



**Employment Agreement with Morris Goldfarb**

On August 9, 2023 (the “Effective Date”), G-III Apparel Group, Ltd. (the “Company”) entered into a new Employment Agreement, dated August 9, 2023, with Morris Goldfarb, its Chairman and Chief Executive Officer (the “Employment Agreement”). The Employment Agreement is the result of a process involving discussions between Mr. Goldfarb and our Compensation Committee that took place over several months.

The Compensation Committee and our Board of Directors listened to the concerns that our stockholders voiced regarding the prior compensation arrangements with Mr. Goldfarb. The Committee and the Board factored in the lack of shareholder support the Company’s Say on Pay proposals received in recent years. The Committee and the Board had tried over the years to be responsive to our stockholders, but faced the reality that the Company could not unilaterally change the existing employment agreement with Mr. Goldfarb which has a term that runs through January 31, 2026.

Mr. Goldfarb voluntarily engaged with us and worked with us in agreeing to the new Employment Agreement. The major financial metrics contained in the Employment Agreement were first outlined in May 2023.

The major changes to Mr. Goldfarb’s compensation package under the Employment Agreement are threefold:

- 1) A change to the structure of Mr. Goldfarb’s annual cash incentive designed to align with current market practice and to reduce the size of the annual cash incentive.
- 2) A change in the mix of annual cash compensation and annual equity grants that increases the weighting of equity versus cash and encourages long-term performance and shareholder value creation.
- 3) In recognition of the significant reduction in the annual cash incentive agreed to by Mr. Goldfarb, a grant of performance share units (PSUs) that may be earned over three years if certain stock price and relative Total Shareholder Return targets are achieved.

The annual cash incentive provision in the new Employment Agreement is expected to result in a substantial reduction in the annual incentive cash payment that would have been earned under the terms of Mr. Goldfarb’s prior employment agreement with the Company. Instead of an annual cash incentive based on 6% of pre-tax income, Mr. Goldfarb is eligible for a target annual cash incentive award of \$4,000,000, payable if predefined performance metrics are achieved. The award is subject to a hard dollar cap if the performance metrics are exceeded. The performance metrics include a minimum performance level that will result in no cash incentive payment to Mr. Goldfarb if the Company’s results fall below threshold. The award will also include adjustments for share dilution and EPS increases and decrease. This structure is consistent with incentive programs used by comparable companies and is described below in more detail.

The Employment Agreement is designed to reduce the annual incentive cash compensation paid to Mr. Goldfarb and increase the portion paid in equity. This shift in the mix of cash and equity compensation responds to concerns raised by stockholders about the structure of the Company’s compensation arrangements. The Employment Agreement provides that Mr. Goldfarb will receive an annual equity grant of 300,000 with a maximum grant date fair value of \$6,000,000 composed 60% of PSUs and 40% of time vested RSUs, vesting at the end of three years if the performance and service conditions are met, as described below.

Recognizing that the annual incentive cash payments that Mr. Goldfarb is expected to receive under the terms of the Employment Agreement are significantly lower than under the prior employment agreement, the Employment Agreement provides for a grant of 700,000 PSUs that may be earned over three years if certain stock price, relative Total Shareholder Return (“TSR”) targets and service conditions are achieved. The target stock price for full vesting is \$30. This stock price target is approximately double the price of the Company’s stock when negotiation of the Employment Agreement between Mr. Goldfarb and the Compensation Committee began. In addition, the number of shares that may be earned is subject to a modifier based on the Company’s relative TSR compared to the component companies in the S&P 1500 Apparel, Accessories and Luxury Goods Index. The terms of the PSU grant is described in more detail below.

We believe that the Employment Agreement, taken as a whole, is responsive to comments from our stockholders and represents a better alignment of our compensation program with stockholder interests and contemporary market practice. We want to emphasize that we listened to our stockholders during outreach, considered

our Say on Pay results and acted accordingly. We also acknowledge that Mr. Goldfarb voluntarily engaged with us and worked with us in agreeing to the new Employment Agreement.

In order for the Compensation Committee (the “Committee”) of the Board of Directors of the Company (the “Board”) to be able to include in the agreement governing the Special PSUs certain provisions with respect to satisfaction of performance conditions that do not provide for an increase in benefits in change of control situations, certain provisions of the 2015 Plan needed to be amended. More details regarding the amendment to the 2015 Plan are provided under Item 8.01 of this Current Report.

Certain significant terms of the Employment Agreement are summarized below.

**Duration of Agreement.** The Employment Agreement has an initial term through January 31, 2026 with automatic renewal of the term for one-year periods on each January 31st, beginning on January 31, 2026, unless either the Executive or the Company gives six months’ notice of non-renewal to the other party by July 31<sup>st</sup> of the prior year, commencing July 31, 2025.

**Salary and Benefits.** Pursuant to the Employment Agreement, as of the Effective Date, Mr. Goldfarb’s initial annual base salary would be paid at the rate of \$1,350,000 per year. Mr. Goldfarb will be entitled to participate in all employee benefit plans that are generally available to senior executives of the Company, subject to eligibility requirements.

**Annual Cash Incentive.** The new annual cash incentive provides for an annual target cash incentive of \$4,000,000 that could be earned based on financial metrics determined each year by the Committee. For fiscal 2024, the annual cash incentive will be based on Adjusted Pre-Tax Income. The target amount would be paid if the Company’s Adjusted Pre-Tax Income is equal to the Goal determined by the Committee with a maximum payout of two times the target if Adjusted Pre-Tax Income exceeds the Goal by specified amounts and a minimum payout of one-half of the target if Adjusted Pre-Tax Income is below the goal. There would be no annual cash incentive paid if Adjusted Pre-Tax Income is less than 80% of the Goal. The amount of the annual cash incentive can be increased by up to 5% based on a decrease in shares outstanding or decreased by 5% based on an increase in shares outstanding. In addition, the target bonus could be increased by up to 15% based on an increase in Adjusted EPS compared to the prior year and decreased by up to 15% based on a decrease in Adjusted EPS compared to the prior year. There is expected to be a significant reduction in the annual cash incentive paid to Mr. Goldfarb under the Employment Agreement compared to the annual cash incentive based on the formula contained in the prior employment agreement.

**Special Equity Grant.** In recognition of the significantly reduced annual incentive cash payments that Mr. Goldfarb has voluntarily agreed to under the terms of the Employment Agreement, the Employment Agreement provides for a grant of 700,000 performance stock units (the “Special PSUs”) that may be earned if certain stock price, relative Total Shareholder Return target and service conditions are achieved. The Special PSUs will be issued in two installments with 380,000 Special PSUs issued on the Effective Date and 320,000 PSUs issued no later than February 29, 2024. Vesting of the PSUs is subject to the satisfaction of performance and service conditions contained in the agreement awarding the Special PSUs (the “Special PSU Agreement”). Reference is made to the Special PSU Agreement that is Exhibit 10.2 to this Form 8-K for a complete description of the performance and service conditions, as well as other provisions related to the Special PSUs.

**Annual Equity Grant.** The Employment Agreement provides for an annual grant of performance stock units (“Annual PSUs”) and restricted stock units (“Annual RSUs”) commencing with the fiscal year ending January 31, 2025. Executive shall be entitled to receive annual grants for an aggregate of 300,000 shares with 60% of such shares being subject to Performance Stock Units (“Annual PSUs”) and 40% of such grants being subject to Restricted Stock Units (“Annual RSUs”); provided, however, that the aggregate grant date fair value for the annual grants based on the closing price of the Company’s common stock on the date of grant may not exceed \$6,000,000. (By way of example, if the closing price of the Company’s common stock on the date of grant is \$20 or less, then the annual grant shall be for an aggregate of 300,000 shares. If the closing price of the Company’s common stock on the date of grant is greater than \$20, the aggregate number of shares subject to the annual grant will be the amount determined by dividing \$6,000,000 by such closing price with 60% of such shares being subject to Annual PSUs and 40% of such shares being subject to Annual RSUs.) The performance metrics and other terms and conditions of the Annual PSUs, including time vesting provisions, shall be as determined by the Compensation Committee and the Annual RSUs shall be subject to three-year cliff vesting.

The number of shares of common stock to which the PSU and RSU awards relate will be appropriately adjusted in the event of stock splits, stock dividends and other extraordinary corporate events.

**Effect of Termination.** In the event of Mr. Goldfarb's death during the term, his estate will receive 12 months of his then current salary plus compensation pursuant to the annual cash incentive for that fiscal year (based on actual performance) prorated according to the number of days of employment in such fiscal year. In the event of his termination due to disability during the term, he will receive 50% of salary for the remaining term of the Employment Agreement.

If during the term of the Employment Agreement the Company terminates Mr. Goldfarb's employment without "Cause" or if he terminates his employment with "Cause" or for "Good Reason" (all as defined in the Employment Agreement), Executive will be entitled to receive a lump sum cash severance equal to the sum of two times his then-current base salary and two times his target bonus.

**Effect of Change of Control.** If, during the term of the Employment Agreement, a "change of control" (as defined therein) occurs, and the Company terminates Executive's employment without "Cause" or if he terminates his employment with "Cause" or for "Good Reason" after a "change in control," then Executive is entitled to a lump sum cash payment of 2.99 times five-year average compensation as reported on his form W-2 and three years of full benefit continuation or the equivalent.

**Restrictive Covenants.** The Employment Agreement contains certain restrictive covenants that apply during and after his employment, including an agreement to not disclose confidential information at any time during the term of the agreement or thereafter, and, for a two-year period following his termination of employment for any reason, non-competition and non-solicitation agreements.

The foregoing description of the Employment Agreement does not purport to be complete and is qualified in its entirety by reference to the complete text, filed herewith as Exhibit 10.1, which is incorporated herein by reference.

**Item 5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.**

The information with respect to the Employment Agreement and the PSU award set forth in Item 1.01 of this Current Report on Form 8-K is incorporated by reference herein.

**Item 8.01 Other Events.**

In recognition of the reduced annual incentive cash payments that Mr. Goldfarb would receive under the terms of the Employment Agreement, the Employment Agreement provides for grant of the Special PSUs pursuant to the 2015 Plan. In order for the Committee to be able to include in the Special PSU Agreement certain provisions with respect to satisfaction of performance conditions that do not provide for an increase in benefits in change of control situations, certain provisions of the 2015 Plan were amended. Sections 9.1 and 9.2 of the 2015 were amended to allow the Committee to determine vesting of the Special PSUs in a change in control situations based on actual performance rather than based on target (i.e. maximum) levels.

The foregoing description of the amendments to the 2015 Plan, as amended, does not purport to be complete and is qualified in its entirety by reference to the complete text, filed herewith as Exhibit 10.3, which is incorporated herein by reference.

**Item 9.01 Financial Statements and Exhibits.**

(d) Exhibits.

- 10.1 [Employment Agreement, dated August 9, 2023, between G-III Apparel Group, Ltd. and Morris Goldfarb.](#)
- 10.2 [Performance Share Unit Agreement, dated August 9, 2023.](#)
- 10.3 [G-III Apparel Group, Ltd. 2015 Long-Term Incentive Plan, as amended.](#)
- 104 Cover Page Interactive Data File (embedded within the Inline XBRL document).

**Exhibit**

<b>No.</b>	<b>Description</b>
10.1	<a href="#"><u>Employment Agreement, dated August 9, 2023, between G-III Apparel Group, Ltd. and Morris Goldfarb.</u></a>
10.2	<a href="#"><u>Performance Share Unit Agreement, dated August 9, 2023.</u></a>
10.3	<a href="#"><u>G-III Apparel Group, Ltd. 2015 Long-Term Incentive Plan, as amended.</u></a>
104	Cover Page Interactive Data File (embedded within the Inline XBRL document).

**SIGNATURE**

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

G-III APPAREL GROUP, LTD.

Date: August 10, 2023

By: /s/ Neal S. Nackman

Name: Neal S. Nackman

Title: Chief Financial Officer

## EMPLOYMENT AGREEMENT

AGREEMENT made as of this 9<sup>th</sup> day of August, 2023, by and between G-III Apparel Group, Ltd., a Delaware corporation (the “**Company**”) and MORRIS GOLDFARB (the “**Executive**”).

WHEREAS, the Company and the Executive are parties to an Employment Agreement (the “**Prior Agreement**”), dated February 1, 1994, as amended; and

WHEREAS, the Company desires that the Executive enter into this Agreement so that the Company may be assured of the services of the Executive for the term of this Agreement and the Executive is desirous of providing such services on the terms and conditions as provided for in this Agreement, and

WHEREAS, it is the intention of the Company and the Executive that this Agreement supersede the Prior Agreement, and that from and as of the date hereof the Prior Agreement shall be cancelled and of no further force and effect.

NOW THEREFORE, in consideration of the foregoing, and the respective covenants and agreements herein contained, the parties hereto agree as follows:

**1. Duties.** The Company shall employ the Executive, and the Executive shall serve, as Chief Executive Officer of the Company during the Employment Term (as hereinafter defined), and shall devote his full working time toward the performance of such duties and responsibilities as provided for in the Company’s By-Laws, and such other duties and responsibilities as may from time to time be prescribed by the Company’s Board of Directors which are consistent with his position as Chief Executive Officer of the Company; *provided, however*, Executive may engage or participate in such other activities incidental to any other employment, occupation or business venture or enterprise which does not materially interfere with or compromise his ability to perform his duties hereunder.

