

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

Form 10-K

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT
OF 1934

For the fiscal year ended OCTOBER 31, 2019

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

Commission file number: 1-8551

Hovnanian Enterprises, Inc.

(Exact Name of Registrant as Specified in Its Charter)

Delaware

(State or Other Jurisdiction of Incorporation or Organization)

22-1851059

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

90 Matawan Road, Fifth Floor, Matawan, NJ

(Address of Principal Executive Offices)

07747

(Zip Code)

732-747-7800

(Registrant's Telephone Number, Including Area Code)

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

Title of each class	Trading symbol(s)	Name of each exchange on which registered
Class A Common Stock \$0.01 par value per share	HOV	New York Stock Exchange
Preferred Stock Purchase Rights(1)	N/A	New York Stock Exchange
Depository Shares each representing 1/1,000th of a share of 7.625% Series A Preferred Stock	HOVNP	Nasdaq Global Market

(1) Each share of Common Stock includes an associated Preferred Stock Purchase Right. Each Preferred Stock Purchase Right initially represents the right, if such Preferred Stock Purchase Right becomes exercisable, to purchase from the Company one ten-thousandth of a share of its Series B Junior Preferred Stock for each share of Common Stock. The Preferred Stock Purchase Rights currently cannot trade separately from the underlying Common Stock.

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act of 1933. Yes No

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

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

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§ 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes No

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

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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 Accelerated Filer Nonaccelerated Filer Smaller Reporting Company Emerging Growth Company

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 aggregate market value of the voting and nonvoting common equity held by non-affiliates computed by reference to the price at which the common equity was last sold, or the average bid and asked price of such common equity as of April 30, 2019 (the last business day of the registrant’s most recently completed second fiscal quarter) was \$73,971,400.

Indicate the number of shares outstanding of each of the issuer’s classes of common stock, as of the latest practicable date. 5,503,301 shares of Class A Common Stock and 622,690 shares of Class B Common Stock were outstanding as of December 13, 2019.

HOVNANIAN ENTERPRISES, INC.

DOCUMENTS INCORPORATED BY REFERENCE:

Part III — Those portions of the registrant’s definitive proxy statement to be filed pursuant to Regulation 14A in connection with registrant’s annual meeting of stockholders to be held on March 24, 2020, which are responsive to those parts of Part III, Items 10, 11, 12, 13 and 14 as identified herein.

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PART I

ITEM 1

BUSINESS

Business Overview

Hovnanian Enterprises, Inc. (“HEI”) conducts all of its homebuilding and financial services operations through its subsidiaries (references herein to the “Company”, “we”, “us” or “our” refer to HEI and its consolidated subsidiaries and should be understood to reflect the consolidated business of HEI’s subsidiaries). Through its subsidiaries, HEI designs, constructs, markets, and sells single-family detached homes, attached townhomes and condominiums, urban infill, and active lifestyle homes in planned residential developments and is one of the nation’s largest builders of residential homes. Founded in 1959 by Kevork Hovnanian, HEI was incorporated in New Jersey in 1967 and reincorporated in Delaware in 1983. Since the incorporation of HEI’s predecessor company, the Company combined with its unconsolidated joint ventures have delivered in excess of 342,000 homes, including 5,720 homes in fiscal 2019. The Company has two distinct operations: homebuilding and financial services. Our homebuilding operations consist of six segments: Northeast, Mid-Atlantic, Midwest, Southeast, Southwest and West. Our financial services operations provide mortgage loans and title services to the customers of our homebuilding operations.

We are currently, excluding unconsolidated joint ventures, offering homes for sale in 141 communities in 24 markets in 14 states throughout the United States. We market and build homes for first-time buyers, first-time and second-time move-up buyers, luxury buyers, active lifestyle buyers and empty nesters. We offer a variety of home styles at base prices ranging from \$153,000 to \$2,252,000 with an average sales price, including options, of \$394,000 nationwide in fiscal 2019.

Our operations span all significant aspects of the home-buying process – from design, construction, and sale, to mortgage origination and title services.

The following is a summary of our growth history:

1959 - Founded by Kevork Hovnanian as a New Jersey homebuilder.

1983 - Completed initial public offering.

1986 - Entered the North Carolina market through the investment in New Fortis Homes.

1992 - Entered the greater Washington, D.C. market.

1994 - Entered the Coastal Southern California market.

1998 - Expanded in the greater Washington, D.C. market through the acquisition of P.C. Homes.

1999 - Entered the Dallas, Texas market through our acquisition of Goodman Homes. Further diversified and strengthened our position as New Jersey’s largest homebuilder through the acquisition of Matzel & Mumford.

2001 - Continued expansion in the greater Washington D.C. and North Carolina markets through the acquisition of Washington Homes. This acquisition further strengthened our operations in each of these markets.

2002 - Entered the Central Valley market in Northern California and Inland Empire region of Southern California through the acquisition of Forecast Homes.

2003 - Expanded operations in Texas and entered the Houston market through the acquisition of Parkside Homes and Brighton Homes. Entered the greater Ohio market through our acquisition of Summit Homes and entered the greater metro Phoenix market through our acquisition of Great Western Homes.

2004 - Entered the greater Tampa, Florida market through the acquisition of Windward Homes and started operations in the Minneapolis/St. Paul, Minnesota market.

2005 - Entered the Orlando, Florida market through our acquisition of Cambridge Homes and entered the greater Chicago, Illinois market and expanded our position in Florida and Minnesota through the acquisition of the operations of Town & Country Homes, which occurred concurrently with our entering into a joint venture with affiliates of Blackstone Real Estate Advisors to own and develop Town & Country Homes’ existing residential communities. We also entered the Cleveland, Ohio market through the acquisition of Oster Homes.

2006 - Entered the coastal markets of South Carolina and Georgia through the acquisition of Craftbuilt Homes.

During fiscal 2016, we exited the Minneapolis, Minnesota and Raleigh, North Carolina markets and sold land portfolios in those markets. During fiscal 2018, we completed a wind down of our operations in the San Francisco Bay area in Northern California and in Tampa, Florida.

Geographic Breakdown of Markets by Segment

The Company markets and builds homes that are constructed in 16 of the nation's top 50 housing markets. We segregate our homebuilding operations geographically into the following six segments:

Northeast: New Jersey and Pennsylvania

Mid-Atlantic: Delaware, Maryland, Virginia, Washington, D.C. and West Virginia

Midwest: Illinois and Ohio

Southeast: Florida, Georgia and South Carolina

Southwest: Arizona and Texas

West: California

For financial information about our segments, see Item 7 "Management's Discussion and Analysis of Financial Condition and Results of Operations."

Employees

We employed 1,868 full-time employees (whom we refer to as associates) as of October 31, 2019.

Corporate Offices and Available Information

Our corporate offices are located at 90 Matawan Road, Fifth Floor, Matawan, New Jersey 07747 (See Item 2-Properties). Our telephone number is 732-747-7800, and our Internet web site address is www.khov.com. Information available on or through our web site is not a part of this Form 10-K. We make available free of charge through our web site our Annual Report on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K, and amendments to these reports filed or furnished pursuant to Section 13(d) or 15(d) of the Securities Exchange Act of 1934, as amended ("Exchange Act"), as soon as reasonably practicable after they are filed with, or furnished to, the Securities and Exchange Commission (SEC). Copies of the Company's Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K, and amendments to these reports are available free of charge upon request. The SEC maintains an Internet site (<http://www.sec.gov>) that contains reports, proxy and information statements and other information regarding issuers that file electronically with the SEC.

Business Strategies

Given the relatively low levels of total U.S. housing starts, and our belief in the long-term recovery of the homebuilding market, we remain focused on identifying new land parcels, which are critical to improving our financial performance. As discussed previously, we were limited in our ability to invest in land purchases in fiscal 2016 and 2017 due to significant debt maturities that we were unable to refinance and therefore had to pay at maturity. This reduction of investment led to a decrease in community count and revenues, which impacted our overall profitability. In the fourth quarter of fiscal 2016 and in July 2017, we were able to refinance certain of our debt maturities and again in fiscal 2018 and fiscal 2019 the Company entered into certain financing transactions which extended our debt maturities. These transactions provided us with the long term capital needed to implement our strategy to invest in land to grow the business to more significant profitability. However, there is typically a significant time lag from when we first control lots until the time that we open a community for sale. This timeline can vary significantly from a few months (in a market such as Houston) to three to five plus years (in a market such as New Jersey). For seven consecutive quarters through the third quarter of fiscal 2019, our total number of lots controlled increased as compared to the same period of the prior year. Although there was a slight decrease in total lots controlled of 3.2% as of October 31, 2019 as compared to October 31, 2018, the growth in lots controlled in previous quarters has led to the year-over-year community count growth. Our strategy has been to grow through increased open for sale communities. As our recently opened communities begin delivering homes, we believe it should lead to additional delivery and revenue growth, and in turn profitability, in future periods absent adverse market factors. We continue to see opportunities to purchase land at prices that make economic sense in light of our current sales prices and sales paces and plan to continue actively pursuing such land acquisitions. New land purchases at pricing that we believe will generate appropriate investment returns and drive greater operating efficiencies are needed to return to sustained profitability.

In addition to our current focus on maintaining adequate liquidity and evaluating new investment opportunities, we intend to continue to focus on our historic key business strategies, as enumerated below. We believe that these strategies separate us from our competitors in the residential homebuilding industry and the adoption, implementation and adherence to these principles will continue to benefit our business.

Our goal is to become a significant builder in each of the selected markets in which we operate, which will enable us to achieve powers and economies of scale and differentiate ourselves from most of our competitors.

As noted above, we offer a broad product array to provide housing to a wide range of customers. Our customers consist of first-time buyers, first-time and second-time move-up buyers, luxury buyers, active lifestyle buyers and empty nesters. Our diverse product array includes single-family detached homes, attached townhomes and condominiums, urban infill and active lifestyle homes.

We are committed to customer satisfaction and quality in the homes that we build. We recognize that our future success rests in the ability to deliver quality homes to satisfied customers. We seek to expand our commitment to customer service through a variety of quality initiatives. In addition, our focus remains on attracting and developing quality associates. We use several leadership development and mentoring programs to identify key individuals and prepare them for positions of greater responsibility within our Company.

We focus on achieving high return on invested capital. Each new community is evaluated based on its ability to meet or exceed internal rate of return requirements. Our belief is that the best way to create lasting value for our shareholders is through a strong focus on return on invested capital.

We prefer to use a risk-averse land acquisition strategy. We attempt to acquire land with a minimum cash investment and negotiate takedown options, thereby limiting the financial exposure to the amounts invested in property and predevelopment costs. This approach significantly reduces our risk and generally allows us to obtain necessary development approvals before acquisition of the land.

Our strategy includes homebuilding and land development joint ventures as a means of controlling lot positions, expanding our market opportunities, establishing strategic alliances, reducing our risk profile, leveraging our capital base and enhancing our returns on capital. Our homebuilding joint ventures are generally entered into with third-party investors to develop land and construct homes that are sold directly to home buyers. Our land development joint ventures include those with developers and other homebuilders, as well as financial investors to develop finished lots for sale to the joint venture's members or other third parties.

We manage our financial services operations to better serve all of our home buyers. Our current mortgage financing and title service operations enhance our contact with customers and allow us to coordinate the home-buying experience from beginning to end.

Operating Policies and Procedures

We attempt to reduce the effect of certain risks inherent in the housing industry through the following policies and procedures:

Training - Our training is designed to provide our associates with the knowledge, attitudes, skills and habits necessary to succeed in their jobs. Our training department regularly conducts online or webinar training in sales, construction, administration and managerial skills.

Land Acquisition, Planning, and Development - Before entering into a contract to acquire land, we complete extensive comparative studies and analyses which assist us in evaluating the economic feasibility of such land acquisition. We generally follow a policy of acquiring options to purchase land for future community developments.

- Where possible, we acquire land for future development through the use of land options, which need not be exercised before the completion of the regulatory approval process. We attempt to structure these options with flexible takedown schedules rather than with an obligation to take down the entire parcel upon receiving regulatory approval. If we are unable to negotiate flexible takedown schedules, we will buy parcels in a single bulk purchase. Additionally, we purchase improved lots in certain markets by acquiring a small number of improved lots with an option on additional lots. This allows us to minimize the economic costs and risks of carrying a large land inventory, while maintaining our ability to commence new developments during favorable market periods.
- Our option and purchase agreements are typically subject to numerous conditions, including, but not limited to, our ability to obtain necessary governmental approvals for the proposed community. Generally, the deposit on the agreement will be returned to us if all approvals are not obtained, although predevelopment costs may not be recoverable. By paying an additional nonrefundable deposit, we have the right to extend a significant number of our options for varying periods of time. In most instances, we have the right to cancel any of our land option agreements by forfeiture of our deposit on the agreement. In fiscal 2019, 2018 and 2017, rather than purchase additional lots in underperforming communities, we took advantage of this right and walked away from 5,153 lots, 2,777 lots and 3,930 lots, respectively, out of 23,157 total lots, 20,387 total lots and 17,837 total lots, respectively, under option, resulting in pretax charges of \$3.6 million, \$1.4 million and \$2.7 million, respectively.

Design - Our residential communities are generally located in urban and suburban areas easily accessible through public and personal transportation. Our communities are designed as neighborhoods that fit existing land characteristics. We strive to create diversity within the overall planned community by offering a mix of homes with differing architecture, textures and colors. Recreational amenities, such as swimming pools, tennis courts, clubhouses, open areas and tot lots, are frequently included.

Construction - We design and supervise the development and building of our communities. Our homes are constructed according to standardized prototypes, which are designed and engineered to provide innovative product design while attempting to minimize costs of construction. We generally employ subcontractors for the installation of site improvements and construction of homes. Agreements with subcontractors are generally short term and provide for a fixed price for labor and materials. We rigorously control costs through the use of computerized monitoring systems.

Because of the risks involved in speculative building, our general policy is to construct an attached condominium or townhouse building only after signing contracts for the sale of at least 50% of the homes in that building. A majority of our single-family detached homes are constructed after the signing of a sales contract and mortgage approval has been obtained. This limits the buildup of inventory of unsold homes and the costs of maintaining and carrying that inventory.

