

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

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 May 1, 2021

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 001-36107



**BURLINGTON STORES, INC.**

(Exact name of registrant as specified in its charter)

Delaware  
(State or Other Jurisdiction of  
Incorporation or Organization)

2006 Route 130 North  
Burlington, New Jersey  
(Address of Principal Executive Offices)

80-0895227  
(I.R.S. Employer  
Identification No.)

08016  
(Zip Code)

Registrant's Telephone Number, Including Area Code: (609) 387-7800

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common stock	BURL	New York Stock Exchange

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

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes  No

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

Large accelerated filer	<input checked="" type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-Accelerated filer	<input type="checkbox"/>	Smaller reporting company	<input type="checkbox"/>
		Emerging growth company	<input type="checkbox"/>

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

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

The registrant had 66,580,160 shares of common stock outstanding as of May 1, 2021.

BURLINGTON STORES, INC.

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**PART I. FINANCIAL INFORMATION**  
**Item 1. Financial Statements**

**BURLINGTON STORES, INC.**  
**CONDENSED CONSOLIDATED STATEMENTS OF INCOME (LOSS)**  
**(Unaudited)**  
**(All amounts in thousands, except per share data)**

	<b>Three Months Ended</b>	
	<b>May 1, 2021</b>	<b>May 2, 2020</b>
<b>REVENUES:</b>		
Net sales	\$ 2,190,667	\$ 797,996
Other revenue	2,629	3,527
<b>Total revenue</b>	<b>2,193,296</b>	<b>801,523</b>
<b>COSTS AND EXPENSES:</b>		
Cost of sales	1,242,189	782,184
Selling, general and administrative expenses	664,828	485,088
Costs related to debt issuances and amendments	—	4,352
Depreciation and amortization	55,610	54,291
Impairment charges - long-lived assets	777	1,924
Other income - net	(1,374)	(2,124)
Loss on extinguishment of debt	—	202
Interest expense	19,599	14,693
<b>Total costs and expenses</b>	<b>1,981,629</b>	<b>1,340,610</b>
<b>Income (loss) before income tax expense (benefit)</b>	<b>211,667</b>	<b>(539,087)</b>
Income tax expense (benefit)	40,637	(205,359)
<b>Net income (loss)</b>	<b>\$ 171,030</b>	<b>\$ (333,728)</b>
Net income (loss) per common share:		
Common stock - basic	\$ 2.58	\$ (5.09)
Common stock - diluted	\$ 2.51	\$ (5.09)
Weighted average number of common shares:		
Common stock - basic	66,397	65,572
Common stock - diluted	68,032	65,572

See Notes to Condensed Consolidated Financial Statements.

**BURLINGTON STORES, INC.**  
**CONDENSED CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME (LOSS)**  
**(Unaudited)**  
**(All amounts in thousands)**

	<b>Three Months Ended</b>	
	<b>May 1, 2021</b>	<b>May 2, 2020</b>
Net income (loss)	\$ 171,030	\$ (333,728)
Other comprehensive income (loss), net of tax:		
Interest rate derivative contracts:		
Net unrealized gains (losses) arising during the period	825	(9,609)
Net reclassification into earnings during the period	2,159	1,108
Other comprehensive income (loss), net of tax	2,984	(8,501)
<b>Total comprehensive income (loss)</b>	<b>\$ 174,014</b>	<b>\$ (342,229)</b>

See Notes to Condensed Consolidated Financial Statements.

**BURLINGTON STORES, INC.**  
**CONDENSED CONSOLIDATED BALANCE SHEETS**  
(Unaudited)  
(All amounts in thousands, except share and per share data)

	May 1, 2021	January 30, 2021	May 2, 2020
<b>ASSETS</b>			
<b>Current assets:</b>			
Cash and cash equivalents	\$ 1,530,600	\$ 1,380,276	\$ 1,488,470
Restricted cash and cash equivalents	6,582	6,582	6,582
Accounts receivable—net	83,350	62,161	12,375
Merchandise inventories	767,575	740,788	625,908
Assets held for disposal	6,655	6,655	2,261
Prepaid and other current assets	343,336	314,154	94,284
<b>Total current assets</b>	<b>2,738,098</b>	<b>2,510,616</b>	<b>2,229,880</b>
Property and equipment—net	1,454,454	1,438,863	1,407,082
Operating lease assets	2,500,887	2,469,366	2,437,444
Tradenames	238,000	238,000	238,000
Goodwill	47,064	47,064	47,064
Deferred tax assets	4,332	4,422	4,661
Other assets	68,209	72,761	276,546
<b>Total assets</b>	<b>\$ 7,051,044</b>	<b>\$ 6,781,092</b>	<b>\$ 6,640,677</b>
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>			
<b>Current liabilities:</b>			
Accounts payable	\$ 906,960	\$ 862,638	\$ 701,922
Current operating lease liabilities	312,934	304,629	269,016
Other current liabilities	504,520	512,830	380,789
Current maturities of long term debt	4,287	3,899	3,679
<b>Total current liabilities</b>	<b>1,728,701</b>	<b>1,683,996</b>	<b>1,355,406</b>
Long term debt	2,081,013	1,927,770	2,304,094
Long term operating lease liabilities	2,428,866	2,400,782	2,370,861
Other liabilities	100,953	103,940	112,092
Deferred tax liabilities	171,619	199,850	219,123
Commitments and contingencies (Note 12)			
<b>Stockholders' equity:</b>			
Preferred stock, \$0.0001 par value: authorized: 50,000,000 shares; no shares issued and outstanding	—	—	—
Common stock, \$0.0001 par value:			
Authorized: 500,000,000 shares;			
Issued: 80,897,050 shares, 80,661,453 shares and 80,084,171 shares, respectively;			
Outstanding: 66,580,160 shares, 66,386,331 shares and 65,846,701 shares, respectively	7	7	7
Additional paid-in-capital	1,706,883	1,809,831	1,737,868
Accumulated earnings (deficit)	176,483	(11,702)	(128,931)
Accumulated other comprehensive loss	(20,031)	(23,015)	(27,461)
Treasury stock, at cost	(1,323,450)	(1,310,367)	(1,302,382)
<b>Total stockholders' equity</b>	<b>539,892</b>	<b>464,754</b>	<b>279,101</b>
<b>Total liabilities and stockholders' equity</b>	<b>\$ 7,051,044</b>	<b>\$ 6,781,092</b>	<b>\$ 6,640,677</b>

See Notes to Condensed Consolidated Financial Statements.

**BURLINGTON STORES, INC.**  
**CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS**  
(Unaudited)  
(All amounts in thousands)

	Three Months Ended	
	May 1, 2021	May 2, 2020
<b>OPERATING ACTIVITIES</b>		
Net income (loss)	\$ 171,030	\$ (333,728)
Adjustments to reconcile net income (loss) to net cash provided by (used in) operating activities		
Depreciation and amortization	55,610	54,291
Impairment charges—long-lived assets	777	1,924
Amortization of deferred financing costs	1,651	479
Accretion of long term debt instruments	197	1,562
Deferred income taxes	9,010	(4,146)
Non-cash loss on extinguishment of debt	—	202
Non-cash stock compensation expense	12,879	17,352
Non-cash lease expense	(4,799)	1,174
Cash received from landlord allowances	9,690	5,807
Changes in assets and liabilities:		
Accounts receivable	(20,175)	89,367
Merchandise inventories	(26,787)	151,340
Prepaid and other current assets	(29,182)	42,415
Accounts payable	42,651	(70,377)
Other current liabilities	(3,029)	(40,553)
Other long term assets and long term liabilities	346	(192,735)
Other operating activities	3,540	3,891
<b>Net cash provided by (used in) operating activities</b>	<b>223,409</b>	<b>(271,735)</b>
<b>INVESTING ACTIVITIES</b>		
Cash paid for property and equipment	(71,671)	(62,463)
Other investing activities	(149)	(146)
<b>Net cash (used in) investing activities</b>	<b>(71,820)</b>	<b>(62,609)</b>
<b>FINANCING ACTIVITIES</b>		
Proceeds from long term debt—ABL Line of Credit	—	400,000
Principal payments on long term debt—ABL Line of Credit	—	—
Proceeds from long term debt—Convertible Note	—	805,000
Proceeds from long term debt—Secured Note	—	300,000
Purchase of treasury shares	(13,083)	(57,542)
Proceeds from stock option exercises	16,089	1,454
Deferred financing costs	(44)	(26,846)
Other financing activities	(4,227)	(2,326)
<b>Net cash (used in) provided by financing activities</b>	<b>(1,265)</b>	<b>1,419,740</b>
Increase in cash, cash equivalents, restricted cash and restricted cash equivalents	150,324	1,085,396
Cash, cash equivalents, restricted cash and restricted cash equivalents at beginning of period	1,386,858	409,656
<b>Cash, cash equivalents, restricted cash and restricted cash equivalents at end of period</b>	<b>\$ 1,537,182</b>	<b>\$ 1,495,052</b>
<b>Supplemental disclosure of cash flow information:</b>		
Interest paid	\$ 23,758	\$ 8,566
Income tax payments - net	\$ 462	\$ 104
<b>Non-cash investing activities:</b>		
Accrued purchases of property and equipment	\$ 41,745	\$ 57,219

See Notes to Condensed Consolidated Financial Statements.

**BURLINGTON STORES, INC.**  
**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS**  
**May 1, 2021**  
**(Unaudited)**

**1. Summary of Significant Accounting Policies**

***Basis of Presentation***

As of May 1, 2021, Burlington Stores, Inc., a Delaware corporation (collectively with its subsidiaries, the Company), through its indirect subsidiary Burlington Coat Factory Warehouse Corporation (BCFWC), operated 784 retail stores.

These unaudited Condensed Consolidated Financial Statements include the accounts of Burlington Stores, Inc. and its subsidiaries. All inter-company accounts and transactions have been eliminated in consolidation. The Condensed Consolidated Financial Statements are unaudited, but in the opinion of management reflect all adjustments (which are of a normal and recurring nature) necessary for the fair presentation of the results of operations for the interim periods presented. Certain information and note disclosures normally included in financial statements prepared in accordance with accounting principles generally accepted in the United States of America (GAAP) have been condensed or omitted. These Condensed Consolidated Financial Statements should be read in conjunction with the audited Consolidated Financial Statements and notes thereto included in the Company's Annual Report on Form 10-K for the fiscal year ended January 30, 2021 (Fiscal 2020 10-K). The balance sheet at January 30, 2021 presented herein has been derived from the audited Consolidated Financial Statements contained in the Fiscal 2020 10-K. Because of the COVID-19 pandemic discussed below, and because the Company's business is seasonal in nature, the operating results for the three month period ended May 1, 2021 are not necessarily indicative of results for the fiscal year.

Accounting policies followed by the Company are described in Note 1, "Summary of Significant Accounting Policies," included in Part II, Item 8 of the Fiscal 2020 10-K.

***Fiscal Year***

The Company defines its fiscal year as the 52- or 53-week period ending on the Saturday closest to January 31. The current fiscal year ending January 29, 2022 (Fiscal 2021) and the prior fiscal year ended January 30, 2021 (Fiscal 2020) both consist of 52 weeks.

***COVID-19***

On March 11, 2020, the World Health Organization declared the novel coronavirus (known as COVID-19) outbreak to be a global pandemic. As a result, the Company began the temporary closing of some of its stores, and effective March 22, 2020, it made the decision to temporarily close all of its stores, distribution centers (other than processing of received inventory) and corporate offices to combat the rapid spread of COVID-19. These developments caused significant disruptions to the Company's business and had a significant adverse impact on its financial condition, results of operations and cash flows. The Company began re-opening stores on May 11, 2020, with substantially all stores re-opened by the end of the second quarter of Fiscal 2020.

In response to the COVID-19 pandemic and the temporary closing of stores, the Company provided two weeks of financial support to associates impacted by these store closures and by the shutdown of distribution centers. The Company temporarily furloughed most store and distribution center associates, as well as some corporate associates, but continued to provide benefits to its furloughed associates in accordance with its benefit plans. In addition, the Company paid 100% of their medical benefit premiums during the period they were furloughed. During the second quarter of Fiscal 2020, the Company recalled all furloughed associates at its re-opened stores, as well as its corporate and distribution facilities.

In order to maintain maximum financial flexibility during these uncertain times, the Company completed several debt transactions in the first quarter of Fiscal 2020. In March 2020, the Company borrowed \$400 million on its existing \$600 million senior secured asset-based revolving credit facility (the ABL Line of Credit), of which \$150 million was repaid during the second quarter of Fiscal 2020, and the remaining \$250 million was repaid during the fourth quarter of Fiscal 2020. In April 2020, the Company issued \$805 million of 2.25% Convertible Senior Notes due 2025 (the Convertible Notes), and BCFWC issued \$300 million of 6.25% Senior Secured Notes due 2025 (the Secured Notes). Refer to Note 4, "Long Term Debt," for further discussion regarding these debt transactions.

Additionally, the Company took the following steps to further enhance its financial flexibility:

- Carefully managed operating expenses, working capital and capital expenditures, including ceasing substantially all buying activities while stores were closed. The Company subsequently resumed its buying activities, while continuing its conservative approach toward operating expenses and capital expenditures.
- Negotiated rent deferral agreements with landlords.
- Suspended the Company's share repurchase program.
- The Company's CEO voluntarily agreed to not take a salary; the Company's board of directors voluntarily forfeited their cash compensation; the Company's executive leadership team voluntarily agreed to decrease their salary by 50%; and smaller salary reductions were temporarily put in place for all employees through a certain level. This compensation was reinstated once substantially all of the Company's stores re-opened.
- The annual incentive bonus payments related to Fiscal 2019 performance were delayed to the second quarter of Fiscal 2020, and merit pay increases for Fiscal 2020 were delayed to the third quarter of Fiscal 2020.

Due to the aging of inventory related to the temporary store closures discussed above, as well as the impact of seasonality on the Company's merchandise, the Company recognized inventory markdown reserves of \$271.9 million during the three month period ended May 2, 2020. These reserves covered markdowns taken during the second quarter of Fiscal 2020. These charges were included in "Cost of sales" on the Company's Condensed Consolidated Statement of Income (Loss).

On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act) was signed into law, which provides emergency economic assistance for American workers, families and businesses affected by the COVID-19 pandemic. For the year ended January 30, 2021 the Company estimated it would obtain a one-time tax refund of \$219.7 million from the carryback of federal net operating losses (NOLs) as a result of the CARES Act, which is included in the line item "Prepaid and other current assets" on the Company's Condensed Consolidated Balance Sheet.

### ***Recently Adopted Accounting Standards***

#### *Convertible Debt*

On August 5, 2020, the Financial Accounting Standards Board (FASB) issued Accounting Standards Update (ASU) 2020-06, "Accounting for Convertible Instruments and Contracts in an Entity's Own Equity" (ASU 2020-06), which simplifies the accounting for certain financial instruments with characteristics of liabilities and equity, including convertible instruments. The new guidance removes from GAAP the separation models for convertible debt with a cash conversion feature. The Company elected to early adopt this ASU as of the beginning of Fiscal 2021, using the modified retrospective method of transition. Prior periods have not been restated.

As a result of adopting the guidance, the Company is no longer separating the Convertible Notes into debt and equity components, and is instead accounting for it wholly as debt. As of the beginning of Fiscal 2021, this ASU resulted in a reduction in the line item "Additional paid-in capital" of \$176.0 million, net of deferred financing costs, and an increase in the line item "Long term debt" of \$153.0 million, which eliminated the debt discount and reallocated deferred financing costs that were previously allocated to the equity component.

The changes noted above caused a decrease in the effective interest rate on the Convertible Notes from 8.2% to 2.8%, resulting in a cumulative-effect adjustment to retained earnings of \$23.0 million related to Fiscal 2020 interest expense, as well as a \$7.6 million reduction in interest expense for the three month period ended May 1, 2021.

As of the beginning of Fiscal 2021, the tax effect of adopting this guidance resulted in a \$44.1 million increase in the line item "Additional paid-in-capital," a \$38.3 million reduction in the line item "Deferred tax liabilities" and a \$5.9 million reduction to retained earnings.

The new guidance also requires use of the if-converted method when calculating the dilutive impact of the Convertible Notes on earnings per share. The Company used the treasury stock method prior to adoption of the ASU. The impact of this ASU on net income and weighted average diluted shares resulted in an increase to diluted net income per share of \$0.05 during the three month period ended May 1, 2021.



There were no other new accounting standards that had a material impact on the Company's Condensed Consolidated Financial Statements and notes thereto during the three month period ended May 1, 2021, and there were no other new accounting standards or pronouncements that were issued but not yet effective as of May 1, 2021 that the Company expects to have a material impact on its financial position or results of operations upon becoming effective.

## 2. Stockholders' Equity

Activity for the three month periods ended May 1, 2021 and May 2, 2020 in the Company's stockholders' equity are summarized below:

	<i>(in thousands, except share data)</i>							<b>Total</b>
	<b>Common Stock</b>		<b>Additional Paid-in Capital</b>	<b>Accumulated Earnings (Deficit)</b>	<b>Accumulated Other Comprehensive Loss</b>	<b>Treasury Stock</b>		
	<b>Shares</b>	<b>Amount</b>				<b>Shares</b>	<b>Amount</b>	
<b>Balance at January 30, 2021</b>	80,661,453	7	1,809,831	(11,702)	(23,015)	(14,275,122)	(1,310,367)	464,754
Net income	—	—	—	171,030	—	—	—	171,030
Stock options exercised	181,683	—	16,089	—	—	—	—	16,089
Shares used for tax withholding	—	—	—	—	—	(41,768)	(13,083)	(13,083)
Vesting of restricted shares, net of forfeitures of 883 restricted shares	53,914	—	—	—	—	—	—	—
Stock based compensation	—	—	12,879	—	—	—	—	12,879
Unrealized losses on interest rate derivative contracts, net of related taxes of \$0.3 million	—	—	—	—	825	—	—	825
Amount reclassified into earnings, net of related taxes of \$0.8 million	—	—	—	—	2,159	—	—	2,159
Adoption of Accounting Standards Update 2020-06 (Note 1)	—	—	(131,916)	17,155	—	—	—	(114,761)
<b>Balance at May 1, 2021</b>	<b>80,897,050</b>	<b>\$ 7</b>	<b>\$ 1,706,883</b>	<b>\$ 176,483</b>	<b>\$ (20,031)</b>	<b>(14,316,890)</b>	<b>\$ (1,323,450)</b>	<b>\$ 539,892</b>

	<i>(in thousands, except share data)</i>							<b>Total</b>
	<b>Common Stock</b>		<b>Additional Paid-in Capital</b>	<b>Accumulated Deficit</b>	<b>Accumulated Other Comprehensive Loss</b>	<b>Treasury Stock</b>		
	<b>Shares</b>	<b>Amount</b>				<b>Shares</b>	<b>Amount</b>	
<b>Balance at February 1, 2020</b>	79,882,506	\$ 7	\$ 1,587,146	\$ 204,797	\$ (18,960)	(13,952,534)	\$ (1,244,841)	\$ 528,149
Net loss	—	—	—	(333,728)	—	—	—	(333,728)
Stock options exercised	180,950	—	1,454	—	—	—	—	1,454
Shares used for tax withholding	—	—	—	—	—	(41,363)	(7,383)	(7,383)
Shares purchased as part of publicly announced programs	—	—	—	—	—	(243,573)	(50,158)	(50,158)
Vesting of restricted shares, net of forfeitures of 4,166 restricted shares	20,715	—	—	—	—	—	—	—
Stock based compensation	—	—	17,352	—	—	—	—	17,352
Equity component of convertible notes issuance, net of related taxes of \$44.1 million	—	—	131,916	—	—	—	—	131,916
Unrealized losses on interest rate derivative contracts, net of related tax benefit of \$3.6 million	—	—	—	—	(9,609)	—	—	(9,609)
Amount reclassified into earnings, net of related taxes of \$0.4 million	—	—	—	—	1,108	—	—	1,108
<b>Balance at May 2, 2020</b>	<b>80,084,171</b>	<b>\$ 7</b>	<b>\$ 1,737,868</b>	<b>\$ (128,931)</b>	<b>\$ (27,461)</b>	<b>(14,237,470)</b>	<b>\$ (1,302,382)</b>	<b>\$ 279,101</b>

### 3. Lease Commitments

The Company's leases primarily consist of stores, distribution facilities and office space under operating and finance leases that will expire principally during the next 30 years. The leases typically include renewal options at five year intervals and escalation clauses. Lease renewals are only included in the lease liability to the extent that they are reasonably assured of being exercised. The Company's leases typically provide for contingent rentals based on a percentage of gross sales. Contingent rentals are not included in the lease liability, and they are recognized as variable lease cost when incurred.

As a result of the COVID-19 pandemic and the associated temporary store closures discussed above, the Company worked with landlords to modify payment terms for certain leases. The FASB has provided relief under ASC 842, "Leases," related to the COVID-19 pandemic. Under this relief, companies can make a policy election on how to treat lease concessions resulting directly from COVID-19, provided that the modified contracts result in total cash flows that are substantially the same or less than the cash flows in the original contract. The Company has made the policy election to account for lease concessions that result from the COVID-19 pandemic as if they were made as enforceable rights under the original contract. Additionally, the Company has elected to account for these concessions outside of the lease modification framework described under ASC 842. As a result, deferred payments related to these leases of \$20.6 million are included in the line item "Other current liabilities" on the Company's Condensed Consolidated Balance Sheet. Due dates for these payments vary by lease, with all payments due before the end of Fiscal 2021.

The following is a schedule of the Company's future lease payments:

Fiscal Year	(in thousands)	
	Operating Leases	Finance Leases
2021 (remainder)	\$ 334,958	\$ 5,322
2022	463,834	7,513
2023	441,232	7,589
2024	405,047	7,417
2025	371,823	5,298
2026	332,587	5,324
Thereafter	1,064,491	28,030
Total future minimum lease payments	3,413,972	66,493
Amount representing interest	(672,172)	(19,774)
Total lease liabilities	2,741,800	46,719
Less: current portion of lease liabilities	(312,934)	(4,287)
Total long term lease liabilities	\$ 2,428,866	\$ 42,432
Weighted average discount rate	5.3%	6.8%
Weighted average remaining lease term (years)	8.3	11.6

The above schedule excludes approximately \$418.6 million for 86 stores that the Company has committed to open or relocate but has not yet taken possession of the space. The discount rates used in valuing the Company's leases are not readily determinable, and are based on the Company's incremental borrowing rate on a fully collateralized basis.

The following is a schedule of net lease costs for the periods indicated:

	(in thousands)	
	Three Months Ended	
	May 1, 2021	May 2, 2020
Finance lease cost:		
Amortization of finance lease asset (a)	\$ 1,142	\$ 1,211
Interest on lease liabilities (b)	808	872
Operating lease cost (c)	111,159	108,973
Variable lease cost (c)	46,747	41,218
Total lease cost	159,856	152,274
Less all rental income(d)	(1,275)	(1,248)
Total net rent expense (e)	\$ 158,581	\$ 151,026

(a) Included in the line item "Depreciation and amortization" in the Company's Condensed Consolidated Statements of Income (Loss).

(b) Included in the line item "Interest expense" in the Company's Condensed Consolidated Statements of Income (Loss).

- (c) Includes real estate taxes, common area maintenance, insurance and percentage rent. Included in the line item “Selling, general and administrative expenses” in the Company’s Condensed Consolidated Statements of Income (Loss).
- (d) Included in the line item “Other revenue” in the Company’s Condensed Consolidated Statements of Income (Loss).
- (e) Excludes an immaterial amount of short-term lease cost.

Supplemental cash flow disclosures related to leases are as follows:

	<i>(in thousands)</i>		
	May 1, 2021	Three Months Ended	
		May 2, 2020	
<b>Cash paid for amounts included in the measurement of lease liabilities:</b>			
Cash payments arising from operating lease liabilities (a)	\$	128,200	\$ 87,209
Cash payments for the principal portion of finance lease liabilities (b)	\$	1,263	\$ 853
Cash payments for the interest portion of finance lease liabilities (a)	\$	808	\$ 872
<b>Supplemental non-cash information:</b>			
Operating lease liabilities arising from obtaining right-of-use assets	\$	114,364	\$ 125,335

- (a) Included within operating activities in the Company’s Condensed Consolidated Statements of Cash Flows.
- (b) Included within financing activities in the Company’s Condensed Consolidated Statements of Cash Flows.

#### 4. Long Term Debt

Long term debt consists of:

	<i>(in thousands)</i>		
	May 1, 2021	January 30, 2021	May 2, 2020
\$1,200,000 senior secured term loan facility (Term B-5 Loans), LIBOR (with a floor of 0.00%) plus 1.75%, matures on November 17, 2024	\$ 958,615	\$ 958,418	\$ 957,829
\$805,000 convertible senior notes, 2.25%, matures on April 15, 2025	805,000	648,311	625,688
\$300,000 senior secured notes, 6.25%, matures on April 15, 2025	300,000	300,000	300,000
\$600,000 ABL senior secured revolving facility, LIBOR plus spread based on average outstanding balance, matures on June 29, 2023	—	—	400,000
Finance lease obligations	46,719	47,664	49,508
Unamortized deferred financing costs	(25,034)	(22,724)	(25,252)
<b>Total debt</b>	<b>2,085,300</b>	<b>1,931,669</b>	<b>2,307,773</b>
Less: current maturities	(4,287)	(3,899)	(3,679)
<b>Long term debt, net of current maturities</b>	<b>\$ 2,081,013</b>	<b>\$ 1,927,770</b>	<b>\$ 2,304,094</b>

##### Term Loan Facility

On February 26, 2020, the Company entered into Amendment No. 8 (the Eighth Amendment) to the Term Loan Credit Agreement governing its senior secured credit term loan facility (the Term Loan Facility). The Eighth Amendment, among other things, reduced the interest rate margins applicable to the Term Loan Facility from 1.00% to 0.75%, in the case of prime rate loans, and from 2.00% to 1.75%, in the case of LIBOR loans, with the LIBOR floor remaining at 0.00%. In connection with the execution of the Eighth Amendment, the Company incurred fees of \$1.1 million, primarily related to legal and placement fees, which were recorded in the line item “Costs related to debt issuances and amendments” in the Company’s Condensed Consolidated Statement of Income (Loss). Additionally, the Company recognized a non-cash loss on the extinguishment of debt of \$0.2 million, representing the write-off of unamortized deferred financing costs and original issue discount, which was recorded in the line item “Loss on extinguishment of debt” in the Company’s Condensed Consolidated Statement of Income (Loss).

At May 1, 2021 and May 2, 2020, the Company’s interest rate related to the Term Loan Facility was 1.9% and 2.6%, respectively.

##### Convertible Notes

On April 16, 2020, the Company issued \$805 million of Convertible Notes. An aggregate of up to 3,656,149 shares of common stock may be issued upon conversion of the Convertible Notes, which number is subject to adjustment up to an aggregate of 4,844,410 shares following certain corporate events that occur prior to the maturity date or if the Company issues a notice of redemption, and which is also subject to certain anti-dilution adjustments.

The Convertible Notes are general unsecured obligations of the Company. The Convertible Notes bear interest at a rate of 2.25% per year, payable semi-annually in cash, in arrears, on April 15 and October 15 of each year, beginning on October 15, 2020. The Convertible Notes will mature on April 15, 2025, unless earlier converted, redeemed or repurchased.

Prior to the close of business on the business day immediately preceding January 15, 2025, the Convertible Notes will be convertible at the option of the holders only upon the occurrence of certain events and during certain periods. Thereafter, the Convertible Notes will be convertible at the option of the holders at any time until the close of business on the second scheduled trading day immediately preceding the maturity date. The Convertible Notes have an initial conversion rate of 4.5418 shares per \$1,000 principal amount of Convertible Notes (equivalent to an initial conversion price of approximately \$220.18 per share of the Company's common stock), subject to adjustment if certain events occur. The initial conversion price represents a conversion premium of approximately 32.50% over \$166.17 per share, the last reported sale price of the Company's common stock on April 13, 2020 (the pricing date of the offering) on the New York Stock Exchange. During the first quarter of Fiscal 2021, the Company made an irrevocable settlement election for any conversions of the Convertible Notes. Upon conversion, the Company will pay cash for the principal amount. For any excess above principal, the Company will deliver shares of its common stock. The Company may not redeem the Convertible Notes prior to April 15, 2023. On or after April 15, 2023, the Company will be able to redeem for cash all or any portion of the Convertible Notes, at its option, if the last reported sale price of the Company's common stock is equal to or greater than 130% of the conversion price for a specified period of time, at a redemption price equal to 100% of the principal aggregate amount of the Convertible Notes to be redeemed, plus accrued and unpaid interest, if any, to, but excluding, the redemption date.

Holders of the Convertible Notes may require the Company to repurchase their Convertible Notes upon the occurrence of certain events that constitute a fundamental change under the indenture governing the Convertible Notes at a purchase price equal to 100% of the principal amount thereof, plus accrued and unpaid interest to, but excluding, the date of repurchase. In connection with certain corporate events or if the Company issues a notice of redemption, it will, under certain circumstances, increase the conversion rate for holders who elect to convert their Convertible Notes in connection with such corporate event or during the relevant redemption period for such Convertible Notes.

The Convertible Notes contain a cash conversion feature, and as a result, the Company initially separated it into liability and equity components. The Company valued the liability component based on its borrowing rate for a similar debt instrument that does not contain a conversion feature. The equity component, which was recognized as a debt discount, was valued as the difference between the face value of the Convertible Notes and the fair value of the liability component. As a result of adopting ASU 2020-06, the Company is no longer separating the Convertible Notes into debt and equity components, and is instead accounting for it wholly as debt.

In connection with the Convertible Notes issuance, the Company incurred deferred financing costs of \$21.0 million, primarily related to fees paid to the bookrunners of the offering, as well as legal, accounting and rating agency fees. These costs were initially allocated on a pro rata basis, with \$16.4 million allocated to the debt component and \$4.6 million allocated to the equity component. As a result of adopting ASU 2020-06, all unamortized deferred financing costs related to the Convertible Notes are now allocated to debt.

Prior to adoption of ASU 2020-06, the debt discount and the debt portion of the deferred costs were being amortized to interest expense over the term of the Convertible Notes at an effective interest rate of 8.2%. The effective interest rate after adoption of ASU 2020-06 is 2.8%.

The Convertible Notes consist of the following components as of the dates indicated:

	<i>(in thousands)</i>		
	May 1, 2021	January 30, 2021	May 2, 2020
<b>Liability component:</b>			
Principal	\$ 805,000	\$ 805,000	\$ 805,000
Unamortized debt discount	—	(156,689)	(179,312)
Unamortized deferred debt costs	(16,854)	(14,191)	(15,881)
<b>Net carrying amount</b>	<b>\$ 788,146</b>	<b>\$ 634,120</b>	<b>\$ 609,807</b>
<b>Equity component, net</b>	<b>\$ —</b>	<b>\$ 131,916</b>	<b>\$ 131,916</b>

Interest expense related to the Convertible Notes consists of the following as of the periods indicated:

	<i>(in thousands)</i>		
	May 1, 2021	Three Months Ended	
		May 2, 2020	
Coupon interest	\$	4,511	\$ 843
Amortization of debt discount		—	1,366
Amortization of deferred debt costs		1,000	121
Convertible Notes interest expense	\$	5,511	\$ 2,330

#### *Secured Notes*

On April 16, 2020, BCFWC issued \$300 million of Secured Notes. The Secured Notes are senior, secured obligations of BCFWC, and interest is payable semiannually in cash, in arrears, at a rate of 6.25% per annum on April 15 and October 15 of each year, beginning on October 15, 2020. The Secured Notes are guaranteed on a senior secured basis by Burlington Coat Factory Holdings, LLC, Burlington Coat Factory Investments Holdings, Inc. and BCFWC's subsidiaries that guarantee the loans under the Term Loan Facility. The Secured Notes mature on April 15, 2025, unless earlier redeemed or repurchased.

