

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**  
WASHINGTON, D.C. 20549

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**FORM 10-Q**

(MARK ONE)

Quarterly Report Pursuant to Section 13 or 15(d) of the  
Securities Exchange Act of 1934

For the quarterly period ended September 29, 2001

OR

Transition Report Pursuant to Section 13 or 15(d) of the  
Securities Exchange Act of 1934

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

Commission File Number 1-11893

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**GUESS?, INC.**

(Exact name of registrant as specified in its charter)

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

**95-3679695**  
(I.R.S. Employer  
Identification No.)

**1444 South Alameda Street**  
**Los Angeles, California, 90021**  
(Address of principal executive offices)  
**(213) 765-3100**

(Registrant's telephone number, including area code)

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Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports) and (2) has been subject to such filing requirements for the past 90 days.

Yes  No

As of November 6, 2001, the registrant had 43,866,464 shares of Common Stock, \$.01 par value per share, outstanding.

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**GUESS?, INC.**  
**FORM 10-Q**  
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## PART I. FINANCIAL INFORMATION

### ITEM 1. Financial Statements

#### GUESS?, INC. AND SUBSIDIARIES CONDENSED CONSOLIDATED BALANCE SHEETS (in thousands, except share data) (Unaudited)

	Sep 29, 2001	Dec 31, 2000
<b>ASSETS</b>		
Current Assets:		
Cash	\$ 5,257	\$ 13,332
Short-term investments	1,039	898
Receivables, net of reserves	50,302	34,383
Inventories, net	130,411	144,220
Prepaid expenses and other assets	8,837	9,671
Prepaid income taxes	2,473	9,118
Deferred tax assets	14,470	14,470
	212,789	226,092
Total current assets	212,789	226,092
Property and equipment, at cost, less accumulated depreciation and amortization	153,455	168,299
Other assets, at cost, less accumulated amortization	24,945	25,292
	391,189	419,683
Total assets	\$ 391,189	\$ 419,683
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>		
Current Liabilities:		
Current installments of notes payable and long-term debt	\$ 13,606	\$ 13,801
Accounts payable	47,747	84,043
Accrued expenses	33,448	31,959
	94,801	129,803
Total current liabilities	94,801	129,803
Notes payable and long-term debt, excluding current installments	108,672	103,781
Other liabilities	10,872	10,943
	214,345	244,527
Total liabilities	214,345	244,527

## Commitments and Contingencies

### Stockholders' equity:

Preferred stock, \$.01 par value. Authorized 10,000,000 shares; no shares issued and outstanding	—	—
Common stock, \$.01 par value. Authorized 150,000,000 shares; issued 64,423,940 and 63,594,219 shares, outstanding 43,862,048 and 43,563,427 shares at September 29, 2001 and December 31, 2000, respectively	147	146
Paid-in capital	168,127	167,833
Deferred compensation	(438)	(950)
Retained earnings	165,812	160,936
Accumulated other comprehensive loss	(2,070)	(2,033)
Treasury stock, 20,561,892 and 20,030,792 shares repurchased at September 29, 2001 and December 31, 2000, respectively	(154,734)	(150,776)
Net stockholders' equity	<u>176,844</u>	<u>175,156</u>
Total liabilities and stockholders' equity	<u>\$ 391,189</u>	<u>\$ 419,683</u>

See accompanying notes to condensed consolidated financial statements.

## GUESS?, INC. AND SUBSIDIARIES CONDENSED CONSOLIDATED STATEMENTS OF EARNINGS (in thousands, except per share data) (Unaudited)

	Third Quarter Ended		Nine Months Ended	
	Sep 29, 2001	Sep 30, 2000	Sep 29, 2001	Sep 30, 2000
Net revenue				
Product sales	\$ 162,250	\$ 206,831	\$ 465,884	\$ 553,903
Net royalties	10,159	9,532	28,360	28,985
	<u>172,409</u>	<u>216,363</u>	<u>494,244</u>	<u>582,888</u>
Cost of sales	113,350	139,206	324,765	357,206
Gross profit	59,059	77,157	169,479	225,682
Selling, general and administrative expenses	49,173	59,902	147,333	168,408
Gain on disposition of property and equipment	—	—	(1,063)	—
Severance recovery relating to distribution facility relocation	—	—	—	(1,545)
Restructuring, impairment and severance charges	4,436	—	4,967	—
Earnings from operations	<u>5,450</u>	<u>17,255</u>	<u>18,242</u>	<u>58,819</u>
Other expense (income):				
Interest expense, net	3,122	4,159	9,284	10,305
Other, net	—	(967)	482	(868)
	<u>3,122</u>	<u>3,192</u>	<u>9,766</u>	<u>9,437</u>
Earnings before income taxes	2,328	14,063	8,476	49,382
Income taxes	1,000	5,700	3,600	19,800
Net earnings	<u>\$ 1,328</u>	<u>\$ 8,363</u>	<u>\$ 4,876</u>	<u>\$ 29,582</u>
<b>Net earnings per share:</b>				

Basic	\$	0.03	\$	0.19	\$	0.11	\$	0.68
Diluted	\$	0.03	\$	0.19	\$	0.11	\$	0.67

**Weighted average shares outstanding:**

Basic	43,855	43,492	43,839	43,422
Diluted	44,072	43,828	44,028	43,857

See accompanying notes to condensed consolidated financial statements.

**GUESS?, INC. AND SUBSIDIARIES**  
**CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS**  
(in thousands)  
(Unaudited)

	Nine Months Ended	
	Sep 29, 2001	Sep 30, 2000
Cash flows from operating activities:		
Net earnings	\$ 4,876	\$ 29,582
Adjustments to reconcile net earnings to net cash provided by (used in) operating activities:		
Depreciation and amortization of property and equipment	29,069	24,142
Amortization of other assets	942	543
Loss on disposition of property and equipment	991	1,358
Other items, net	708	(482)
Changes in operating assets and liabilities:		
Receivables	(15,919)	(37,997)
Inventories	13,809	(57,590)
Prepaid expenses and other assets	6,863	(10,760)
Accounts payable	(36,296)	8,976
Accrued expenses and other liabilities	1,092	(10,934)
Net cash provided by (used in) operating activities	6,135	(53,162)
Cash flows from investing activities:		
Net proceeds from the sale of investments	57	33,274
Purchases of property and equipment, net of lease incentives	(18,429)	(58,725)
Proceeds from the disposition of property and equipment	3,095	3,133
Acquisition of license	(375)	(482)
Purchase of investment securities	—	(1,843)
Net cash used in investing activities	(15,652)	(24,643)
Cash flows from financing activities:		
Proceeds from notes payable and long-term debt	125,661	182,131
Repayments of notes payable and long-term debt	(120,965)	(103,010)
Proceeds from issuance of common stock	807	1,610
Purchase of treasury stock	(3,958)	—
Net cash provided by financing activities	1,545	80,731
Effect of exchange rates on cash	(103)	93
Net increase (decrease) in cash	(8,075)	3,019
Cash, beginning of period	13,332	6,139
Cash, end of period	\$ 5,257	\$ 9,158

Supplemental disclosures:

Cash paid during the period for:			
Interest		\$ 11,937	\$ 11,195
Income taxes		4,426	23,758

See accompanying notes to condensed consolidated financial statements.

**GUESS?, INC. AND SUBSIDIARIES**  
**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS**  
**September 29, 2001**  
**(in thousands)**  
**(unaudited)**

**(1) Basis of Presentation**

In the opinion of management, the accompanying unaudited condensed consolidated financial statements of Guess?, Inc. and its subsidiaries (the "Company") contain all adjustments, consisting of normal recurring adjustments, considered necessary for a fair presentation of the condensed consolidated balance sheets as of September 29, 2001 and December 31, 2000, the condensed consolidated statements of earnings for the quarter and nine months ended September 29, 2001 and September 30, 2000, and the condensed consolidated statements of cash flows for the nine months ended September 29, 2001 and September 30, 2000. The accompanying unaudited condensed consolidated financial statements have been prepared in accordance with Rule 10-01 of Regulation S-X of the Securities and Exchange Commission ("SEC"). Accordingly, they have been condensed and do not include all of the information and footnotes required by accounting principles generally accepted in the United States of America for complete financial statements. The results of operations for the quarter and nine months ended September 29, 2001 are not necessarily indicative of the results of operations for the full fiscal year. For further information, refer to the consolidated financial statements and footnotes thereto included in the Company's annual report on Form 10-K for the year ended December 31, 2000.

Effective January 1, 2000, the Company changed its quarterly fiscal reporting period to end on the Saturday nearest the calendar quarter end. This change in reporting period did not have an impact for the third quarter of 2001 compared to 2000; however, this change resulted in two fewer days for the nine months ended September 29, 2001 compared to the nine months ended September 30, 2000.

Certain amounts in the 2000 financial statements have been reclassified to conform to the September 29, 2001 presentation.

**(2) Summary of Significant Accounting Policies**

**Earnings Per Share**

Basic earnings per share represent net earnings divided by the weighted-average number of shares of common stock outstanding for the period. Diluted earnings per share represent net earnings divided by the weighted average number of shares outstanding, inclusive of the dilutive impact of potential common stock equivalents. For the quarter and nine-month periods ended September 29, 2001 and September 30, 2000, the difference between basic and diluted earnings per share was due to the potential dilutive impact of options to purchase common stock. Options to purchase 792,967 shares of common stock at prices ranging from \$7.75 to \$27.31 per share during the third quarter of 2001 and options to purchase 628,608 shares of common stock at prices ranging from \$17.64 to \$27.31 during the third quarter of 2000 were not included in the computation of diluted earnings per share because the exercise prices were greater than the average market price of the common stock and therefore such options would be antidilutive. Options to purchase 1,088,053 shares of common stock at prices ranging from \$6.45 to \$27.31 per share during the nine-month period ended September 29, 2001 and options to purchase 429,414 shares of common stock at prices ranging from \$18.49 to \$27.31 per share during the nine-month period ended September 30, 2000 were not included in the computation of diluted earnings per share because they would be antidilutive.

**Business Segment Reporting**

The business segments of the Company are retail, wholesale and licensing. Information relating to these segments is summarized in note 7.

**Comprehensive Income**

Comprehensive income consists of net earnings, unrealized gains (losses) on investments available for sale and foreign currency translation adjustments. A reconciliation of comprehensive income for the quarter and nine-month periods ended September 29, 2001 and September 30, 2000 is as follows (in thousands):

Third Quarter Ended		Nine Months Ended	
Sep 29, 2001	Sep 30, 2000	Sep 29, 2001	Sep 30, 2000

Net earnings	\$ 1,328	\$ 8,363	\$ 4,876	\$ 29,582
Unrealized gain (loss) on investments, net of tax	(238)	(2,469)	284	(13,883)
Foreign currency translation adjustment	(11)	(227)	(321)	256
Comprehensive income	\$ 1,079	\$ 5,667	\$ 4,839	\$ 15,955

### New Accounting Standards

In October 2001, the Financial Accounting Standards Board ("FASB") issued Statement of Financial Accounting Standards No. 144 ("SFAS 144"), "Accounting for the Impairment or Disposal of Long-Lived Assets," which addresses financial accounting and reporting for the impairment or disposal of long-lived assets. While SFAS 144 supersedes Statement of Financial Accounting Standards 121, "Accounting for the Impairment of Long-Lived Assets and for Long-Lived Assets to be Disposed Of," it retains many of the fundamental provisions of that statement. The standard is effective for fiscal years beginning after December 15, 2001. The Company expects that the adoption of SFAS 144 will not have a material impact on its financial position or results from operations.

