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*Proposed Co-Counsel for Debtors in Possession*

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION**

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In re: )  
 ) Chapter 11  
GYMBOREE GROUP, INC., *et al.*,<sup>1</sup> )  
 ) Case No. 19-30258(KLP)  
 )  
Debtors. ) (Joint Administration Requested)  
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**DECLARATION OF STEPHEN COULOMBE, CHIEF  
RESTRUCTURING OFFICER OF GYMBOREE GROUP, INC.,  
IN SUPPORT OF CHAPTER 11 PETITIONS AND FIRST DAY MOTIONS**

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I, Stephen Coulombe, hereby declare under penalty of perjury:

1. I am a Managing Director at Berkeley Research Group, LLC (“BRG”) and currently serve as the Chief Restructuring Officer of Gymboree Group Inc. (“GGI” and together with the

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<sup>1</sup> The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: Gymboree Group, Inc. (6587); Gymboree Intermediate Corporation (1473); Gymboree Holding Corporation (0315); Gymboree Wholesale, Inc. (6588); Gym-Mark, Inc. (6459); Gymboree Operations, Inc. (6463); Gymboree Distribution, Inc. (8669); Gymboree Manufacturing, Inc. (6464); Gymboree Retail Stores, LLC (6461); Gym-Card, LLC (5720); and Gymboree Island, LLC (1215). The Debtors’ service address is 71 Stevenson Street, Suite 2200, San Francisco, California 94105.

other above-captioned debtors in possession, the “Debtors” and, together with their non-Debtor affiliates, “Gymboree”).<sup>2</sup>

2. Since joining BRG in 2016, I have been a Managing Director in BRG’s Corporate Finance practice. I have approximately 21 years of experience serving as a financial advisor and providing performance improvement services to corporations, creditor groups, equity owners, and directors of underperforming companies. In particular, I have significant experience assisting distressed retail companies with day-to-day management activities, including development of business plans, cash flow management, and implementation of liquidity and cost saving strategies, including store closing. My prior retail restructuring experience includes advisory roles in such chapter 11 cases as *In re Brookstone Holdings Corp.*, No. 18-11780 (Bankr. D. Del. 2018); *In re rue21, inc.*, No. 17-22045 (Bankr. W.D. Pa. 2018); *In re Michigan Sporting Goods Distributors, Inc.*, No. 17-00612 (Bankr. W.D. Mich. 2017); *In re Sports Authority Holdings, Inc.*, No.16-10527 (Bankr. D. Del. 2016); *In re Quiksilver, Inc.*, No. 15-11880 (Bankr. D. Del. 2015); and *In re Radioshack Corporation*, No. 15-10197 (Bank. D. Del. 2015).

3. In October 2018, the Debtors retained BRG to assist in the evaluation of their operations, cost structures, intercompany services, and potential strategic or restructuring transactions. I have overseen the team of BRG professionals that has been working with the Debtors in connection with this process.

4. On December 17, 2018, the Board of Directors of Gymboree Holding Corporation appointed me as the Chief Restructuring Officer of GGI (which performs nearly all of the Debtors’ corporate functions and houses its executive leadership team) to make decisions with respect to

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<sup>2</sup> A corporate organizational chart is attached hereto as Exhibit A.

certain aspects of the management and operation of the Debtors' business and to perform certain professional services.

5. On January 16, 2018 (the "Petition Date"), each Debtor filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (as amended, the "Bankruptcy Code"). To minimize the adverse effects of the filing, simultaneously therewith, the Debtors filed a number of motions seeking various types of "first day" relief (collectively, the "First Day Motions"). I submit this Declaration to assist the Court and all parties in interest in understanding the circumstances compelling the commencement of these cases and in support of the Debtors' chapter 11 petitions and the relief sought in the First Day Motions.

6. I am familiar with the Debtors' day-to-day operations, business and financial affairs, and books and records. Except as otherwise indicated herein, all facts set forth in this Declaration are based upon my personal knowledge, input by the Debtors' management team and advisors, including the BRG team working under my supervision, my review of relevant documents and information concerning the Debtors' operations, financial affairs, and restructuring initiatives, or my opinions based on my experience and knowledge.

7. I am over the age of 18 and authorized to submit this declaration on behalf of the Debtors. If called upon to testify, I could and would testify competently to the facts set forth herein.

### **Preliminary Statement**

8. In 2017, the Debtors believed that the fresh start given to their predecessors-in-interest in their bankruptcy cases (the "Prior Cases") positioned the Debtors to service their debt and invest in their business. But the unanticipated degree of decline of the brick-and-mortar retail industry, among other factors, has made it increasingly difficult for the Debtors to support their cost and capital structure. The combination of declining profitability and general market

uncertainty has hampered the Debtors' ability to sustain their funded debt burden and to commit the capital necessary for investing in their operations. Poorer-than-expected product sales led to deep in-store merchandise discounting, which in turn led to thinner profit margins.

9. In an attempt to address their liquidity issues, prior to the commencement of these cases, the Debtors conducted a comprehensive strategic review of their retail operations and store profile. As a result of this review, in early December 2018, the Debtors announced their intention to close Crazy 8® store locations and significantly reduce the number of Gymboree® store locations in 2019.

10. The Debtors also attempted to raise new financing and offer all of their assets for sale, either individually or as an entire going concern. The Debtors, with the assistance of their advisors, explored a number of strategic alternatives and solicited bids for a number of potential transactions, including, among others: (a) a recapitalization of the "wholeco," (b) a sale of the Gymboree® brand assets, and (c) a sale of the Janie and Jack® brand assets. Unfortunately, the Debtors were unable to obtain any firm offers to finance, purchase, or recapitalize the "wholeco" business or the Gymboree® and Crazy 8® brands on a going concern basis.

11. The Debtors have obtained a credit bid (the "Stalking Horse Bid") from Special Situations Investing Group, Inc. ("SSIG") (as the prepetition Term Loan Lender, as defined below) for their Janie and Jack® business and Gymboree® intellectual property and e-commerce platform (collectively, the "SSIG Assets"). The Stalking Horse Bid is in the amount of \$85 million of the Term Loan Facility (as defined below) or any portion thereof "rolled" into the DIP Facility. The terms of the Stalking Horse Bid allow the Debtors to solicit higher or better bids for the SSIG Assets and contains no bid protections, which encourages other potential bidders in the Auction for Debtors' Sale Assets (as defined below).

12. In addition, the Debtors intend to enter into an agency agreement (“Agency Agreement”) with the Agents (as defined below) whereby the Agents will conduct going out of business sales (“GOB Sales”) at the Debtors’ Gymboree® and Crazy 8® stores (including their online stores). Additionally, consistent with the bidding procedures, the Agents will initiate “managed promotion” sales at Janie and Jack® stores and, in the event that the Stalking Horse Bid is the best bid for the SSIG Assets, the Stalking Horse Bidder may elect to allow the Agents to transition into conducting going out of business sales at the Janie and Jack® stores as well.

13. To finance the Auction process and pay for the administration of these cases, the Debtors have obtained a proposed debtor-in-possession financing (“DIP Facility”) of \$30 million in new money loans to be provided by the prepetition Term Loan Lenders and/or their affiliates and a “roll-up” of all of Debtors’ obligations under the prepetition Term Loan Credit Agreement, in an amount not less than \$89 million. The Debtors believe the liquidity provided by the DIP Facility will enable the Debtors to complete the asset sale and GOB Sales in a manner that maximizes recoveries for the Debtors’ estates and stakeholders.

14. To familiarize the Court with the Debtors, their business, the circumstances leading to these cases, and the relief the Debtors are seeking in the First Day Motions, I have organized this Declaration into five sections. The *first* section provides an overview of the Debtors’ historic business operations and brands. The *second* section provides information on the Debtors’ corporate history and events leading to the filing of these cases.<sup>3</sup> The *third* section offers detailed information on the Debtors’ prepetition capital structure. The *fourth* section describes the

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<sup>3</sup> Many of the financial figures presented in this Declaration are unaudited and potentially subject to change, but reflect the Debtors’ most recent review of their business. These figures may be later revised or supplemented.

Debtors' proposed DIP Facility and GOB Sales. Finally, the *fifth* section summarizes the relief requested in, and the legal and factual bases supporting, the First Day Motions.

### **I. Business Operations & Brands**

15. The Debtors own a portfolio of three high quality children's clothing and accessories brands, Gymboree®, Janie and Jack® and Crazy 8®, each offering a different product line with a distinct brand identity and targeted product offering. As of the Petition Date, the Debtors (i) operate 945 specialty retail stores throughout the United States and Canada, each dedicated to one of the three brands (including non-debtor affiliates);<sup>4</sup> (ii) wholesale their brands; and (iii) franchise stores in international markets in the Middle East and Latin America.

