its agents may exhibit the Demised Premises to prospective tenants.

21.03. If at any time any windows of the Demised Premises are temporarily darkened or obstructed by reason of any repairs, improvements, maintenance and/or cleaning in or about the Building, or if any part of the Building or the Common Areas, other than the Demised Premises, is temporarily or permanently closed or inoperable, the same shall not be deemed a constructive eviction and shall not result in any reduction or diminution of Tenant's obligations under this Lease.

21.04. Intentionally omitted.

21.05. Intentionally omitted.

21.06. Landlord may adopt any name for the Building. Upon prior written notice to Tenant, Landlord reserves the right to change the name and/or address of the Building at any time.

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#### ARTICLE 22 - MECHANICS' LIENS AND OTHER LIENS

22.01. Nothing contained in this Lease shall be deemed, construed or interpreted to imply any consent or agreement on the part of Landlord to subject Landlord's interest or estate to any liability under any mechanic's or other lien law. If any mechanic's or other lien or any notice of intention to file a lien is filed against the Land, or any part thereof, or the Demised Premises, or any part thereof, for any work, labor, service or materials claimed to have been performed or furnished for or on behalf of Tenant or anyone holding any part of the Demised Premises through or under Tenant, Tenant shall cause the same to be canceled and discharged of record by payment, bond or order of a court of competent jurisdiction within fifteen (15) days after notice by Landlord to Tenant.

#### ARTICLE 23 - NON-LIABILITY AND INDEMNIFICATION

23.01. Neither Landlord nor any partner, joint venturer, director, officer, agent, servant or employee of Landlord shall be liable to Tenant for any loss, injury or damage to Tenant or to any other Person, or to its or their property, irrespective of the cause of such injury, damage or loss, unless caused by or resulting from the negligence of Landlord, its agents, servants or employees in the operation or maintenance of the Land or Building without contributory negligence on the part of Tenant or any of its subtenants or licensees or its or their employees, agents or contractors. Further, neither Landlord nor any partner, joint venturer, director, officer, agent, servant or employee of Landlord shall be liable (a) for any such damage caused by other tenants or Persons in, upon or about the Land or Building, or caused by operations in construction of any private, public or quasi-public work; or (b) even if negligent, for consequential damages arising out of any loss of use of the Demised Premises or any equipment or facilities therein by Tenant or any Person claiming through or under Tenant.

23.02. Notwithstanding any provision to the contrary, Tenant shall look solely to the estate and property of Landlord in and to the Land and Building (or the proceeds received by Landlord on a sale of such estate and property but not the proceeds of any financing or refinancing thereof) in the event of any claim against Landlord arising out of or in connection with this Lease, the relationship of Landlord and Tenant or Tenant's use of the Demised Premises or the Common Areas, and Tenant agrees that the liability of Landlord arising out of or in connection with this Lease, the relationship of Landlord and Tenant or Tenant's use of the Demised Premises or the Common Areas shall be limited to such estate and property of Landlord (or sale proceeds). No other properties or assets of Landlord or any partner, joint venturer, director, officer, agent, servant or employee of Landlord shall be subject to levy, execution or other enforcement procedures for the satisfaction of any judgement (or other judicial process) or for the satisfaction of any other remedy of Tenant arising out of, or in connection with, this Lease, the relationship of Landlord and Tenant or Tenant's use of the Demised Premises or the Common Areas and if Tenant shall acquire a lien on or interest in any other properties or assets by judgment or otherwise, Tenant shall promptly release such lien on or interest in such other properties and assets by executing, acknowledging and delivering to Landlord an

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instrument to that effect prepared by Landlord's attorneys. Tenant hereby waives the right of specific performance and any other remedy allowed in equity if specific performance or such other remedy could result in any liability of Landlord for the payment of money to Tenant, or to any court or governmental authority (by way of fines or otherwise) for Landlord's failure or refusal to observe a judicial decree or determination, or to any third party.

#### ARTICLE 24 - DAMAGE OR DESTRUCTION

24.01. If the Building or the Demised Premises shall be partially or totally damaged or destroyed by fire or other casualty (and if this Lease shall not be terminated as in this Article 24 hereinafter provided), Landlord shall repair the damage and restore and rebuild the Building and/or the Demised Premises (except for the Tenant's Property) with reasonable dispatch after notice to it of the damage or destruction and the collection of the insurance proceeds attributable to such damage.

24.02. Subject to the provisions of Section 24.05, if all or part of the Demised Premises shall be damaged or destroyed or rendered completely or partially untenable on account of fire or other casualty, the Rent shall be abated or reduced, as the case may be, in the proportion that the untenable area of the Demised Premises bears to the total area of the Demised Premises, for the period from the date of the damage or destruction to (a) the date the damage to the Demised Premises shall be substantially repaired, or (b) if the Building and not the Demised Premises is so damaged or destroyed, the date on which the Demised Premises shall be made tenantable; provided, however, should Tenant reoccupy a portion of the Demised Premises during the period the repair or restoration work is taking place and prior to the date that the Demised Premises are substantially repaired or made tenantable the Rent allocable to such

reoccupied portion, based upon the proportion which the area of the reoccupied portion of the Demised Premises bears to the total area of the Demised Premises, shall be payable by Tenant from the date of such occupancy.

24.03. If (a) the Building or the Demised Premises shall be totally damaged or destroyed by fire or other casualty, or (b) the Building shall be so damaged or destroyed by fire or other casualty (whether or not the Demised Premises are damaged or destroyed) that its repair or restoration requires the expenditure, as estimated by a reputable contractor or architect designated by Landlord, of more than twenty percent (20%) (or ten percent [10%] if such casualty occurs during the last two [2] years of the Term) of the full insurable value of the Building immediately prior to the casualty, or (c) the Building shall be damaged or destroyed by fire or other casualty (whether or not the Demised Premises are damaged or destroyed) and either the loss shall not be covered by Landlord's insurance or the net insurance proceeds (after deducting all expenses in connection with obtaining such proceeds) shall, in the estimation of a reputable contractor or architect designated by Landlord be insufficient to pay for the repair or restoration work, then in either such case Landlord may terminate this Lease by giving Tenant notice to such effect within ninety (90) days after the date of the fire or other casualty.

24.04. Notwithstanding anything herein contained to the contrary, Landlord hereby agrees to advise Tenant ("Landlord's Notice"), within thirty (30) days of the date of any fire or other

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casualty, as to whether or not Landlord will be able to restore the Demised Premises to a tenantable condition within eighteen (18) months from the date of the casualty. In the event Landlord advises Tenant that it cannot so restore the Demised Premises within said eighteen (18) month period, Tenant shall have the right to terminate this Lease which right must be exercised within ten (10) business days of the receipt of Landlord's Notice. In the event Landlord advises Tenant that it is able to restore the Premises within said eighteen (18) month period, or, in the event Tenant fails to so advise Landlord within the ten (10) business day period that it desires to terminate the Lease, then the provisions of Article 24.01 through 24.03 shall control. In the event Landlord advises Tenant it is able to restore the Demised Premises to a tenantable condition within eighteen (18) months from the date of any fire or other casualty, or, in the alternative, Tenant failed to timely advise Landlord that it intended to terminate the Lease such that Landlord commenced restoration of same, and in either such case, Landlord fails to restore the Premises to a tenantable condition within said eighteen (18) month period, Tenant shall have the right to terminate this Lease by delivering written notice to Landlord to that effect within ten (10) business days of the last day of said eighteen (18) month period. "Tenantable condition," as that term is used herein, shall mean that the Demised Premises are substantially completed such that Tenant may commence its "Tenant's Work" (i.e. the installation of Tenant's fixtures, furniture and equipment necessary to conduct its business) to ready the Demised Premises for Tenant's occupancy.

24.05. Except as expressly provided herein, Tenant shall not be entitled to terminate this Lease and no damages, compensation or claim shall be payable by Landlord for inconvenience, loss of business or annoyance arising from any repair or restoration of any portion of the Demised Premises or of the Building pursuant to this Article 24. Landlord shall use its best efforts to make such repair or restoration promptly and in such manner as not unreasonably to interfere with Tenant's use and occupancy of the Demised Premises, but Landlord shall not be required to do such repair or restoration work except during Business Hours on Business Days.

24.06. Notwithstanding any of the foregoing provisions of this Article 24, if by reason of some act or omission on the part of Tenant or any of its subtenants or its or their partners, directors, officers, servants, employees, agents or contractors, either (a) Landlord or any Superior Lessor or any Superior Mortgagee shall be unable to collect all of the insurance proceeds (including, without limitation, rent insurance proceeds) applicable to damage or destruction of the Demised Premises or the Building by fire or other casualty, or (b) the Demised Premises or the Building shall be damaged or destroyed or rendered completely or partially untenable on account of fire or other casualty, then, without prejudice to any other remedies which may be available against Tenant, there shall be no abatement or reduction of the Rent. Further, nothing contained in this Article 24 shall relieve Tenant from any liability that may exist as a result of any damage or destruction by fire or other casualty.

24.07. Landlord will not carry insurance of any kind on the Tenant's Property, and, except as provided by law or by reason of Landlord's breach of any of its obligations hereunder, shall not be obligated to repair any damage to or replace the Tenant's Property.

24.08. The provisions of this Article 24 shall be deemed an express agreement governing

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any case of damage or destruction of the Demised Premises and/or Building by fire or other casualty, and any law providing for such a contingency in the absence of an express agreement, now or hereafter in force, shall have no application in such case.

#### ARTICLE 25 - EMINENT DOMAIN

25.01. If the whole of the Demised Premises shall be taken by any public or quasi-public authority under the power of condemnation, eminent domain or expropriation, or in the event of conveyance of the whole of the Demised Premises in lieu thereof, this Lease shall terminate as of the day possession shall be taken by such authority. If 15% or less of the Floor Space of the Demised Premises shall be so taken or conveyed, this Lease shall terminate only in respect of the part so taken or conveyed as of the day possession shall be taken by such authority. If more than 15% of the Floor Space of the Demised Premises shall be so taken or conveyed, this Lease shall terminate only in respect of the part so taken or conveyed as of the day possession shall be taken by such authority, but either party shall have the right to terminate this Lease upon notice given to the other party within 30 days after such taking possession. If more than 25% of the Floor Space of the Building shall be so taken or conveyed, Landlord may, by notice to Tenant, terminate this Lease as of the day possession shall be taken. If so much of the parking facilities shall be so taken or conveyed that the number of parking spaces necessary, in Landlord's judgment, for the continued operation of the Building shall not be available, Landlord shall, by notice to Tenant, terminate this Lease as of the day possession shall be taken. If this Lease shall continue in effect as to any portion of the Demised Premises not so taken or conveyed, the Rent shall be computed as of the day possession shall be taken on the basis of the remaining Floor Space of the Demised Premises. Except as specifically provided herein, in the event of any such taking or conveyance there shall be no reduction in Rent. If this Lease shall continue in effect, Landlord shall, at its expense, but shall be obligated only to the extent of the net award or other compensation (after deducting all expenses in connection with obtaining same) available to Landlord for the improvements taken or conveyed (excluding any award or other compensation for land or for the unexpired portion of the term of any Superior Lease), make all necessary alterations so as to constitute the remaining Building a complete architectural and tenantable unit, except for the Tenant's Property, and Tenant shall make all alterations or replacements to the Tenant's Property and decorations in the Demised Premises. All awards and

compensation for any taking or conveyance, whether for the whole or a part of the Land or Building, the Demised Premises or otherwise, shall be the property of Landlord, and Tenant hereby assigns to Landlord all of Tenant's right, title and interest in and to any and all such awards and compensation, including, without limitation, any award or compensation for the value of the unexpired portion of the Term. Tenant shall be entitled to claim, prove and receive in the condemnation proceeding such award or compensation as may be allowed for the Tenant's Property and for loss of business, good will, and depreciation or injury to and cost of removal of the Tenant's Property, but only if such award or compensation shall be made by the condemning authority in addition to, and shall not result in a reduction of, the award or compensation made by it to Landlord.

25.02. If the temporary use or occupancy of all or any part of the Demised Premises shall be taken during the Term, Tenant shall be entitled, except as hereinafter set forth, to receive that

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portion of the award or payment for such taking which represents compensation for the use and occupancy of the Demised Premises, for the taking of the Tenant's Property and for moving expenses, and Landlord shall be entitled to receive that portion which represents reimbursement for the cost of restoration of the Demised Premises. This Lease shall be and remain unaffected by such taking and Tenant shall continue to be responsible for all of its obligations hereunder insofar as such obligations are not affected by such taking and shall continue to pay the Rent in full when due. If the period of temporary use or occupancy shall extend beyond the Expiration Date, that part of the award or payment which represents compensation for the use and occupancy of the Demised Premises (or a part thereof) shall be divided between Landlord and Tenant so that Tenant shall receive (except as otherwise provided below) so much thereof as represents compensation for the period up to and including the Expiration Date and Landlord shall receive so much thereof as represents compensation for the period after the Expiration Date. All monies to be paid to Tenant as, or as part of, an award or payment for temporary use and occupancy for a period beyond the date to which the Rent has been paid shall be received, held and applied by the first Superior Mortgagee (or if there is no Superior Mortgagee, by Landlord as a trust fund) for payment of the Rent becoming due hereunder.

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#### ARTICLE 26 - SURRENDER

26.01. On the Expiration Date, or upon any earlier termination of this Lease, or upon any re-entry by Landlord upon the Demised Premises, Tenant shall quit and surrender the Demised Premises to Landlord "broom-clean" and in good order, condition and repair, except for ordinary wear and tear and such damage or destruction as Landlord is required to repair or restore under this Lease, and Tenant shall remove all of Tenant's Property therefrom except as otherwise expressly provided in this Lease.

26.02. If Tenant remains in possession of the Demised Premises after the expiration of the Term, Tenant shall be deemed to be occupying the Demised Premises at the sufferance of Landlord subject to all of the provisions of this Lease, except that the monthly Fixed Rent shall be 150% of the Fixed Rent in effect for the last month of the Term for the first month of any such occupancy at the sufferance of Landlord after the expiration of the Term and twice (200%) the Fixed Rent in effect during the last month of the Term for any continued occupancy at the sufferance of Landlord thereafter.

26.03. No act or thing done by Landlord or its agents shall be deemed an acceptance of a surrender of the Demised Premises, and no agreement to accept such surrender shall be valid unless in writing and signed by Landlord.

#### ARTICLE 27 - CONDITIONS OF LIMITATION

27.01. This Lease is subject to the limitation that whenever Tenant or any Guarantor (a) shall make an assignment for the benefit of creditors, or (b) shall commence a voluntary case or have entered against it an order for relief under any chapter of the Federal Bankruptcy Code (Title 11 of the United States Code) or any similar order or decree under any federal or state law, now in existence, or hereafter enacted having the same general purpose, and such order or decree shall have not been stayed or vacated within 30 days after entry, or (c) shall cause, suffer, permit or consent to the appointment of a receiver, trustee, administrator, conservator, sequestrator, liquidator or similar official in any federal, state or foreign judicial or nonjudicial proceeding, to hold, administer and/or liquidate all or substantially all of its assets, and such appointment shall not have been revoked, terminated, stayed or vacated and such official discharged of his duties within 30 days of his appointment, then Landlord, at any time after the occurrence of any such event, may give Tenant a notice of intention to end the Term at the expiration of five (5) days from the date of service of such notice of intention, and upon the expiration of said five (5) day period, whether or not the Term shall theretofore have commenced, this Lease shall terminate with the same effect as if that day were the expiration date of this Lease, but Tenant shall remain liable for damages as provided in Article 29.

27.02. This Lease is subject to the further limitations that: (a) if Tenant shall default in the payment of any Rent, or (b) if Tenant shall, whether by action or inaction, be in default of any of its obligations under this Lease (other than a default in the payment of Rent) and such default shall

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continue and not be remedied within fifteen (15) days after Landlord shall have given to Tenant a notice specifying the same, or, in the case of a default which cannot with due diligence be cured within a period of fifteen (15) days and the continuance of which for the period required for cure will not subject Landlord or any Superior Lessor to prosecution for a crime or offense (as more particularly described in the last sentence of Section 12.02) or termination of any Superior Lease or foreclosure of any Superior Mortgage, if Tenant shall not, (i) within said fifteen (15) day period advise Landlord of Tenant's intention to take all steps necessary to remedy such default, (ii) duly commence within said fifteen (15) day period, and thereafter diligently prosecute to completion all steps necessary to remedy the default, and (iii) complete such remedy within a reasonable time after the date of said notice by Landlord, or (c) if any event shall occur or any contingency shall arise whereby this Lease would, by operation of law or otherwise, devolve upon or pass to any person, firm or corporation other than Tenant, except as expressly permitted by Article 11, or (d) if Tenant shall vacate or abandon the Demised Premises, or (e) if there shall be any default by Tenant (or any person which, directly or indirectly, controls, is controlled by, or is under common control with Tenant) under any other lease with Landlord (or any person which, directly or indirectly, controls, is controlled by, or is under common control with Landlord) which shall not be remedied within the applicable grace period, if any, provided therefor under such other lease, then in any of said cases Landlord may give to Tenant a notice of intention

to end the Term at the expiration of five (5) days from the date of the service of such notice of intention, and upon the expiration of said five (5) days, whether or not the Term shall theretofore have commenced, this Lease shall terminate with the same effect as if that day were the expiration date of this Lease, but Tenant shall remain liable for damages as provided in Article 29.

#### ARTICLE 28 - RE-ENTRY BY LANDLORD

28.01. If Tenant shall default in the payment of any Rent, or if this Lease shall terminate as provided in Article 27, Landlord or Landlord's agents and employees may immediately or at any time thereafter re-enter the Demised Premises, or any part thereof, either by summary dispossession proceedings or by any suitable action or proceeding at law without being liable to indictment, prosecution or damages therefor, and may repossess the same, and may remove any Person therefrom, to the end that Landlord may have, hold and enjoy the Demised Premises. The word "re-enter," as used herein, is not restricted to its technical legal meaning. If this Lease is terminated under the provisions of Article 27, or if Landlord shall re-enter the Demised Premises under the provisions of this Article 28, or in the event of the termination of this Lease, or of re-entry, by or under any summary dispossession or other proceedings or action or any provision of law by reason of default hereunder on the part of Tenant, Tenant shall thereupon pay to Landlord the Rent payable up to the time of such termination of this Lease, or of such recovery of possession of the Demised Premises by Landlord, as the case may be, and shall also pay to Landlord damages as provided in Article 29.

28.02. In the event of a breach or threatened breach by Tenant of any of its obligations under this Lease, Landlord shall also have the right of injunction. The special remedies to which Landlord may resort hereunder are cumulative and are not intended to be exclusive of any other remedies to

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which Landlord may lawfully be entitled at any time and Landlord may invoke any remedy allowed at law or in equity as if specific remedies were not provided for herein.