In connection with the Secured Notes issuance, the Company incurred deferred financing costs of \$7.9 million, primarily related to fees paid to the bookrunners of the offering, as well as legal fees. These costs are being amortized to interest expense over the term of the Secured Notes. The Company incurred additional costs of \$2.5 million, primarily related to legal fees, which are recorded in the line item, "Costs related to debt issuances and amendments" in the Company's Condensed Consolidated Statement of Income (Loss).

On May 27, 2021, the Company announced a make-whole call for the full \$300.0 million outstanding principal amount of the Secured Notes. As a result of this action, the Company is expecting a pre-tax debt extinguishment charge of approximately \$30 million in the three month period ended July 31, 2021.

#### *ABL Line of Credit*

On March 17, 2020, the Company borrowed \$400 million under the ABL Line of Credit as a precautionary measure in order to increase the Company's cash position and facilitate financial flexibility in light of the uncertainty resulting from COVID-19. The Company repaid \$150 million of this amount during the second quarter of Fiscal 2020, and the remaining \$250.0 million during the fourth quarter of Fiscal 2020.

At May 1, 2021, the Company had \$549.5 million available under the ABL Line of Credit. There were no borrowings under the ABL Line of Credit during the three month period ended May 1, 2021.

At May 2, 2020, the Company had \$150.9 million available under the ABL Line of Credit. The maximum borrowings under the ABL Line of Credit during the three month period ended May 2, 2020 amounted to \$400.0 million. Average borrowings during the three month period ended May 2, 2020 amounted to \$206.6 million, at an average interest rate of 2.2%.

### **5. Derivative Instruments and Hedging Activities**

The Company accounts for derivatives and hedging activities in accordance with ASC 815, "Derivatives and Hedging" (ASC 815). As required by ASC 815, the Company records all derivatives on the balance sheet at fair value and adjusts to market on a quarterly basis. In addition, to comply with the provisions of ASC 820, "Fair Value Measurements" (ASC 820), credit valuation adjustments, which consider the impact of any credit enhancements to the contracts, are incorporated in the fair values to account for potential nonperformance risk. In adjusting the fair value of its derivative contracts for the effect of nonperformance risk, the Company has considered any applicable credit enhancements such as collateral postings, thresholds, mutual puts, and guarantees. In accordance with ASC 820, the Company made an accounting policy election to measure the credit risk of its derivative financial instruments that are subject to master netting agreements on a net basis by counterparty portfolio. There is no impact of netting, because the Company has only one derivative. The Company classifies its derivative valuations in Level 2 of the fair value hierarchy.

#### *Cash Flow Hedges of Interest Rate Risk*

The Company's objectives in using interest rate derivatives are to add stability to interest expense and to manage its exposure to interest rate movements. To accomplish these objectives, the Company primarily uses interest rate swaps as part of its interest rate risk management strategy. Interest rate swaps designated as cash flow hedges involve the receipt of variable-rate amounts from a counterparty in exchange for the Company making fixed-rate payments over the life of the agreements without exchange of the underlying notional amount.

As of May 1, 2021, the Company had the following outstanding interest rate derivative that was designated as a cash flow hedge of interest rate risk:

Interest Rate Derivative	Number of Instruments	Notional Aggregate Principal Amount	Interest Cap/Swap Rate	Maturity Date
Interest rate swap contract	One	\$ 450.0 million	2.72%	December 29, 2023

#### Tabular Disclosure

The table below presents the fair value of the Company's derivative financial instruments on a gross basis as well as their classification on the Company's Condensed Consolidated Balance Sheets:

Derivatives Designated as Hedging Instruments	<i>(in thousands)</i>					
	Fair Values of Derivative Instruments					
	May 1, 2021		January 30, 2021		May 2, 2020	
	Balance Sheet Location	Fair Value	Balance Sheet Location	Fair Value	Balance Sheet Location	Fair Value
Interest rate swap contract	Other liabilities	\$ 27,569	Other liabilities	\$ 31,665	Other liabilities	\$ 37,913

The following table presents the unrealized gains and losses deferred to accumulated other comprehensive loss resulting from the Company's derivative financial instruments for each of the reporting periods.

Interest Rate Derivatives:	<i>(in thousands)</i>			
	Three Months Ended			
	May 1, 2021		May 2, 2020	
Unrealized gains (losses), before taxes	\$	1,132	\$	(13,164)
Income tax (expense) benefit		(307)		3,555
Unrealized gains (losses), net of taxes	\$	825	\$	(9,609)

The following table presents information about the reclassification of gains and losses from accumulated other comprehensive loss into earnings related to the Company's derivative instruments for each of the reporting periods.

Component of Earnings:	<i>(in thousands)</i>			
	Three Months Ended			
	May 1, 2021		May 2, 2020	
Interest expense	\$	2,964	\$	1,532
Income tax benefit		(805)		(424)
Net reclassification into earnings	\$	2,159	\$	1,108

The Company estimates that approximately \$11.5 million will be reclassified from accumulated other comprehensive loss into interest expense during the next twelve months.

#### 6. Accumulated Other Comprehensive Loss

Amounts included in accumulated other comprehensive loss are recorded net of the related income tax effects. The following table details the changes in accumulated other comprehensive loss:

	<i>(in thousands)</i>
	Derivative Instruments
Balance at January 30, 2021	\$ (23,015)
Unrealized gains, net of related taxes of \$0.3 million	825
Amount reclassified into earnings, net of related taxes of \$0.8 million	2,159
Balance at May 1, 2021	\$ (20,031)

#### 7. Fair Value Measurements

The Company accounts for fair value measurements in accordance with Topic No. 820, which defines fair value, establishes a framework for measurement and expands disclosure about fair value measurements. Topic No. 820 defines fair value as the price that

would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date (exit price), and classifies the inputs used to measure fair value into the following hierarchy:

- Level 1: Quoted prices for identical assets or liabilities in active markets.
- Level 2: Quoted market prices for similar assets or liabilities in active markets; quoted prices for identical or similar assets or liabilities in markets that are not active; and model-derived valuations whose inputs are observable or whose significant value drivers are observable.
- Level 3: Pricing inputs that are unobservable for the assets and liabilities and include situations where there is little, if any, market activity for the assets and liabilities.

The inputs into the determination of fair value require significant management judgment or estimation.

The carrying amounts of cash equivalents, accounts receivable and accounts payable approximate fair value due to the short-term nature of these instruments.

Refer to Note 5, "Derivative Instruments and Hedging Activities," for further discussion regarding the fair value of the Company's interest rate swap contract.

#### Financial Assets

The fair values of the Company's financial assets and the hierarchy of the level of inputs as of May 1, 2021, January 30, 2021 and May 2, 2020 are summarized below:

	<i>(in thousands)</i>		
	Fair Value Measurements at		
	May 1, 2021	January 30, 2021	May 2, 2020
Level 1			
Cash equivalents (including restricted cash)	\$ 1,001,534	\$ 1,001,475	\$ 1,001,033

#### Long-Lived Assets

Long-lived assets are measured at fair value on a non-recurring basis for purposes of calculating impairment using the fair value hierarchy of ASC 820. The fair value of the Company's long-lived assets is generally calculated using discounted cash flows. During the three months ended May 1, 2021, the Company recorded impairment charges of \$0.8 million, primarily related to declines in revenues and operating results for one store. These costs were recorded in the line item "Impairment charges – long-lived assets" in the Company's Condensed Consolidated Statements of Income (Loss). All of the fixed assets for this store were fully impaired and therefore had zero fair value as of May 1, 2021, and would be categorized as Level 3 in the fair value hierarchy described above.

#### Financial Liabilities

The fair values of the Company's financial liabilities are summarized below:

	<i>(in thousands)</i>					
	May 1, 2021		January 30, 2021		May 2, 2020	
	Principal Amount	Fair Value	Principal Amount	Fair Value	Principal Amount	Fair Value
Term B-5 Loans	\$ 961,415	\$ 953,604	\$ 961,415	\$ 955,406	\$ 961,415	\$ 896,169
Convertible Notes	805,000	1,268,382	805,000	1,080,713	805,000	847,746
Secured Notes	300,000	318,375	300,000	320,625	300,000	304,583
ABL Line of Credit	—	—	—	—	400,000	400,000
Total debt (a)	<u>\$ 2,066,415</u>	<u>\$ 2,540,361</u>	<u>\$ 2,066,415</u>	<u>\$ 2,356,744</u>	<u>\$ 2,466,415</u>	<u>\$ 2,448,498</u>

(a) The table above excludes finance lease obligations, debt discount and deferred debt costs.

The fair values presented herein are based on pertinent information available to management as of the respective period end dates. The estimated fair values of the Company's debt are classified as Level 2 in the fair value hierarchy, and are based on current market quotes received from inactive markets.

## 8. Income Taxes

Income tax expense was \$40.6 million during the three month period ended May 1, 2021, compared with income tax benefit of \$205.4 million during the three month period ended May 2, 2020. The effective tax rate for the three month period ended May 1, 2021 was 19.2%, compared with 38.1% during the three month period ended May 2, 2020. The decrease in the effective tax rate was primarily due to the Company's pretax loss in the prior year and applying various provisions of the CARES Act, namely the benefit related to the carryback of federal NOLs in Fiscal 2020 to earlier tax years with higher tax rates.

Net deferred taxes are as follows:

	<i>(in thousands)</i>		
	May 1, 2021	January 30, 2021	May 2, 2020
Deferred tax asset	\$ 4,332	\$ 4,422	\$ 4,661
Deferred tax liability	171,619	199,850	219,123
Net deferred tax liability	<u>\$ 167,287</u>	<u>\$ 195,428</u>	<u>\$ 214,462</u>

Net deferred tax assets relate to Puerto Rico deferred balances that have a future net benefit for tax purposes. Net deferred tax liabilities primarily relate to intangible assets and depreciation expense where the Company has a future obligation for tax purposes. The decrease in deferred tax liability is primarily attributable to the early adoption of ASU 2020-06 related to accounting for convertible debt in the first quarter of 2021. See Note 1 for additional information related to the Company's adoption of this accounting guidance.

As of May 1, 2021, the Company had a deferred tax asset related to net operating losses of \$36.2 million, inclusive of \$35.9 million related to state net operating losses that expire at various dates between 2022 and 2040, as well as \$0.3 million related to Puerto Rico net operating losses that will expire in 2025.

As of May 1, 2021, the Company had a deferred tax asset related to tax credit carry-forwards of \$9.8 million, inclusive of \$8.6 million of state tax credit carry-forwards, which will begin to expire in 2023, and \$1.2 million of deferred tax assets recorded for Puerto Rico alternative minimum tax credits that have an indefinite life.

As of May 1, 2021, January 30, 2021 and May 2, 2020, valuation allowances amounted to \$13.7 million, \$13.0 million and \$10.7 million, respectively, related to state and Puerto Rico net operating losses and state tax credit carry-forwards. The Company believes that it is more likely than not that this portion of state and Puerto Rico net operating losses and state tax credit carry-forwards will not be realized.

## 9. Capital Stock

### *Treasury Stock*

The Company accounts for treasury stock under the cost method.

During the three month period ended May 1, 2021, the Company acquired 41,768 shares of common stock from employees for approximately \$13.1 million to satisfy their minimum statutory tax withholdings related to the vesting of restricted stock and restricted stock unit awards, which was recorded in the line item "Treasury stock" on the Company's Condensed Consolidated Balance Sheets, and the line item "Purchase of treasury shares" on the Company's Condensed Consolidated Statements of Cash Flows.

### *Share Repurchase Program*

On August 14, 2019, the Company's Board of Directors authorized the repurchase of up to \$400 million of common stock, which is authorized to be executed through August 2021. This repurchase program is funded using the Company's available cash and borrowings under the ABL Line of Credit.

As part of the Company's cash management efforts during the COVID-19 pandemic, the Company suspended its share repurchase program in March 2020. As of May 1, 2021, the Company had \$348.4 million remaining under its share repurchase authorization.

## 10. Net Income (Loss) Per Share

Basic net income (loss) per share is calculated by dividing net income (loss) by the weighted-average number of common shares outstanding. Diluted net income (loss) per share is calculated by dividing net income (loss) by the weighted-average number of common shares and potentially dilutive securities outstanding during the period using the treasury stock method for the Company's



stock option, restricted stock and restricted stock unit awards, and the if-converted method for the Convertible Notes. The following table presents the computation of basic and diluted net income (loss) per share:

	<i>(in thousands, except per share data)</i>	
	<b>Three Months Ended</b>	
	<b>May 1, 2021</b>	<b>May 2, 2020</b>
<i>Basic net income (loss) per share</i>		
Net income (loss)	\$ 171,030	\$ (333,728)
Weighted average number of common shares – basic	66,397	65,572
Net income (loss) per common share – basic	\$ 2.58	\$ (5.09)
<i>Diluted net income (loss) per share</i>		
Net income (loss)	\$ 171,030	\$ (333,728)
Shares for basic and diluted net income (loss) per share:		
Weighted average number of common shares – basic	66,397	65,572
Assumed exercise of stock options and vesting of restricted stock	761	—
Assumed conversion of convertible debt	874	—
Weighted average number of common shares – diluted	68,032	65,572
Net income (loss) per common share – diluted	\$ 2.51	\$ (5.09)

Approximately 5,000 shares of the Company’s stock-based compensation grants were excluded from diluted net income per share for the three month period ended May 1, 2021, since their effect was anti-dilutive.

All of the Company’s stock option, restricted stock and restricted stock unit awards have an anti-dilutive effect while in a net loss position. Approximately 2,025,000 shares related to the Company’s stock option, restricted stock and restricted stock unit awards were excluded from diluted net loss per share for the three month period ended May 2, 2020, since their effect was anti-dilutive.

## 11. Stock-Based Compensation

As of May 1, 2021, there were 2,485,161 shares of common stock available for issuance under the Company’s 2013 Omnibus Incentive Plan.

Non-cash stock compensation expense is as follows:

	<i>(in thousands)</i>	
	<b>Three Months Ended</b>	
<u>Type of Non-Cash Stock Compensation</u>	<b>May 1, 2021</b>	<b>May 2, 2020</b>
Restricted stock and restricted stock unit grants (a)	\$ 6,256	\$ 6,899
Stock option grants (a)	4,394	6,332
Performance stock unit grants (a)	2,229	4,121
Total (b)	\$ 12,879	\$ 17,352

- (a) Included in the line item “Selling, general and administrative expenses” in the Company’s Condensed Consolidated Statements of Income (Loss).  
(b) The amounts presented in the table above exclude taxes. For the three month period ended May 1, 2021, the tax benefit related to the Company’s non-cash stock compensation was approximately \$2.4 million. For the three month period ended May 2, 2020, the tax benefit related to the Company’s non-cash stock compensation was approximately \$3.8 million.

## Stock Options

Stock option transactions during the three month period ended May 1, 2021 are summarized as follows:

	Number of Shares	Weighted Average Exercise Price Per Share
Options outstanding, January 30, 2021	1,346,775	\$ 133.86
Options granted	1,613	287.34
Options exercised (a)	(181,683)	88.56
Options forfeited	(5,960)	155.14
Options outstanding, May 1, 2021	<u>1,160,745</u>	<u>\$ 141.05</u>

(a) Options exercised during the three month period ended May 1, 2021 had a total intrinsic value of \$39.9 million.

The following table summarizes information about the stock options vested and expected to vest during the contractual term of such options as of May 1, 2021:

	Options	Weighted Average Remaining Contractual Life (Years)	Weighted Average Exercise Price	Aggregate Intrinsic Value (in millions)
Options vested and expected to vest	1,160,745	6.5	\$ 141.05	\$ 215.1
Options exercisable	626,102	5.4	\$ 127.75	\$ 124.3

The fair value of each stock option granted during the three month period ended May 1, 2021 was estimated using the Black Scholes option pricing model using the following assumptions:

	Three Months Ended May 1, 2021
Risk-free interest rate	0.45%
Expected volatility	35%
Expected life (years)	6.25
Contractual life (years)	10.0
Expected dividend yield	0.0%
Weighted average grant date fair value of options issued	\$ 101.03

The expected dividend yield was based on the Company's expectation of not paying dividends in the near term. Since the Company completed its initial public offering in October 2013, it does not have sufficient history as a publicly traded company to evaluate its volatility factor. As such, the expected stock price volatility is based upon the historical volatility of the stock price over the expected life of the options of peer companies that are publicly traded. The risk free interest rate was based on the U.S. Treasury rates for U.S. Treasury zero-coupon bonds with maturities similar to those of the expected term of the awards being valued. For grants issued during the three month period ended May 1, 2021, the expected life of the options was calculated using the simplified method. The simplified method defines the life as the average of the contractual term of the options and the weighted average vesting period for all option tranches. This methodology was utilized due to the relatively short length of time the Company's common stock has been publicly traded.

## Restricted Stock

Prior to May 1, 2019, the Company granted shares of restricted stock. Grants made on and after May 1, 2019 are in the form of restricted stock units. Restricted stock transactions during the three month period ended May 1, 2021 are summarized as follows:

	Number of Shares	Weighted Average Grant Date Fair Value Per Award
Non-vested awards outstanding, January 30, 2021	396,555	\$ 168.87
Awards granted	570	287.34
Awards vested (a)	(119,147)	142.38
Awards forfeited	(2,533)	155.15
Non-vested awards outstanding, May 1, 2021	<u>275,445</u>	<u>180.70</u>

(a) Restricted stock awards vested during the three month period ended May 1, 2021 had a total intrinsic value of \$37.5 million.

The fair value of each share of restricted stock granted during Fiscal 2021 was based upon the closing price of the Company's common stock on the grant date.

## Performance Stock Units

The Company grants performance-based restricted stock units to its senior executives. Vesting of these performance stock units is based on pre-established EBIT margin expansion and sales compounded annual growth rate (CAGR) goals (each weighted equally) over a three-year performance period. Based on the Company's achievement of these goals, each award may range from 50% (at threshold performance) to no more than 200% of the target award. In the event that actual performance is below threshold, no award will be made. In addition to the performance conditions, each performance stock unit cliff vests at the end of a three-year service period. Compensation costs recognized on the performance stock units are adjusted, as applicable, for performance above or below the target specified in the award.

Performance stock unit transactions during the three month period ended May 1, 2021 are summarized as follows:

	Number of Shares	Weighted Average Grant Date Fair Value Per Award
Non-vested units outstanding, January 30, 2021	148,668	\$ 176.70
Units granted	—	—
Awards forfeited	—	—
Non-vested units outstanding, May 1, 2021	<u>148,668</u>	<u>176.70</u>

## 12. Commitments and Contingencies

### Legal

Like many retailers, the Company has been named in potential class or collective actions on behalf of groups alleging violations of federal and state wage and hour and other labor statutes, and alleged violations of state consumer and/or privacy protection and other statutes. In the normal course of business, the Company is also party to representative claims under the California Private Attorneys' General Act and various other lawsuits and regulatory proceedings including, among others, commercial, product, product safety, employee, customer, intellectual property and other claims. Actions against us are in various procedural stages. Many of these proceedings raise factual and legal issues and are subject to uncertainties. While no assurance can be given as to the ultimate outcome of these matters, the Company believes that the final resolution of these actions will not have a material adverse effect on the Company's results of operations, financial position, liquidity or capital resources.

### Letters of Credit

The Company had letters of credit arrangements with various banks in the aggregate amount of \$50.6 million, \$54.9 million and \$49.1 million as of May 1, 2021, January 30, 2021 and May 2, 2020, respectively. Among these arrangements, as of May 1, 2021,

January 30, 2021 and May 2, 2020, the Company had letters of credit outstanding in the amount of \$46.8 million, \$46.8 million and \$47.2 million, respectively, guaranteeing performance under various insurance contracts and utility agreements. In addition, the Company had outstanding letters of credit arrangements in the amounts of \$3.8 million, \$8.2 million and \$1.9 million at May 1, 2021, January 30, 2021 and May 2, 2020, respectively, related to certain merchandising agreements. Based on the terms of the agreement governing the ABL Line of Credit, the Company had the ability to enter into letters of credit up to \$549.5 million, \$476.8 million and \$150.9 million as of May 1, 2021, January 30, 2021 and May 2, 2020, respectively.

#### *Purchase Commitments*

The Company had \$1,576.6 million of purchase commitments related to goods that were not received as of May 1, 2021.

#### *Death Benefits*

In November 2005, the Company entered into agreements with three of the Company's former executives whereby upon each of their deaths the Company will pay \$1.0 million to each respective designated beneficiary.

### **13. Related Parties**

The brother-in-law of one of the Company's Executive Vice Presidents is an independent sales representative of one of the Company's suppliers of merchandise inventory. This relationship predated the commencement of the Executive Vice President's employment with the Company. The Company has determined that the dollar amount of purchases through such supplier represents an insignificant amount of its inventory purchases.

## Item 2. Management’s Discussion and Analysis of Financial Condition and Results of Operations

*The following discussion summarizes the significant factors affecting our consolidated operating results, financial condition, liquidity and cash flows as of and for the periods presented below. The following discussion and analysis should be read in conjunction with the Condensed Consolidated Financial Statements and notes thereto included elsewhere in this report and the Consolidated Financial Statements and notes thereto in our Annual Report on Form 10-K for the fiscal year ended January 30, 2021 (Fiscal 2020 10-K).*

*In addition to historical information, this discussion and analysis contains forward-looking statements based on current expectations that involve risks, uncertainties and assumptions, such as our plans, objectives, expectations, and intentions. Our actual results or other events may differ materially from those anticipated in these forward-looking statements due to various factors, including those discussed under the section of this Item 2 entitled “Safe Harbor Statement.”*

### Executive Summary

#### Introduction

We are a nationally recognized off-price retailer of high-quality, branded apparel at everyday low prices. We opened our first store in Burlington, New Jersey in 1972, selling primarily coats and outerwear. Since then, we have expanded our store base to 784 stores as of May 1, 2021 in 45 states and Puerto Rico. We have diversified our product categories by offering an extensive selection of in-season, fashion-focused merchandise at up to 60% off other retailers’ prices, including: women’s ready-to-wear apparel, menswear, youth apparel, baby, beauty, footwear, accessories, home, toys, gifts and coats. We sell a broad selection of desirable, first-quality, current-brand, labeled merchandise acquired directly from nationally-recognized manufacturers and other suppliers.

#### COVID-19

On March 11, 2020, the World Health Organization declared the novel coronavirus (known as COVID-19) outbreak to be a global pandemic. As a result, we began the temporary closing of some of our stores, and effective March 22, 2020, we made the decision to temporarily close all of our stores, distribution centers (other than processing of received inventory) and corporate offices to combat the rapid spread of COVID-19. These developments caused significant disruptions to our business and had a significant adverse impact on our financial condition, results of operations and cash flows. We began re-opening stores on May 11, 2020, with substantially all stores re-opened by the end of the second quarter of Fiscal 2020.

In response to the COVID-19 pandemic and the temporary closing of our stores, we provided two weeks of financial support to associates impacted by these store closures and by the shutdown of distribution centers. We temporarily furloughed most store and distribution center associates, as well as some corporate associates, but continued to provide benefits to furloughed associates in accordance with our benefit plans. In addition, we paid 100% of their medical benefit premiums during the period they were furloughed. During the second quarter of Fiscal 2020, we recalled all furloughed associates at our re-opened stores, as well as our corporate and distribution facilities.

In order to maintain maximum financial flexibility during these uncertain times, we completed several debt transactions in the first quarter of Fiscal 2020. In March 2020, we borrowed \$400 million on our existing \$600 million senior secured asset-based revolving credit facility (the ABL Line of Credit), \$150 million of which was repaid during the second quarter of Fiscal 2020, and the remaining \$250 million was repaid during the fourth quarter of Fiscal 2020. In April 2020, we issued \$805 million of 2.25% Convertible Senior Notes due 2025 (the Convertible Notes), and through our indirect subsidiary, Burlington Coat Factory Warehouse Corporation (BCFWC), issued \$300 million of 6.25% Senior Secured Notes due 2025 (the Secured Notes). Refer to Note 4, “Long Term Debt,” for further discussion regarding these debt transactions.

Additionally, we took the following steps to further enhance our financial flexibility:

- Carefully managed operating expenses, working capital and capital expenditures, including ceasing substantially all buying activities while stores were closed. We subsequently resumed our buying activities, while continuing our conservative approach toward operating expenses and capital expenditures.
- Negotiated rent deferral agreements with landlords.
- Suspended our share repurchase program.

- Our CEO voluntarily agreed to not take a salary, our board of directors voluntarily forfeited their cash compensation, our executive leadership team voluntarily agreed to decrease their salary by 50% and smaller salary reductions were temporarily put in place for all employees through a certain level. This compensation was reinstated once substantially all of our stores re-opened.
- The annual incentive bonus payments related to Fiscal 2019 performance were delayed to the second quarter of Fiscal 2020, and merit pay increases for Fiscal 2020 were delayed to the third quarter of Fiscal 2020.

Due to the aging of inventory related to the temporary store closures discussed above, as well as the impact of seasonality on our merchandise, we recognized inventory markdown reserves of \$271.9 million during the three month period ended May 2, 2020. These reserves covered markdowns taken during the second quarter of Fiscal 2020. These charges were included in “Cost of sales” on our Condensed Consolidated Statement of Income (Loss).

On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act) was signed into law, which provides emergency economic assistance for American workers, families and businesses affected by the COVID-19 pandemic. For the year ended January 30, 2021 we estimated we will obtain a one-time tax refund of \$219.7 million from the carryback of federal net operating losses (NOLs), which is included in the line item “Prepaid and other current assets” on our Condensed Consolidated Balance Sheet.

We continue to keep health and safety as a top priority as we operate our stores and distribution centers. We have implemented social distancing and safety practices, including:

- Signage to remind customers and associates to practice social distancing and remain at least six feet apart
- One way entrances and exits at the front of the store
- Wider check-out lanes
- A physical barrier between customers and associates at each register
- Closing all fitting rooms
- Routinely cleaning and disinfecting all areas of the store, including frequently cleaning high-touch areas
- Providing sanitization materials throughout the store
- Making shopping cart wipes available
- Requiring associates to wear face coverings while in our stores and distribution centers
- Screening all associates daily in stores and distribution centers where required by state and local mandates

#### *Fiscal Year*

Fiscal 2021 is defined as the 52-week year ending January 29, 2022. Fiscal 2020 is defined as the 52-week year ended January 30, 2021.

#### *Store Openings, Closings, and Relocations*

During the three month period ended May 1, 2021, we opened 26 new stores, inclusive of one relocation, and permanently closed two stores, exclusive of the aforementioned relocation, bringing our store count as of May 1, 2021 to 784 stores.

Since the beginning of the COVID-19 pandemic, protecting the health and safety of our customers, associates, and the communities that we serve has been our top priority. Accordingly, we moved quickly to close our stores, distribution centers, and corporate offices in March of Fiscal 2020. We continue to keep health and safety as a top priority as we operate our stores and distribution centers.

We continue to focus on a number of ongoing initiatives aimed at increasing our overall profitability by improving our comparable store sales trends, increasing total sales growth and reducing expenses. These initiatives include, but are not limited to:

- **Driving Comparable Store Sales Growth.**

We intend to continue to increase comparable store sales through the following initiatives:

- *More Effectively Chasing the Sales Trend.* We are conservatively planning comparable stores sales growth, holding and controlling liquidity and closely analyzing the sales trend by business, ready to chase that trend. We believe that these actions should not only enable us to more effectively chase the trend, but they will also allow us to take more advantage of great opportunistic buys.
- *Making a Greater Investment in Merchandising Capabilities.* We intend to invest in incremental headcount, especially in growing or under-developed businesses, training and coaching, improved tools and reporting, and other forms of merchant support. We believe that these investments should improve our ability to develop vendor relationships, source great merchandise buys, more accurately assess value, and better forecast and chase the sales trend.
- *Operating with Leaner Inventories.* We are planning to carry less inventory going forward, which we believe should result in the customer finding a higher mix of fresh receipts and great merchandise values. We believe that this should drive faster turns and lower markdowns, while simultaneously improving our customers' shopping experience.
- *Enhancing Existing Categories and Introducing New Categories.* We have opportunities to expand the depth and breadth of certain existing categories, such as ladies' apparel, children's products, bath and cosmetic merchandise, housewares, décor for the home and beauty as we continue to de-weather our business, and maintain the flexibility to introduce new categories as we expand our merchandising capabilities.

- **Expanding and Enhancing Our Retail Store Base.**

We intend to expand and enhance our retail store base through the following initiatives:

- *Adhering to a Market Focused and Financially Disciplined Real Estate Strategy.* We have grown our store base consistently since our founding in 1972, developing more than 99% of our stores organically. We believe there is significant opportunity to expand our retail store base in the United States. We have identified numerous market opportunities that we believe will allow us to operate 2,000 stores over the long-term.
- *Maintaining Focus on Unit Economics and Returns.* We have adopted a market focused approach to new store openings with a specific focus on maximizing sales while achieving attractive unit economics and returns. By focusing on opening stores with attractive unit economics, we are able to achieve attractive returns on capital and continue to grow our margins. We believe that as we continue to reduce our comparable store inventory, we will be able to reduce the square footage of our stores while continuing to maintain our broad assortment.
- *Enhancing the Store Experience Through Store Remodels, Downsizes and Relocations.* We continue to invest in store remodels and downsizes on a store-by-store basis where appropriate, taking into consideration the age, size, sales and profitability of a store, as well as the potential impact to the customer shopping experience. In our remodeled stores, we have typically incorporated new flooring, painting, lighting and graphics, relocated our fitting rooms and rightsized our selling area to maximize productive selling space, enhanced certain departments such as home and accessories and made various other improvements as appropriate by location. We have also increased our focus on relocations as leases expire to right size our buildings and improve our competitive positioning.

- **Enhancing Operating Margins.**

We intend to increase our operating margins through the following initiatives:

- *Improving Operational Flexibility.* Our store and supply chain teams must continue to respond to the challenge of becoming more responsive to the sales chase, enhancing their ability at flexing up and down based on trends. Their ability to appropriately flex based on the ongoing trends allows us to maximize leverage on sales, regardless of the trend.
- *Optimizing Markdowns.* We believe that our markdown system allows us to maximize sales and gross margin dollars based on forward-looking sales forecasts, sell-through targets and exit dates. Additionally, as we plan to carry less inventory in our stores, we expect to drive faster turns, which in turn will reduce the amount of markdowns taken.
- *Enhancing Purchasing Power.* We believe that increasing our store footprint and expanding our west coast and New York buying offices provides us with the opportunity to capture incremental buying opportunities and realize economies of scale in our merchandising and non-merchandising purchasing activities.
- *Challenging Expenses to Drive Operating Leverage.* We believe that we will be able to leverage our growing sales over the fixed costs of our business. In addition, by more conservatively planning our comparable store sales growth, we are forcing even tighter expense control. We believe that this should put us in a strong position to drive operating leverage on any sales ahead of the plan. Additionally, we plan to continue challenging the processes and operating norms throughout the organization with the belief that this will lead to incremental efficiency improvements and savings.

### ***Uncertainties and Challenges***

As we strive to increase profitability through achieving positive comparable store sales and leveraging productivity initiatives focused on improving the in-store experience, more efficient movement of products from the vendors to the selling floors, and modifying our marketing plans to increase our core customer base and increase our share of our current customers' spending, there are uncertainties and challenges that we face as an off-price retailer of apparel and accessories for men, women and children and home furnishings that could have a material impact on our revenues or income.

*COVID-19.* The extent of the continuing impact of the COVID-19 pandemic on our business will depend largely on future developments, including the production and administration of effective medical treatments and vaccines, the timing and extent of the recovery in traffic and consumer spending at our stores, supply chain delays due to closed factories or distribution centers, reduced workforces or labor shortages and scarcity of raw materials, and any future required store closures because of COVID-19 resurgences. COVID-19 presents material uncertainty and risk with respect to our business, financial performance and condition, operating results, liquidity and cash flows.