16. Launched in 1986, the Gymboree® line provides customers with coordinated style and value on everyday wear for kids ages 0 to 14. The Gymboree® line is available across 380 stores and 154 outlet stores in North America, accounting for approximately 59% of the Debtors' revenue. The Gymboree® line competes with other specialty retailers, including Macy's, The Gap, Children's Place, Carters, and TJMaxx.

17. Launched in 2002, the Janie and Jack® line offers dressy to dressed-up casual playwear with distinct quality, design, and detail, sold in a boutique-like environment. Janie and Jack® is the Debtors' highest-end brand. Janie and Jack® operates a total of 102 stores and 45 outlets in North America, accounting for approximately 18% of the Debtors' revenue. Janie and Jack® is comparable to other high-end retailers, such as Nordstrom, Ralph Lauren, and J. Crew,

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<sup>4</sup> Contemporaneously with the commencement of these chapter 11 cases, the Debtors are filing a Notice of Intention to Make a Proposal pursuant to Section 50.4 of the *Bankruptcy and Insolvency Act* (Canada) (the "BIA") was filed for the Debtors' wholly-owned subsidiary, Gymboree, Inc., a corporation formed under the *Business Corporations Act* (New Brunswick), SNB 1981, c. B-9 ("Gymboree Canada"), with the Ontario Superior Court of Justice, in order to initiate a court-supervised wind down of the operations of Gymboree Canada. As of the Petition Date, Gymboree Canada operated a total of 49 retail store locations throughout Canada.

and has a target demographic of families with one to two kids, who value unique details in children's clothing and are willing to spend more for quality and design.

18. Crazy 8®, the newest member of the Gymboree family of brands, provides apparel at a price points lower than the Gymboree® line. Crazy 8® operates a total of 253 stores and 11 outlets in North America, accounting for 22% of revenue in 2017.

19. GGI houses the Debtors' executive functions and performs other corporate functions, such as human resources, information technology, finance, accounting, tax, treasury and legal departments. The Debtors' other administrative and operational functions, including store operations, lease administration and marketing, are performed by Gymboree Operations, Inc. The Debtors' wholesaling and international franchising operations are conducted by Gymboree Wholesale, Inc. The Debtors' gift card and certificates programs are operated by Gym-Card, Inc.

20. The Debtors own significant intellectual property in the United States and Canada used in connection with manufacturing product and branding the brick and mortar and online stores. As of the Petition Date, Gym-Mark, Inc. is responsible for managing and administering the Debtors' intellectual property portfolio. The Stalking Horse Bid provides for the acquisition of all of the Debtors' intellectual property, other than the intellectual property related solely to the Crazy 8® brand.

## **II. Corporate History & Circumstances and Events Leading to These Cases**

21. In 1986, the first Gymboree retail store opened in California, and in 1997, [www.Gymboree.com](http://www.Gymboree.com) was launched. Around the same time, Gymboree commenced an initial public offering and its common stock began to trade publicly. Gymboree continued to grow throughout the 2000s, generating strong sales that continued through the post-recession period.

22. In October 2010, following a competitive bidding process, Gymboree was acquired by Bain Capital Private Equity, LP and certain of its affiliated investment funds and investment

vehicles for approximately \$1.8 billion, including approximately \$524 million in equity. Post-acquisition, Gymboree initiated an expansion of its brands into China, South Korea, Australia, and parts of Latin America to increase its global footprint and overtake its major competitors. Gymboree expanded to approximately 1,300 company-operated stores and outlets globally, including more than 750 Gymboree® and outlet stores, 378 Crazy 8® stores and 150 Janie and Jack® stores, supported by approximately 11,000 full and part-time employees enterprise-wide. In 2016, Gymboree began wholesaling (*i.e.*, selling inventory in bulk quantities) their brands to larger merchants, beginning with the Gymboree® and Crazy 8® lines.

**A. The Prior Cases**

23. Gymboree faced a competitive retail environment made more challenging by a shift away from traditional shopping at brick and mortar stores towards a more online-centric platform. With an underdeveloped online presence relative to its peers, increasing competition, and too little foot traffic in its retail stores to justify the size of its footprint, Gymboree's inability to achieve anticipated growth, coupled with a highly leveraged balance sheet, resulted in mounting losses and dwindling liquidity.

24. As a result, by the second quarter of 2017, Gymboree concluded that it needed to close a large number of underperforming stores, restructure its balance sheet, and bring in significant new capital. Thus, Gymboree determined to pursue a pre-negotiated plan of reorganization that was to be implemented through a chapter 11 process.

25. Having negotiated the material terms of the proposed reorganization, on June 11, 2017, Gymboree commenced the Prior Cases in this Court.<sup>5</sup> On September 7, 2017, the Court

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<sup>5</sup> The Prior Cases were jointly administered under the caption *In re The Gymboree Corporation, et al.*, No. 17-32986 (KLP) (Bankr. E.D. Va. 2017). On January 19, 2018, all of the Prior Cases, other than the case of The Gymboree Corporation, were closed.



confirmed the *Amended Joint Chapter 11 Plan of Reorganization of The Gymboree Corporation and its Debtor Affiliates*, No. 17-32986 (KLP) [ECF No. 583] (Bankr. E.D. Va. 2017) (as supplemented, the “2017 Plan”). The 2017 Plan became effective on September 29, 2017 (the “2017 Plan Effective Date”).

26. Pursuant to the 2017 Plan, (i) \$171 million of Gymboree’s then-outstanding unsecured notes were cancelled, (ii) approximately \$770 million of Gymboree’s then-outstanding funded debt (including a portion of debt that was rolled into debtor-in-possession financing during the Prior Cases) was converted into equity of the reorganized Gymboree; (iii) \$80 million of new capital was raised through a rights offering; and (iv) Gymboree obtained exit financing comprised of (a) the \$200 million ABL Facility (as defined below) and (b) the \$85 Term Loan Facility (as defined below).

**B. Events Subsequent to the 2017 Plan Effective Date**

27. Gymboree emerged from the Prior Cases with a substantially less leveraged capital structure and significantly reduced store count. Gymboree worked diligently throughout late 2017 and 2018 to identify and implement steps to further improve its financial performance. Those steps included the introduction of new marketing programs and ongoing efforts to either improve performance at, or close and exit, newly identified underperforming store locations. Since the 2017 Plan Effective Date, Gymboree has closed additional stores, including all stores in South Korea and Australia, bringing its retail footprint to the current operating count of approximately 945 retail stores (excluding franchisees).

28. Nevertheless, Gymboree continued to face significant operational challenges that persisted after emergence from the Prior Cases. The brick and mortar retail children’s clothing industry has remained highly competitive. Gymboree has faced competition from direct competitors, such as Children’s Place and the Gap, and indirect competition from discount stores,

internet retailers, and big-box retailers that sell clothing at increasingly cheaper prices. Furthermore, the industry-wide trend of commerce moving to online channels has resulted in shrinking in-store profit margins and declining profitability, as well as a larger-than-expected decline in Gymboree's retail sales volumes in brick and mortar stores. Gymboree's comparable store sales are in decline. Similarly, Gymboree's wholesale platform, which facilitates the sale of large quantities of merchandise to bulk retailer, has performed below expectations. Net retail sales during the nine months ended November 3, 2018 decreased to approximately \$573 million from approximately \$785 million during the nine months ended October 28, 2017, a decrease of \$212 million, or approximately 27.0%.

29. In addition to depressed sales, changing customer tastes and a merchandising strategy that did not timely achieve its expected results necessitated discounting across all channels (including online), making it increasingly difficult for the Debtors to support their cost and capital structure. Gymboree's gross profits deteriorated from approximately \$274 million for the nine months ended October 28, 2017 to approximately \$171 million for the nine months ended November 3, 2018. As a percentage of net sales, gross profits during the nine months ended November 3, 2018 decreased to 29.8% from 34.8% during the nine months ended October 28, 2017, driven primarily by clearance sales.

30. Despite the balance sheet deleveraging and store closings under the 2017 Plan,<sup>6</sup> throughout 2018, Gymboree incurred significant losses from operations. The decline in revenue and rise in merchandising costs outpaced Gymboree's ability to reduce its fixed cost structure composed largely of store rent, labor costs, and corporate general and administrative expense.

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<sup>6</sup> In connection with the Prior Cases, Gymboree closed and liquidated approximately 330 stores, with the closures mainly spread across the Gymboree® and Crazy 8® branded stores.