28.03. If this Lease shall terminate under the provisions of Article 27, or if Landlord shall re-enter the Demised Premises under the provisions of this Article 28, or in the event of the termination of this Lease, or of re-entry, by or under any summary dispossession or other proceeding or action or any provision of law by reason of default hereunder on the part of Tenant, Landlord shall be entitled to retain all monies, if any, paid by Tenant to Landlord, whether as Advance Rent, security or otherwise, but such monies shall be credited by Landlord against any Rent due from Tenant at the time of such termination or re-entry or, at Landlord's option, against any damages payable by Tenant under Article 29 or pursuant to law.

#### ARTICLE 29 - DAMAGES

29.01. If this Lease is terminated under the provisions of Article 27, or if Landlord shall re-enter the Demised Premises under the provisions of Article 28, or in the event of the termination of this Lease, or of re-entry, by or under any summary dispossession or other proceeding or action or any provision of law by reason of default hereunder on the part of Tenant, Tenant shall pay as Additional Charges to Landlord, at the election of Landlord, either or any combination of:

(a) a sum which at the time of such termination of this Lease or at the time of any such re-entry by Landlord, as the case may be, represents the then value of the excess, if any, of (i) the aggregate amount of the Rent which would have been payable by Tenant (conclusively presuming the average monthly Additional Charges to be the same as were the average monthly Additional Charges payable for the year, or if less than 365 days have then elapsed since the Commencement Date, the partial year, immediately preceding such termination or re-entry) for the period commencing with such earlier termination of this Lease or the date of any such re-entry, as the case may be, and ending with the Expiration Date, over (ii) the aggregate rental value of the Demised Premises for the same period; or

(b) sums equal to the Fixed Rent and the Additional Charges which would have been payable by Tenant had this Lease not so terminated, or had Landlord not so re-entered the Demised Premises, payable upon the due dates therefor specified herein following such termination or such re-entry and until the Expiration Date, provided, however, that if Landlord shall relet the Demised Premises during said period, Landlord shall credit Tenant with the net rents received by Landlord from such reletting, such net rents to be determined by first deducting from the gross rents as and when received by Landlord from such reletting the expenses incurred or paid by Landlord in terminating this Lease or in re-entering the Demised Premises and in securing possession thereof, as well as the expenses of reletting, including, without limitation, altering and preparing the Demised Premises for new tenants, brokers' commissions, legal fees, and all other expenses properly chargeable against the Demised Premises and the rental therefrom, it being understood that any such reletting may be for a period shorter or longer than the period ending on the Expiration Date; but in no

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event shall Tenant be entitled to receive any excess of such net rents over the sums payable by Tenant to Landlord hereunder, nor shall Tenant be entitled in any suit for the collection of damages pursuant to this subsection (b) to a credit in respect of any rents from a reletting, except to the extent that such net rents are actually received by Landlord. If the Demised Premises or any part thereof should be relet in combination with other space, then proper apportionment on a square foot basis shall be made of the rent received from such reletting and of the expenses of reletting; or

(c) a sum which at the time of such termination of this Lease or at the time of any such re-entry by Landlord, as the case may be, represents the aggregate amount of the Rent which would have been payable by Tenant (conclusively presuming the average monthly Additional Charges to be the same as were the average monthly Additional Charges payable for the year, or if less than 365 days have then elapsed since the Commencement Date, the partial year, immediately preceding such termination or re-entry) for the period commencing with such earlier termination of this Lease or the date of any such re-entry, as the case may be, and ending with the Expiration Date; provided, however, that if Landlord shall relet the Demised Premises during said period, Landlord shall credit Tenant with the net rents received by Landlord from such reletting, such net rents to be determined by first deducting from the gross rents as and when received by Landlord from such reletting the expenses incurred or paid by Landlord in terminating this Lease or in re-entering the Demised Premises and in securing possession thereof, as well as the expenses of reletting, including, without limitation, altering and preparing the Demised Premises for new tenants, brokers' commissions, legal fees, and all other expenses properly chargeable against the Demised Premises and the rental therefrom, it being understood that any such reletting may be for a period shorter or longer than the period ending on the Expiration Date; but in no event shall Landlord have to account to Tenant for any rents in excess of the total damages recovered by Landlord hereunder, nor shall Tenant be entitled in any suit for the collection of damages pursuant to this subdivision (c) to a credit in respect of any rents from a reletting, except to the extent that such net rents are actually received by Landlord. If the Demised Premises or any part

thereof should be relet in combination with other space, then proper apportionment on a square foot basis shall be made of the rent received from such reletting and of the expenses of reletting.

If the Demised Premises or any part thereof should be relet by Landlord before presentation of proof of such damages to any court, commission or tribunal, the amount of rent payable under the new lease(s) shall, prima facie, be the fair and reasonable rental value for the Demised Premises, or part thereof, so relet during the term of the reletting. Landlord shall not be liable in any way whatsoever for its failure to relet the Demised Premises or any part thereof, or if the Demised Premises or any part thereof are relet, for its failure to collect the rent under such reletting, and no such failure to relet or failure to collect rent shall release or affect Tenant's liability for damages or otherwise under this Lease. Landlord shall use commercially reasonable efforts to relet the Demised Premises to mitigate Landlord's damages. For the purposes hereof, "commercially reasonable efforts" shall mean the following actions, which actions shall create an irrebuttable presumption that Landlord has fulfilled such obligation: (i) Landlord shall include the availability of the Demised Premises in

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Landlord's monthly listing to brokers (if any), commencing with the first such report (if any) issued following Landlord's recovery of possession of the Demised Premises, and ending upon re-leasing of the Demised Premises; and (ii) Landlord shall include the availability of the Demised Premises in Landlord's internet web site (if any), commencing promptly following Landlord's recovery of possession of the Demised Premises, and ending upon re-leasing of the Demised Premises; and (iii) Landlord shall hold an "Open House" for the Demised Premises within sixty (60) days of Landlord's recovery of possession of the Demised Premises, or (iv) in lieu of (i), (ii) and (iii) of this paragraph, upon Tenant's written request, Landlord shall engage an independent commercial real estate broker to relet the Demised Premises, the cost and expense of which shall be an element of Landlord's damages in addition to any other damages recoverable pursuant to Section 29.01 hereof. Nothing contained herein shall require Landlord to relet the Demised Premises prior to or with any preference over the leasing of any other similar premises of Landlord or any affiliate of Landlord, nor shall any rental of such other premises reduce the damages which Landlord would be entitled to recover from Tenant. In the event Tenant, on behalf of itself or any and all persons claiming through or under Tenant, attempts to raise a defense or assert any affirmative obligations on Landlord's part to mitigate such damages or relet the Demised Premises other than as provided herein, Tenant shall reimburse Landlord for any costs and expenses incurred by Landlord as a result of any such defense or assertion, including but not limited to Landlord's attorneys' fees incurred in connection therewith.

29.02. Suit or suits for the recovery of such damages or, any installments thereof, may be brought by Landlord at any time and from time to time at its election, and nothing contained herein shall be deemed to require Landlord to postpone suit until the date when the Term would have expired if it had not been so terminated under the provisions of Article 27, or under any provision of law, or had Landlord not re-entered the Demised Premises. Nothing herein contained shall be construed to limit or preclude recovery by Landlord against Tenant of any sums or damages to which, in addition to the damages particularly provided above, Landlord may lawfully be entitled by reason of any default hereunder on the part of Tenant. Nothing herein contained shall be construed to limit or prejudice the right of Landlord to prove for and obtain as damages by reason of the termination of this Lease or re-entry of the Demised Premises for the default of Tenant under this Lease, an amount equal to the maximum allowed by any statute or rule of law in effect at the time, whether or not such amount be greater than, equal to, or less than any of the sums referred to in Section 29.01.

29.03. In addition, if this Lease is terminated under the provisions of Article 27, or if Landlord shall re-enter the Demised Premises under the provisions of Article 28, Tenant covenants that: (a) the Demised Premises then shall be in the same condition as that in which Tenant has agreed to surrender the same to Landlord at the Expiration Date; (b) Tenant shall have performed prior to any such termination any obligation of Tenant contained in this Lease for the making of any alteration or for restoring or rebuilding the Demised Premises or the Building, or any part thereof; and (c) for the breach of any covenant of Tenant set forth above in this Section 29.03, Landlord shall be entitled immediately, without notice or other action by Landlord, to recover, and Tenant shall pay, as and for liquidated damages therefor, the cost of performing such covenant (as estimated by an independent contractor selected by Landlord).

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29.04. In addition to any other remedies Landlord may have under this Lease, and without reducing or adversely affecting any of Landlord's rights and remedies under this Article 29, if any Rent or damages payable hereunder by Tenant to Landlord are not paid upon demand therefor, the same shall bear interest at the Late Payment Rate or the maximum rate permitted by law, whichever is less, from the due date thereof until paid, and the amounts of such interest shall be Additional Charges hereunder.

29.05. In addition to any remedies which Landlord may have under this Lease, if there shall be a default hereunder by Tenant which shall not have been remedied within the applicable grace period, Landlord shall not be obligated to furnish to Tenant or the Demised Premises any HVAC services outside of Business Hours or Business Days, or any extra or additional cleaning services; and the discontinuance of any one or more such services shall be without liability by Landlord to Tenant and shall not reduce, diminish or otherwise affect any of Tenant's covenants and obligations under this Lease.

#### ARTICLE 30 - AFFIRMATIVE WAIVERS

30.01. Tenant, on behalf of itself and any and all persons claiming through or under Tenant, does hereby waive and surrender all right and privilege which it, they or any of them might have under or by reason of any present or future law, to redeem the Demised Premises or to have a continuance of this Lease after being dispossessed or ejected from the Demised Premises by process of law or under the terms of this Lease or after the termination of this Lease as provided in this Lease.

30.02. Landlord and Tenant hereby waive trial by jury in any action, proceeding or counterclaim brought by either against the other on any matter whatsoever arising out of or in any way connected with this Lease, the relationship of Landlord and Tenant, and Tenant's use or occupancy of the Demised Premises and use of the Common Area, including, without limitation, any claim of injury or damage, and any emergency and other statutory remedy with respect thereto. Tenant shall not interpose any counterclaim of any kind in any action or proceeding commenced by Landlord to recover possession of the Demised Premises.

#### ARTICLE 31 - NO WAIVERS

31.01. The failure of either party to insist in any one or more instances upon the strict performance of any one or more of the obligations of this Lease, or to exercise any election herein contained, shall not be construed as a waiver or relinquishment for the future of the performance of such one or more

obligations of this Lease or of the right to exercise such election, but the same shall continue and remain in full force and effect with respect to any subsequent breach, act or omission. The receipt by Landlord of Fixed Rent or Additional Charges with knowledge of breach by Tenant of any obligation of this Lease shall not be deemed a waiver of such breach.

#### ARTICLE 32 - CURING TENANT'S DEFAULTS

32.01. If Tenant shall default in the performance of any of Tenant's obligations under this Lease, Landlord, without thereby waiving such default, may (but shall not be obligated to) perform the same for the account and at the expense of Tenant, without notice in a case of emergency, and in any other case only if such default continues after the expiration of fifteen (15) days from the date Landlord gives Tenant notice of the default. Charges for any expenses incurred by Landlord in connection with any such performance by it for the account of Tenant, and charges for all costs, expenses and disbursements of every kind and nature whatsoever, including reasonable attorneys' fees and expenses, involved in collecting or endeavoring to collect the Rent or any part thereof or enforcing or endeavoring to enforce any rights against Tenant or Tenant's obligations hereunder, under or in connection with this Lease or pursuant to law, including any such cost, expense and disbursement involved in instituting and prosecuting summary proceedings or in recovering possession of the Demised Premises after default by Tenant or upon the expiration of the Term or sooner termination of this Lease, and interest on all sums advanced by Landlord under this Article at the Late Payment Rate or the maximum rate permitted by law, whichever is less, shall be payable by Tenant and may be invoiced by Landlord to Tenant monthly, or immediately, or at any time, at Landlord's option, and such amounts shall be due and payable upon demand.

#### ARTICLE 33 - BROKER

33.01. Tenant represents that no broker except the Broker was instrumental in bringing about or consummating this Lease and that Tenant had no conversations or negotiations with any broker except the Broker concerning the leasing of the Demised Premises. Tenant agrees to indemnify and hold harmless Landlord against and from any claims for any brokerage commissions and all costs, expenses and liabilities in connection therewith, including, without limitation, attorneys' fees and expenses, arising out of any conversations or negotiations had by Tenant with any broker other than the Broker. Landlord shall pay any brokerage commissions due the Broker pursuant to a separate agreement between Landlord and the Broker.

#### ARTICLE 34 - NOTICES

34.01. Any notice, statement, demand, consent, approval or other communication required or permitted to be given, rendered or made by either party to the other, pursuant to this Lease or pursuant to any applicable Legal Requirement, shall be in writing and shall be deemed to have been properly given, rendered or made only if (i) hand delivered, or (ii) sent by United States registered or certified mail, return receipt requested, or (iii) sent by overnight courier, addressed to the other party at the address hereinabove set forth [except that after the Commencement Date, Tenant's address, unless Tenant shall give notice to the contrary, shall be the Building (Attention: Real Estate, with a copy to the General Counsel's Office) as to Landlord, to the attention of General Counsel with a concurrent notice to the attention of Executive Vice President/Administration, and shall be deemed to have been given, rendered or made upon receipt or rejection Either party may, by notice as

aforesaid, designate a different address or addresses for notices, statements, demands, consents, approvals or other communications intended for it. In addition, upon and to the extent requested by Landlord, copies of notices shall be sent to the Superior Mortgagee.

#### ARTICLE 35 - ESTOPPEL CERTIFICATES

35.01. Tenant shall, at any time and from time to time, as requested by the Landlord, upon not less than fifteen (15) days' prior notice, execute and deliver to the Landlord or a Superior Mortgagee or Superior Lessor a statement certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modifications), certifying the dates to which the Fixed Rent and Additional Charges have been paid, stating whether or not, to the best knowledge of the party giving the statement, the requesting party is in default in performance of any of its obligations under this Lease, and, if so, specifying each such default of which the party giving the statement shall have knowledge, and stating whether or not, to the best knowledge of the party giving the statement, any event has occurred which with the giving of notice or passage of time, or both, would constitute such a default of the requesting party, and, if so, specifying each such event; any such statement delivered pursuant hereto shall be deemed a representation and warranty to be relied upon by the party requesting the certificate and by others with whom such party may be dealing, regardless of independent investigation. Tenant also shall include in any such statement such other information concerning this Lease as Landlord may reasonably request. In the event Tenant shall be requested by Landlord to execute more than one (1) estoppel certificate in any one Calendar Year of the Term, the first estoppel certificate so requested shall be free of charge; thereafter, Landlord shall be obligated to pay Tenant an administrative fee of \$150.00 for each estoppel certificate after the first estoppel certificate requested in any Calendar Year.

#### ARTICLE 36 - ARBITRATION

36.01. Landlord may at any time request arbitration (but shall not be obligated to), and Tenant may at any time when not in default in the payment of any Rent request arbitration (but shall not be obligated to), of any matter in dispute but only where arbitration is expressly provided for in this Lease. The party requesting arbitration shall do so by giving notice to that effect to the other party, specifying in said notice the nature of the dispute, and said dispute shall be determined in Newark, New Jersey, by a single arbitrator, in accordance with the rules then obtaining of the American Arbitration Association (or any comparable organization designated by Landlord). The award in such arbitration may be enforced on the application of either party by the order or judgment of a court of competent jurisdiction. The fees and expenses of any arbitration shall be borne by the parties equally, but each party shall bear the expense of its own attorneys and experts and the additional expenses of presenting its own proof. If Tenant gives notice requesting arbitration as provided in this Article, Tenant shall simultaneously serve a duplicate of the notice on each Superior Mortgagee and Superior Lessor whose name and address shall previously have been furnished to Tenant, and such Superior Mortgagees and Superior Lessor shall have the right to participate

in such arbitration.

#### ARTICLE 37 - MEMORANDUM OF LEASE

37.01. Tenant shall not record this Lease. However, at the request of Landlord, Tenant shall promptly execute, acknowledge and deliver to Landlord a memorandum of lease in respect of this Lease sufficient for recording. Such memorandum shall not be deemed to change or otherwise affect any of the obligations or provisions of this Lease. Whichever party records such memorandum of Lease shall pay all recording costs and expenses, including any taxes that are due upon such recording.

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#### ARTICLE 38 — OPTION TO EXTEND

38.01. Provided Tenant is in compliance with all of the terms and conditions contained herein, and provided Tenant has not assigned this Lease or sublet all or any portion of the Demised Premises and is itself in occupation and conducting business in the whole of the Demised Premises in accordance with the terms of this Lease, Tenant expressly acknowledging and agreeing that the option right contained herein is personal to the original named Tenant, Tenant shall have one (1) option to extend the Term of its lease of the Demised Premises, from the date upon which this Lease would otherwise expire, for one (1) period of five (5) years (the "Extended Period"), upon the following terms and conditions:

1. If Tenant elects to exercise said option, it shall do so by giving notice of such election to Landlord on or before the date which is one (1) year before the beginning of the Extended Period for which the Term is to be extended by the exercise of such option. Tenant agrees that it shall have forever waived its right to exercise such option if it shall fail for any reason whatsoever to give such notice to Landlord by the time provided herein for the giving of such notice, whether such failure is inadvertent or intentional, time being of the essence as to the exercise of such option.
2. If Tenant elects to exercise said option, the Term shall be automatically extended for the Extended Period without execution of an extension or renewal lease. Within ten (10) days after request of either party following the effective exercise of such option, however, Landlord and Tenant shall execute, acknowledge and deliver to each other duplicate originals of an instrument in recordable form confirming that such option was effectively exercised.
3. The Extended Period shall be upon the same terms and conditions as are in effect immediately preceding the commencement of such Extended Period; provided, however, that Tenant shall have no right or option to extend the Term for any period of time beyond the expiration of the Extended Period and, provided further, that in the Extended Period(s) the Fixed Rent shall be at 100% of Fair Market Value ("FMV"). FMV shall be determined by mutual agreement of the parties. If the parties are unable to agree on the FMV within thirty (30) days of Tenant's exercise of its option, the parties shall choose a licensed Real Estate Appraiser who shall determine the FMV. The cost of said Real Estate Appraiser shall be borne equally by the parties. If the parties are unable to agree on a licensed Real Estate Appraiser within forty-five (45) days of Tenant's exercise of its option, each party shall select one Appraiser to appraise the FMV. All appraisals shall be rendered within thirty (30) days of appointment of the respective Appraiser appointed under this paragraph. If the difference between the two appraisals is 20% or less of the lower appraisal, then the FMV shall be the average of the two appraisals. If the difference between the two appraisals is greater than 20% of the lower appraisal, the two Appraisers shall select a third licensed Real Estate Appraiser to appraise the FMV. The FMV shall in such case be the average of the three appraisals. The cost of the third appraisal shall be borne equally by the parties. Notwithstanding the determination of FMV, the Fixed Rent during the Extended Period

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shall in no event be less than the Fixed Rent in effect during the last year of the term.