*General Economic Conditions.* Consumer spending habits, including spending for the merchandise that we sell, are affected by, among other things, prevailing global economic conditions, inflation, levels of employment, salaries and wage rates, prevailing interest rates, housing costs, energy costs, commodities pricing, income tax rates and policies, consumer confidence and consumer perception of economic conditions. In addition, consumer purchasing patterns may be influenced by consumers' disposable income, credit availability and debt levels.

A broader, protracted slowdown in the U.S. economy, an extended period of high unemployment rates, an uncertain global economic outlook or a credit crisis could adversely affect consumer spending habits resulting in lower net sales and profits than expected on a quarterly or annual basis. Consumer confidence is also affected by the domestic and international political situation. Our financial condition and operations could be impacted by changes in government regulations in areas including, but not limited to, taxes and healthcare. Ongoing international trade and tariff negotiations could have a direct impact on our income and an indirect impact on consumer prices. The outbreak or escalation of war, or the occurrence of terrorist acts or other hostilities in or affecting the U.S., or public health issues such as pandemics or epidemics, including the continuing COVID-19 pandemic, could lead to a decrease in spending by consumers. In addition, natural disasters, public health issues, industrial accidents and acts of war in various parts of the world could have the effect of disrupting supplies and raising prices globally which, in turn, may have adverse effects on the world and U.S. economies and lead to a downturn in consumer confidence and spending.

We closely monitor our net sales, gross margin and expenses. We have performed scenario planning such that if our net sales decline for an extended period of time, we have identified variable costs that could be reduced to partially mitigate the impact of these declines. If we were to experience adverse economic trends and/or if our efforts to counteract the impacts of these trends are not sufficiently effective, there could be a negative impact on our financial performance and position in future fiscal periods.



*Seasonality of Sales and Weather Conditions.* Our sales, like most other retailers, are subject to seasonal influences. In the second half of the year, which includes the back-to-school and holiday seasons, we generally realize a higher level of sales and net income.

Weather continues to be a contributing factor to the sale of our clothing. Generally, our sales are higher if the weather is cold during the Fall and warm during the early Spring. Sales of cold weather clothing are increased by early cold weather during the Fall, while sales of warm weather clothing are improved by early warm weather conditions in the Spring. Although we have diversified our product offerings, we believe traffic to our stores is still driven, in part, by weather patterns.

*Competition and Margin Pressure.* We believe that in order to remain competitive with retailers, including off-price retailers and discount stores, we must continue to offer brand-name merchandise at a discount to prices offered by other retailers as well as an assortment of merchandise that is appealing to our customers.

The U.S. retail apparel and home furnishings markets are highly fragmented and competitive. We compete for business with department stores, off-price retailers, internet retailers, specialty stores, discount stores, wholesale clubs, and outlet stores as well as with certain traditional, full-price retail chains that have developed off-price concepts. At various times throughout the year, traditional full-price department store chains and specialty shops offer brand-name merchandise at substantial markdowns, which can result in prices approximating those offered by us at our Burlington stores. We anticipate that competition will increase in the future. Therefore, we will continue to look for ways to differentiate our stores from those of our competitors.

The U.S. retail industry continues to face increased pressure on margins as overall challenging retail conditions have led consumers to be more value conscious. Our “open to buy” paradigm, in which we purchase both pre-season and in-season merchandise, allows us the flexibility to purchase less pre-season with the balance purchased in-season and opportunistically. It also provides us with the flexibility to shift purchases between suppliers and categories. This enables us to obtain better terms with our suppliers, which we expect to help offset any rising costs of goods.

## **Key Performance Measures**

We consider numerous factors in assessing our performance. Key performance measures used by management include net income (loss), Adjusted Net Income (Loss), Adjusted EBITDA, Adjusted EBIT, comparable store sales, gross margin, inventory, store payroll and liquidity.

*Net income (loss).* We earned net income of \$171.0 million during the three month period ended May 1, 2021 compared with a net loss of \$333.7 million during the three month period ended May 2, 2020. This increase was primarily driven by the temporary closure of all our stores during the first quarter of Fiscal 2020, caused by the COVID-19 pandemic, as well as our sales performance during the first quarter of Fiscal 2021, compared to the first quarter of Fiscal 2019. Refer to the section below entitled “Results of Operations” for further explanation.

*Adjusted Net Income (Loss), Adjusted EBITDA and Adjusted EBIT:* Adjusted Net Income (Loss), Adjusted EBITDA and Adjusted EBIT are non-GAAP financial measures of our performance.

We define Adjusted Net Income (Loss) as net income (loss), exclusive of the following items, if applicable: (i) net favorable lease costs; (ii) costs related to debt issuances and amendments; (iii) loss on extinguishment of debt; (iv) impairment charges; (v) amounts related to certain litigation matters; (vi) non-cash interest expense on the Convertible Notes; (vii) costs related to closing the e-commerce store; and (viii) other unusual, non-recurring or extraordinary expenses, losses, charges or gains, all of which are tax effected to arrive at Adjusted Net Income (Loss).

We define Adjusted EBITDA as net income (loss), exclusive of the following items, if applicable: (i) interest expense; (ii) interest income; (iii) loss on extinguishment of debt; (iv) income tax expense (benefit); (v) depreciation and amortization; (vi) impairment charges; (vii) costs related to debt issuances and amendments; (viii) amounts related to certain litigation matters; (ix) costs related to closing the e-commerce store; and (x) other unusual, non-recurring or extraordinary expenses, losses, charges or gains.

We define Adjusted EBIT as net income (loss), exclusive of the following items, if applicable: (i) interest expense; (ii) interest income; (iii) loss on extinguishment of debt; (iv) income tax expense (benefit); (v) impairment charges; (vi) net favorable lease costs; (vii) costs related to debt issuances and amendments; (viii) amounts related to certain litigation matters; (ix) costs related to closing the e-commerce store; and (x) other unusual, non-recurring or extraordinary expenses, losses, charges or gains.

We present Adjusted Net Income (Loss), Adjusted EBITDA and Adjusted EBIT, because we believe they are useful supplemental measures in evaluating the performance of our business and provide greater transparency into our results of operations. In particular, we believe that excluding certain items that may vary substantially in frequency and magnitude from what

we consider to be our core operating results are useful supplemental measures that assist in evaluating our ability to generate earnings and leverage sales, and to more readily compare core operating results between past and future periods.

Adjusted Net Income (Loss) has limitations as an analytical tool, and should not be considered either in isolation or as a substitute for net income (loss) or other data prepared in accordance with GAAP. Among other limitations, Adjusted Net Income (Loss) does not reflect the following items, net of their tax effect:

- favorable lease costs;
- costs related to debt issuances and amendments;
- losses on extinguishment of debt;
- amounts charged for certain litigation matters;
- non-cash interest expense related to original issue discount on the Convertible Notes;
- impairment charges on long-lived assets;
- costs related to closing the e-commerce store; and
- other unusual, non-recurring or extraordinary expenses, losses, charges or gains.

During the three months ended May 1, 2021, Adjusted Net Income (Loss) increased \$491.0 million to income of \$175.9 million, compared to the same period in the prior year. This increase was primarily driven by the temporary closure of all our stores during the first quarter of Fiscal 2020, caused by the COVID-19 pandemic, as well as our sales performance during the first quarter of Fiscal 2021. Refer to the section below entitled “Results of Operations” for further explanation.

The following table shows our reconciliation of net income (loss) to Adjusted Net Income (Loss) for the three months ended May 1, 2021 compared with the three months ended May 2, 2020:

	<i>(unaudited)</i>	
	<i>(in thousands)</i>	
	<b>Three Months Ended</b>	
	<b>May 1, 2021</b>	<b>May 2, 2020</b>
<b>Reconciliation of net income (loss) to Adjusted Net Income (Loss):</b>		
Net income (loss)	\$ 171,030	\$ (333,728)
Net favorable lease costs (a)	5,911	6,443
Non-cash interest expense on convertible notes (b)	—	1,366
Costs related to debt issuances and amendments (c)	—	4,352
Loss on extinguishment of debt (d)	—	202
Impairment charges	777	1,924
Litigation matters (e)	—	10,400
Tax effect (f)	(1,771)	(6,006)
<b>Adjusted Net Income (Loss)</b>	<b>\$ 175,947</b>	<b>\$ (315,047)</b>

- (a) Net favorable lease cost represents the non-cash expense associated with favorable and unfavorable leases that were recorded as a result of purchase accounting related to the April 13, 2006 Bain Capital acquisition of Burlington Coat Factory Warehouse Corporation (the Merger Transaction). These expenses are recorded in the line item “Selling, general and administrative expenses” in our Condensed Consolidated Statements of Income (Loss).
- (b) Represents non-cash accretion of original issue discount on the Convertible Notes. The original issue discount was eliminated as of the beginning of Fiscal 2021, as a result of adopting Accounting Standards Update (ASU) 2020-06, “Accounting for Convertible Instruments and Contracts in an Entity’s Own Equity” (ASU 2020-06).
- (c) Represents certain costs incurred as a result of the issuance of the Secured Notes and the Convertible Notes, as well as the execution of refinancing opportunities.
- (d) Amounts relate to the refinancing of the Term Loan Facility.
- (e) Represents amounts charged for certain litigation matters.
- (f) Tax effect is calculated based on the effective tax rates (before discrete items) for the respective periods, adjusted for the tax effect for the impact of items (a) through (e). The effective tax rate for the first quarter of Fiscal 2020 includes the benefit of loss carrybacks to prior years with higher statutory tax rates.

Adjusted EBITDA has limitations as an analytical tool, and should not be considered either in isolation or as a substitute for net income (loss) or other data prepared in accordance with GAAP. Among other limitations, Adjusted EBITDA does not reflect:

- interest expense on our debt;
- losses on the extinguishment of debt;
- costs related to debt issuances and amendments;
- cash requirements for replacement of assets. Although depreciation and amortization are non-cash charges, the assets being depreciated and amortized will likely have to be replaced in the future;
- amounts charged for certain litigation matters;
- impairment charges on long-lived assets;
- costs related to closing the e-commerce store;
- income tax expense; and
- other unusual, non-recurring or extraordinary expenses, losses, charges or gains.

During the three months ended May 1, 2021, Adjusted EBITDA increased \$741.0 million to \$293.5 million, compared to the same period in the prior year. This increase was primarily driven by the temporary closure of all our stores during the first quarter of Fiscal 2020, caused by the COVID-19 pandemic, as well as our sales performance during the first quarter of Fiscal 2021. Refer to the section below entitled “Results of Operations” for further explanation.

The following table shows our reconciliation of net income (loss) to Adjusted EBITDA for the three months ended May 1, 2021 compared with the three months ended May 2, 2020:

	<i>(unaudited)</i>	
	<i>(in thousands)</i>	
	<b>Three Months Ended</b>	
	<b>May 1, 2021</b>	<b>May 2, 2020</b>
<b>Reconciliation of net income (loss) to Adjusted EBITDA:</b>		
Net income (loss)	\$ 171,030	\$ (333,728)
Interest expense	19,599	14,693
Interest income	(74)	(716)
Loss on extinguishment of debt (a)	—	202
Costs related to debt issuances and amendments (b)	—	4,352
Litigation matters (c)	—	10,400
Depreciation and amortization (d)	61,521	60,685
Impairment charges	777	1,924
Income tax expense (benefit)	40,637	(205,359)
<b>Adjusted EBITDA</b>	<b>\$ 293,490</b>	<b>\$ (447,547)</b>

- (a) Amounts relate to the refinancing of the Term Loan Facility.
- (b) Represents certain costs incurred as a result of the issuance of the Secured Notes and the Convertible Notes, as well as the execution of refinancing opportunities.
- (c) Represents amounts charged for certain litigation matters.
- (d) Includes \$5.9 million and \$6.4 million of favorable lease cost included in the line item “Selling, general and administrative expenses” in our Condensed Consolidated Statements of Income (Loss) for the three months ended May 1, 2021 and the three months ended May 2, 2020, respectively. Net favorable lease cost represents the non-cash expense associated with favorable and unfavorable leases that were recorded as a result of the Merger Transaction.

Adjusted EBIT has limitations as an analytical tool, and should not be considered either in isolation or as a substitute for net income (loss) or other data prepared in accordance with GAAP. Among other limitations, Adjusted EBIT does not reflect:

- interest expense on our debt;
- losses on the extinguishment of debt;
- costs related to debt issuances and amendments;
- favorable lease cost;

- amounts charged for certain litigation matters;
- impairment charges on long-lived assets;
- costs related to closing the e-commerce store;
- income tax expense; and
- other unusual, non-recurring or extraordinary expenses, losses, charges or gains.

During the three months ended May 1, 2021, Adjusted EBIT increased \$739.7 million to \$237.9 million, compared to the same period in the prior year. This increase was primarily driven by the temporary closure of all our stores during the first quarter of Fiscal 2020, caused by the COVID-19 pandemic, as well as our sales performance during the first quarter of Fiscal 2021. Refer to the section below entitled “Results of Operations” for further explanation.

The following table shows our reconciliation of net income (loss) to Adjusted EBIT for the three months ended May 1, 2021 compared with the three months ended May 2, 2020:

	<i>(unaudited)</i>	
	<i>(in thousands)</i>	
	<b>Three Months Ended</b>	
	<b>May 1, 2021</b>	<b>May 2, 2020</b>
<b>Reconciliation of net income (loss) to Adjusted EBIT:</b>		
Net income (loss)	\$ 171,030	\$ (333,728)
Interest expense	19,599	14,693
Interest income	(74)	(716)
Loss on extinguishment of debt (a)	—	202
Costs related to debt issuances and amendments (b)	—	4,352
Net favorable lease costs (c)	5,911	6,443
Impairment charges	777	1,924
Litigation matters (d)	—	10,400
Income tax expense (benefit)	40,637	(205,359)
<b>Adjusted EBIT</b>	<b>\$ 237,880</b>	<b>\$ (501,789)</b>

- (a) Amounts relate to the refinancing of the Term Loan Facility.
- (b) Represents certain costs incurred as a result of the issuance of the Secured Notes and the Convertible Notes, as well as the execution of refinancing opportunities.
- (c) Net favorable lease cost represents the non-cash expense associated with favorable and unfavorable leases that were recorded as a result of the Merger Transaction. These expenses are recorded in the line item “Selling, general and administrative expenses” in our Condensed Consolidated Statements of Income (Loss).
- (d) Represents amounts charged for certain litigation matters.

**Comparable Store Sales.** Comparable store sales measure performance of a store during the current reporting period against the performance of the same store in the corresponding period of a prior year. Due to the impact of the COVID-19 pandemic, including the temporary closing of all stores during the first quarter of Fiscal 2020, we are using Fiscal 2019 as the comparable previous year period when calculating comparable store sales for Fiscal 2021. The method of calculating comparable store sales varies across the retail industry. As a result, our definition of comparable store sales may differ from other retailers.

For Fiscal 2021, we define comparable store sales as merchandise sales of those stores, commencing on the first day of the fiscal month two years after the end of their grand opening activities, which normally conclude within the first two months of operations. If a store is closed for seven or more days during a month, our policy is to remove that store from our calculation of comparable stores sales for any such month, as well as during the month(s) of their grand re-opening activities. Comparable store sales increased 20% for the three month period ended May 1, 2021, compared to the three month period ended May 4, 2019. Comparable store sales were not meaningful for the three months ended May 2, 2020, due to the extended store closures resulting from the COVID-19 pandemic.

Various factors affect comparable store sales, including, but not limited to, weather conditions, current economic conditions, the timing of our releases of new merchandise and promotional events, the general retail sales environment, consumer preferences and buying trends, changes in sales mix among distribution channels, competition, and the success of marketing programs.

**Gross Margin.** Gross margin is the difference between net sales and the cost of sales. Our cost of sales and gross margin may not be comparable to those of other entities, since some entities may include all of the costs related to their buying and distribution

functions, certain store-related costs and other costs, in cost of sales. We include certain of these costs in the line items “Selling, general and administrative expenses” and “Depreciation and amortization” in our Condensed Consolidated Statements of Income (Loss). We include in our “Cost of sales” line item all costs of merchandise (net of purchase discounts and certain vendor allowances), inbound freight, distribution center outbound freight and certain merchandise acquisition costs, primarily commissions and import fees. Gross margin as a percentage of net sales increased to 43.3% during the three month period ended May 1, 2021, compared with 2.0% during the three month period ended May 2, 2020, driven primarily by a \$271.9 million charge against aged inventory during the first quarter of Fiscal 2020 due to the extended store closures. Product sourcing costs were \$140.7 million during the three month period ended May 1, 2021, compared with \$75.7 million during the three month period ended May 2, 2020.

*Inventory.* Inventory at May 1, 2021 increased to \$767.6 million compared with \$625.9 million at May 2, 2020. The increase was attributable primarily to the \$271.9 million inventory charge during the three month period ended May 2, 2020 due to aged inventory, as well as aggressive actions to reduce inventory receipts during the period that stores were closed.

Comparable store inventory at May 1, 2021 decreased 19% compared to May 4, 2019, driven by our strategy of operating with leaner in-store inventory. When comparing to May 2, 2020, all stores were excluded from comparable store inventory, due to the temporary closure of all stores at that time. Reserve inventory was 35% of total inventory as of May 1, 2021, compared with 34% as of May 4, 2019. Reserve inventory includes all inventory that is being stored for release either later in the season, or in a subsequent season. We intend to continue to build up our reserve merchandise in order to more effectively chase sales trends. Inventory at January 30, 2021 was \$740.8 million.

In order to better serve our customers and maximize sales, we continue to refine our merchandising mix and inventory levels within our stores. By appropriately managing our inventories, we believe we will be better able to deliver a continual flow of fresh merchandise to our customers.

*Store Payroll.* The method of calculating store payroll varies across the retail industry. As a result, our store payroll may differ from other retailers. We define store payroll as regular and overtime payroll for all store personnel as well as regional and territory personnel, exclusive of payroll charges related to corporate and warehouse employees.

As a result of the COVID-19 outbreak, we temporarily furloughed most store associates in March 2020, while providing two weeks of financial support to impacted associates. We also continued to provide benefits to furloughed associates, including paying 100% of their current medical benefit premiums. As a result, store payroll costs increased to \$170.7 million during the three months ended May 1, 2021, compared with \$105.2 million during the three months ended May 2, 2020.

*Liquidity.* Liquidity measures our ability to generate cash. Management measures liquidity through cash flow, which is the measure of cash generated from or used in operating, financing, and investing activities. We took several steps to effectively manage our liquidity during the COVID-19 pandemic, including careful management of operating expenses, working capital and capital expenditures, as well as suspending our share repurchase program. Additionally, we borrowed \$400 million on our existing ABL Line of Credit, issued \$805 million of our Convertible Notes, and through BCFWC, issued \$300 million of our Secured Notes. We repaid \$150 million on the ABL Line of Credit during the second quarter of Fiscal 2020, and the remaining \$250 million during the fourth quarter of Fiscal 2020. At May 1, 2021, we had \$549.5 million available under the ABL Line of Credit.

Cash and cash equivalents, including restricted cash and cash equivalents, increased \$150.3 million during the three months ended May 1, 2021, compared with an increase of \$1,085.4 million during the three months ended May 2, 2020. Refer to the section below entitled “Liquidity and Capital Resources” for further explanation.

## Results of Operations

The following table sets forth certain items in the Condensed Consolidated Statements of Income (Loss) as a percentage of net sales for the three months ended May 1, 2021 and the three months ended May 2, 2020.

	Percentage of Net Sales	
	Three Months Ended	
	May 1, 2021	May 2, 2020
Net sales	100.0%	100.0%
Other revenue	0.1	0.4
Total revenue	100.1	100.4
Cost of sales	56.7	98.0
Selling, general and administrative expenses	30.3	60.8
Costs related to debt issuances and amendments	—	0.6
Depreciation and amortization	2.6	6.8
Impairment charges - long-lived assets	0.0	0.2
Other income - net	(0.1)	(0.3)
Loss on extinguishment of debt	—	0.0
Interest expense	0.9	1.8
Total costs and expenses	90.4	167.9
Income (loss) before income tax expense (benefit)	9.7	(67.5)
Income tax expense (benefit)	1.9	(25.7)
Net income (loss)	7.8%	(41.8)%

### Three Month Period Ended May 1, 2021 Compared With the Three Month Period Ended May 2, 2020

#### Net sales

Net sales improved \$1,392.7 million, or 174.5%, to \$2,190.7 million during the three month period ended May 1, 2021, primarily due to the temporary closure of all our stores during the first quarter of Fiscal 2020. This improvement was also driven by our comparable store sales increase of 20% for the first quarter of Fiscal 2021 compared to the first quarter of Fiscal 2019, as well as our 48 net new stores since the end of the first quarter of Fiscal 2020.

#### Cost of sales

Cost of sales as a percentage of net sales decreased to 56.7% during the three month period ended May 1, 2021, compared to 98.0% during the three month period ended May 2, 2020, driven primarily by a \$271.9 million charge against aged inventory in the first quarter of Fiscal 2020 due to the extended store closures. On a dollar basis, cost of sales increased \$460.0 million, or 58.8%, primarily driven by our overall increase in sales. Product sourcing costs, which are included in selling, general and administrative expenses, were \$140.7 million during the three month period ended May 1, 2021, compared with \$75.7 million during the three month period ended May 2, 2020.

#### Selling, general and administrative expenses

The following table details selling, general and administrative expenses for the three month period ended May 1, 2021 compared with the three month period ended May 2, 2020.

	(in millions)					
	Three Months Ended					
	May 1, 2021	Percentage of Net Sales	May 2, 2020	Percentage of Net Sales	\$ Variance	% Change
Store related costs	\$ 411.2	18.8%	\$ 312.9	39.2%	\$ 98.3	31.4%
Product sourcing costs	140.7	6.4	75.7	9.5	65.0	85.9
Corporate costs	75.9	3.5	76.7	9.6	(0.8)	(1.0)
Marketing and strategy costs	12.3	0.6	7.5	0.9	4.8	64.0
Other selling, general and administrative expenses	24.7	1.0	12.3	1.6	12.4	100.8
<b>Selling, general and administrative expenses</b>	<b>\$ 664.8</b>	<b>30.3%</b>	<b>\$ 485.1</b>	<b>60.8%</b>	<b>\$ 179.7</b>	<b>37.0%</b>

The decrease in selling, general and administrative expenses as a percentage of net sales was primarily driven by the overall increase in sales. On a dollar basis, the increase in selling, general and administrative expenses was primarily due to our higher product sourcing costs, as well as the significant steps taken to reduce selling, general and administrative expenses during the period stores were closed during the first quarter of Fiscal 2020. Among other things, we worked with landlords to modify payment terms for certain leases, furloughed most store and distribution center associates, as well as some corporate associates, temporarily eliminated the salary of the CEO and cash compensation for our Board of Directors, and temporarily reduced the salaries for our executive leadership team by 50%, with smaller salary reductions for all employees through a certain level.

#### **Costs related to debt issuances and amendments**

During the first quarter of Fiscal 2020, we incurred legal fees related to the issuance of our Secured Notes of \$3.2 million, as well as legal and placement fees of \$1.1 million related to the refinancing our Term Loan Facility.

#### **Depreciation and amortization**

Depreciation and amortization expense related to the depreciation of fixed assets amounted to \$55.6 million during the three month period ended May 1, 2021 compared with \$54.3 million during the three month period ended May 2, 2020. The increase in depreciation and amortization expense was primarily driven by capital expenditures related to our new and non-comparable stores.

#### **Impairment charges – long-lived assets**

Impairment charges on long-lived assets were \$0.8 million during the three month period ended May 1, 2021, related to store-level assets at one store. Impairment charges on long-lived assets were \$1.9 million during the three month period ended May 2, 2020, related to store-level assets at seven stores.

The recoverability assessment related to these store-level assets requires various judgments and estimates, including estimates related to future revenues, gross margin rates, store expenses and other assumptions. We base these estimates upon our past and expected future performance. We believe our estimates are appropriate in light of current market conditions. However, future impairment charges could be required if we do not achieve our current revenue or cash flow projections for each store.

#### **Other income - net**

Other income decreased \$0.8 million to \$1.4 million during the first quarter of Fiscal 2021, primarily driven by a reduction in interest income due to the low rate environment, as well as one-time insurance gains during the first quarter of Fiscal 2020.

#### **Interest expense**

Interest expense increased \$4.9 million during the three month period ended May 1, 2021 to \$19.6 million, compared to the same period in the prior year. This increase was primarily driven by a full quarter of interest expense on our \$805 million Convertible Notes and our \$300 million Secured Notes, which were only outstanding for a portion of the first quarter of Fiscal 2020. This increase was partially offset by the paydown of our ABL Line of Credit, as well as the lower average interest rate on our Term Loan Facility.

The average interest rates and average balances related to our variable rate debt for the three month period ended May 1, 2021 compared with prior year, are summarized in the table below:

	Three Months Ended	
	May 1, 2021	May 2, 2020
Average interest rate – ABL Line of Credit	—	2.2%
Average interest rate – Term Loan Facility	1.9%	3.0%
Average balance – ABL Line of Credit (in millions)	—	\$ 206.6
Average balance – Term Loan Facility (in millions) (a)	\$ 961.4	\$ 961.4

(a) Excludes original issue discount

#### **Income tax expense (benefit)**

Income tax expense was \$40.6 million during the three month period ended May 1, 2021 compared with income tax benefit of \$205.4 million during the three month period ended May 2, 2020. The effective tax rate for the three month period ended May 1, 2021 was 19.2% compared with 38.1% during the three month period ended May 2, 2020. The income tax benefit in the prior year was a result of the pre-tax loss and the carry-back of net operating losses arising in 2020 to the five prior tax years, as permitted under the

CARES Act. The higher income tax rate in the prior year is a function of prior year losses facilitating a refund receivable upon amending previously filed returns at a 35% tax rate.

### ***Net income (loss)***

We earned net income of \$171.0 million during the three month period ended May 1, 2021 compared with a net loss of \$333.7 million for the three month period ended May 2, 2020. This improvement was primarily driven by the temporary closure of all our stores during the first quarter of Fiscal 2020, caused by the COVID-19 pandemic, as well as our above average sales performance during the first quarter of Fiscal 2021.

### **Liquidity and Capital Resources**

Our ability to satisfy interest payment and future principal payment obligations on our outstanding debt will depend largely on our future performance which, in turn, is subject to prevailing economic conditions and to financial, business and other factors beyond our control. If we do not have sufficient cash flow to service interest payment and future principal payment obligations on our outstanding indebtedness and if we cannot borrow or obtain equity financing to satisfy those obligations, our business and results of operations will be materially adversely affected. We cannot be assured that any replacement borrowing or equity financing could be successfully completed on terms similar to our current financing agreements, or at all.

As a result of the uncertainty regarding the COVID-19 pandemic, the Company took a number of measures to manage its cash flow. These measures included carefully managing operating expenses, working capital and capital expenditures, as well as suspending the Company's share repurchase program.

We completed several debt transactions in order to facilitate increased financial flexibility in response to the COVID-19 pandemic. During March 2020, we borrowed \$400 million on our existing ABL Line of Credit. We repaid \$150 million on the ABL Line of Credit during the second quarter of Fiscal 2020, and the remaining \$250 million during the fourth quarter of Fiscal 2020. On April 16, 2020, we issued \$805 million of our Convertible Notes, and through BCFWC, issued \$300 million of Secured Notes. The proceeds of the Convertible Notes and Secured Notes are being used for general corporate purposes.

We believe that cash generated from operations, along with our existing cash and our ABL Line of Credit, will be sufficient to fund our expected cash flow requirements and planned capital expenditures for at least the next twelve months as well as the foreseeable future. However, there can be no assurance that we would be able to offset declines in our comparable store sales with savings initiatives in the event that the economy declines.

As market conditions warrant, we may, from time to time, repurchase our outstanding debt securities in the open market, in privately negotiated transactions, by tender offer, by exchange transaction or otherwise. Such repurchases, if any, will depend on prevailing market conditions, our liquidity and other factors and may be commenced or suspended at any time. The amounts involved and total consideration paid may be material.

### ***Cash Flow for the Three Month Period Ended May 1, 2021 Compared With the Three Month Period Ended May 2, 2020***

We generated \$150.3 million of cash flow during the three month period ended May 1, 2021 compared with \$1,085.4 million during the three month period ended May 2, 2020.

Net cash provided by operating activities amounted to \$223.4 million during the three month period ended May 1, 2021, compared with a use of \$271.7 million during the three month period ended May 2, 2020. The increase in our operating cash flows was primarily driven by the temporary closure of all our stores during the first quarter of Fiscal 2020, caused by the COVID-19 pandemic, as well as our above average sales performance during the first quarter of Fiscal 2021.

Net cash used in investing activities was \$71.8 million during the three month period ended May 1, 2021 compared with a use of \$62.6 million during the three month period ended May 2, 2020. This change was primarily the result of an increase in capital expenditures related to our stores (new stores, remodels and other store expenditures).



Net cash used in financing activities was \$1.3 million during the three month period ended May 1, 2021 compared with net cash provided of \$1,419.7 million during the three month period ended May 2, 2020. This change was primarily driven by our cash flow management efforts during the first quarter of Fiscal 2020 in response to the COVID-19 pandemic, which included drawing \$400 million on our ABL Line of Credit, issuing \$805 million of our Convertible Notes, and through BCFWC, issuing \$300 million of Secured Notes, and suspending our share repurchase program. We repaid \$150 million on the ABL Line of Credit during the second quarter of Fiscal 2020, and the remaining \$250 million during the fourth quarter of Fiscal 2020.

Changes in working capital also impact our cash flows. Working capital equals current assets (exclusive of restricted cash) minus current liabilities. We had working capital at May 1, 2021 of \$1,002.8 million compared with \$867.9 million at May 2, 2020. The increase in working capital was primarily due to an increase in prepaid and other current assets (primarily the tax refund for NOL carryback associated with the CARES Act), an increase in merchandise inventories and an increase in accounts receivable (primarily due to higher credit card receivables, driven by increased sales). These increases were partially offset by increased accounts payable and an increase in other current liabilities. We had working capital at January 30, 2021 of \$820.0 million.

### ***Capital Expenditures***

For the three month period ended May 1, 2021, cash spend for capital expenditures, net of \$9.7 million of landlord allowances, amounted to \$62.0 million. We estimate that we will spend approximately \$470 million, net of approximately \$15 million of landlord allowances, in capital expenditures during Fiscal 2021, including approximately \$205 million, net of the previously mentioned landlord allowances, for store expenditures (new stores, remodels and other store expenditures). In addition, we estimate that we will spend approximately \$140 million to support our supply chain initiatives, with the remaining capital used to support our information technology and other business initiatives.

### ***Share Repurchase Program***

On August 14, 2019, our Board of Directors authorized the repurchase of up to \$400 million of common stock, which is authorized to be executed through August 2021. This repurchase program is funded using our available cash and borrowings on our ABL Line of Credit.

During the three month period ended May 1, 2021, there were no repurchases under the share repurchase program. As part of the Company's cash management efforts during the COVID-19 pandemic, we suspended our share repurchase program in March 2020. As of May 1, 2021, we had \$348.4 million remaining under our share repurchase authorization.

We are authorized to repurchase, from time to time, shares of our outstanding common stock on the open market or in privately negotiated transactions under our repurchase program. The timing and amount of stock repurchases will depend on a variety of factors, including the market conditions as well as corporate and regulatory considerations. Our share repurchase program may be suspended, modified or discontinued at any time, and we have no obligation to repurchase any amount of our common stock under the program.