Selling, general and administrative expenses (“SG&A”) decreased to approximately \$277 million during the nine months ended November 3, 2018 compared to approximately \$337 million during the nine months ended October 28, 2017. As a percentage of net sales, SG&A during the nine-month period ended November 3, 2018 increased to 48.3% from 42.9% during the nine months ended October 28, 2017, driven primarily by deleveraging of expenses on lower sales and increased marketing and other expenses for the relaunch of the Gymboree® and Crazy 8® brands. By the beginning of the fourth quarter of 2018, Gymboree determined that more than half of its store locations were operating at a negative cash flow. Operating loss for the nine-month period ended November 3, 2018 was \$106 million compared with an operating loss of \$64 million for the nine months ended October 28, 2017.

**C. Exploration of Strategic Alternatives**

31. In October 2018, the Debtors retained Stifel, Nicolaus & Co., Inc. and its affiliate Miller Buckfire & Co., LLC (together, “Stifel”), as investment banker, and BRG, as restructuring and financial advisor, to join its legal advisor, Milbank, Tweed, Hadley & McCloy LLP, in exploring strategic alternatives. Together, the Debtors and their advisors analyzed the Debtors’ capital structure and potential sources of liquidity to enable the operational changes necessary to reduce the burdensome operational costs associated with their brick and mortar footprint, including various restructuring and recapitalization options.

32. The Debtors commenced a detailed review of their brand and real estate portfolio to identify underperforming assets as part of an overall strategy to reduce and optimize their existing operations. On December 4, 2018, Gymboree issued a press release announcing that it had initiated a comprehensive review of strategic options for each of its brands, including potential sales or other transactions at the brand level.

33. On December 17, 2018, the Board of Directors of Gymboree Holding Corporation formed a special restructuring committee (the “Restructuring Committee”) to explore strategic and/or financial alternatives including the ability to explore and evaluate potential restructuring transactions with third parties and the Debtors’ existing stakeholders. The Restructuring Committee consists of independent directors Eugene I. Davis, who was appointed as Chair of the Restructuring Committee, and Scott D. Vogel, who were appointed to the Board on December 17, 2018.

### **III. The Debtors’ Prepetition Capital Structure**

34. As of the Petition Date, the Debtors have approximately \$212 million in total funded debt obligations, consisting of approximately \$79.1 million under the senior secured asset-based revolving credit facility (the “ABL Facility”), approximately \$44.5 million of outstanding letters of credit under the ABL Facility, and approximately \$89 million in aggregate obligations outstanding under the Debtors’ senior secured term loan (the “Term Loan Facility”).

#### **A. ABL Facility**

35. GGI, as lead borrower, certain other Debtors, as borrowers, Gymboree Intermediate Corporation, as guarantor (all of the foregoing, the “ABL Obligors”), the lenders party thereto (the “ABL Lenders”), and Bank of America, N.A., as administrative and collateral agent (in such capacities, the “ABL Agent”), are parties to that certain Amended and Restated Credit Agreement, dated as of September 29, 2017 (as amended, restated, supplemented, or otherwise modified from time to time, the “ABL Credit Agreement”). The ABL Credit Agreement provides for a senior secured revolving credit facility, with a maximum availability of \$200 million, subject to a borrowing base (and as reduced by the level of outstanding letters of credit). As of the Petition Date, the aggregate borrowing base (*i.e.*, the effective maximum availability) was approximately \$200 million. As of the Petition Date, approximately \$79.1 million in borrowings and

approximately \$44.5 million of letters of credit are outstanding under the ABL Facility. Undrawn availability under the ABL Facility is \$76.4 million.

36. The ABL Obligors' obligations under the ABL Facility are secured, subject to certain exceptions, by a first priority lien on certain of the Debtors' assets, including, without limitation, accounts receivable (including credit card receivables), inventory, cash and cash equivalents, as well as proceeds of all of the foregoing (the "ABL Priority Collateral"), and a second priority lien on the Debtors' equipment, fixtures, real property and certain other personal property, including the Debtors' intellectual property, investment property and commercial tort claims, as well as proceeds of the foregoing (the "Term Loan Priority Collateral").

**B. Term Loan**

37. On September 29, 2017, GGI, as lead borrower, certain other Debtors, as borrowers, Gymboree Intermediate Corporation, as guarantor (all of the foregoing, "Term Loan Obligors"), the lenders party thereto (the "Term Loan Lenders" and, together with the ABL Lenders, the "Prepetition Lenders"), and Goldman Sachs Specialty Lending Group, L.P., as administrative and collateral agent (in such capacities, the "Term Loan Agent" and, together with the ABL Agent, the "Prepetition Agents" and, together with the Prepetition Lenders, the "Prepetition Secured Parties") entered into that certain Credit Agreement (as amended, restated, supplemented, or otherwise modified from time to time, the "Term Loan Credit Agreement" and, together with the ABL Credit Agreement, the "Prepetition Loan Agreements"). As of the Petition Date, approximately \$89 million in aggregate obligations remained outstanding under the Term Loan Facility.

38. The Term Loan Obligors' obligations under the Term Loan Facility are secured by a first-priority lien on the Term Loan Priority Collateral and a second priority lien on the ABL Priority Collateral.

**C. Intercreditor Agreement.**

39. The relationship and the relative payment and lien priorities among the Prepetition Secured Parties is governed by that certain Intercreditor Agreement, dated as of September 29, 2017, by and between the Prepetition Agents (the “Intercreditor Agreement”), and that certain Intercreditor Agreement, dated as of January [ ], 2019, by and between the Prepetition Agents.

**IV. The Proposed DIP Financing and Going Out of Business Sales**

**A. Proposed DIP Financing**

40. In the lead-up to these Cases, the Debtors’ liquidity position has become increasingly constrained and the Debtors lack sufficient funds to continue their operations in the ordinary course. Indeed, without a meaningful infusion of funds, the Debtors would be unable to conduct an orderly sale process or conduct an orderly liquidation process. Accordingly, in late in 2018 the Debtors’ advisors began the process of soliciting potential financiers to provide financing. These financing discussions included seeking providers of debtor-in-possession financing to fulfill the Debtors’ near-term cash needs, bridge to the Auction, and fund these cases through consummation of the GOB Sales. The Debtors and their advisors have conducted an exhaustive month-long process to identify interested financiers and negotiate appropriate DIP Financing. A detailed summary of the solicitation and marketing process is set forth in the Doak Declaration<sup>7</sup> filed along with the DIP Motion.

41. By the DIP Motion<sup>8</sup> filed on the date hereof, the Debtors seek the authority to enter into the DIP Facility, which consists of \$30 million in new money loans to be provided by the

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<sup>7</sup> The Declaration of James Doak in Support of the Debtors’ (I) Motion for Entry of Interim and Final Orders Authorizing them to Obtain Postpetition Financing and (II) Motion for Entry of Orders Approving Bidding Procedures is referred to herein as the “Doak Declaration.”

<sup>8</sup> The Debtors’ Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to Obtain Postpetition Financing, (II) Authorizing the Debtors to Use Cash Collateral, (III) Granting Liens and Providing Superpriority Administrative Expense Status to the Postpetition Lenders, (IV) Granting Adequate Protection to the Prepetition

prepetition Term Loan Lenders and/or their affiliates and a “roll up” of all of Debtors’ obligations under the prepetition Term Loan Credit Agreement, in an amount not less than \$89 million.

42. Loans under the DIP Facility will bear interest at 8.25% on Class A DIP Loans and LIBOR plus 11.25% on Class B New Money DIP Loans (each as defined in the DIP Motion) and will be secured by substantially all the same assets that secure the Debtors’ indebtedness under the Prepetition Loan Agreements. Although the DIP Facility contains a tight budget and variances, I believe that the liquidity provided thereunder will be a sufficient to runway to fund these cases and bridge to the Auction and going out of business sales. In reviewing the terms of the DIP Facility, I prepared the budget attached to the DIP Motion at Exhibit C.

43. As detailed in the Doak Declaration, the proposed DIP Facility is (a) the product of arm’s length negotiations, (b) the best available DIP Financing option for the Debtors, and (c) in the best interests of the Debtors and their estates. For these and other reasons set forth in the DIP Motion and the Doak Declaration, the DIP Motion should be approved.