4. Any termination, expiration, cancellation or surrender of this Lease shall terminate any right or option for the Extended Period not yet exercised.
5. Intentionally omitted.
6. The option provided herein to extend the Term of the Lease may not be severed from the Lease or separately sold, assigned or otherwise transferred.

#### ARTICLE 39 - MISCELLANEOUS

39.01. Tenant expressly acknowledges and agrees that Landlord has not made and is not making, and Tenant, in executing and delivering this Lease, is not relying upon, any warranties, representations, promises or statements, except to the extent that the same are expressly set forth in this Lease or in any other written agreement(s) which may be made between the parties concurrently with the execution and delivery of this Lease. All understandings and agreements heretofore had between the parties are merged in this Lease and any other written agreement(s) made concurrently herewith, which alone fully and completely express the agreement of the parties and which are entered into after full investigation. Neither party has relied upon any statement or representation not embodied in this Lease or in any other written agreement(s) made concurrently herewith. The submission of this Lease to Tenant does not constitute by Landlord a reservation of, or an option to Tenant for, the Demised Premises, or an offer to lease on the terms set forth herein and this Lease shall become effective as a lease agreement only upon execution and delivery thereof by Landlord and Tenant.

39.02. No agreement shall be effective to change, modify, waive, release, discharge, terminate or effect an abandonment of this Lease, in whole or in part, unless such agreement is in writing, refers expressly to this Lease and is signed by the party against whom enforcement of the change, modification, waiver, release, discharge, termination or effectuation of abandonment is sought.

39.03. If Tenant shall at any time request Landlord to sublet or let the Demised Premises for Tenant's account, Landlord or its agent is authorized to receive keys for such purposes without releasing Tenant from any of its obligations under this Lease, and Tenant hereby releases Landlord of any liability for loss or damage to any of the Tenant's Property in connection with such subletting or letting.

39.04. Except as otherwise expressly provided in this Lease, the obligations under this Lease shall bind and benefit the successors and assigns of the parties hereto with the same effect as if mentioned in each instance where a party is named or referred to; provided, however, that (a) no violation of the provisions of Article 11 shall operate to vest any rights in any successor or

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assignee of Tenant and (b) the provisions of this Section 39.04 shall not be construed as modifying the conditions of limitation contained in Article 27.

39.05. Except for Tenant's obligations to pay Rent, the time for Landlord or Tenant, as the case may be, to perform any of its respective obligations hereunder shall be extended if and to the extent that the performance thereof shall be prevented due to any Unavoidable Delay. Except as expressly provided to the contrary, the obligations of Tenant hereunder shall not be affected, impaired or excused, nor shall Landlord have any liability whatsoever to Tenant, (a) because Landlord is unable to fulfill, or is delayed in fulfilling, any of its obligations under this Lease due to any of the matters set forth in the first sentence of this Section 39.05, or (b) because of any failure or defect in the supply, quality or character of electricity, water or any other utility or service furnished to the Demised Premises for any reason beyond Landlord's reasonable control.

39.06. Any liability for payments hereunder (including, without limitation, Additional Charges) shall survive the expiration of the Term or earlier termination of this Lease.

39.07. If Tenant shall request Landlord's consent and Landlord shall fail or refuse to give such consent, Tenant shall not be entitled to any damages for any withholding by Landlord of its consent; Tenant's sole remedy shall be an action for specific performance or injunction, and such remedy shall be available only in those cases where Landlord has expressly agreed in writing not to unreasonably withhold or delay its consent or where as a matter of law Landlord may not unreasonably withhold its consent.

39.08. If an excavation shall be made upon land adjacent to or under the Building, or shall be authorized to be made, Tenant shall, upon mutually acceptable terms and during mutually acceptable hours, afford to the Person causing or authorized to cause such excavation, license to enter the Demised Premises for the purpose of performing such work as said Person shall reasonably deem necessary or desirable to preserve and protect the Building from injury or damage and to support the same by proper foundations, without any claim for damages or liability against Landlord and without reducing or otherwise affecting Tenant's obligations under this Lease.

39.09. Tenant shall not exercise its rights under Article 15 or any other provision of this Lease in a manner which would violate Landlord's union contracts or create any work stoppage, picketing, labor disruption or dispute or any interference with the business of Landlord or any tenant or occupant of the Building.

39.10. Tenant shall give prompt notice to Landlord of (a) any occurrence in or about the Demised Premises for which Landlord might be liable, (b) any fire or other casualty in the Demised Premises, (c) any damage to or defect in the Demised Premises, including the fixtures and equipment thereof, for the repair of which Landlord might be responsible, and (d) any damage to or defect in any part of the Building's sanitary, electrical, heating, ventilating, air-conditioning, elevator or other systems located in or passing through the Demised Premises or any part thereof.

39.11. This Lease shall be governed by and construed in accordance with the laws of the

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State of New Jersey. Tenant hereby irrevocably agrees that any legal action or proceeding arising out of or relating to this Lease may be brought in the Courts of the State of New Jersey, or the Federal District Court for the District of New Jersey, as Landlord may elect. By execution and delivery of this Lease, Tenant hereby irrevocably accepts and submits generally and unconditionally for itself and with respect to its properties, to the jurisdiction of any such court in any such action or proceeding, and hereby waives in the case of any such action or proceeding brought in the courts of the State of New Jersey, or Federal District Court for the District of New Jersey, any defenses based on jurisdiction, venue or forum non conveniens. If any provision of this Lease shall be invalid or unenforceable, the remainder of this Lease shall not be affected and shall be enforced to the extent permitted by law. The table of contents, captions, headings and titles in this Lease are solely for convenience of reference and shall not affect its interpretation. This Lease shall be construed without regard to any presumption or other rule requiring construction against the party causing this Lease to be drafted. If any words or phrases in this Lease shall have been stricken out or otherwise eliminated, whether or not any other words or phrases have been added, this Lease shall be construed as if the words or phrases so stricken out or otherwise eliminated were never included in this Lease and no implication or inference shall be drawn from the fact that said words or phrases were so stricken out or otherwise eliminated. Each covenant, agreement, obligation or other provision of this Lease on Tenant's part to be performed, shall be deemed and construed as a separate and independent covenant of Tenant, not dependent on any other provision of this Lease. All terms and words used in this Lease, regardless of the number or gender in which they are used, shall be deemed to include any other number and any other gender as the context may require. Tenant specifically agrees to pay all of Landlord's reasonable actual costs, charges and expenses, including attorneys' fees, incurred in connection with any document review requested by Tenant and upon submission of bills therefor. In the event Landlord permits Tenant to examine Landlord's books and records with respect to any Additional Charge imposed under this Lease, such examination shall be conducted at Tenant's sole cost and expense and shall be conditioned upon Tenant retaining an independent accounting firm for such purposes which shall not be compensated on any type of contingent fee basis with respect to such examination. Wherever in this Lease or by law Landlord is authorized to charge or recover costs and expenses for legal services or attorneys' fees, same shall include, without limitation, the reasonable actual costs and expenses for in-house or staff legal counsel or outside counsel at rates not to exceed the reasonable and customary charges for any such services as would be imposed in an arms length third party agreement for such services.

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39.12. Upon request of Landlord, Tenant shall furnish to Landlord a copy of its then current audited financial statement (which may be in the form of Tenant's most recent annual report for so long as Tenant remains a public company) which shall be employed by Landlord for purposes of financing the Premises and not distributed otherwise without prior authorization of Tenant. Landlord shall be entitled (upon request) to one (1) free copy of Tenant's then current audited financial statement in each and every Calendar Year of the Term; in the event Landlord requests Tenant's audited financial statement more than once in any Calendar Year of the Term, Tenant shall be entitled to an administrative fee of \$150 for the second and each successive request in any Calendar Year.

39.13. (a) Certification. Tenant certifies that: (i) It is not acting, directly or indirectly, for or on behalf of any person, group, entity, or nation named by any Executive Order or the United States Treasury Department as a terrorist, "Specially Designated National and Blocked Person," or other banned or blocked person, entity, nation, or transaction pursuant to any law, order, rule, or regulation that is enforced or administered by the Office of Foreign Assets Control; and (ii) It is not engaged in this transaction, directly or indirectly on behalf of, or instigating or facilitating this transaction, directly or indirectly on behalf of, any such person, group, entity, or nation.

(b) Indemnification. Tenant hereby agrees to defend, indemnify, and hold harmless Landlord from and against any and all claims, damages, losses, risks, liabilities, and expenses (including attorney's fees and costs) arising from or related to any breach of the foregoing certification.

**IN WITNESS WHEREOF**, Landlord and Tenant have duly executed this Lease as of the day and year first above written.

500 PLAZA DRIVE CORP.

BY: /s/ Irwin A. Horowitz  
Irwin A. Horowitz  
Executive Vice President

THE CHILDREN'S PLACE SERVICES COMPANY, LLC

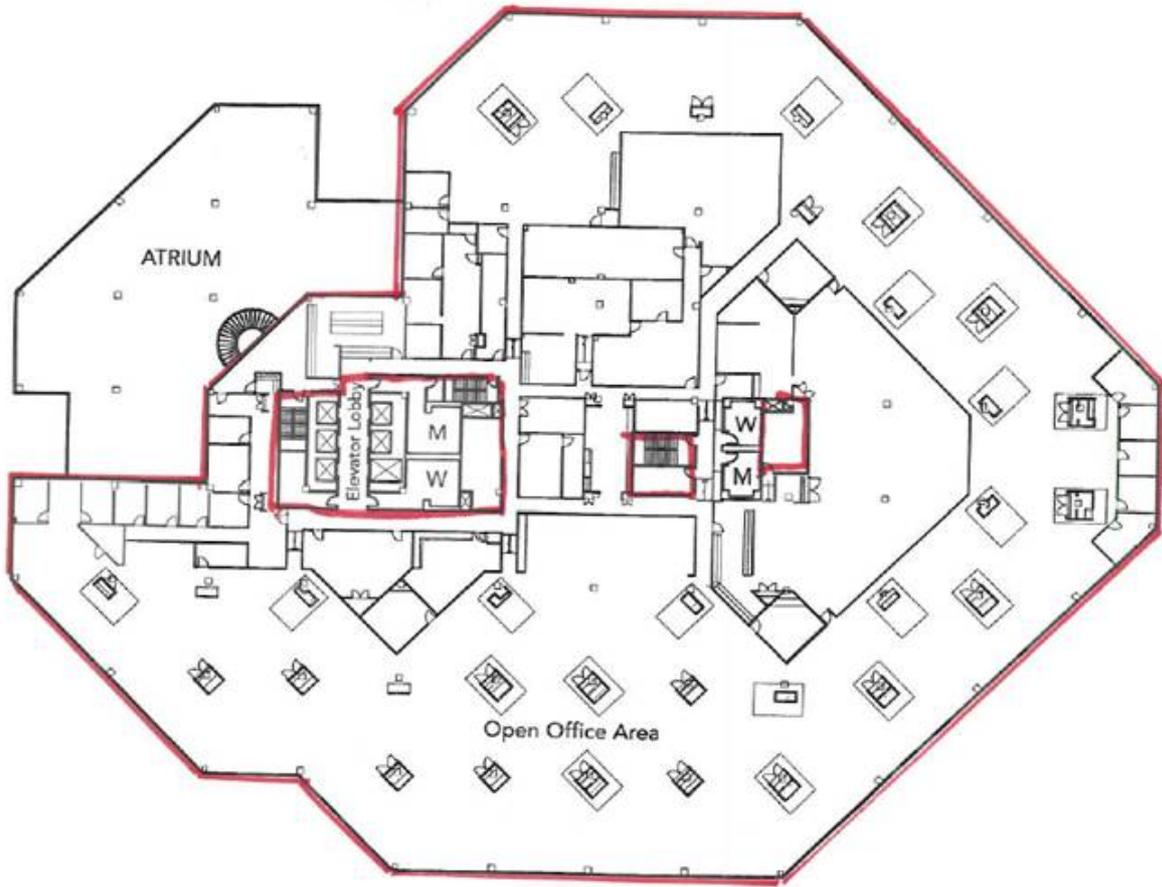
BY: /s/ Charles C. Crovitz  
Name: Charles C. Crovitz  
Title: Interim Chief Executive Officer

/s/ Susan J. Riley  
Name: Charles C. Crovitz  
Title: Executive Vice President

**500 PLAZA DRIVE**  
*Secaucus, New Jersey*

**3RD FLOOR PLAN**

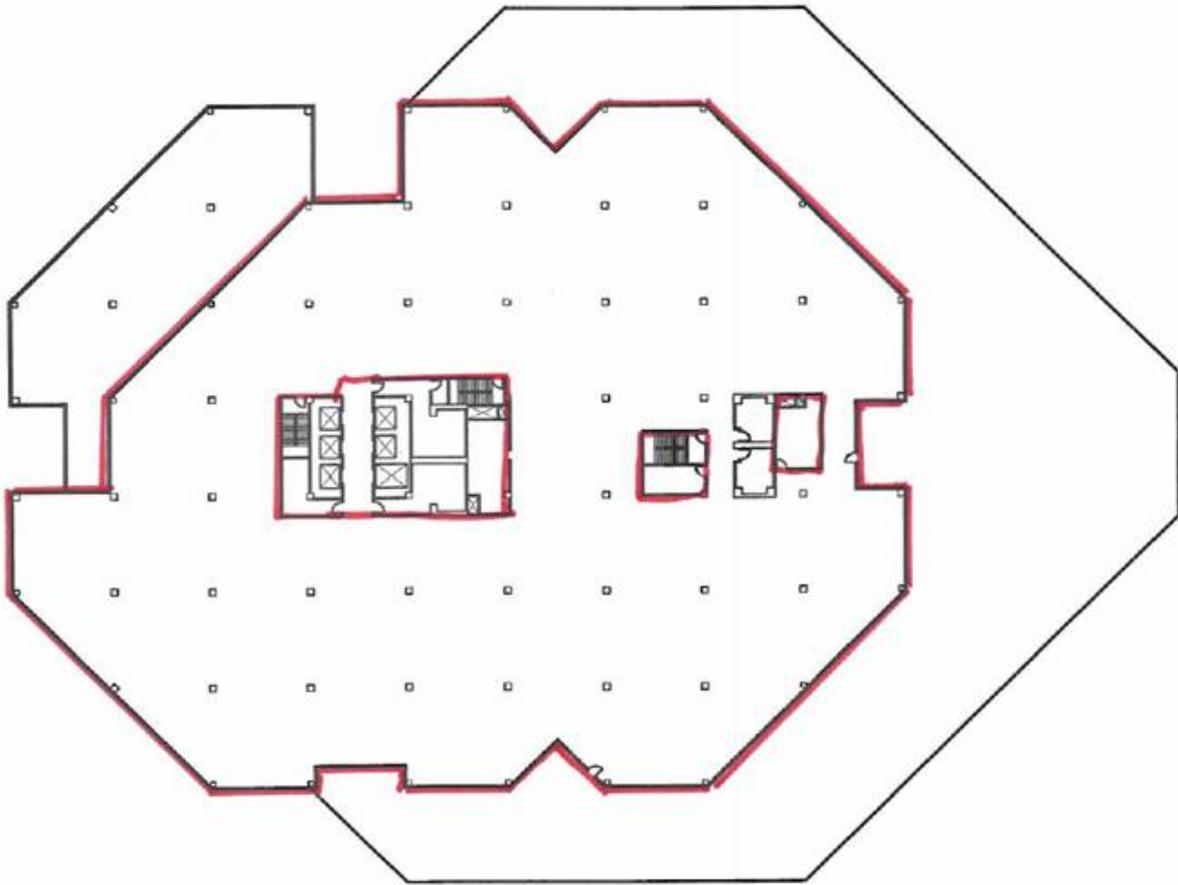
**73,554 SF**



***500 PLAZA DRIVE***  
*Secaucus, New Jersey*

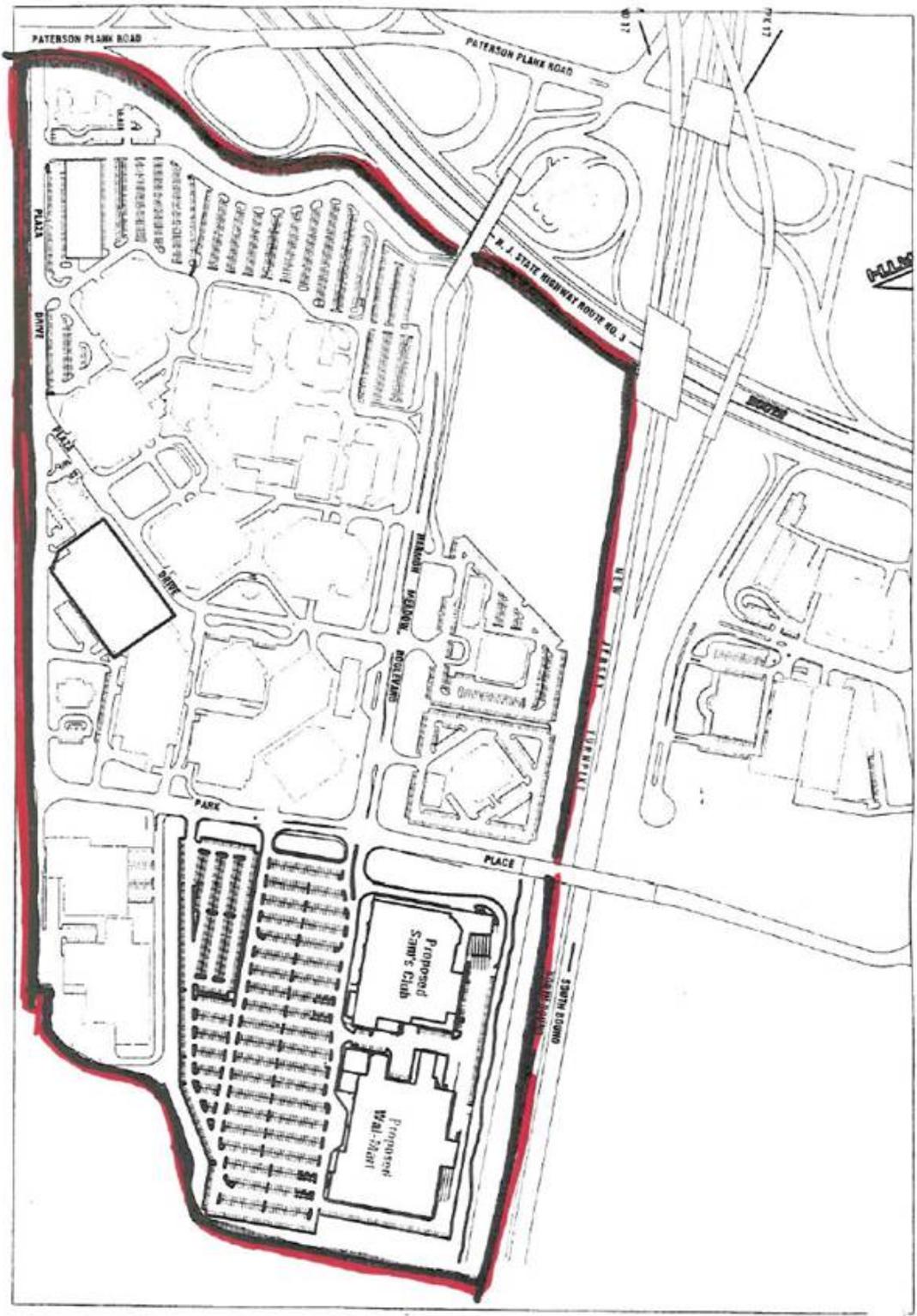
**4TH FLOOR PLAN**

**46,425 SF**



HARMON MEADOW PLAZA  
 ERNST & YOUNG  
 200 PLAZA DRIVE  
 HARMON MEADOW PLAZA  
 SECAUCUS, NJ

EXHIBIT A-1  
 DEVELOPMENT



**EXHIBIT B**

Title No. 62627

DESCRIPTION

ALL THAT CERTAIN tract, lot and parcel of land, lying and being in the Town of Secaucus, County of Hudson and State of New Jersey, being more particularly described as follows:

BEGINNING at a point, said point being the following six courses from the point of intersection of the easterly side of Harmon Meadow Boulevard with the northerly side of New Jersey State Highway Route No. 3.