Materials and Subcontractors - We attempt to maintain efficient operations by utilizing standardized materials available from a variety of sources. In addition, we generally contract with subcontractors to construct our homes. We have reduced construction and administrative costs by consolidating the number of vendors serving certain markets and by executing national purchasing contracts with select vendors. In recent years, we have experienced some construction delays due to shortage of labor in certain markets like Houston, Dallas and Northern California; and we cannot predict the extent to which shortages in necessary materials or labor may occur in these or other markets in the future.

Marketing and Sales - Our residential communities are sold principally through on-site sales offices. In order to respond to our customers' needs and trends in housing design, we rely upon our internal market research group to analyze information gathered from, among other sources, buyer profiles, exit interviews at model sites, focus groups and demographic databases. We make use of our website, internet, newspaper, radio, television, magazine, billboard, video and direct mail advertising, special and promotional events, illustrated brochures and full-sized and scale model homes in our comprehensive marketing program. In addition, we have home design galleries in our Florida, Illinois, New Jersey, Ohio and Virginia markets, which offer a wide range of customer options to satisfy individual customer tastes.

Customer Service and Quality Control - In many of our markets, associates are responsible for customer service and preclosing quality control inspections as well as responding to postclosing customer needs. Prior to closing, each home is inspected and any necessary completion work is undertaken by us or our subcontractors. Our homes are enrolled in a standard limited warranty program which, in general, provides a homebuyer with a limited warranty for the home's materials and workmanship which follows each State's applicable statute of repose. All of the warranties contain standard exceptions, including, but not limited to, damage caused by the customer.

Customer Financing - We sell our homes to customers who generally finance their purchases through mortgages. Our financial services segment provides our customers with competitive financing and coordinates and expedites the loan origination transaction through the steps of loan application, loan approval, and closing and title services. We originate loans in each of the states in which we build homes. We believe that our ability to offer financing to customers on competitive terms as a part of the sales process is an important factor in completing sales.

During the year ended October 31, 2019, for the markets in which our mortgage subsidiaries originated loans, 11.1% of our home buyers paid in cash and 70.9% of our noncash home buyers obtained mortgages from our mortgage banking subsidiary. The loans we originated in fiscal 2019 were 65.8% prime and 29.8% Federal Housing Administration/Veterans Affairs ("FHA/VA"). The remaining 4.4% of our loan originations represent jumbo and/or USDA loans.

We sell virtually all of the loans and loan-servicing rights that we originate within a short period of time. Loans are sold either individually or against forward commitments to institutional investors, including banks, mortgage banking firms, and savings and loan associations.

Residential Development Activities

Our residential development activities include site planning and engineering, obtaining environmental and other regulatory approvals and constructing roads, sewer, water, and drainage facilities, recreational facilities, and other amenities and marketing and selling homes. These activities are performed by our associates, together with independent architects, consultants and contractors. Our associates also carry out long-term planning of communities. A residential development generally includes single-family detached homes and/or a number of residential buildings containing from two to 24 individual homes per building, together with amenities, such as club houses, swimming pools, tennis courts, tot lots and open areas.

Current base prices for our homes in contract backlog at October 31, 2019, range from \$153,000 to \$860,000 in the Northeast, from \$217,000 to \$2,252,000 in the Mid-Atlantic, from \$155,000 to \$622,000 in the Midwest, from \$227,000 to \$1,061,000 in the Southeast, from \$185,000 to \$575,000 in the Southwest and from \$239,000 to \$956,000 in the West. Closings generally occur and are typically reflected in revenues within six to nine months of when sales contracts are signed.

Information on homes delivered by segment for the year ended October 31, 2019, is set forth below:

(Housing revenue in thousands)	Housing Revenues	Homes Delivered	Average Price
Northeast	\$116,889	192	\$608,797
Mid-Atlantic	356,674	652	547,046
Midwest	203,734	680	299,609
Southeast	219,860	545	403,413
Southwest	627,201	1,866	336,121
West	425,324	1,011	420,696
Consolidated total	\$1,949,682	4,946	\$394,194
Unconsolidated joint ventures (1)	\$485,324	774	\$627,034

(1) Represents housing revenues and home deliveries for our unconsolidated homebuilding joint ventures for the period. We provide this data as a supplement to our consolidated results as an indicator of the volume managed in our unconsolidated joint ventures. See Note 20 to the Consolidated Financial Statements for a further discussion of our unconsolidated joint ventures.

The value of our net sales contracts, excluding unconsolidated joint ventures, increased 14.5% to \$2.1 billion for the year ended October 31, 2019 from \$1.8 billion for the year ended October 31, 2018. The number of homes contracted increased 14.3% to 5,340 in fiscal 2019 from 4,671 in fiscal 2018. The increase in the number of homes contracted occurred along with a 5.4% increase in the average number of open-for-sale communities from 130 for fiscal 2018 to 137 for fiscal 2019. We contracted an average of 39.0 homes per average active selling community in fiscal 2019 compared to 35.9 homes per average active selling community in fiscal 2018, an 8.6% increase in sales pace per community as our performance per community improved in fiscal 2019 as compared to fiscal 2018.

Information on the value of net sales contracts by segment for the years ended October 31, 2019 and 2018, is set forth below:

(Value of net sales contracts in thousands)	2019	2018	Percentage of Change
Northeast	\$172,950	\$74,730	131.4%
Mid-Atlantic	385,862	340,963	13.2%
Midwest	219,266	204,487	7.2%
Southeast	233,645	225,703	3.5%
Southwest	677,244	640,604	5.7%
West	411,577	348,726	18.0%
Consolidated total	\$2,100,544	\$1,835,213	14.5%
Unconsolidated joint ventures(1)	\$431,419	\$556,745	(22.5)%

(1) Represents net contract dollars for our unconsolidated homebuilding joint ventures for the period. We provide this data as a supplement to our consolidated results as an indicator of the volume managed in our unconsolidated joint ventures. See Note 20 to the Consolidated Financial Statements for a further discussion of our unconsolidated joint ventures.

The following table summarizes our active selling communities under development as of October 31, 2019. The contracted not delivered and remaining homes available in our active selling communities are included in the consolidated total homesites under the total residential real estate chart in Item 7 “Management’s Discussion and Analysis of Financial Condition and Results of Operations.”

Active Selling Communities

	Communities	Approved Homes	Homes Delivered	Contracted Not Delivered(1)	Remaining Homes Available(2)
Northeast	6	829	330	152	347
Mid-Atlantic	25	4,032	1,751	343	1,938
Midwest	16	2,902	1,144	450	1,308
Southeast	17	3,536	908	282	2,346
Southwest	58	8,783	4,296	663	3,824
West	19	4,407	1,942	301	2,164
Total	141	24,489	10,371	2,191	11,927

(1) Includes 278 home sites under option.

(2) Of the total remaining homes available, 843 were under construction or completed (including 80 models and sales offices), and 6,063 were under option.

Backlog

At October 31, 2019 and 2018, including unconsolidated joint ventures, we had a backlog of signed contracts for 2,652 homes and 2,192 homes, respectively, with sales values aggregating \$1.1 billion and \$977.3 million, respectively. The majority of our backlog at October 31, 2019 is expected to be completed and closed within the next six to nine months. At November 30, 2019 and 2018, our backlog of signed contracts, including unconsolidated joint ventures, was 2,775 homes and 2,248 homes, respectively, with sales values aggregating \$1.1 billion and \$1.0 billion, respectively. For information on our backlog excluding unconsolidated joint ventures, see the table on page 44 under Item 7 “Management’s Discussion and Analysis of Financial Condition and Results of Operations – Results of Operations -Homebuilding.”

Sales of our homes typically are made pursuant to a standard sales contract that provides the customer with a statutorily mandated right of rescission for a period ranging up to 15 days after execution. This contract requires a nominal customer deposit at the time of signing. In addition, in the Northeast, and some sections of the Mid-Atlantic and Midwest, we typically obtain an additional 5% to 10% down payment due within 30 to 60 days after signing. In most markets, an additional deposit is required when a customer selects and commits to optional upgrades in the home. The contract may include a financing contingency, which permits customers to cancel their obligation in the event mortgage financing at prevailing interest rates (including financing arranged or provided by us) is unobtainable within the period specified in the contract. This contingency period typically is four to eight weeks following the date of execution of the contract. When housing values decline in certain markets, some customers cancel their contracts and forfeit their deposits. Cancellation rates are discussed further in Item 7 “Management’s Discussion and Analysis of Financial Condition and Results of Operations.” Sales contracts are included in backlog once the sales contract is signed by the customer, which in some cases includes contracts that are in the rescission or cancellation periods. However, revenues from sales of homes are recognized in the Consolidated Statements of Operations, when title to the home is conveyed to the buyer, adequate initial and continuing investments have been received, and there is no continued involvement.

Residential Land Inventory in Planning

It is our objective to control a supply of land, primarily through options, whenever possible, consistent with anticipated homebuilding requirements in each of our housing markets. Controlled land (land owned and under option) as of October 31, 2019, exclusive of communities under development described above under “Active Selling Communities” and excluding unconsolidated joint ventures, is summarized in the following table. The proposed developable home sites in communities in planning are included in the 29,633 consolidated total home sites under the total residential real estate table in Item 7 “Management’s Discussion and Analysis of Financial Condition and Results of Operations” on page 37.

Communities in Planning

(Dollars in thousands)	Number of Proposed Communities	Proposed Developable Home Sites	Total Land Option Price	Book Value(1)
Northeast:				
Under option	31	2,791	\$218,368	\$11,078
Owned	2	7		\$1,870
Total	33	2,798		\$12,948
Mid-Atlantic:				
Under option	18	1,771	\$208,359	\$3,166
Owned	11	1,245		\$47,496
Total	29	3,016		\$50,662
Midwest:				
Under option	16	1,936	\$44,244	\$3,620
Owned	6	204		\$4,659
Total	22	2,140		\$8,279
Southeast:				
Under option	21	1,884	\$91,148	\$772
Owned	3	181		\$11,975
Total	24	2,065		\$12,747
Southwest:				
Under option	30	2,701	\$162,993	\$11,465
Owned	-	-		\$-
Total	30	2,701		\$11,465
West:				
Under option	5	580	\$37,002	\$3,114
Owned	14	2,215		\$9,350
Total	19	2,795		\$12,464
Totals:				
Under option	121	11,663	\$762,114	\$33,215
Owned	36	3,852		\$75,350
Combined total	157	15,515		\$108,565

(1) Properties under option also include costs incurred on properties not under option but which are under evaluation. For properties under option, as of October 31, 2019, option fees and deposits aggregated approximately \$20.4 million. As of October 31, 2019, we spent an additional \$12.8 million in nonrefundable predevelopment costs on such properties, including properties not under option but under evaluation.

We either option or acquire improved or unimproved home sites from land developers or other sellers. Under a typical agreement with the land developer, we purchase a minimal number of home sites. The balance of the home sites to be purchased is covered under an option agreement or a nonrecourse purchase agreement. During the declining homebuilding market, we decided to mothball (or stop development on) certain communities where we determined that current market conditions did not justify further investment at that time. When we decide to mothball a community, the inventory is reclassified on our Consolidated Balance Sheets from Sold and unsold homes and lots under development to Land and land options held for future development or sale. See Note 3 to the Consolidated Financial Statements for further discussion on mothballed communities. For additional financial information regarding our homebuilding segments, see Note 10 to the Consolidated Financial Statements.

Raw Materials

The homebuilding industry has from time to time experienced raw material and labor shortages. In particular, shortages and fluctuations in the price of lumber or in other important raw materials could result in delays in the start or completion of or increase the cost of developing one or more of our residential communities. We attempt to maintain efficient operations by utilizing standardized materials available from a variety of sources. In recent years, we have experienced some construction delays due to shortage of labor in certain markets like Houston, Dallas and Northern California. We cannot predict, however, the extent to which shortages in necessary raw materials or labor may occur in the future. In addition, we generally contract with subcontractors to construct our homes. We have reduced construction and administrative costs by consolidating the number of vendors serving certain markets and by executing national purchasing contracts with select vendors.

Seasonality

Our business is seasonal in nature and, historically, weather-related problems, typically in the fall, late winter and early spring, can delay starts or closings and increase costs.

Competition

Our homebuilding operations are highly competitive. We are among the top 15 homebuilders in the United States in both homebuilding revenues and home deliveries. We compete with numerous real estate developers in each of the geographic areas in which we operate. Our competition ranges from small local builders to larger regional builders to publicly owned builders and developers, some of which have greater sales and financial resources than we do. Previously owned homes and the availability of rental housing provide additional competition. We compete primarily on the basis of reputation, price, location, design, quality, service and amenities.

Regulation and Environmental Matters

We are subject to extensive and complex laws and regulations that affect the development of land and home building, sales and customer financing processes concerning zoning, building design, construction, and similar matters, including local regulations which impose restrictive zoning and density requirements in order to limit the number of homes that can eventually be built within the boundaries of a particular locality. In addition, we are subject to registration and filing requirements in connection with the construction, advertisement and sale of our communities in certain states and localities in which we operate even if all necessary government approvals have been obtained. We may also be subject to periodic delays or may be precluded entirely from developing communities due to building moratoriums that could be implemented in the future in the states in which we operate. Generally, such moratoriums relate to insufficient water or sewerage facilities or inadequate road capacity.

In addition, some state and local governments in markets where we operate have approved, and others may approve, slow-growth, or no-growth initiatives that could negatively affect the availability of land and building opportunities within those areas. Approval of these initiatives could adversely affect our ability to build and sell homes in the affected markets and/or could require the satisfaction of additional administrative and regulatory requirements, which could result in slowing the progress or increasing the costs of our homebuilding operations in these markets. Any such delays or costs could have a negative effect on our future revenues and earnings.

We are also subject to a variety of local, state, federal and foreign laws and regulations concerning protection of health and the environment, including those regulating the emission or discharge of materials into the environment, the management of storm water runoff at construction sites, the handling, use, storage and disposal of hazardous substances, impacts to wetlands and other sensitive environments, and the remediation of contamination at properties that we have owned or developed or currently own or are developing (“environmental laws”). The particular environmental laws which apply to any given community vary greatly according to the community site, the site’s environmental conditions and the present and former uses of the site. See Risk Factors – *“Homebuilders are subject to a number of federal, local, state, and foreign laws and regulations concerning the development of land, the homebuilding, sales, and customer financing processes and the protection of the environment, which can cause us to incur delays and costs associated with compliance and which can prohibit or restrict our activity in some regions or areas”*, Item 3 “Legal Proceedings” and Note 18 to the Consolidated Financial Statements.