In July 2001, the FASB issued Statement of Financial Accounting Standards No. 141 ("SFAS 141"), "Business Combinations," and Statement of Financial Accounting Standards No. 142 ("SFAS 142"), "Goodwill and Other Intangible Assets." SFAS 141 requires that the purchase method be used for all business combinations initiated after June 30, 2001. SFAS 142 requires that goodwill no longer be amortized to earnings, but instead be reviewed for impairment. The amortization of goodwill ceases upon adoption of SFAS 142 which is effective for fiscal years starting after December 15, 2001. The Company does not expect that the adoption of SFAS 141 and SFAS 142 will have a material impact on its financial position or results from operations.

In April 2001, the Emerging Issues Task Force ("EITF") issued EITF No. 00-14, "Accounting for Certain Sales Incentives" and EITF No. 00-25, "Vendor Income Characterization of Consideration Paid to a Reseller of the Vendor's Products," which are effective for the first quarter beginning after December 15, 2001. These EITFs prescribe guidance regarding the timing of recognition and income statement classification of costs incurred for certain sales incentive programs to retailers and end consumers. The Company expects that the adoption of EITF No. 00-14 and EITF No. 00-25 will not have a material impact on its financial position or results from operations as the Company currently recognizes these costs and classifies them in accordance with the prescribed rules.

Effective January 1, 2001, the Company adopted Statement of Financial Accounting Standards No. 133 ("SFAS 133"), "Accounting for Derivative Instruments and Hedging Activities." As a result, the Company recognizes financial instruments, such as foreign exchange contracts, at fair value regardless of the purpose or intent for holding the instrument. Changes in the fair value of derivative financial

instruments are either recognized periodically through the income statement or through stockholders' equity as a component of comprehensive income or loss. The classification depends on whether the derivative financial instrument qualifies for hedge accounting, and if so, whether it qualifies as a fair value hedge or cash flow hedge. Generally, changes in fair values of derivatives designated as fair value hedges are matched in the income statement against the respective gain or loss relating to the hedged items. Changes in fair values of derivatives accounted for as cash flow hedges, to the extent they are effective as hedges, are recorded in other comprehensive income or loss net of deferred taxes. Changes in fair values of derivatives not qualifying as hedges are currently reported in income. The implementation of this standard did not have a significant impact on the Company's financial statements.

### (3) Accounts Receivable

Accounts receivable consists of trade receivables, net of reserves aggregating \$11,547,000 and \$15,811,000 at September 29, 2001 and December 31, 2000, respectively and royalty receivables, less allowance for doubtful accounts of \$854,000 and \$841,000 at September 29, 2001 and December 31, 2000, respectively.

### (4) Inventories

The components of inventories consist of the following (in thousands):

	Sep 29, 2001	Dec 31, 2000
Raw materials	\$ 7,821	\$ 9,986
Work in progress	3,167	6,727
Finished goods—retail	55,208	57,702
Finished goods—wholesale	64,215	69,805
	\$ 130,411	\$ 144,220

As of September 29, 2001 and December 31, 2000, write-downs of inventories to the lower of cost or market totaled \$11.0 million and \$12.9 million, respectively.

During the first quarter of 2001, the Company decided to license its existing children's business, then produced in-house, to its licensee for its Baby Guess product line. The agreement was finalized in the second quarter of 2001 and is effective for 2002 operations. The Company recorded an inventory write-down charge of approximately \$562,000 which was included in cost of sales in the first quarter of 2001. The charge relates to lower of cost or market adjustments for inventories expected to be sold below cost as a result of the decision.

## (5) Investments

Short-term investments consist of marketable securities available for sale. Long-term investments consist of certain marketable equity securities available for sale aggregating \$244,000 and \$447,000 at September 29, 2001 and December 31, 2000, respectively, and are included in other assets in the accompanying condensed consolidated balance sheets.

## (6) Income taxes

Income taxes for the interim periods were computed using the effective tax rate estimated to be applicable for the full fiscal year, which is subject to ongoing review and evaluation by management.

## (7) Segment Information

The Company's reportable business segments and respective accounting policies of the segments are the same as those described in note 2. Management evaluates segment performance based primarily on revenue and earnings from operations. Interest income and expense are evaluated on a consolidated basis and are not allocated to the Company's business segments.

Net revenue and earnings from operations are summarized as follows for the quarters and nine months ended September 29, 2001 and September 30, 2000 (in thousands):

	Third Quarter Ended		Nine Months Ended	
	Sep 29, 2001	Sep 30, 2000	Sep 29, 2001	Sep 30, 2000
<b>Net revenue:</b>				
Retail operations	\$ 95,474	\$ 103,518	\$ 258,026	\$ 266,083
Wholesale operations	66,776	103,313	207,858	287,820
Licensing operations	10,159	9,532	28,360	28,985
	<u>\$ 172,409</u>	<u>\$ 216,363</u>	<u>\$ 494,244</u>	<u>\$ 582,888</u>
<b>Earnings (loss) from operations:</b>				
Retail operations	\$ 1,018	\$ 7,983	\$ (6,736)	\$ 13,763
Wholesale operations	(4,109)	1,933	1,001	22,104
Licensing operations	8,541	7,339	23,977	22,952
	<u>\$ 5,450</u>	<u>\$ 17,255</u>	<u>\$ 18,242</u>	<u>\$ 58,819</u>

These business segments are impacted by the general seasonal trends characteristic of the apparel and retail industries. Retail operations are generally stronger in the third and fourth quarters, while wholesale operations generally experience stronger performance in the first and third quarters. As the timing of the shipment of products may vary from year to year, the results for the wholesale segment for any particular quarter may not be indicative of results that may be expected for the full fiscal year.

## (8) Long-Term Debt

In December 1999, the Company entered into a \$125 million Credit Agreement which was amended on March 27, 2001, and on November 5, 2001, and which expires on October 31, 2002 (the "Credit Facility"). The November 5, 2001 amendment was effective September 29, 2001, and reduced the total amount available under the Credit Facility to \$100 million and revised certain terms and conditions, including modifications to the financial covenants. The Credit Facility provides the Company with a revolving credit line including a \$50 million sub-limit for letters of credit. Outstanding borrowings are secured by inventory and accounts receivable. The Company, with certain restrictions, may elect either a U.S. based interest rate (the "ABR Rate") or a Eurodollar interest rate (the "Eurodollar Rate") for borrowings under the Credit Facility. If the Company elects the ABR Rate, borrowings bear interest at (a) a base U.S. interest rate, as defined in the Credit Facility (generally, the greater of a prime rate, a base rate for certificates of deposits plus 100 basis points and the federal funds effective rate plus 50 basis points), plus (b) a margin of between 100 and 175 basis points. If the Company elects the Eurodollar Rate, borrowings bear interest at the London Interbank Offered Rate ("LIBOR") plus a margin of between 200 and 275 basis points. Commitment fees for unused borrowings under the Credit Facility range from between 56.25 basis points and 66.7 basis points.

At September 29, 2001 the Company had \$28.1 million of outstanding borrowings under the Credit Facility, \$4.3 million in outstanding standby letters of credit, \$23.5 million in outstanding documentary letters of credit and approximately \$43.9 million available for additional

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contains various restrictive covenants requiring, among other things, the maintenance of certain financial ratios. The Company is in compliance with all terms of the Credit Facility.

### **(9) Share Repurchase Program**

On May 9, 2001, the Company announced that its Board of Directors authorized the Company to repurchase shares of its own stock in an amount of up to \$15 million from time to time in the open market. Due to restrictive loan covenants, the Company is allowed to spend a maximum of \$10 million for the repurchase program in the current fiscal year.

During the third quarter and nine months ended September 29, 2001, the Company repurchased 474,700 and 531,100 shares at an aggregate cost of approximately \$3.5 million and \$4.0 million, or an average price per share of \$7.40 and \$7.45, respectively.

### **(10) Acquisition**

In September 2001, the Company completed the acquisition of the remaining 40% of the outstanding shares of Guess? Canada, Inc. not already owned by the Company. The Company paid a nominal consideration in exchange for the remaining shares of Guess? Canada, Inc. and, as previously announced, made an additional investment during the second quarter of 2001 of \$3.0 million in the Canadian business to fund its ongoing operations.

Prior to the minority interest acquisition, the Company included 100% of the results of operations of Guess? Canada, Inc. in its financial statements, therefore, this transaction did not have a material impact on the Company's financial statements. The Company recorded the amount representing 40% of the assets and liabilities at their respective fair values. No significant goodwill was generated from this transaction.

### **(11) Restructuring, Impairment and Severance Charges**

During the third quarter ended September 29, 2001, the Company recorded restructuring, impairment and severance charges of \$4.4 million (\$2.6 million after tax or \$0.06 per diluted share). Based on the current real estate market following the events of September 11, 2001, the Company recorded \$2.2 million in additional costs for rent paid, estimated rent to be paid and lease exit costs related to idle leased facilities identified as part of the restructuring charge recorded during the fourth quarter of 2000. In addition, \$1.3 million of the charges represented the write-down of the value of certain impaired assets, including fixed assets related to unprofitable stores. The remaining \$0.9 million of the charge was related to severance costs for the reduction in the Company's workforce which was part of its continuing efforts to reduce costs, improve productivity, streamline its corporate structure and consolidate operations. Approximately 31% of the severance was paid by the end of the third quarter with the remainder to be paid by the end of 2001.

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## **ITEM 2. Management's Discussion and Analysis of Financial Condition and Results of Operations**

### **IMPORTANT NOTICE REGARDING FORWARD-LOOKING STATEMENTS**

This Form 10-Q contains certain forward-looking statements within the meaning of Section 21E of the Securities Exchange Act of 1934 (the "Exchange Act"). Forward-looking statements may also be contained in the Company's other reports filed under the Exchange Act, in its press releases and in other documents. In addition, from time to time, the Company through its management may make oral forward-looking statements.

Forward-looking statements generally relate to future events or future financial performance, and include statements dealing with current plans, intentions, objectives, beliefs and expectations. Some forward-looking statements can be identified by terminology such as "may," "will," "should," "expects," "plans," "intends," "anticipates," "believes," "estimates," "predicts," "potential," "optimistic," "aims," or "continues" or the negative of such terms or other comparable terminology. Certain statements in this Form 10-Q, including but not limited to those relating to the Company's expected results, the accuracy of data relating to, and anticipated levels of, its future inventory and gross margins, its anticipated cash requirements and sources, and its business seasonality, are forward-looking statements.

Forward-looking statements are only expectations, and involve known and unknown risks and uncertainties, which may cause actual results in future periods and other future events to differ materially from what is currently anticipated. Factors which may cause actual results in future periods to differ from current expectations include, among other things, the continued availability of sufficient working capital, the successful integration of new stores into existing operations, the continued desirability and customer acceptance of existing and future product lines, possible cancellations of wholesale orders, the success of competitive products, the success of the Company's programs to strengthen its inventory cost accounting controls and procedures, and the availability of adequate sources of capital. In addition to these factors, the economic and other factors identified in the Company's most recent annual report on Form 10-K for the fiscal year ended December 31, 2000, including but not limited to the risk factors discussed therein, could affect the forward-looking statements contained herein and in the Company's other public documents.

### **OVERVIEW**

We derive our net revenue from the sale of Guess men's, women's, girls' and boys' apparel and our licensees' products through our network of retail and factory outlet stores located primarily in the United States; from the sale of Guess men's, women's, girls' and boys' apparel worldwide to wholesale customers and distributors; and from net royalties via worldwide licensing activities.

Unless the context indicates otherwise, when we refer to "we," "us" or the "Company" in this Form 10-Q, we are referring to Guess?, Inc. and its subsidiaries on a consolidated basis.