- A) North 56 degrees 48 minutes 02 seconds east, 119.48 feet to a point on curve; thence
- B) Along a curve to the left having a radius of 230.00 feet an arc length of 108.38 feet to a point of tangency; thence
- C) North 29 degrees 48 minutes 02 seconds east, 429.78 feet to a point; thence

- D) North 35 degrees 48 minutes 02 seconds east, 300.00 feet to a point; thence
- E) South 54 degrees 11 minutes 58 seconds east, 80.00 feet to a point; thence
- F) South 35 degrees 48 minutes 02 seconds west, 20.25 feet to the point of beginning and running; thence
- 1. North 35 degrees 48 minutes 02 seconds east, 336.00 feet to a point of curvature; thence
- 2. Along a curve to the right having a radius of 40.00 feet an arc length of 62.83 to a point of tangency; thence
- 3. South 54 degrees 11 minutes 58 seconds east, 149.86 feet to a point; thence
- 4. South 09 degrees 11 minutes 58 seconds east, 275.77 feet to a point; thence
- 5. South 35 degrees 48 minutes 02 seconds west, 51.93 feet to a point; thence
- 6. South 80 degrees 48 minutes 02 seconds west, 182.54 feet to a point; thence
- 7. North 54 degrees 11 minutes 58 seconds west, 255.78 feet to the point of BEGINNING.

continued.....

BEING also known and designated as Lot 6.03 Block 227, as shown on a certain filed map entitled, "Proposed Minor Subdivision of Block 227 Lots 6.01, 6.02 & 7.01 for Hartz Mountain Development Corp., in the Town of Secaucus, Hudson County, New Jersey" filed in the Hudson County Register's Office on September 11, 1985 as Filed Map No. 3191.

TOGETHER with the benefit of that certain Parking Easement (as amended and restated) dated July 12, 1988, and recorded in the Hudson County Register's Office on July 18, 1988 in Deed Book 3985 page 126.

TOGETHER with the benefits of that certain Restated Access Easement dated July 12, 1988, and recorded July 18, 1988 in Deed Book 3985 page 139.

FOR INFORMATION ONLY: Premises are known as 500 Plaza Drive, Secaucus, New Jersey and designated as Block 227 Lot 6.03 on the Town of Secaucus Tax Map.

## EXHIBIT D

### MULTI-OFFICE RULES AND REGULATIONS

1. The rights of each tenant in the entrances, corridors, elevators and escalators servicing the Building are limited to ingress and egress from such tenant's premises for the tenant and its employees, licensees and invitees, and no tenant shall use, or permit the use of, the entrances, corridors, escalators or elevators for any other purpose. No tenant shall invite to the tenant's premises, or permit the visit of, persons in such numbers or under such conditions as to interfere with the use and enjoyment of any of the plazas, entrances, corridors, escalators, elevators and other facilities of the Building by any other tenants. Fire exits and stairways are for emergency use only, and they shall not be used for any other purpose by the tenants, their employees, licensees or invitees. No tenant shall encumber or obstruct, or permit the encumbrance or obstruction of, any of the sidewalks, plazas, entrances, corridors, escalators, elevators, fire exits or stairways of the Building. Landlord reserves the right to control and operate the public portions of the Building and the public facilities, as well as facilities furnished for the common use of the tenants, in such manner as it deems best for the benefit of the tenants generally.
2. Landlord may refuse admission to the Building outside of Business Hours on Business Days to any person not known to the watchman in charge, or not having a pass issued by Landlord or the tenant whose premises are to be entered, or not otherwise properly identified, and Landlord may require all persons admitted to or leaving the Building outside of Business Hours on Business Days to provide appropriate identification. Tenant shall be responsible for all persons for whom it issues any such pass and shall be liable to Landlord for all acts or omissions of such persons. Any person whose presence in the Building at any time shall, in the judgment of Landlord, be prejudicial to the safety, character or reputation of the Building or of its tenants may be denied access to the Building or may be ejected therefrom. During any invasion, riot, public excitement or other commotion, Landlord may prevent all access to the Building by closing the doors or otherwise for the safety of the tenants and protection of property in the Building.
3. No tenant shall obtain or accept for use in its premises ice, drinking water, food, beverage, towel, barbering, boot-blackening, floor polishing, cleaning or other similar services from any persons not authorized by Landlord in writing to furnish such services, provided that the charges for such services by persons authorized by Landlord are comparable to similar charges in other first-class office buildings in Hudson County. Such services shall be furnished only at such hours, and under such reasonable regulations, as may be fixed by Landlord from time to time.
4. The cost of repairing any damage to the public portions of the Building or the public facilities or to any facilities used in common with other tenants, caused by a tenant or its employees, licensees or invitees, shall be paid by such tenant.
5. No awnings or other projections shall be attached to the outside walls of the Building. No curtains, blinds, shades or screens shall be attached to or hung in, or be used in connection with, any window or door of the premises of any tenant, without the prior written consent of Landlord, which consent shall not be unreasonably withheld or delayed. Such curtains, blinds, shades or screens must be of a quality, type, design and color, and attached in the manner approved by Landlord, such approval not to be unreasonably withheld or delayed.

6. No lettering, sign, advertisement, notice or object shall be displayed in or on the windows or doors, or on the outside of any tenant's premises, or at any point inside any tenant's premises where the same might be visible outside of such premises, without the prior written consent of Landlord. Notwithstanding anything herein contained to the contrary, Tenant shall be permitted to install, at Tenant's sole cost and expense, its prototypical logo and/or lettering adjacent to or on the entrance doors to the Demised Premises. In the event of the violation of the foregoing by any tenant, Landlord may remove the same without any liability, and may charge the expense incurred in such removal to the tenant violating this rule. Interior signs, elevator cab designations and lettering on doors and the Building directory shall, if and when approved by Landlord, be inscribed, painted or affixed for each tenant by Landlord at the reasonable expense of such tenant, and shall be of a size, color and style reasonably acceptable to Landlord.

7. The sashes, sash doors, skylights, windows and doors that reflect or admit light and air into

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the halls, passageways or other public places in the Building shall not be covered or obstructed by any tenant, nor shall any bottles, parcels or other articles be placed on the window sills or on the peripheral air conditioning enclosures, if any.

8. No showcase or other articles shall be put in front of or affixed to any part of the exterior of the Building, nor placed in the halls, corridors or vestibules.

9. Linoleum, tile or other floor covering shall be laid in a tenant's premises only in a manner first approved in writing by Landlord.

10. No tenant shall mark, paint, drill into, or in any way deface any part of its premises or the Building. No boring, cutting or stringing of wires shall be permitted, except with the prior written consent of Landlord, and as Landlord may direct.

11. No bicycles, vehicles, animals, fish or birds of any kind shall be brought into or kept in or about the premises of any tenant of the Building.

12. No noise, including, but not limited to, music or the playing of musical instruments, recordings, radio or television, which, in the judgment of Landlord, might disturb other tenants in the Building, shall be made or permitted by any tenant. Nothing shall be done or permitted in the premises of any tenant which would impair or interfere with the use or enjoyment by any other tenant of any other space in the Building.

13. No tenant, nor any tenant's contractors, employees, agents, visitors or licensees, shall at any time bring into or keep upon the premises or the Building any inflammable, combustible, explosive or otherwise dangerous fluid, chemical or substance.

14. Additional locks or bolts of any kind which shall not be operable by the grand master key for the Building shall not be placed upon any of the doors or windows by any tenant, nor shall any changes be made in locks or the mechanism thereof which shall make such locks inoperable by said grand master key. Additional keys for a tenant's premises and toilet rooms shall be procured only from Landlord who may make a reasonable charge therefor. Each tenant shall, upon the termination of its tenancy, turn over to Landlord all keys of stores, offices and toilet rooms, either furnished to, or otherwise procured by, such tenant, and in the event of the loss of any keys furnished by Landlord such tenant shall pay to Landlord the reasonable cost for replacement thereof.

15. All removals, or the carrying in or out of any safes, freight, furniture, packages, boxes, crates or any other object or matter of any description must take place during such hours and in such elevators and in such manner as Landlord or its agent may determine from time to time. The persons employed to move safes and other heavy objects shall be reasonably acceptable to Landlord and, if so required by law, shall hold a master rigger's license. Arrangements will be made by Landlord with any tenant for moving large quantities of furniture and equipment into or out of the Building.

16. Landlord reserves the right to inspect all objects and matter to be brought into the Building and to exclude from the Building all objects and matter which violate any of these Rules and Regulations or this Lease. Landlord may require any person leaving the Building with any package or other object or matter to submit a pass, listing such package or object or matter, from the tenant from whose premises the package or object or matter is being removed, but the establishment and enlargement of such requirement shall not impose any responsibility on Landlord for the protection of any tenant against the removal of property from the premises of such tenant. Landlord shall in no way be liable to any tenant for damages or loss arising from the admission, exclusion or ejection of any person to or from the premises or the Building under the provisions of this RULE or of RULE 2 hereof.

17. No tenant shall occupy or permit any portion of its premises to be occupied as an office for a public stenographer or public typist, or for the possession, storage, manufacture, or sale of liquor, narcotics, tobacco in any form, or as a barber, beauty or manicure shop, or as a school. No tenant shall use its premises or any part thereof to be used for manufacturing, or the sale at retail or auction of merchandise, goods or property of any kind.

18. Landlord shall have the right to prohibit any advertising or identifying sign by any tenant which, in Landlord's judgment, tends to impair the reputation of the Building or its desirability as a building for others, and upon written notice from Landlord, such tenant shall refrain from and discontinue such advertising or identifying sign.

19. Landlord shall have the right to prescribe the weight and position of safes and other objects of excessive weight, and no safe or other object whose weight exceeds the lawful load for the area upon which it would stand shall be brought into or kept upon any tenant's premises. If, in the judgment of Landlord, it is necessary to distribute the concentrated weight of any heavy object, the work involved in such distribution shall be done at the expense of the tenant and in such a manner as Landlord shall determine.

20. No machinery or mechanical equipment other than ordinary business machines may be installed or operated in any tenant's premises without Landlord's prior written consent, and in no case (even where the same are of a type so excepted or as so consented to by Landlord) shall any machines or mechanical equipment be so placed or operated as to disturb other tenants; but machines and mechanical equipment which may be permitted to be installed and used in a tenant's premises shall be so equipped, installed and maintained by such tenant as to prevent any disturbing noise, vibration or electrical or other interference from being transmitted from such premises to any other area of the Building.

21. Landlord, its contractors, and their respective employees, shall have the right to use, without charge therefore, necessary light, power and water in the premises of any tenant while cleaning or making repairs or alterations in the premises of such tenant.

22. No premises of any tenant shall be used for lodging or sleeping or for any immoral or illegal purpose.
23. The requirements of tenants will be attended to only upon application at the office of the Building. Employees of Landlord shall not perform any work or do anything outside of their regular duties, unless under special instructions from Landlord.
24. Canvassing, soliciting and peddling in the Building are prohibited and each tenant shall cooperate to prevent the same.
25. No tenant shall cause or permit any unusual or objectionable odors to emanate from its premises which would annoy other tenants or create a public or private nuisance. No cooking shall be done in the premises of any tenant except as is expressly permitted in such tenant's Lease.
26. Nothing shall be done or permitted in any tenant's premises, and nothing shall be brought into or kept in any tenant's premises, which would impair or interfere with any of the Building's services or the proper and economic heating, cleaning or other servicing of the Building or the premises, or the use or enjoyment by any other tenant of any other premises nor shall there be installed by any tenant any ventilating, air-conditioning, electrical or other equipment of any kind which, in the judgment of Landlord, might cause any such impairment or interference.
27. No acids, vapors or other materials shall be discharged or permitted to be discharged into the waste

lines, vents or flues of the Building which may damage them. The water and wash closets and other plumbing fixtures in or serving any tenant's premises shall not be used for any purpose other than the purposes for which they were designed or constructed, and no sweepings, rubbish, rags, acids or other foreign substances shall be deposited therein. All damages resulting from any misuse of the fixtures shall be borne by the tenants who, or whose servants, employees, agents, visitors or licensees shall have, caused the same. Any cuspidors or containers or receptacles used as such in the premises of any tenant or for garbage or similar refuse, shall be emptied, cared for and cleaned by and at the expense of such tenant.

28. All entrance doors in each tenant's premises shall be left locked and all windows shall be left closed by the tenant when the tenant's premises are not in use. Entrance doors shall not be left open at any time. Each tenant, before closing and leaving its premises at any time, shall turn out all lights.
29. Hand trucks not equipped with rubber tires and side guards shall not be used within the Building.
30. All windows in each tenant's premises shall be kept closed, and all blinds therein above the ground floor shall be lowered as reasonably required because of the position of the sun, during the operation of the Building air-conditioning system to cool or ventilate the tenant's premises.
31. Landlord reserves the right to rescind, alter or waive any rule or regulation at any time prescribed for the Building when, in its judgment, it deems it necessary, desirable or proper for its best interest and for the best interests of the tenants, and no alteration or waiver of any rule or regulation in favor of one tenant shall operate as an alteration or waiver in favor of any other tenant. Landlord shall not be responsible to any tenant for the non-observance or violation by any other tenant of any of the rules and regulations at any time prescribed for the Building.
32. Sustainability: Tenant has been provided with a copy of Landlord's Sustainability Initiative. Consistent with such Initiative, Tenant shall use its reasonable efforts to ensure effective and energy efficient operation of the Demised Premises. Accordingly:
  - (i) Tenant shall not waste electricity, water, heat, air conditioning, and other utilities and services at the Demised Premises; and
  - (ii) Tenant shall not obstruct, alter, or in any way impair the efficient operation of the Building's heat, air conditioning, and ventilation systems. To this end, Tenant shall:
    - (A) Not place furniture, equipment, or other objects where they would interfere with air flow;
    - (B) Keep corridor doors closed and not open any windows (except if air circulation shall not be in operation, windows may be opened with Landlord's consent; and
    - (C) During hot weather months, lower and partially close window blinds or drapes when the sun's rays fall directly on windows or the Premises.
    - (D) Use, to the maximum extent economically practicable, energy efficient materials and supplies, including but not limited to fluorescent light fixtures and bulbs, waterless plumbing fixtures, and such other items consistent with Landlord's specifications, which specifications may be amended by Landlord from time to time.
    - (E) Upon request of Landlord, provide Landlord with copies of its utility bills, or authorize the various utilities (e.g. providers of electric, gas, and water) to provide copies of such bills directly to Landlord.
    - (F) Recycle waste materials to the maximum extent economically practicable, and in all events in compliance with applicable solid waste management laws and regulations.

## EXHIBIT E

### CLEANING SPECIFICATIONS

#### NIGHTLY FOR GENERAL OFFICE SPACE

- Sweep all hard floors.
- Vacuum all carpeted areas and rugs; spot clean rugs as necessary.
- Empty and clean all wastepaper baskets, ashtrays, etc. and damp dust.
- Sweep and remove waste from all stairways.

Clean all cigarette urns and replace sand and water as necessary.  
Remove wastepaper and waste materials and place in plastic bags and store in designated areas on premises.  
Dust and wipe clean all office furniture, paneling and window sills.  
Clean all glass furniture tops, removing finger marks.  
Dust all chair rails, baseboards and trim.  
Wash all water fountains and coolers.  
Wipe clean all brass and other brightwork.  
Remove all finger marks from private entrance doors, building doors, light switches and elevator doors and buttons.  
Dust all open closet shelving.  
Dust all doors and other ventilating louvers.  
Properly maintain in a clean condition all service close areas.

**NIGHTLY FOR LAVATORY AREAS**

Sweep and wash floors using disinfectant.  
Wash and polish all mirrors, powder shelves, brightwork, enamel surfaces, etc. including all exposed piping and toilet seat hinges.  
Wipe clean all toilet tissue, soap and towel dispensers and refill with material furnished by owner.  
Remove wastepaper and refuse to a designated area.

**NIGHTLY ENTRANCE LOBBY AREAS**

Sweep and wash flooring including spray buffing.  
Wash all rubber mats.  
Clean all cigarette urns and replace sand and water as necessary.  
Vacuum floors, dust and rub down walls, metal work and saddles in all elevator cabs.

**NIGHTLY FOR GENERAL CLEANING**

Thoroughly vacuum all carpeted areas moving light furniture other than desks, file cabinets, etc.  
Wash all stairways.

**MONTHLY HIGH DUSTING**

Dust all pictures, frames, charts and other wall hangings not reached in nightly cleaning.  
Dust all vertical surfaces such as walls, partitions, doors, brick, louvers, not reached in nightly cleaning.  
Dust all window frames.  
Machine scrub all ceramic tile floors.  
Thoroughly wash and polish all wall tile and stalls in toilet Areas.  
Dust and wash down lobby walls.

**OPTIONAL EXTRA ITEMS PERFORMED ON REQUEST AND TO BE PAID FOR BY TENANT**

Wax all hard floors.  
Light fixture cleaning.  
Shampooing of carpet.  
Furniture polishing.

**OTHER SPECIAL CHORES NOT DESCRIBED IN NIGHTLY, WEEKLY OR MONTHLY CLEANING SERVICES**

Window washing will be performed TWO times per year.

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EXHIBIT F

[NAME AND ADDRESS OF ISSUING BANK]

[INSERT DATE]

IRREVOCABLE LETTER OF CREDIT NO. (insert number)

[Landlord]  
[c/o Hartz Mountain Industries, Inc.]  
400 Plaza Drive  
Secaucus, New Jersey 07096-1515

Ladies and Gentlemen:

At the request and for the account of [TENANT], located at (hereinafter called "Applicant"), we hereby establish our Irrevocable Letter of Credit No. [Insert number] in your favor and authorize you and your assigns to draw on us up to the aggregate amount of US\$ [TO BE INSERTED] available by your draft(s) at sight drawn on us and accompanied by the following:

A statement signed to the effect of or similar to the following: "The drawer hereunder is entitled to draw upon this letter of credit pursuant to that certain lease agreement, dated [INSERT DATE], by and between [LANDLORD], as Landlord, and [TENANT], as Tenant (the

“Lease”).”