Despite our past ability to obtain necessary permits and approvals for our communities, we anticipate that increasingly stringent requirements will be imposed on developers and homebuilders in the future. Although we cannot reliably predict the extent of any effect these requirements may have on us, they could result in time-consuming and expensive compliance programs and in substantial expenditures, which could cause delays and increase our cost of operations. In addition, our ability to obtain or renew permits or approvals and the continued effectiveness of permits already granted or approvals already obtained is dependent upon many factors, some of which are beyond our control, such as changes in policies, rules and regulations and their interpretation and application.

**ITEM 1A
RISK FACTORS**

You should carefully consider the following risks in addition to the other information included in this Annual Report on Form 10-K, including the Consolidated Financial Statements and the notes thereto.

The homebuilding industry is significantly affected by changes in general and local economic conditions, real estate markets, and weather and other environmental conditions, which could affect our ability to build homes at prices our customers are willing or able to pay, could reduce profits that may not be recaptured, could result in cancellation of sales contracts, and could affect our liquidity.

The homebuilding industry is cyclical, has from time to time experienced significant difficulties, and is significantly affected by changes in general and local economic conditions such as:

- Employment levels and wage and job growth;
- Availability and affordability of financing for home buyers;
- Interest rates;
- Adverse changes in tax laws;
- Foreclosure rates;
- Inflation;
- Consumer confidence;
- Housing demand in general and for our particular community locations and product designs, as well as consumer interest in purchasing a home compared to other housing alternatives;
- Population growth; and
- Availability of water supply in locations in which we operate.

Turmoil in the financial markets could affect our liquidity. In addition, our cash balances are primarily invested in short-term government-backed instruments. The remaining cash balances are held at numerous financial institutions and may, at times, exceed insurable amounts. We seek to mitigate this risk by depositing our cash in major financial institutions and diversifying our investments. In addition, our homebuilding operations often require us to obtain letters of credit. We have certain stand-alone letter of credit facilities and agreements pursuant to which letters of credit are issued. However, we may need additional letters of credit above the amounts provided under these facilities and letters of credit may not be issued under our current senior secured revolving credit facility. If we are unable to obtain such additional letters of credit as needed to operate our business, we would be adversely affected.

Weather conditions and man-made or natural disasters such as hurricanes, tornadoes, earthquakes, floods, droughts, fires and other environmental conditions can harm the local homebuilding business. For example, wildfires in California and hurricanes in Texas and Florida in recent years have at various times caused utility company delays, slowing of our production process, increased cost of operations and also have impacted our sales and construction activity in affected markets during the related time periods.

The difficulties described above could cause us to take longer and incur more costs to build our homes. In addition, our insurance may not fully cover business interruptions or losses caused by weather conditions and manmade or natural disasters and we may not be able to recapture increased costs by raising prices in many cases because we fix our prices up to 12 months in advance of delivery by signing home sales contracts. Some home buyers may also cancel or not honor their home sales contracts altogether.

A significant downturn in the homebuilding industry could materially and adversely affect our business.

The homebuilding industry experienced a significant and sustained downturn that began in 2007, during which the lowest volumes of housing starts were significantly below troughs in previous downturns. This downturn resulted in an industry-wide softening of demand for new homes due to a lack of consumer confidence, decreased availability of mortgage financing, and large supplies of resale and new home inventories, among other factors. In addition, an oversupply of alternatives to new homes, such as rental properties, resale homes and foreclosures, depressed prices and reduced margins for the sale of new homes. Industry conditions had a material adverse effect on our business and results of operations in fiscal years 2007 through 2011. Further, we had substantially increased our inventory through fiscal 2006, which required significant cash outlays and which increased our price and margin exposure as we worked through this inventory. Although the homebuilding market has improved in the last few years, the recovery has been slow by historical standards and the volume of housing starts is still below normal historical averages and our business, liquidity and results of operations continue to be impacted by the lasting effects of the significant and sustained downturn and it may continue to materially adversely affect our business and results of operations in future years. If the homebuilding industry experiences another significant or sustained downturn, it would materially adversely affect our business and results of operations in future years.

Several challenges, such as general U.S. economic uncertainty and the potential for more rapid inflation, extreme weather conditions, increasing cycle times due to labor shortages, increasing labor and materials costs, including because of changes in immigration laws and trends in labor migration, the restrictive mortgage lending environment and rising mortgage interest rates and regulatory changes, could further impact the housing market and, consequently, our performance. For example, if rising house construction costs substantially outpace increases in the income of potential purchasers we may be limited in our ability to raise home sales prices, which may result in lower gross margins.

Our high leverage may restrict our ability to operate, may prevent us from fulfilling our obligations, and may adversely affect our financial condition.

We have a significant amount of debt.

- Our debt (excluding nonrecourse secured debt and debt of our financial subsidiaries), as of October 31, 2019, including the debt of the subsidiaries that guarantee our debt, was \$1,549.1 million (\$1,480.0 million net of discount and premiums and debt issuance costs). Additionally, we have a \$125.0 million senior secured revolving credit facility, which was fully available for borrowing as of October 31, 2019.
- Our debt service payments for the year ended October 31, 2019, were \$829.8 million, which represented interest incurred and payments on the principal of our debt and do not include principal and interest on nonrecourse secured debt, debt of our financial subsidiaries and fees under our letter of credit and other credit facilities and agreements.

See Note 9 “Senior Notes and Credit Facilities” to our consolidated financial statements for a discussion of our recently completed financing transitions. See also Note 23 “Subsequent Events” to our consolidated financial statements for transactions related to our debt in the first quarter of fiscal 2020.

As of October 31, 2019, we had \$19.2 million in aggregate outstanding face amount of letters of credit issued under various letter of credit and other credit facilities and agreements, certain of which were collateralized by \$19.9 million of cash. Our fees for these letters of credit for the year ended October 31, 2019, which are based on both the used and unused portion of the facilities and agreements, were \$0.1 million. We also had substantial contractual commitments and contingent obligations, including \$202.9 million of performance bonds as of October 31, 2019. See Item 7 “Management’s Discussion and Analysis of Financial Condition and Results of Operations—Contractual Obligations.”

Our significant amount of debt could have important consequences. For example, it could:

- Limit our ability to obtain future financing for working capital, capital expenditures, acquisitions, debt service requirements, or other requirements;
- Require us to dedicate a substantial portion of our cash flow from operations to the payment of our debt and reduce our ability to use our cash flow for other purposes, including land investments;
- Require us to pay higher interest rates upon refinancing debt if interest rates rise or due to the concentration of debt maturities;
- Limit our flexibility in planning for, or reacting to, changes in our business;

- Place us at a competitive disadvantage because we have more debt than some of our competitors;
- Limit our ability to implement our strategies and operational actions;
- Require us to consider selling some of our assets or debt or equity securities, possibly on unfavorable terms, to satisfy obligations; and
- Make us more vulnerable to downturns in our business and general economic conditions.

Our ability to meet our debt service and other obligations will depend upon our future performance. We are engaged in businesses that are substantially affected by changes in economic cycles. Our revenues and earnings vary with the level of general economic activity in the markets we serve. Our businesses are also affected by customer sentiment and financial, political, business, and other factors, many of which are beyond our control. The factors that affect our ability to generate cash can also affect our ability to raise additional funds for these purposes through the sale of equity or debt securities, the refinancing of debt, or the sale of assets. Changes in prevailing interest rates may affect our ability to meet our debt service obligations to the extent we have any floating rate indebtedness. A higher interest rate on our debt service obligations could result in lower earnings or increased losses.

Our sources of liquidity are limited and may not be sufficient to meet our needs.

We are largely dependent on our current cash balance and future cash flows from operations (which may not be positive) to enable us to service our indebtedness, to cover our operating expenses, and/or to fund our other liquidity needs. Cash used in and provided from operating activities in fiscal 2019 and fiscal 2018 were \$249.1 million and \$66.8 million, respectively. Depending on the levels of our land purchases, we could generate negative or positive cash flow in future years. In 2016, we used a significant portion of cash to repay debt because financing was unavailable to us in the capital and loan markets. If the homebuilding industry does not experience improved conditions over the next several years, our cash flows could be insufficient to fund our obligations and support land purchases; if we cannot buy additional land we would ultimately be unable to generate future revenues from the sale of houses. In addition, we will need to refinance all or a portion of our debt on or before maturity, which we may not be able to do on favorable terms or at all. If our cash flows and capital resources are insufficient to fund our debt service obligations or we are unable to refinance our indebtedness, we may be forced to reduce or delay investments and capital expenditures, sell assets, seek additional capital, or restructure our indebtedness. These alternative measures may not be successful or, if successful, made on desirable terms and may not permit us to meet our debt service obligations. We have also entered into certain cash collateralized letters of credit agreements and facilities that require us to maintain specified amounts of cash in segregated accounts as collateral to support our letters of credit issued thereunder. If our available cash and capital resources are insufficient to meet our debt service and other obligations, we could face liquidity problems and might be required to dispose of material assets or operations to meet our debt service and other obligations. We may not be able to consummate those dispositions or the proceeds from the dispositions may not be permitted under the terms of our debt instruments to be used to service indebtedness or may not be adequate to meet any debt service obligations then due. For additional information about capital resources and liquidity, see Item 7 “Management’s Discussion and Analysis of Financial Condition and Results of Operations—Capital Resources and Liquidity.”

Our cash flows, liquidity and consolidated financial statements could be materially and adversely affected if we are unable to obtain letters of credit.

Our homebuilding operations often require us to obtain letters of credit. We have certain stand-alone letter of credit facilities and agreements pursuant to which letters of credit are issued. However, letters of credit may not be issued under our current senior secured revolving credit facility and we may need additional letters of credit above the amounts provided under these stand-alone facilities and agreements. If we are unable to obtain such additional letters of credit as needed to operate our business, we would be adversely affected.

We may have difficulty in obtaining the additional financing required to operate and develop our business.

Our operations require significant amounts of cash, and we may be required to seek additional capital, whether from sales of debt or equity securities or borrowing additional money, for the future growth and development of our business. The terms and/or availability of additional capital is uncertain. Moreover, the agreements governing our outstanding debt instruments contain provisions that restrict the debt we may incur in the future and our ability to pay dividends on equity. If we are not successful in obtaining sufficient capital, it could reduce our sales and may hinder our future growth and results of operations. In addition, pledging substantially all of our assets to support our senior secured revolving credit facility and our senior secured notes may make it more difficult to raise additional financing in the future.

Restrictive covenants in our debt instruments may restrict our and certain of our subsidiaries' ability to operate, and if our financial performance worsens, we may not be able to undertake transactions within the restrictions of our debt instruments.

The indentures governing our outstanding debt securities and our credit facilities impose certain restrictions on our and certain of our subsidiaries' operations and activities. The most significant restrictions relate to debt incurrence (including non-recourse indebtedness), creation of liens, repayment of certain indebtedness prior to its respective stated maturity, sales of assets (including in certain land banking transactions), cash distributions, (including paying dividends on common and preferred stock), capital stock repurchases, and investments by us and certain of our subsidiaries (including in joint ventures). Because of these restrictions, we are currently prohibited from paying dividends on our common and preferred stock and anticipate that we will remain prohibited for the foreseeable future.

The restrictions in our debt instruments could prohibit or restrict our and certain of our subsidiaries' activities, such as undertaking capital raising or restructuring activities or entering into other transactions. In addition, if we fail to comply with these restrictions or to make timely payments on this debt and other material indebtedness, an event of default could occur and our debt under these debt instruments could become due and payable prior to maturity. Any such event of default could lead to cross defaults under certain of our other debt or negatively impact other covenants. In any of these situations, we may be unable to amend the applicable instrument or obtain a waiver without significant additional cost, or at all. In such a situation, there can be no assurance that we would be able to obtain alternative financing. Any such situation could have a material adverse effect on the solvency of the Company.

The terms of our debt instruments allow us to incur additional indebtedness.

Under the terms of our indebtedness under our indentures and credit facilities, we have the ability, subject to our debt covenants, to incur additional amounts of debt, including secured debt. The incurrence of additional indebtedness could magnify the risks described above. In addition, certain obligations, such as standby letters of credit and performance bonds issued in the ordinary course of business, including those issued under our stand-alone letter of credit agreements and facilities, are not considered indebtedness under our debt instruments (and may be secured), and therefore, are not subject to limits in our debt covenants.

We could be adversely affected by a negative change in our credit rating.

Our ability to access capital on favorable terms is a key factor in our ability to service our indebtedness to cover our operating expenses and to fund our other liquidity needs. Negative rating actions by credit agencies, including downgrades, may make it more difficult and costly for us to access capital. Therefore, any downgrade by any of the principal credit agencies may exacerbate these difficulties. There can be no assurances that our credit ratings will not be downgraded in the future, whether as a result of deteriorating general economic conditions, a more protracted downturn in the housing industry, failure to successfully implement our operating strategy, the adverse impact on our results of operations or liquidity position of any of the above, or otherwise.

Our business is seasonal in nature and our quarterly operating results fluctuate.

Our quarterly operating results generally fluctuate by season. The construction of a customer's home typically begins after signing the agreement of sale and can take six to nine months or more to complete. Weather-related problems, typically in the fall, winter and early spring, can delay starts or closings and increase costs and thus reduce profitability. In addition, delays in opening communities could have an adverse effect on our sales and revenues. Due to these factors, our quarterly operating results will likely continue to fluctuate.

Our success depends on the availability of suitable undeveloped land and improved lots at acceptable prices and our having sufficient liquidity to fund such investments.

Our success in developing land and in building and selling homes depends in part upon the continued availability of suitable undeveloped land and improved lots at acceptable prices. The homebuilding industry is highly competitive for land that is suitable for residential development and the availability of undeveloped land and improved lots for purchase at favorable prices depends on a number of factors outside of our control, including the risk of competitive overbidding on land and lots, geographical or topographical constraints and restrictive governmental regulation. Should suitable land opportunities become less available, our ability to implement our strategies and operational actions would be limited and the number of homes we may be able to build and sell would be reduced, which would reduce revenue and profits. In addition, our ability to make land purchases will depend upon us having sufficient liquidity to fund such purchases. We may be at a disadvantage in competing for land compared to others who have more substantial cash resources.

Raw material and labor shortages and price fluctuations could delay or increase the cost of home construction and adversely affect our operating results.