The Company shall use its best efforts to cause the Executive to be a member of its Board of Directors throughout the Employment Term and shall include him in the management slate for election as a director at every stockholders’ meeting at which his term as a director would otherwise expire. The Board of Directors shall not amend its By-Laws or take any other action to reduce the scope of the Executive’s authority and responsibilities, unless he shall otherwise consent, or except as otherwise provided in this Agreement.

During the Employment Term and for a period of two years after the Employment Term (the “**Non-Competition Period**”), the Executive shall not, directly or indirectly, without the prior consent of the Audit Committee of the Company’s Board of Directors, as owner, partner, joint venturer, shareholder, employee, corporate officer or director, engage or become financially interested in, be employed by, or render consulting services to any business in direct competition with any business engaged in during the Employment Term by the Company or its subsidiaries or affiliates (collectively, the “**G-III Group**”) in any geographic area where, during the term of his employment, the business of the G-III Group is being conducted; *provided, however*, that the Executive may own any securities of any corporation which is engaged in any such business and which is publicly owned and traded but in an amount not to exceed at any one time four percent of any class of stock or securities of such company. In addition, Executive shall not, directly or indirectly, during the Non-Competition Period (i) request or cause any customers, suppliers, licensees or licensors with whom the G-III Group has a business relationship to cancel or terminate any such business relationship with any member of the G-III Group or (ii) solicit, interfere with, entice from or hire from any member of the G-III Group any employee of any member of the G-III Group.

**2. Term.** The term of this Agreement and of the term of employment (the “**Employment Term**”) of the Executive shall be from the date hereof until January 31, 2026, unless sooner terminated in accordance with the terms hereof; *provided, however*, that on each August 1<sup>st</sup> prior to the end of the then Employment Term, commencing with August 1, 2025, the Employment Term of this Agreement shall be automatically extended for an additional one-year period unless prior to such August 1<sup>st</sup> either party shall have given written notice to the other that the Employment Term of this Agreement shall not be extended any further.

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**3. Compensation.** During the Employment Term, the Executive shall be entitled to the compensation and benefits described in this Section 3.

a. Salary. The Executive shall receive a base salary at the rate of \$1,350,000 per annum, subject to such increases as may be approved at the discretion of the Compensation Committee of the Board of Directors (the "**Compensation Committee**"), payable in accordance with the Company's normal payroll policy at the time in effect.

b. Nonexclusive. Compensation of the Executive by salary payments shall not be deemed exclusive and shall not prevent the Executive from participating in any other compensation or benefit plans of the Company.

c. Expenses. The Company acknowledges and agrees that the Executive, in rendering services hereunder, will be required to spend sums of money for travel to various locations throughout the world and for the entertainment of various persons and representatives of companies and organizations with whom the Company is having, or would like to have, business relationships. The Company shall reimburse the Executive, upon presentation by the Executive of documentation therefor, for any travel, entertainment or other business expenses reasonably incurred by the Executive in rendering services hereunder on behalf of the Company. The Executive shall be entitled to receive such reimbursement within fifteen (15) days after he has delivered an itemized expense account therefor to the Company. The parties hereto agree that the Executive shall be entitled to stay in first-class hotel accommodations and to otherwise avail himself of first-class travel and entertainment facilities in connection with Executive's employment hereunder.

d. Automobile. The Company shall provide the Executive with an automobile or shall reimburse the Executive for the cost thereof.

e. Disability. If during the Employment Term the Executive becomes disabled or incapacitated to the extent that he is unable to perform his duties hereunder (due to any physical or mental injury, illness or defect) for a period of 180 consecutive days, then the Company shall thereafter pay to the Executive fifty percent of the amount of the annual base salary provided for pursuant to Section 3 hereof during the period of such disability or incapacity, in the same manner set forth in said Section 3, for the balance of the Employment Term. During such 180 day period, the Executive shall be entitled to receive his annual base salary provided for in Section 3.

f. Life Insurance. The Executive shall be entitled to cause an ordinary life insurance policy in the face amount of \$5,000,000 to be issued by an insurance company of the Executive's choice on the Executive's life naming the Executive's wife as beneficiary. The Company shall reimburse the Executive on demand for the cost of all premiums in connection with the maintenance of said policy.

g. Health Insurance. The Company, at its sole cost and expense, shall cause full health insurance coverage to be provided in favor of the Executive during the Employment Term as the same is regularly provided for the Company's senior executive employees, including, without limitation, major medical, hospitalization and dental insurance. In lieu thereof, the Executive shall be entitled to cause such insurance to be issued by an insurance company of the Executive's choice in such amounts as the Executive shall determine, and the Company shall reimburse the Executive on demand for the cost of all premiums in connection with the maintenance of such policies.

h. Other Benefits. The Executive shall be entitled to participate in and receive benefits under the Company's employee benefit plans and arrangements in effect on the date hereof (in accordance with their respective terms) or to participate in or receive benefits under those plans or arrangements of the Company providing the Executive with at least equivalent benefits thereunder (and giving credit for all plan purposes for service rendered by the Executive to the Company and its subsidiaries). The Company shall not make any changes in such plans or arrangements (including, if applicable, the funding through insurance or otherwise of such plans or arrangements) that would adversely affect the Executive's rights or benefits thereunder in a manner different from the Company's other senior executives. The Executive shall be entitled to participate in or receive benefits under any employee benefit plan or arrangement made available by the Company in the future to its senior executives and key management employees, subject to, and on a basis consistent with the terms, conditions and overall administration of such plans



and arrangements. Any payments or benefits payable to the Executive hereunder in respect of any year during which the Executive is employed by the Company for less than the entire year shall, unless otherwise provided in the applicable plan or arrangement, be prorated in accordance with the number of days in such year during which he is so employed.

i. Vacations. The Executive shall be entitled to six (6) weeks of paid vacation days in each calendar year, or such greater (but not lesser) number of weeks as may be determined by the Compensation Committee from time to time during the term hereof. The Executive shall also be entitled to all paid holidays given by the Company to its senior executives.

j. Supplemental Pension. For each full year of the Executive's employment hereunder the Company will credit \$100,000 to a bookkeeping account established in the name of the Executive. The aggregate amount credited to the Executive's bookkeeping account, together with investment gain or loss thereon (on a basis to be determined) will be payable to the Executive by the Company as soon as practicable after the Executive's termination of employment with the Company and its subsidiaries, and in accordance with Section 409A of the Internal Revenue Code and related guidance issued thereunder by the Department of the Treasury and Internal Revenue Service; *provided, however*, that no such amount will be payable if the Executive's employment is terminated by the Company for "cause" (as such term is defined in Section 6(a) hereof). The Company shall establish a grantor trust and shall contribute to said trust the principal amount of each year's deferred compensation credit. The assets of the trust will be applied to satisfy the Company's obligations to the Executive under this Section 3(j), it being understood, however, that the assets of the trust will be subject to the claims of the Company's creditors in the event of the Company's prior bankruptcy. The deferred compensation agreement set forth in this Section 3(j) is subject to the terms and provisions of the Company's supplemental executive retirement plan to the extent that such terms and provisions are not inconsistent with the terms and provisions hereof.

k. Equity Grants. (1) Subject to the provisions of this paragraph (k), Executive shall be entitled to receive a grant of an aggregate 700,000 performance stock units ("**Initial PSUs**") under the Company's 2015 Long Term Incentive Plan (the "**Existing Plan**") or such other plan (the "**New Plan**") that replaces the Existing Plan (collectively the "**Plan**"), with 380,000 of such Initial PSUs to be issued upon the execution of this Agreement and the 320,000 PSU balance of such grant (the "**Remaining Grant**") to be issued at the closing of business on the earlier of the first trading day following the date of the next meeting of the stockholders of the Company called to approve the New Plan and February 29, 2024, with such performance metrics and on such other terms and conditions as set forth in definitive Initial PSU Agreements to be approved by the Compensation Committee. Executive shall also be entitled to receive annual equity grants during each fiscal year of the Employment Term, commencing with the fiscal year ending January 31, 2025. The Remaining Grant shall be made under the New Plan if the New Plan has been duly approved by the Company's stockholders, or under the Existing Plan if the New Plan has not been duly approved by the Company's stockholders by February 29, 2024. Notwithstanding the foregoing, the Remaining Grant may not be made under the New Plan until a registration statement on Form S-8 has been filed with the Securities and Exchange Commission.

(2) Executive shall be entitled to receive annual grants for an aggregate of 300,000 shares with 60% of such shares being subject to Performance Stock Units ("**Annual PSUs**") and 40% of such grants being subject to Restricted Stock Units ("**Annual RSUs**"); *provided, however*, that the aggregate grant date fair value for the annual grants based on the closing price of the Company's common stock on the date of grant may not exceed \$6,000,000. (By way of example, if the closing price of the Company's common stock on the date of grant is \$20 or less, then the annual grant shall be for an aggregate of 300,000 shares. If the closing price of the Company's common stock on the date of grant is greater than \$20, the aggregate number of shares subject to the annual grant will be the amount determined by dividing \$6,000,000 by such closing price with 60% of such shares being subject to Annual PSUs and 40% of such shares being subject to Annual RSUs.) Executive understands and agrees that (i) the performance metrics and other terms and conditions of the Annual PSUs, including time vesting provisions, shall be as determined by the Compensation Committee and subject to a PSU Agreement and the terms of the Company's long-term incentive plan governing such grants and (ii) the Annual RSUs shall be subject to three-year cliff vesting and other terms and conditions as determined by the Compensation Committee and subject to an RSU Agreement and the terms of such long-term incentive plan.

l. Services Furnished. The Company shall furnish the Executive with office space, secretarial and stenographic assistance and such other facilities and services as shall be suitable to the Executive's position and adequate for the performance of his duties as set forth in Section 1 hereof.

**4. Annual Incentive Program.**

a. During each of the Company's fiscal years during the Employment Term, commencing with the fiscal year ending January 31, 2024, Executive shall be entitled to participate in the Company's Annual Incentive Program with a target bonus in the amount of \$4,000,000 (the "**Target Bonus**") for each fiscal year. The amount of the annual incentive paid to Executive with respect to any fiscal year shall be based on each year's Annual Incentive Program that will contain performance metrics and adjustments thereto as determined with respect to each fiscal year by the Compensation Committee.

b. Payment. Payments under the Annual Incentive Program shall be made in a manner consistent with past practice with respect to payments of annual incentive compensation (i.e., during the 75 days after the close of the applicable fiscal year and shall be made irrespective of the Executive's then current employment status with the Company, except that no payments shall be made under the Annual Incentive Program following a termination of employment by the Executive without "cause" (as defined in Section 6(b) hereof) or without "Good Reason" (as defined in the Plan) or a termination of employment by the Company for "cause" (as defined in Section 6(a) hereof); provided that, with respect to any fiscal year of the Company during which the Executive's employment terminates (except as provided above), the Executive shall be entitled only to a pro rata share of payments pursuant to the Annual Incentive Program based upon a pro rata share calculated as a fraction based upon the number of days which the Executive has been employed by the Company in such fiscal year divided by the entire number of days in such fiscal year).

**5. Place of Performance.** In connection with his employment by the Company, the Executive shall be based at the principal executive offices of the Company which shall be located in the New York City metropolitan area, except for travel required for Company business to an extent substantially consistent with the Executive's present business travel obligations on behalf of the Company and its subsidiaries.

**6. Termination.**

a. Termination for Cause by the Company. The Company may terminate this Agreement and all of the Company's obligations hereunder for "cause". Termination by the Company for "cause" shall mean termination by action of a majority of the members of the Company's Board of Directors because of the Executive's conviction of a felony (which, through lapse of time or otherwise, is not subject to appeal) or willful refusal without proper cause to perform his obligations under this Agreement or because of the Executive's material breach of any of the covenants provided for in Section 8 hereof. Such termination shall be effected by written notice thereof by the Company to the Executive, and, except as hereinafter *provided*, shall be effective as of the date of such notice; *provided, however*, that such termination shall not be effective if (i) such termination is because of the Executive's willful refusal without proper cause to perform any one or more of his obligations under this Agreement, (ii) such notice is the first such notice of termination for any reason delivered by the Company to the Executive hereunder, and (iii) within 7 days following the date of such notice the Executive shall cease his refusal and shall use his best efforts to perform such obligations.