This Irrevocable Letter of Credit will be duly honored by us at sight upon delivery of the statement set forth above without inquiry as to the accuracy of such statement and regardless of whether Applicant disputes the content of such statement. Partial drawings against this Letter of Credit are permitted.

This Irrevocable Letter of Credit shall automatically renew itself for successive twelve (12) month periods from the date above, unless we notify you, by certified mail, return receipt requested, of our intention not to renew at least sixty (60) days prior to any annual renewal date.

This irrevocable Letter of Credit is transferable at no charge to any transferee of Landlord upon notice to the undersigned from you and such transferee.

Multiple draws on this Letter of Credit are permitted.

You shall have the right, at your option, to present a photocopy of this Letter of Credit in lieu of the original and we shall make payment hereunder as if the original were presented.

At your option, draw requests may be made in person, or by mail, or by courier service, including but not limited to FedEx, Airborne, or UPS.

At your option draw requests may be made by fax to the following fax number (or such other number as we may designate upon written notice to you):

Fax number for draws hereunder: [INSERT FAX NUMBER].

If the original of this Letter of Credit has been lost, stolen, mutilated or destroyed upon receipt of (a) in the case of loss, theft or destruction of this Letter of Credit, a certificate signed by an authorized officer of the beneficiary (who is

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identified as such) to such effect or (b) in the case of mutilation of this Letter of Credit. The mutilated Letter of Credit, we will issue a replacement Letter of Credit in your favor, dated the same date, bearing a new number, and in the same stated amount as, and with other provisions identical to, this Letter of Credit.

This undertaking is subject to The International Standby Practices 1998 (ISP98).

Upon receipt of the documents above described, we shall pay you as requested.

Very truly yours,

Name of Bank

\_\_\_\_\_  
Vice President

Countersigned:

\_\_\_\_\_  
Vice President

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GUARANTY

THIS GUARANTY is made this 12th day of March, 2009, by The Children's Place Retail Stores, Inc., a Delaware corporation, with an address of 915 Secaucus Road, Secaucus, New Jersey 07094 ("Guarantor")

WHEREAS, 500 Plaza Drive Corp., a New Jersey corporation with an office at 400 Plaza Drive, P.O. Box 1515, Secaucus, New Jersey 07094-1515 ("Landlord") has leased certain premises located in Secaucus, New Jersey to The Children's Place Services Company, LLC, a Delaware limited liability company ("Tenant") pursuant to a Lease Agreement ("Lease") of even date herewith, to which this Guaranty is attached; and

WHEREAS, Landlord has refused to enter into the Lease unless the Guarantor executes and delivers this Guaranty; and

WHEREAS, in order to induce Landlord to enter into the Lease, the Guarantor has agreed to guarantee the payment of Rent and any other charges provided for in the Lease and the performance by Tenant of all the covenants to be performed and observed on its part pursuant to the Lease.

NOW THEREFORE, in consideration of the premises and of the sum of Ten Dollars (\$10.00) paid to Guarantor, the receipt and sufficiency of which are hereby acknowledged, the terms of the Guaranty are as follows:

1. The Guarantor agrees that the obligation of the Guarantor is a primary and unconditional obligation, and the Guarantor unconditionally and absolutely guarantees the due and punctual payment of the Rent, the Additional Charges and any other moneys due or which may become due pursuant to the terms of the Lease, and the due and punctual performance and observance by the Tenant of all the terms, covenants and conditions of the Lease whether according to the present terms thereof, or pursuant to any extension of time or any change or changes in the terms, covenants and conditions thereof now or at any time hereafter made or granted. The liability of the Guarantor hereunder shall be enforceable against the Guarantor without the necessity for any suit or proceedings on the Landlord's part of any kind or nature whatsoever against the Tenant.

2. The Guarantor, without affecting the Guarantor's obligations hereunder in any respect, hereby waives notice of the acceptance of this Guaranty by the Landlord; notice of presentment, diligence, demand for payment, nonpayment, protest, notice of dishonor, extension of time of payment, and indulgences and notices of every kind.

3. The Guarantor, without affecting the Guarantor's obligations hereunder in any respect, hereby consents to the acceptance or release of security, the release or addition of parties liable under the Lease, any and all forbearances and extensions of the time of payment of Rent, and any and all changes in the terms, covenants and conditions of the Lease, and any extension or renewal of the

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Term of the Lease, any assignment or transfer of the Lease by Tenant and any consents given by Landlord hereafter made or granted; it being the intention hereof that the Guarantor shall remain liable in principal until the full amount of the Rent and any other sums due or to become due under the Lease shall have been fully paid and the terms, covenants and conditions shall have been fully performed and observed by the Tenant, notwithstanding any act, omission or thing which might otherwise operate as a legal or equitable discharge of the Guarantor.

4. The Guarantor hereby waives all defenses, offsets or counterclaims which the Guarantor or the Tenant may at any time have in connection with the Lease.

5. Until all the covenants and conditions in said Lease on the Tenant's part to be performed and observed are fully performed and observed, the Guarantor: (a) shall have no right of subrogation against the Tenant by reasons of any payments or acts of performance by the Guarantor hereunder; (b) waives any right to enforce any remedy which the Guarantor now or hereafter shall have against the Tenant by reason of any one or more payment or acts of performance in compliance with the obligations of the Guarantor hereunder; and (c) subordinates any liability or indebtedness of the Tenant arising out of the Lease or this Guaranty now or hereafter held by the Guarantor to the obligations of the Tenant to the Landlord under said Lease.

6. The Guarantor agrees that this Guaranty may be enforced by Landlord without first resorting to or exhausting any other remedy.

7. The Guarantor agrees that the Guarantor's obligation to make payment in accordance with the terms of this Guaranty shall not be limited, modified, changed, released or impaired in any manner whatsoever by any impairment, modification, change, release or limitation of the liability of Tenant or its estate in bankruptcy or the rejection or disaffirmance of the Lease resulting from the operation of any present or future provision of the United States Bankruptcy Code or other similar statute, or from the decision of any court or from the cessation from any cause whatsoever of the liability of Tenant.

8. The Guarantor agrees that in the event this Guaranty is placed in the hands of an attorney for enforcement, the Guarantor will reimburse Landlord for all expenses incurred in enforcing this Guaranty, including reasonable attorney's fees and court costs.

9. The Guarantor agrees that this Guaranty shall inure to the benefit of the Landlord and shall be binding upon and enforceable by Landlord and any successor to Landlord against the Guarantor and the Guarantor's successors and assigns. The Landlord shall have the right to assign and transfer this Guaranty to any assignee of Landlord's interest under this Lease.

10. This Guaranty shall be governed by and construed and interpreted in accordance with the laws of the State of New Jersey. Guarantor hereby irrevocably agrees that any legal action or proceeding arising out of or relating to this Guaranty may be brought in the Courts of the State of New Jersey, or the Federal District Court for the District of New Jersey, as Landlord may elect. By execution and delivery of this Guaranty, Guarantor hereby irrevocably accepts and submits generally

and unconditionally for itself and with respect to its properties, to the jurisdiction of any such court in any such action or proceeding, and hereby waives in the case of any such action or proceeding brought in the courts of the State of New Jersey, or Federal District Court for the District of New Jersey, any defenses based on jurisdiction, venue or forum non conveniens.

11. If any provision or portion thereof of this Guaranty is declared or found by a court of competent jurisdiction to be unenforceable or null and void, such provision or portion thereof shall be deemed stricken and severed from this Guaranty and the remaining provisions and portions thereof shall continue in full force and effect.

12. Capitalized terms not defined herein shall be construed as defined in the Lease.

13. Attached hereto is a certified copy of Guarantor's corporate resolution authorizing the execution and delivery of this Guaranty.

IN WITNESS WHEREOF, the Guarantor has executed this instrument the day and year first above written.

ATTEST/WITNESS

GUARANTOR:

THE CHILDREN'S PLACE RETAIL STORES, INC.

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BY: /s/ Charles Crovitz  
Name: Charles Crovitz  
Title: Interim Chief Executive Officer

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BY: /s/ Susan J. Riley  
Name: Susan J. Riley  
Title: Executive Vice President

LEASE TERMINATION AGREEMENT

THIS LEASE TERMINATION AGREEMENT (this "Agreement") made as of this 12th day of March 2009 between HARTZ MOUNTAIN METROPOLITAN, a New Jersey general partnership, having an office at 400 Plaza Drive, P.O. Box 1515, Secaucus, New Jersey 07096-1515 ("Landlord") and THE CHILDREN'S PLACE SERVICES COMPANY, LLC, a Delaware limited liability company, having an office at 2 Emerson Lane, Secaucus, New Jersey ("Tenant");

WHEREAS by an Agreement of Lease dated May 3, 2006, as amended by Lease Modification Agreement dated November 27, 2006, Letter Agreement dated January 17, 2007, and Consent to License dated January 1, 2008 (collectively, "the Lease"), Landlord leased certain Demised Premises (as that term is defined in the Lease) at 2 Emerson Lane, Secaucus, New Jersey to Tenant; and

WHEREAS, the parties are desirous of providing for the termination of the Lease Term prior to the date provided in said Lease;

NOW, THEREFORE, in consideration of Ten and 00/100 Dollars (\$10.00) in hand paid by Tenant to Landlord, the receipt and sufficiency of which are hereby acknowledged and the mutual promises set forth herein, it is agreed that:

1. Notwithstanding the provisions of Article 1.01 M., the Lease shall terminate and Tenant shall vacate the Demised Premises as of May 31, 2009 with the same effect as though said date were the Expiration Date set forth in the Lease. Tenant shall vacate and surrender the Demised Premises on the aforesaid date in accordance with Article 24 of the Lease.

2. Tenant agrees to promptly satisfy all accounts owing by reason of its occupancy of the Demised Premises plus all applicable utility charges, real property taxes, maintenance charges, and the cost of any repairs by reason of Tenant's occupancy or removal of its goods and equipment from the Demised Premises as set forth in said Lease. It is agreed that all adjustments for charges detailed hereunder shall be made as of May 31, 2009. Notwithstanding anything herein contained to the contrary, Tenant shall pay to Landlord, upon execution of this Agreement, the sum of Six Hundred Fifty Thousand and No/100 Dollars (\$650,000.00), in good funds, as an Additional Charge under the Lease, same representing the balance due Landlord in connection with the completion of the construction of the Parking Garage (as that term is defined in the Lease).

3. Tenant warrants that in consideration of Landlord's termination of the Lease, it shall vacate the Demised Premises in accordance with Paragraph 1 of this Agreement. In the event that Tenant shall not, for any reason so vacate the Demised Premises, Landlord shall not be precluded from pursuing Tenant for any further damages arising therefrom. If Tenant shall vacate the Demised Premises as provided herein and pay to Landlord all sums owing pursuant to paragraphs 2 and 6(i)

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hereof, Landlord shall thereafter return to Tenant its security deposit (in the form of a Letter of Credit) in the amount of \$292,900.00 as provided for in Article 8 of the Lease. Notwithstanding anything contained herein to the contrary, nothing contained in this Agreement shall release Tenant from any of its obligations under Article 13 or Article 21 of the Lease.

4. This agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto.

5. Notwithstanding the previous Paragraph, Tenant shall not enter into any agreements of assignment, subletting or encumbrance pursuant to Article 11 of the Lease.

6. In consideration of Landlord's consent to the termination of the Lease prior to its stated Expiration Date, Tenant shall pay to Landlord, in good funds, as an Additional Charge, a "Termination Fee" in the amount of Two Million Two Hundred Fifty Thousand and No/100 Dollars (\$2,250,000.00) as follows:

(i) The sum of One Million Two Hundred Fifty Thousand and No/100 Dollars (\$1,250,000.00) shall be paid to Landlord on or before February 28, 2009; and

(ii) The sum of One Million and No/100 Dollars (\$1,000,000.00) shall be paid to Landlord on or before January 10, 2010.

As security for the payment of the installment due under subparagraph (ii) above, Tenant shall, upon execution of this Agreement, deliver to Landlord a Letter of Credit, in the form and subject to the conditions and requirements set forth in Article 8 of the Lease, in the amount of \$1,000,000.00 to be held by Landlord pending Tenant's payment of the installment due under subparagraph (ii) above. The Letter of Credit so posted in accordance with this provision shall not expire prior to February 10, 2010. In the event Tenant fails to make the payment of the installment due under subparagraph (ii) above by January 10, 2010, Landlord shall have the right, upon five (5) days notice to Tenant, to draw upon the Letter of Credit and to retain the proceeds there from in satisfaction of Tenant's obligations hereunder. In the event Tenant timely makes the payment of the installment due under subparagraph (ii) above, Landlord shall forthwith return the Letter of Credit to Tenant.

7. Tenant represents that its North American Industrial Classification System ("NAICS Code") [as that term is referred to in the Environmental Clean-Up Responsibility Act ("ISRA"), N.J.S.A. 13:1K-1] is 5651. Tenant further represents that the Demised Premises do not constitute an "Industrial Establishment" pursuant to ISRA. In the event Tenant is subject to ISRA, Tenant will comply with all statutes, regulations, rules, ordinances, or other directives governing the termination of Tenant's Lease.

8. The performance by Tenant of its obligations under this Agreement shall not be deemed conditions to the termination of the Lease as set forth in Paragraph 1. hereof.

9. The Landlord and Tenant represent and warrant to each other that the signatories hereto are duly authorized to act on their respective behalf in the entering into this Agreement.

10. Tenant certifies that: (i) It is not acting, directly or indirectly, for or on behalf of any person, group, entity, or nation named by any Executive Order or the United States Treasury Department as a terrorist, "Specially Designated National and Blocked Person," or other banned or blocked person, entity, nation, or transaction pursuant to any law, order, rule, or regulation that is enforced or administered by the Office of Foreign Assets Control; and (ii) it is not engaged in this transaction, directly or indirectly on behalf of, or instigating or facilitating this transaction, directly or indirectly on behalf of, any such person, group, entity, or nation. Tenant hereby agrees to defend, indemnify, and hold harmless Landlord from and against any and all claims, damages, losses, risks, liabilities, and expenses (including attorney's fees and costs) arising from or related to any breach of the foregoing certification.

11. Capitalized terms referenced herein shall have the meaning ascribed to such terms in the Lease unless otherwise set forth herein.

12. Tenant hereby acknowledges and agrees that that certain License Agreement by and between Tenant and LCI Holdings, Inc. dated January 1, 2008 (which was the subject of Landlord's Consent to License dated January 1, 2008), shall terminate, expire and be of no further force and effect as of May 31, 2009, and Licensee shall be required to fully vacate the Demised Premises on or prior to May 31, 2009.

13. This Agreement, and the rights and obligations of the parties hereto, is/are expressly conditioned and contingent upon the execution of that certain Lease Agreement by and between 500 Plaza Drive Corp., an affiliate of Landlord, and Tenant for premises located at 500 Plaza Drive, Secaucus, New Jersey (the "500 Plaza Drive Lease"). In the event the 500 Plaza Drive Lease is not executed and delivered by the parties thereto, then this Agreement shall be deemed terminated, and the rights and obligations of the parties hereunder shall be rendered null and void a and without further force and effect.

IN WITNESS WHEREOF, the parties have caused this Lease Termination Agreement to be signed by their duly authorized officers, and their corporate seals to be affixed hereto, the day and year first above written.

By: HARTZ MOUNTAIN ASSOCIATES  
Hartz Mountain Industries, Inc.

By: /s/ Irwin A. Horowitz  
Irwin A. Horowitz, Executive Vice President

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THE CHILDREN'S PLACE SERVICES COMPANY, LLC

By: /s/ Charles Crovitz  
Name: Charles Crovitz  
Title: Interim Chief Executive Officer

By: /s/ Susan J. Riley  
Name: Susan J. Riley  
Title: Executive Vice President

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LEASE TERMINATION AGREEMENT

THIS LEASE TERMINATION AGREEMENT (this "Agreement") made as of this 12th day of March, 2009 between HARTZ MOUNTAIN ASSOCIATES, a New Jersey general partnership, having an office at 400 Plaza Drive, P.O. Box 1515, Secaucus, New Jersey 07096-1515 ("Landlord") and THE CHILDREN'S PLACE SERVICES COMPANY, LLC, a Delaware limited liability company, having an office at 915 Secaucus Road, Secaucus, New Jersey ("Tenant");

WHEREAS by an Agreement of Lease dated June 30, 1998, as amended by Letter Agreement dated June 30, 1998, Lease Modification Agreement dated November 20, 1998, Second Lease Modification Agreement dated November 19, 2004, Consent to Assignment and Assumption of Lease Agreement dated October 30, 2004, Lease Termination Agreement dated May 3, 2006, and Agreement dated November 27, 2006 (collectively, "the Lease"), Landlord leased certain Demised Premises (as that term is defined in the Lease) at 915 Secaucus Road, Secaucus, New Jersey to Tenant; and

WHEREAS, the parties are desirous of providing for the termination of the Lease Term prior to the date provided in said Lease;

NOW, THEREFORE, in consideration of Ten and 00/100 Dollars (\$10.00) in hand paid by Tenant to Landlord, the receipt and sufficiency of which are hereby acknowledged and the mutual promises set forth herein, it is agreed that:

1. Notwithstanding the provisions of Article 1.01 N., the Lease shall terminate and Tenant shall vacate the Demised Premises as of January 31, 2010 (the "New Expiration Date") with the same effect as though said date were the Expiration Date set forth in the Lease. Tenant shall vacate and surrender the Demised Premises on the New Expiration Date in accordance with Article 24 of the Lease.
2. Notwithstanding the provisions of Articles 1.01 O. and 3 of the Lease, but on the express condition that Tenant shall not be in default of the 500 Plaza Drive Lease (defined below) beyond the applicable notice and cure periods, if any, so established in the 500 Plaza Drive Lease, Tenant's obligation for the payment of Fixed Rent under the Lease shall be suspended (and Tenant shall not be obligated to pay same) effective February 1, 2009 and continuing through the New Expiration Date (subject, however, to Tenant's obligation to re-commence payment of the Fixed Rent due under the Lease during any period of time prior to the New Expiration Date that Tenant is in default of the 500 Plaza Drive Lease). Except as expressly provided herein with respect to the Fixed Rent, Tenant agrees to continue to promptly satisfy all accounts owing by reason of its occupancy of the Demised Premises plus all applicable utility charges, real property taxes, maintenance charges, and the cost of any repairs by reason of Tenant's occupancy or removal of its goods and equipment from the Demised Premises as set forth in the Lease. It is agreed that all adjustments for charges detailed

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hereunder (with the sole exception of Fixed Rent) shall be made as of New Expiration Date.

