



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

FORM 10-K

Annual Report pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934

For the fiscal year ended August 27, 2011,

or

Transition report pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934

For the transition period from \_\_\_\_\_ to \_\_\_\_\_.

Commission file number 1-10714



**AUTOZONE, INC.**

(Exact name of registrant as specified in its charter)

**Nevada**

(State or other jurisdiction of  
incorporation or organization)

**62-1482048**

(I.R.S. Employer Identification No.)

**123 South Front Street, Memphis, Tennessee**  
(Address of principal executive offices)

**38103**  
(Zip Code)

**(901) 495-6500**

(Registrant's telephone number, including area code)

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

<b>Title of each class</b>	<b>Name of each exchange on which registered</b>
Common Stock (\$0.01 par value)	New York Stock Exchange

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

None

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

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

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

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

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§ 229.405 of this chapter) is not contained herein, and will not be contained, to the best of 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  Smaller reporting company

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

The aggregate market value of the voting and non-voting common equity held by non-affiliates computed by reference to the price at which the common equity was last sold, or the average bid and asked price of such common equity, as of the last business day of the registrant's most recently completed second fiscal quarter was \$7,312,576,491.

The number of shares of Common Stock outstanding as of October 17, 2011, was 39,888,099.

**Documents Incorporated By Reference**

Portions of the definitive Proxy Statement to be filed within 120 days of August 27, 2011, pursuant to Regulation 14A under the Securities Exchange Act of 1934 for the Annual Meeting of Stockholders to be held December 14, 2011, are incorporated by reference into Part III.

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## TABLE OF CONTENTS

<b><u>PART I.</u></b>	4
<a href="#"><u>Item 1. Business</u></a>	4
<a href="#"><u>Introduction</u></a>	4
<a href="#"><u>Marketing and Merchandising Strategy</u></a>	5
<a href="#"><u>Commercial</u></a>	6
<a href="#"><u>Store Operations</u></a>	7
<a href="#"><u>Store Development</u></a>	8
<a href="#"><u>Purchasing and Supply Chain</u></a>	8
<a href="#"><u>Competition</u></a>	8
<a href="#"><u>Trademarks and Patents</u></a>	9
<a href="#"><u>Employees</u></a>	9
<a href="#"><u>AutoZone Website</u></a>	9
<a href="#"><u>Executive Officers of the Registrant</u></a>	9
<a href="#"><u>Item 1A. Risk Factors</u></a>	11
<a href="#"><u>Item 1B. Unresolved Staff Comments</u></a>	14
<a href="#"><u>Item 2. Properties</u></a>	15
<a href="#"><u>Item 3. Legal Proceedings</u></a>	15
<a href="#"><u>Item 4. Reserved</u></a>	16
<b><u>PART II.</u></b>	17
<a href="#"><u>Item 5. Market for Registrant’s Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities</u></a>	17
<a href="#"><u>Item 6. Selected Financial Data</u></a>	19
<a href="#"><u>Item 7. Management’s Discussion and Analysis of Financial Condition and Results of Operations</u></a>	20
<a href="#"><u>Item 7A. Quantitative and Qualitative Disclosures About Market Risk</u></a>	32
<a href="#"><u>Item 8. Financial Statements and Supplementary Data</u></a>	34
<a href="#"><u>Item 9. Changes In and Disagreements with Accountants on Accounting and Financial Disclosure</u></a>	65
<a href="#"><u>Item 9A. Controls and Procedures</u></a>	65
<a href="#"><u>Item 9B. Other Information</u></a>	65
<b><u>PART III</u></b>	66
<a href="#"><u>Item 10. Directors, Executive Officers and Corporate Governance</u></a>	66
<a href="#"><u>Item 11. Executive Compensation</u></a>	66
<a href="#"><u>Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters</u></a>	66
<a href="#"><u>Item 13. Certain Relationships and Related Transactions, and Director Independence</u></a>	66
<a href="#"><u>Item 14. Principal Accounting Fees and Services</u></a>	66
<b><u>PART IV</u></b>	67
<a href="#"><u>Item 15. Exhibits and Financial Statement Schedules</u></a>	67
<a href="#"><u>Exhibit 10.37</u></a>	
<a href="#"><u>Exhibit 10.38</u></a>	
<a href="#"><u>Exhibit 10.39</u></a>	
<a href="#"><u>Exhibit 10.40</u></a>	
<a href="#"><u>Exhibit 12.1</u></a>	
<a href="#"><u>Exhibit 21.1</u></a>	
<a href="#"><u>Exhibit 23.1</u></a>	
<a href="#"><u>Exhibit 31.1</u></a>	
<a href="#"><u>Exhibit 31.2</u></a>	
<a href="#"><u>Exhibit 32.1</u></a>	
<a href="#"><u>Exhibit 32.2</u></a>	
<a href="#"><u>EX-101 INSTANCE DOCUMENT</u></a>	
<a href="#"><u>EX-101 SCHEMA DOCUMENT</u></a>	
<a href="#"><u>EX-101 CALCULATION LINKBASE DOCUMENT</u></a>	
<a href="#"><u>EX-101 LABELS LINKBASE DOCUMENT</u></a>	
<a href="#"><u>EX-101 PRESENTATION LINKBASE DOCUMENT</u></a>	
<a href="#"><u>EX-101 DEFINITION LINKBASE DOCUMENT</u></a>	

### **Forward-Looking Statements**

Certain statements contained in this Annual Report on Form 10-K are forward-looking statements. Forward-looking statements typically use words such as “believe,” “anticipate,” “should,” “intend,” “plan,” “will,” “expect,” “estimate,” “project,” “positioned,” “strategy,” and similar expressions. These are based on assumptions and assessments made by our management in light of experience and perception of historical trends, current conditions, expected future developments and other factors that we believe to be appropriate. These forward-looking statements are subject to a number of risks and uncertainties, including without limitation: credit market conditions; the impact of recessionary conditions; competition; product demand; the ability to hire and retain qualified employees; consumer debt levels; inflation; weather; raw material costs of our suppliers; energy prices; war and the prospect of war, including terrorist activity; construction delays; access to available and feasible financing; and changes in laws or regulations. Certain of these risks are discussed in more detail in the Risk Factors section contained in Item 1A under Part I of this Annual Report on Form 10-K for the year ended August 27, 2011, and these Risk Factors should be read carefully. Forward-looking statements are not guarantees of future performance and actual results; developments and business decisions may differ from those contemplated by such forward-looking statements, and events described above and in the Risk Factors could materially and adversely affect our business. Forward-looking statements speak only as of the date made. Except as required by applicable law, we undertake no obligation to update publicly any forward-looking statements, whether as a result of new information, future events or otherwise. Actual results may materially differ from anticipated results.

**PART I****Item 1. Business****Introduction**

AutoZone, Inc. (“AutoZone,” the “Company,” “we,” “our” or “us”) is the nation’s leading retailer and a leading distributor of automotive replacement parts and accessories. We began operations in 1979 and at August 27, 2011 operated 4,534 stores in the United States, including Puerto Rico, and 279 in Mexico. Each of our stores carries an extensive product line for cars, sport utility vehicles, vans and light trucks, including new and remanufactured automotive hard parts, maintenance items, accessories and non-automotive products. At August 27, 2011, in 2,659 of our domestic stores, we also have a commercial sales program that provides commercial credit and prompt delivery of parts and other products to local, regional and national repair garages, dealers, service stations and public sector accounts. We also sell the ALLDATA brand automotive diagnostic and repair software through [www.alldata.com](http://www.alldata.com) and [www.alldatadiy.com](http://www.alldatadiy.com). Additionally, we sell automotive hard parts, maintenance items, accessories and non-automotive products through [www.autozone.com](http://www.autozone.com), and our commercial customers can make purchases through [www.autozonepro.com](http://www.autozonepro.com). We do not derive revenue from automotive repair or installation services.

At August 27, 2011, our stores were in the following locations:

	<b><u>Store Count</u></b>
Alabama	98
Arizona	119
Arkansas	59
California	478
Colorado	67
Connecticut	37
Delaware	13
Florida	233
Georgia	180
Idaho	19
Illinois	221
Indiana	144
Iowa	23
Kansas	38
Kentucky	84
Louisiana	112
Maine	6
Maryland	45
Massachusetts	71
Michigan	155
Minnesota	30
Mississippi	85
Missouri	104
Montana	1
Nebraska	14
Nevada	53
New Hampshire	20
New Jersey	70
New Mexico	62
New York	129
North Carolina	181
North Dakota	1
Ohio	233
Oklahoma	67
Oregon	34
Pennsylvania	121
Puerto Rico	27
Rhode Island	15

## [Table of Contents](#)

	<u>Store Count</u>
South Carolina	79
South Dakota	2
Tennessee	157
Texas	547
Utah	40
Vermont	1
Virginia	101
Washington	69
Washington, DC	6
West Virginia	26
Wisconsin	52
Wyoming	5
Total Domestic	<u>4,534</u>
Mexico	<u>279</u>
Total	<u><u>4,813</u></u>

### **Marketing and Merchandising Strategy**

We are dedicated to providing customers with superior service and trustworthy advice as well as quality automotive parts and products at a great value in conveniently located, well-designed stores. Key elements of this strategy are:

#### *Customer Service*

Customer service is the most important element in our marketing and merchandising strategy, which is based upon consumer marketing research. We emphasize that our AutoZoners (employees) should always put customers first by providing prompt, courteous service and trustworthy advice. Our electronic parts catalog assists in the selection of parts and warranties that are offered by us or our vendors on many of the parts that we sell. The wide area network in our stores helps us expedite credit or debit card and check approval processes, locate parts at neighboring AutoZone stores, including our hub stores, and in some cases, place special orders directly with our vendors.

Our stores generally open at 7:30 or 8 a.m. and close between 8 and 10 p.m. Monday through Saturday and typically open at 9 a.m. and close between 6 and 9 p.m. on Sunday. However, some stores are open 24 hours, and some have extended hours of 6 or 7 a.m. until midnight seven days a week.

We also provide specialty tools through our Loan-A-Tool program. Customers can borrow a specialty tool, such as a steering wheel puller, for which a do-it-yourself (“DIY”) customer or a repair shop would have little or no use other than for a single job. AutoZoners also provide other free services, including check engine light readings where allowed by law, battery charging, the collection of used oil for recycling, and the testing of starters, alternators, batteries, sensors and actuators.

## Table of Contents

### *Merchandising*

The following tables show some of the types of products that we sell by major category of items:

<u>Failure</u>	<u>Maintenance</u>	<u>Discretionary</u>
A/C Compressors	Antifreeze & Windshield Washer Fluid	Air Fresheners
Batteries & Accessories	Brake Drums, Rotors, Shoes & Pads	Cell Phone Accessories
Belts & Hoses	Chemicals, including Brake & Power	Drinks & Snacks
Carburetors	Steering Fluid, Oil & Fuel Additives	Floor Mats & Seat Covers
Chassis	Oil & Transmission Fluid	Mirrors
Clutches	Oil, Air, Fuel & Transmission Filters	Performance Products
CV Axles	Oxygen Sensors	Protectants & Cleaners
Engines	Paint & Accessories	Seat Covers
Fuel Pumps	Refrigerant & Accessories	Sealants & Adhesives
Fuses	Shock Absorbers & Struts	Steering Wheel Covers
Ignition	Spark Plugs & Wires	Stereos & Radios
Lighting	Windshield Wipers	Tools
Mufflers		Wash & Wax
Starters & Alternators		
Water Pumps		
Radiators		
Thermostats		

We believe that the satisfaction of DIY customers and professional technicians is often impacted by our ability to provide specific automotive products as requested. Each store carries the same basic products, but we tailor our inventory to the makes and models of the vehicles in each store's trade area. Our hub stores carry a larger assortment of products that are delivered to local satellite stores. We are constantly updating the products we offer to ensure that our inventory matches the products our customers need or desire.

### *Pricing*

We want to be perceived by our customers as the value leader in our industry, by consistently providing quality merchandise at the right price, backed by a satisfactory warranty and outstanding customer service. For many of our products, we offer multiple value choices in a good/better/best assortment, with appropriate price and quality differences from the "good" products to the "better" and "best" products. A key differentiating component versus our competitors is our exclusive line of in-house brands, which includes the Valucraft, AutoZone, Duralast and Duralast Gold brands. We believe that our overall value compares favorably to that of our competitors.

### *Brand Marketing: Advertising and Promotions*

We believe that targeted advertising and promotions play important roles in succeeding in today's environment. We are constantly working to understand our customers' wants and needs so that we can build long-lasting, loyal relationships. We utilize promotions, advertising, and loyalty card programs primarily to advise customers about the overall importance of vehicle maintenance, our great value and the availability of high quality parts. Broadcast and internet media are our primary advertising methods of driving traffic to our stores. We utilize in-store signage, creative product placement and promotions to help educate customers about products that they need.

### *Store Design and Visual Merchandising*

We design and build stores for high visual impact. The typical AutoZone store utilizes colorful exterior and interior signage, exposed beams and ductwork and brightly lit interiors. Maintenance products, accessories and non-automotive items are attractively displayed for easy browsing by customers. In-store signage and special displays promote products on floor displays, end caps and shelves.

### **Commercial**

Our commercial sales program operates in a highly fragmented market, and we are one of the leading distributors of automotive parts and other products to local, regional and national repair garages, dealers, service stations and public sector accounts in the United States and Puerto Rico. As a part of the program, we offer credit and delivery to our commercial customers, as well as direct commercial sales through [www.autozonepro.com](http://www.autozonepro.com). The program operated out of 2,659 domestic stores as of August 27, 2011. Through our hub stores, we offer a greater range of parts and products desired by professional technicians. We have dedicated sales teams focused on national, regional and public sector commercial accounts.

## **Store Operations**

### *Store Formats*

Substantially all AutoZone stores are based on standard store formats, resulting in generally consistent appearance, merchandising and product mix. Approximately 85% to 90% of each store's square footage is selling space, of which approximately 40% to 45% is dedicated to hard parts inventory. The hard parts inventory area is generally fronted by counters or pods that run the depth or length of the store, dividing the hard parts area from the remainder of the store. The remaining selling space contains displays of maintenance, accessories and non-automotive items.

We believe that our stores are "destination stores," generating their own traffic rather than relying on traffic created by adjacent stores. Therefore, we situate most stores on major thoroughfares with easy access and good parking.

### *Store Personnel and Training*

Each store typically employs from 10 to 16 AutoZoners, including a manager and, in some cases, an assistant manager. We provide on-the-job training as well as formal training programs, including an annual national sales meeting, regular store meetings on specific sales and product issues, standardized training manuals and a specialist program that provides training to AutoZoners in several areas of technical expertise from the Company, our vendors and independent certification agencies. All AutoZoners are encouraged to complete tests resulting in certifications by the National Institute for Automotive Service Excellence ("ASE"), which is broadly recognized for training certification in the automotive industry. Training is supplemented with frequent store visits by management.

Store managers, sales representatives and commercial specialists receive financial incentives through performance-based bonuses. In addition, our growth has provided opportunities for the promotion of qualified AutoZoners. We believe these opportunities are important to attract, motivate and retain high quality AutoZoners.

All store support functions are centralized in our store support centers located in Memphis, Tennessee; Monterrey, Mexico and Chihuahua, Mexico. We believe that this centralization enhances consistent execution of our merchandising and marketing strategies at the store level, while reducing expenses and cost of sales.

### *Store Automation*

All of our stores have Z-net, our proprietary electronic catalog that enables our AutoZoners to efficiently look up the parts that our customers need and to provide complete job solutions, advice and information for customer vehicles. Z-net provides parts information based on the year, make, model and engine type of a vehicle and also tracks inventory availability at the store, at other nearby stores and through special order. The Z-net display screens are placed on the hard parts counter or pods, where both the AutoZoner and customer can view the screen.

Our stores utilize our computerized proprietary Store Management System, which includes bar code scanning and point-of-sale data collection terminals. The Store Management System provides administrative assistance and improved personnel scheduling at the store level, as well as enhanced merchandising information and improved inventory control. We believe the Store Management System also enhances customer service through faster processing of transactions and simplified warranty and product return procedures. In addition, our wide area network enables the stores to expedite credit or debit card and check approval processes, to access national warranty data, to implement real-time inventory controls and to locate and hold parts at neighboring AutoZone stores.

## Store Development

The following table reflects our store development during the past five fiscal years:

	Fiscal Year				
	2011	2010	2009	2008	2007
Beginning stores	4,627	4,417	4,240	4,056	3,871
New stores	188	213	180	185	186
Closed stores	2	3	3	1	1
Net new stores	186	210	177	184	185
Relocated stores	10	3	9	14	18
Ending stores	4,813	4,627	4,417	4,240	4,056

We believe that expansion opportunities exist both in markets that we do not currently serve, as well as in markets where we can achieve a larger presence. We attempt to obtain high visibility sites in high traffic locations and undertake substantial research prior to entering new markets. The most important criteria for opening a new store are the projected future profitability and the ability to achieve our required investment hurdle rate. Key factors in selecting new site and market locations include population, demographics, vehicle profile, customer buying trends, commercial businesses, number and strength of competitors' stores and the cost of real estate. In reviewing the vehicle profile, we also consider the number of vehicles that are seven years old and older, or "our kind of vehicles"; these vehicles are generally no longer under the original manufacturers' warranties and require more maintenance and repair than younger vehicles. We generally seek to open new stores within or contiguous to existing market areas and attempt to cluster development in markets in a relatively short period of time. In addition to continuing to lease or develop our own stores, we evaluate and may make strategic acquisitions.

## Purchasing and Supply Chain

Merchandise is selected and purchased for all stores through our store support centers located in Memphis, Tennessee and Monterrey, Mexico. In fiscal 2011, one class of similar products accounted for 10 percent of our total sales, and one vendor supplied more than 10 percent of our purchases. No other class of similar products accounted for 10 percent or more of our total sales, and no other individual vendor provided more than 10 percent of our total purchases. We believe that we have good relationships with our suppliers. We also believe that alternative sources of supply exist, at similar cost, for most types of product sold. Most of our merchandise flows through our distribution centers to our stores by our fleet of tractors and trailers or by third-party trucking firms.

Our hub stores have increased our ability to distribute products on a timely basis to many of our stores and to expand our product assortment. A hub store generally has a larger assortment of products as well as regular replenishment items that can be delivered to a store in its network within 24 hours. Hub stores are generally replenished from distribution centers multiple times per week.

## Competition

The sale of automotive parts, accessories and maintenance items is highly competitive in many areas, including name recognition, product availability, customer service, store location and price. AutoZone competes in both the retail DIY and commercial do-it-for-me ("DIFM") auto parts and products markets.

Competitors include national, regional and local auto parts chains, independently owned parts stores, on-line parts stores, jobbers, repair shops, car washes and auto dealers, in addition to discount and mass merchandise stores, department stores, hardware stores, supermarkets, drugstores, convenience stores and home stores that sell aftermarket vehicle parts and supplies, chemicals, accessories, tools and maintenance parts. AutoZone competes on the basis of customer service, including the trustworthy advice of our AutoZoners; merchandise quality, selection and availability; price; product warranty; store layouts, location and convenience; and the strength of our AutoZone brand name, trademarks and service marks.

## **Trademarks and Patents**

We have registered several service marks and trademarks in the United States Patent and Trademark office as well as in certain other countries, including our service marks, “AutoZone” and “Get in the Zone,” and trademarks, “AutoZone,” “Duralast,” “Duralast Gold,” “Valucraft,” “ALLDATA,” “Loan-A-Tool” and “Z-net.” We believe that these service marks and trademarks are important components of our marketing and merchandising strategies.

## **Employees**

As of August 27, 2011, we employed over 65,000 persons, approximately 57 percent of whom were employed full-time. About 91 percent of our AutoZoners were employed in stores or in direct field supervision, approximately 5 percent in distribution centers and approximately 4 percent in store support and other functions. Included in the above numbers are approximately 3,500 persons employed in our Mexico operations.

We have never experienced any material labor disruption and believe that relations with our AutoZoners are generally good.

## **AutoZone Website**

AutoZone’s primary website is at <http://www.autozone.com>. We make available, free of charge, at our investor relations website, <http://www.autozoneinc.com>, our Annual Reports on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K, proxy statements, registration statements and amendments to those reports filed or furnished pursuant to Section 13(a) or 15(d) of the Securities and Exchange Act of 1934, as amended, as soon as reasonably feasible after we electronically file such material with, or furnish it to, the Securities and Exchange Commission.

## **Executive Officers of the Registrant**

The following list describes our executive officers. The title of each executive officer includes the words “Customer Satisfaction” which reflects our commitment to customer service. Officers are elected by and serve at the discretion of the Board of Directors.

*William C. Rhodes, III, 46—Chairman, President and Chief Executive Officer, Customer Satisfaction*

William C. Rhodes, III, was named Chairman of AutoZone during fiscal 2007 and has been President, Chief Executive Officer and a director since March 2005. Prior to his appointment as President and Chief Executive Officer, Mr. Rhodes was Executive Vice President — Store Operations and Commercial. Previously, he held several key management positions with the Company. Prior to 1994, Mr. Rhodes was a manager with Ernst & Young LLP. Mr. Rhodes is currently a member of the Board of Directors for Dollar General Corporation.

*William T. Giles, 52—Chief Financial Officer and Executive Vice President — Finance, Information Technology and Store Development, Customer Satisfaction*

William T. Giles was elected Chief Financial Officer and Executive Vice President — Finance, Information Technology and Store Development during fiscal 2007. Prior to that, he was Executive Vice President, Chief Financial Officer and Treasurer from June 2006 to December 2006 and Executive Vice President, Chief Financial Officer since May 2006. From 1991 to May 2006, he held several positions with Linens N’ Things, Inc., most recently as the Executive Vice President and Chief Financial Officer. Prior to 1991, he was with Melville, Inc. and PricewaterhouseCoopers.

*Harry L. Goldsmith, 60—Executive Vice President, General Counsel and Secretary, Customer Satisfaction*

Harry L. Goldsmith was elected Executive Vice President, General Counsel and Secretary during fiscal 2006. Previously, he was Senior Vice President, General Counsel and Secretary since 1996 and was Vice President, General Counsel and Secretary from 1993 to 1996.

## Table of Contents

### *Jon A. Bascom, 54—Senior Vice President and Chief Information Officer, Customer Satisfaction*

Jon A. Bascom was elected Senior Vice President and Chief Information Officer during fiscal 2008. Previously, he was Vice President — Information Technology since 1996. Since 1989, Mr. Bascom has worked in a variety of leadership roles in applications development, infrastructure, and technology support. Prior to joining AutoZone, Mr. Bascom worked for Malone & Hyde, AutoZone's predecessor company, for 9 years.

### *Timothy W. Briggs, 50—Senior Vice President — Human Resources, Customer Satisfaction*

Timothy W. Briggs was elected Senior Vice President — Human Resources during fiscal 2006. Prior to that, he was Vice President — Field Human Resources since March 2005. From 2002 to 2005, Mr. Briggs was Vice President — Organization Development. Prior to 1996, Mr. Briggs worked in various capacities at The Limited, Inc., Marshalls, and The Broadway Department Stores.

### *Mark A. Finestone, 50—Senior Vice President — Merchandising, Customer Satisfaction*

Mark A. Finestone was elected Senior Vice President — Merchandising during fiscal 2008. Previously, he was Vice President — Merchandising since 2002. Prior to joining AutoZone in 2002, Mr. Finestone worked for May Department Stores for 19 years where he held a variety of leadership roles which included Divisional Vice President, Merchandising.

### *William W. Graves, 51—Senior Vice President — Supply Chain, Customer Satisfaction*

William W. Graves was elected Senior Vice President — Supply Chain during fiscal 2006. Prior thereto, he was Vice President — Supply Chain since 2000. From 1992 to 2000, Mr. Graves served in various capacities with the Company.

### *Lisa R. Kranc, 58—Senior Vice President — Marketing, Customer Satisfaction*

Lisa R. Kranc was elected Senior Vice President — Marketing during fiscal 2001. Previously, she was Vice President — Marketing for Hannaford Bros. Co., a Maine-based grocery chain, since 1997, and was Senior Vice President — Marketing for Bruno's, Inc., from 1996 to 1997. Prior to 1996, she was Vice President-Marketing for Giant Eagle, Inc. since 1992.

### *Thomas B. Newbern, 49—Senior Vice President — Store Operations, Customer Satisfaction*

Thomas B. Newbern was elected Senior Vice President — Store Operations during fiscal 2007. Previously, Mr. Newbern held the title Vice President — Store Operations for AutoZone since 1998. Previously, he has held several key management positions with the Company.

### *Charlie Pleas, III, 46—Senior Vice President and Controller, Customer Satisfaction*

Charlie Pleas, III, was elected Senior Vice President and Controller during fiscal 2007. Prior to that, he was Vice President and Controller since 2003. Previously, he was Vice President — Accounting since 2000, and Director of General Accounting since 1996. Prior to joining AutoZone, Mr. Pleas was a Division Controller with Fleming Companies, Inc. where he served in various capacities from 1988.

### *Larry M. Roesel, 54—Senior Vice President — Commercial, Customer Satisfaction*

Larry M. Roesel joined AutoZone as Senior Vice President — Commercial during fiscal 2007. Mr. Roesel came to AutoZone with more than thirty years of experience with OfficeMax, Inc. and its predecessor, where he served in operations, sales and general management.

### *Robert D. Olsen, 58—Corporate Development Officer, Customer Satisfaction*

Robert D. Olsen was elected Corporate Development Officer as of November 1, 2009, with primary responsibility for Mexico, ALLDATA, and other strategic initiatives. Previously, he was Executive Vice President — Store Operations, Commercial, ALLDATA, and Mexico since fiscal 2007. Prior to that time, he was Executive Vice President — Supply Chain, Information Technology, Mexico and Store Development since fiscal 2006 and before that, Senior Vice President since fiscal 2000 with primary responsibility for store development and Mexico operations. From 1993 to 2000, Mr. Olsen was Executive Vice President and Chief Financial Officer of Leslie's Poolmart. From 1985 to 1989, Mr. Olsen held several positions with AutoZone, including Senior Vice President and Chief Financial Officer and Vice President — Finance and Controller.

## Item 1A. Risk Factors

Our business is subject to a variety of risks. Set forth below are certain of the important risks that we face, the occurrence of which could have a material, adverse effect on our business. These risks are not the only ones we face. Our business could also be affected by additional factors that are presently unknown to us or that we currently believe to be immaterial to our business.

### **If demand for our products slows, then our business may be materially affected.**

Demand for products sold by our stores depends on many factors, including:

- the number of vehicles in current service, including those that are seven years old and older. These vehicles are generally no longer under the original vehicle manufacturers' warranties and tend to need more maintenance and repair than younger vehicles.
- rising energy prices. Increases in energy prices may cause our customers to defer purchases of certain of our products as they use a higher percentage of their income to pay for gasoline and other energy costs.
- the economy. In periods of rapidly declining economic conditions, both retail (DIY) and commercial (DIFM) customers may defer vehicle maintenance or repair. Additionally, such conditions may affect our customers' ability to obtain credit. During periods of expansionary economic conditions, more of our DIY customers may pay others to repair and maintain their cars instead of working on their own vehicles or they may purchase new vehicles.
- the weather. Mild weather conditions may lower the failure rates of automotive parts, while wet conditions may cause our customers to defer maintenance and repair on their vehicles. Extremely hot or cold conditions may enhance demand for our products due to increased failure rates of our customers' automotive parts.
- technological advances. Advances in automotive technology and parts design could result in cars needing maintenance less frequently and parts lasting longer.

For the long term, demand for our products may be affected by:

- the number of miles vehicles are driven annually. Higher vehicle mileage increases the need for maintenance and repair. Mileage levels may be affected by gas prices and other factors.
- the quality of the vehicles manufactured by the original vehicle manufacturers and the length of the warranties or maintenance offered on new vehicles; and
- restrictions on access to diagnostic tools and repair information imposed by the original vehicle manufacturers or by governmental regulation.

All of these factors could result in immediate and longer term declines in the demand for our products, which could adversely affect our sales, cash flows and overall financial condition.

### **If we are unable to compete successfully against other businesses that sell the products that we sell, we could lose customers and our sales and profits may decline.**

The sale of automotive parts, accessories and maintenance items is highly competitive and is based on many factors, including name recognition, product availability, customer service, store location and price. Competitors are opening locations near our existing stores. AutoZone competes as a provider in both the DIY and DIFM auto parts and accessories markets.

Competitors include national, regional and local auto parts chains, independently owned parts stores, on-line parts stores, jobbers, repair shops, car washes and auto dealers, in addition to discount and mass merchandise stores, hardware stores, supermarkets, drugstores, convenience stores and home stores that sell aftermarket vehicle parts and supplies, chemicals, accessories, tools and maintenance parts. Although we believe we compete effectively on the basis of customer service, including the knowledge and expertise of our AutoZoners; merchandise quality, selection and availability; product warranty; store layout, location and convenience; price; and the strength of our AutoZone brand name, trademarks and service marks; some competitors may gain competitive advantages, such as greater financial and marketing resources allowing them to sell automotive products at lower prices, larger stores with more merchandise, longer operating histories, more frequent customer visits and more effective advertising. If we are unable to continue to develop successful competitive strategies, or if our competitors develop more effective strategies, we could lose customers and our sales and profits may decline.

**We may not be able to sustain our recent rate of sales growth.**

We have increased our store count in the past five fiscal years, growing from 3,871 stores at August 26, 2006, to 4,813 stores at August 27, 2011, an average store count increase per year of 5%. Additionally, we have increased annual revenues in the past five fiscal years from \$5.948 billion in fiscal 2006 to \$8.073 billion in fiscal 2011, an average increase per year of 7%. Annual revenue growth is driven by the opening of new stores and increases in same-store sales. We open new stores only after evaluating customer buying trends and market demand/needs, all of which could be adversely affected by continued job losses, wage cuts, small business failures and microeconomic conditions unique to the automotive industry. Same store sales are impacted both by customer demand levels and by the prices we are able to charge for our products, which can also be negatively impacted by continued recessionary pressures. We cannot provide any assurance that we will continue to open stores at historical rates or continue to achieve increases in same-store sales.

**If we cannot profitably increase our market share in the commercial auto parts business, our sales growth may be limited.**

Although we are one of the largest sellers of auto parts in the commercial market, to increase commercial sales we must compete against national and regional auto parts chains, independently owned parts stores, wholesalers and jobbers and auto dealers. Although we believe we compete effectively on the basis of customer service, merchandise quality, selection and availability, price, product warranty, distribution locations, and the strength of our AutoZone brand name, trademarks and service marks, some automotive aftermarket jobbers have been in business for substantially longer periods of time than we have, have developed long-term customer relationships and have large available inventories. If we are unable to profitably develop new commercial customers, our sales growth may be limited.

**Deterioration in the global credit markets, changes in our credit ratings and macroeconomic factors could adversely affect our financial condition and results of operations.**

Our short-term and long-term debt is rated investment grade by the major rating agencies. These investment-grade credit ratings have historically allowed us to take advantage of lower interest rates and other favorable terms on our short-term credit lines, in our senior debt offerings and in the commercial paper markets. To maintain our investment-grade ratings, we are required to meet certain financial performance ratios. An increase in our debt and/or a decline in our earnings could result in downgrades in our credit ratings. A downgrade in our credit ratings could limit our access to public debt markets, limit the institutions willing to provide credit facilities to us, result in more restrictive financial and other covenants in our public and private debt and would likely significantly increase our overall borrowing costs and adversely affect our earnings.

Moreover, significant deterioration in the financial condition of large financial institutions in calendar years 2008 and 2009 resulted in a severe loss of liquidity and availability of credit in global credit markets and in more stringent borrowing terms. During brief time intervals in the fourth quarter of calendar 2008 and the first quarter of calendar 2009, there was no liquidity in the commercial paper markets, resulting in an absence of commercial paper buyers and extraordinarily high interest rates on commercial paper. We can provide no assurance that credit market events such as those that occurred in the fourth quarter of 2008 and the first quarter of 2009 will not occur again in the foreseeable future. Conditions and events in the global credit market could have a material adverse effect on our access to short-term debt and the terms and cost of that debt.

Macroeconomic conditions also impact both our customers and our suppliers. Job growth in the United States has stagnated and unemployment has remained at historically high levels during the past three years. Continued recessionary conditions could result in additional job losses and business failures, which could result in our loss of certain small business customers and curtailment of spending by our retail customers. In addition, continued distress in global credit markets, business failures and other recessionary conditions could have a material adverse effect on the ability of our suppliers to obtain necessary short and long-term financing to meet our inventory demands. Moreover, rising energy prices could impact our merchandise distribution, commercial delivery, utility and product costs. All of these macroeconomic conditions could adversely affect our sales growth, margins and overhead, which could adversely affect our financial condition and operations.

**Our business depends upon hiring and retaining qualified employees.**

We believe that much of our brand value lies in the quality of the more than 65,000 AutoZoners employed in our stores, distribution centers, store support centers and ALLDATA. We cannot be assured that we can continue to hire and retain qualified employees at current wage rates. If we are unable to hire, properly train and/or retain qualified employees, we could experience higher employment costs, reduced sales, losses of customers and diminution of our brand, which could adversely affect our earnings. If we do not maintain competitive wages, our customer service could suffer due to a declining quality of our workforce or, alternatively, our earnings could decrease if we increase our wage rates.

**Inability to acquire and provide quality merchandise could adversely affect our sales and results of operations.**

We are dependent upon our vendors continuing to supply us with quality merchandise. If our merchandise offerings do not meet our customers' expectations regarding quality and safety, we could experience lost sales, increased costs and exposure to legal and reputational risk. All of our vendors must comply with applicable product safety laws, and we are dependent on them to ensure that the products we buy comply with all safety and quality standards. Events that give rise to actual, potential or perceived product safety concerns could expose us to government enforcement action or private litigation and result in costly product recalls and other liabilities. In addition, negative customer perceptions regarding the safety or quality of the products we sell could cause our customers to seek alternative sources for their needs, resulting in lost sales. In those circumstances, it may be difficult and costly for us to regain the confidence of our customers. Moreover, if any of our significant vendors experience financial difficulties or otherwise are unable to deliver merchandise to us on a timely basis, or at all, we could have product shortages in our stores that could adversely affect customers' perceptions of us and cause us to lose customers and sales.

**Our largest stockholder, as a result of its voting ownership, may have the ability to exert substantial influence over actions to be taken or approved by our stockholders.**

As of October 17, 2011, ESL Investments, Inc. and certain of its affiliates (together, "ESL") beneficially owned approximately 29.3% of our outstanding common stock. As a result, ESL may have the ability to exert substantial influence over actions to be taken or approved by our stockholders, including the election of directors and potential change of control transactions. In the future, ESL may acquire or sell shares of common stock and thereby increase or decrease its ownership stake in us. Significant fluctuations in their level of ownership could have an impact on our share price.

In June 2008, we entered into an agreement with ESL (the "ESL Agreement"), in which ESL has agreed to vote shares of our common stock owned by ESL in excess of 37.5% in the same proportion as all non-ESL-owned shares are voted. Additionally, under the terms of the ESL Agreement, the Company added two directors in August 2008 that were identified by ESL. William C. Crowley, one of the two directors identified by ESL, is the President and Chief Operating Officer of ESL Investments, Inc.

**Our ability to grow depends in part on new store openings, existing store remodels and expansions and effective utilization of our existing supply chain and hub network.**

Our continued growth and success will depend in part on our ability to open and operate new stores and expand and remodel existing stores to meet customers' needs on a timely and profitable basis. Accomplishing our new and existing store expansion goals will depend upon a number of factors, including the ability to partner with developers and landlords to obtain suitable sites for new and expanded stores at acceptable costs, the hiring and training of qualified personnel, particularly at the store management level, and the integration of new stores into existing operations. There can be no assurance we will be able to achieve our store expansion goals, manage our growth effectively, successfully integrate the planned new stores into our operations or operate our new, remodeled and expanded stores profitably.

In addition, we extensively utilize hub stores, our supply chain and logistics management techniques to efficiently stock our stores. If we fail to effectively utilize our existing hubs and/or supply chains, we could experience inappropriate inventory levels in our stores, which could adversely affect our sales volume and/or our margins.

**Our failure to protect our reputation could have a material adverse effect on our brand name.**

We believe our continued strong sales growth is driven in significant part by our brand name. The value in our brand name and its continued effectiveness in driving our sales growth are dependent to a significant degree on our ability to maintain our reputation for safety, high product quality, friendliness, service, trustworthy advice, integrity and business ethics. Any negative publicity about these types of concerns may reduce demand for our merchandise. Failure to comply with ethical, social, product, labor and environmental standards, or related political considerations, could also jeopardize our reputation and potentially lead to various adverse consumer actions. Failure to comply with local laws and regulations, to maintain an effective system of internal controls or to provide accurate and timely financial statement information could also hurt our reputation. Failure to protect the security of our customers' personal information could subject us to costly regulatory enforcement actions, expose us to litigation and our reputation could suffer. Damage to our reputation or loss of consumer confidence for any of these or other reasons could have a material adverse effect on our results of operations and financial condition, as well as require additional resources to rebuild our reputation.

**Business interruptions may negatively impact our store hours, operability of our computer and other systems, availability of merchandise and otherwise have a material negative effect on our sales and our business.**

War or acts of terrorism, political unrest, hurricanes, windstorms, fires, earthquakes and other natural or other disasters or the threat of any of them, may result in certain of our stores being closed for a period of time or permanently or have a negative impact on our ability to obtain merchandise available for sale in our stores. Some of our merchandise is imported from other countries. If imported goods become difficult or impossible to bring into the United States, and if we cannot obtain such merchandise from other sources at similar costs, our sales and profit margins may be negatively affected.

In the event that commercial transportation is curtailed or substantially delayed, our business may be adversely impacted, as we may have difficulty shipping merchandise to our distribution centers and stores resulting in lost sales and/or a potential loss of customer loyalty. Transportation issues could also cause us to cancel purchase orders if we are unable to receive merchandise in our distribution centers.

We rely extensively on our computer systems to manage inventory, process transactions and summarize results. Our systems are subject to damage or interruption from power outages, telecommunications failures, computer viruses, security breaches and catastrophic events. If our systems are damaged or fail to function properly, we may incur substantial costs to repair or replace them, and may experience loss of critical data and interruptions or delays in our ability to manage inventories or process transactions, which could result in lost sales, inability to process purchase orders and/or a potential loss of customer loyalty, which could adversely affect our results of operations.

**Healthcare reform legislation could have a negative impact on our business.**

The Patient Protection and Affordable Care Act (the "Patient Act") as well as other healthcare reform legislation being considered by Congress and state legislatures may have an impact on our business. Based on the current form of the Patient Act, the impact could be extensive and could increase our employee healthcare-related costs. While the significant costs of the recent healthcare legislation enacted will occur after 2013 due to provisions of the legislation being phased in over time, changes to our healthcare costs structure could have a significant, negative impact on our business.

**Item 1B. Unresolved Staff Comments**

None.

## Item 2. Properties

The following table reflects the square footage and number of leased and owned properties for our stores as of August 27, 2011:

	<u>No. of Stores</u>	<u>Square Footage</u>
Leased	2,433	15,357,127
Owned	2,380	15,979,414
Total	<u>4,813</u>	<u>31,336,541</u>

We have approximately 4.0 million square feet in distribution centers servicing our stores, of which approximately 1.3 million square feet is leased and the remainder is owned. Our distribution centers are located in Arizona, California, Georgia, Illinois, Ohio, Pennsylvania, Tennessee, Texas and Mexico. Our primary store support center is located in Memphis, Tennessee, and consists of approximately 260,000 square feet. We also have two additional store support centers located in Monterrey, Mexico and Chihuahua, Mexico. The ALLDATA headquarters building in Elk Grove, California, is leased, and we also own or lease other properties that are not material in the aggregate.

## Item 3. Legal Proceedings

We were a defendant in a lawsuit entitled “Coalition for a Level Playing Field, L.L.C., et al., v. AutoZone, Inc. et al.,” filed in the U.S. District Court for the Southern District of New York in October 2004. The case was originally filed by more than 200 plaintiffs, which are principally automotive aftermarket warehouse distributors and jobbers, against a number of defendants, including automotive aftermarket retailers and aftermarket automotive parts manufacturers. In the amended complaint, the plaintiffs alleged, *inter alia*, that some or all of the automotive aftermarket retailer defendants had knowingly received, in violation of the Robinson-Patman Act (the “Act”), from various of the manufacturer defendants benefits such as volume discounts, rebates, early buy allowances and other allowances, fees, inventory without payment, sham advertising and promotional payments, a share in the manufacturers’ profits, benefits of pay-on-scan purchases, implementation of radio frequency identification technology, and excessive payments for services purportedly performed for the manufacturers. Additionally, a subset of plaintiffs alleged a claim of fraud against the automotive aftermarket retailer defendants based on discovery issues in a prior litigation involving similar claims under the Act. In the prior litigation, the discovery dispute, as well as the underlying claims, was decided in favor of AutoZone and the other automotive aftermarket retailer defendants who proceeded to trial, pursuant to a unanimous jury verdict which was affirmed by the Second Circuit Court of Appeals. In the current litigation, the plaintiffs sought an unspecified amount of damages (including statutory trebling), attorneys’ fees, and a permanent injunction prohibiting the aftermarket retailer defendants from inducing and/or knowingly receiving discriminatory prices from any of the aftermarket manufacturer defendants and from opening up any further stores to compete with the plaintiffs as long as the defendants allegedly continue to violate the Act.

In an order dated September 7, 2010, and issued on September 16, 2010, the court granted motions to dismiss all claims against AutoZone and its co-defendant competitors and suppliers. Based on the record in the prior litigation, the court dismissed with prejudice all overlapping claims — that is, those covering the same time periods covered by the prior litigation and brought by the judgment plaintiffs in the prior litigation. The court also dismissed with prejudice the plaintiffs’ attempt to revisit discovery disputes from the prior litigation. Further, with respect to the other claims under the Act, the court found that the factual statements contained in the complaint fall short of what would be necessary to support a plausible inference of unlawful price discrimination. Finally, the court held that the AutoZone pay-on-scan program is a difference in non-price terms that are not governed by the Act. The court ordered the case closed, but also stated that “in an abundance of caution the Court [was] defer[ring] decision on whether to grant leave to amend to allow plaintiff an opportunity to propose curative amendments.” The plaintiffs filed a motion for leave to amend their complaint and attached a proposed Third Amended and Supplemental Complaint (the “Third Amended Complaint”) on behalf of four plaintiffs. The Third Amended Complaint repeated and expanded certain allegations from previous complaints, asserting two claims under the Act, but stated that all other plaintiffs have withdrawn their claims, and that, *inter alia*, Chief Auto Parts, Inc. had been dismissed as a defendant. AutoZone and the co-defendants filed an opposition to the motion seeking leave to amend.

## Table of Contents

In an order dated September 28, 2011, the court denied the four remaining plaintiffs' motion for leave to file a Third Amended Complaint because the proposed Third Amended Complaint failed to address deficiencies previously identified by the court.

We believe this suit to be without merit and are vigorously defending against it. We are unable to estimate a loss or possible range of loss.

In 2004, AutoZone acquired a store site in Mount Ephraim, New Jersey that had previously been the site of a gasoline service station and contained evidence of groundwater contamination. Upon acquisition, we voluntarily reported the groundwater contamination issue to the New Jersey Department of Environmental Protection and entered into a Voluntary Remediation Agreement providing for the remediation of the contamination associated with the property. AutoZone has conducted and paid for (at an immaterial cost to us) remediation of visible contamination on the property and is investigating and will be addressing potential vapor intrusion impacts in downgradient residences and businesses. Pursuant to the Voluntary Remediation Agreement, upon completion of all remediation required by the agreement, we are eligible to be reimbursed up to 75 percent of its remediation costs by the State of New Jersey. Although the aggregate amount of additional costs that we may incur pursuant to the Voluntary Remediation Agreement cannot currently be ascertained, we do not currently believe that fulfillment of our obligations under the agreement will result in costs that are material to our financial condition, results of operations or cash flow.

We are involved in various legal proceedings incidental to the conduct of our business, including several lawsuits containing class-action allegations in which the plaintiffs are current and former hourly and salaried employees who allege various wage and hour violations and unlawful termination practices. We do not currently believe that, either individually or in the aggregate, these matters will result in liabilities material to our financial condition, results of operations or cash flows.

### **Item 4. Reserved**

**PART II****Item 5. Market for Registrant’s Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities**

Our common stock is listed on the New York Stock Exchange under the symbol “AZO.” On October 17, 2011, there were 3,023 stockholders of record, which does not include the number of beneficial owners whose shares were represented by security position listings.

We currently do not pay a dividend on our common stock. Our ability to pay dividends is subject to limitations imposed by Nevada law. Any future payment of dividends would be dependent upon our financial condition, capital requirements, earnings and cash flow.

The following table sets forth the high and low sales prices per share of common stock, as reported by the New York Stock Exchange, for the periods indicated:

	<b>Price Range of Common Stock</b>	
	<b>High</b>	<b>Low</b>
<b>Fiscal Year Ended August 27, 2011:</b>		
Fourth quarter	\$ 306.00	\$ 266.25
Third quarter	\$ 287.00	\$ 247.36
Second quarter	\$ 276.00	\$ 246.26
First quarter	\$ 253.50	\$ 209.53
<b>Fiscal Year Ended August 28, 2010:</b>		
Fourth quarter	\$ 215.21	\$ 177.66
Third quarter	\$ 187.94	\$ 160.20
Second quarter	\$ 161.33	\$ 146.17
First quarter	\$ 154.69	\$ 135.13

During 1998, the Company announced a program permitting the Company to repurchase a portion of its outstanding shares not to exceed a dollar maximum established by the Company’s Board of Directors. The program was most recently amended on September 28, 2011, to increase the repurchase authorization by \$750 million to raise the cumulative share repurchase authorization to \$11.15 billion from \$10.4 billion. The program does not have an expiration date.

Shares of common stock repurchased by the Company during the quarter ended August 27, 2011, were as follows:

<b>Period</b>	<b>Total Number of Shares Purchased</b>	<b>Average Price Paid per Share</b>	<b>Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs</b>	<b>Maximum Dollar Value that May Yet Be Purchased Under the Plans or Programs</b>
May 8, 2011, to June 4, 2011	—	\$ —	—	\$ 651,940,767
June 5, 2011, to July 2, 2011	466,899	290.75	466,899	516,191,982
July 3, 2011, to July 30, 2011	509,097	296.45	509,097	365,271,573
July 31, 2011, to August 27, 2011	521,928	280.97	521,928	218,626,605
<b>Total</b>	<b>1,497,924</b>	<b>\$ 289.28</b>	<b>1,497,924</b>	<b>\$ 218,626,605</b>

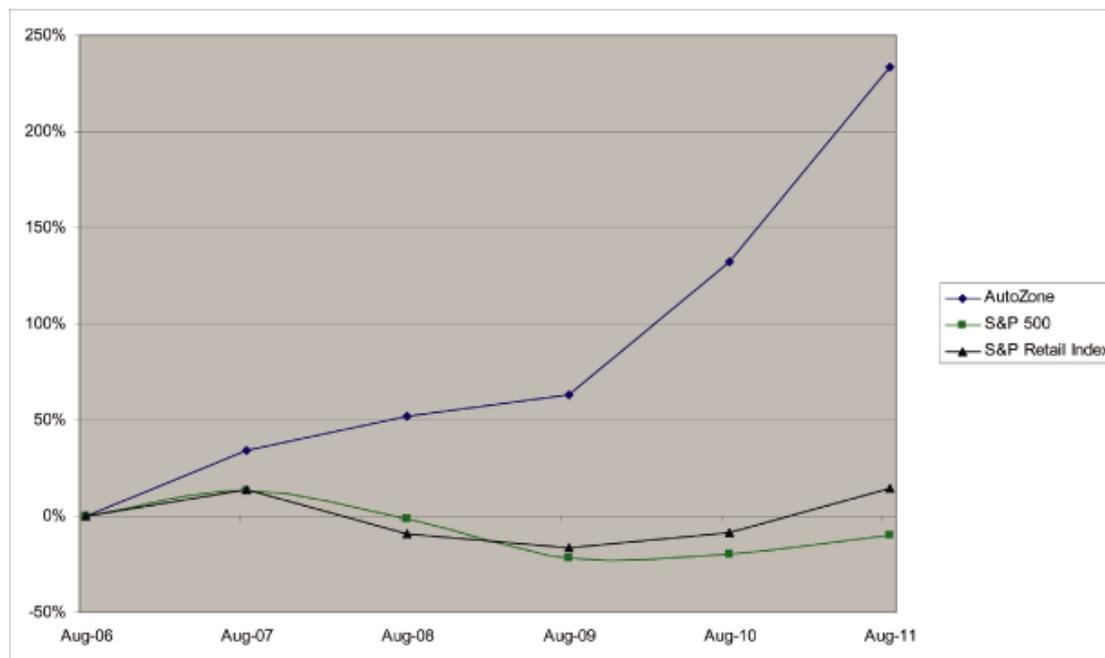
The Company also repurchased, at fair value, an additional 30,864 shares in fiscal 2011, 30,617 shares in fiscal 2010, and 37,190 shares in fiscal 2009 from employees electing to sell their stock under the Company’s Sixth Amended and Restated Employee Stock Purchase Plan (the “Employee Plan”), qualified under Section 423 of the Internal Revenue Code, under which all eligible employees may purchase AutoZone’s common stock at 85% of the lower of the market price of the common stock on the first day or last day of each calendar quarter through payroll deductions. Maximum permitted annual purchases are \$15,000 per employee or 10 percent of compensation, whichever is less. Under the Employee Plan, 21,608 shares were sold to employees in fiscal 2011, 26,620 shares were sold to employees in fiscal 2010, and 29,147 shares were sold to employees in fiscal 2009. At August 27, 2011, 272,375 shares of common stock were reserved for future issuance under the Employee Plan.

[Table of Contents](#)

Once executives have reached the maximum purchases under the Employee Plan, the Fourth Amended and Restated Executive Stock Purchase Plan (the “Executive Plan”) permits all eligible executives to purchase AutoZone’s common stock up to 25 percent of his or her annual salary and bonus. Purchases by executives under the Executive Plan were 1,719 shares in fiscal 2011, 1,483 shares in fiscal 2010, and 1,705 shares in fiscal 2009. At August 27, 2011, 256,337 shares of common stock were reserved for future issuance under the Executive Plan.

**Stock Performance Graph**

The graph below presents changes in the value of AutoZone’s stock as compared to Standard & Poor’s 500 Composite Index (“S&P 500”) and to Standard & Poor’s Retail Index (“S&P Retail Index”) for the five-year period beginning August 26, 2006 and ending August 27, 2011.



**Item 6. Selected Financial Data**

(in thousands, except per share data, same store sales and selected operating data)

	Fiscal Year Ended August				
	2011	2010	2009	2008(1)	2007
<b>Income Statement Data</b>					
Net sales	\$ 8,072,973	\$ 7,362,618	\$ 6,816,824	\$ 6,522,706	\$ 6,169,804
Cost of sales, including warehouse and delivery expenses	3,953,510	3,650,874	3,400,375	3,254,645	3,105,554
Gross profit	4,119,463	3,711,744	3,416,449	3,268,061	3,064,250
Operating, selling, general and administrative expenses	2,624,660	2,392,330	2,240,387	2,143,927	2,008,984
Operating profit	1,494,803	1,319,414	1,176,062	1,124,134	1,055,266
Interest expense, net	170,557	158,909	142,316	116,745	119,116
Income before income taxes	1,324,246	1,160,505	1,033,746	1,007,389	936,150
Income tax expense	475,272	422,194	376,697	365,783	340,478
Net income	<u>\$ 848,974</u>	<u>\$ 738,311</u>	<u>\$ 657,049</u>	<u>\$ 641,606</u>	<u>\$ 595,672</u>
Diluted earnings per share	<u>\$ 19.47</u>	<u>\$ 14.97</u>	<u>\$ 11.73</u>	<u>\$ 10.04</u>	<u>\$ 8.53</u>
Adjusted weighted average shares for diluted earnings per share	<u>43,603</u>	<u>49,304</u>	<u>55,992</u>	<u>63,875</u>	<u>69,844</u>
<b>Same Store Sales</b>					
Increase in domestic comparable store net sales(2)	6.3%	5.4%	4.4%	0.4%	0.1%
<b>Balance Sheet Data</b>					
Current assets	\$ 2,792,425	\$ 2,611,821	\$ 2,561,730	\$ 2,586,301	\$ 2,270,455
Working (deficit) capital	(638,471)	(452,139)	(145,022)	66,981	(15,439)
Total assets	5,869,602	5,571,594	5,318,405	5,257,112	4,804,709
Current liabilities	3,430,896	3,063,960	2,706,752	2,519,320	2,285,895
Debt	3,351,682	2,908,486	2,726,900	2,250,000	1,935,618
Long-term capital leases	61,360	66,333	38,029	48,144	39,073
Stockholders' (deficit) equity	\$ (1,254,232)	\$ (738,765)	\$ (433,074)	\$ 229,687	\$ 403,200
<b>Selected Operating Data</b>					
Number of stores at beginning of year	4,627	4,417	4,240	4,056	3,871
New stores	188	213	180	185	186
Closed stores	2	3	3	1	1
Net new stores	186	210	177	184	185
Relocated stores	10	3	9	14	18
Number of stores at end of year	<u>4,813</u>	<u>4,627</u>	<u>4,417</u>	<u>4,240</u>	<u>4,056</u>
Total store square footage (in thousands)	31,337	30,027	28,550	27,291	26,044
Average square footage per store	6,511	6,490	6,464	6,437	6,421
Increase in store square footage	4%	5%	5%	5%	5%
Inventory per store (in thousands)	\$ 512	\$ 498	\$ 500	\$ 507	\$ 495
Average net sales per store (in thousands)	\$ 1,675	\$ 1,595	\$ 1,541	\$ 1,539	\$ 1,525
Net sales per store square foot	\$ 258	\$ 246	\$ 239	\$ 239	\$ 238
Total employees at end of year (in thousands)	65	63	60	57	55
Inventory turnover(3)	1.6x	1.6x	1.5x	1.6x	1.6x
Accounts payable to inventory ratio	112%	106%	96%	95%	93%
After-tax return on invested capital (4)	31.3%	27.6%	24.4%	23.9%	23.2%
Adjusted debt to EBITDAR (5)	2.4	2.4	2.5	2.2	2.1
Net cash provided by operating activities (in thousands)	\$ 1,291,538	\$ 1,196,252	\$ 923,808	\$ 921,100	\$ 845,194
Cash flow before share repurchases and changes in debt (in thousands)(6)	\$ 1,023,927	\$ 947,643	\$ 673,347	\$ 690,621	\$ 678,522

(1) The fiscal year ended August 30, 2008 consisted of 53 weeks.

(2) The domestic comparable sales increases are based on sales for all domestic stores open at least one year. Relocated stores are included in the same store sales computation based on the year the original store was opened. Closed store sales are included in the same store sales computation up to the week it closes, and excluded from the computation for all periods subsequent to closing.

(3) Inventory turnover is calculated as cost of sales divided by the average merchandise inventory balance over the trailing 5 quarters.

- (4) *After-tax return on invested capital is defined as after-tax operating profit (excluding rent charges) divided by average invested capital (which includes a factor to capitalize operating leases). See Reconciliation of Non-GAAP Financial Measures in Management's Discussion and Analysis of Financial Condition and Results of Operations.*
- (5) *Adjusted debt to EBITDAR is defined as the sum of total debt, capital lease obligations and annual rents times six; divided by net income plus interest, taxes, depreciation, amortization, rent and share-based compensation expense. See Reconciliation of Non-GAAP Financial Measures in Management's Discussion and Analysis of Financial Condition and Results of Operations.*
- (6) *Cash flow before share repurchases and changes in debt is defined as the change in cash and cash equivalents less the change in debt plus treasury stock purchases. See Reconciliation of Non-GAAP Financial Measures in Management's Discussion and Analysis of Financial Condition and Results of Operations.*

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

We are the nation's leading retailer and a leading distributor of automotive replacement parts and accessories in the United States. We began operations in 1979 and at August 27, 2011, operated 4,534 stores in the United States, including Puerto Rico, and 279 in Mexico. Each of our stores carries an extensive product line for cars, sport utility vehicles, vans and light trucks, including new and remanufactured automotive hard parts, maintenance items, accessories and non-automotive products. At August 27, 2011, in 2,659 of our domestic stores, we also have a commercial sales program that provides commercial credit and prompt delivery of parts and other products to local, regional and national repair garages, dealers, service stations and public sector accounts. We also sell the ALLDATA brand automotive diagnostic and repair software through [www.alldata.com](http://www.alldata.com) and [www.alldatadiy.com](http://www.alldatadiy.com). Additionally, we sell automotive hard parts, maintenance items, accessories and non-automotive products through [www.autozone.com](http://www.autozone.com), and our commercial customers can make purchases through [www.autozonepro.com](http://www.autozonepro.com). We do not derive revenue from automotive repair or installation services.

### **Executive Summary**

We achieved strong performance in fiscal 2011, delivering record net income of \$849.0 million, a 15.0% increase over the prior year, and sales growth of \$710.4 million, a 9.6% increase over the prior year. We completed the year with strong growth in our commercial and retail businesses. We are pleased with the results of our retail business and encouraged by the increase in our commercial business, where we continue to build our internal sales force and continue to refine our parts assortment. There are various factors occurring within the current economy that affect both our customers and our industry, including the impact of the recent recession, continued high unemployment and other challenging economic conditions. As consumers' cash flows have decreased due to these factors, we believe consumers have become more likely to keep their current vehicles longer and perform repair and maintenance in order to keep those vehicles well maintained. Our belief is supported by industry data showing an increase in the average age of vehicles on the road and declines in new car sales over recent years as compared to historical levels, which we believe have led to an increase in demand for the products that we sell. Given the nature of these macroeconomic factors, we cannot predict whether or for how long these trends will continue, nor can we predict to what degree these trends will impact us in the future.

More recently, we believe changes in gas prices have adversely impacted our customers' behavior with respect to driving and maintaining their cars. With approximately 11 billion gallons of unleaded gas consumed each month across the United States, each \$1 dollar decrease at the pump contributes approximately \$11 billion of additional spending capacity to consumers each month. In fiscal 2011, unleaded gas prices increased by \$0.95 per gallon, finishing the fourth quarter at \$3.63 per gallon (on a national level). During the comparable prior year period, unleaded gas prices increased only \$0.07 per gallon finishing the fourth quarter at \$2.68 per gallon. We believe the increase in gas prices is reducing discretionary spending for all consumers, and, in particular, our customers. Given the unpredictability of gas prices, we cannot predict whether gas prices will increase or decrease in the future, nor can we predict how any future changes in gas prices will impact our sales in future periods.

During fiscal 2011, failure and maintenance related categories represented the largest portion of our sales mix, at approximately 83% of total sales, with failure related categories continuing to be our strongest performers. While we have not experienced any fundamental shifts in our category sales mix as compared to previous years, we did experience a slight decline in sales of maintenance and discretionary categories. We believe maintenance and discretionary related products were impacted by higher gas prices during the latter half of the year. We remain focused on refining and expanding our product assortment to ensure we have the best merchandise at the right price in each of our categories.

## Table of Contents

Our primary response to fluctuations in the demand for the products we sell is to adjust our advertising message, store staffing, and product assortment. We continue to believe we are well positioned to help our customers save money and meet their needs in a challenging macroeconomic environment.

The two statistics we believe have the closest correlation to our market growth over the long-term are miles driven and the number of seven year old or older vehicles on the road.

### *Miles Driven*

We believe that as the number of miles driven increases, consumers' vehicles are more likely to need service and maintenance, resulting in an increase in the need for automotive hard parts and maintenance items. Prior to the recession, we had seen a close correlation between annual miles driven and our annual net sales; however, this correlation has not existed in the recessionary period. Since the beginning of the fiscal year and through July 2011 (latest publicly available information), miles driven were relatively flat as compared to the comparable prior year period. Throughout this period and contrary to the correlation experienced prior to the recession, sales have grown at an increased rate, while miles driven have declined or grown at a slower rate than what we have historically experienced. We believe that the impact of changes in other factors, primarily an increase in the average age of vehicles, more than offset the impact of miles driven. Over the long-term, we believe that annual miles driven will return to pre-recession low single digit growth rates, and the correlation between annual miles driven and the annual sales growth of our industry should return.

### *Seven Year Old or Older Vehicles*

Since 2008, new vehicle sales have been significantly lower than historical levels, which we believe contributed to an increasing number of seven year old or older vehicles on the road. We estimate vehicles are driven an average of approximately 12,500 miles each year. In seven years, the average miles driven equates to approximately 87,500 miles. Our experience is that at this point in a vehicle's life, most vehicles are not covered by warranties and increased maintenance is needed to keep the vehicle operating. According to data provided by the Automotive Aftermarket Industry Association, as of December 2010, the average age of vehicles on the road is 10.6 years as compared to 10.3 years as of December 2009. As the number of seven year old or older vehicles on the road increases, we expect an increase in demand for the products that we sell. Although we have seen a slight improvement in new car sales during fiscal 2011, in the near term, we expect the aging vehicle population to continue to increase, as consumers keep their cars longer in an effort to save money during this uncertain economy.

## **Results of Operations**

### *Fiscal 2011 Compared with Fiscal 2010*

For the fiscal year ended August 27, 2011, we reported net sales of \$8.073 billion compared with \$7.363 billion for the year ended August 28, 2010, a 9.6% increase from fiscal 2010. This growth was driven primarily by an increase in domestic same store sales of 6.3% and sales from new stores of \$216.8 million. The improvement in domestic same store sales was driven by higher transaction value and, to a lesser extent, higher transaction count trends. Higher transaction value is attributable to product inflation due to more complex, costly products and commodity price increases.

At August 27, 2011, we operated 4,534 domestic stores and 279 stores in Mexico, compared with 4,389 domestic stores and 238 stores in Mexico at August 28, 2010. We reported a domestic retail sales increase of 6.8% and a domestic commercial sales increase of 22.3% for fiscal 2011.

Gross profit for fiscal 2011 was \$4.119 billion, or 51.0% of net sales, compared with \$3.712 billion, or 50.4% of net sales for fiscal 2010. The improvement in gross margin was primarily attributable to lower shrink expense (32 basis points) and higher merchandise margins (26 basis points). Increased penetration of Duralast product sales, as well as retail price increases on commodity based products, drove the higher merchandise margins, which were partially offset by increased penetration of commercial sales.

Operating, selling, general and administrative expenses for fiscal 2011 increased to \$2.625 billion, or 32.5% of net sales, from \$2.392 billion, or 32.5% of net sales for fiscal 2010. The slight increase in operating expenses, as a percentage of sales, was the result of higher fuel costs (20 basis points) and increased incentive compensation costs (17 basis points), partially offset by leverage due to higher sales volumes.

## [Table of Contents](#)

Interest expense, net for fiscal 2011 was \$170.6 million compared with \$158.9 million during fiscal 2010. This increase was primarily due to higher average borrowing levels over the comparable prior year period; partially offset by a decline in borrowing rates. Average borrowings for fiscal 2011 were \$3.103 billion, compared with \$2.752 billion for fiscal 2010 and weighted average borrowing rates were 5.1% for fiscal 2011, compared to 5.3% for fiscal 2010.

Our effective income tax rate was 35.9% of pre-tax income for fiscal 2011 compared to 36.4% for fiscal 2010.

Net income for fiscal 2011 increased by 15.0% to \$849.0 million, and diluted earnings per share increased 30.0% to \$19.47 from \$14.97 in fiscal 2010. The impact of the fiscal 2011 stock repurchases on diluted earnings per share in fiscal 2011 was an increase of approximately \$1.15.

### *Fiscal 2010 Compared with Fiscal 2009*

For the fiscal year ended August 28, 2010, we reported net sales of \$7.363 billion compared with \$6.817 billion for the year ended August 29, 2009, an 8.0% increase from fiscal 2009. This growth was driven primarily by an increase in domestic same store sales of 5.4% and sales from new stores of \$203.4 million. The improvement in same store sales was driven by an improvement in transaction count trends, while increases in average transaction value remained generally consistent with our long-term trends. Higher transaction value is attributable to product inflation due to both more complex, costly products and commodity price increases.

At August 28, 2010, we operated 4,389 domestic stores and 238 stores in Mexico, compared with 4,229 domestic stores and 188 stores in Mexico at August 29, 2009. We reported a domestic retail sales increase of 6.9% and a domestic commercial sales increase of 13.8% for fiscal 2010.

Gross profit for fiscal 2010 was \$3.712 billion, or 50.4% of net sales, compared with \$3.416 billion, or 50.1% of net sales for fiscal 2009. The improvement in gross margin was primarily attributable to leveraging distribution costs due to higher sales and operating efficiencies (19 basis points).

Operating, selling, general and administrative expenses for fiscal 2010 increased to \$2.392 billion, or 32.5% of net sales, from \$2.240 billion, or 32.9% of net sales for fiscal 2009. The reduction in operating expenses, as a percentage of sales, reflected leverage of store operating expenses due to higher sales, partially offset by higher pension expense (17 basis points) and the continued investment in the hub store initiative (16 basis points).

Interest expense, net for fiscal 2010 was \$158.9 million compared with \$142.3 million during fiscal 2009. This increase was due to higher average borrowing levels over the comparable prior year period. Average borrowings for fiscal 2010 were \$2.752 billion, compared with \$2.460 billion for fiscal 2009 and weighted average borrowing rates were 5.3% for fiscal 2010, compared to 5.4% for fiscal 2009.

Our effective income tax rate was 36.4% of pre-tax income for fiscal 2010 compared to 36.4% for fiscal 2009.

Net income for fiscal 2010 increased by 12.4% to \$738.3 million, and diluted earnings per share increased 27.6% to \$14.97 from \$11.73 in fiscal 2009. The impact of the fiscal 2010 stock repurchases on diluted earnings per share in fiscal 2010 was an increase of approximately \$0.74.

### **Seasonality and Quarterly Periods**

Our business is somewhat seasonal in nature, with the highest sales typically occurring in the spring and summer months of February through September, in which average weekly per-store sales historically have been about 15% to 25% higher than in the slower months of December and January. During short periods of time, a store's sales can be affected by weather conditions. Extremely hot or extremely cold weather may enhance sales by causing parts to fail; thereby increasing sales of seasonal products. Mild or rainy weather tends to soften sales, as parts failure rates are lower in mild weather, with elective maintenance deferred during periods of rainy weather. Over the longer term, the effects of weather balance out, as we have stores throughout the United States, Puerto Rico and Mexico.