Effective January 1, 2000, we changed our quarterly reporting period to end on the Saturday nearest the calendar quarter end. Previously, our quarterly reporting period ended on the last Saturday of the quarter. This change in reporting period did not have an impact for the third quarter of 2001 compared to 2000; however, this change resulted in two fewer days for the nine months ended September 29, 2001.

## RESULTS OF OPERATIONS

Third Quarter and Nine Months Ended September 29, 2001 and September 30, 2000.

**NET REVENUE.** Net revenue for the third quarter ended September 29, 2001 decreased \$44.0 million, or 20.3%, to \$172.4 million from \$216.4 million in the third quarter ended September 30, 2000.

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Net revenue from retail operations decreased \$8.0 million, or 7.7%, to \$95.5 million in the third quarter 2001 from \$103.5 million in the third quarter 2000. The continued softness in the retail environment compounded by the events of September 11<sup>th</sup>, contributed to a decrease of 15.9% in comparable store sales for the quarter.

Net revenue from wholesale operations declined \$36.5 million, or 35.3%, to \$66.8 million in the third quarter ended September 29, 2001, from \$103.3 million in the third quarter ended September 30, 2000. Domestic wholesale net revenues decreased in the third quarter of 2001 by \$37.2 million, or 42.9%, to \$49.5 million, and international wholesale net revenues increased slightly by \$0.7 million, or 4.2%, to \$17.3 million for the third quarter of 2001. Domestic wholesale revenues decreased as a result of lower orders from the Company's wholesale customers, partially due to the economic slowdown in the United States.

Net royalty revenue increased to \$10.2 million in the third quarter of 2001 from \$9.5 million in the third quarter of 2000 due to a royalty recovery.

Net revenue for the nine-month period ended September 29, 2001 decreased \$88.7 million, or 15.2%, to \$494.2 million from \$582.9 million in the nine-month period ended September 30, 2000.

Net revenue from retail operations decreased by \$8.1 million, or 3.0%, to \$258.0 million for the nine months ended September 29, 2001, from \$266.1 million for the comparable period in 2000. Retail revenues decreased primarily due to slowed consumer spending and current events in the U.S. creating economic uncertainty. The increase in sales from new stores was offset by a comparable store sales decrease of 15.5% for the nine-month period ended September 29, 2001, as compared to the same nine-month period in 2000.

Net wholesale revenue declined \$79.9 million, or 27.8%, to \$207.9 million in the nine-months ended September 29, 2001 compared to \$287.8 million in the same period in 2000. During the nine months ended September 29, 2001, domestic wholesale net revenue decreased \$82.7 million, or 33.6%, to \$163.4 million. The decrease in domestic wholesale net revenue was partially offset by an increase in international wholesale net revenue of \$2.8 million, or 6.7%, to \$44.5 million from the same period a year ago. The increase in international wholesale revenues was primarily driven by improvements in Canada's wholesale business. The significant economic slowdown and the cautious approach to inventory management by the Company's wholesale customers were the primary causes of the decrease in net domestic wholesale revenues during the nine-month period ended September 29, 2001.

Net royalty revenue for the nine-month period ended September 29, 2001, decreased slightly by \$0.6 million, or 2.1%, to \$28.4 million compared to \$29.0 million during the same period in 2000.

**GROSS PROFIT.** Gross profit decreased \$18.1 million, or 23.5%, to \$59.1 million in the third quarter ended September 29, 2001, from \$77.2 million in the third quarter ended September 30, 2000. The decrease in gross profit was attributable to lower revenues in the wholesale and retail businesses coupled with increased retail occupancy costs.

Gross margin, which is gross profit as a percentage of total net revenue, decreased to 34.3% in the third quarter of 2001 from 35.7% in the third quarter of 2000. While gross margin improved in the wholesale business as a result of lower shipments to the off-price channel, gross margin for the retail business declined due to the lower sales productivity and higher occupancy costs.

Gross profit declined \$56.2 million, or 24.9%, to \$169.5 million for the nine months ended September 29, 2001, from \$225.7 million for the nine months ended September 30, 2000. Gross margin decreased during the nine months ended September 29, 2001, to 34.3% from 38.7% during the same period in 2000. Lower revenues in the wholesale business contributed to the decline in gross margin for the 2001 year-to-date period. In addition, in the retail segment, higher markdowns and increased occupancy costs due to lower sales productivity adversely impacted gross margins.

**SELLING, GENERAL AND ADMINISTRATIVE EXPENSES.** Selling, general and administrative ("SG&A") expenses decreased \$10.7 million, or 17.9%, to \$49.2 million in the third quarter of 2001 compared to \$59.9 million in the third quarter of 2000. The decline in SG&A expenses resulted from cost containment initiatives in both the retail and wholesale businesses, which were partially offset by the costs of operating 26 net new stores which have been opened since the end of the third quarter of 2000. As a percentage of net revenue, SG&A expenses increased to 28.5% of net revenue in the third quarter of 2001 as compared to 27.7% in the third quarter of 2000.

SG&A expenses declined \$21.1 million, or 12.5%, to \$147.3 million in the first nine months of 2001 as compared to \$168.4 million in the first nine months of 2000. The decrease in SG&A expenses for the nine-month period in 2001 resulted from cost containment programs in the wholesale and retail operations which more than offset the costs to operate new stores.

**RESTRUCTURING, IMPAIRMENT AND SEVERANCE CHARGES.** During the third quarter ended September 29, 2001, the Company recorded restructuring, impairment and severance charges of \$4.4 million (\$2.6 million after tax or \$0.06 per diluted share). Based on the current real estate market following the events of September 11, 2001, the Company recorded \$2.2 million in additional costs for rent paid, estimated rent to be paid and lease exit costs related to idle leased facilities identified as part of the restructuring charge recorded during the fourth quarter of 2000. In addition, \$1.3 million of the charges represented the write-down of the value of certain impaired assets, including fixed assets related to unprofitable stores. The remaining \$0.9 million of the charge was related to severance costs for the reduction in the Company's workforce which was part of its continuing efforts to reduce costs, improve productivity, streamline its corporate structure and consolidate operations. Approximately 31% of the severance was paid by the end of the third quarter with the remainder to be paid by the end of 2001.

**EARNINGS FROM OPERATIONS.** Earnings from operations decreased to \$5.5 million in the third quarter of 2001 from \$17.3 million in the third quarter of 2000. Excluding the restructuring, impairment and severance charges of \$4.4 million in the third quarter of 2001, earnings from operations would have been \$9.9 million. The retail segment recorded earnings from operations of \$1.0 million in the third quarter of 2001 versus earnings from operations of \$8.0 million during the same quarter in 2000. Excluding the retail segment's restructuring, impairment and severance charges of \$3.4 million, retail earnings from operations would have been \$4.4 million. The decline in earnings from the retail segment is principally due to a decrease in comparable store sales of 15.9% for the third quarter of 2001 and costs related to operating new stores. The wholesale segment recorded a loss from operations of \$4.1 million in the third quarter ended September 29, 2001, compared to earnings from operations of \$1.9 million in the third quarter ended September 30, 2000. Excluding the wholesale segment's restructuring, impairment and severance charges of \$1.0 million, the wholesale loss from operations would have been \$3.1 million. Lower wholesale segment earnings are primarily the result of lower shipments. Earnings from operations for the licensing segment increased to \$8.5 million in the third quarter of 2001 as compared to \$7.3 million in the third quarter of 2000.

Earnings from operations for the nine months ended September 29, 2001, decreased to \$18.2 million from \$58.8 for the nine months ended September 30, 2000. Excluding the restructuring, impairment and severance charges of \$5.0 million in the current year nine-month period, earnings from operations would have been \$23.2 million. The retail segment generated a loss from operations of \$6.7 million for the nine months ended September 29, 2001 compared to earnings from operations of \$13.8 million in the same period of 2000. Excluding the retail segment's restructuring, impairment and severance charges of \$3.4 million, the retail loss from operations would have been \$3.3 million. The loss is primarily attributable to lower sales productivity and higher occupancy costs. Earnings from operations for the wholesale segment decreased to \$1.0 million for the nine months ended September 29, 2001, compared to \$22.1 million in the same period of 2000, which included a \$1.5 million benefit for severance recovery related to the distribution facility relocation. Excluding the

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wholesale segment's restructuring, impairment and severance charges of \$1.6 million, wholesale earnings from operations would have been \$2.6 million. Lower product sales resulted in the lower earnings. Earnings from operations for the licensing segment increased slightly to \$24.0 million for the 2001 nine-month period from \$23.0 million for the same 2000 period.

**INTEREST EXPENSE, NET.** Net interest expense decreased by \$1.1 million, or 26.2% to \$3.1 million in the third quarter ended September 29, 2001, from \$4.2 million for the same period in 2000. The decrease is due to lower outstanding debt and lower interest rates during the third quarter of 2001. Total debt at September 29, 2001, was \$122.3 million, which included \$79.6 million of the Company's senior subordinated notes due 2003, \$28.1 million of borrowings under the Company's revolving credit agreement due in October 2002, and \$14.6 million of bank debt primarily related to Guess Canada. On a comparable basis and excluding Guess Canada, the average debt balance for the third quarter of 2001 was \$111.8 million, with an average effective interest rate of 8.4%, versus an average debt balance of \$154.9 million, with an average effective interest rate of 8.9%, for the third quarter of 2000.

Net interest expense decreased by \$1.0 million, or 9.7%, to \$9.3 million in the nine months ended September 29, 2001, from \$10.3 million for the comparable period in 2000. On a comparable basis and excluding Guess Canada, the average debt balance for the first nine months of 2001 was \$107.5 million, with an average effective interest rate of 8.4%, versus an average debt balance of \$125.4 million, with an average effective interest rate of 9.0%, for the comparable period in 2000.

**INCOME TAXES.** Income taxes for the quarter ended September 29, 2001 were \$1.0 million, or a 42.9% effective tax rate, compared to \$5.7 million, or a 40.5% effective tax rate, in the quarter ended September 30, 2000. Income taxes for the nine months ended September 29, 2001 were \$3.6 million, or a 42.5% effective tax rate, compared to \$19.8 million, or a 40.1% effective tax rate, for the nine months ended September 30, 2000. The increase in the 2001 effective tax rate is primarily due to certain non-deductible compensation expenses. Income taxes for the interim periods were computed using the effective tax rate estimated to be applicable for the full fiscal year, which is subject to ongoing review and evaluation by management.

**NET EARNINGS.** Net earnings decreased by \$7.1 million, or 84.5%, to \$1.3 million, or 0.8% of net revenue, in the third quarter ended

September 29, 2001, from \$8.4 million, or 3.9% of net revenue, in the third quarter ended September 30, 2000. Excluding the restructuring, impairment and severance charges of \$4.4 million, or \$2.6 million after tax, net earnings would have been \$3.9 million. In the 2001 nine-month period, net earnings declined by \$24.7 million, or 83.5%, to \$4.9 million, or 1.0% of net revenue, from \$29.6 million, or 5.1% of net revenue, during the same period in 2000. Excluding the 2001 year-to-date restructuring, impairment and severance charges of \$5.0 million, or \$2.9 million after tax, net earnings would have been \$7.8 million.

## **LIQUIDITY AND CAPITAL RESOURCES**

During the nine months ended September 29, 2001, the Company relied primarily on internally generated funds, trade credit and bank borrowings to finance its operations and capital requirements. In the first nine months of 2001, \$6.1 million of cash was provided by operating activities compared to \$53.2 million of cash used in the first nine months of 2000. The improvement in cash provided by operating activities was primarily attributable to lower inventory, prepaid expenses and receivables, partially offset by a decrease in accounts payable. The \$36.3 million decrease in accounts payable is mainly the result of lower inventory levels and lower capital expenditures. At September 29, 2001, the Company had available working capital of \$118.0 million compared to \$96.3 million at December 31, 2000.