The Executive may, within 15 days following delivery of the notice of termination referred to in the preceding paragraph, by written notice to the Board of Directors of the Company, cause the matter of the termination of this Agreement to be discussed at the next regularly scheduled meeting of the Board of Directors or at a special meeting of the Board of Directors held in accordance with the Company's By-Laws. The Executive shall be entitled to be represented by counsel at such meeting which shall be conducted according to a procedure deemed equitable by a majority of the Directors present. If, at such meeting, it shall be determined by a majority of the Directors that this Agreement had been terminated without proper cause, the provisions of this Agreement shall be reinstated with the same force and effect as if the notice of the termination had not been given. The Executive shall be entitled to receive the compensation and other benefits provided herein for the period from the date of the delivery of the notice of termination through the date of such Board meeting. Nothing herein contained shall limit or deny the Executive's right to have any such dispute resolved pursuant to arbitration as set forth in Section 15 hereof.

b. Termination for Cause or Good Reason by the Executive. The Executive shall have the right to terminate this Agreement and all of the Executive's obligations hereunder for "cause" or "Good Reason" (as defined in the Plan). Termination by the Executive for "cause" shall mean (i) termination because of a material breach by the Company of any of its obligations hereunder or (ii) if the Company shall give written notice pursuant to Section 2 that the Employment Term shall not be extended any further.

c. Executive's Remedies. In the event the Company terminates this Agreement without cause (as defined in Section 6(a) hereof), or in the event the Executive terminates this Agreement for cause (as defined in Section 6(b) hereof) or "Good Reason" (as defined in the Plan), the parties hereto agree that damages to the Executive shall be difficult to ascertain in any such event, but in order to limit the liability of the Company the Executive shall be entitled to (x) enter into a mutually-acceptable consultancy agreement with the Company commencing immediately following the termination of his employment (prior to January 31, 2028) and having a term ending on the 61<sup>st</sup> month anniversary of the date of this Agreement, at an annual compensation of \$12,000 (less any amounts paid to the Executive for serving on the Board of Directors) and (y) receive a severance payment in an amount equal to the following: (i) two (2) times his then current annual base salary, plus (ii) two (2) times the Target Bonus, which amounts shall be immediately due and payable upon any such termination, plus (iii) all other benefits accruing to the Executive to the date of termination as provided hereunder.

d. Mitigation. In the event of the termination of this Agreement by the Executive for "cause" or "Good Reason" (as defined in the Plan), or in the event of the termination of the Executive's employment by the Company without cause (as defined in Section 6(a) hereof) or in breach of this Agreement, it is expressly understood that the Executive shall not be required to seek other employment in order to mitigate his damages hereunder.

e. Legal Costs. In the event that the Executive institutes any legal action to enforce his rights, or to recover damages for breach of the Company's obligations, under this Agreement and this Section 6, the Executive in such an action shall be entitled to recover from the Company all costs and expenses (including, without limitation, attorneys' fees and disbursements) incurred by him if he prevails in any such action or if any such action is settled in his favor.

f. Change In Control. Notwithstanding anything to the contrary contained in Section 6(c) hereof, and in lieu of any payments required to be made pursuant to said Section 6(c), in the event (i) the Company shall terminate this Agreement without cause (as defined in Section 6(a) hereof) or (ii) the Executive shall terminate this Agreement for cause (as defined in Section 6(b) hereof) or "Good Reason" (as defined in the Plan), in either case at any time within two years after the occurrence of a Change In Control (as defined below) of the Company, the Company shall pay to the Executive, in a lump sum in cash within 30 days after such termination date, an amount equal to 2.99 times the Executive's "annualized includable compensation for the base period," as defined in section 280G of the Internal Revenue Code of 1986 (the "**Code**"), or any successor provision (which term includes, without limitation, the Executive's base salary and bonus). In addition, for a period of three years from such termination date, the Company shall continue to provide all other benefits to the Executive at least equal to those which would have been provided to the Executive had the Executive's employment not been so terminated, or, if more favorable to the Executive, those benefits generally in effect at any time thereafter with respect to similar executive officers of the Company (or its successor, if applicable).

Furthermore, for purposes of determining eligibility of the Executive for retiree benefits pursuant to any plan, program or policy maintained by the Company, the Executive shall be considered to have remained employed until the end of such three year period and to have retired on the last day of such period; *provided, however*, that to the extent it is not possible under any such plan, program or policy to characterize such three year period as employment service, the Company agrees to provide the Executive with such substantially equivalent benefit as would give the Executive the same substantial benefit he would have received if such characterization was possible and given effect.

As used in this Section 6(f), a Change In Control shall be deemed to occur if (i) there shall be consummated (x) any consolidation or merger of the Company in which the Company is not the continuing or surviving corporation or pursuant to which shares of the Company's Common Stock would be converted into cash, securities or other property, other than a merger of the Company in which the holders of the Company's Common Stock immediately prior to the merger have the same proportionate ownership of common stock of the surviving corporation immediately after the merger, or (y) any sale, lease, exchange or other transfer (in one transaction or a series of related transactions)

of all, or substantially all, the assets of the Company, or (ii) the stockholders of the Company shall approve any plan or proposal for liquidation or dissolution of the Company, or (iii) any person (as such term is used in Sections 13(d) and 14(d)(2) of the Securities Exchange Act of 1934, as amended (the “**Exchange Act**”)), other than the Executive, shall become the beneficial owner of 35% or more of the Company’s then outstanding Common Stock other than pursuant to a plan or arrangement entered into by such person and the Company or (iv) during any period of two consecutive years, individuals who at the beginning of such period constitute the entire Board of Directors shall cease for any reason to constitute a majority thereof unless the election, or the nomination for election by the Company’s stockholders, of each new director was approved by a vote of at least two-thirds of the directors then still in office who were directors at the beginning of the period.

**7. Death.** If the Executive shall die during the term of this Agreement, this Agreement and all benefits hereunder shall terminate except that (i) if death occurs during the term of this Agreement, the Executive’s estate shall be entitled to receive the then current base salary provided in Section 3 hereof for a period of twelve months from the last day of the month in which his death occurs and shall be eligible to receive compensation pursuant to the Annual Incentive Program under Section 4 (based on actual performance) hereof prorated according to the number of days of employment in such fiscal year, and (ii) such termination shall not affect any vested rights which the Executive may have at the time of his death pursuant to any insurance or other death benefit plans or arrangements of the Company or any subsidiary, which rights shall continue to be governed by the provisions of such plans and agreements.

**8. Protection of Confidential Information.** The Executive acknowledges that his employment by the Company (which for all purposes of this Agreement shall include the Company’s subsidiaries and affiliates) will, throughout the term of this Agreement, bring him in contact with many confidential affairs of the Company not readily available to the public, and plans for future developments. In recognition of the foregoing, the Executive covenants and agrees that he will not intentionally disclose to anyone outside of the Company any material confidential matters of the Company which are not otherwise in the public domain, either during or after the expiration of the term of his employment except with the Company’s written consent or as required by court order, law or subpoena or other legal compulsion to disclose.

**9. Successors; Binding Agreement.** This Agreement and all rights of the Executive hereunder shall insure to the benefit of, and shall be enforceable by, the Executive’s personal or legal representatives, executors, administrators, successors, heirs, distributees, devisees and legatees. If the Executive should die while any amount would still be payable to him hereunder if he had continued to live, all such amounts, unless otherwise provided herein, shall be paid in accordance with the terms of this Agreement to the Executive’s devisee, legatee or other designee or, if there be no such designee, to the Executive’s estate.

**10. Notice.** For the purposes of this Agreement, notices, demands and all other communications provided for in the Agreement shall be in writing and shall be deemed to have been duly given when delivered against receipt therefor or mailed by United States certified mail, return receipt requested, postage prepaid, addressed as follows:

If to the Executive: (On file with the Company)

If to the Company: G-III Apparel Group, Ltd.  
512 Seventh Avenue  
New York, New York 10019  
Attention: Chief Financial Officer

With a copy, in either case, to: Neil Gold, Esq. and Steven Suzzan, Esq.  
Norton Rose Fulbright US LLP  
1301 Avenue of the Americas  
New York, New York 10019

or to such other address as either party may have furnished to the other in writing in accordance herewith, except that notice of change of address shall be effective only upon receipt.

**11. Miscellaneous.** No provisions of this Agreement may be modified, waived, or discharged unless such waiver, modification or discharge is agreed to in writing and signed by the Executive and such officers of the Company as may be specifically designated by its Board of Directors. No waiver by either party hereto at any time of any breach by the other party hereto of, or compliance with, any condition or provision of this Agreement to be performed by such other party shall be deemed a waiver of similar or dissimilar provisions or conditions at the same or at any prior or subsequent time. The validity, interpretation, construction and performance of this Agreement shall be governed by the laws of the State of New York for agreements executed and performed in said State without regard to its conflict of laws principles.

**12. Validity.** The invalidity or unenforceability of any provision or provisions of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect.

**13. Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same instrument.

**14. Entire Agreement.** This Agreement sets forth the entire agreement and understanding of the parties hereto in respect of the subject matter contained herein, and supersedes all prior agreements (including the Prior Agreement), promises, covenants, arrangements, communications, representations or warranties, whether oral or written, by any officer, employee or representative of any party hereto.

**15. Arbitration.** Should any disagreement, dispute, conflict, claim or controversy arise between any of the parties hereto with respect to this Agreement or any of the provisions thereof, or as to the interpretation or effect thereof, or as to a breach thereof claimed to have been committed by any party, or as to any other matter, cause or thing whatsoever relating to this Agreement, and should said dispute or controversy fail to be amicably resolved by mutual agreement of the parties concerned therein, then the same shall be submitted to and determined by arbitration in the City of New York in the State of New York before and by the American Arbitration Association, in accordance with the rules and regulations of said arbitration tribunal then applicable and in full force and effect. Judgment upon the award or decision rendered by said arbitration tribunal as aforesaid may be entered in any court or forum, Federal or state, having jurisdiction thereof, and shall have the effect for all purposes of a judgment of said court or forum with respect to the parties and subject matter therein concerned.

**16. Section 409A.** The intent of the parties is that payments and benefits under this Agreement comply with, or be exempt from, Section 409A of the Internal Revenue Code ("Section 409A") and, accordingly, to the maximum extent permitted, this Agreement shall be interpreted and administered accordingly. A termination of employment shall not be deemed to have occurred for purposes of any provision of this Agreement providing for the payment of any amounts or benefits upon or following a termination of employment that are considered "nonqualified deferred compensation" under Section 409A unless such termination is also a "separation from service" within the meaning of Section 409A. With regard to any provision herein that provides for reimbursement of costs and expenses or in-kind benefits, except as permitted by Section 409A, (i) the right to reimbursement or in-kind benefits shall not be subject to liquidation or exchange for another benefit, (ii) the amount of expenses eligible for reimbursement, or in-kind benefits, provided during any taxable year shall not affect the expenses eligible for reimbursement, or in-kind benefits to be provided, in any other taxable year, provided that the foregoing clause (ii) shall not be violated with regard to expenses reimbursed under any arrangement covered by Section 105(b) of the Code solely because such expenses are subject to a limit related to the period the arrangement is in effect and (iii) such payments shall be made no later than the last day of the Executive's taxable year following the taxable year in which the expense occurred (or no later than such earlier date as otherwise set forth elsewhere in this Agreement). For purposes of Section 409A, the Executive's right to receive any installment payments pursuant to this Agreement shall be treated as a right to receive a series of separate and distinct payments. If the Executive is a specified employee within the meaning of Section 409A(a)(2)(B)(i) of the Code and would receive any payment in connection with a separation from service sooner than six months after his "separation from service" that, absent the application of this paragraph, would be subject to additional tax imposed pursuant to Section 409A as a result of such status as a specified employee, then such payment shall instead be payable on the date that is the earliest of (x) six months after the Executive's separation from service, or (y) the Executive's death. Notwithstanding the foregoing, the Company makes no representation to the Executive about the effect of Section 409A on the provisions of this Agreement.

17. **Section 280G.** (a) Notwithstanding anything to the contrary contained in this Agreement or in any other agreement entered into by and between the Executive, on the one hand, and the Company or any of its affiliates, on the other hand, or in any incentive arrangement or plan (including equity arrangements and plans) offered by the Company or its affiliates, in the event that any amount or benefit paid or provided (or to be paid or provided) to the Executive pursuant to this Agreement, taken together with any other amounts or benefits paid or provided (or to be paid or provided) to the Executive by the Company or its affiliates (collectively, the “**Covered Payments**”), would constitute an “excess parachute payment” as defined in Section 280G of the Code, and would thereby subject the Executive to an excise tax under Section 4999 of the Code (the “**Excise Tax**”), then the provisions of this Section 17 will apply. If the aggregate present value (as determined for purposes of Section 280G of the Code) of the Covered Payments exceeds the amount that can be paid to the Executive without the Executive incurring an Excise Tax, then, solely to the extent that the Executive would be better off on an after-tax basis (taking into account all federal, state, and local taxes, including income, employment, and excise taxes) by receiving the maximum portion of the Covered Payments that may be made without the Executive becoming subject to the Excise Tax, the amounts payable to the Participant under this Agreement (or under any other agreement, arrangement, or plan) will be reduced (but not below zero) to the maximum amount that may be paid without the Executive becoming subject to the Excise Tax (such reduced payments to be referred to as the “**Payment Cap**”). In the event that the Executive receives reduced payments and benefits as a result of the application of this Section 17, reduction will be made in accordance with the following rules: (i) first, reductions will first be made from payments and benefits that are determined not to be nonqualified deferred compensation for purposes of Section 409A of the Code, and then will be made (to the extent necessary) out of payments and benefits that are subject to Section 409A of the Code; (ii) second, within such categories, reductions will first be made to cash severance payments before being made to other cash payments, and then last to payments in connection with equity awards; and (iii) third, within such categories, reductions will be made to payments and benefits in reverse chronological order (i.e., amounts due to be paid later will be reduced before amounts due to be paid sooner).