**B. Going Out of Business Sales**

44. Prior to the Petition Date, the Debtors, with the assistance of their advisors, engaged in an extensive review of their businesses and evaluated whether there were improvements they could make to bring their retail Stores to profitability. This process resulted in the Debtors’ decision to close of all of their Gymboree® and Crazy 8® stores through the commencement of immediate going out of business sales. Given the continuing interest in the Debtors’ Janie and Jack® brand as a going concern, Janie and Jack® stores will continue to operate as the Debtors’

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*Lenders, (V) Modifying the Automatic Stay, (VI) Scheduling a Final Hearing, and (VII) Granting Related Relief is referred to in this Declaration as the “DIP Motion.”*

sale process for the brand moves forward but may also shift to a liquidation depending on the outcome of that effort.

45. Accordingly, the Debtors and their advisors conducted an extensive evaluation process for selecting a Agents to serve as the Debtors' exclusive independent agent in connection with conducting a going out of business sale (the "GOB Sales") of certain inventory and furniture, fixtures and equipment (the "Store Closure Assets") at all remaining Gymboree® store and outlet store locations and Crazy 8® stores (the "Stores"), as well as to implement the Store Closing Procedures (defined below). The GOB Sales are expected to yield approximately \$155 million in net proceeds.

46. The Debtors' evaluation process included, among other things, a formal request for proposals from potential Agents, provision of equal access to diligence information through a virtual data room, reference calls, and standard requirements for the submission of recovery assumptions, forecasts and analysis.

47. Given prevailing market dynamics, several candidates who might normally submit a stand-alone proposal are already engaged to conduct liquidation sales of other retailers, such as Sears and Toys "R" Us. As a result, there were very few Agents with the experience and expertise to execute the Sales within the short timeframe envisioned in these cases who elected to submit a proposal. Under the circumstances, based on their extensive evaluation, the Debtors, in consultation with their advisors, determined that a joint venture composed of Great American Group, LLC, Tiger Capital Group, LLC, Gordon Brothers Retail Partners, LLC, and Hilco Merchant Resources, LLC (and for purposes of liquidating the stores of the Debtors' Canadian affiliates, such entities' respective Canadian affiliates) (collectively, the "Agents") provided the



best and most competitive proposal and was the best Agents to assist with the Store closings and Sales.

48. Accordingly, the Debtors and the Agents entered into the Agency Agreement attached to the Store Closing Motion (defined below), which will govern the terms of the Agents' engagement. I was personally involved in negotiations with the Agents regarding the terms and conditions of the Agency Agreement and I believe that they were conducted in good faith, and at arm's-length. I also believe that the Debtors' entry into the Agency Agreement was a sound exercise of the Debtors' reasonable business judgment and in the best interests of their estates.

49. Given the number of Stores that need to be simultaneously closed, only national Agents, such as the Agents, with significant experience with large-scale liquidations can ensure a smooth liquidation process that will avoid delays and minimize the Debtors' costs. The Agency Agreement will enable the Debtors to use the logistical capabilities, experience, skills, and resources of the Agents to effectively and efficiently conduct the Sales. The Debtors expect that the GOB Sales and Store closings will continue through approximately April 2019.

50. The Agency Agreement generally provides that the Agents will, among other things: (a) provide the Debtors with qualified supervisors to oversee the management of the Sales and Store closings; (b) determine appropriate point-of-sale and external advertising for the Sales and Store closings; (c) determine appropriate discounts of merchandise, staffing levels for the Sales and Store closings, and appropriate bonus and incentive programs, if any, for the Store employees; (d) oversee display of merchandise for the Sales and Store closings; (e) evaluate sales of merchandise by category, provide sales reporting and monitor expenses; (f) maintain the confidentiality of all proprietary or non-public information regarding the Debtors in accordance with the provisions of the confidentiality agreement signed by the parties; (g) assist the Debtors in

connection with managing and controlling loss prevention and employee relations matters; and (h) provide such other related services deemed necessary or appropriate by the Debtors and Agents. The Agency Agreement and a high-level summary of the principal terms thereof are included in the Store Closing Motion.

51. Under the terms of the Agency Agreement, the Agents will pay to the Debtors approximately \$155 million in cash. In addition, the Agents will be responsible for all direct costs and expenses of operating the Stores and conducting the Store Closings, including all Store level operating expenses. As assignee of the Debtors' Merchandise and furniture, fixtures and equipment ("FF&E") in closing stores, the Agents will be entitled to keep gross proceeds from the Sales, subject to a formula set forth in the Agency Agreement, net of applicable sales taxes.

52. Based on my experience with liquidation agents and liquidation agency agreements approved in other retail chapter 11 cases, I believe the terms of the Agency Agreement are reasonable and market based. Based on my experience with other retail chapter 11 debtors, I believe that implementing the store closing procedures and conducting the going out of business and/or managed promotion sales at the Debtors' stores in a manner proposed in the Store Closing Motion (collectively, the "Store Closing Procedures") will provide the best and most efficient means for the Debtors to maximize the value of the Store Closure Assets.

53. Further, delay in consummating the GOB Sales and Store closings would diminish the recovery tied to monetization of the Store Closure Assets for a number of reasons. The Stores fail to generate positive cash flow and therefore are a drain on liquidity. Thus, the Debtors will realize an immediate liquidity benefit upon assumption of the Agency Agreement because, in addition to an upfront payment, the Agents will pay substantially all Store level expenses during the Sales, including rental payments. Moreover, the swift and orderly commencement of the Sales

will allow the Debtors to timely reject the applicable Store leases, and therefore avoid the accrual of unnecessary administrative expenses for rent payment. Delaying the Store closings may cause the Debtors to pay postpetition rent at many of these stores, at a possible cost to the estate of approximately \$3 million per month. In the event the Debtors are forced to wait to assume the Agency Agreement, they will not have sufficient liquidity to fund these cases. Furthermore, the proposed DIP Financing is predicated in part on the Debtors' completion of the Store closings in the contemplated timeframe. In short, the longer the delay in initiating the Sales, the more difficult it will be for the Debtors to preserve asset value.

54. Accordingly, I believe the relief requested in the Store Closing Motion is necessary and represents the most efficient and appropriate means of maximizing the value of the Store Closure Assets, while balancing the potentially competing concerns of landlords and other parties in interest.

**V. Evidentiary Support for Other First Day Motions<sup>9</sup>**

55. Contemporaneously herewith, the Debtors have filed a number of First Day Motions seeking orders granting various forms of relief necessary to facilitate the efficient administration of these cases. I am familiar with the contents of each First Day Motion and believe that the relief sought in each First Day Motion: (i) is necessary to enable the Debtors to operate in chapter 11 with minimal disruption; (ii) constitutes a critical element in maximizing the value of the Debtors' estates; and (iii) best serves the Debtors' estates' and creditors' interests. The facts set forth in each First Day Motion are incorporated herein by reference.

**A. *Debtors' Motion for Entry of an Order Approving The Form and Manner of Notice of Commencement of the Chapter 11 Cases (the "Commencement Notice Motion")***

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<sup>9</sup> Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the respective First Day Motions.

56. In the Commencement Notice Motion, the Debtors request entry of an order approving the form and manner by which they will give notice to all known creditors and certain other parties in interest that they have filed these chapter 11 cases. Further, the Debtors seek authority for their proposed claims and noticing agent, Prime Clerk LLC (“Prime Clerk”), to serve the approved form of the notice of commencement on or about three business days following the date of entry of the order approving the Commencement Notice Motion.

**B. *Debtors’ Motion for Entry of an Order (I) Directing Joint Administration of Chapter 11 Cases and (II) Granting Related Relief (the “Joint Administration Motion”)***

57. In the Joint Administration Motion, the Debtors seek entry of an order directing the joint administration of their chapter 11 cases for procedural purposes only and granting certain related relief, including authority to file monthly operating reports on a consolidated basis. Given the integrated nature of the Debtors’ operations, I believe that the joint administration of these cases will provide significant administrative convenience and cost savings to the Debtors without harming the substantive rights of any party in interest. Joint administration will also allow parties in interest to monitor these cases with greater ease and efficiency.

58. Given that many of the motions, hearings, and orders in these cases will affect each Debtor, the entry of an order directing joint administration of these cases should reduce costs by avoiding duplicative filings and objections that would be required absent such relief, as well as ease the administrative burdens on the Court by allowing the Debtors’ cases to be administered as a single joint proceeding instead of eleven independent chapter 11 cases. Accordingly, on behalf of the Debtors, I respectfully submit that the Joint Administration Motion should be approved.