### ***Dividends***

We currently do, and intend to continue to, retain all available funds and any future earnings to fund all of the Company's capital expenditures, business initiatives, and to support any potential opportunistic capital structure initiatives. Therefore, at this time, we do not anticipate paying cash dividends in the near term. Our ability to pay dividends on our common stock will be limited by restrictions on the ability of our subsidiaries to pay dividends or make distributions under the terms of current and any future agreements governing our indebtedness. Any future determination to pay dividends will be at the discretion of our Board of Directors, subject to compliance with covenants in our current and future agreements governing our indebtedness, and will depend upon our results of operations, financial condition, capital requirements and other factors that our Board of Directors deems relevant.

In addition, since we are a holding company, substantially all of the assets shown on our Condensed Consolidated Balance Sheets are held by our subsidiaries. Accordingly, our earnings, cash flow and ability to pay dividends are largely dependent upon the earnings and cash flows of our subsidiaries and the distribution or other payment of such earnings to us in the form of dividends.

### ***Operational Growth***

During the three month period ended May 1, 2021, we opened 26 new stores, inclusive of one relocation, and closed two stores, exclusive of the aforementioned relocation, bringing our store count as of May 1, 2021 to 784 stores. During Fiscal 2021, we plan to open 75 net new stores, which includes approximately 100 gross new stores, along with approximately 25 store relocations and closings.

We have identified numerous market opportunities that we believe will allow us to operate 2,000 stores over the long-term. We believe that our ability to find satisfactory locations for our stores is essential for the continued growth of our business. The opening of stores generally is contingent upon a number of factors including, but not limited to, the availability of desirable locations with suitable structures and the negotiation of acceptable lease terms. There can be no assurance, however, that we will be able to find suitable locations for new stores or that we will be able to open the number of new stores presently planned, even if such locations are found and acceptable lease terms are obtained. Assuming that appropriate locations are identified, we believe that we will be able to execute our growth strategy without significantly impacting our current stores.

### ***Debt and Hedging***

As of May 1, 2021, our obligations, inclusive of original issue discount, include \$958.6 million under our Term Loan Facility, \$805.0 million of Convertible Notes, \$300.0 million of Secured Notes and no outstanding borrowings on our ABL Line of Credit. Our debt obligations also include \$46.7 million of finance lease obligations as of May 1, 2021.

#### *Term Loan Facility*

At May 1, 2021, our borrowing rate related to the Term Loan Facility was 1.9%.

#### *ABL Line of Credit*

At May 1, 2021, we had \$549.5 million available under the ABL Line of Credit. There were no borrowings on the ABL Line of Credit during the three month period ended May 1, 2021.

#### *Convertible Notes*

On April 16, 2020, we issued \$805 million of Convertible Notes. An aggregate of up to 3,656,149 shares of common stock may be issued upon conversion of the Convertible Notes, which number is subject to adjustment up to an aggregate of 4,844,410 shares following certain corporate events that occur prior to the maturity date or if we issue a notice of redemption, and which is also subject to certain anti-dilution adjustments.

The Convertible Notes are general unsecured obligations of the Company. The Convertible Notes bear interest at a rate of 2.25% per year, payable semi-annually in cash, in arrears on April 15 and October 15 of each year, beginning on October 15, 2020. The Convertible Notes will mature on April 15, 2025, unless earlier converted, redeemed or repurchased. See Note 4, "Long Term Debt," for additional information.

#### *Secured Notes*

On April 16, 2020, our indirect subsidiary, BCFWC, issued \$300 million of Senior Secured Notes. The Secured Notes are senior, secured obligations of BCFWC, and interest is payable semiannually in cash at a rate of 6.25% per annum on April 15 and October 15 of each year, beginning on October 15, 2020. The Secured Notes are guaranteed on a senior secured basis by Burlington Coat Factory Holdings, LLC, Burlington Coat Factory Investments Holdings, Inc. and BCFWC's subsidiaries that guarantee the loans under the Term Loan Facility and ABL Line of Credit. The Secured Notes will mature on April 15, 2025 unless earlier redeemed or repurchased.

On May 27, 2021, we announced a make-whole call for the full \$300.0 million outstanding principal amount of the Secured Notes. As a result of this action, we are expecting a pre-tax debt extinguishment charge of approximately \$30 million in the three month period ended July 31, 2021.

#### *Hedging*

On December 17, 2018, the Company entered into an interest rate swap contract, which was designated as a cash flow hedge. This interest rate swap, which hedges \$450 million of our Term Loan Facility, became effective May 31, 2019 and matures December 29, 2023.

### **Certain Information Concerning Contractual Obligations**

The Company had \$1,576.6 million of purchase commitments related to goods that were not received as of May 1, 2021. Additionally, the Company had \$3,414.0 million of future minimum lease payments under operating leases as of May 1, 2021. There

were no other significant changes regarding our obligations to make future payments under current contracts from those included in our Fiscal 2020 10-K.

### **Critical Accounting Policies and Estimates**

Our Condensed Consolidated Financial Statements have been prepared in accordance with GAAP. We believe there are several accounting policies that are critical to understanding our historical and future performance as these policies affect the reported amounts of revenues and other significant areas that involve management's judgments and estimates. The preparation of our Condensed Consolidated Financial Statements requires management to make estimates and assumptions that affect (i) the reported amounts of assets and liabilities; (ii) the disclosure of contingent assets and liabilities at the date of the Condensed Consolidated Financial Statements; and (iii) the reported amounts of revenues and expenses during the reporting period. On an ongoing basis, management evaluates its estimates and judgments, including those related to revenue recognition, inventories, long-lived assets, intangible assets, goodwill, insurance reserves and income taxes. Historical experience and various other factors that are believed to be reasonable under the circumstances form the basis for making estimates and judgments about the carrying values of assets and liabilities that are not readily apparent from other sources. Actual results may differ from these estimates under different assumptions or conditions. As of the end of the first quarter of Fiscal 2021, the impact of the COVID-19 pandemic continues to unfold. As a result, many of our estimates and judgments carry a higher degree of variability and volatility. As events continue to evolve and additional information becomes available, our estimates may change materially in future periods. A critical accounting estimate meets two criteria: (1) it requires assumptions about highly uncertain matters and (2) there would be a material effect on the consolidated financial statements from either using a different, although reasonable, amount within the range of the estimate in the current period or from reasonably likely period-to-period changes in the estimate.

Our critical accounting policies and estimates are consistent with those disclosed in Note 1, "Summary of Significant Accounting Policies," to the audited Consolidated Financial Statements, included in Part II, Item 8 of the Fiscal 2020 10-K.

### **Safe Harbor Statement**

This report contains forward-looking statements that are based on current expectations, estimates, forecasts and projections about us, the industry in which we operate and other matters, as well as management's beliefs and assumptions and other statements regarding matters that are not historical facts. For example, when we use words such as "projects," "expects," "anticipates," "intends," "plans," "believes," "seeks," "estimates," "should," "would," "could," "will," "opportunity," "potential" or "may," variations of such words or other words that convey uncertainty of future events or outcomes, we are making forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended (Securities Act) and Section 21E of the Securities Exchange Act of 1934, as amended (Exchange Act). Our forward-looking statements are subject to risks and uncertainties. Such statements may include, but are not limited to, future impacts of the COVID-19 pandemic, proposed store openings and closings, proposed capital expenditures, projected financing requirements, proposed developmental projects, projected sales and earnings, our ability to maintain selling margins, and the effect of the adoption of recent accounting pronouncements on our consolidated financial position, results of operations and cash flows. Actual events or results may differ materially from the results anticipated in these forward-looking statements as a result of a variety of factors. While it is impossible to identify all such factors, factors that could cause actual results to differ materially from those estimated by us include: general economic conditions; pandemics, including the duration of the COVID-19 pandemic and actions taken to slow its spread and the related impact on consumer confidence and spending; our ability to successfully implement one or more of our strategic initiatives and growth plans; the availability of desirable store locations on suitable terms; changing consumer preferences and demand; industry trends, including changes in buying, inventory and other business practices; competitive factors, including pricing and promotional activities of major competitors and an increase in competition within the markets in which we compete; the availability, selection and purchasing of attractive merchandise on favorable terms; import risks, including tax and trade policies, tariffs and government regulations; weather patterns, including, among other things, changes in year-over-year temperatures; our future profitability; our ability to control costs and expenses; unforeseen cyber-related problems or attacks; any unforeseen material loss or casualty; the effect of inflation; regulatory and tax changes; our relationships with employees; the impact of current and future laws and the interpretation of such laws; terrorist attacks, particularly attacks on or within markets in which we operate; natural and man-made disasters, including fire, snow and ice storms, flood, hail, hurricanes and earthquakes; our substantial level of indebtedness and related debt-service obligations; restrictions imposed by covenants in our debt agreements; availability of adequate financing; our dependence on vendors for our merchandise; domestic events affecting the delivery of merchandise to our stores; existence of adverse litigation; and other risks discussed from time to time in our filings with the Securities and Exchange Commission (SEC).

Many of these factors, including the ultimate impact of the COVID-19 pandemic, are beyond our ability to predict or control. In addition, as a result of these and other factors, our past financial performance should not be relied on as an indication of future performance. The cautionary statements referred to in this section also should be considered in connection with any subsequent written or oral forward-looking statements that may be issued by us or persons acting on our behalf. We undertake no obligation to publicly update or revise any forward-looking statements, whether as a result of new information, future events or otherwise, except as required by law. In light of these risks and uncertainties, the forward-looking events and circumstances discussed in this report might not occur. Furthermore, we cannot guarantee future results, events, levels of activity, performance or achievements.

### **Recent Accounting Pronouncements**

Refer to Note 1, “Summary of Significant Accounting Policies,” to our Condensed Consolidated Financial Statements in Part I, Item 1 for a discussion of recent accounting pronouncements and their impact on our Condensed Consolidated Financial Statements.

### **Item 3. Quantitative and Qualitative Disclosures About Market Risk**

There were no material changes to our quantitative and qualitative disclosures about market risk from those included in our Fiscal 2020 10-K.

### **Item 4. Controls and Procedures.**

Our management team, under the supervision and with the participation of our principal executive officer and our principal financial officer, evaluated the effectiveness of the design and operation of our disclosure controls and procedures as such term is defined under Rule 13a-15(e) promulgated under the Exchange Act, as of the last day of the fiscal period covered by this report, May 1, 2021. The term disclosure controls and procedures means our controls and other procedures that are designed to ensure that information required to be disclosed by us in the reports that we file or submit under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the SEC’s rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by us in the reports that we file or submit under the Exchange Act is accumulated and communicated to management, including our principal executive and principal financial officer, or persons performing similar functions, as appropriate to allow timely decisions regarding required disclosure. Based on this evaluation, our principal executive officer and our principal financial officer concluded that our disclosure controls and procedures were effective as of May 1, 2021.

During the quarter ended May 1, 2021, there were no changes in our internal control over financial reporting that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

## **PART II—OTHER INFORMATION**

### **Item 1. Legal Proceedings.**

Like many retailers, the Company has been named in potential class or collective actions on behalf of groups alleging violations of federal and state wage and hour and other labor statutes, and alleged violation of state consumer and/or privacy protection and other statutes. In the normal course of business, we are also party to representative claims under the California Private Attorneys’ General Act and various other lawsuits and regulatory proceedings including, among others, commercial, product, product safety, employee, customer, intellectual property and other claims. Actions against us are in various procedural stages. Many of these proceedings raise factual and legal issues and are subject to uncertainties. Refer to Note 12 to our Condensed Consolidated Financial Statements, “Commitments and Contingencies,” for further detail.

### **Item 1A. Risk Factors.**

There have been no material changes in our risk factors from those disclosed in Part I, Item 1A of our Fiscal 2020 10-K.

**Item 2. Unregistered Sales of Equity Securities and Use of Proceeds.****Purchases of Equity Securities by the Issuer and Affiliated Purchasers**

The following table provides information regarding our purchases of common stock during the three fiscal months ended May 1, 2021:

<u>Month</u>	<u>Total Number of Shares Purchased(1)</u>	<u>Average Price Paid Per Share</u>	<u>Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs(2)</u>	<u>Approximate Dollar Value of Shares That May Yet Be Purchased Under the Plans or Programs (in thousands)</u>
January 31, 2021 through February 27, 2021	4,222	\$ 249.57	—	\$ 348,387
February 28, 2021 through April 3, 2021	408	\$ 298.09	—	\$ 348,387
April 4, 2021 through May 1, 2021	18,062	\$ 326.73	—	\$ 348,387
<b>Total</b>	<u>22,692</u>		<u>—</u>	

- (1) These shares were withheld for tax payments due upon the vesting of employee restricted stock or restricted stock unit awards, and do not reduce the dollar value that may yet be purchased under our publicly announced share repurchase programs.
- (2) On August 14, 2019, our Board of Directors authorized the repurchase of up to \$400 million of common stock, which is authorized to be executed through August 2021. As part of the Company's cash management efforts during the COVID-19 pandemic, the Company suspended its share repurchase program in March 2020. For a further discussion of our share repurchase program, see "Part I, Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations—Liquidity and Capital Resources—Share Repurchase Program."

**Item 3. Defaults Upon Senior Securities.**

None.

**Item 4. Mine Safety Disclosures.**

Not applicable.

**Item 5. Other Information.**

None.

Item 6. Exhibits.

Exhibit Number	Exhibit Description	Incorporated by Reference	
		Form	Filing Date
10.1†	<a href="#">Form of Restricted Stock Unit Award Notice and Agreement between Burlington Stores, Inc. and award recipients pursuant to the Burlington Stores, Inc. 2013 Omnibus Incentive Plan, as amended and restated May 17, 2017 (for grants made to certain merchandising and planning associates from and after May 3, 2021).</a>		
10.2†	<a href="#">Form of Stock Option Award Notice and Agreement between Burlington Stores, Inc. and award recipients pursuant to the Burlington Stores, Inc. 2013 Omnibus Incentive Plan, as amended and restated May 17, 2017 (for grants made to certain merchandising and planning associates from and after May 3, 2021).</a>		
10.3†	<a href="#">Form of Performance-Based Restricted Stock Unit Award Notice and Agreement between Burlington Stores, Inc. and award recipients pursuant to the Burlington Stores, Inc. 2013 Omnibus Incentive Plan, as amended and restated May 17, 2017 (for grants made to certain merchandising and planning associates from and after May 3, 2021).</a>		
10.4†	<a href="#">Burlington Stores, Inc. Executive Severance Plan (Merchandising &amp; Planning) (Effective March 26, 2021).</a>		
10.5†	<a href="#">Burlington Stores, Inc. Executive Severance Plan (Amended and Restated Effective March 26, 2021).</a>		
31.1†	<a href="#">Certification of Principal Executive Officer required by Rule 13a-14(a) or Rule 15d-14(a) of the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.</a>		
31.2†	<a href="#">Certification of Principal Financial Officer required by Rule 13a-14(a) or Rule 15d-14(a) of the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.</a>		
32.1†	<a href="#">Certification of Principal Executive Officer pursuant to 18 U.S.C. 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.</a>		
32.2†	<a href="#">Certification of Principal Financial Officer pursuant to 18 U.S.C. 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.</a>		
101.INS†	Inline XBRL Instance Document – the instance document does not appear in Interactive Data File, because its XBRL tags are embedded within the Inline XBRL document.		
101.SCH†	Inline XBRL Taxonomy Extension Schema Document		
101.CAL†	Inline XBRL Taxonomy Extension Calculation Linkbase Document		
101.DEF†	Inline XBRL Taxonomy Extension Definition Linkbase Document		
101.LAB†	Inline XBRL Taxonomy Extension Label Linkbase Document		
101.PRE†	Inline XBRL Taxonomy Extension Presentation Linkbase Document		
104†	Cover Page Interactive Data File (formatted as inline XBRL and contained in Exhibit 101)		

† Filed or furnished herewith.

## SIGNATURES

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

### **BURLINGTON STORES, INC.**

*/s/ Michael O'Sullivan*

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Michael O'Sullivan  
Chief Executive Officer  
(Principal Executive Officer)

*/s/ John Crimmins*

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John Crimmins  
Chief Financial Officer  
(Principal Financial Officer)

Date: May 27, 2021

**BURLINGTON STORES, INC.**  
**2013 OMNIBUS INCENTIVE PLAN**

**Restricted Stock Unit Award Notice**

**[Name of Holder]**

You have been awarded a restricted stock unit award with respect to shares of common stock of Burlington Stores, Inc., a Delaware corporation (the "Company"), pursuant to the terms and conditions of the Burlington Stores, Inc. 2013 Omnibus Incentive Plan (the "Plan") and the Restricted Stock Unit Award Agreement (together with this Award Notice, the "Agreement"). The Restricted Stock Unit Award Agreement is attached hereto. Capitalized terms not defined herein shall have the meanings specified in the Plan or the Agreement.

Restricted Stock Units:                    You have been awarded a restricted stock unit award with respect to [\_\_\_\_\_] shares of Common Stock, par value \$0.0001 per share ("Common Stock"), subject to adjustment as provided in the Plan.

Grant Date:                                    [\_\_\_\_\_, \_\_\_\_]

Vesting Schedule:                        Except as otherwise provided in the Plan, the Agreement or any other agreement between the Company or any of its Subsidiaries and Holder, the Award shall vest in [\_\_\_\_] annual increments on each of the [\_\_\_\_\_] anniversaries of the Grant Date (each, a "Vesting Date"), if, and only if, you are, and have been, continuously employed by the Company or any of its Subsidiaries from the date of this Agreement through and including the applicable Vesting Date.

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BURLINGTON STORES, INC.

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

Name:

Title:

**Acknowledgment, Acceptance and Agreement:**

By accepting this grant on the Company's stock plan administrator's website, I hereby accept the restricted stock units granted to me and acknowledge and agree to be bound by the terms and conditions of this Award Notice, the Agreement and the Plan.

\_\_\_\_\_  
Holder Name

\_\_\_\_\_  
Signature

Date \_\_\_\_\_

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**BURLINGTON STORES, INC.**  
**2013 OMNIBUS INCENTIVE PLAN**

**RESTRICTED STOCK UNIT AWARD AGREEMENT**

Burlington Stores, Inc., a Delaware corporation (the “Company”), hereby grants to the individual (the “Holder”) named in the award notice attached hereto (the “Award Notice”) as of the date set forth in the Award Notice (the “Grant Date”), pursuant to the provisions of the Burlington Stores, Inc. 2013 Omnibus Incentive Plan (the “Plan”), a restricted stock unit award (the “Award”) with respect to the number of shares of the Company’s Common Stock, par value \$0.0001 per share (“Common Stock”) set forth in the Award Notice, upon and subject to the restrictions, terms and conditions set forth in the Award Notice, the Plan and this agreement (the “Agreement”). Capitalized terms not defined herein shall have the meanings specified in the Plan.

1. Award Subject to Acceptance of Agreement. The Award shall be null and void unless Holder electronically accepts this Agreement within Holder’s stock plan account with the Company’s stock plan administrator according to the procedures then in effect (or, if permitted by the Company, accepts this Agreement by executing the Award Notice in the space provided therefor and returning an original execution copy of the Award Notice to the Company).

2. Rights as a Stockholder. Holder shall not be entitled to any privileges of ownership with respect to the shares of Common Stock subject to the Award unless and until, and only to the extent, such shares become vested pursuant to Section 3 hereof and Holder becomes a stockholder of record with respect to such shares.

3. Restriction Period and Vesting.

3.1. Service-Based Vesting Conditions. Subject to the remainder of this Section 3, the Common Stock shall vest pursuant to the terms of this Agreement and the Plan in accordance with the Vesting Schedule set forth in the Award Notice. The period of time prior to full vesting shall be referred to herein as the “Restriction Period.”

3.2. Termination of Employment.

(a) Termination due to Death or Disability. If Holder’s employment with the Company and its Subsidiaries terminates prior to the end of the Restriction Period by reason of Holder’s death or termination by the Company or its Subsidiaries due to Disability, then in either such case, Holder shall become fully vested in the unvested portion of the Award as of the date of termination of employment. For purposes of this Agreement, “Disability” shall mean that the Holder is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months.

(b) Termination due to a Reduction in Force or Retirement. Except as provided for in Section 3(c), if Holder’s employment with the Company and its Subsidiaries is terminated prior to the end of the Restriction Period (i) by the Company or its Subsidiaries due to a reduction in force, as determined by the Committee in its sole and absolute discretion (provided that Holder has not committed an act constituting grounds for a termination for Cause) or (ii) by Holder due to Retirement (as defined below), then in either such case the unvested portion of the Award shall

vest on a prorated basis, with such proration determined by (x) multiplying the number of shares of Common Stock subject to the Award on the Grant Date by a fraction, the numerator of which is the number of days that have occurred since the Grant Date through the date of the Holder's termination of employment in accordance with this Section 3.2(b) and the denominator of which is the total number of days between the Grant Date and the last Vesting Date set forth on the Award Notice reduced by (y) the number of shares subject to the Award that vested prior to the Holder's termination of employment. For purposes of this Agreement, "Retirement" shall mean the Holder's resignation from the Company and its Subsidiaries occurring on or after Holder attaining age 60 with at least ten continuous years of service to the Company and its Subsidiaries; provided, however, if the Company has grounds to terminate the employment of Holder for Cause, then Holder shall not be eligible for the vesting provisions set forth in this Section 3.2(b). The portion of the Award that does not vest pursuant to this Section 3.2(b) shall be forfeited by Holder and cancelled by the Company.

(c) Change in Control Qualifying Termination. If Holder's employment with the Company and its Subsidiaries terminates due to a Change in Control Qualifying Termination prior to the end of the Restriction Period, then the unvested portion of the Award shall become fully vested as of the date of termination of employment. Except as otherwise provided in any other agreement between the Company or any of its Subsidiaries and Holder, a Change in Control Qualifying Termination means (i) if Holder is a party to an employment agreement with the Company or one of its Subsidiaries or are subject to the Burlington Stores, Inc. Executive Severance Plan (Merchandising & Planning) (the "Severance Plan") on the Grant Date, then a termination of Holder's employment by the Company or a Subsidiary without Cause or resignation by Holder for Good Reason within the two year period immediately following a Change in Control or (ii) if Holder is not a party to an employment agreement with the Company or one of its Subsidiaries or subject to the Severance Plan on the Grant Date, then a termination of Holder's employment by the Company or a Subsidiary without Cause within the one year period immediately following a Change in Control. Notwithstanding anything in the Agreement or in the Plan to the contrary, for purposes of the Agreement, (x) in the case of clause (i) of the preceding sentence, if Holder is a party to an employment agreement with the Company or one of its Subsidiaries on the Grant Date, "Cause" and "Good Reason" shall have the meanings provided in the terms of such employment agreement and if Holder is not a party to an employment agreement with the Company or one of its Subsidiaries on the Grant Date, "Cause" and "Good Reason" shall have the meanings provided in the terms of the Severance Plan, as in effect on the Grant Date and (y) in the case of clause (ii) of the preceding sentence, "Cause" shall have the meaning provided in the Plan.

(d) Termination for any other Reason. If (i) Holder's employment with the Company and its Subsidiaries terminates prior to the end of the Restriction Period for any reason other than as specified in Sections 3.2(a) – (c) or (ii) Holder breaches any non-competition obligation Holder has to the Company or any of its Subsidiaries under any agreement, then the unvested portion of the Award shall be immediately forfeited by Holder and cancelled by the Company.

4. Issuance or Delivery of Shares. Except as otherwise provided for herein, within 60 days after each applicable Vesting Date (or, if earlier, Holder's termination of employment in accordance with Sections 3.2(a) - (c)), the Company shall issue or deliver, subject to the conditions of this Agreement, the vested shares of Common Stock to Holder. Such issuance or delivery shall be evidenced by the appropriate entry on the books of the Company or of a duly authorized transfer agent of the Company. The Company shall pay all original issue or transfer taxes and all fees and expenses incident

to such issuance or delivery, except as otherwise provided in Section 7. Prior to the issuance to Holder of the shares of Common Stock subject to the Award, Holder shall have no direct or secured claim in any specific assets of the Company or in such shares of Common Stock, and will have the status of a general unsecured creditor of the Company.

5. Non-Compete, Non-Solicitation; Confidentiality.

5.1. Non-Compete. In further consideration of the Award granted to Holder hereunder, Holder acknowledges and agrees that during the course of Holder's employment with the Company and its Subsidiaries, Holder shall become familiar, and during Holder's employment with the predecessors of the Company and its Subsidiaries, Holder has become familiar, with the Company's and its Subsidiaries' trade secrets and with other confidential information and that Holder's services have been and shall be of special, unique and extraordinary value to the Company and its Subsidiaries, and therefore, Holder agrees that, during his or her employment with the Company and its Subsidiaries and, if Holder's employment with the Company and its Subsidiaries terminates for any reason, for a period of two (2) years thereafter (the "Non-Compete Period"), Holder shall not directly or indirectly (whether as an owner, partner, shareholder, agent, officer, director, employee, independent contractor, consultant or otherwise) own any interest in, operate, invest in, manage, control, participate in, consult with, render services for (alone or in association with any person or entity), in any manner engage in any business activity on behalf of, or undertake any planning to engage in any of the foregoing activities in connection with, a Competing Business within any geographical area in which the Company or its Subsidiaries currently operates or plans to operate. Nothing herein shall prohibit Holder from being a passive owner of not more than 2% of the outstanding stock of any class of a corporation, which is publicly traded, so long as Holder has no active participation in the business of such corporation. For purposes of this Agreement, "Competing Business" means each of the following entities, together with their respective subsidiaries, affiliates, successors and assigns: Macy's, Inc., the TJX Companies, Inc. and Ross Stores, Inc.

5.2. Non-Solicitation. During the Non-Compete Period, Holder shall not, directly or indirectly, and shall ensure that any person or entity controlled by Holder does not, (a) induce or attempt to induce any employee of the Company or any Subsidiary to leave the employ of the Company or such Subsidiary, or in any way interfere with the relationship between the Company or any Subsidiary and any employee thereof, (b) hire, directly or through another person, any person (whether or not solicited) who was an employee of the Company or any Subsidiary at any time within the one year period before Holder's termination from employment, (c) induce or attempt to induce any customer, supplier, licensee, licensor, franchisee or other business relation of the Company or any Subsidiary to cease doing business with the Company or such Subsidiary, assist any Competing Business or in any way interfere with the relationship between any such customer, supplier, licensee or business relation and the Company or any Subsidiary or (d) make or solicit or encourage others to make or solicit directly or indirectly any defamatory statement or communication about the Company or any of its Subsidiaries or any of their respective businesses, products, services or activities (it being understood that such restriction shall not prohibit truthful testimony compelled by valid legal process).

5.3. Confidentiality. Holder acknowledges and agrees that the information, observations and data (including trade secrets) obtained by Holder while employed by the Company and its Subsidiaries concerning the business or affairs of the Company and its Subsidiaries are the confidential information ("Confidential Information"), and the property, of the Company and/or its Subsidiaries. Without limiting the foregoing, the term "Confidential Information" shall be interpreted as broadly as possible to include all observations, data and other information of any sort that are (a) related to any past, current or potential business of the Company or any of its Subsidiaries or any of their respective predecessors, and any other business related to any of the foregoing, and (b) not generally

known to and available for use by those within the line of business or industry of the Company or by the public (except to the extent such information has become generally known to and available for use by the public as a direct or indirect result of Holder's acts or omissions) including all (i) work product; (ii) information concerning development, acquisition or investment opportunities in or reasonably related to the business or industry of the Company or any of its Subsidiaries of which Holder is aware or becomes aware during the term of his employment; (iii) information identifying or otherwise concerning any current, former or prospective suppliers, distributors, contractors, agents or customers of the Company or any of its Subsidiaries; (iv) development, transition, integration and transformation plans, methodologies, processes and methods of doing business; (v) strategic, marketing, promotional and financial information (including all financial statements), business and expansion plans, including plans and information regarding planned, projected and/or potential sales, pricing, discount and cost information; (vi) information identifying or otherwise concerning employees, independent contractors and consultants; (vii) information on new and existing programs and services, prices, terms, and related information; (viii) all information marked, or otherwise designated, as confidential by the Company or any of its Subsidiaries or which Holder should reasonably know is confidential or proprietary information of the Company or any of its Subsidiaries; (ix) all information or materials similar or related to any of the foregoing, in whatever form or medium, whether now existing or arising hereafter (and regardless of whether merely stored in the mind of Holder or employees or consultants of the Company or any of its Subsidiaries, or embodied in a tangible form or medium); and (x) all tangible embodiments of any of the foregoing.

5.4. Disclosure. Holder agrees that, except as required by law or court order, including, without limitation, depositions, interrogatories, court testimony, and the like (and in such case provided that Holder must give the Company and/or its Subsidiaries, as applicable, prompt written notice of any such legal requirement, disclose no more information than is so required and seek, at the Company's sole cost and expense, confidential treatment where available and cooperate fully with all efforts by the Company and/or its Subsidiaries to obtain a protective order or similar confidentiality treatment for such information), Holder shall not disclose to any unauthorized person or entity or use for Holder's own purposes any Confidential Information without the prior written consent of the Board, unless and to the extent that the Confidential Information becomes generally known to and available for use by the public other than as a direct or indirect result of Holder's acts or omissions. Holder shall deliver to the Company at the time Holder's employment ceases, or at any other time the Company may request, all memoranda, notes, plans, records, reports, computer tapes, printouts and software and other documents and data (and copies thereof) embodying or relating to the Confidential Information (including any work product) or the business of the Company and its Subsidiaries which Holder may then possess or have under Holder's control and if, at any time thereafter, any such materials are brought to Holder's attention or Holder discovers them in his possession or control, Holder shall deliver such materials to the Company immediately upon such notice or discovery.

5.5. Protected Rights. Pursuant to 18 U.S.C. § 1833(b), "an individual shall not be held criminally or civilly liable under any Federal or State trade secret law for the disclosure of a trade secret that-(A) is made-(i) in confidence to a Federal, State, or local government official, either directly or indirectly, or to an attorney; and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or (B) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal." Accordingly, Holder has the right to disclose in confidence trade secrets to Federal, State, and local government officials, or to an attorney, for the sole purpose of reporting or investigating a suspected violation of law. Holder also has the right to disclose trade secrets in a document filed in a lawsuit or other proceeding, but only if the filing is made under seal and protected from public disclosure. Nothing in this Agreement is intended to conflict with 18 U.S.C. § 1833(b) or create liability for disclosures of trade secrets that are expressly allowed by 18 U.S.C. § 1833(b). Holder understands that

nothing contained in this Agreement limits Holder's ability to file a charge or complaint with the Equal Employment Opportunity Commission, the National Labor Relations Board, the Occupational Safety and Health Administration, the Securities and Exchange Commission or any other federal, state or local governmental agency or commission ("Government Agencies"). Holder further understands that this Agreement does not limit Holder's ability to communicate with any Government Agencies or otherwise participate in any investigation or proceeding that may be conducted by any Government Agency, including providing documents or other information, without notice to the Company. This Agreement does not limit Holder's right to receive an award for information provided to any Government Agencies.

5.6. Other Agreements. Notwithstanding the foregoing and any other language in this Agreement, this Agreement does not supersede or preclude the enforceability of any restrictive covenant provision contained in any prior agreement entered into by Holder. Further, no prior restrictive covenant supersedes or precludes the enforceability of any provision contained in this Agreement.

5.7. Applicability. Notwithstanding the foregoing and any other language in this Agreement, Section 5.1 shall not apply to Holder if he or she is below the position of Director level as of the Grant Date.

6. Enforcement.

6.1. Reliance. Holder acknowledges and agrees that the Company entered into this Agreement in reliance on the provisions of Section 5 and the enforcement of this Agreement is necessary to ensure the preservation, protection and continuity of the business of the Company and its Subsidiaries and other Confidential Information and goodwill of the Company and its Subsidiaries to the extent and for the periods of time expressly agreed to herein. Holder acknowledges and agrees that Holder has carefully read this Agreement and has given careful consideration to the restraints imposed upon Holder by this Agreement, and is in full accord as to their necessity for the reasonable protection of the Company's and its Subsidiaries' interests and the reasonable and proper protection of confidential and proprietary information of the Company and its Subsidiaries now existing or to be developed in the future. Holder expressly acknowledges and agrees that each and every restraint imposed by this Agreement is reasonable with respect to subject matter, time period and geographical area.