The homebuilding industry is vulnerable to raw material and labor shortages and has from time to time experienced such shortages. In particular, shortages and fluctuations in the price of lumber or in other important raw materials could result in delays in the start or completion of, or increase the cost of, developing one or more of our residential communities. For example, manufacturers increased the price of drywall in 2013 by approximately 20% as compared to the prior year. Pricing for labor and raw materials can be affected by various national, regional, local, economic and political factors. For example, although the tariffs recently imposed on products from China and elsewhere have not had a material impact on our financial results to date, future government-imposed tariffs and trade regulations on imported building supplies could have significant impacts on the cost to construct our homes or on our customer's budgets and may therefore have a more significant impact on our business in the future. Delays or cost increases caused by raw material and labor shortages and price fluctuations, including as a result of inflation or wage increases, could also harm our operating results, the impact of which may be further affected depending on our ability to raise sales prices to offset increased costs. We have experienced some labor shortages and increased labor costs over the past few years. The cost of labor may be adversely affected by changes in immigration laws and trends in labor migration. If rising labor and house construction costs substantially outpace increases in the income of potential purchasers we may be limited in our ability to raise home sale prices, which may result in lower gross margins.

We rely on subcontractors to construct our homes and may incur costs or losses if these subcontractors fail to properly construct our homes or manage and pay their employees.

We engage subcontractors to perform the actual construction of our homes and, in some cases, to select and obtain building materials. Therefore, the timing and quality of our construction depends on the availability, skill, and cost of our subcontractors. Despite our quality control efforts, we may discover that our subcontractors failed to properly construct our homes or may use defective materials. The occurrence of such events could require us to repair the homes in accordance with our standards and as required by law. The cost of satisfying our legal obligations in these instances may be significant, and we may be unable to recover the cost of repair from subcontractors and insurers.

We also can suffer damage to our reputation, and may be exposed to possible liability, if subcontractors fail to comply with applicable laws. When we learn about possibly improper practices by subcontractors, we attempt to cause the subcontractors to discontinue them and may terminate the use of such subcontractors. However, attempts at mitigation may not avoid claims against us relating to actions of or matters relating to our subcontractors that are out of our control. For example, although we do not have the ability to control what these independent subcontractors pay their own employees, or their own subcontractors, or the work rules they impose on such personnel, federal and state governmental agencies, including the U.S. National Labor Relations Board, have sought, and may in the future seek, to hold contracting parties like us responsible for subcontractors' violations of wage and hour laws, or workers' compensation, collective bargaining and/or other employment-related obligations related to subcontractors' workforces. Governmental agency determinations or attempts by others to make us responsible for subcontractors' labor practices or obligations, could create substantial adverse exposure for us in these types of situations even though not within our control.

We also can suffer damage to our reputation, and may be exposed to possible liability, if subcontractors fail to comply with applicable laws, including laws involving actions or matters that are not within our control.

When we learn about possibly improper practices by subcontractors, we attempt to cause the subcontractors to discontinue them and may terminate the use of such subcontractors. However, attempts at mitigation may not avoid claims against us relating to actions of or matters relating to our subcontractors.

Products supplied to us and work done by subcontractors can expose us to risks that could adversely affect our business.

We rely on subcontractors to perform the actual construction of our homes, and, in some cases, to select and obtain building materials. Despite our detailed specifications and quality control procedures, in some cases, subcontractors may use improper construction processes or defective materials. Defective products widely used by the homebuilding industry can result in the need to perform extensive repairs to large numbers of homes. The cost of complying with our warranty obligations may be significant if we are unable to recover the cost of repairs from subcontractors, materials suppliers and insurers.

Changes in economic and market conditions could result in the sale of homes at a loss or holding land in inventory longer than planned, the cost of which can be significant.

Land inventory risk can be substantial for homebuilders. We must continuously seek and make acquisitions of land for expansion into new markets and for replacement and expansion of land inventory within our current markets. We incur many costs even before we begin to build homes in a community. Depending on the stage of development of a land parcel when we acquire it, these may include costs of preparing land, finishing and entitling lots, installing roads, sewers, water systems and other utilities, taxes and other costs related to ownership of the land on which we plan to build homes. The market value of undeveloped land, buildable lots, and housing inventories can fluctuate significantly as a result of changing economic and market conditions. In the event of significant changes in economic or market conditions, we may have to sell homes at a loss or hold land in inventory longer than planned. In the case of land options, we could choose not to exercise them, in which case we would write-off the value of these options. Inventory carrying costs can be significant and can result in losses in a poorly performing project or market. The assessment of communities for indication of impairment is performed quarterly. While we consider available information to determine what we believe to be our best estimates as of the reporting period, these estimates are subject to change in future reporting periods as facts and circumstances change. See Item 7 “Management’s Discussion and Analysis of Financial Condition and Results of Operation—Critical Accounting Policies.” For example, during more recent years, we did not have significant land option write-offs or impairments; however, during fiscal 2011, 2010 and 2009, we decided not to exercise many option contracts and walked away from land option deposits and predevelopment costs, which resulted in land option write-offs of \$24.3 million, \$13.2 million, and \$45.4 million, respectively. Also, in fiscal 2011, 2010 and 2009, as a result of the difficult market conditions, we recorded inventory impairment losses on owned property of \$77.5 million, \$122.5 million and \$614.1 million, respectively. If market conditions worsen, additional inventory impairment losses and land option write-offs will likely be necessary.

We conduct a significant portion of our business in Arizona, California, Florida, New Jersey, Ohio, Texas and Virginia, and accordingly, regional factors affecting home sales and activities in these markets may have a large impact on our results of operations.

We presently conduct a significant portion of our business in Arizona, California, Florida, New Jersey, Ohio, Texas and Virginia, which subjects us to risks associated with the regional and local economies of these markets. Home prices and sales activities in these markets and in most of the other markets in which we operate have declined from time to time, particularly as a result of slow economic growth. These markets may also depend, to a degree, on certain sectors of the economy and any declines in those sectors may impact home sales and activities in that region. For example, to the extent the oil and gas industries, which can be very volatile, are negatively impacted by declining commodity prices, climate change, legislation or other factors, it could result in reduced employment, or other negative economic consequences, which in turn could adversely impact our home sales and activities in Texas. Furthermore, precarious economic and budget situations at the state government level may adversely affect the market for our homes in the affected areas. Weather-related or other events impacting these markets could also negatively affect these markets as well as the other markets in which we operate. If home prices and sales activity decline in one or more of the markets in which we operate, our costs may not decline at all or at the same rate and the Company’s business, financial condition and results of operations could be materially adversely affected. See also “—The homebuilding industry is significantly affected by changes in general and local economic conditions, real estate markets, and weather and other environmental conditions, which could affect our ability to build homes at prices our customers are willing or able to pay, could reduce profits that may not be recaptured, could result in cancellation of sales contracts, and could affect our liquidity.”

Increases in cancellations of agreements of sale could have an adverse effect on our business.

Our backlog reflects agreements of sale with our home buyers for homes that have not yet been delivered. We have received a deposit from our home buyer for each home, which is reflected in our backlog, and we generally have the right to retain the deposit if the home buyer does not complete the purchase. In some situations, however, a home buyer may cancel the agreement of sale and receive a complete or partial refund of the deposit for reasons such as state and local law, his or her inability to obtain mortgage financing at prevailing interest rates (including financing arranged or provided by us), his or her inability to sell his or her current home, or our inability to complete and deliver the home within the specified time. At October 31, 2019, including unconsolidated joint ventures, we had a backlog of signed contracts for 2,652 homes with a sales value aggregating \$1.1 billion. If mortgage financing becomes less accessible, or if economic conditions deteriorate, more home buyers may cancel their agreements of sale with us, which could have an adverse effect on our business and results of operations.

Interest rates have been at historic lows over the last several years and may increase. Because almost all of our customers require mortgage financing, increases in interest rates or the decreased availability of mortgage financing could impair the affordability of our homes, lower demand for our products, limit our marketing effectiveness, and limit our ability to fully realize our backlog.

Virtually all of our customers finance their acquisitions through lenders providing mortgage financing. Mortgage rates have remained low compared to most historical periods for the last several years, which has made the homes we sell more affordable. However, we cannot predict whether interest rates will continue to fall, remain low or rise. Increases in interest rates (or the perception that interest rates will rise, including as a result of government actions), increases in the costs to obtain mortgages or decreases in availability of mortgage financing could lower demand for new homes because of the increased monthly mortgage costs and cash required to close on mortgages to potential home buyers. Even if potential customers do not need financing, changes in interest rates and mortgage availability could make it harder for them to sell their existing homes to potential buyers who need financing. This could prevent or limit our ability to attract new customers as well as our ability to fully realize our backlog because our sales contracts generally include a financing contingency. Financing contingencies permit the customer to cancel his/her obligation in the event mortgage financing at prevailing interest rates, including financing arranged or provided by us, is unobtainable within the period specified in the contract. This contingency period is typically four to eight weeks following the date of execution of the sales contract. We believe that the availability of mortgage financing, including through federal government agencies or government-sponsored enterprises (such as Federal National Mortgage Association, Federal Home Loan Mortgage Corporation and FHA/VA financing), is an important factor in marketing many of our homes. Any limitations or restrictions on the availability of mortgage financing could reduce our sales. Further, if we are unable to originate mortgages for any reason going forward, our customers may experience significant mortgage loan funding issues, which could have a material impact on our homebuilding business and our consolidated financial statements.

Increases in the after-tax costs of owning a home could prevent potential customers from buying our homes and adversely affect our business or financial results.

Significant expenses of owning a home, including mortgage interest expenses and real estate taxes, have historically been deductible expenses for an individual's federal, and in some cases state, income taxes, subject to limitations under tax law and policy. The "Tax Cuts and Jobs Act" which was signed into law in December 2017 includes provisions which impose significant limitations with respect to these income tax deductions. For instance, the annual deduction for real estate taxes and state and local income taxes (or sales taxes in lieu of income taxes) is now generally limited to \$10,000. Furthermore, through the end of 2025, the deduction for mortgage interest is generally only available with respect to the first \$750,000 of a new mortgage and there is no longer a federal deduction for interest on home equity loans. In addition, if the federal government or a state government further changes its income tax laws to further eliminate or substantially limit these income tax deductions, the after-tax cost of owning a new home would further increase for many of our potential customers. The loss or reduction of these homeowner tax deductions that have historically been available has and could further reduce the perceived affordability of homeownership, and therefore the demand for and sales price of new homes, including ours. In addition, increases in property tax rates or fees on developers by local governmental authorities, as experienced in response to reduced federal and state funding or to fund local initiatives, such as funding schools or road improvements, or increases in insurance premiums can adversely affect the ability of potential customers to obtain financing or their desire to purchase new homes, and can have an adverse impact on our business and financial results.

We conduct certain of our operations through unconsolidated joint ventures with independent third parties in which we do not have a controlling interest. These investments involve risks and are highly illiquid.

We currently operate through a number of unconsolidated homebuilding and land development joint ventures with independent third parties in which we do not have a controlling interest. At October 31, 2019, we had invested an aggregate of \$127.0 million in these joint ventures, including advances to these joint ventures of \$1.4 million. In addition, as part of our strategy, we intend to continue to evaluate additional joint venture opportunities; however, we may be limited in pursuing all such desirable opportunities because the indentures governing our outstanding debt securities and our credit facilities impose certain restrictions, among others, on investments by us and certain of our subsidiaries (including in joint ventures).

These investments involve risks and are highly illiquid. There are a limited number of sources willing to provide acquisition, development, and construction financing to land development and homebuilding joint ventures, and if market conditions become more challenging, it may be difficult or impossible to obtain financing for our joint ventures on commercially reasonable terms. Over the past few years, it has been difficult to obtain financing for newly created joint ventures. In addition, we lack a controlling interest in these joint ventures and, therefore, are usually unable to require that our joint ventures sell assets or return invested capital, make additional capital contributions, or take any other action without the vote of at least one of our venture partners. Therefore, absent partner agreement, we will be unable to liquidate our joint venture investments to generate cash.

Homebuilders are subject to a number of federal, local, state, and foreign laws and regulations concerning the development of land, the homebuilding, sales, and customer financing processes and the protection of the environment, which can cause us to incur delays and costs associated with compliance and which can prohibit or restrict our activity in some regions or areas.

We are subject to extensive and complex laws and regulations that affect the development of land and homebuilding, sales and customer financing processes, including zoning, density, building standards and mortgage financing. These laws and regulations often provide broad discretion to the administering governmental authorities. This can delay or increase the cost of development or homebuilding. In addition, some state and local governments in markets where we operate have approved, and others may approve, slow-growth or no-growth initiatives that could negatively impact the availability of land and building opportunities within those areas. Approval of these initiatives could adversely affect our ability to build and sell homes in the affected markets and/or could require the satisfaction of additional administrative and regulatory requirements, which could result in slowing the progress or increasing the costs of our homebuilding operations in these markets. Any of the above delays or costs could have a negative effect on our future revenues and earnings.

We also are subject to a variety of local, state, federal and foreign laws and regulations concerning protection of health and the environment, including those regulating the emission or discharge of materials into the environment, the management of storm water runoff at construction sites, the handling, use, storage and disposal of hazardous substances, impacts to wetlands and other sensitive environments, and the remediation of contamination at properties that we have owned or developed or currently own or are developing (“environmental laws”). The particular environmental laws that apply to a site may vary greatly according to the community site, for example, due to the community, the environmental conditions at or near the site, and the present and former uses of the site. These environmental laws may result in delays, may cause us to incur substantial compliance, remediation and/or other costs, and can prohibit or severely restrict development and homebuilding activity. In addition, noncompliance with these laws and regulations could result in fines and penalties, obligations to remediate, permit revocations or other sanctions; and contamination or other environmental conditions at or in the vicinity of our developments may result in claims against us for personal injury, property damage or other losses. In addition, there is a growing concern from advocacy groups and the general public that the emissions of greenhouse gases and other human activities have caused, or will cause, significant changes in weather patterns and temperatures and the frequency and severity of natural disasters. Government mandates, standards and regulations enacted in response to these projected climate change impacts could result in restrictions on land development in certain areas or increased energy, transportation and raw material costs. There is a variety of legislation being enacted, or considered for enactment at the federal, state, local and international levels relating to energy and climate change. This legislation relates to items such as carbon dioxide emissions control and building codes that impose energy efficiency standards. New building code requirements that impose stricter energy efficiency standards could significantly increase out cost to construct homes.