**C. *Debtors’ Motion For Entry of an Order (I) Establishing Certain Notice, Case Management, and Administrative Procedures and (II) Granting Related Relief (the “Case Management Procedures Motion”)***

59. In the Case Management Procedures Motion, the Debtors seek entry of an order establishing certain noticing, case management, and administrative procedures (collectively, the “Case Management Procedures”), and granting certain related relief, including, among other things: (a) directing that matters requiring notice under Bankruptcy Rule 2002(a)(2)-(6) will be served only to individuals and entities identified on a shortened mailing list and those creditors who, in accordance with Local Bankruptcy Rules 2002-1 and 9013-1(M), file with the Court a request that they receive notices pursuant to Bankruptcy Rule 2002; (b) allowing electronic service of all documents (except complaints and summonses) for the 2002 List; and (c) directing that all matters be heard at periodic omnibus hearings to be scheduled in advance by the Court.

60. I believe that the establishment of the Case Management Procedures will promote the efficient and orderly administration of these cases, thus providing significant administrative convenience and cost savings for the Debtors.

**D. *Debtors’ Motion for Entry of an Order (I) Extending Time to File Schedules and Statements, (II) Authorizing Them to File Consolidated Lists of (A) Creditors in Lieu of Submitting a Mailing Matrix for Each Debtor and (B) Fifty Largest Unsecured Creditors, and (III) Granting Related Relief (the “Creditor Matrix, SOFAs, and Schedules Motion”)***

61. Pursuant to the Creditor Matrix, SOFAs, and Schedules Motion, the Debtors seek entry of an order: (a) extending the deadline by which the Debtors must file their schedules of assets and liabilities, schedules of current income and expenditures, schedules of executory contracts and unexpired leases, and statements of financial affairs (collectively, the “Schedules and Statements”) by thirty days, for a total of forty-four days from the Petition Date, without prejudice to the Debtors’ ability to request additional extensions for cause; (b) authorizing the Debtors to file a consolidated list of creditors in lieu of submitting a separate mailing matrix for each Debtor; (c) authorizing the Debtors to file a consolidated list of their fifty largest unsecured creditors; and (d) granting certain related relief.

62. To prepare the Schedules and Statements, the Debtors must compile information from books, records, and documents relating to claims of hundreds of creditors, as well as the Debtors' many assets, contracts, and leases. This information is voluminous and located in numerous places throughout the Debtors' organization and systems. Collecting the necessary information requires an enormous expenditure of time and effort on the part of the Debtors, their employees, and their professional advisors in the near term, when I believe these resources would be best used to maximize the value of the Debtors' estates.

63. Although the Debtors, with the assistance of their professional advisors, are mobilizing their employees to work diligently and expeditiously on preparing the Schedules and Statements, their resources are strained and limited. Given the amount of work entailed in completing the Schedules and Statements and the competing demands on the Debtors' employees and professionals during the initial postpetition period, the Debtors likely will not be able to properly complete the Schedules and Statements within the required time period without diverting employees from necessary value-conserving tasks.

64. Given the integrated nature of the Debtors' internal systems, I believe that filing a consolidated creditor matrix (and consolidated list of rather than a list of their 50 largest general unsecured creditors) on a debtor-by-debtor basis, will help alleviate administrative burdens and prevent the Debtors' estates from incurring unnecessary costs associated with serving multiple notices to the parties listed on voluminous creditor matrices.

65. Accordingly, on behalf of the Debtors, I respectfully submit that the Court should approve the Creditor Matrix, SOFAs, and Schedules Motion.

**E. *Debtors' Application for Entry of an Order (I) Authorizing the Debtors to Employ and Retain Prime Clerk LLC as Claims and Noticing Agent, Effective Nunc Pro Tunc To The Petition Date and (II) Granting Related Relief (the "Claims and Noticing Agent Application")*.**

66. In the Claims and Noticing Agent Application, the Debtors seek entry of an order appointing Prime Clerk as their Claims and Noticing Agent in these cases, effective *nunc pro tunc* to the Petition Date to, among other tasks, assume full responsibility for the distribution of notices and the maintenance, processing and docketing of proofs of claim filed against the Debtors, on the terms, and subject to the conditions, of the Prime Clerk engagement agreement.

67. The Debtors anticipate that they will need to provide notices to thousands of persons and entities in these cases. In light of the number of parties in interest, I believe that the appointment of a claims and noticing agent will provide the most effective and efficient means of, and relieve the Debtors and/or the Clerk's office of the administrative burden of noticing, and processing proofs of claim and is, thus, in the best interests of both the Debtors' estates and their creditors.

68. It is my understanding that, based on all proposals considered by the Debtors from claims and noticing agents, Prime Clerk's rates are competitive and reasonable given its expertise, and that Prime Clerk served as claims and noticing agent in the Prior Cases. Based on my discussions with Gymboree's advisors, I believe that the Debtors' selection of Prime Clerk to act as the Claims and Noticing Agent is appropriate under the circumstances and in the best interest of the estates.

69. Accordingly, on behalf of the Debtors, I respectfully submit that the Court should approve the Claims and Noticing Agent Application.

**F. *Debtors' Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Continue to Operate Their Cash Management System, (B) Maintain Existing Bank Accounts, and (C) Perform Intercompany Transactions, (II) Granting A Waiver of (A) the Requirements of Section 345(b) of the Bankruptcy Code and (B) Certain of the U.S. Trustee's Operating Guidelines, (III) Scheduling a Hearing to Consider Entry of a Final Order, and (IV) Granting Related Relief (the "Cash Management Motion")***

70. Pursuant to the Cash Management Motion, the Debtors seek entry of interim and final orders: (a) authorizing the Debtors to (i) continue to operate their Cash Management System, (ii) maintain existing Bank Accounts, and (iii) continue to engage in Intercompany Transactions, (b) granting a waiver of (i) certain requirements of section 345(b) of the Bankruptcy Code and (ii) certain of the U.S. Trustee's Operating Guidelines, and (c) granting certain related relief.

71. The Debtors' Cash Management System is typical of multi-store retail operations and comparable to the centralized cash management systems used by other similarly sized retail companies to manage the cash flow of operating units in a cost-effective, efficient manner. The Debtors use their Cash Management System to transfer and distribute funds and to facilitate cash monitoring, forecasting, and reporting.

72. The Cash Management System includes approximately [ninety-six] bank accounts maintained by the Debtors and their non-Debtor affiliates held at [twenty-one] banks. Fifty-four of the Bank Accounts held by these Cash Management Banks are store-level deposit accounts (the "Store Level Accounts"), which receive deposits from stores throughout the week and are regularly swept into one of three brand-specific zero-balance accounts maintained by the Debtors at Bank of America, N.A. ("Bank of America"). Every day, all funds in these three accounts are automatically swept to the main concentration account in the name of Debtor GGI at Bank of America.

73. Of the twenty-one Cash Management Banks, ten are designated as authorized depositories under the U.S. Trustee Guidelines. The remaining eleven Cash Management Banks, 10 of which are banks holding only Store Level Accounts, are not authorized depositories. Of the 10 banks holding Store Level Accounts that are not authorized depositories, each bank is FDIC insured and maintains a balance of under \$25,000, well below FDIC coverage. Given that the



Store Level Accounts receive physical deposits from 681 of the Debtors' stores across North America, these banks must be located near to these stores. If the Debtors are not permitted to maintain these Store Level Accounts with the current depositories, they will have to locate new banks with branches accessible from each store (which may require employees to travel longer distances carrying cash deposits), which I believe will create additional operational and administrative burdens and expenses.

74. The remaining Cash Management Bank that is not an authorized depository is Bank of America, which is the Debtors' Prepetition ABL Agent and whose accounts sit at the center of the Debtors' cash management program. I believe that transferring the Debtors' accounts away from Bank of America would be time-consuming and disruptive to the Debtors' operations. Given that Bank of America's long-term deposit obligations are rated Aa3 by Moody's, A+ by Standard & Poor's, and AA by Fitch, I believe that the risks of maintaining the Debtors' accounts with Bank of America (even though it is not an authorized depository) are far outweighed by the benefits of maintaining cash management system in place.

75. Historically, the Debtors have paid approximately \$150,000 in service fees to the Cash Management Banks each month, depending on transaction volume. The Debtors estimate that approximately \$210,000 in prepetition Bank Fees have accrued and are payable as of the Petition Date. The Debtors estimate that cash collections average approximately \$75 million per month, including store cash receipts, credit card receipts, partner shop payments, and e-commerce sales. In addition, the Debtors estimate that total disbursements will range between \$80 million and \$100 million per month during the pendency of these cases.

76. The cash collections and disbursements described above are facilitated by transfers among the Debtors in the ordinary course of business. The Debtors' treasury department oversees

the cash collection and disbursements and maintains records of any payments made among the Debtors, as well as among the Debtors and their non-Debtor affiliates. These payments result in the daily creation of intercompany receivables and payables. The Intercompany Claims are reflected as journal entry receivables and payables, as applicable, in the respective Debtors' accounting systems. The Debtors track all fund transfers through their accounting system and can ascertain, trace, and account for all Intercompany Transactions at any given time. If the Intercompany Transactions were to be discontinued, the Cash Management System and the Debtors' ordinary course operations would be disrupted to the detriment of the Debtors' estates and their creditors.