6.2. Enforcement. Notwithstanding any provision to the contrary herein, the Company or its Subsidiaries may pursue, at its discretion, enforcement of Section 5 in any court of competent jurisdiction (each, a "Court").

6.3. Severability. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision or any other jurisdiction, but this Agreement shall be reformed, construed and enforced in such jurisdiction as if such invalid, illegal or unenforceable provision had never been contained herein. More specifically, if any Court determines that any of the covenants set forth in Section 5 are overbroad or unreasonable under applicable law in duration, geographical area or scope, the parties to this Agreement specifically agree and authorize such Court to rewrite this Agreement to reflect the maximum duration, geographical area and/or scope permitted under applicable law.

6.4. Equitable Relief. Because Holder's services are unique and because Holder has intimate knowledge of and access to confidential information and work product, the parties hereto agree that money damages would not be an adequate remedy for any breach of Section 5, and any breach of the

terms of Section 5 would result in irreparable injury and damage to the Company and its Subsidiaries for which the Company and its Subsidiaries would have no adequate remedy at law. Therefore, in the event of a breach or threatened breach of Section 5, the Company or its successors or assigns, in addition to any other rights and remedies existing in their favor at law or in equity, shall be entitled to specific performance and/or immediate injunctive or other equitable relief from a Court in order to enforce, or prevent any violations of, the provisions hereof (without posting a bond or other security), without having to prove damages. The terms of this Section 6 shall not prevent the Company or any of its Subsidiaries from pursuing any other available remedies for any breach or threatened breach of this Agreement, including the recovery of damages from Holder.

7. Transfer Restrictions and Investment Representation.

7.1. Nontransferability of Award. The Award may not be transferred by Holder other than by will or the laws of descent and distribution or pursuant to the designation of one or more beneficiaries on the form prescribed by the Company. Except to the extent permitted by the foregoing sentence, the Award may not be sold, transferred, assigned, pledged, hypothecated, encumbered or otherwise disposed of (whether by operation of law or otherwise) or be subject to execution, attachment or similar process. Upon any attempt to so sell, transfer, assign, pledge, hypothecate, encumber or otherwise dispose of the Award, the Award and all rights hereunder shall immediately become null and void.

7.2. Investment Representation. Holder hereby represents and covenants that (a) any sale of any share of Common Stock acquired upon the vesting of the Award shall be made either pursuant to an effective registration statement under the Securities Act of 1933, as amended (the "Securities Act"), and any applicable state securities laws, or pursuant to an exemption from registration under the Securities Act and such state securities laws and (b) if requested by the Company, Holder shall submit a written statement, in a form satisfactory to the Company, to the effect that such representation is true and correct as of the date of any sale of any such shares. As a further condition precedent to the vesting of the Award and subject to Section 409A of the Code, Holder shall comply with all regulations and requirements of any regulatory authority having control of or supervision over the issuance or delivery of the shares and, in connection therewith, shall execute any documents which the Board or the Committee shall in its sole discretion deem necessary or advisable.

8. Additional Terms and Conditions of Award.

8.1. Withholding Taxes. As a condition precedent to the delivery to Holder of any shares of Common Stock upon vesting of the Award, Holder shall, upon request by the Company, pay to the Company such amount of cash as the Company may be required, under all applicable federal, state, local or other laws or regulations, to withhold and pay over as income or other withholding taxes (the "Required Tax Payments") with respect to the Award. If Holder shall fail to advance the Required Tax Payments after request by the Company, the Company may, in its discretion, deduct any Required Tax Payments from any amount then or thereafter payable by the Company to Holder or withhold shares of Common Stock. Holder may elect to satisfy his or her obligation to advance the Required Tax Payments by any of the following means: (i) a cash payment to the Company; (ii) authorizing the Company to withhold from the shares of Common Stock otherwise to be delivered to Holder pursuant to the Award, a number of whole shares of Common Stock having an aggregate Fair Market Value, determined as of the date the obligation to withhold or pay taxes first arises in connection with the Award, equal to the Required Tax Payments; or (iii) any combination of (i) and (ii). Shares to be delivered or withheld may be withheld up to the maximum statutory tax rates in the applicable jurisdictions. Any fraction of a share of Common Stock which would be required to satisfy any such obligation shall be disregarded and the

remaining amount due shall be paid in cash by Holder. No shares of Common Stock shall be issued or delivered until the Required Tax Payments have been satisfied in full.

8.2. Adjustment. In the event of a Section 4.2 Event, the adjustments provided for in Section 4.2(b) of the Plan shall be made to the number of shares of Common Stock subject to the Award hereunder.

8.3. Compliance with Applicable Law. The Award is subject to the condition that if the listing, registration or qualification of the shares of Common Stock subject to the Award upon any securities exchange or under any law, or the consent or approval of any governmental body, or the taking of any other action is necessary or desirable as a condition of, or in connection with, the delivery of shares hereunder, the shares of Common Stock subject to the Award shall not be delivered, in whole or in part, unless such listing, registration, qualification, consent, approval or other action shall have been effected or obtained, free of any conditions not acceptable to the Company. The Company agrees to use reasonable efforts to effect or obtain any such listing, registration, qualification, consent, approval or other action.

8.4. Award Confers No Rights to Continued Employment. In no event shall the granting of the Award or its acceptance by Holder, or any provision of the Agreement or the Plan, give or be deemed to give Holder any right to continued employment by the Company, any Subsidiary or any affiliate of the Company or affect in any manner the right of the Company, any Subsidiary or any affiliate of the Company to terminate the employment of any person at any time.

8.5. Decisions of Committee. The Committee shall have the right to resolve all questions which may arise in connection with the Award. Any interpretation, determination or other action made or taken by the Committee regarding the Plan or this Agreement shall be final, binding and conclusive.

8.6. Successors. This Agreement shall be binding upon and inure to the benefit of any successor or successors of the Company and any person or persons who shall, upon the death of Holder, acquire any rights hereunder in accordance with this Agreement or the Plan.

8.7. Notices. All notices, requests or other communications provided for in this Agreement shall be made, if to the Company, to Burlington Stores, Inc., 2006 Route 130 North, Burlington, NJ 08016, Attention: General Counsel, and if to Holder, to the last known mailing address of Holder contained in the records of the Company. All notices, requests or other communications provided for in this Agreement shall be made in writing either (a) by personal delivery, (b) by facsimile or electronic mail with confirmation of receipt, (c) by mailing in the United States mails or (d) by express courier service. The notice, request or other communication shall be deemed to be received upon personal delivery, upon confirmation of receipt of facsimile or electronic mail transmission or upon receipt by the party entitled thereto if by United States mail or express courier service; provided, however, that if a notice, request or other communication sent to the Company is not received during regular business hours, it shall be deemed to be received on the next succeeding business day of the Company.

8.8. Governing Law. This Agreement, the Award and all determinations made and actions taken pursuant hereto and thereto, to the extent not governed by the Code or the laws of the United States, shall be governed by the laws of the State of Delaware and construed in accordance therewith without giving effect to principles of conflicts of laws.

8.9. Agreement Subject to the Plan. This Agreement is subject to the provisions of the Plan and shall be interpreted in accordance therewith. In the event that the provisions of this



Agreement and the Plan conflict, the Plan shall control. Holder hereby acknowledges receipt of a copy of the Plan.

8.10. Entire Agreement. Except as provided for in Section 5.6, this Agreement and the Plan constitute the entire agreement of the parties with respect to the subject matter hereof and supersede in their entirety all prior undertakings and agreements of the Company and Holder with respect to the subject matter hereof, and may not be modified adversely to Holder's interest except by means of a writing signed by the Company and Holder. Notwithstanding the foregoing, Holder acknowledges that Holder is subject to Company policies relating to trading in the Company's securities.

8.11. Amendment and Waiver. The Company may amend the provisions of this Agreement at any time; provided that an amendment that would adversely affect Holder's rights under this Agreement shall be subject to the written consent of Holder. No course of conduct or failure or delay in enforcing the provisions of this Agreement shall affect the validity, binding effect or enforceability of this Agreement.

8.12. Counterparts. The Award Notice may be executed in two counterparts, each of which shall be deemed an original and both of which together shall constitute one and the same instrument.

8.13. Compliance With Section 409A of the Code. This Award is intended to be exempt from or comply with Section 409A of the Code, and shall be interpreted and construed accordingly and each payment hereunder shall be considered a separate payment. To the extent this Agreement provides for the Award to become vested and be settled upon the Holder's termination of employment, the applicable shares of Common Stock shall be transferred to the Holder or his or her beneficiary upon the Holder's "separation from service," within the meaning of Section 409A of the Code; provided that if the Holder is a "specified employee," within the meaning of Section 409A of the Code, then to the extent the Award constitutes nonqualified deferred compensation, within the meaning of Section 409A of the Code, such shares of Common Stock shall be transferred to the Holder or his or her beneficiary upon the earlier to occur of (a) the six-month anniversary of such separation from service and (b) the date of the Holder's death.

**Exhibit 10.2**

**BURLINGTON STORES, INC.  
2013 OMNIBUS INCENTIVE PLAN**

**STOCK OPTION AWARD NOTICE**

**[Name of Optionee]**

You have been awarded a stock option to purchase shares of common stock of Burlington Stores, Inc., a Delaware corporation (the "Company"), pursuant to the terms and conditions of the Burlington Stores, Inc. 2013 Omnibus Incentive Plan (the "Plan") and the Stock Option Agreement (together with this Award Notice, the "Agreement"). The Stock Option Agreement is attached hereto. Capitalized terms not defined herein shall have the meanings specified in the Plan or the Agreement.

**Option:** You have been awarded a Non-Qualified Stock Option to purchase from the Company **[insert number]** shares of Common Stock, par value \$0.0001 per share (the "Common Stock"), subject to adjustment as provided in Section 6.2 of the Agreement.

**Option Date:** [ \_\_\_\_\_, \_\_\_\_ ]

**Exercise Price:** \$[ \_\_\_\_\_ ] per share, subject to adjustment as provided in Section 6.2 of the Agreement.

**Vesting Schedule:** Except as otherwise provided in the Plan, the Agreement or any other agreement between the Company or any of its Subsidiaries and Optionee, the Option shall vest in [\_\_]% annual increments on each of the [ \_\_\_\_\_ ] anniversaries of the Option Date (each, a "Vesting Date"), if, and only if, you are, and have been, continuously employed by the Company or any of its Subsidiaries from the date of this Agreement through and including the applicable Vesting Date.

**Expiration Date:** Except to the extent earlier terminated pursuant to Section 2.2 of the Agreement or earlier exercised pursuant to Section 2.3 of the Agreement, the Option shall terminate at 5:00 p.m., U.S. Eastern time, on the tenth anniversary of the Option Date.

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BURLINGTON STORES, INC.

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

Name:

Title:

Acknowledgment, Acceptance and Agreement:

By accepting this grant on the Company's stock plan administrator's website, I hereby accept the Option granted to me and acknowledge and agree to be bound by the terms and conditions of this Award Notice, the Agreement and the Plan.

\_\_\_\_\_  
Participant Name

Date \_\_\_\_\_

Signature

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**BURLINGTON STORES, INC.**  
**2013 OMNIBUS INCENTIVE PLAN**

**Stock Option Agreement**

Burlington Stores, Inc., a Delaware corporation (the “Company”), hereby grants to the individual (the “Optionee”) named in the stock option award notice attached hereto (the “Award Notice”) as of the date set forth in the Award Notice (the “Option Date”), pursuant to the provisions of the Burlington Stores, Inc. 2013 Omnibus Incentive Plan (the “Plan”), an option to purchase from the Company the number of shares of the Company’s Common Stock, par value \$0.0001 per share (“Common Stock”), set forth in the Award Notice at the price per share set forth in the Award Notice (the “Exercise Price”) (the “Option”), upon and subject to the restrictions, terms and conditions set forth in the Award Notice, the Plan and this agreement (the “Agreement”). Capitalized terms not defined herein shall have the meanings specified in the Plan.

1. Option Subject to Acceptance of Agreement. The Option shall be null and void unless Optionee electronically accepts this Agreement within Optionee’s stock plan account with the Company’s stock plan administrator according to the procedures then in effect (or, if permitted by the Company, accepts this Agreement by executing the Award Notice in the space provided therefor and returning an original execution copy of the Award Notice to the Company).

2. Time and Manner of Exercise of Option.

2.1. Maximum Term of Option. In no event may the Option be exercised, in whole or in part, after the expiration date set forth in the Award Notice (the “Expiration Date”).

2.2. Vesting and Exercise of Option. The Option shall become vested and exercisable in accordance with the Vesting Schedule set forth in the Award Notice. The Option shall be vested and exercisable following a termination of Optionee’s employment according to the following terms and conditions:

(a) Termination of Employment due to Death or Disability. If Optionee’s employment with the Company and its Subsidiaries terminates by reason of Optionee’s death or Disability, then in either such case the unvested portion of the Option shall become fully vested as of the date of termination and the vested Option may thereafter be exercised by Optionee or Optionee’s executor, administrator, or the person or persons to whom the Option is transferred by will or the applicable laws of descent and distribution (the “Legal Representative”) until and including the earlier to occur of (i) the date which is 180 days after the date of termination of employment and (ii) the Expiration Date. For purposes of this Agreement, “Disability” shall mean that the Optionee is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months.

(b) Termination due to a Reduction in Force or Retirement. Except as provided for in Section 2.2(c), if Optionee’s employment with the Company and its Subsidiaries is terminated (i) by the Company or its Subsidiaries due to a reduction in force, as determined by the Committee in its sole and absolute discretion (provided that Optionee has not committed an act constituting grounds for a termination for Cause) or (ii) by Optionee due to Retirement (as defined below), then in either such case the unvested portion of the Option shall vest on a prorated basis, with such proration determined by (x) multiplying the number of shares of

Common Stock subject to the Option on the Option Date by a fraction, the numerator of which is the number of days that have occurred since the Option Date through the date of the Optionee's termination of employment in accordance with this Section 2.2(b) and the denominator of which is the total number of days between the Option Date and the last Vesting Date set forth on the Award Notice reduced by (y) the number of shares subject to the Option that vested prior to the Optionee's termination of employment, and the vested Option may thereafter be exercised by Optionee or Optionee's Legal Representative until and including the earlier to occur of (A) the date which is 180 days after the date of termination of employment and (B) the Expiration Date. For purposes of this Agreement, "Retirement" shall mean Optionee's resignation from the Company and its Subsidiaries occurring on or after Optionee attaining age 60 with at least ten continuous years of service to the Company and its Subsidiaries; provided, however, if the Company has grounds to terminate the employment of Optionee for Cause, then Optionee shall not be eligible for the vesting provisions or post-termination exercise period set forth in this Section 2.2(b). The portion of the Option that does not become vested in accordance with this Section 2.2(b) shall terminate immediately upon such termination of employment.

(c) Change in Control Qualifying Termination. If Optionee's employment with the Company and its Subsidiaries terminates due to a Change in Control Qualifying Termination, then the unvested portion of the Option shall become fully vested as of the date of termination of employment, and the vested Option may thereafter be exercised by Optionee or Optionee's Legal Representative until and including the earlier to occur of (i) the date which is 180 days after the date of termination of employment and (ii) the Expiration Date. Except as otherwise provided in any other agreement between the Company or any of its Subsidiaries and Optionee, a Change in Control Qualifying Termination means (x) if Optionee is a party to an employment agreement with the Company or one of its Subsidiaries or are subject to the Burlington Stores, Inc. Executive Severance Plan (Merchandising & Planning) (the "Severance Plan") on the Option Date, then a termination of Optionee's employment by the Company or a Subsidiary without Cause or resignation by Optionee for Good Reason within the two year period immediately following a Change in Control or (y) if Optionee is not a party to an employment agreement with the Company or one of its Subsidiaries or subject to the Severance Plan on the Option Date, then a termination of Optionee's employment by the Company or a Subsidiary without Cause within the one year period immediately following a Change in Control. Notwithstanding anything in this Agreement or in the Plan to the contrary, for purposes of this Agreement, (A) in the case of clause (x) of the preceding sentence, if Optionee is a party to an employment agreement with the Company or one of its Subsidiaries on the Option Date, "Cause" and "Good Reason" shall have the meanings provided in the terms of such employment agreement and if Optionee is not a party to an employment agreement with the Company or one of its Subsidiaries on the Option Date, "Cause" and "Good Reason" shall have the meanings provided in the terms of the Severance Plan, as in effect on the Option Date and (B) in the case of clause (y) of the preceding sentence, "Cause" shall have the meaning provided in the Plan.

(d) Termination for Cause. If (i) Optionee's employment with the Company and its Subsidiaries terminates by reason of the termination of Optionee's employment by the Company or its Subsidiaries for Cause or (ii) Optionee breaches any non-competition obligation Optionee has to the Company or any of its Subsidiaries under any agreement, then the Option, whether or not vested, shall terminate immediately upon such termination of employment.

(e) Termination for any other Reason. If Optionee's employment with the Company and its Subsidiaries is terminated by the Company or Optionee for any reason other than as specified in Sections 2.2(a)-(d), then the Option, to the extent vested on the effective date

of such termination of employment, may thereafter be exercised by Optionee or Optionee's Legal Representative until and including the earlier to occur of (i) the date which is 180 days after the date of such termination of employment and (ii) the Expiration Date.

2.3. Method of Exercise. Subject to the limitations set forth in this Agreement, the Option, to the extent vested, may be exercised by Optionee (a) by delivering to the Company an exercise notice in the form prescribed by the Company specifying the number of whole shares of Common Stock to be purchased and by accompanying such notice with payment therefor in full (or by arranging for such payment to the Company's satisfaction) either (i) in cash, (ii) by authorizing the Company to withhold whole shares of Common Stock which would otherwise be delivered having an aggregate Fair Market Value, determined as of the date of exercise, equal to the amount necessary to satisfy such obligation, (iii) except as may be prohibited by applicable law, in cash by a broker-dealer acceptable to the Company to whom Optionee has submitted an irrevocable notice of exercise or (iv) by a combination of (i) and (ii), and (b) by executing such documents as the Company may reasonably request. Any fraction of a share of Common Stock which would be required to pay such purchase price shall be disregarded and the remaining amount due shall be paid in cash by Optionee. No share of Common Stock shall be issued or delivered until the full purchase price therefor and any withholding taxes thereon, as described in Section 6.1, have been paid.

2.4. Termination of Option. In no event may the Option be exercised after it terminates as set forth in this Section 2.4. The Option shall terminate, to the extent not earlier terminated pursuant to Section 2.2 or exercised pursuant to Section 2.3, on the Expiration Date. Upon the termination of the Option, the Option and all rights hereunder shall immediately become null and void.

### 3. Non-Compete, Non-Solicitation; Confidentiality.

3.1. Non-Compete. In further consideration of the Option granted to Optionee hereunder, Optionee acknowledges and agrees that during the course of Optionee's employment with the Company and its Subsidiaries, Optionee shall become familiar, and during Optionee's employment with the predecessors of the Company and its Subsidiaries, Optionee has become familiar, with the Company's and its Subsidiaries' trade secrets and with other confidential information and that Optionee's services have been and shall be of special, unique and extraordinary value to the Company and its Subsidiaries, and therefore, Optionee agrees that, during his or her employment with the Company and its Subsidiaries and, if Optionee's employment with the Company and its Subsidiaries terminates for any reason, for a period of two (2) years thereafter (the "Non-Compete Period"), Optionee shall not directly or indirectly (whether as an owner, partner, shareholder, agent, officer, director, employee, independent contractor, consultant or otherwise) own any interest in, operate, invest in, manage, control, participate in, consult with, render services for (alone or in association with any person or entity), in any manner engage in any business activity on behalf of, or undertake any planning to engage in any of the foregoing activities in connection with, a Competing Business within any geographical area in which the Company or its Subsidiaries currently operates or plans to operate. Nothing herein shall prohibit Optionee from being a passive owner of not more than 2% of the outstanding stock of any class of a corporation which is publicly traded, so long as Optionee has no active participation in the business of such corporation. For purposes of this paragraph, "Competing Business" means each of the following entities, together with their respective subsidiaries, affiliates, successors and assigns: Macy's, Inc., the TJX Companies, Inc. and Ross Stores, Inc.

3.2. Non-Solicitation. During the Non-Compete Period, Optionee shall not, directly or indirectly, and shall ensure that any person or entity controlled by Optionee does not, (a) induce or attempt to induce any employee of the Company or any Subsidiary to leave the employ of the Company or such Subsidiary, or in any way interfere with the relationship between the Company or any Subsidiary

and any employee thereof, (b) hire, directly or through another person, any person (whether or not solicited) who was an employee of the Company or any Subsidiary at any time within the one year period before Optionee's termination from employment, (c) induce or attempt to induce any customer, supplier, licensee, licensor, franchisee or other business relation of the Company or any Subsidiary to cease doing business with the Company or such Subsidiary, assist any Competing Business or in any way interfere with the relationship between any such customer, supplier, licensee or business relation and the Company or any Subsidiary or (d) make or solicit or encourage others to make or solicit directly or indirectly any defamatory statement or communication about the Company or any of its Subsidiaries or any of their respective businesses, products, services or activities (it being understood that such restriction shall not prohibit truthful testimony compelled by valid legal process).

3.3. Confidentiality. Optionee acknowledges and agrees that the information, observations and data (including trade secrets) obtained by Optionee while employed by the Company and its Subsidiaries concerning the business or affairs of the Company and its Subsidiaries are the confidential information ("Confidential Information"), and the property, of the Company and/or its Subsidiaries. Without limiting the foregoing, the term "Confidential Information" shall be interpreted as broadly as possible to include all observations, data and other information of any sort that are (a) related to any past, current or potential business of the Company or any of its Subsidiaries or any of their respective predecessors, and any other business related to any of the foregoing, and (b) not generally known to and available for use by those within the line of business or industry of the Company or by the public (except to the extent such information has become generally known to and available for use by the public as a direct or indirect result of Optionee's acts or omissions) including all (i) work product; (ii) information concerning development, acquisition or investment opportunities in or reasonably related to the business or industry of the Company or any of its Subsidiaries of which Optionee is aware or becomes aware during the term of his employment; (iii) information identifying or otherwise concerning any current, former or prospective suppliers, distributors, contractors, agents or customers of the Company or any of its Subsidiaries; (iv) development, transition, integration and transformation plans, methodologies, processes and methods of doing business; (v) strategic, marketing, promotional and financial information (including all financial statements), business and expansion plans, including plans and information regarding planned, projected and/or potential sales, pricing, discount and cost information; (vi) information identifying or otherwise concerning employees, independent contractors and consultants; (vii) information on new and existing programs and services, prices, terms, and related information; (viii) all information marked, or otherwise designated, as confidential by the Company or any of its Subsidiaries or which Optionee should reasonably know is confidential or proprietary information of the Company or any of its Subsidiaries; (ix) all information or materials similar or related to any of the foregoing, in whatever form or medium, whether now existing or arising hereafter (and regardless of whether merely stored in the mind of Optionee or employees or consultants of the Company or any of its Subsidiaries, or embodied in a tangible form or medium); and (x) all tangible embodiments of any of the foregoing.

3.4. Disclosure. Optionee agrees that, except as required by law or court order, including, without limitation, depositions, interrogatories, court testimony, and the like (and in such case provided that Optionee must give the Company and/or its Subsidiaries, as applicable, prompt written notice of any such legal requirement, disclose no more information than is so required and seek, at the Company's sole cost and expense, confidential treatment where available and cooperate fully with all efforts by the Company and/or its Subsidiaries to obtain a protective order or similar confidentiality treatment for such information), Optionee shall not disclose to any unauthorized person or entity or use for Optionee's own purposes any Confidential Information without the prior written consent of the Board, unless and to the extent that the Confidential Information becomes generally known to and available for use by the public other than as a direct or indirect result of Optionee's acts or omissions. Optionee shall

deliver to the Company at the time Optionee's employment ceases, or at any other time the Company may request, all memoranda, notes, plans, records, reports, computer tapes, printouts and software and other documents and data (and copies thereof) embodying or relating to the Confidential Information (including any work product) or the business of the Company and its Subsidiaries which Optionee may then possess or have under Optionee's control and if, at any time thereafter, any such materials are brought to Optionee's attention or Optionee discovers them in his possession or control, Optionee shall deliver such materials to the Company immediately upon such notice or discovery.

3.5. Protected Rights. Pursuant to 18 U.S.C. § 1833(b), "an individual shall not be held criminally or civilly liable under any Federal or State trade secret law for the disclosure of a trade secret that-(A) is made-(i) in confidence to a Federal, State, or local government official, either directly or indirectly, or to an attorney; and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or (B) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal." Accordingly, Optionee has the right to disclose in confidence trade secrets to Federal, State, and local government officials, or to an attorney, for the sole purpose of reporting or investigating a suspected violation of law. Optionee also has the right to disclose trade secrets in a document filed in a lawsuit or other proceeding, but only if the filing is made under seal and protected from public disclosure. Nothing in this Agreement is intended to conflict with 18 U.S.C. § 1833(b) or create liability for disclosures of trade secrets that are expressly allowed by 18 U.S.C. § 1833(b). Optionee understands that nothing contained in this Agreement limits Optionee's ability to file a charge or complaint with the Equal Employment Opportunity Commission, the National Labor Relations Board, the Occupational Safety and Health Administration, the Securities and Exchange Commission or any other federal, state or local governmental agency or commission ("Government Agencies"). Optionee further understands that this Agreement does not limit Optionee's ability to communicate with any Government Agencies or otherwise participate in any investigation or proceeding that may be conducted by any Government Agency, including providing documents or other information, without notice to the Company. This Agreement does not limit Optionee's right to receive an award for information provided to any Government Agencies.

3.6. Other Agreements. Notwithstanding the foregoing and any other language in this Agreement, this Agreement does not supersede or preclude the enforceability of any restrictive covenant provision contained in any prior agreement entered into by Optionee. Further, no prior restrictive covenant supersedes or precludes the enforceability of any provision contained in this Agreement.

3.7. Applicability. Notwithstanding the foregoing and any other language in this Agreement, Section 3.1 shall not apply to Optionee if he or she is below the position of Director level as of the Option Date.

#### 4. Enforcement.

4.1. Reliance. Optionee acknowledges and agrees that the Company entered into this Agreement in reliance on the provisions of Section 3 and the enforcement of this Agreement is necessary to ensure the preservation, protection and continuity of the business of the Company and its Subsidiaries and other Confidential Information and goodwill of the Company and its Subsidiaries to the extent and for the periods of time expressly agreed to herein. Optionee acknowledges and agrees that Optionee has carefully read this Agreement and has given careful consideration to the restraints imposed upon Optionee by this Agreement, and is in full accord as to their necessity for the reasonable protection of the Company's and its Subsidiaries' interests and the reasonable and proper protection of confidential and proprietary information of the Company and its Subsidiaries now existing or to be developed in the future. Optionee expressly acknowledges and agrees that each and every restraint imposed by this Agreement is reasonable with respect to subject matter, time period and geographical area.



4.2. Enforcement. Notwithstanding any provision to the contrary herein, the Company or its Subsidiaries may pursue, at its discretion, enforcement of Section 3 in any court of competent jurisdiction (each, a “Court”).

4.3. Severability. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision or any other jurisdiction, but this Agreement shall be reformed, construed and enforced in such jurisdiction as if such invalid, illegal or unenforceable provision had never been contained herein. More specifically, if any Court determines that any of the covenants set forth in Section 3 are overbroad or unreasonable under applicable law in duration, geographical area or scope, the parties to this Agreement specifically agree and authorize such Court to rewrite this Agreement to reflect the maximum duration, geographical area and/or scope permitted under applicable law.

4.4. Equitable Relief. Because Optionee’s services are unique and because Optionee has intimate knowledge of and access to confidential information and work product, the parties hereto agree that money damages would not be an adequate remedy for any breach of Section 3, and any breach of the terms of Section 3 would result in irreparable injury and damage to the Company and its Subsidiaries for which the Company and its Subsidiaries would have no adequate remedy at law. Therefore, in the event of a breach or threatened breach of Section 3, the Company or its successors or assigns, in addition to any other rights and remedies existing in their favor at law or in equity, shall be entitled to specific performance and/or immediate injunctive or other equitable relief from a Court in order to enforce, or prevent any violations of, the provisions hereof (without posting a bond or other security), without having to prove damages. The terms of this Section 4.4 shall not prevent the Company or any of its Subsidiaries from pursuing any other available remedies for any breach or threatened breach of this Agreement, including the recovery of damages from Optionee.

5. Transfer Restrictions and Investment Representations.

5.1. Nontransferability of Option. The Option may not be transferred by Optionee other than by will or the laws of descent and distribution or pursuant to the designation of one or more beneficiaries on the form prescribed by the Company. Except to the extent permitted by the foregoing sentence, (a) during Optionee’s lifetime the Option is exercisable only by Optionee or Optionee’s Legal Representative and (b) the Option may not be sold, transferred, assigned, pledged, hypothecated, encumbered or otherwise disposed of (whether by operation of law or otherwise) or be subject to execution, attachment or similar process. Upon any attempt to so sell, transfer, assign, pledge, hypothecate, encumber or otherwise dispose of the Option, the Option and all rights hereunder shall immediately become null and void.

5.2. Investment Representation. Optionee hereby represents and covenants that (a) any shares of Common Stock purchased upon exercise of the Option will be purchased for investment and not with a view to the distribution thereof within the meaning of the Securities Act of 1933, as amended (the “Securities Act”), unless such purchase has been registered under the Securities Act and any applicable state securities laws; (b) any subsequent sale of any such shares shall be made either pursuant to an effective registration statement under the Securities Act and any applicable state securities laws, or pursuant to an exemption from registration under the Securities Act and such state securities laws; and (c) if requested by the Company, Optionee shall submit a written statement, in a form satisfactory to the Company, to the effect that such representation (i) is true and correct as of the date of any purchase of any shares hereunder or (ii) is true and correct as of the date of any sale of any such shares, as applicable. As a further condition precedent to any exercise of the Option, Optionee shall

comply with all regulations and requirements of any regulatory authority having control of or supervision over the issuance or delivery of the shares and, in connection therewith, shall execute any documents which the Board or the Committee shall in its sole discretion deem necessary or advisable.

6. Additional Terms and Conditions.

6.1. Withholding Taxes. As a condition precedent to the issuance of Common Stock following the exercise of the Option, Optionee shall, upon request by the Company, pay to the Company in addition to the purchase price of the shares, such amount of cash as the Company may be required, under all applicable federal, state, local or other laws or regulations, to withhold and pay over as income or other withholding taxes (the "Required Tax Payments") with respect to such exercise of the Option. If Optionee shall fail to advance the Required Tax Payments after request by the Company, the Company may, in its discretion, deduct any Required Tax Payments from any amount then or thereafter payable by the Company to Optionee or withhold shares of Common Stock. Optionee may elect to satisfy his or her obligation to advance the Required Tax Payments by any of the following means: (i) a cash payment to the Company; (ii) authorizing the Company to withhold whole shares of Common Stock which would otherwise be delivered to Optionee upon exercise of the Option having an aggregate Fair Market Value, determined as of the date the obligation to withhold or pay taxes first arises in connection with the Option, equal to the Required Tax Payments; (iii) except as may be prohibited by applicable law, a cash payment by a broker-dealer acceptable to the Company to whom Optionee has submitted an irrevocable notice of exercise or (iv) any combination of (i) and (ii). Shares to be delivered or withheld may be withheld up to the maximum statutory tax rates in the applicable jurisdictions. Any fraction of a share of Common Stock which would be required to satisfy any such obligation shall be disregarded and the remaining amount due shall be paid in cash by Optionee. No shares of Common Stock shall be issued or delivered until the Required Tax Payments have been satisfied in full.