(b) The accounting firm engaged by the Company for general tax purposes or such other nationally-recognized accounting firm selected by the Company will perform the calculations contemplated by this Section 17. The Company and the Executive agree to provide such firm with such information and documents as such firm may reasonably request in order to perform such calculations. The Company will bear all expenses of such firm with respect to the determinations required to be made hereunder. The accounting firm engaged to make the determinations hereunder will provide its calculations, together with detailed supporting documentation, to the Company and the Executive. If the accounting firm determines that no Excise Tax is payable with respect to a payment, either before or after the application of the Payment Cap, then it will furnish the Company with documentation reasonably acceptable to the Company that no Excise Tax will be imposed with respect to such payments. Any good faith determinations of the accounting firm made hereunder will be final, binding, and conclusive upon the Company and the Executive.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first-above written.

G-III APPAREL GROUP, LTD.

By: /s/ Neal Nackman  
Neal Nackman

/s/ Morris Goldfarb  
Morris Goldfarb

**G-III APPAREL GROUP, LTD.**  
**2015 LONG-TERM INCENTIVE PLAN**  
**PERFORMANCE SHARE UNIT AGREEMENT**

AGREEMENT, made as of the 9<sup>th</sup> day of August, 2023 (the “Effective Date”), between G-III APPAREL GROUP, LTD. (the “Company”) and Morris Goldfarb (the “Participant”), pursuant to the G-III Apparel Group, Ltd. 2015 Long-Term Incentive Plan, as amended (the “Plan”). Capitalized terms that are used but not defined in this Agreement shall have the meanings given to them by the Plan.

1. Performance Share Unit Award. In accordance with the Plan, the Company hereby grants to the Participant 380,000 performance share units (“PSUs”). Each PSU represents the right to receive one share of the Company’s common stock (a “Share”), subject to the terms and conditions of this Agreement and the Plan including, without limitation, the potential 20% upward or downward adjustment in the number of Shares based on the Company’s Total Shareholder Return (TSR) relative to the TSR of the component companies of the S&P 1500 Apparel, Accessories and Luxury Good Index issued to the Participant pursuant to this Agreement.

2. Vesting Conditions. The performance condition (“Minimum Share Price Condition”) is satisfied as follows:

(a) as to all PSUs, if at any time, or from time to time, beginning on the Effective Date and ending on or before the fifth anniversary of the Effective Date (“Fifth Anniversary Date”), the average closing price per share of the Company’s common stock on the Nasdaq Global Select Market during any period of fifteen (15) consecutive trading days (the “Average Closing Price”) is at least \$30.00; or

(b) as to the number of PSUs set forth on Exhibit A hereto, if at any time, or from time to time, beginning on the Effective Date and ending on or before the Fifth Anniversary Date the Average Closing Price is at least \$25.00.

The Participant’s right to receive Shares covered by this Agreement shall become vested on the date the Compensation Committee (the “Committee”) of the Board of Directors of the Company has confirmed the satisfaction of the Minimum Share Price Condition, subject to the condition (the “Service Condition”) that Participant is continuously employed with or providing other service to the Company through the third anniversary of the Effective Date (the “Third Anniversary Date”). Subject to paragraph 5 below, if the Minimum Share Price Condition is not satisfied by the Fifth Anniversary Date, the award will be forfeited. The number of PSUs that vest in accordance with this paragraph 2 may be increased or decreased by up to 20% in accordance with Exhibit B, and the timing of settlement of such vested PSUs shall be in accordance with paragraph 3 and Exhibit B. All determinations with respect to the satisfaction of the performance and service conditions shall be made by the Committee.

3. Settlement of PSUs. If and when PSUs become vested, the Participant will have the right to receive a corresponding number of whole Shares from the Company in full settlement of such vested PSUs, unless the Committee shall decide to settle such award in cash, or a combination of Shares and cash, with any cash paid in lieu of Shares based on the Fair Market Value of such Shares on the vesting date. Such Shares will be issued and delivered in certificated or electronic form, or if applicable such cash paid, and, subject to Exhibit B, as soon as practicable after the lapse of the applicable substantial risks of forfeiture (as determined in accordance with Section 409A of the Code for purposes of the short-term deferral exemption thereunder) (but not more than 75 days after such date and in no event later than the 15<sup>th</sup> day of the third month of the Company’s tax year following the tax year in which such risk of forfeiture lapses), subject to any applicable tax withholding and other conditions set forth in the Plan, this Agreement and/or applicable law. The applicable substantial risks of forfeiture are, at any given time between the Effective Date and the Fifth Anniversary Date, the Minimum Share Price Condition and the Service Condition. Once the Service Condition has been satisfied or deemed satisfied, or the Minimum Share Price Condition has been satisfied, the other condition must still be satisfied (or deemed satisfied), in whole or in part, in accordance with the terms of this Agreement before the Participant becomes entitled to receive settlement of any part of the PSUs.

4. Termination of Employment or Service; Acceleration of Vesting. (a) Upon the termination of the Participant’s employment or other service with the Company by the Company for cause (as defined in Section 6(a) of the Employment Agreement) or by the Participant (x) without cause (as defined in Section 6(b) of the Employment Agreement) or (y) without Good Reason (as defined in the Plan), any unvested PSUs then covered by this Agreement shall be canceled and the Participant shall have no further rights with respect thereto.

(b) In the event that the Company terminates the Participant's employment or service without cause (as defined in Section 6(a) of the Employment Agreement) or the Participant terminates his employment or service (x) for cause (as defined in Section 6(b) of the Employment Agreement) or (y) for Good Reason (as defined in the Plan), the Service Condition will be deemed to be satisfied and the Compensation Committee (or board of directors of the Company) shall determine in good faith whether the Minimum Share Price Condition has been satisfied as of the date of such termination of employment or service and the remaining award will continue to be subject to the vesting conditions in paragraph 2 above through the Fifth Anniversary Date and be settled in accordance with paragraph 3 and Exhibit B.

(c) In the event the Participant's employment or service terminates by reason of his death or disability, then the Service Condition will be deemed to be satisfied and the Compensation Committee (or the board of directors of the Company) shall determine in good faith whether the Minimum Share Price Condition has been satisfied as of the date of such termination of employment or service.

5. Change in Control. (a) As of the closing date of a Change in Control transaction (the "Closing Date"), the Compensation Committee (or the board of directors of the Company) shall determine in good faith whether the Minimum Share Price Condition has been satisfied (together with the corresponding number of vested PSUs, such number of vested PSUs referred to as the "CIC Date Vested PSUs") based on an "Average Closing Price" equal to the greater of (x) the highest average closing price per share of the Company's common stock on the Nasdaq Global Select Market during any period of fifteen (15) consecutive trading days (calculated through the Closing Date) and (y) the per share price paid to the Company's stockholders at the closing of such Change in Control transaction (the "Change in Control Price"). If the number of CIC Date Vested PSUs is zero, then the Award will be forfeited.

(b) If the number of CIC Date Vested PSUs is greater than zero, and in connection with a Qualifying Transaction (defined below) the Award represented by this Agreement is assumed by the issuer of the Qualifying Shares (defined below) under Section 9.1 of the Plan, then this Agreement shall continue in full force and effect, with the Minimum Share Price Condition satisfied as to the number of CIC Date Vested PSUs, and then the Award will be settled in accordance with paragraph 3 and Exhibit B on the first to occur of (i) the Service Condition having been satisfied or (ii) the Company terminates the Participant's employment or service without cause (as defined in Section 6(a) of the Employment Agreement) or the Participant terminates his employment or service for cause (as defined in Section 6(b) of the Employment Agreement).

(c) If the Company consummates a Change in Control transaction that is not a Qualifying Transaction, or the Award represented by this Agreement is not assumed under Section 9.1 of the Plan in connection with the closing of such Change in Control transaction, and the number of CIC Date Vested PSUs is greater than zero, the Service Condition shall be deemed satisfied, and the award will be settled in accordance with paragraph 3 and Exhibit B.

(d) "Qualifying Shares" means shares of common stock of a company (other than the Company) listed for trading on the NYSE or Nasdaq Stock Market. "Qualifying Transaction" means a Change in Control transaction pursuant to which the Company's stockholders receive Qualifying Shares (defined below) in exchange for their shares of the Company's common stock.

6. No Rights as a Shareholder. The Participant shall have no ownership or other rights of a stockholder with respect to Shares underlying the PSUs (including any right to receive dividends or to vote such Shares) unless and until such Shares are issued to the Participant in settlement of vested PSUs.

7. Tax Withholding. Prior to any settlement of vested PSUs, the Participant shall be required to pay or make adequate arrangements satisfactory to the Company for the payment of all applicable tax withholding obligations. The Participant hereby authorizes the Company to satisfy all or part of the amount of such tax withholding obligations by deducting such amount from cash compensation or other payments that would otherwise be owed to the Participant. The Committee, acting in its sole discretion and pursuant to applicable law, may permit the Participant to satisfy any such tax withholding obligations with Shares that would otherwise be issued to the Participant in settlement of vested PSUs, and/or with previously owned shares of the Company's common stock held by the Participant. The amount of the Participant's tax withholding obligation that is satisfied in shares of the Company's common stock, if any, shall be based upon the Fair Market Value of such shares on the date such shares are delivered or withheld.

8. Restrictions on Transfer. Except as otherwise permitted by the Committee acting in its discretion under the Plan, the PSUs and the Participant's right to receive Shares in settlement of vested PSUs may not be sold, assigned, transferred, pledged or otherwise alienated or disposed of (except by will or the laws of descent and distribution), and may not become subject to attachment, garnishment, execution or other legal or equitable process, and any attempt to do so shall be null and void.



9. No Other Rights Conferred. Nothing contained herein shall be deemed to give the Participant a right to be retained in the employ or other service of the Company or any affiliate or affect the right of the Company and its affiliates to terminate or amend the terms and conditions of the Participant's employment or other service.

10. Provisions of the Plan Control; Spin-Offs. The provisions of the Plan, the terms of which are incorporated in this Agreement, shall govern if and to the extent that there are inconsistencies between those provisions and the provisions hereof. In connection with a 'spin off' transaction (or other similar capital change) covered by Section 4.3 of the Plan, and the Committee or the Board is exercising its discretion under that Section to make equitable adjustments to the Award, the Participant shall have the right to direct the Committee to adjust the Award under one of the methods listed on Exhibit C hereto, provided that the Participant will not have that right if the exercise of that right would result in adverse tax consequences to the Company under Section 409A.

11. Successors. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns.

12. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and may not be modified except by written instrument executed by the parties.

13. Governing Law. This Agreement shall be governed by the laws of the State of Delaware, without regard to its principles of conflict of laws.

14. Counterparts. This Agreement may be executed in separate counterparts, each of which will be an original and all of which taken together shall constitute one and the same agreement.

G-III APPAREL GROUP, LTD.

By: /s/ Neal Nackman  
Neal Nackman

/s/ Morris Goldfarb  
Morris Goldfarb

Exhibit A

Vesting of PSUs

<u>Average Stock Price*</u>	<u>% of Shares Vested</u>	<u># of Shares Vested+</u>
\$30.00	100%	380,000
\$29.00	90%	342,000
\$28.00	80%	304,000
\$27.00	70%	266,000
\$26.00	60%	228,000
\$25.00	50%	190,000
Less than \$25.00	0	0

\*If (i) the average closing price per share of the Company's common stock on the Nasdaq Global Select Market for any period of fifteen (15) consecutive trading days ending on the fifth anniversary of the Effective Date is at least equal to the amount listed in the column "Average Stock Price" or (ii) in the event of a Change in Control that is not a Qualifying Transaction, the Change in Control Price is at least equal to the amount listed in the Column Average Stock Price (as adjusted as provided in the Agreement), then in each case the percentage and number of vested PSUs is as set forth opposite such average stock price.

+Will also apply in the event of a Change in Control Transaction that is a Qualifying Transaction, and amounts listed under "Average Stock Price" and "# of Shares Vested" would be modified as provided in the Agreement.

Exhibit B

Total Shareholder Return (“TSR”) Modifier. The total number of PSUs that vest, if any, based on Section 2 of this Agreement shall then be subject to adjustment, determined by multiplying (i) such total number of vested PSUs as determined in accordance with Exhibit A by (ii) the Relative TSR Multiplier Percentage which is determined based on the Company’s TSR relative to the Comparator Companies (defined below) in the S&P 1500 Apparel, Accessories and Luxury Good Index (the “Comparator Group”) over the Comparison Period (defined below), as set forth in the following chart:

<b>Performance Level</b>	<b>Relative TSR Percentile Achieved</b>	<b>Relative TSR Multiplier Percentage</b>
Threshold	At or less than 25th	80%
Target	At the 50th	No modifier
Ceiling	At or above 75th	120%

If the Relative TSR Percentile Achieved falls in between the Performance Levels specified above, linear interpolation will be used to calculate the Relative TSR Multiplier Percentage, For the avoidance of doubt, in no event may the Relative TSR Multiplier Percentage be less than 80% or greater than 120%.