Each of the first three quarters of our fiscal year consists of 12 weeks, and the fourth quarter consisted of 16 weeks in 2011, 2010, and 2009. Because the fourth quarter contains the seasonally high sales volume and consists of 16 or 17 weeks, compared with 12 weeks for each of the first three quarters, our fourth quarter represents a disproportionate share of the annual net sales and net income. The fourth quarter of fiscal year 2011 represented 32.7% of annual sales and 35.5% of net income; the fourth quarter of fiscal 2010 represented 33.2% of annual sales and 36.4% of net income; and the fourth quarter of fiscal 2009 represented 32.7% of annual sales and 35.9% of net income.

### **Liquidity and Capital Resources**

The primary source of our liquidity is our cash flows realized through the sale of automotive parts and accessories. Net cash provided by operating activities was \$1.292 billion in fiscal 2011, \$1.196 billion in fiscal 2010, and \$923.8 million in fiscal 2009. The increase over prior year was primarily due to higher net income of \$110.7 million and timing of income tax deductions, offset by inventory purchases. During fiscal 2011, cash flows from operating activities continue to benefit from our inventory purchases being financed by our vendors. The increase in fiscal 2010 as compared to fiscal 2009 was due primarily to the growth in net income and improvements in our accounts payable to inventory ratio as our vendors financed a large portion of our inventory. We had an accounts payable to inventory ratio of 112% at August 27, 2011, 106% at August 28, 2010, and 96% at August 29, 2009. Our inventory increases are primarily attributable to an increased number of stores and to a lesser extent, our efforts to update product assortments in all of our stores. Many of our vendors have supported our initiative to update our product assortments by providing extended payment terms. These extended payment terms have allowed us to continue to grow accounts payable at a faster rate than inventory.

Our primary capital requirement has been the funding of our continued new-store development program. From the beginning of fiscal 2009 to August 27, 2011, we have opened 581 new stores. Net cash flows used in investing activities were \$319.0 million in fiscal 2011, compared to \$307.4 million in fiscal 2010, and \$263.7 million in fiscal 2009. We invested \$321.6 million in capital assets in fiscal 2011, compared to \$315.4 million in capital assets in fiscal 2010, and \$272.2 million in capital assets in fiscal 2009. The increase in capital expenditures during this time was primarily attributable to the number and types of stores opened and increased investment in our existing stores. New store openings were 188 for fiscal 2011, 213 for fiscal 2010, and 180 for fiscal 2009. We invest a portion of our assets held by the Company's wholly owned insurance captive in marketable securities. We acquired \$43.8 million of marketable securities in fiscal 2011, \$56.2 million in fiscal 2010, and \$48.4 million in fiscal 2009. We had proceeds from the sale of marketable securities of \$43.1 million in fiscal 2011, \$52.6 million in fiscal 2010, and \$46.3 million in fiscal 2009. Capital asset disposals provided \$3.3 million in fiscal 2011, \$11.5 million in fiscal 2010, and \$10.7 million in fiscal 2009.

Net cash used in financing activities was \$973.8 million in fiscal 2011, \$883.5 million in fiscal 2010, and \$806.9 million in fiscal 2009. The net cash used in financing activities reflected purchases of treasury stock which totaled \$1.467 billion for fiscal 2011, \$1.124 billion for fiscal 2010, and \$1.300 billion for fiscal 2009. The treasury stock purchases in fiscal 2011, 2010 and 2009 were primarily funded by cash flow from operations, and at times, by increases in debt levels. Proceeds from issuance of debt were \$500.0 million for fiscal 2011; there were no debt issuances in fiscal 2010 and \$500.0 million for fiscal 2009. Repayments of debt for fiscal 2011 were \$199.3 million; there were no debt repayments for fiscal 2010, and \$300.7 million for fiscal 2009. In fiscal 2011, we used the proceeds from the issuance of debt to repay our \$199.3 million term loan in November 2010, to repay a portion of our commercial paper borrowings and for general corporate purposes, including for working capital requirements, capital expenditures, store openings and stock repurchases. Proceeds from the debt issuance in fiscal 2009, were used to repay outstanding commercial paper indebtedness, to prepay our \$300.0 million term loan in August 2009 and for general corporate purposes, including for working capital requirements, capital expenditures, store openings and stock repurchases. Net proceeds from the issuance of commercial paper and short-term borrowings were \$141.5 million for fiscal 2011, \$181.6 million for fiscal 2010 and \$277.6 million for fiscal 2009.

During fiscal 2012, we expect to invest in our business at an increased rate as compared to fiscal 2011, and more consistent with growth rates experienced in fiscal 2010 and fiscal 2009. Our investment is expected to be directed primarily to our new-store development program and enhancements to existing stores and infrastructure. The amount of our investments in our new-store program is impacted by different factors, including such factors as whether the building and land are purchased (requiring higher investment) or leased (generally lower investment), located in the United States or Mexico, or located in urban or rural areas. During fiscal 2011, fiscal 2010, and

fiscal 2009, our capital expenditures have increased by approximately 2%, 16% and 12%, respectively, as compared to the prior year. Our mix of store openings has moved away from build-to-suit leases (lower initial capital investment) to ground leases and land purchases (higher initial capital investment), resulting in increased capital expenditures per store over the previous three years, and we expect this trend to continue during the fiscal year ending August 25, 2012.

In addition to the building and land costs, our new-store development program requires working capital, predominantly for inventories. Historically, we have negotiated extended payment terms from suppliers, reducing the working capital required and resulting in a high accounts payable to inventory ratio. We plan to continue leveraging our inventory purchases; however, our ability to do so may be limited by our vendors' capacity to factor their receivables from us. Certain vendors participate in financing arrangements with financial institutions whereby they factor their receivables from us, allowing them to receive payment on our invoices at a discounted rate.

Depending on the timing and magnitude of our future investments (either in the form of leased or purchased properties or acquisitions), we anticipate that we will rely primarily on internally generated funds and available borrowing capacity to support a majority of our capital expenditures, working capital requirements and stock repurchases. The balance may be funded through new borrowings. We anticipate that we will be able to obtain such financing in view of our credit ratings and favorable experiences in the debt markets in the past.

For the fiscal year ended August 27, 2011, our after-tax return on invested capital ("ROIC") was 31.3% as compared to 27.6% for the comparable prior year period. ROIC is calculated as after-tax operating profit (excluding rent charges) divided by average invested capital (which includes a factor to capitalize operating leases). ROIC increased primarily due to increased after-tax operating profit. We use ROIC to evaluate whether we are effectively using our capital resources and believe it is an important indicator of our overall operating performance.

#### *Debt Facilities*

In September 2011, we amended and restated our \$800 million revolving credit facility, which was scheduled to expire in July 2012. The capacity under the revolving credit facility was increased to \$1.0 billion. This credit facility is available to primarily support commercial paper borrowings, letters of credit and other short-term, unsecured bank loans. The capacity of the credit facility may be increased to \$1.250 billion prior to the maturity date at our election and subject to bank credit capacity and approval, may include up to \$200 million in letters of credit, and may include up to \$175 million in capital leases each fiscal year. Under the revolving credit facility, we may borrow funds consisting of Eurodollar loans or base rate loans. Interest accrues on Eurodollar loans at a defined Eurodollar rate, defined as the London InterBank Offered Rate ("LIBOR") plus the applicable percentage, as defined in the revolving credit facility, depending upon our senior, unsecured, (non-credit enhanced) long-term debt rating. Interest accrues on base rate loans as defined in the revolving credit facility. We also have the option to borrow funds under the terms of a swingline loan subfacility. The revolving credit facility expires in September 2016.

The revolving credit facility agreement requires that our consolidated interest coverage ratio as of the last day of each quarter shall be no less than 2.50:1. This ratio is defined as the ratio of (i) consolidated earnings before interest, taxes and rents to (ii) consolidated interest expense plus consolidated rents. Our consolidated interest coverage ratio as of August 27, 2011 was 4.44:1.

As the available balance is reduced by commercial paper borrowings and certain outstanding letters of credit, we had \$200.7 million in available capacity under our previous revolving credit facility at August 27, 2011. Assuming the amended and restated revolving credit facility had been executed as of our balance sheet date, we would have had \$400.7 million in available capacity under the facility at August 27, 2011.

In June 2010, we entered into a letter of credit facility that allows us to request the participating bank issue letters of credit on our behalf up to an aggregate amount of \$100 million. The letter of credit facility is in addition to the letters of credit that may be issued under the revolving credit facility. As of August 27, 2011, we have \$92.9 million in letters of credit outstanding under the letter of credit facility, which expires in June 2013.

## Table of Contents

On November 15, 2010, we issued \$500 million in 4.000% Senior Notes due 2020 under our shelf registration statement filed with the Securities and Exchange Commission on July 29, 2008 (the “Shelf Registration”). The Shelf Registration allows us to sell an indeterminate amount in debt securities to fund general corporate purposes, including repaying, redeeming or repurchasing outstanding debt and for working capital, capital expenditures, new store openings, stock repurchases and acquisitions. During November 2010, we used the proceeds from the issuance of debt to repay the principal due relating to the \$199.3 million in 4.750% Senior Notes that matured on November 15, 2010, to repay a portion of the commercial paper borrowings and for general corporate purposes.

The 5.750% Senior Notes issued in July 2009 and the 6.500% and 7.125% Senior Notes issued during August 2008, (collectively, the “Notes”), are subject to an interest rate adjustment if the debt ratings assigned to the Notes are downgraded. The Notes, along with the 4.000% Senior Notes issued in during November 2010, also contain a provision that repayment of the notes may be accelerated if we experience a change in control (as defined in the agreements). Our borrowings under our other senior notes contain minimal covenants, primarily restrictions on liens. Under our revolving credit facility, covenants include limitations on total indebtedness, restrictions on liens, a maximum debt to earnings ratio, and a change of control provision that may require acceleration of the repayment obligations under certain circumstances. These covenants are in addition to the consolidated interest coverage ratio discussed above. All of the repayment obligations under our borrowing arrangements may be accelerated and come due prior to the scheduled payment date if covenants are breached or an event of default occurs.

As of August 27, 2011, we were in compliance with all covenants related to our borrowing arrangements and expect to remain in compliance with those covenants in the future.

For the fiscal year ended August 27, 2011, our adjusted debt to earnings before interest, taxes, depreciation, amortization, rent and share-based compensation expense (“EBITDAR”) ratio was 2.4:1 as compared to 2.4:1 as of the comparable prior year end. We calculate adjusted debt as the sum of total debt, capital lease obligations and rent times six; and we calculate EBITDAR by adding interest, taxes, depreciation, amortization, rent and share-based compensation expense to net income. We target our debt levels to a ratio of adjusted debt to EBITDAR in order to maintain our investment grade credit ratings. We believe this is important information for the management of our debt levels.

### *Stock Repurchases*

During 1998, we announced a program permitting us to repurchase a portion of our outstanding shares not to exceed a dollar maximum established by our Board of Directors (the “Board”). The program was amended in June 2011 to increase the repurchase authorization to \$10.4 billion from \$9.9 billion. From January 1998 to August 27, 2011, we have repurchased a total of 127.3 million shares at an aggregate cost of \$10.2 billion. We repurchased 5.6 million shares of common stock at an aggregate cost of \$1.467 billion during fiscal 2011, 6.4 million shares of common stock at an aggregate cost of \$1.124 billion during fiscal 2010, and 9.3 million shares of common stock at an aggregate cost of \$1.300 billion during fiscal 2009. Considering cumulative repurchases as of August 27, 2011, we have \$218.6 million remaining under the Board of Director’s authorization to repurchase our common stock.

Subsequent to the end of fiscal 2011, the Board voted to increase the authorization by \$750 million to raise the cumulative share repurchase authorization from \$10.4 billion to \$11.15 billion. We have repurchased approximately 527 thousand shares of our common stock at an aggregate cost of \$169.7 million during fiscal 2012.

## Table of Contents

### Financial Commitments

The following table shows our significant contractual obligations as of August 27, 2011:

(in thousands)	Total Contractual Obligations	Payment Due by Period			
		Less than 1 year	Between 1-3 years	Between 3-5 years	Over 5 years
Long-term debt (1)	\$ 3,317,600	\$ 567,600	\$ 1,000,000	\$ 1,000,000	\$ 750,000
Interest payments (2)	684,282	155,870	260,237	142,550	125,625
Operating leases (3)	1,851,453	209,778	382,786	309,983	948,906
Capital leases (4)	89,649	25,296	47,043	17,310	—
Self-insurance reserves (5)	163,267	55,896	44,687	24,093	38,591
Construction commitments	23,851	23,851	—	—	—
	<u>\$ 6,130,102</u>	<u>\$ 1,038,291</u>	<u>\$ 1,734,753</u>	<u>\$ 1,493,936</u>	<u>\$ 1,863,122</u>

- (1) Long-term debt balances represent principal maturities, excluding interest.
- (2) Represents obligations for interest payments on long-term debt.
- (3) Operating lease obligations are inclusive of amounts accrued within deferred rent and closed store obligations reflected in our consolidated balance sheets.
- (4) Capital lease obligations include related interest.
- (5) Self-insurance reserves reflect estimates based on actuarial calculations. Although these obligations do not have scheduled maturities, the timing of future payments are predictable based upon historical patterns. Accordingly, we reflect the net present value of these obligations in our consolidated balance sheets.

We have pension obligations reflected in our consolidated balance sheet that are not reflected in the table above due to the absence of scheduled maturities and the nature of the account. During fiscal 2011, we made contributions of \$34.1 million to the pension plan. We expect to make contributions of approximately \$7 million during fiscal 2012; however a change to the expected cash funding may be impacted by a change in interest rates or a change in the actual or expected return on plan assets.

As of August 27, 2011, our defined benefit obligation associated with our pension plans is \$241.6 million and our pension assets are valued at \$156.9 million, resulting in a net pension obligation of \$84.8 million. Amounts recorded in Accumulated other comprehensive loss are \$107.0 million at August 27, 2011. The balance in Accumulated other comprehensive loss will be amortized into pension expense in the future, unless the losses are recovered in future periods through actuarial gains.

Additionally, our tax liability for uncertain tax positions, including interest and penalties, was \$35.1 million at August 27, 2011. Approximately \$8.2 million is classified as current liabilities and \$26.9 million is classified as long-term liabilities. We did not reflect these obligations in the table above as we are unable to make an estimate of the timing of payments due to uncertainties in the timing of the settlement of these tax positions.

### Off-Balance Sheet Arrangements

The following table reflects outstanding letters of credit and surety bonds as of August 27, 2011:

(in thousands)	Total Other Commitments
Standby letters of credit	\$ 96,594
Surety bonds	26,335
	<u>\$ 122,929</u>

A substantial portion of the outstanding standby letters of credit (which are primarily renewed on an annual basis) and surety bonds are used to cover reimbursement obligations to our workers' compensation carriers. There are no additional contingent liabilities associated with these instruments as the underlying liabilities are already reflected in our consolidated balance sheet. The standby letters of credit and surety bonds arrangements expire within one year, but have automatic renewal clauses.

## Reconciliation of Non-GAAP Financial Measures

“Selected Financial Data” and “Management’s Discussion and Analysis of Financial Condition and Results of Operations” include certain financial measures not derived in accordance with generally accepted accounting principles (“GAAP”). These non-GAAP financial measures provide additional information for determining our optimum capital structure and are used to assist management in evaluating performance and in making appropriate business decisions to maximize stockholders’ value.

Non-GAAP financial measures should not be used as a substitute for GAAP financial measures, or considered in isolation, for the purpose of analyzing our operating performance, financial position or cash flows. However, we have presented the non-GAAP financial measures, as we believe they provide additional information that is useful to investors as it indicates more clearly our comparative year-to-year operating results. Furthermore, our management and Compensation Committee of the Board use the above-mentioned non-GAAP financial measures to analyze and compare our underlying operating results and to determine payments of performance-based compensation. We have included a reconciliation of this information to the most comparable GAAP measures in the following reconciliation tables.

### *Reconciliation of Non-GAAP Financial Measure: Cash Flow Before Share Repurchases and Changes in Debt*

The following table reconciles net (decrease) increase in cash and cash equivalents to cash flow before share repurchases and changes in debt, which is presented in “Selected Financial Data”:

<i>(in thousands)</i>	<b>Fiscal Year Ended August</b>				
	<b>2011</b>	<b>2010</b>	<b>2009</b>	<b>2008</b>	<b>2007</b>
Net (decrease) increase in cash and cash equivalents	\$ (674)	\$ 5,574	\$ (149,755)	\$ 155,807	\$ (4,904)
Less: Increase in debt	442,201	181,586	476,900	314,382	78,461
Plus: Share repurchases	<u>1,466,802</u>	<u>1,123,655</u>	<u>1,300,002</u>	<u>849,196</u>	<u>761,887</u>
Cash flow before share repurchases and changes in debt	<u>\$ 1,023,927</u>	<u>\$ 947,643</u>	<u>\$ 673,347</u>	<u>\$ 690,621</u>	<u>\$ 678,522</u>

## Table of Contents

### Reconciliation of Non-GAAP Financial Measure: After-tax Return on Invested Capital

The following table calculates the percentage of ROIC. ROIC is calculated as after-tax operating profit (excluding rent) divided by average invested capital (which includes a factor to capitalize operating leases). The ROIC percentages are presented in “Selected Financial Data” and “Management’s Discussion and Analysis of Financial Condition and Results of Operations”:

<i>(in thousands, except percentage)</i>	Fiscal Year Ended August				
	2011	2010	2009	2008(1)	2007
Net income	\$ 848,974	\$ 738,311	\$ 657,049	\$ 641,606	\$ 595,672
Adjustments:					
Interest expense	170,557	158,909	142,316	116,745	119,116
Rent expense	213,846	195,632	181,308	165,121	152,523
Tax effect (2)	(137,962)	(128,983)	(117,929)	(102,345)	(98,796)
After-tax return	<u>\$ 1,095,415</u>	<u>\$ 963,869</u>	<u>\$ 862,744</u>	<u>\$ 821,127</u>	<u>\$ 768,515</u>
Average debt (3)	\$ 3,121,880	\$ 2,769,617	\$ 2,468,351	\$ 2,074,738	\$ 1,888,989
Average (deficit) equity (4)	(993,624)	(507,885)	(75,162)	308,401	482,702
Rent x 6 (5)	1,283,076	1,173,792	1,087,848	990,726	915,138
Average capital lease obligations (6)	84,966	62,220	58,901	60,763	27,093
Pre-tax invested capital	<u>\$ 3,496,298</u>	<u>\$ 3,497,744</u>	<u>\$ 3,539,938</u>	<u>\$ 3,434,628</u>	<u>\$ 3,313,922</u>
ROIC	<u>31.3%</u>	<u>27.6%</u>	<u>24.4%</u>	<u>23.9%</u>	<u>23.2%</u>

(1) The fiscal year ended August 30, 2008 consisted of 53 weeks.

(2) The effective tax rate during fiscal 2011, 2010, 2009, 2008 and 2007 was 35.9%, 36.4%, 36.4%, 36.3% and 36.4%, respectively.

(3) Average debt is equal to the average of our debt measured as of the previous five quarters.

(4) Average equity is equal to the average of our stockholders’ (deficit) equity measured as of the previous five quarters.

(5) Rent is multiplied by a factor of six to capitalize operating leases in the determination of pre-tax invested capital.

(6) Average capital lease obligations is computed as the average of our capital lease obligations over the previous five quarters.

### Reconciliation of Non-GAAP Financial Measure: Adjusted Debt to EBITDAR

The following table calculates the ratio of adjusted debt to EBITDAR. Adjusted debt to EBITDAR is calculated as the sum of total debt, capital lease obligations and annual rents times six; divided by net income plus interest, taxes, depreciation, amortization, rent and share-based compensation expense. The adjusted debt to EBITDAR ratios are presented in “Selected Financial Data” and “Management’s Discussion and Analysis of Financial Condition and Results of Operations”:

<i>(in thousands, except ratio)</i>	Fiscal Year Ended August				
	2011	2010	2009	2008(1)	2007
Net income	\$ 848,974	\$ 738,311	\$ 657,049	\$ 641,606	\$ 595,672
Add: Interest expense	170,557	158,909	142,316	116,745	119,116
Income tax expense	475,272	422,194	376,697	365,783	340,478
EBIT	1,494,803	1,319,414	1,176,062	1,124,134	1,055,266
Add: Depreciation expense	196,209	192,084	180,433	169,509	159,411
Rent expense	213,846	195,632	181,308	165,121	152,523
Share-based expense	26,625	19,120	19,135	18,388	18,462
EBITDAR	<u>\$ 1,931,483</u>	<u>\$ 1,726,250</u>	<u>\$ 1,556,938</u>	<u>\$ 1,477,152</u>	<u>\$ 1,385,662</u>
Debt	\$ 3,351,682	\$ 2,908,486	\$ 2,726,900	\$ 2,250,000	\$ 1,935,618
Capital lease obligations	86,656	88,280	54,764	64,061	55,088
Rent x 6	1,283,076	1,173,792	1,087,848	990,726	915,138
Adjusted debt	<u>\$ 4,721,414</u>	<u>\$ 4,170,558</u>	<u>\$ 3,869,512</u>	<u>\$ 3,304,787</u>	<u>\$ 2,905,844</u>
Adjusted debt to EBITDAR	<u>2.4</u>	<u>2.4</u>	<u>2.5</u>	<u>2.2</u>	<u>2.1</u>

(1) The fiscal year ended August 30, 2008 consisted of 53 weeks.

## Recent Accounting Pronouncements

In December 2010, the Financial Accounting Standards Board (“FASB”) issued Accounting Standards Update (“ASU”) 2010-28, *Intangibles — Goodwill and Other*, which amends Accounting Standards Codification (“ASC”) Topic 350, *Intangibles — Goodwill and Other*. ASU 2010-28 modifies Step 1 of the goodwill impairment test for reporting units with zero or negative carrying amounts. For those reporting units, an entity is required to perform Step 2 of the goodwill impairment analysis if it is more likely than not that a goodwill impairment exists based on a qualitative assessment of adverse factors. We do not expect the provisions of ASU 2010-28 to have a material impact to our consolidated financial statements. This update will be effective for our fiscal year ending August 25, 2012.

In May 2011, the FASB issued ASU 2011-04, *Amendments to Achieve Common Fair Value Measurement and Disclosure Requirements in U.S. GAAP and IFRSs*, which amends ASC Topic 820, *Fair Value Measurement*. The purpose of ASU 2011-04 is to clarify the intent about the application of existing fair value measurement and disclosure requirements and to change a particular principle or requirement for measuring fair value or for disclosing information about fair value measurements. We do not expect the provisions of ASU 2011-04 to have a material impact to our consolidated financial statements. This update will be effective as of our third quarter ending May 5, 2012.

In June 2011, the FASB issued ASU 2011-05, *Presentation of Comprehensive Income*, which amends ASC Topic 220, *Comprehensive Income*. The objective of ASU 2011-05 is to improve the comparability, consistency and transparency of financial reporting and to increase the prominence of items reported in other comprehensive income. The update will require entities to present items of net income, items of other comprehensive income and total comprehensive income in one continuous statement or two separate consecutive statements, and entities will no longer be allowed to present items of other comprehensive income in the statement of stockholders’ equity. Reclassification adjustments between other comprehensive income and net income will be presented separately on the face of the financial statements. We do not expect the provisions of ASU 2011-05 to have a material impact to our consolidated financial statements. This update will be effective for our fiscal year ending August 31, 2013.

In August 2011, the FASB issued ASU 2011-08, *Intangibles — Goodwill and Other*, which amends ASC Topic 350, *Intangibles — Goodwill and Other*. The purpose of ASU 2011-08 is to simplify how an entity tests goodwill for impairment. Entities will assess qualitative factors to determine whether it is more likely than not that a reporting unit’s fair value is less than its carrying value. In instances where the fair value is determined to be less than the carrying value, entities will perform the two-step quantitative goodwill impairment test. We do not expect the provisions of ASU 2011-08 to have a material impact to our consolidated financial statements. This update will be effective for our fiscal year ending August 31, 2013.

## Critical Accounting Policies and Estimates

Preparation of our consolidated financial statements requires us to make estimates and assumptions affecting the reported amounts of assets and liabilities at the date of the financial statements, reported amounts of revenues and expenses during the reporting period and related disclosures of contingent liabilities. In the notes to our consolidated financial statements, we describe our significant accounting policies used in preparing the consolidated financial statements. Our policies are evaluated on an ongoing basis and are drawn from historical experience and other assumptions that we believe to be reasonable under the circumstances. Actual results could differ under different assumptions or conditions. Our senior management has identified the critical accounting policies for the areas that are materially impacted by estimates and assumptions and have discussed such policies with the Audit Committee of our Board. The following items in our consolidated financial statements represent our critical accounting policies that require significant estimation or judgment by management:

### *Inventory Reserves and Cost of Sales*

#### LIFO

We state our inventories at the lower of cost or market using the last-in, first-out (“LIFO”) method for domestic merchandise and the first-in, first out (“FIFO”) method for Mexico inventories. Due to price deflation on our merchandise purchases, our domestic inventory balances are effectively maintained under the FIFO method. We do not write up inventory for favorable LIFO adjustments, and due to price deflation, LIFO costs of our domestic inventories exceed replacement costs by \$253.3 million at August 27, 2011, calculated using the dollar value method.

### Inventory Obsolescence and Shrinkage

Our inventory, primarily hard parts, maintenance items, accessories and non-automotive products, is used on vehicles that have rather long lives; and therefore, the risk of obsolescence is minimal and the majority of excess inventory has historically been returned to our vendors for credit. In the isolated instances where less than full credit will be received for such returns and where we anticipate that items will be sold at retail prices that are less than recorded costs, we record a charge (less than \$20 million in each of the last three years) through cost of sales for the difference. These charges are based on management's judgment, including estimates and assumptions regarding marketability of products and the market value of inventory to be sold in future periods.

Historically, we have not encountered material exposure to inventory obsolescence or excess inventory, nor have we experienced material changes to our estimates. However, we may be exposed to material losses should our vendors alter their policy with regard to accepting excess inventory returns.

Additionally, we reduce inventory for projected losses related to shrinkage, which is estimated based on historical losses and current inventory loss trends resulting from previous physical inventories. Shrinkage may occur due to theft, loss or inaccurate records for the receipt of goods, among other things. Throughout the year, we take physical inventory counts of our stores and distribution centers to verify these estimates. We make assumptions regarding upcoming physical inventory counts that may differ from actual results. Over the last three years, there has been less than a 50 basis point fluctuation in our shrinkage rate.

Each quarter, we evaluate the accrued shrinkage in light of the actual shrink results. To the extent our actual physical inventory count results differ from our estimates, we may experience material adjustments to our financial statements. Historically, we have not experienced material adjustments to our shrinkage estimates and do not believe there is a reasonable likelihood that there will be a material change in the future estimates or assumptions we use.

A 10% difference in our inventory reserves as of August 27, 2011, would have affected net income by approximately \$7 million in fiscal 2011.

### *Vendor Allowances*

We receive various payments and allowances from our vendors through a variety of programs and arrangements, including allowances for warranties, advertising and general promotion of vendor products. Vendor allowances are treated as a reduction of inventory, unless they are provided as a reimbursement of specific, incremental, identifiable costs incurred by the Company in selling the vendor's products. Approximately 87% of the vendor funds received are recorded as a reduction of the cost of inventories and recognized as a reduction to cost of sales as these inventories are sold.

Based on our vendor agreements, a significant portion of vendor funding we receive is based on our inventory purchases. Therefore, we record receivables for funding earned but not yet received as we purchase inventory. During the year, we regularly review the receivables from vendors to ensure vendors are able to meet their obligations. We generally have not recorded a reserve against these receivables as we have legal right of offset with our vendors for payments owed them. Historically, we have had minimal write-offs (less than \$500 thousand in any of the last three years).

### *Self-Insurance Reserves*

We retain a significant portion of the risks associated with workers' compensation, employee health, general and products liability, property and vehicle liability; and we obtain third party insurance to limit the exposure related to certain of these risks. Our self-insurance reserve estimates totaled \$159.3 million at August 27, 2011, and \$156.0 million at August 28, 2010. This change is primarily reflective of our growing operations, including inflation, increases in vehicles and the number of hours worked, as well as our historical claims experience and changes in our discount rate.

The assumptions made by management in estimating our self-insurance reserves include consideration of historical cost experience, judgments about the present and expected levels of cost per claim and retention levels. We utilize various methods, including analyses of historical trends and actuarial methods, to estimate the cost to settle reported claims, and claims incurred but not yet reported. The actuarial methods develop estimates of the future ultimate claim costs based on the claims incurred as of the balance sheet date. When estimating these liabilities, we consider factors, such as the severity, duration and frequency of claims, legal costs associated with claims, healthcare trends, and projected inflation of related factors. In recent history, our methods for determining our exposure have remained consistent, and our historical trends have been appropriately factored into our reserve estimates.

Management believes that the various assumptions developed and actuarial methods used to determine our self-insurance reserves are reasonable and provide meaningful data and information that management uses to make its best estimate of our exposure to these risks. Arriving at these estimates, however, requires a significant amount of subjective judgment by management, and as a result these estimates are uncertain and our actual exposure may be different from our estimates. For example, changes in our assumptions about health care costs, the severity of accidents and the incidence of illness, the average size of claims and other factors could cause actual claim costs to vary materially from our assumptions and estimates, causing our reserves to be overstated or understated. For instance, a 10% change in our self-insurance liability would have affected net income by approximately \$10 million for fiscal 2011.

As we obtain additional information and refine our methods regarding the assumptions and estimates we use to recognize liabilities incurred, we will adjust our reserves accordingly. In fiscal 2011, we have experienced favorable claims development in our older policy years, partially offset by increased severity and frequency of claims in the current policy year, and have adjusted our estimates as necessary. Prior to fiscal 2011, we experienced favorable claims development, particularly related to workers' compensation claims. We attribute this success to programs, such as return to work, and projects aimed at accelerating claims closure. The programs have matured and proven to be effective and are therefore considered in our current and future assumptions regarding claims costs.

Our liabilities for workers' compensation, certain general and product liability, property and vehicle claims do not have scheduled maturities; however, the timing of future payments is predictable based on historical patterns and is relied upon in determining the current portion of these liabilities. Accordingly, we reflect the net present value of the obligations we determine to be long-term using the risk-free interest rate as of the balance sheet date. If the discount rate used to calculate the present value of these reserves changed by 50 basis points, net income would have been affected by approximately \$2 million for fiscal 2011. Our liability for health benefits is classified as current, as the historical average duration of claims is approximately six weeks.

#### *Income Taxes*

Our income tax returns are audited by state, federal and foreign tax authorities, and we are typically engaged in various tax examinations at any given time. Tax contingencies often arise due to uncertainty or differing interpretations of the application of tax rules throughout the various jurisdictions in which we operate. The contingencies are influenced by items such as tax audits, changes in tax laws, litigation, appeals and prior experience with similar tax positions. We regularly review our tax reserves for these items and assess the adequacy of the amount we have recorded. As of August 27, 2011, we had approximately \$35.1 million reserved for uncertain tax positions.

We evaluate potential exposures associated with our various tax filings by estimating a liability for uncertain tax positions based on a two-step process. The first step is to evaluate the tax position for recognition by determining if the weight of available evidence indicates that it is more likely than not that the position will be sustained on audit, including resolution of related appeals or litigation processes, if any. The second step requires us to estimate and measure the tax benefit as the largest amount that is more than 50% likely to be realized upon ultimate settlement.

We believe our estimates to be reasonable and have not experienced material adjustments to our reserves in the previous three years; however, actual results could differ from our estimates and we may be exposed to gains or losses that could be material. Specifically, management has used judgment and made assumptions to estimate the likely outcome of uncertain tax positions. Additionally, to the extent we prevail in matters for which a liability has been established, or must pay in excess of recognized reserves, our effective tax rate in any particular period could be materially affected.

*Pension Obligation*

Prior to January 1, 2003, substantially all full-time employees were covered by a qualified defined benefit pension plan. The benefits under the plan were based on years of service and the employee's highest consecutive five-year average compensation. On January 1, 2003, the plan was frozen. Accordingly, pension plan participants will earn no new benefits under the plan formula and no new participants will join the pension plan. On January 1, 2003, our supplemental, unqualified defined benefit pension plan for certain highly compensated employees was also frozen. Accordingly, plan participants will earn no new benefits under the plan formula and no new participants will join the pension plan. As the plan benefits are frozen, the annual pension expense and recorded liabilities are not impacted by increases in future compensation levels, but are impacted by the use of two key assumptions in the calculation of these balances:

*Expected long-term rate of return on plan assets:* For the fiscal year ended August 27, 2011, we have assumed an 8% long-term rate of return on our plan assets. This estimate is a judgmental matter in which management considers the composition of our asset portfolio, our historical long-term investment performance and current market conditions. We review the expected long-term rate of return on an annual basis, and revise it accordingly. Additionally, we monitor the mix of investments in our portfolio to ensure alignment with our long-term strategy to manage pension cost and reduce volatility in our assets. For the fiscal year ending August 25, 2012, we expect to assume a long-term rate of return on our plan assets of 7.5% due to a change in our asset allocation. At August 27, 2011, our plan assets totaled \$157 million in our qualified plan. Our assets are generally valued using the net asset values, which are determined by valuing investments at the closing price or last trade reported on the major market on which the individual securities are traded. We have no assets in our nonqualified plan. A 50 basis point change in our expected long term rate of return would impact annual pension expense/income by approximately \$780 thousand for the qualified plan.

*Discount rate used to determine benefit obligations:* This rate is highly sensitive and is adjusted annually based on the interest rate for long-term, high-quality, corporate bonds as of the measurement date using yields for maturities that are in line with the duration of our pension liabilities. This same discount rate is also used to determine pension expense for the following plan year. For fiscal 2011, we assumed a discount rate of 5.13%. A decrease in the discount rate increases our projected benefit obligation and pension expense. A 50 basis point change in the discount rate at August 27, 2011 would impact annual pension expense/income by approximately \$2 million for the qualified plan and \$30 thousand for the nonqualified plan.

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

We are exposed to market risk from, among other things, changes in interest rates, foreign exchange rates and fuel prices. From time to time, we use various derivative instruments to reduce interest rate and fuel price risks. To date, based upon our current level of foreign operations, no derivative instruments have been utilized to reduce foreign exchange rate risk. All of our hedging activities are governed by guidelines that are authorized by the Board. Further, we do not buy or sell derivative instruments for trading purposes.

*Interest Rate Risk*

Our financial market risk results primarily from changes in interest rates. At times, we reduce our exposure to changes in interest rates by entering into various interest rate hedge instruments such as interest rate swap contracts, treasury lock agreements and forward-starting interest rate swaps.

We have historically utilized interest rate swaps to convert variable rate debt to fixed rate debt and to lock in fixed rates on future debt issuances. We reflect the current fair value of all interest rate hedge instruments as a component of either other current assets or accrued expenses and other. Our interest rate hedge instruments are designated as cash flow hedges.

Unrealized gains and losses on interest rate hedges are deferred in stockholders' deficit as a component of Accumulated other comprehensive loss. These deferred gains and losses are recognized in income as a decrease or increase to interest expense in the period in which the related cash flows being hedged are recognized in expense. However, to the extent that the change in value of an interest rate hedge instrument does not perfectly offset the change in the value of the cash flow being hedged, that ineffective portion is immediately recognized in earnings.

As of August 28, 2010, we held two forward starting interest rate swaps with a total notional amount of \$300 million. Subsequent to the fiscal year ended August 28, 2010, we entered into a third forward starting interest rate swap with a notional amount of \$100 million, bringing the total notional amount of all outstanding forward starting interest rate swaps to \$400 million. These agreements were designated as cash flow hedges and were used to hedge the exposure to variability in future cash flows resulting from changes in variable interest rates related to the \$500 million Senior Note debt issuance during the first quarter of fiscal 2011. The swaps were benchmarked based on the 3-month LIBOR. The three forward starting interest rate swaps expired in November 2010 and resulted in a loss of \$7.4 million, net of tax, which has been deferred in Accumulated other comprehensive loss and will be reclassified to interest expense over the life of the underlying debt. The hedges remained highly effective until they expired; therefore, no ineffectiveness was recognized in earnings. At August 27, 2011, we had no outstanding interest rate hedge instruments.

The fair value of our debt was estimated at \$3.633 billion as of August 27, 2011, and \$3.182 billion as of August 28, 2010, based on the quoted market prices for the same or similar debt issues or on the current rates available to us for debt having the same remaining maturities. Such fair value is greater than the carrying value of debt by \$281.0 million and \$273.5 million at August 27, 2011 and August 28, 2010, respectively. We had \$601.7 million of variable rate debt outstanding at August 27, 2011, and \$459.2 million of variable rate debt outstanding at August 28, 2010. In fiscal 2011, at this borrowing level for variable rate debt, a one percentage point increase in interest rates would have had an unfavorable impact on our pre-tax earnings and cash flows of approximately \$6 million. The primary interest rate exposure on variable rate debt is based on LIBOR. We had outstanding fixed rate debt of \$2.750 billion at August 27, 2011, and \$2.449 billion at August 28, 2010. A one percentage point increase in interest rates would reduce the fair value of our fixed rate debt by approximately \$112 million at August 27, 2011.

#### *Fuel Price Risk*

From time to time, we utilize fuel swap contracts in order to lower fuel cost volatility in our operating results. Historically, the instruments were executed to economically hedge a portion of our diesel and unleaded fuel exposure. However, we have not designated the fuel swap contracts as hedging instruments; and therefore, the contracts have not qualified for hedge accounting treatment. We did not enter into any fuel swap contracts during fiscal 2011 or fiscal 2010. During fiscal year 2009, we used a derivative financial instrument to economically hedge the commodity cost associated with our unleaded fuel. The notional amount of the contract was 2.5 million gallons and terminated August 31, 2009. The loss on the fuel contract for fiscal 2009 was \$2.3 million.

#### *Foreign Currency Risk*

Foreign currency exposures arising from transactions include firm commitments and anticipated transactions denominated in a currency other than our entities' functional currencies. To minimize our risk, we generally enter into transactions denominated in the respective functional currencies. Foreign currency exposures arising from transactions denominated in currencies other than the functional currency are not material.

Our primary foreign currency exposure arises from Mexican peso-denominated revenues and profits and their translation into U.S. dollars. We generally view our investments in the Mexican subsidiaries as long-term. As a result, we generally do not hedge these net investments. The net investment in the Mexican subsidiaries translated into U.S. dollars using the year-end exchange rates was \$292.2 million at August 27, 2011 and \$254.6 million at August 28, 2010. The potential loss in value of our net investment in the Mexican subsidiaries resulting from a hypothetical 10 percent adverse change in quoted foreign currency exchange rates at August 27, 2011 and August 28, 2010, amounted to approximately \$27 million and approximately \$23 million, respectively. Any changes in our net investment in the Mexican subsidiaries relating to foreign currency exchange rates would be reflected in the foreign currency translation component of Accumulated other comprehensive loss, unless the Mexican subsidiaries are sold or otherwise disposed.

During fiscal 2011, exchange rates with respect to the Mexican peso increased by approximately 4.3% with respect to the U.S. dollar. Exchange rates with respect to the Mexican peso increased by approximately 1.4% with respect to the U.S. dollar during fiscal 2010.

[Table of Contents](#)

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

**Index**

<a href="#">Management's Report on Internal Control Over Financial Reporting</a>	35
<a href="#">Certifications</a>	35
<a href="#">Reports of Independent Registered Public Accounting Firm</a>	36
<a href="#">Consolidated Statements of Income</a>	38
<a href="#">Consolidated Balance Sheets</a>	39
<a href="#">Consolidated Statements of Cash Flows</a>	40
<a href="#">Consolidated Statements of Stockholders' (Deficit) Equity</a>	41
<a href="#">Notes to Consolidated Financial Statements</a>	42

## 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 Rules 13a-15(f) and 15d-15(f) under the Securities Exchange Act of 1934, as amended). Our internal control over financial reporting includes, among other things, defined policies and procedures for conducting and governing our business, sophisticated information systems for processing transactions and properly trained staff. Mechanisms are in place to monitor the effectiveness of our internal control over financial reporting, including regular testing performed by the Company's internal audit team, which is comprised of both Company personnel and Deloitte & Touche LLP professionals. Actions are taken to correct deficiencies as they are identified. Our procedures for financial reporting include the active involvement of senior management, our Audit Committee and a staff of highly qualified financial and legal professionals.

Management, with the participation of our principal executive and financial officers, assessed our internal control over financial reporting as of August 27, 2011, the end of our fiscal year. Management based its assessment on criteria established in Internal Control —Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission.

Based on this assessment, management has concluded that our internal control over financial reporting was effective as of August 27, 2011.

Our independent registered public accounting firm, Ernst & Young LLP, audited the effectiveness of our internal control over financial reporting. Ernst & Young LLP's attestation report on the Company's internal control over financial reporting as of August 27, 2011 is included in this Annual Report on Form 10-K.

/s/ WILLIAM C. RHODES, III  
\_\_\_\_\_  
William C. Rhodes, III  
Chairman, President and Chief Executive Officer  
(Principal Executive Officer)

/s/ WILLIAM T. GILES  
\_\_\_\_\_  
William T. Giles  
Chief Financial Officer and Executive Vice  
President — Finance, Information Technology  
and Store Development

## Certifications

### *Compliance with NYSE Corporate Governance Listing Standards*

On January 4, 2010, the Company submitted to the New York Stock Exchange the Annual CEO Certification required pursuant to Section 303A.12(a) of the New York Stock Exchange Listed Company Manual.

### *Rule 13a-14(a) Certifications of Principal Executive Officer and Principal Financial Officer*

The Company has filed, as exhibits to its Annual Report on Form 10-K for the fiscal year ended August 27, 2011, the certifications of its Principal Executive Officer and Principal Financial Officer required pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.

## **Report of Independent Registered Public Accounting Firm**

The Board of Directors and Stockholders of AutoZone, Inc.

We have audited AutoZone, Inc.'s internal control over financial reporting as of August 27, 2011, based on criteria established in Internal Control—Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (the "COSO criteria"). AutoZone, Inc.'s management is responsible for maintaining effective internal control over financial reporting, and for its assessment of the effectiveness of internal control over financial reporting included in the accompanying Management's Report on Internal Control over Financial Reporting. Our responsibility is to express an opinion on AutoZone, Inc.'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, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

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, AutoZone, Inc. maintained, in all material respects, effective internal control over financial reporting as of August 27, 2011, 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 AutoZone, Inc. as of August 27, 2011 and August 28, 2010 and the related consolidated statements of income, stockholders' (deficit) equity, and cash flows for each of the three years in the period ended August 27, 2011 of AutoZone, Inc. and our report dated October 24, 2011 expressed an unqualified opinion thereon.

/s/ Ernst & Young LLP

Memphis, Tennessee  
October 24, 2011

**Report of Independent Registered Public Accounting Firm**

The Board of Directors and Stockholders of AutoZone, Inc.

We have audited the accompanying consolidated balance sheets of AutoZone, Inc. as of August 27, 2011 and August 28, 2010 and the related consolidated statements of income, stockholders' (deficit) equity, and cash flows for each of the three years in the period ended August 27, 2011. These financial statements are the responsibility of AutoZone, Inc.'s management. Our responsibility is to express an opinion on these financial statements 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 includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the consolidated financial position of AutoZone, Inc. as of August 27, 2011 and August 28, 2010, and the consolidated results of its operations and its cash flows for each of the three years in the period ended August 27, 2011, in conformity with U.S. generally accepted accounting principles.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), AutoZone, Inc.'s internal control over financial reporting as of August 27, 2011, based on criteria established in Internal Control—Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission and our report dated October 24, 2011 expressed an unqualified opinion thereon.

/s/ Ernst & Young LLP

Memphis, Tennessee  
October 24, 2011

**Consolidated Statements of Income**

	<b>Year Ended</b>		
	<b>August 27, 2011</b>	<b>August 28, 2010</b>	<b>August 29, 2009</b>
<i>(in thousands, except per share data)</i>	<b>(52 weeks)</b>	<b>(52 weeks)</b>	<b>(52 weeks)</b>
Net sales	\$ 8,072,973	\$ 7,362,618	\$ 6,816,824
Cost of sales, including warehouse and delivery expenses	3,953,510	3,650,874	3,400,375
Gross profit	4,119,463	3,711,744	3,416,449
Operating, selling, general and administrative expenses	2,624,660	2,392,330	2,240,387
Operating profit	1,494,803	1,319,414	1,176,062
Interest expense, net	170,557	158,909	142,316
Income before income taxes	1,324,246	1,160,505	1,033,746
Income tax expense	475,272	422,194	376,697
Net income	<u>\$ 848,974</u>	<u>\$ 738,311</u>	<u>\$ 657,049</u>
Weighted average shares for basic earnings per share	42,632	48,488	55,282
Effect of dilutive stock equivalents	971	816	710
Adjusted weighted average shares for diluted earnings per share	43,603	49,304	55,992
Basic earnings per share	<u>\$ 19.91</u>	<u>\$ 15.23</u>	<u>\$ 11.89</u>
Diluted earnings per share	<u>\$ 19.47</u>	<u>\$ 14.97</u>	<u>\$ 11.73</u>

See Notes to Consolidated Financial Statements.

**Consolidated Balance Sheets**

<i>(in thousands)</i>	<b>August 27, 2011</b>	<b>August 28, 2010</b>
<b>Assets</b>		
Current assets:		
Cash and cash equivalents	\$ 97,606	\$ 98,280
Accounts receivable	140,690	125,802
Merchandise inventories	2,466,107	2,304,579
Other current assets	88,022	83,160
Total current assets	<u>2,792,425</u>	<u>2,611,821</u>
Property and equipment:		
Land	740,276	690,098
Buildings and improvements	2,177,476	2,013,301
Equipment	994,369	923,595
Leasehold improvements	275,299	247,748
Construction in progress	184,452	192,519
	<u>4,371,872</u>	<u>4,067,261</u>
Less: Accumulated depreciation and amortization	<u>1,702,997</u>	<u>1,547,315</u>
	2,668,875	2,519,946
Goodwill	302,645	302,645
Deferred income taxes	10,661	46,223
Other long-term assets	94,996	90,959
	<u>408,302</u>	<u>439,827</u>
	<u>\$ 5,869,602</u>	<u>\$ 5,571,594</u>
<b>Liabilities and Stockholders' Deficit</b>		
Current liabilities:		
Accounts payable	\$ 2,755,853	\$ 2,433,050
Accrued expenses and other	449,327	432,368
Income taxes payable	25,185	25,385
Deferred income taxes	166,449	146,971
Short-term borrowings	34,082	26,186
Total current liabilities	<u>3,430,896</u>	<u>3,063,960</u>
Long-term debt	3,317,600	2,882,300
Other long-term liabilities	375,338	364,099
Commitments and contingencies	—	—
Stockholders' deficit:		
Preferred stock, authorized 1,000 shares; no shares issued	—	—
Common stock, par value \$.01 per share, authorized 200,000 shares; 44,084 shares issued and 40,109 shares outstanding in 2011 and 50,061 shares issued and 45,107 shares outstanding in 2010	441	501
Additional paid-in capital	591,384	557,955
Retained deficit	(643,998)	(245,344)
Accumulated other comprehensive loss	(119,691)	(106,468)
Treasury stock, at cost	<u>(1,082,368)</u>	<u>(945,409)</u>
Total stockholders' deficit	<u>(1,254,232)</u>	<u>(738,765)</u>
	<u>\$ 5,869,602</u>	<u>\$ 5,571,594</u>

See Notes to Consolidated Financial Statements.

**Consolidated Statements of Cash Flows**

	<b>Year Ended</b>		
	<b>August 27, 2011 (52 weeks)</b>	<b>August 28, 2010 (52 weeks)</b>	<b>August 29, 2009 (52 weeks)</b>
<i>(in thousands)</i>			
<b>Cash flows from operating activities:</b>			
Net income	\$ 848,974	\$ 738,311	\$ 657,049
<b>Adjustments to reconcile net income to net cash provided by operating activities:</b>			
Depreciation and amortization of property and equipment	196,209	192,084	180,433
Amortization of debt origination fees	8,962	6,495	3,644
Income tax benefit from exercise of stock options	(34,945)	(22,251)	(8,407)
Deferred income taxes	44,667	(9,023)	46,318
Share-based compensation expense	26,625	19,120	19,135
<b>Changes in operating assets and liabilities:</b>			
Accounts receivable	(14,605)	782	(56,823)
Merchandise inventories	(155,421)	(96,077)	(76,337)
Accounts payable and accrued expenses	342,826	349,122	137,158
Income taxes payable	34,319	12,474	32,264
Other, net	(6,073)	5,215	(10,626)
Net cash provided by operating activities	<u>1,291,538</u>	<u>1,196,252</u>	<u>923,808</u>
<b>Cash flows from investing activities:</b>			
Capital expenditures	(321,604)	(315,400)	(272,247)
Purchase of marketable securities	(43,772)	(56,156)	(48,444)
Proceeds from sale of marketable securities	43,081	52,620	46,306
Disposal of capital assets	3,301	11,489	10,663
Net cash used in investing activities	<u>(318,994)</u>	<u>(307,447)</u>	<u>(263,722)</u>
<b>Cash flows from financing activities:</b>			
Net proceeds from commercial paper	134,600	155,400	277,600
Net proceeds from short-term borrowings	6,901	26,186	—
Proceeds from issuance of debt	500,000	—	500,000
Repayment of debt	(199,300)	—	(300,700)
Net proceeds from sale of common stock	55,846	52,922	39,855
Purchase of treasury stock	(1,466,802)	(1,123,655)	(1,300,002)
Income tax benefit from exercise of stock options	34,945	22,251	8,407
Payments of capital lease obligations	(22,781)	(16,597)	(17,040)
Other	(17,180)	—	(15,016)
Net cash used in financing activities	<u>(973,771)</u>	<u>(883,493)</u>	<u>(806,896)</u>
Effect of exchange rate changes on cash	<u>553</u>	<u>262</u>	<u>(2,945)</u>
Net (decrease) increase in cash and cash equivalents	(674)	5,574	(149,755)
Cash and cash equivalents at beginning of year	<u>98,280</u>	<u>92,706</u>	<u>242,461</u>
Cash and cash equivalents at end of year	<u>\$ 97,606</u>	<u>\$ 98,280</u>	<u>\$ 92,706</u>
<b>Supplemental cash flow information:</b>			
Interest paid, net of interest cost capitalized	<u>\$ 155,531</u>	<u>\$ 150,745</u>	<u>\$ 132,905</u>
Income taxes paid	<u>\$ 405,654</u>	<u>\$ 420,575</u>	<u>\$ 299,021</u>
Assets acquired through capital lease	<u>\$ 32,301</u>	<u>\$ 75,881</u>	<u>\$ 16,880</u>

See Notes to Consolidated Financial Statements.

**Consolidated Statements of Stockholders' (Deficit) Equity**

<i>(in thousands)</i>	Common Shares Issued	Common Stock	Additional Paid-in Capital	Retained (Deficit) Earnings	Accumulated Other Comprehensive Loss	Treasury Stock	Total
Balance at August 30, 2008	63,600	\$ 636	\$ 537,005	\$ 206,099	\$ (4,135)	\$ (509,918)	\$ 229,687
Net income				657,049			657,049
Pension liability adjustments, net of taxes of (\$29,481)					(46,956)		(46,956)
Foreign currency translation adjustment					(43,655)		(43,655)
Unrealized gain adjustment on marketable securities, net of taxes of \$306					568		568
Reclassification of net loss on termination of swap into earnings, net of taxes of \$1,601					2,744		2,744
Reclassification of net gain on derivatives into earnings					(612)		(612)
Comprehensive income							569,138
Cumulative effect of adopting ASC Topic 715 measurement date, net of taxes of \$198				300	11		311
Purchase of 9,313 shares of treasury stock						(1,300,002)	(1,300,002)
Issuance of 3 shares of common stock						395	395
Retirement of treasury shares	(6,223)	(62)	(55,071)	(726,513)		781,646	—
Sale of common stock under stock option and stock purchase plans	504	5	39,850				39,855
Share-based compensation expense			19,135				19,135
Income tax benefit from exercise of stock options			8,407				8,407
Balance at August 29, 2009	57,881	\$ 579	\$ 549,326	\$ 136,935	\$ (92,035)	\$ (1,027,879)	\$ (433,074)
Net income				738,311			738,311
Pension liability adjustments, net of taxes of (\$5,504)					(8,133)		(8,133)
Foreign currency translation adjustment					705		705
Unrealized loss adjustment on marketable securities, net of taxes of (\$56)					(104)		(104)
Net losses on outstanding derivatives, net of taxes of (\$3,700)					(6,278)		(6,278)
Reclassification of net gain on derivatives into earnings					(612)		(612)
Comprehensive income							723,889
Purchase of 6,376 shares of treasury stock						(1,123,655)	(1,123,655)
Retirement of treasury shares	(8,504)	(85)	(85,657)	(1,120,289)		1,206,031	—
Sale of common stock under stock options and stock purchase plan	684	7	52,915				52,922
Share-based compensation expense			19,120				19,120
Income tax benefit from exercise of stock options			22,251				22,251
Other				(301)	(11)	94	(218)
Balance at August 28, 2010	50,061	\$ 501	\$ 557,955	\$ (245,344)	\$ (106,468)	\$ (945,409)	\$ (738,765)
Net income				848,974			848,974
Pension liability adjustments, net of taxes of (\$3,998)					(17,346)		(17,346)
Foreign currency translation adjustment					8,347		8,347
Unrealized loss adjustment on marketable securities, net of taxes of (\$91)					(171)		(171)
Net losses on terminated derivatives					(5,453)		(5,453)
Reclassification of net losses on derivatives into earnings					1,400		1,400
Comprehensive income							835,751
Purchase of 5,598 shares of treasury stock						(1,466,802)	(1,466,802)
Retirement of treasury shares	(6,577)	(66)	(82,150)	(1,247,627)		1,329,843	—
Sale of common stock under stock options and stock purchase plan	600	6	55,840				55,846
Share-based compensation expense			24,794				24,794
Income tax benefit from exercise of stock options			34,945				34,945
Other				(1)			(1)
Balance at August 27, 2011	44,084	\$ 441	\$ 591,384	\$ (643,998)	\$ (119,691)	\$ (1,082,368)	\$ (1,254,232)

See Notes to Consolidated Financial Statements.

## Notes to Consolidated Financial Statements

### Note A — Significant Accounting Policies

**Business:** AutoZone, Inc. and its wholly owned subsidiaries (“AutoZone” or the “Company”) are principally a retailer and distributor of automotive parts and accessories. At the end of fiscal 2011, the Company operated 4,534 domestic stores in the United States (“U.S.”), including Puerto Rico, and 279 stores in Mexico. Each store carries an extensive product line for cars, sport utility vehicles, vans and light trucks, including new and remanufactured automotive hard parts, maintenance items, accessories and non-automotive products. In 2,659 of the domestic stores at the end of fiscal 2011, the Company had a commercial sales program that provides commercial credit and prompt delivery of parts and other products to local, regional and national repair garages, dealers, service stations and public sector accounts. The Company also sells the ALLDATA brand automotive diagnostic and repair software through [www.alldata.com](http://www.alldata.com) and [www.alldatadiy.com](http://www.alldatadiy.com). Additionally, the Company sells automotive hard parts, maintenance items, accessories and non-automotive products through [www.autozone.com](http://www.autozone.com), and the Company’s commercial customers can make purchases through [www.autozonepro.com](http://www.autozonepro.com). The Company does not derive revenue from automotive repair or installation services.

**Fiscal Year:** The Company’s fiscal year consists of 52 or 53 weeks ending on the last Saturday in August. Accordingly, each of fiscal 2011, 2010 and 2009 represented 52 weeks.

**Basis of Presentation:** The consolidated financial statements include the accounts of AutoZone, Inc. and its wholly owned subsidiaries. All significant intercompany transactions and balances have been eliminated in consolidation.

**Use of Estimates:** Management of the Company has made a number of estimates and assumptions relating to the reporting of assets and liabilities and the disclosure of contingent liabilities to prepare these financial statements. Actual results could differ from those estimates.

**Cash Equivalents:** Cash equivalents consist of investments with original maturities of 90 days or less at the date of purchase. Cash equivalents include proceeds due from credit and debit card transactions with settlement terms of less than 5 days. Credit and debit card receivables included within cash and cash equivalents were \$32.5 million at August 27, 2011 and \$29.6 million at August 28, 2010.

**Accounts Receivable:** Accounts receivable consists of receivables from commercial customers and vendors, and are presented net of an allowance for uncollectible accounts. AutoZone routinely grants credit to certain of its commercial customers. The risk of credit loss in its trade receivables is substantially mitigated by the Company’s credit evaluation process, short collection terms and sales to a large number of customers, as well as the low dollar value per transaction for most of its sales. Allowances for potential credit losses are determined based on historical experience and current evaluation of the composition of accounts receivable. Historically, credit losses have been within management’s expectations and the allowances for uncollectible accounts were \$2.1 million at August 27, 2011, and \$1.4 million at August 28, 2010.

**Merchandise Inventories:** Inventories are stated at the lower of cost or market using the last-in, first-out method for domestic inventories and the first-in, first out (“FIFO”) method for Mexico inventories. Included in inventory are related purchasing, storage and handling costs. Due to price deflation on the Company’s merchandise purchases, the Company’s domestic inventory balances are effectively maintained under the FIFO method. The Company’s policy is not to write up inventory in excess of replacement cost. The cumulative balance of this unrecorded adjustment, which will be reduced upon experiencing price inflation on our merchandise purchases, was \$253.3 million at August 27, 2011, and \$247.3 million at August 28, 2010.

**Marketable Securities:** The Company invests a portion of its assets held by the Company’s wholly owned insurance captive in marketable debt securities and classifies them as available-for-sale. The Company includes these securities within the Other current assets and Other long-term assets captions in the accompanying Consolidated Balance Sheets and records the amounts at fair market value, which is determined using quoted market prices at the end of the reporting period. A discussion of marketable securities is included in “Note E — Fair Value Measurements” and “Note F — Marketable Securities”.

**Property and Equipment:** Property and equipment is stated at cost. Depreciation and amortization are computed principally using the straight-line method over the following estimated useful lives: buildings, 40 to 50 years; building improvements, 5 to 15 years; equipment, 3 to 10 years; and leasehold improvements, over the shorter of the asset's estimated useful life or the remaining lease term, which includes any reasonably assured renewal periods. Depreciation and amortization include amortization of assets under capital lease.

**Impairment of Long-Lived Assets:** The Company evaluates the recoverability of its long-lived assets whenever events or changes in circumstances indicate that the carrying value of an asset may not be recoverable. When such an event occurs, the Company compares the sum of the undiscounted expected future cash flows of the asset (asset group) with the carrying amounts of the asset. If the undiscounted expected future cash flows are less than the carrying value of the assets, the Company measures the amount of impairment loss as the amount by which the carrying amount of the assets exceeds the fair value of the assets. There were no material impairment losses recorded in the three years ended August 27, 2011.

**Goodwill:** The cost in excess of fair value of identifiable net assets of businesses acquired is recorded as goodwill. Goodwill has not been amortized since fiscal 2001, but an analysis is performed at least annually to compare the fair value of the reporting unit to the carrying amount to determine if any impairment exists. The Company performs its annual impairment assessment in the fourth quarter of each fiscal year, unless circumstances dictate more frequent assessments. No impairment losses were recorded in the three years ended August 27, 2011. Goodwill was \$302.6 million as of August 27, 2011, and August 28, 2010.

**Derivative Instruments and Hedging Activities:** AutoZone is exposed to market risk from, among other things, changes in interest rates, foreign exchange rates and fuel prices. From time to time, the Company uses various derivative instruments to reduce such risks. To date, based upon the Company's current level of foreign operations, no derivative instruments have been utilized to reduce foreign exchange rate risk. All of the Company's hedging activities are governed by guidelines that are authorized by AutoZone's Board of Directors (the "Board"). Further, the Company does not buy or sell derivative instruments for trading purposes.

AutoZone's financial market risk results primarily from changes in interest rates. At times, AutoZone reduces its exposure to changes in interest rates by entering into various interest rate hedge instruments such as interest rate swap contracts, treasury lock agreements and forward-starting interest rate swaps. All of the Company's interest rate hedge instruments are designated as cash flow hedges. Refer to "Note H — Derivative Financial Instruments" for additional disclosures regarding the Company's derivative instruments and hedging activities. Cash flows related to these instruments designated as qualifying hedges are reflected in the accompanying Consolidated Statements of Cash Flows in the same categories as the cash flows from the items being hedged. Accordingly, cash flows relating to the settlement of interest rate derivatives hedging the forecasted issuance of debt have been reflected upon settlement as a component of financing cash flows. The resulting gain or loss from such settlement is deferred to Accumulated other comprehensive loss and reclassified to interest expense over the term of the underlying debt. This reclassification of the deferred gains and losses impacts the interest expense recognized on the underlying debt that was hedged and is therefore reflected as a component of operating cash flows in periods subsequent to settlement. The periodic settlement of interest rate derivatives hedging outstanding variable rate debt is recorded as an adjustment to interest expense and is therefore reflected as a component of operating cash flows.

**Foreign Currency:** The Company accounts for its Mexican operations using the Mexican peso as the functional currency and converts its financial statements from Mexican pesos to U.S. dollars. The cumulative loss on currency translation is recorded as a component of Accumulated other comprehensive loss and approximated \$36.4 million at August 27, 2011, and \$44.7 million at August 28, 2010.

**Self-Insurance Reserves:** The Company retains a significant portion of the risks associated with workers' compensation, employee health, general, products liability, property and vehicle insurance. Through various methods, which include analyses of historical trends and utilization of actuaries, the Company estimates the costs of these risks. The costs are accrued based upon the aggregate of the liability for reported claims and an estimated liability for claims incurred but not reported. Estimates are based on calculations that consider historical lag and claim development factors. The long-term portions of these liabilities are recorded at the Company's estimate of their net present value.

**Deferred Rent:** The Company recognizes rent expense on a straight-line basis over the course of the lease term, which includes any reasonably assured renewal periods, beginning on the date the Company takes physical possession of the property (see “Note M — Leases”). Differences between this calculated expense and cash payments are recorded as a liability within the Accrued expenses and other and Other long-term liabilities captions in the accompanying Consolidated Balance Sheets, based on the terms of the lease. Deferred rent approximated \$77.6 million as of August 27, 2011, and \$67.6 million as of August 28, 2010.

**Financial Instruments:** The Company has financial instruments, including cash and cash equivalents, accounts receivable, other current assets and accounts payable. The carrying amounts of these financial instruments approximate fair value because of their short maturities. A discussion of the carrying values and fair values of the Company’s debt is included in “Note I — Financing,” marketable securities is included in “Note F — Marketable Securities,” and derivatives is included in “Note H — Derivative Financial Instruments.”

**Income Taxes:** The Company accounts for income taxes under the liability method. Deferred tax assets and liabilities are determined based on differences between financial reporting and tax bases of assets and liabilities and are measured using the enacted tax rates and laws that will be in effect when the differences are expected to reverse. Our effective tax rate is based on income by tax jurisdiction, statutory rates, and tax saving initiatives available to us in the various jurisdictions in which we operate.

The Company recognizes liabilities for uncertain income tax positions based on a two-step process. The first step is to evaluate the tax position for recognition by determining if the weight of available evidence indicates that it is more likely than not that the position will be sustained on audit, including resolution of related appeals or litigation processes, if any. The second step requires us to estimate and measure the tax benefit as the largest amount that is more than 50% likely to be realized upon ultimate settlement. It is inherently difficult and subjective to estimate such amounts, as the Company must determine the probability of various possible outcomes. The Company reevaluates these uncertain tax positions on a quarterly basis or when new information becomes available to management. These reevaluations are based on factors including, but not limited to, changes in facts or circumstances, changes in tax law, successfully settled issues under audit, expirations due to statutes, and new audit activity. Such a change in recognition or measurement could result in the recognition of a tax benefit or an increase to the tax accrual.

The Company classifies interest related to income tax liabilities, and if applicable, penalties, as a component of Income tax expense. The income tax liabilities and accrued interest and penalties that are expected to be payable within one year of the balance sheet date are presented within the Accrued expenses and other caption in the accompanying Consolidated Balance Sheets. The remaining portion of the income tax liabilities and accrued interest and penalties are presented within the Other long-term liabilities caption in the accompanying Consolidated Balance Sheets because payment of cash is not anticipated within one year of the balance sheet date.

**Sales and Use Taxes:** Governmental authorities assess sales and use taxes on the sale of goods and services. The Company excludes taxes collected from customers in its reported sales results; such amounts are included within the Accrued expenses and other caption until remitted to the taxing authorities.

**Dividends:** The Company currently does not pay a dividend on its common stock. The ability to pay dividends is subject to limitations imposed by Nevada law. Under Nevada law, any future payment of dividends would be dependent upon the Company’s financial condition, capital requirements, earnings and cash flow.

**Revenue Recognition:** The Company recognizes sales at the time the sale is made and the product is delivered to the customer. Revenue from sales are presented net of allowances for estimated sales returns, which are based on historical return rates.

A portion of the Company’s transactions include the sale of auto parts that contain a core component. The core component represents the recyclable portion of the auto part. Customers are not charged for the core component of the new part if a used core is returned at the point of sale of the new part; otherwise the Company charges customers a specified amount for the core component. The Company refunds that same amount upon the customer returning a used core to the store at a later date. The Company does not recognize sales or cost of sales for the core component of these transactions when a used part is returned or expected to be returned from the customer.

**Vendor Allowances and Advertising Costs:** The Company receives various payments and allowances from its vendors through a variety of programs and arrangements. Monies received from vendors include rebates, allowances and promotional funds. The amounts to be received are subject to the terms of the vendor agreements, which generally do not state an expiration date, but are subject to ongoing negotiations that may be impacted in the future based on changes in market conditions, vendor marketing strategies and changes in the profitability or sell-through of the related merchandise.