3. Tenant warrants that in consideration of Landlord's termination of the Lease, it shall vacate the Demised Premises in accordance with Paragraph 1 of this Agreement. In the event that Tenant shall not, for any reason so vacate the Demised Premises, Landlord shall not be precluded from pursuing Tenant for any further damages arising therefrom. If Tenant shall vacate the Demised Premises as provided herein and pay to Landlord all sums owing pursuant to paragraphs 2 and 6 hereof, Landlord shall thereafter return to Tenant its security deposit (in the form of a Letter of Credit) in the amount of \$175,000.00 as provided for in Article 8 of the Lease. Notwithstanding anything contained herein to the contrary, nothing contained in this Agreement shall release Tenant from any of its obligations under Article 13 or Article 21 of the Lease.
4. This agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto.
5. Notwithstanding the previous Paragraph, Tenant shall not enter into any agreements of assignment, subletting or encumbrance pursuant to Article 11 of the Lease.
6. In consideration of Landlord's consent to the termination of the Lease prior to its stated Expiration Date, Tenant shall pay to Landlord, in good funds, as an Additional Charge under the Lease, a "Termination Fee" in the amount of Three Million Five Hundred Thousand and No/100 Dollars (\$3,500,000.00) as follows:
  - (i) The sum of One Million Seven Hundred Fifty Thousand and No/100 Dollars (\$1,750,000.00) shall be paid to Landlord upon execution and delivery of this Agreement; and
  - (ii) The sum of One Million Seven Hundred and Fifty Thousand and No/100 Dollars (\$1,750,000.00) shall be paid to Landlord on or before the date which is three (3) months from the date of execution and delivery of this Agreement.
7. Tenant represents that its North American Industrial Classification System ("NAICS Code") [as that term is referred to in the Environmental Clean-Up Responsibility Act ("ISRA"), N.J.S.A. 13:1K-1] is 5651. Tenant further represents that the Demised Premises do not constitute an "Industrial Establishment" pursuant to ISRA. In the event Tenant is subject to ISRA, Tenant will comply with all statutes, regulations, rules, ordinances, or other directives governing the termination of Tenant's Lease.
8. The performance by Tenant of its obligations under this Agreement shall not be deemed conditions to the termination of the Lease as set forth in Paragraph 1. hereof.
9. The Landlord and Tenant represent and warrant to each other that the signatories hereto are duly authorized to act on their respective behalf in the entering into this Agreement.
10. Tenant certifies that: (i) It is not acting, directly or indirectly, for or on behalf of any person,

group, entity, or nation named by any Executive Order or the United States Treasury Department as a terrorist, "Specially Designated National and Blocked Person," or other banned or blocked person, entity, nation, or transaction pursuant to any law, order, rule, or regulation that is enforced or administered by the Office of Foreign Assets Control; and (ii) it is not engaged in this transaction, directly or indirectly on behalf of, or instigating or facilitating this transaction, directly or indirectly on behalf of, any such person, group, entity, or nation. Tenant hereby agrees to defend, indemnify, and hold harmless Landlord from and against any and all claims, damages, losses, risks, liabilities, and expenses (including attorney's fees and costs) arising from or related to any breach of the foregoing certification.

11. Capitalized terms referenced herein shall have the meaning ascribed to such terms in the Lease unless otherwise set forth herein.

12. This Agreement, and the rights and obligations of the parties hereto, is/are expressly conditioned and contingent upon the execution of that certain Lease Agreement by and between 500 Plaza Drive Corp., an affiliate of Landlord, and Tenant for premises located at 500 Plaza Drive, Secaucus, New Jersey (the "500 Plaza Drive Lease"). In the event the 500 Plaza Drive Lease is not executed and delivered by the parties thereto, then this Agreement shall be deemed terminated, and the rights and obligations of the parties hereunder shall be rendered null and void and without further force and effect.

IN WITNESS WHEREOF, the parties have caused this Lease Termination Agreement to be signed by their duly authorized officers, and their corporate seals to be affixed hereto, the day and year first above written.

By: HARTZ MOUNTAIN ASSOCIATES  
Hartz Mountain Industries, Inc.

By: /s/ Irwin A. Horowitz  
Irwin A. Horowitz, Executive Vice President

THE CHILDREN'S PLACE SERVICES COMPANY, LLC

By: /s/ Charles Crovitz  
Name: Charles Crovitz  
Title: Interim Chief Executive Officer

By: /s/ Susan J. Riley  
Name: Susan J. Riley  
Title: Executive Vice President

**AMENDMENT TO EMPLOYMENT AGREEMENT**

This Amendment to Employment Agreement (the "Amendment"), dated as of the 31st day of December, 2008, is made by and between The Children's Place Retail Stores, Inc. (the "Corporation") and Charles K. Crovitz (the "Executive").

WITNESSETH THAT:

WHEREAS, the Corporation and the Executive are parties to an Employment Agreement, dated as of September 26, 2007 (the "Agreement");

WHEREAS, the Corporation and the Executive desire to amend the Agreement to comply with the requirements of Section 409A of the Internal Revenue Code of 1986, as amended.

NOW THEREFORE, for and in consideration of the foregoing, the Corporation and the Executive hereby agree as follows:

1. Section 6.01 of the Agreement is hereby amended to provide the following at the end thereof.

"Notwithstanding any provision set forth in this Section 6.01 to the contrary: (i) if Executive becomes entitled to continuation of his Base Salary as provided herein, the commencement of such payments shall occur immediately following the effective date of the release of claims referred to above; (ii) if Executive becomes entitled to a payment in respect of the Performance Bonus as provided herein, such payment shall be made within 75 days following the end of the applicable performance year under the Annual Management Incentive Bonus Plan, and in no event later than the time that would cause such payment to be subject to an "additional tax" under Section 409A of the Code; and (iii) if Executive is required to execute a general release of claims as provided herein and as set forth in Exhibit B of this Agreement, Executive shall execute such release of claims within 21 days following his termination of employment (or such longer period if and to the extent required under applicable law)."

2. Section 6.02 of the Agreement is hereby amended and restated to read, in its entirety, as follows:

**"Compensation Upon Termination By Reason of Death or Disability or For Cause.** In addition to Executive's rights under subsections 6.04, 6.05, and 6.06, if Executive's employment hereunder is terminated by reason of Executive's death or Disability, Executive (or his legal representative, his estate, heirs or distributes) shall be entitled to receive (i) any amount of Base Salary theretofore earned but not yet paid, as well as any earned but unpaid Performance Bonus with respect to any fiscal year of the Company that has ended prior to the date of termination, which amounts shall be paid within 10 days of Executive's termination of employment hereunder, and (ii) a pro rata portion of the Performance Bonus earned through the date of termination for the fiscal year in which termination occurs. The pro rata Performance Bonus will be calculated in the same manner, and paid at the same time, as calculated under subsection 6.01. Payment to Executive of the compensation provided by clause (ii) of this subsection is subject to execution by Executive (or his legal representative, estate, heirs or distributes) of a

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general release in the form attached hereto as Exhibit B, which shall be executed within 21 days following his termination of employment hereunder (or such longer period if and to the extent required under applicable law)."

3. Section 7.06 of the Agreement is hereby amended to provide the following at the end thereof.

"This Agreement is intended to comply with Section 409A of the Code and the regulations thereunder such that no payment made, or benefit provided, to Executive hereunder shall be subject to an "additional tax" within the meaning of Section 409A of the Code. Notwithstanding anything contained herein to the contrary, Executive shall not be considered to have terminated employment from Employer unless he would be considered to have incurred a "separation from service" from Employer within the meaning of Treasury Regulation §1.409A-1(h). For purposes of Section 409A, each payment made under this Agreement shall be treated as a separate payment. In no event may Executive, directly or indirectly, designate the calendar year of any payment hereunder. All reimbursements provided under this Agreement shall be made or provided in accordance with the requirements of Section 409A of the Code, including, where applicable, the requirement that (i) any reimbursement is for expenses incurred during Executive's lifetime (or during a shorter period of time specified in this Agreement), (ii) the amount of expenses eligible for reimbursement during a calendar year may not affect the expenses eligible for reimbursement in any other calendar year, (iii) the reimbursement of an eligible expense will be made on or before the last day of the calendar year following the year in which the expense is incurred, and (iv) the right to reimbursement is not subject to liquidation or exchange for another benefit."

4. This Amendment may be executed in counterparts, each of which shall constitute an original, but both of which together shall constitute one and same instrument. This Amendment shall be governed by, and construed and interpreted in accordance with, the laws of the State of Delaware, without giving effect to its principles of conflicts of laws. Except as specifically amended hereby, the Agreement, remains otherwise unmodified and in full force and effect, and is hereby ratified by the Corporation and the Executive.

IN WITNESS WHEREOF, the parties have signed this Amendment to Employment Agreement as of the day and year set forth above.

THE CHILDREN'S PLACE RETAIL STORES, INC.

By: /s/ Susan J. Riley  
Executive Vice President

/s/ Charles K. Crovitz

CHARLES K. CROVITZ



**SECOND AMENDMENT TO EMPLOYMENT AGREEMENT**

This Second Amendment to Employment Agreement (the "Amendment") is made by and between Charles K. Crovitz ("Executive") and The Children's Place Retail Stores, Inc., a Delaware corporation ("Employer"). All terms used but not defined herein shall have the meaning ascribed to them in the Agreement (as defined below).

WHEREAS, Employer and Executive are parties to an Employment Agreement, dated as of September 26, 2007, and amended as of December 31, 2008 (the "Agreement");

WHEREAS, absent further action by the parties the Employment Period was scheduled to end on February 2, 2009;

WHEREAS, the parties have decided to extend the Employment Period; and

WHEREAS, the parties desire to memorialize the terms and conditions of Executive's employment that will apply during the extended Employment Period in this Amendment

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements herein contained, the parties agree as follows:

1. Section 2.01 of the Agreement is hereby amended to read as follows:

The term of Executive's employment under this Agreement (the "Employment Period") commenced on September 26, 2007 (the "Commencement Date") and shall continue until the earlier of (i) August 31, 2009 (which date may be extended until November 30, 2009, by written notice to Executive on or before July 31, 2009, of action taken by the Compensation Committee of the Employer's Board of Directors ( hereafter from time to time, the "Board" or "Board of Directors"), and (ii) such other time as a permanent Chief Executive Officer of the Employer (the "New CEO") has been appointed by the Board of Directors and commenced employment with the Employer ("Full Employment Term"), unless sooner terminated in accordance with the provisions of Section 5.

2. Section 4.04.a. of the Agreement is hereby amended by deleting the last sentence thereof and replacing such deleted sentence with the following:

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Executive shall receive on February 5, 2009, (i) an additional grant of 41,551 Restricted Shares (such number of Restricted Shares having an aggregate Fair Market Value equal to \$750,000 on February 2, 2009), subject to the terms of the Restricted Stock Award Agreement attached hereto as Annex B, and (ii) an additional grant of 13,850 Restricted Shares (such number of Restricted Shares having an aggregate Fair Market Value equal to \$250,000 on February 2, 2009), subject to the terms of the Restricted Stock Award Agreement attached hereto as Annex C. The Employer shall cooperate with Executive in connection with any "Change in Control" (as such term is defined in the 2005 Equity Plan), so that he has the opportunity, with respect to all shares covered by the grants set forth in this Section 4.04.a., to take whatever actions are necessary on a timely basis to receive the same consideration as other stockholders receive with respect to their shares in the Change in Control transaction.

3. Section 4.07.b. of the Agreement is hereby amended to provide that from June 1, 2009, through the remainder of the Employment Period and the Consulting Period, the Employer shall reimburse Executive for round-trip airfare for two to Executive's permanent residence located in Massachusetts, on one occasion during each calendar week.

4. Section 5.03.(ii) of the Agreement is hereby deleted in its entirety and replaced with the following provision:

The diminution, without Executive's written consent, of Executive's position, title, authority, duties or responsibilities as indicated in the Employment Agreement, or the formal or tacit appointment of any other person, whether or not an employee of the Employer, without Executive's written consent, to perform or share any material part of such duties, or to exercise any of such responsibilities, including without limitation, the failure of Executive to hold exclusively such titles or positions, or to have any part of such authorities, duties and responsibilities as are set forth in Sections 3.01 and 3.02 hereof; provided, however, that another executive may be authorized by the Board to carry out such duties and responsibilities if Executive by reason of temporary disability is unable to perform such duties or responsibilities.

5. Section 6.01 of the Agreement is hereby deleted in its entirety and replaced with the following provision:

Compensation Upon Termination Without Cause, for Good Reason, or upon Expiration of the Employment Period. In addition to Executive's rights under Sections 6.04, 6.05 and 6.06, if (A) Executive's employment hereunder is terminated by the Employer pursuant to Section 5.01 without Cause, (B) Executive terminates his employment with Employer pursuant to Section 5.03 for Good Reason, or (C) Executive's employment is terminated in connection with, upon or following the expiration of the Employment Period, Executive shall be entitled to (i) the continuation of his Base Salary, payable in accordance with the Employer's normal payroll practices for executives, for the remainder of the Employment Period, if any, (ii) payment of any Performance Bonus that has been earned but not yet paid for a completed fiscal year of the Employer ended prior to the date of termination, and (iii) payment of a Performance Bonus for the fiscal year of the Employer in which Executive's termination date occurs in an amount equal to a pro-rated part of his target bonus of \$1 million for the year of termination, such pro-ration to be based on the number of days from the beginning of such fiscal year until Executive's date of termination, over 365 days. Payment shall be made with respect to such each such Performance Bonus on the date such Performance Bonus

would otherwise have been payable to Executive under Employer's Annual Management Incentive Bonus Plan, as if Executive's employment had continued through such date, but in no event later than two and one half months after the end of the fiscal year of the Employer to which such bonus relates. Payment to Executive of the compensation provided by this Section 6.01 is subject to execution by Executive of a general release in the form attached hereto as Exhibit B. Notwithstanding any provision set forth in this Section 6.01 to the contrary, (x) if Executive becomes entitled to continuation of his Base Salary as provided herein, the commencement of such payments shall occur immediately following the effective date of the release of claims referred to above; and (y) Executive shall execute such release of claims within 21 days following his termination of employment (or such longer period if and to the extent required under applicable law).

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6. Paragraph B.(1) of Exhibit A to the Agreement is hereby amended to replace the reference in the first sentence thereof to the Employer's 2008 fiscal year with references to each of the Employer's 2008 and 2009 fiscal years.

7. This Amendment may be executed, including execution by facsimile, in counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same agreement.

Except as otherwise specifically set forth herein, all terms and provisions of the Agreement shall continue in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Second Amendment to Employment Agreement on this day of February, 2009, to be effective as of February 2, 2009.

THE CHILDREN'S PLACE RETAIL STORES, INC.

By: /s/ Susan J. Riley  
Susan J. Riley  
Executive Vice President

Charles K. Crovitz  
Charles K. Crovitz

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#### Annex B

#### RESTRICTED STOCK AWARD AGREEMENT

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#### RESTRICTED STOCK AWARD AGREEMENT

#### THE CHILDREN'S PLACE RETAIL STORES, INC.

This Restricted Stock Award Agreement (the "Agreement"), is entered into on this        day of February 2009 (the "Award Date") between The Children's Place Retail Stores, Inc., a Delaware corporation (the "Company") and Charles Crovitz (the "Awardee").

WHEREAS, the Company desires to provide Awardee an incentive to participate in the success and growth of the Company through the opportunity to earn a proprietary interest in the Company; and

WHEREAS, to give effect to the foregoing intentions, the Company desires to grant Awardee an award of Restricted Shares of the Company's common stock, par value \$0.10 per share (the "Common Stock") pursuant to the Amended and Restated 2005 Equity Incentive Plan of The Children's Place Retail Stores, Inc. (the "Plan");

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth and for good and valuable consideration, the parties hereto agree as follows:

1. Award. The Company hereby awards Awardee a right to receive 41,551 shares of Common Stock pursuant to this Restricted Stock Award, subject to the terms and conditions set forth herein. Performance of service for the Company prior to vesting of the Restricted Shares hereunder shall serve as consideration for the issuance of the Restricted Shares, and no purchase price need be paid. Subject to the provisions of Section 2 and Section 3 hereof, upon the issuance to Awardee of Restricted Shares hereunder on the Award Date, Awardee shall have all the rights of a shareholder of Common Stock with respect to such shares, including the right to vote the shares and receive all dividends and other distributions paid or made with respect thereto; provided, however, that such dividends and other distributions shall be retained by the Company for Awardee's account and for delivery to Awardee, together with the stock certificate or certificates representing such Restricted Shares, as and when said restrictions and conditions shall have been satisfied, expired or lapsed. Capitalized terms used but not otherwise defined in this Agreement shall have the meanings as set forth in the Plan.

2. Restrictions on Sale or Other Transfer. Each share of stock awarded to Awardee pursuant to this Agreement shall be subject to acquisition by the Company and may not be sold or otherwise transferred except pursuant to the following provisions:

(a) The shares shall be held in book entry form with the Company's transfer agent until the restrictions set forth herein lapse in accordance with the provisions of Section 3 or until the shares are forfeited pursuant to paragraph (c) of this Section 2. A stock certificate or certificates representing the Restricted Shares shall be issued to the Awardee and registered in Awardee's name promptly following the execution of this

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Agreement but shall be retained by the Company for Awardee's account, and shall be delivered to Awardee upon vesting of the Restricted Shares in accordance with Section 3.

(b) No Restricted Shares may be sold, transferred or otherwise alienated or hypothecated until such shares have become vested and the earliest sale date provided under Section 3(c) hereof has occurred.

(c) Upon the later of (i) Awardee's termination of employment with the Company and its subsidiaries and (ii) termination of his service as a member of the Company's Board of Directors for any reason other than those which result in a lapse of restrictions pursuant to Section 3, then any such shares as to which the restrictions have not yet lapsed pursuant to Section 3 shall be forfeited by Awardee and acquired by the Company at no cost to the Company on the date of such termination, and Awardee shall forthwith surrender and deliver to the Company any legended certificates evidencing such shares.

### 3. Vesting and Lapse of Restrictions.

(a) The restrictions set forth in Section 2 hereof shall lapse (and the shares covered by such restrictions shall thereupon become vested and free of such restrictions) as to one thirty-sixth (1/36<sup>th</sup>) of the Restricted Shares covered by this Agreement upon the last day of each calendar month, commencing with February 2009, during which Awardee was either (i) employed by the Company for at least 15 days or (ii) unless Awardee's employment has been terminated by the Company for Cause (as defined in the employment agreement entered between Awardee and the Company (the "Employment Agreement")), providing post-employment service as a director of the Company.

(b) Notwithstanding the forgoing, unless such shares have previously been forfeited pursuant to Section 2(c) hereof, the restrictions set forth in Section 2 hereof shall lapse as to all unvested Restricted Shares covered by this Agreement (and the shares covered by such restrictions shall thereupon become vested and free of such restrictions) upon the first to occur of (i) Awardee's retirement from the Company and all Subsidiaries on or after his 65<sup>th</sup> birthday; (ii) the Disability or death of Awardee; (iii) a Change in Control while Awardee is in the employ or service of the Company; (iv) if Awardee is not nominated for election as a member of the Company's Board of Directors, or if nominated, is not elected, or (v) the occurrence of such special circumstance or event as in the opinion of the Committee merits special consideration.