We anticipate that increasingly stringent requirements will continue to be imposed on developers and homebuilders in the future. For example, for a number of years, the EPA and U.S. Army Corps of Engineers have been engaged in rulemakings to clarify the scope of federally regulated wetlands, which included a June 2015 rule many affected businesses contend impermissibly expanded the scope of such wetlands that was challenged in court, stayed, and remains in litigation. A proposal was made in June 2017 to formally rescind the June 2015 rule and reinstate the rule scheme previously in place while the agencies initiate a new substantive rulemaking on the issue. A February 2018 rule purported to delay the effective date of the June 2015 rule until February 2020, but was enjoined nationwide in August 2018 by a federal district court in South Carolina and later by a federal district court in the State of Washington in response to lawsuits (the net result of which, according to the EPA, is that the June 2015 rule applies in 22 states, the District of Columbia, and the United States territories, and that the pre-June 2015 regime applies in the rest). In October 2019, the EPA and U.S. Army Corps of Engineers promulgated a new rule, to become effective December 23, 2019, repealing the June 2015 rule and reinstating the previous rule scheme. It is unclear how these and related developments, including at the state or local level, ultimately may affect the scope of regulated wetlands where we operate. Although we cannot reliably predict the extent of any effect these developments regarding wetlands, or any other requirements that may take effect may have on us, they could result in time-consuming and expensive compliance programs and in substantial expenditures, which could cause delays and increase our cost of operations. In addition, our ability to obtain or renew permits or approvals and the continued effectiveness of permits already granted or approvals already obtained is dependent upon many factors, some of which are beyond our control, such as changes in policies, rules and regulations and their interpretations and application.

In March 2013, we received a letter from the Environmental Protection Agency (“EPA”) requesting information about our involvement in a housing redevelopment project in Newark, New Jersey that a Company entity undertook during the 1990s. We understand that the development is in the vicinity of a former lead smelter and that tests on soil samples from properties within the development conducted by the EPA showed elevated levels of lead. We also understand that the smelter ceased operations many years before the Company entity involved acquired the properties in the area and carried out the re-development project. We responded to the EPA’s request. In August 2013, we were notified that the EPA considers us a potentially responsible party (or “PRP”) with respect to the site, that the EPA will clean up the site, and that the EPA is proposing that we fund and/or contribute towards the cleanup of the contamination at the site. We began preliminary discussions with the EPA concerning a possible resolution but do not know the scope or extent of the Company’s obligations, if any, that may arise from the site and therefore cannot provide any assurance that this matter will not have a material impact on the Company. The EPA requested additional information in April 2014 and again in March 2017 and the Company responded to the information requests. On May 2, 2018 the EPA sent a letter to the Company entity demanding reimbursement for 100% of the EPA’s costs to clean-up the site in the amount of \$2.7 million. The Company responded to the EPA’s demand letter on June 15, 2018 setting forth the Company’s defenses and expressing its willingness to enter into settlement negotiations. The parties subsequently executed a Tolling Agreement to toll the statute of limitations on collection until December 20, 2019 and are preparing an agreement to extend it to June 20, 2020 to allow the parties time to discuss settlement. The Company received a letter from the EPA on November 4, 2019 asking if the Company remained interested in settlement negotiations. The Company responded affirmatively and such negotiations are ongoing. Two other PRPs identified by the EPA are now also in negotiations with the EPA and in preliminary negotiations with the Company regarding the site. In the course of negotiations, the EPA informed the Company that the New Jersey Department of Environmental Protection has also incurred costs remediating part of the site. We believe that we have adequate reserves for this matter.

In 2015, the condominium association of the Four Seasons at Great Notch condominium community (the “Great Notch Plaintiff”) filed a lawsuit in the Superior Court of New Jersey, Law Division, Passaic County (the “Court”) alleging various construction defects, design defects, and geotechnical issues relating to the community. The operative complaint (“Complaint”) asserts claims against Hovnanian Enterprises, Inc. and several of its affiliates, including K. Hovnanian at Great Notch, LLC, K. Hovnanian Construction Management, Inc., and K. Hovnanian Companies, LLC. The Complaint also asserts claims against various other design professionals and contractors. The Great Notch Plaintiff has also filed a motion, which remains pending, to permit it to pursue a claim to pierce the corporate veil of K. Hovnanian at Great Notch, LLC to hold its alleged parent entities liable for any damages awarded against it. To date, the Hovnanian-affiliated defendants have reached a partial settlement with the Great Notch Plaintiff as to a portion of the Great Notch Plaintiff’s claims against them for an amount immaterial to the Company. On its remaining claims against the Hovnanian-affiliated defendants, the Great Notch Plaintiff has asserted damages of approximately \$119.5 million, which amount is potentially subject to treble damages pursuant to the Great Notch Plaintiff’s claim under the New Jersey Consumer Fraud Act. On August 17, 2018, the Hovnanian-affiliated defendants filed a motion for summary judgment seeking dismissal of all of the Great Notch Plaintiff’s remaining claims against them, which was withdrawn without prejudice to re-file with supplemental evidence. The trial is currently scheduled for April 20, 2020. An initial court-ordered mediation session took place on November 19, 2019. An additional mediation session is contemplated, but has not yet been scheduled. The Hovnanian-affiliated defendants intend to defend these claims vigorously.

Legal claims not resolved in our favor, such as product liability litigation and warranty claims may be costly.

As discussed in Item 3 – “Legal Proceedings,” in the ordinary course of business we are involved in litigation from time to time, including with home owners associations, home buyers and other persons with whom we have relationships. For example, as a homebuilder, we are subject to construction defect and home warranty claims, including moisture intrusion and related claims, arising in the ordinary course of business. Such claims are common in the homebuilding industry and can be costly. For example, in the past we have received construction defect and home warranty claims associated with, and we were involved in a multidistrict litigation concerning, allegedly defective drywall manufactured in China that may have been responsible for noxious smells and accelerated corrosion of certain metals in certain homes we have constructed. We remediated certain homes in response to such claims and settled the litigation.

With regard to certain general liability exposures such as product liability claims, construction defect claims and related claims, assessment of claims and the related liability and reserve estimation process is highly judgmental and subject to a high degree of variability due to uncertainties such as trends in construction defect claims relative to our markets and the types of products we build, claim settlement patterns, insurance industry practices and legal interpretations, among others. Because of the high degree of judgment required in determining these estimated liability amounts, actual future costs could differ significantly from our currently estimated amounts. Furthermore, after claims are asserted for construction defects, it can be difficult to determine the extent to which assertions of such claims will expand geographically. For example, the Company has been a party to litigation in New Jersey concerning alleged defects in construction (see Item 3 – “Legal Proceedings” and Note 18 to our Consolidated Financial Statements for the year ended October 31, 2019). In addition, the amount and scope of coverage offered by insurance companies is currently limited, and this coverage may be further restricted and become more costly. If we are not able to obtain adequate insurance against such claims, if the costs associated with such claims significantly exceed the amount of our insurance coverage, or if our insurers do not pay on claims under our policies (whether because of dispute, inability, or otherwise), we may experience losses that could hurt our financial results.

Our financial results could also be adversely affected if we were to experience an unusually high number of claims or unusually severe claims. Our insurance companies have the right to review our claims and claims history, and do so from time to time, and could decline to pay on such claims if such reviews determine the claims did not meet the terms for coverage. Additionally, we may need to significantly increase our construction defect and home warranty reserves as a result of insurance not being available for any of the reasons discussed above, such claims or the results of our annual actuarial study.

Mortgage investors could seek to have us buy back loans or compensate them for losses incurred on mortgages we have sold based on claims that we breached our limited representations or warranties.

Our financial services segment originates mortgages, primarily for our homebuilding customers. Substantially all of the mortgage loans originated are sold within a short period of time in the secondary mortgage market on a servicing released, nonrecourse basis, although we remain liable for certain limited representations, such as fraud, and warranties related to loan sales. Accordingly, mortgage investors have in the past and could in the future seek to have us buy back loans or compensate them for losses incurred on mortgages we have sold based on claims that we breached our limited representations or warranties. While we believe these reserves are adequate for known losses and projected repurchase requests, given the volatility in the mortgage industry and the uncertainty regarding the ultimate resolution of these claims, if either actual repurchases or the losses incurred resolving those repurchases exceed our expectations, additional expense may be incurred. There can be no assurance that we will not have significant liabilities in respect of such claims in the future, which could exceed our reserves, or that the impact of such claims on our results of operations will not be material. Further, an increase in the default rate on the mortgages we originate may adversely affect our ability to sell mortgages or the pricing we receive upon the sale of mortgages.

We compete on several levels with homebuilders that may have greater sales and financial resources, which could hurt future earnings.

We compete not only for home buyers but also for desirable properties, financing, raw materials, and skilled labor often within larger subdivisions designed, planned, and developed by other homebuilders. Our competitors include other local, regional and national homebuilders, some of which have greater sales and financial resources or more established relationships with suppliers and subcontractors in the markets in which we operate. In addition, we compete with other housing alternatives, such as existing homes and rental housing. In the homebuilding industry, we compete primarily on the basis of reputation, price, location, design, quality, service and amenities. Our financial services segment competes with other mortgage providers, primarily on the basis of fees, interest rates and other features of mortgage loan products.

The competitive conditions in the homebuilding industry together with current market conditions have, and could continue to, result in:

- difficulty in acquiring suitable land at acceptable prices (see also “–Our success depends on the availability of suitable undeveloped land and improved lots at acceptable prices and our having sufficient liquidity to fund such investments”);
- increased selling incentives;
- lower sales;
- delays in construction; or
- impairment of our ability to implement our strategies and operational actions.

Any of these problems could increase costs and/or lower profit margins.

Our future growth may include additional acquisitions of companies that may not be successfully integrated and may not achieve expected benefits.

Acquisitions of companies have contributed to our historical growth and may again be a component of our growth strategy in the future. In the future, we may acquire businesses, some of which may be significant. As a result of acquisitions of companies, we may need to seek additional financing and integrate product lines, dispersed operations, and distinct corporate cultures. These integration efforts may not succeed or may distract our management from operating our existing business. Additionally, we may not be able to enhance our earnings as a result of acquisitions. Our failure to successfully identify and manage future acquisitions could harm our operating results.

Our controlling stockholders are able to exercise significant influence over us.

Members of the Hovnanian family, including Ara K. Hovnanian, our chairman of the board, president, and chief executive officer, have voting control, through personal holdings, the limited partnership and the limited liability company established for members of Mr. Hovnanian’s family and family trusts of Class A and Class B common stock that enabled them to cast approximately 56% of the votes that could be cast by the holders of our outstanding Class A and Class B common stock combined as of October 31, 2019. Their combined stock ownership enables them to exert significant control over us, including power to control the election of the Board of Directors and to approve matters presented to our stockholders. This concentration of ownership may also make some transactions, including mergers or other changes in control, more difficult or impossible without their support. Also, because of their combined voting power, circumstances may occur in which their interests could be in conflict with the interests of other stakeholders.

Our net operating loss carryforwards could be substantially limited if we experience an ownership change as defined in the Internal Revenue Code.

Based on past impairments and our current financial performance, we generated a federal net operating loss carryforward of \$1.6 billion through the fiscal year ended October 31, 2019, and we may generate net operating loss carryforwards in future years.

Section 382 of the United States Internal Revenue Code of 1986, as amended (the “Code”), contains rules that limit the ability of a company that undergoes an ownership change, which is generally any change in ownership of more than 50% of its stock over a three-year period, to utilize its net operating loss carryforwards and certain built-in losses recognized in years after the ownership change. These rules generally operate by focusing on ownership shifts among stockholders owning directly or indirectly 5% or more of the stock of a company and any change in ownership arising from a new issuance of stock by the company.

If we undergo an ownership change for purposes of Section 382 as a result of future transactions involving our stock, including purchases or sales of stock between 5% shareholders, our ability to use our net operating loss carryforwards and to recognize certain built-in losses would be subject to the limitations of Section 382. Depending on the resulting limitation, a significant portion of our net operating loss carryforwards could expire before we would be able to use them. A limitation imposed under Section 382 on our ability to utilize our net operating loss carryforwards could have a negative impact on our financial position and results of operations.

The value of our deferred tax assets is also dependent upon the tax rates expected to be in effect at the time the taxable income is expected to be generated. A decrease in enacted corporate tax rates in our major jurisdictions, especially the U.S. federal corporate rate, would decrease the value of our deferred tax assets, which could be material.

Our Board of Directors has adopted, and our shareholders have approved, a shareholder rights plan (the “Rights Plan”) designed to preserve shareholder value and the value of certain tax assets primarily associated with net operating loss carryforwards and built-in losses under Section 382 of the Code. The Rights Plan is intended to act as a deterrent to any person or group acquiring 4.9% or more of our outstanding Class A common stock (any such person an “Acquiring Person”), without the approval of the Company’s Board of Directors. Subject to the terms, provisions and conditions of the Rights Plan, if and when they become exercisable, each right would entitle its holder to purchase from the Company one ten-thousandth of a share of the Company’s Series B Junior Preferred Stock for a purchase price of \$16.60 per share (the “purchase price”). The rights will not be exercisable until the earlier of (i) 10 business days after a public announcement by us that a person or group has become an Acquiring Person and (ii) 10 business days after the commencement of a tender or exchange offer by a person or group for 4.9% of the Class A common stock (the “distribution date”). If issued, each fractional share of Series B Junior Preferred Stock would give the stockholder approximately the same dividend, voting and liquidation rights as does one share of the Company’s Class A common stock. However, prior to exercise, a right does not give its holder any rights as a stockholder of the Company, including without limitation any dividend, voting or liquidation rights. After the distribution date, each holder of a right, other than rights beneficially owned by the Acquiring Person (which will thereupon become void), will thereafter have the right to receive upon exercise of a right and payment of the purchase price, that number of shares of Class A common stock or Class B common stock, as the case may be, having a market value of two times the purchase price. After the distribution date, our Board of Directors may exchange the rights (other than rights owned by an Acquiring Person which will have become void), in whole or in part, at an exchange ratio of one share of common stock, or a fractional share of Series B Junior Preferred Stock (or of a share of a similar class or series of Hovnanian’s preferred stock having similar rights, preferences and privileges) of equivalent value, per right (subject to adjustment).