6.2. Adjustment. In the event of a Section 4.2 Event, the adjustments provided for in Section 4.2(b) of the Plan shall be made to the number of shares of Common Stock subject to the Option and the related Exercise Price, subject to Section 409A of the Code.

6.3. Compliance with Applicable Law. The Option is subject to the condition that if the listing, registration or qualification of the shares of Common Stock subject to the Option upon any securities exchange or under any law, or the consent or approval of any governmental body, or the taking of any other action is necessary or desirable as a condition of, or in connection with, the purchase or issuance of shares hereunder, the Option may not be exercised, in whole or in part, and such shares may not be issued, unless such listing, registration, qualification, consent, approval or other action shall have been effected or obtained, free of any conditions not acceptable to the Company. The Company agrees to use reasonable efforts to effect or obtain any such listing, registration, qualification, consent, approval or other action.

6.4. Issuance or Delivery of Shares. Upon the exercise of the Option, in whole or in part, the Company shall issue or deliver, subject to the conditions of this Agreement, the number of shares of Common Stock purchased against full payment therefor. Such issuance shall be evidenced by the appropriate entry on the books of the Company or of a duly authorized transfer agent of the Company. The Company shall pay all original issue or transfer taxes and all fees and expenses incident to such issuance, except as otherwise provided in Section 6.1.

6.5. Option Confers No Rights as Stockholder. Optionee shall not be entitled to any privileges of ownership with respect to shares of Common Stock subject to the Option unless and until such shares are purchased and issued upon the exercise of the Option, in whole or in part, and Optionee

becomes a stockholder of record with respect to such issued shares. Optionee shall not be considered a stockholder of the Company with respect to any such shares not so purchased and issued.

6.6. Option Confers No Rights to Continued Employment. In no event shall the granting of the Option or its acceptance by Optionee, or any provision of the Agreement or the Plan, give or be deemed to give Optionee any right to continued employment by the Company, any Subsidiary or any affiliate of the Company or affect in any manner the right of the Company, any Subsidiary or any affiliate of the Company to terminate the employment of any person at any time.

6.7. Decisions of Committee. The Committee shall have the right to resolve all questions which may arise in connection with the Option or its exercise. Any interpretation, determination or other action made or taken by the Committee regarding the Plan or this Agreement shall be final, binding and conclusive.

6.8. Successors. This Agreement shall be binding upon and inure to the benefit of any successor or successors of the Company and any person or persons who shall, upon the death of Optionee, acquire any rights hereunder in accordance with this Agreement or the Plan.

6.9. Notices. All notices, requests or other communications provided for in this Agreement shall be made, if to the Company, to Burlington Stores, Inc., 2006 Route 130 North, Burlington, NJ 08016, Attention: General Counsel, and if to Optionee, to the last known mailing address of Optionee contained in the records of the Company. All notices, requests or other communications provided for in this Agreement shall be made in writing either (a) by personal delivery, (b) by facsimile or electronic mail with confirmation of receipt, (c) by mailing in the United States mails or (d) by express courier service. The notice, request or other communication shall be deemed to be received upon personal delivery, upon confirmation of receipt of facsimile or electronic mail transmission or upon receipt by the party entitled thereto if by United States mail or express courier service; provided, however, that if a notice, request or other communication sent to the Company is not received during regular business hours, it shall be deemed to be received on the next succeeding business day of the Company.

6.10. Governing Law. This Agreement, the Option and all determinations made and actions taken pursuant hereto and thereto, to the extent not governed by the Code or the laws of the United States, shall be governed by the laws of the State of Delaware and construed in accordance therewith without giving effect to principles of conflicts of laws.

6.11. Agreement Subject to the Plan. This Agreement is subject to the provisions of the Plan and shall be interpreted in accordance therewith. In the event that the provisions of this Agreement and the Plan conflict, the Plan shall control. Optionee hereby acknowledges receipt of a copy of the Plan.

6.12. Entire Agreement. Except as provided for in Section 3.6, this Agreement and the Plan constitute the entire agreement of the parties with respect to the subject matter hereof and supersede in their entirety all prior undertakings and agreements of the Company and Optionee with respect to the subject matter hereof, and may not be modified adversely to Optionee's interest except by means of a writing signed by the Company and Optionee. Notwithstanding the foregoing, Optionee acknowledges that Optionee is subject to Company policies relating to trading in the Company's securities.

6.13. Amendment and Waiver. The Company may amend the provisions of this Agreement at any time; provided that an amendment that would adversely affect Optionee's rights under this Agreement shall be subject to the written consent of Optionee. No course of conduct or failure or

delay in enforcing the provisions of this Agreement shall affect the validity, binding effect or enforceability of this Agreement.

6.14. Counterparts. The Award Notice may be executed in two counterparts, each of which shall be deemed an original and both of which together shall constitute one and the same instrument.

Exhibit 10.3

**BURLINGTON STORES, INC.  
2013 OMNIBUS INCENTIVE PLAN**

**PERFORMANCE-BASED RESTRICTED STOCK UNIT AWARD NOTICE**

**[Name of Holder]**

You have been awarded a performance-based restricted stock unit award with respect to shares of common stock of Burlington Stores, Inc., a Delaware corporation (the "Company"), pursuant to the terms and conditions of the Burlington Stores, Inc. 2013 Omnibus Incentive Plan (the "Plan") and the Performance-Based Restricted Stock Unit Award Agreement (together with this Award Notice, the "Agreement"). The Performance-Based Restricted Stock Unit Award Agreement is attached hereto. Capitalized terms not defined herein shall have the meanings specified in the Plan or the Agreement.

Target Performance-Based

You have been awarded a performance-based restricted stock unit award

Restricted Stock Units:

with respect to [\_\_\_\_\_] shares (at target) of Common Stock, par value \$0.0001 per share ("Common Stock"), subject to adjustment as provided in the Plan.

Grant Date:

[\_\_\_\_\_, \_\_\_\_]

Vesting Schedule:

Except as otherwise provided in the Plan, the Agreement or any other agreement between the Company or any of its Subsidiaries and Holder, the Award shall vest based on the achievement of the performance goals set forth in this Award Notice over the [\_\_\_\_\_] (the "Performance Period"), provided Holder remains continuously employed by the Company or its Subsidiaries through the end of the Performance Period. Attainment of the performance goals shall be determined and certified by the Committee in writing prior to the settlement of the Award.

Performance Conditions:

[\_\_\_\_\_]

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BURLINGTON STORES, INC.

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

Name:

Title:

Acknowledgment, Acceptance and Agreement:

By accepting this grant on the Company's stock plan administrator's website, I hereby accept the performance-based restricted stock units granted to me and acknowledge and agree to be bound by the terms and conditions of this Award Notice, the Agreement and the Plan.

\_\_\_\_\_  
Holder Name

\_\_\_\_\_  
Signature

Date \_\_\_\_\_

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**Burlington Stores, Inc.**  
**2013 Omnibus Incentive Plan**

**Performance-Based Restricted Stock Unit Award Agreement**

Burlington Stores, Inc., a Delaware corporation (the “Company”), hereby grants to the individual (the “Holder”) named in the award notice attached hereto (the “Award Notice”) as of the date set forth in the Award Notice (the “Grant Date”), pursuant to the provisions of the Burlington Stores, Inc. 2013 Omnibus Incentive Plan (the “Plan”), a performance-based restricted stock unit award (the “Award”) with respect to the number of shares of the Company’s Common Stock, par value \$0.0001 per share (“Common Stock”), set forth in the Award Notice, upon and subject to the restrictions, terms and conditions set forth in the Award Notice, the Plan and this agreement (the “Agreement”). Capitalized terms not defined herein shall have the meanings specified in the Plan.

1. Award Subject to Acceptance of Agreement. The Award shall be null and void unless Holder electronically accepts this Agreement within Holder’s stock plan account with the Company’s stock plan administrator according to the procedures then in effect (or, if permitted by the Company, accepts this Agreement by executing the Award Notice in the space provided therefor and returning an original execution copy of the Award Notice to the Company).

2. Rights as a Stockholder. Holder shall not be entitled to any privileges of ownership with respect to the shares of Common Stock subject to the Award unless and until, and only to the extent, such shares become vested pursuant to Section 3 hereof and Holder becomes a stockholder of record with respect to such shares.

3. Restriction Period and Vesting.

3.1. Performance-Based Vesting Conditions. Subject to the remainder of this Section 3, the Common Stock shall vest pursuant to the terms of this Agreement and the Plan based on the achievement of the performance goals set forth in the Award Notice over the performance period set forth in the Award Notice (the “Performance Period”), provided that that Holder remains in continuous employment with the Company or its Subsidiaries through the end of the Performance Period. Attainment of the performance goals shall be determined and certified by the Committee in writing prior to the settlement of the Award.

3.2. Termination of Employment.

(a) Termination due to Death or Disability. If Holder’s employment with the Company and its Subsidiaries terminates prior to the end of the Performance Period by reason of Holder’s death or termination by the Company or its Subsidiaries due to Disability, then in either such case, Holder shall vest in a prorated Award. Such prorated Award shall be equal to the number of shares of Common Stock assuming that the performance goals set forth in the Award Notice were satisfied at target multiplied by a fraction, the numerator of which shall equal the number of days in the Performance Period during which Holder was employed by the Company and its Subsidiaries and the denominator of which shall equal the total number of days in the Performance Period. Subject to Section 8.13, the vested portion of the Award shall be settled within 60 days following the Holder’s death or termination due to Disability; provided, however, if the Award is “nonqualified deferred compensation” within the meaning of Section 409A of the Code, then the portion of the Award that becomes vested upon a termination due to Disability shall be settled within 60 days after the expiration of the Performance Period to the

extent required to comply with Section 409A of the Code. The portion of the Award that does not vest pursuant to this Section 3.2(a) shall be forfeited by Holder and cancelled by the Company. For purposes of this Agreement, “Disability” shall mean that the Holder is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months.

(b) Termination due to a Reduction in Force or Retirement. Except as provided for in Section 3(c), if Holder’s employment with the Company and its Subsidiaries is terminated prior to the end of the Performance Period (i) by the Company or its Subsidiaries due to a reduction in force, as determined by the Committee in its sole and absolute discretion (provided that Holder has not committed an act constituting grounds for a termination for Cause) or (ii) by Holder due to Retirement (as defined below), then in either such case the Award shall vest on a prorated basis. Such prorated Award shall be equal to the number of shares of Common Stock earned at the end of the Performance Period based on actual performance during the Performance Period multiplied by a fraction, the numerator of which shall equal the number of days in the Performance Period during which Holder was employed by the Company and its Subsidiaries and the denominator of which shall equal the total number of days in the Performance Period. For purposes of this Agreement, “Retirement” shall mean the Holder’s resignation from the Company and its Subsidiaries occurring on or after Holder attaining age 60 with at least ten continuous years of service to the Company and its Subsidiaries; provided, however, if the Company has grounds to terminate the employment of Holder for Cause, then Holder shall not be eligible for the vesting provisions set forth in this Section 3.2(b). The portion of the Award that does not vest pursuant to this Section 3.2(b) shall be forfeited by Holder and cancelled by the Company.

(c) Change in Control Qualifying Termination. If Holder’s employment with the Company and its Subsidiaries terminates due to a Change in Control Qualifying Termination prior to the end of the Performance Period, then the Award shall vest as of the date of termination of employment, assuming that the performance goals set forth in the Award Notice were satisfied at target. Subject to Section 8.13, the vested portion of the Award shall be settled within 60 days following the Holder’s Change in Control Qualifying Termination; provided, however, if the Award is “nonqualified deferred compensation” within the meaning of Section 409A of the Code and the Change in Control is not a “change in control event” within the meaning of Section 409A of the Code, then the portion of the Award that becomes vested upon such Change in Control Qualifying Termination shall be settled within 60 days after the expiration of the Performance Period to the extent required to comply with Section 409A of the Code. The portion of the Award that does not vest pursuant to this Section 3.2(c) shall be forfeited by the Holder. Except as otherwise provided in any other agreement between the Company or any of its Subsidiaries and Holder, a Change in Control Qualifying Termination means (i) if Holder is a party to an employment agreement with the Company or one of its Subsidiaries or are subject to the Burlington Stores, Inc. Executive Severance Plan (Merchandising & Planning) (the “Severance Plan”) on the Grant Date, then a termination of Holder’s employment by the Company or a Subsidiary without Cause or resignation by Holder for Good Reason within the two year period immediately following a Change in Control or (ii) if Holder is not a party to an employment agreement with the Company or one of its Subsidiaries or subject to the Severance Plan on the Grant Date, then a termination of Holder’s employment by the Company or a Subsidiary without Cause within the one year period immediately following a Change in Control. Notwithstanding anything in the Agreement or in the Plan to the contrary, for purposes of the Agreement, (x) in the case of clause (i) of the preceding sentence, if Holder is a party to an employment agreement with the Company or one of its Subsidiaries on the Grant Date, “Cause” and “Good Reason” shall have the meanings provided in the terms of such employment agreement and if Holder is not a party to an employment agreement with the Company or one of its Subsidiaries on the Grant



Date, "Cause" and "Good Reason" shall have the meanings provided in the terms of the Severance Plan, as in effect on the Grant Date and (y) in the case of clause (ii) of the preceding sentence, "Cause" shall have the meaning provided in the Plan.

(d) Termination for any other Reason. If (i) Holder's employment with the Company and its Subsidiaries terminates prior to the end of the Performance Period for any reason other than as specified in Sections 3.2(a) – (c) or (ii) Holder breaches any non-competition obligation Holder has to the Company or any of its Subsidiaries under any agreement, then the unvested portion of the Award shall be immediately forfeited by Holder and cancelled by the Company.

4. Issuance or Delivery of Shares. Except as otherwise provided for herein, within 60 days after the expiration of the Performance Period (or, if earlier, in accordance with Sections 3.2(a) and 3.2(c)), the Company shall issue or deliver, subject to the conditions of this Agreement, the vested shares of Common Stock to Holder. Such issuance or delivery shall be evidenced by the appropriate entry on the books of the Company or of a duly authorized transfer agent of the Company. The Company shall pay all original issue or transfer taxes and all fees and expenses incident to such issuance or delivery, except as otherwise provided in Section 7. Prior to the issuance to Holder of the shares of Common Stock subject to the Award, Holder shall have no direct or secured claim in any specific assets of the Company or in such shares of Common Stock, and will have the status of a general unsecured creditor of the Company.

5. Non-Compete, Non-Solicitation; Confidentiality.

5.1. Non-Compete. In further consideration of the Award granted to Holder hereunder, Holder acknowledges and agrees that during the course of Holder's employment with the Company and its Subsidiaries, Holder shall become familiar, and during Holder's employment with the predecessors of the Company and its Subsidiaries, Holder has become familiar, with the Company's and its Subsidiaries' trade secrets and with other confidential information and that Holder's services have been and shall be of special, unique and extraordinary value to the Company and its Subsidiaries, and therefore, Holder agrees that, during his or her employment with the Company and its Subsidiaries and, if Holder's employment with the Company and its Subsidiaries terminates for any reason, for a period of two (2) years thereafter (the "Non-Compete Period"), Holder shall not directly or indirectly (whether as an owner, partner, shareholder, agent, officer, director, employee, independent contractor, consultant or otherwise) own any interest in, operate, invest in, manage, control, participate in, consult with, render services for (alone or in association with any person or entity), in any manner engage in any business activity on behalf of, or undertake any planning to engage in any of the foregoing activities in connection with, a Competing Business within any geographical area in which the Company or its Subsidiaries currently operates or plans to operate. Nothing herein shall prohibit Holder from being a passive owner of not more than 2% of the outstanding stock of any class of a corporation, which is publicly traded, so long as Holder has no active participation in the business of such corporation. For purposes of this Agreement, "Competing Business" means each of the following entities, together with their respective subsidiaries, affiliates, successors and assigns: Macy's, Inc., the TJX Companies, Inc. and Ross Stores, Inc.

5.2. Non-Solicitation. During the Non-Compete Period, Holder shall not, directly or indirectly, and shall ensure that any person or entity controlled by Holder does not, (a) induce or attempt

to induce any employee of the Company or any Subsidiary to leave the employ of the Company or such Subsidiary, or in any way interfere with the relationship between the Company or any Subsidiary and any employee thereof, (b) hire, directly or through another person, any person (whether or not solicited) who was an employee of the Company or any Subsidiary at any time within the one year period before Holder's termination from employment, (c) induce or attempt to induce any customer, supplier, licensee, licensor, franchisee or other business relation of the Company or any Subsidiary to cease doing business with the Company or such Subsidiary, assist any Competing Business or in any way interfere with the relationship between any such customer, supplier, licensee or business relation and the Company or any Subsidiary or (d) make or solicit or encourage others to make or solicit directly or indirectly any defamatory statement or communication about the Company or any of its Subsidiaries or any of their respective businesses, products, services or activities (it being understood that such restriction shall not prohibit truthful testimony compelled by valid legal process).

5.3. Confidentiality. Holder acknowledges and agrees that the information, observations and data (including trade secrets) obtained by Holder while employed by the Company and its Subsidiaries concerning the business or affairs of the Company and its Subsidiaries are the confidential information ("Confidential Information"), and the property, of the Company and/or its Subsidiaries. Without limiting the foregoing, the term "Confidential Information" shall be interpreted as broadly as possible to include all observations, data and other information of any sort that are (a) related to any past, current or potential business of the Company or any of its Subsidiaries or any of their respective predecessors, and any other business related to any of the foregoing, and (b) not generally known to and available for use by those within the line of business or industry of the Company or by the public (except to the extent such information has become generally known to and available for use by the public as a direct or indirect result of Holder's acts or omissions) including all (i) work product; (ii) information concerning development, acquisition or investment opportunities in or reasonably related to the business or industry of the Company or any of its Subsidiaries of which Holder is aware or becomes aware during the term of his employment; (iii) information identifying or otherwise concerning any current, former or prospective suppliers, distributors, contractors, agents or customers of the Company or any of its Subsidiaries; (iv) development, transition, integration and transformation plans, methodologies, processes and methods of doing business; (v) strategic, marketing, promotional and financial information (including all financial statements), business and expansion plans, including plans and information regarding planned, projected and/or potential sales, pricing, discount and cost information; (vi) information identifying or otherwise concerning employees, independent contractors and consultants; (vii) information on new and existing programs and services, prices, terms, and related information; (viii) all information marked, or otherwise designated, as confidential by the Company or any of its Subsidiaries or which Holder should reasonably know is confidential or proprietary information of the Company or any of its Subsidiaries; (ix) all information or materials similar or related to any of the foregoing, in whatever form or medium, whether now existing or arising hereafter (and regardless of whether merely stored in the mind of Holder or employees or consultants of the Company or any of its Subsidiaries, or embodied in a tangible form or medium); and (x) all tangible embodiments of any of the foregoing.

5.4. Disclosure. Holder agrees that, except as required by law or court order, including, without limitation, depositions, interrogatories, court testimony, and the like (and in such case provided that Holder must give the Company and/or its Subsidiaries, as applicable, prompt written notice of any such legal requirement, disclose no more information than is so required and seek, at the Company's sole cost and expense, confidential treatment where available and cooperate fully with all efforts by the Company and/or its Subsidiaries to obtain a protective order or similar confidentiality treatment for such information), Holder shall not disclose to any unauthorized person or entity or use for Holder's own purposes any Confidential Information without the prior written consent of the Board, unless and to the extent that the Confidential Information becomes generally known to and available for

use by the public other than as a direct or indirect result of Holder's acts or omissions. Holder shall deliver to the Company at the time Holder's employment ceases, or at any other time the Company may request, all memoranda, notes, plans, records, reports, computer tapes, printouts and software and other documents and data (and copies thereof) embodying or relating to the Confidential Information (including any work product) or the business of the Company and its Subsidiaries which Holder may then possess or have under Holder's control and if, at any time thereafter, any such materials are brought to Holder's attention or Holder discovers them in his possession or control, Holder shall deliver such materials to the Company immediately upon such notice or discovery.

5.5. Protected Rights. Pursuant to 18 U.S.C. § 1833(b), "an individual shall not be held criminally or civilly liable under any Federal or State trade secret law for the disclosure of a trade secret that-(A) is made-(i) in confidence to a Federal, State, or local government official, either directly or indirectly, or to an attorney; and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or (B) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal." Accordingly, Holder has the right to disclose in confidence trade secrets to Federal, State, and local government officials, or to an attorney, for the sole purpose of reporting or investigating a suspected violation of law. Holder also has the right to disclose trade secrets in a document filed in a lawsuit or other proceeding, but only if the filing is made under seal and protected from public disclosure. Nothing in this Agreement is intended to conflict with 18 U.S.C. § 1833(b) or create liability for disclosures of trade secrets that are expressly allowed by 18 U.S.C. § 1833(b). Holder understands that nothing contained in this Agreement limits Holder's ability to file a charge or complaint with the Equal Employment Opportunity Commission, the National Labor Relations Board, the Occupational Safety and Health Administration, the Securities and Exchange Commission or any other federal, state or local governmental agency or commission ("Government Agencies"). Holder further understands that this Agreement does not limit Holder's ability to communicate with any Government Agencies or otherwise participate in any investigation or proceeding that may be conducted by any Government Agency, including providing documents or other information, without notice to the Company. This Agreement does not limit Holder's right to receive an award for information provided to any Government Agencies.

5.6. Other Agreements. Notwithstanding the foregoing and any other language in this Agreement, this Agreement does not supersede or preclude the enforceability of any restrictive covenant provision contained in any prior agreement entered into by Holder. Further, no prior restrictive covenant supersedes or precludes the enforceability of any provision contained in this Agreement.

5.7. Applicability. Notwithstanding the foregoing and any other language in this Agreement, Section 5.1 shall not apply to Holder if he or she is below the position of Director level as of the Grant Date.

## 6. Enforcement.

6.1. Reliance. Holder acknowledges and agrees that the Company entered into this Agreement in reliance on the provisions of Section 5 and the enforcement of this Agreement is necessary to ensure the preservation, protection and continuity of the business of the Company and its Subsidiaries and other Confidential Information and goodwill of the Company and its Subsidiaries to the extent and for the periods of time expressly agreed to herein. Holder acknowledges and agrees that Holder has carefully read this Agreement and has given careful consideration to the restraints imposed upon Holder by this Agreement, and is in full accord as to their necessity for the reasonable protection of the Company's and its Subsidiaries' interests and the reasonable and proper protection of confidential and proprietary information of the Company and its Subsidiaries now existing or to be developed in the future. Holder expressly acknowledges and agrees that each and every restraint imposed by this Agreement is reasonable with respect to subject matter, time period and geographical area.

6.2. Enforcement. Notwithstanding any provision to the contrary herein, the Company or its Subsidiaries may pursue, at its discretion, enforcement of Section 5 in any court of competent jurisdiction (each, a “Court”).

6.3. Severability. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision or any other jurisdiction, but this Agreement shall be reformed, construed and enforced in such jurisdiction as if such invalid, illegal or unenforceable provision had never been contained herein. More specifically, if any Court determines that any of the covenants set forth in Section 5 are overbroad or unreasonable under applicable law in duration, geographical area or scope, the parties to this Agreement specifically agree and authorize such Court to rewrite this Agreement to reflect the maximum duration, geographical area and/or scope permitted under applicable law.

6.4. Equitable Relief. Because Holder’s services are unique and because Holder has intimate knowledge of and access to confidential information and work product, the parties hereto agree that money damages would not be an adequate remedy for any breach of Section 5, and any breach of the terms of Section 5 would result in irreparable injury and damage to the Company and its Subsidiaries for which the Company and its Subsidiaries would have no adequate remedy at law. Therefore, in the event of a breach or threatened breach of Section 5, the Company or its successors or assigns, in addition to any other rights and remedies existing in their favor at law or in equity, shall be entitled to specific performance and/or immediate injunctive or other equitable relief from a Court in order to enforce, or prevent any violations of, the provisions hereof (without posting a bond or other security), without having to prove damages. The terms of this Section 6 shall not prevent the Company or any of its Subsidiaries from pursuing any other available remedies for any breach or threatened breach of this Agreement, including the recovery of damages from Holder.

7. Transfer Restrictions and Investment Representation.

7.1. Nontransferability of Award. The Award may not be transferred by Holder other than by will or the laws of descent and distribution or pursuant to the designation of one or more beneficiaries on the form prescribed by the Company. Except to the extent permitted by the foregoing sentence, the Award may not be sold, transferred, assigned, pledged, hypothecated, encumbered or otherwise disposed of (whether by operation of law or otherwise) or be subject to execution, attachment or similar process. Upon any attempt to so sell, transfer, assign, pledge, hypothecate, encumber or otherwise dispose of the Award, the Award and all rights hereunder shall immediately become null and void.

7.2. Investment Representation. Holder hereby represents and covenants that (a) any sale of any share of Common Stock acquired upon the vesting of the Award shall be made either pursuant to an effective registration statement under the Securities Act of 1933, as amended (the “Securities Act”), and any applicable state securities laws, or pursuant to an exemption from registration under the Securities Act and such state securities laws and (b) if requested by the Company, Holder shall submit a written statement, in a form satisfactory to the Company, to the effect that such representation is true and correct as of the date of any sale of any such shares. As a further condition precedent to the vesting of the Award and subject to Section 409A of the Code, Holder shall comply with all regulations and requirements of any regulatory authority having control of or supervision over the issuance or delivery of the shares and, in connection therewith, shall execute any documents which the Board or the Committee shall in its sole discretion deem necessary or advisable.

8. Additional Terms and Conditions of Award.

8.1. Withholding Taxes. As a condition precedent to the delivery to Holder of any shares of Common Stock upon vesting of the Award, Holder shall, upon request by the Company, pay to the Company such amount of cash as the Company may be required, under all applicable federal, state, local or other laws or regulations, to withhold and pay over as income or other withholding taxes (the "Required Tax Payments") with respect to the Award. If Holder shall fail to advance the Required Tax Payments after request by the Company, the Company may, in its discretion, deduct any Required Tax Payments from any amount then or thereafter payable by the Company to Holder or withhold shares of Common Stock. Holder may elect to satisfy his or her obligation to advance the Required Tax Payments by any of the following means: (i) a cash payment to the Company; (ii) authorizing the Company to withhold from the shares of Common Stock otherwise to be delivered to Holder pursuant to the Award, a number of whole shares of Common Stock having an aggregate Fair Market Value, determined as of the date the obligation to withhold or pay taxes first arises in connection with the Award, equal to the Required Tax Payments; or (iii) any combination of (i) and (ii). Shares to be delivered or withheld may be withheld up to the maximum statutory tax rates in the applicable jurisdictions. Any fraction of a share of Common Stock which would be required to satisfy any such obligation shall be disregarded and the remaining amount due shall be paid in cash by Holder. No shares of Common Stock shall be issued or delivered until the Required Tax Payments have been satisfied in full.

8.2. Adjustment. In the event of a Section 4.2 Event, the adjustments provided for in Section 4.2(b) of the Plan shall be made to the number of shares of Common Stock subject to the Award hereunder.

8.3. Compliance with Applicable Law. The Award is subject to the condition that if the listing, registration or qualification of the shares of Common Stock subject to the Award upon any securities exchange or under any law, or the consent or approval of any governmental body, or the taking of any other action is necessary or desirable as a condition of, or in connection with, the delivery of shares hereunder, the shares of Common Stock subject to the Award shall not be delivered, in whole or in part, unless such listing, registration, qualification, consent, approval or other action shall have been effected or obtained, free of any conditions not acceptable to the Company. The Company agrees to use reasonable efforts to effect or obtain any such listing, registration, qualification, consent, approval or other action.

8.4. Award Confers No Rights to Continued Employment. In no event shall the granting of the Award or its acceptance by Holder, or any provision of the Agreement or the Plan, give or be deemed to give Holder any right to continued employment by the Company, any Subsidiary or any affiliate of the Company or affect in any manner the right of the Company, any Subsidiary or any affiliate of the Company to terminate the employment of any person at any time.

8.5. Decisions of Committee. The Committee shall have the right to resolve all questions which may arise in connection with the Award. Any interpretation, determination or other action made or taken by the Committee regarding the Plan or this Agreement shall be final, binding and conclusive.

8.6. Successors. This Agreement shall be binding upon and inure to the benefit of any successor or successors of the Company and any person or persons who shall, upon the death of Holder, acquire any rights hereunder in accordance with this Agreement or the Plan.

8.7. Notices. All notices, requests or other communications provided for in this Agreement shall be made, if to the Company, to Burlington Stores, Inc., 2006 Route 130 North, Burlington, NJ 08016, Attention: General Counsel, and if to Holder, to the last known mailing address of

Holder contained in the records of the Company. All notices, requests or other communications provided for in this Agreement shall be made in writing either (a) by personal delivery, (b) by facsimile or electronic mail with confirmation of receipt, (c) by mailing in the United States mails or (d) by express courier service. The notice, request or other communication shall be deemed to be received upon personal delivery, upon confirmation of receipt of facsimile or electronic mail transmission or upon receipt by the party entitled thereto if by United States mail or express courier service; provided, however, that if a notice, request or other communication sent to the Company is not received during regular business hours, it shall be deemed to be received on the next succeeding business day of the Company.

8.8. Governing Law. This Agreement, the Award and all determinations made and actions taken pursuant hereto and thereto, to the extent not governed by the Code or the laws of the United States, shall be governed by the laws of the State of Delaware and construed in accordance therewith without giving effect to principles of conflicts of laws.

8.9. Agreement Subject to the Plan. This Agreement is subject to the provisions of the Plan and shall be interpreted in accordance therewith. In the event that the provisions of this Agreement and the Plan conflict, the Plan shall control. Holder hereby acknowledges receipt of a copy of the Plan.

8.10. Entire Agreement. Except as provided for in Section 5.6, this Agreement and the Plan constitute the entire agreement of the parties with respect to the subject matter hereof and supersede in their entirety all prior undertakings and agreements of the Company and Holder with respect to the subject matter hereof, and may not be modified adversely to Holder's interest except by means of a writing signed by the Company and Holder. Notwithstanding the foregoing, Holder acknowledges that Holder is subject to Company policies relating to trading in the Company's securities

8.11. Amendment and Waiver. The Company may amend the provisions of this Agreement at any time; provided that an amendment that would adversely affect Holder's rights under this Agreement shall be subject to the written consent of Holder. No course of conduct or failure or delay in enforcing the provisions of this Agreement shall affect the validity, binding effect or enforceability of this Agreement.

8.12. Counterparts. The Award Notice may be executed in two counterparts, each of which shall be deemed an original and both of which together shall constitute one and the same instrument.

8.13. Compliance With Section 409A of the Code. This Award is intended to be exempt from or comply with Section 409A of the Code, and shall be interpreted and construed accordingly. To the extent this Agreement provides for the Award to become vested and be settled upon the Holder's termination of employment, the applicable shares of Common Stock shall be transferred to the Holder or his or her beneficiary upon the Holder's "separation from service," within the meaning of Section 409A of the Code; provided that if the Holder is a "specified employee," within the meaning of Section 409A of the Code, then to the extent the Award constitutes nonqualified deferred compensation, within the meaning of Section 409A of the Code, such shares of Common Stock shall be transferred to the Holder or his or her beneficiary upon the earlier to occur of (a) the six-month anniversary of such separation from service and (b) the date of the Holder's death.

## BURLINGTON STORES, INC.

## EXECUTIVE SEVERANCE PLAN (MERCHANDISING &amp; PLANNING)

Effective March 26, 2021

**ARTICLE I**  
**PURPOSE**

This Burlington Stores, Inc. Executive Severance Plan (Merchandising & Planning) (the “Plan”) provides severance benefits to Eligible Executives upon certain terminations of employment. The Plan is effective March 26, 2021 (the “Effective Date”).

The Plan is intended (1) to be exempt from Code section 409A, and (2) to be a welfare plan which is unfunded and is maintained by an employer for the purpose of providing benefits for a select group of management or “highly compensated employees” within the meaning of Department of Labor Regulation section 2520.104-24. Notwithstanding any other provision of this Plan, this Plan shall be interpreted, operated and administered in a manner consistent with these intentions.