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In December 1999, the Company entered into a \$125 million Credit Agreement which was amended on March 27, 2001, and on November 5, 2001, and which expires on October 31, 2002 (the "Credit Facility"). The November 5, 2001, amendment was effective September 29, 2001, and reduced the total amount available under the Credit Facility to \$100 million and revised certain terms and conditions, including modifications to the financial covenants. The Credit Facility provides the Company with a revolving credit line including a \$50 million sub-limit for letters of credit. Outstanding borrowings are secured by inventory and accounts receivable. The Company, with certain restrictions, may elect either a U.S. based interest rate (the "ABR Rate") or a Eurodollar interest rate (the "Eurodollar Rate") for borrowings under the Credit Facility. If the Company elects the ABR Rate, borrowings bear interest at (a) a base U.S. interest rate, as defined in the Credit Facility (generally, the greater of a prime rate, a base rate for certificates of deposits plus 100 basis points and the federal funds effective rate plus 50 basis points), plus (b) a margin of between 100 and 175 basis points. If the Company elects the Eurodollar Rate, borrowings bear interest at the London Interbank Offered Rate ("LIBOR") plus a margin of between 200 and 275 basis points. Commitment fees for unused borrowings under the Credit Facility range from between 56.25 basis points and 66.7 basis points. At September 29, 2001, the Company had \$28.1 million outstanding borrowings under the Credit Facility, \$4.3 million in outstanding standby letters of credit, \$23.5 million in outstanding documentary letters of credit and approximately \$43.9 million available for additional borrowings. The Credit Facility contains various restrictive covenants requiring, among other things, the maintenance of certain financial ratios. The Company is in compliance with all the terms of the Credit Facility.

Capital expenditures, net of lease incentives, totaled \$18.4 million in the nine months ended September 29, 2001, compared to \$58.7 million during the same period last year. The Company estimates that capital expenditures for fiscal 2001 will be approximately \$25.0 million, primarily for the retail store expansion and remodeling, shop-in-shop programs and infrastructure.

The Company anticipates that it will be able to satisfy its ongoing cash requirements during the next twelve months for working capital, capital expenditures and interest on its senior subordinated notes, primarily with cash flow from operations and supplemented by borrowings under the Credit Facility.

In September 2001, the Company acquired the remaining 40% of the outstanding shares of Guess? Canada, Inc. not already owned by the Company. The Company paid a nominal consideration in exchange for the remaining shares of Guess? Canada, Inc. and, as previously reported, made an additional investment during the second quarter of 2001 of \$3.0 million in the Canadian business to fund its ongoing operations. The Company recorded the amount representing 40% of the assets and liabilities at their respective fair values. No significant goodwill was generated from this transaction. The Company plans to further integrate the Canadian business with its U.S. business and it expects to benefit from overall cost reductions in 2002 as a result of its integration efforts. The Company was recording 100% of the results of operations of Guess? Canada, Inc. prior to the minority interest acquisition; therefore, this transaction did not have a material impact on the Company's financial statements.

## **WHOLESALE BACKLOG**

We generally receive wholesale orders approximately 90 to 120 days prior to the time the products are to be delivered to department and specialty stores. As of September 29, 2001, unfilled wholesale orders, excluding the children's business, decreased 34.5% to \$77.8 million from \$118.8 million at September 30, 2000. During the first quarter of 2001, the Company decided to license its existing children's business, then produced in-house, to its licensee for its Baby Guess product line beginning in 2002. The backlog of wholesale orders is affected by various factors including seasonality and the scheduling of manufacturing and shipment of product which varies at any given time. Accordingly, a

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comparison of backlogs of wholesale orders from period to period may not be indicative of eventual actual shipments.

## **SEASONALITY**

Our business is impacted by the general seasonal trends characteristic of the apparel and retail industries. Retail operations are generally stronger in the third and fourth quarters, while wholesale operations generally experience stronger performance in the first and third quarters. As the timing of the shipment of products may vary from year to year, the result for any particular quarter may not be indicative of results for

the full year.

## INFLATION

The Company does not believe that the relatively moderate rates of inflation experienced in the United States over the last three years have had a significant effect on net revenue or profitability. Although higher rates of inflation have been experienced in a number of foreign countries in which the Company's products are manufactured and sold, management does not believe that foreign rates of inflation have had a material adverse effect on its net revenue or profitability.

### ITEM 3. Quantitative and Qualitative Disclosures About Market Risk.

We receive United States dollars ("USD") for substantially all of our product sales and our licensing revenues. Inventory purchases from offshore contract manufacturers are primarily denominated in USD; however, purchase prices for our products may be impacted by fluctuations in the exchange rate between the USD and the local currencies of the contract manufacturers, which may have the effect of increasing our cost of goods in the future. In addition, royalties received from our international licensees are subject to foreign currency translation fluctuations as a result of the net sales of the licensee being denominated in local currency and royalties being paid to us in USD. During the last three fiscal years, exchange rate fluctuations have not had a material impact on our inventory costs.

We may enter into derivative financial instruments, including forward exchange contracts, to manage exchange risk on foreign currency transactions. These financial instruments can be used to protect us from the risk that the eventual net cash inflows from the foreign currency transactions will be adversely affected by changes in exchange rates. Changes in the fair value of derivative financial instruments are either recognized periodically through the income statement or through stockholders' equity as a component of comprehensive income or loss. The classification depends on whether the derivative financial instrument qualifies for hedge accounting, and if so, whether it qualifies as a fair value hedge or cash flow hedge. Generally, changes in fair values of derivatives designated as fair value hedges are matched in the income statement against the respective gain or loss relating to the hedged items. Changes in fair values of derivatives accounted for as cash flow hedges, to the extent they are effective as hedges, are recorded in other comprehensive income or loss net of deferred taxes. Changes in fair values of derivatives not qualifying as hedges are currently reported in income. The implementation of this standard did not have a significant impact on the financial statements.

Forward Exchange Contracts	U.S. Dollar Equivalent	Maturity Date	Fair Value in U.S. Dollars At September 29, 2001
Canadian dollars	\$ 1,000,000	October 1 to October 31, 2001	\$ 970,622
Canadian dollars	750,000	November 1 to November 30, 2001	730,341
Canadian dollars	500,000	December 3 to December 31, 2001	484,899

Based upon the rates at September 29, 2001, the cost to buy the equivalent U.S. dollars discussed above was approximately \$3.6 million Canadian currency.

At September 29, 2001, approximately 65% of the Company's indebtedness contained a fixed interest rate of 9.5%. Substantially all of the Company's remaining indebtedness, including borrowings under its \$125 million Credit Facility, is at variable rates of interest. Accordingly, changes in interest rates may impact the Company's results of operations in future periods. A 10% change in interest rate is not expected to significantly impact the Company's operating results.

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## PART II. OTHER INFORMATION

### ITEM 1. Legal Proceedings

On approximately January 15, 1999, UNITE filed an unfair labor practice charge against us, alleging that attorney Dennis Hersheve violated Section 8(a)(1) of the National Labor Relations Act ("the Act") by questioning our employee Maria Perez about her union activities at the deposition he conducted in her workers' compensation case. Mr. Hersheve represents Fireman's Fund Insurance Company, our workers' compensation insurance carrier. GUESS? investigated the charge and responded to it on March 10, 1999. The NLRB issued a complaint on part of the charge on October 14, 1999, and we filed an answer on October 21, 1999. On July 6, 2000, the complaint was dismissed in its entirety. The NLRB appealed the decision and both sides submitted briefs in September of 2000. We are awaiting a decision on the appeal.

On May 21, 1999, we filed a demand for arbitration against Pour le Bebe, Inc. and Pour la Maison, Inc. (collectively, "PLB") seeking damages and injunctive relief in connection with four written license agreements between the parties. We alleged that PLB defaulted under the license agreements, that the license agreements properly were terminated and that PLB breached the license agreements. On July 19, 1999, PLB filed a counterdemand for arbitration against us. PLB sought damages and injunctive relief against us alleging breach of contract, violation of the California Franchise Relations Act, interference with prospective economic advantage, unlawful business practices, statutory unfair competition and fraud. The arbitration was conducted before the American Arbitration Association pursuant to arbitration clauses in the license agreements.

On June 9, 2000, the arbitrators issued a final award in our favor and rejected each of PLB's counterclaims. The amount of this award was \$7,659,677. Thereafter, the Company filed a petition to confirm the arbitration award and PLB filed a petition to vacate. On October 23, 2000, the court entered judgment confirming the final arbitration award and the case has been resolved. Because of the uncertainty of the

ultimate realization of the award no recognition has been given to it in our consolidated financial statements.

On June 9, 1999, we commenced a lawsuit in the Los Angeles County Superior Court against Kyle Kirkland, Kirkland Messina LLC, and CKM Securities (collectively "Kirkland") for tortious interference, unfair competition, fraud and related claims. This action arises out of alleged misrepresentations and omissions of material fact made by Kirkland in connection with the operations and financial performance of PLB. On March 29, 2000, the California Court of Appeal determined that the action will proceed in court. Kirkland's petition for review to the California Supreme Court was denied on July 12, 2000. Kirkland, in response to an order to respond to a discovery request, filed another appeal. A tentative trial date has been set for February 2002.

On March 28, 2000 a complaint was filed against us in San Diego County Superior Court entitled Snodgrass v. Guess?, Inc. and GUESS? Retail, Inc. The complaint alleged that certain current and former store management employees were incorrectly classified as exempt from overtime laws. The Company, without admitting or acknowledging any wrongdoing, tentatively settled the matter on September 28, 2001. The Agreement, when executed, will be subject to subsequent judicial approval. The Company will record a non-recurring expense related to the tentative dissolution of the lawsuit upon court approval. Furthermore, the Company does not expect any changes to its ongoing cost structure as a result of this settlement.

On May 4, 2000, a complaint was filed against the Company and Mr. Paul Marciano in the Los Angeles Superior Court—Michel Benasra v. Paul Marciano and Guess?, Inc. The complaint grows out of the arbitration between the Company and PLB, discussed above. The plaintiff, the President of PLB, alleges that defendants made defamatory statements about him during the arbitration. Plaintiff seeks general damages of \$50,000,000 and unspecified punitive damages. Defendants moved to compel

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arbitration of this matter, or alternatively, to strike the action under the state's anti-SLAPP (Strategic Litigation Against Public Participation) statute. The motion to compel arbitration was denied and the decision was appealed. The court of appeal recently upheld the lower court's ruling and we are considering an appeal to the California Supreme Court which would stay the matter further pending resolution of that appeal. Otherwise, this matter will proceed to trial. No trial date has been set.

On January 30, 2001, Guess?, Inc., Maurice Marciano, Armand Marciano, Paul Marciano, and Brian Fleming were named as defendants in a securities class action entitled David Osher v. Guess?, Inc., et al., filed in the United States District Court for the Central District of California. Seven additional class actions have been filed in the Central District, naming the same defendants: Robert M. Nuckols v. Guess?, Inc. et al., Brett Dreyfuss v. Guess?, Inc. et al., both filed February 1, 2001; Jerry Sloan v. Guess?, Inc., et al., filed February 6, 2001; Jerry Byrd v. Guess?, Inc., et al; filed February 13, 2001; Patrick and Kristine Liska v. Guess?, Inc., et al, filed February 14, 2001; Darrin Wegman v. Guess?, Inc., et al., filed February 22, 2001; and Rosie Gindie v. Guess?, Inc., et al., filed February 22, 2001. All eight complaints purport to state claims under Section 10(b) and 20(a) and Rule 10b-5 of the Securities Exchange Act of 1934 and allege that defendants made materially false and misleading statements relating to the Company's inventory and financial condition during the class period. In Osher, Nuckols, Byrd, Wegman and Sloan, the class period is February 14, 2000 through January 26, 2001; in Dreyfuss, Liska and Gindie the class period is February 14, 2000 through November 9, 2000. On April 25, 2001, the court entered an order consolidating all of the eight class actions, captioned In re Guess, Inc. Securities Litigation. The lead plaintiff for the class is the Policeman and Fireman's Retirement System of the City of Detroit. On July 9, 2001, the plaintiff filed a consolidated amended class action complaint. The hearing on our motion to dismiss is scheduled for November 19, 2001.