TSR modifier will be applied as follows to allow for an adjustment of up to +/-20% for shares that vest during each year. The periods on which TSR is measured (“Comparison Period”) and settled is as detailed below:

For shares that vest on the 3rd anniversary of the grant date of the initial installment (i.e., in August 2026), TSR modifier will be applied as of the 3rd anniversary date and shares will be settled as soon as practical after the 3rd anniversary, subject to paragraph 3 of the PSU Agreement to which this Exhibit is attached.

For shares that vest after the 3rd anniversary of the grant date of the initial installment and on or before 1/31/2027, the TSR modifier will be applied as of 1/31/2027 and shares will be settled prior to 75 days following 1/31/2027

For shares that vest between 2/1/2027 and on or before 1/31/2028, the TSR modifier will be applied as of 1/31/2028 and shares will be settled prior to 75 days following 1/31/2028

For shares that vest between 2/1/2028 and the 5th anniversary of the grant date of the initial installment, the TSR modifier will be applied as of the 5th anniversary and shares will be settled as soon as practical after the 5th anniversary, but no later than as provided in paragraph 3 of the PSU Agreement to which this Exhibit is attached.

In the event the Company’s absolute TSR for the Comparison Period is less than zero, no positive adjustment shall be made.

The final number of PSUs to vest based on this calculation shall be rounded to the nearest whole share, with no payment for any fractional shares made.

(A) Formula for Calculating TSR and Determining Percentile Rank

TSR for the Company shall be expressed as a percentage and calculated according to the following formula:

$$TSR = (End\ Average\ Share\ Value / Begin\ Average\ Share\ Value) - 1$$

Where:

*End Average Share Value* means the average Share Value over the trading days in the End Average Period.

*End Average Period* means the fifteen (15) trading days at the end of the Comparison Period.

*Begin Average Share Value* means the average Share Value over the trading days in Begin Average Period.

*Begin Average Period* means the first fifteen (15) trading days during the first month of the Comparison Period.

*Share Value* means, for a given trading day, the Closing Price of a share of Common Stock multiplied by the Accumulated Shares for such trading day.

*Accumulated Shares* means, for a given trading day, the sum of (i) one (1) share plus (ii) the cumulative number of shares of Common Stock purchasable with dividends declared on the Common Stock to that point during the period since the first day of the Begin Average Period, assuming same day reinvestment of such dividends at the Closing Price on the ex-dividend date.

*Closing Price* means, for a given trading day, the closing price of a share of the Company's common stock on the NASDAQ National Market.

*Comparator Companies* has the meaning ascribed to such term on Schedule I hereto.

(B) Percentile rank for the Company shall be expressed as a percentage and calculated as follows:

FIRST: For the Company and for each other company in the Comparator Group, determine the TSR for the Comparison Period.

SECOND: Rank the TSR values determined in the first step for the Comparator Companies from high to low and determine the Company's percentile rank by applying the percentile rank function available in Microsoft Excel or any comparable spreadsheet application.

THIRD: Plot the percentile rank for the Company determined in the second step against the Relative TSR Percentile table above and determine the resulting Relative TSR Multiplier Percentage corresponding to that percentile rank.

The Comparator Group is determined as of the first day of the Begin Average Period. Any new company entrants into the Comparator Group after that date are to be excluded from the Comparator Group.

A company that (i) files for bankruptcy, reorganization, or liquidation under any chapter of the U.S. Bankruptcy Code, (ii) is the subject of an involuntary bankruptcy proceeding that is not dismissed within 30 days, (iii) is the subject of a stockholder approved plan of liquidation or dissolution, or (iv) ceases to conduct substantial business operations during the Comparison Period shall be assigned a TSR of negative one hundred percent (-100%). A company shall be removed from the Comparator Group if they undergo a Specified Corporate Change. A company that is removed from the Comparator Group before the measurement date will not be included at all in the computation of the Relative TSR Multiplier Percentage. A company in the Comparator Group will be deemed to have undergone a "Specified Corporate Change" if it:

- Ceases to be a domestically domiciled publicly traded company on a national stock exchange or market system, unless such cessation of such listing is due to a low stock price or low trading volume; or
- Has gone private; or
- Has reincorporated in a foreign (e.g., non-U.S.) jurisdiction, regardless of whether it is a reporting company in that or another jurisdiction; or
- Has been acquired by another company (whether by a Comparator Group company or otherwise, but not including internal reorganizations), or has sold all or substantially all of its assets.

TSR calculations shall also be adjusted as deemed appropriate by the Compensation Committee to reflect any stock split, reverse stock split or other similar corporate transaction.

The Company shall rely on press releases, public filings, website postings, and other reasonably reliable information available regarding a company in the Comparator Group in making a determination that a Specified Corporate Change has occurred.

(C) Compensation Committee Certification

Notwithstanding anything to the contrary herein, the initial performance measurement described in the Agreement and the adjustment described in this Exhibit B shall each be subject to certification by the Compensation Committee.

**COMPARATOR GROUP**

**S&P 1500 Textiles, Apparel & Luxury Goods**

Crocs, Inc.  
Deckers Outdoor Corporation  
Capri Holdings Limited  
Movado Group, Inc.  
Tapestry, Inc.  
Oxford Industries, Inc.  
Kontoor Brands, Inc.  
NIKE, Inc.  
Skechers USA, Inc.  
Ralph Lauren Corporation  
Columbia Sportswear Company  
PVH Corp.  
Steve Madden, Ltd.  
Carter's, Inc.  
Hanes Brands, Inc.  
Under Armour, Inc.  
Wolverine World Wide, Inc.  
V.F. Corporation

Exhibit C

Methods

- *Concentration Method.* The Company awards held by specified employees (typically, employees who will be primarily dedicated to the spin-off company) are converted into awards of the spin-off company, while the parent awards held by all other employees continue to be based on parent equity and are adjusted to reflect the decrease in value of parent equity upon the spin-off.
- *Basket Method.* All Company awards (regardless of employee) are converted into (1) an adjusted parent award and (2) a spin-off company award. This method is sometimes referred to as the “shareholder method,” because the treatment closely mirrors the treatment of shares generally, or as the “bifurcated method.”
- *Plan.* As otherwise provided under Section 4.3 of the Plan.

## **G-III Apparel Group, Ltd. Amended 2015 Long-Term Incentive Plan**

### **GENERAL**

1.1 **Purpose.** The purpose of the Plan is to establish a vehicle through which the Company can provide equity-based and other incentive compensation opportunities in order to facilitate its ability to recruit, motivate, reward and retain qualified individuals who contribute or are expected to contribute to the success and growth of the Company.

1.2 **Eligibility.** Awards may be granted under the Plan to any employee or non-employee director of, and any consultant, independent contractor or other person who provides personal services to, the Company or any of its Subsidiaries, provided that Incentive Stock Options may be granted only to employees.

1.3 **Types of Awards.** Awards under the Plan may include, without limitation, Options, Stock Appreciation Rights, shares of Restricted Stock, Restricted Stock Units, other Share-based Awards and performance-based Cash Incentive Awards, all as described in Articles 5 through 7 hereof.

### **ARTICLE 2 DEFINITIONS**

2.1 "Award" means an award made to an eligible director, employee or consultant under the Plan.

2.2 "Award Agreement" means an agreement, in written or electronic form, between the Company and a Participant setting forth the terms and conditions of an Award.

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

2.4 "Cause" has the meaning set forth in Section 9.3(a).

2.5 "Change in Control" has the meaning set forth in Section 9.3(b).

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

2.7 "Committee" means the Compensation Committee of the Board.

2.8 "Company" means G-III APPAREL GROUP, LTD., a Delaware corporation, and any successor thereto.

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

2.10 "Exercise Price" means, with respect to an Option, the price at which a holder may purchase the Shares covered by the Option and, with respect to an SAR, the baseline price of the Shares covered by the SAR.

2.11 "Fair Market Value" means, as of any relevant date, the closing price per Share on such date on the principal securities exchange on which the Shares are traded or, if no Shares are traded on that date, the closing price per Share on the next preceding date on which Shares are traded, or (2) the value determined under such other method or convention as the Board or the Committee, acting in a consistent manner in accordance with the Plan and applicable tax law, may prescribe.

2.12 "Good Reason" has the meaning set forth in Section 9.3(c).

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2.13 "Incentive Cash Award" means a performance-based cash Award described in Section 7.2.

2.14 "Incentive Stock Option" or "ISO" means an Option that qualifies as an "incentive stock option" within the meaning of Section 422 of the Code.

2.15 "Option" means an option to purchase Shares granted pursuant to Section 5.1.

2.16 "Participant" means any person who has been selected to receive an Award under the Plan or who holds an outstanding Award under the Plan.

2.17 "Performance-Based Exemption" means the performance-based compensation exemption from the compensation deduction limitations imposed by Section 162(m) of the Code, as set forth in Section 162(m)(4)(C) of the Code.

2.18 "Performance Factors" means any of the factors listed in Section 7.3(b) that may be used for Awards intended to qualify for the Performance-Based Exemption.

2.19 "Plan" means the incentive plan set forth herein, as it now exists or is hereafter amended.

2.20 "Restricted Stock" means stock issued in the name of a Participant pursuant to Section 6.1, subject to applicable transfer restrictions and vesting and other conditions.

2.21 "Restricted Stock Unit" or "RSU" means a contingent right to receive Shares in the future that is granted pursuant to Section 6.1.

2.22 "Section 409A" means Section 409A of the Code.

2.23 "Shares" means shares of the Company's common stock.

2.24 "Stock Appreciation Right" or "SAR" means a right to receive appreciation in the value of Shares that is granted pursuant to Section 5.2.

2.25 "Subsidiary" means (a) a corporation or other entity in an unbroken chain of corporations or other entities at least 50% of the total value or voting power of the equity securities of which is owned by the Company or by any other corporation or other entity in the chain, and (b) any other corporation or entity in which the Company has a 20% controlling interest, directly or indirectly, as may be designated by the Committee pursuant to the criteria set forth in Section 1.409A-1(b)(5)(iii)(E) of the Treasury regulations.

2.26 "Ten Percent Stockholder" means a person who owns or is deemed to own (under Section 424(d) of the Code) more than ten percent of the total combined voting power of all classes of stock of the Company or any Subsidiary.

### **ARTICLE 3 ADMINISTRATION**

3.1 General. Except as specified herein or as otherwise determined by the Board, the Plan shall be administered by the Committee, the composition of which is governed by the Committee's charter.

3.2 Authority of the Committee. Subject to the provisions of the Plan, the Committee, acting in its discretion, shall have the power and authority to select the persons to whom Awards will be made, prescribe the terms and conditions of each Award and make amendments thereto, construe, interpret and apply the provisions of the Plan and of any Award Agreement, and make any and all determinations and take any and all other actions as it deems necessary or desirable in order to carry out the terms of the Plan or of any Award; provided that the Committee may not accelerate the vesting of an outstanding award by reason of the termination of a Participant's employment unless (a) such termination is in connection with a Change in Control or on account of the Participant's death, disability or retirement,

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or (b) such termination occurs for any other reason and the net number of shares the Company would issue by reason of such acceleration of vesting would not exceed 10% of the total number of Shares that may be issued under the Plan.

3.3 Delegation of Authority. To the fullest extent authorized or permitted by applicable law, including, without limitation, Section 157(c) of the Delaware General Corporation Law, the Committee may (i) delegate to officers of the Company or any affiliate, or committees thereof, the authority, subject to such terms as the Committee shall determine, to perform such functions, including the authority to grant Awards, as the Committee may determine, and (ii) delegate to any person or subcommittee (who may, but need not be members of the Committee) such Plan-related administrative authority and responsibilities as it deems appropriate. The Committee may not delegate its authority with respect to non-ministerial actions relating to individuals who are subject to the reporting requirements of Section 16(a) of the Exchange Act or Awards that are intended to qualify for the Performance-Based Exemption.

3.4 Indemnification. The Company shall indemnify and hold harmless each member of the Committee and the Board and any employee or director of the Company or any Subsidiary to whom any duty or power relating to the administration of the Plan or any Award is delegated from and against any loss, cost, liability (including any sum paid in settlement of a claim with the approval of the Board), damage and expense (including reasonable legal and other expenses incident thereto) arising out of or incurred in connection with the Plan, unless and except to the extent attributable to such person's fraud or willful misconduct.

#### **ARTICLE 4**

##### **SHARES SUBJECT TO THE PLAN; INDIVIDUAL AWARD LIMITS**

4.1 Shares Issuable under the Plan. Subject to Section 4.3, up to 7,000,000 Shares shall be available for grant and issuance pursuant to Awards made under the Plan, any or all of which may (but need not) be issued pursuant to ISOs. For purposes of these limitations, (a) the total number of Shares covered by stock-settled SARs (and not just the number of Shares issued in settlement of such SARs) shall be deemed to have been issued under the Plan, and (b) Shares covered and/or issued pursuant to an Award will again be available for grant and issuance pursuant to subsequent Awards to the extent such Shares are covered by or relate to (1) the unexercised portion of an Option or SAR that is forfeited or otherwise terminated or canceled for any reason other than exercise, (2) Restricted Stock Awards, RSU Awards or any other forms of Award that are forfeited, (3) subject to an Award that is settled in cash or that otherwise terminates without such Shares being issued, or (4) Shares issued pursuant to awards that are assumed, converted or substituted as a result of the acquisition of another company by the Company or a combination of the Company with another Company. Shares that are used or withheld to pay the exercise price of an Award or to satisfy the tax withholding obligations associated with the vesting or settlement of an Award will not be available for future grant and issuance under the Plan. Shares issued under the Plan may be either authorized and unissued Shares, or authorized and issued Shares held in the Company's treasury, or any combination of the foregoing. For the avoidance of doubt, Shares purchased by the Company in the open market with proceeds from a cash exercise of an Option may not be added to the pool of Shares otherwise available under the Plan.