**ARTICLE II**  
**DEFINED TERMS**

Whenever used in the Plan, the following terms shall have the meanings set forth below:

“Cause” means, with respect to an Eligible Executive’s termination of employment, the following: (a) in the case where there is no employment agreement, consulting agreement, change in control agreement or similar agreement in effect between the Company or any of its subsidiaries and the Eligible Executive (or where there is such an agreement but it does not define “cause” (or words of like import)), termination due to an Eligible Executive’s insubordination, dishonesty, fraud, incompetence, moral turpitude, willful misconduct, refusal to perform the Eligible Executive’s duties or responsibilities for any reason other than illness or incapacity or materially unsatisfactory performance of the Eligible Executive’s duties for the Company or any of its subsidiaries, as determined by the Committee in its good faith discretion; or (b) in the case where there is an employment agreement, consulting agreement, change in control agreement or similar agreement in effect between the Company or any of its subsidiaries and the Eligible Executive that defines “cause” (or words of like import), “cause” as defined under such agreement; provided, however, that with regard to any agreement under which the definition of “cause” only applies on occurrence of a change in control, such definition of “cause” shall not apply until a change in control actually takes place and then only with regard to a termination thereafter.

“Code” shall mean the Internal Revenue Code of 1986, as amended.

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“Committee” shall mean the health and welfare benefits committee of the Company (or its successor), or such other body as the Compensation Committee may designate from time to time.

“Company” shall mean Burlington Stores, Inc.

“Compensation Committee” shall mean the Compensation Committee of the Board of Directors of the Company (or its successor).

“Competing Business” means each of the following entities, together with their respective subsidiaries, affiliates, successors and assigns: Macy’s, Inc., the TJX Companies, Inc. and Ross Stores, Inc.

“Effective Date” shall have the meaning set forth in Article I.

“Eligible Executive” shall have the meaning set forth in Article III.

“ERISA” shall mean the Employee Retirement Income Security Act of 1974, as amended.

“Good Reason” means the occurrence of any of the following events without the written consent of the Eligible Executive: (i) a material diminution of the Eligible Executive’s duties or the assignment to the Eligible Executive of duties that are inconsistent in any substantial respect with the position, authority or responsibilities associated with the Eligible Executive’s position, other than any such authorities, duties or responsibilities assigned at any time which are by their nature, or which are identified at the time of assignment, as being temporary or short-term; (ii) the Company’s or a subsidiary’s (as applicable) requiring the Eligible Executive to be based at a location which is fifty (50) or more miles from the Eligible Executive’s principal office location on the date the Eligible Executive commences employment; or (iii) a material diminution of the Eligible Executive’s annual compensation; provided, however, no condition enumerated in the preceding shall be deemed to be “Good Reason” unless within thirty (30) days of the initial existence of such condition, the Eligible Executive shall have given the Company written notice thereof specifically describing the condition giving rise to “Good Reason” and allowing the Company or its subsidiary (as applicable) a period of at least thirty (30) days from the date of receipt of the notice to remedy such condition. Notwithstanding the foregoing, in no event will a condition give rise to “Good Reason” hereunder unless within ten (10) days after the expiration of the period provided in the Eligible Executive’s notice for the Company or subsidiary (as applicable) to remedy said condition but in no event later than one hundred and twenty (120) days after initial existence of said condition, the Eligible Executive shall have actually terminated his or her employment with the Company or subsidiary by giving written notice of resignation for failure of the Company or subsidiary (as applicable) to remedy such condition.

“Non-Compete Period” shall mean two (2) years.



“Participation and Restrictive Covenant Agreement” shall mean the written agreement evidencing participation under this Plan and the restrictive covenants being agreed to as a condition to participate in this Plan between the Company and the applicable employee.

“Plan” shall mean this Burlington Stores, Inc. Executive Severance Plan (Merchandising & Planning), as amended from time to time.

“Termination of Employment” shall mean an individual’s termination of employment with the Company and all of its subsidiaries and affiliates, and to the extent Code section 409A applies to an Eligible Executive’s severance pay benefits, as described in Section 4.2, “Termination of Employment” means a “separation from service” within the meaning of Code section 409A.

### **ARTICLE III** **ELIGIBILITY**

An employee (i) who is employed in Merchandising & Planning at the title of Senior Vice President or above, who (x) is a participant in the Plan as of the Effective Date, (y) is hired on or after the Effective Date or (z) elects in writing on a form, as determined by the Committee, to participate in the Plan in lieu of his or her rights under any effective employment agreement, and (ii) if required by the Company, enters into a Participation and Restrictive Covenant Agreement within 30 days of such agreement being delivered to employee, shall be eligible for participation in the Plan and considered an “Eligible Executive.”

In the event an otherwise Eligible Executive is covered by an authorized individual written employment, noncompetition or severance agreement that provides for the payment of severance pay or other termination or post-termination pay, whether in the form of weeks or months of pay or a flat dollar amount, the terms of such other arrangement shall be honored in terms of the time, form and amount of pay, but such other pay (of whatever nature) shall not be duplicative of severance pay under this Plan. In such event, no such duplicate payment shall be made from this Plan. In the event this Plan provides severance pay in excess of the amount payable under such other arrangement (or provides for severance benefits not available under such other arrangement, such as subsidized COBRA continuation benefits), then only the additional severance pay (or benefits) shall be made under the Plan in accordance with the payment schedule otherwise set forth under this Plan.

### **ARTICLE IV** **SEVERANCE BENEFITS**

#### **4.1 Entitlement to Benefits**

An Eligible Executive who (a) is involuntarily terminated without Cause or within the two-year period immediately following a “Change in Control” (as defined in the Burlington Stores, Inc. 2013 Omnibus Incentive Plan or a successor plan thereto) voluntarily terminates for Good Reason, (b) has not breached as of the date of the Eligible Executive’s Termination of Employment any covenant or restriction set forth in Section 4.8, and (c) signs and does not

revoke a separation agreement in accordance with the timeframe established by the Committee, will be entitled to receive benefits under this Article IV; provided that all such steps must be completed within 60 days of the Eligible Executive's Termination of Employment. Such separation agreement shall contain a release of claims against the Company and its subsidiaries and such restrictive covenants (e.g., non-competition, non-solicitation, and non-disparagement covenants) and provisions as the Committee determines appropriate in its sole discretion, including without limitation, the covenants and restrictions set forth in Section 4.8. Such separation agreement shall also provide that the benefits under this Article IV shall terminate upon the occurrence of a breach by the Eligible Executive of any restrictive covenant set forth in Section 4.8.

An Eligible Executive working in any part, unit or function of the Company or one of its subsidiaries that is divested, outsourced, closed, or relocated to a different geographic area (as determined by the Committee in its sole discretion), and who is terminated by the Company or one of its subsidiaries as a direct result thereof, will be eligible for benefits under the Plan. However, such an Eligible Executive will forfeit eligibility for benefits if he or she resigns voluntarily prior to the Termination of Employment date specified for them (other than as provided above in the case of voluntary termination by an Eligible Executive for Good Reason within the two-year period immediately following a Change in Control). Further, Plan benefits will not commence or will be discontinued if comparable employment is offered with the buyer in connection with a Change in Control or with the Company or one of its subsidiaries, one of the Company's shareholders, or a third-party outsourcing firm, unless the Committee, in its sole discretion, determines otherwise. For this purpose, "comparable employment" means a position with comparable compensation and responsibility (i.e., does not result in a material diminution of the Eligible Executive's annual compensation) and within 50 miles of the Eligible Executive's primary place of employment with the Company or one of its subsidiaries prior to the relevant transaction.

#### 4.2 **Severance Pay Benefits**

Severance pay benefits shall begin only after satisfaction of the requirements in Section 4.1. An Eligible Executive entitled to benefits under this Article IV will receive a severance pay benefit equal to two (2) times such Eligible Executive's annual base salary on the date of his or her Termination of Employment, and such severance pay benefit shall accrue and be payable for the two-year period following the date of his or her Termination of Employment; provided, however, that in the event that such Eligible Executive obtains employment with any other employer during the Non-Compete Period, such Eligible Executive shall promptly (and within 30 days of accepting such employment) notify the Company regarding the terms of such employment and such Eligible Executive's severance pay benefit shall be reduced, dollar-for-dollar, by the amount of any income that such Executive receives from any other employer during such two year period; and, further provided that, in the event that such Eligible Executive fails to notify the Company regarding such new employment within 30 days of accepting such employment, Eligible Executive shall cease to be entitled to any further payment of severance pay benefits hereunder. The severance pay benefit will be paid net of applicable tax withholding on the Company's normal payroll cycle and shall commence 60 days after the Eligible

Executive's Termination of Employment. Any payments that accrue and are otherwise payable under this Section 4.2 prior to commencing payments shall be accumulated and paid in a lump sum as soon as practicable after such requirements are satisfied.

#### 4.3 **Bonus**

An Eligible Executive entitled to severance pay benefits under Section 4.1 will be eligible for an additional payment equal to a "pro-rata" portion of the bonus he or she would have received under the Company's Annual Incentive Plan – Corporate (the "Corporate Plan") for the fiscal year in which his or her Termination of Employment occurred. For purposes of this Section 4.3, the pro-rata bonus (if any) will be based on the payout formula under the Corporate Plan, regardless of the annual incentive plan in which the Eligible Executive actually participated during such fiscal year, and shall be equal to (i) the bonus amount the Eligible Executive would have been entitled to receive under the Corporate Plan for that fiscal year, assuming the Eligible Executive had been employed through the date bonuses are paid under such plan for that year, and otherwise calculated under the terms of such plan based on the Company's actual performance for that fiscal year; multiplied by (ii) the fraction the numerator of which is the actual number of days employed during the fiscal year prior to the Eligible Executive's Termination of Employment divided by the number of days in such fiscal year (the "Pro-rata Bonus"). The Pro-rata Bonus contemplated by this Section 4.3 will be paid in a lump sum when the annual bonuses are paid to active employees under the terms of the Corporate Plan.

To the extent unpaid as of the Eligible Executive's Termination of Employment, an Eligible Executive entitled to severance pay benefits under Section 4.1 will also be entitled to receive the bonus (if any) that would otherwise have been earned by the Eligible Executive under the annual incentive plan of the Company or one of its subsidiaries in which the Eligible Executive participated for the fiscal year prior to the year of his or her Termination of Employment assuming he or she had remained employed through the date bonuses are paid under such plan for that fiscal year. Such bonus (if any) will be paid in a lump sum when the annual bonuses are paid to active employees under the terms of the applicable annual incentive plan.

#### 4.4 **Death Benefits**

If an Eligible Executive is entitled to severance pay benefits under Sections 4.2 and 4.3 and dies before receiving such amounts, the remaining portion will be paid to the Eligible Executive's spouse, or, if the Eligible Executive is not married at the time of death, the remainder of the benefits will be paid to the Eligible Executive's estate.

#### 4.5 **Other Benefits**

An Eligible Executive entitled to benefits under the Plan will receive continued welfare benefits (including medical, dental, and vision coverage) while severance payments are being made. Such welfare benefits will be provided on the same terms and conditions, including contributions required of the Eligible Executive for such benefits, as those which the Eligible Executive was receiving immediately prior to his or her Termination of Employment (the

“Subsidized Coverage”). Such coverage will count toward, and run concurrently with the Eligible Executive’s period of COBRA coverage. Accordingly, the Eligible Executive shall be receiving COBRA continuation coverage effectively at the active employee premium contribution rate in effect at the time of the Eligible Executive’s Termination of Employment. In addition, the Committee will provide an Eligible Executive entitled to benefits under the Plan with outplacement assistance for 6 months.

#### 4.6 **Effect of Future Employment**

An Eligible Executive who becomes employed by another employer during any portion of the severance period is required to notify the Company of such employment within 10 business days. The amount of an Eligible Executive’s severance pay shall be decreased by any compensation received from another employer during the severance period in accordance with Section 4.2 of this Plan. In the event an Eligible Executive is employed by another employer during any portion of the severance period and is eligible to receive medical, dental and vision coverage from such other employer, the Eligible Executive will cease to be entitled to the continued Subsidized Coverage as provided in Section 4.5 of this Plan as of the date of his or her eligibility for benefits in such other employer’s plan. All benefits under the Plan will cease if an Eligible Executive becomes re-employed by the Company.

#### 4.7 **Section 409A Restrictions**

Notwithstanding anything in this Plan to the contrary, in the event any benefit paid to a participant under the Plan constitutes “deferred compensation” for purposes of Code section 409A, all payments to such Eligible Executive shall be paid as provided in this Section 4.7. Code section 409A places certain restrictions on when severance pay benefits may be distributed if the Eligible Executive is considered a “specified employee” under Code section 409A (generally, “specified employees” are the 50 highest-paid U.S. employees of the Company in a given year) and the severance pay benefits are considered “deferred compensation” under Code section 409A. Not all severance pay under this Plan, however, is considered deferred compensation for these purposes.

(a) Any payments provided under the Plan on or before the 15<sup>th</sup> day of the third month following the later of: (i) the last day of the calendar year or (ii) the last day of the Company’s fiscal year, containing the date of the Eligible Executive’s “separation from service” (as defined by Section 409A) (the “Short-Term Deferral Period”), will be treated as a short-term deferral under Treasury Regulation § 1.409A-1(b)(4) and not deferred compensation under Code section 409A.

(b) If any payments are provided to an Eligible Executive under the Plan after the last day of the Short-Term Deferral Period, then to the extent the total of such payments does not exceed the limit provided under the Code section 409A exemption for involuntary separation pay, such payments will be considered separation pay due to involuntary separation from service under Treasury Regulation § 1.409A-1(b)(9)(iii) and not deferred compensation under Code section 409A.

(c) If the Eligible Executive is entitled to additional payments under the Plan that are not described in subsections (a) or (b) above, and the Eligible Executive is considered a “specified employee” under Code section 409A (as applied according to Company procedures), such payments will not be made until the earlier of (a) the first day of the seventh month following the date of the Eligible Executive’s Termination of Employment, or (b) the Eligible Executive’s death. Any delayed payments will be paid in the aggregate in a lump sum, without interest, on the first day of the seventh month following the date of the Eligible Executive’s Termination of Employment.

(d) For purposes of Code section 409A, each “payment” (as defined by Code section 409A) made under this Plan is considered a “separate payment.”

#### 4.8 **Covenants, Restrictions and Recoupment**

##### (a) **Non-Compete, Non-Solicitation.**

(i) Eligible Executive acknowledges and agrees that during the course of Eligible Executive’s employment with the Company and its subsidiaries Eligible Executive shall become familiar with the Company’s trade secrets and with other confidential information and that Eligible Executive’s services have been and shall be of special, unique and extraordinary value to the Company and its subsidiaries, and therefore, Eligible Executive agrees that, during his or her employment with the Company and during the Non-Compete Period, Eligible Executive shall not directly or indirectly (whether as an owner, partner, shareholder, agent, officer, director, employee, independent contractor, consultant or otherwise) own any interest in, operate, invest in, manage, control, participate in, consult with, render services for (alone or in association with any person or entity), in any manner engage in any business activity on behalf of, or undertake any planning to engage in any of the foregoing activities in connection with, a Competing Business within any geographical area in which the Company or its subsidiaries operates or plan to operate. Nothing herein shall prohibit Eligible Executive from being a passive owner of not more than 2% of the outstanding stock of any class of a corporation which is publicly traded, so long as Eligible Executive has no active participation in the business of such corporation.

(ii) During the Non-Compete Period, Eligible Executive shall not, directly or indirectly, and shall ensure that any person or entity controlled by Eligible Executive does not, (i) induce or attempt to induce any employee of the Company or any subsidiary to leave the employ of the Company or such subsidiary, or in any way interfere with the relationship between the Company or any subsidiary and any employee thereof, (ii) hire, directly or through another person, any person (whether or not solicited) who was an employee of the Company or any subsidiary at any time within the one year period before Eligible Executive’s termination from employment, (iii) induce or attempt to induce any customer, supplier, licensee, licensor, franchisee or other business relation of the Company or any subsidiary to cease doing business with the Company or such subsidiary, engage in or assist any person or entity in engaging in any Competing Business or in any way interfere with the relationship between any such customer, supplier, licensee, or business relation and the Company or any subsidiary, or (iv) make or solicit or encourage others to make or solicit directly or indirectly any defamatory

statement or communication about the Company or any of its subsidiaries or any of their respective businesses, products, services or activities (it being understood that such restriction shall not prohibit truthful testimony compelled by valid legal process).

(b) Confidential Information.

(i) Eligible Executive acknowledges and agrees that the information, observations and data (including trade secrets) obtained by Eligible Executive while employed by the Company and its subsidiaries concerning the business or affairs of the Company and its subsidiaries are the confidential information (“Confidential Information”), and the property, of the Company and/or its subsidiaries. Without limiting the foregoing, the term “Confidential Information” shall be interpreted as broadly as possible to include all observations, data and other information of any sort that are (i) related to any past, current or potential business of the Company or any of its subsidiaries or any of their respective predecessors, and any other business related to any of the foregoing, and (ii) not generally known to and available for use by those within the line of business or industry of the Company or by the public (except to the extent such information has become generally known to and available for use by the public as a direct or indirect result of Eligible Executive’s acts or omissions) including all (A) Work Product (as defined below); (B) information concerning development, acquisition or investment opportunities in or reasonably related to the business or industry of the Company or any of its subsidiaries of which Eligible Executive is aware or becomes aware during the term of his or her employment; (C) information identifying or otherwise concerning any current, former or prospective suppliers, distributors, contractors, agents or customers of the Company or any of its subsidiaries; (D) development, transition, integration and transformation plans, methodologies, processes and methods of doing business; (E) strategic, marketing, promotional and financial information (including all financial statements), business and expansion plans, including plans and information regarding planned, projected and/or potential sales, pricing, discount and cost information; (F) information identifying or otherwise concerning employees, independent contractors and consultants; (G) information on new and existing programs and services, prices, terms, and related information; (H) the terms of this Plan; (I) all information marked, or otherwise designated, as confidential by the Company or any of its subsidiaries or which Eligible Executive should reasonably know is confidential or proprietary information of the Company or any of its subsidiaries; (J) all information or materials similar or related to any of the foregoing, in whatever form or medium, whether now existing or arising hereafter (and regardless of whether merely stored in the mind of Eligible Executive or employees or consultants of the Company or any of its subsidiaries, or embodied in a tangible form or medium); and (K) all tangible embodiments of any of the foregoing.

(ii) Therefore, Eligible Executive agrees that, except as otherwise set forth in Section 4.8(e) or as required by law or court order, including, without limitation, depositions, interrogatories, court testimony, and the like (and in such case provided that Executive must give the Company and/or its subsidiaries, as applicable, prompt written notice of any such legal requirement, disclose no more information than is so required and seek, at the Company’s sole cost and expense, confidential treatment where available and cooperate fully with all efforts by the Company and/or its subsidiaries to obtain a protective order or similar

confidentiality treatment for such information), Executive shall not disclose to any unauthorized person or entity or use for Executive's own purposes any Confidential Information without the prior written consent of the Company, unless and to the extent that the Confidential Information becomes generally known to and available for use by the public other than as a direct or indirect result of Executive's acts or omissions. Executive shall deliver to the Company at the termination or expiration of the Employment Period, or at any other time the Company may request, all memoranda, notes, plans, records, reports, computer tapes, printouts and software and other documents and data (and copies thereof) embodying or relating to the Confidential Information (including any Work Product (as defined below)) or the business of the Company and its subsidiaries which Executive may then possess or have under Executive's control and if, at any time thereafter, any such materials are brought to Executive's attention or Executive discovers them in his possession or control, Executive shall deliver such materials to the Company immediately upon such notice or discovery.

(c) Intellectual Property, Inventions and Patents. Eligible Executive acknowledges and agrees that all discoveries, concepts, ideas, inventions, innovations, improvements, developments, methods, specifications, designs, analyses, drawings, reports, patents and patent applications, processes, programs, systems, software, firmware, materials, plans, sketches, models, know-how, devices, developments, data, databases, technology, trade secrets, works of authorship, copyrightable works and mask works (whether or not including any confidential information) and all registrations or applications related thereto, all other intellectual property or proprietary information and all similar or related information (whether or not patentable or copyrightable and whether or not reduced to tangible form or practice) which relate to the Company's or any of its subsidiaries' actual or anticipated business, research and development or existing or future products or services and which are conceived, developed or made by Eligible Executive (whether alone or jointly with others) while employed by the Company or its predecessors and its subsidiaries ("Work Product") shall be deemed to be "work made for hire" (as defined in the Copyright Act, 17 U.S.C.A. §101 et seq., as amended) and owned exclusively by the Company. To the extent that any Work Product is not deemed to be "work made for hire" under applicable law, and all right, title and interest in and to such Work Product have not automatically vested in the Company, Eligible Executive hereby (A) irrevocably assigns, transfers and conveys, and shall assign transfer and convey, to the full extent permitted by applicable law, all right, title and interest in and to the Work Product on a worldwide basis to the Company (or such other person or entity as the Company shall designate), without further consideration, and (B) waives all moral rights in or to all Work Product, and to the extent such rights may not be waived, agrees not to assert such rights against the Company or its respective licensees, successors or assigns. Eligible Executive shall, at the Company's expense, execute all documents and perform all actions reasonably requested by the Company (whether during or after the employment period) to establish, confirm, evidence, effectuate, maintain, protect, enforce, perfect, record, patent or register any of the Company's rights hereunder (including, without limitation, assignments, consents, powers of attorney and other instruments).

(d) 18 U.S.C. § 1833(b) states: "An individual shall not be held criminally or civilly liable under any Federal or State trade secret law for the disclosure of a trade secret that—

(A) is made—(i) in confidence to a Federal, State, or local government official, either directly or indirectly, or to an attorney; and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or (B) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal.” Accordingly, the Eligible Executive has the right to disclose in confidence trade secrets to Federal, State, and local government officials, or to an attorney, for the sole purpose of reporting or investigating a suspected violation of law. The Eligible Executive also has the right to disclose trade secrets in a document filed in a lawsuit or other proceeding, but only if the filing is made under seal and protected from public disclosure. Nothing in this Agreement is intended to conflict with 18 U.S.C. § 1833(b) or create liability for disclosures of trade secrets that are expressly allowed by 18 U.S.C. § 1833(b).

(e) Eligible Executive understands that nothing contained in this Plan limits Eligible Executive’s ability to file a charge or complaint with the Equal Employment Opportunity Commission, the National Labor Relations Board, the Occupational Safety and Health Administration, the Securities and Exchange Commission or any other federal, state or local governmental agency or commission (“Government Agencies”). Eligible Executive further understands that this Plan does not limit Eligible Executive’s ability to communicate with any Government Agencies or otherwise participate in any investigation or proceeding that may be conducted by any Government Agency, including providing documents or other information, without notice to the Company. This Plan does not limit Eligible Executive’s right to receive an award for information provided to any Government Agencies.

(f) Clawback. An Eligible Executive’s rights with respect to any benefit hereunder shall in all events be subject to (i) any right that the Company may have under any Company recoupment policy or other agreement or arrangement with a participant, or (ii) any right or obligation that the Company may have regarding the clawback of “incentive-based compensation” under Section 10D of the Exchange Act and any applicable rules and regulations promulgated thereunder from time to time by the U.S. Securities and Exchange Commission.

## **ARTICLE V** **ADMINISTRATION OF THE PLAN**

### **5.1 General Administration**

The Committee shall be responsible for the operation and administration of the Plan and for carrying out the provisions hereof. The Committee shall have the full authority and discretion to make, amend, interpret, and enforce all appropriate rules and regulations for the administration of this Plan and decide or resolve any and all questions, including interpretations of this Plan, as may arise in connection with this Plan. Any such action taken by the Committee shall be final and conclusive on any party. To the extent the Committee has been granted discretionary authority under the Plan, the Committee’s prior exercise of such authority shall not obligate it to exercise its authority in a like fashion thereafter. The Committee shall be entitled to rely conclusively upon all tables, valuations, certificates, opinions and reports furnished by any actuary, accountant, controller, counsel or other person employed or engaged by the Company with respect to the Plan. The Committee may, from time to time, employ agents



and delegate to such agents, including employees of the Company, such administrative or other duties as it sees fit.

## 5.2 **Claims for Benefits**

(a) **Filing a Claim.** An Eligible Executive or his authorized representative may file a claim for benefits under the Plan. Any claim must be in writing and submitted to the Company's Executive Vice President – Human Resources at the Company's corporate headquarters office. Claimants will be notified in writing of approved claims, which will be processed as claimed. A claim is considered approved only if its approval is communicated in writing to a claimant.

(b) **Denial of Claim.** In the case of the denial of a claim respecting benefits paid or payable with respect to an Eligible Executive, a written notice will be furnished to the claimant within 90 days of the date on which the claim is received by the Company's Executive Vice President – Human Resources. If special circumstances (such as for a hearing) require a longer period, the claimant will be notified in writing, prior to the expiration of the 90-day period, of the reasons for an extension of time; provided, however, that no extensions will be permitted beyond 90 days after the expiration of the initial 90-day period.

(c) **Reasons for Denial.** A denial or partial denial of a claim will be dated and will clearly set forth:

- (i) the specific reason or reasons for the denial;
- (ii) specific reference to pertinent Plan provisions on which the denial is based;
- (iii) a description of any additional material or information necessary for the claimant to perfect the claim and an explanation of why such material or information is necessary; and
- (iv) an explanation of the procedure for review of the denied or partially denied claim set forth below, including the claimant's right to bring a legal action under ERISA section 502(a) following an adverse benefit determination on review, including an action for binding arbitration under Section 7.3.

(d) **Review of Denial.** Upon denial of a claim, in whole or in part, a claimant or his duly authorized representative will have the right to submit a written request to the Committee for a full and fair review of the denied claim by filing a written notice of appeal with the Committee within 60 days of the receipt by the claimant of written notice of the denial of the claim. A claimant or the claimant's authorized representative will have, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to the claimant's claim for benefits and may submit issues and comments in writing. The review will take into account all comments, documents, records, and other

information submitted by the claimant relating to the claim, without regard to whether such information was submitted or considered in the initial benefit determination.

If the claimant fails to file a request for review within 60 days of the denial notification, the claim will be deemed abandoned and the claimant precluded from reasserting it. If the claimant does file a request for review, his request must include a description of the issues and evidence he deems relevant. Failure to raise issues or present evidence on review will preclude those issues or evidence from being presented in any subsequent proceeding or review of the claim.

(e) Decision Upon Review. The Committee will provide a prompt written decision on review. If the claim is denied on review, the decision shall set forth:

- (i) the specific reason or reasons for the adverse determination;
- (ii) specific reference to pertinent Plan provisions on which the adverse determination is based;
- (iii) a statement that the claimant is entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to the claimant's claim for benefits; and
- (iv) a statement describing any voluntary appeal procedures offered by the Plan and the claimant's right to obtain the information about such procedures, as well as a statement of the claimant's right to bring a legal action under ERISA section 502(a), including an action for binding arbitration under Section 7.3.

A decision will be rendered no more than 60 days after the Committee's receipt of the request for review, except that such period may be extended for an additional 60 days if the Committee determines that special circumstances (such as for a hearing) require such extension. If an extension of time is required, written notice of the extension will be furnished to the claimant before the end of the initial 60-day period.

(f) Limitations Period. Any legal action initiated by a claimant under the Plan must be brought by the claimant no later than one year following a final decision on the claim for benefits by the Committee. The one-year limitation on legal action for benefits will apply in any forum where a claimant initiates such legal action.

### 5.3 Indemnification

To the extent not covered by insurance, the Company shall indemnify the Committee, each employee, officer, director, and agent of the Company, and all persons formerly serving in such capacities, against any and all liabilities or expenses, including all legal fees relating thereto, arising in connection with the exercise of their duties and responsibilities with respect to the Plan, provided however that the Company shall not indemnify any person for liabilities or expenses due to that person's own gross negligence or willful misconduct.

**ARTICLE VI**  
**TERMINATION AND AMENDMENT OF PLAN**

**6.1 Termination of Plan**

The Company's Board of Directors or the Compensation Committee may terminate the Plan at any time, without prior notice. Upon termination of the Plan, except with respect to benefits due resulting from a Termination of Employment prior to such Plan termination, all rights to benefits hereunder, if any, shall cease. Any separation agreement executed by an Eligible Executive under Section 4.1 shall survive the Plan's termination.

**6.2 Amendment of Plan**

The severance benefits provided for in the Plan are not vested benefits. Accordingly, the Company reserves the right in its sole and absolute discretion, to amend or modify the Plan at any time, in whole or in part, including any or all of the provisions of the Plan, by action of its Board of Directors or the Compensation Committee, in its sole discretion, without prior notice.

**6.3 Successors to the Company**

The Company will require any successor (whether direct or indirect, by purchase, merger, consolidation, or otherwise) of all or substantially all of the business and/or assets of the Company to expressly assume and agree to perform the Company's obligations under this Plan in the same manner and to the same extent that the Company would be required to perform them if such succession had not taken place.

**ARTICLE VII**  
**MISCELLANEOUS**

**7.1 Funding**

The benefits provided herein shall be funded by the Company's general assets. The Plan shall constitute an unfunded mechanism for the Company to pay Plan benefits to Eligible Executives determined to be entitled to payments hereunder. No fund or trust is created with respect to the Plan, and no Eligible Executive shall have any security or other interest in the assets of the Company.

**7.2 No Contract of Employment**

The Plan does not constitute or imply the existence of an employment contract between the Company or any affiliate and any Eligible Executive. Employment with the Company is "at will," unless an employment contract in fact exists.

**7.3 Governing Law and Forum Selection**

To the extent not governed by federal law, the Plan shall be interpreted under the laws of the State of Delaware notwithstanding any conflict of law principles. Eligible Executive agrees

that any dispute, controversy or claim arising out of or related to this Plan, including the validity of this arbitration clause, or any breach of this Plan shall be submitted to and decided by binding arbitration. Arbitration shall be conducted in accordance with the American Arbitration Association's Employment Arbitration Rules then in effect, as modified by the Company's Early Dispute Resolution Program Rules and Procedures (STEPS) then in effect. Any arbitral award determination shall be final and binding upon the parties and may be entered as a judgment in a court of competent jurisdiction.

7.4 **Severability**

In the event any provision of the Plan shall be held invalid or illegal for any reason, any illegality or invalidity shall not affect the remaining parts of the Plan, but the Plan shall be construed and enforced as if the illegal or invalid provision had never been inserted.

7.5 **Words and Headings**

Words in the masculine gender shall include the feminine and the singular shall include the plural, and vice versa, unless qualified by the context. Any headings used herein are included for ease of reference only, and are not to be construed so as to alter the terms hereof.

IN WITNESS WHEREOF, Burlington Stores, Inc. has caused this Plan to be executed by its duly authorized officer this 26th day of March, 2021.

BURLINGTON STORES, INC.

By: /s/ Joyce Manning Magrini  
Name: Joyce Manning Magrini  
Title: Executive Vice President HR

BURLINGTON STORES, INC.  
EXECUTIVE SEVERANCE PLAN

Amended and Restated Effective March 26, 2021

**ARTICLE I**  
**PURPOSE**

This Burlington Stores, Inc. Executive Severance Plan (the “Plan”) provides severance benefits to Eligible Executives upon certain terminations of employment. The Plan was effective May 16, 2017 and has been amended and restated, effective March 26, 2021 (the “Effective Date”).

The Plan is intended (1) to be exempt from Code section 409A, and (2) to be a welfare plan which is unfunded and is maintained by an employer for the purpose of providing benefits for a select group of management or “highly compensated employees” within the meaning of Department of Labor Regulation section 2520.104-24. Notwithstanding any other provision of this Plan, this Plan shall be interpreted, operated and administered in a manner consistent with these intentions.