(c) Notwithstanding any provision contained herein to the contrary, no Restricted Shares which have become vested pursuant to this Agreement may be sold until the earliest to occur of (i) January 31, 2010, (ii) one year after Awardee's termination of employment for any reason, and (iii) the date on which all Restricted Shares covered by this Agreement have become fully vested for any reason.

4. Adjustment of Shares. Notwithstanding anything contained herein to the contrary, in the event of any change in Common Stock resulting from a corporate

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transaction including, but not limited to, a subdivision or consolidation, reorganization, recapitalization, merger, share split, reverse share split, share distribution, combination of shares or the payment of a share dividend, the Restricted Shares shall be treated in the same manner in any such transaction as other Common Stock.

5. Government Regulations. Notwithstanding anything contained herein to the contrary, the Company's obligation to issue or deliver certificates evidencing the Restricted Shares shall be subject to the terms of all applicable laws, rules and regulations and to such approvals by any governmental agencies or national securities exchanges as may be required; provided that the Company shall use commercially reasonable best efforts to ensure that the terms of all applicable laws, rules and regulations and approvals by any governmental agencies or national securities exchanges as may be required are timely satisfied or obtained, as applicable.

6. Withholding Taxes. The Company shall withhold from amounts payable to Awardee, as compensation or otherwise, an amount sufficient to satisfy all federal, state and local withholding tax requirements with respect to the issuance or vesting of the Restricted Shares; provided such amount shall be satisfied by withholding the number of shares equal to the taxes required to be withheld, divided by the Fair Market Value of the Company's Common Stock on the vesting date.

7. Awardee Representations. Awardee has reviewed with his own tax advisors the federal, state, local and foreign tax consequences of the transactions contemplated by this Agreement. Awardee is relying solely on such advisors, and not on any statements or representations of the Company or any of its agents, if any, made to Awardee. Awardee understands that Awardee (and not the Company) shall be responsible for Awardee's own liability arising as a result of the transactions contemplated by this Agreement.

8. Employment. Neither this Agreement nor any action taken hereunder shall be construed as giving Awardee any right of continuing employment by the Company.

9. Notices. Notices or communications to be made hereunder shall be in writing any shall be delivered in person, by registered mail, by confirmed facsimile or by a reputable overnight courier service to the Company at its principal office or to Awardee at his address contained in the records of the Company.

10. Governing Law. This Agreement shall be construed under the laws of the State of Delaware, without regard to conflicts of laws principles.

11. Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof, and supersedes all prior agreements and understandings relating to the subject matter of this Agreement. Notwithstanding the foregoing, this Agreement and the Award made hereby

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shall be subject to the terms of the Plan. In the event of a conflict between this Agreement and the terms of the Plan, the Plan shall control.

12. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the Company and Awardee and their respective permitted successors, assigns, heirs, beneficiaries and representatives. This Agreement is personal to Awardee and may not be assigned by Awardee without the prior consent of the Company. Any attempted assignment in violation of this Section shall be null and void.

13. Amendment. This Agreement may be amended or modified only by a written instrument executed by both the Company and Awardee.

14. Entire Agreement. This Agreement contains the entire agreement and understanding between the parties hereto with respect to the subject matter hereof and supersedes any prior agreements or understandings between the parties hereto, whether written or oral, with respect to the subject matter hereto. To the extent that there is any conflict between the terms and provisions of this Agreement and any other agreement between Awardee and the Company, the terms and provisions of this Agreement will control.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement or caused their duly authorized officer to execute this Agreement as of the date first written above.

THE CHILDREN'S PLACE RETAIL STORES, INC.

By:

\_\_\_\_\_  
Susan J. Riley  
Executive Vice President

\_\_\_\_\_  
Charles K. Crovitz

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### Annex C

#### RESTRICTED STOCK AWARD AGREEMENT

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#### RESTRICTED STOCK AWARD AGREEMENT

#### THE CHILDREN'S PLACE RETAIL STORES, INC.

This Restricted Stock Award Agreement (the "Agreement"), is entered into on this \_\_\_\_\_ day of February, 2009 (the "Award Date"), is entered into between The Children's Place Retail Stores, Inc., a Delaware corporation (the "Company"), and Charles Crovitz (the "Awardee").

WHEREAS, the Company desires to provide Awardee an incentive to participate in the success and growth of the Company through the opportunity to earn a proprietary interest in the Company; and

WHEREAS, to give effect to the foregoing intentions, the Company desires to grant Awardee an award of Restricted Shares of the Company's common stock, par value \$0.10 per share (the "Common Stock") pursuant to the Amended and Restated 2005 Equity Incentive Plan of The Children's Place Retail Stores, Inc. (the "Plan");

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth and for good and valuable consideration, the parties hereto agree as follows:

1. Award. The Company hereby awards Awardee a right to receive 13,850 shares of Common Stock pursuant to this Restricted Stock Award, subject to the terms and conditions set forth herein. Performance of service for the Company prior to vesting of the Restricted Shares hereunder shall serve as consideration for the issuance of the Restricted Shares, and no purchase price need be paid. Subject to the provisions of Section 2 and Section 3 hereof, upon the issuance to Awardee of Restricted Shares hereunder on the Award Date, Awardee shall have all the rights of a shareholder of Common Stock with respect to such shares, including the right to vote the shares and receive all dividends and other distributions paid or made with respect thereto; provided, however, that such dividends and other distributions shall be retained by the Company for Awardee's account and for delivery to Awardee, together with the stock certificate or certificates representing such Restricted Shares, as and when said restrictions and conditions shall have been satisfied, expired or lapsed. Capitalized terms used but not otherwise defined in this Agreement shall have the meanings as set forth in the Plan.

2. Restrictions on Sale or Other Transfer. Each share of stock awarded to Awardee pursuant to this Agreement shall be subject to acquisition by the Company and each share may not be sold or otherwise transferred except pursuant to the following provisions:

(a) The shares shall be held in book entry form with the Company's transfer agent until the restrictions set forth herein lapse in accordance with the provisions of Section 3 or until the shares are forfeited pursuant to paragraph (c) of this Section 2. A stock certificate or certificates representing the Restricted Shares shall be issued to the Awardee and registered in Awardee's name promptly following the execution of this

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Agreement but shall be retained by the Company for Awardee's account, and shall be delivered to Awardee upon vesting of the Restricted Shares in accordance with Section 3.

(b) No Restricted Shares may be sold, transferred or otherwise alienated or hypothecated so long as such shares are subject to the restriction provided for in this Section 2 and the earliest sale date provided under Section 3(c) has occurred.

(c) If (i) the Employment Period under the employment agreement entered between Awardee and the Company, as amended (the "Employment Agreement"), is not extended beyond August 31, 2009, as contemplated by Section 2.01 thereof, and as of August 31, 2009, the shares covered by this Agreement have not yet become vested pursuant to the provisions of Section 3(b) hereof, or if, upon the later of (A) Awardee's termination of employment with the Company and its subsidiaries and (B) his termination of service as a member of the Company's Board of Directors for any reason other than those which result in a lapse of restrictions pursuant to Section 3, then any such shares as to which the restrictions have not yet lapsed pursuant to Section 3, shall be forfeited by Awardee and acquired by the Company at no cost to the Company on the date of such termination or non-extension, as applicable, and Awardee shall forthwith surrender and deliver to the Company any legended certificates evidencing such shares.

3. Vesting and Lapse of Restrictions.

(a) Unless such shares have previously been forfeited by operation of Section 2(c) hereof, the restrictions set forth in Section 2 hereof shall lapse (and the shares covered by such restrictions shall thereupon become vested and free of such restrictions) (i) as to seven thirty-sixths ( $7/36^{\text{th}}$ ) of the Restricted Shares immediately as of September 1, 2009, and (ii) as to one thirty-sixth ( $1/36^{\text{th}}$ ) of the Restricted Shares upon the last day of each calendar month, commencing with September 2009, during which Awardee was either (i) employed by the Company for at least 15 days or (ii) unless Awardee's employment has been terminated by the Company for Cause (as defined in the Employment Agreement), providing post-employment service as a director of the Company.

(b) Notwithstanding the forgoing, unless such shares have previously been forfeited pursuant to Section 2(c) hereof, the restrictions set forth in Section 2 hereof shall lapse as to all unvested Restricted Shares covered by this Agreement (and the shares covered by such restrictions shall thereupon become vested and free of such restrictions) upon the first to occur of (i) Awardee's retirement from the Company and all Subsidiaries on or after his 65<sup>th</sup> birthday; (ii) the Disability or death of Awardee; (iii) a Change in Control while Awardee is in the employ or service of the Company; (iv) if Awardee is not nominated for election as a member of the Company's Board of Directors, or if nominated, is not elected, or (v) the occurrence of such special circumstance or event as in the opinion of the Committee merits special consideration.

(c) Notwithstanding any provision contained herein to the contrary, no Restricted Shares which have become vested pursuant to this Agreement may be sold

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until the earliest to occur of (i) January 31, 2010, (ii) one year after Awardee's termination of employment for any reason, and (iii) the date on which all Restricted Shares covered by this Agreement have become fully vested for any reason.

4. Adjustment of Shares. Notwithstanding anything contained herein to the contrary, in the event of any change in Common Stock resulting from a corporate transaction including, but not limited to, a subdivision or consolidation, reorganization, recapitalization, merger, share split, reverse share split, share distribution, combination of shares or the payment of a share dividend, the Restricted Shares shall be treated in the same manner in any such transaction as other Common Stock.

5. Government Regulations. Notwithstanding anything contained herein to the contrary, the Company's obligation to issue or deliver certificates evidencing the Restricted Shares shall be subject to the terms of all applicable laws, rules and regulations and to such approvals by any governmental agencies or national securities exchanges as may be required; provided that the Company shall use commercially reasonable best efforts to ensure that the terms of all applicable laws, rules and regulations and approvals by any governmental agencies or national securities exchanges as may be required are timely satisfied or obtained, as applicable.

6. Withholding Taxes. The Company shall withhold from amounts payable to Awardee, as compensation or otherwise, an amount sufficient to satisfy all federal, state and local withholding tax requirements with respect to the issuance or vesting of the Restricted Shares; provided such amount shall be satisfied by withholding the number of shares equal to the taxes required to be withheld, divided by the Fair Market Value of the Company's Common Stock on the vesting date.

7. Awardee Representations. Awardee has reviewed with his own tax advisors the federal, state, local and foreign tax consequences of the transactions contemplated by this Agreement. Awardee is relying solely on such advisors, and not on any statements or representations of the Company or any of its agents, if any, made to Awardee. Awardee understands that Awardee (and not the Company) shall be responsible for Awardee's own liability arising as a result of the transactions contemplated by this Agreement.

8. Employment. Neither this Agreement nor any action taken hereunder shall be construed as giving Awardee any right of continuing employment by the Company.

9. Notices. Notices or communications to be made hereunder shall be in writing any shall be delivered in person, by registered mail, by confirmed facsimile or by a reputable overnight courier service to the Company at its principal office or to Awardee at his address contained in the records of the Company.

10. Governing Law. This Agreement shall be construed under the laws of the State of Delaware, without regard to conflicts of laws principles.

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11. Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof, and supersedes all prior agreements and understandings relating to the subject matter of this Agreement. Notwithstanding the foregoing, this Agreement and the Award made hereby shall be subject to the terms of the Plan. In the event of a conflict between this Agreement and the terms of the Plan, the Plan shall control.

12. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the Company and Awardee and their respective permitted successors, assigns, heirs, beneficiaries and representatives. This Agreement is personal to Awardee and may not be assigned by Awardee without the prior consent of the Company. Any attempted assignment in violation of this Section shall be null and void.

13. Amendment. This Agreement may be amended or modified only by a written instrument executed by both the Company and Awardee.

14. Entire Agreement. This Agreement contains the entire agreement and understanding between the parties hereto with respect to the subject matter hereof and supersedes any prior agreements or understandings between the parties hereto, whether written or oral, with respect to the subject matter hereto. To the extent that there is any conflict between the terms and provisions of this Agreement and any other agreement between Awardee and the Company, the terms and provisions of this Agreement will control.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement or caused their duly authorized officer to execute this Agreement as of the date first written above.

THE CHILDREN'S PLACE RETAIL STORES, INC.

THE CHILDREN'S PLACE RETAIL STORES, INC.

By:

\_\_\_\_\_  
Susan J. Riley  
Executive Vice President

\_\_\_\_\_  
Charles K. Crovitz

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**AMENDMENT TO AMENDED AND RESTATED CHANGE IN CONTROL SEVERANCE AGREEMENT**

This Amendment to the Amended and Restated Change in Control Severance Agreement (the "Amendment"), dated as of the 31st day of December, 2008, is made by and between The Children's Place Retail Stores, Inc. (the "Corporation") and Susan J. Riley (the "Executive").

WITNESSETH THAT:

WHEREAS, the Corporation and the Executive are parties to an Amended and Restated Change in Control Severance Agreement, first dated as of December 13, 2007, and amended and restated as of January 21, 2008 (the "Agreement"); and

WHEREAS, the Corporation and the Executive desire to amend the Agreement to comply with the requirements of Section 409A of the Internal Revenue Code of 1986, as amended.

NOW THEREFORE, for and in consideration of the foregoing, the Corporation and the Executive hereby agree as follows:

1. Section 1.15 of the Agreement is hereby amended and restated to read, in its entirety, as follows:

“Release” shall mean a release to be signed by Executive in such form as the Company shall reasonably determine, which shall, to the extent permitted by law, waive all claims and actions against the Employer and its affiliates and such other related parties and entities as the Company chooses to include in the release except for claims and actions for benefits provided under the terms of this Agreement (which Release is not revoked by Executive) and which (i) will be provided to Executive by the Company no later than 5 days following Executive's termination of employment (or, if Executive is terminated pursuant to Section 3.01(c), no later than 5 days following the consummation of the applicable Change in Control) and (ii) will be executed by Executive and returned to the Company no later than 21 days (or such longer period if and to the extent required under applicable law) following the date such Release is provided to Executive.”

2. Paragraph (a) of Section 4.01 of the Agreement is hereby amended and restated to read, in its entirety, as follows:

“In lieu of any further payments to Executive (including, without limitation, in lieu of any annual bonus payments or pro-rata bonus payments) except as expressly contemplated under this Agreement, the Company shall pay as severance pay to Executive a cash amount equal to two (2) times the sum of Executive's Base Salary and Bonus. Such cash payment shall be payable in a single sum, within ten (10) business days following Executive's Date of Termination (or, if later, upon the expiration of the revocation period, if applicable, under the Release); provided, that, if Executive is terminated pursuant to Section 3.01(c), then such single sum cash payment shall be made within ten (10) business days following the consummation of the applicable Change in Control (or, if later, upon the expiration of the revocation period, if applicable, under the Release).”

3. The third sentence of Section 5.02 of the Agreement is hereby amended and restated to read, in its entirety, as follows:

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“If the Accounting Firm determines that any Excise Tax is payable by Executive, the Company will pay the required Gross-Up Payment, less any applicable withholding, to Executive, as soon as reasonably practicable after receipt of such determination and calculations with respect to any Payment to Executive, but in no event later than as provided under Treasury Regulation Section 1.409A-3(i)(1)(v).”

4. A new Section 14.08 is hereby added to the Agreement to read, in its entirety, as follows:

“Taxes. The Company is authorized to withhold from any payment to be made hereunder to Executive such amounts for income tax, social security, unemployment compensation, excise taxes and other taxes and penalties as in the judgment of the Company is required to comply with applicable laws and regulations. This Agreement is intended to comply with Section 409A of the Code and the regulations thereunder such that no payment made, or benefit provided, to Executive hereunder shall be subject to an “additional tax” within the meaning of Section 409A of the Code. Notwithstanding anything contained herein to the contrary, Executive shall not be considered to have terminated employment from the Company unless she would be considered to have incurred a “separation from service” from the Company within the meaning of Treasury Regulation §1.409A-1(h). For purposes of Section 409A of the Code, each payment made under this Agreement shall be treated as a separate payment. In no event may Executive, directly or indirectly, designate the calendar year of any payment hereunder.”

5. This Amendment may be executed in counterparts, each of which shall constitute an original, but both of which together shall constitute one and same instrument. This Amendment shall be governed by, and construed and interpreted in accordance with, the laws of the State of Delaware, without giving effect to its principles of conflicts of laws. Except as specifically amended hereby, the Agreement, remains otherwise unmodified and in full force and effect, and is hereby ratified by the Corporation and the Executive.

IN WITNESS WHEREOF, the parties have signed this Second Amendment to the Agreement as of the day and year set forth above.

THE CHILDREN'S PLACE RETAIL STORES, INC.

By: /s/ Charles K. Crovitz  
Charles K. Crovitz  
Interim Chief Executive Officer

/s/ Susan J. Riley

SUSAN J. RILEY



**AMENDMENT TO EMPLOYMENT AGREEMENT**

This Amendment to Employment Agreement (the "Amendment"), dated as of the 31st day of December, 2008, is made by and between The Children's Place Retail Stores, Inc. (the "Corporation") and Susan J. Riley (the "Executive").

WITNESSETH THAT:

WHEREAS, the Corporation and the Executive are parties to an Employment Agreement, dated as of February 4, 2007 (the "Agreement");

WHEREAS, the Corporation and the Executive desire to amend the Agreement to comply with the requirements of Section 409A of the Internal Revenue Code of 1986, as amended.

NOW THEREFORE, for and in consideration of the foregoing, the Corporation and the Executive hereby agree as follows:

1. Section 6.01 of the Agreement is hereby amended to provide the following at the end thereof.

"Notwithstanding any provision set forth in this Section 6.01 to the contrary: (i) if Executive becomes entitled to continuation of her Base Salary as provided herein, the commencement of such payments shall occur immediately following the effective date of the release of claims referred to above; (ii) if Executive becomes entitled to a payment in respect of the Performance Bonus as provided herein, such payment shall be made within 75 days following the end of the applicable performance year under the Annual Management Incentive Bonus Plan, and in no event later than the time that would cause such payment to be subject to an "additional tax" under Section 409A of the Code; and (iii) if Executive is required to execute a general release of claims as provided herein and as set forth in Exhibit B of this Agreement, Executive shall execute such release of claims within 21 days following her termination of employment (or such longer period if and to the extent required under applicable law)."

2. Section 6.02 of the Agreement is hereby amended and restated to read, in its entirety, as follows:

**"Compensation Upon Termination By Reason of Death, Disability or For Cause.** Subject to the provisions of subsections 6.03, 6.04 and 6.05, if Executive's employment hereunder is terminated (A) by reason of Executive's death or Disability, or (B) by Employer For Cause, or (C) in accordance with subsection 5.04 upon Executive reaching normal retirement age, Executive (or her estate, heirs or distributes) shall be entitled to (1) any amount of Base Salary and Performance Bonus theretofore earned but not yet paid, which shall be paid within 10 days of Executive's termination of employment hereunder and (2) except in the case of a termination of employment by Employer For Cause, a pro rata portion of the Performance Bonus for Employer's then current fiscal year determined in the same manner, and paid at the same time, as provided in clause (2) of the first sentence and in the second sentence of subsection 6.01. Payment to Executive of the compensation provided under clause (2) of this subsection is subject to execution by Executive of a general release in the form attached hereto as Exhibit B, which shall be

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executed by Executive (or her estate) within 21 days following her termination of employment hereunder (or such longer period if and to the extent required under applicable law)."