Rebates and other miscellaneous incentives are earned based on purchases or product sales and are accrued ratably over the purchase or sale of the related product. These monies are generally recorded as a reduction of merchandise inventories and are recognized as a reduction to cost of sales as the related inventories are sold.

For arrangements that provide for reimbursement of specific, incremental, identifiable costs incurred by the Company in selling the vendors' products, the vendor funds are recorded as a reduction to Operating, selling, general and administrative expenses in the period in which the specific costs were incurred.

The Company expenses advertising costs as incurred. Advertising expense, net of vendor promotional funds, was \$71.5 million in fiscal 2011, \$65.5 million in fiscal 2010, and \$72.1 million in fiscal 2009. Vendor promotional funds, which reduced advertising expense, amounted to \$23.2 million in fiscal 2011, \$19.6 million in fiscal 2010, and \$9.7 in fiscal 2009.

**Cost of Sales and Operating, Selling, General and Administrative Expenses:** The following illustrates the primary costs classified in each major expense category:

*Cost of Sales*

- Total cost of merchandise sold, including:
  - o Freight expenses associated with moving merchandise inventories from the Company's vendors to the distribution centers and to the retail stores
  - o Vendor allowances that are not reimbursements for specific, incremental and identifiable costs
- Costs associated with operating the Company's supply chain, including payroll and benefit costs, warehouse occupancy costs, transportation costs and depreciation
- Inventory shrinkage

*Operating, Selling, General and Administrative Expenses*

- Payroll and benefit costs for store and store support employees;
- Occupancy costs of store and store support facilities;
- Depreciation and amortization related to retail and store support assets;
- Transportation costs associated with commercial and hub deliveries;
- Advertising;
- Self insurance costs; and
- Other administrative costs, such as credit card transaction fees, supplies, and travel and lodging

**Warranty Costs:** The Company or the vendors supplying its products provides the Company's customers limited warranties on certain products that range from 30 days to lifetime. In most cases, the Company's vendors are primarily responsible for warranty claims. Warranty costs relating to merchandise sold under warranty not covered by vendors are estimated and recorded as warranty obligations at the time of sale based on each product's historical return rate. These obligations, which are often funded by vendor allowances, are recorded within the Accrued expenses and other caption in the Consolidated Balance Sheets. For vendor allowances that are in excess of the related estimated warranty expense for the vendor's products, the excess is recorded in inventory and recognized as a reduction to cost of sales as the related inventory is sold.

**Shipping and Handling Costs:** The Company does not generally charge customers separately for shipping and handling. Substantially all the costs the Company incurs to ship products to our stores are included in cost of sales.

**Pre-opening Expenses:** Pre-opening expenses, which consist primarily of payroll and occupancy costs, are expensed as incurred.

**Earnings per Share:** Basic earnings per share is based on the weighted average outstanding common shares. Diluted earnings per share is based on the weighted average outstanding common shares adjusted for the effect of common stock equivalents, which are primarily stock options. There were no stock options excluded from the diluted earnings per share computation that would have been anti-dilutive as of August 27, 2011 and August 28, 2010. At August 29, 2009, approximately 30,000 shares were excluded from the diluted earnings per share computation.

**Share-Based Payments:** Share-based payments include stock option grants and certain other transactions under the Company's stock plans. The Company recognizes compensation expense for its share-based payments based on the fair value of the awards. See "Note B — Share-Based Payments" for further discussion.

**Risk and Uncertainties:** In fiscal 2011, one class of similar products accounted for 10 percent of the Company's total revenues, and one vendor supplied more than 10 percent of the Company's total purchases. No other class of similar products accounted for 10 percent or more of total revenues, and no other individual vendor provided more than 10 percent of total purchases.

**Recent Accounting Pronouncements:** In December 2010, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU") 2010-28, *Intangibles — Goodwill and Other*, which amends Accounting Standards Codification ("ASC") Topic 350, *Intangibles — Goodwill and Other*. ASU 2010-28 modifies Step 1 of the goodwill impairment test for reporting units with zero or negative carrying amounts. For those reporting units, an entity is required to perform Step 2 of the goodwill impairment analysis if it is more likely than not that a goodwill impairment exists based on a qualitative assessment of adverse factors. The Company does not expect the provisions of ASU 2010-28 to have a material impact to the consolidated financial statements. This update will be effective for the Company's fiscal year ending August 25, 2012.

In May 2011, the FASB issued ASU 2011-04, *Amendments to Achieve Common Fair Value Measurement and Disclosure Requirements in U.S. GAAP and IFRSs*, which amends ASC Topic 820, *Fair Value Measurement*. The purpose of ASU 2011-04 is to clarify the intent about the application of existing fair value measurement and disclosure requirements and to change a particular principle or requirement for measuring fair value or for disclosing information about fair value measurements. The Company does not expect the provisions of ASU 2011-04 to have a material impact to its consolidated financial statements. This update will be effective for the Company's third quarter ending May 5, 2012.

In June 2011, the FASB issued ASU 2011-05, *Presentation of Comprehensive Income*, which amends ASC Topic 220, *Comprehensive Income*. The objective of ASU 2011-05 is to improve the comparability, consistency and transparency of financial reporting and to increase the prominence of items reported in other comprehensive income. The update will require entities to present items of net income, items of other comprehensive income and total comprehensive income in one continuous statement or two separate consecutive statements, and entities will no longer be allowed to present items of other comprehensive income in the statement of stockholders' equity. Reclassification adjustments between other comprehensive income and net income will be presented separately on the face of the financial statements. The Company does not expect the provisions of ASU 2011-05 to have a material impact to its consolidated financial statements. This update will be effective for the Company's fiscal year ending August 31, 2013.

In August 2011, the FASB issued ASU 2011-08, *Intangibles — Goodwill and Other*, which amends ASC Topic 350, *Intangibles — Goodwill and Other*. The purpose of ASU 2011-08 is to simplify how an entity tests goodwill for impairment. Entities will assess qualitative factors to determine whether it is more likely than not that a reporting unit's fair value is less than its carrying value. In instances where the fair value is determined to be less than the carrying value, entities will perform the two-step quantitative goodwill impairment test. The Company does not expect the provisions of ASU 2011-08 to have a material impact to its consolidated financial statements. This update will be effective for the Company's fiscal year ending August 31, 2013.

## **Note B — Share-Based Payments**

Total share-based compensation expense (a component of Operating, selling, general and administrative expenses) was \$26.6 million for fiscal 2011, \$19.1 million for fiscal 2010, and \$19.1 million for fiscal 2009. As of August 27, 2011, share-based compensation expense for unvested awards not yet recognized in earnings is \$18.7 million and will be recognized over a weighted average period of 2.5 years. Tax deductions in excess of recognized compensation cost are classified as a financing cash inflow.

On December 15, 2010, the Company's stockholders approved the 2011 Equity Incentive Award Plan (the "2011 Plan"), allowing the Company to provide equity-based compensation to non-employee directors and employees for their service to AutoZone or its subsidiaries or affiliates. Under the 2011 Plan, participants may receive equity-based compensation in the form of stock options, stock appreciation rights, restricted stock, restricted stock units, dividend equivalents, deferred stock, stock payments, performance share awards and other incentive awards structured by the Board and the Compensation Committee of the Board. Prior to the Company's adoption of the 2011 Plan, equity-based compensation was provided to employees under the 2006 Stock Option Plan and to non-employee directors under the 2003 Director Compensation Plan (the "2003 Comp Plan") and the 2003 Director Stock Option Plan (the "2003 Option Plan").

The Company grants options to purchase common stock to certain of its employees under its plans at prices equal to the market value of the stock on the date of grant. Options have a term of 10 years or 10 years and one day from grant date. Employee options generally vest in equal annual installments on the first, second, third and fourth anniversaries of the grant date and generally have 30 or 90 days after the service relationship ends, or one year after death, to exercise all vested options. The fair value of each option grant is separately estimated for each vesting date. The fair value of each option is amortized into compensation expense on a straight-line basis between the grant date for the award and each vesting date.

In addition to the 2011 Plan, on December 15, 2010, the Company adopted the 2011 Director Compensation Program (the "2011 Program"), which states that non-employee directors will receive their compensation in awards of restricted stock units under the 2011 Plan. Under the 2011 Program, restricted stock units are granted the first day of each calendar quarter. The number of restricted stock units granted each quarter is determined by dividing one-fourth of the amount of the annual retainer by the fair market value of the shares of common stock as of the grant date. The restricted stock units are fully vested on the date they are issued and are paid in shares of the Company's common stock subsequent to the non-employee director ceasing to be a member of the Board.

The 2011 Program replaces the 2003 Comp Plan and the 2003 Option Plan. Under the 2003 Comp Plan, non-employee directors could receive no more than one-half of their director fees immediately in cash, and the remainder of the fees was required to be taken in common stock or stock appreciation rights. The director had the option to elect to receive up to 100% of the fees in stock or defer all or part of the fees in units with value equivalent to the value of shares of common stock as of the grant date. At August 27, 2011, the Company has \$5.9 million accrued related to 19,709 outstanding units issued under the 2003 Comp Plan and prior plans. At August 28, 2010, the Company has \$4.1 million accrued related to 19,228 outstanding units issued under the 2003 Comp Plan and prior plans. No additional shares of stock or units will be issued in future years under the 2003 Comp Plan.

Under the 2003 Option Plan, each non-employee director received an option grant on January 1 of each year, and each new non-employee director received an option to purchase 3,000 shares upon election to the Board, plus a portion of the annual directors' option grant prorated for the portion of the year actually served. These stock option grants were made at the fair market value as of the grant date and generally vested three years from the grant date. There are 125,614 outstanding options under the 2003 Option Plan as of August 27, 2011, and 137,016 outstanding options as of August 28, 2010. No additional options will be issued in future years under the 2003 Option Plan.

## Table of Contents

The Company has estimated the fair value of all stock option awards as of the date of the grant by applying the Black-Scholes-Merton multiple-option pricing valuation model. The application of this valuation model involves assumptions that are judgmental and highly sensitive in the determination of compensation expense. The following table presents the weighted average for key assumptions used in determining the fair value of options granted and the related share-based compensation expense:

	Year Ended		
	August 27, 2011	August 28, 2010	August 29, 2009
Expected price volatility	31%	31%	28%
Risk-free interest rates	1.0%	1.8%	2.4%
Weighted average expected lives in years	4.3	4.3	4.1
Forfeiture rate	10%	10%	10%
Dividend yield	0%	0%	0%

The following methodologies were applied in developing the assumptions used in determining the fair value of options granted:

*Expected price volatility* — This is a measure of the amount by which a price has fluctuated or is expected to fluctuate. The Company uses actual historical changes in the market value of its stock to calculate the volatility assumption as it is management's belief that this is the best indicator of future volatility. The Company calculates daily market value changes from the date of grant over a past period representative of the expected life of the options to determine volatility. An increase in the expected volatility will increase compensation expense.

*Risk-free interest rate* — This is the U.S. Treasury rate for the week of the grant having a term equal to the expected life of the option. An increase in the risk-free interest rate will increase compensation expense.

*Expected lives* — This is the period of time over which the options granted are expected to remain outstanding and is based on historical experience. Separate groups of employees that have similar historical exercise behavior are considered separately for valuation purposes. Options granted have a maximum term of ten years or ten years and one day. An increase in the expected life will increase compensation expense.

*Forfeiture rate* — This is the estimated percentage of options granted that are expected to be forfeited or canceled before becoming fully vested. This estimate is based on historical experience at the time of valuation and reduces expense ratably over the vesting period. An increase in the forfeiture rate will decrease compensation expense. This estimate is evaluated periodically based on the extent to which actual forfeitures differ, or are expected to differ, from the previous estimate.

*Dividend yield* — The Company has not made any dividend payments nor does it have plans to pay dividends in the foreseeable future. An increase in the dividend yield will decrease compensation expense.

The weighted average grant date fair value of options granted was \$58.57 during fiscal 2011, \$40.75 during fiscal 2010, and \$34.06 during fiscal 2009. The intrinsic value of options exercised was \$100.0 million in fiscal 2011, \$64.8 million in fiscal 2010, and \$29.3 million in fiscal 2009. The total fair value of options vested was \$20.7 million in fiscal 2011, \$20.7 million in fiscal 2010 and \$16.2 million in fiscal 2009.

## [Table of Contents](#)

The Company generally issues new shares when options are exercised. The following table summarizes information about stock option activity for the year ended August 27, 2011:

	<u>Number of Shares</u>	<u>Weighted Average Exercise Price</u>	<u>Weighted- Average Remaining Contractual Term (in years)</u>	<u>Aggregate Intrinsic Value (in thousands)</u>
Outstanding — August 28, 2010	2,874,206	\$ 110.93		
Granted	424,780	226.00		
Exercised	(607,975)	96.35		
Canceled	(60,817)	135.07		
Outstanding — August 27, 2011	<u>2,630,194</u>	132.32	6.35	\$ 444,437
Exercisable	<u>1,446,765</u>	104.23	5.01	285,111
Expected to vest	<u>1,065,086</u>	166.67	7.99	143,394
Available for future grants	<u>2,817,250</u>			

The Company recognized \$1.4 million in expense related to the discount on the selling of shares to employees and executives under various share purchase plans in fiscal 2011, \$1.0 million in fiscal 2010 and \$0.9 million in fiscal 2009. The Sixth Amended and Restated AutoZone, Inc. Employee Stock Purchase Plan (the “Employee Plan”), which is qualified under Section 423 of the Internal Revenue Code, permits all eligible employees to purchase AutoZone’s common stock at 85% of the lower of the market price of the common stock on the first day or last day of each calendar quarter through payroll deductions. Maximum permitted annual purchases are \$15,000 per employee or 10 percent of compensation, whichever is less. Under the Employee Plan, 21,608 shares were sold to employees in fiscal 2011, 26,620 shares were sold to employees in fiscal 2010, and 29,147 shares were sold to employees in fiscal 2009. The Company repurchased 30,864 shares at fair value in fiscal 2011, 30,617 shares at fair value in fiscal 2010, and 37,190 shares at fair value in fiscal 2009 from employees electing to sell their stock. Issuances of shares under the Employee Plan are netted against repurchases and such repurchases are not included in share repurchases disclosed in “Note K — Stock Repurchase Program.” At August 27, 2011, 272,375 shares of common stock were reserved for future issuance under the Employee Plan.

Once executives have reached the maximum purchases under the Employee Plan, the Fourth Amended and Restated Executive Stock Purchase Plan (the “Executive Plan”) permits all eligible executives to purchase AutoZone’s common stock up to 25 percent of his or her annual salary and bonus. Purchases under the Executive Plan were 1,719 shares in fiscal 2011, 1,483 shares in fiscal 2010, and 1,705 shares in fiscal 2009. At August 27, 2011, 256,337 shares of common stock were reserved for future issuance under the Executive Plan.

### **Note C — Accrued Expenses and Other**

Accrued expenses and other consisted of the following:

<i>(in thousands)</i>	<u>August 27, 2011</u>	<u>August 28, 2010</u>
Medical and casualty insurance claims (current portion)	\$ 55,896	\$ 60,955
Accrued compensation, related payroll taxes and benefits	151,419	134,830
Property, sales, and other taxes	89,675	102,364
Accrued interest	33,811	31,091
Accrued gift cards	27,406	22,013
Accrued sales and warranty returns	16,269	14,679
Capital lease obligations	25,296	21,947
Other	49,555	44,489
	<u>\$ 449,327</u>	<u>\$ 432,368</u>

## Table of Contents

The Company retains a significant portion of the insurance risks associated with workers' compensation, employee health, general, products liability, property and vehicle insurance. A portion of these self-insured losses is managed through a wholly owned insurance captive. The Company maintains certain levels for stop-loss coverage for each self-insured plan in order to limit its liability for large claims. The limits are per claim and are \$1.5 million for workers' compensation and property, \$0.5 million for employee health, and \$1.0 million for general, products liability, and vehicle.

### Note D — Income Taxes

The provision for income tax expense consisted of the following:

<i>(in thousands)</i>	Year Ended		
	August 27, 2011	August 28, 2010	August 29, 2009
<b>Current:</b>			
Federal	\$ 391,132	\$ 397,062	\$ 303,929
State	39,473	34,155	26,450
	<u>430,605</u>	<u>431,217</u>	<u>330,379</u>
<b>Deferred:</b>			
Federal	49,698	(3,831)	46,809
State	(5,031)	(5,192)	(491)
	<u>44,667</u>	<u>(9,023)</u>	<u>46,318</u>
<b>Income tax expense</b>	<u>\$ 475,272</u>	<u>\$ 422,194</u>	<u>\$ 376,697</u>

A reconciliation of the provision for income taxes to the amount computed by applying the federal statutory tax rate of 35% to income before income taxes is as follows:

<i>(in thousands)</i>	Year Ended		
	August 27, 2011	August 28, 2010	August 29, 2009
Federal tax at statutory U.S. income tax rate	35.0%	35.0%	35.0%
State income taxes, net	1.7%	1.6%	1.6%
Other	(0.8%)	(0.2%)	(0.2%)
<b>Effective tax rate</b>	<u>35.9%</u>	<u>36.4%</u>	<u>36.4%</u>

Significant components of the Company's deferred tax assets and liabilities were as follows:

<i>(in thousands)</i>	August 27, 2011	August 28, 2010
	<b>Deferred tax assets:</b>	
Net operating loss and credit carryforwards	\$ 31,772	\$ 25,781
Insurance reserves	17,542	20,400
Accrued benefits	61,436	50,991
Pension	30,967	34,965
Other	39,878	34,764
<b>Total deferred tax assets</b>	<u>181,595</u>	<u>166,901</u>
Less: Valuation allowances	<u>(7,973)</u>	<u>(7,085)</u>
	<u>173,622</u>	<u>159,816</u>
<b>Deferred tax liabilities:</b>		
Property and equipment	(64,873)	(35,714)
Inventory	(220,234)	(205,000)
Other	(44,303)	(19,850)
	<u>(329,410)</u>	<u>(260,564)</u>
<b>Net deferred tax liability</b>	<u>\$ (155,788)</u>	<u>\$ (100,748)</u>

## Table of Contents

Deferred taxes are not provided for temporary differences of approximately \$140.2 million at August 27, 2011, and \$91.1 million of August 28, 2010, representing earnings of non-U.S. subsidiaries that are intended to be permanently reinvested. Computation of the potential deferred tax liability associated with these undistributed earnings and other basis differences is not practicable.

At August 27, 2011, and August 28, 2010, the Company had deferred tax assets of \$8.0 million and \$8.2 million from federal tax operating losses ("NOLs") of \$22.8 million and \$23.4 million, and deferred tax assets of \$1.1 million and \$1.6 million from state tax NOLs of \$22.5 million and \$35.5 million, respectively. At August 27, 2011, the Company had deferred tax assets of \$1.5 million from Non-U.S. NOLs of \$5.1 million. At August 28, 2010, the Company had no deferred tax assets from Non-U.S. NOLs. The federal and state NOLs expire between fiscal 2012 and fiscal 2026. At August 27, 2011, and August 28, 2010, the Company had a valuation allowance of \$8.0 million and \$6.8 million, respectively, for certain federal, state and Non-U.S. NOLs resulting primarily from annual statutory usage limitations. At August 27, 2011, and August 28, 2010, the Company had deferred tax assets of \$21.2 million and \$16.0 million, respectively, for federal, state, and Non-U.S. income tax credit carryforwards. Certain tax credit carryforwards have no expiration date and others will expire in fiscal 2012 through fiscal 2031. At August 27, 2011, the Company had no valuation allowance for credits subject to such expiration. At August 28, 2010, the Company had a valuation allowance of \$0.3 million for credits subject to such expiration periods.

A reconciliation of the beginning and ending amount of unrecognized tax benefits is as follows:

<i>(in thousands)</i>	<b>August 27, 2011</b>	<b>August 28, 2010</b>
Beginning balance	\$ 38,554	\$ 44,192
Additions based on tax positions related to the current year	6,205	16,802
Additions for tax positions of prior years	11,787	2,125
Reductions for tax positions of prior years	(20,998)	(6,390)
Reductions due to settlements	(3,829)	(16,354)
Reductions due to statute of limitations	(1,813)	(1,821)
Ending balance	<u>\$ 29,906</u>	<u>\$ 38,554</u>

Included in the August 27, 2011 balance is \$19.3 million of unrecognized tax benefits that, if recognized, would reduce the Company's effective tax rate.

The Company accrues interest on unrecognized tax benefits as a component of Income tax expense. In addition, penalties, if incurred, would be recognized as a component of Income tax expense. The Company had \$5.2 million and \$7.9 million accrued for the payment of interest and penalties associated with unrecognized tax benefits at August 27, 2011 and August 28, 2010, respectively.

The major jurisdictions where the Company files income tax returns are the U.S. and Mexico. With few exceptions, tax returns filed for tax years 2007 through 2010 remain open and subject to examination by the relevant tax authorities. The Company is typically engaged in various tax examinations at any given time, both by U.S. federal and state taxing jurisdictions and Mexican tax authorities. As of August 27, 2011, the Company estimates that the amount of unrecognized tax benefits could be reduced by approximately \$6.3 million over the next twelve months as a result of tax audit closings, settlements, and the expiration of statutes to examine such returns in various jurisdictions. While the Company believes that it has adequately accrued for possible audit adjustments, the final resolution of these examinations cannot be determined at this time and could result in final settlements that differ from current estimates.

### **Note E — Fair Value Measurements**

The Company has adopted ASC Topic 820, *Fair Value Measurement*, which defines fair value, establishes a framework for measuring fair value in generally accepted accounting principles ("GAAP") and expands disclosure requirements about fair value measurements. This standard defines fair value as the price received to transfer an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. ASC Topic 820 establishes a framework for measuring fair value by creating a hierarchy of valuation inputs used to measure fair value, and although it does not require additional fair value measurements, it applies to other accounting pronouncements that require or permit fair value measurements.

## [Table of Contents](#)

The hierarchy prioritizes the inputs into three broad levels:

*Level 1 inputs* — unadjusted quoted prices in active markets for identical assets or liabilities that the Company has the ability to access. An active market for the asset or liability is one in which transactions for the asset or liability occur with sufficient frequency and volume to provide ongoing pricing information.

*Level 2 inputs* — inputs other than quoted market prices included in Level 1 that are observable, either directly or indirectly, for the asset or liability. Level 2 inputs include, but are not limited to, quoted prices for similar assets or liabilities in an active market, quoted prices for identical or similar assets or liabilities in markets that are not active and inputs other than quoted market prices that are observable for the asset or liability, such as interest rate curves and yield curves observable at commonly quoted intervals, volatilities, credit risk and default rates.

*Level 3 inputs* — unobservable inputs for the asset or liability.

### *Financial Assets & Liabilities Measured at Fair Value on a Recurring Basis*

The Company's assets and liabilities measured at fair value on a recurring basis were as follows:

<i>(in thousands)</i>	<b>August 27, 2011</b>			
	<b>Level 1</b>	<b>Level 2</b>	<b>Level 3</b>	<b>Fair Value</b>
Other current assets	\$ 11,872	\$ —	\$ —	\$ 11,872
Other long-term assets	55,390	5,869	—	61,259
	<u>\$ 67,262</u>	<u>\$ 5,869</u>	<u>\$ —</u>	<u>\$ 73,131</u>

<i>(in thousands)</i>	<b>August 28, 2010</b>			
	<b>Level 1</b>	<b>Level 2</b>	<b>Level 3</b>	<b>Fair Value</b>
Other current assets	\$ 11,307	\$ 4,996	\$ —	\$ 16,303
Other long-term assets	47,725	8,673	—	56,398
Accrued expenses and other	—	(9,979)	—	(9,979)
	<u>\$ 59,032</u>	<u>\$ 3,690</u>	<u>\$ —</u>	<u>\$ 62,722</u>

At August 27, 2011, the fair value measurement amounts for assets and liabilities recorded in the accompanying Consolidated Balance Sheet consisted of short-term marketable securities of \$11.9 million, which are included within Other current assets and long-term marketable securities of \$61.3 million, which are included in Other long-term assets. The Company's marketable securities are typically valued at the closing price in the principal active market as of the last business day of the quarter or through the use of other market inputs relating to the securities, including benchmark yields and reported trades. A discussion on how the Company's cash flow hedges are valued is included in "Note H — Derivative Financial Instruments", while the fair value of the Company's pension plan assets are disclosed in "Note L — Pension and Savings Plans".

### *Non-Financial Assets Measured at Fair Value on a Non-Recurring Basis*

Non-financial assets could be required to be measured at fair value on a non-recurring basis in certain circumstances, including the event of impairment. The assets could include assets acquired in an acquisition as well as property, plant and equipment that are determined to be impaired. During fiscal 2011 and fiscal 2010, the Company did not have any significant non-financial assets measured at fair value on a non-recurring basis in periods subsequent to initial recognition.

### *Financial Instruments not Recognized at Fair Value*

The Company has financial instruments, including cash and cash equivalents, accounts receivable, other current assets and accounts payable. The carrying amounts of these financial instruments approximate fair value because of their short maturities. The fair value of the Company's debt is disclosed in "Note I — Financing".

**Note F — Marketable Securities**

The Company's basis for determining the cost of a security sold is the "Specific Identification Model". Unrealized gains (losses) on marketable securities are recorded in Accumulated other comprehensive loss. The Company's available-for-sale marketable securities consisted of the following:

<i>(in thousands)</i>	<b>August 27, 2011</b>			
	<b>Amortized Cost Basis</b>	<b>Gross Unrealized Gains</b>	<b>Gross Unrealized Losses</b>	<b>Fair Value</b>
Corporate securities	\$ 26,261	\$ 229	\$ (45)	\$ 26,445
Government bonds	29,464	343	—	29,807
Mortgage-backed securities	4,291	55	—	4,346
Asset-backed securities and other	12,377	156	—	12,533
	<u>\$ 72,393</u>	<u>\$ 783</u>	<u>\$ (45)</u>	<u>\$ 73,131</u>

<i>(in thousands)</i>	<b>August 28, 2010</b>			
	<b>Amortized Cost Basis</b>	<b>Gross Unrealized Gains</b>	<b>Gross Unrealized Losses</b>	<b>Fair Value</b>
Corporate securities	\$ 28,707	\$ 490	\$ (1)	\$ 29,196
Government bonds	24,560	283	—	24,843
Mortgage-backed securities	8,603	192	—	8,795
Asset-backed securities and other	9,831	47	(11)	9,867
	<u>\$ 71,701</u>	<u>\$ 1,012</u>	<u>\$ (12)</u>	<u>\$ 72,701</u>

The debt securities held at August 27, 2011, had effective maturities ranging from less than one year to approximately 3 years. The Company did not realize any material gains or losses on its marketable securities during fiscal 2011.

The Company holds ten securities that are in an unrealized loss position of approximately \$45 thousand at August 27, 2011. The Company has the intent and ability to hold these investments until recovery of fair value or maturity, and does not deem the investments to be impaired on an other than temporary basis. In evaluating whether the securities are deemed to be impaired on an other than temporary basis, the Company considers factors such as the duration and severity of the loss position, the credit worthiness of the investee, the term to maturity and our intent and ability to hold the investments until maturity or until recovery of fair value.

**Note G — Accumulated Other Comprehensive Loss**

Accumulated other comprehensive loss includes certain adjustments to pension liabilities, foreign currency translation adjustments, certain activity for interest rate swaps that qualify as cash flow hedges and unrealized gains (losses) on available-for-sale securities.

Changes in Accumulated other comprehensive loss consisted of the following:

<i>(in thousands)</i>	Pension Liability Adjustments, net of taxes	Foreign Currency Translation Adjustments	Unrealized Loss (Gain) on Marketable Securities, net of taxes	Net Derivative Activity, net of taxes	Accumulated Other Comprehensive Loss
Balance at August 29, 2009	\$ 51,215	\$ 45,453	\$ (754)	\$ (3,879)	\$ 92,035
Fiscal 2010 activity	8,144	(705)	104	6,890	14,433
Balance at August 28, 2010	59,359	44,748	(650)	3,011	106,468
Fiscal 2011 activity	17,346	(8,347)	171	4,053	13,223
Balance at August 27, 2011	<u>\$ 76,705</u>	<u>\$ 36,401</u>	<u>\$ (479)</u>	<u>\$ 7,064</u>	<u>\$ 119,691</u>

During the first quarter of fiscal 2011, the Company was party to three forward starting swaps, of which two were entered into during the fourth quarter of fiscal 2010 and one was entered into during the first quarter of fiscal 2011. The net derivative activity in fiscal 2011 reflects net losses on the three forward starting swaps expiring in November 2010, resulting in a loss of \$5.4 million, offset by net losses from prior derivatives being amortized into interest expense of \$1.4 million. The net derivative activity in fiscal 2010 reflects net losses on the two forward starting swaps entered into during fiscal 2010 of \$6.3 million, as well as net gains from prior derivatives being amortized into interest expense of \$612 thousand.

#### Note H — Derivative Financial Instruments

##### *Cash Flow Hedges*

The Company periodically uses derivatives to hedge exposures to interest rates. The Company does not hold or issue financial instruments for trading purposes. For transactions that meet the hedge accounting criteria, the Company formally designates and documents the instrument as a hedge at inception and quarterly thereafter assesses the hedges to ensure they are effective in offsetting changes in the cash flows of the underlying exposures. Derivatives are recorded in the Company's Consolidated Balance Sheet at fair value, determined using available market information or other appropriate valuation methodologies. In accordance with ASC Topic 815, *Derivatives and Hedging*, the effective portion of a financial instrument's change in fair value is recorded in Accumulated other comprehensive loss for derivatives that qualify as cash flow hedges and any ineffective portion of an instrument's change in fair value is recognized in earnings.

During the first quarter of fiscal 2011, the Company was party to three forward starting swaps, of which two were entered into during the fourth quarter of fiscal 2010 and one was entered into during the first quarter of fiscal 2011. These agreements were designated as cash flow hedges and were used to hedge the exposure to variability in future cash flows resulting from changes in variable interest rates related to the \$500 million Senior Note debt issuance during the first quarter of fiscal 2011. The swaps had notional amounts of \$150 million, \$150 million and \$100 million with associated fixed rates of 3.15%, 3.13% and 2.57%, respectively. The swaps were benchmarked based on the 3-month London InterBank Offered Rate ("LIBOR"). These swaps expired in November 2010 and resulted in a loss of \$11.7 million, which has been deferred in Accumulated other comprehensive loss and will be reclassified to interest expense over the life of the underlying debt. The hedges remained highly effective until they expired; therefore, no ineffectiveness was recognized in earnings.

During 2009, the Company was party to an interest rate swap agreement related to its \$300 million term floating rate loan, which bore interest based on the three month LIBOR and matured in December 2009. Under this agreement, which was accounted for as a cash flow hedge, the interest rate on the term loan was effectively fixed for its entire term at 4.4% and effectiveness was measured each reporting period. During August 2009, the Company elected to prepay, without penalty, the entire \$300 million term loan. The outstanding liability associated with the interest rate swap totaled \$3.6 million, and was immediately expensed in earnings upon termination. The Company recognized \$5.9 million as increases to interest expense during 2009 related to payments associated with the interest rate swap agreement prior to its termination.

*Derivatives not designated as Hedging Instruments*

The Company is dependent upon diesel fuel to operate its vehicles used in the Company's distribution network to deliver parts to its stores and unleaded fuel for delivery of parts from its stores to its commercial customers or other stores. Fuel is not a material component of the Company's operating costs; however, the Company attempts to reduce fuel cost volatility in its operating results. Because unleaded and diesel fuel include transportation costs and taxes, there are limited opportunities to hedge this exposure directly.

The Company had no fuel hedges during fiscal 2011 and 2010. During fiscal year 2009, the Company used a derivative financial instrument to economically hedge the commodity cost associated with its unleaded fuel. The notional amount of the contract was 2.5 million gallons and terminated August 31, 2009. The loss on the fuel contract for fiscal 2009 was \$2.3 million.

**Note I — Financing**

The Company's long-term debt consisted of the following:

<i>(in thousands)</i>	<b>August 27, 2011</b>	<b>August 28, 2010</b>
4.750% Senior Notes due November 2010, effective interest rate of 4.17%	\$ —	\$ 199,300
5.875% Senior Notes due October 2012, effective interest rate of 6.33%	300,000	300,000
4.375% Senior Notes due June 2013, effective interest rate of 5.65%	200,000	200,000
6.500% Senior Notes due January 2014, effective interest rate of 6.63%	500,000	500,000
5.750% Senior Notes due January 2015, effective interest rate of 5.89%	500,000	500,000
5.500% Senior Notes due November 2015, effective interest rate of 4.86%	300,000	300,000
6.950% Senior Notes due June 2016, effective interest rate of 7.09%	200,000	200,000
7.125% Senior Notes due August 2018, effective interest rate of 7.28%	250,000	250,000
4.000% Senior Notes due November 2020, effective interest rate of 4.43%	500,000	—
Commercial paper, weighted average interest rate of 0.4% at August 27, 2011, and 0.4% at August 28, 2010	567,600	433,000
	<u>\$ 3,317,600</u>	<u>\$ 2,882,300</u>

As of August 27, 2011, the commercial paper borrowings mature in the next twelve months but are classified as long-term in the Company's Consolidated Balance Sheets, as the Company has the ability and intent to refinance them on a long-term basis. Specifically, excluding the effect of commercial paper borrowings, the Company had \$996.6 million of availability under its new \$1.0 billion revolving credit facility, expiring in September 2016 that would allow it to replace these short-term obligations with long-term financing.

In addition to the long-term debt discussed above, the Company had \$34.1 million of short-term borrowings that are scheduled to mature in the next twelve months as of August 27, 2011. The short-term borrowings are unsecured, peso denominated borrowings and accrue interest at 4.85% as of August 27, 2011.

In September 2011, the Company amended and restated its \$800 million revolving credit facility, which was scheduled to expire in July 2012. The capacity under the revolving credit facility was increased to \$1.0 billion. This credit facility is available to primarily support commercial paper borrowings, letters of credit and other short-term, unsecured bank loans. The capacity of the credit facility may be increased to \$1.250 billion prior to the maturity date at the Company's election and subject to bank credit capacity and approval, may include up to \$200 million in letters of credit, and may include up to \$175 million in capital leases each fiscal year. Under the revolving credit facility, the Company may borrow funds consisting of Eurodollar loans or base rate loans. Interest accrues on Eurodollar loans at a defined Eurodollar rate, defined as LIBOR plus the applicable percentage, as defined in the revolving credit facility, depending upon the Company's senior, unsecured, (non-credit enhanced) long-term debt rating. Interest accrues on base rate loans as defined in the credit facility. The Company also has the option to borrow funds under the terms of a swingline loan subfacility. The revolving credit facility expires in September 2016.

The revolving credit facility agreement requires that the Company's consolidated interest coverage ratio as of the last day of each quarter shall be no less than 2.50:1. This ratio is defined as the ratio of (i) consolidated earnings before interest, taxes and rents to (ii) consolidated interest expense plus consolidated rents. The Company's consolidated interest coverage ratio as of August 27, 2011 was 4.44:1.

## Table of Contents

In June 2010, the Company entered into a letter of credit facility that allows the Company to request the participating bank to issue letters of credit on the Company's behalf up to an aggregate amount of \$100 million. The letter of credit facility is in addition to the letters of credit that may be issued under the revolving credit facility. As of August 27, 2011, the Company has \$92.9 million in letters of credit outstanding under the letter of credit facility, which expires in June 2013.

On November 15, 2010, the Company issued \$500 million in 4.000% Senior Notes due 2020 under the Company's shelf registration statement filed with the Securities and Exchange Commission on July 29, 2008 (the "Shelf Registration"). The Shelf Registration allows the Company to sell an indeterminate amount in debt securities to fund general corporate purposes, including repaying, redeeming or repurchasing outstanding debt and for working capital, capital expenditures, new store openings, stock repurchases and acquisitions. The Company used the proceeds from the issuance of debt to repay the principal due relating to the \$199.3 million in 4.750% Senior Notes that matured on November 15, 2010, to repay a portion of the commercial paper borrowings and for general corporate purposes.

The 5.750% Senior Notes issued in July 2009 and the 6.500% and 7.125% Senior Notes issued during August 2008, (collectively, the "Notes"), are subject to an interest rate adjustment if the debt ratings assigned to the Notes are downgraded. The Notes, along with the 4.000% Senior Notes issued in during November 2010, also contain a provision that repayment of the notes may be accelerated if the Company experiences a change in control (as defined in the agreements). The Company's borrowings under its other senior notes contain minimal covenants, primarily restrictions on liens. Under the revolving credit facility, covenants include limitations on total indebtedness, restrictions on liens, a maximum debt to earnings ratio, and a change of control provision that may require acceleration of the repayment obligations under certain circumstances. These covenants are in addition to the consolidated interest coverage ratio discussed above. All of the repayment obligations under the borrowing arrangements may be accelerated and come due prior to the scheduled payment date if covenants are breached or an event of default occurs.

As of August 27, 2011, the Company was in compliance with all covenants related to its borrowing arrangements. All of the Company's debt is unsecured. Scheduled maturities of long-term debt are as follows:

<i>(in thousands)</i>	<b>Scheduled Maturities</b>
2012	\$ 567,600
2013	500,000
2014	500,000
2015	500,000
2016	500,000
Thereafter	750,000
	<u>\$ 3,317,600</u>

The fair value of the Company's debt was estimated at \$3.633 billion as of August 27, 2011, and \$3.182 billion as of August 28, 2010, based on the quoted market prices for the same or similar issues or on the current rates available to the Company for debt of the same remaining maturities. Such fair value is greater than the carrying value of debt by \$281.0 million and \$273.5 million at August 27, 2011 and August 28, 2010, respectively.

**Note J — Interest Expense**

Net interest expense consisted of the following:

<i>(in thousands)</i>	<b>Year Ended</b>		
	<b>August 27, 2011</b>	<b>August 28, 2010</b>	<b>August 29, 2009</b>
Interest expense	\$ 173,674	\$ 162,628	\$ 147,504
Interest income	(2,058)	(2,626)	(3,887)
Capitalized interest	(1,059)	(1,093)	(1,301)
	<u>\$ 170,557</u>	<u>\$ 158,909</u>	<u>\$ 142,316</u>

**Note K — Stock Repurchase Program**

During 1998, the Company announced a program permitting the Company to repurchase a portion of its outstanding shares not to exceed a dollar maximum established by the Board. The program was last amended on June 14, 2011 to increase the repurchase authorization to \$10.4 billion from \$9.9 billion. From January 1998 to August 27, 2011, the Company has repurchased a total of 127.3 million shares at an aggregate cost of \$10.2 billion.

The Company's share repurchase activity consisted of the following:

<i>(in thousands)</i>	<b>Year Ended</b>		
	<b>August 27, 2011</b>	<b>August 28, 2010</b>	<b>August 29, 2009</b>
Amount	\$ 1,466,802	\$ 1,123,655	\$ 1,300,002
Shares	5,598	6,376	9,313

Subsequent to the end of fiscal 2011, the Board voted to increase the authorization by \$750 million to raise the cumulative share repurchase authorization from \$10.4 billion to \$11.15 billion. From August 28, 2011 to October 24, 2011, the Company repurchased approximately 527 thousand shares for \$169.7 million.

**Note L — Pension and Savings Plans**

Prior to January 1, 2003, substantially all full-time employees were covered by a defined benefit pension plan. The benefits under the plan were based on years of service and the employee's highest consecutive five-year average compensation. On January 1, 2003, the plan was frozen. Accordingly, pension plan participants will earn no new benefits under the plan formula and no new participants will join the pension plan.

On January 1, 2003, the Company's supplemental defined benefit pension plan for certain highly compensated employees was also frozen. Accordingly, plan participants will earn no new benefits under the plan formula and no new participants will join the pension plan.

The Company has recognized the unfunded status of the defined pension plans in its Consolidated Balance Sheets, which represents the difference between the fair value of pension plan assets and the projected benefit obligations of its defined benefit pension plans. The net unrecognized actuarial losses and unrecognized prior service costs are recorded in Accumulated other comprehensive loss. These amounts will be subsequently recognized as net periodic pension expense pursuant to the Company's historical accounting policy for amortizing such amounts. Further, actuarial gains and losses that arise in subsequent periods and are not recognized as net periodic pension expense in the same periods will be recognized as a component of other comprehensive income. Those amounts will be subsequently recognized as a component of net periodic pension expense on the same basis as the amounts previously recognized in Accumulated other comprehensive loss.

## Table of Contents

The Company's investment strategy for pension plan assets is to utilize a diversified mix of domestic and international equity and fixed income portfolios to earn a long-term investment return that meets the Company's pension plan obligations. The pension plan assets are invested primarily in listed securities, and the pension plans hold only a minimal investment in AutoZone common stock that is entirely at the discretion of third-party pension fund investment managers. The Company's largest holding classes, U.S. equities and fixed income bonds, are invested with a fund manager that holds diversified portfolios. Accordingly, the Company does not have any significant concentrations of risk in particular securities, issuers, sectors, industries or geographic regions. Alternative investment strategies, including private real estate, are in the process of being liquidated and constitute less than 5% of the pension plan assets. The Company's investment managers are prohibited from using derivatives for speculative purposes and are not permitted to use derivatives to leverage a portfolio.

The following is a description of the valuation methodologies used for the Company's investments measured at fair value:

*U.S., international, emerging, and high yield equities* — These investments are commingled funds and are valued using the net asset values, which are determined by valuing investments at the closing price or last trade reported on the major market on which the individual securities are traded. These investments are subject to annual audits.

*Alternative investments* — This category represents a hedge fund of funds made up of 16 different hedge fund managers diversified over 9 different hedge strategies. The fair value of the hedge fund of funds is determined using valuations provided by the third party administrator for each of the underlying funds.

*Real estate* — The valuation of these investments requires significant judgment due to the absence of quoted market prices, the inherent lack of liquidity and the long-term nature of such assets. These investments are valued based upon recommendations of our investment manager incorporating factors such as contributions and distributions, market transactions, and market comparables.

*Fixed income securities* — The fair values of corporate, U.S. government securities and other fixed income securities are estimated by using bid evaluation pricing models or quoted prices of securities with similar characteristics.

*Cash and cash equivalents* — These investments include cash equivalents valued using exchange rates provided by an industry pricing vendor and commingled funds valued using the net asset value. These investments also include cash.

The fair values of investments by level and asset category and the weighted-average asset allocations of the Company's pension plans at the measurement date are presented in the following table:

<i>(in thousands)</i>	August 27, 2011					
	Fair Value	Asset Allocation		Fair Value Hierarchy		
		Actual	Target	Level 1	Level 2	Level 3
U.S. equities	\$ 40,092	25.5%	30.0%	\$ —	\$ 40,092	\$ —
International equities	28,378	18.1	20.0	—	28,378	—
Emerging equities	12,086	7.7	10.0	—	12,086	—
High yield equities	12,547	8.0	10.0	—	12,547	—
Alternative investments	2,807	1.8	—	—	—	2,807
Real estate	2,474	1.6	—	—	—	2,474
Fixed income securities	27,321	17.4	30.0	—	27,321	—
Cash and cash equivalents	31,178	19.9	—	—	31,178	—
	<u>\$ 156,883</u>	<u>100.0%</u>	<u>100.0%</u>	<u>\$ —</u>	<u>\$ 151,602</u>	<u>\$ 5,281</u>

**August 28, 2010**

<i>(in thousands)</i>	Fair Value	Asset Allocation		Fair Value Hierarchy		
		Actual	Target	Level 1	Level 2	Level 3
U.S. equities	\$ 33,445	28.5%	35.0%	\$ —	\$ 33,445	\$ —
International equities	24,049	20.5	25.0	—	24,049	—
Emerging equities	10,431	8.9	10.0	—	10,431	—
High yield equities	10,604	9.0	10.0	—	10,604	—
Alternative investments	4,348	3.7	—	—	—	4,348
Real estate	7,348	6.3	—	—	—	7,348
Fixed income securities	22,131	18.9	20.0	—	22,131	—
Cash and cash equivalents	4,887	4.2	—	—	4,887	—
	<u>\$ 117,243</u>	<u>100.0%</u>	<u>100.0%</u>	<u>\$ —</u>	<u>\$ 105,547</u>	<u>\$ 11,696</u>

In August 2011, the Company's Investment Committee approved a revised asset allocation target for the investments held by the pension plan. Based on the revised asset allocation target, the expected long-term rate of return on plan assets will change from 8.0% to 7.5% for the year ending August 25, 2012. The August 27, 2011 actual asset allocation in the chart above includes a \$28.3 million cash contribution made prior to the balance sheet date. Subsequent to August 27, 2011, this cash contribution was allocated to the pension plan investments to achieve the revised asset allocation target.

The change in fair value of Level 3 assets that use significant unobservable inputs is presented in the following table:

<i>(in thousands)</i>	Level 3 Assets
Beginning balance — August 28, 2010	\$ 11,696
Actual return on plan assets:	
Assets held at August 27, 2011	713
Assets sold during the year	1,361
Sales and settlements	(8,489)
Ending balance — August 27, 2011	<u>\$ 5,281</u>

The following table sets forth the plans' funded status and amounts recognized in the Company's Consolidated Balance Sheets:

<i>(in thousands)</i>	August 27, 2011	August 28, 2010
<b>Change in Projected Benefit Obligation:</b>		
Projected benefit obligation at beginning of year	\$ 211,536	\$ 185,590
Interest cost	11,135	11,315
Actuarial losses	23,746	18,986
Benefits paid	(4,772)	(4,355)
Benefit obligations at end of year	<u>\$ 241,645</u>	<u>\$ 211,536</u>
<b>Change in Plan Assets:</b>		
Fair value of plan assets at beginning of year	\$ 117,243	\$ 115,313
Actual return on plan assets	10,336	6,273
Employer contributions	34,076	12
Benefits paid	(4,772)	(4,355)
Fair value of plan assets at end of year	<u>\$ 156,883</u>	<u>\$ 117,243</u>

<i>(in thousands)</i>	<u>August 27, 2011</u>	<u>August 28, 2010</u>
<b>Amount Recognized in the Statement of Financial Position:</b>		
Current liabilities	\$ (27)	\$ (12)
Long-term liabilities	(84,736)	(94,281)
Net amount recognized	<u>\$ (84,763)</u>	<u>\$ (94,293)</u>

<b>Amount Recognized in Accumulated Other Comprehensive Loss and not yet reflected in Net Periodic Benefit Cost:</b>		
Net actuarial loss	\$ (106,972)	\$ (94,293)
Accumulated other comprehensive loss	<u>\$ (106,972)</u>	<u>\$ (94,293)</u>

<b>Amount Recognized in Accumulated Other Comprehensive Loss and not yet reflected in Net Periodic Benefit Cost and expected to be amortized in next year's Net Periodic Benefit Cost:</b>		
Net actuarial loss	\$ (9,795)	\$ (10,252)
Amount recognized	<u>\$ (9,795)</u>	<u>\$ (10,252)</u>

Net periodic benefit expense (income) consisted of the following:

<i>(in thousands)</i>	<b>Year Ended</b>		
	<u>August 27, 2011</u>	<u>August 28, 2010</u>	<u>August 29, 2009</u>
Interest cost	\$ 11,135	\$ 11,315	\$ 10,647
Expected return on plan assets	(9,326)	(9,045)	(12,683)
Amortization of prior service cost	—	—	60
Recognized net actuarial losses	9,405	8,135	73
Net periodic benefit expense (income)	<u>\$ 11,214</u>	<u>\$ 10,405</u>	<u>\$ (1,903)</u>

The actuarial assumptions used in determining the projected benefit obligation include the following:

	<b>Year Ended</b>		
	<u>August 27, 2011</u>	<u>August 28, 2010</u>	<u>August 29, 2009</u>
Weighted average discount rate	5.13%	5.25%	6.24%
Expected long-term rate of return on plan assets	8.00%	8.00%	8.00%

As the plan benefits are frozen, increases in future compensation levels no longer impact the calculation and there is no service cost. The discount rate is determined as of the measurement date and is based on the calculated yield of a portfolio of high-grade corporate bonds with cash flows that generally match the Company's expected benefit payments in future years. The expected long-term rate of return on plan assets is based on the historical relationships between the investment classes and the capital markets, updated for current conditions.

The Company makes annual contributions in amounts at least equal to the minimum funding requirements of the Employee Retirement Income Security Act of 1974. The Company contributed \$34.1 million to the plans in fiscal 2011, \$12 thousand to the plans in fiscal 2010 and \$18 thousand to the plans in fiscal 2009. The Company expects to contribute approximately \$7 million to the plan in fiscal 2012; however, a change to the expected cash funding may be impacted by a change in interest rates or a change in the actual or expected return on plan assets.

## [Table of Contents](#)

Based on current assumptions about future events, benefit payments are expected to be paid as follows for each of the following fiscal years. Actual benefit payments may vary significantly from the following estimates:

<i>(in thousands)</i>	<b>Benefit Payments</b>
2012	\$ 6,575
2013	7,236
2014	7,989
2015	8,705
2016	9,332
2017 — 2021	56,199

The Company has a 401(k) plan that covers all domestic employees who meet the plan's participation requirements. The plan features include Company matching contributions, immediate 100% vesting of Company contributions and a savings option up to 25% of qualified earnings. The Company makes matching contributions, per pay period, up to a specified percentage of employees' contributions as approved by the Board. The Company made matching contributions to employee accounts in connection with the 401(k) plan of \$13.3 million in fiscal 2011, \$11.7 million in fiscal 2010 and \$11.0 million in fiscal 2009.

### **Note M — Leases**

The Company leases some of its retail stores, distribution centers, facilities, land and equipment, including vehicles. Other than vehicle leases, most of the leases are operating leases, which include renewal options made at the Company's election, options to purchase and provisions for percentage rent based on sales. Rental expense was \$213.8 million in fiscal 2011, \$195.6 million in fiscal 2010, and \$181.3 million in fiscal 2009. Percentage rentals were insignificant.

The Company has a fleet of vehicles used for delivery to its commercial customers and stores and travel for members of field management. The majority of these vehicles are held under capital lease. At August 27, 2011, the Company had capital lease assets of \$86.6 million, net of accumulated amortization of \$30.2 million, and capital lease obligations of \$86.7 million, of which \$25.3 million is classified as Accrued expenses and other as it represents the current portion of these obligations. At August 28, 2010, the Company had capital lease assets of \$85.8 million, net of accumulated amortization of \$20.4 million, and capital lease obligations of \$88.3 million, of which \$21.9 million was classified as Accrued expenses and other.

The Company records rent for all operating leases on a straight-line basis over the lease term, including any reasonably assured renewal periods and the period of time prior to the lease term that the Company is in possession of the leased space for the purpose of installing leasehold improvements. Differences between recorded rent expense and cash payments are recorded as a liability in Accrued expenses and other and Other long-term liabilities in the accompanying Consolidated Balance Sheets, based on the terms of the lease. The deferred rent approximated \$77.6 million on August 27, 2011, and \$67.6 million on August 28, 2010.

## Table of Contents

Future minimum annual rental commitments under non-cancelable operating leases and capital leases were as follows at the end of fiscal 2011:

<i>(in thousands)</i>	<b>Operating Leases</b>	<b>Capital Leases</b>
2012	\$ 209,778	\$ 25,296
2013	200,715	25,444
2014	182,071	21,599
2015	164,283	14,187
2016	145,700	3,123
Thereafter	948,906	—
Total minimum payments required	<u>\$ 1,851,453</u>	<u>89,649</u>
Less: Interest		<u>(2,993)</u>
Present value of minimum capital lease payments		<u>\$ 86,656</u>

In connection with the Company's December 2001 sale of the TruckPro business, the Company subleased some properties to the purchaser for an initial term of not less than 20 years. The Company's remaining aggregate rental obligation at August 27, 2011 of \$18.9 million is included in the above table, but the obligation is entirely offset by the sublease rental agreement.

### **Note N — Commitments and Contingencies**

Construction commitments, primarily for new stores, totaled approximately \$23.9 million at August 27, 2011.

The Company had \$96.6 million in outstanding standby letters of credit and \$26.3 million in surety bonds as of August 27, 2011, which all have expiration periods of less than one year. A substantial portion of the outstanding standby letters of credit (which are primarily renewed on an annual basis) and surety bonds are used to cover reimbursement obligations to our workers' compensation carriers. There are no additional contingent liabilities associated with these instruments as the underlying liabilities are already reflected in the consolidated balance sheet. The standby letters of credit and surety bonds arrangements have automatic renewal clauses.

### **Note O — Litigation**

We were a defendant in a lawsuit entitled "Coalition for a Level Playing Field, L.L.C., et al., v. AutoZone, Inc. et al.," filed in the U.S. District Court for the Southern District of New York in October 2004. The case was originally filed by more than 200 plaintiffs, which are principally automotive aftermarket warehouse distributors and jobbers, against a number of defendants, including automotive aftermarket retailers and aftermarket automotive parts manufacturers. In the amended complaint, the plaintiffs alleged, *inter alia*, that some or all of the automotive aftermarket retailer defendants had knowingly received, in violation of the Robinson-Patman Act (the "Act"), from various of the manufacturer defendants benefits such as volume discounts, rebates, early buy allowances and other allowances, fees, inventory without payment, sham advertising and promotional payments, a share in the manufacturers' profits, benefits of pay-on-scan purchases, implementation of radio frequency identification technology, and excessive payments for services purportedly performed for the manufacturers. Additionally, a subset of plaintiffs alleged a claim of fraud against the automotive aftermarket retailer defendants based on discovery issues in a prior litigation involving similar claims under the Act. In the prior litigation, the discovery dispute, as well as the underlying claims, was decided in favor of AutoZone and the other automotive aftermarket retailer defendants who proceeded to trial, pursuant to a unanimous jury verdict which was affirmed by the Second Circuit Court of Appeals. In the current litigation, the plaintiffs sought an unspecified amount of damages (including statutory trebling), attorneys' fees, and a permanent injunction prohibiting the aftermarket retailer defendants from inducing and/or knowingly receiving discriminatory prices from any of the aftermarket manufacturer defendants and from opening up any further stores to compete with the plaintiffs as long as the defendants allegedly continue to violate the Act.

In an order dated September 7, 2010, and issued on September 16, 2010, the court granted motions to dismiss all claims against AutoZone and its co-defendant competitors and suppliers. Based on the record in the prior litigation, the court dismissed with prejudice all overlapping claims — that is, those covering the same time periods covered by the prior litigation and brought by the judgment plaintiffs in the prior litigation. The court also dismissed with prejudice the plaintiffs’ attempt to revisit discovery disputes from the prior litigation. Further, with respect to the other claims under the Act, the court found that the factual statements contained in the complaint fall short of what would be necessary to support a plausible inference of unlawful price discrimination. Finally, the court held that the AutoZone pay-on-scan program is a difference in non-price terms that are not governed by the Act. The court ordered the case closed, but also stated that “in an abundance of caution the Court [was] defer[ring] decision on whether to grant leave to amend to allow plaintiff an opportunity to propose curative amendments.” The plaintiffs filed a motion for leave to amend their complaint and attached a proposed Third Amended and Supplemental Complaint (the “Third Amended Complaint”) on behalf of four plaintiffs. The Third Amended Complaint repeated and expanded certain allegations from previous complaints, asserting two claims under the Act, but stated that all other plaintiffs have withdrawn their claims, and that, *inter alia*, Chief Auto Parts, Inc. had been dismissed as a defendant. AutoZone and the co-defendants filed an opposition to the motion seeking leave to amend.

In an order dated September 28, 2011, the court denied the four remaining plaintiffs’ motion for leave to file a Third Amended Complaint because the proposed Third Amended Complaint failed to address deficiencies previously identified by the court.

The Company believes this suit to be without merit and is vigorously defending against it. The Company is unable to estimate a loss or possible range of loss.

In 2004, the Company acquired a store site in Mount Ephraim, New Jersey that had previously been the site of a gasoline service station and contained evidence of groundwater contamination. Upon acquisition, the Company voluntarily reported the groundwater contamination issue to the New Jersey Department of Environmental Protection and entered into a Voluntary Remediation Agreement providing for the remediation of the contamination associated with the property. The Company has conducted and paid for (at an immaterial cost to the Company) remediation of visible contamination on the property and is investigating and will be addressing potential vapor intrusion impacts in downgradient residences and businesses. Pursuant to the Voluntary Remediation Agreement, upon completion of all remediation required by the agreement, the Company is eligible to be reimbursed up to 75 percent of its remediation costs by the State of New Jersey. Although the aggregate amount of additional costs that the Company may incur pursuant to the Voluntary Remediation Agreement cannot currently be ascertained, the Company does not currently believe that fulfillment of its obligations under the agreement will result in costs that are material to its financial condition, results of operations or cash flow.

The Company is involved in various other legal proceedings incidental to the conduct of its business, including several lawsuits containing class-action allegations in which the plaintiffs are current and former hourly and salaried employees who allege various wage and hour violations and unlawful termination practices. The Company does not currently believe that, either individually or in the aggregate, these matters will result in liabilities material to the Company’s financial condition, results of operations or cash flows.

#### **Note P — Segment Reporting**

The Company’s two operating segments (Domestic Auto Parts and Mexico) have been aggregated as one reportable segment: Auto Parts Stores. The criteria the Company used to identify the reportable segment are primarily the nature of the products the Company sells and the operating results that are regularly reviewed by the Company’s chief operating decision maker to make decisions about the resources to be allocated to the business units and to assess performance. The accounting policies of the Company’s reportable segment are the same as those described in Note A.

The Auto Parts Stores segment is a retailer and distributor of automotive parts and accessories through the Company’s 4,813 stores in the United States, Puerto Rico, and Mexico. Each store carries an extensive product line for cars, sport utility vehicles, vans and light trucks, including new and remanufactured automotive hard parts, maintenance items, accessories and non-automotive products.

The “Other” category reflects business activities that are not separately reportable, including ALLDATA which produces, sells and maintains diagnostic and repair information software used in the automotive repair industry, and e-Commerce, which includes direct sales to customers through [www.autozone.com](http://www.autozone.com).

## [Table of Contents](#)

The Company evaluates its reportable segment primarily on the basis of net sales and segment profit, which is defined as gross profit. During fiscal 2009, the Company reassessed and revised its reportable segment to exclude ALLDATA and e-Commerce from the newly designated Auto Parts Stores reporting segment. Previously, these immaterial business activities had been combined with Auto Parts Stores.

The following table shows segment results for the following fiscal years:

<i>(in thousands)</i>	<b>Year Ended</b>		
	<b>August 27, 2011</b>	<b>August 28, 2010</b>	<b>August 29, 2009</b>
<b>Net Sales:</b>			
Auto Parts Stores	\$ 7,906,692	\$ 7,213,753	\$ 6,671,939
Other	166,281	148,865	144,885
Total	<u>\$ 8,072,973</u>	<u>\$ 7,362,618</u>	<u>\$ 6,816,824</u>
<b>Segment Profit:</b>			
Auto Parts Stores	\$ 3,989,852	\$ 3,591,464	\$ 3,296,777
Other	129,611	120,280	119,672
Gross profit	4,119,463	3,711,744	3,416,449
Operating, selling, general and administrative expenses	(2,624,660)	(2,392,330)	(2,240,387)
Interest expense, net	(170,557)	(158,909)	(142,316)
Income before income taxes	<u>\$ 1,324,246</u>	<u>\$ 1,160,505</u>	<u>\$ 1,033,746</u>
<b>Segment Assets:</b>			
Auto Parts Stores	\$ 5,827,285	\$ 5,531,955	\$ 5,279,454
Other	42,317	39,639	38,951
Total	<u>\$ 5,869,602</u>	<u>\$ 5,571,594</u>	<u>\$ 5,318,405</u>
<b>Capital Expenditures:</b>			
Auto Parts Stores	\$ 316,074	\$ 307,725	\$ 260,448
Other	5,530	7,675	11,799
Total	<u>\$ 321,604</u>	<u>\$ 315,400</u>	<u>\$ 272,247</u>
<b>Sales by Product Grouping:</b>			
Failure	\$ 3,530,497	\$ 3,145,528	\$ 2,816,126
Maintenance items	3,051,672	2,792,610	2,655,113
Discretionary	1,324,523	1,275,615	1,200,700
Auto Parts Stores net sales	<u>\$ 7,906,692</u>	<u>\$ 7,213,753</u>	<u>\$ 6,671,939</u>

[Table of Contents](#)**Note Q — Quarterly Summary (1)**  
(Unaudited)

<i>(in thousands, except per share data)</i>	Twelve Weeks Ended			Sixteen
	November 20, 2010	February 12, 2011	May 7, 2011	Weeks Ended August 27, 2011(2)
Net sales	\$ 1,791,662	\$ 1,660,946	\$ 1,978,369	\$ 2,641,996
Gross profit	907,748	845,611	1,013,530	1,352,574
Operating profit	306,121	271,748	392,925	524,010
Income before income taxes	268,868	232,172	353,009	470,197
Net income	172,076	148,056	227,373	301,469
Basic earnings per share	3.85	3.41	5.42	7.35
Diluted earnings per share	3.77	3.34	5.29	7.18

<i>(in thousands, except per share data)</i>	Twelve Weeks Ended			Sixteen
	November 21, 2009	February 13, 2010	May 8, 2010	Weeks Ended August 28, 2010(2)
Net sales	\$ 1,589,244	\$ 1,506,225	\$ 1,821,990	\$ 2,445,159
Gross profit	799,924	753,736	923,121	1,234,963
Operating profit	260,428	230,381	355,865	472,740
Income before income taxes	224,088	194,072	319,032	423,313
Net income	143,300	123,333	202,745	268,933
Basic earnings per share	2.86	2.49	4.19	5.77
Diluted earnings per share	2.82	2.46	4.12	5.66

- (1) The sum of quarterly amounts may not equal the annual amounts reported due to rounding. In addition, the earnings per share amounts are computed independently for each quarter while the full year is based on the annual weighted average shares outstanding.
- (2) The fourth quarter for fiscal 2011 and fiscal 2010 are based on a 16-week period. All other quarters presented are based on a 12-week period.

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

Not applicable.

**Item 9A. Controls and Procedures**

As of August 27, 2011, an evaluation was performed under the supervision and with the participation of AutoZone's management, including the Chief Executive Officer and the Chief Financial Officer, of the effectiveness of the design and operation of our disclosure controls and procedures, as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act, as amended. Based on that evaluation, our management, including the Chief Executive Officer and the Chief Financial Officer, concluded that our disclosure controls and procedures were effective. During our fiscal fourth quarter ended August 27, 2011, there were no changes in our internal controls that have materially affected or are reasonably likely to materially affect internal controls over financial reporting.

**Item 9B. Other Information**

Not applicable.

### **PART III**

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

The information set forth in Part I of this document in the section entitled “Executive Officers of the Registrant,” is incorporated herein by reference in response to this item. Additionally, the information contained in AutoZone, Inc.’s Proxy Statement dated October 24, 2011, in the sections entitled “Proposal 1 — Election of Directors” and “Section 16(a) Beneficial Ownership Reporting Compliance,” is incorporated herein by reference in response to this item.

The Company has adopted a Code of Ethical Conduct for Financial Executives that applies to its chief executive officer, chief financial officer, chief accounting officer and persons performing similar functions. The Company has filed a copy of this Code of Ethical Conduct as Exhibit 14.1 to this Form 10-K. The Company has also made the Code of Ethical Conduct available on its investor relations website at <http://www.autozoneinc.com>.

#### **Item 11. Executive Compensation**

The information contained in AutoZone, Inc.’s Proxy Statement dated October 24, 2011, in the section entitled “Executive Compensation,” is incorporated herein by reference in response to this item.

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

The information contained in AutoZone, Inc.’s Proxy Statement dated October 24, 2011, in the sections entitled “Security Ownership of Management and Board of Directors” and “Security Ownership of Certain Beneficial Owners,” is incorporated herein by reference in response to this item.

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

Not applicable.

#### **Item 14. Principal Accounting Fees and Services**

The information contained in AutoZone, Inc.’s Proxy Statement dated October 24, 2011, in the section entitled “Proposal 2 — Ratification of Independent Registered Public Accounting Firm,” is incorporated herein by reference in response to this item.

**PART IV**

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

The following information required under this item is filed as part of this report.

**(a) Financial Statements**

The following financial statements, related notes and reports of independent registered public accounting firm are filed with this Annual Report on Form 10-K in Part II, Item 8:

Reports of Independent Registered Public Accounting Firm

Consolidated Statements of Income for the fiscal years ended August 27, 2011, August 28, 2010, and August 29, 2009

Consolidated Balance Sheets as of August 27, 2011, and August 28, 2010

Consolidated Statements of Cash Flows for the fiscal years ended August 27, 2011, August 28, 2010, and August 29, 2009

Consolidated Statements of Stockholders' (Deficit) Equity for the fiscal years ended August 27, 2011, August 28, 2010, and August 29, 2009

Notes to Consolidated Financial Statements

**(b) Exhibits**

The Exhibit Index following this document's signature pages is incorporated herein by reference in response to this item.

**(c) Financial Statement Schedules**

Schedules are omitted because the information is not required or because the information required is included in the financial statements or notes thereto.

**SIGNATURES**

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

AUTOZONE, INC.