77. To avoid disruption of the Cash Management System and unnecessary expense, the Debtors request a waiver of the U.S. Trustee Guidelines with respect to marking their checks with a "Debtor-in-Possession" or "DIP" stamp, and that they be authorized to continue to use their checks existing immediately before the Petition Date, without reference to their status as debtors in possession. If the Debtors exhaust their existing supply of checks during these cases, the Debtors will order checks with the designation "Debtor in Possession" and the corresponding bankruptcy case number.

78. The Cash Management System is a complex, international, and large ecosystem that allows the Debtors to efficiently manage their funds for the benefit of their estates. Further, the Cash Management Banks are well-capitalized and safe institutions, and the Debtors, working with their advisors, have designed safeguards to ensure the funds in the Cash Management System are protected. Should the Debtors be forced to adjust the Cash Management System to comply with the letter of section 345(b) of the Bankruptcy Code, I believe they would incur needless costs, and subject a fragile business to further disruption and uncertainty.

79. I believe that the relief requested in the Cash Management Motion is essential to the continued operation of the Debtors' business and denial of such relief would severely disrupt, the Debtors' businesses. Therefore, I believe that the relief requested in the Cash Management Motion is in the best interests of the Debtors' estates, their creditors, and all other parties in interest. Accordingly, on behalf of the Debtors, I respectfully submit that the Court should approve the Cash Management Motion.

**G. *Debtors' Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Pay Prepetition Wages, Salaries, Other Compensation, and Reimbursable Expenses and (B) Continue Employee Benefits Programs, and (II) Granting Related Relief (the "Wages Motion")***

80. Pursuant to the Wages Motion, the Debtors seek entry of interim and final orders authorizing the Debtors to (a) pay prepetition and postpetition wages, salaries, other compensation, and reimbursable expenses on account of the Employee Compensation and Benefits Programs in the ordinary course of business and (b) continue, in their discretion, to administer certain Employee Compensation and Benefits Programs.

81. The Debtors employ approximately 10,100 individuals on a full- and part-time basis. Approximately 9,600 Employees are paid on an hourly basis, and approximately 530 Employees earn a salary. None of the Employees are represented by a union. In addition to the Employees, the Debtors also periodically retain Temporary Workers for the performance of certain specialized services, such as information technology, on either a short- and long-term basis, sourced from various staffing agencies. Without the continued, uninterrupted services of their Employees and Temporary Workers, the Debtors' assets and operations will be threatened.

82. I believe that the vast majority of Employees rely exclusively on the Employee Compensation and Benefits Programs to pay their daily living expenses and support their families. Thus, Employees will be exposed to significant financial consequences if the Debtors are not

permitted to continue the Employee Compensation and Benefits Programs in the ordinary course of business, and as such I believe that the relief requested is necessary and appropriate.

83. The Debtors are seeking the authority to pay and honor certain prepetition claims relating to the Employee Compensation and Benefits Programs and to continue certain Employee Compensation and Benefits Programs postpetition, in their discretion, as described in more detail in the Wages Motion. The Wages Motion seeks relief with respect to, among other things, wages, salaries, other compensation; expense reimbursement, certain incentive programs; payroll services, federal and state withholding taxes and other withheld amounts; health insurance, including, medical, dental, vision, and disability; retirement benefits; workers' compensation benefits; paid time off; life and accidental death and dismemberment insurance; short- and long-term disability coverage; and other benefits that the Debtors have historically directly or indirectly provided to the Employees in the ordinary course of business and as further described in the Wages Motion. I understand that, as of the Petition Date, no Employee is individually owed cash Employee Compensation on account of prepetition wages, employee incentive programs, or severance, in excess of \$12,850. I also understand that the Wages Motion does not seek relief to pay "insiders" (as the term is defined in section 101(31) of the Bankruptcy Code) in excess of \$12,850 on account of prepetition obligations during the Interim Period. However, I understand that the Wage Motion does seek authority to pay non-insider Employees in excess of \$12,850 to the extent an obligation to pay FTO to such Employee arises postpetition and would result in the aggregate payment to such Employee exceeding \$12,850.

84. I believe that the Employees provide the Debtors with services necessary to conduct the Debtors' business, which is essential to preserving the value of the Debtors' assets. Absent payment of prepetition obligations on account of the Employee Compensation and Benefits

Programs owed to the Employees and the continuation of certain of the Employee Compensation and Benefits Programs postpetition, the Debtors may experience significant employee turnover and instability at this critical juncture. I understand that applicable state and local laws specify when certain portions of Employee Compensation and Benefits are required to be paid by the Debtors. I believe that the failure to pay these amounts in accordance with these applicable laws will cause additional disruption and may cause departures of Employees critical to preserving the value of the estates.

85. I therefore believe that the relief sought in the Wages Motion is a necessary and critical element of the Debtors' efforts to preserve value and will give the Debtors the greatest likelihood of retention of the Employees under the circumstances. Therefore, I believe that the relief requested in the Wages Motion inures to the benefit of all parties in interest. Accordingly, on behalf of the Debtors, I respectfully submit that the Court should approve the Wages Motion.

**H. *Debtors' Motion for Entry of Interim and Final Orders (I) Authorizing Them to (A) Continue and Renew Their Insurance Policies and Honor Obligations Thereunder; (B) Continue and Renew Their Prepetition Insurance Premium Financing Agreements; and (C) Continue Surety Bond Programs, and (II) Granting Related Relief (the "Insurance Motion")***

86. In the Insurance Motion, the Debtors seek entry of interim and final orders authorizing them to: (a) continue insurance coverage entered into prepetition and satisfy payment of prepetition obligations related thereto in the ordinary course of business and renew, supplement, or purchase insurance coverage in the Debtors' discretion on a postpetition basis, (b) continue performance under prepetition insurance premium financing agreements and renew, supplement, or enter into insurance premium financing agreements in the Debtors' discretion on a postpetition basis, (c) continue and renew their surety bond program on an uninterrupted basis, and (d) granting certain related relief.

87. In the ordinary course of business, the Debtors maintain approximately thirty-five Insurance Policies that are administered by various third-party insurance carriers. These Insurance Policies provide coverage for, among other things, the Debtors' property, general liability, automobile liability, workers' compensation, umbrella coverage, excess liability, pollution liability, executive protection, commercial crime, special risk, cyber liability, cargo and marine cargo liability, foreign voluntary compensation, employers' liability, and directors' and officers' liability. The aggregate annual premium on account of the Insurance Policies is approximately \$3.2 million. On February 1, 2019, approximately \$163,000 will become due on direct premiums on account of certain Insurance Policies. In addition, the Debtors' contract with Gallagher Basset, a third-party claims administrator, for assistance in managing the portfolio of general liability claims asserted against the Debtors. The Debtors estimate that, as of the Petition Date, approximately \$7,000 is outstanding on account of prepetition obligations to Gallagher Basset Services, Inc., all of which will become payable within the first twenty-one days of these cases.

88. The Debtors obtain the majority of their Insurance Policies through their insurance broker, Marsh USA Inc. ("Marsh"). Marsh is the broker of record with respect to the Debtors' fiduciary, commercial and special crime, and directors' and officers' insurance policies. As of the Petition Date, the Debtors believe that they owe approximately \$1,000 to Marsh on account of prepetition obligations.

89. Several of the Insurance Policies are financed through the Premium Financing Agreements. As of the Petition Date, the Debtors estimate that approximately \$212,000 on account of the Premium Financing Agreements will come due during the first twenty-one days of these cases. The Debtors seek authority, on an interim basis, subject to entry of the Final Order, to pay such amounts as they come due.

90. The Debtors are also required to provide surety bonds to certain third parties to secure the Debtors' payment or performance of certain obligations in the ordinary course of business. These bonds include general customs bonds and Importer Security Filing single transaction bonds with the United States Customs and Border Protection Agency, which are necessary for the Debtors to continue importing goods sold in stores. The Debtors contract with Southwest Marine & General Insurance Company and Atlantic Specialty Insurance Company to provide the requisite surety bonds, which total approximately \$20.1 million. As of the Petition Date, the Debtors do not believe that they owe any amounts on account of annual premiums.