In addition, our Restated Certificate of Incorporation restricts certain transfers of our common stock in order to preserve the tax treatment of our net operating loss carryforwards and built-in losses under Section 382 of the Code. Subject to certain exceptions pertaining to pre-existing 5% stockholders and Class B stockholders, the transfer restrictions in our Restated Certificate of Incorporation generally restrict any direct or indirect transfer (such as transfers of the Company’s stock that result from the transfer of interests in other entities that own the Company’s stock) if the effect would be to: (i) increase the direct or indirect ownership of the Company’s stock by any person (or public group) from less than 5% to 5% or more of the Company’s stock; (ii) increase the percentage of the Company’s stock owned directly or indirectly by a person (or public group) owning or deemed to own 5% or more of the Company’s stock; or (iii) create a new “public group” (as defined in the applicable United States Treasury regulations).

Utility shortages and outages or rate fluctuations could have an adverse effect on our operations.

In prior years, the areas in which we operate in California have experienced power shortages, including periods without electrical power, as well as significant fluctuations in utility costs. We may incur additional costs and may not be able to complete construction on a timely basis if such power shortages and outages and utility rate fluctuations continue. Furthermore, power shortages and outages and rate fluctuations may adversely affect the regional economies in which we operate, which may reduce demand for our homes. Our operations may be adversely affected if further rate fluctuations and/or power shortages and outages occur in California, the Northeast or in our other markets.

Geopolitical risks and market disruption could adversely affect our operating results and financial condition.

Geopolitical events, acts of war or terrorism, civil unrest, any outbreak or escalation of hostilities throughout the world, health pandemics, catastrophic storms, other severe weather or significant environmental accidents, may have a substantial impact on the economy, consumer confidence, the housing market, our associates and our customers. Further, perceived threats to national security and other actual or potential conflicts or wars and related geopolitical risks have created many economic and political uncertainties. If any such events were to occur, it could have a material adverse impact on our results of operations and financial condition.

We could be adversely impacted by the loss of key management personnel or if we fail to attract qualified personnel.

To a significant degree, our future success depends on the efforts of our senior management, many of whom have been with the Company for a significant number of years, and our ability to attract qualified personnel. Our operations could be adversely affected if key members of our senior management leave the Company or if we cannot attract qualified personnel to manage growth in our business.

Information technology failures and data security breaches could harm our business.

We use information technology, digital telecommunications and other computer resources to carry out important operational activities and to maintain our business records. In addition, we rely on the systems of third parties, such as third-party vendors. Our computer systems, including our backup systems, and those of the third-parties on whose systems we rely, are subject to damage or interruption from computer and telecommunications failures, computer viruses, power outages, security breaches (including through data-theft and cyber-attack), usage errors by our associates and catastrophic events, such as fires, floods, hurricanes and tornadoes. As part of our normal business activities, we collect and store certain personal identifying and confidential information relating to our homebuyers, employees, vendors and suppliers, and maintain operational and financial information related to our business. We may share some of this confidential information with our vendors. We rely on our vendors and third-party service providers to maintain effective cybersecurity measures to keep our information secure. If our computer systems and our backup systems, or those of the third-parties on whose systems we rely, are breached, compromised, damaged, or otherwise cease to function properly, we could suffer interruptions in our operations or the misappropriation of proprietary, personal identifying or confidential information, including information about our business partners and home buyers. Our or our vendors' and third-party service providers' failure to maintain the security of the data we are required to protect could result in damage to our reputation, financial obligations to third parties, fines, penalties, regulatory proceedings and private litigation with potentially large costs, and also in deterioration in customers' confidence in us and other competitive disadvantages.

We maintain cybersecurity insurance coverage have implemented systems and processes intended to secure our information technology systems and prevent unauthorized access to or loss of sensitive, confidential and personal data, including through the use of encryption and authentication technologies. Additionally, we have increased our monitoring capabilities to enhance early detection and rapid response to potential security anomalies. These measures, which require ongoing monitoring and updating as technologies change and efforts to overcome security measures become increasingly sophisticated, are costly and may not be effective in preventing or mitigating significant negative occurrences or irregularities in our systems or those of third-parties on whose systems we rely. While, to date, we have not had a significant cybersecurity breach or attack that has a material impact on our business or results of operations, there can be no assurance that our efforts to maintain the security and integrity of our IT networks and related systems will be effective or that attempted security breaches or disruptions would not be successful or damaging.

Negative publicity could adversely affect our reputation and our business, financial results and stock price.

Unfavorable media related to our industry, company, brand, personnel, operations, business performance, or prospects may impact our stock price and the performance of our business, regardless of its accuracy or inaccuracy. The speed at which negative publicity is disseminated has increased dramatically through the use of electronic communication, including social media outlets, websites, "tweets", and blogs. Our success in maintaining and expanding our brand image depends on our ability to adapt to this rapidly changing media environment. Adverse publicity or negative commentary from any media outlets could damage our reputation and reduce the demand for our homes, which would adversely affect our business.

**ITEM 1B
UNRESOLVED STAFF COMMENTS**

None.

**ITEM 2
PROPERTIES**

We rent approximately 57,000 square feet of office space in the Northeast for our corporate headquarters. We own 215,000 square feet of office and warehouse space throughout the Midwest. We lease approximately 322,000 square feet of space for our segments located in the Northeast, Mid-Atlantic, Midwest, Southeast, Southwest and West.

**ITEM 3
LEGAL PROCEEDINGS**

We are involved in litigation arising in the ordinary course of business, none of which is expected to have a material adverse effect on our financial position, results of operations or cash flows, and we are subject to extensive and complex laws and regulations that affect the development of land and home building, sales and customer financing processes, including zoning, density, building standards and mortgage financing. These laws and regulations often provide broad discretion to the administering governmental authorities. This can delay or increase the cost of development or homebuilding. The significant majority of our litigation matters are related to construction defect claims. Our estimated losses from construction defect litigation matters, if any, are included in our construction defect reserves as discussed in Note 16 to the Consolidated Financial Statements.

We also are subject to a variety of local, state, federal and foreign laws and regulations concerning protection of health and the environment, including those regulating the emission or discharge of materials into the environment, the management of storm water runoff at construction sites, the handling, use, storage and disposal of hazardous substances, impacts to wetlands and other sensitive environments, and the remediation of contamination at properties that we have owned or developed or currently own or are developing (“environmental laws”). The particular environmental laws that apply to a site may vary greatly according to the community site, for example, due to the community, the environmental conditions at or near the site, and the present and former uses of the site. These environmental laws may result in delays, may cause us to incur substantial compliance, remediation and/or other costs, and can prohibit or severely restrict development and homebuilding activity. In addition, noncompliance with these laws and regulations could result in fines and penalties, obligations to remediate, permit revocations or other sanctions; and contamination or other environmental conditions at or in the vicinity of our developments may result in claims against us for personal injury, property damage or other losses.

We anticipate that increasingly stringent requirements will continue to be imposed on developers and homebuilders in the future. For example, for a number of years, the EPA and U.S. Army Corps of Engineers have been engaged in rulemakings to clarify the scope of federally regulated wetlands, which included a June 2015 rule many affected businesses contend impermissibly expanded the scope of such wetlands that was challenged in court, stayed, and remains in litigation. A proposal was made in June 2017 to formally rescind the June 2015 rule and reinstate the rule scheme previously in place while the agencies initiate a new substantive rulemaking on the issue. A February 2018 rule purported to delay the effective date of the June 2015 rule until February 2020, but was enjoined nationwide in August 2018 by a federal district court in South Carolina and later by a federal district court in the State of Washington in response to lawsuits (the net result of which, according to the EPA, is that the June 2015 rule applies in 22 states, the District of Columbia, and the United States territories, and that the pre-June 2015 regime applies in the rest). In October 2019, the EPA and U.S. Army Corps of Engineers promulgated a new rule, to become effective December 23, 2019, repealing the June 2015 rule and reinstating the previous rule scheme. It is unclear how these and related developments, including at the state or local level, ultimately may affect the scope of regulated wetlands where we operate. Although we cannot reliably predict the extent of any effect these developments regarding wetlands, or any other requirements that may take effect may have on us, they could result in time-consuming and expensive compliance programs and in substantial expenditures, which could cause delays and increase our cost of operations. In addition, our ability to obtain or renew permits or approvals and the continued effectiveness of permits already granted or approvals already obtained is dependent upon many factors, some of which are beyond our control, such as changes in policies, rules and regulations and their interpretations and application.

In March 2013, we received a letter from the Environmental Protection Agency (“EPA”) requesting information about our involvement in a housing redevelopment project in Newark, New Jersey that a Company entity undertook during the 1990s. We understand that the development is in the vicinity of a former lead smelter and that tests on soil samples from properties within the development conducted by the EPA showed elevated levels of lead. We also understand that the smelter ceased operations many years before the Company entity involved acquired the properties in the area and carried out the re-development project. We responded to the EPA’s request. In August 2013, we were notified that the EPA considers us a potentially responsible party (or “PRP”) with respect to the site, that the EPA will clean up the site, and that the EPA is proposing that we fund and/or contribute towards the cleanup of the contamination at the site. We began preliminary discussions with the EPA concerning a possible resolution but do not know the scope or extent of the Company’s obligations, if any, that may arise from the site and therefore cannot provide any assurance that this matter will not have a material impact on the Company. The EPA requested additional information in April 2014 and again in March 2017 and the Company responded to the information requests. On May 2, 2018 the EPA sent a letter to the Company entity demanding reimbursement for 100% of the EPA’s costs to clean-up the site in the amount of \$2.7 million. The Company responded to the EPA’s demand letter on June 15, 2018 setting forth the Company’s defenses and expressing its willingness to enter into settlement negotiations. The parties subsequently executed a Tolling Agreement to toll the statute of limitations on collection until December 20, 2019 and are preparing an agreement to extend it to June 20, 2020 to allow the parties time to discuss settlement. The Company received a letter from the EPA on November 4, 2019 asking if the Company remained interested in settlement negotiations. The Company responded affirmatively and such negotiations are ongoing. Two other PRPs identified by the EPA are now also in negotiations with the EPA and in preliminary negotiations with the Company regarding the site. In the course of negotiations, the EPA informed the Company that the New Jersey Department of Environmental Protection has also incurred costs remediating part of the site. We believe that we have adequate reserves for this matter.

In 2015, the condominium association of the Four Seasons at Great Notch condominium community (the “Great Notch Plaintiff”) filed a lawsuit in the Superior Court of New Jersey, Law Division, Passaic County (the “Court”) alleging various construction defects, design defects, and geotechnical issues relating to the community. The operative complaint (“Complaint”) asserts claims against Hovnanian Enterprises, Inc. and several of its affiliates, including K. Hovnanian at Great Notch, LLC, K. Hovnanian Construction Management, Inc., and K. Hovnanian Companies, LLC. The Complaint also asserts claims against various other design professionals and contractors. The Great Notch Plaintiff has also filed a motion, which remains pending, to permit it to pursue a claim to pierce the corporate veil of K. Hovnanian at Great Notch, LLC to hold its alleged parent entities liable for any damages awarded against it. To date, the Hovnanian-affiliated defendants have reached a partial settlement with the Great Notch Plaintiff as to a portion of the Great Notch Plaintiff’s claims against them for an amount immaterial to the Company. On its remaining claims against the Hovnanian-affiliated defendants, the Great Notch Plaintiff has asserted damages of approximately \$119.5 million, which amount is potentially subject to treble damages pursuant to the Great Notch Plaintiff’s claim under the New Jersey Consumer Fraud Act. On August 17, 2018, the Hovnanian-affiliated defendants filed a motion for summary judgment seeking dismissal of all of the Great Notch Plaintiff’s remaining claims against them, which was withdrawn without prejudice to re-file with supplemental evidence. The trial is currently scheduled for April 20, 2020. An initial court-ordered mediation session took place on November 19, 2019. An additional mediation session is contemplated, but has not yet been scheduled. The Hovnanian-affiliated defendants intend to defend these claims vigorously.

**ITEM 4
MINE SAFETY DISCLOSURES**

Not applicable

INFORMATION ABOUT OUR EXECUTIVE OFFICERS

Information on executive officers of the registrant is incorporated herein from Part III, Item 10.

PART II

**ITEM 5
MARKET FOR REGISTRANT’S COMMON EQUITY, RELATED STOCKHOLDER MATTERS, AND ISSUER PURCHASES OF EQUITY SECURITIES**

Our Class A Common Stock is traded on the New York Stock Exchange under the symbol “HOV” and was held by 416 stockholders of record at December 13, 2019. There is no established public trading market for our Class B Common Stock, which was held by 214 stockholders of record at December 13, 2019. If a shareholder desires to sell shares of Class B Common Stock (other than to Permitted Transferees (as defined in the Company’s amended Certificate of Incorporation)), such stock must be converted into shares of Class A Common Stock at a one to one conversion rate.

Recent Sales of Unregistered Equity Securities

On October 31, 2019, in connection with the issuance of the 7.75% Senior Secured 1.25 Lien Notes due 2026, we issued and sold an aggregate of 178,427 shares of Class A Common Stock, par value \$0.01 per share (and associated Preferred Stock Purchase Rights), to the purchasers of such Notes for an aggregate purchase price of \$1,784.27. The issuance was exempt from registration under Section 4(a)(2) of the Securities Act of 1933.

Issuer Purchases of Equity Securities

No shares of our Class A Common Stock or Class B Common Stock were purchased by or on behalf of the Company or any affiliated purchaser during the fiscal fourth quarter of 2019. The maximum number of shares that may yet be purchased under the Company’s repurchase plans or programs is 22 thousand.

**ITEM 6
SELECTED FINANCIAL DATA**

The following table sets forth our selected consolidated financial data and should be read in conjunction with Item 7 “Management’s Discussion and Analysis of Financial Condition and Results of Operations” and our Consolidated Financial Statements and Notes thereto included elsewhere in this Annual Report on Form 10-K.