By: /s/ WILLIAM C. RHODES, III  
William C. Rhodes, III  
Chairman, President and Chief Executive  
Officer (Principal Executive Officer)

Dated: October 24, 2011

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

<u>SIGNATURE</u>	<u>TITLE</u>	<u>DATE</u>
<u>/s/ WILLIAM C. RHODES, III</u> William C. Rhodes, III	Chairman, President and Chief Executive Officer (Principal Executive Officer)	October 24, 2011
<u>/s/ WILLIAM T. GILES</u> William T. Giles	Chief Financial Officer and Executive Vice President — Finance, Information Technology and Store Development (Principal Financial Officer)	October 24, 2011
<u>/s/ CHARLIE PLEAS, III</u> Charlie Pleas, III	Senior Vice President and Controller (Principal Accounting Officer)	October 24, 2011
<u>/s/ WILLIAM C. CROWLEY</u> William C. Crowley	Director	October 24, 2011
<u>/s/ SUE E. GOVE</u> Sue E. Gove	Director	October 24, 2011
<u>/s/ EARL G. GRAVES, JR.</u> Earl G. Graves, Jr.	Director	October 24, 2011
<u>/s/ ROBERT R. GRUSKY</u> Robert R. Grusky	Director	October 24, 2011
<u>/s/ J.R. HYDE, III</u> J.R. Hyde, III	Director	October 24, 2011
<u>/s/ W. ANDREW MCKENNA</u> W. Andrew McKenna	Director	October 24, 2011
<u>/s/ GEORGE R. MRKONIC, JR.</u> George R. Mrkonic, Jr.	Director	October 24, 2011
<u>/s/ LUIS P. NIETO</u> Luis P. Nieto	Director	October 24, 2011
<u>/s/ THEODORE W. ULLYOT</u> Theodore W. Ulyyot	Director	October 24, 2011

## EXHIBIT INDEX

The following exhibits are filed as part of this Annual Report on Form 10-K:

- 3.1 Restated Articles of Incorporation of AutoZone, Inc. Incorporated by reference to Exhibit 3.1 to the Quarterly Report on Form 10-Q for the quarter ended February 13, 1999.
- 3.2 Fifth Amended and Restated By-laws of AutoZone, Inc. Incorporated by reference to Exhibit 3.1 to the Current Report on Form 8-K dated September 28, 2011.
- 4.1 Senior Indenture, dated as of July 22, 1998, between AutoZone, Inc. and the First National Bank of Chicago. Incorporated by reference to Exhibit 4.1 to the Current Report on Form 8-K dated July 17, 1998.
- 4.2 Indenture dated as of August 8, 2003, between AutoZone, Inc. and Bank One Trust Company, N.A. Incorporated by reference to Exhibit 4.1 to the Registration Statement on Form S-3 (No. 333-107828) filed August 11, 2003.
- 4.3 Terms Agreement dated October 16, 2002, by and among AutoZone, Inc., J.P. Morgan Securities Inc. and Merrill Lynch, Pierce, Fenner & Smith Incorporated, as representatives of the several underwriters named therein. Incorporated by reference to Exhibit 1.2 to the Current Report on Form 8-K dated October 18, 2002.
- 4.4 Form of 5.875% Note due 2012. Incorporated by reference to Exhibit 4.1 to the Current Report on Form 8-K dated October 18, 2002.
- 4.5 Terms Agreement dated May 29, 2003, by and among AutoZone, Inc., Citigroup Global Markets Inc. and SunTrust Capital Markets, Inc., as representatives of the several underwriters named therein. Incorporated by reference to Exhibit 1.2 to the Current Report on Form 8-K dated May 29, 2003.
- 4.6 Form of 4.375% Note due 2013. Incorporated by reference to Exhibit 4.1 to the Current Report on Form 8-K dated May 29, 2003.
- 4.7 Form of 5.5% Note due 2015. Incorporated by reference to Exhibit 4.2 to the Current Report on Form 8-K dated November 3, 2003.
- 4.8 Terms Agreement dated June 8, 2006, by and among AutoZone, Inc., Merrill Lynch, Pierce, Fenner & Smith Incorporated and J.P. Morgan Securities Inc., as representatives of the several underwriters named therein. Incorporated by reference to Exhibit 1.2 to the Current Report on Form 8-K dated June 13, 2006.
- 4.9 Form of 6.95% Senior Note due 2016. Incorporated by reference to Exhibit 4.1 to the Current Report on Form 8-K dated June 13, 2006.
- 4.10 Officers' Certificate dated August 4, 2008, pursuant to Section 3.2 of the Indenture dated August 11, 2003, setting forth the terms of the 6.5% Senior Notes due 2014. Incorporated by reference to Exhibit 4.1 to the Current Report on Form 8-K dated August 4, 2008.

## Table of Contents

- 4.11 Form of 6.5% Senior Note due 2014. Incorporated by reference from the Current Report on Form 8-K dated August 4, 2008
- 4.12 Officers' Certificate dated August 4, 2008, pursuant to Section 3.2 of the Indenture dated August 11, 2003, setting forth the terms of the 7.125% Senior Notes due 2018. Incorporated by reference to Exhibit 4.2 to the Current Report on Form 8-K dated August 4, 2008.
- 4.13 Form of 7.125% Senior Note due 2018. Incorporated by reference from the Form 8-K dated August 4, 2008
- 4.14 Officers' Certificate dated July 2, 2009, pursuant to Section 3.2 of the Indenture dated August 11, 2003, setting forth the terms of the 5.75% Notes due 2015. Incorporated by reference to 4.1 to the Current Report on Form 8-K dated July 2, 2009.
- 4.15 Form of 5.75% Senior Note due 2015. Incorporated by reference from the Form 8-K dated July 2, 2009
- 4.16 Officers' Certificate dated November 15, 2010, pursuant to Section 3.2 of the Indenture dated August 8, 2003, setting forth the terms of the 4.000% Notes due 2020. Incorporated by reference to 4.1 to the Current Report on Form 8-K dated November 15, 2010.
- 4.17 Form of 4.000% Senior Note due 2020. Incorporated by reference from the Form 8-K dated November 15, 2010.
- \*10.1 Fourth Amended and Restated Director Stock Option Plan. Incorporated by reference to Exhibit 10.1 to the Quarterly Report on Form 10-Q for the quarter ended May 4, 2002.
- \*10.2 Second Amended and Restated 1998 Director Compensation Plan. Incorporated by reference to Exhibit 10.2 to the Annual Report on Form 10-K for the fiscal year ended August 26, 2000.
- \*10.3 Third Amended and Restated 1996 Stock Option Plan. Incorporated by reference to Exhibit 10.3 to the Annual Report on Form 10-K for the fiscal year ended August 30, 2003.
- \*10.4 Form of Incentive Stock Option Agreement. Incorporated by reference to Exhibit 10.2 to the Quarterly Report on Form 10-Q for the quarter ended November 23, 2002.
- \*10.5 Form of Non-Qualified Stock Option Agreement. Incorporated by reference to Exhibit 10.1 to the Quarterly Report on Form 10-Q for the quarter ended November 23, 2002.
- \*10.6 AutoZone, Inc. 2003 Director Stock Option Plan. Incorporated by reference to Appendix C to the definitive proxy statement dated November 1, 2002, for the Annual Meeting of Stockholders held December 12, 2002.
- \*10.7 AutoZone, Inc. 2003 Director Compensation Plan. Incorporated by reference to Appendix D to the definitive proxy statement dated November 1, 2002, for the Annual Meeting of Stockholders held December 12, 2002.
- \*10.8 Amended and Restated AutoZone, Inc. Executive Deferred Compensation Plan. Incorporated by reference to Exhibit 10.1 to the Quarterly Report on Form 10-Q for the quarter ended February 15, 2003.
- \*10.9 AutoZone, Inc. 2005 Executive Incentive Compensation Plan. Incorporated by reference to Exhibit A to the Company's Proxy Statement dated October 27, 2004, for the Annual Meeting of Stockholders held December 16, 2004.

## Table of Contents

- 10.10 Credit Agreement dated as of July 9, 2009, among AutoZone, Inc., as Borrower, The Several Lenders From Time To Time Party Hereto, and Bank of America, N.A., as Administrative Agent and Swingline Lender, and JPMorgan Chase Bank, N.A., as Syndication Agent, and Banc of America Securities, LLC and J.P. Morgan Securities, as Joint Lead Arrangers, and Banc of America Securities, LLC, J.P. Morgan Securities, Inc., Suntrust Robinson Humphrey, Inc., and Wachovia Capital Markets, LLC, as Joint Book Runners, and Suntrust Bank, Wells Fargo Bank, N.A., Regions Bank, and US Bank National Association, as Documentation Agents. Incorporated by reference to Exhibit 10.10 to the Annual Report on Form 10-K/A for the fiscal year ended August 29, 2009.
- \*10.11 AutoZone, Inc. 2006 Stock Option Plan. Incorporated by reference to Appendix A to the definitive proxy statement dated October 25, 2006, for the Annual Meeting of Stockholders held December 13, 2006.
- \*10.12 Form of Stock Option Agreement. Incorporated by reference to Exhibit 10.26 to the Annual Report on Form 10-K for the fiscal year ended August 25, 2007.
- \*10.13 AutoZone, Inc. Fourth Amended and Restated Executive Stock Purchase Plan. Incorporated by reference to Appendix B to the definitive proxy statement dated October 25, 2006, for the Annual Meeting of Stockholders held December 13, 2006.
- \*10.14 AutoZone, Inc. Director Compensation Program. Incorporated by reference to Exhibit 99.1 to the Current Report on Form 8-K dated January 4, 2008.
- \*10.15 Amended and Restated AutoZone, Inc. 2003 Director Compensation Plan. Incorporated by reference to Exhibit 99.2 to the Current Report on Form 8-K dated January 4, 2008.
- \*10.16 Amended and Restated AutoZone, Inc. 2003 Director Stock Option Plan. Incorporated by reference to Exhibit 99.3 to the Current Report on Form 8-K dated January 4, 2008.
- \*10.17 AutoZone, Inc. Enhanced Severance Pay Plan. Incorporated by reference to Exhibit 99.1 to the Current Report on Form 8-K dated February 15, 2008.
- \*10.18 Form of non-compete and non-solicitation agreement signed by each of the following executive officers: Jon A. Bascom, Timothy W. Briggs, Mark A. Finestone, William T. Giles, William W. Graves, Lisa R. Kranc, Thomas B. Newbern, Charlie Pleas, III, and Larry M. Roesel; and by AutoZone, Inc., with an effective date of February 14, 2008, for each. Incorporated by reference to Exhibit 99.2 to the Current Report on Form 8-K dated February 15, 2008.
- \*10.19 Form of non-compete and non-solicitation agreement approved by AutoZone's Compensation Committee for execution by non-executive officers. Incorporated by reference to Exhibit 99.3 to the Current Report on Form 8-K dated February 15, 2008.
- \*10.20 Agreement dated February 14, 2008, between AutoZone, Inc. and William C. Rhodes, III. Incorporated by reference to Exhibit 99.4 to the Current Report on Form 8-K dated February 15, 2008.
- \*10.21 Form of non-compete and non-solicitation agreement signed by each of the following officers: Rebecca W. Ballou, Dan Barzel, Craig Blackwell, Brian L. Campbell, Philip B. Daniele, III, Robert A. Durkin, Bill Edwards, Joseph Espinosa, Preston B. Frazer, Stephany L. Goodnight, David Goudge, James C. Griffith, William R. Hackney, Rodney Halsell, Jeffery Lagges, Grantland E. McGee, Jr., Mitchell Major, Ann A. Morgan, J. Scott Murphy, Jeffrey H. Nix, Raymond A. Pohlman, Elizabeth Rabun, Juan A. Santiago, Joe L. Sellers, Jr., Brett Shanaman, Jamey Traywick and Solomon Woldelessie. Incorporated by reference to Exhibit 10.1 to the Quarterly Report on Form 10-Q for the quarter ended May 3, 2008.
- 10.22 Agreement, dated as of June 25, 2008 between AutoZone, Inc. and ESL Investments, Inc. Incorporated by reference to Exhibit 10.1 to the Current Report on Form 8-K dated June 26, 2008.
- \*10.23 Second Amended and Restated Employment and Non-Compete Agreement between AutoZone, Inc. and Harry L. Goldsmith dated December 29, 2008. Incorporated by reference to Exhibit 10.1 to the Current Report on Form 8-K dated December 30, 2008.

## Table of Contents

- \*10.24 Amended and Restated Employment and Non-Compete Agreement between AutoZone, Inc. and Robert D. Olsen dated December 29, 2008. Incorporated by reference to Exhibit 10.2 to the Current Report on Form 8-K dated December 30, 2008.
- \*10.25 First Amendment to Amended and Restated Employment Agreement between AutoZone, Inc. and Robert D. Olsen dated September 29, 2009. Incorporated by reference to Exhibit 10.1 to the Current Report on Form 8-K dated September 30, 2009.
- \*10.26 AutoZone, Inc. 2010 Executive Incentive Compensation Plan, incorporated by reference to Exhibit A to the definitive proxy statement dated October 26, 2009, for the Annual Meeting of Stockholders held December 16, 2009.
- \*10.27 AutoZone, Inc. 2011 Equity Incentive Award Plan, incorporated by reference to Exhibit A to the definitive proxy statement dated October 25, 2010, for the Annual Meeting of Stockholders held December 15, 2010.
- \*10.28 Form of Stock Option Agreement under the 2006 Stock Option Plan, effective September 2010. Incorporated by reference to Exhibit 10.2 to the Quarterly Report of Form 10-Q dated December 16, 2010.
- \*10.29 Form of Stock Option Agreement under the 2006 Stock Option Plan for certain executive officers, effective September 2010. Incorporated by reference to Exhibit 10.3 to the Quarterly Report of Form 10-Q dated December 16, 2010.
- \*10.30 Form of Letter Agreement dated as of December 14, 2010, amending certain Stock Option Agreements of executive officers. Incorporated by reference to Exhibit 10.4 to the Quarterly Report of Form 10-Q dated December 16, 2010.
- \*10.31 AutoZone, Inc. 2011 Director Compensation Program. Incorporated by reference to Exhibit 10.5 to the Quarterly Report of Form 10-Q dated December 16, 2010.
- \*10.32 Performance-Based Restricted Stock Units Award Agreement dated December 15, 2010, between AutoZone, Inc. and William C. Rhodes, III, incorporated by reference to Exhibit 10.2 to the Form 8-K dated December 15, 2010.
- \*10.33 Restricted Stock Award Grant Notice and Restricted Stock Award Agreement between AutoZone, Inc. and Robert D. Olsen dated January 25, 2011. Incorporated by reference to Exhibit 10.1 to the Quarterly Report of Form 10-Q dated March 17, 2011.
- \*10.34 Form of Stock Option Agreement under the 2011 Equity Incentive Award Plan. Incorporated by reference to Exhibit 10.2 to the Quarterly Report of Form 10-Q dated March 17, 2011.
- \*10.35 Form of Stock Option Agreement under the 2011 Equity Incentive Award Plan for certain executive officers. Incorporated by reference to Exhibit 10.3 to the Quarterly Report of Form 10-Q dated March 17, 2011.
- \*10.36 First Amended and Restated AutoZone, Inc. Enhanced Severance Pay Plan. Incorporated by reference to Exhibit 10.4 to the Quarterly Report of Form 10-Q dated March 17, 2011.
- \*10.37 Form of Stock Option Agreement under the 2011 Equity Incentive Award Plan for officers effective September 27, 2011.
- \*10.38 Form of Stock Option Agreement under the 2011 Equity Incentive Award Plan for certain executive officers effective September 27, 2011.

## Table of Contents

10.39	Amended and Restated Credit Agreement dated as of September, 13, 2011 among AutoZone, Inc. as Borrower, the several Lenders from time to time party thereto, and Bank of America, N.A. as Administrative Agent and Swingline Lender, JPMorgan Chase Bank, N.A. as Syndication Agent, arranged by Merrill Lynch, Pierce, Fenner & Smith Incorporated and J.P. Morgan Securities LLC as Joint Lead Arrangers and Merrill Lynch, Pierce, Fenner & Smith Incorporated, J.P. Morgan Securities LLC, SunTrust Robinson Humphrey, Inc., U.S. Bank National Association, Wells Fargo Securities, LLC and Barclays Capital as Joint Book Runners.
10.40	Sixth Amended and Restated AutoZone, Inc. Employee Stock Purchase Plan.
12.1	Computation of Ratio of Earnings to Fixed Charges.
14.1	Code of Ethical Conduct. Incorporated by reference to Exhibit 14.1 of the Annual Report on Form 10-K for the fiscal year ended August 30, 2003.
21.1	Subsidiaries of the Registrant.
23.1	Consent of Ernst & Young LLP.
31.1	Certification of Principal Executive Officer Pursuant to Rules 13a-14(a) and 15d-14(a) under the Securities Exchange Act of 1934, as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
31.2	Certification of Principal Financial Officer Pursuant to Rules 13a-14(a) and 15d-14(a) under the Securities Exchange Act of 1934, as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
32.1	Certification of Principal Executive Officer Pursuant to 18 U.S.C. Section 1350 as adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
32.2	Certification of Principal Financial Officer Pursuant to 18 U.S.C. Section 1350 as adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
**101.INS	XBRL Instance Document
**101.SCH	XBRL Taxonomy Extension Schema Document
**101.CAL	XBRL Taxonomy Extension Calculation Document
**101.LAB	XBRL Taxonomy Extension Labels Document
**101.PRE	XBRL Taxonomy Extension Presentation Document
**101.DEF	XBRL Taxonomy Extension Definition Document
*	Management contract or compensatory plan or arrangement.
**	In accordance with Regulation S-T, the Interactive Data Files in Exhibit 101 to the Annual Report on Form 10-K shall be deemed “furnished” and not “filed.”

AUTOZONE, INC.  
 2011 EQUITY INCENTIVE AWARD PLAN  
 STOCK OPTION GRANT NOTICE AND  
 STOCK OPTION AGREEMENT

AutoZone, Inc., a Nevada corporation (the “*Company*”), pursuant to its 2011 Equity Incentive Award Plan, as amended from time to time (the “*Plan*”), hereby grants to the individual listed below (the “*Participant*”), an option to purchase the number of shares of the common stock of the Company (“*Common Stock*”), set forth below (the “*Option*”). This Option is subject to all of the terms and conditions set forth herein and in the Stock Option Agreement attached hereto as Exhibit A (the “*Stock Option Agreement*”) and the Plan, which are incorporated herein by reference. Unless otherwise defined herein, the terms defined in the Plan shall have the same defined meanings in this Grant Notice and the Stock Option Agreement.

**Participant:** \_\_\_\_\_

**Grant Date:** \_\_\_\_\_

**Exercise Price per Share:**

\$\_[ \_\_\_\_\_ ] /Share

**Total Exercise Price:**

\$ \_\_\_\_\_

**Total Number of Shares Subject to the Option:**

\_\_\_\_\_ shares

**Expiration Date:** \_\_\_\_\_

**Type of Option:**

Incentive Stock Option

Non-Qualified Stock Option

**Vesting Schedule:**

[To be set forth in individual agreement]

**Termination**

The Option shall terminate on the Expiration Date set forth above or, if earlier, in accordance with the terms of the Stock Option Agreement.

By his or her signature, the Participant agrees to be bound by the terms and conditions of the Plan, the Stock Option Agreement and this Grant Notice. The Participant has reviewed the Stock Option Agreement, the Plan and this Grant Notice in their entirety, has had an opportunity to obtain the advice of counsel prior to executing this Grant Notice and fully understands all provisions of this Grant Notice, the Stock Option Agreement and the Plan. The Participant hereby agrees to accept as binding, conclusive and final all decisions or interpretations of the Administrator upon any questions arising under the Plan or relating to the Option.

**AUTOZONE, INC.**

**PARTICIPANT**

By: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: c/o Stock Administration Dept. \_\_\_\_\_

Address: \_\_\_\_\_

123 South Front Street  
 Memphis, TN 38103

\_\_\_\_\_  
 \_\_\_\_\_

**EXHIBIT A**

**TO STOCK OPTION GRANT NOTICE**

**STOCK OPTION AGREEMENT**

Pursuant to the Stock Option Grant Notice (the “*Grant Notice*”) to which this Stock Option Agreement (this “*Agreement*”) is attached, AutoZone, Inc., a Nevada corporation (the “*Company*”), has granted to the Participant an option under the Company’s 2011 Equity Incentive Award Plan, as amended from time to time (the “*Plan*”) to purchase the number of shares of Common Stock indicated in the Grant Notice.

**ARTICLE I.  
GENERAL**

1.1 Incorporation of Terms of Plan. The Option is subject to the terms and conditions of the Plan which are incorporated herein by reference. In the event of any inconsistency between the Plan and this Agreement, the terms of the Plan shall control.

1.2 Definitions.

(a) “Cause” shall mean the willful engagement by Participant in conduct which is demonstrably or materially injurious to the Company, monetarily or otherwise. For this purpose, no act or failure to act by the Participant shall be considered “willful” unless done, or omitted to be done, by the Participant not in good faith and without reasonable belief that his action or omission was in the best interest of the Company.

(b) “Disability” shall mean a determination by the Company that Participant is “totally disabled,” within its meaning in the Company’s long term disability plan as in effect from time to time.

(c) “Retirement” shall mean Participant’s retirement at normal retirement age, defined as the earliest date on which the Participant (i) has attained age 55, (ii) has completed at least 5 years of full-time service with the Company, and (iii) the sum of the number of full-time years of service and Participant’s age equals at least 65.

**ARTICLE II.**

**GRANT OF OPTION**

2.1 Grant of Option. In consideration of the Participant’s past and/or continued employment with or service to the Company or any of its Affiliates and for other good and valuable consideration, effective as of the Grant Date set forth in the Grant Notice (the “*Grant Date*”), the Company irrevocably grants to the Participant the Option to purchase any part or all of an aggregate of the number of shares of Common Stock set forth in the Grant Notice, upon the terms and conditions set forth in the Plan and this Agreement. Unless designated as a Non-Qualified Stock Option in the Grant Notice, the Option shall be an Incentive Stock Option to the maximum extent permitted by law.

2.2 Exercise Price. The exercise price of the shares of Common Stock subject to the Option shall be as set forth in the Grant Notice, without commission or other charge; *provided, however*, that the price per share of the shares of Common Stock subject to the Option shall not be less than 100% of the Fair Market Value of a share of Common Stock on the Grant Date. Notwithstanding the foregoing, if this Option is designated as an Incentive Stock Option and the Participant is a Greater Than 10% Stockholder as of the Grant Date, the price per share of the shares of Common Stock subject to the Option shall not be less than 110% of the Fair Market Value of a share of Common Stock on the Grant Date.

2.3 Consideration to the Company. In consideration of the grant of the Option by the Company, the Participant agrees to render faithful and efficient services to the Company or any of its Affiliates. Nothing in the Plan or this Agreement shall confer upon the Participant any right to continue in the employ or service of the Company or any of its Affiliates or shall interfere with or restrict in any way the rights of the Company and its Subsidiaries, which rights are hereby expressly reserved, to discharge or terminate the services of the Participant at any time for any reason whatsoever, with or without Cause, except to the extent expressly provided otherwise in a written agreement between the Company or any of its Affiliates and the Participant.

### **ARTICLE III.**

#### **PERIOD OF EXERCISABILITY**

##### 3.1 Commencement of Exercisability.

(a) Subject to Sections 3.2, 3.3, 5.10 and 5.13 hereof, the Option shall become vested and exercisable in such amounts and at such times as are set forth in the Grant Notice.

(b) No portion of the Option which has not become vested and exercisable at the date of the Participant's Termination of Service shall thereafter become vested and exercisable, except as may be otherwise provided by the Administrator or as set forth in a written agreement between the Company and the Participant.

3.2 Duration of Exercisability. The installments provided for in the vesting schedule set forth in the Grant Notice are cumulative. Each such installment which becomes vested and exercisable pursuant to the vesting schedule set forth in the Grant Notice shall remain vested and exercisable until it becomes unexercisable under Section 3.3 hereof.

3.3 Expiration of Option. The Option may not be exercised to any extent by anyone after the first to occur of the following events:

(a) The Expiration Date set forth in the Grant Notice;

(b) If this Option is designated as an Incentive Stock Option and the Participant is a Greater Than 10% Stockholder as of the Grant Date, the expiration of five (5) years from the Grant Date;

(c) [Except to the extent set forth in an employment agreement between the Company and the Participant,] [t]he expiration of ninety (90) days from the date of the Participant's Termination of Service for any reason other than (i) death or Disability, (ii) Retirement or (iii) for Cause;

(d) The expiration of one (1) year from the date of the Participant's Termination of Service by reason of the Participant's death or Disability;

(e) The expiration of the term stated in the Grant Notice following the Participant's Termination of Service due to Retirement; or

(f) The commencement of business on the date of the Participant's Termination of Service by the Company for Cause.

The Participant acknowledges that an Incentive Stock Option exercised more than three (3) months after the Participant's Termination of Employment, other than by reason of death or Disability, will be taxed as a Non-Qualified Stock Option.

3.4 Special Tax Consequences. The Participant acknowledges that, to the extent that the aggregate Fair Market Value (determined as of the time the Option is granted) of all shares of Common Stock with respect to which Incentive Stock Options, including the Option, are exercisable for the first time by the Participant in any calendar year exceeds \$100,000, the Option and such other options shall be Non-Qualified Stock Options to the extent necessary to comply with the limitations imposed by Section 422(d) of the Code. The Participant further acknowledges that the rule set forth in the preceding sentence shall be applied by taking the Option and other "incentive stock options" into account in the order in which they were granted, as determined under Section 422(d) of the Code and the Treasury Regulations thereunder.

#### ARTICLE IV.

##### EXERCISE OF OPTION

4.1 Person Eligible to Exercise. Except as provided in Sections 5.2(c) and 5.2(d) hereof, during the lifetime of the Participant, only the Participant may exercise the Option or any portion thereof. After the death of the Participant, any exercisable portion of the Option may, prior to the time when the Option becomes unexercisable under Section 3.3 hereof, be exercised by the Participant's personal representative or by any person empowered to do so under the deceased Participant's will or under the then-applicable laws of descent and distribution.

4.2 Partial Exercise. Any exercisable portion of the Option or the entire Option, if then wholly exercisable, may be exercised in whole or in part at any time prior to the time when the Option or portion thereof becomes unexercisable under Section 3.3 hereof. However, the Option shall not be exercisable with respect to fractional shares.

4.3 Manner of Exercise. The Option, or any exercisable portion thereof, may be exercised solely by delivery to the Secretary of the Company (or any third party administrator or other person or entity designated by the Company) of all of the following prior to the time when the Option or such portion thereof becomes unexercisable under Section 3.3 hereof:

(a) A written or electronic notice complying with the applicable rules established by the Administrator stating that the Option, or a portion thereof, is exercised. The notice shall be signed by the Participant or other person then entitled to exercise the Option or such portion of the Option;

(b) Full payment of the exercise price and applicable withholding taxes to the stock administrator of the Company for the shares of Common Stock with respect to which the Option, or portion thereof, is exercised, in a manner permitted by Section 4.4 hereof;

(c) Any other written representations or documents as may be required in the Administrator's sole discretion to effect compliance with all applicable provisions of the Securities Act, the Exchange Act, any other federal, state or foreign securities laws or regulations, the rules of any securities exchange or automated quotation system on which the shares of Common Stock are listed, quoted or traded or any other applicable law; and

(d) In the event the Option or portion thereof shall be exercised pursuant to Section 4.1 hereof by any person or persons other than the Participant, appropriate proof of the right of such person or persons to exercise the Option.

Notwithstanding any of the foregoing, the Company shall have the right to specify all conditions of the manner of exercise, which conditions may vary by country and which may be subject to change from time to time.

4.4 Method of Payment. Payment of the exercise price shall be by any of the following, or a combination thereof, at the election of the Participant:

(a) Cash;

(b) Check;

(c) With the consent of the Administrator, delivery of a written or electronic notice that the Participant has placed a market sell order with a broker with respect to shares of Common Stock then issuable upon exercise of the Option, and that the broker has been directed to pay a sufficient portion of the net proceeds of the sale to the Company in satisfaction of the aggregate exercise price; *provided*, that payment of such proceeds is then made to the Company upon settlement of such sale;

(d) With the consent of the Administrator, surrender of other shares of Common Stock which have been owned by the Participant for such period of time as may be required by the Administrator in order to avoid adverse accounting consequences and having a Fair Market Value on the date of surrender equal to the aggregate exercise price of the shares of Common Stock with respect to which the Option or portion thereof is being exercised;

(e) With the consent of the Administrator, surrendered shares of Common Stock issuable upon the exercise of the Option having a Fair Market Value on the date of exercise equal to the aggregate exercise price of the shares of Common Stock with respect to which the Option or portion thereof is being exercised; or

(f) With the consent of the Administrator, such other form of legal consideration as may be acceptable to the Administrator.

4.5 Conditions to Issuance of Stock Certificates. The shares of Common Stock deliverable upon the exercise of the Option, or any portion thereof, may be either previously authorized but unissued shares of Common Stock, treasury shares of Common Stock or issued shares of Common Stock which have then been reacquired by the Company. Such shares of Common Stock shall be fully paid and nonassessable. The Company shall not be required to issue or deliver any certificates or make any book entries evidencing shares of Common Stock purchased upon the exercise of the Option or portion thereof prior to fulfillment of the conditions set forth in Section 11.4 of the Plan.

4.6 Rights as Stockholder. The holder of the Option shall not be, nor have any of the rights or privileges of, a stockholder of the Company in respect of any shares of Common Stock purchasable upon the exercise of any part of the Option unless and until such shares of Common Stock shall have been issued by the Company to such holder (as evidenced by the appropriate entry on the books of the Company or of a duly authorized transfer agent of the Company). No adjustment will be made for a dividend or other right for which the record date is prior to the date the shares of Common Stock are issued, except as provided in Section 13.2 of the Plan.

## ARTICLE V.

### OTHER PROVISIONS

5.1 Administration. The Administrator shall have the power to interpret the Plan and this Agreement and to adopt such rules for the administration, interpretation and application of the Plan as are consistent therewith and to interpret, amend or revoke any such rules. All actions taken and all interpretations and determinations made by the Administrator in good faith shall be final and binding upon the Participant, the Company and all other interested persons. No member of the Administrator or the Board shall be personally liable for any action, determination or interpretation made in good faith with respect to the Plan, this Agreement or the Option.

5.2 Transferability of Option. Except as otherwise set forth in the Plan:

(a) The Option may not be sold, pledged, assigned or transferred in any manner other than by will or the laws of descent and distribution or, subject to the consent of the Administrator, pursuant to a DRO, unless and until the Option has been exercised and the shares underlying the Option have been issued, and all restrictions applicable to such shares have lapsed;

(b) The Option shall not be liable for the debts, contracts or engagements of the Participant or the Participant's successors in interest or shall be subject to disposition by transfer, alienation, anticipation, pledge, hypothecation, encumbrance, assignment or any other means whether such disposition be voluntary or involuntary or by operation of law by judgment, levy, attachment, garnishment or any other legal or equitable proceedings (including bankruptcy) unless and until the Option has been exercised, and any attempted disposition thereof shall be null and void and of no effect, except to the extent that such disposition is permitted by Section 5.2(a) hereof; and

(c) During the lifetime of the Participant, only the Participant may exercise the Option (or any portion thereof), unless it has been disposed of pursuant to a DRO; after the death of the Participant, any exercisable portion of the Option may, prior to the time when such portion becomes unexercisable under the Plan or this Agreement, be exercised by the Participant's personal representative or by any person empowered to do so under the deceased Participant's will or under the then applicable laws of descent and distribution.

(d) Notwithstanding any other provision in this Agreement, the Participant may, in the manner determined by the Administrator, designate a beneficiary to exercise the rights of the Participant and to receive any distribution with respect to the Option upon the Participant's death. A beneficiary, legal guardian, legal representative, or other person claiming any rights pursuant to the Plan is subject to all terms and conditions of the Plan and this Agreement, except to the extent the Plan and this Agreement otherwise provide, and to any additional restrictions deemed necessary or appropriate by the Administrator. If the Participant is married or a domestic partner in a domestic partnership qualified under applicable law and resides in a community property state, a designation of a person other than the Participant's spouse or domestic partner, as applicable, as his or her beneficiary with respect to more than 50% of the Participant's interest in the Option shall not be effective without the prior written consent of the Participant's spouse or domestic partner. If no beneficiary has been designated or survives the Participant, payment shall be made to the person entitled thereto pursuant to the Participant's will or the laws of descent and distribution. Subject to the foregoing, a beneficiary designation may be changed or revoked by the Participant at any time provided the change or revocation is filed with the Administrator prior to the Participant's death.

5.3 Tax Consultation. Participant understands that Participant may suffer adverse tax consequences as a result of the grant, vesting and/or exercise of the Option, and/or with the purchase or disposition of the shares of Common Stock subject to the Option. Participant represents that Participant has consulted with any tax consultants Participant deems advisable in connection with the purchase or disposition of such shares and that Participant is not relying on the Company for any tax advice.

5.4 Adjustments. The Participant acknowledges that the Option is subject to modification and termination in certain events as provided in this Agreement and Article 13 of the Plan.

5.5 Notices. Any notice to be given by the Participant under the terms of this Agreement shall be addressed to the Secretary of the Company (or, in the event that the Participant is the Secretary of the Company, then to the Company's non-executive Chairman of the Board or Lead Director). Any notice to be given to the Participant shall be addressed to him at his home address on record with the Company. By a notice given pursuant to this Section 5.5, either party may hereafter designate a different address for notices to be given to him. Any notice which is required to be given to the Participant shall, if Participant is then deceased, be given to the Participant's personal representative if such representative has previously informed the Company of his or her status and address by written notice under this Section 5.5. Any notice required or permitted hereunder shall be given in writing and shall be deemed effectively given upon personal delivery or upon deposit in the United States mail by certified mail, with postage and fees prepaid, addressed as set forth above or upon confirmation of delivery by a nationally recognized overnight delivery service.

5.6 Participant's Representations. If the shares of Common Stock purchasable pursuant to the exercise of this Option have not been registered under the Securities Act or any applicable state laws on an effective registration statement at the time this Option is exercised, the Participant shall, if required by the Company, concurrently with the exercise of all or any portion of this Option, make such written representations as are deemed necessary or appropriate by the Company and/or its counsel.

5.7 Captions. Captions are provided herein for convenience only and are not to serve as a basis for interpretation or construction of this Agreement.

5.8 Governing Law. The laws of the State of Nevada shall govern the interpretation, validity, administration, enforcement and performance of the terms of this Agreement regardless of the law that might be applied under principles of conflicts of laws.

5.9 Conformity to Securities Laws. The Participant acknowledges that the Plan and this Agreement are intended to conform to the extent necessary with all provisions of the Securities Act and the Exchange Act and any and all regulations and rules promulgated by the Securities and Exchange Commission thereunder, and state securities laws and regulations. Notwithstanding anything herein to the contrary, the Plan shall be administered, and the Option is granted and may be exercised, only in such a manner as to conform to such laws, rules and regulations. To the extent permitted by applicable law, the Plan and this Agreement shall be deemed amended to the extent necessary to conform to such laws, rules and regulations.

5.10 Amendments, Suspension and Termination. To the extent permitted by the Plan, this Agreement may be wholly or partially amended or otherwise modified, suspended or terminated at any time or from time to time by the Committee or the Board, *provided, however*, that, except as may otherwise be provided by the Plan, no amendment, modification, suspension or termination of this Agreement shall adversely affect the Option in any material way without the prior written consent of the Participant.

5.11 Successors and Assigns. The Company may assign any of its rights under this Agreement to single or multiple assignees, and this Agreement shall inure to the benefit of the successors and assigns of the Company. Subject to the restrictions on transfer herein set forth in this Article 5, this Agreement shall be binding upon the Participant and his or her heirs, executors, administrators, successors and assigns.

5.12 Notification of Disposition. If this Option is designated as an Incentive Stock Option, the Participant shall give prompt notice to the Company of any disposition or other transfer of any shares of Common Stock acquired under this Agreement if such disposition or transfer is made (a) within two years from the Grant Date with respect to such shares of Common Stock or (b) within one year after the transfer of such shares of Common Stock to the Participant. Such notice shall specify the date of such disposition or other transfer and the amount realized, in cash, other property, assumption of indebtedness or other consideration, by the Participant in such disposition or other transfer.

5.13 Limitations Applicable to Section 16 Persons. Notwithstanding any other provision of the Plan or this Agreement, if the Participant is subject to Section 16 of the Exchange Act, the Plan, the Option and this Agreement shall be subject to any additional limitations set forth in any applicable exemptive rule under Section 16 of the Exchange Act (including any amendment to Rule 16b-3 of the Exchange Act) that are requirements for the application of such exemptive rule. To the extent permitted by applicable law, this Agreement shall be deemed amended to the extent necessary to conform to such applicable exemptive rule.

5.14 Not a Contract of Service. Nothing in this Agreement or in the Plan shall confer upon the Participant any right to continue to serve as an employee or other service provider of the Company or any of its Affiliates.

5.15 Entire Agreement. The Plan, the Grant Notice and this Agreement (including all Exhibits thereto) constitute the entire agreement of the parties and supersede in their entirety all prior undertakings and agreements of the Company and its Affiliates and the Participant with respect to the subject matter hereof.

5.16 Section 409A. Notwithstanding any other provision of the Plan, this Agreement or the Grant Notice, the Plan, this Agreement and the Grant Notice shall be interpreted in accordance with the requirements of Section 409A of the Code (together with any Department of Treasury regulations and other interpretive guidance issued thereunder, including without limitation any such regulations or other guidance that may be issued after the date hereof, "**Section 409A**"). The Administrator may, in its discretion, adopt such amendments to the Plan, this Agreement or the Grant Notice or adopt other policies and procedures (including amendments, policies and procedures with retroactive effect), or take any other actions, as the Administrator determines are necessary or appropriate to comply with the requirements of Section 409A.

**AUTOZONE, INC.  
2011 EQUITY INCENTIVE AWARD PLAN  
STOCK OPTION GRANT NOTICE AND  
STOCK OPTION AGREEMENT**

AutoZone, Inc., a Nevada corporation (the “*Company*”), pursuant to its 2011 Equity Incentive Award Plan, as amended from time to time (the “*Plan*”), hereby grants to the individual listed below (the “*Participant*”), an option to purchase the number of shares of the common stock of the Company (“*Common Stock*”), set forth below (the “*Option*”). This Option is subject to all of the terms and conditions set forth herein and in the Stock Option Agreement attached hereto as Exhibit A (the “*Stock Option Agreement*”) and the Plan, which are incorporated herein by reference. Unless otherwise defined herein, the terms defined in the Plan shall have the same defined meanings in this Grant Notice and the Stock Option Agreement.

**Participant:** \_\_\_\_\_

**Grant Date:** \_\_\_\_\_

**Exercise Price per Share:** \$[ \_\_\_\_\_ ] /Share

**Total Exercise Price:** \$ \_\_\_\_\_

**Total Number of Shares Subject to the Option:** \_\_\_\_\_ shares

**Expiration Date:** \_\_\_\_\_

**Type of Option:**     Incentive Stock Option                       Non-Qualified Stock Option

**Vesting Schedule:**    [To be set forth in individual agreement]

**Termination**                      The Option shall terminate on the Expiration Date set forth above or, if earlier, in accordance with the terms of the Stock Option Agreement.

By his or her signature, the Participant agrees to be bound by the terms and conditions of the Plan, the Stock Option Agreement and this Grant Notice. The Participant has reviewed the Stock Option Agreement, the Plan and this Grant Notice in their entirety, has had an opportunity to obtain the advice of counsel prior to executing this Grant Notice and fully understands all provisions of this Grant Notice, the Stock Option Agreement and the Plan. The Participant hereby agrees to accept as binding, conclusive and final all decisions or interpretations of the Administrator upon any questions arising under the Plan or relating to the Option.

<p><b>AUTOZONE, INC.</b></p> <p>By: _____</p> <p>Print Name: _____</p> <p>Title: _____</p> <p>Address: c/o Stock Administration Dept. 123 South Front Street Memphis, TN 38103</p>	<p><b>PARTICIPANT</b></p> <p>By: _____</p> <p>Print Name: _____</p> <p>Address: _____</p>
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**EXHIBIT A**

**TO STOCK OPTION GRANT NOTICE**

**STOCK OPTION AGREEMENT**

Pursuant to the Stock Option Grant Notice (the “*Grant Notice*”) to which this Stock Option Agreement (this “*Agreement*”) is attached, AutoZone, Inc., a Nevada corporation (the “*Company*”), has granted to the Participant an option under the Company’s 2011 Equity Incentive Award Plan, as amended from time to time (the “*Plan*”) to purchase the number of shares of Common Stock indicated in the Grant Notice.

**ARTICLE I.**

**GENERAL**

1.1 Incorporation of Terms of Plan. The Option is subject to the terms and conditions of the Plan which are incorporated herein by reference. In the event of any inconsistency between the Plan and this Agreement, the terms of the Plan shall control.

1.2 Definitions.

(a) “Cause” shall mean the willful engagement by Participant in conduct which is demonstrably or materially injurious to the Company, monetarily or otherwise. For this purpose, no act or failure to act by the Participant shall be considered “willful” unless done, or omitted to be done, by the Participant not in good faith and without reasonable belief that his action or omission was in the best interest of the Company.

(b) “Disability” shall mean a determination by the Company that Participant is “totally disabled,” within its meaning in the Company’s long term disability plan as in effect from time to time.

(c) “Retirement” shall mean Participant’s retirement at normal retirement age, defined as the earliest date on which the Participant (i) has attained age 55, (ii) has completed at least 5 years of full-time service with the Company, and (iii) the sum of the number of full-time years of service and Participant’s age equals at least 65.

**ARTICLE II.**

**GRANT OF OPTION**

2.1 Grant of Option. In consideration of the Participant’s past and/or continued employment with or service to the Company or any of its Affiliates and for other good and valuable consideration, effective as of the Grant Date set forth in the Grant Notice (the “*Grant Date*”), the Company irrevocably grants to the Participant the Option to purchase any part or all of an aggregate of the number of shares of Common Stock set forth in the Grant Notice, upon the terms and conditions set forth in the Plan and this Agreement. Unless designated as a Non-Qualified Stock Option in the Grant Notice, the Option shall be an Incentive Stock Option to the maximum extent permitted by law.

2.2 Exercise Price. The exercise price of the shares of Common Stock subject to the Option shall be as set forth in the Grant Notice, without commission or other charge; *provided, however*, that the price per share of the shares of Common Stock subject to the Option shall not be less than 100% of the Fair Market Value of a share of Common Stock on the Grant Date. Notwithstanding the foregoing, if this Option is designated as an Incentive Stock Option and the Participant is a Greater Than 10% Stockholder as of the Grant Date, the price per share of the shares of Common Stock subject to the Option shall not be less than 110% of the Fair Market Value of a share of Common Stock on the Grant Date.

2.3 Consideration to the Company. In consideration of the grant of the Option by the Company, the Participant agrees to render faithful and efficient services to the Company or any of its Affiliates. Nothing in the Plan or this Agreement shall confer upon the Participant any right to continue in the employ or service of the Company or any of its Affiliates or shall interfere with or restrict in any way the rights of the Company and its Subsidiaries, which rights are hereby expressly reserved, to discharge or terminate the services of the Participant at any time for any reason whatsoever, with or without Cause, except to the extent expressly provided otherwise in a written agreement between the Company or any of its Affiliates and the Participant.

### ARTICLE III.

#### PERIOD OF EXERCISABILITY

##### 3.1 Commencement of Exercisability.

(a) Subject to Sections 3.2, 3.3, 5.10 and 5.13 hereof, the Option shall become vested and exercisable in such amounts and at such times as are set forth in the Grant Notice.

(b) No portion of the Option which has not become vested and exercisable at the date of the Participant's Termination of Service shall thereafter become vested and exercisable, except as may be otherwise provided by the Administrator or as set forth in a written agreement between the Company and the Participant.

3.2 Duration of Exercisability. The installments provided for in the vesting schedule set forth in the Grant Notice are cumulative. Each such installment which becomes vested and exercisable pursuant to the vesting schedule set forth in the Grant Notice shall remain vested and exercisable until it becomes unexercisable under Section 3.3 hereof.

3.3 Expiration of Option. The Option may not be exercised to any extent by anyone after the first to occur of the following events:

(a) The Expiration Date set forth in the Grant Notice;

(b) If this Option is designated as an Incentive Stock Option and the Participant is a Greater Than 10% Stockholder as of the Grant Date, the expiration of five (5) years from the Grant Date;

(c) [Except to the extent set forth in an employment agreement between the Company and the Participant,] [t]he expiration of ninety (90) days from the date of the Participant's Termination of Service for any reason other than (i) death or Disability, (ii) Retirement or (iii) by the Company for Cause or other than for Cause;

(d) The expiration of one (1) year from the date of the Participant's Termination of Service by reason of the Participant's death or Disability;

(e) The expiration of the term stated in the Grant Notice following the Participant's Termination of Service due to Retirement;

(f) The commencement of business on the date of the Participant's Termination of Service by the Company for Cause; or

(g) [Except to the extent set forth in an employment agreement between the Company and the Participant,] [i]n the event of the Participant's Termination of Service by the Company other than for Cause, the expiration of the "Severance Period" as defined in the Non-Compete and Severance Agreement between the Participant and the Company (*provided, however*, that no portion of the Option which has not vested and become exercisable as of the date of the Participant's Termination of Service shall thereafter vest and become exercisable).

The Participant acknowledges that an Incentive Stock Option exercised more than three (3) months after the Participant's Termination of Employment, other than by reason of death or Disability, will be taxed as a Non-Qualified Stock Option.

3.4 Special Tax Consequences. The Participant acknowledges that, to the extent that the aggregate Fair Market Value (determined as of the time the Option is granted) of all shares of Common Stock with respect to which Incentive Stock Options, including the Option, are exercisable for the first time by the Participant in any calendar year exceeds \$100,000, the Option and such other options shall be Non-Qualified Stock Options to the extent necessary to comply with the limitations imposed by Section 422(d) of the Code. The Participant further acknowledges that the rule set forth in the preceding sentence shall be applied by taking the Option and other "incentive stock options" into account in the order in which they were granted, as determined under Section 422(d) of the Code and the Treasury Regulations thereunder.

#### ARTICLE IV.

#### EXERCISE OF OPTION

4.1 Person Eligible to Exercise. Except as provided in Sections 5.2(c) and 5.2(d) hereof, during the lifetime of the Participant, only the Participant may exercise the Option or any portion thereof. After the death of the Participant, any exercisable portion of the Option may, prior to the time when the Option becomes unexercisable under Section 3.3 hereof, be exercised by the Participant's personal representative or by any person empowered to do so under the deceased Participant's will or under the then-applicable laws of descent and distribution.

4.2 Partial Exercise. Any exercisable portion of the Option or the entire Option, if then wholly exercisable, may be exercised in whole or in part at any time prior to the time when the Option or portion thereof becomes unexercisable under Section 3.3 hereof. However, the Option shall not be exercisable with respect to fractional shares.

4.3 Manner of Exercise. The Option, or any exercisable portion thereof, may be exercised solely by delivery to the Secretary of the Company (or any third party administrator or other person or entity designated by the Company) of all of the following prior to the time when the Option or such portion thereof becomes unexercisable under Section 3.3 hereof:

(a) A written or electronic notice complying with the applicable rules established by the Administrator stating that the Option, or a portion thereof, is exercised. The notice shall be signed by the Participant or other person then entitled to exercise the Option or such portion of the Option;

(b) Full payment of the exercise price and applicable withholding taxes to the stock administrator of the Company for the shares of Common Stock with respect to which the Option, or portion thereof, is exercised, in a manner permitted by Section 4.4 hereof;

(c) Any other written representations or documents as may be required in the Administrator's sole discretion to effect compliance with all applicable provisions of the Securities Act, the Exchange Act, any other federal, state or foreign securities laws or regulations, the rules of any securities exchange or automated quotation system on which the shares of Common Stock are listed, quoted or traded or any other applicable law; and

(d) In the event the Option or portion thereof shall be exercised pursuant to Section 4.1 hereof by any person or persons other than the Participant, appropriate proof of the right of such person or persons to exercise the Option.

Notwithstanding any of the foregoing, the Company shall have the right to specify all conditions of the manner of exercise, which conditions may vary by country and which may be subject to change from time to time.

4.4 Method of Payment. Payment of the exercise price shall be by any of the following, or a combination thereof, at the election of the Participant:

(a) Cash;

(b) Check;

(c) With the consent of the Administrator, delivery of a written or electronic notice that the Participant has placed a market sell order with a broker with respect to shares of Common Stock then issuable upon exercise of the Option, and that the broker has been directed to pay a sufficient portion of the net proceeds of the sale to the Company in satisfaction of the aggregate exercise price; *provided*, that payment of such proceeds is then made to the Company upon settlement of such sale;

(d) With the consent of the Administrator, surrender of other shares of Common Stock which have been owned by the Participant for such period of time as may be required by the Administrator in order to avoid adverse accounting consequences and having a Fair Market Value on the date of surrender equal to the aggregate exercise price of the shares of Common Stock with respect to which the Option or portion thereof is being exercised;

(e) With the consent of the Administrator, surrendered shares of Common Stock issuable upon the exercise of the Option having a Fair Market Value on the date of exercise equal to the aggregate exercise price of the shares of Common Stock with respect to which the Option or portion thereof is being exercised; or

(f) With the consent of the Administrator, such other form of legal consideration as may be acceptable to the Administrator.

4.5 Conditions to Issuance of Stock Certificates. The shares of Common Stock deliverable upon the exercise of the Option, or any portion thereof, may be either previously authorized but unissued shares of Common Stock, treasury shares of Common Stock or issued shares of Common Stock which have then been reacquired by the Company. Such shares of Common Stock shall be fully paid and nonassessable. The Company shall not be required to issue or deliver any certificates or make any book entries evidencing shares of Common Stock purchased upon the exercise of the Option or portion thereof prior to fulfillment of the conditions set forth in Section 11.4 of the Plan.

4.6 Rights as Stockholder. The holder of the Option shall not be, nor have any of the rights or privileges of, a stockholder of the Company in respect of any shares of Common Stock purchasable upon the exercise of any part of the Option unless and until such shares of Common Stock shall have been issued by the Company to such holder (as evidenced by the appropriate entry on the books of the Company or of a duly authorized transfer agent of the Company). No adjustment will be made for a dividend or other right for which the record date is prior to the date the shares of Common Stock are issued, except as provided in Section 13.2 of the Plan.

## ARTICLE V.

### OTHER PROVISIONS

5.1 Administration. The Administrator shall have the power to interpret the Plan and this Agreement and to adopt such rules for the administration, interpretation and application of the Plan as are consistent therewith and to interpret, amend or revoke any such rules. All actions taken and all interpretations and determinations made by the Administrator in good faith shall be final and binding upon the Participant, the Company and all other interested persons. No member of the Administrator or the Board shall be personally liable for any action, determination or interpretation made in good faith with respect to the Plan, this Agreement or the Option.

5.2 Transferability of Option. Except as otherwise set forth in the Plan:

(a) The Option may not be sold, pledged, assigned or transferred in any manner other than by will or the laws of descent and distribution or, subject to the consent of the Administrator, pursuant to a DRO, unless and until the Option has been exercised and the shares underlying the Option have been issued, and all restrictions applicable to such shares have lapsed;

(b) The Option shall not be liable for the debts, contracts or engagements of the Participant or the Participant's successors in interest or shall be subject to disposition by transfer, alienation, anticipation, pledge, hypothecation, encumbrance, assignment or any other means whether such disposition be voluntary or involuntary or by operation of law by judgment, levy, attachment, garnishment or any other legal or equitable proceedings (including bankruptcy) unless and until the Option has been exercised, and any attempted disposition thereof shall be null and void and of no effect, except to the extent that such disposition is permitted by Section 5.2(a) hereof; and

(c) During the lifetime of the Participant, only the Participant may exercise the Option (or any portion thereof), unless it has been disposed of pursuant to a DRO; after the death of the Participant, any exercisable portion of the Option may, prior to the time when such portion becomes unexercisable under the Plan or this Agreement, be exercised by the Participant's personal representative or by any person empowered to do so under the deceased Participant's will or under the then applicable laws of descent and distribution.

(d) Notwithstanding any other provision in this Agreement, the Participant may, in the manner determined by the Administrator, designate a beneficiary to exercise the rights of the Participant and to receive any distribution with respect to the Option upon the Participant's death. A beneficiary, legal guardian, legal representative, or other person claiming any rights pursuant to the Plan is subject to all terms and conditions of the Plan and this Agreement, except to the extent the Plan and this Agreement otherwise provide, and to any additional restrictions deemed necessary or appropriate by the Administrator. If the Participant is married or a domestic partner in a domestic partnership qualified under applicable law and resides in a community property state, a designation of a person other than the Participant's spouse or domestic partner, as applicable, as his or her beneficiary with respect to more than 50% of the Participant's interest in the Option shall not be effective without the prior written consent of the Participant's spouse or domestic partner. If no beneficiary has been designated or survives the Participant, payment shall be made to the person entitled thereto pursuant to the Participant's will or the laws of descent and distribution. Subject to the foregoing, a beneficiary designation may be changed or revoked by the Participant at any time provided the change or revocation is filed with the Administrator prior to the Participant's death.

5.3 Tax Consultation. Participant understands that Participant may suffer adverse tax consequences as a result of the grant, vesting and/or exercise of the Option, and/or with the purchase or disposition of the shares of Common Stock subject to the Option. Participant represents that Participant has consulted with any tax consultants Participant deems advisable in connection with the purchase or disposition of such shares and that Participant is not relying on the Company for any tax advice.

5.4 Adjustments. The Participant acknowledges that the Option is subject to modification and termination in certain events as provided in this Agreement and Article 13 of the Plan.

5.5 Notices. Any notice to be given by the Participant under the terms of this Agreement shall be addressed to the Secretary of the Company (or, in the event that the Participant is the Secretary of the Company, then to the Company's non-executive Chairman of the Board or Lead Director). Any notice to be given to the Participant shall be addressed to him at his home address on record with the Company. By a notice given pursuant to this Section 5.5, either party may hereafter designate a different address for notices to be given to him. Any notice which is required to be given to the Participant shall, if Participant is then deceased, be given to the Participant's personal representative if such representative has previously informed the Company of his or her status and address by written notice under this Section 5.5. Any notice required or permitted hereunder shall be given in writing and shall be deemed effectively given upon personal delivery or upon deposit in the United States mail by certified mail, with postage and fees prepaid, addressed as set forth above or upon confirmation of delivery by a nationally recognized overnight delivery service.

5.6 Participant's Representations. If the shares of Common Stock purchasable pursuant to the exercise of this Option have not been registered under the Securities Act or any applicable state laws on an effective registration statement at the time this Option is exercised, the Participant shall, if required by the Company, concurrently with the exercise of all or any portion of this Option, make such written representations as are deemed necessary or appropriate by the Company and/or its counsel.

5.7 Captions. Captions are provided herein for convenience only and are not to serve as a basis for interpretation or construction of this Agreement.

5.8 Governing Law. The laws of the State of Nevada shall govern the interpretation, validity, administration, enforcement and performance of the terms of this Agreement regardless of the law that might be applied under principles of conflicts of laws.

5.9 Conformity to Securities Laws. The Participant acknowledges that the Plan and this Agreement are intended to conform to the extent necessary with all provisions of the Securities Act and the Exchange Act and any and all regulations and rules promulgated by the Securities and Exchange Commission thereunder, and state securities laws and regulations. Notwithstanding anything herein to the contrary, the Plan shall be administered, and the Option is granted and may be exercised, only in such a manner as to conform to such laws, rules and regulations. To the extent permitted by applicable law, the Plan and this Agreement shall be deemed amended to the extent necessary to conform to such laws, rules and regulations.

5.10 Amendments, Suspension and Termination. To the extent permitted by the Plan, this Agreement may be wholly or partially amended or otherwise modified, suspended or terminated at any time or from time to time by the Committee or the Board, *provided, however*, that, except as may otherwise be provided by the Plan, no amendment, modification, suspension or termination of this Agreement shall adversely affect the Option in any material way without the prior written consent of the Participant.

5.11 Successors and Assigns. The Company may assign any of its rights under this Agreement to single or multiple assignees, and this Agreement shall inure to the benefit of the successors and assigns of the Company. Subject to the restrictions on transfer herein set forth in this Article 5, this Agreement shall be binding upon the Participant and his or her heirs, executors, administrators, successors and assigns.

5.12 Notification of Disposition. If this Option is designated as an Incentive Stock Option, the Participant shall give prompt notice to the Company of any disposition or other transfer of any shares of Common Stock acquired under this Agreement if such disposition or transfer is made (a) within two years from the Grant Date with respect to such shares of Common Stock or (b) within one year after the transfer of such shares of Common Stock to the Participant. Such notice shall specify the date of such disposition or other transfer and the amount realized, in cash, other property, assumption of indebtedness or other consideration, by the Participant in such disposition or other transfer.

5.13 Limitations Applicable to Section 16 Persons. Notwithstanding any other provision of the Plan or this Agreement, if the Participant is subject to Section 16 of the Exchange Act, the Plan, the Option and this Agreement shall be subject to any additional limitations set forth in any applicable exemptive rule under Section 16 of the Exchange Act (including any amendment to Rule 16b-3 of the Exchange Act) that are requirements for the application of such exemptive rule. To the extent permitted by applicable law, this Agreement shall be deemed amended to the extent necessary to conform to such applicable exemptive rule.

5.14 Not a Contract of Service. Nothing in this Agreement or in the Plan shall confer upon the Participant any right to continue to serve as an employee or other service provider of the Company or any of its Affiliates.

5.15 Entire Agreement. The Plan, the Grant Notice and this Agreement (including all Exhibits thereto) constitute the entire agreement of the parties and supersede in their entirety all prior undertakings and agreements of the Company and its Affiliates and the Participant with respect to the subject matter hereof.

5.16 Section 409A. Notwithstanding any other provision of the Plan, this Agreement or the Grant Notice, the Plan, this Agreement and the Grant Notice shall be interpreted in accordance with the requirements of Section 409A of the Code (together with any Department of Treasury regulations and other interpretive guidance issued thereunder, including without limitation any such regulations or other guidance that may be issued after the date hereof, "**Section 409A**"). The Administrator may, in its discretion, adopt such amendments to the Plan, this Agreement or the Grant Notice or adopt other policies and procedures (including amendments, policies and procedures with retroactive effect), or take any other actions, as the Administrator determines are necessary or appropriate to comply with the requirements of Section 409A.

AMENDED AND RESTATED  
CREDIT AGREEMENT

Dated as of September 13, 2011

among

AUTOZONE, INC.,  
as Borrower,

THE SEVERAL LENDERS  
FROM TIME TO TIME PARTY HERETO

AND

BANK OF AMERICA, N.A.,  
as Administrative Agent and Swingline Lender

and

JPMORGAN CHASE BANK, N.A.,  
as Syndication Agent

MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED

and

J.P. MORGAN SECURITIES LLC,  
as Joint Lead Arrangers

and

MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED,

J.P. MORGAN SECURITIES LLC,  
SUNTRUST ROBINSON HUMPHREY, INC.,  
U.S. BANK NATIONAL ASSOCIATION,  
WELLS FARGO SECURITIES, LLC

and

BARCLAYS CAPITAL,  
as Joint Book Runners

and

SUNTRUST BANK,  
U.S. BANK NATIONAL ASSOCIATION,  
WELLS FARGO BANK, NATIONAL ASSOCIATION

and

BARCLAYS BANK PLC,  
as Documentation Agents

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## TABLE OF CONTENTS

	<u>Page</u>
SECTION 1 DEFINITIONS	1
1.1 Definitions	1
1.2 Computation of Time Periods	20
1.3 Accounting Terms	20
1.4 Time of Day	20
SECTION 2 CREDIT FACILITIES	20
2.1 Revolving Loans	20
2.2 Reserved	22
2.3 Swingline Loan Subfacility	22
2.4 Letters of Credit	24
SECTION 3 OTHER PROVISIONS RELATING TO CREDIT FACILITIES	32
3.1 Default Rate	32
3.2 Extension and Conversion	32
3.3 Prepayments	33
3.4 Termination, Reduction and Increase of Revolving Committed Amount	34
3.5 Fees	37
3.6 Capital Adequacy	38
3.7 Inability To Determine Interest Rate	38
3.8 Illegality	38
3.9 Yield Protection	39
3.10 Withholding Tax Exemption	39
3.11 Indemnity	40
3.12 Pro Rata Treatment	41
3.13 Payments Generally; Administrative Agent's Clawback	41
3.14 Sharing of Payments	42
3.15 Payments, Computations, Etc.	43
3.16 Evidence of Debt	44
3.17 Replacement of Lenders	45
3.18 Cash Collateral	45
3.19 Defaulting Lenders	46
SECTION 4 CONDITIONS	48
4.1 Closing Conditions	48
4.2 Conditions to all Extensions of Credit	49
SECTION 5 REPRESENTATIONS AND WARRANTIES	50
5.1 Financial Position; No Internal Control Event	50
5.2 Organization; Existence; Compliance with Law	50
5.3 Power; Authorization; Enforceable Obligations	50
5.4 No Legal Bar	51
5.5 No Material Litigation	51
5.6 No Default	51
5.7 Ownership of Property; Liens	51

	<u>Page</u>
5.8 No Burdensome Restrictions	51
5.9 Taxes	51
5.10 ERISA	52
5.11 Governmental Regulations, Etc.	52
5.12 Subsidiaries	53
5.13 Purpose of Loans	53
5.14 Disclosure	53
5.15 Taxpayer Identification Number	54
5.16 Environmental Compliance	54
5.17 Solvency	54
5.18 OFAC	54
5.19 Patriot Act	54
<b>SECTION 6 AFFIRMATIVE COVENANTS</b>	<b>55</b>
6.1 Information Covenants	55
6.2 Preservation of Existence and Franchises	58
6.3 Books and Records	58
6.4 Compliance with Law	58
6.5 Payment of Taxes and Other Indebtedness	58
6.6 Insurance	58
6.7 Maintenance of Property	59
6.8 Use of Proceeds	59
6.9 Audits/Inspections	59
6.10 Adjusted Debt to EBITDAR Ratio	59
6.11 Interest Coverage Ratio	59
<b>SECTION 7 NEGATIVE COVENANTS</b>	<b>59</b>
7.1 Liens	59
7.2 Nature of Business	60
7.3 Consolidation, Merger, Sale or Purchase of Assets, etc.	60
7.4 Fiscal Year	61
7.5 Subsidiary Indebtedness	61
<b>SECTION 8 EVENTS OF DEFAULT</b>	<b>62</b>
8.1 Events of Default	62
8.2 Acceleration; Remedies	64
<b>SECTION 9 AGENCY PROVISIONS</b>	<b>64</b>
9.1 Appointment and Authority	64
9.2 Delegation of Duties	65
9.3 Exculpatory Provisions	65
9.4 Reliance on Communications	65
9.5 Notice of Default	66
9.6 Non-Reliance on Administrative Agent and Other Lenders	66
9.7 Indemnification	66
9.8 Administrative Agent in its Individual Capacity	67
9.9 Successor Administrative Agent	67
9.10 Syndication Agent	68

	<u>Page</u>
SECTION 10 MISCELLANEOUS	68
10.1 Notices	68
10.2 Right of Set-Off	70
10.3 Successors and Assigns	71
10.4 No Waiver; Remedies Cumulative	75
10.5 Payment of Expenses, etc.	75
10.6 Amendments, Waivers and Consents	76
10.7 Counterparts	77
10.8 Headings	77
10.9 Survival	77
10.10 Governing Law; Submission to Jurisdiction; Venue	78
10.11 Severability	78
10.12 Entirety	78
10.13 Binding Effect; Termination	79
10.14 Confidentiality	79
10.15 Source of Funds	79
10.16 Conflict	80
10.17 USA PATRIOT Act Notice	80
10.18 No Advisory or Fiduciary Responsibility	81

## SCHEDULES

Schedule 1.1	Applicable Margin Pricing Levels
Schedule 2.1(a)	Lenders
Schedule 2.1(b)(i)	Form of Notice of Borrowing
Schedule 2.1(e)	Form of Revolving Note
Schedule 2.3(d)	Form of Swingline Note
Schedule 2.4	Existing Letters of Credit
Schedule 3.2	Form of Notice of Extension/Conversion
Schedule 3.4(b)	Form of New Commitment Agreement
Schedule 5.5	Material Litigation
Schedule 5.12	Subsidiaries
Schedule 6.1(c)	Form of Officer's Compliance Certificate
Schedule 7.5	Subsidiary Indebtedness
Schedule 10.1	Administrative Agent's Office; Certain Addresses for Notices
Schedule 10.3(a)	Form of Assignment and Acceptance

**AMENDED AND RESTATED  
CREDIT AGREEMENT**

**THIS AMENDED AND RESTATED CREDIT AGREEMENT** dated as of September 13, 2011 (“Credit Agreement”), is by and among **AUTOZONE, INC.**, a Nevada corporation (the “Borrower”), the several lenders identified on the signature pages hereto and such other lenders as may from time to time become a party hereto (the “Lenders”), **BANK OF AMERICA, N.A.**, as administrative agent for the Lenders (in such capacity, the “Administrative Agent”), and **JPMORGAN CHASE BANK, N.A.**, as syndication agent (in such capacity, the “Syndication Agent”).

**WITNESSETH**

**WHEREAS**, the Borrower, the lenders party thereto, Bank of America, N.A., as Administrative Agent, and certain other Persons are party to that certain Credit Agreement dated as of July 9, 2009 (as amended prior to the date hereof, the “Existing Credit Agreement”).

**WHEREAS**, the Borrower, the Administrative Agent and the Lenders have agreed to amend and restate the Existing Credit Agreement in its entirety upon and subject to the terms and conditions set forth herein.

**NOW, THEREFORE, IN CONSIDERATION** of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

**SECTION 1**

**DEFINITIONS**

**1.1 Definitions.**

As used in this Credit Agreement, the following terms shall have the meanings specified below unless the context otherwise requires:

“Administrative Agent” shall have the meaning assigned to such term in the heading hereof, together with any successors or assigns.

“Administrative Agent’s Fee Letter” means that certain letter agreement, dated as of August 19, 2011, among the Administrative Agent, Merrill Lynch, Pierce, Fenner & Smith Incorporated and the Borrower, as amended, modified, supplemented or replaced from time to time.

“Administrative Agent’s Fees” shall have the meaning assigned to such term in Section 3.5(b).

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

“Affiliate” means, with respect to any Person, any other Person (i) directly or indirectly controlling or controlled by or under direct or indirect common control with such Person or (ii) directly or indirectly owning or holding five percent (5%) or more of the equity interest in such Person. For purposes of this definition, “control” when used with respect to any Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms “controlling” and “controlled” have meanings correlative to the foregoing.