91. Continuation and renewal of the Insurance Policies and Surety Bond Program is essential to preserving the value of the Debtors' business, properties, and assets. Moreover, in many cases, I believe that the coverage provided by the Insurance Policies is required by the regulations, laws, and contracts that govern the Debtors' commercial activities, including the requirements of the Bankruptcy Code and the U.S. Trustee. Therefore, I believe that the relief requested in the Insurance Motion is in the best interests of the Debtors' estates, their creditors, and all other parties in interest, and will enable the Debtors to continue to operate their business in chapter 11 without disruption. Accordingly, on behalf of the Debtors, I respectfully submit that the Court should approve the Insurance Motion.

**I. *Debtors' Motion for Entry of Interim and Final Orders (I) Authorizing the Payment of Certain Taxes and Fees and (II) Granting Related Relief (the "Taxes Motion")***

92. Pursuant to the Taxes Motion, the Debtors seek entry of interim and final orders authorizing them to make payment and remittance of taxes and fees that accrued prior to the Petition Date and that will become payable during the pendency of these cases and granting certain related relief.

93. In the ordinary course of business, the Debtors collect, withhold, and incur sales, use, withholding, income, franchise, and property taxes, and miscellaneous taxes and regulatory fees as more fully described in the Taxes Motion, and occasionally are the subject of audit investigations on account of prior year tax returns. The Debtors estimate that approximately \$8.9 million in taxes and fees relating to the prepetition period are due and payable or will become due and payable after the Petition Date. I understand that the Debtors' failure to pay prepetition taxes and fees could materially disrupt their operations in several ways, and may cause the authorities to take precipitous action, including, but not limited to, attempting to suspend the Debtors' operations, filing liens, seeking to lift the automatic stay, or pursuing other remedies that will harm the Debtors' estates. Furthermore, unpaid taxes and fees may result in penalties, the accrual of interest, or both

94. I believe that the relief requested in the Taxes Motion is in the best interests of the Debtors' estates, their creditors, and all other parties in interest, and will enable the Debtors to continue to operate their business in chapter 11 without disruption. Accordingly, on behalf of the Debtors, I respectfully submit that the Court should approve the Taxes Motion.

**J. *Debtors' Motion for Entry of Interim and Final Orders (I) Approving the Debtors' Proposed Adequate Assurance of Payment for Future Utility Services, (II) Prohibiting Utility Companies from Altering, Refusing, or Discontinuing Services, (III) Approving the Debtors' Proposed Procedures for Resolving Additional Assurance Requests, and (IV) Granting Related Relief (the "Utilities Motion")***

95. Pursuant to the Utilities Motion, the Debtors seek entry of interim and final orders: (a) approving the Debtors' Proposed Adequate Assurance of payment for future utility services, (b) prohibiting Utility Companies from altering, refusing, or discontinuing services, (c) approving the Debtors' proposed procedures for resolving Additional Assurance Requests, and (d) granting certain related relief.



96. In the ordinary course, the Debtors obtain electricity, natural gas, propane, telecommunications, water, waste management (including sewer and trash), internet, cable, and other similar services from a number of third-party utility companies or brokers. On average, the Debtors pay approximately \$1.1 million each month for third-party Utility Services, calculated as a historical average payment for the twelve-month period ended November 30, 2018. Accordingly, the Debtors estimate that their cost for Utility Services during the next 30 days (not including any deposits to be paid) will be approximately \$1.1 million.

97. The Debtors have provided certain of the Utility Companies with cash deposits, escrow agreements, or letters of credit, and estimate that the amount currently held as deposits or prepayments with respect to the Utility Companies is approximately \$416,118. To provide additional assurance of payment, the Debtors propose to deposit \$410,375 into a segregated account, which is an amount sufficient to cover one half of the Debtors' average monthly cost of Utility Services, calculated as a historical average payment for the twelve-month period ended November 30, 2018, less the amount of Prepetition Deposits held by the Utility Companies. The Adequate Assurance Deposit will be held by the Debtors, and the Debtors' creditors will have no lien on any Adequate Assurance Deposit to the extent not returned to the Debtors pursuant to the terms set forth in the Order or the Adequate Assurance Account.

98. The Debtors also request approval of their proposed Adequate Assurance Procedures. These procedures will allow Utility Companies to request additional adequate assurance where they believe it is required while allowing the Debtors to administer their chapter 11 estates with as little interruption to the Utility Services as possible, and ensure that all key stakeholder groups obtain notice of such request before it is honored.

99. In addition, the Debtors seek authority to continue honoring in the ordinary course of business certain non-technical utility-related obligations that are paid directly to their Landlords.

100. Preserving Utility Services on an uninterrupted basis is essential to the Debtors' ability to conduct going out of business and managed promotion sales as well as to maintain their operations through the sale process. Indeed, because the Debtors operate a customer-facing retail enterprise and the Debtors' business depends upon having an ability to maintain open and active stores, any interruption in Utility Services, even for a brief period of time, would disrupt the Debtors' ability to continue its operations. I believe this disruption could seriously jeopardize the Debtors' efforts to maximize the value of their estates and creditor recoveries. It is critical, therefore, that Utility Services continue uninterrupted during these cases. Accordingly, on behalf of the Debtors, I respectfully submit that the Court should approve the Utilities Motion.

**K. *Debtors' Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to Pay Prepetition Claims of Shippers, Warehousemen and Contractors and Import/Export Charges, and (II) Granting Related Relief (the "Lien Claimants Motion")***

101. Pursuant to the Lien Claimants Motion, the Debtors seek entry of interim and final orders (a) authorizing, but not directing, the Debtors to pay (i) all claims owing to certain shippers, warehousemen, and contractors and (ii) certain import and export charges, and (b) granting certain related relief.

**1. Delivery of Merchandise to the Debtors' Stores**

102. The Debtors' business depends on the uninterrupted flow of inventory and other goods through its supply chain and distribution network, including the purchase, importation, storage, and shipment of inventory and related materials. Historically, the Debtors have designed their Merchandise in-house and contracted with various foreign manufacturers, located predominantly in Asia, to produce and manufacture the Merchandise in accordance with the

Debtors' design specifications. Generally, the Foreign Vendors ship Merchandise to the Debtors "freight on board". Under an FOB arrangement, I understand that title passes to the Debtors when the Merchandise is loaded for shipment to the United States. The Debtors pay common or contract carriers, freight forwarders, and customs brokers to transport the Merchandise from Asia.

103. The Merchandise is typically delivered to the Debtors' distribution center in Dixon, California, which is leased from Dixon Vaughn Holdings LLC. A small amount of Merchandise is also delivered directly to the Debtors' retail stores. The Merchandise is generally then shipped to the Debtors' retail stores or web customers but in certain situations may be first shipped to a warehouse operated by North Bay Distribution, Inc.. In certain situations, the Debtors purchase Merchandise from domestic vendors. In these instances, the Debtors pay the Shippers to transport Merchandise from the Domestic Vendor's facility to the Warehouse or directly to the Debtors' stores. Title passes to the Debtors when the Merchandise is either loaded for transportation at the Domestic Vendor's facility or upon delivery.

104. The flow of Merchandise from the Vendors to (a) stock the Debtors' stores, (b) fulfill online orders, or (c) fulfill the orders of the Debtors' wholesalers (both domestic and foreign) and foreign franchisees, depends on the uninterrupted services provided by the Vendors, Shippers, and Warehousemen, all of which may refuse to release the Merchandise in their possession if they are not paid.

105. The Debtors estimate that approximately \$4.1 million is due and owing as of the Petition Date to the Shippers and Warehousemen, of which approximately \$3.3 million may become due and owing before the Final Order is entered.

106. Under certain laws, I understand that the Shippers and Warehousemen may assert liens on the Merchandise in their possession to secure payment. Accordingly, in the event the

Shippers and Warehousemen are not paid, I believe that they are likely to assert such possessory liens, and may refuse to deliver or release the Merchandise in their possession until their claims are satisfied. Such retention of the Merchandise would disrupt the Debtors' operations and affect their ability to maximize the value of their assets during these cases.

## **2. Contractors**

107. Additionally, the Debtors employ various service providers to assist with on-site repairs at their corporate headquarters and stores. The Contractors do not provide their services under formal, written contracts, but rather perform work on an order-by-order basis.

108. The Debtors are concerned that, if the Contractors currently performing services at any of the Debtors' locations do not get paid, they may walk off the sites, leaving such services unfinished, which may severely disrupt the Debtors' operations at these locations and may result in safety hazards. At certain locations the Debtors' landlords restrict the pool of Contractors that they may utilize to perform such critical services. The Debtors seek authority to pay up to \$1.1 million in prepetition amounts owing the Contractors to ensure that they are able to resolve any safety hazards and prevent conditions from causing damage to their property. I believe that the cost of such disruption would likely be greater than the sums the Debtors are seeking authority to pay.