**ARTICLE II**  
**DEFINED TERMS**

Whenever used in the Plan, the following terms shall have the meanings set forth below:

“Cause” means, with respect to an Eligible Executive’s termination of employment, the following: (a) in the case where there is no employment agreement, consulting agreement, change in control agreement or similar agreement in effect between the Company or any of its subsidiaries and the Eligible Executive (or where there is such an agreement but it does not define “cause” (or words of like import)), termination due to an Eligible Executive’s insubordination, dishonesty, fraud, incompetence, moral turpitude, willful misconduct, refusal to perform the Eligible Executive’s duties or responsibilities for any reason other than illness or incapacity or materially unsatisfactory performance of the Eligible Executive’s duties for the Company or any of its subsidiaries, as determined by the Committee in its good faith discretion; or (b) in the case where there is an employment agreement, consulting agreement, change in control agreement or similar agreement in effect between the Company or any of its subsidiaries and the Eligible Executive that defines “cause” (or words of like import), “cause” as defined under such agreement; provided, however, that with regard to any agreement under which the definition of “cause” only applies on occurrence of a change in control, such definition of “cause” shall not apply until a change in control actually takes place and then only with regard to a termination thereafter.

“Code” shall mean the Internal Revenue Code of 1986, as amended.

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“Committee” shall mean the health and welfare benefits committee of the Company (or its successor), or such other body as the Compensation Committee may designate from time to time.

“Company” shall mean Burlington Stores, Inc.

“Compensation Committee” shall mean the Compensation Committee of the Board of Directors of the Company (or its successor).

“Competing Business” means each of the following entities, together with their respective subsidiaries, affiliates, successors and assigns: Macy’s, Inc., the TJX Companies, Inc. and Ross Stores, Inc.

“Effective Date” shall have the meaning set forth in Article I.

“Eligible Executive” shall have the meaning set forth in Article III.

“ERISA” shall mean the Employee Retirement Income Security Act of 1974, as amended.

“Good Reason” means the occurrence of any of the following events without the written consent of the Eligible Executive: (i) a material diminution of the Eligible Executive’s duties or the assignment to the Eligible Executive of duties that are inconsistent in any substantial respect with the position, authority or responsibilities associated with the Eligible Executive’s position, other than any such authorities, duties or responsibilities assigned at any time which are by their nature, or which are identified at the time of assignment, as being temporary or short-term; (ii) the Company’s or a subsidiary’s (as applicable) requiring the Eligible Executive to be based at a location which is fifty (50) or more miles from the Eligible Executive’s principal office location on the date the Eligible Executive commences employment; or (iii) a material diminution of the Eligible Executive’s annual compensation; provided, however, no condition enumerated in the preceding shall be deemed to be “Good Reason” unless within thirty (30) days of the initial existence of such condition, the Eligible Executive shall have given the Company written notice thereof specifically describing the condition giving rise to “Good Reason” and allowing the Company or its subsidiary (as applicable) a period of at least thirty (30) days from the date of receipt of the notice to remedy such condition. Notwithstanding the foregoing, in no event will a condition give rise to “Good Reason” hereunder unless within ten (10) days after the expiration of the period provided in the Eligible Executive’s notice for the Company or subsidiary (as applicable) to remedy said condition but in no event later than one hundred and twenty (120) days after initial existence of said condition, the Eligible Executive shall have actually terminated his or her employment with the Company or subsidiary by giving written notice of resignation for failure of the Company or subsidiary (as applicable) to remedy such condition.

“Non-Compete Period” shall mean one (1) year.

“Participation and Restrictive Covenant Agreement” shall mean the written agreement evidencing participation under this Plan and the restrictive covenants being agreed to as a condition to participate in this Plan between the Company and the applicable employee.

“Plan” shall mean this Burlington Stores, Inc. Executive Severance Plan, as amended from time to time.

“Termination of Employment” shall mean an individual’s termination of employment with the Company and all of its subsidiaries and affiliates, and to the extent Code section 409A applies to an Eligible Executive’s severance pay benefits, as described in Section 4.2, “Termination of Employment” means a “separation from service” within the meaning of Code section 409A.

### **ARTICLE III** **ELIGIBILITY**

An employee (other than the Company’s Chief Executive Officer or any participant in the Burlington Stores, Inc. Executive Severance Plan (Merchandising & Planning)) (i) who is employed at the title of Senior Vice President or above of the Company or one of its subsidiaries, including without limitation, Burlington Coat Factory Warehouse Corporation and Burlington Merchandising Corporation, who (x) is a participant in the Plan as of the Effective Date, (y) is hired on or after the Effective Date or (z) elects in writing on a form, as determined by the Committee, to participate in the Plan in lieu of his or her rights under any effective employment agreement, and (ii) if required by the Company, enters into a Participation and Restrictive Covenant Agreement within 30 days of such agreement being delivered to employee, shall be eligible for participation in the Plan and considered an “Eligible Executive.”

In the event an otherwise Eligible Executive is covered by an authorized individual written employment, noncompetition or severance agreement that provides for the payment of severance pay or other termination or post-termination pay, whether in the form of weeks or months of pay or a flat dollar amount, the terms of such other arrangement shall be honored in terms of the time, form and amount of pay, but such other pay (of whatever nature) shall not be duplicative of severance pay under this Plan. In such event, no such duplicate payment shall be made from this Plan. In the event this Plan provides severance pay in excess of the amount payable under such other arrangement (or provides for severance benefits not available under such other arrangement, such as subsidized COBRA continuation benefits), then only the additional severance pay (or benefits) shall be made under the Plan in accordance with the payment schedule otherwise set forth under this Plan.

### **ARTICLE IV** **SEVERANCE BENEFITS**

#### **4.1 Entitlement to Benefits**

An Eligible Executive who (a) is involuntarily terminated without Cause or within the two-year period immediately following a “Change in Control” (as defined in the Burlington

Stores, Inc. 2013 Omnibus Incentive Plan or a successor plan thereto) voluntarily terminates for Good Reason, (b) has not breached as of the date of the Eligible Executive's Termination of Employment any covenant or restriction set forth in Section 4.8, and (c) signs and does not revoke a separation agreement in accordance with the timeframe established by the Committee, will be entitled to receive benefits under this Article IV; provided that all such steps must be completed within 60 days of the Eligible Executive's Termination of Employment. Such separation agreement shall contain a release of claims against the Company and its subsidiaries and such restrictive covenants (e.g., non-competition, non-solicitation, and non-disparagement covenants) and provisions as the Committee determines appropriate in its sole discretion, including without limitation, the covenants and restrictions set forth in Section 4.8. Such separation agreement shall also provide that the benefits under this Article IV shall terminate upon the occurrence of a breach by the Eligible Executive of any restrictive covenant set forth in Section 4.8.

An Eligible Executive working in any part, unit or function of the Company or one of its subsidiaries that is divested, outsourced, closed, or relocated to a different geographic area (as determined by the Committee in its sole discretion), and who is terminated by the Company or one of its subsidiaries as a direct result thereof, will be eligible for benefits under the Plan. However, such an Eligible Executive will forfeit eligibility for benefits if he or she resigns voluntarily prior to the Termination of Employment date specified for them (other than as provided above in the case of voluntary termination by an Eligible Executive for Good Reason within the two-year period immediately following a Change in Control). Further, Plan benefits will not commence or will be discontinued if comparable employment is offered with the buyer in connection with a Change in Control or with the Company or one of its subsidiaries, one of the Company's shareholders, or a third-party outsourcing firm, unless the Committee, in its sole discretion, determines otherwise. For this purpose, "comparable employment" means a position with comparable compensation and responsibility (i.e., does not result in a material diminution of the Eligible Executive's annual compensation) and within 50 miles of the Eligible Executive's primary place of employment with the Company or one of its subsidiaries prior to the relevant transaction.

#### 4.2 **Severance Pay Benefits**

Severance pay benefits shall begin only after satisfaction of the requirements in Section 4.1. An Eligible Executive entitled to benefits under this Article IV will receive a severance pay benefit equal to the Eligible Executive's annual base salary on the date of his Termination of Employment, and such severance pay benefit shall accrue and be payable for the one-year period following the date of his or her Termination of Employment. The severance pay benefit will be paid net of applicable tax withholding on the Company's normal payroll cycle and shall commence 60 days after the Eligible Executive's Termination of Employment. Any payments that accrue and are otherwise payable under this Section 4.2 prior to commencing payments shall be accumulated and paid in a lump sum as soon as practicable after such requirements are satisfied.

#### 4.3 **Bonus**



An Eligible Executive entitled to severance pay benefits under Section 4.1 will be eligible for an additional payment equal to a “pro-rata” portion of the bonus he or she would have received under the Company’s Annual Incentive Plan – Corporate (the “Corporate Plan”) for the fiscal year in which his or her Termination of Employment occurred. For purposes of this Section 4.3, the pro-rata bonus (if any) will be based on the payout formula under the Corporate Plan, regardless of the annual incentive plan in which the Eligible Executive actually participated during such fiscal year, and shall be equal to (i) the bonus amount the Eligible Executive would have been entitled to receive under the Corporate Plan for that fiscal year, assuming the Eligible Executive had been employed through the date bonuses are paid under such plan for that year, and otherwise calculated under the terms of such plan based on the Company’s actual performance for that fiscal year; multiplied by (ii) the fraction the numerator of which is the actual number of days employed during the fiscal year prior to the Eligible Executive’s Termination of Employment divided by the number of days in such fiscal year (the “Pro-rata Bonus”). The Pro-rata Bonus contemplated by this Section 4.3 will be paid in a lump sum when the annual bonuses are paid to active employees under the terms of the Corporate Plan.

To the extent unpaid as of the Eligible Executive’s Termination of Employment, an Eligible Executive entitled to severance pay benefits under Section 4.1 will also be entitled to receive the bonus (if any) that would otherwise have been earned by the Eligible Executive under the annual incentive plan of the Company or one of its subsidiaries in which the Eligible Executive participated for the fiscal year prior to the year of his or her Termination of Employment assuming he or she had remained employed through the date bonuses are paid under such plan for that fiscal year. Such bonus (if any) will be paid in a lump sum when the annual bonuses are paid to active employees under the terms of the applicable annual incentive plan.

#### 4.4 **Death Benefits**

If an Eligible Executive is entitled to severance pay benefits under Sections 4.2 and 4.3 and dies before receiving such amounts, the remaining portion will be paid to the Eligible Executive’s spouse, or, if the Eligible Executive is not married at the time of death, the remainder of the benefits will be paid to the Eligible Executive’s estate.

#### 4.5 **Other Benefits**

An Eligible Executive entitled to benefits under the Plan will receive continued welfare benefits (including medical, dental, and vision coverage) while severance payments are being made. Such welfare benefits will be provided on the same terms and conditions, including contributions required of the Eligible Executive for such benefits, as those which the Eligible Executive was receiving immediately prior to his or her Termination of Employment (the “Subsidized Coverage”). Such coverage will count toward, and run concurrently with the Eligible Executive’s period of COBRA coverage. Accordingly, the Eligible Executive shall be receiving COBRA continuation coverage effectively at the active employee premium contribution rate in effect at the time of the Eligible Executive’s Termination of Employment. In addition, the Committee will provide an Eligible Executive entitled to benefits under the Plan with outplacement assistance for 6 months.

#### 4.6 **Effect of Future Employment**

An Eligible Executive who becomes employed by another employer during any portion of the severance period is required to notify the Company of such employment within 10 business days. The amount of an Eligible Executive's severance pay shall not be decreased by any compensation received from another employer during the severance period. In the event an Eligible Executive is employed by another employer during any portion of the severance period and is eligible to receive medical, dental and vision coverage from such other employer, the Eligible Executive will cease to be entitled to the continued Subsidized Coverage as provided in Section 4.5 of this Plan as of the date of his or her eligibility for benefits in such other employer's plan. All benefits under the Plan will cease if an Eligible Executive becomes re-employed by the Company.

#### 4.7 **Section 409A Restrictions**

Notwithstanding anything in this Plan to the contrary, in the event any benefit paid to a participant under the Plan constitutes "deferred compensation" for purposes of Code section 409A, all payments to such Eligible Executive shall be paid as provided in this Section 4.7. Code section 409A places certain restrictions on when severance pay benefits may be distributed if the Eligible Executive is considered a "specified employee" under Code section 409A (generally, "specified employees" are the 50 highest-paid U.S. employees of the Company in a given year) and the severance pay benefits are considered "deferred compensation" under Code section 409A. Not all severance pay under this Plan, however, is considered deferred compensation for these purposes.

(a) Any payments provided under the Plan on or before the 15<sup>th</sup> day of the third month following the later of: (i) the last day of the calendar year or (ii) the last day of the Company's fiscal year, containing the date of the Eligible Executive's "separation from service" (as defined by Section 409A) (the "Short-Term Deferral Period"), will be treated as a short-term deferral under Treasury Regulation § 1.409A-1(b)(4) and not deferred compensation under Code section 409A.

(b) If any payments are provided to an Eligible Executive under the Plan after the last day of the Short-Term Deferral Period, then to the extent the total of such payments does not exceed the limit provided under the Code section 409A exemption for involuntary separation pay, such payments will be considered separation pay due to involuntary separation from service under Treasury Regulation § 1.409A-1(b)(9)(iii) and not deferred compensation under Code section 409A.

(c) If the Eligible Executive is entitled to additional payments under the Plan that are not described in subsections (a) or (b) above, and the Eligible Executive is considered a "specified employee" under Code section 409A (as applied according to Company procedures), such payments will not be made until the earlier of (a) the first day of the seventh month following the date of the Eligible Executive's Termination of Employment, or (b) the Eligible Executive's death. Any delayed payments will be paid in the aggregate in a lump sum, without

interest, on the first day of the seventh month following the date of the Eligible Executive's Termination of Employment.

(d) For purposes of Code section 409A, each "payment" (as defined by Code section 409A) made under this Plan is considered a "separate payment."

4.8 **Covenants, Restrictions and Recoupment**

(a) **Non-Compete, Non-Solicitation.**

(i) Eligible Executive acknowledges and agrees that during the course of Eligible Executive's employment with the Company and its subsidiaries Eligible Executive shall become familiar with the Company's trade secrets and with other confidential information and that Eligible Executive's services have been and shall be of special, unique and extraordinary value to the Company and its subsidiaries, and therefore, Eligible Executive agrees that, during his or her employment with the Company and during the Non-Compete Period, Eligible Executive shall not directly or indirectly (whether as an owner, partner, shareholder, agent, officer, director, employee, independent contractor, consultant or otherwise) own any interest in, operate, invest in, manage, control, participate in, consult with, render services for (alone or in association with any person or entity), or in any manner engage in any business activity on behalf of a Competing Business within any geographical area in which the Company or its subsidiaries operates or plan to operate. Nothing herein shall prohibit Eligible Executive from being a passive owner of not more than 2% of the outstanding stock of any class of a corporation which is publicly traded, so long as Eligible Executive has no active participation in the business of such corporation.

(ii) During the Non-Compete Period, Eligible Executive shall not, directly or indirectly, and shall ensure that any person or entity controlled by Eligible Executive does not, (i) induce or attempt to induce any employee of the Company or any subsidiary to leave the employ of the Company or such subsidiary, or in any way interfere with the relationship between the Company or any subsidiary and any employee thereof, (ii) hire, directly or through another person, any person (whether or not solicited) who was an employee of the Company or any subsidiary at any time within the one year period before Eligible Executive's termination from employment, (iii) induce or attempt to induce any customer, supplier, licensee, licensor, franchisee or other business relation of the Company or any subsidiary to cease doing business with the Company or such subsidiary, engage in or assist any person or entity in engaging in any Competing Business or in any way interfere with the relationship between any such customer, supplier, licensee, or business relation and the Company or any subsidiary, or (iv) make or solicit or encourage others to make or solicit directly or indirectly any defamatory statement or communication about the Company or any of its subsidiaries or any of their respective businesses, products, services or activities (it being understood that such restriction shall not prohibit truthful testimony compelled by valid legal process).

(b) **Confidential Information.**

(i) Eligible Executive acknowledges and agrees that the information, observations and data (including trade secrets) obtained by Eligible Executive while employed by the Company and its subsidiaries concerning the business or affairs of the Company and its subsidiaries are the confidential information (“Confidential Information”), and the property, of the Company and/or its subsidiaries. Without limiting the foregoing, the term “Confidential Information” shall be interpreted as broadly as possible to include all observations, data and other information of any sort that are (i) related to any past, current or potential business of the Company or any of its subsidiaries or any of their respective predecessors, and any other business related to any of the foregoing, and (ii) not generally known to and available for use by those within the line of business or industry of the Company or by the public (except to the extent such information has become generally known to and available for use by the public as a direct or indirect result of Eligible Executive’s acts or omissions) including all (A) Work Product (as defined below); (B) information concerning development, acquisition or investment opportunities in or reasonably related to the business or industry of the Company or any of its subsidiaries of which Eligible Executive is aware or becomes aware during the term of his or her employment; (C) information identifying or otherwise concerning any current, former or prospective suppliers, distributors, contractors, agents or customers of the Company or any of its subsidiaries; (D) development, transition, integration and transformation plans, methodologies, processes and methods of doing business; (E) strategic, marketing, promotional and financial information (including all financial statements), business and expansion plans, including plans and information regarding planned, projected and/or potential sales, pricing, discount and cost information; (F) information identifying or otherwise concerning employees, independent contractors and consultants; (G) information on new and existing programs and services, prices, terms, and related information; (H) the terms of this Plan; (I) all information marked, or otherwise designated, as confidential by the Company or any of its subsidiaries or which Eligible Executive should reasonably know is confidential or proprietary information of the Company or any of its subsidiaries; (J) all information or materials similar or related to any of the foregoing, in whatever form or medium, whether now existing or arising hereafter (and regardless of whether merely stored in the mind of Eligible Executive or employees or consultants of the Company or any of its subsidiaries, or embodied in a tangible form or medium); and (K) all tangible embodiments of any of the foregoing.

(ii) Therefore, Eligible Executive agrees that, except as otherwise set forth in Section 4.8(e) or as required by law or court order, including, without limitation, depositions, interrogatories, court testimony, and the like (and in such case provided that Executive must give the Company and/or its subsidiaries, as applicable, prompt written notice of any such legal requirement, disclose no more information than is so required and seek, at the Company’s sole cost and expense, confidential treatment where available and cooperate fully with all efforts by the Company and/or its subsidiaries to obtain a protective order or similar confidentiality treatment for such information), Executive shall not disclose to any unauthorized person or entity or use for Executive’s own purposes any Confidential Information without the prior written consent of the Company, unless and to the extent that the Confidential Information becomes generally known to and available for use by the public other than as a direct or indirect result of Executive’s acts or omissions. Executive shall deliver to the Company at the termination or expiration of the Employment Period, or at any other time the Company may

request, all memoranda, notes, plans, records, reports, computer tapes, printouts and software and other documents and data (and copies thereof) embodying or relating to the Confidential Information (including any Work Product (as defined below)) or the business of the Company and its subsidiaries which Executive may then possess or have under Executive's control and if, at any time thereafter, any such materials are brought to Executive's attention or Executive discovers them in his possession or control, Executive shall deliver such materials to the Company immediately upon such notice or discovery.

(c) Intellectual Property, Inventions and Patents. Eligible Executive acknowledges and agrees that all discoveries, concepts, ideas, inventions, innovations, improvements, developments, methods, specifications, designs, analyses, drawings, reports, patents and patent applications, processes, programs, systems, software, firmware, materials, plans, sketches, models, know-how, devices, developments, data, databases, technology, trade secrets, works of authorship, copyrightable works and mask works (whether or not including any confidential information) and all registrations or applications related thereto, all other intellectual property or proprietary information and all similar or related information (whether or not patentable or copyrightable and whether or not reduced to tangible form or practice) which relate to the Company's or any of its subsidiaries' actual or anticipated business, research and development or existing or future products or services and which are conceived, developed or made by Eligible Executive (whether alone or jointly with others) while employed by the Company or its predecessors and its subsidiaries ("Work Product") shall be deemed to be "work made for hire" (as defined in the Copyright Act, 17 U.S.C.A. §101 et seq., as amended) and owned exclusively by the Company. To the extent that any Work Product is not deemed to be "work made for hire" under applicable law, and all right, title and interest in and to such Work Product have not automatically vested in the Company, Eligible Executive hereby (A) irrevocably assigns, transfers and conveys, and shall assign transfer and convey, to the full extent permitted by applicable law, all right, title and interest in and to the Work Product on a worldwide basis to the Company (or such other person or entity as the Company shall designate), without further consideration, and (B) waives all moral rights in or to all Work Product, and to the extent such rights may not be waived, agrees not to assert such rights against the Company or its respective licensees, successors or assigns. Eligible Executive shall, at the Company's expense, execute all documents and perform all actions reasonably requested by the Company (whether during or after the employment period) to establish, confirm, evidence, effectuate, maintain, protect, enforce, perfect, record, patent or register any of the Company's rights hereunder (including, without limitation, assignments, consents, powers of attorney and other instruments).

(d) 18 U.S.C. § 1833(b) states: "An individual shall not be held criminally or civilly liable under any Federal or State trade secret law for the disclosure of a trade secret that—(A) is made—(i) in confidence to a Federal, State, or local government official, either directly or indirectly, or to an attorney; and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or (B) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal." Accordingly, the Eligible Executive has the right to disclose in confidence trade secrets to Federal, State, and local government officials, or to an attorney, for the sole purpose of reporting or investigating a suspected violation of

law. The Eligible Executive also has the right to disclose trade secrets in a document filed in a lawsuit or other proceeding, but only if the filing is made under seal and protected from public disclosure. Nothing in this Agreement is intended to conflict with 18 U.S.C. § 1833(b) or create liability for disclosures of trade secrets that are expressly allowed by 18 U.S.C. § 1833(b).

(e) Eligible Executive understands that nothing contained in this Plan limits Eligible Executive's ability to file a charge or complaint with the Equal Employment Opportunity Commission, the National Labor Relations Board, the Occupational Safety and Health Administration, the Securities and Exchange Commission or any other federal, state or local governmental agency or commission ("Government Agencies"). Eligible Executive further understands that this Plan does not limit Eligible Executive's ability to communicate with any Government Agencies or otherwise participate in any investigation or proceeding that may be conducted by any Government Agency, including providing documents or other information, without notice to the Company. This Plan does not limit Eligible Executive's right to receive an award for information provided to any Government Agencies.

(f) Clawback. An Eligible Executive's rights with respect to any benefit hereunder shall in all events be subject to (i) any right that the Company may have under any Company recoupment policy or other agreement or arrangement with a participant, or (ii) any right or obligation that the Company may have regarding the clawback of "incentive-based compensation" under Section 10D of the Exchange Act and any applicable rules and regulations promulgated thereunder from time to time by the U.S. Securities and Exchange Commission.

## **ARTICLE V** **ADMINISTRATION OF THE PLAN**

### **5.1 General Administration**

The Committee shall be responsible for the operation and administration of the Plan and for carrying out the provisions hereof. The Committee shall have the full authority and discretion to make, amend, interpret, and enforce all appropriate rules and regulations for the administration of this Plan and decide or resolve any and all questions, including interpretations of this Plan, as may arise in connection with this Plan. Any such action taken by the Committee shall be final and conclusive on any party. To the extent the Committee has been granted discretionary authority under the Plan, the Committee's prior exercise of such authority shall not obligate it to exercise its authority in a like fashion thereafter. The Committee shall be entitled to rely conclusively upon all tables, valuations, certificates, opinions and reports furnished by any actuary, accountant, controller, counsel or other person employed or engaged by the Company with respect to the Plan. The Committee may, from time to time, employ agents and delegate to such agents, including employees of the Company, such administrative or other duties as it sees fit.

### **5.2 Claims for Benefits**

(a) Filing a Claim. An Eligible Executive or his authorized representative may file a claim for benefits under the Plan. Any claim must be in writing and submitted to the

Company's Executive Vice President – Human Resources at the Company's corporate headquarters office. Claimants will be notified in writing of approved claims, which will be processed as claimed. A claim is considered approved only if its approval is communicated in writing to a claimant.

(b) Denial of Claim. In the case of the denial of a claim respecting benefits paid or payable with respect to an Eligible Executive, a written notice will be furnished to the claimant within 90 days of the date on which the claim is received by the Company's Executive Vice President – Human Resources. If special circumstances (such as for a hearing) require a longer period, the claimant will be notified in writing, prior to the expiration of the 90-day period, of the reasons for an extension of time; provided, however, that no extensions will be permitted beyond 90 days after the expiration of the initial 90-day period.

(c) Reasons for Denial. A denial or partial denial of a claim will be dated and will clearly set forth:

- (i) the specific reason or reasons for the denial;
- (ii) specific reference to pertinent Plan provisions on which the denial is based;
- (iii) a description of any additional material or information necessary for the claimant to perfect the claim and an explanation of why such material or information is necessary; and
- (iv) an explanation of the procedure for review of the denied or partially denied claim set forth below, including the claimant's right to bring a legal action under ERISA section 502(a) following an adverse benefit determination on review, including an action for binding arbitration under Section 7.3.

(d) Review of Denial. Upon denial of a claim, in whole or in part, a claimant or his duly authorized representative will have the right to submit a written request to the Committee for a full and fair review of the denied claim by filing a written notice of appeal with the Committee within 60 days of the receipt by the claimant of written notice of the denial of the claim. A claimant or the claimant's authorized representative will have, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to the claimant's claim for benefits and may submit issues and comments in writing. The review will take into account all comments, documents, records, and other information submitted by the claimant relating to the claim, without regard to whether such information was submitted or considered in the initial benefit determination.

If the claimant fails to file a request for review within 60 days of the denial notification, the claim will be deemed abandoned and the claimant precluded from reasserting it. If the claimant does file a request for review, his request must include a description of the issues and evidence he deems relevant. Failure to raise issues or present evidence on review will preclude

those issues or evidence from being presented in any subsequent proceeding or review of the claim.

(e) Decision Upon Review. The Committee will provide a prompt written decision on review. If the claim is denied on review, the decision shall set forth:

- (i) the specific reason or reasons for the adverse determination;
- (ii) specific reference to pertinent Plan provisions on which the adverse determination is based;
- (iii) a statement that the claimant is entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to the claimant's claim for benefits; and
- (iv) a statement describing any voluntary appeal procedures offered by the Plan and the claimant's right to obtain the information about such procedures, as well as a statement of the claimant's right to bring a legal action under ERISA section 502(a), including an action for binding arbitration under Section 7.3.

A decision will be rendered no more than 60 days after the Committee's receipt of the request for review, except that such period may be extended for an additional 60 days if the Committee determines that special circumstances (such as for a hearing) require such extension. If an extension of time is required, written notice of the extension will be furnished to the claimant before the end of the initial 60-day period.

(f) Limitations Period. Any legal action initiated by a claimant under the Plan must be brought by the claimant no later than one year following a final decision on the claim for benefits by the Committee. The one-year limitation on legal action for benefits will apply in any forum where a claimant initiates such legal action.

### 5.3 Indemnification

To the extent not covered by insurance, the Company shall indemnify the Committee, each employee, officer, director, and agent of the Company, and all persons formerly serving in such capacities, against any and all liabilities or expenses, including all legal fees relating thereto, arising in connection with the exercise of their duties and responsibilities with respect to the Plan, provided however that the Company shall not indemnify any person for liabilities or expenses due to that person's own gross negligence or willful misconduct.

## ARTICLE VI TERMINATION AND AMENDMENT OF PLAN

### 6.1 Termination of Plan

The Company's Board of Directors or the Compensation Committee may terminate the Plan at any time, without prior notice. Upon termination of the Plan, except with respect to



benefits due resulting from a Termination of Employment prior to such Plan termination, all rights to benefits hereunder, if any, shall cease. Any separation agreement executed by an Eligible Executive under Section 4.1 shall survive the Plan's termination.

## 6.2 **Amendment of Plan**

The severance benefits provided for in the Plan are not vested benefits. Accordingly, the Company reserves the right in its sole and absolute discretion, to amend or modify the Plan at any time, in whole or in part, including any or all of the provisions of the Plan, by action of its Board of Directors or the Compensation Committee, in its sole discretion, without prior notice.

## 6.3 **Successors to the Company**

The Company will require any successor (whether direct or indirect, by purchase, merger, consolidation, or otherwise) of all or substantially all of the business and/or assets of the Company to expressly assume and agree to perform the Company's obligations under this Plan in the same manner and to the same extent that the Company would be required to perform them if such succession had not taken place.

## **ARTICLE VII** **MISCELLANEOUS**

### 7.1 **Funding**

The benefits provided herein shall be funded by the Company's general assets. The Plan shall constitute an unfunded mechanism for the Company to pay Plan benefits to Eligible Executives determined to be entitled to payments hereunder. No fund or trust is created with respect to the Plan, and no Eligible Executive shall have any security or other interest in the assets of the Company.

### 7.2 **No Contract of Employment**

The Plan does not constitute or imply the existence of an employment contract between the Company or any affiliate and any Eligible Executive. Employment with the Company is "at will," unless an employment contract in fact exists.

### 7.3 **Governing Law and Forum Selection**

To the extent not governed by federal law, the Plan shall be interpreted under the laws of the State of Delaware notwithstanding any conflict of law principles. Eligible Executive agrees that any dispute, controversy or claim arising out of or related to this Plan, including the validity of this arbitration clause, or any breach of this Plan shall be submitted to and decided by binding arbitration. Arbitration shall be conducted in accordance with the American Arbitration Association's Employment Arbitration Rules then in effect, as modified by the Company's Early Dispute Resolution Program Rules and Procedures (STEPS) then in effect. Any arbitral award determination shall be final and binding upon the parties and may be entered as a judgment in a court of competent jurisdiction.

7.4 **Severability**

In the event any provision of the Plan shall be held invalid or illegal for any reason, any illegality or invalidity shall not affect the remaining parts of the Plan, but the Plan shall be construed and enforced as if the illegal or invalid provision had never been inserted.

7.5 **Words and Headings**

Words in the masculine gender shall include the feminine and the singular shall include the plural, and vice versa, unless qualified by the context. Any headings used herein are included for ease of reference only, and are not to be construed so as to alter the terms hereof.

IN WITNESS WHEREOF, Burlington Stores, Inc. has caused this Plan to be executed by its duly authorized officer this 26th day of March, 2021.

BURLINGTON STORES, INC.

By: /s/ Joyce Manning Magrini  
Name: Joyce Manning Magrini  
Title: Executive Vice President HR

I, Michael O'Sullivan, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Burlington Stores, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 27, 2021

/s/ Michael O'Sullivan

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Michael O'Sullivan  
Chief Executive Officer  
(Principal Executive Officer)

I, John Crimmins, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Burlington Stores, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 27, 2021

/s/ John Crimmins

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John Crimmins  
Executive Vice President and Chief Financial Officer  
(Principal Financial Officer)

**CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350  
AS ADOPTED PURSUANT TO SECTION 906 OF  
THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report of Burlington Stores, Inc. (the "Company") on Form 10-Q for the fiscal quarter ended May 1, 2021, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Michael O'Sullivan, Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. §1350, as adopted pursuant to §906 of the Sarbanes-Oxley Act of 2002, that:

- (1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial position and results of operations of the Company.

Date: May 27, 2021

/s/ Michael O'Sullivan

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Michael O'Sullivan

Chief Executive Officer

(Principal Executive Officer)

**CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350  
AS ADOPTED PURSUANT TO SECTION 906 OF  
THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report of Burlington Stores, Inc. (the "Company") on Form 10-Q for the fiscal quarter ended May 1, 2021, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, John Crimmins, Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. §1350, as adopted pursuant to §906 of the Sarbanes-Oxley Act of 2002, that:

- (1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial position and results of operations of the Company.

Date: May 27, 2021

/s/ John Crimmins

John Crimmins

Executive Vice President and Chief Financial Officer  
(Principal Financial Officer)