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“Applicable Margin” means for purposes of calculating the applicable Facility Fee for any day under Section 3.5(a), the applicable interest rate for any day for any Eurodollar Loan, the applicable Letter of Credit Fee for any day under Section 3.5(c) (i) and the applicable interest rate for any day for any Base Rate Loan, the Applicable Margin for the appropriate Pricing Level set forth on Schedule 1.1. The appropriate Pricing Level for the Applicable Margin calculation shall be determined and adjusted on the following dates (each a “Calculation Date”):

(i) on the Closing Date;

(ii) where the Borrower has a senior unsecured (non-credit enhanced) long term debt rating from S&P, Moody’s and/or Fitch, five (5) Business Days after a change in any such debt rating, based on such debt rating(s); and

(iii) where the Borrower previously had a senior unsecured (non-credit enhanced) long term debt rating from S&P, Moody’s and/or Fitch, but any or all three of S&P, Moody’s and Fitch withdraws its rating such that the Borrower’s senior unsecured (non-credit enhanced) long term debt no longer is rated by S&P, Moody’s or Fitch, five (5) Business Days after the withdrawal of the last to exist of such previous debt ratings, in which event the Applicable Margins (including the Applicable Margin for the Facility Fee) shall be based on Pricing Level VI until the earlier of (A) such time as S&P, Moody’s and/or Fitch provides another rating for such debt of the Borrower or (B) the Required Lenders have agreed to an alternative pricing grid or other method for determining Pricing Levels pursuant to an effective amendment to this Credit Agreement.

The appropriate Pricing Level for the Applicable Margin calculation shall be effective from a Calculation Date until the next such Calculation Date. The Administrative Agent shall determine the appropriate Pricing Level for the Applicable Margin calculation promptly upon receipt of the notices and information necessary to make such determination and shall promptly notify the Borrower and the Lenders of any change thereof. Such determinations by the Administrative Agent shall be conclusive, absent convincing evidence to the contrary.

“Approved Fund” means any Fund that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

“Approving Lenders” shall have the meaning specified in Section 3.4(d).

“Arrangers” means Merrill Lynch, Pierce, Fenner & Smith Incorporated and J.P. Morgan Securities LLC, together with any successors or assigns thereof.

“Assignee Group” means two or more Eligible Assignees that are Affiliates of one another.

“Assignment and Assumption” means an assignment and assumption entered into by a Lender and an Eligible Assignee with the consent of any party whose consent is required by Section 10.3(b), and accepted by the Administrative Agent, in substantially the form of Schedule 10.3(a) or any other form approved by the Administrative Agent.

“Audited Financial Statements” means the audited consolidated balance sheet of the Borrower and its Subsidiaries for the fiscal year ended August 28, 2010, and the related consolidated statements of income or operations, stockholders’ equity and cash flows for such fiscal year of the Borrower and its Subsidiaries, including the notes thereto.

“Bank of America” means Bank of America, N.A. and its successors.

“Bankruptcy Code” means the Bankruptcy Code in Title 11 of the United States Code, as amended, modified, succeeded or replaced from time to time.

“Bankruptcy Event” means, with respect to any Person, the occurrence of any of the following with respect to such Person: (i) a court or governmental agency having jurisdiction in the premises shall enter a decree or order for relief in respect of such Person in an involuntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of such Person or for any substantial part of its Property or ordering the winding up or liquidation of its affairs; or (ii) there shall be commenced against such Person an involuntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or any case, proceeding or other action for the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of such Person or for any substantial part of its Property or for the winding up or liquidation of its affairs, and such involuntary case or other case, proceeding or other action shall remain undismissed, undischarged or unbonded for a period of sixty (60) consecutive days; or (iii) such Person shall commence a voluntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or consent to the entry of an order for relief in an involuntary case under any such law, or consent to the appointment or taking possession by a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of such Person or for any substantial part of its Property or make any general assignment for the benefit of creditors; or (iv) such Person shall be unable to, or shall admit in writing its inability to, pay its debts generally as they become due.

“Base Rate” means for any day a fluctuating rate per annum equal to the highest of (a) the Federal Funds Rate plus 1/2 of 1%, (b) the rate of interest in effect for such day as publicly announced from time to time by Bank of America as its “prime rate” and (c) the Eurodollar Rate plus 1.0%. “Prime Rate” means the rate of interest in effect for such day as publicly announced from time to time by Bank of America as its “prime rate.” The “prime rate” is a rate set by Bank of America based upon various factors including Bank of America’s costs and desired return, general economic conditions and other factors, and is used as a reference point for pricing some loans, which may be priced at, above, or below such announced rate. Any change in such rate announced by Bank of America shall take effect at the opening of business on the day specified in the public announcement of such change.

“Base Rate Loan” means any Loan bearing interest at a rate determined by reference to the Base Rate.

“Borrower” means the Person identified as such in the heading hereof, together with any permitted successors and assigns.

“Business Day” means a day other than a Saturday, Sunday or other day on which commercial banks in New York, New York are authorized or required by law to close, except that, when used in connection with a Eurodollar Loan, such day shall also be a day on which dealings between banks are carried on in U.S. dollar deposits in London, England and New York, New York.

“Calculation Date” has the meaning set forth in the definition of Applicable Margin.

“Capital Lease” means, as applied to any Person, any lease of any Property (whether real, personal or mixed) by that Person as lessee which, in accordance with GAAP, is or should be accounted for as a capital lease on the balance sheet of that Person, to the extent that such lease is or should be so accounted for.

“Cash Collateralize” means to pledge and deposit with or deliver to the Administrative Agent, for the benefit of the Administrative Agent, the respective L/C Issuers or the Swingline Lender (as applicable) and the Lenders, as collateral for L/C Obligations, Obligations in respect of Swingline Loans, or obligations of Lenders to fund participations in respect of either thereof (as the context may require), cash or deposit account balances or, if the applicable L/C Issuer or Swingline Lender benefitting from such collateral shall agree in its sole discretion, other credit support, in each case pursuant to documentation in form and substance satisfactory to (a) the Administrative Agent and (b) the respective L/C Issuers or the Swingline Lender (as applicable). “Cash Collateral” shall have a meaning correlative to the foregoing and shall include the proceeds of such cash collateral and other credit support.

“Change in Law” means the occurrence, after the date of this Credit Agreement, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority; provided, that, notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines, interpretations or directives thereunder or issued in connection therewith and (y) all requests, rules, guidelines, interpretations or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a “Change in Law”, regardless of the date enacted, adopted, issued or implemented.

“Change of Control” means the occurrence of either of the following events:

(a) a “person” or a “group” (within the meaning of Section 13(d) and 14(d)(2) of the Securities Exchange Act of 1934), other than a Permitted Holder (as defined below), becomes the “beneficial owner” (as defined in Rule 13d-3 under the Securities Exchange Act of 1934) of more than 40% of the then outstanding voting stock of the Borrower; or

(b) a majority of the board of directors of the Borrower shall consist of individuals who are not Continuing Directors. For purposes hereof, “Continuing Directors” means, as of any date of determination, (i) an individual who on the date two years prior to such determination date was a member of the Borrower’s board of directors, or (ii) (a) any new director whose nomination for election by the Borrower’s shareholders was approved by a vote of a majority of the directors then still in office who either were directors on the date two years prior to such determination date or whose nomination for election was previously so approved (or who are Continuing Directors pursuant to clause (b) below) or (b) any director who was elected by a majority of the directors then still in office who either were directors on the date two years prior to such determination date or whose nomination for election was previously so approved (or who are Continuing Directors pursuant to clause (a) above).

For purposes hereof, "Permitted Holder" means (a) any "person" or "group" (within the meaning of Section 13(d) and 14(d)(2) of the Securities Exchange Act of 1934) that, as of the Closing Date, is the "beneficial owner" (as defined in Rule 13d-3 under the Securities Exchange Act of 1934) of more than 29.0% of the then outstanding voting stock of the Borrower and (b) any Affiliate of such a "person" or "group".

Notwithstanding the foregoing, a Reorganization permitted under Section 7.3 hereof shall not be deemed a Change of Control for the purposes of this Credit Agreement.

"Change of Control Notice" shall have the meaning specified in Section 3.4(e).

"Change of Control Prepayment Amount" shall have the meaning specified in Section 3.4(e).

"Change of Control Standstill Period" shall have the meaning specified in Section 3.4(e).

"Closing Date" means the date hereof.

"Code" means the Internal Revenue Code of 1986, as amended, and any successor statute thereto, as interpreted by the rules and regulations issued thereunder, in each case as in effect from time to time. References to sections of the Code shall be construed also to refer to any successor sections.

"Commercial Credit Business Arrangement" means any agreement between the Borrower or any of its Subsidiaries and an entity that purchases such Person's commercial accounts receivable with only such limited recourse back to such Person as is customary in factoring arrangements of this type.

"Commitment" means (i) with respect to each Lender at any time, the Revolving Commitment of such Lender, (ii) with respect to the Swingline Lender, the Swingline Commitment, and (iii) with respect to any L/C Issuer, the commitment to issue, extend and/or amend Letters of Credit under the Letter of Credit Sublimit.

"Commitment Percentage" means, for any Lender, the percentage which such Lender's Revolving Commitment then constitutes of the aggregate Revolving Committed Amount, subject to adjustment as provided herein, including in Section 3.19.

"Consolidated Adjusted Debt" means, at any time, the sum of, without duplication, (i) Consolidated Funded Indebtedness and (ii) the product of Consolidated Rents multiplied by 6.0.

"Consolidated EBITDA" means, for any period for the Borrower and its Subsidiaries, (a) Consolidated Net Income plus (b) to the extent deducted in calculating such Consolidated Net Income, the sum of (i) Consolidated Interest Expense plus (ii) all provisions for any Federal, state or other domestic and foreign income taxes plus (iii) depreciation and amortization, in each case on a consolidated basis determined in accordance with GAAP applied on a consistent basis or otherwise defined herein. Except as otherwise expressly provided herein, the applicable period shall be for the four consecutive fiscal quarters ending as of the date of determination.

"Consolidated EBITDAR" means, for any period, the sum of Consolidated EBITDA and Consolidated Rents. Except as otherwise expressly provided herein, the applicable period shall be for the four consecutive fiscal quarters ending as of the date of determination.

“Consolidated EBITR” means, for any period for the Borrower and its Subsidiaries, Consolidated EBITDA minus depreciation and amortization plus Consolidated Rents, in each case on a consolidated basis as determined in accordance with GAAP applied on a consistent basis. Except as otherwise expressly provided herein, the applicable period shall be for the four consecutive fiscal quarters ending as of the date of determination.

“Consolidated Funded Indebtedness” means, at any time, the outstanding principal amount of all Funded Indebtedness, without duplication and on a consolidated basis, of the Borrower and its Subsidiaries at such time.

“Consolidated Interest Coverage Ratio” means, as of the last day of any fiscal quarter of the Borrower, the ratio of (i) Consolidated EBITR to (ii) Consolidated Interest Expense plus Consolidated Rents.

“Consolidated Interest Expense” means, for any period for the Borrower and its Subsidiaries, net interest expense on a consolidated basis as determined in accordance with GAAP applied on a consistent basis. Except as otherwise expressly provided, the applicable period shall be for the four consecutive fiscal quarters ending as of the date of determination.

“Consolidated Net Income” means, for any period for the Borrower and its Subsidiaries, net income on a consolidated basis determined in accordance with GAAP applied on a consistent basis, but excluding (i) share-based expenses and all other non-cash charges (other than any such charges that would result in an accrual or a reserve for cash charges in the future); (ii) non-recurring charges in an aggregate amount not to exceed \$50,000,000 collectively, and/or non-recurring gains to the extent such non-recurring gains in the aggregate exceed \$50,000,000 collectively, in either event with respect to any twelve-month period relevant for such calculation of the financial covenants contained in Sections 6.10 and 6.11; and (iii) all extraordinary items. Except as otherwise expressly provided herein, the applicable period shall be for the four consecutive fiscal quarters ending as of the date of determination.

“Consolidated Rents” means, for any period for the Borrower and its Subsidiaries, all rental expense of the Borrower and its Subsidiaries for such period under operating leases (specifically including rents paid in connection with synthetic leases, tax retention operating leases, off-balance sheet loans or similar off-balance sheet financing products), on a consolidated basis as determined in accordance with GAAP applied on a consistent basis, but excluding rental expense related to any operating lease that has been converted to a Capital Lease. Except as otherwise expressly provided herein, the applicable period shall be for the four consecutive fiscal quarters ending as of the date of determination.

“Credit Documents” means a collective reference to this Credit Agreement, the Notes, the L/C Documents (except that L/C Documents shall not constitute Credit Documents for purposes of Section 10.6), the Administrative Agent’s Fee Letter, any agreement creating or perfecting rights in Cash Collateral pursuant to the provisions of Section 3.18 of this Credit Agreement, and all other related agreements and documents issued or delivered hereunder or thereunder or pursuant hereto or thereto.

“Debtor Relief Laws” means the Bankruptcy Code of the United States, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief laws of the United States or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

“Default” means any event, act or condition which with notice or lapse of time, or both, would constitute an Event of Default.

“Defaulting Lender” means, subject to Section 3.19(b), any Lender that, as reasonably determined by the Administrative Agent, (a) has failed to perform any of its funding obligations hereunder, including in respect of its Loans or participations in respect of Letters of Credit or Swingline Loans, within three Business Days of the date required to be funded by it hereunder, (b) has notified the Borrower or the Administrative Agent that it does not intend to comply with its funding obligations or has made a public statement to that effect with respect to its funding obligations hereunder or generally under other agreements in which it commits to extend credit, (c) has failed, within three Business Days after request by the Administrative Agent, to confirm in a manner satisfactory to the Administrative Agent that it will comply with its funding obligations, or (d) has, or has a direct or indirect parent company that has, (i) become the subject of a proceeding under any Debtor Relief Law, (ii) had a receiver, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or a custodian appointed for it, or (iii) taken any action in furtherance of, or indicated its consent to, approval of or acquiescence in any such proceeding or appointment; provided that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any equity interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority.

“Disapproving Lender” means such term as defined in Section 3.4(d).

“Documentation Agents” means SunTrust Bank, U.S. Bank National Association, Wells Fargo Bank, National Association and Barclays Bank PLC, in each case, together with its successors and assigns.

“Dollars” and “\$” means dollars in lawful currency of the United States of America.

“Eligible Assignee” means any Person that meets the requirements to be an assignee under Section 10.3(b)(iii) and 10.3(b)(v) (subject to such consents, if any, as may be required under Section 10.3(b)(iii)).

“Environmental Laws” means any and all lawful and applicable Federal, state, local and foreign statutes, laws, regulations, ordinances, rules, judgments, orders, decrees, permits, concessions, grants, franchises, licenses, agreements or other governmental restrictions relating to the environment or to emissions, discharges, releases or threatened releases of pollutants, contaminants, chemicals, or industrial, toxic or hazardous substances or wastes into the environment including, without limitation, ambient air, surface water, ground water, or land, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport, or handling of pollutants, contaminants, chemicals, or industrial, toxic or hazardous substances or wastes.

“ERISA” means the Employee Retirement Income Security Act of 1974.

“ERISA Affiliate” means any trade or business (whether or not incorporated) the employees of which are treated as employees of the Borrower pursuant to Section 414(b) or (c) of the Code (and Sections 414(m) and (o) of the Code for purposes of provisions relating to Section 412 of the Code).

“ERISA Event” means (a) a Reportable Event with respect to a Pension Plan; (b) the withdrawal of the Borrower or any ERISA Affiliate from a Pension Plan subject to Section 4063 of ERISA during a plan year in which such entity was a “substantial employer” as defined in Section 4001(a)(2) of ERISA or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA; (c) a complete or partial withdrawal by the Borrower or any ERISA Affiliate from a Multiemployer Plan or notification that a Multiemployer Plan is in reorganization; (d) the filing of a notice of intent to terminate, the treatment of a Pension Plan amendment as a termination under Sections 4041 or 4041A of ERISA; (e) the institution by the PBGC of proceedings to terminate a Pension Plan; (f) any event or condition which constitutes grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan; (g) the determination that any Pension Plan’s final actuarially-certified funding target attainment percentage drops below sixty percent (60%) as of the most recent valuation date as determined under Section 430 of the Code and taking into account any exceptions, actuarial assumptions, extensions of such date and supplemental or additional contributions provided for in or permitted to be considered by Section 430 or the regulations promulgated thereunder; or (h) the imposition of any liability under Title IV of ERISA, other than for PBGC premiums due but not delinquent under Section 4007 of ERISA, upon the Borrower or any ERISA Affiliate.

“Eurodollar Base Rate” has the meaning specified in the definition of Eurodollar Rate.

“Eurodollar Loan” means any Loan bearing interest at a rate determined by reference to the Eurodollar Rate.

“Eurodollar Rate” means:

(a) For any Interest Period with respect to a Eurodollar Loan, a rate per annum determined by the Administrative Agent pursuant to the following formula:

$$\text{Eurodollar Rate} = \frac{\text{Eurodollar Base Rate}}{1.00 - \text{Eurodollar Reserve Percentage}}$$

Where, for the purposes of this clause (a):

(1) “Eurodollar Base Rate” means, for such Interest Period, the rate per annum equal to the British Bankers Association LIBOR Rate (“BBA LIBOR”), as published by Reuters (or other commercially available source providing quotations of BBA LIBOR as designated by the Administrative Agent from time to time) at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period (or if such day is not a Business Day, the next preceding Business Day), for Dollar deposits (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period. If such rate is not available at such time for any reason, then the “Eurodollar Base Rate” for such Interest Period shall be the rate per annum determined by the Administrative Agent to be the rate at which deposits in Dollars for delivery on the first day of such Interest Period in same day funds in the approximate amount of the Eurodollar Loan being made, continued or converted by Bank of America and with a term equivalent to such Interest Period would be offered by Bank of America’s London Branch to major banks in the London interbank eurodollar market at their request at approximately 11:00 a.m. (London time) two Business Days prior to the commencement of such Interest Period, and

(2) “Eurodollar Reserve Percentage” means, for any day during any Interest Period, the reserve percentage (expressed as a decimal, carried out to five decimal places) in effect on such day, whether or not applicable to any Lender, under regulations issued from time to time by the FRB for determining the maximum reserve requirement (including any emergency, supplemental or other marginal reserve requirement) with respect to Eurocurrency funding (currently referred to as “Eurocurrency liabilities”). The Eurodollar Rate for each outstanding Eurodollar Loan shall be adjusted automatically as of the effective date of any change in the Eurodollar Reserve Percentage.

(b) For any interest rate calculation with respect to a Base Rate Loan, the rate per annum equal to (i) BBA LIBOR, at approximately 11:00 a.m., London time, two Business Days prior to the date of determination (or if such day is not a Business Day, the next preceding Business Day) for Dollar deposits being delivered in the London interbank market for a term of one month commencing that day or (ii) if such published rate is not available at such time for any reason, the rate determined by the Administrative Agent to be the rate at which deposits in Dollars for delivery on the date of determination in same day funds in the approximate amount of the Base Rate Loan being made, continued or converted by Bank of America and with a term equal to one month would be offered by Bank of America’s London Branch to major banks in the London interbank Eurodollar market at their request at the date and time of determination.

“Event of Default” means such term as defined in Section 8.1.

“Existing Credit Agreement” means such term as defined in the recitals hereto.

“Existing Letters of Credit” means the Letters of Credit outstanding on the Closing Date and identified on Schedule 2.4.

“Facility Fee” shall have the meaning assigned to such term in Section 3.5(a).

“Facility Fee Calculation Period” shall have the meaning assigned to such term in Section 3.5(a).

“Federal Funds Rate” means, for any day, the rate of interest per annum equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day, provided that (A) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day and (B) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate (rounded upwards, if necessary, to the nearest whole multiple of 1/100 of 1%) charged to Bank of America on such day on such transactions as determined by the Administrative Agent.

“Fees” means all fees payable pursuant to Section 3.5.

“Financial Officer” means, with respect to the Borrower, the Treasurer, the Controller, the General Counsel, the Chief Financial Officer or the Chief Executive Officer of the Borrower; provided that the Borrower may designate additional persons or delete persons so authorized by written notice to the Administrative Agent from at least two existing Financial Officers of the Borrower.

“Fitch” means Fitch Inc., or any successor or assignee of the business of such company in the business of rating securities.

“Foreign Lender” means any Lender that is organized under the laws of a jurisdiction other than that in which the Borrower is resident for tax purposes. For purposes of this definition, the United States, each State thereof and the District of Columbia shall be deemed to constitute a single jurisdiction.

“FRB” means the Board of Governors of the Federal Reserve System of the United States.

“Fronting Exposure” means, at any time there is a Defaulting Lender, (a) with respect to an L/C Issuer, such Defaulting Lender’s Commitment Percentage of the applicable outstanding L/C Obligations other than L/C Obligations as to which such Defaulting Lender’s participation obligation has been reallocated to other Lenders or Cash Collateralized in accordance with the terms hereof and (b) with respect to the Swingline Lender, such Defaulting Lender’s Applicable Percentage of Swingline Loans other than Swingline Loans as to which such Defaulting Lender’s participation obligation has been reallocated to other Lenders or Cash Collateralized in accordance with the terms hereof.

“Fund” means any Person (other than a natural person) that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its activities.

“Funded Indebtedness” means, with respect to any Person (for purposes of this sentence only, the “Debtor”), without duplication and on a consolidated basis, (i) all Indebtedness of such Debtor for borrowed money; (ii) all purchase money Indebtedness of such Debtor, including without limitation the principal portion of all obligations of such Debtor under Capital Leases; (iii) all Guaranty Obligations of such Debtor with respect to Funded Indebtedness of another Person; (iv) the maximum amount of all (x) drawn and unreimbursed documentary letters of credit, (y) standby letters of credit and (z) bankers acceptances, in each case issued or created for the account of such Debtor and, without duplication, all drafts drawn thereunder (to the extent unreimbursed); and (v) all Funded Indebtedness of another Person secured by a Lien on any Property of such Debtor, whether or not such Funded Indebtedness has been assumed. The Funded Indebtedness of any Person shall include the Funded Indebtedness of any partnership or joint venture in which such Person is a general partner or joint venturer.

“GAAP” means generally accepted accounting principles in the United States applied on a consistent basis and subject to the terms of Section 1.3 hereof.

“Governmental Authority” means any Federal, state, local or foreign court or governmental agency, authority, instrumentality or regulatory body.

“Guaranty Obligation” means, with respect to any Person, without duplication, any obligation of such Person (other than endorsements in the ordinary course of business of negotiable instruments for deposit or collection) guaranteeing or intended to guarantee any Indebtedness of any other Person in any manner, whether direct or indirect, and including without limitation any obligation, whether or not contingent, (i) to purchase any such Indebtedness or any Property constituting security therefor, (ii) to advance or provide funds or other support for the payment or purchase of any such Indebtedness or to maintain working capital, solvency or any other balance sheet condition of such other Person (including without limitation keep well agreements, maintenance agreements, comfort letters or similar agreements or arrangements) for the benefit of any holder of Indebtedness of such other Person, (iii) to lease or purchase Property, securities or services primarily for the purpose of assuring the holder of such Indebtedness, or (iv) to otherwise assure or hold harmless the holder of such Indebtedness against loss in respect thereof. The amount of any Guaranty Obligation hereunder shall (subject to any limitations set forth therein) be deemed to be an amount equal to the outstanding principal amount (or maximum principal amount, if larger) of the Indebtedness in respect of which such Guaranty Obligation is made.

“Indebtedness” of any Person means (i) all obligations of such Person for borrowed money, (ii) all obligations of such Person evidenced by bonds, debentures, notes or similar instruments, or upon which interest payments are customarily made, (iii) all obligations of such Person under conditional sale or other title retention agreements relating to Property purchased by such Person (other than customary reservations or retentions of title under agreements with suppliers entered into in the ordinary course of business), (iv) all obligations of such Person issued or assumed as the deferred purchase price of Property or services purchased by such Person (other than (a) trade accounts payable in the ordinary course of business and, in each case, not past due for more than ninety (90) days after the due date of such trade account payable and (b) unsecured obligations of such Person due to vendors under any vendor factoring line in the ordinary course of business), (v) all obligations of such Person under take-or-pay or similar arrangements or under commodities agreements, (vi) all Indebtedness of others secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on, or payable out of the proceeds of production from, Property owned or acquired by such Person, whether or not the obligations secured thereby have been assumed, (vii) all Guaranty Obligations of such Person, (viii) the principal portion of all obligations of such Person under Capital Leases, (ix) all obligations of such Person in respect of interest rate protection agreements, foreign currency exchange agreements, commodity purchase or option agreements or other interest or exchange rate or commodity price hedging agreements, calculated as described below, (x) subject to the proviso below, the maximum amount of all standby letters of credit issued or bankers’ acceptances created for the account of such Person and, without duplication, all drafts drawn thereunder (to the extent unreimbursed), (xi) all preferred stock issued by such Person and required by the terms thereof to be redeemed, or for which mandatory sinking fund payments are due, by a fixed date and (xii) the principal balance outstanding under any synthetic lease, tax retention operating lease, off-balance sheet loan or similar off-balance sheet financing product to which such Person is a party, where such transaction is considered borrowed money indebtedness for tax purposes but is classified as an operating lease in accordance with GAAP; provided that Indebtedness shall not include (i) any documentary letters of credit or other letters of credit used by such Person for the financing of inventory in the ordinary course of business, except to the extent such letters of credit have been drawn upon and unreimbursed or (ii) any amounts received by such Person pursuant to a Commercial Credit Business Arrangement. The Indebtedness of any Person shall include the Indebtedness of any partnership or joint venture in which such Person is a general partner or a joint venturer. For purposes hereof, obligations in respect of hedging agreements referred to in clause (ix) above shall be calculated after taking into account the effect of any legally enforceable netting agreement relating to such hedging obligations and shall be valued at (1) for any date on or after the date such hedging obligations have been closed out and termination value(s) determined in accordance therewith, such termination value(s), and (2) for any date prior to the date referenced in clause (1) of this sentence, the amount(s) determined as the mark-to-market value(s) for such hedging obligations, as determined based upon one or more mid-market or other readily available quotations provided by any recognized dealer in such hedging obligations (which may include a Lender or any Affiliate of a Lender).

“Information” has the meaning specified in Section 10.14.

“Interest Payment Date” means (i) as to any Base Rate Loan, the last Business Day of each March, June, September and December, the date of repayment of principal of such Loan and the Termination Date and (ii) as to any Eurodollar Loan or any Swingline Loan, the last day of each Interest Period for such Loan, the date of repayment of principal of such Loan and on the Termination Date, and in addition where the applicable Interest Period is more than 3 months, then also on the date 3 months from the beginning of the Interest Period, and each 3 months thereafter. If an Interest Payment Date falls on a date which is not a Business Day, such Interest Payment Date shall be deemed to be the next succeeding Business Day, except that in the case of Eurodollar Loans where the next succeeding Business Day falls in the next succeeding calendar month, then on the next preceding Business Day.

“Interest Period” means (i) as to any Eurodollar Loan, a period of one, two, three or six month’s duration, as the Borrower may elect, commencing in each case, on the date of the borrowing (including conversions, extensions and renewals) and (ii) as to any Swingline Loan, a period commencing in each case on the date of the borrowing and ending on the date agreed to by the Borrower and the Swingline Lender in accordance with the provisions of Section 2.3(b)(i) (such ending date in any event to be not more than seven (7) Business Days from the date of borrowing); provided, however, (A) if any Interest Period would end on a day which is not a Business Day, such Interest Period shall be extended to the next succeeding Business Day (except that in the case of Eurodollar Loans where the next succeeding Business Day falls in the next succeeding calendar month, then on the next preceding Business Day), (B) no Interest Period shall extend beyond the Termination Date, and (C) in the case of Eurodollar Loans, where an Interest Period begins on a day for which there is no numerically corresponding day in the calendar month in which the Interest Period is to end, such Interest Period shall end on the last day of such calendar month.

“Internal Control Event” means a material weakness in, or fraud that involves management or other employees who have a significant role in, the Borrower’s internal controls over financial reporting, in each case as described in the Securities Laws or as otherwise determined by the Borrower’s external auditors, that has resulted in or could reasonably be expected to result in a material misstatement in any financial information delivered or to be delivered to the Administrative Agent or the Lenders, with respect to (i) covenant compliance calculations provided hereunder or (ii) the assets, liabilities, financial condition or results of operations of the Borrower and its Subsidiaries on a consolidated basis, in any event that has not been (x) disclosed to the Administrative Agent, who in turn discloses such material weaknesses to the Lenders, and (y) remedied or otherwise diligently addressed (or is in the process of being diligently addressed) by the Borrower including, if applicable, in accordance with recommendations made by the Borrower’s auditors in consultation with the Borrower.

“ISP” means, with respect to any Letter of Credit, the “International Standby Practices 1998” published by the Institute of International Banking Law & Practice (or such later version thereof as may be in effect at the time of issuance).

“Joint Book Runners” means Merrill Lynch, Pierce, Fenner & Smith Incorporated, J.P. Morgan Securities LLC, SunTrust Robinson Humphrey, Inc., U.S. Bank National Association, Wells Fargo Securities, LLC and Barclays Capital, the investment banking division of Barclays Bank PLC, in each case, together with its successors and assigns.

“L/C Advance” means, with respect to each Lender, such Lender’s participation in any L/C Borrowing in accordance with its Commitment Percentage.

“L/C Borrowing” means an extension of credit resulting from a drawing under any Letter of Credit which has not been reimbursed on the date when made or refinanced as a Revolving Loan.

“L/C Credit Extension” means, with respect to any Letter of Credit, the issuance thereof or extension of the expiry date thereof, or the renewal or increase of the amount thereof.

“L/C Documents” means, with respect to any Letter of Credit, such Letter of Credit, any amendments thereto, any documents delivered in connection therewith, any application therefor, and any agreements, instruments, guarantees or other documents (whether general in application or applicable only to such Letter of Credit) governing or providing for (i) the rights and obligations of the parties concerned or at risk or (ii) any collateral security for such obligations.

“L/C Issuer” means (i) Bank of America, or any Subsidiary or Affiliate of Bank of America designated by Bank of America, SunTrust or Wells Fargo, or, with the consent of the Borrower and the Administrative Agent, any other Lender that has agreed to act as an issuer of Letters of Credit, (ii) with respect to any Existing Letter of Credit, the Lender that issued (in its capacity as an L/C Issuer hereunder) such Letter of Credit and (iii) with respect to any Letter of Credit requested hereunder, the L/C Issuer that has agreed to issue such Letter of Credit hereunder. In the event that there is more than one L/C Issuer at any time, references herein and in the other Credit Documents to the L/C Issuer shall be deemed to refer to the L/C Issuer in respect of the applicable Letter of Credit or to all L/C Issuers, as the context requires.

“L/C Issuer Fees” shall have the meaning assigned to such term in Section 3.5(c)(ii).

“L/C Obligations” means, at any time, the sum of (i) the maximum amount which is, or at any time thereafter may become, available to be drawn under Letters of Credit then outstanding, assuming compliance with all requirements for drawings referred to in such Letters of Credit plus (ii) the aggregate amount of all drawings under Letters of Credit and honored by an L/C Issuer but not theretofore reimbursed, including all L/C Borrowings.

“Lenders” means each of the Persons identified as a “Lender” on the signature pages hereto, and each Person which may become a Lender by way of assignment in accordance with the terms hereof, together with their successors and permitted assigns.

“Lending Installation” means, with respect to a Lender or the Administrative Agent, any office, branch, subsidiary or affiliate of such Lender or the Administrative Agent.

“Letter of Credit” means any letter of credit issued hereunder and shall include the Existing Letters of Credit. A Letter of Credit may be a commercial letter of credit or a standby letter of credit.

“Letter of Credit Application” means an application and agreement for the issuance or amendment of a letter of credit in the form from time to time in use by an L/C Issuer.

“Letter of Credit Expiration Date” means the day that is five (5) days prior to the Termination Date (or, if such day is not a Business Day, the next preceding Business Day).

“Letter of Credit Fee” shall have the meaning assigned to such term in Section 3.5(c)(i).

“Letter of Credit Sublimit” means an amount equal to the lesser of the Revolving Committed Amount and \$200,000,000. The Letter of Credit Sublimit is part of, and not in addition to, the Revolving Committed Amount.

“Lien” means any mortgage, pledge, hypothecation, assignment, deposit arrangement, security interest, encumbrance, lien (statutory or otherwise), preference, priority or charge of any kind (including any agreement to give any of the foregoing, any conditional sale or other title retention agreement, any financing or similar statement or notice filed under the Uniform Commercial Code as adopted and in effect in the relevant jurisdiction or other similar recording or notice statute, and any lease in the nature thereof).

“Loan” or “Loans” means the Revolving Loans, the Swingline Loans (or any Swingline Loan bearing interest at the Base Rate or the Quoted Rate and referred to as a Base Rate Loan or a Quoted Rate Swingline Loan) and, to the extent applicable, the L/C Borrowings, individually or collectively, as appropriate.

“Master Account” means such account at Bank of America as may be identified by written notice from at least two Financial Officers of the Borrower to the Administrative Agent or such other bank account as may be mutually agreed by the Borrower and the Administrative Agent.

“Material Adverse Effect” means a material adverse effect on (i) the condition (financial or otherwise), operations, business, assets or liabilities of the Borrower and its Subsidiaries, taken as a whole, (ii) the ability of the Borrower to perform any material obligation under the Credit Documents or (iii) any aspect of the Borrower or its business that materially and adversely affects the rights and remedies of the Administrative Agent or the Lenders under the Credit Documents.

“Materials of Environmental Concern” means any gasoline or petroleum (including crude oil or any fraction thereof) or petroleum products or any hazardous or toxic substances, materials or wastes, defined or regulated as such in or under any Environmental Laws, including, without limitation, asbestos, polychlorinated biphenyls and urea-formaldehyde insulation.

“Moody’s” means Moody’s Investors Service, Inc., or any successor or assignee of the business of such company in the business of rating securities.

“Multiemployer Plan” means any employee benefit plan of the type described in Section 4001(a)(3) of ERISA, to which the Borrower or any ERISA Affiliate makes or is obligated to make contributions, or during the preceding five plan years, has made or been obligated to make contributions.

“Multiple Employer Plan” means a Plan which has two or more contributing sponsors (including the Borrower or any ERISA Affiliate) at least two of whom are not under common control, as such a plan is described in Section 4064 of ERISA.

“New Commitment Agreement” means a New Commitment Agreement substantially in the form of Schedule 3.4(b), as executed pursuant to Section 3.4(b).

“Note” or “Notes” means any Revolving Note or the Swingline Note, as the context may require.

“Notice of Borrowing” means a written notice of borrowing in substantially the form of Schedule 2.1(b)(i), as required by Section 2.1(b)(i).

“Notice of Extension/Conversion” means the written notice of extension or conversion in substantially the form of Schedule 3.2, as required by Section 3.2.

“Participant” has the meaning specified in Section 10.3(d).

“Participation Interest” means, the extension of credit by a Lender by way of a purchase of a participation in any Swingline Loans as provided in Section 2.3(b)(iii) or in any Loans and other obligations as provided in Sections 2.4(c) and 3.14.

“PBGC” means the Pension Benefit Guaranty Corporation or any successor thereto.

“PCAOB” means the Public Company Accounting Oversight Board.

“Pension Act” means the Pension Protection Act of 2006.

“Pension Funding Rules” means the rules of the Code and ERISA regarding minimum required contributions (including any installment payment thereof) to Pension Plans and set forth in, with respect to plan years ending prior to the effective date of the Pension Act, Section 412 of the Code and Section 302 of ERISA, each as in effect prior to the Pension Act and, thereafter, Sections 412, 430, 431, 432 and 436 of the Code and Sections 302, 303, 304 and 305 of ERISA.

“Pension Plan” means any employee pension benefit plan (including a Multiple Employer Plan) other than a Multiemployer Plan, that is maintained or is contributed to by the Borrower and any ERISA Affiliate and is either covered by Title IV of ERISA or is subject to the minimum funding standards under Section 412 of the Code.

“Permitted Liens” means:

(i) Liens in favor of the Administrative Agent on behalf of the Lenders;

(ii) Liens (other than Liens created or imposed under ERISA) for taxes, assessments or governmental charges or levies not yet due or Liens for taxes being contested in good faith by appropriate proceedings for which adequate reserves determined in accordance with GAAP have been established (and as to which the Property subject to any such Lien is not yet subject to foreclosure, sale or loss on account thereof);

(iii) statutory Liens of landlords and Liens of carriers, warehousemen, mechanics, materialmen and suppliers and other Liens imposed by law or pursuant to customary reservations or retentions of title arising in the ordinary course of business, provided that any such Liens which are material secure only amounts not yet due and payable or, if due and payable, are unfiled and no other action has been taken to enforce the same or are being contested in good faith by appropriate proceedings for which adequate reserves determined in accordance with GAAP have been established (and as to which the Property subject to any such Lien is not yet subject to foreclosure, sale or loss on account thereof);

(iv) Liens (other than Liens created or imposed under ERISA) incurred or deposits made by the Borrower and its Subsidiaries in the ordinary course of business in connection with workers' compensation, unemployment insurance and other types of social security, or to secure the performance of tenders, statutory obligations, bids, leases, government contracts, performance and return-of-money bonds and other similar obligations (exclusive of obligations for the payment of borrowed money);

(v) Liens in connection with attachments or judgments (including judgment or appeal bonds) provided that the judgments secured shall, within 30 days after the entry thereof, have been discharged or execution thereof stayed pending appeal, or shall have been discharged within 30 days after the expiration of any such stay;

(vi) easements, rights-of-way, restrictions (including zoning restrictions), minor defects or irregularities in title and other similar charges or encumbrances not, in any material respect, impairing the use of the encumbered Property for its intended purposes;

(vii) leases or subleases granted to others not interfering in any material respect with the business of the Borrower and its Subsidiaries taken as a whole;

(viii) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods;

(ix) Liens on assets at the time such assets are acquired by the Borrower or any Subsidiary in accordance with Section 7.3(d); provided that such Liens are not created in contemplation of such acquisition;

(x) Liens on assets of any Person at the time such Person becomes a Subsidiary in accordance with Section 7.3(d); provided that such Liens are not created in contemplation of such Person becoming a Subsidiary;

(xi) normal and customary rights of setoff upon deposits of cash in favor of banks or other depository institutions;

(xii) Liens on receivables sold pursuant to a Commercial Credit Business Arrangement;

(xiii) Liens on inventory held by the Borrower or any of its Subsidiaries under consignment;

(xiv) Liens on any inventory of the Borrower or any of its Subsidiaries in favor of a vendor of such inventory, arising in the normal course of business upon its sale to the Borrower or any such Subsidiary;

(xv) Liens, if any, in favor of the L/C Issuer and/or Swingline Lender to cash collateralize or otherwise secure the obligations of a Defaulting Lender to fund risk participations hereunder; and

(xvi) other Liens on Property of the Borrower and its Subsidiaries, so long as the Borrower and its Subsidiaries own at all times Property (a) unencumbered by any Liens other than Liens permitted by clauses (i) through (xv) above and (b) having an aggregate fair market value of at least \$2,000,000,000.

“Person” means any individual, partnership, joint venture, firm, corporation, limited liability company, association, trust or other enterprise (whether or not incorporated) or any Governmental Authority.

“Plan” means any employee benefit plan within the meaning of Section 3(3) of ERISA maintained for employees of the Borrower, or with respect to a Pension Plan maintained for employees of the Borrower or any ERISA Affiliate.

“Platform” has the meaning specified in Section 6.1.

“Pricing Level” means the applicable pricing level for the Applicable Margin shown in Schedule 1.1.

“Property” means any interest in any kind of property or asset, whether real, personal or mixed, or tangible or intangible.

“Quoted Rate” means, with respect to any Quoted Rate Swingline Loan, the fixed percentage rate per annum offered by the Swingline Lender and accepted by the Borrower with respect to such Swingline Loan as provided in accordance with the provisions of Section 2.3.

“Quoted Rate Swingline Loan” means a Swingline Loan bearing interest at a Quoted Rate.

“Register” shall have the meaning given such term in Section 10.3(c).

“Registered Public Accounting Firm” has the meaning specified in the Securities Laws and shall be independent of the Borrower as prescribed by the Securities Laws.

“Regulation D, T, U, or X” means Regulation D, T, U or X, respectively, of the Board of Governors of the Federal Reserve System as from time to time in effect and any successor to all or a portion thereof.

“Related Parties” means, with respect to any Person, such Person’s Affiliates and the partners, directors, officers, employees, agents, trustees and advisors of such Person and of such Person’s Affiliates.

“Release” means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment (including the abandonment or discarding of barrels, containers and other closed receptacles containing any Materials of Environmental Concern).

“Reorganization” shall have the meaning specified in Section 7.3.

“Replaced Lender” shall have the meaning specified in Section 3.17.

“Replacement Lender” shall have the meaning specified in Section 3.17.

“Reportable Event” means any of the events set forth in Section 4043(c) of ERISA, other than events for which the 30 day notice period has been waived.

“Required Lenders” means, as of any date of determination, Lenders having more than 50% of the aggregate Revolving Committed Amount or, if the commitment of each Lender to make Loans and the obligation of each L/C Issuer to make L/C Credit Extensions have been terminated pursuant to Section 8.2, Lenders holding in the aggregate more than 50% of the total amount of outstanding Revolving Loans and Participation Interests (with the aggregate amount of each Lender’s risk participation and funded participation in L/C Obligations and Swingline Loans being deemed “held” by such Lender for purposes of this definition); provided that the Commitment of, and the portion of the total amount of outstanding Revolving Loans and Participation Interests held or deemed held by, any Defaulting Lender shall be excluded for purposes of making a determination of Required Lenders.

“Requirement of Law” means, as to any Person, the certificate of incorporation and by-laws or other organizational or governing documents of such Person, and any law, treaty, rule or regulation or determination of an arbitrator or a court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its material property is subject.

“Revolving Commitment” means, with respect to each Lender, the commitment of such Lender in an aggregate principal amount at any time outstanding not to exceed the amount set forth opposite such Lender’s name on Schedule 2.1(a) (as such amount may be reduced or increased from time to time in accordance with the provisions of this Credit Agreement), (i) to make Revolving Loans in accordance with the provisions of Section 2.1(a), (ii) to purchase participation interests in Letters of Credit in accordance with the provisions of Section 2.4(c), and (iii) to purchase participation interests in the Swingline Loans in accordance with the provisions of Section 2.3(b)(iii).

“Revolving Committed Amount” shall have the meaning assigned to such term in Section 2.1(a).

“Revolving Loans” shall have the meaning assigned to such term in Section 2.1(a).

“Revolving Note” means a promissory note of the Borrower in favor of a Lender delivered pursuant to Section 2.1(e) and evidencing the Revolving Loans of such Lender, as such promissory note may be amended, modified, restated or replaced from time to time.

“S&P” means Standard & Poor’s Financial Services LLC, a subsidiary of The McGraw-Hill Companies, Inc. and any successor thereto.

“Sarbanes-Oxley” means the Sarbanes-Oxley Act of 2002.

“SEC” means the Securities and Exchange Commission, or any Governmental Authority succeeding to any of its principal functions.

“Securities Laws” means the Securities Act of 1933, the Securities Exchange Act of 1934, Sarbanes-Oxley and the applicable accounting and auditing principles, rules, standards and practices promulgated, approved or incorporated by the SEC or the PCAOB.

“SPV” has the meaning set forth in Section 10.3(g).

“Solvent” or “Solvency” means, with respect to any Person as of a particular date, that on such date (i) such Person is able to pay its debts and other liabilities, and commitments as they mature in the normal course of business, (ii) such Person is not obligated to, and does not believe that it will, incur debts or liabilities beyond such Person’s ability to pay as such debts and liabilities mature in their ordinary course, (iii) such Person is not engaged in a business or a transaction, and does not intend to engage in a business or a transaction, for which such Person’s Property would constitute unreasonably small capital after giving due consideration to the prevailing practice in the industry in which such Person is engaged or is to engage, (iv) the fair market value of the Property of such Person is greater than the total amount of liabilities, including, without limitation, contingent liabilities, of such Person and (v) the present fair market value of the assets of such Person is not less than the amount that will be required to pay the probable liability of such Person on its debts as they become absolute and matured. In computing the amount of contingent liabilities at any time, it is intended that such liabilities will be computed at the amount which, in light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

“Subsidiary” means, as to any Person, (a) any corporation more than 50% of whose stock of any class or classes having by the terms thereof ordinary voting power to elect a majority of the directors of such corporation (irrespective of whether or not at the time, any class or classes of such corporation shall have or might have voting power by reason of the happening of any contingency) is at the time owned by such Person directly or indirectly through Subsidiaries, and (b) any partnership, association, joint venture or other entity in which such Person directly or indirectly through Subsidiaries has more than 50% equity interest at any time.

“SunTrust” means SunTrust Bank and its successors.

“Swingline Commitment” means the commitment of the Swingline Lender to make Swingline Loans in an aggregate principal amount at any time outstanding of up to the Swingline Committed Amount.

“Swingline Committed Amount” shall have the meaning assigned to such term in Section 2.3(a).

“Swingline Lender” means Bank of America.

“Swingline Loan” shall have the meaning assigned to such term in Section 2.3(a).

“Swingline Note” means, to the extent requested by the Swingline Lender, the promissory note of the Borrower in favor of the Swingline Lender in the original principal amount of \$75,000,000, as such promissory note may be amended, modified, restated or replaced from time to time.

“Syndication Agent” means JPMorgan Chase Bank, N.A., together with any successors and assigns.

“Terminating Lenders” shall have the meaning specified in Section 3.4(e).

“Termination Date” means September 13, 2016, as such date may be extended pursuant to clause (d) of Section 3.4, provided, however that if such date is not a Business Day, the Termination Date shall be the next preceding Business Day.

“United States” and “U.S.” mean the United States of America.

“Unreimbursed Amount” has the meaning specified in Section 2.4(c)(i).

“Wells Fargo” means Wells Fargo Bank, N.A. and its successors.

## **1.2 Computation of Time Periods.**

For purposes of computation of periods of time hereunder, the word “from” means “from and including” and the words “to” and “until” each mean “to but excluding.”

## **1.3 Accounting Terms.**

Except as otherwise expressly provided herein, all accounting terms used herein shall be interpreted, and all financial statements and certificates and reports as to financial matters required to be delivered to the Lenders hereunder shall be prepared, in accordance with GAAP applied on a consistent basis. All calculations made for the purposes of determining compliance with this Credit Agreement shall (except as otherwise expressly provided herein) be made by application of GAAP applied on a basis consistent with the most recent annual or quarterly financial statements delivered pursuant to Section 6.1 hereof (or, prior to the delivery of the first financial statements pursuant to Section 6.1 hereof, consistent with the financial statements as at August 28, 2010); provided, however, if (a) the Borrower shall object to determining such compliance on such basis at the time of delivery of such financial statements due to any change in GAAP or the rules promulgated with respect thereto or (b) the Administrative Agent or the Required Lenders shall so object in writing within 30 days after delivery of such financial statements, then the Administrative Agent and the Borrower shall negotiate in good faith to amend such ratio or requirement to preserve the original intent thereof in light of such change in GAAP (subject to the approval of the Required Lenders); provided that, until so amended, (i) such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein and (ii) the Borrower shall provide to the Administrative Agent and the Lenders financial statements and other documents required under this Credit Agreement or as reasonably requested hereunder setting forth a reconciliation between calculations of such ratio or requirement made before and after giving effect to such change in GAAP.

## **1.4 Time of Day.**

Unless otherwise specified, all references herein to times of day shall be references to Eastern time (daylight or standard, as applicable).

# **SECTION 2**

## **CREDIT FACILITIES**

### **2.1 Revolving Loans.**

(a) Revolving Commitment. Subject to the terms and conditions hereof and in reliance upon the representations and warranties set forth herein, each Lender severally agrees to make available to the Borrower revolving credit loans requested by the Borrower in Dollars (“Revolving Loans”) up to such Lender’s Revolving Commitment from time to time from the Closing Date until the Termination Date, or such earlier date as the Revolving Commitments shall have been terminated as provided herein for the purposes hereinafter set forth; provided, however, that the sum of the aggregate principal amount of outstanding Revolving Loans shall not exceed **ONE BILLION DOLLARS (\$1,000,000,000.00)** (as such aggregate maximum amount may be reduced or increased from time to time as provided in Section 3.4, the “Revolving Committed Amount”); provided, further, (i) with regard to each Lender individually, the aggregate amount of such Lender’s outstanding Revolving Loans, pro rata share of Swingline Loans and pro rata

share of L/C Obligations shall not exceed such Lender's Revolving Commitment, and (ii) with regard to the Lenders collectively, the sum of the aggregate principal amount of outstanding Revolving Loans plus the aggregate principal amount of outstanding Swingline Loans plus the L/C Obligations outstanding shall not at any time exceed the Revolving Committed Amount. Revolving Loans may consist of Base Rate Loans or Eurodollar Loans, or a combination thereof, as the Borrower may request, and may be repaid and reborrowed in accordance with the provisions hereof; provided, however, that no more than borrowings of fifteen (15) Eurodollar Loans shall be outstanding hereunder at any time. For purposes hereof, borrowings of Eurodollar Loans with different Interest Periods shall be considered as separate Eurodollar Loans, even if they begin on the same date, although borrowings, extensions and conversions may, in accordance with the provisions hereof, be combined at the end of existing Interest Periods to constitute a new borrowing of Eurodollar Loans with a single Interest Period. Revolving Loans hereunder may be repaid and reborrowed in accordance with the provisions hereof. Notwithstanding the foregoing, the Borrower may not request any Loans hereunder while a Change of Control Standstill Period shall be in effect pursuant to Section 3.4(e) hereof.

(b) Revolving Loan Borrowings.

(i) Notice of Borrowing. The Borrower shall request a Revolving Loan borrowing by notice, which may be given by telephone and promptly confirmed in writing. Each such notice must be received by the Administrative Agent not later than (i) 12:00 noon on the Business Day of the requested borrowing in the case of Base Rate Loans, and (ii) 11:00 A.M. three Business Days prior to the date of the requested borrowing in the case of Eurodollar Loans. Each such request for borrowing shall be irrevocable, executed by a Financial Officer of the Borrower and shall specify (A) that a Revolving Loan is requested, (B) the date of the requested borrowing (which shall be a Business Day), (C) the aggregate principal amount to be borrowed, and (D) whether the borrowing shall be comprised of Base Rate Loans, Eurodollar Loans or a combination thereof, and if Eurodollar Loans are requested, the Interest Period(s) therefor. If the Borrower shall fail to specify in any such Notice of Borrowing (I) an applicable Interest Period in the case of a Eurodollar Loan, then such notice shall be deemed to be a request for an Interest Period of one month, or (II) the type of Revolving Loan requested, then such notice shall be deemed to be a request for a Base Rate Loan hereunder. The Administrative Agent shall give notice to each affected Lender promptly upon receipt of each Notice of Borrowing pursuant to this Section 2.1(b)(i), the contents thereof and each such Lender's share of any borrowing to be made pursuant thereto.

(ii) Minimum Amounts. Each borrowing of Revolving Loans shall be in a minimum aggregate principal amount of \$5,000,000 and integral multiples of \$1,000,000 in excess thereof (or the remaining amount of the Revolving Committed Amount, if less).

(iii) Advances. Each Lender will make its Commitment Percentage of each borrowing of Revolving Loans available to the Administrative Agent for the account of the Borrower at the Administrative Agent's office set forth on Schedule 10.1 by 2:00 P.M. on the date specified in the applicable Notice of Borrowing in Dollars and in funds immediately available to the Administrative Agent. Such borrowing will then be made available to the Borrower by the Administrative Agent by crediting the Master Account with the aggregate of the amounts made available to the Administrative Agent by the Lenders and in like funds as received by the Administrative Agent.

(c) Repayment. The principal amount of all Revolving Loans shall be due and payable in full on the Termination Date, subject to the provisions of Sections 3.4(c) and (e).

(d) Interest. Subject to the provisions of Section 3.1.

(i) Base Rate Loans. During such periods as Revolving Loans shall be comprised in whole or in part of Base Rate Loans, such Base Rate Loans shall bear interest at a per annum rate equal to the Base Rate plus the Applicable Margin; and

(ii) Eurodollar Loans. During such periods as Revolving Loans shall be comprised in whole or in part of Eurodollar Loans, such Eurodollar Loans shall bear interest at a per annum rate equal to the Eurodollar Rate plus the Applicable Margin.

Interest on Revolving Loans shall be payable in arrears on each applicable Interest Payment Date (or at such other times as may be specified herein).

(e) Revolving Notes. The Revolving Loans made by each Lender shall, to the extent requested by such Lender through the Administrative Agent, be evidenced by a duly executed promissory note of the Borrower to such Lender in an original principal amount equal to such Lender's Revolving Commitment and in substantially the form of Schedule 2.1(e).

## **2.2 Reserved.**

## **2.3 Swingline Loan Subfacility.**

(a) Swingline Commitment. Subject to the terms and conditions set forth herein, the Swingline Lender shall, in reliance upon the agreements of the other Lenders set forth in this Section 2.3, make certain revolving credit loans requested by the Borrower in Dollars to the Borrower (each a "Swingline Loan" and, collectively, the "Swingline Loans") from time to time from the Closing Date until the Termination Date for the purposes hereinafter set forth; provided, however, (i) the aggregate principal amount of Swingline Loans outstanding at any time shall not exceed **SEVENTY-FIVE MILLION DOLLARS (\$75,000,000.00)** (the "Swingline Committed Amount"), and (ii) the sum of the aggregate principal amount of outstanding Revolving Loans plus the aggregate principal amount of outstanding Swingline Loans plus the L/C Obligations outstanding shall not exceed the Revolving Committed Amount. Swingline Loans hereunder shall be made as Base Rate Loans or Quoted Rate Swingline Loans as the Borrower may request in accordance with the provisions of this Section 2.3, and may be repaid and reborrowed in accordance with the provisions hereof. Notwithstanding the foregoing, (i) the Borrower may not request any Loans hereunder while a Change of Control Standstill Period shall be in effect pursuant to Section 3.4(e) hereof; and (ii) the Swingline Lender shall not be under any obligation to issue a Swingline Loan if any Lender is at that time a Defaulting Lender, unless the Swingline Lender has entered into arrangements, including the delivery of Cash Collateral, with the Borrower or such Lender to eliminate the Swingline Lender's actual or potential Fronting Exposure (after giving effect to Section 3.19(a)(iv)) with respect to the Defaulting Lender arising from either the Swingline Loan then proposed to be made and all other Swingline Loans as to which the Swingline Lender has actual or potential Fronting Exposure, as it may elect in its sole discretion.

### **(b) Swingline Loan Advances.**

(i) Notices; Disbursement. Whenever the Borrower desires a Swingline Loan advance hereunder it shall give written notice (or telephone notice promptly confirmed in writing) to the Swingline Lender not later than 2:00 P.M. on the Business Day of the requested Swingline Loan advance. Each such notice shall be irrevocable and shall specify (A) that a Swingline Loan advance is requested, (B) the date of the requested Swingline Loan advance (which shall be a Business Day) and (C) the principal amount of the Swingline Loan advance requested. Each Swingline Loan shall be made as a Base Rate Loan or a Quoted Rate Swingline Loan and shall have such maturity date as the Swingline Lender and the Borrower shall agree upon receipt by the Swingline Lender of any such notice from the Borrower. The Swingline Lender shall initiate the transfer of funds representing the Swingline Loan advance to the Master Account by 3:30 P.M. on the Business Day of the requested borrowing.

(ii) Minimum Amounts. Each Swingline Loan advance shall be in a minimum principal amount of \$5,000,000 and in integral multiples of \$1,000,000 in excess thereof (or the remaining amount of the Swingline Committed Amount, if less).

(iii) Repayment of Swingline Loans. The principal amount of all Swingline Loans shall be due and payable on the earlier of (A) the maturity date agreed to by the Swingline Lender and the Borrower with respect to such Loan (which maturity date shall not be a date more than seven (7) Business Days from the date of advance thereof), (B) the Termination Date, or (C) the demand of the Swingline Lender. The Swingline Lender may, at any time, in its sole discretion, by written notice to the Borrower and the Lenders, demand repayment of its Swingline Loans by way of a Revolving Loan advance, in which case the Borrower shall be deemed to have requested a Revolving Loan advance comprised solely of Base Rate Loans in the amount of such Swingline Loans; provided, however, that any such demand shall be deemed to have been given one Business Day prior to the Termination Date and on the date of the occurrence of any Event of Default described in Section 8.1 and upon acceleration of the indebtedness hereunder and the exercise of remedies in accordance with the provisions of Section 8.2. Each Lender hereby irrevocably agrees to make its pro rata share of each such Revolving Loan in the amount, in the manner and on the date specified in the preceding sentence (and the Administrative Agent may apply Cash Collateral available with respect to the applicable Swingline Loan) notwithstanding (I) the amount of such borrowing may not comply with the minimum amount for advances of Revolving Loans otherwise required hereunder, (II) whether any conditions specified in Section 4.2 are then satisfied, (III) whether a Default or an Event of Default then exists, (IV) failure of any such request or deemed request for Revolving Loan to be made by the time otherwise required hereunder, (V) whether the date of such borrowing is a date on which Revolving Loans are otherwise permitted to be made hereunder or (VI) any termination of the Commitments relating thereto immediately prior to or contemporaneously with such borrowing. In the event that any Revolving Loan cannot for any reason be made on the date otherwise required above (including, without limitation, as a result of the commencement of a proceeding under the Bankruptcy Code with respect to the Borrower), then each Lender hereby agrees that it shall forthwith purchase (as of the date such borrowing would otherwise have occurred, but adjusted for any payments received from the Borrower on or after such date and prior to such purchase) from the Swingline Lender such participations in the outstanding Swingline Loans as shall be necessary to cause each such Lender to share in such Swingline Loans ratably based upon its Commitment Percentage (determined before giving effect to any termination of the Commitments pursuant to Section 3.4), provided that (A) all interest payable on the Swingline Loans shall be for the account of the Swingline Lender until the date as of which the respective participation is purchased and (B) at the time any purchase of participations pursuant to this sentence is actually made, the purchasing Lender shall be required to pay to the Swingline Lender, to the extent not paid to the Swingline Lender by the Borrower in accordance with the terms of subsection (c)(ii) hereof, interest on the principal amount of participation purchased for each day from and including the day upon which such borrowing would otherwise have occurred to but excluding the date of payment for such participation, at the rate equal to the Federal Funds Rate.

(c) Interest on Swingline Loans.

(i) Subject to the provisions of Section 3.1, each Swingline Loan shall bear interest as follows:

(A) Base Rate Loans. If such Swingline Loan is a Base Rate Loan, at a per annum rate (computed on the basis of the actual number of days elapsed over a year of 365 days) equal to the Base Rate plus the Applicable Margin.

(B) Quoted Rate Swingline Loans. If such Swingline Loan is a Quoted Rate Swingline Loan, at a per annum rate (computed on the basis of the actual number of days elapsed over a year of 360 days) equal to the Quoted Rate applicable thereto.

Notwithstanding any other provision to the contrary set forth in this Credit Agreement, in the event that the principal amount of any Quoted Rate Swingline Loan is not repaid on the last day of the Interest Period for such Loan, then such Loan shall be automatically converted into a Base Rate Loan at the end of such Interest Period.

(ii) Payment of Interest. Interest on Swingline Loans shall be payable in arrears on each applicable Interest Payment Date (or at such other times as may be specified herein).

(d) Swingline Note. The Swingline Loans shall, to the extent requested by the Swingline Lender, be evidenced by a duly executed promissory note of the Borrower to the Swingline Lender in an original principal amount equal to the Swingline Committed Amount substantially in the form of Schedule 2.3(d).

**2.4 Letters of Credit.**

(a) The Letter of Credit Commitment.

(i) Subject to the terms and conditions set forth herein, (A) each L/C Issuer agrees (subject, in the case of an L/C Issuer other than Bank of America, to any maximum Letter of Credit commitment amount applicable to such L/C Issuer), in reliance upon the agreements of the other Lenders set forth in this Section 2.4, (1) from time to time on any Business Day during the period from the Closing Date until the Letter of Credit Expiration Date, to issue a requested Letter of Credit for the account of the Borrower, and to amend or renew a Letter of Credit previously issued by such L/C Issuer, in accordance with subsection (b) below, and (2) to honor drafts under any Letter of Credit such L/C Issuer has issued; and (B) the Lenders severally agree to participate in Letters of Credit issued for the account of the Borrower; provided that no L/C Issuer shall be obligated to make any L/C Credit Extension with respect to any Letter of Credit, and no Lender shall be obligated to participate in any Letter of Credit, to the extent that, as of the date of such L/C Credit Extension, (x) the sum of the aggregate principal amount of outstanding Revolving Loans plus the aggregate principal amount of outstanding Swingline Loans plus the L/C Obligations outstanding shall exceed the Revolving Committed Amount or (y) the L/C Obligations would exceed the Letter of Credit Sublimit. Within the foregoing limits, and subject to the terms and conditions hereof, the Borrower's ability to obtain Letters of Credit shall be fully revolving, and accordingly the Borrower may, during

the foregoing period, obtain Letters of Credit to replace Letters of Credit that have expired or that have been drawn upon and reimbursed. All Existing Letters of Credit shall be deemed to have been issued pursuant hereto, and from and after the Closing Date shall be subject to and governed by the terms and conditions hereof. Notwithstanding the foregoing, the Borrower may not request any Letters of Credit hereunder while a Change of Control Standstill Period shall be in effect pursuant to Section 3.4(e) hereof.

(ii) No L/C Issuer shall be under any obligation to issue any Letter of Credit if:

(A) any order, judgment or decree of any Governmental Authority or arbitrator shall by its terms purport to enjoin or restrain such L/C Issuer from issuing such Letter of Credit, or any law applicable to such L/C Issuer or any request or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over such L/C Issuer shall prohibit, or request that such L/C Issuer refrain from, the issuance of letters of credit generally or such Letter of Credit in particular or shall impose upon such L/C Issuer with respect to such Letter of Credit any restriction, reserve or capital requirement (for which such L/C Issuer is not otherwise compensated hereunder) not in effect on the Closing Date, or shall impose upon such L/C Issuer any unreimbursed loss, cost or expense which was not applicable on the Closing Date and which such L/C Issuer in good faith deems material to it;

(B) the expiry date of such requested Letter of Credit would occur more than eighteen (18) months after the date of issuance or last renewal, unless the Required Lenders have approved such expiry date;

(C) the expiry date of such requested Letter of Credit would occur after the Letter of Credit Expiration Date, unless all the Lenders have approved such expiry date (pursuant to additional documentation in form and substance satisfactory to the Administrative Agent and the applicable L/C Issuer);

(D) such Letter of Credit is in a face amount less than \$100,000, in the case of a commercial Letter of Credit, or \$100,000, in the case of a standby Letter of Credit, or is to be denominated in a currency other than Dollars;

(E) the issuance of such Letter of Credit would violate one or more policies of the L/C Issuer applicable to letters of credit generally (it being understood that each L/C Issuer acknowledges that (x) as of the Closing Date, it is not aware of any such policies that would make it impossible for the Borrower to have Letters of Credit issued hereunder for use in the ordinary course of the Borrower's business and in accordance with its past practices and (y) it will not implement any such policies solely with the intent to deprive the Borrower of having Letters of Credit issued hereunder for use in the ordinary course of the Borrower's business and in accordance with its past practices); or

(F) any Lender is at that time a Defaulting Lender, unless the L/C Issuer has entered into arrangements, including the delivery of Cash Collateral, with the Borrower or such Lender to eliminate the L/C Issuer's actual or potential Fronting Exposure (after giving effect to Section 3.19(a)(iv)) with respect to the Defaulting Lender arising from either the Letter of Credit then proposed to be issued or that Letter of Credit and all other L/C Obligations as to which the L/C Issuer has actual or potential Fronting Exposure, as it may elect in its sole discretion.

(iii) No L/C Issuer shall be under any obligation to amend any Letter of Credit if (A) such L/C Issuer would have no obligation at such time to issue such Letter of Credit in its amended form under the terms hereof, or (B) the beneficiary of such Letter of Credit does not accept the proposed amendment to such Letter of Credit.

(b) Procedures for Issuance and Amendment of Letters of Credit; Auto-Renewal Letters of Credit.

(i) Each Letter of Credit shall be issued or amended, as the case may be, upon the request of the Borrower delivered to an L/C Issuer (with a copy to the Administrative Agent) in the form of a Letter of Credit Application, appropriately completed and signed by a Financial Officer of the Borrower. Such L/C Application must be received by such L/C Issuer and the Administrative Agent not later than 11:00 A.M. at least three Business Days prior to the proposed issuance date or date of amendment, as the case may be. In the case of a request for an initial issuance of a Letter of Credit, such Letter of Credit Application shall specify in form and detail satisfactory to such L/C Issuer: (A) the proposed issuance date of the requested Letter of Credit (which shall be a Business Day); (B) the amount thereof; (C) the expiry date thereof; (D) the name and address of the beneficiary thereof; (E) the documents to be presented by such beneficiary in case of any drawing thereunder; (F) the full text of any certificate to be presented by such beneficiary in case of any drawing thereunder; and (G) such other matters as such L/C Issuer may require. In the case of a request for an amendment of any outstanding Letter of Credit, such Letter of Credit Application shall specify in form and detail satisfactory to the applicable L/C Issuer (A) the Letter of Credit to be amended; (B) the proposed date of amendment thereof (which shall be a Business Day); (C) the nature of the proposed amendment; and (D) such other matters as such L/C Issuer may require.

(ii) Promptly after receipt of any Letter of Credit Application, the L/C Issuer receiving such Letter of Credit Application will confirm with the Administrative Agent (by telephone or in writing) that the Administrative Agent has received a copy of such Letter of Credit Application from the Borrower and, if not, such L/C Issuer will provide the Administrative Agent with a copy thereof. Upon receipt by such L/C Issuer of confirmation from the Administrative Agent that the requested issuance or amendment is permitted in accordance with the terms hereof (such confirmation shall be provided to such L/C Issuer no later than the next Business Day following the Administrative Agent's receipt of a copy of such Letter of Credit Application), then, subject to the terms and conditions hereof, such L/C Issuer shall, on the requested date, issue a Letter of Credit for the account of the Borrower or enter into the applicable amendment, as the case may be, in each case in accordance with such L/C Issuer's usual and customary business practices. Immediately upon the issuance of each Letter of Credit, each Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from the issuing L/C Issuer a risk participation in such Letter of Credit in an amount equal to the product of such Lender's Commitment Percentage times the amount of such Letter of Credit.