## **2. The Import/Export Charges**

109. In the ordinary course of their businesses, the Debtors import Merchandise from the Foreign Vendors. The Debtors also export inventory to foreign countries, including inventory to be sold in the Debtors' non-Debtor affiliate's stores located in Canada. Timely receipt or transmittal, as applicable, of the Imported Goods and Exported Goods is critical to both the Debtors' domestic and foreign business operations.

110. In connection with the import and export of goods, the Debtors are required to pay various charges, including customs duties, detention and demurrage fees, tariffs and excise taxes, freight forwarding, and similar obligations. I believe that any disruption or delay in the Debtors' operations would adversely affect the Debtors' ability to maximize the value of their assets during these cases. The Debtors pay approximately \$59 million annually on account of the Import/Export Charges.

111. If the Debtors fail to timely pay the Import/Export Charges, I believe that the parties to whom the Debtors owe these amounts may interfere with the transportation of the Imported Goods or Exported Goods. For example, I understand that the United States Customs and Border Protection has the statutory right to refuse to release the Imported and Exported Goods from its warehouses, charge significant fines for every day that the Debtors' goods are thus detained, and assert a lien against Debtors' goods. The value of such goods to the Debtors (both in terms of maintaining and maximizing the value of their assets) is far greater than the aggregate amount of the Import/Export Charges that may have been incurred but unpaid as of the Petition Date.

112. The Debtors estimate that approximately \$3.1 million in Import/Export Charges is outstanding as of the Petition Date, all of which may become payable before the Final Order is entered.

**L. *Debtors' Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to Pay Certain Prepetition Claims of Critical Services Providers and (II) Granting Related Relief (the "Critical Services Providers Motion")***

113. Pursuant to the Critical Services Providers Motion, the Debtors seek entry of interim and final orders: (a) authorizing, but not directing, the Debtors to pay, in the ordinary course of business, all undisputed, liquidated, prepetition amounts owing on account of claims held by providers of certain critical services; and (b) granting certain related relief.

114. In the ordinary course of business, the Debtors and their non-debtor affiliates rely on a limited number of providers of services necessary to carry out critical corporate, in-store, and web-based functions throughout the Debtors' organization (the "Critical Services Providers"). Among other services, the Critical Services Providers provide information and technology services, and web marketing services that the Debtors require to maintain their ordinary course operations and preserve the value of their assets.

115. With the assistance of their advisors, the Debtors have spent considerable time reviewing and analyzing their books and records, consulting with personnel responsible for operations, reviewing contracts, and analyzing applicable laws, regulations, and historical practice to identify providers of those services whose loss would materially impair the value of the Debtors' assets. The Debtors considered a variety of factors, including:

- whether a service provider is a sole- or limited-source provider of services critical to the Debtors' operations;
- whether alternative service providers are available that can provide requisite services on equal (or better) terms and, if so, whether the Debtors would be able to continue operating while transitioning business thereto;
- the degree to which replacement costs (including pricing, professional fees, and lost revenue) exceed the amount of a provider's prepetition claim;
- whether an agreement exists under which the Debtors could compel a provider to continue performing on prepetition terms; and
- whether failure to pay all or part of a particular provider's claim could cause the provider to refuse to provide critical services postpetition.

116. As a result of this process, the Debtors have identified the Critical Services Providers whose identities will have been disclosed to the Court and the Office of the United States Trustee for the Eastern District of Virginia. The Debtors do not seek authorization to honor prepetition obligations to the Critical Services Providers, except where the Debtors determine, in their business judgment, that such parties may discontinue their services notwithstanding section

362(a) of the Bankruptcy Code or may otherwise inflict immediate and irreparable harm on the Debtors by refusal to comply with their contractual obligations.

117. The Debtors are concerned that, unless they are in a position to pay outstanding prepetition claims of these Critical Services Providers, the Debtors will be unable to ensure the uninterrupted receipt of such services during these cases, which will jeopardize the Debtors' ability to maintain their operations and preserve the value of their assets. To the extent the Debtors identify any additional Critical Services Providers, they will disclose their identities to the Court, the U.S. Trustee, and to the Official Committee of Unsecured Creditors once one is appointed in these cases.

118. In exchange for paying prepetition claims of the Critical Services Providers, the Debtors will require the Critical Services Providers to continue providing favorable terms consistent with past practices postpetition.

**M. *Debtors' Motion for Entry of An Order (I) Authorizing the Debtors to Maintain and Administer Their Existing Customer Programs and Honor Certain Prepetition Obligations Related Thereto and (II) Granting Related Relief (the "Customer Programs Motion")***

119. Pursuant to the Customer Programs Motion, the Debtors seek entry of an order authorizing the Debtors to maintain and administer certain customer-related programs and honor certain prepetition obligations related thereto. The Customer Programs promote customer satisfaction and inure to the goodwill of the Debtors' business and the value of their assets. These programs include refund and exchange programs, rewards programs, referral programs, gift card and merchandise credit programs, and other sale promotions.

120. In addition to cash, the Debtors accept certain forms of non-cash payment from customers at in-store and online points of sale. The Debtors' continued acceptance of such non-cash payments is essential to the operation of the Debtors' business because the majority of the

Debtors' sales are made using non-cash payments. Declining to accept non-cash payments would have a severe negative effect on the Debtors' business. To avoid disrupting the payment processing services associated with acceptance of non-cash payments, the Debtors seek authority to continue paying processing fees and chargebacks in the ordinary course of their business.

121. I believe that continuing to administer the Customer Programs without interruption will help preserve the value of the Debtors' assets, which is necessary to maximize the value of their estates for the benefit of all stakeholders. Accordingly, I believe that the relief requested in the Customer Programs Motion inures to the benefit of all parties in interest and, on behalf of the Debtors, I respectfully submit that the Court should approve the Customer Programs Motion.

**N. *Debtors' Motion for Entry of Interim and Final Orders (I) Approving Notification and Hearing Procedures for Certain Transfers of and Declarations of Worthlessness with Respect to Common Stock, and (II) Granting Related Relief (the "Trading Motion")***

122. Pursuant to the Trading Motion, the Debtors seek entry of interim and final orders (a) approving certain notification and hearing procedures related to certain transfers of, or declarations of worthlessness with respect to, Debtor Gymboree Holding Corporation's common stock ("Common Stock") or any Beneficial Ownership (as defined therein) therein (the "Stock Transfer Procedures"), (b) directing that any purchase, sale, other transfer of, or declaration of worthlessness with respect to Common Stock or any Beneficial Ownership therein in violation of the Stock Transfer Procedures shall be null and void ab initio, and (c) granting certain related relief.

123. I understand that the Debtors have accrued a significant amount of federal and state net operating losses through their most recent tax year ending February 3, 2018. Specifically, the Debtors currently estimate that they have approximately \$69 million of federal NOL carryforwards. In addition, the Debtors expect to generate significant NOLs in the current tax year



ending February 3, 2019 and may generate additional NOLs after that date. I understand that the value of the Tax Attributes may inure to the benefit of the Debtors' stakeholders because they may be utilized by the Debtors to offset taxable income or, potentially, by a third party in connection with transactions consummated during these cases or after a chapter 11 plan goes effective.

124. The Stock Transfer Procedures are the mechanism by which the Debtors propose to monitor and, if necessary, object to certain transfers of Beneficial Ownership of Common Stock and declarations of worthlessness with respect to Beneficial Ownership of Common Stock to ensure preservation of the Tax Attributes. By establishing and implementing the Stock Transfer Procedures, the Debtors believe that they will be in a position to object to transactions that may give rise to an "ownership change" that would threaten their ability to preserve the value of their Tax Attributes for the benefit of the estates.

125. I believe that the termination or limitation of the Tax Attributes would be materially detrimental to all parties in interest in these chapter 11 cases, and that implementation of the Stock Transfer Procedures is necessary and appropriate to preserve the value of the Tax Attributes for the benefit of the Debtors' estates, and thereby enhance recoveries for the Debtors' stakeholders.

*[Remainder of Page Left Intentionally Blank]*

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge, information, and belief.





Dated: January 17, 2019  
Richmond, VA

/s/ Stephen Coulombe  
Stephen Coulombe  
Chief Restructuring Officer

**Exhibit A**

**Corporate Organizational Structure**

# Gymboree Group

- Desc Main  ABL Facility Borrower
-  ABL Facility Guarantor
-  Term Loan Facility Borrower
-  Term Loan Facility Guarantor