On March 15, 2001, a complaint was filed by Susan Goldman, derivatively on behalf of nominal defendant Guess?, Inc. against Bryan Isaacs, Alice Kane, Robert Davis, Armand Marciano, Paul Marciano, Maurice Marciano, Howard Socol and Guess?, Inc. in the Court of Chancery for the State of Delaware. The complaint alleges misappropriation of corporate information, insider trading and other purported breaches of fiduciary duty by the Company and its Board of Directors. The motion to dismiss has been fully briefed and we expect the court to rule on our motion to dismiss without a hearing.

On May 7, 2001, a complaint was filed by Suzanne Bell, derivatively on behalf of nominal defendant Guess?, Inc. against Maurice Marciano, Paul Marciano, Armand Marciano, Alice Kane, Robert Davis, Howard Socol, Bryan Isaacs and Brian Fleming, in the United States District Court for the Central District of California. The complaint alleges corporate mismanagement, insider trading and other purported breaches of fiduciary duty by the Company and its Board of Directors. On July 5, 2001, the court stayed the action pursuant to stipulation of the parties pending the outcome of the Goldman derivative action discussed above.

We cannot predict the outcome of these matters. We believe the outcome of one or more of the above cases could have a material adverse effect on our results of operations or financial condition.

Most major corporations, particularly those operating retail businesses, become involved from time to time in a variety of employment-related claims and other matters incidental to their business in addition to those described above. In the opinion of our management, the resolution of any of these pending incidental matters is not expected to have a material adverse effect on our results of operations or financial condition.

## **ITEM 2. Changes in Securities and Use of Proceeds**

None.

### ITEM 3. Defaults Upon Senior Securities

None.

### ITEM 4. Submission of Matters to a Vote of Security Holders

None.

### ITEM 5. Other Information

None.

### ITEM 6. Exhibits and Reports on Form 8-K

a) Exhibits:

<u>Exhibit Number</u>	<u>Description</u>
3.1.	Restated Certificate of Incorporation of the Company.(1)
3.2.	Bylaws of the Company.
4.1.	Specimen stock certificate.(1)
10.1.	Second Amendment to Credit Agreement among the Registrant, the Lenders and the Chase Manhattan Bank.

(1) Incorporated by reference from the Registration Statement on Form S-1 (Registration No. 333-4419) filed by the Company on June 24, 1996, as amended.

b) Reports on Form 8-K:

None

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### SIGNATURES

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

#### GUESS?, INC.

Date: November 13, 2001

By: /s/ MAURICE MARCIANO

\_\_\_\_\_  
Maurice Marciano  
Co-Chairman of the Board,  
Co-Chief Executive Officer and Director  
(Principal Executive Officer)

Date: November 13, 2001

By: /s/ CARLOS ALBERINI

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Carlos Alberini  
President and Chief Operating Officer  
(Principal Financial Officer)

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**AMENDED AND RESTATED  
BYLAWS  
OF  
GUESS ?, INC.**

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**AMENDED AND RESTATED**

**BYLAWS**

**OF**

**GUESS ?, INC.**

**ARTICLE I**

**OFFICES**

SECTION 1.01. *Registered Office.* The registered office of Guess ?, Inc. (the "*Corporation*") in the State of Delaware shall be at the principal office of The Corporation Trust Company in the City of Wilmington, County of New Castle, and the registered agent in charge thereof shall be The Corporation Trust Company.

SECTION 1.02. *Other Offices.* The Corporation may also have an office or offices at any other place or places within or without the State of Delaware as the Board of Directors of the Corporation (the "*Board*") may from time to time determine or the business of the Corporation may from time to time require.

## ARTICLE II

### MEETINGS OF STOCKHOLDERS

SECTION 2.01. *Annual Meetings.* The annual meeting of stockholders of the Corporation for the election of directors of the Corporation ("*Directors*"), and for the transaction of such other business as may properly come before such meeting, shall be held at such place, date and time as shall be fixed by the Board and designated in the notice or waiver of notice of such annual meeting.

SECTION 2.02. *Special Meetings.* Special meetings of stockholders for any purpose or purposes may be called by the Chairman of the Board or each Co-Chairman (in the event that the position is held jointly) of the Board (each, a "*Chairman*"), the Chief Executive Officer or each Co-Chief Executive Officer (in the event that the position is held jointly) of the Corporation (each, a "*Chief Executive Officer*") or the President of the Corporation (the "*President*"), to be held at such place, date and time as shall be designated in the notice or waiver of notice thereof.

Only such business as is stated in the written notice of a special meeting may be acted upon thereat.

SECTION 2.03. *Notice of Meetings.* (a) Except as otherwise provided by law, written notice of each annual or special meeting of stockholders stating the place, date and time of such meeting and, in the case of a special meeting, the purpose or purposes for which such meeting is to be held, shall be given personally or by first-class mail (airmail in the case of international communications) to each stockholder entitled to vote thereat, not less than 10 nor more than 60 days before the date of such meeting. If mailed, such notice shall be deemed to be given when deposited in the United States mail, postage prepaid, directed to the stockholder at such stockholder's address as it appears on the records of the Corporation. If, prior to the time of mailing, the Secretary shall have received from any stockholder a written request that notices intended for such stockholder are to be mailed to some address other than the address that appears on the records of the Corporation, notices intended for such stockholder shall be mailed to the address designated in such request.

(b) Notice of a special meeting of stockholders may be given by the person or persons calling the meeting, or, upon the written request of such person or persons, such notice shall be given by the Secretary of the Corporation (the "*Secretary*") or any Assistant Secretary on behalf of such person or persons. If the person or persons calling a special meeting of stockholders give notice thereof, such person or persons shall deliver a copy of such notice to the Secretary. Each request to the Secretary for the giving of notice of a special meeting of stockholders shall state the purpose or purposes of such meeting.

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SECTION 2.04. *Waiver of Notice.* Notice of any annual or special meeting of stockholders need not be given to any stockholder who files a written waiver of notice with the Secretary, signed by the person entitled to notice, whether before or after such meeting. Neither the business to be transacted at, nor the purpose of, any meeting of stockholders need be specified in any written waiver of notice thereof. Attendance of a stockholder at a meeting, in person or by proxy, shall constitute a waiver of notice of such meeting, except when such stockholder attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business on the grounds that the notice of such meeting was inadequate or improperly given.

SECTION 2.05. *Adjournments.* Whenever a meeting of stockholders, annual or special, is adjourned to another date, time or place, notice need not be given of the adjourned meeting if the date, time and place thereof are announced at the meeting at which the adjournment is taken. If the adjournment is for more than 30 days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each stockholder entitled to vote thereat. At the adjourned meeting, any business may be transacted which might have been transacted at the original meeting.

When any meeting is convened the presiding officer, if directed by the Board, may adjourn the meeting if (a) no quorum is present for the transaction of business, or (b) the Board determines that adjournment is necessary or appropriate to enable the stockholders (i) to consider fully information which the Board determines has not been made sufficiently or timely available to stockholders or (ii) otherwise to exercise effectively their voting rights.

SECTION 2.06. *Quorum.* Except as otherwise provided by law or the Certificate of Incorporation of the Corporation as in effect from time to time (the "CERTIFICATE OF INCORPORATION"), whenever a class of stock of the Corporation is entitled to vote as a separate class, or whenever classes of stock of the Corporation are entitled to vote together as a single class, on any matter brought before any meeting of stockholders, whether annual or special, holders of shares entitled to cast a majority of the votes entitled to be cast by all the holders of the shares of stock of such class voting as a separate class, or classes voting together as a single class, as the case may be, outstanding and entitled to vote thereat, present in person or by proxy, shall constitute a quorum at any such meeting of stockholders. If, however, such quorum shall not be present in person or by proxy at any meeting of stockholders, the stockholders entitled to vote thereat may adjourn the meeting from time to time in accordance with Section 2.05 hereof until a quorum shall be present in person or by proxy.

SECTION 2.07. *Voting.* Except as otherwise provided by law or the Certificate of Incorporation or these Bylaws, when a quorum is

present with respect to any matter brought before any meeting of the stockholders, the vote of the holders of shares entitled to cast a majority of the votes entitled to be cast by all the holders of the shares constituting such quorum shall decide any such matter. Unless otherwise provided in the Certificate of Incorporation, each stockholder present in person or by proxy at a meeting of the stockholders shall be entitled to cast one vote for each share of the capital stock entitled to vote thereat held by such stockholder.

**SECTION 2.08. Proxies.** Each stockholder entitled to vote at a meeting of stockholders or to express, in writing, consent to or dissent from any corporate action without a meeting may authorize another person or persons to act for such stockholder by proxy. Such proxy shall be filed with the Secretary before such meeting of stockholders or such corporate action without a meeting, at such time as the Board may require. No proxy shall be voted or acted upon more than three years from its date, unless the proxy provides for a longer period.

**SECTION 2.09. Advance Notice of Business to be Transacted at Stockholder Meetings.** No business may be transacted at an annual meeting of stockholders, other than business that is either (a) specified in the notice of meeting (or any supplement thereto) given by or at the direction of the

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Board (or any duly authorized committee thereof), (b) otherwise properly brought before the annual meeting by or at the direction of the Board (or any duly authorized committee thereof) or (c) otherwise properly brought before the annual meeting by any stockholder of the Corporation (i) who is a stockholder of record on the date of the giving of the notice provided for in this Section 2.09 and on the record date for the determination of stockholders entitled to vote at such annual meeting and (ii) who complies with the notice procedures set forth in this Section 2.09.

In addition to any other applicable requirements, for business to be properly brought before an annual meeting by a stockholder, such stockholder must have given timely notice thereof in proper written form to the Secretary.

To be timely, a stockholder's notice to the Secretary must be delivered to or mailed and received at the principal executive offices of the Corporation not less than 60 days nor more than 90 days prior to the anniversary date of the immediately preceding annual meeting of stockholders; *provided, however*, that in the event that the annual meeting is called for a date that is not within 30 days before or after such anniversary date, notice by the stockholder in order to be timely must be so received not later than the close of business on the tenth day following the day on which such notice of the date of the annual meeting was mailed or such public disclosure of the date of the annual meeting was made, whichever first occurs.

To be in proper written form, a stockholder's notice to the Secretary must set forth as to each matter such stockholder proposes to bring before the annual meeting (a) a brief description of the business desired to be brought before the annual meeting and the reasons for conducting such business at the annual meeting, (b) the name and record address of such stockholder, (c) the class or series and number of shares of capital stock of the Corporation which are owned beneficially or of record by such stockholder, (d) a description of all arrangements or understandings between such stockholder and any other person or persons (including their names) in connection with the proposal of such business by such stockholder and any material interest of such stockholder in such business and (e) a representation that such stockholder intends to appear in person or by proxy at the annual meeting to bring such business before the meeting.

No business shall be conducted at the annual meeting of stockholders except business brought before the annual meeting in accordance with the procedures set forth in this Section 2.09, *provided, however*, that, once business has been properly brought before the annual meeting in accordance with such procedures, nothing in this Section 2.09 shall be deemed to preclude discussion by any stockholder of any such business. If the chairman of an annual meeting determines that business was not properly brought before the annual meeting in accordance with the foregoing procedures, the chairman shall declare to the meeting that the business was not properly brought before the meeting and such business shall not be transacted.