(iii) Solely with respect to standby Letters of Credit, if the Borrower so requests in any applicable Letter of Credit Application, any L/C Issuer may, in its sole and absolute discretion, agree to issue a Letter of Credit that has automatic renewal provisions (each, an “Auto-Renewal Letter of Credit”); provided that any such Auto-Renewal Letter of Credit must permit such L/C Issuer to prevent any such renewal at least once in each twelve-month period (commencing with the date of issuance of such Letter of Credit) by giving prior notice to the beneficiary thereof not later than a day (the “Nonrenewal Notice Date”) in each such twelve-month period to be agreed upon at the time such Letter of Credit is issued. Unless otherwise directed by such L/C Issuer, the Borrower shall not be required to make a specific request to such L/C Issuer for any such renewal. Once an Auto-Renewal Letter of Credit has been issued, the Lenders shall be deemed to have authorized (but may not require) such L/C Issuer to permit the renewal of such Letter of Credit at any time to an expiry date not later than the Letter of Credit Expiration Date; provided, however, that such L/C Issuer shall not permit any such renewal if (A) such L/C Issuer would have no obligation at such time to issue such Letter of Credit in its renewed form under the terms hereof, or (B) it has received notice (which may be by telephone or in writing) on or before the day that is two Business Days before the Nonrenewal Notice Date (1) from the Administrative Agent that the Required Lenders have elected not to permit such renewal or (2) from the Administrative Agent, any Lender or the Borrower that one or more of the applicable conditions specified in Section 4.2 is not then satisfied. No L/C Issuer shall be under any obligation to permit the renewal of an Auto-Renewal Letter of Credit if such L/C Issuer would have no obligation at such time to issue such Letter of Credit under the terms of this Section 2.4.

(iv) Promptly after its delivery of any Letter of Credit or any amendment to a Letter of Credit to an advising bank with respect thereto or to the beneficiary thereof, each L/C Issuer will also deliver to the Borrower and the Administrative Agent a true and complete copy of such Letter of Credit or amendment. On the Business Day that is three Business Days prior to the last Business Day of each March, June, September and December, each L/C Issuer will deliver to the Administrative Agent a report of all outstanding Letters of Credit issued, delivered, extended and/or amended by such L/C Issuer for the current calendar quarter (or portion thereof), with an estimate of any activity that is expected to occur during the remainder of such calendar quarter. The Administrative Agent shall maintain a register for the recordation of the identity of the principal amount, type and undrawn amount of each Letter of Credit outstanding hereunder, the names and addresses of each beneficiary thereunder and the L/C Advances of the Lenders pursuant to the terms hereof from time to time (the “L/C Register”).

(c) Drawings and Reimbursements; Funding of Participations.

(i) Upon receipt from the beneficiary of any Letter of Credit of any notice of a drawing under such Letter of Credit, the applicable L/C Issuer shall notify the Borrower and the Administrative Agent thereof. Not later than 11:00 A.M. on the date of any payment by such L/C Issuer under a Letter of Credit (each such date, an “Honor Date”), the Borrower shall reimburse such L/C Issuer through the Administrative Agent in an amount equal to the amount of such drawing (it being understood that such reimbursement may be accomplished pursuant to the application of funds held in a cash collateral account in accordance with the documentation governing such account). If the Borrower fails to so reimburse such L/C Issuer through the Administrative Agent by such time, such L/C Issuer shall, prior to 11:00 A.M. on such date, so notify the Administrative Agent and the Administrative Agent shall promptly notify each Lender of the Honor Date, the amount of the unreimbursed drawing (the “Unreimbursed Amount”), and such Lender’s Commitment Percentage thereof. In such

event, the Borrower shall be deemed to have requested a borrowing of Base Rate Loans to be disbursed on the Honor Date in an amount equal to the Unreimbursed Amount, without regard to the minimum and multiples specified in Section 2.1(b)(ii) for the principal amount of Base Rate Loans, but subject to the amount of the unutilized portion of the Revolving Committed Amount and the conditions set forth in Section 4.2 (other than the delivery of a Notice of Borrowing). Any notice given by any L/C Issuer or the Administrative Agent pursuant to this Section 2.4(c)(i) may be given by telephone if immediately confirmed in writing; provided that the lack of such an immediate confirmation shall not affect the conclusiveness or binding effect of such notice.

(ii) Each Lender (including the Lender acting as L/C Issuer) shall upon any notice pursuant to Section 2.4(c)(i) make funds available to the Administrative Agent for the account of the issuing L/C Issuer in an amount equal to its Commitment Percentage of the Unreimbursed Amount not later than 2:00 p.m. on the Business Day specified in such notice by the Administrative Agent, whereupon, subject to the provisions of Section 2.4(c)(iii), each Lender that so makes funds available shall be deemed to have made a Base Rate Loan to the Borrower in such amount. The Administrative Agent shall remit the funds so received to such L/C Issuer.

(iii) With respect to any Unreimbursed Amount that is not fully refinanced by a borrowing of Base Rate Loans because the conditions set forth in Section 4.2 cannot be satisfied or for any other reason, the Borrower shall be deemed to have incurred from the applicable L/C Issuer an L/C Borrowing in the amount of the Unreimbursed Amount that is not so refinanced, which L/C Borrowing shall be due and payable on demand (together with interest) and shall bear interest at the default rate as set forth in Section 3.1. In such event, the applicable L/C Issuer shall promptly notify the Administrative Agent, who in turn will promptly notify each Lender, and each Lender (including the Lender acting as L/C Issuer) that has not made funds available to such L/C Issuer pursuant to Section 2.4(c)(ii) shall, promptly upon any such notice, make funds available to the Administrative Agent for the account of such L/C Issuer in an amount equal to its Commitment Percentage of such L/C Borrowing, whereupon each Lender that so makes funds available shall be deemed to have made payment in respect of its participation in such L/C Borrowing and such payment shall constitute an L/C Advance from such Lender in satisfaction of its participation obligation under this Section 2.4. Likewise, to the extent a Lender has already made funds available pursuant to Section 2.4(c)(ii) in respect of any Unreimbursed Amount and such Unreimbursed Amount may not be refinanced by a Base Rate Loan because the conditions set forth in Section 4.2 cannot be satisfied or for any other reason, the funds made available by such Lender pursuant to Section 2.4(c)(ii) in respect of such Unreimbursed Amount shall be deemed payment in respect of its participation in the related L/C Borrowing and such payment shall constitute an L/C Advance from such Lender in satisfaction of its participation obligation under this Section 2.4. The Administrative Agent shall remit the funds so received to the applicable L/C Issuer.

(iv) Until each Lender funds its Loan or L/C Advance pursuant to this Section 2.4(c) to reimburse the issuing L/C Issuer for any amount drawn under any Letter of Credit, interest in respect of such Lender's Commitment Percentage of such amount shall be solely for the account of such L/C Issuer.

(v) Each Lender's obligation to make Base Rate Loans or L/C Advances to reimburse an L/C Issuer for amounts drawn under Letters of Credit, as contemplated by this Section 2.4(c), shall be absolute and unconditional and shall not be affected by any circumstance, including, without limitation, (A) any set-off, counterclaim, recoupment, defense or other right which such Lender may have against any L/C Issuer, the Borrower or any other Person for any reason whatsoever; (B) the occurrence or continuance of a Default or Event of Default, or (C) any other occurrence, event or condition, whether or not similar to any of the foregoing; provided, however, that each Lender's obligation to make Base Rate Loans pursuant to this Section 2.4(c) is subject to the conditions set forth in Section 4.2 (other than delivery by the Borrower of a Notice of Borrowing). Any such reimbursement shall not relieve or otherwise impair the obligation of the Borrower to reimburse any L/C Issuer for the amount of any payment made by such L/C Issuer under any Letter of Credit, together with interest as provided herein.

(vi) If any Lender fails to make available to the Administrative Agent for the account of any L/C Issuer any amount required to be paid by such Lender pursuant to the foregoing provisions of this Section 2.4(c) by the time specified in Section 2.4(c)(ii), such L/C Issuer shall be entitled (acting through the Administrative Agent) to recover from such Lender, on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to such L/C Issuer at a rate per annum equal to the greater of the Federal Funds Rate and a rate determined by the L/C Issuer in accordance with banking industry rules on interbank compensation, plus any administrative, processing or similar fees customarily charged by the L/C Issuer in connection with the foregoing. If such Lender pays such amount (with interest and fees as aforesaid), the amount so paid shall constitute such Lender's Base Rate Loan included in the relevant borrowing of Base Rate Loans or L/C Advance in respect of the relevant L/C Borrowing, as the case may be. A certificate of such L/C Issuer submitted (through the Administrative Agent) to any Lender with respect to any amounts owing under this clause (vi) shall be conclusive absent manifest error.

(vii) With respect to any payment in respect of a Letter of Credit, each Lender (including the Lender acting as L/C Issuer) agrees to act in accordance with the ratable sharing of payments provisions set forth in Section 3.13.

(d) Repayment of Participations.

(i) At any time after any L/C Issuer has made a payment under any Letter of Credit and has received from any Lender such Lender's L/C Advance in respect of such payment in accordance with Section 2.4(c), if the Administrative Agent receives for the account of such L/C Issuer any payment related to such Letter of Credit (whether directly from the Borrower or otherwise, including proceeds of Cash Collateral applied thereto by the Administrative Agent), or any payment of interest thereon, the Administrative Agent will distribute to such Lender its Commitment Percentage thereof in the same funds as those received by the Administrative Agent.

(ii) If any payment received by the Administrative Agent for the account of any L/C Issuer pursuant to Section 2.4(c) (i) is required to be returned, each Lender shall pay to the Administrative Agent for the account of such L/C Issuer its Commitment Percentage thereof on demand of the Administrative Agent, plus interest thereon from the date of such demand to the date such amount is returned by such Lender, at a rate per annum equal to the Federal Funds Rate from time to time in effect.

(e) Obligations Absolute. In the absence of gross negligence or willful misconduct, and subject to Section 2.4(g) regarding the applicability of ISP and UCP (as defined below), the obligation of the Borrower to reimburse the applicable L/C Issuer for each drawing under each Letter of Credit, and to repay each L/C Borrowing and each drawing under a Letter of Credit that is refinanced by a Base Rate Loan, shall be absolute, unconditional and irrevocable, and shall be paid strictly in accordance with the terms of this Credit Agreement under all circumstances, including the following:

(i) any lack of validity or enforceability of such Letter of Credit, this Credit Agreement, or any other agreement or instrument relating thereto;

(ii) the existence of any claim, counterclaim, set-off, defense or other right that the Borrower may have at any time against any beneficiary or any transferee of such Letter of Credit (or any Person for whom any such beneficiary or any such transferee may be acting), any L/C Issuer or any other Person, whether in connection with this Credit Agreement, the transactions contemplated hereby or by such Letter of Credit or any agreement or instrument relating thereto, or any unrelated transaction;

(iii) any draft, demand, certificate or other document presented under such Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect; or any loss or delay in the transmission or otherwise of any document required in order to make a drawing under such Letter of Credit;

(iv) any payment by any L/C Issuer under such Letter of Credit against presentation of a draft or certificate that appears on its face to be in order but that nevertheless does not strictly comply with the terms of such Letter of Credit; or any payment made by any L/C Issuer under such Letter of Credit to any Person purporting to be a trustee in bankruptcy, debtor-in-possession, assignee for the benefit of creditors, liquidator, receiver or other representative of or successor to any beneficiary or any transferee of such Letter of Credit, including any arising in connection with any proceeding under any debtor relief law; or

(v) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing, including any other circumstance that might otherwise constitute a defense available to, or a discharge of, the Borrower.

The Borrower shall promptly examine a copy of each Letter of Credit and each amendment thereto that is delivered to it and, in the event of any claim of noncompliance with the Borrower's instructions or other irregularity, the Borrower will immediately notify the applicable L/C Issuer. The Borrower shall be conclusively deemed to have waived any such claim against the applicable L/C Issuer and its correspondents unless such notice is given as aforesaid.

(f) Role of L/C Issuers. Each Lender and the Borrower agree that, in paying any drawing under a Letter of Credit, the applicable L/C Issuers shall not have any responsibility to obtain any document (other than any sight draft, certificates and documents expressly required by the Letter of Credit) or to ascertain or inquire as to the validity or accuracy of any such document or the authority of the Person executing or delivering any such document. No L/C Issuer nor any Affiliate thereof nor any of the respective correspondents, participants or assignees of any L/C Issuer shall be liable to any Lender for (i) any action taken or omitted in connection herewith at the request or with the approval of the Lenders or the Required Lenders, as applicable; (ii) any action taken or omitted in the absence of gross negligence, willful misconduct or material breach in bad faith of an express contractual obligation; or (iii) the due execution, effectiveness, validity or enforceability of any document or instrument related to any Letter of Credit or Letter of Credit Application.

The Borrower hereby assumes all risks of the acts or omissions of any beneficiary or transferee with respect to its use of any Letter of Credit (other than the presentation of any sight draft, certificates and documents expressly required by the Letter of Credit); provided, however, that this assumption is not intended to, and shall not, preclude the Borrower's pursuing such rights and remedies as it may have against the beneficiary or transferee at law or under any other agreement. No L/C Issuer nor any Affiliate thereof, nor any of the respective correspondents, participants or assignees of any L/C Issuer, shall be liable or responsible for any of the matters described in clauses (i) through (v) of Section 2.4(e); provided, however, that anything in such clauses to the contrary notwithstanding, the Borrower may have a claim against an L/C Issuer, and such L/C Issuer may be liable to the Borrower, to the extent, but only to the extent, of any direct, as opposed to consequential or exemplary, damages suffered by the Borrower which the Borrower proves were caused by such L/C Issuer's willful misconduct, gross negligence or material breach of an express contractual obligation or such L/C Issuer's willful failure to pay under any Letter of Credit after the presentation to it by the beneficiary of a sight draft and certificate(s) strictly complying with the terms and conditions of a Letter of Credit. In furtherance and not in limitation of the foregoing, any L/C Issuer may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary, and such L/C Issuer shall not be responsible for the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign a Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, which may prove to be invalid or ineffective for any reason.

(g) Applicability of ISP and UCP. Unless otherwise expressly agreed by the L/C Issuer and the Borrower when a Letter of Credit is issued (including any such agreement applicable to an Existing Letter of Credit), (i) the rules of the ISP shall apply to each standby Letter of Credit, and (ii) the rules of the Uniform Customs and Practice for Documentary Credits, as most recently published by the International Chamber of Commerce at the time of issuance (the "UCP") shall apply to each commercial Letter of Credit.

(h) Conflict with Letter of Credit Application. In the event of any conflict between the terms hereof and the terms of any Letter of Credit Application, the terms hereof shall control.

(i) Assignments. Each Lender may assign all or a portion of its rights and obligations of participation in the Letters of Credit issued hereunder in accordance with the terms and conditions for such assignments as set forth in Section 10.3(b). If at any time Bank of America or such other L/C Issuer assigns all of its Commitment and Loans pursuant to Section 10.3(b), Bank of America or such L/C Issuer may, upon thirty (30) days' notice to the Borrower and the Lenders, resign as an L/C Issuer. In the event of any such resignation of an L/C Issuer, the Borrower shall be entitled to appoint from among the Lenders a successor L/C Issuer hereunder; provided, however, that no failure by the Borrower to appoint any such successor shall affect the resignation of any L/C Issuer. Each of Bank of America, SunTrust, Wells Fargo and such other L/C Issuer shall retain all the rights and obligations of an L/C Issuer hereunder with respect to all Letters of Credit outstanding as of the effective date of its resignation as an L/C Issuer and all L/C Obligations with respect thereto (including the right to require the Lenders to make Base Rate Loans or fund participations in Letters of Credit pursuant to Section 2.4(c)).

(j) Responsibility of L/C Issuer for Causing the Letter of Credit Sublimit To Be Exceeded. If any L/C Issuer (i) issues or amends a Letter of Credit without confirming with the Administrative Agent that the requested issuance or amendment is permitted in accordance with the terms hereof as is required pursuant to Section 2.4(b)(ii) (or in disregard of the information conveyed by the Administrative Agent in response to such confirmation request) or (ii) fails to provide the Administrative Agent with a proper reporting of any activity with respect to Letters of Credit issued or requested of such L/C Issuer during the current calendar quarter as is required pursuant to Section 2.4(b)(iv), and the result of such action or inaction is to cause, at any time, (A) the outstanding L/C Obligations to exceed the Letter of Credit Sublimit or (B) the sum of the aggregate principal amount of outstanding Revolving Loans plus the aggregate principal amount of outstanding Swingline Loans plus the L/C Obligations outstanding to exceed the Revolving Committed Amount, then such L/C Issuer shall be solely responsible for collecting payment for unreimbursed draws thereunder from the Borrower, and the Lenders shall not be required to participate in the L/C Obligations relating thereto.

## SECTION 3

### OTHER PROVISIONS RELATING TO CREDIT FACILITIES

#### **3.1 Default Rate.**

Upon the occurrence, and during the continuance, of an Event of Default, the principal of and, to the extent permitted by law, interest on the Loans and any other amounts owing hereunder or under the other Credit Documents shall bear interest, payable on demand, at a per annum rate 2% greater than the rate which would otherwise be applicable (or if no rate is applicable, whether in respect of interest, fees or other amounts, then 2% greater than the Base Rate).

#### **3.2 Extension and Conversion.**

The Borrower shall have the option, on any Business Day, to deliver a Notice of Extension/Conversion to (i) extend existing Loans into a single subsequent permissible Interest Period, (ii) convert Loans into Loans of another interest rate type or (iii) extend existing Loans into automatic rolling subsequent three-month Interest Periods; provided that, with respect to this clause (iii) such Loans will be automatically extended on the last day of each three-month Interest Period into the subsequent three-month Interest Period (as requested pursuant to the relevant Notice of Extension/Conversion) until such time as the Borrower delivers a new Notice of Extension/Conversion, which new Notice of Extension/Conversion shall be delivered prior to 11:00 A.M. on the fifth Business Day prior to the last day of the then current Interest Period; provided, however, that (a) except as provided in Section 3.8, Eurodollar Loans may be converted into Base Rate Loans only on the last day of the Interest Period applicable thereto, (b) Eurodollar Loans may be extended, and Base Rate Loans may be converted into Eurodollar Loans, only if no Default or Event of Default is in existence on the date of extension or conversion, (c) Loans extended as, or converted into, Eurodollar Loans shall be subject to the terms of the definition of "Interest Period" set forth in Section 1.1 and shall be in such minimum amounts as provided in Section 2.1(b)(ii), (d) no more than fifteen (15) Eurodollar Loans shall be outstanding hereunder at any time (it being understood that, for purposes hereof, Eurodollar Loans with different Interest Periods shall be considered as separate Eurodollar Loans, even if they begin on the same date, although borrowings, extensions and conversions may, in accordance with the provisions hereof, be combined at the end of existing Interest Periods to constitute a new Eurodollar Loan with a single Interest Period), (e) any request for extension or conversion of a Eurodollar Loan which shall fail to specify an Interest Period shall be deemed to be a request for an Interest Period of one month and (f) Swingline Loans may not be extended or converted pursuant to this Section 3.2. Each such extension or conversion shall be effected by a Financial Officer of the Borrower giving a Notice of Extension/Conversion (or telephone notice promptly confirmed in writing) to the Administrative Agent prior to 11:00 A.M. on the third Business Day prior to, in the case of the extension of a Eurodollar Loan as, or conversion of a Base Rate Loan into, a Eurodollar Loan, the date of the proposed extension or conversion, specifying the date of the proposed extension or conversion, the Loans to be so extended or converted, the types of Loans into which such Loans are to be converted and, if appropriate, the applicable Interest Periods with respect thereto. Each request for extension or conversion shall be irrevocable and shall constitute a representation and warranty by the Borrower of the matters specified in subsections (b), (c), (d) and (e) of Section 4.2. In the event the Borrower fails to request extension or conversion of any Eurodollar Loan in accordance with this Section, or any such conversion or extension is not permitted or required by this Section, then such Eurodollar Loan shall be automatically converted into a Base Rate Loan at the end of the Interest Period applicable thereto. The Administrative Agent shall give each Lender notice as promptly as practicable of any such proposed extension or conversion affecting any Loan.

### 3.3 Prepayments.

(a) Voluntary Prepayments. The Borrower shall have the right to prepay Loans in whole or in part from time to time, subject to Section 3.11, but otherwise without premium or penalty; provided, however, that (i) Base Rate Loans may only be prepaid on one Business Day's prior written notice to the Administrative Agent and specifying the applicable Loans to be prepaid; (ii) Eurodollar Loans may only be prepaid on three Business Days' prior written notice to the Administrative Agent and specifying the applicable Loans to be prepaid; (iii) any prepayment of Eurodollar Loans or Quoted Rate Swingline Loans will be subject to Section 3.11; and (iv) each such partial prepayment of Loans shall be (A) in the case of Revolving Loans, in a minimum principal amount of \$5,000,000 and multiples of \$1,000,000 in excess thereof (or, if less, the full remaining amount of the Revolving Loan being prepaid) and (B) in the case of Swingline Loans, in a minimum principal amount of \$250,000 and multiples of \$100,000 in excess thereof (or, if less, the full remaining amount of the then outstanding Swingline Loans). Subject to the foregoing terms and to Sections 3.12 and 3.19 (to the extent applicable), amounts prepaid under this Section 3.3(a) shall be applied as the Borrower may elect.

(b) Mandatory Prepayments.

(i) Commitment Limitation. If at any time, the sum of the aggregate principal amount of outstanding Revolving Loans plus L/C Obligations outstanding plus the aggregate principal amount of outstanding Swingline Loans shall exceed the Revolving Committed Amount, the Borrower promises to immediately prepay Loans and/or Cash Collateralize undrawn L/C Obligations in an amount sufficient to eliminate such excess (such payments to be applied as set forth in clause (iv) below).

(ii) Letter of Credit Sublimit. If at any time, the sum of the aggregate principal amount of L/C Obligations shall exceed the Letter of Credit Sublimit, the Borrower shall immediately repay L/C Borrowings and, within seven (7) days, Cash Collateralize undrawn L/C Obligations in an amount sufficient to eliminate such excess (such payments to be applied as set forth in clause (iv) below). It is understood that if the Borrower is able to eliminate such excess within the seven-day grace period through the reduction of L/C Obligations, then no Cash Collateralization shall be required by the Borrower under this clause (iii).

(iii) Application of Mandatory Prepayments. All amounts required to be paid pursuant to this Section 3.3(b) shall be applied as follows: (A) with respect to all amounts paid pursuant to Section 3.3(b)(i), to (I) Swingline Loans, (II) L/C Borrowings that have not been reimbursed through L/C Advances, (III) L/C Advances and Revolving Loans and (IV) Cash Collateralize undrawn L/C Obligations and (B) with respect to all amounts paid pursuant to Section 3.3(b)(ii), to (I) L/C Borrowings that have not been reimbursed through L/C Advances, (II) L/C Advances and (III) Cash Collateralize undrawn L/C Obligations. Within the parameters of the applications set forth above, payments shall be applied first to Base Rate Loans and then to Eurodollar Loans in direct order of Interest Period maturities. All payments under this Section 3.3(b) shall be subject to Section 3.11, but otherwise without premium or penalty, and shall be accompanied by interest on the principal amount paid through the date of payment.

(c) General. All prepayments made pursuant to this Section 3.3 shall (i) be subject to Section 3.11 and (ii) unless the Borrower shall specify otherwise, be applied first to Base Rate Loans, if any, and then to Eurodollar Loans in direct order of Interest Period maturities. Except as otherwise set forth in subclause (b) above, amounts prepaid on the Revolving Loans may be reborrowed in accordance with the provisions hereof.

### **3.4 Termination, Reduction and Increase of Revolving Committed Amount.**

(a) Voluntary Reductions. The Borrower may from time to time permanently reduce or terminate the Revolving Committed Amount in whole or in part (in minimum aggregate amounts of \$5,000,000 or in integral multiples of \$1,000,000 in excess thereof (or, if less, the full remaining amount of the then applicable Revolving Committed Amount)) upon five Business Days' prior written notice to the Administrative Agent; provided, however, no such termination or reduction shall be made which would cause (i) the aggregate principal amount of outstanding Revolving Loans plus L/C Obligations outstanding plus the aggregate principal amount of outstanding Swingline Loans to exceed the Revolving Committed Amount (ii) the aggregate principal amount of outstanding L/C Obligations not fully Cash Collateralized hereunder to exceed the Letter of Credit Sublimit, or (iii) the aggregate principal amount of outstanding Swingline Loans to exceed the Swingline Committed Amount, unless, concurrently with such termination or reduction, the Revolving Loans are repaid to the extent necessary to eliminate such excess. The Administrative Agent shall promptly notify each affected Lender of receipt by the Administrative Agent of any notice from the Borrower pursuant to this Section 3.4(a).

#### **(b) Increase in Revolving Committed Amount.**

(i) Provided there exists no Default or Event of Default, upon notice from the Borrower to the Administrative Agent (which shall promptly notify the Lenders), the Borrower may from time to time, request an increase in the Revolving Committed Amount in an aggregate amount for all such increases not to exceed \$250,000,000; provided, however, that the maximum amount of the Revolving Committed Amount after giving effect to any such increase shall not exceed \$1,250,000,000. The aggregate amount of any individual increase hereunder shall be in a minimum amount of \$5,000,000 (and in integral multiples of \$1,000,000 in excess thereof). To achieve the full amount of a requested increase, the Borrower may solicit increased commitments from existing Lenders and/or invite additional Eligible Assignees to become Lenders; provided, however, that no existing Lender shall be obligated and/or required to accept an increase in its Commitment pursuant to this Section 3.4(b) unless it specifically consents to such increase in writing. Any Lender or Eligible Assignee agreeing to increase its Commitment or provide a new Commitment pursuant to this Section 3.4(b) shall, in connection therewith, deliver to the Administrative Agent a New Commitment Agreement substantially in the form of Schedule 3.4(b) hereto.

(ii) If the Revolving Committed Amount is increased in accordance with this Section, the Administrative Agent and the Borrower shall determine the effective date (the "Increase Effective Date") and the final allocation of such increase. The Administrative Agent shall promptly notify the Borrower and the Lenders of the final allocation of such increase and the Increase Effective Date and Schedule 2.1(a) hereto shall be deemed amended to reflect such increase and final allocation.

As a condition precedent to such increase, in addition to any deliveries pursuant to subsection (i) above, the Borrower shall deliver to the Administrative Agent each of the following in form and substance satisfactory to the Administrative Agent: (A) a certificate of the Borrower dated as of the Increase Effective Date signed by a Financial Officer of the Borrower (1) certifying and attaching the resolutions adopted by the Borrower approving or consenting to such increase, and (2) certifying that, before and after giving effect to such increase, (x) the representations and warranties contained in Section 5 and the other Credit Documents are true and correct on and as of the Increase Effective Date, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they are true and correct as of such earlier date, and except that for purposes of this Section 3.4(b), the representations and warranties contained in Section 5.1 shall be deemed to refer to the most recent statements furnished pursuant to subsections (a) and (b), respectively, of Section 6.1, (y) no Default exists and (z) the Borrower is in compliance with the financial covenants in Sections 6.10 and 6.11; (B) a statement of reaffirmation from the Borrower pursuant to which the Borrower ratifies this Credit Agreement and the other Credit Documents and acknowledges and reaffirms that, after giving effect to such increase, it is bound by all terms of this Credit Agreement and the other Credit Documents; (C) if the increase is being provided by an existing Lender, and such Lender is then in possession of a Revolving Note, a revised Revolving Note in favor of such Lender reflecting such Lender's Commitment after giving effect to such increase; (D) if the increase is being provided by a new Lender, a Revolving Note in favor of such Lender if so requested by such Lender; and (E) payment of any applicable fee related to such increase (including, without limitation, any applicable arrangement, upfront and/or administrative fee). The Borrower shall prepay any Loans outstanding on the Increase Effective Date (and pay any additional amounts required pursuant to Section 3.11) to the extent necessary to keep the outstanding Loans ratable with any revised Commitment Percentages arising from any nonratable increase in the Commitments under this Section.

(iii) This Section shall supersede any provisions in Sections 3.12, 3.14 or 10.6 to the contrary.

(c) Termination Date. The Revolving Commitments of the Lenders, the commitment of any L/C Issuer to issue Letters of Credit under the Letter of Credit Sublimit and the Swingline Commitment of the Swingline Lender shall automatically terminate on the Termination Date.

(d) Extension. The Borrower may, on or after the second anniversary of the Closing Date, by notice to the Administrative Agent, make a single written request of the Lenders to extend the Termination Date hereunder for an additional period of one (1) year. The Administrative Agent will give prompt notice to each of the Lenders of its receipt of any such request for extension of such Termination Date. Each Lender, in its sole discretion, shall make a determination within 30 days of such notice as to whether or not it will agree to extend such Termination Date as requested; provided, however, that failure by any Lender to make a timely response to the Borrower's request for extension of such Termination Date shall be deemed to constitute a refusal by the Lender to extend such Termination Date. If, in response to a request for an extension of such Termination Date, one or more Lenders shall fail to agree to the requested extension (the "Disapproving Lenders"), then the Borrower may elect to either (A) continue the revolving credit facility hereunder at the same level of Revolving Commitments by replacing each of the Disapproving Lenders in accordance with Section 3.17, or (B) provided that the requested extension is approved by Lenders holding more than 50% of the Revolving Commitments hereunder (including for purposes hereof any Replacement Lenders which may replace a Disapproving Lender, the "Approving Lenders"), extend and continue the revolving credit facility at a lower aggregate amount equal to the Revolving Commitments held by the Approving Lenders. In any such case, (i) such Termination Date relating to the Revolving Commitments

held by the Disapproving Lenders (other than those Disapproving Lenders replaced in accordance with Section 3.17) shall remain as then in effect with repayment of obligations held by such Disapproving Lenders being due on such date and termination of their respective Revolving Commitments on such date, and (ii) such Termination Date relating to the Revolving Commitments held by the Approving Lenders including any applicable Replacement Lenders shall be extended by an additional period of one (1) year. With respect to the L/C Obligations of any Disapproving Lenders whose Revolving Commitments are terminated on the applicable Termination Date relating to the Revolving Commitments held by such Disapproving Lenders, such L/C Obligations shall automatically be allocated among the Approving Lenders including any applicable Replacement Lenders, whereupon each such Disapproving Lender shall be released from all of its obligations to the Borrower, the Administrative Agent and/or such L/C Issuer in respect of Letters of Credit under this Credit Agreement. The provisions of this Section 3.4(d) shall supersede any provisions of Section 3.12 or 3.14 to the contrary.

(e) Change of Control.

(i) As set forth in Sections 2.1(a), 2.3(a) and 2.4(a) above, the Borrower may not request any Loans or Letters of Credit hereunder while a Change of Control Standstill Period shall be in effect pursuant to this Section 3.4(e). Subject to the procedures set forth below in clause (iii) of this Section 3.4(e), upon the occurrence of a Change of Control and the expiration of the 20-day notice period described below, each Lender shall have the right to terminate its Commitment hereunder and require that the Borrower prepay (and the Borrower agrees to so prepay) in full such Lender's outstanding Loans and Cash Collateralize such Lender's L/C Obligations (such amount the "Change of Control Prepayment Amount"), plus accrued and unpaid fees and interest, if any, to the date of prepayment and all other obligations due to such Lender under this Credit Agreement and the other Credit Documents. The portion of any such prepayment attributable to (and equal to) such Lender's L/C Obligations shall be retained by the applicable L/C Issuer(s) and applied to Cash Collateralize such Lender's L/C Obligations, whereupon such Lender shall be released from all of its obligations to the Borrower, the Administrative Agent and/or such L/C Issuer in respect of Letters of Credit under this Credit Agreement.

(ii) Upon the occurrence of any Change of Control, the Administrative Agent shall mail a notice (the "Change of Control Notice") simultaneously to all Lenders providing each Lender with notice of its rights under this Section 3.4(e) and a period of twenty (20) calendar days to evaluate the Change of Control and make a determination as to whether such Lender will terminate its Commitment and accept payment of the Change of Control Prepayment Amount, or whether such Lender will accept such Change of Control and continue as a Lender hereunder. The period beginning on the effective date of such Change of Control and continuing through the expiration of such twenty (20) day notice period shall be referred to herein as a "Change of Control Standstill Period").

(iii) Lenders electing to have their Loans prepaid pursuant to this Section 3.4(e) shall so notify the Administrative Agent as directed in the Change of Control Notice; provided, however, that failure by any Lender to make a timely response shall be deemed to constitute an election by such Lender to terminate its Commitment and accept prepayment of its Loans. Upon the expiration date of the Change of Control Standstill Period, (A) all Lenders electing to terminate their Commitments (the "Terminating Lenders") shall surrender their Notes to the Administrative Agent at the address specified in Section 10.1, (B) all Notes held by Terminating Lenders shall be cancelled by the Borrower and the Borrower shall pay the applicable Change of Control Prepayment Amounts to the Administrative Agent, for the account of the Terminating

Lenders, and all other Obligations due to the Terminating Lenders under this Credit Agreement and the other Credit Documents, (C) the Commitments of the Terminating Lenders hereunder shall be terminated and the Revolving Committed Amount shall be automatically reduced by an amount equal to the aggregate amount of the Commitments so terminated, and (D) and the Commitments of those Lenders not electing to terminate their Commitments shall automatically continue.

(f) General. The Borrower shall pay to the Administrative Agent for the account of the Lenders in accordance with the terms of Section 3.5(a), on the date of each termination or reduction of the Revolving Committed Amount, the Facility Fee accrued through the date of such termination or reduction on the amount of the Revolving Committed Amount so terminated or reduced.

### **3.5 Fees.**

(a) Facility Fee. In consideration of the Revolving Commitments of the Lenders hereunder, the Borrower agrees to pay to the Administrative Agent for the account of each Lender a fee (the "Facility Fee") on the Revolving Committed Amount computed at a per annum rate for each day during the applicable Facility Fee Calculation Period (hereinafter defined) equal to the Applicable Margin in effect from time to time. The Facility Fee shall commence to accrue on the Closing Date and shall be due and payable in arrears on the last Business Day of each March, June, September and December (and any date that the Revolving Committed Amount is reduced or increased as provided in Section 3.4 and the Termination Date) for the immediately preceding quarter (or portion thereof) (each such quarter or portion thereof for which the Facility Fee is payable hereunder being herein referred to as a "Facility Fee Calculation Period"), beginning with the first of such dates to occur after the Closing Date.

(b) Administrative Fees. The Borrower agrees to pay to the Administrative Agent, for its own account, the fees referred to in the Administrative Agent's Fee Letter (collectively, the "Administrative Agent's Fees").

### (c) Letter of Credit Fees.

(i) Letter of Credit Fee. In consideration of the issuance of Letters of Credit hereunder, the Borrower promises to pay to the Administrative Agent for the account of each Lender a fee (the "Letter of Credit Fee") on such Lender's Commitment Percentage of the actual daily maximum amount available to be drawn under each Letter of Credit computed at a per annum rate for each day from the date of issuance to the date of expiration equal to the Applicable Margin for Eurodollar Loans; provided, however, any Letter of Credit Fees otherwise payable for the account of a Defaulting Lender with respect to any Letter of Credit as to which such Defaulting Lender has not provided Cash Collateral satisfactory to the applicable L/C Issuer pursuant to Section 2.4 (and, to the extent applicable, Section 3.18) shall be payable, to the maximum extent permitted by applicable law, to the other Lenders in accordance with the upward adjustments in their respective Commitment Percentages allocable to such Letter of Credit pursuant to Section 3.19(a)(iv), with the balance of such fee, if any, payable to the applicable L/C Issuer for its own account. The Letter of Credit Fee will be payable quarterly in arrears on the last Business Day of each March, June, September and December for the immediately preceding quarter (or a portion thereof).

(ii) L/C Issuer Fees. In addition to the Letter of Credit Fee payable pursuant to clause (i) above, the Borrower promises to pay to each L/C Issuer for its own account without sharing by the other Lenders (A) a letter of credit fronting fee (i) with respect to each commercial Letter of Credit, at the rate negotiated by the applicable L/C Issuer and the Borrower, computed on the amount of such Letter of Credit, and payable upon the issuance thereof, (ii) with respect to any amendment of a commercial Letter of Credit increasing the amount of such Letter of Credit, at a rate separately agreed between the Borrower and the applicable L/C Issuer, computed on the amount of such increase, and payable upon the effectiveness of such amendment, and (iii) with respect to each standby Letter of Credit, at the rate per annum negotiated by the applicable L/C Issuer and the Borrower, on the average daily maximum amount available to be drawn under each Letter of Credit issued by such L/C Issuer from the date of issuance to the date of expiration and (B) such other customary charges from time to time of such L/C Issuer with respect to the issuance, amendment, transfer, administration, cancellation and conversion of, and drawings under, and other processing fees, and other standard costs and charges, of such L/C Issuer relating to such Letters of Credit as from time to time in effect, due and payable on demand therefor by such L/C Issuer (collectively, the "L/C Issuer Fees").

### **3.6 Capital Adequacy.**

If any Lender determines the amount of capital required or expected to be maintained by such Lender, any Lending Installation of such Lender or any corporation controlling such Lender is increased as a result of a Change in Law, then, within 15 days of demand by such Lender, the Borrower shall pay such Lender the amount necessary to compensate for any shortfall in the rate of return on the portion of such increased capital which such Lender determines is attributable to this Credit Agreement, its Loans or its obligation to make Loans hereunder (after taking into account such Lender's policies as to capital adequacy).

### **3.7 Inability To Determine Interest Rate.**

If prior to the first day of any Interest Period, the Administrative Agent shall have reasonably determined that, by reason of circumstances affecting the relevant market, adequate and reasonable means do not exist for ascertaining the Eurodollar Rate for such Interest Period, the Administrative Agent shall give telecopy or telephonic notice thereof to the Borrower and the Lenders as soon as practicable thereafter. If such notice is given (a) any Eurodollar Loans requested to be made on the first day of such Interest Period shall be made as Base Rate Loans (with the Base Rate determined other than by reference to the Eurodollar Rate) and (b) any Loans that were to have been converted on the first day of such Interest Period to or continued as Eurodollar Loans shall be converted to or continued as Base Rate Loans. Until such notice has been withdrawn by the Administrative Agent, no further Eurodollar Loans shall be made or continued as such, nor shall the Borrower have the right to convert Base Rate Loans to Eurodollar Loans.

### **3.8 Illegality.**

Notwithstanding any other provision herein, if the adoption of or any change in any Requirement of Law or in the interpretation or application thereof occurring after the Closing Date shall make it unlawful for any Lender to make or maintain Eurodollar Loans as contemplated by this Credit Agreement, or any Governmental Authority has imposed material restrictions on the authority of such Lender to purchase or sell, or to take deposits of, Dollars in the London interbank market, (a) such Lender shall promptly give written notice of such circumstances to the Borrower and the Administrative Agent (which notice shall be withdrawn whenever such circumstances no longer exist), (b) the commitment of such Lender hereunder to make Eurodollar Loans, continue Eurodollar Loans as such and convert a Base Rate Loan to Eurodollar Loans shall forthwith be canceled and, until such time as it shall no longer be unlawful for such Lender to make or maintain Eurodollar Loans, such Lender shall then have a commitment only to make a Base Rate

Loan when a Eurodollar Loan is requested and (c) such Lender's Loans then outstanding as Eurodollar Loans, if any, shall be converted automatically to Base Rate Loans on the respective last days of the then current Interest Periods with respect to such Loans or within such earlier period as required by law. If any such conversion of a Eurodollar Loan occurs on a day which is not the last day of the then current Interest Period with respect thereto, the Borrower shall pay to such Lender such amounts, if any, as may be required pursuant to Section 3.11.

### **3.9 Yield Protection.**

If any Change in Law shall occur that,

(a) subjects any Lender or any applicable Lending Installation to any tax, duty, charge or withholding on or from payments due from the Borrower (excluding federal taxation of the overall net income of any Lender or applicable Lending Installation), or changes the basis of taxation of payments to any Lender in respect of its Loans or other amounts due it hereunder;

(b) imposes or increases or deems applicable any reserve, assessment, insurance charge, special deposit or similar requirements against assets of, deposits with or for the account of, or credit extended by, any Lender or any applicable Lending Installation (other than reserves and assessments taken into account in determining the Base Rate);

and the result of which is to increase the cost to any Lender of making, funding or maintaining loans or reduces any amount receivable by any Lender or any applicable Lending Installation in connection with loans, or requires any Lender or any applicable Lending Installation to make any payment calculated by reference to the amount of loans held or interest received by it, by an amount deemed material by such Lender;

then, within 15 days of demand by such Lender, the Borrower shall pay such Lender that portion of such increased expense incurred or reduction in an amount received which such Lender determines is attributable to making, funding and maintaining its Loans and its Commitments. This covenant shall survive the termination of this Credit Agreement and the payment of the Loans and all other amounts payable hereunder.

### **3.10 Withholding Tax Exemption.**

Each Lender that is not incorporated under the laws of the United States of America or a state thereof shall:

(a) (i) on or before the date of any payment by the Borrower under this Credit Agreement or Notes to such Lender, deliver to the Borrower and the Administrative Agent (A) two (2) duly completed copies of United States Internal Revenue Service Form 1001 or 4224, or successor applicable form, as the case may be, certifying that it is entitled to receive payments under this Credit Agreement and any Notes without deduction or withholding of any United States federal income taxes and (B) an Internal Revenue Service Form W-8 or W-9, or successor applicable form, as the case may be, certifying that it is entitled to an exemption from United States backup withholding tax;

(ii) deliver to the Borrower and the Administrative Agent two (2) further copies of any such form or certification on or before the date that any such form or certification expires or becomes obsolete and after the occurrence of any event requiring a change in the most recent form previously delivered by it to the Borrower; and

(iii) obtain such extensions of time for filing and complete such forms or certifications as may reasonably be requested by the Borrower or the Administrative Agent; or

(b) in the case of any such Lender that is not a “bank” within the meaning of Section 881(c)(3)(A) of the Code, (i) represent to the Borrower (for the benefit of the Borrower and the Administrative Agent) that it is not a bank within the meaning of Section 881(c)(3)(A) of the Code, (ii) agree to furnish to the Borrower on or before the date of any payment by the Borrower, with a copy to the Administrative Agent two (2) accurate and complete original signed copies of Internal Revenue Service Form W-8, or successor applicable form certifying to such Lender’s legal entitlement at the date of such certificate to an exemption from U.S. withholding tax under the provisions of Section 881(c) of the Code with respect to payments to be made under this Credit Agreement and any Notes (and to deliver to the Borrower and the Administrative Agent two (2) further copies of such form on or before the date it expires or becomes obsolete and after the occurrence of any event requiring a change in the most recently provided form and, if necessary, obtain any extensions of time reasonably requested by the Borrower or the Administrative Agent for filing and completing such forms), and (iii) agree, to the extent legally entitled to do so, upon reasonable request by the Borrower, to provide to the Borrower (for the benefit of the Borrower and the Administrative Agent) such other forms as may be reasonably required in order to establish the legal entitlement of such Lender to an exemption from withholding with respect to payments under this Credit Agreement and any Notes;

unless in any such case any change in treaty, law or regulation has occurred after the date such Person becomes a Lender hereunder which renders all such forms inapplicable or which would prevent such Lender from duly completing and delivering any such form with respect to it and such Lender so advises the Borrower and the Administrative Agent in either case. Each Person that shall become a Lender or a participant of a Lender pursuant to subsection 10.3 shall, upon the effectiveness of the related transfer, be required to provide all of the forms, certifications and statements required pursuant to this subsection, provided that in the case of a participant of a Lender the obligations of such participant of a Lender pursuant to this Section 3.10 shall be determined as if the participant of a Lender were a Lender except that such participant of a Lender shall furnish all such required forms, certifications and statements to the Lender from which the related participation shall have been purchased.

### **3.11 Indemnity.**

The Borrower promises to indemnify each Lender and to hold each Lender harmless from any loss or expense which such Lender may sustain or incur (other than through such Lender’s gross negligence, willful misconduct or material breach in bad faith of its express contractual obligation) as a consequence of (a) default by the Borrower in making a borrowing of, conversion into or continuation of Eurodollar Loans or Quoted Rate Swingline Loans after the Borrower has given a notice requesting the same in accordance with the provisions of this Credit Agreement, (b) default by the Borrower in making any prepayment of a Eurodollar Loan or a Quoted Rate Swingline Loan after the Borrower has given a notice thereof in accordance with the provisions of this Credit Agreement or (c) the making of a prepayment of Eurodollar Loans or Quoted Rate Swingline Loans on a day which is not the last day of an Interest Period with respect thereto. With respect to Eurodollar Loans, such indemnification may include an amount equal to the excess, if any, of (i) the amount of interest which would have accrued on the amount so prepaid, or not so borrowed, converted or continued, for the period from the date of such prepayment or of such failure to borrow, convert or continue to the last day of the applicable Interest Period (or, in the case of a failure to borrow, convert or continue, the Interest Period that would have commenced on the date of such failure) in each case at the applicable rate of interest for such Eurodollar Loans provided for herein (excluding, however, the Applicable Margin included therein, if any) over (ii) the amount of interest (as reasonably determined by such Lender) which would have accrued to such Lender on such amount by placing such amount on deposit for a comparable period with leading banks in the interbank Eurodollar market. The covenants of the Borrower set forth in this Section 3.11 shall survive the termination of this Credit Agreement and the payment of the Loans and all other amounts payable hereunder.

### **3.12 Pro Rata Treatment.**

Except to the extent otherwise provided herein (including, without limitation, in Sections 3.4(d) and 3.4(e)), each Loan, each payment or prepayment of principal of any Loan, each payment of interest on the Loans, each payment of Facility Fees, each reduction of the Revolving Committed Amount and each conversion or extension of any Loan, shall be allocated pro rata among the Lenders in accordance with the respective Commitment Percentages.

### **3.13 Payments Generally; Administrative Agent's Clawback.**

(a) General. All payments to be made by the Borrower shall be made without condition or deduction for any counterclaim, defense, recoupment or setoff. Except as otherwise expressly provided herein, all payments by the Borrower hereunder shall be made to the Administrative Agent, for the account of the respective Lenders to which such payment is owed, at the Administrative Agent's Office in Dollars and in immediately available funds not later than 4:00 P.M. on the date specified herein. The Administrative Agent will promptly distribute to each Lender its Commitment Percentage (or other applicable share as provided herein) of such payment in like funds as received by wire transfer to such Lender's Lending Office. All payments received by the Administrative Agent after 4:00 P.M. shall be deemed received on the next succeeding Business Day and any applicable interest or fee shall continue to accrue. If any payment to be made by the Borrower shall come due on a day other than a Business Day, payment shall be made on the next following Business Day, and such extension of time shall be reflected in computing interest or fees, as the case may be.

(b) (i) Funding by Lenders; Presumption by Administrative Agent. Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any borrowing of Eurodollar Loans (or, in the case of any borrowing of Base Rate Loans, prior to 12:00 noon on the date of such borrowing) that such Lender will not make available to the Administrative Agent such Lender's share of such borrowing, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with Sections 2.1(b) and 3.2 (or, in the case of a borrowing of Base Rate Loans, that such Lender has made such share available in accordance with and at the time required by Sections 2.1(b) and 3.2) and may, in reliance upon such assumption, make available to the Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable borrowing available to the Administrative Agent, then the applicable Lender and the Borrower severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount in immediately available funds with interest thereon, for each day from and including the date such amount is made available to the Borrower to but excluding the date of payment to the Administrative Agent, at (A) in the case of a payment to be made by such Lender, the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation and (B) in the case of a payment to be made by the Borrower, the interest rate applicable to Base Rate Loans. If the Borrower and such Lender shall pay such interest to the Administrative Agent for the same or an overlapping period, the Administrative Agent shall promptly remit to the Borrower the amount of such interest paid by the Borrower for such period. If such Lender pays its share of the applicable borrowing to the Administrative Agent, then the amount so paid shall constitute such Lender's Revolving Loan included in such borrowing. Any payment by the Borrower shall be without prejudice to any claim the Borrower may have against a Lender that shall have failed to make such payment to the Administrative Agent.

(ii) Payments by Borrower; Presumptions by Administrative Agent. Unless the Administrative Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders or the L/C Issuer hereunder that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders or the L/C Issuer, as the case may be, the amount due. In such event, if the Borrower has not in fact made such payment, then each of the Lenders or the L/C Issuer, as the case may be, severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender or the L/C Issuer, in immediately available funds with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

A notice of the Administrative Agent to any Lender or the Borrower with respect to any amount owing under this subsection (b) shall be conclusive, absent convincing evidence to the contrary.

(c) Failure to Satisfy Conditions Precedent. If any Lender makes available to the Administrative Agent funds for any Loan to be made by such Lender as provided in the foregoing provisions of this Section 3, and such funds are not made available to the Borrower by the Administrative Agent because the conditions to the applicable Loan set forth in Section 4 are not satisfied or waived in accordance with the terms hereof, the Administrative Agent shall return such funds (in like funds as received from such Lender) to such Lender, without interest.

(d) Obligations of Lenders Several. The obligations of the Lenders hereunder to make Revolving Loans, to fund participations in Letters of Credit and Swingline Loans and to make payments pursuant to Section 9.7 are several and not joint. The failure of any Lender to make any Revolving Loan, to fund any such participation or to make any payment under Section 9.7 on any date required hereunder shall not relieve any other Lender of its corresponding obligation to do so on such date, and no Lender shall be responsible for the failure of any other Lender to so make its Revolving Loan, to purchase its participation or to make its payment under Section 9.7.

(e) Funding Source. Nothing herein shall be deemed to obligate any Lender to obtain the funds for any Loan in any particular place or manner or to constitute a representation by any Lender that it has obtained or will obtain the funds for any Loan in any particular place or manner.

### **3.14 Sharing of Payments.**

The Lenders agree among themselves that, in the event that any Lender shall obtain payment in respect of any Loan or any other obligation owing to such Lender under this Credit Agreement through the exercise of a right of setoff, banker's lien or counterclaim, or pursuant to a secured claim under Section 506 of Title 11 of the United States Code or other security or interest arising from, or in lieu of, such secured claim, received by such Lender under any applicable bankruptcy, insolvency or other similar law or otherwise, or by any other means, in excess of its pro rata share of such payment as provided for in this Credit Agreement (excluding any amounts applied by the Swingline Lender to outstanding Swingline Loans and excluding any amounts received by the L/C Issuer and/or Swingline Lender to secure obligations of a Defaulting Lender to fund risk participations hereunder), such Lender shall promptly purchase from the other Lenders a participation in such Loans and other obligations in such amounts, and make such other adjustments from time to time, as shall be equitable to the end that all Lenders share such payment in accordance with their respective ratable shares as provided for in this Credit Agreement. The Lenders further agree among themselves that if payment to a Lender obtained by such Lender through the exercise of a right of setoff, banker's lien, counterclaim or other event as aforesaid shall be

rescinded or must otherwise be restored, each Lender which shall have shared the benefit of such payment shall, by repurchase of a participation theretofore sold, return its share of that benefit (together with its share of any accrued interest payable with respect thereto) to each Lender whose payment shall have been rescinded or otherwise restored. The Borrower agrees that any Lender so purchasing such a participation may, to the fullest extent permitted by law, exercise all rights of payment, including setoff, banker's lien or counterclaim, with respect to such participation as fully as if such Lender were a holder of such Loan or other obligation in the amount of such participation. Except as otherwise expressly provided in this Credit Agreement, if any Lender or the Administrative Agent shall fail to remit to the Administrative Agent or any other Lender an amount payable by such Lender or the Administrative Agent to the Administrative Agent or such other Lender pursuant to this Credit Agreement on the date when such amount is due, such payments shall be made together with interest thereon for each date from the date such amount is due until the date such amount is paid to the Administrative Agent or such other Lender at a rate per annum equal to the Federal Funds Rate. If under any applicable bankruptcy, insolvency or other similar law, any Lender receives a secured claim in lieu of a setoff to which this Section 3.14 applies, such Lender shall, to the extent practicable, exercise its rights in respect of such secured claim in a manner consistent with the rights of the Lenders under this Section 3.14 to share in the benefits of any recovery on such secured claim. The provisions of this Section 3.14 shall not be construed to apply to (x) any payment made by or on behalf of the Borrower pursuant to and in accordance with the express terms of this Credit Agreement (including the application of funds arising from the existence of a Defaulting Lender), (y) the application of Cash Collateral provided for in Section 3.18 or (z) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans or subparticipations in L/C Obligations or Swingline Loans to any assignee or participant, other than an assignment to the Borrower or any Subsidiary thereof (as to which the provisions of this Section shall apply).

### **3.15 Payments, Computations, Etc.**

(a) Except as otherwise specifically provided herein, all payments hereunder shall be made to the Administrative Agent in dollars in immediately available funds, without offset, deduction, counterclaim or withholding of any kind, at the Administrative Agent's office specified in Schedule 10.1 not later than 4:00 P.M. on the date when due. Payments received after such time shall be deemed to have been received on the next succeeding Business Day. The Administrative Agent may (but shall not be obligated to) debit the amount of any such payment which is not made by such time to any ordinary deposit account of the Borrower maintained with the Administrative Agent (with notice to the Borrower). The Borrower shall, at the time it makes any payment under this Credit Agreement, specify to the Administrative Agent the Loans, Fees, interest or other amounts payable by the Borrower hereunder to which such payment is to be applied (and in the event that it fails so to specify, or if such application would be inconsistent with the terms hereof, the Administrative Agent shall distribute such payment to the Lenders in such manner as the Administrative Agent may determine to be appropriate in respect of obligations owing by the Borrower hereunder, subject to the terms of Section 3.12(a)). The Administrative Agent will distribute such payments to such Lenders, if any such payment is received prior to 12:00 Noon on a Business Day in like funds as received prior to the end of such Business Day and otherwise the Administrative Agent will distribute such payment to such Lenders on the next succeeding Business Day. Whenever any payment hereunder shall be stated to be due on a day which is not a Business Day, the due date thereof shall be extended to the next succeeding Business Day (subject to accrual of interest and Fees for the period of such extension), except that in the case of Eurodollar Loans, if the extension would cause the payment to be made in the next following calendar month, then such payment shall instead be made on the next preceding Business Day. Except as expressly provided otherwise herein, all computations of interest and fees shall be made on the basis of actual number of days elapsed over a year of 360 days, except with respect to computation of interest on Base Rate Loans which shall be calculated based on a year of 365 or 366 days, as appropriate. Interest shall accrue from and include the date of borrowing, but exclude the date of payment.

(b) Allocation of Payments. Notwithstanding any other provisions of this Credit Agreement to the contrary, after the exercise of remedies provided for in Section 8.2 (or after the Loans have automatically become due and payable as set forth in the last paragraph of Section 8.2), all amounts collected or received by the Administrative Agent or any Lender on account of the Loans, L/C Obligations, Fees or any other amounts outstanding under any of the Credit Documents shall be paid over or delivered as follows:

FIRST, to the payment of all reasonable out-of-pocket costs and expenses (including without limitation reasonable attorneys' fees) of the Administrative Agent in connection with enforcing the rights of the Lenders under the Credit Documents;

SECOND, to payment of any fees owed to the Administrative Agent, in its capacity as such;

THIRD, to the payment of all reasonable out-of-pocket costs and expenses (including without limitation, reasonable attorneys' fees) of each of the Lenders in connection with enforcing its rights under the Credit Documents or otherwise with respect to amounts owing to such Lender;

FOURTH, to the payment of accrued fees and interest;

FIFTH, to the payment of the outstanding principal amount of the Loans (including, without limitation, the payment or Cash Collateralization of the outstanding L/C Obligations);

SIXTH, to all other amounts and other obligations which shall have become due and payable under the Credit Documents or otherwise and not repaid pursuant to clauses "FIRST" through "FIFTH" above; and

SEVENTH, to the payment of the surplus, if any, to whomever may be lawfully entitled to receive such surplus.

In carrying out the foregoing, (i) amounts received shall be applied in the numerical order provided until exhausted prior to application to the next succeeding category; (ii) each of the Lenders shall receive an amount equal to its pro rata share (based on the proportion that the then outstanding Loans held by such Lender bears to the aggregate then outstanding Loans) of amounts available to be applied pursuant to clauses "FOURTH", "FIFTH" and "SIXTH" above; and (iii) to the extent that any amounts available for distribution pursuant to clause "FIFTH" above are attributable to the issued but undrawn amount of outstanding Letters of Credit, such amounts shall be Cash Collateralized by the Administrative Agent and applied (A) first, to reimburse the applicable L/C Issuers from time to time for any drawings under such Letters of Credit and (B) then, following the expiration of all Letters of Credit, to all other obligations of the types described in clauses "THIRD" and "SIXTH" above in the manner provided in this Section 3.15(b).

### **3.16 Evidence of Debt.**

(a) Each Lender shall maintain an account or accounts evidencing each Loan made by such Lender to the Borrower from time to time, including the amounts of principal and interest payable and paid to such Lender from time to time under this Credit Agreement. Each Lender will make reasonable efforts to maintain the accuracy of its account or accounts and to promptly update its account or accounts from time to time, as necessary.

(b) The Administrative Agent shall maintain the Register pursuant to Section 10.3(c) hereof, and a subaccount for each Lender, in which Register and subaccounts (taken together) shall be recorded (i) the amount, type and Interest Period of each such Loan hereunder, (ii) the amount of any principal or interest due and payable or to become due and payable to each Lender hereunder and (iii) the amount of any sum received by the Administrative Agent hereunder from or for the account of the Borrower and each Lender's share thereof. The Administrative Agent will make reasonable efforts to maintain the accuracy of the subaccounts referred to in the preceding sentence and to promptly update such subaccounts from time to time, as necessary.

(c) The entries made in the accounts, Register and subaccounts maintained pursuant to subsection (b) of this Section 3.16 (and, if consistent with the entries of the Administrative Agent, subsection (a)) shall be conclusive, absent convincing evidence to the contrary, evidence of the existence and amounts of the obligations of the Borrower therein recorded; provided, however, that the failure of any Lender or the Administrative Agent to maintain any such account, such Register or such subaccount, as applicable, or any error therein, shall not in any manner affect the obligation of the Borrower to repay the Loans made by such Lender in accordance with the terms hereof.

### **3.17 Replacement of Lenders.**

In the event any Lender delivers to the Borrower any notice in accordance with Sections 3.4(d) (with respect to such Lender being a Disapproving Lender), 3.6, 3.8, 3.9 or 3.10 or if any Lender is a Defaulting Lender, then the Borrower shall have the right, if no Default or Event of Default then exists, to replace such Lender (the "Replaced Lender") with one or more additional banks or financial institutions (collectively, the "Replacement Lender"), provided that (A) at the time of any replacement pursuant to this Section 3.17, the Replacement Lender shall enter into one or more Assignment and Assumptions pursuant to, and in accordance with the terms of, Section 10.3(b) (and with all fees payable pursuant to said Section 10.3(b) to be paid by the Replacement Lender) pursuant to which the Replacement Lender shall acquire all of the rights and obligations of the Replaced Lender hereunder and, in connection therewith, shall pay to the Replaced Lender in respect thereof an amount equal to the sum of (a) the principal of, and all accrued interest on, all outstanding Loans of the Replaced Lender, and (b) all accrued, but theretofore unpaid, fees owing to the Replaced Lender pursuant to Section 3.5(a), and (B) all obligations of the Borrower owing to the Replaced Lender (including all obligations, if any, owing pursuant to Section 3.6, 3.8 or 3.9, but excluding those obligations specifically described in clause (A) above in respect of which the assignment purchase price has been, or is concurrently being paid) shall be paid in full to such Replaced Lender concurrently with such replacement.

### **3.18 Cash Collateral.**

(a) Certain Credit Support Events. Upon the request of the Administrative Agent or an L/C Issuer (i) if such L/C Issuer has honored any full or partial drawing request under any Letter of Credit and such drawing has resulted in an L/C Borrowing or (ii) if, as of the Letter of Credit Expiration Date, any L/C Obligation for any reason remains outstanding, the Borrower shall, in each case, immediately Cash Collateralize the then outstanding amount of all L/C Obligations. At any time that there shall exist a Defaulting Lender, within one (1) Business Day after the request of the Administrative Agent, an L/C Issuer or the Swingline Lender, the Borrower shall deliver to the Administrative Agent Cash Collateral in an amount sufficient to cover all Fronting Exposure (after giving effect to Section 3.19(a)(iv) and any Cash Collateral provided by the Defaulting Lender).

(b) Grant of Security Interest. All Cash Collateral (other than credit support not constituting funds subject to deposit) shall be maintained in blocked, non-interest bearing deposit accounts at the Administrative Agent. The Borrower, and to the extent provided by any Lender, such Lender, hereby grants to (and subjects to the control of) the Administrative Agent, for the benefit of the Administrative Agent, the L/C Issuers and the Lenders (including the Swingline Lender) and agrees to maintain, a first priority security interest in all such Cash Collateral and in all proceeds of the foregoing, all as security for the obligations to which such Cash Collateral may be applied pursuant to Section 3.18(c). If at any time the Administrative Agent determines that Cash Collateral is subject to any right or claim of any Person other than the Administrative Agent as herein provided, or that the total amount of such Cash Collateral is less than the applicable Fronting Exposure and other obligations secured thereby, the Borrower or the relevant Defaulting Lender will, promptly upon demand by the Administrative Agent, pay or provide to the Administrative Agent additional Cash Collateral in an amount sufficient to eliminate such deficiency.

(c) Application. Notwithstanding anything to the contrary contained in this Credit Agreement, Cash Collateral provided under any of this Section 3.18 or Sections 2.3, 2.4, 3.3, 3.19 or 8.2 in respect of Letters of Credit or Swingline Loans shall be held and applied in satisfaction of the specific L/C Obligations, Swingline Loans, obligations to fund participations therein (including, as to Cash Collateral provided by a Defaulting Lender, any interest accrued on such obligation) and other obligations for which the Cash Collateral was so provided, prior to any other application of such property as may be provided herein.

(d) Release. Cash Collateral (or the appropriate portion thereof) provided to reduce Fronting Exposure or other obligations shall be released promptly following (i) the elimination of the applicable Fronting Exposure or other obligations giving rise thereto (including by the termination of Defaulting Lender status of the applicable Lender) or (ii) the Administrative Agent's good faith determination that there exists excess Cash Collateral; provided, however, (x) that Cash Collateral furnished by or on behalf of the Borrower shall not be released during the continuance of a Default or Event of Default (and following application as provided in this Section 3.18 may be otherwise applied in accordance with Section 3.15) and (y) the Person providing Cash Collateral and the applicable L/C Issuer or the Swingline Lender, as applicable, may agree that Cash Collateral shall not be released but instead held to support future anticipated Fronting Exposure or other obligations.

### **3.19 Defaulting Lenders.**

(a) Adjustments. Notwithstanding anything to the contrary contained in this Credit Agreement, if any Lender becomes a Defaulting Lender, then, until such time as that Lender is no longer a Defaulting Lender, to the extent permitted by applicable law:

(i) Waivers and Amendment. The Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Credit Agreement shall be restricted as set forth in Section 10.6.

(ii) Reallocation of Payments. Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of that Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Section 8 or otherwise, and including any amounts made available to the Administrative Agent by that Defaulting Lender pursuant to Section 10.2), shall be applied at such time or times as may be determined by the Administrative Agent as follows: first, to the payment of any amounts owing by that Defaulting Lender to the Administrative Agent hereunder; second, to the payment on a pro rata basis of any amounts owing by that Defaulting Lender to any L/C Issuer or the Swingline Lender hereunder; third, if so determined by the Administrative Agent or requested by an L/C Issuer or the Swingline Lender, to be held as Cash Collateral for future funding obligations of that Defaulting Lender of any participation in any Swingline Loan or Letter of Credit; fourth, as the

Borrower may request (so long as no Default or Event of Default exists), to the funding of any Loan in respect of which that Defaulting Lender has failed to fund its portion thereof as required by this Credit Agreement, as determined by the Administrative Agent; fifth, if so determined by the Administrative Agent and the Borrower, to be held in a non-interest bearing deposit account and released in order to satisfy obligations of that Defaulting Lender to fund Loans under this Credit Agreement; sixth, to the payment of any amounts owing to the Lenders, an L/C Issuer or the Swingline Lender as a result of any judgment of a court of competent jurisdiction obtained by any Lender, an L/C Issuer or the Swingline Lender against that Defaulting Lender as a result of that Defaulting Lender's breach of its obligations under this Credit Agreement; seventh, so long as no Default or Event of Default exists, to the payment of any amounts owing to the Borrower as a result of any judgment of a court of competent jurisdiction obtained by the Borrower against that Defaulting Lender as a result of that Defaulting Lender's breach of its obligations under this Credit Agreement; and eighth, to that Defaulting Lender or as otherwise directed by a court of competent jurisdiction; provided, that, if (x) such payment is a payment of the principal amount of any Loans or L/C Borrowings in respect of which that Defaulting Lender has not fully funded its appropriate share and (y) such Loans or L/C Borrowings were made at a time when the conditions set forth in Section 4.2 were satisfied or waived, such payment shall be applied solely to the pay the Loans of, and L/C Borrowings owed to, all non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Loans of, or L/C Borrowings owed to, that Defaulting Lender. Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post Cash Collateral pursuant to this Section 3.19(a)(ii), shall be deemed paid to and redirected by that Defaulting Lender, and each Lender irrevocably consents hereto.

(iii) Certain Fees. Each Defaulting Lender (x) shall be entitled to receive any facility fee pursuant to Section 3.5(a) for any period during which that Lender is a Defaulting Lender only to extent allocable to the sum of (1) the outstanding amount of the Revolving Loans funded by it and (2) its Commitment Percentage of the stated amount of Letters of Credit and Swingline Loans for which it has provided Cash Collateral pursuant to Section 2.3, Section 2.4, Section 3.18, or Section 3.19(a)(ii), as applicable (and the Borrower shall (A) be required to pay to each L/C Issuer and the Swingline Lender, as applicable, the amount of such fee allocable to its Fronting Exposure arising from that Defaulting Lender, (B) with respect to any Facility Fee that a Defaulting Lender is not entitled to receive pursuant to clause (x) above, be required to pay (without duplication of any other payment obligation of the Borrower with respect to Facility Fees) to the Administrative Agent for the account of each non-Defaulting Lender that portion of any such Facility Fee otherwise payable for the account of such Defaulting Lender with respect to such Defaulting Lender's participation in Swingline Loans and/or Letters of Credit that has been reallocated to such non-Defaulting Lenders pursuant to clause (iv) below and (C) not be required to pay the remaining amount of such fee that otherwise would have been required to have been paid to that Defaulting Lender) and (y) shall be limited in its right to receive Letter of Credit Fees as provided in Section 3.5(c)(i).