3. Section 8.02 of the Agreement is hereby amended and restated to read, in its entirety, as follows:

**"Tax Withholding; Section 409A.** Employer is authorized to withhold from any payment to be made hereunder to Executive such amounts for income tax, social security, unemployment compensation, excise taxes and other taxes and penalties as in the judgment of Employer is required to comply with applicable laws and regulations. This Agreement is intended to comply with Section 409A of the Code and the regulations thereunder such that no payment made, or benefit provided, to Executive hereunder shall be subject to an "additional tax" within the meaning of Section 409A of the Code. Notwithstanding anything contained herein to the contrary, Executive shall not be considered to have terminated employment from Employer unless she would be considered to have incurred a "separation from service" from Employer within the meaning of Treasury Regulation §1.409A-1(h). For purposes of Section 409A, each payment made under this Agreement shall be treated as a separate payment. In no event may Executive, directly or indirectly, designate the calendar year of any payment hereunder. Notwithstanding anything contained in the Agreement to the contrary, if Executive is a "specified employee" (determined in accordance with Section 409A of the Code and Treasury Regulation Section 1.409A-3(i)(2)) as of the termination of Executive's employment with Employer, and if any payment, benefit or entitlement provided for in the Agreement or otherwise both (i) constitutes a "deferral of compensation" within the meaning of Section 409A of the Code and (ii) cannot be paid or provided in a manner otherwise provided herein or otherwise without subjecting Executive to additional tax, interest and/or penalties under Section 409A of the Code, then any such payment, benefit or entitlement that is payable during the first 6 months following the date of Executive's termination of employment shall be paid or provided to Executive (or to Executive's estate, if applicable) in a lump sum cash payment (together with interest on such amount during the period of such restriction at a rate, per annum, equal to the applicable federal short-term rate (compounded monthly) in effect under Section 1274(d) of the Code on the date of termination) on the earlier of (x) Executive's death or (y) the first business day of the seventh calendar month immediately following the month in which Executive's termination of employment occurs. All reimbursements provided under this Agreement shall be made or provided in accordance with the requirements of Section 409A of the Code, including, where applicable, the requirement that (i) any reimbursement is for expenses incurred during Executive's lifetime (or during a shorter period of time specified in this Agreement), (ii) the amount of expenses eligible for reimbursement during a calendar year may not affect the expenses eligible for reimbursement in any other calendar year, (iii) the reimbursement of an eligible expense will be made on or before the last day of the calendar year following the year in which the expense is incurred, and (iv) the right to reimbursement is not subject to liquidation or exchange for another benefit."

4. This Amendment may be executed in counterparts, each of which shall constitute an original, but both of which together shall constitute one and same instrument. This Amendment shall be governed by, and construed and interpreted in accordance with, the laws of the State of Delaware, without giving effect to its principles of conflicts of laws. Except as specifically amended hereby, the Agreement, remains
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**SECOND AMENDMENT TO NOTE PURCHASE AGREEMENT**

This **SECOND AMENDMENT TO NOTE PURCHASE AGREEMENT** (this "Amendment"), dated as of March 31, 2009 (the "Effective Date"), is by and among The Children's Place Retail Stores, Inc. (the "Issuer"), a corporation incorporated under the laws of Delaware, the parties listed as Guarantors on the signature pages to the Note Purchase Agreement (as defined below) (the "Guarantors", collectively with the Issuer, the "Note Parties", and each such Person a "Note Party"), Sankaty Advisors, LLC as collateral agent (the "Agent"), Crystal Capital Fund Management, L.P. as syndication agent, and each Note Purchaser listed on Schedule I attached to the Note Purchase Agreement, relating to the Note Purchase Agreement (collectively, the "Note Purchasers"), dated as of July 31, 2008 (as amended, restated, supplemented or otherwise modified and in effect from time to time, the "Note Purchase Agreement"), among the Note Parties, the Note Purchasers from time to time party thereto, and the Agent. Terms used but not defined herein shall have the meanings ascribed to such terms in the Note Purchase Agreement.

**WHEREAS**, under the Issuer's Amended and Restated 2005 Equity Incentive Plan, associates of the Issuer, including executive officers, and directors are awarded, as part of their compensation, deferred shares and in certain limited circumstances, restricted shares.

**WHEREAS**, when these deferred shares vest, or (absent an election to be taxed at the time of grant under Section 83(b) of the Code) the restrictions lapse, the associate recognizes ordinary income which is subject to income and employment withholding taxes.

**WHEREAS**, if the associate is not able, either by reason of a restriction against trading imposed on the associate by the federal securities laws or (in certain limited circumstances by reason of restrictions imposed by contract), to sell those shares to cover his or her tax withholding obligations, the Issuer may withhold a number of the shares that would otherwise be delivered or for which the restrictions would lapse having a value equivalent to the amount of the required tax withholding.

**WHEREAS**, the Issuer retires the shares withheld and remits a cash amount to the government in an amount equivalent to the fair market value, as determined by the board of directors of the Issuer, of the shares withheld in respect of the applicable withholding amount;

**WHEREAS**, the Agent considers each such payment to be a Restricted Payment under Section 8.6.3 of the Note Purchase Agreement and wishes to amend the Note Purchase Agreement permit certain payments of such type, to the extent hereinafter set forth;

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

**§1. Amendment.** Effective as of July 31, 2008, upon satisfaction of the conditions precedent set forth in §2 hereof, and in reliance upon the representations and warranties of the Note Parties set forth in the Note Purchase Agreement and in this Waiver, the Agent and the Note Purchasers hereby :

- (i) amend Section 8.6.3 of the Note Purchase Agreement by adding a new subsection 8.6.3.5 to read in its entirety as follows:

8.6.5. The Issuer may make Withholding Tax Payments in Fiscal Year 2008 in an amount not to exceed \$650,000 in connection with the Withholding Share Retirement of Plan Shares.

- (ii) add, in appropriate alphabetical position, the following new definitions to Annex I of the Note Purchase Agreement:

"Deferred Shares" means shares of capital stock of the Issuer awarded to a Plan Participant pursuant to the Equity Incentive Plan with respect to which the interest of such Plan Participant vests over time.

"Equity Incentive Plan" means the Issuer's Amended and Restated 2005 Equity Incentive Plan, as amended from time to time.

"Incentive Plan Tax Event" means the recognition by a Plan Participant of ordinary income which is subject to income and employment withholding taxes by reason of either (i) the lapse of restrictions on Restricted Shares with respect to which the Plan Participant has not made an election to be taxed at the time of grant under Section 83(b) of the Code or (ii) the vesting of Deferred Shares.

"Incentive Plan Tax Liability" means the amount of income and employment withholding taxes due and payable in connection with an Incentive Plan Tax Event.

"Plan Participant" means employees of the Issuer, including executive officers, and directors of the Issuer.

"Plan Shares" means Deferred Shares and/or Restricted Shares.

"Restricted Shares" means shares of capital stock of the Issuer awarded to a Plan Participant pursuant to the Equity Incentive Plan which are subject to restrictions on their sale by the Plan Participant and which are not Deferred Shares.

"Trading Prohibition" means a prohibition in effect at the time of an Incentive Plan Tax Event preventing the sale by a Plan Participant of Plan Shares in order to enable such Plan Participant to discharge Incentive Plan Tax Liability, which prohibition arises from a restriction against trading imposed by either the federal securities laws or by contract.

“Withholding Tax Payment” means a cash payment by the Issuer to the appropriate Governmental Authority in an amount equal to the Incentive Plan Tax Liability of a Plan Participant made at a time when a Trading Prohibition affecting such Plan Participant is in effect.

“Withholding Share Retirement” means the retirement of Plan Shares of a Plan Participant having a fair market value, as determined by the board of directors of the Issuer, equal to the Incentive Plan Tax Liability of such Plan Participant which is the subject of a Withholding Tax Payment.

§2. **Conditions Precedent.** This Amendment shall become effective as of July 31, 2008 at such time as each of the Note Parties, the Required Purchasers and the Agent have duly executed and delivered to the Agent a counterpart signature page to this Amendment; and each of the Guarantors has duly executed and delivered to the Agent a counterpart signature page to the Ratification of Guaranty attached to this Amendment.

§3. **Representations and Warranties.** The Note Parties, hereby represent and warrant to the Agent and the Note Purchasers as follows:

(a) **Representations and Warranties.** All representations and warranties of each of the Note Parties contained in the Note Purchase Agreement and the other Note Documents are true and correct on and as of the date of this Amendment, in each case as if then made, other than representations and warranties that expressly relate solely to an earlier date (in which case such representations and warranties were true and correct on and as of such earlier date); provided, that, for the avoidance of doubt, for the limited purpose of this Amendment, this Section 3(a) shall not apply to Section 5.5.3 of the Note Purchase Agreement because the Projections referred to therein are currently in progress. .

(c) **Default.** Immediately after giving effect to this Amendment, no Default or Event of Default has occurred and is continuing.

(b) **Authority, Etc.** The execution and delivery by the Note Parties, of this Amendment and the Ratification of Guaranty attached to this Amendment and the performance by the Note Parties of all of their agreements and obligations under the Note Purchase Agreement as amended hereby and the other Note Documents to which they are party are within the corporate or limited liability company authority, as applicable, of the Note Parties and have been duly authorized by all necessary corporate or limited liability company action, as applicable, on the part of the Note Parties.

(c) **Enforceability of Obligations.** This Amendment, the Ratification of Guaranty attached to this Amendment, the Note Purchase Agreement, and the other Note Documents constitute the legal, valid and binding obligations of the Note Parties enforceable against the Note Parties in accordance with their terms, except as enforceability is limited by bankruptcy, insolvency, reorganization, moratorium or other laws relating to or affecting generally the enforcement of creditors’ rights and by equitable principles of general applicability, regardless of whether enforcement is sought in an action at law or proceeding in equity.

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§4. **Ratification of Existing Agreements.** The Note Parties agree that the Note Obligations are, except as otherwise expressly modified in this Amendment upon the terms set forth herein, ratified and confirmed in all respects. In addition, by the execution of this Amendment, the Note Parties represent and warrant that no counterclaim, right of set-off or defense of any kind on the part of the Note Parties exists or is outstanding with respect to such Note Obligations.

§5. **No Other Amendments.** Except as expressly provided in this Amendment, all of the terms and conditions of the Note Purchase Agreement and the other Note remain in full force and effect. Nothing contained in this Amendment shall (a) be construed to imply a willingness on the part of the Agent or the Note Purchasers to grant any similar or other future waiver or amendment of any of the terms and conditions of the Note Purchase Agreement or the other Note Documents or (b) in any way prejudice, impair or affect any rights or remedies of the Agent or the Note Purchasers under the Note Purchase Agreement or the other Note Documents.

§6. **Execution in Counterparts.** This Amendment may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one instrument. In proving this Amendment, it shall not be necessary to produce or account for more than one such counterpart signed by the party against whom enforcement is sought.

§7. **Expenses.** Pursuant to Section 13.1 of the Note Purchase Agreement, all costs and expenses incurred or sustained by the Agent in connection with this Amendment, including the fees and disbursements of legal counsel for the Agent in producing, reproducing and negotiating the Amendment, will be for the account of the Note Parties.

§8. **Miscellaneous.** **THIS AMENDMENT SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.** The captions in this Amendment are for convenience of reference only and shall not define or limit the provisions hereof. This Amendment shall be a “Note Document” under and as defined in the Note Purchase Agreement.

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

THE ISSUER:

THE CHILDREN’S PLACE RETAIL STORES, INC.

By: /s/ Susan J. Riley

Name: Susan J. Riley

Title: Executive Vice President, Finance & Administration

GUARANTORS:

THE CHILDREN’S PLACE SERVICES COMPANY, LLC

By: /s/ Susan J. Riley  
Name: Susan J. Riley  
Title: Executive Vice President, Finance & Administration

TWIN BROOK INSURANCE COMPANY, INC.

By: /s/ Susan J. Riley  
Name: Susan J. Riley  
Title: President

THECHILDRENSPLACE.COM, INC.

By: /s/ Adrienne Urban  
Name: Adrienne Urban  
Title: Assistant Treasurer

THE CHILDREN'S PLACE CANADA HOLDINGS, INC.

By: /s/ Susan J. Riley  
Name: Susan J. Riley  
Title: Senior Vice President and Treasurer

**\*\*\*Signature Page to  
Second Amendment to Note Purchase Agreement\*\*\***

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THE CHILDREN'S PLACE (VIRGINIA), LLC

By: /s/ Susan J. Riley  
Name: Susan J. Riley  
Title: Senior Vice President and Treasurer

[Signatures continue on following page]

**\*\*\*Signature Page to  
Second Amendment to Note Purchase Agreement\*\*\***

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**COLLATERAL AGENT:**

SANKATY ADVISORS, LLC

By: /s/ Michael Ewald  
Name: Michael Ewald  
Title: Managing Director

**NOTE PURCHASERS:**

SANKATY CREDIT OPPORTUNITIES III,  
L.P.

By: /s/ Michael Ewald  
Name: Michael Ewald  
Title: Managing Director

SANKATY CREDIT OPPORTUNITIES IV,  
L.P.

By: /s/ Michael Ewald  
Name: Michael Ewald  
Title: Managing Director

SANKATY CREDIT OPPORTUNITIES IV  
(OFFSHORE MASTER), L.P.

By: /s/ Michael Ewald  
Name: Michael Ewald  
Title: Managing Director

[Signatures continue on following page]

**\*\*\*Signature Page to  
Second Amendment to Note Purchase Agreement\*\*\***

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CRYSTAL CAPITAL ONSHORE  
WAREHOUSE LLC

As duly authorized: Crystal Capital Fund  
Management, L.P., as designated manager

By: Crystal Capital Fund Management GP,  
LLC, its General Partner

By: /s/ Evren Ozargun  
Name: Evren Ozargun  
Title: Director

[Signatures continue on following page]

**\*\*\*Signature Page to  
Second Amendment to Note Purchase Agreement\*\*\***

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1903 ONSHORE FUNDING, LLC

By: GB Merchant Partners, LLC, its Investment  
Manager

By: /s/ Wendy Landon  
Name: Wendy Landon  
Title: Managing Director

1903 OFFSHORE LOANS SPV LIMITED

By: GB Merchant Partners, LLC, its Investment  
Manager

By: /s/ Wendy Landon  
Name: Wendy Landon  
Title: Managing Director

**\*\*\*Signature Page to  
Second Amendment to Note Purchase Agreement\*\*\***

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#### RATIFICATION OF GUARANTY

Each of the undersigned Guarantors hereby (a) acknowledges and consents to the foregoing Waiver and the Notes Parties' execution thereof; (b) agrees to be bound thereby; and (c) ratifies and confirms all of their respective obligations and liabilities under the Note Documents to which any of them is a party and ratifies and confirms that such obligations and liabilities extend to and continue in full force and effect with respect to, and continue to guarantee and secure, as applicable, the Note Obligations of the Note Parties under the Note Purchase Agreement.

**GUARANTORS:**

THE CHILDREN'S PLACE SERVICES  
COMPANY, LLC

By: /s/ Susan J. Riley  
Name: Susan J. Riley

Title: Executive Vice President, Finance &  
Administration

TWIN BROOK INSURANCE COMPANY,  
INC.

By: /s/ Susan J. Riley  
Name: Susan J. Riley  
Title: President

thechildrensplace.COM, INC.

By: /s/ Adrienne Urban  
Name: Adrienne Urban  
Title: Assistant Treasurer

THE CHILDREN'S PLACE CANADA  
HOLDINGS, INC.

By: /s/ Susan J. Riley  
Name: Susan J. Riley  
Title: Senior Vice President and Treasurer

THE CHILDREN'S PLACE (VIRGINIA), LLC

By: /s/ Susan J. Riley  
Name: Susan J. Riley  
Title: Senior Vice President and Treasurer

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**THE CHILDREN'S PLACE RETAIL STORES, INC. AND SUBSIDIARIES**

**SUBSIDIARIES OF THE COMPANY**

The Children's Place Retail Stores, Inc. has the following direct and indirect wholly-owned subsidiaries:

The Children's Place (Hong Kong) Limited, a Hong Kong Corporation.

The Childrensplace.com, Inc. a Delaware Corporation.

The Children's Place (Virginia), LLC, a Virginia Limited Liability Company.

TCP Canada, Inc., a Nova Scotia Limited Liability Company.

The Children's Place Canada Holdings, Inc., a Delaware Corporation.

TCP Investment Canada I Corp., a Nova Scotia Unlimited Liability Company.

TCP Investment Canada II Corp., a Nova Scotia Unlimited Liability Company.

The Children's Place (Canada), LP, an Ontario Limited Partnership.

The Children's Place Charitable Foundation, Inc., a New York not-for-profit Corporation.

The Children's Place (Barbados) Inc., a Barbados Corporation.

Twin Brook Insurance Company, Inc., a New York Corporation.

The Children's Place Services Company, LLC, a Delaware Limited Liability Company.

The Children's Place International Trading (Shanghai) Co. Ltd., a foreign enterprise organized under the laws of the Peoples Republic of China.

The Children's Place Asia Holding Limited, a Hong Kong corporation.

The Children's Place Hong Kong Holdings Limited, a Hong Kong corporation.

The Children's Place (Australia) Pty. Ltd., an Australian company.

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QuickLinks

[EXHIBIT 21.1](#)

[THE CHILDREN'S PLACE RETAIL STORES, INC. AND SUBSIDIARIES SUBSIDIARIES OF THE COMPANY](#)

**Consent of Independent Registered Public Accounting Firm**

To the Stockholders and Board of Directors of  
The Children's Place Retail Stores, Inc.  
Secaucus, New Jersey:

We hereby consent to the incorporation by reference in the Registration Statements on Form S-3 (No. 333-88378) and Form S-8 (No. 333-47065, 333-135211 and 333-85834) of The Children's Place Retail Stores, Inc. and Subsidiaries of our reports dated March 28, 2009, relating to the consolidated financial statements, the financial statement schedule, and the effectiveness of The Children's Place Retail Stores, Inc. and Subsidiaries' internal control over financial reporting, which appear in this Form 10K.

/s/ BDO Seidman, LLP  
BDO Seidman, LLP  
New York, NY

March 28, 2009

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QuickLinks

[EXHIBIT 23.1](#)

[Consent of Independent Registered Public Accounting Firm](#)



QuickLinks

[EXHIBIT 31.1](#)

[Certificate of Principal Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.](#)



QuickLinks

[EXHIBIT 31.2](#)

[Certificate of Principal Executive Officer and Principal Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.](#)



QuickLinks

[EXHIBIT 32](#)

[Certification pursuant to U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.](#)