### ARTICLE III

#### BOARD OF DIRECTORS

**SECTION 3.01. General Powers.** The business and affairs of the Corporation shall be managed by the Board, which may exercise all such powers of the Corporation and do all such lawful acts and things as are not by law, the Certificate of Incorporation or these Bylaws directed or required to be exercised or done by stockholders.

**SECTION 3.02. Number and Term of Office.** Subject to the rights, if any, of holders of preferred stock of the Corporation, the Board shall consist of not less than three nor more than fifteen members, the exact number of which shall be fixed from time to time by the Board. The Board shall, by resolution passed by a majority of the Board, designate the directors to serve as initial Class I, Class II and Class III Directors upon filing of the Certificate of Incorporation with the Secretary of State of the State of Delaware. Except as provided in Section 3.05 of this Article III, Directors shall be elected by a

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plurality of the votes cast at annual meetings of stockholders, and each Director so elected shall hold office as provided by Article VIII of the Certificate of Incorporation. None of the Directors need be stockholders of the Corporation.

**SECTION 3.03. Nomination of Directors and Advance Notice Thereof.** Only persons who are nominated in accordance with the

following procedures shall be eligible for election as Directors except as may be otherwise provided in the Certificate of Incorporation with respect to the right of holders of preferred stock of the Corporation to nominate and elect a specified number of directors in certain circumstances. Nominations of persons for election to the Board may be made at any annual meeting of stockholders, or at any special meeting of stockholders called for the purpose of electing Directors, (a) by or at the direction of the Board (or any duly authorized committee thereof) or (b) by any stockholder of the Corporation (i) who is a stockholder of record on the date of the giving of the notice provided for in this Section and on the record date for the determination of stockholders entitled to vote at such meeting and (ii) who complies with the notice procedures set forth in this Section 3.03.

In addition to any other applicable requirements, for a nomination to be made by a stockholder, such stockholder must have given timely notice thereof in proper written form to the Secretary.

To be timely, a stockholder's notice to the Secretary must be delivered to or mailed and received at the principal executive offices of the Corporation (a) in the case of any annual meeting, not less than 60 days nor more than 90 days prior to the anniversary date of the immediately preceding annual meeting of stockholders; *provided, however*, that in the event that the annual meeting is called for a date that is not within 30 days before or after such anniversary date, notice by the stockholder in order to be timely must be so received not later than the close of business on the tenth day following the day on which such notice of the date of the annual meeting was mailed or such public disclosure of the date of the annual meeting was made, whichever first occurs; and (b) in the case of a special meeting of stockholders called for the purpose of electing directors, not later than the close of business on the tenth day following the day on which notice of the date of the special meeting was mailed or public disclosure of the date of the special meeting was made, whichever first occurs.

To be in proper written form, a stockholder's notice to the Secretary must set forth (a) as to each person whom the stockholder proposes to nominate for election as a Director (i) the name, age, business address and residence address of the person, (ii) the principal occupation or employment of the person, (iii) the class or series and number of shares of capital stock of the Corporation which are owned beneficially or of record by the person and (iv) any other information relating to the person that would be required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for election of directors pursuant to Section 14 of the Securities Exchange Act of 1934, as amended (the "*Exchange Act*"), and the rules and regulations promulgated thereunder; and (b) as to the stockholder giving the notice (i) the name and record address of such stockholder, (ii) the class or series and number of shares of capital stock of the Corporation which are owned beneficially or of record by such stockholder, (iii) a description of all arrangements or understandings between such stockholder and each proposed nominee and any other person or persons (including their names) pursuant to which the nomination(s) are to be made by such stockholder, (iv) a representation that such stockholder intends to appear in person or by proxy at the meeting to nominate the persons named in its notice and (v) any other information relating to such stockholder that would be required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for election of directors pursuant to Section 14 of the Exchange Act and the rules and regulations promulgated thereunder. Each proposed nominee shall consent in writing to being named as a nominee and to serve as a Director if elected, and such written consent must be submitted with the stockholder's notice to the Secretary.

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No person shall be eligible for election as a Director unless nominated in accordance with the procedures set forth in this Section 3.03. If the chairman of the meeting determines that a nomination was not made in accordance with the foregoing procedures, the chairman shall declare to the meeting that the nomination was defective and such defective nomination shall be disregarded.

**SECTION 3.04. Resignation.** Any Director may resign at any time by giving written notice to the Board, the Chairman, the Chief Executive Officer, the President or the Secretary. Such resignation shall take effect at the time specified in such notice or, if the time be not specified, upon receipt thereof by the Board, the Chairman, the Chief Executive Officer, the President or the Secretary, as the case may be. Unless otherwise specified therein, acceptance of such resignation shall not be necessary to make it effective.

**SECTION 3.05. Vacancies.** Vacancies occurring in the Board and newly created directorships may be filled by a majority of the Directors then in office, although less than a quorum, or by a sole remaining Director. Any Director elected to fill a vacancy shall hold office for a term that shall coincide with the term of the class to which such director shall have been elected.

**SECTION 3.06. Meetings.** (a) *Annual Meetings.* As soon as practicable after each annual election of Directors by the stockholders, the Board shall meet for the purpose of organization and the transaction of other business, unless it shall have transacted all such business by written consent pursuant to Section 3.08 hereof.

(b) *Other Meetings.* Other meetings of the Board shall be held at such times as the Board, the Chairman, the Chief Executive Officer, the President or the Secretary shall from time to time determine.

(c) *Notice of Meetings.* The Secretary or any Assistant Secretary shall give written notice to each Director of each meeting of the Board, which notice shall state the place, date, time and purpose of such meeting. Notice of each such meeting shall be given to each Director, if by mail, addressed to him at his residence or usual place of business, at least two days before the day on which such meeting is to be held, or shall be sent to him at such place by telecopy, telegraph, cable, or other form of recorded communication, or be delivered personally or by telephone not later than the day before the day on which such meeting is to be held. A written waiver of notice, signed by the Director entitled to notice, whether before or after the time of the meeting referred to in such waiver, shall be deemed equivalent to notice. Neither the business to be transacted at, nor the purpose of any meeting of the Board need be specified in any written waiver of notice thereof. Attendance of a Director at a meeting of the Board shall constitute a waiver of notice of such meeting, except as provided by law.

(d) *Place of Meetings.* The Board may hold its meetings at such place or places within or without the State of Delaware as the Board or the Chairman may from time to time determine, or as shall be designated in the respective notices or waivers of notice of such meetings.

(e) *Quorum and Manner of Acting.* A majority of the total number of Directors (but not less than two) shall constitute a quorum for the transaction of business at any meeting of the Board, and the vote of a majority of those Directors present at any such meeting at which a quorum is present shall be necessary for the passage of any resolution or act of the Board, except as otherwise expressly required by law, the Certificate of Incorporation or these Bylaws. In the absence of a quorum for any such meeting, a majority of the Directors present thereat may adjourn such meeting from time to time until a quorum shall be present.

(f) *Organization.* At each meeting of the Board, one of the following shall act as chairman of the meeting and preside, in the following order of precedence:

- (i) the Chairman;
- (ii) the Chief Executive Officer or President;

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- (iii) any Director chosen by a majority of the Directors present.

The Secretary or, in the case of his absence, any person (who shall be an Assistant Secretary, if an Assistant Secretary is present) whom the chairman of the meeting shall appoint shall act as secretary of such meeting and keep the minutes thereof.

SECTION 3.07. *Committees of the Board.* The Board may, by resolution passed by a majority of the whole Board, designate one or more committees, each committee to consist of one or more Directors. The Board may designate one or more Directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of such committee. In the absence or disqualification of a member of a committee, and in the absence of a designation by the Board of an alternate member to replace the absent or disqualified member, the member or members thereof present at any meeting and not disqualified from voting, whether or not he or they constitute a quorum, may unanimously appoint another Director to act at the meeting in the place of any such absent or disqualified member. Any committee of the Board, to the extent provided in the resolution of the Board designating such committee, shall have and may exercise all the powers and authority of the Board in the management of the business and affairs of the Corporation, and may authorize the seal of the Corporation to be affixed to all papers which may require it; *provided, however*, that no such committee shall have such power or authority in reference to amending the Certificate of Incorporation (except that such a committee may, to the extent authorized in the resolution or resolutions providing for the issuance of shares of stock adopted by the Board as provided in Section 151(a) of the General Corporation Law of the State of Delaware (the "*General Corporation Law*"), fix the designations and any of the preferences or rights of such shares relating to dividends, redemption, dissolution, any distribution of assets of the Corporation or the conversion into, or the exchange of such shares for, shares of any other class or classes of stock of the Corporation or fix the number of shares of any series of stock or authorize the increase or decrease of the shares of any series), adopting an agreement of merger or consolidation under Section 251, 252, 254, 255, 256, 257, 258, 263, or 264 of the General Corporation Law, recommending to the stockholders the sale, lease or exchange of all or substantially all the Corporation's property and assets, recommending to the stockholders a dissolution of the Corporation or the revocation of a dissolution, or amending these Bylaws; *provided, further, however*, that, unless expressly so provided in the resolution of the Board designating such committee, no such committee shall have the power or authority to declare a dividend, to authorize the issuance of stock, or to adopt a certificate of ownership and merger pursuant to Section 253 of the General Corporation Law. Each committee of the Board shall keep regular minutes of its proceedings and report the same to the Board when so requested by the Board.

SECTION 3.08. *Directors' Consent in Lieu of Meeting.* Any action required or permitted to be taken at any meeting of the Board or of any committee thereof may be taken without a meeting, without prior notice and without a vote, if a consent in writing, setting forth the action so taken, shall be signed by all the members of the Board or such committee and such consent is filed with the minutes of the proceedings of the Board or such committee.

SECTION 3.09. *Action by Means of Telephone or Similar Communication.* Any one or more members of the Board, or of any committee thereof, may participate in a meeting of the Board or such committee by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting by such means shall constitute presence in person at such meeting.

SECTION 3.10. *Compensation.* Unless otherwise restricted by the Certificate of Incorporation, the Board may determine the compensation of Directors. In addition, as determined by the Board, Directors may be reimbursed by the Corporation for their expenses, if any, in the performance of their duties as Directors. No such compensation or reimbursement shall preclude any Director from serving the Corporation in any other capacity and receiving compensation therefor.

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## ARTICLE IV

### OFFICERS

SECTION 4.01. *Officers.* The officers of the Corporation shall be the Chairman, the Chief Executive Officer, the President, the Chief Operating Officer, the Secretary and the Chief Financial Officer and may include one or more Vice Presidents (which may include Senior Vice Presidents, Executive Vice Presidents and Senior Executive Vice Presidents) and one or more Assistant Secretaries and one or more

Assistant Financial Officers. Any two or more offices may be held by the same person. The offices of Chairman and Chief Executive Officer may be held by more than one person, each with the title of Co-Chairman or Co-Chief Executive Officer.

SECTION 4.02. *Authority and Duties.* All officers, as between themselves and the Corporation, shall have such authority and perform such duties in the management of the Corporation as may be provided in these Bylaws or, to the extent not so provided, by resolution of the Board.

SECTION 4.03. *Term of Office, Resignation and Removal.* (a) Each officer shall be elected or appointed by, or in such matter as shall be determined by, the Board and shall hold office for such term as may be determined by the Board. Each officer shall hold office until his successor has been appointed and qualified or his earlier death or resignation or removal in the manner hereinafter provided. The Board may require any officer to give security for the faithful performance of his duties.