(iv) Reallocation of Applicable Percentages to Reduce Fronting Exposure. During any period in which there is a Defaulting Lender, for purposes of computing the amount of the obligation of each non-Defaulting Lender to acquire, refinance or fund participations in Swingline Loans or Letters of Credit pursuant to Sections 2.3 and 2.4, the "Commitment Percentage" of each non-Defaulting Lender shall be computed without giving effect to the Commitment of that Defaulting Lender; provided, that, (x) each such reallocation shall be given effect only if, at the date the applicable Lender becomes a Defaulting Lender, no Default or Event of Default exists; and (y) the aggregate obligation of each non-Defaulting Lender to acquire, refinance or fund participations in Letters of Credit and Swingline Loans shall not exceed the positive difference, if any, of (1) the Commitment of that non-Defaulting Lender minus (2) the aggregate outstanding amount of the Revolving Loans of that Lender. No reallocation hereunder shall constitute a waiver or release of any claim of any party hereunder against a Defaulting Lender arising from that Lender having become a Defaulting Lender, including any claim of any Lender that is not a Defaulting Lender as a result of such Lender's increased exposure following such reallocation.

(b) Defaulting Lender Cure. If the Borrower, the Administrative Agent, the Swingline Lender and the L/C Issuers agree in writing in their sole discretion that a Defaulting Lender should no longer be deemed to be a Defaulting Lender, the Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein (which may include arrangements with respect to any Cash Collateral), that Lender will, to the extent applicable, purchase that portion of outstanding Loans of the other Lenders or take such other actions as the Administrative Agent may determine to be necessary to cause the Revolving Loans and funded and unfunded participations in Letters of Credit and Swingline Loans to be held on a pro rata basis by the Lenders in accordance with their Commitment Percentages (without giving effect to Section 3.19(a)(iv)), whereupon that Lender will cease to be a Defaulting Lender; provided that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrower while that Lender was a Defaulting Lender; provided, further, that, except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender having been a Defaulting Lender.

## SECTION 4

### CONDITIONS

#### 4.1 Closing Conditions.

The obligation of the Lenders to enter into this Credit Agreement and to make the initial Loans shall be subject to satisfaction of the following conditions (in form and substance acceptable to the Lenders):

(a) The Administrative Agent shall have received original counterparts of this Credit Agreement executed by each of the parties hereto;

(b) The Administrative Agent shall have received an appropriate original Revolving Note for each Lender requesting a Revolving Note, executed by the Borrower;

(c) The Administrative Agent shall have received an appropriate original Swingline Note for the Swingline Lender, executed by the Borrower;

(d) The Administrative Agent shall have received all documents it may reasonably request relating to the existence and good standing of the Borrower, the corporate or other necessary authority for and the validity of the Credit Documents, and any other matters relevant thereto, all in form and substance reasonably satisfactory to the Administrative Agent;

(e) The Administrative Agent shall have received one or more legal opinions of Harry L. Goldsmith, Esq., general counsel for the Borrower, and/or Bass, Berry & Sims PLC, outside counsel for the Borrower, dated as of the Closing Date in form and substance reasonably satisfactory to the Administrative Agent and its counsel;

(f) Since August 28, 2010 there shall not have occurred or otherwise exist an event or condition which has a Material Adverse Effect;

(g) The Administrative Agent shall have received, for its own account and for the accounts of the Lenders, all fees and expenses required by this Credit Agreement or any other Credit Document to be paid on or before the Closing Date;

(h) The Administrative Agent shall have received evidence that all obligations due and owing under the Existing Credit Agreement shall have been, or concurrently with the date hereof will be, paid in full; and

(i) The Administrative Agent shall have received such other documents, agreements or information which may be reasonably requested by the Administrative Agent.

#### **4.2 Conditions to all Extensions of Credit.**

The obligations of each Lender to make, convert or extend any Loan (including the initial Loans), and of any L/C Issuer to issue, extend or amend a Letter of Credit hereunder are subject to satisfaction of the following conditions in addition to satisfaction on the Closing Date of the conditions set forth in Section 4.1:

(a) The Borrower shall have delivered (A) in the case of any Revolving Loan to the Administrative Agent, an appropriate Notice of Borrowing or Notice of Extension/Conversion, (B) in the case of any Swingline Loan to the Administrative Agent, an appropriate Notice of Borrowing or Notice of Extension/Conversion or (C) in the case of any Letter of Credit, to the applicable L/C Issuer an appropriate request for issuance (with a copy to the Administrative Agent) in accordance with the provisions of Section 2.4(b);

(b) The representations and warranties set forth in Section 5 shall be, subject to the limitations set forth therein, true and correct in all material respects as of such date (except for those which expressly relate to an earlier date, which shall remain true and correct in all material respects as of such earlier date);

(c) There shall not have been commenced against the Borrower an involuntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or any case, proceeding or other action for the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of the Borrower or for any substantial part of its Property or for the winding up or liquidation of its affairs, and such involuntary case or other case, proceeding or other action shall remain undismissed, undischarged or unbonded;

(d) No Default or Event of Default shall exist and be continuing either prior to or after giving effect thereto; and

(e) Immediately after giving effect to the making of such Loan (and the application of the proceeds thereof) or the issuance, extension or amendment of such Letter of Credit, as applicable, the sum of the aggregate principal amount of outstanding Revolving Loans plus the aggregate principal amount of outstanding Swingline Loans plus the L/C Obligations outstanding shall not exceed the Revolving Committed Amount.

The delivery of each Notice of Borrowing and each Notice of Extension/Conversion shall constitute a representation and warranty by the Borrower of the correctness of the matters specified in subsections (b), (c), (d) and (e) above. Notwithstanding the foregoing, the Borrower may not request any Loans hereunder while a Change of Control Standstill Period shall be in effect pursuant to Section 3.4(e) hereof.

## SECTION 5

### **REPRESENTATIONS AND WARRANTIES**

The Borrower hereby represents to the Administrative Agent and each Lender that:

#### **5.1 Financial Position; No Internal Control Event.**

(a) The audited consolidated balance sheet of the Borrower and its consolidated Subsidiaries as of August 28, 2010 and the audited consolidated statement of earnings and statement of cash flows for the year ended August 28, 2010 have heretofore been made available to each Lender. Such financial statements (including the notes thereto) (a) have been audited by Ernst & Young LLP, (b) have been prepared in accordance with GAAP consistently applied throughout the periods covered thereby and (c) present fairly (on the basis disclosed in the footnotes to such financial statements) the consolidated financial position, results of operations and cash flows of the Borrower and its consolidated Subsidiaries as of such date and for such periods. During the period from August 28, 2010 to and including the Closing Date, there has been no sale, transfer or other disposition by the Borrower or any of its Subsidiaries of any material part of the business or property of the Borrower and its consolidated Subsidiaries, taken as a whole, and no purchase or other acquisition by any of them of any business or property (including any capital stock of any other person) material in relation to the consolidated financial position of the Borrower and its consolidated Subsidiaries, taken as a whole, in each case, which, is not reflected in the foregoing financial statements or in the notes thereto and has not otherwise been disclosed in writing to the Lenders on or prior to the Closing Date. Since August 28, 2010, through and including the Closing Date, there has not occurred an event or condition which has had a Material Adverse Effect.

(b) To the best knowledge of the Borrower, no Internal Control Event exists or has occurred since the date of the Audited Financial Statements through the Closing Date.

#### **5.2 Organization; Existence; Compliance with Law.**

Each of the Borrower and its Subsidiaries (a) is duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization, (b) has the corporate or other necessary power and authority, and the legal right, to own and operate its property, to lease the property it operates as lessee and to conduct the business in which it is currently engaged, except to the extent that the failure to have such legal right would not be reasonably expected to have a Material Adverse Effect, (c) is duly qualified as a foreign entity and in good standing under the laws of each jurisdiction where its ownership, lease or operation of property or the conduct of its business requires such qualification, other than in such jurisdictions where the failure to be so qualified and in good standing would not be reasonably expected to have a Material Adverse Effect, and (d) is in compliance with all material Requirements of Law, except to the extent that the failure to comply therewith would not, in the aggregate, be reasonably expected to have a Material Adverse Effect.

#### **5.3 Power; Authorization; Enforceable Obligations.**

The Borrower has the corporate or other necessary power and authority, and the legal right, to make, deliver and perform the Credit Documents to which it is a party, and in the case of the Borrower, to borrow hereunder, and has taken all necessary corporate action to authorize the borrowings on the terms and conditions of this Credit Agreement and to authorize the execution, delivery and performance of the Credit Documents to which it is a party. No consent or authorization of, filing with, notice to or other similar act

by or in respect of, any Governmental Authority or any other Person is required to be obtained or made by or on behalf of the Borrower in connection with the borrowings hereunder or with the execution, delivery, performance, validity or enforceability of the Credit Documents to which the Borrower is a party. This Credit Agreement has been, and each other Credit Document to which the Borrower is a party will be, duly executed and delivered on behalf of the Borrower. This Credit Agreement constitutes, and each other Credit Document to which the Borrower is a party when executed and delivered will constitute, a legal, valid and binding obligation of the Borrower enforceable against such party in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general equitable principles (whether enforcement is sought by proceedings in equity or at law).

#### **5.4 No Legal Bar.**

The execution, delivery and performance of the Credit Documents by the Borrower, the borrowings hereunder and the use of the proceeds thereof (a) will not violate any Requirement of Law or contractual obligation of the Borrower or any of its Subsidiaries in any respect that would reasonably be expected to have a Material Adverse Effect, (b) will not result in, or require, the creation or imposition of any Lien (other than a Permitted Lien) on any of the properties or revenues of any of the Borrower or any of its Subsidiaries pursuant to any such Requirement of Law or contractual obligation, and (c) will not violate or conflict with any provision of the Borrower's articles of incorporation or by-laws.

#### **5.5 No Material Litigation.**

Except as disclosed in Schedule 5.5, there are no actions, suits or proceedings pending or, to the knowledge of the Borrower, threatened against or affecting the Borrower, any of its Subsidiaries or any of its properties before any Governmental Authority that (a) could reasonably be expected to have a Material Adverse Effect or (b) in any manner draw into question the validity, legality or enforceability of any Credit Document or any transaction contemplated thereby.

#### **5.6 No Default.**

Neither the Borrower nor any of its Subsidiaries is in default under or with respect to any of their contractual obligations in any respect which would be reasonably expected to have a Material Adverse Effect. No Default or Event of Default has occurred and is continuing.

#### **5.7 Ownership of Property; Liens.**

Each of the Borrower and its Subsidiaries has good record and marketable title in fee simple to, or a valid leasehold interest in, all its material real property, and good title to, or a valid leasehold interest in, all its other material property, and none of such property is subject to any Lien, except for Permitted Liens.

#### **5.8 No Burdensome Restrictions.**

Except as previously disclosed in writing to the Lenders on or prior to the Closing Date, no Requirement of Law or contractual obligation of the Borrower or any of its Subsidiaries would be reasonably expected to have a Material Adverse Effect.

## **5.9 Taxes.**

Each of the Borrower and its Subsidiaries has filed or caused to be filed all United States federal income tax returns and all other material tax returns which, to the knowledge of the Borrower, are required to be filed and has paid (a) all taxes shown to be due and payable on said returns or (b) all taxes shown to be due and payable on any assessments of which it has received notice made against it or any of its property and all other taxes, fees or other charges imposed on it or any of its property by any Governmental Authority (other than any (i) taxes, fees or other charges with respect to which the failure to pay, in the aggregate, would not have a Material Adverse Effect or (ii) taxes, fees or other charges the amount or validity of which are currently being contested and with respect to which reserves in conformity with GAAP have been provided on the books of such Person), and no tax Lien has been filed, and, to the best knowledge of the Borrower, no claim is being asserted, with respect to any such tax, fee or other charge.

## **5.10 ERISA.**

(a) Each Plan is in compliance with the applicable provisions of ERISA, the Code and other Federal or state laws except to the extent that noncompliance would not reasonably be expected to have a Material Adverse Effect. Each Pension Plan that is intended to be a qualified plan under Section 401(a) of the Code has received a favorable determination letter (or an opinion letter upon which the Borrower is entitled to rely) from the Internal Revenue Service to the effect that the form of such Plan is qualified under Section 401(a) of the Code and the trust related thereto has been determined by the Internal Revenue Service to be exempt from federal income tax under Section 501(a) of the Code or an application for such a letter is currently being processed by the Internal Revenue Service. To the knowledge of the Borrower, nothing has occurred that would prevent, or cause the loss of, such tax-qualified status.

(b) There are no pending or, to the knowledge of the Borrower, threatened claims, actions or lawsuits, or action by any Governmental Authority, with respect to any Plan that could be reasonably be expected to have a Material Adverse Effect. There has been no prohibited transaction or violation of the fiduciary responsibility rules with respect to any Plan that has resulted or could reasonably be expected to result in a Material Adverse Effect.

(c) (i) No ERISA Event has occurred and the Borrower is not aware of any fact, event or circumstance that could reasonably be expected to constitute or result in an ERISA Event with respect to any Pension Plan; (ii) the Borrower and each ERISA Affiliate is in material compliance with the applicable requirements under the Pension Funding Rules in respect of each Pension Plan, and no waiver of the minimum funding standards under the Pension Funding Rules has been applied for or obtained; (iii) (A) as of the most recent valuation date for any Pension Plan, the final actuarially-certified funding target attainment percentage is sixty percent (60%) or higher and (B) neither the Borrower nor any ERISA Affiliate knows of any facts or circumstances that could reasonably be expected to cause the final actuarially-certified funding target attainment percentage for any such plan to drop below sixty percent (60%) as of the most recent valuation date, in each case, as determined under Section 430 of the Code and taking into account any exceptions, actuarial assumptions, extensions of such date and supplemental or additional contributions provided for in or permitted to be considered by Section 430 or the regulations promulgated thereunder; (iv) neither the Borrower nor any ERISA Affiliate has incurred any material liability to the PBGC other than for the payment of premiums, and there are no premium payments which have become due that are unpaid; (v) neither the Borrower nor any ERISA Affiliate has engaged in a transaction that could be subject to Section 4069 or Section 4212(c) of ERISA; and (vi) no Pension Plan has been terminated by the plan administrator thereof nor by the PBGC, and to the Borrower's knowledge, no event or circumstance has occurred that could reasonably be expected to cause the PGBC to institute proceedings under Title IV of ERISA to terminate any Pension Plan.

### **5.11 Governmental Regulations, Etc.**

(a) No part of the proceeds of the Loans will be used, directly or indirectly, for the purpose of purchasing or carrying any “margin stock” in violation of Regulation U. If requested by any Lender or the Administrative Agent, the Borrower will furnish to the Administrative Agent and each Lender a statement to the foregoing effect in conformity with the requirements of FR Form U-1 referred to in said Regulation U. No indebtedness being reduced or retired out of the proceeds of the Loans was or will be incurred for the purpose of purchasing or carrying any margin stock within the meaning and in violation of Regulation U or any “margin security” within the meaning and in violation of Regulation T. “Margin stock” within the meanings of Regulation U does not constitute more than 25% of the value of the consolidated assets of the Borrower and its Subsidiaries. None of the transactions contemplated by this Credit Agreement (including, without limitation, the direct or indirect use of the proceeds of the Loans) will violate or result in a violation of the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, or regulations issued pursuant thereto, or Regulation T, U or X.

(b) Neither the Borrower nor any of its Subsidiaries is subject to regulation under the Federal Power Act or the Investment Company Act of 1940, each as amended. In addition, neither the Borrower nor any of its Subsidiaries is an “investment company” registered or required to be registered under the Investment Company Act of 1940, as amended, and is not controlled by such a company.

(c) Each of the Borrower and its Subsidiaries has obtained all licenses, permits, franchises or other governmental authorizations necessary to the ownership of its respective Property and to the conduct of its business, except where such failure could not reasonably be expected to have a Material Adverse Effect.

(d) Neither the Borrower nor any of its Subsidiaries is in violation of any applicable statute, regulation or ordinance of the United States of America, or of any state, city, town, municipality, county or any other jurisdiction, or of any agency thereof (including without limitation, environmental laws and regulations), except where such violation could not reasonably be expected to have a Material Adverse Effect.

(e) Each of the Borrower and its Subsidiaries is current with all material reports and documents, if any, required to be filed with any state or federal securities commission or similar agency and is in full compliance in all material respects with all applicable rules and regulations of such commissions, except where such failure could not reasonably be expected to have a Material Adverse Effect.

### **5.12 Subsidiaries.**

Schedule 5.12 sets forth all the Subsidiaries of the Borrower at the Closing Date and the jurisdiction of their organization.

### **5.13 Purpose of Loans.**

The proceeds of the Loans hereunder shall be used solely by the Borrower to (a) to refinance existing Indebtedness of the Borrower under existing credit agreements, (b) repurchase stock in the Borrower, (c) to finance acquisitions to the extent permitted under this Credit Agreement and (d) for the working capital, commercial paper back up, capital expenditures and other general corporate purposes of the Borrower and its Subsidiaries. The Letters of Credit shall be used only for or in connection with obligations relating to transactions entered into by the Borrower in the ordinary course of business.

#### **5.14 Disclosure.**

No certificate (including any financial statements or other documents or attached thereto) furnished by or on behalf of the Borrower to the Administrative Agent or any Lender in connection with the transactions contemplated hereby and the negotiation of this Credit Agreement or delivered hereunder (as modified or supplemented by other information so furnished) contains any material misstatement of fact or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

#### **5.15 Taxpayer Identification Number.**

The Borrower's true and correct U.S. taxpayer identification number is set forth on Schedule 10.1.

#### **5.16 Environmental Compliance.**

The Borrower and its Subsidiaries conduct in the ordinary course of business a review of the effect of existing Environmental Laws and claims alleging potential liability or responsibility for violation of any Environmental Law on their respective businesses, operations and properties, and as a result thereof the Borrower has reasonably concluded that such Environmental Laws and claims could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

#### **5.17 Solvency.**

The Borrower and its Subsidiaries are Solvent on a consolidated basis.

#### **5.18 OFAC.**

The Borrower (i) is not a person whose property or interest in property is blocked or subject to blocking pursuant to Section 1 of Executive Order 13224 of September 23, 2001 Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism (66 Fed. Reg. 49079 (2001)), (ii) does not engage in any dealings or transactions prohibited by Section 2 of such executive order, or is otherwise associated with any such person in any manner violative of Section 2, or (iii) is not a person on the list of Specially Designated Nationals and Blocked Persons or subject to the limitations or prohibitions under any other U.S. Department of Treasury's Office of Foreign Assets Control regulation or executive order.

#### **5.19 Patriot Act.**

The Borrower is in compliance, in all material respects, with (i) the Trading with the Enemy Act, as amended, and each of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) and any other enabling legislation or executive order relating thereto, and (ii) the Uniting And Strengthening America By Providing Appropriate Tools Required To Intercept And Obstruct Terrorism (USA Patriot Act of 2001). No part of the proceeds of the Loans will be used, directly or indirectly, for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the United States Foreign Corrupt Practices Act of 1977, as amended.

## SECTION 6

### AFFIRMATIVE COVENANTS

The Borrower hereby covenants and agrees that so long as this Credit Agreement is in effect or any amounts payable hereunder or under any other Credit Document shall remain outstanding, and until all of the Commitments hereunder shall have terminated:

#### **6.1 Information Covenants.**

The Borrower will furnish, or cause to be furnished, to the Administrative Agent and the Lenders:

(a) Annual Financial Statements. As soon as available, and in any event within the earlier of (i) the 100<sup>th</sup> day after the end of each fiscal year of the Borrower and (ii) the day that is ten (10) Business Days after the date the Borrower's annual report on Form 10-K is required to be filed with the SEC, as of the end of such fiscal year, a consolidated balance sheet, consolidated statement of income, consolidated statement of stockholders' equity and consolidated statement of cash flows of the Borrower and its Subsidiaries for such fiscal year, setting forth in comparative form consolidated figures for the preceding fiscal year, all such financial information described above to be in reasonable form and detail and prepared in accordance with GAAP, such consolidated statements to be audited and accompanied by (i) a report and opinion of Ernst & Young LLP or another Registered Public Accounting Firm of nationally recognized standing reasonably acceptable to the Required Lenders, which report and opinion shall be prepared in accordance with generally accepted auditing standards and applicable Securities Laws and shall not be subject to any "going concern" or like qualification or exception or any qualification or exception as to the scope of such audit or with respect to the absence of any material misstatement and (ii) an opinion of such Registered Public Accounting Firm independently assessing the Borrower's internal controls over financial reporting in accordance with Item 308 of SEC Regulation S-K, PCAOB Auditing Standard No. 2, and Section 404 of Sarbanes-Oxley expressing a conclusion that contains no statement that there is a material weakness in such internal controls, except for such material weaknesses that have been (x) disclosed to the Administrative Agent (it being understood that the Borrower's filing with the SEC of a notice of such material weakness shall be deemed disclosure to the Administrative Agent), who in turn discloses such material weaknesses to the Lenders, and (y) remedied or otherwise diligently addressed (or in the process of being diligently addressed) by the Borrower in accordance with recommendations made by the Borrower's external auditors in consultation with the Borrower.

(b) Quarterly Financial Statements. Beginning with the fiscal quarter ending November 19, 2011, as soon as available, and in any event within the earlier of (i) the 50<sup>th</sup> day after the end of each of the first three fiscal quarters of each fiscal year of the Borrower and (ii) the day that is five (5) Business Days after the date the Borrower's quarterly report on Form 10-Q is required to be filed with the SEC, as of the end of such fiscal quarter, together with a related condensed consolidated balance sheet, a condensed consolidated statement of income and a condensed consolidated statement of cash flows of the Borrower and its Subsidiaries for such fiscal quarter, in each case setting forth in comparative form consolidated figures for the corresponding period of the preceding fiscal year, except for the condensed consolidated balance sheet that will be presented in comparative form to the Borrower's most recent audited consolidated balance sheet, all such financial information described above to be in reasonable form and detail and reasonably acceptable to the Administrative Agent, and accompanied by a certificate of a Financial Officer of the Borrower to the effect that such quarterly financial statements fairly present in all material respects the financial condition of the Borrower and its Subsidiaries and have been prepared in accordance with GAAP, subject to changes resulting from audit and normal year-end audit adjustments and the absence of footnotes.

(c) Officer's Certificate. At the time of delivery of the financial statements provided for in Sections 6.1(a) and 6.1(b) above, a certificate of a Financial Officer of the Borrower substantially in the form of Schedule 6.1(c), (i) demonstrating compliance with the financial covenants contained in Sections 6.10 and 6.11 by calculation thereof as of the end of each such fiscal period, (ii) stating that no Default or Event of Default exists, or if any Default or Event of Default does exist, specifying the nature and extent thereof and what action the Borrower proposes to take with respect thereto and (iii) certifying as to the Borrower's current senior unsecured (non-credit enhanced) long term debt rating from S&P, Moody's and/or Fitch.

(d) Reports. Promptly upon transmission or receipt thereof, (a) copies of any filings on Forms 8-K, 10-Q or 10-K and any other material filings or registrations with the SEC, or any successor agency, and copies of all financial statements, proxy statements, material notices and material reports as the Borrower or any of its Subsidiaries shall send to its shareholders or to a holder of any Indebtedness owed by the Borrower or any of its Subsidiaries in its capacity as such a holder and (b) upon the request of the Administrative Agent, all reports and written information provided or received within the two year period prior to the date of the request to and from the United States Environmental Protection Agency, or any state or local agency responsible for environmental matters, the United States Occupational Health and Safety Administration, or any state or local agency responsible for health and safety matters, or any successor agencies or authorities concerning environmental, health or safety matters.

(e) Notices. The Borrower will give written notice to the Administrative Agent (a) promptly upon obtaining knowledge thereof, of the occurrence of an event or condition consisting of a Default or Event of Default, specifying the nature and existence thereof and what action the Borrower proposes to take with respect thereto, (b) upon the occurrence of any of the following with respect to the Borrower or any of its Subsidiaries: (i) promptly upon the Borrower's determination thereof, the pendency or commencement of any litigation, arbitral or governmental proceeding against such Person which is reasonably likely to have a Material Adverse Effect, or (ii) promptly upon the Borrower's determination thereof, the institution of any proceedings against such Person with respect to, or the receipt of notice by such Person of potential liability or responsibility for violation, or alleged violation of any federal, state or local law, rule or regulation, including but not limited to, Environmental Laws, the violation of which would likely have a Material Adverse Effect, (c) promptly upon obtaining knowledge thereof, of any change in accounting policies or financial reporting practices by the Borrower or any Subsidiary that the Borrower's external auditors consider to have a material impact on the consolidated financial statements of the Borrower and its Subsidiary, and (d) promptly upon obtaining knowledge thereof, of the determination by the Registered Public Accounting Firm providing the opinion required under Section 6.1(a)(ii) (in connection with its preparation of such opinion) or the Borrower's determination at any time of the occurrence or existence of any Internal Control Event.

(f) ERISA. Upon obtaining knowledge thereof, the Borrower will give written notice to the Administrative Agent promptly (and in any event within five business days) of: (i) of any event or condition, including, but not limited to, any Reportable Event, that constitutes, or might reasonably lead to, an ERISA Event; or (ii) any change in the funding status of any Pension Plan that reasonably could be expected to have a Material Adverse Effect, together with a description of any such event or condition or a copy of any such notice and a statement by a Financial Officer of the Borrower briefly setting forth the details regarding such event, condition, or notice, and the action, if any, which has been or is being taken or is proposed to be taken by the Borrower with respect thereto. Promptly upon request, the Borrower shall furnish the Administrative Agent and the Lenders with such additional information concerning any Plan as may be reasonably requested, including, but not limited to, copies of each annual report/return (Form 5500 series), as well as all schedules and attachments thereto required to be filed with the Department of Labor and/or the Internal Revenue Service pursuant to ERISA and the Code, respectively, for each "plan year" (within the meaning of Section 3(39) of ERISA).

(g) Change of Control; Reorganization. Upon obtaining knowledge thereof, the Borrower will promptly provide the Administrative Agent and the Lenders with (i) written notice of any actual or expected Change of Control or Reorganization, (ii) the circumstances and relevant facts regarding such Change of Control or Reorganization (including the information with respect to pro forma historical income, cash flow and capitalization, each after giving effect to such Change of Control or Reorganization, as the case may be), and (iii) such additional information and documents regarding such Change of Control or Reorganization as may be reasonably requested by the Administrative Agent and/or any Lender.

(h) Debt Rating. No later than five (5) days after a Financial Officer obtains knowledge of any such issuance of change, give notice to the Administrative Agent (by telephone, followed promptly by written notice transmitted by facsimile with a hard copy sent promptly thereafter) of any issuance of change (either expressly or pursuant to a letter from S&P, Moody's or Fitch stating an "implied" rating), in rating by S&P, Moody's or Fitch in respect of the Borrower's non-credit enhanced senior long-term debt (secured or unsecured), together with details thereof.

(i) Other Information. With reasonable promptness upon any such request, such other information regarding the business, properties or financial condition of the Borrower or any of its Subsidiaries as the Administrative Agent or the Required Lenders may reasonably request.

Documents required to be delivered pursuant to Section 6.1(a), (b) or (d) (to the extent any such documents are included in materials otherwise filed with the SEC) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (i) on which the Borrower posts such documents, or provides a link thereto on the Borrower's website on the Internet at the website address listed on Schedule 10.1; or (ii) on which such documents are posted on the Borrower's behalf on an Internet or intranet website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent); provided that: (i) the Borrower shall deliver paper copies of such documents to the Administrative Agent or any Lender upon its request to the Borrower to deliver such paper copies until a written request to cease delivering paper copies is given by the Administrative Agent or such Lender and (ii) the Borrower shall notify the Administrative Agent (by telecopier or electronic mail) of the posting of any such documents and provide to the Administrative Agent by electronic mail electronic versions (i.e., soft copies) of such documents. The Administrative Agent shall have no obligation to request the delivery of or to maintain paper copies of the documents referred to above, and in any event shall have no responsibility to monitor compliance by the Borrower with any such request by a Lender for delivery, and each Lender shall be solely responsible for requesting delivery to it or maintaining its copies of such documents.

The Borrower hereby acknowledges that (a) the Administrative Agent and/or the Arrangers will make available to the Lenders materials and/or information provided by or on behalf of the Borrower hereunder (collectively, "Borrower Materials") by posting the Borrower Materials on IntraLinks or another similar electronic system (the "Platform") and (b) certain of the Lenders may be "public-side" Lenders (*i.e.*, Lenders who may have personnel who do not wish to receive material non-public information with respect to the Borrower or its Affiliates, or the respective securities of any of the foregoing, and who may be engaged in investment and other market-related activities with respect to such Person's securities) (each, a "Public Lender"). The Borrower hereby agrees that so long as the Borrower is the issuer of any outstanding debt or equity securities that are registered under the Securities Exchange Act of 1934 and/or publicly traded on a registered securities exchange or in a generally accepted over-the-counter market, or is actively contemplating issuing any such securities, (w) all Borrower Materials that are to be made available to Public Lenders shall be clearly and conspicuously marked "PUBLIC" which, at a minimum, shall mean that the word "PUBLIC" shall appear prominently on the first

page thereof; (x) by marking Borrower Materials “PUBLIC,” the Borrower shall be deemed to have authorized the Administrative Agent, the Arrangers, the L/C Issuers and the Lenders to treat such Borrower Materials as not containing any material non-public information with respect to the Borrower or its securities for purposes of Securities Laws (provided, however, that to the extent such Borrower Materials constitute Information, they shall be treated as set forth in [Section 10.14](#); (y) all Borrower Materials marked “PUBLIC” are permitted to be made available through a portion of the Platform designated “Public Side Information;” and (z) the Administrative Agent and the Arrangers shall be entitled to treat any Borrower Materials that are not marked “PUBLIC” as being suitable only for posting on a portion of the Platform not designated “Public Side Information”. Notwithstanding the foregoing, the Borrower shall be under no obligation to mark any Borrower Materials “PUBLIC”. Notwithstanding any other provision contained herein, nothing in this paragraph shall be deemed to authorize or otherwise encourage any Lender to effect any transaction in the Borrower’s publicly traded securities while in possession of any information of a non-public nature that is included in any Borrower Materials designated as “PUBLIC” in the Platform.

#### **6.2 Preservation of Existence and Franchises.**

Except as would not result in a Material Adverse Effect, the Borrower will, and will cause each of its Subsidiaries to, do all things necessary to preserve and keep in full force and effect its existence, rights, franchises and authority.

#### **6.3 Books and Records.**

The Borrower will, and will cause each of its Subsidiaries to, keep complete and accurate books and records of its transactions in accordance with good accounting practices on the basis of GAAP (including the establishment and maintenance of appropriate reserves).

#### **6.4 Compliance with Law.**

The Borrower will, and will cause each of its Subsidiaries to, comply with all laws, rules, regulations and orders, and all applicable restrictions imposed by all Governmental Authorities, applicable to it and its property if noncompliance with any such law, rule, regulation, order or restriction would have a Material Adverse Effect.

#### **6.5 Payment of Taxes and Other Indebtedness.**

Except as otherwise provided pursuant to the terms of the definition of “Permitted Liens” set forth in [Section 1.1](#), the Borrower will, and will cause each of its Subsidiaries to, pay and discharge (a) all taxes, assessments and governmental charges or levies imposed upon it, or upon its income or profits, or upon any of its properties, before they shall become delinquent, (b) all lawful claims (including claims for labor, materials and supplies) which, if unpaid, might give rise to a Lien upon any of its properties, and (c) except as prohibited hereunder, all of its other Indebtedness as it shall become due.

#### **6.6 Insurance.**

The Borrower will, and will cause each of its Subsidiaries to, at all times maintain in full force and effect insurance, which may include self insurance, in such amounts and covering such risks as is consistent with sound business practices and similarly situated corporations.

**6.7 Maintenance of Property.**

The Borrower will, and will cause each of its Subsidiaries to, maintain and preserve its properties and equipment material to the conduct of its business in good repair, working order and condition, normal wear and tear and casualty and condemnation excepted, and will make, or cause to be made, in such properties and equipment from time to time all repairs, renewals, replacements, extensions, additions, betterments and improvements thereto as may be needed or proper, to the extent and in the manner customary for companies in similar businesses.

**6.8 Use of Proceeds.**

The Borrower will use the proceeds of the Loans solely for the purposes set forth in Section 5.13.

**6.9 Audits/Inspections.**

Upon reasonable notice and during normal business hours, the Borrower will, and will cause each of its Subsidiaries to, permit representatives appointed by the Administrative Agent, including, without limitation, independent accountants, agents, attorneys, and appraisers to visit and inspect its property, including its books and records, its accounts receivable and inventory, its facilities and its other business assets, and to make photocopies or photographs thereof and to write down and record any information such representative obtains and shall permit the Administrative Agent or its representatives to investigate and verify the accuracy of information provided to the Lenders and to discuss all such matters with the officers, employees and representatives of such Person.

**6.10 Adjusted Debt to EBITDAR Ratio.**

The Borrower shall cause the ratio of Consolidated Adjusted Debt to Consolidated EBITDAR as of the last day of each fiscal quarter to be no greater than 3.25 to 1.00.

**6.11 Interest Coverage Ratio.**

The Borrower shall cause the Consolidated Interest Coverage Ratio as of the last day of each fiscal quarter to be no less than 2.50 to 1.0.

**SECTION 7**

**NEGATIVE COVENANTS**

The Borrower hereby covenants and agrees that, so long as this Credit Agreement is in effect or any amounts payable hereunder or under any other Credit Document shall remain outstanding, and until all of the Commitments hereunder shall have terminated:

**7.1 Liens.**

The Borrower will not, nor will it permit any of its Subsidiaries to, contract, create, incur, assume or permit to exist any Lien with respect to any of their Property, whether now owned or after acquired, except for Permitted Liens.

## 7.2 Nature of Business.

The Borrower will not, nor will it permit any of its Subsidiaries to, substantively alter the character or conduct of the business conducted by any such Person as of the Closing Date.

## 7.3 Consolidation, Merger, Sale or Purchase of Assets, etc.

The Borrower will not, nor will it permit any of its Subsidiaries to:

(a) except in connection with a disposition of assets permitted by the terms of subsection (c) below, dissolve, liquidate or wind up their affairs;

(b) enter into any transaction of merger or consolidation; provided, however, that, so long as no Default or Event of Default would be directly or indirectly caused as a result thereof, (i) the Borrower may merge or consolidate with any of its Subsidiaries provided that the Borrower is the surviving corporation; (ii) any Subsidiary of the Borrower may merge or consolidate with any other Subsidiary of the Borrower; (iii) the Borrower or any of its Subsidiaries may merge or consolidate with any Person (other than the Borrower or any of its Subsidiaries) provided that (A) the Borrower or a Subsidiary of the Borrower is the surviving corporation and (B) after giving effect on a pro forma basis to such merger or consolidation, no Default or Event of Default would exist hereunder; and (iv) the Borrower may consummate the Reorganization pursuant to and in accordance with the provisions of the last paragraph of this Section 7.3.

(c) sell, lease, transfer or otherwise dispose of Property owned by and material to the Borrower and its Subsidiaries, taken as a whole (other than any such sale, lease, transfer or other disposition by a Subsidiary of the Borrower to the Borrower or any other Subsidiary of the Borrower), provided, however, for the purposes of this subsection (c), sale-leaseback transactions entered into by the Borrower or its Subsidiaries shall not be deemed material to the Borrower and its Subsidiaries, taken as a whole to the extent (i) the aggregate amount with respect to all such transactions entered into after the Closing Date does not exceed \$500,000,000 and (ii) that after giving effect to any such sale-leaseback transaction, the Borrower and its Subsidiaries own Property (x) unencumbered by any Liens other than Liens permitted by clauses (i) through (xv) of the definition of Permitted Liens and (y) having an aggregate fair market value of at least \$2,000,000,000; and, provided further, the Borrower may consummate the Reorganization pursuant to and in accordance with the last paragraph of this Section 7.3; or

(d) except as otherwise permitted by Section 7.3(a) or Section 7.3(b), acquire all or any portion of the capital stock or securities of any other Person or purchase, lease or otherwise acquire (in a single transaction or a series of related transactions) all or any substantial part of the Property of any other Person; provided that (i) the Borrower or any of its Subsidiaries shall be permitted to make acquisitions of the type referred to in this Section 7.3(d), so long as such acquisitions are non-hostile and (ii) after giving effect on a pro forma basis to any such acquisition (including but not limited to any Indebtedness to be incurred or assumed by the Borrower or any of its Subsidiaries in connection therewith), no Default or Event of Default would exist hereunder.

Notwithstanding the foregoing, but subject to the following provisions of this paragraph, the Borrower will be permitted to effect an internal reorganization that will result in the Borrower changing its state of incorporation from Nevada to Delaware and that will be accomplished either by (i) the Borrower merging with and into a new wholly-owned Subsidiary of the Borrower, which Subsidiary (x) will be incorporated in the state of Delaware and the surviving corporation of such merger, (y) shall, as a result of such merger, assume by operation of law all of the rights and obligations of the Borrower under the Credit Agreement, and (z) shall, immediately after the consummation of such merger, have management and controlling ownership substantially similar to that of the Borrower

immediately prior to the consummation of such merger or (ii) if applicable, the Borrower becoming a wholly-owned Subsidiary of a new holding company incorporated in the State of Delaware, the outstanding capital stock of which holding company will be owned by the current shareholders of the Borrower (either such transaction, the “Reorganization”). The Lenders hereby agree that the Borrower shall be permitted to consummate the Reorganization so long as (i) the consummation of the Reorganization shall not result in a material and adverse impact to the interests of the Administrative Agent and/or the Lenders under this Credit Agreement and the Notes, and (ii) after giving effect to the Reorganization, (A) the Borrower become a wholly-owned subsidiary of a corporation organized in the State of Delaware and (B) that the management and controlling ownership of such parent corporation immediately after the consummation of the Reorganization be substantially similar to that of the Borrower immediately prior to the consummation of the Reorganization. The Borrower hereby agrees (i) to provide the Administrative Agent and the Lenders with such additional information and documents related to the Reorganization as may be reasonably requested by the Administrative Agent and/or any Lender and (ii) to execute within a reasonable time after consummation of the Reorganization (not to exceed sixty (60) days unless otherwise agreed by the Administrative Agent) such appropriate amendments, corporate authority documents and other supporting documents to or under the Credit Agreement evidencing any changes made necessary by the consummation of the Reorganization (including, without limitation, (x) in the event the Borrower merges with and into a new wholly-owned Subsidiary of the Borrower, a legal opinion of Borrower’s counsel, in form and substance reasonably acceptable to the Administrative Agent’s legal counsel, addressing the enforceability of the Credit Documents with respect to such surviving Subsidiary and (y) in the event that the Borrower becomes a wholly-owned subsidiary of a new parent holding company incorporated in Delaware, a guaranty by such new parent holding company of the Borrower’s obligations under the Credit Agreement) and such other changes as may be mutually agreed to by the Borrower (or its successor, if applicable) and the parties hereto, each in form and substance reasonably acceptable to the Borrower (or its successor, if applicable), the Administrative Agent and the Required Lenders. The Borrower acknowledges that the agreement of the Lenders evidenced in this paragraph is given in reliance upon the foregoing conditions and agreements and shall be deemed revoked if any such condition or agreement is breached.

#### **7.4 Fiscal Year.**

The Borrower will not, nor will it permit any of its Subsidiaries to, change its fiscal year without first obtaining the written consent of the Required Lenders (such consent not to be unreasonably withheld).

#### **7.5 Subsidiary Indebtedness.**

The Borrower will not permit any of its Subsidiaries to contract, create, incur, assume or permit to exist any Indebtedness, except:

(a) Indebtedness set forth on Schedule 7.5 (and any renewals, refinancings or extensions thereof on terms and conditions no more favorable, in the aggregate, to such creditor than such existing Indebtedness and in a principal amount not in excess of that outstanding as of the date of such renewal, refinancing or extension);

(b) intercompany Indebtedness owed by a Subsidiary of the Borrower to the Borrower or to one or more wholly-owned Subsidiaries of the Borrower;

(c) Indebtedness of the Subsidiaries (excluding intercompany Indebtedness owed to the Borrower or to one or more wholly-owned Subsidiaries of the Borrower) incurred after the Closing Date to provide all or a portion of the purchase price of short-lived assets (such as trucks and computer equipment) which may be treated as Capital Leases in accordance with GAAP in an aggregate amount not to exceed \$175,000,000 in any fiscal year;

(d) Indebtedness of the Subsidiaries (excluding intercompany Indebtedness owed to the Borrower or to one or more wholly-owned Subsidiaries of the Borrower) incurred in connection with synthetic leases, tax retention operating leases, off-balance sheet loans or similar off-balance sheet financings in an aggregate amount not to exceed \$150,000,000 in any two consecutive fiscal years; and

(e) other Indebtedness of the Subsidiaries (excluding intercompany Indebtedness owed to the Borrower or to one or more wholly-owned Subsidiaries of the Borrower) in an aggregate principal amount not to exceed \$200,000,000 at any time outstanding.

## SECTION 8

### EVENTS OF DEFAULT

#### **8.1 Events of Default.**

An Event of Default shall exist upon the occurrence of any of the following specified events (each an "Event of Default"):

(a) Payment. The Borrower shall

(i) default in the payment when due of any principal of any of the Loans, or

(ii) default, and such default shall continue for five (5) or more Business Days, in the payment when due of any interest on the Loans, or of any Fees or other amounts owing hereunder, under any of the other Credit Documents or in connection herewith or therewith; or

(b) Representations. Any representation, warranty or statement made or deemed to be made by the Borrower herein, in any of the other Credit Documents, or in any statement or certificate delivered or required to be delivered pursuant hereto or thereto shall prove untrue in any material respect on the date as of which it was deemed to have been made; or

(c) Covenants. The Borrower shall

(i) default in the due performance or observance of any term, covenant or agreement contained in Sections 6.2, 6.8, 6.10, 6.11 or 7.1 through 7.3, inclusive, and 7.5, or

(ii) default in the due performance of any term, covenant or agreement contained in Section 6.1 and such default shall continue unremedied for a period of at least 5 days after the earlier of a Financial Officer of the Borrower becoming aware of such default or notice thereof by the Administrative Agent.

(iii) default in the due performance or observance by it of any term, covenant or agreement (other than those referred to in subsections (a), (b), (c)(i) or (c)(ii) of this Section 8.1) contained in this Credit Agreement and such default shall continue unremedied for a period of at least 30 days after the earlier of a responsible officer of the Borrower becoming aware of such default or notice thereof by the Administrative Agent; or

(d) Bankruptcy, etc. Any Bankruptcy Event shall occur with respect to the Borrower or any of its Subsidiaries; or

(e) Other Indebtedness. With respect to any Indebtedness (other than Indebtedness outstanding under this Credit Agreement or owing to the Borrower or any of its Subsidiaries) in excess of \$75,000,000 in the aggregate for the Borrower and its Subsidiaries taken as a whole, (i) the Borrower or any of its Subsidiaries shall (A) default in any payment (beyond the applicable grace or cure period with respect thereto, if any) with respect to any such Indebtedness, or (B) default in the observance or performance relating to such Indebtedness or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event or condition shall occur or condition exist, the effect of which default or other event or condition is to cause, or permit, the holder or holders of such Indebtedness (or trustee or agent on behalf of such holders) to cause, any such Indebtedness to become due, or to be required to be purchased or redeemed, prior to the applicable maturity date, but after the expiration of all applicable grace or cure periods; or (ii) any such Indebtedness shall be declared due and payable, or required to be prepaid other than by a regularly scheduled required prepayment, prior to the stated maturity thereof and shall not be repaid when due; or

(f) Judgments. One or more judgments or decrees shall be entered against the Borrower or any of its Subsidiaries involving a liability of \$75,000,000 or more in the aggregate (to the extent not paid or covered by insurance) and any such judgments or decrees shall not have been vacated, discharged or stayed or bonded pending appeal within 30 days from the entry thereof, or if longer, within the applicable appeal period (but in no event for more than 90 days from the entry thereof); or

(g) ERISA. (i) An ERISA Event occurs with respect to a Pension Plan or Multiemployer Plan which has resulted or could reasonably be expected to result in liability of the Borrower under Title IV of ERISA to the Pension Plan, Multiemployer Plan or the PBGC in an aggregate amount in excess of \$75,000,000, or (ii) the Borrower or any ERISA Affiliate fails to pay when due, after the expiration of any applicable grace period, any installment payment with respect to its withdrawal liability under Section 4201 of ERISA under a Multiemployer Plan in an aggregate amount in excess of \$75,000,000; or

(h) Letters of Credit. The Borrower shall (i) default in the payment when due of any reimbursement obligations arising from drawings under Letters of Credit (it being understood that such payment may be accomplished pursuant to the application of proceeds from a new Base Rate Loan made in accordance with the provisions of Section 2.4(c) or pursuant to the application of funds held in a cash collateral account) or (ii) default, and such defaults shall continue for five (5) or more Business Days, in the payment when due of any interest on any reimbursement obligations arising from drawings under Letters of Credit; or

(i) Invalidity of Loan Documents. Any material provision of any Credit Document, at any time after its execution and delivery and for any reason other than as expressly permitted hereunder or thereunder or satisfaction in full of all Indebtedness under the Credit Documents, ceases to be in full force and effect; or the Borrower contests in any manner the validity or enforceability of any provision of any Credit Document; or the Borrower denies that it has any or further liability or obligation under any Credit Document, or purports to revoke, terminate or rescind any provision of any Credit Document.

## **8.2 Acceleration; Remedies.**

Upon the occurrence of an Event of Default, and at any time thereafter unless and until such Event of Default has been waived by the Required Lenders or cured to the satisfaction of the Required Lenders (pursuant to the voting procedures in Section 10.6), the Administrative Agent shall, upon the request and direction of the Required Lenders, by written notice to the Borrower take any of the following actions:

(a) Termination of Commitments. Declare the Commitments terminated whereupon the Commitments shall be immediately terminated.

(b) Acceleration. Declare the unpaid principal of and any accrued interest in respect of all Loans and any and all other indebtedness or obligations of any and every kind owing by the Borrower to the Administrative Agent and/or any of the Lenders hereunder to be due whereupon the same shall be immediately due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower.

(c) Enforcement of Rights. Enforce any and all rights and interests created and existing under the Credit Documents and all rights of set-off.

(d) Cash Collateral. Require that the Borrower Cash Collateralize the L/C Obligations (in an amount equal to the then outstanding amount thereof); and

Notwithstanding the foregoing, if an Event of Default specified in Section 8.1(d) shall occur, then the Commitments shall automatically terminate and all Loans, reimbursement obligations arising from drawings under Letters of Credit, all accrued interest in respect thereof, all accrued and unpaid Fees and other indebtedness or obligations owing to the Administrative Agent and/or any of the Lenders hereunder in respect thereof automatically shall immediately become due and payable without the giving of any notice or other action by the Administrative Agent or the Lenders.

## **SECTION 9**

### **AGENCY PROVISIONS**

#### **9.1 Appointment and Authority.**

(a) Each Lender hereby designates and appoints Bank of America as administrative agent (in such capacity as Administrative Agent hereunder, the "Administrative Agent") of such Lender to act as specified herein and the other Credit Documents, and each such Lender hereby authorizes the Administrative Agent as the agent for such Lender, to take such action on its behalf under the provisions of this Credit Agreement and the other Credit Documents and to exercise such powers and perform such duties as are expressly delegated by the terms hereof and of the other Credit Documents, together with such other powers as are reasonably incidental thereto. Notwithstanding any provision to the contrary elsewhere herein and in the other Credit Documents, the Administrative Agent shall not have any duties or responsibilities, except those expressly set forth herein and therein, or any fiduciary relationship with any Lender, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Credit Agreement or any of the other Credit Documents, or shall otherwise exist against the Administrative Agent. The provisions of this Section are solely for the benefit of the Administrative Agent and the Lenders and the Borrower shall have no rights as a third party beneficiary of the provisions hereof. In performing its functions and duties under this Credit Agreement and the other Credit Documents, the Administrative Agent shall act solely as agent of the Lenders and does not assume and shall not be deemed to have assumed any obligation or relationship of agency or trust with or for the Borrower or any of its Affiliates.

(b) Each L/C Issuer shall act on behalf of the Lenders with respect to any Letters of Credit issued by it and the documents associated therewith until such time (and except for so long) as the Administrative Agent may agree at the request of the Required Lenders to act for such L/C Issuer with respect thereto; provided, however, that such L/C Issuer shall have all of the benefits and immunities (i) provided to the Administrative Agent in this Section 9 with respect to any acts taken or omissions suffered by such L/C Issuer in connection with Letters of Credit issued by it or proposed to be issued by it and the application and agreements for letters of credit pertaining to the Letters of Credit as fully as if the term “Administrative Agent” as used in this Section 9 included such L/C Issuer with respect to such acts or omissions, and (ii) as additionally provided herein with respect to such L/C Issuer.

### **9.2 Delegation of Duties.**

The Administrative Agent may execute any of its respective duties hereunder or under the other Credit Documents by or through agents or attorneys-in-fact and shall be entitled to advice of counsel concerning all matters pertaining to such duties; provided that the use of any agents or attorneys-in-fact shall not relieve the Administrative Agent of its duties hereunder.

### **9.3 Exculpatory Provisions.**

The Administrative Agent and its officers, directors, employees, agents, attorneys-in-fact or affiliates shall not be (a) liable for any action lawfully taken or omitted to be taken by it or such Person under or in connection herewith or in connection with any of the other Credit Documents (except for its or such Person’s own gross negligence or willful misconduct), or (b) responsible in any manner to any of the Lenders for any recitals, statements, representations or warranties made by the Borrower contained herein or in any of the other Credit Documents or in any certificate, report, document, financial statement or other written or oral statement referred to or provided for in, or received by the Administrative Agent under or in connection herewith or in connection with the other Credit Documents, or enforceability or sufficiency thereof of any of the other Credit Documents, or for any failure of the Borrower to perform its obligations hereunder or thereunder. The Administrative Agent shall not be responsible to any Lender for the effectiveness, genuineness, validity, enforceability, collectibility or sufficiency of this Credit Agreement, or any of the other Credit Documents or for any representations, warranties, recitals or statements made herein or therein or made by the Borrower in any written or oral statement or in any financial or other statements, instruments, reports, certificates or any other documents in connection herewith or therewith furnished or made by the Administrative Agent to the Lenders or by or on behalf of the Borrower to the Administrative Agent or any Lender or be required to ascertain or inquire as to the performance or observance of any of the terms, conditions, provisions, covenants or agreements contained herein or therein or as to the use of the proceeds of the Loans or of the existence or possible existence of any Default or Event of Default or to inspect the properties, books or records of the Borrower or any of its Affiliates.

### **9.4 Reliance on Communications.**

The Administrative Agent shall be entitled to rely, and shall be fully protected in relying, upon any note, writing, resolution, notice, consent, certificate, affidavit, letter, cablegram, telegram, teletype, facsimile, telex or teletype message, statement, order or other document or conversation reasonably believed by it to be genuine and correct and to have been signed, sent or made by the proper Person or Persons and upon advice and statements of legal counsel (including, without limitation, counsel to the Borrower, independent accountants and other experts selected by the Administrative Agent with reasonable care). The Administrative Agent may deem and treat the Lenders as the owner of their respective interests hereunder for all purposes unless a written notice of assignment, negotiation or transfer thereof shall have been filed with the Administrative Agent in accordance with Section 10.3(b) hereof. The Administrative Agent shall be fully justified in failing or refusing to take any action under this Credit Agreement or under any of the other Credit Documents unless it shall first receive such advice or concurrence of the Required Lenders as it deems appropriate or it

shall first be indemnified to its satisfaction by the Lenders against any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action. The Administrative Agent shall in all cases be fully protected in acting, or in refraining from acting, hereunder or under any of the other Credit Documents in accordance with a request of the Required Lenders (or to the extent specifically provided in Section 10.6, all the Lenders) and such request and any action taken or failure to act pursuant thereto shall be binding upon all the Lenders (including their successors and assigns).

#### **9.5 Notice of Default.**

The Administrative Agent shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default hereunder unless the Administrative Agent has received notice from a Lender or the Borrower referring to the Credit Document, describing such Default or Event of Default and stating that such notice is a “notice of default.” In the event that the Administrative Agent receives such a notice, the Administrative Agent shall give prompt notice thereof to the Lenders. The Administrative Agent shall take such action with respect to such Default or Event of Default as shall be reasonably directed by the Required Lenders.

#### **9.6 Non-Reliance on Administrative Agent and Other Lenders.**

Each Lender expressly acknowledges that each of the Administrative Agent and its officers, directors, employees, agents, attorneys-in-fact or affiliates has not made any representations or warranties to it and that no act by the Administrative Agent or any affiliate thereof hereinafter taken, including any review of the affairs of the Borrower or any of its Affiliates, shall be deemed to constitute any representation or warranty by the Administrative Agent to any Lender. Each Lender represents to the Administrative Agent that it has, independently and without reliance upon the Administrative Agent or any other Lender, and based on such documents and information as it has deemed appropriate, made its own appraisal of and investigation into the business, assets, operations, property, financial and other conditions, prospects and creditworthiness of the Borrower or its Affiliates and made its own decision to make its Loans hereunder and enter into this Credit Agreement. Each Lender also represents that it will, independently and without reliance upon the Administrative Agent or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Credit Agreement, and to make such investigation as it deems necessary to inform itself as to the business, assets, operations, property, financial and other conditions, prospects and creditworthiness of the Borrower and its Affiliates. Except for notices, reports and other documents expressly required to be furnished to the Lenders by the Administrative Agent hereunder, the Administrative Agent shall not have any duty or responsibility to provide any Lender with any credit or other information concerning the business, operations, assets, property, financial or other conditions, prospects or creditworthiness of the Borrower or any of its Affiliates which may come into the possession of the Administrative Agent or any of its officers, directors, employees, agents, attorneys-in-fact or affiliates.

#### **9.7 Indemnification.**

The Lenders agree to indemnify the Administrative Agent in its capacity as such (to the extent not reimbursed by the Borrower and without limiting the obligation of the Borrower to do so), ratably according to their respective Commitments (or if the Commitments have expired or been terminated, in accordance with the respective principal amounts of outstanding Loans and Participation Interests of the Lenders), from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind whatsoever which may at any time (including without limitation at any time following the final payment of all of the obligations of the Borrower hereunder and under the other Credit Documents) be imposed on, incurred by or asserted against the Administrative Agent in its capacity as such in any way relating to or arising out of this Credit Agreement or the other Credit Documents or any documents contemplated by or referred to herein or therein or the

transactions contemplated hereby or thereby or any action taken or omitted by the Administrative Agent under or in connection with any of the foregoing; provided that no Lender shall be liable for the payment of any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from the gross negligence or willful misconduct of the Administrative Agent. If any indemnity furnished to the Administrative Agent for any purpose shall, in the opinion of the Administrative Agent, be insufficient or become impaired, the Administrative Agent may call for additional indemnity and cease, or not commence, to do the acts indemnified against until such additional indemnity is furnished. The agreements in this Section shall survive the repayment of the Loans and other obligations under the Credit Documents and the termination of the Commitments hereunder.

#### **9.8 Administrative Agent in its Individual Capacity.**

Bank of America, each other L/C Issuer and their respective Affiliates may make loans to, issue letters of credit for the account of, accept deposits from, acquire equity interests in and generally engage in any kind of banking, trust, financial advisory, underwriting or other business with each of the Borrower and its respective Affiliates as though Bank of America were not the Administrative Agent or such L/C Issuer were not an L/C Issuer hereunder, as applicable, and without notice to or consent of the Lenders. The Lenders acknowledge that, pursuant to such activities, Bank of America, each L/C Issuer and their respective Affiliates may receive information regarding the Borrower or its Affiliates (including information that may be subject to confidentiality obligations in favor of the Borrower or such Affiliate) and acknowledge that neither the Administrative Agent nor such L/C Issuer shall be under any obligation to provide such information to them. With respect to its Loans or any Letter of Credit issued by it, Bank of America or such other L/C Issuer, as applicable, shall have the same rights and powers under the Credit Agreement as any other Lender and may exercise such rights and powers as though it were not the Administrative Agent or an L/C Issuer, and the terms "Lender" and "Lenders" include Bank of America or such other L/C Issuer, as applicable, in its individual capacity.

#### **9.9 Successor Administrative Agent.**

The Administrative Agent may at any time resign upon 20 days' written notice to the Lenders, each L/C Issuer and the Borrower. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, in consultation with the Borrower, to appoint a successor, which shall be a bank with an office in the United States, or an Affiliate of any such bank with an office in the United States; provided that, so long as no Default or Event of Default has occurred and is continuing, such successor Administrative Agent shall be reasonably acceptable to the Borrower. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days after the retiring Administrative Agent gives notice of its resignation, then the retiring Administrative Agent may on behalf of the Lenders and the L/C Issuers, appoint a successor Administrative Agent meeting the qualifications set forth above; provided that if the Administrative Agent shall notify the Borrower and the Lenders that no qualifying Person has accepted such appointment, then such resignation shall nonetheless become effective in accordance with such notice and (1) the retiring Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Credit Documents, (2) all payments, communications and determinations provided to be made by, to or through the Administrative Agent shall instead be made by or to each Lender and the applicable L/C Issuer directly, until such time as the Required Lenders appoint a successor Administrative Agent as provided for above in this Section 9 and (3) the retiring Administrative Agent will provide to the Borrower and the Lenders reasonable access to the Register and/or copies of each Lender's Administrative Questionnaire. Upon the acceptance of a successor's appointment as Administrative Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or retired) Administrative Agent, and the retiring Administrative Agent shall be discharged from all of its duties and obligations hereunder or under the other Credit Documents

(if not already discharged therefrom as provided above in this Section 9). The fees payable by the Borrower to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the retiring Administrative Agent's resignation hereunder and under the other Credit Documents, the provisions of this Article and Section 10.5 shall continue in effect for the benefit of such retiring Administrative Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring Administrative Agent was acting as Administrative Agent.

Any resignation by Bank of America as Administrative Agent pursuant to this Section 9.9 shall also constitute its resignation as L/C Issuer and Swingline Lender. Upon the acceptance of a successor's appointment as Administrative Agent hereunder, (a) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring L/C Issuer and Swingline Lender, (b) the retiring L/C Issuer and Swingline Lender shall be discharged from all of their respective duties and obligations hereunder or under the other Credit Documents, and (c) the successor L/C Issuer shall issue letters of credit in substitution for the Letters of Credit, if any, outstanding at the time of such succession or make other arrangements satisfactory to the retiring L/C Issuer to effectively assume the obligations of the retiring L/C Issuer with respect to such Letters of Credit.

#### **9.10 Syndication Agent, Documentation Agents and Joint Book Runners.**

The Syndication Agent, Documentation Agents and Joint Book Runners, each in its capacity as such, shall have no rights, powers, duties or obligations under this Credit Agreement or any of the other Credit Documents.

### **SECTION 10**

#### **MISCELLANEOUS**

##### **10.1 Notices.**

(a) Notices Generally. Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in subsection (b) below), all notices and other communications provided for herein shall be in writing, and except as otherwise expressly provided herein, all notices and other communications shall have been duly given and shall be effective (i) when delivered, (ii) when transmitted and received (by confirmation of receipt) via telecopy (or other facsimile device) to the number set out below, (iii) the day on which the same has been delivered by a reputable national overnight air courier service to the addressee, or (iv) the day on which the same is delivered to the addressee or delivery refused by the addressee by certified or registered mail, postage prepaid, in each case to the respective parties at the address, in the case of the Borrower, the Administrative Agent, the L/C Issuer or the Swingline Lender, to the address, telecopier number, electronic mail address or telephone number specified for such Person on Schedule 10.1, and, in the case of the Lenders, to the address, telecopier number, electronic mail address specified in its Administrative Questionnaire, or at such other address as such party may specify by written notice to the other parties hereto.

(b) Electronic Communications. Notices and other communications to the Lenders and the L/C Issuers hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by the Administrative Agent, provided that the foregoing shall not apply to notices to any Lender or the L/C Issuer pursuant to Section 2 if such Lender or the L/C Issuer, as applicable, has notified the Administrative Agent that it is incapable of receiving notices under such Section by electronic communication. The Administrative Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, provided that approval of such procedures may be limited to particular notices or communications.

Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), provided that if such notice or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient, and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor.

(c) The Platform. THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE." THE AGENT PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE BORROWER MATERIALS OR THE ADEQUACY OF THE PLATFORM, AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS IN OR OMISSIONS FROM THE BORROWER MATERIALS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY ANY AGENT PARTY IN CONNECTION WITH THE BORROWER MATERIALS OR THE PLATFORM. FURTHERMORE, THE BORROWER DOES NOT WARRANT THE ADEQUACY OF THE PLATFORM, AND MAKES NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS IN CONNECTION WITH THE PLATFORM. In no event shall the Administrative Agent or any of its Related Parties (collectively, the "Agent Parties") have any liability to the Borrower, any Lender, the L/C Issuer or any other Person for losses, claims, damages, liabilities or expenses of any kind (whether in tort, contract or otherwise) arising out of the Borrower's or the Administrative Agent's transmission of Borrower Materials through the Internet, except to the extent that such losses, claims, damages, liabilities or expenses are determined by a court of competent jurisdiction by a final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Agent Party; provided, however, that in no event shall any Agent Party have any liability to the Borrower, any Lender, the L/C Issuer or any other Person for indirect, special, incidental, consequential or punitive damages (as opposed to direct or actual damages).

(d) Change of Address, Etc. Each of the Borrower, the Administrative Agent, each L/C Issuer and the Swingline Lender may change its address, telecopier or telephone number for notices and other communications hereunder by notice to the other parties hereto. Each other Lender may change its address, telecopier or telephone number for notices and other communications hereunder by notice to the Borrower, the Administrative Agent, the L/C Issuers and the Swingline Lender. In addition, each Lender agrees to notify the Administrative Agent from time to time to ensure that the Administrative Agent has on record (i) an effective address, contact name, telephone number, telecopier number and electronic mail address to which notices and other communications may be sent and (ii) accurate wire instructions for such Lender. Furthermore, each Public Lender agrees to cause at least one individual at or on behalf of such Public Lender to at all times have selected the "Private Side Information" or similar designation on the content declaration screen of the Platform in order to enable such Public Lender or its delegate, in accordance with such Public Lender's compliance procedures and applicable law, including Securities Laws, to review Borrower Materials that are not made available through the "Public Side Information" portion of the Platform and that may contain material non-public information with respect to the Borrowers or their securities for purposes of Securities Laws.

(e) Reliance by Administrative Agent, L/C Issuers and Lenders. The Administrative Agent and the Lenders shall be entitled to rely and act upon, in good faith, any notices (including telephonic Committed Loan Notices and Swingline Loan Notices) purportedly given by or on behalf of the Borrower and reasonably understood by the Administrative Agent and/or the Lenders, as applicable, to be authentic even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. The Borrower shall indemnify the Administrative Agent and the Related Parties of each of them from all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of the Borrower (but excluding any such losses, costs, expenses and liabilities that (x) are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of the Administrative Agent or such Related Party or (y) result from a claim brought by the Borrower against the Administrative Agent or such Related Party for breach in bad faith of such party's obligations hereunder or under any other Credit Document, if the Borrower has obtained a final and nonappealable judgment in its favor on such claim as determined by a court of competent jurisdiction). All telephonic notices to and other telephonic communications with the Administrative Agent may be recorded by the Administrative Agent, and each of the parties hereto hereby consents to such recording.

#### **10.2 Right of Set-Off.**

In addition to any rights now or hereafter granted under applicable law, and not by way of limitation of any such rights, upon the occurrence of an Event of Default, each Lender is authorized at any time and from time to time, without presentment, demand, protest or other notice of any kind (all of which rights being hereby expressly waived), to set-off and to appropriate and apply any and all deposits (general or special) and any other indebtedness at any time held or owing by such Lender (including, without limitation, branches, agencies or Affiliates of such Lender wherever located) to or for the credit or the account of the Borrower against obligations and liabilities of such Person to such Lender hereunder, under the Notes or the other Credit Documents, irrespective of whether such Lender shall have made any demand hereunder and although such obligations, liabilities or claims, or any of them, may be contingent or unmatured, and any such set-off shall be deemed to have been made immediately upon the occurrence of an Event of Default even though such charge is made or entered on the books of such Lender subsequent thereto; provided, that, in the event that any Defaulting Lender shall exercise any such right of setoff, (x) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Section 3.19 and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Administrative Agent and the Lenders and (y) the Defaulting Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the obligations owing to such Defaulting Lender as to which it exercised such right of setoff. Any Person purchasing a participation in the Loans and Commitments hereunder pursuant to Section 3.13 or Section 10.3(d) may exercise all rights of set-off with respect to its participation interest as fully as if such Person were a Lender hereunder.

### 10.3 Successors and Assigns.

(a) Successors and Assigns Generally. The provisions of this Credit Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative Agent and each Lender other than in connection with a Reorganization permitted by Section 7.3 hereof and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an assignee in accordance with the provisions of Section 10.3(b), (ii) by way of participation in accordance with the provisions of Section 10.3(d), (iii) to an SPV in accordance with the provisions of Section 10.3(g), or (iv) by way of a pledge of its Loans hereunder to a Federal Reserve Bank in support of borrowings made by such Lender from such Federal Reserve Bank (and any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Credit Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in subsection (d) of this Section and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent, the L/C Issuer and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Credit Agreement.

(b) Assignments by Lenders. Any Lender may at any time assign to one or more assignees all or a portion of its rights and obligations under this Credit Agreement (including all or a portion of its Commitment(s) and the Loans (including for purposes of this Section 10.3(b), participations in L/C Obligations and in Swingline Loans) at the time owing to it; provided, that any such assignment shall be subject to the following conditions:

(i) Minimum Amounts.