Summary of Consolidated Statements of Operations Data (In thousands, except per share data)	Year Ended				
	October 31, 2019	October 31, 2018	October 31, 2017	October 31, 2016	October 31, 2015
Revenues	\$2,016,916	\$1,991,233	\$2,451,665	\$2,752,247	\$2,148,480
Expenses excluding inventory impairment loss and land option write-offs	2,036,792	1,996,083	2,437,195	2,708,912	2,162,370
Inventory impairment loss and land option write-offs	6,288	3,501	17,813	33,353	12,044
Total expenses	2,043,080	1,999,584	2,455,008	2,742,265	2,174,414
Loss on extinguishment of debt	(42,436)	(7,536)	(34,854)	(3,200)	-
Income (loss) from unconsolidated joint ventures	28,932	24,033	(7,047)	(4,346)	4,169
(Loss) income before income taxes	(39,668)	8,146	(45,244)	2,436	(21,765)
State and federal income tax provision (benefit)	2,449	3,626	286,949	5,255	(5,665)
Net (loss) income	\$(42,117)	\$4,520	\$(332,193)	\$(2,819)	\$(16,100)
Per share data:					
Basic:					
Net (loss) income per common share	\$(7.06)	\$0.73	\$(56.23)	\$(0.48)	\$(2.74)
Weighted-average number of common shares outstanding	5,968	5,941	5,908	5,898	5,876
Assuming dilution:					
Net (loss) income per common share	\$(7.06)	\$0.72	\$(56.23)	\$(0.48)	\$(2.74)
Weighted-average number of common shares outstanding	5,968	6,072	5,908	5,898	5,876

Summary of Consolidated Balance Sheet Data

(In thousands)	October 31, 2019	October 31, 2018	October 31, 2017	October 31, 2016	October 31, 2015
Total assets(1)	\$1,881,424	\$1,662,042	\$1,900,898	\$2,354,956	\$2,577,398
Mortgages and lines of credit (1)	\$343,862	\$208,733	\$244,088	\$294,015	\$310,672
Term loans and revolving loans, senior notes, senior amortizing notes, senior exchangeable notes and tangible equity unit (“TEU”) senior subordinated amortizing notes (net of discount and premium)	\$1,479,990	\$1,439,238	\$1,585,837	\$1,573,333	\$1,827,924
Total equity deficit	\$(489,776)	\$(453,504)	\$(460,371)	\$(128,510)	\$(128,084)

(1) In connection with our adoption of Accounting Standards Update 2015-03 in November 2016, certain prior year amounts for unamortized debt issuance costs were reclassified between the lines “Total assets” and “Mortgages and lines of credit” and “Term loans and revolving loans, senior notes, senior amortizing notes, senior exchangeable notes and tangible equity unit (“TEU”) senior subordinated amortizing note (net of discount and premium)”.

ITEM 7

MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

Hovnanian Enterprises, Inc. ("HEI") conducts all of its homebuilding and financial services operations through its subsidiaries (references herein to the "Company," "we," "us" or "our" refer to HEI and its consolidated subsidiaries and should be understood to reflect the consolidated business of HEI's subsidiaries).

Overview

Our community count increased 14.6% from 123 communities at October 31, 2018 to 141 at October 31, 2019. For seven consecutive quarters through the third quarter of fiscal 2019, our total number of lots controlled increased as compared to the same period of the prior year. Although there was a slight decrease in total lots controlled of 3.2% as of October 31, 2019 as compared to October 31, 2018, the growth in lots controlled in previous quarters has led to the year-over-year community count growth. Our strategy has been to grow through increased open for sale communities. As our recently opened communities begin delivering homes, we believe it should lead to additional delivery and revenue growth, and in turn profitability in future periods, absent adverse market factors.

Our cash position has allowed us to spend \$562.8 million on land purchases and land development during fiscal 2019, and still have total liquidity of \$275.9 million, including \$131.0 million of homebuilding cash and cash equivalents as of October 31, 2019. We continue to see opportunities to purchase land at prices that make economic sense in light of our current sales prices, sales pace and construction costs and plan to continue actively pursuing such land acquisitions. New land purchases at pricing that we believe will generate appropriate investment returns and drive greater operating efficiencies are needed to return to sustained profitability; however, we remain cautious and are carefully evaluating market conditions when pursuing new land acquisitions.

Additional results for the year ended October 31, 2019 were as follows:

- For the year ended October 31, 2019, sale of homes revenues increased 2.3% as compared to the prior year, as a result of a 2.0% increase in deliveries, primarily due to our increased community count.
- Gross margin percentage decreased from 15.2% for the year ended October 31, 2018 to 14.2% for the year ended October 31, 2019. This decrease was primarily due to the increase in cost of sales interest as a result of changes in estimates of interest per home for deliveries during fiscal 2019 in connection with our semi-annual community life planning process, along with a decrease due to the mix of communities delivering in each period. During this planning process, the duration of communities and timing of spending thereon could change, resulting in changes in total estimated community life capitalized interest. Estimated community life capitalized interest is written-off with each delivery. Gross margin percentage, before cost of sales interest expense and land charges, decreased slightly from 18.4% for the year ended October 31, 2018 to 18.1% for the year ended October 31, 2019, primarily due to the mix of communities delivering.
- Selling, general and administrative costs (including corporate general and administrative expenses) increased \$4.3 million for the year ended October 31, 2019 as compared to the prior year, primarily as a result of our increased community count, along with a lower adjustment to our warranty reserves (as a result of our annual actuarial analysis) in fiscal 2019 as compared to fiscal 2018. However, as a percentage of total revenue, such costs remained relatively flat at 11.6% for the year ended October 31, 2019 compared to 11.5% for the year ended October 31, 2018.
- Active selling communities at October 31, 2019 increased 14.6% over last year, and our average active selling communities increased by 5.4% over last year. Net contracts increased 14.3% for the year ended October 31, 2019, compared to the prior year.
- Net contracts per average active selling community increased to 39.0 for the year ended October 31, 2019 compared to 35.9 in the prior year.
- Contract backlog increased from 1,826 homes at October 31, 2018 to 2,191 homes at October 31, 2019, with a dollar value of \$880.1 million, representing a 18.0% increase in dollar value compared to the prior year.

When comparing sequentially from the third quarter of fiscal 2019 to the fourth quarter of fiscal 2019, our gross margin percentage increased slightly from 14.0% to 14.5% and our gross margin percentage, before cost of sales interest expense and land charges, also increased slightly from 18.4% to 18.9%, both primarily as a result of product mix, as well as a minor increase due to the increase in delivery volume. Selling, general and administrative costs (including corporate general and administrative expenses) as a percentage of total revenues decreased from 12.1% to 7.6%, as compared to the third quarter of fiscal 2019, primarily due to the increase in delivery volume.

Critical Accounting Policies

Management believes that the following critical accounting policies require its most significant judgments and estimates used in the preparation of the consolidated financial statements:

Income Recognition from Mortgage Loans - Our Financial Services segment originates mortgages, primarily for our homebuilding customers. We use mandatory investor commitments and forward sales of mortgage backed securities (“MBS”) to hedge our mortgage-related interest rate exposure on agency and government loans.

We elected the fair value option for our mortgage loans held for sale in accordance with Accounting Standards Codification (“ASC”) 825, “Financial Instruments,” which permits us to measure our loans held for sale at fair value. Management believes that the election of the fair value option for loans held for sale improves financial reporting by mitigating volatility in reported earnings caused by measuring the fair value of the loans and the derivative instruments used to economically hedge them without having to apply complex hedge accounting provisions.

Substantially all of the mortgage loans originated are sold within a short period of time in the secondary mortgage market on a servicing released, nonrecourse basis, although the Company remains liable for certain limited representations, such as fraud, and warranties related to loan sales. Mortgage investors could seek to have us buy back loans or compensate them for losses incurred on mortgages we have sold based on claims that we breached our limited representations and warranties. We have established reserves for probable losses. While we believe these reserves are adequate for known losses and projected repurchase requests, given the volatility in the mortgage industry and the uncertainty regarding the ultimate resolution of these claims, if either actual repurchases or the losses incurred resolving those repurchases exceed our expectations, additional expense may be incurred.

Inventories - Inventories consist of land, land development, home construction costs, capitalized interest, construction overhead and property taxes. Construction costs are accumulated during the period of construction and charged to cost of sales under specific identification methods. Land, land development and common facility costs are allocated based on buildable acres to product types within each community, then charged to cost of sales equally based upon the number of homes to be constructed in each product type.

We record inventories in our consolidated balance sheets at cost unless the inventory is determined to be impaired, in which case the inventory is written down to its fair value. Our inventories consist of the following three components: (1) sold and unsold homes and lots under development, which includes all construction, land, capitalized interest and land development costs related to started homes and land under development in our active communities; (2) land and land options held for future development or sale, which includes all costs related to land in our communities in planning or mothballed communities; and (3) consolidated inventory not owned, which includes all costs related to variable interest entities and other options, which consists primarily of model homes financed with an investor and inventory related to land banking arrangements accounted for as financings.

We decide to mothball (or stop development on) certain communities when we determine that the current performance does not justify further investment at the time. When we decide to mothball a community, the inventory is reclassified on our Consolidated Balance Sheets from “Sold and unsold homes and lots under development” to “Land and land options held for future development or sale.” As of October 31, 2019, the net book value associated with our 13 mothballed communities was \$13.8 million, net of impairment charges recorded in prior periods of \$138.1 million. We regularly review communities to determine if mothballing is appropriate. During fiscal 2019, we did not mothball any communities, but we sold two previously mothballed communities and re-activated three previously mothballed communities.

We sell and lease back certain of our model homes with the right to participate in the potential profit when each home is sold to a third party at the end of the respective lease. As a result of our continued involvement, for accounting purposes in accordance with ASC 606-10-55-68, these sale and leaseback transactions are considered a financing rather than a sale. Therefore, for purposes of our Consolidated Balance Sheets, at October 31, 2019, inventory of \$54.2 million was recorded to “Consolidated inventory not owned,” with a corresponding amount of \$51.2 million recorded to “Liabilities from inventory not owned.”

We have land banking arrangements, whereby we sell our land parcels to the land banker and they provide us an option to purchase back finished lots on a quarterly basis. Because of our options to repurchase these parcels, for accounting purposes, in accordance with ASC 606-10-55-70, these transactions are considered financings rather than sales. For purposes of our Consolidated Balance Sheets, at October 31, 2019, inventory of \$136.1 million was recorded as “Consolidated inventory not owned,” with a corresponding amount of \$89.8 million recorded to “Liabilities from inventory not owned” for the amount of net cash received from the transactions.

The recoverability of inventories and other long-lived assets is assessed in accordance with the provisions of ASC 360-10, “Property, Plant and Equipment – Overall” (“ASC 360-10”). ASC 360-10 requires long-lived assets, including inventories, held for development to be evaluated for impairment based on undiscounted future cash flows of the assets at the lowest level for which there are identifiable cash flows. As such, we evaluate inventories for impairment at the individual community level, the lowest level of discrete cash flows that we measure.

We evaluate inventories of communities under development and held for future development for impairment when indicators of potential impairment are present. Indicators of impairment include, but are not limited to, decreases in local housing market values, decreases in gross margins or sales absorption rates, decreases in net sales prices (base sales price net of sales incentives), or actual or projected operating or cash flow losses. The assessment of communities for indication of impairment is performed quarterly. As part of this process, we prepare detailed budgets for all of our communities at least semi-annually and identify those communities with a projected operating loss. For those communities with projected losses, we estimate the remaining undiscounted future cash flows and compare those to the carrying value of the community, to determine if the carrying value of the asset is recoverable.

The projected operating profits, losses, or cash flows of each community can be significantly impacted by our estimates of the following:

- future base selling prices;
- future home sales incentives;
- future home construction and land development costs; and
- future sales absorption pace and cancellation rates.

These estimates are dependent upon specific market conditions for each community. While we consider available information to determine what we believe to be our best estimates as of the end of a quarterly reporting period, these estimates are subject to change in future reporting periods as facts and circumstances change. Local market-specific conditions that may impact our estimates for a community include:

- the intensity of competition within a market, including available home sales prices and home sales incentives offered by our competitors;
- the current sales absorption pace for both our communities and competitor communities;
- community specific attributes, such as location, availability of lots in the market, desirability and uniqueness of our community, and the size and style of homes currently being offered;
- potential for alternative product offerings to respond to local market conditions;
- changes by management in the sales strategy of the community;
- current local market economic and demographic conditions and related trends of forecasts; and
- existing home inventory supplies, including foreclosures and short sales.

These and other local market-specific conditions that may be present are considered by management in preparing projection assumptions for each community. The sales objectives can differ between our communities, even within a given market. For example, facts and circumstances in a given community may lead us to price our homes with the objective of yielding a higher sales absorption pace, while facts and circumstances in another community may lead us to price our homes to minimize deterioration in our gross margins, although it may result in a slower sales absorption pace. In addition, the key assumptions included in our estimate of future undiscounted cash flows may be interrelated. For example, a decrease in estimated base sales price or an increase in homes sales incentives may result in a corresponding increase in sales absorption pace. Additionally, a decrease in the average sales price of homes to be sold and closed in future reporting periods for one community that has not been generating what management believes to be an adequate sales absorption pace may impact the estimated cash flow assumptions of a nearby community. Changes in our key assumptions, including estimated construction and development costs, absorption pace and selling strategies, could materially impact future cash flow and fair-value estimates. Due to the number of possible scenarios that would result from various changes in these factors, we do not believe it is possible to develop a sensitivity analysis with a level of precision that would be meaningful to an investor.

If the undiscounted cash flows are more than the carrying value of the community, then the carrying amount is recoverable, and no impairment adjustment is required. However, if the undiscounted cash flows are less than the carrying amount, then the community is deemed impaired and is written down to its fair value. We determine the estimated fair value of each community by determining the present value of its estimated future cash flows at a discount rate commensurate with the risk of the respective community, or in limited circumstances, prices for land in recent comparable sale transactions, market analysis studies, which include the estimated price a willing buyer would pay for the land (other than in a forced liquidation sale), and recent bona fide offers received from outside third parties. Our discount rates used for all impairments recorded from October 31, 2017 to October 31, 2019 ranged from 16.8% to 19.8%. The estimated future cash flow assumptions are virtually the same for both our recoverability and fair value assessments. Should the estimates or expectations used in determining estimated cash flows or fair value, including discount rates, decrease or differ from current estimates in the future, we may be required to recognize additional impairments related to current and future communities. The impairment of a community is allocated to each lot on a relative fair value basis.

From time to time, we write off deposits and approval, engineering and capitalized interest costs when we determine that it is no longer probable that we will exercise options to buy land in specific locations or when we redesign communities and/or abandon certain engineering costs. In deciding not to exercise a land option, we take into consideration changes in market conditions, the timing of required land takedowns, the willingness of land sellers to modify terms of the land option contract (including timing of land takedowns), and the availability and best use of our capital, among other factors. The write-off is recorded in the period it is deemed not probable that the optioned property will be acquired. In certain instances, we have been able to recover deposits and other pre-acquisition costs that were previously written off. These recoveries have not been significant in comparison to the total costs written off.