4.2 Individual Award Limitations. No more than 800,000 Shares may be issued pursuant to Awards granted to any Participant in any fiscal year of the Company. No more than \$10,000,000 may be earned by any Participant for any fiscal year pursuant to Cash Incentive Awards made under Section 7.2. If the performance period for a Cash Incentive Award covers more than one fiscal year, then, for the purpose of applying the annual limit under the preceding sentence, the amount that may be earned by the Participant for each fiscal year covered by the performance period will be deemed to be equal to the quotient of (a) the maximum amount that may be earned pursuant to the Award, divided by (b) the number of such fiscal years.

4.3 Adjustments for Capital Changes. In the event of a split-up, spin-off, stock dividend, extraordinary cash dividend, recapitalization, consolidation of Shares, reverse stock split or other similar capital change, the number and class of Shares that may be issued under the Plan pursuant to Section 4.1, the number and class of Shares that may be issued pursuant to annual Awards granted to any Participant pursuant to Section 4.2, the number, class and/or Exercise Price (if any) of Shares subject to outstanding Awards and performance goals expressed in or with respect to Shares shall be equitably adjusted by and at the discretion of the Board or the Committee in order to prevent undue dilution or enlargement of the benefits available under the Plan or an outstanding Award, as the case may be, provided that the number of Shares subject to any outstanding Award shall always be a whole number. In furtherance of the foregoing, in the event of an "equity restructuring," each outstanding Award that constitutes a "share-based payment

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arrangement” (as such terms are defined in FASB Accounting Standards Codification Topic 718) shall be adjusted pursuant to this Section.

## **ARTICLE 5 STOCK OPTIONS; STOCK APPRECIATION RIGHTS**

5.1 Grant of Company Stock Options. The Committee may grant Options to Participants upon such vesting, forfeiture and other terms and conditions as the Committee, acting in its discretion in accordance with the Plan, may determine, either at the time an Option is granted or, if the holder’s rights are not adversely affected, at any subsequent time. Each Option shall have a vesting period of at least one year from the date of grant, except when Options are granted in connection with a Participant voluntarily giving up a contractual right to a cash bonus. Each Option will be deemed not to be an ISO (a non-ISO) unless, at the time the Option is granted, the Committee specifically designates such Option as an ISO. If an Option is designated as an ISO and if part or all of the Option does not qualify as an ISO for any reason, then the Option or the portion of the Option that does not so qualify will nevertheless remain outstanding and will be characterized as a non-ISO.

5.2 Grant of Stock Appreciation Rights. The Committee may grant Stock Appreciation Rights, or SARs, to Participants, either alone or in connection with the grant of an Option, upon such vesting, forfeiture and other terms and conditions as the Committee, acting in its discretion in accordance with the Plan, may determine, either at the time the SARs are granted or, if the holder’s rights are not adversely affected, at any subsequent time. SARs shall have a minimum vesting period of one year from the date of grant, except when SARs are granted in connection with a Participant voluntarily giving up a contractual right to a cash bonus. Upon exercise, the holder of an SAR shall be entitled to receive cash and/or a number of whole Shares (as determined by the Committee) having a value equal to the product of X and Y, where--

X = the number of whole Shares as to which the SAR is being exercised, and

Y = the excess of (i) the Fair Market Value per Share on the date of exercise over (ii) the Exercise Price per Share covered by the SAR.

5.3 Exercise Price. The Committee shall determine the Exercise Price per Share under each Option and each SAR, provided that (a) the Exercise Price per Share shall be at least equal to the Fair Market Value per Share on the date the Option or SAR is granted; and (b) in the case of an ISO granted to a Ten Percent Stockholder, the Exercise Price per Share shall be at least equal to 110% of the Fair Market Value per Share on the date the ISO is granted.

5.4 Repricing and Reloading Prohibited. Except in connection with a corporate transaction involving the Company (including, without limitation, any stock dividend, distribution (whether in the form of cash, Shares, other securities or other property), stock split, extraordinary cash dividend, recapitalization, change in control, reorganization, merger, consolidation, split-up, spin-off, combination, repurchase or exchange of Common Shares or other securities, or similar transaction(s)), the Company may not, without obtaining stockholder approval: (a) reduce the Exercise Price under outstanding Options or SARs; (b) cancel outstanding Options or SARs in exchange for Options or SARs with a lower Exercise Price; or (c) cancel outstanding Options or SARs in exchange for cash or other securities at a time when the per Share Exercise Price under such Options or SARs is higher than the Fair Market Value. The Committee may not grant an Option that includes a “reload” feature or make any other Plan Awards that have the effect of providing a “reload” feature with respect to Shares used to satisfy the Option exercise price or applicable withholding tax.

5.5 Exercise Period of Options and SARs. The Committee may establish such vesting, forfeiture, expiration and other conditions as it deems appropriate (on a grant-by-grant basis) with respect to the exercisability of an Option or SAR; provided, however, that, unless sooner terminated in accordance with its terms, each Option and each SAR shall automatically expire on the tenth anniversary of the date the Option or SAR is granted (or, in the case of an ISO granted to a Ten Percent Stockholder, on the fifth anniversary of the date the ISO is granted).

5.6 Exercise of Options. A Participant may exercise an outstanding Option that is vested and exercisable by transmitting to the Secretary of the Company (or another person designated by the Company for this purpose) a written notice identifying the Option that is being exercised and specifying the number of whole Shares to be purchased

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pursuant to such exercise, together with payment in full of the aggregate Exercise Price payable for such Shares and any applicable withholding taxes. The Exercise Price shall be payable in cash or by check or by any other means that the Committee may expressly permit, including, without limitation, (a) the Participant's surrender of previously-owned Shares, (b) the Company's withholding Shares that would otherwise be issued if the Exercise Price had been paid in cash, (c) payment pursuant to a broker-assisted cashless exercise program established and made available in accordance with applicable law, (d) any other method of payment that is permitted by applicable law, or (e) any combination of the foregoing. Applicable withholding taxes shall be payable in cash or by any other method that may be permitted or required by the Committee in accordance with Section 11.1. Shares tendered or withheld for the payment of the exercise price of an Option will be credited on the basis of the Fair Market Value of such Shares on the date they are tendered or withheld pursuant to such exercise.

5.7 Exercise of SARs. A Participant may exercise an outstanding SAR that is vested and exercisable by transmitting to the Secretary of the Company (or another person designated by the Company for this purpose) a written notice identifying the SAR that is being exercised and specifying the number of whole Shares for which the SAR is being exercised, together with payment in full of any applicable withholding taxes attributable to such exercise. Applicable withholding taxes shall be payable in cash or by any other method that may be permitted or required by the Committee in accordance with Section 11.1.

5.8 Termination of Employment or Service. Unless the Committee determines otherwise at the time of grant, or thereafter if no rights of a Participant are thereby reduced, in the event of the termination of a Participant's employment or service with the Company and its Subsidiaries, (a) the Participant will forfeit any then outstanding unvested Options or SARs, and (b) any then outstanding vested Option or SAR will remain outstanding for a period of at least 90 days (one year if such termination is due to the Participant's death) following the date of such termination (but in no event longer than the expiration of its stated term.) Notwithstanding the foregoing, if a Participant's employment or other service is terminated by the Company or a Subsidiary for Cause (as such term is defined in Section 9.3(a) below) or at a time when grounds for such a termination exist, the Participant's then outstanding Options and/or SARs (whether or not previously vested) shall immediately terminate and shall have no further force or effect.

5.9 Rights as a Stockholder. A Participant shall have no rights to vote or receive dividends or any other rights of a stockholder with respect to any Shares covered by an Option or SAR unless and until such Option or SAR is validly exercised and any such Shares are issued to the Participant (subject to Section 4.3). The Company will issue such Shares promptly after the exercise of such Option or SAR (to the extent the SAR is settled in Shares) is completed.

## **ARTICLE 6 RESTRICTED STOCK AND RESTRICTED STOCK UNIT AWARDS**

6.1 Grant of Restricted Stock and RSU Awards. The Committee may grant Restricted Stock Awards and/or Restricted Stock Unit Awards (RSUs) to any Participant. Under a Restricted Stock Award, the Company issues Shares to the Participant when the Award is made subject to specified conditions and restrictions; and under an RSU Award, the Participant receives the right to receive Shares in the future upon satisfaction of specified terms and conditions. The vesting, forfeiture and other terms and conditions applicable to the Shares covered by a Restricted Stock Award or the RSUs and Shares covered by a Restricted Stock Unit Award (including, but not limited to, conditions and restrictions tied to the achievement of specified performance objectives and/or the completion of one or more specified periods of future service) will be determined by the Committee and will be set forth in the applicable Award Agreement. Each such Award will have a vesting period of at least one year from date of grant, except when such Awards are granted in connection with a Participant voluntarily giving up a contractual right to a cash bonus.

6.2 Restricted Shares. Shares issued pursuant to a Restricted Stock Award may be evidenced by book entries on the Company's stock transfer records pending satisfaction of the applicable vesting conditions. If a stock certificate for restricted Shares is issued, the certificate will bear an appropriate legend to reflect the nature of the conditions and restrictions applicable to the Shares. The Company may retain physical possession of any such stock certificate and may require a Participant to deliver a stock power to the Company, endorsed in blank, in order to facilitate the transfer back to the Company of restricted Shares that are forfeited. Notwithstanding the foregoing, if a Participant forfeits Shares covered by a Restricted Stock Award, the Shares that are forfeited shall automatically be cancelled on the books and records of the Company whether or not the Participant returns a certificate for such Shares or otherwise fails or refuses to execute documents or take other action requested by the Company in connection with the

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cancellation of the forfeited Shares. Except to the extent otherwise provided under the Plan or the Award Agreement, a Participant who holds unvested Shares pursuant to an outstanding Restricted Stock Award shall have all of the rights of a stockholder with respect to said Shares, including the right to vote the Shares and the right to receive dividends thereon (subject to the payment and vesting conditions described in Section 6.4 below).

6.3 Shares Covered by RSU Awards. No Shares will be issued pursuant to an RSU Award unless and until the applicable vesting and other conditions have been satisfied. The holder of an RSU Award shall have no rights as a stockholder with respect to Shares covered by the RSUs unless and until the RSUs becomes vested and the Shares covered by the vested RSUs are issued to the Participant. Subject to Section 6.4, the Committee may provide that a Participant who holds RSUs will be entitled to receive dividend equivalent credits based upon the dividends that would have been payable with respect to the Shares covered by the RSUs if such Shares were outstanding.

6.4 Dividends on Restricted Stock and RSU Shares. If a dividend is declared with respect to outstanding Shares, then, unless the Committee determines otherwise, a corresponding dividend will be credited to a Participant with respect to Shares covered by an outstanding Restricted Stock or RSU Award as if such Shares were outstanding and free of vesting and other conditions and restrictions. Dividend credits (if any) will be made in the form of cash or in the form of additional Shares of Restricted Stock or RSUs (based upon the then Fair Market Value per Share) or any combination thereof, all as determined by the Committee. Dividends credited with respect to Restricted Stock and RSU Awards shall be subject to the same vesting and forfeiture conditions and the same payment terms that are applicable to the Shares of Restricted Stock or RSU Shares to which such dividend credits apply and/or, if applicable, such different terms and conditions that may be required in order to comply with Section 409A.

6.5 Non-Transferability. No Restricted Stock Award and no Shares covered by a Restricted Stock Award, may be sold, assigned, transferred, disposed of, pledged or otherwise hypothecated other than to the Company or its designee in accordance with the terms of the Award or the Plan, and any attempt to do so shall be null and void.

6.6 Termination of Service Before Vesting; Forfeiture. Unless otherwise specified in the Award Agreement or otherwise subsequently determined by the Committee, unvested Shares held pursuant to a Restricted Stock Award and unvested RSUs held under an RSU Award shall be forfeited and canceled upon the termination of a Participant's employment or other service with the Company and its Subsidiaries.

6.7 Timing Requirement for Settlement of RSUs. Unless otherwise specified in the applicable Award Agreement, RSUs shall be settled in the form of Shares or cash (as determined by the Committee) as soon as practicable after the RSUs become vested but in no event later than the 15th day of the third month following the calendar year in which the vesting of such RSUs occurs. Notwithstanding the foregoing, the terms of an RSU Award may expressly provide that settlement of vested RSUs covered by the Award will be deferred until a later date or the occurrence of a subsequent event, provided that any such deferral provision complies with the election, distribution timing and other requirements of Section 409A.