(b) Any officer may resign at any time by giving written notice to the Board, the Chairman, any Chief Executive Officer, the President or the Secretary. Such resignation shall take effect at the time specified in such notice or, if the time be not specified, at the time it is accepted by the Board, any Chairman, any Chief Executive Officer, the President or the Secretary, as the case may be. Unless otherwise specified therein, acceptance of such resignation shall not be necessary to make it effective.

(c) All officers and agents appointed by the Board shall be subject to removal, with or without cause, at any time by the Board.

SECTION 4.04. *Vacancies.* Any vacancy occurring in any office of the Corporation, for any reason, shall be filled by action of the Board. Unless earlier removed pursuant to Section 4.03 hereof, any officer appointed by the Board to fill any such vacancy shall serve only until such time as the unexpired term of his predecessor expires unless reappointed by the Board.

SECTION 4.05. *The Chairman or Co-Chairman.* The Chairman (as defined in Section 2.02 of these Bylaws) shall have the power to call special meetings of stockholders, to call special meetings of the Board and, if present, to preside at all meetings of stockholders and all meetings of the Board. The Chairman shall perform all duties incident to the office of Chairman of the Board and all such other duties as may from time to time be assigned to the holder(s) of the office by the Board or these Bylaws. In the event that more than one individual holds the office of Chairman at any given time, all individuals holding such office shall be entitled to the same privileges and benefits under these Bylaws.

SECTION 4.06. *The Chief Executive Officer or Co-Chief Executive Officer.* The Chief Executive Officer (as defined in Section 2.02 of these Bylaws) shall, together with the President and subject to the control of the Board, have general and active management and control of the business and affairs of the Corporation and shall see that all orders and resolutions of the Board are carried into effect. The Chief Executive Officer shall perform all duties incident to the office of Chief Executive Officer and all such other duties as may from time to time be assigned to the holder(s) of the office by the Board or these Bylaws. In the event that more than one individual holds the office of Chief Executive Officer at any given time, all individuals holding such office shall be entitled to the same privileges and benefits under these Bylaws.

SECTION 4.07. *The President.* The President shall, together with the Chief Executive Officer and subject to the control of the Board, have general and active management and control of the

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business and affairs of the Corporation and shall see that all orders and resolutions of the Board are carried into effect. The President shall perform all duties incident to the office of President and all such other duties as may from time to time be assigned to him by the Board or these Bylaws.

SECTION 4.08. *The Chief Operating Officer.* The Chief Operating Officer shall, subject to the control of the Board, the Chief Executive Officer and the President, have general and active management and control of the operation of the business of the Corporation and shall see that all orders and resolutions of the Board, the Chief Executive Officer and the President are carried into effect. The Chief Operating Officer shall perform all duties incident to the office of Chief Operating Officer and all such other duties as may from time to time be assigned to him by the Board or these Bylaws.

SECTION 4.09. *Vice Presidents.* Vice Presidents of the Corporation ("*Vice Presidents*"), if any, in order of their seniority or in any other order determined by the Board, shall generally assist the Chief Executive Officer, the President and the Chief Operating Officer perform such other duties as the Board or the President shall prescribe, and in the absence or disability of all persons holding the title of Chief Executive Officer or of President or the Chief Operating Officer, shall perform the duties and exercise the powers of the Chief Executive Officer, the President or the Chief Operating Officer, as the case may be.

SECTION 4.10. *The Secretary.* The Secretary shall, to the extent practicable, attend all meetings of the Board and all meetings of stockholders and shall record all votes and the minutes of all proceedings in a book to be kept for that purpose, and shall perform the same duties for any committee of the Board when so requested by such committee. He shall give or cause to be given notice of all meetings of stockholders and of the Board, shall perform such other duties as may be prescribed by the Board, the Chairman, the Chief Executive Officer or the President, under whose supervision he shall act. He shall keep in safe custody the seal of the Corporation and affix the same to any instrument that requires that the seal be affixed to it and which shall have been duly authorized for signature in the name of the Corporation and, when so affixed, the seal shall be attested by his signature or by the signature of the Chief Financial Officer of the Corporation or an Assistant Secretary or Assistant Financial Officer of the Corporation. He shall keep in safe custody the certificate books and stockholder records and such other books and records of the Corporation as the Board, the Chairman, the Chief Executive Officer or the President may direct and shall perform all other duties incident to the office of Secretary and such other duties as from time to time may be assigned to him

by the Board, the Chairman, the Chief Executive Officer or the President.

SECTION 4.11. *Assistant Secretaries.* Assistant Secretaries of the Corporation ("*Assistant Secretaries*"), if any, in order of their seniority or in any other order determined by the Board, shall generally assist the Secretary and perform such other duties as the Board or the Secretary shall prescribe, and, in the absence or disability of the Secretary, shall perform the duties and exercise the powers of the Secretary.

SECTION 4.12. *The Chief Financial Officer.* The Chief Financial Officer shall have the care and custody of all the funds of the Corporation and shall deposit such funds in such banks or other depositories as the Board, or any officer or officers, or any officer and agent jointly, duly authorized by the Board, shall, from time to time, direct or approve. He shall disburse the funds of the Corporation under the direction of the Board, the Chairman, the Chief Executive Officer or the President. He shall keep a full and accurate account of all moneys received and paid on account of the Corporation and shall render a statement of his accounts whenever the Board, the Chairman, the Chief Executive Officer or the President shall so request. He shall perform all other necessary actions and duties in connection with the administration of the financial affairs of the Corporation and shall generally perform all the duties usually appertaining to the office of treasurer of a corporation. When required

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by the Board, he shall give bonds for the faithful discharge of his duties in such sums and with such sureties as the Board shall approve.

SECTION 4.13. *Assistant Financial Officers.* Assistant Financial Officers of the Corporation, if any, in order of their seniority or in any other order determined by the Board, shall generally assist the Chief Financial Officer and perform such other duties as the Board or the Chief Financial Officer shall prescribe, and, in the absence or disability of the Chief Financial Officer, shall perform the duties and exercise the powers of the Chief Financial Officer.

## ARTICLE V

### CONTRACTS, CHECKS, DRAFTS, BANK ACCOUNTS, AND PROXIES

SECTION 5.01. *Execution of Documents.* The Chairman, the Chief Executive Officer, the President and the Chief Operating Officer, and the officers, employees and agents of the Corporation designated by the Board (or any duly authorized committee thereof to the extent permitted by law), shall have power to execute and deliver deeds, contracts, mortgages, bonds, debentures, checks, drafts and other orders for the payment of money and other documents for and in the name of the Corporation, and each such officer, employee and agent, without further action by the Board, may delegate such power (including authority to redelegate) by any means, written or oral, to other officers, employees or agents of the Corporation; and, unless so designated or expressly authorized by these Bylaws, no officer or agent or employee shall have any power or authority to bind the Corporation by any contract or engagement or to pledge its credit or to render it liable pecuniarily for any purpose or to any amount.

SECTION 5.02. *Deposits.* All funds of the Corporation not otherwise employed shall be deposited from time to time to the credit of the Corporation or otherwise as the Board, or any officer of the Corporation to whom power in this respect shall have been given by the Board, shall direct.

SECTION 5.03. *Proxies in Respect of Stock or Other Securities of Other Corporations.* The Board shall designate the officers of the Corporation who shall have authority from time to time to appoint an agent or agents of the Corporation to exercise in the name and on behalf of the Corporation the powers and rights that the Corporation may have as the holder of stock or other securities in any other corporation, and to vote or consent in respect of such stock or securities. Such designated officers may instruct the person or persons so appointed as to the manner of exercising such powers and rights, and such designated officers may execute or cause to be executed in the name and on behalf of the Corporation and under its corporate seal, or otherwise, such written proxies, powers of attorney or other instruments as they may deem necessary or proper in order that the Corporation may exercise such powers and rights.

## ARTICLE VI

### SHARES AND TRANSFERS OF SHARES

SECTION 6.01. *Certificates Evidencing Shares.* Every owner of shares of stock of the Corporation shall be entitled to have a certificate certifying the number and class of shares of stock of the Corporation owned by him, which certificate shall be in such form as may be prescribed by the Board. Certificates shall be issued in consecutive order and shall be numbered in the order of their issue, and shall be signed by the Chairman, the Chief Executive Officer, the President, the Chief Operating Officer or any Vice President and by the Secretary, any Assistant Secretary, the Chief Financial Officer or any Assistant Financial Officer. Any or all signatures on the certificate may be a facsimile. In the event any such officer who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to hold such office or to be employed by the Corporation before such certificate is issued, such certificate may be issued by the Corporation with the same effect as if such officer had held such office on the date of issue.

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SECTION 6.02. *Stock Ledger.* A stock ledger in one or more counterparts shall be kept by the Secretary, in which shall be recorded the

name and address of each person, firm or corporation owning the shares evidenced by each certificate for stock issued by the Corporation, the number of shares of stock evidenced by each such certificate, the date of issuance thereof and, in the case of cancellation, the date of cancellation. Except as otherwise expressly required by law, the person in whose name shares of stock stand on the stock ledger of the Corporation shall be deemed the owner and record holder thereof for all purposes as regards the Corporation.

SECTION 6.03. *Transfer of Shares.* Registration of transfers of shares of stock shall be made only in the stock ledger of the Corporation upon request of the registered holder of such shares, or of his attorney thereunto authorized by power of attorney duly executed and filed with the Secretary, and upon the surrender of the certificate or certificates evidencing such shares properly endorsed or accompanied by a stock power duly executed, together with such proof of the authenticity of signatures as the Corporation may reasonably require.

SECTION 6.04. *Addresses of Stockholders.* Each stockholder shall designate to the Secretary an address at which notices of meetings and all other corporate notices may be served or mailed to such stockholder, and, if any stockholder shall fail to so designate such an address, corporate notices may be served upon such stockholder by mail directed to the mailing address, if any, as the same appears in the stock ledger of the Corporation or at the last known mailing address of such stockholder.

SECTION 6.05. *Lost, Destroyed and Mutilated Certificates.* A holder of shares of stock of the Corporation shall promptly notify the Corporation of any loss, destruction or mutilation of any certificate or certificates evidencing all or any such shares of stock. The Board may, in its discretion, cause the Corporation to issue a new certificate in place of any certificate theretofore issued by it and alleged to have been mutilated, lost, stolen or destroyed, upon the surrender of the mutilated certificate or, in the case of loss, theft or destruction of the certificate, upon satisfactory proof of such loss, theft or destruction, and the Board may, in its discretion, require the record holder of the shares of stock evidenced by the lost, stolen or destroyed certificate or his legal representative to give the Corporation a bond sufficient to indemnify the Corporation against any claim made against it on account of the alleged loss, theft or destruction of any such certificate or the issuance of such new certificate.

SECTION 6.06. *Regulations.* The Board may make such other rules and regulations as it may deem expedient, not inconsistent with these Bylaws, concerning the issue, transfer and registration of certificates evidencing shares of stock of the Corporation.

SECTION 6.07. *Fixing Date for Determination of Stockholders of Record.* In order that the Corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, or to express consent to, or to dissent from, corporate action, or entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock, or for the purpose of any other lawful action, the Board may fix, in advance, a record date, which shall not be more than 60 nor less than 10 days before the date of such meeting, nor more than 60 days prior to any other such corporate action. A determination of the stockholders entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of such meeting; *provided, however,* that the Board may fix a new record date for the adjourned meeting.

## ARTICLE VII

### SEAL

SECTION 7.01. *Seal.* The Board may approve and adopt a corporate seal, which shall be in the form of a circle and shall bear the full name of the Corporation, the year of its incorporation and the words "Corporate Seal Delaware".

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## ARTICLE VIII

### FISCAL YEAR

SECTION 8.01. *Fiscal Year.* The fiscal year of the Corporation shall end on the thirty-first day of December of each year unless changed by resolution of the Board.