(A) in the case of an assignment of the entire remaining amount of the assigning Lender's Commitment and the Loans at the time owing to it or in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund, no minimum amount need be assigned; and

(B) in any case not described in subsection (b)(i)(A) of this Section, the aggregate amount of the Commitment (which for this purpose includes Loans outstanding thereunder) or, if the Commitment is not then in effect, the principal outstanding balance of the Loans of the assigning Lender subject to each such assignment, determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent or, if "Trade Date" is specified in the Assignment and Assumption, as of the Trade Date, shall not be less than \$5,000,000, in the case of any assignment in respect of the revolving credit facility hereunder, and in integral multiples of \$1,000,000 in excess thereof unless each of the Administrative Agent and, so long as no Event of Default has occurred and is continuing, the Borrower otherwise consents (each such consent not be unreasonably withheld or delayed); provided, however, that concurrent assignments to members of an Assignee Group and concurrent assignments from members of an Assignee Group to a single Eligible Assignee (or to an Eligible Assignee and members of its Assignee Group) will be treated as a single assignment for purposes of determining whether such minimum amount has been met;

(ii) Proportionate Amounts. Each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Credit Agreement with respect to the Loans or the Commitment assigned, except that this clause (ii) shall not apply to the Swingline Lender's rights and obligations in respect of Swingline Loans;

(iii) Required Consents. No consent shall be required for any assignment except to the extent required by subsection (b)(i)(B) of this Section and, in addition:

(A) the consent of the Borrower (such consent not to be unreasonably withheld or delayed) shall be required unless (1) an Event of Default has occurred and is continuing at the time of such assignment or (2) such assignment is to a Lender, an Affiliate of a Lender or an Approved Fund;

(B) the consent of the Administrative Agent (such consent not to be unreasonably withheld or delayed) shall be required for assignments in respect of any Commitment if such assignment is to a Person that is not a Lender, an Affiliate of such Lender or an Approved Fund; and

(C) the consent of the L/C Issuer (such consent not to be unreasonably withheld or delayed) shall be required for any assignment that increases the obligation of the assignee to participate in exposure under one or more Letters of Credit (whether or not then outstanding); and

(D) the consent of the Swingline Lender (such consent not to be unreasonably withheld or delayed) shall be required for any assignment in respect of the revolving credit facility hereunder.

(iv) Assignment and Assumption. The parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee in the amount of \$3,500; provided, however, that the Administrative Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment. The assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire.

(v) No Assignment to Certain Persons. No such assignment shall be made (A) to the Borrower or any of the Borrower's Affiliates or Subsidiaries, or (B) to any Defaulting Lender or any of its Subsidiaries, or any Person who, upon becoming a Lender hereunder, would constitute any of the foregoing Persons described in this clause (B) or (C) to a natural person.

(vi) Certain Additional Payments. In connection with any assignment of rights and obligations of any Defaulting Lender hereunder, no such assignment shall be effective unless and until, in addition to the other conditions thereto set forth herein, the parties to the assignment shall make such additional payments to the Administrative Agent in an aggregate amount sufficient, upon distribution thereof as appropriate (which may be outright payment, purchases by the assignee of participations or subparticipations, or other compensating actions, including funding, with the consent of the Borrower and the Administrative Agent, the applicable pro rata share of Loans previously requested but not funded by the Defaulting Lender, to each of which the applicable assignee and assignor hereby irrevocably consent), to (x) pay and satisfy in full all payment liabilities then owed by such Defaulting Lender to the Administrative Agent or any Lender hereunder (and interest accrued thereon) and (y) acquire (and fund as appropriate) its full pro rata share of all Loans and participations in Letters of Credit and Swingline Loans in accordance with its Commitment Percentage. Notwithstanding the foregoing, in the event that any assignment of rights and obligations of any Defaulting Lender hereunder shall become effective under applicable law without compliance with the provisions of this paragraph, then the assignee of such interest shall be deemed to be a Defaulting Lender for all purposes of this Credit Agreement until such compliance occurs.

Subject to acceptance and recording thereof by the Administrative Agent pursuant to subsection (c) of this Section, from and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party to this Credit Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Credit Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Credit Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Credit Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 3.9, 3.10 and 3.11 with respect to facts and circumstances occurring prior to the effective date of such assignment). Upon request, the Borrower (at its expense) shall execute and deliver a Note to the assignee Lender. Any assignment or transfer by a Lender of rights or obligations under this Credit Agreement that does not comply with this subsection shall be treated for purposes of this Credit Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with Section 10.3(d).

(c) Register. The Administrative Agent, acting solely for this purpose as an agent of the Borrower, shall maintain at the Administrative Agent's Office a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amounts of the Loans and L/C Obligations owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The Administrative Agent will make reasonable efforts to maintain the accuracy of the Register and to promptly update the Register from time to time, as necessary (including with regard to assignments of Loans and transfers of Notes). The entries in the Register shall be conclusive, absent convincing evidence to the contrary, and the Borrower, the Administrative Agent and the Lenders may treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Credit Agreement, notwithstanding notice to the contrary. In addition, the Administrative Agent shall maintain on the Register information regarding the designation, and revocation of designation, of any Lender as a Defaulting Lender. The Register shall be available for inspection by the Borrower and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(d) Participations. Any Lender may at any time, without the consent of, or notice to, the Borrower or the Administrative Agent, sell participations to any Person (other than a natural person, a Defaulting Lender or the Borrower or any of the Borrower's Affiliates or Subsidiaries) (each, a "Participant") in all or a portion of such Lender's rights and/or obligations under this Credit Agreement (including all or a portion of its Commitment and/or the Loans (including such Lender's participations in L/C Obligations and/or Swingline Loans) owing to it); provided that (i) such Lender's obligations under this Credit Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrower, the Administrative Agent, the Lenders and the L/C Issuer shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Credit Agreement. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Credit Agreement and to approve any amendment, modification or waiver of any provision of this Credit Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, waiver or other modification described in the first proviso to Section 10.6 that affects such Participant. Subject to subsection (e) of this Section, the Borrower agrees that each Participant shall be entitled to the benefits of Section 3.9, 3.10 and 3.11 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to Section 10.3(b). To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 10.2 as though it were a Lender, provided such Participant agrees to be subject to Section 3.13 as though it were a Lender.

(e) Limitations upon Participant Rights. A Participant shall not be entitled to receive any greater payment under Section 3.9, 3.10 and 3.11 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Borrower's prior written consent. A Participant that would be a Foreign Lender if it were a Lender shall not be entitled to the benefits of Section 3.10 unless the Borrower is notified of the participation sold to such Participant and such Participant agrees, for the benefit of the Borrower, to comply with Section 3.10 as though it were a Lender.

(f) Electronic Execution of Assignments. The words “execution,” “signed,” “signature,” and words of like import in any Assignment and Assumption shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

(g) Special Purpose Funding Vehicles. Notwithstanding anything to the contrary contained herein, any Lender (a “Granting Lender”) may grant to a special purpose funding vehicle identified as such in writing from time to time by the Granting Lender to the Administrative Agent and the Borrower (an “SPV”) the option to provide all or any part of any Loan that such Granting Lender would otherwise be obligated to make pursuant to this Credit Agreement; provided that (i) nothing herein shall constitute a commitment by any SPV to fund any Loan, and (ii) if an SPV elects not to exercise such option or otherwise fails to make all or any part of such Loan, the Granting Lender shall be obligated to make such Loan pursuant to the terms hereof or, if it fails to do so, to make such payment to the Administrative Agent as is required under Section 3.14. Each party hereto hereby agrees that (i) neither the grant to any SPV nor the exercise by any SPV of such option shall increase the costs or expenses or otherwise increase or change the obligations of the Borrower under this Credit Agreement (including its obligations under Section 3.4), (ii) no SPV shall be liable for any indemnity or similar payment obligation under this Credit Agreement for which a Lender would be liable, and (iii) the Granting Lender shall for all purposes, including the approval of any amendment, waiver or other modification of any provision of any Credit Document, remain the lender of record hereunder. The making of a Loan by an SPV hereunder shall utilize the Commitment of the Granting Lender to the same extent, and as if, such Loan were made by such Granting Lender. In furtherance of the foregoing, each party hereto hereby agrees (which agreement shall survive the termination of this Credit Agreement) that, prior to the date that is one year and one day after the payment in full of all outstanding commercial paper or other senior debt of any SPV, it will not institute against, or join any other Person in instituting against, such SPV any bankruptcy, reorganization, arrangement, insolvency, or liquidation proceeding under the laws of the United States or any State thereof. Notwithstanding anything to the contrary contained herein, any SPV may (i) with notice to, but without prior consent of the Borrower and the Administrative Agent and with the payment of a processing fee in the amount of \$3,500 (unless waived by the Administrative Agent in its sole discretion), assign all or any portion of its right to receive payment with respect to any Loan to the Granting Lender and (ii) disclose on a confidential basis any non-public information relating to its funding of Loans to any rating agency, commercial paper dealer or provider of any surety or Guarantee or credit or liquidity enhancement to such SPV.

(h) Resignation as L/C Issuer or Swingline Lender after Assignment. Notwithstanding anything to the contrary contained herein, if at any time Bank of America assigns all of its Revolving Credit Commitments and Revolving Credit Loans pursuant to Section 10.3(b), Bank of America may, (i) upon 30 days’ notice to the Borrower and the Lenders, resign as L/C Issuer and/or (ii) upon 30 days’ notice to the Borrower, resign as Swingline Lender. In the event of any such resignation as L/C Issuer or Swingline Lender, the Borrower shall be entitled to appoint from among the Lenders a successor L/C Issuer or Swingline Lender hereunder; provided, however, that no failure by the Borrower to appoint any such successor shall affect the resignation of Bank of America as L/C Issuer or Swingline Lender, as the case may be. If Bank of America resigns as L/C Issuer, it shall retain all the rights, powers, privileges and duties of the L/C Issuer hereunder with respect to all Letters of Credit outstanding as of the effective date of its resignation as L/C Issuer and all L/C Obligations with respect thereto (including the right to require the Lenders to make Base Rate Loans or fund risk participations in Unreimbursed Amounts pursuant to Section 2.03(c)). If Bank of America resigns as Swingline Lender, it shall retain all the rights of the Swingline Lender provided for hereunder with respect to Swingline Loans made by it and outstanding as of the

effective date of such resignation, including the right to require the Lenders to make Base Rate Loans or fund risk participations in outstanding Swingline Loans pursuant to Section 2.04(c). Upon the appointment of a successor L/C Issuer and/or Swingline Lender, (a) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring L/C Issuer or Swingline Lender, as the case may be, and (b) the successor L/C Issuer shall issue letters of credit in substitution for the Letters of Credit, if any, outstanding at the time of such succession or make other arrangements satisfactory to Bank of America to effectively assume the obligations of Bank of America with respect to such Letters of Credit.

#### **10.4 No Waiver; Remedies Cumulative.**

No failure or delay on the part of the Administrative Agent or any Lender in exercising any right, power or privilege hereunder or under any other Credit Document and no course of dealing between the Administrative Agent or any Lender and the Borrower shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder or under any other Credit Document preclude any other or further exercise thereof or the exercise of any other right, power or privilege hereunder or thereunder. The rights and remedies provided herein are cumulative and not exclusive of any rights or remedies which the Administrative Agent or any Lender would otherwise have. No notice to or demand on the Borrower in any case shall entitle the Borrower to any other or further notice or demand in similar or other circumstances or constitute a waiver of the rights of the Administrative Agent or the Lenders to any other or further action in any circumstances without notice or demand.

Notwithstanding anything to the contrary contained herein or in any other Credit Document, the authority to enforce rights and remedies hereunder and under the other Credit Documents against the Borrower shall be vested exclusively in, and all actions and proceedings at law in connection with such enforcement shall be instituted and maintained exclusively by, the Administrative Agent in accordance with Section 8.2 for the benefit of all the Lenders and the L/C Issuer; provided, however, that the foregoing shall not prohibit (a) the Administrative Agent from exercising on its own behalf the rights and remedies that inure to its benefit (solely in its capacity as Administrative Agent) hereunder and under the other Credit Documents, (b) the L/C Issuer or the Swingline Lender from exercising the rights and remedies that inure to its benefit (solely in its capacity as L/C Issuer or Swingline Lender, as the case may be) hereunder and under the other Credit Documents, (c) any Lender from exercising setoff rights in accordance with Section 10.2 (subject to the terms of Section 3.14), or (d) any Lender from filing proofs of claim or appearing and filing pleadings on its own behalf during the pendency of a proceeding relative to the Borrower under any debtor relief law; and provided, further, that if at any time there is no Person acting as Administrative Agent hereunder and under the other Credit Documents, then (i) the Required Lenders shall have the rights otherwise ascribed to the Administrative Agent pursuant to Section 8.2 and (ii) in addition to the matters set forth in clauses (b), (c) and (d) of the preceding proviso and subject to Section 3.14, any Lender may, with the consent of the Required Lenders, enforce any rights and remedies available to it and as authorized by the Required Lenders.

#### **10.5 Payment of Expenses, etc.**

The Borrower agrees to: (a) pay all reasonable out-of-pocket costs and expenses (i) of the Administrative Agent and the Arrangers (and their respective Affiliates) in connection with the syndication of the credit facilities provided for herein, the negotiation, preparation, execution and delivery and administration of this Credit Agreement and the other Credit Documents and the documents and instruments referred to therein (including, subject to any agreed upon limitations, the reasonable fees and expenses of Moore & Van Allen, PLLC, special counsel to the Administrative Agent and non-duplicative allocated costs of internal counsel) and any amendment, waiver or consent relating hereto and thereto including, but not limited to, any such amendments, waivers or consents resulting from or related to any work-out, renegotiation or restructure relating to the performance by the Borrower under this Credit

Agreement and (ii) of the Administrative Agent, the L/C Issuers and the Lenders (and their respective Affiliates) in connection with enforcement of the Credit Documents and the documents and instruments referred to therein (including, without limitation, in connection with any such enforcement, the reasonable fees and disbursements of counsel (including non-duplicative allocated costs of internal counsel) for the Administrative Agent and each of the Lenders); (b) pay and hold each of the Lenders harmless from and against any and all future stamp and other similar taxes with respect to the foregoing matters and save each of the Lenders harmless from and against any and all liabilities with respect to or resulting from any delay or omission (other than to the extent attributable to such Lender) to pay such taxes; and (c) indemnify the Administrative Agent, each Lender, the Arrangers, the Documentation Agents and the Joint Book Runners and their respective officers, directors, employees, representatives, agents and Affiliates (each an “Indemnitee”) from and hold each of them harmless against any and all losses, liabilities, claims, damages or expenses incurred by any of them as a result of, or arising out of, or in any way related to, or by reason of (i) any investigation, litigation or other proceeding (whether or not the Administrative Agent or any Lender is a party thereto, but excluding any investigation initiated by the Person seeking indemnification hereunder) related to the entering into and/or performance of any Credit Document or the use of proceeds of any Loans (including other extensions of credit) hereunder or the consummation of any other transactions contemplated in any Credit Document, including, without limitation, the reasonable fees and disbursements of counsel (including non-duplicative allocated costs of internal counsel) incurred in connection with any such investigation, litigation or other proceeding or (ii) the presence or Release of any Materials of Environmental Concern at, under or from any Property owned, operated or leased by the Borrower or any of its Subsidiaries, or the failure by the Borrower or any of its Subsidiaries to comply with any Environmental Law (but excluding, in the case of either of clause (i) or (ii) above, any such losses, liabilities, claims, damages or expenses to the extent that they (x) are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee or (y) result from a claim brought by the Borrower against an Indemnitee for material breach in bad faith of such Indemnitee’s obligations hereunder or under any other Credit Document, if the Borrower has obtained a final and nonappealable judgment in its favor on such claim as determined by a court of competent jurisdiction). In no event shall the Administrative Agent or any Lender be liable for any damages arising from the use by others of any information or other materials obtained through IntraLinks or other similar information transmission systems in connection with this Credit Agreement, other than to the extent of direct or actual damages resulting from the gross negligence or willful misconduct of such party or material breach in bad faith by such party of its express contractual obligations hereunder with respect to such information or materials as determined, in each case, by a final and nonappealable judgment of a court of competent jurisdiction, nor shall the Administrative Agent or any Lender have any liability for any special, indirect, consequential or punitive damages relating to this Credit Agreement or any other Credit Document or arising out of its activities in connection herewith or therewith (whether before or after the Closing Date).

#### **10.6 Amendments, Waivers and Consents.**

Neither this Credit Agreement nor any other Credit Document nor any of the terms hereof or thereof may be amended, changed, waived, discharged or terminated unless such amendment, change, waiver, discharge or termination is in writing entered into by, or approved in writing by, the Required Lenders and the Borrower, provided, however, that:

(a) no such amendment, change, waiver, discharge or termination shall, without the consent of each Lender directly affected thereby (other than Defaulting Lenders), (i) reduce the rate or extend the time of payment of interest (other than as a result of (x) waiving the applicability of any post-default increase in interest rates or (y) an amendment approved by the Required Lenders as set forth in the definition of “Applicable Margin” following the withdrawal by S&P, Moody’s and Fitch of their ratings on the Borrower’s senior unsecured (non-credit enhanced) long term debt) on any Loan or fees hereunder, (ii) reduce the rate or extend the time of payment of any fees owing hereunder, (iii) except as otherwise permitted under Section 3.4(d), extend (A) the Commitment of any Lender, or (B) the final maturity of any Loan, or any portion thereof, or (iv) reduce the principal amount on any Loan or, except as otherwise permitted under Section 3.4(d), extend the time of payment thereof;

(b) no such amendment, change, waiver, discharge or termination shall, without the consent of each Lender directly affected thereby (other than Defaulting Lenders), (i) except as otherwise permitted under Section 3.4(b), increase the Commitment of any Lender over the amount thereof in effect (it being understood and agreed that a waiver of any Default or Event of Default shall not constitute a change in the terms of any Commitment of any Lender), (ii) amend, modify or waive any provision of this Section 10.6 or Section 3.14 or Section 3.15(b), (iii) reduce or increase any percentage specified in, or otherwise modify, the definition of “Required Lenders,” or (iv) consent to the assignment or transfer by the Borrower of any of its rights and obligations under (or in respect of) the Credit Documents to which it is a party;

(c) no provision of (i) Section 2.3 may be amended without the consent of the Swingline Lender; (ii) Section 2.4 may be amended without the consent of each L/C Issuer; and (iii) Section 9 may be amended without the consent of the Administrative Agent, such consent in each case not to be unreasonably withheld; and

(d) designation of the Master Account or of any Financial Officer may not be made without the written consent of at least two Financial Officers of the Borrower.

Notwithstanding anything to the contrary herein, (i) the Administrative Agent’s Fee Letter may be amended, or rights or privileges thereunder waived, in a writing executed only by the parties thereto, (ii) no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder (and any amendment, waiver or consent which by its terms requires the consent of all Lenders or each affected Lender may be effected with the consent of the applicable Lenders other than Defaulting Lenders), except that (x) the Commitment of any Defaulting Lender may not be increased or extended without the consent of such Defaulting Lender and (y) any waiver, amendment or modification requiring the consent of all Lenders or each affected Lender that by its terms affects any Defaulting Lender more adversely than other affected Lenders shall require the consent of such Defaulting Lender.

#### **10.7 Counterparts.**

This Credit Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be an original, but all of which shall constitute one and the same instrument. It shall not be necessary in making proof of this Credit Agreement to produce or account for more than one such counterpart.

#### **10.8 Headings.**

The headings of the sections and subsections hereof are provided for convenience only and shall not in any way affect the meaning or construction of any provision of this Credit Agreement.

#### **10.9 Survival.**

All indemnities set forth herein, including, without limitation, in Section 3.9, 3.11, 9.7 or 10.5 shall survive the execution and delivery of this Credit Agreement, the making of the Loans, the repayment of the Loans and other obligations under the Credit Documents and the termination of the Commitments hereunder, and all representations and warranties made by the Borrower herein shall survive delivery of the Notes and the making of the Loans hereunder.

**10.10 Governing Law; Submission to Jurisdiction; Venue.**

(a) THIS CREDIT AGREEMENT AND THE OTHER CREDIT DOCUMENTS AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER AND THEREUNDER SHALL BE GOVERNED BY AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK. Any legal action or proceeding with respect to this Credit Agreement or any other Credit Document may be brought in the courts of the State of New York in New York County, or of the United States for the Southern District of New York, and, by execution and delivery of this Credit Agreement, the Borrower hereby irrevocably accepts for itself and in respect of its property, generally and unconditionally, the nonexclusive jurisdiction of such courts. The Borrower further irrevocably consents to the service of process out of any of the aforementioned courts in any such action or proceeding by the mailing of copies thereof by registered or certified mail, postage prepaid, to it at the address set out for notices pursuant to Section 10.1, such service to become effective three (3) days after such mailing. Nothing herein shall affect the right of the Administrative Agent to serve process in any other manner permitted by law or to commence legal proceedings or to otherwise proceed against the Borrower in any other jurisdiction.

(b) The Borrower hereby irrevocably waives any objection which it may now or hereafter have to the laying of venue of any of the aforesaid actions or proceedings arising out of or in connection with this Credit Agreement or any other Credit Document brought in the courts referred to in subsection (a) hereof and hereby further irrevocably waives and agrees not to plead or claim in any such court that any such action or proceeding brought in any such court has been brought in an inconvenient forum.

(c) TO THE EXTENT PERMITTED BY LAW, EACH OF THE ADMINISTRATIVE AGENT, THE LENDERS AND THE BORROWER HEREBY IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS CREDIT AGREEMENT, ANY OF THE OTHER CREDIT DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY.

**10.11 Severability.**

If any provision of any of the Credit Documents is determined to be illegal, invalid or unenforceable, such provision shall be fully severable and the remaining provisions shall remain in full force and effect and shall be construed without giving effect to the illegal, invalid or unenforceable provisions. Without limiting the foregoing provisions of this Section 10.11, if and to the extent that the enforceability of any provisions in this Credit Agreement relating to Defaulting Lenders shall be limited by Debtor Relief Laws, as determined in good faith by the Administrative Agent, the L/C Issuers or the Swingline Lender, as applicable, then such provisions shall be deemed to be in effect only to the extent not so limited.

**10.12 Entirety.**

This Credit Agreement together with the other Credit Documents represent the entire agreement of the parties hereto and thereto, and supersede all prior agreements and understandings, oral or written, if any, including any commitment letters or correspondence relating to the Credit Documents or the transactions contemplated herein and therein.

### **10.13 Binding Effect; Termination.**

(a) This Credit Agreement shall become effective at such time on or after the Closing Date when it shall have been executed by the Borrower and the Administrative Agent, and the Administrative Agent shall have received copies hereof (telexed or otherwise) which, when taken together, bear the signatures of each Lender, and thereafter this Credit Agreement shall be binding upon and inure to the benefit of the Borrower, the Administrative Agent and each Lender and their respective successors and assigns. The parties hereto who are also parties to the Existing Credit Agreement each hereby agree that, at such time as this Credit Agreement shall have become effective pursuant to the terms of Article IV, (a) the Existing Credit Agreement automatically shall be deemed amended, superseded and restated in its entirety by this Credit Agreement and (b) the Commitments under the Existing Credit Agreement and as defined therein automatically shall be replaced with the Commitments hereunder. This Credit Agreement is not a novation of the Existing Credit Agreement, and, for the avoidance of doubt, the commitment of any lender under the Existing Credit Agreement that is not a Lender under this Credit Agreement shall be deemed to be terminated concurrently with the effectiveness of this Credit Agreement pursuant to the terms of Article IV.

(b) The term of this Credit Agreement shall be until no Loans or any other amounts payable hereunder or under any of the other Credit Documents shall remain outstanding and until all of the Commitments hereunder shall have expired or been terminated.

### **10.14 Confidentiality.**

The Administrative Agent and the Lenders agree to keep confidential (and to cause their respective affiliates, officers, directors, employees, agents and representatives to keep confidential) all information, materials and documents furnished to the Administrative Agent or any such Lender by or on behalf of the Borrower (whether before or after the Closing Date) which relates to the Borrower or any of its Subsidiaries (the "Information"). Notwithstanding the foregoing, the Administrative Agent and each Lender shall be permitted to disclose Information (i) to its affiliates, officers, directors, employees, agents and representatives in connection with its participation in any of the transactions evidenced by this Credit Agreement or any other Credit Documents or the administration of this Credit Agreement or any other Credit Documents; (ii) to the extent required by applicable laws and regulations or by any subpoena or similar legal process, or requested by any Governmental Authority; (iii) to the extent such Information (A) becomes publicly available other than as a result of a breach of this Credit Agreement or any agreement entered into pursuant to clause (iv) below, (B) becomes available to the Administrative Agent or such Lender on a non-confidential basis from a source other than the Borrower or (C) was available to the Administrative Agent or such Lender on a non-confidential basis prior to its disclosure to the Administrative Agent or such Lender by the Borrower; (iv) to any actual or prospective assignee, participant or counterparty (or its advisors) to any swap, hedge, securitization or derivative transaction relating to any of its rights or obligations under this Credit Agreement or relating to the Borrower and its obligations so long as such actual or prospective assignee, participant or counterparty (or its advisor) first specifically agrees in a writing furnished to and for the benefit of the Borrower to be bound by that terms of this Section 10.14; (v) to the extent required in connection with the exercise of remedies under this Credit Agreement or any other Credit Documents; or (vi) to the extent that the Borrower shall have consented in writing to such disclosure. Nothing set forth in this Section 10.14 shall obligate the Administrative Agent or any Lender to return any materials furnished by the Borrower.

### **10.15 Source of Funds.**

Each of the Lenders hereby represents and warrants to the Borrower that at least one of the following statements is an accurate representation as to the source of funds used by such Lender in connection with the financing hereunder:

(a) no part of such funds constitutes assets allocated to any separate account (as such term is defined in Section 3(17) of ERISA) maintained by such Lender in which any employee benefit plan (or its related trust) has any interest;

(b) the source is either (i) an insurance company pooled separate account, within the meaning of Prohibited Transaction Class Exemption (“PTE”) 90-1 (issued by the United States Department of Labor January 29, 1990), or (ii) a bank collective investment fund, within the meaning of PTE 91-38 (issued June 12, 1991 and amended by PTE 2002-13 (issued March 1, 2002)), the requirements of Section III(b) of PTE 90-1 or Section III(b) of PTE 91-38 are and will continue to be satisfied, and no employee benefit plan or group of plans maintained by the same employer or employee organization beneficially owns more than 10% of all assets allocated to such pooled separate account or collective investment fund;

(c) the source is an “insurance company general account” within the meaning of PTE 95-60 (issued July 12, 1995 and amended by PTE 2002-13 (issued March 1, 2002)) and there is no employee benefit plan, treating as a single plan all plans maintained by the same employer or employee organization, with respect to which the amount of the general account reserves and liabilities for all contracts held by or on behalf of such plan, exceeds ten percent (10%) of the total reserves and liabilities of such general account (exclusive of separate account liabilities) plus surplus, as set forth in the NAIC Annual Statement for such Lender most recently filed with such Lender’s state of domicile;

(d) the source constitutes assets of an “investment fund” (within the meaning of Part V of PTE 84-14 issued March 13, 1984 and amended by PTE 2002-13 (issued March 1, 2002) (the “QPAM Exemption”)) managed by a “qualified professional asset manager” or “QPAM” (within the meaning of Part V of the QPAM Exemption), and the applicable conditions of the QPAM Exemption are satisfied; or

(e) such funds constitute assets of one or more employee benefit plans which such Lender has identified in writing to the Borrower.

As used in this Section 10.15, the term “employee benefit plan” shall have the meaning assigned to such term in Section 3(3) of ERISA.

#### **10.16 Conflict.**

To the extent that there is a conflict or inconsistency between any provision hereof, on the one hand, and any provision of any Credit Document, on the other hand, this Credit Agreement shall control.

#### **10.17 USA PATRIOT Act Notice.**

Each Lender that is subject to the Act (as hereinafter defined) and the Administrative Agent (for itself and not on behalf of any Lender) hereby notifies the Borrower that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the “Act”), it is required to obtain, verify and record information that identifies the Borrower, which information includes the name and address of the Borrower and other information that will allow such Lender or the Administrative Agent, as applicable, to identify the Borrower in accordance with the Act. The Borrower shall, promptly following a request by the Administrative Agent or any Lender, provide all documentation and other information that the Administrative Agent or such Lender reasonably requests in order to comply with its ongoing obligations under applicable “know your customer” and anti-money laundering rules and regulations, including the Act.

**10.18 No Advisory or Fiduciary Responsibility.**

In connection with all aspects of each transaction contemplated hereby, the Borrower acknowledges and agrees that: (i) the credit facility provided for hereunder and any related arranging or other services in connection therewith (including in connection with any amendment, waiver or other modification hereof or of any other Credit Document) are an arm's-length commercial transaction between the Borrower and its Affiliates, on the one hand, and the Administrative Agent, the Arrangers, Documentation Agents and Joint Book Runners, on the other hand, and the Borrower is capable of evaluating and understanding and understands and accepts the terms, risks and conditions of the transactions contemplated hereby and by the other Credit Documents (including any amendment, waiver or other modification hereof or thereof); (ii) in connection with the process leading to such transaction, the Administrative Agent, each Arranger, each Documentation Agent and each Joint Book Runner is and has been acting solely as a principal and is not the financial advisor, agent or fiduciary, for the Borrower or any of its Affiliates, stockholders, creditors or employees or any other Person; (iii) none of the Administrative Agent, either Arranger, any Documentation Agent nor any Joint Book Runner has assumed or will assume an advisory, agency or fiduciary responsibility in favor of the Borrower with respect to any of the transactions contemplated hereby or the process leading thereto, including with respect to any amendment, waiver or other modification hereof or of any other Credit Document (irrespective of whether the Administrative Agent, either Arranger, any Documentation Agent nor any Joint Book Runner has advised or is currently advising the Borrower or any of its Affiliates on other matters) and neither the Administrative Agent, either Arranger, any Documentation Agent or any Joint Book Runner has any obligation to the Borrower or any of its Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Credit Documents; (iv) the Administrative Agent, the Arrangers, the Documentation Agents and the Joint Book Runners and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Borrower and its Affiliates, and neither the Administrative Agent, either Arranger, any Documentation Agent nor any Joint Book Runner has any obligation to disclose any of such interests by virtue of any advisory, agency or fiduciary relationship arising out of the transactions contemplated hereby; and (v) the Administrative Agent, the Arrangers, the Documentation Agents and the Joint Book Runners have not provided and will not provide any legal, accounting, regulatory or tax advice with respect to any of the transactions contemplated hereby (including any amendment, waiver or other modification hereof or of any other Credit Document) and the Borrower has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate. The Borrower hereby waives and releases, to the fullest extent permitted by law, any claims that it may have against the Administrative Agent, the Arrangers, the Documentation Agents and the Joint Book Runners with respect to any breach or alleged breach of agency or fiduciary duty arising out of the transactions contemplated hereby.

[Signature Pages to Follow]

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

**BORROWER:**

**AUTOZONE, INC.**

By: /s/ William T. Giles

\_\_\_\_\_  
Name: William T. Giles

Title: Executive Vice President and  
Chief Financial Officer

By: /s/ Brian L. Campbell

\_\_\_\_\_  
Name: Brian L. Campbell

Title: Vice President and Treasurer

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**ADMINISTRATIVE AGENT:**

**BANK OF AMERICA, N.A.,**  
as Administrative Agent

By: /s/ Thomas Kainamura  
Name: Thomas Kainamura  
Title: Vice President

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**LENDERS:**

**BANK OF AMERICA, N.A.,**  
as a Lender

By: /s/ Thomas Kainamura  
Name: Thomas Kainamura  
Title: Vice President

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**JPMORGAN CHASE BANK, N.A.,**  
as a Lender

By: /s/ Barry Bergman  
Name: Barry Bergman  
Title: Managing Director

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**SUNTRUST BANK,**  
as a Lender

By: /s/ J. Matthew Rowand  
Name: J. Matthew Rowand  
Title: Vice President

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**US BANK NATIONAL ASSOCIATION,**  
as a Lender

By: /s/ Gregory Campbell  
Name: Gregory Campbell  
Title: Director

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**WELLS FARGO BANK, N.A.,**  
as a Lender

By: /s/ Frances W. Josephic  
Name: Frances W. Josephic  
Title: Vice President

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**BARCLAYS BANK PLC,**  
as a Lender

By: /s/ Diane Rolfe  
Name: Diane Rolfe  
Title: Director

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**KEYBANK NATIONAL ASSOCIATION,**  
as a Lender

By: /s/ Marianne T. Meil  
Name: Marianne T. Meil  
Title: Senior Vice President

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**MIZUHO CORPORATE BANK, LTD.,**  
as a Lender

By: /s/ Robert Gallagher  
Name: Robert Gallagher  
Title: Authorized Signatory

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**FIFTH THIRD BANK,**  
An Ohio banking corporation, as a Lender

By: /s/ Lisa R. Cook  
Name: Lisa R. Cook  
Title: Assistant Vice President

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**PNC BANK, NATIONAL ASSOCIATION,**  
as a Lender

By: /s/ Chester A. Misbach, Jr.  
Name: Chester A. Misbach, Jr.  
Title: Senior Vice President

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**UNION BANK, N.A.,**  
as a Lender

By: /s/ Megan R. Webster  
Name: Megan R. Webster  
Title: Vice President

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**THE BANK OF TOKYO-MITSUBISHI UFJ, LTD.,**  
as a Lender

By: /s/ Maria Iarriccio

Name: Maria Iarriccio

Title: Vice President

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**REGIONS BANK,**  
as a Lender

By: /s/ Bryan W. Ford  
Name: Bryan W. Ford  
Title: Senior Vice President

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**DEUTSCHE BANK AG NEW YORK BRANCH,**  
as a Lender

By: /s/ Edward D. Herko

\_\_\_\_\_  
Name: Edward D. Herko

Title: Director

By: /s/ Ming K. Chu

\_\_\_\_\_  
Name: Ming K. Chu

Title: Vice President

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**COMERICA BANK,**  
as a Lender

By: /s/ Heather Whiting  
Name: Heather Whiting  
Title: Vice President

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**THE NORTHERN TRUST COMPANY**

as a Lender

By: /s/ Peter J. Hallan

Name: Peter J. Hallan

Title: Vice President

---

**HSBC BANK USA, NA**

as a Lender

By: /s/ Richard Lavina

Name: Richard Lavina

Title: Regional President

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**SOVEREIGN BANK**

as a Lender

By: /s/ Pedro Bell Astorza

\_\_\_\_\_  
Name: Pedro Bell Astorza

Title: SVP — Large Corporate Banking

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**THE HUNTINGTON NATIONAL BANK,**  
as a Lender

By: /s/ Josh Elsea  
Name: Josh Elsea  
Title: Vice President, Large Corporate Banking

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**BANK OF THE WEST,**  
as a Lender

By: /s/ Sidney Jordan  
Name: Sidney Jordan  
Title: Vice President

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**CAPITAL ONE, NATIONAL ASSOCIATION**  
as a Lender

By: /s/ Jacob J. Villere  
Name: Jacob J. Villere  
Title: VP — US Corporate Banking

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**COMPASS BANK,**  
as a Lender

By: /s/ Ramon Garcia

Name: Ramon Garcia

Title: Vice President

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**BRANCH BANKING AND TRUST  
COMPANY,**  
as a Lender

By: /s/ Candace C. Moore

Name: Candace C. Moore

Title: Assistant Vice President

## AUTOZONE, INC.

**SIXTH AMENDED AND RESTATED  
EMPLOYEE STOCK PURCHASE PLAN**

AUTOZONE, INC., a corporation organized under the laws of the State of Delaware, by resolution of its Board of Directors on March 29, 1991, adopted the Employee Stock Purchase Plan (the “Plan”). The Plan was approved by the stockholders of the Company on March 29, 1991. The Plan was amended by the Board of Directors on June 18, 1991, to conform the Plan to amendments to the regulations related to the Securities Exchange Act of 1934, as amended. On December 21, 1991, the Plan was assumed by AutoZone, Inc., a Nevada corporation, after its reincorporation. The Plan was amended by the Board of Directors on March 2, 1996, and October 21, 1996, to extend the expiration date of the Plan. On October 21, 1997, the Compensation Committee adopted the Amended and Restated Employee Stock Purchase Plan, which was approved by the stockholders of the Company on December 18, 1997. On October 19, 1999, the Compensation Committee adopted the Second Amended and Restated Employee Stock Purchase Plan to prohibit sales of shares purchased under the Plan for at least one year after the exercise of an option under the Plan. On December 12, 2002, the Board of Directors extended the termination date of the Plan to December 31, 2007. On September 26, 2007, the Board of Directors amended the Plan to (i) permit the Administrator to require Participants holding fewer than 20 uncertificated shares of Stock under the Plan as of the Participant’s termination of employment (or shortly thereafter, in certain circumstances) who either fail to elect to receive certificated shares of Stock (as defined below) or who elect to receive cash in lieu of such shares of Stock, in either case, in accordance with the terms of the Plan, to accept a cash payment in lieu of such uncertificated shares upon (or shortly after) termination of employment, and (ii) extend the termination date of the Plan to December 31, 2017. On December 15, 2009, the Compensation Committee adopted, and the Board of Directors approved, an amendment to the Plan to establish a maximum number of shares that can be purchased by a Participant during each Option Period. On September 28, 2010, the Compensation Committee adopted, and the Board of Directors approved, an amendment to the Plan to provide for the purchase of fractional shares.

The purposes of the Plan are as follows:

(1) To assist employees of the Company or of a Parent or Subsidiary of the Company in acquiring a stock ownership interest in the Company pursuant to a plan which is intended to qualify as an “employee stock purchase plan” under Section 423 of the Internal Revenue Code of 1986, as amended.

(2) To help employees provide for their future security and to encourage them to remain in the employment of the Company or of a Parent or Subsidiary of the Company.

**1. DEFINITIONS**

Whenever any of the following terms are used in the Plan with the first letter or letters capitalized, they shall have the meaning specified below unless the context clearly indicates to the contrary. The masculine pronoun shall include the feminine and neuter and the singular shall include the plural where the context so indicates:

- (a) “Board” shall mean the Board of Directors of the Company.
  - (b) “Code” shall mean the Internal Revenue Code of 1986, as amended.
  - (c) “Committee” shall mean the Compensation Committee of the Board appointed to administer the Plan pursuant to paragraph 12.
  - (d) “Company” shall mean AutoZone, Inc., a Nevada corporation.
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- (e) "Date of Exercise" shall mean with respect to any Option (i) the March 31 of the Plan Year in which the Option was granted (in the case of an Option granted on January 1), (ii) the June 30 of the Plan Year in which the Option was granted (in the case of an Option granted on April 1), (iii) the September 30 of the Plan Year in which the Option was granted (in the case of an Option granted on July 1), (iv) the December 31 of the Plan Year in which the Option was granted (in the case of an Option granted on October 1) or (v) such other day, as may be determined by the Committee, of the Plan Year in which the Option was granted.
  - (f) "Date of Grant" shall mean the date upon which an Option is granted, as set forth in paragraph 3(a).
  - (g) "Determination Date" shall have the meaning provided in paragraph 4(c)(iii) below.
  - (h) "Election" means a written election, filed with the Administrator within thirty days after a Participant's Determination Date and otherwise in accordance with any procedures established by the Administrator, to either receive Stock certificates in respect of any uncertificated shares held under the Plan or to receive cash in lieu of such Stock certificates.
  - (i) "Eligible Compensation" shall mean (i) the Eligible Employee's rate of pay for the immediately preceding calendar year based on the wages, tips and other compensation as reported on Form W-2 issued by the Company, if the Eligible Employee's Form W-2 issued by the Company reports wages, tips, and other compensation for the full preceding calendar year, otherwise (ii) the Eligible Employee's annualized current rate of pay on the Date of Grant.
  - (j) "Eligible Employee" shall mean an employee of the Company and those of any present or future Parent or Subsidiary of the Company incorporated under the laws of a state of the United States of America (i) who has completed six months of employment; and (ii) who does not, immediately after the Option is granted, own stock (as defined by Sections 423(b)(3) and 424(d) of the Code) possessing five percent or more of the total combined voting power or value of all classes of stock of the Company or of a Parent or Subsidiary of the Company.
  - (k) "Form" shall mean either a paper form or a form on electronic media, prepared by the Company.
  - (l) "Option" shall mean an option granted under the Plan to an Eligible Employee to purchase shares of the Company's Stock.
  - (m) "Option Period" shall mean with respect to any Option the period beginning upon the Date of Grant and ending upon the Date of Exercise.
  - (n) "Option Price" has the meaning set forth in paragraph 4(b).
  - (o) "Parent of the Company" shall mean any corporation, other than the Company, in an unbroken chain of corporations ending with the Company if, at the time of the granting of the Option each of the corporations other than the Company owns stock possessing 50% or more of the total combined voting power of all classes of stock in one of the other corporations in such chain.
  - (p) "Participant" shall mean an Eligible Employee who has complied with the provisions of paragraph 3(b).
  - (q) "Payout Date" shall have the meaning provided in paragraph 4(c)(iii) below.
  - (r) "Plan" shall mean the AutoZone, Inc. Sixth Amended and Restated Employee Stock Purchase Plan, as may be amended from time to time.
  - (s) "Plan Year" shall mean the calendar year beginning on January 1 and ending on December 31.
  - (t) "Stock" shall mean the Company's common stock.
  - (u) "Subsidiary of the Company" shall mean any corporation other than the Company in an unbroken chain of corporations beginning with the Company if, at the time of the granting of the Option, each of the corporations other than the last corporation in the unbroken chain owns stock possessing 50% or more of the total combined voting power of all classes of stock in one of the other corporations in such chain.
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## 2. STOCK SUBJECT TO THE PLAN

Subject to the provisions of paragraph 9 (relating to adjustment upon changes in the Stock), the Stock which may be sold pursuant to options granted under the Plan shall not exceed in the aggregate 3,000,000 shares, and may be unissued shares or reacquired shares or shares bought on the market for purposes of the Plan.

## 3. GRANT OF OPTIONS

(a) General Statement. Following the effective date of the Plan and continuing while the Plan remains in force, the Company may offer Options under the Plan to all Eligible Employees. These Options may be granted four times each Plan Year on the January 1, the April 1, the July 1, or the October 1 of each Plan Year, or on such other days as may be determined by the Committee. The term of each Option shall be for three months and shall end on the March 31 (with respect to a January 1 Date of Grant), the June 30 (with respect to an April 1 Date of Grant), the September 30 (with respect to a July 1 Date of Grant), or the December 31 (with respect to an October 1 Date of Grant) of the Plan Year in which the Option is granted or for such other term or Date of Exercise as may be determined by the Committee. The number of shares of the Stock (including fractional shares of Stock) subject to each Option shall be the quotient of (i) the aggregate payroll deductions authorized by each Participant in accordance with subparagraph (b) for the Option Period divided by (ii) the Option Price of a share of the Stock. The maximum number of shares of Stock subject to each Option that a Participant may purchase during each Option Period is 1,000, subject to periodic adjustments in the event of certain changes in the Company's capitalization, as described in paragraph 9.

(b) Election To Participate; Payroll Deduction Authorization. An Eligible Employee may participate in the Plan only by payroll deduction. Each Eligible Employee who elects to participate in the Plan shall deliver to the Company during the calendar month next preceding either a January 1 Date of Grant, an April 1 Date of Grant, a July 1 Date of Grant, or an October 1 Date of Grant, or on such other days as may be determined by the Committee, the properly completed Form whereby the Eligible Employee gives notice of the election to participate in the Plan as of the next following Date of Grant, and which shall designate a stated dollar amount, in \$5.00 increments, of Eligible Compensation to be withheld on each payday. The stated dollar amount may not be less than \$5.00 and may not exceed 10% of the Eligible Compensation. In addition, at the discretion of the Committee exercised uniformly as to all Eligible Employees at any particular time, an Eligible Employee who participates in the Plan may also elect to have an amount withheld from any bonus. Notwithstanding the foregoing, the maximum cumulative amount an Eligible Employee may have withheld through payroll deduction and from any bonus shall not exceed \$15,000 per Plan Year.

(c) Changes in Payroll Authorization. The payroll deduction authorization referred to in subparagraph (b) may only be changed during the enrollment period described in subparagraph (b) and may not be changed during the Option Period, except as provided in paragraph 5.

(d) \$25,000 Limitation. Notwithstanding anything to the contrary contained herein, no Participant shall be permitted to purchase shares of Stock under the Plan or under any other employee stock purchase plan of the Company or of a Parent or Subsidiary of the Company which is intended to qualify under Section 423 of the Code, at a rate which exceeds \$25,000 in fair market value of the shares of Stock (determined at the time the option is granted) for each calendar year in which any such option granted to such Participant is outstanding at any time.

## 4. EXERCISE OF OPTIONS

(a) General Statement. Each Participant automatically will be deemed to have exercised the Option on each Date of Exercise to the extent that the balance then in the Participant's account under the Plan is sufficient to purchase at the Option Price shares of the Stock (including fractional shares of Stock) subject to the Option. The excess balance, if any, in Participant's account shall remain in the account and be available for the purchase of shares of Stock on the following Date of Exercise, provided that no withdrawal from the Plan or termination of employment has occurred under paragraphs 5 or 6.

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(b) Option Price Defined. The option price per share of the Stock (the "Option Price") to be paid by each Participant on each exercise of the Option shall be an amount equal to the lesser of (y) 85% of the fair market value of a share of Stock on the Date of Grant or (z) 85% of the fair market value of a share of Stock on the Date of Exercise. The fair market value of a share of Stock as of a given date shall be: (i) the closing price of a share of Stock on the principal exchange on which the Stock is then trading, if any, on such date, or, if the Stock was not traded on such date, then on the next preceding trading day during which a sale occurred; or (ii) if such Stock is not traded on an exchange but is quoted on NASDAQ or a successor quotation system, (1) the last sales price (if the Stock is then listed as a National Market Issue under the NASD National Market System) or (2) the mean between the closing representative bid and asked prices (in all other cases) for the Stock on such date as reported by NASDAQ or such successor quotation system; or (iii) if such Stock is not publicly traded on an exchange and not quoted on NASDAQ or a successor quotation system, the mean between the closing bid and asked prices for the Stock on such date as determined in good faith by the Committee; or (iv) if the Stock is not publicly traded, the fair market value established by the Committee acting in good faith.

(c) Delivery of Share Certificates. (i) For any shares of Stock purchased by exercise of an Option subject to paragraph 4(c)(iii) below, after the passage of one year from an Option exercise date, upon the proper completion and submission of the proper Form to the Company, the Company will deliver to such Participant a certificate issued in Participant's name for the number of whole shares of the Stock with respect to which the Option was exercised and for which the Option Price has been paid. If a Participant's employment has terminated prior to the passage of one year from the Option exercise date, subject to paragraph 4(c)(iii) below and notwithstanding the first sentence of this subsection, the Participant shall be entitled to receive certificates representing the number of whole shares of Stock with respect to which the Option was exercised and for which the Option Price has been paid. Notwithstanding the foregoing, the Company shall have no obligation to deliver certificates with respect to fractional shares. As soon as practicable after such a Participant's termination of employment, the Company will provide Participant with a cash payment covering, and in lieu of, any fractional shares held by Participant upon termination of employment.

(ii) In the event the Company is required to obtain from any commission or agency authority to issue any such certificate, the Company will seek to obtain such authority. The inability of the Company to obtain from any such commission or agency authority which counsel for the Company deems necessary for the lawful issuance of any such certificate shall relieve the Company from liability to any Participant except to return the amount of the balance in the account in cash.

(iii) Notwithstanding anything herein to the contrary, if a Participant's employment with the Company terminates and (A) such Participant holds fewer than 20 uncertificated shares of Stock obtained through Option exercises under the Plan (excluding any shares of Stock with respect to which certificates have been delivered to such Participant in accordance with the terms of the Plan prior to the Participant's termination of employment) as of the date of termination or, if such termination occurs due to the Participant's death, disability or retirement, then as of the Date of Exercise next following such termination (in any case, the "Determination Date"), and (B) such Participant (or such Participant's estate) timely files an Election to receive cash in lieu of such shares or fails to timely file an Election, then the Company shall have no obligation to deliver certificates evidencing such shares of Stock and, instead, may, in the Administrator's sole discretion, pay to such Participant (or Participant's estate) in cash or cash equivalents, the fair market value of such shares as of the close of business on the earlier to occur of the date on which the Participant (or the Participant's estate) makes a valid Election to receive cash in lieu of such shares or the thirtieth day following the Participant's Determination Date (in either case, the "Payout Date"). Payments pursuant to this paragraph 4(c)(iii) shall be made as soon as administratively practicable following the applicable Payout Date. Following the payment of any such amounts, the Participant (and the Participant's estate) shall have no further rights with respect to any such uncertificated shares.

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(d) Restriction on Sale of Stock. For all Options exercised under the Plan, a Participant shall not sell any shares of Stock purchased under the Plan until after the first to occur of passage of one year from the date of the Option exercise or termination of employment.

## 5. WITHDRAWAL FROM THE PLAN

(a) General Statement. Any Participant may withdraw from the Plan at any time. A Participant who wishes to withdraw from the Plan must deliver to the Company a notice of withdrawal in a Form prepared by the Company. The Company, as soon as practicable following receipt of a Participant's notice of withdrawal, will refund to the Participant the amount of the balance in the account under the Plan (including, but not limited to, any balance that is sufficient only to purchase fractional shares of Stock). Upon receipt of a Participant's notice of withdrawal from the Plan, automatically and without any further act on the part of the Participant, the payroll deduction authorization, any interest in the Plan, and any Option under the Plan shall terminate.

(b) Participation Following Withdrawal. A Participant who withdraws from the Plan may participate again in the Plan on the next January 1, April 1, July 1, or October 1 immediately following the date of withdrawal, or on such other days as may be determined by the Committee, provided that the Eligible Employee properly elects to participate in accordance with paragraph 3(b).

(c) Stock Subject to Plan. Notwithstanding a Participant's withdrawal from the Plan, any Stock acquired under the Plan shall remain subject to the terms of the Plan.

## 6. TERMINATION OF EMPLOYMENT

(a) Termination of Employment Other Than By Retirement or Death. If the employment of a Participant terminates other than by retirement or death, participation in the Plan automatically shall terminate as of the date of the termination of employment.

As soon as practicable after such a Participant's termination of employment, the Company will refund the amount of the balance in that account under the Plan. Upon a Participant's termination of employment, any interest in the Plan and any Option under the Plan shall terminate.

(b) Termination by Retirement. A Participant who retires on a normal retirement date, or earlier or later with the consent of the Company, may by written notice to the Company request payment in cash or cash equivalent of the balance in the Participant's account under the Plan, in which event the Company shall make such payment without any interest thereon as soon as practicable after receiving such notice. Upon receipt of such notice, the Participant's interest in the Plan and any Option under the Plan shall terminate. If the Company does not receive such notice prior to the next Date of Exercise, such Participant's Option shall be deemed to have been exercised on such Date of Exercise.

(c) Termination By Death. If the employment of a Participant is terminated by Participant's death, the executor of the Participant's will or the administrator of the Participant's estate by written notice to the Company may request payment in cash or cash equivalent of the balance in the Participant's account under the Plan, in which event the Company shall make such payment without any interest thereon as soon as practicable after receiving such notice. Upon receipt of such notice, the Participant's interest in the Plan and any Option under the Plan shall terminate. If the Company does not receive such notice prior to the next Date of Exercise, such Participant's Option shall be deemed to have been exercised on such Date of Exercise.

## 7. RESTRICTION UPON ASSIGNMENT

No Option or interest or right therein or part thereof shall be liable for the debts, contracts or engagements of any Participant or any successor in interest, nor shall any Option be subject to disposition by transfer, alienation, anticipation, pledge, encumbrance, assignment or any other means, whether such disposition be voluntary or involuntary or by operation of law by judgment, levy, attachment, garnishment or any other legal or equitable proceedings (including bankruptcy), and attempted disposition thereof shall be null and void and of no effect; provided, however, that nothing in this paragraph 7 shall prevent transfers by will or by the applicable laws of descent and distribution. Except as provided in paragraph 6(c), an Option may not be exercised to any extent except by the Participant. The Committee may require the Participant to give the Company prompt notice of any disposition of shares of Stock acquired by exercise of an Option within two years from the date of granting such Option or one year after the transfer of such shares to such Participant. The Committee may require that the certificates evidencing shares acquired by exercise of an Option refer to such requirement to give prompt notice of disposition.

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## **8. NO RIGHTS OF STOCKHOLDER UNTIL OPTION IS EXERCISED**

With respect to shares of the Stock subject to an Option, a Participant shall not be deemed to be a stockholder of the Company, and shall not have any of the rights or privileges of a stockholder. A Participant shall have the rights and privileges of a stockholder of the Company when, but not until, an Option is exercised; provided, however, that a Participant shall only have the right to vote whole shares of Stock and shall not have such right with respect to fractional shares.

## **9. CHANGES IN THE STOCK; ADJUSTMENTS OF AN OPTION**

Whenever any change is made in the Stock or to Options outstanding under the Plan, by reason of stock dividend or by reason of division, combination or reclassification of shares, appropriate action will be taken by the Committee to adjust accordingly the number of shares of the Stock subject to the Plan and the number and the Option Price of shares of the Stock subject to the Options outstanding under the Plan.

## **10. USE OF FUNDS; NO INTEREST PAID**

All funds received or held by the Company under the Plan will be included in the general funds of the Company free of any trust or other restriction and may be used for any corporate purpose. No interest will be paid to any Participant or credited to any account under the Plan with respect to such funds.

## **11. AMENDMENT OF THE PLAN**

The Committee may amend, suspend or terminate the Plan at any time and from time to time; provided, however, that the provisions in paragraphs 1(e), 1(h), 3(a), 3(d), and 4(b) may not be amended more than once every six months, other than to comport with changes in the Code, the Employee Retirement Income Security Act of 1974, as amended, or the rules thereunder; and provided further, that approval by the vote of the holders of more than 50% of the outstanding shares of the Company's Stock entitled to vote shall be required to amend the Plan (i) to increase the number of shares of Stock available under the Plan, (ii) to decrease the Option Price below a price computed in the manner stated in paragraph 4(b), (iii) to materially alter the requirements for eligibility to participate in the Plan, or (iv) to modify the Plan in a manner requiring stockholder approval under the Code or Securities Exchange Act of 1934 ("Exchange Act").

## **12. ADMINISTRATION BY COMMITTEE; RULES AND REGULATIONS**

(a) Administration. The Plan shall be administered by the Compensation Committee of the Board.

(b) Duties And Powers of Committee. It shall be the duty of the Committee to conduct the general administration of the Plan in accordance with its provisions. The Committee shall have the power to interpret the Plan and the Options and to adopt such rules for the administration, interpretation and application of the Plan as are consistent therewith and to interpret, amend or revoke any such rules. The Board shall have no right to exercise any of the rights or duties of the Committee under the Plan.

(c) Majority Rule. The Committee shall act by a majority of its members in office. The Committee may act either by vote at a meeting or by a memorandum or other written instrument signed by a majority of the Committee.

(d) Professional Assistance; Good Faith Actions. The Committee may employ attorneys, consultants, accountants, appraisers, brokers or other persons. The Committee, the Company and its officers and directors shall be entitled to rely upon the advice, opinions or valuations of any such persons. All actions taken and all interpretations and determinations made by the Committee in good faith shall be final and binding upon all Participants, the Company and all other interested persons. No member of the Committee shall be personally liable for any action, determination or interpretation made in good faith with respect to the Plan or the Options, and all members of the Committee shall be fully protected by the Company in respect to any such action, determination or interpretation.

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### **13. NO RIGHTS AS AN EMPLOYEE**

Nothing in the Plan shall be construed to give any person (including any Eligible Employee or Participant) the right to remain in the employ of the Company or a Parent or Subsidiary of the Company or to affect the right of the Company or a Parent or Subsidiary of the Company to terminate the employment of any person (including any Eligible Employee or Participant) at any time with or without cause.

### **14. MERGER, ACQUISITION OR LIQUIDATION OF THE COMPANY**

In the event of the merger or consolidation of the Company into another corporation, the acquisition by another corporation of all or substantially all of the Company's assets or 80% or more of the Company's then outstanding voting stock or the liquidation or dissolution of the Company, the Date of Exercise with respect to outstanding Options shall be the business day immediately preceding the effective date of such merger, consolidation, acquisition, liquidation or dissolution unless the Committee shall, in its sole discretion, provide for the assumption or substitution of such Options in manner complying with Section 424(a) of the Code.

### **15. TERM; APPROVAL BY STOCKHOLDERS**

No Option may be granted during any period of suspension or after termination of the Plan, and in no event may any Option be granted under the Plan after December 31, 2017, unless extended by the Board of Directors of the Company. The Plan was approved by the Company's stockholders on March 19, 1991, which was within 12 months after the date of the Board of Directors' initial adoption of the Plan, and again on December 18, 1997, which was within twelve months after the Board adopted Plan amendments requiring shareholder approval under Section 423 of the Code. The Company shall take such actions with respect to the Plan as may be necessary to satisfy the requirements of Section 423 of the Code.

### **16. EFFECT UPON OTHER PLANS**

The adoption of the Plan shall not affect any other compensation or incentive plans in effect for the Company or a Parent or Subsidiary of the Company. Nothing in this Plan shall be construed to limit the right of the Company or a Parent or Subsidiary of the Company (a) to establish any other forms of incentives or compensation for employees of the Company or a Parent or Subsidiary of the Company or (b) to grant or assume options otherwise than under this Plan in connection with any proper corporate purpose, including, but not by way of limitation, the grant or assumption of options in connection with the acquisition, by purchase, lease, merger, consolidation or otherwise, of the business, stock or assets of any corporation, firm or association.

### **17. RULE 16b-3 RESTRICTIONS UPON DISPOSITIONS OF STOCK**

The Plan is intended to conform to the extent necessary with all provisions of the Securities Act of 1933, as amended (the "Securities Act"), and the Exchange Act and any and all regulations and rules promulgated by the Securities and Exchange Commission thereunder, including, without limitation, Rule 16b-3. Notwithstanding anything herein to the contrary, the Plan shall be administered, and Options shall be granted and may be exercised, only in such a manner as to conform to such laws, rules and regulations. To the extent permitted by applicable law, the Plan and Options granted hereunder shall be deemed amended to the extent necessary to conform to such laws, rules and regulations.

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## **18. NOTICES**

Any notice to be given under the terms of the Plan to the Company shall be addressed to the Company in care of its Secretary or any designee and any notice to be given to a Participant shall be addressed to Participant's last address as reflected in the Company's records and may be given either in writing or via electronic communication to the extent permitted by law. By a notice given pursuant to this paragraph, either party may hereafter designate a different address for notices to be given. Any notice which is required to be given to a Participant shall, if the Participant is then deceased, be given to the Participant's personal representative if such representative has previously informed the Company of the representative status and address by notice under this paragraph. Any notice shall have been deemed duly given when received by the Company or when sent to a Participant by the Company to Participant's last known mailing address or delivered to an electronic mailbox accessible by Participant as permitted by law.

## **19. TITLES**

Titles are provided herein for convenience only and are not to serve as a basis for interpretation or construction of the Plan.

**Computation of Ratio of Earnings to Fixed Charges**  
(Unaudited)

<i>(in thousands, except ratios)</i>	Fiscal Year Ended August				
	2011 (52 weeks)	2010 (52 weeks)	2009 (52 weeks)	2008 (53 weeks)	2007 (52 weeks)
<b>Earnings:</b>					
Income before income taxes	\$ 1,324,246	\$ 1,160,505	\$ 1,033,746	\$ 1,007,389	\$ 936,150
Fixed charges	240,329	223,608	204,017	173,311	170,852
Less: Capitalized interest	(1,059)	(1,093)	(1,301)	(1,313)	(1,376)
Adjusted earnings	\$ 1,563,516	\$ 1,383,020	\$ 1,236,462	\$ 1,179,387	\$ 1,105,626
<b>Fixed charges:</b>					
Gross interest expense	\$ 164,712	\$ 156,135	\$ 143,860	\$ 120,006	\$ 121,592
Amortization of debt expense	8,962	6,495	3,644	1,837	1,719
Interest portion of rent expense	66,655	60,978	56,513	51,468	47,541
Fixed charges	\$ 240,329	\$ 223,608	\$ 204,017	\$ 173,311	\$ 170,852
Ratio of earnings to fixed charges	6.5	6.2	6.1	6.8	6.5

## SUBSIDIARIES OF THE REGISTRANT

<u>NAME</u>	<u>STATE OR COUNTRY OF ORGANIZATION OR INCORPORATION</u>
ALLDATA LLC	Nevada
AutoZone de México, S. de R.L. de C.V.	Mexico
AutoZone Development Corporation	Nevada
AutoZone Northeast, Inc. fka ADAP, Inc	New Jersey
AutoZone Stores, Inc.	Nevada
AutoZone Texas, L.P.	Delaware
AutoZone West, Inc. fka Chief Auto Parts Inc.	Delaware
AutoZone.com, Inc.	Virginia
AutoZone Parts, Inc.	Nevada
AutoZone Puerto Rico, Inc.	Puerto Rico

In addition, 21 subsidiaries operating in the United States and 13 subsidiaries operating outside of the United States have been omitted as they would not, considered in the aggregate as a single subsidiary, constitute a significant subsidiary as defined by Rule 1-02(w) of Regulation S-X.

**CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

We consent to the incorporation by reference in the following Registration Statements of AutoZone, Inc. of our reports dated October 24, 2011, with respect to AutoZone, Inc.'s consolidated financial statements and the effectiveness of internal control over financial reporting of AutoZone, Inc., included in this Annual Report (Form 10-K) for the year ended August 27, 2011:

Registration Statement (Form S-8 No. 333-19561) pertaining to the AutoZone, Inc. 1996 Stock Option Plan

Registration Statement (Form S-8 No. 333-42797) pertaining to the AutoZone, Inc. Amended and Restated Employee Stock Purchase Plan

Registration Statement (Form S-8 No. 333-48981) pertaining to the AutoZone, Inc. 1998 Director Stock Option Plan

Registration Statement (Form S-8 No. 333-48979) pertaining to the AutoZone, Inc. 1998 Director Compensation Plan

Registration Statement (Form S-8 No. 333-88245) pertaining to the AutoZone, Inc. Second Amended and Restated 1996 Stock Option Plan

Registration Statement (Form S-8 No. 333-88243) pertaining to the AutoZone, Inc. Amended and Restated 1998 Director Stock Option Plan

Registration Statement (Form S-8 No. 333-88241) pertaining to the AutoZone, Inc. Amended and Restated Director Compensation Plan

Registration Statement (Form S-8 No. 333-75142) pertaining to the AutoZone, Inc. Third Amended and Restated 1998 Director Stock Option Plan

Registration Statement (Form S-8 No. 333-75140) pertaining to the AutoZone, Inc. Executive Stock Purchase Plan

Registration Statement (Form S-3 No. 333-83436) pertaining to a shelf registration to sell 15,000,000 shares of common stock owned by certain selling stockholders

Registration Statement (Form S-3 No. 333-100205) pertaining to a registration to sell \$500 million of debt securities

Registration Statement (Form S-8 No. 333-103665) pertaining to the AutoZone, Inc. 2003 Director Compensation Plan

Registration Statement (Form S-8 No. 333-103666) pertaining to the AutoZone, Inc. 2003 Director Stock Option Plan

Registration Statement (Form S-3 No. 333-107828) pertaining to a registration to sell \$500 million of debt securities

Registration Statement (Form S-3 No. 333-118308) pertaining to the registration to sell \$200 million of debt securities

Registration Statement (Form S-8 No. 333-139559) pertaining to the AutoZone, Inc. 2006 Stock Option Plan

Registration Statement (Form S-3 No. 333-152592) pertaining to a shelf registration to sell debt securities

Registration Statement (Form S-8 No. 333-171186) pertaining to the AutoZone, Inc. 2011 Equity Incentive Award Plan

/s/ Ernst & Young LLP

Memphis, Tennessee  
October 24, 2011

**CERTIFICATION PURSUANT TO  
RULES 13a-14(a) AND 15d-14(a) UNDER THE SECURITIES EXCHANGE ACT OF 1934,  
AS ADOPTED PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, William C. Rhodes, III, certify that:

1. I have reviewed this Annual Report on Form 10-K of AutoZone, Inc. (“registrant”);
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant’s other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant’s disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant’s internal control over financial reporting that occurred during the registrant’s most recent fiscal quarter (the registrant’s fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant’s internal control over financial reporting; and
5. The registrant’s other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant’s auditors and the audit committee of the registrant’s board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant’s ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant’s internal control over financial reporting.

October 24, 2011

/s/ WILLIAM C. RHODES, III  
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William C. Rhodes, III  
Chairman, President and Chief Executive Officer  
(Principal Executive Officer)

**CERTIFICATION PURSUANT TO  
RULES 13a-14(a) AND 15d-14(a) UNDER THE SECURITIES EXCHANGE ACT OF 1934,  
AS ADOPTED PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, William T. Giles, certify that:

1. I have reviewed this Annual Report on Form 10-K of AutoZone, Inc. (“registrant”);
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant’s other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant’s disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant’s internal control over financial reporting that occurred during the registrant’s most recent fiscal quarter (the registrant’s fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant’s internal control over financial reporting; and
5. The registrant’s other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant’s auditors and the audit committee of the registrant’s board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant’s ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant’s internal control over financial reporting.

October 24, 2011

/s/ WILLIAM T. GILES

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William T. Giles

Chief Financial Officer and Executive Vice  
President — Finance, Information Technology  
and Store Development (Principal Financial  
Officer)

**CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350, AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Annual Report of AutoZone, Inc. (the "Company") on Form 10-K for the fiscal year ended August 27, 2011, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, William C. Rhodes, III, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

- (i) the Report fully complies with the requirements of Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934; and
- (ii) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

October 24, 2011

/s/ WILLIAM C. RHODES, III  
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William C. Rhodes, III  
Chairman, President and Chief Executive Officer  
(Principal Executive Officer)

**CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350, AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Annual Report of AutoZone, Inc. (the “Company”) on Form 10-K for the fiscal year ended August 27, 2011, as filed with the Securities and Exchange Commission on the date hereof (the “Report”), I, William T. Giles, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

- (i) the Report fully complies with the requirements of Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934; and
- (ii) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

October 24, 2011

/s/ WILLIAM T. GILES

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William T. Giles

Chief Financial Officer and Executive Vice  
President — Finance, Information Technology  
and Store Development (Principal Financial  
Officer)