6.8 Receipt of Shares. A Participant who holds Shares that become vested under a Restricted Stock Award or who holds RSUs that become vested (to the extent the vested RSUs are settled in Shares) will be entitled to receive such Shares, subject to the payment or satisfaction of applicable withholding taxes. Applicable withholding taxes shall be payable in cash or by any other method that may be permitted or required by the Committee in accordance with Section 11.1.

## **ARTICLE 7 OTHER FORMS OF AWARD**

7.1 Other Share-Based Awards. Subject to applicable law, the Committee, acting in its discretion, may grant such other forms of Award denominated or payable in, valued in whole or in part by reference to, or otherwise based upon or related to, Shares, including, without limitation, performance share awards, performance unit awards, stock bonus Awards, dividend equivalent Awards (either alone or in conjunction with other Awards), purchase rights for Shares, and Share-based Awards designed to comply with or take advantage of applicable laws outside of the United States. Each such Share-based Award will be made upon such vesting, forfeiture, performance and other terms and conditions as the Committee, acting in its discretion, may determine. The vesting or earn out period under any such Award may not be less than one year, except when such Awards are granted in connection with a Participant

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voluntarily giving up a contractual right to a cash bonus. Dividend equivalent awards made in conjunction with other Share-based Awards shall be subject to the same vesting and forfeiture conditions and the same payment terms of the corresponding Share-Based Awards and/or, if applicable, such different terms and conditions that may be required in order to comply with Section 409A. If and when a Share-based Award granted under this Section becomes payable, payment may be made in the form of cash, whole Shares or a combination of cash and whole Shares (as determined by the Committee), with a payment in Shares being based upon their Fair Market Value on the applicable vesting or payment date(s).

7.2 Cash Incentive Awards. The Committee may make annual and/or long-term Cash Incentive Awards pursuant to which a Participant may earn the right to receive a cash payment that is conditioned upon the achievement of a specified performance goal or goals established by the Committee and communicated to the Participant as soon as practicable after the beginning of the applicable performance period and the satisfaction of such other terms and conditions as the Committee may prescribe. A Cash Incentive Award will be payable in the form of a single sum cash payment on or as soon as practicable after the date the Award becomes earned and vested, but in no event later than the 15th day of the third month of the following calendar year. Notwithstanding the foregoing, the Committee may require or permit the deferred payment and/or installment payout of all or part of any such Cash Incentive Award if (and only if) the Award is exempt from Section 409A or, if not so exempt, the deferred payout complies with the applicable terms and conditions of Section 409A.

7.3 Termination of Service Before Vesting; Forfeiture. Unless otherwise specified in the Award Agreement or otherwise subsequently determined by the Committee, unearned and/or unvested Share-based Awards and Cash Incentive Awards granted under this Article shall be forfeited and canceled upon the termination of a Participant's employment or other service with the Company and its Subsidiaries.

7.4 Dividend Equivalents under Performance-Based Awards. Dividends or dividend equivalents, if any, paid or credited with respect to performance-based Awards will be subject to the same performance conditions as apply to the underlying Awards.

## **ARTICLE 8 PERFORMANCE-BASED EXEMPTION AWARDS**

8.1 Performance-Based Exemption--General. If the Committee intends that an Award should qualify for the Performance-Based Exemption (other than Options and SARs which otherwise qualify as "performance-based compensation" for purposes of Section 162(m) of the Code), then, except as otherwise permitted by Section 162(m) of the Code, the grant, exercise, vesting, amount and/or settlement of such Award shall be contingent upon achievement of one or more pre-established, objective performance goals, which shall be prescribed in writing by the Committee not later than 90 days after the commencement of the applicable performance period and in any event before completion of 25% of such performance period in accordance with the requirements of Section 162(m). Such performance goals shall be based on any one or more of the Performance Factors listed in Section 8.2 and may be expressed in absolute terms, relative to performance in prior periods and/or relative to performance of other companies or an index of other companies or on such other basis as the Committee, acting in a manner consistent with Section 162(m) of the Code, may determine. All determinations as to the establishment of performance goals, the amount of cash and/or the number of Shares that may be earned, the target level (and, if applicable, minimum and maximum levels) of actual achievement required as a condition of earning the Award, and the earned value of any Award intended to qualify for the Performance-Based Exemption shall be made by the Committee and shall be recorded in writing.

8.2 Performance Factors. Any one or more of the following Performance Factors may be used by the Committee in establishing performance goals for Awards intended to qualify for the Performance-Based Exemption, in each case taking into account such adjustments and other objective factors as the Committee may specify at the time the goal is established: (a) revenues on a corporate or product by product basis, gross profit or gross profit growth; (b) earnings from operations, earnings before or after taxes, earnings before or after interest, depreciation, amortization, incentives, service fees and/or extraordinary or special items; (c) net income or net income per share (basic or diluted); (d) return measures, including return on assets, return on investment, return on capital, total capital or tangible capital, return on sales or return on equity; (e) cash flow, free cash flow, cash flow return on investment, or net cash provided by operations; (f) economic value created or added; (g) operating margin or profit margin; (h)

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expense or cost targets; (i) objective measures of customer satisfaction; (j) working capital targets; (k) inventory control; (l) debt targets; (m) implementation, completion or attainment of measurable objectives with respect to store openings or closings, acquisitions and divestitures, and recruiting and maintaining personnel; and/or (n) share price (including, without limitation, growth measures, market capitalization and/or total stockholder return).

**8.3 Performance Goals.** In establishing performance goals with respect to an Award intended to qualify for the Performance Exemption, the applicable Performance Factors may be determined by reference to the Company's performance and/or the performance of any one or more Subsidiaries, divisions, business segments or business units of the Company and its Subsidiaries, and may be based upon comparisons of any of the indicators of performance relative to other companies (or subsidiaries, divisions, business segments or business units of other companies) or relevant indices. Subject to compliance with the Treasury regulations under Section 162(m) of the Code, the Committee may prescribe that performance goals under any such Award will be adjusted as necessary or appropriate in order to account for changes in law or accounting rules, principles or standards or to reflect the impact of extraordinary or unusual items, events or circumstances which, if not taken into account, would result in windfalls or hardships that are not consistent with the intent and purposes of the Award, including without limitation (a) restructurings, discontinued operations, extraordinary items, and other unusual or non-recurring charges, (b) an event either not directly related to the operations of the Company or not within the reasonable control of the Company's management, (c) acquisitions and divestitures, or (d) changes in generally accepted accounting principles.

**8.4 Discretion.** The Committee shall have the authority, in its discretion, to reduce the formula amount or number of Shares otherwise payable pursuant to an Award that is intended to qualify for the Performance-Based Exemption, but may not increase the amount or number of Shares that would otherwise be payable under any such Award; provided that, in the case of an Award intended to constitute a "share-based payment arrangement" under FASB ASC Topic 718, the Committee may exercise its discretion under this Section only if such discretion is expressly reserved as part of the original terms of the Award.

**8.5 Certification.** No amount shall be paid and no Shares shall be distributed or released pursuant to an Award intended to qualify for the Performance-Based Exemption unless and until the Committee certifies in writing the extent of achievement of the applicable performance goal(s) and the corresponding amount that is earned by the Participant under such Award.

## **ARTICLE 9 CHANGE IN CONTROL**

**9.1 Assumption or Substitution of Outstanding Awards.** If a "Change in Control" (as defined below) occurs, the parties to the Change in Control may agree that outstanding Awards shall be assumed by, or converted into a substitute award for or with respect to shares of common stock of, the successor or acquiring company (or a parent company thereof) on an economically equivalent basis. If the Change in Control does not involve an agreement with a third party, and if the Shares covered by an outstanding Award are still traded on a national securities exchange, then the Committee may unilaterally require that the Award be continued, assumed, converted or substituted in accordance with this Section. The vesting and other terms of any such assumed or substitute award shall be substantially the same as the vesting and other terms and conditions of the original Award, provided that (a) if the assumed or substituted Award is an Option or SAR, the number of shares and Exercise Price shall be adjusted in accordance with the principles set forth in Sections 1.424-1(a)(5) and 1.409A-1(b)(5)(v)(D) of the Treasury regulations, and (b) if the assumed or substituted Award is not an Option or SAR, the number of shares covered by the assumed or substitute Award will be based upon the Change in Control transaction value of the Company's outstanding Shares. If the original Award is subject to the satisfaction of performance conditions, then such performance conditions shall be deemed to have been satisfied immediately prior to the Change in Control at the greater of (x) the target performance level, or (y) the performance level that would have been attained if the rate or level of performance from the beginning of the performance period through the date of the Change in Control had continued at the same rate through the end of the performance period; provided that the Committee may in the applicable Award Agreement provide that the satisfaction of such performance conditions will be determined based on the actual performance level during the performance period through the date of the Change in Control. If reasonably feasible, the assumed or substituted Award will also provide the participant with an opportunity to earn any remaining portion of the Award (over and above the portion deemed to have been earned under the preceding sentence) based upon the achievement of a performance goal for the entire performance period that is similar in nature to the corresponding performance goal under the original terms of

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the Award. If, within two years following a Change in Control, a Participant's employment or other service terminates due to the Participant's death or is terminated by the Company or a successor or acquiring company (or any of its or their affiliates) without "Cause" or by the Participant for "Good Reason" (as such terms are defined below), any then outstanding assumed or substitute Awards held by such terminated Participant shall immediately be fully vested. Any outstanding assumed or substitute Options and SARs will remain outstanding for 180 days after such termination of employment (or, if earlier, until the expiration of their original stated terms).

9.2 Awards Not Assumed or Substituted. If a Change in Control occurs and an outstanding Award is not assumed, converted, substituted or continued pursuant to Section 9.1, then such Award will be deemed fully vested and any performance conditions applicable to such Award will be deemed to have been satisfied immediately prior to the Change in Control at the maximum performance level specified in the Award for purposes of determining the extent to which the Award is earned; provided that the Committee may in the applicable Award Agreement provide that the satisfaction of such performance conditions will be determined based on the actual performance level during the performance period through the date of the Change in Control. Each such Award shall be cancelled immediately prior to the effective time of the Change in Control in exchange for an amount equal to the per Share consideration received by the holders of outstanding Shares in the Change in Control transaction, reduced in the case of an Option or SAR by the Exercise Price for such Shares. No consideration will be payable in respect of the cancellation of an Option or SAR with an Exercise Price per Share that is equal to or greater than the value of the Change in Control transaction consideration per Share. The amount payable with respect to the cancellation of an outstanding Award pursuant to this section will be paid in cash, unless the parties to the Change in Control agree that some or all of such amount will be payable in the form of freely tradable shares of common stock of the successor or acquiring company (or a parent company thereof). Subject to Section 11.2, the payments contemplated by this Section 9.2 shall be made upon at or as soon as practicable following the effective time of the Change in Control. Notwithstanding the foregoing, the Committee, acting in its discretion, may prescribe different treatment of an Award in the circumstances governed by this Section, provided that the terms of such different treatment, together with a specific reference to this Section, are set forth in the applicable Award Agreement.

### 9.3 Certain Defined Terms.

(a) "Cause" means, with respect to any Participant and unless otherwise specified in the Participant's Award Agreement, (i) if there is an employment or other services agreement in effect between the Participant and the Company or a Subsidiary that defines the term "cause" (or a term of like import), the Participant's engaging in conduct that constitutes "cause" (or a term of like import) within the meaning of that agreement, or (ii) if there is no such employment or other services agreement in effect, "Cause" shall mean (1) a Participant's repeated failure or refusal to perform the duties of the Participant's employment, consistent with past practice and his or her position and title where such conduct shall not have ceased or been remedied within ten days following written warning from the Company specifying such conduct; (2) the Participant's conviction of, or entering a plea of guilty or no contest to, a felony; (3) the Participant's performance of any act or the Participant's failure to act, for which, if the Participant were prosecuted and convicted, a crime or offense involving money or property of the Company would have occurred; (4) the Participant's performance of any act or the Participant's failure to act which constitutes fraud or a breach of a fiduciary trust, including, without limitation, misappropriation of funds or a material misrepresentation of the Company's operating results or financial condition; (5) any attempt by the Participant to secure any personal profit (other than pursuant to the terms of the Participant's employment or through the Participant's ownership of equity in the Company) in connection with the business of the Company (for example, without limitation, using Company assets to pursue other interests, diverting to the Participant or to a third party any business opportunity belonging to the Company, insider trading or taking bribes or kickbacks); (6) the Participant's engagement in conduct or activities materially damaging to the property, business or reputation of the Company other than as a result of good faith performance of his duties; (7) the Participant's illegal use of controlled substances; (8) any act or omission by the Participant involving malfeasance or gross negligence in the performance of the duties of the Participant's employment to the material detriment of the Company; or (9) the entry of any order of a court that remains in effect and is not discharged for a period of at least sixty days, which enjoins or otherwise limits or restricts the performance by the Participant of the duties of the Participant's employment, relating to any contract, agreement or commitment made by or applicable to the Participant in favor of any former employer or any other person.