## ARTICLE IX INDEMNIFICATION AND INSURANCE

SECTION 9.01. *Indemnification.* (a) The Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Corporation) by reason of the fact that he is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of *nolo contendere* or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

(b) The Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Corporation to procure a judgment in its favor by reason of the fact that he is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Corporation and except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the Corporation unless and only to the extent that the Court of Chancery of the State of Delaware or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery or such other court shall deem proper.

(c) To the extent that a director, officer, employee or agent of the Corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Section 9.01(a) and (b) of these Bylaws, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith.

(d) Any indemnification under Section 9.01(a) and (b) of these Bylaws (unless ordered by a court) shall be made by the Corporation only as authorized in the specific case upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in Section 9.01(a) and (b) of these Bylaws. Such determination shall be made (i) by a majority vote of directors who are not parties to such action, suit or proceeding even though less than a quorum, or (ii) if there are no such directors, if such directors

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so direct, by independent legal counsel in a written opinion, or (iii) by the stockholders of the Corporation.

(e) Expenses (including attorneys' fees) incurred by an officer or director in defending any civil, criminal, administrative or investigative action, suit or proceeding may be paid by the Corporation in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of such director or officer to repay such amount if it shall ultimately be determined that he is not entitled to be indemnified by the Corporation pursuant to this Article IX. Such expenses (including attorneys' fees) incurred by other employees and agents may be so paid upon such terms and conditions, if any, as the Board deems appropriate.

(f) The indemnification and advancement of expenses provided by, or granted pursuant to, other Sections of this Article IX shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under any law, bylaw, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in an official capacity and as to action in another capacity while holding such office.

(g) For purposes of this Article IX, references to "the Corporation" shall include, in addition to the resulting corporation, any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its directors, officers, employees or agents so that any person who is or was a director, officer, employee or agent of such constituent corporation, or is or was serving at the request of such constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, shall stand in the same position under the provisions of this Article IX with respect to the resulting or surviving corporation as he would have with respect to such constituent corporation if its separate existence had continued.

(h) For purposes of this Article IX, references to "other enterprises" shall include employee benefit plans; references to "fines" shall include any excise taxes assessed on a person with respect to an employee benefit plan; and references to "serving at the request of the Corporation" shall include any service as a director, officer, employee or agent of the Corporation which imposes duties on, or involves service by, such director, officer, employee or agent with respect to any employee benefit plan, its participants, or beneficiaries; and a person who acted in good faith and in a manner he reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner "not opposed to the best interests of the Corporation" as referred to in this Article IX.

(i) The indemnification and advancement of expenses provided by, or granted pursuant to, this Article IX shall, unless otherwise provided when authorized or ratified, continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

**SECTION 9.02. Insurance for Indemnification.** The Corporation may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Corporation would have the power to indemnify him against such liability under the provisions of Section 145 of the General Corporation Law.

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**ARTICLE X**  
**AMENDMENTS**

SECTION 10.01. *Amendments.* These Bylaws may be altered, amended or repealed, in whole or in part, or new Bylaws may be adopted, either by the Board or by the stockholders of the Corporation upon the affirmative vote of the holders of at least 66 <sup>2</sup>/<sub>3</sub>% of the outstanding capital stock entitled to vote thereon.

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SECOND AMENDMENT, dated as of November 5, 2001 (this "Amendment"), to the CREDIT AGREEMENT, dated as of December 3, 1999, as amended by the First Amendment dated as of March 27, 2001 (the "Credit Agreement"), among GUESS ?, INC. (the "Borrower"), the several banks and other financial institutions or entities from time to time parties to the Credit Agreement (the "Lenders"), the Co-Agent named therein and THE CHASE MANHATTAN BANK, as Administrative Agent. Terms defined in the Credit Agreement shall be used in this Amendment with their defined meanings unless otherwise defined herein.

WITNESSETH:

WHEREAS, the Borrower has requested the Lenders to enter into this Amendment on the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows:

I. AMENDMENTS.

1. Section 2.8 of the Credit Agreement is hereby amended by (a) re-captioning said Section as "Mandatory Revolving Credit Commitment Reductions; Cleandown" and (b) adding the following new paragraph (d) to the end thereof:

"(d) Notwithstanding anything to the contrary in this Agreement, (i) during the period from December 1, 2001 through and including January 31, 2002, there shall be a period of at least 20 consecutive calendar days during which the aggregate Revolving Extensions of Credit shall be \$15,000,000 or less and (ii) any failure to comply with the foregoing shall constitute an Event of Default."

2. Section 7.1 of the Credit Agreement is hereby amended and restated in its entirety as follows:

"7.1 Financial Condition Covenants.

(a) *Consolidated Leverage Ratio.* Permit the Consolidated Leverage Ratio for any period of four consecutive fiscal quarters of the Borrower ending on any date set forth below to be greater than the ratio set forth below opposite such fiscal quarter:

Fiscal Quarter	Consolidated Leverage Ratio
The last day of the third fiscal quarter of fiscal year 2001	5.25 to 1.0
The last day of the fourth fiscal quarter of fiscal year 2001	4.50 to 1.0
The last day of any fiscal quarter ending thereafter	5.50 to 1.0

(b) *Consolidated Fixed Charge Coverage Ratio.* Permit the Consolidated Fixed Charge Coverage Ratio for any period of four consecutive fiscal quarters of the Borrower ending on any date set forth below to be less than the ratio set forth below opposite such fiscal quarter:

Fiscal Quarter	Consolidated Fixed Charge Coverage Ratio
The last day of the third fiscal quarter of fiscal year 2001	0.75 to 1.0
The last day of the fourth fiscal quarter of fiscal year 2001	1.15 to 1.0
The last day of any fiscal quarter ending thereafter	1.00 to 1.0

(c) *Consolidated Net Worth.* Permit Consolidated Net Worth at any time to be less than \$150,000,000.

(d) *Consolidated Net Income.* Permit Consolidated Net Income for (i) the third fiscal quarter of fiscal year 2001 of the Borrower to be less than \$1.00, (ii) the fourth fiscal quarter of fiscal year 2001 of the Borrower to be less than \$1.00, (iii) any period of four consecutive fiscal quarters of the Borrower ending thereafter (other than any such period ending on June 30, 2002) to be less than \$1.00 or (iv) the period of four consecutive fiscal quarters of the Borrower ending on June 30, 2002 to be less than negative \$1,500,000.

(e) *Liquidity Ratio.* Permit the Liquidity Ratio to be less than 1.0 to 1.0. It is understood that verification of compliance with this Section 7.1(e) shall only be required in connection with the delivery of Borrowing Base Certificates pursuant to Section 6.2(f) and at any other time requested by the Administrative Agent."

3. Section 7.7 of the Credit Agreement is hereby amended by deleting the words ", \$40,000,000 in fiscal year 2001 and \$50,000,000 in any fiscal year thereafter" and replacing them with the words ", \$30,000,000 in fiscal year 2001 and \$40,000,000 in any fiscal year thereafter".

4. The Pricing Grid attached as Annex A to the Credit Agreement is hereby replaced by the Pricing Grid attached as Annex A to this

Amendment.

II. MISCELLANEOUS.

1. *Representations and Warranties.* The Borrower hereby represents and warrants as of the date hereof that, after giving effect to this Amendment, (a) no Default or Event of Default has occurred and is continuing and (b) all representations and warranties of each Loan Party contained in the Loan Documents (with each reference to the Loan Documents in such representations and warranties being deemed to include, unless the context otherwise requires, this Amendment and the Credit Agreement as amended by this Amendment) are true and correct in all material respects with the same effect as if made on and as of such date (except for those representations and warranties which expressly relate to a specific earlier date).

2. *Expenses.* The Borrower agrees to pay or reimburse the Administrative Agent on demand for all its reasonable out-of-pocket costs and expenses incurred in connection with the preparation and execution of this Amendment and the transactions contemplated hereby, including, without limitation, the reasonable fees and disbursements of counsel to the Administrative Agent.

3. *No Change.* Except as expressly provided herein, no term or provision of the Credit Agreement shall be amended, modified or supplemented, and each term and provision of the Credit Agreement shall remain in full force and effect.

4. *Effectiveness.* This Amendment shall become effective as of September 29, 2001 upon satisfaction of the following conditions: (a) the Administrative Agent shall have received counterparts hereof duly executed by the Borrower and the Required Lenders, (b) the Total Revolving Credit

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Commitments shall have been reduced to \$100,000,000 pursuant to Section 2.6 of the Credit Agreement (which reduction, notwithstanding anything to the contrary in said Section, shall be effective immediately upon notice from the Borrower to the Administrative Agent) and (c) the Borrower shall have paid to the Administrative Agent, for the account of each Lender that submits an executed signature page to the Administrative Agent or its counsel (including by facsimile transmission) no later than 5:00 p.m., New York City time, on November 13, 2001, an amendment fee in an aggregate amount equal to \$125,000, to be allocated among such Lenders ratably according to their respective Revolving Credit Commitments.

5. *Counterparts.* This Amendment may be executed by the parties hereto in any number of separate counterparts, and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

6. **GOVERNING LAW. THIS AMENDMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.**

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IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed and delivered by their proper and duly authorized officers as of the date first above written.

GUESS?, INC.

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

Name:

Title:

THE CHASE MANHATTAN BANK,  
as Administrative Agent, as Issuing Lender  
and as a Lender

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

Name:

Title:

UNITED CALIFORNIA BANK,  
as Co-Agent and as a Lender

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

Name:

Title:

GMAC COMMERCIAL CREDIT LLC

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

Name:  
Title:

ISRAEL DISCOUNT BANK OF NEW YORK

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

Name:  
Title:

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

Name:  
Title:

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FIRSTAR BANK

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

Name:  
Title:

BANK LEUMI USA

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

Name:  
Title:

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

Name:  
Title:

ATLANTIC BANK OF NEW YORK

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

Name:  
Title:

FLEET NATIONAL BANK

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

Name:  
Title:

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**Annex A**

<u>Consolidated Leverage Ratio</u>	<u>Applicable Margin for Eurodollar Loans</u>	<u>Applicable Margin for ABR Loans</u>	<u>Commitment Fee Rate</u>	<u>Applicable Documentary L/C Fee Rate</u>
Greater than or equal to 5.00 to 1.0	2.75%	1.75%	0.667%	0.350%
Greater than or equal to 4.50 to 1.0 but less than 5.00 to 1.0	2.50%	1.50%	0.625%	0.325%
Greater than or equal to 4.00 to 1.0 but less than 4.50 to 1.0	2.25%	1.25%	0.625%	0.300%
Less than 4.00 to 1.0	2.00%	1.00%	0.5625%	0.275%

Changes in the Applicable Margin resulting from changes in the Consolidated Leverage Ratio shall become effective on the date (the

*"Adjustment Date"*) on which financial statements are delivered to the Lenders pursuant to Section 6.1 (but in any event not later than the 45th day after the end of each of the first three quarterly periods of each fiscal year or the 90th day after the end of each fiscal year, as the case may be) and shall remain in effect until the next change to be effected pursuant to this paragraph. If any financial statements referred to above are not delivered within the time periods specified above, then, until such financial statements are delivered, the Consolidated Leverage Ratio as at the end of the fiscal period that would have been covered thereby shall for the purposes of this definition be deemed to be greater than 5.00 to 1.0. In addition, at all times while an Event of Default shall have occurred and be continuing, the Consolidated Leverage Ratio shall for the purposes of this definition be deemed to be greater than 5.00 to 1.0. Each determination of the Consolidated Leverage Ratio pursuant to this pricing grid shall be made with respect to (or, in the case of Consolidated Total Debt, as at the end of) the period of four consecutive fiscal quarters of the Borrower ending at the end of the period covered by the relevant financial statements.

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