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(b) A “Change in Control” shall be deemed to have occurred upon the happening of any of the following events:

(i) any “person” as such term is used in Sections 13(d) and 14(d) of the Exchange Act (other than the Company, a subsidiary of the Company, any trustee or other fiduciary holding securities under any employee benefit plan of the Company or any corporation owned, directly or indirectly, by the stockholders of the Company in substantially the same proportions as their ownership of stock of the Company), is or becomes, including pursuant to a tender or exchange offer for shares of Common Stock pursuant to which purchases are made, the “beneficial owner” (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, of securities of the Company representing more than 50% of the combined voting power of the Company’s then outstanding securities, provided, however, that the provisions of this paragraph (a) shall not be applicable to any acquisition directly from the Company; or

(ii) individuals who, as of the date hereof, constitute the Board (the “Incumbent Board”), shall cease for any reason to constitute at least a majority thereof; provided, however, that any individual becoming a director subsequent to the date hereof whose appointment or election by the Board or nomination for election by the Company’s stockholders was approved or recommended by a vote of at least two-thirds (2/3) of the directors then still in office who were either directors on the date hereof, or whose appointment, election or nomination for election was previously so approved or recommended, shall be considered a member of the Incumbent Board, but excluding for this purpose any new director whose initial assumption of office is in connection with an actual or threatened election contest relating to the election of directors of the Company; or

(iii) there is consummated a merger or consolidation of the Company or any direct or indirect subsidiary of the Company with any other corporation, other than a merger or consolidation which would result in the voting securities of the Company outstanding immediately prior to such merger or consolidation continuing to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity or any parent thereof) more than 50% of the combined voting power of the securities of the Company or such surviving entity or any parent thereof outstanding immediately after such merger or consolidation; or

(iv) there is consummated a plan of complete liquidation or dissolution of the Company or there is consummated the sale or disposition by the Company of all or substantially all of the Company’s assets, in one transaction or a series of related transactions, other than a sale or disposition by the Company of all or substantially all of the Company’s assets to an entity, more than 50% of the combined voting power of the voting securities of which is owned by stockholders of the Company in substantially the same proportion as their ownership of the Company immediately prior to such sale.

(c) “Good Reason” shall have the meaning ascribed to that term (or a term of like import) in a Participant’s employment agreement or, if such term (or a term of like import) is not defined in the Participant’s employment agreement or there is no such agreement, then “Good Reason” shall mean any of the following events: (i) a material diminution of the Participant’s duties and responsibilities that result in a material adverse effect on the Participant’s status and authority, (ii) a change in the principal location of the Participant’s employment to a location more than fifty (50) miles outside of New York City or the Participant’s then current other business location, except for travel reasonably required as part of such employment, (iii) failure to timely pay the Participant any salary or bonus when due, or (iv) any reduction in (1) the Participant’s annual rate of salary from the highest annual rate of salary in effect during the one-year period prior to the date of the Change of Control, or (2) the amount of annual bonus paid to the Participant after the date of the Change in Control in light of the results of operations of the Company for that year compared to the bonus paid for the most recent fiscal year prior to the date of the Change of Control in light of the results of operations of the Company for that year. Notwithstanding the foregoing, in order to terminate for “Good Reason,” a Participant must specify in writing to the Company (or the successor or acquiring company or a parent thereof) the nature of the act or omission that the Participant deems to constitute Good Reason and provide the Company (or the successor or acquiring company or a parent thereof) 30 days after receipt of such notice to review and, if required, correct the situation (and thus prevent the Participant’s

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termination for Good Reason). Notice of termination for Good Reason must be provided, if at all, within 90 days after the occurrence of the event or condition giving rise to such termination.

9.4 No Fractional Shares. In the event of an adjustment in the number of shares covered by any Award pursuant to the provisions hereof, any fractional shares resulting from such adjustment shall be disregarded, and each converted Award shall cover only the number of full shares resulting from the adjustment.

## **ARTICLE 10 AMENDMENT AND TERMINATION**

10.1 Amendment and Termination of the Plan. The Board, acting in its sole discretion, may amend the Plan at any time and from time to time and may terminate the Plan at any time. Plan amendments will be subject to approval by the Company's stockholders if and to the extent such approval is required in order to satisfy applicable law and/or stock exchange listing rules. Unless sooner terminated, the Plan will terminate on the tenth anniversary of the date it is approved by the Company's stockholders (and the Plan will not become effective unless and until such approval is obtained).

10.2 Outstanding Awards. Except as specifically required or permitted by the Plan or an Award Agreement, no amendment of an Award Agreement, and no termination, amendment or modification of the Plan shall cause any then outstanding Award to be forfeited or altered in a way that adversely affects a Participant's rights, unless the Participant consents thereto. The rights of any person with respect to an Award that is outstanding at the time of the termination of the Plan shall not be affected solely by reason of such termination and shall continue in accordance with the terms of the Award and of the Plan, as each is then in effect or is thereafter amended.

## **ARTICLE 11 TAX WITHHOLDING; SECTION 409A**

11.1 Tax Withholding. Each Award and the exercise, vesting and settlement of each Award shall be subject to a Participant's payment or other satisfaction of any applicable withholding taxes. The Committee, in its sole discretion and pursuant to applicable law and such procedures as it may specify from time to time, may require or permit the Participant to satisfy the tax withholding obligation(s) relating to an Award (in whole or in part) by or through (a) the payment of cash by the Participant, (b) the Company's withholding cash or Shares that would otherwise be paid, issued or released pursuant to the Award, (c) the transfer to the Company of other Shares owned by the Participant, (d) a broker-assisted cashless exercise arrangement that complies with applicable law, and/or (e) by such other means as the Committee may determine. The amount of a Participant's withholding tax obligation that is satisfied in Shares (whether previously-owned or withheld from the Shares that would otherwise be issued or released) shall be based upon the Fair Market Value of the Shares on the date such Shares are delivered or withheld. If Shares are withheld for the payment of a Participant's taxes associated with an Award, the amount of tax covered by such Share withholding must be based upon a rate that is not less than the minimum applicable withholding rate and may be based upon a rate that does not exceed the maximum individual statutory tax rate in the Participant's applicable tax jurisdiction(s). For the avoidance of doubt, if a Participant's actual marginal tax rate is lower than the maximum applicable tax rate, the amount of Share-based withholding may be based upon the higher maximum tax rate.

11.2 Section 409A Compliance. It is intended that Awards made under the Plan, including any deferred payment or settlement terms and conditions, shall be exempt from or comply with Section 409A. Without limiting the generality of the preceding sentence and notwithstanding anything to the contrary contained herein, the following provisions shall apply with respect to an Award if and to the extent that such Award provides for the payment of "nonqualified deferred compensation" (within the meaning of Section 409A).

(a) If a Participant becomes entitled to payments (cash or Shares) under the Award on account of the "termination of the Participant's employment or other service" or words of like import, then such termination of employment or service will not be deemed to have occurred unless and until the Participant incurs a "separation from service" within the meaning of Section 409A.

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(b) If the Participant is a “specified employee” within the meaning of Section 409A at the time of his or her separation from service, then any such payment covered by Section 409A shall be delayed until the first business day following the earlier of (i) the date which is six months after the date of such separation from service, or (ii) the date of the Participant’s death. On the delayed payment date, the Participant (or the Participant’s beneficiary) will be entitled to receive a lump sum payment or distribution of the payments that otherwise would have been made during the period that such payments are delayed.

(c) If a payment covered by Section 409A would be accelerated on account of the occurrence of a “Change in Control,” then such payment shall not be made unless such Change in Control also constitutes a “change in ownership,” “change in effective control” or “change in ownership of a substantial portion of the Company’s assets” within the meaning of Section 409A. Any payment that would have been made except for the application of the preceding sentence shall be made in accordance with the payment or settlement schedule that would have applied under the Award in the absence of a Change in Control or, if earlier, on the date of the termination of the Participant’s employment or service (without regard to any further service or performance conditions that otherwise would have applied).

(d) Notwithstanding the foregoing, each Participant shall be solely responsible, and the Company shall have no liability to the Participant or otherwise, for or with respect to any taxes, acceleration of taxes, interest or penalties arising under Section 409A.

## **ARTICLE 12 MISCELLANEOUS**

12.1 Non-Transferability. Except as otherwise specifically permitted by the Plan or the applicable Award Agreement, no Award shall be assignable or transferable except upon the Participant’s death to his or her “beneficiary” (as defined below), and, during a Participant’s lifetime, an Option or SAR may be exercised only by the Participant or the Participant’s guardian or legal representative. Notwithstanding the foregoing, subject to the consent of the Committee (which it may grant, condition or deny in its sole discretion for any or no reason), a Participant may make an inter vivos transfer of an Option (other than an ISO), SAR or RSU to any “family member” (within the meaning of Item A(1)(a)(5) of the General Instructions to SEC Form S-8 or a successor), including, without limitation, to one or more trusts, partnerships, limited liability companies and other entities which qualify as family members, provided that such transfer is not a transfer for value or is a transfer for value that the Committee determines is for estate planning purposes, and provided further that such transfer is permitted by applicable law and does not give rise to tax under Section 409A. For the purposes hereof, a Participant’s “beneficiary” is any person or entity (including, without limitation, a trust or estate) designated in writing by a Participant to succeed to the Participant’s Award(s) upon the Participant’s death, subject to the provisions hereof and of the applicable Award Agreement(s). A Participant may designate a beneficiary by delivering a written beneficiary designation to the Committee (or its designee) in such form and in such manner as the Committee (or its designee) may prescribe. Each beneficiary designation duly filed with the Committee (or its designee) will have the effect of superseding and revoking any prior beneficiary designation. If a Participant does not designate a beneficiary, or if no designated beneficiary survives the Participant, then the Participant’s estate will be deemed to be his or her beneficiary. The term “Participant,” as used herein, shall be deemed to include the Participant’s beneficiary if and to the extent the context requires.

12.2 Successors. All obligations of the Company with respect to Awards granted under the Plan shall be binding on any successor to the Company of all or substantially all of the business and/or assets of the Company, whether the existence of such successor is the result of a direct or indirect purchase, merger, consolidation or otherwise, and the term “Company” as used herein shall be construed accordingly.

12.3 Legal Construction. If any provision of the Plan shall be held illegal or invalid for any reason, such illegality or invalidity shall not affect the remaining parts of the Plan, and the Plan shall be construed and enforced as if the illegal or invalid provision had not been included.

12.4 Compliance with Law. The granting of Awards and the issuance of Shares under the Plan shall be subject to all applicable laws, rules, and regulations, and to such approvals by any governmental agencies or national securities exchanges as may be required.

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12.5 Transfer Orders; Placement of Legends. All certificates for shares of Common Stock delivered under the Plan shall be subject to such stock-transfer orders and other restrictions as the Company may deem advisable under the rules, regulations, and other requirements of the Securities and Exchange Commission, any stock exchange or market upon which the Common Stock may then be listed, and any applicable federal or state securities law. The Company may cause a legend or legends to be placed on any such certificates to make appropriate reference to such restrictions.

12.6 Nonexclusivity of the Plan. No provision of the Plan, and neither its adoption Plan by the Board or submission to the stockholders for approval, shall be construed as creating any limitations on the power of the Board or a committee thereof to adopt such other incentive arrangements, apart from the Plan, as it may deem desirable.

12.7 Sub-Plans. The Committee may from time to time establish sub-plans under the Plan for purposes of satisfying securities, tax or other laws of any foreign jurisdictions that may apply to Participants who receive Awards. Any such sub-plan shall contain such limitations and other terms and conditions as the Committee determines are necessary or desirable for such purposes and shall be in such form (including, without limitation, as an appendix to the Plan) as the Committee deems appropriate. Each sub-plan shall be deemed a part of the Plan, but shall apply only to the Participants who are subject to the laws of the jurisdiction to which the sub-plan relates.

12.8 Uniformity Not Required. The provisions of the Award Agreements need not be uniform among all Awards, among all Awards of the same type, among all Awards granted to the same Participant, or among all Awards granted at the same time.

12.9 Claw Back Conditions. Notwithstanding anything to the contrary contained herein or in an Award Agreement, Awards and benefits otherwise provided by Awards made under the Plan shall be subject to the Company's incentive compensation claw back policies as in effect from time to time, and, as applicable, the claw back requirements of the Dodd-Frank Act Section 954.

12.10 Limitation of Rights. The Plan shall not interfere with or limit in any way the right of the Company or of any Subsidiary to terminate any person's employment or other service at any time, and the Plan shall not confer upon any person the right to continue in the employ or other service of the Company or any Subsidiary. No employee, director or other person shall have any right to be selected to receive an Award or, having been so selected, to be selected to receive a future Award.

12.11 Decisions and Determinations Final. All decisions and determinations made by the Board pursuant to the provisions hereof and, except to the extent rights or powers under the Plan are reserved specifically to the discretion of the Board, all decisions and determinations made by the Committee in connection with the exercise of its authority and responsibilities under the Plan (including, without limitation, decisions and determinations relating to the construction, interpretation and administration of the Plan or any Award), shall be final, binding and conclusive on all persons.

12.12 Governing Law. The Plan and all Award Agreements shall be construed in accordance with and governed by the laws of the State of Delaware (without regard to the legislative or judicial conflict of laws rules of any state).

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