Inventories held for sale are land parcels ready for sale in their current condition, where we have decided not to build homes but are instead actively marketing for sale. These land parcels represented \$6.4 million of our total inventories at October 31, 2018, and are reported at the lower of carrying amount or fair value less costs to sell. There were no inventories held for sale at October 31, 2019. In determining fair value for land held for sale, management considers, among other things, prices for land in recent comparable sale transactions, market analysis studies, which include the estimated price a willing buyer would pay for the land (other than in a forced liquidation sale) and recent bona fide offers received from outside third parties.

Unconsolidated Homebuilding and Land Development Joint Ventures - Investments in unconsolidated homebuilding and land development joint ventures are accounted for under the equity method of accounting. Under the equity method, we recognize our proportionate share of earnings and losses earned by the joint venture upon the delivery of lots or homes to third parties. Our ownership interests in the joint ventures vary but our voting interests are generally 50% or less. In determining whether or not we must consolidate joint ventures where we are the managing member of the joint venture, we assess whether the other partners have specific rights to overcome the presumption of control by us as the manager of the joint venture. In most cases, the presumption is overcome because the joint venture agreements require that both partners agree on establishing the significant operating and capital decisions of the partnership, including budgets, in the ordinary course of business. The evaluation of whether or not we control a venture can require significant judgment. In accordance with ASC 323-10, "Investments - Equity Method and Joint Ventures - Overall," we assess our investments in unconsolidated joint ventures for recoverability, and if it is determined that a loss in value of the investment below its carrying amount is other than temporary, we write down the investment to its fair value. We evaluate our equity investments for impairment based on the joint venture's projected cash flows. This process requires significant management judgment and estimates. During fiscal 2019 and fiscal 2017, we wrote down certain joint venture investments by \$0.9 million and \$2.8 million, respectively. There were no write-downs in fiscal 2018.

Warranty Costs and Construction Defect Reserves - We accrue for warranty costs that are covered under our existing general liability and construction defect policy as part of our general liability insurance deductible. This accrual is expensed as selling, general, and administrative costs. For homes delivered in fiscal 2019 and 2018, our deductible under our general liability insurance is a \$20 million aggregate for construction defect and warranty claims. For bodily injury claims, our deductible per occurrence in fiscal 2019 and 2018 is \$0.25 million, up to a \$5 million limit. Our aggregate retention for construction defect, warranty and bodily injury claims is \$20 million for fiscal 2019 and 2018. We do not have a deductible on our worker's compensation insurance. Reserves for estimated losses for construction defects, warranty and bodily injury claims have been established using the assistance of a third-party actuary. We engage a third-party actuary that uses our historical warranty and construction defect data to assist our management in estimating our unpaid claims, claim adjustment expenses and incurred but not reported claims reserves for the risks that we are assuming under the general liability and construction defect programs. The estimates include provisions for inflation, claims handling and legal fees. These estimates are subject to a high degree of variability due to uncertainties such as trends in construction defect claims relative to our markets and the types of products we build, claim settlement patterns, insurance industry practices and legal interpretations, among others. Because of the high degree of judgment required in determining these estimated liability amounts, actual future costs could differ significantly from our currently estimated amounts. In addition, we establish a warranty accrual for lower cost-related issues to cover home repairs, community amenities and land development infrastructure that are not covered under our general liability and construction defect policy. We accrue an estimate for these warranty costs as part of cost of sales at the time each home is closed and title and possession have been transferred to the homebuyer. See Note 16 to the Consolidated Financial Statements for additional information on the amount of warranty costs recognized in cost of goods sold and administrative expenses.

Recent Accounting Pronouncements

See Note 3 to the Consolidated Financial Statements included elsewhere in this Annual Report on Form 10-K.

Capital Resources and Liquidity

Our operations consist primarily of residential housing development and sales in the Northeast (New Jersey and Pennsylvania), the Mid-Atlantic (Delaware, Maryland, Virginia, Washington D.C. and West Virginia), the Midwest (Illinois and Ohio), the Southeast (Florida, Georgia and South Carolina), the Southwest (Arizona and Texas) and the West (California). In addition, we provide certain financial services to our homebuilding customers.

We have historically funded our homebuilding and financial services operations with cash flows from operating activities, borrowings under our credit facilities, the issuance of new debt and equity securities and other financing activities. Due to covenant restrictions in our debt instruments, we are currently limited in the amount of debt we can incur that does not qualify as refinancing indebtedness (a limitation that we expect to continue for the foreseeable future), even if market conditions would otherwise be favorable, which could also impact our ability to grow our business.

Operating, Investing and Financing Activities – Overview

Our homebuilding cash balance at October 31, 2019 decreased \$56.9 million from October 31, 2018. We spent \$562.8 million on land and land development during the period. After considering this land and land development and all other operating activities, including revenue received from deliveries, we used \$249.1 million of cash from operations. However, as of October 31, 2019, we had \$125.0 million of borrowing capacity under our Secured Credit Agreement (defined below), and therefore, our total liquidity at October 31, 2019 was \$275.9 million, which is above our target liquidity range of \$170.0 to \$245.0 million. During fiscal 2019, we used \$8.3 million of cash for investing activities, primarily for investments in joint ventures, partially offset by distributions from joint ventures. Cash provided by financing activities was \$206.7 million during fiscal 2019, which included net proceeds of \$8.2 million from debt issuances, \$78.5 million from land banking and model sale leaseback programs, \$109.0 million of net proceeds from nonrecourse mortgages and \$27.1 million from in mortgage warehouse lines of credit. Subject to covenant restrictions in our debt instruments, we intend to continue to use nonrecourse mortgage financings, model sale leaseback, joint ventures, and land banking programs as our business needs dictate.

Our cash uses during the years ended October 31, 2019 and 2018 were for operating expenses, land purchases, land deposits, land development, construction spending, debt refinancings and payments, state income taxes, interest payments, litigation matters and investments in joint ventures. During these periods, we provided for our cash requirements from available cash on hand, housing and land sales, financing transactions, model sale leasebacks, land banking transactions, joint ventures, financial service revenues and other revenues. We believe that these sources of cash together with available borrowings under our senior secured revolving credit facility will be sufficient through fiscal 2020 to finance our working capital requirements.

Our net income (loss) historically does not approximate cash flow from operating activities. The difference between net income (loss) and cash flow from operating activities is primarily caused by changes in inventory levels together with changes in receivables, prepaid and other assets, mortgage loans held for sale, interest and other accrued liabilities, deferred income taxes, accounts payable and other liabilities, and noncash charges relating to depreciation, stock compensation awards and impairment losses for inventory. When we are expanding our operations, inventory levels, prepaids and other assets increase causing cash flow from operating activities to decrease. Certain liabilities also increase as operations expand and partially offset the negative effect on cash flow from operations caused by the increase in inventory levels, prepaids and other assets. Similarly, as our mortgage operations expand, net income from these operations increases, but for cash flow purposes net income is partially offset by the net change in mortgage assets and liabilities. The opposite is true as our investment in new land purchases and development of new communities decrease, causing us to generate positive cash flow from operations. In fiscal 2019 and 2018, with continued spending on land purchases and land development, we used cash in operations. As we continue to actively seek land investment opportunities, we will also remain focused on liquidity.

See “Inventory Activities” below for a detailed discussion of our inventory position.

Debt Transactions

Senior notes and credit facilities balances as of October 31, 2019 and October 31, 2018, were as follows:

(In thousands)	October 31, 2019(1)	October 31, 2018(1)
Senior Secured Notes:		
9.5% Senior Secured Notes due November 15, 2020	\$-	\$75,000
2.0% Senior Secured Notes due November 1, 2021	-	53,203
5.0% Senior Secured Notes due November 1, 2021	-	141,797
10.0% Senior Secured Notes due July 15, 2022	218,994	440,000
10.5% Senior Secured Notes due July 15, 2024	211,391	400,000
7.75% Senior Secured 1.125 Lien Notes due February 15, 2026	350,000	-
10.5% Senior Secured 1.25 Lien Notes due February 15, 2026	282,322	-
11.25% Senior Secured 1.5 Lien Notes due February 15, 2026	103,141	-
Total Senior Secured Notes	\$1,165,848	\$1,110,000
Senior Notes:		
8.0% Senior Notes due November 1, 2019 (2)	\$-	\$-
13.5% Senior Notes due February 1, 2026	90,590	90,590
5.0% Senior Notes due February 1, 2040	90,120	90,120
Total Senior Notes	\$180,710	\$180,710
Senior Unsecured Term Loan Credit Facility due February 1, 2027	\$202,547	\$202,547
Senior Secured Revolving Credit Facility (3)	\$-	\$-
Net discounts and premium	\$(49,145)	\$(39,934)
Net debt issuance costs	\$(19,970)	\$(14,085)
Total notes payable, net of discount, premium and debt issuance costs	\$1,479,990	\$1,439,238

(1) “Notes payable” on our Consolidated Balance Sheets as of October 31, 2019 and 2018 consists of the total senior secured and senior notes shown above, as well as accrued interest of \$19.1 million and \$35.6 million, respectively.

(2) \$26.0 million of 8.0% Senior Notes due 2019 are owned by a wholly-owned consolidated subsidiary of HEI. Therefore, in accordance with GAAP, such notes are not reflected on the Consolidated Balance sheets of HEI. On November 1, 2019, the maturity of the 8.0% Senior Notes was extended to November 1, 2027.

(3) At October 31, 2019, provides for up to \$125.0 million in aggregate amount of senior secured first lien revolving loans. Availability thereunder will terminate on December 28, 2022.

Except for K. Hovnanian, the issuer of the notes and borrower under the senior unsecured term loan facility (the “Term Loan Facility”) and under our \$125.0 million senior secured revolving credit facility (the “Secured Credit Facility” and together with the term loan facility, the “Credit Facilities”), our home mortgage subsidiaries, certain of our title insurance subsidiaries, joint ventures and subsidiaries holding interests in our joint ventures, we and each of our subsidiaries are guarantors of the Credit Facilities, the senior secured notes and senior notes outstanding at October 31, 2019 (collectively, the “Notes Guarantors”), which include the subsidiaries that had guaranteed (collectively, the “Former New Secured Group Guarantors”) K. Hovnanian’s 9.50% Notes, 2.000% Notes and 5.000% Notes (each as defined under below). As a result of the 2019 Transactions (as defined in and described under below), K. Hovnanian’s obligations under the Credit Facilities, the senior secured notes and senior notes are guaranteed by the Notes Guarantors (including the Former New Secured Group Guarantors) and, in the case of the Secured Credit Facility and the senior secured notes, will be secured in accordance with the terms of the applicable Debt Instrument by substantially all of the assets owned by K. Hovnanian and the Notes Guarantors (including the assets owned by the Former New Secured Group Guarantors), subject to permitted liens and certain exceptions.

The credit agreements governing the Credit Facilities and the indentures governing the senior secured and senior notes (together, the “Debt Instruments”) outstanding at October 31, 2019 do not contain any financial maintenance covenants, but do contain restrictive covenants that limit, among other things, the Company’s ability and that of certain of its subsidiaries, including K. Hovnanian, to incur additional indebtedness (other than non-recourse indebtedness, certain permitted indebtedness and refinancing indebtedness), pay dividends and make distributions on common and preferred stock, repay certain indebtedness prior to its respective stated maturity, repurchase common and preferred stock, make other restricted payments (including investments), sell certain assets (including in certain land banking transactions), incur liens, consolidate, merge, sell or otherwise dispose of all or substantially all of their assets and enter into certain transactions with affiliates. The Debt Instruments also contain customary events of default which would permit the lenders or holders thereof to exercise remedies with respect to the collateral (as applicable), declare the loans made under the Term Loan Facility (defined below) (the “Term Loans”) and loans made under the Secured Credit Agreement (as defined below) (the “Secured Revolving Loans”) or notes to be immediately due and payable if not cured within applicable grace periods, including the failure to make timely payments on the Term Loans, Secured Revolving Loans or notes or other material indebtedness, cross default to other material indebtedness, the failure to comply with agreements and covenants and specified events of bankruptcy and insolvency, with respect to the Term Loans and Secured Revolving Loans, material inaccuracy of representations and warranties and with respect to the Term Loans and Secured Revolving Loans, a change of control, and, with respect to the Secured Revolving Loans and senior secured notes, the failure of the documents granting security for the Secured Revolving Loans and senior secured notes to be in full force and effect, and the failure of the liens on any material portion of the collateral securing the Secured Revolving Loans and senior secured notes to be valid and perfected. As of October 31, 2019, we believe we were in compliance with the covenants of the Debt Instruments.

If our consolidated fixed charge coverage ratio is less than 2.0 to 1.0, as defined in the applicable Debt Instrument, we are restricted from making certain payments, including dividends, and from incurring indebtedness other than certain permitted indebtedness, refinancing indebtedness and nonrecourse indebtedness. As a result of this ratio restriction, we are currently restricted from paying dividends (in the case of the payment of dividends on preferred stock, our secured debt leverage ratio must also be less than 4.0 to 1.0), which are not cumulative, on our 7.625% Series A Preferred Stock. We anticipate that we will continue to be restricted from paying dividends for the foreseeable future. Our inability to pay dividends is in accordance with covenant restrictions and will not result in a default under our Debt Instruments or otherwise affect compliance with any of the covenants contained in our Debt Instruments.

Under the terms of our Debt Instruments, we have the right to make certain redemptions and prepayments and, depending on market conditions and covenant restrictions, may do so from time to time. We also continue to actively analyze and evaluate our capital structure and explore transactions to simplify our capital structure and to strengthen our balance sheet, including those that reduce leverage and/or extend maturities, and will seek to do so with the right opportunity. We may also continue to make debt purchases and/or exchanges for debt or equity from time to time through tender offers, exchange offers, open market purchases, private transactions, or otherwise, or seek to raise additional debt or equity capital, depending on market conditions and covenant restrictions.

On January 15, 2019, pursuant to a Commitment Letter, the Company issued \$25.0 million in aggregate principal amount of the Additional 10.5% 2024 Notes to certain funds managed, advised or sub-advised by GSO at a discount for a purchase price of \$21.3 million in cash. The Additional 10.5% 2024 Notes were issued as additional notes of the same series as the 10.5% 2024 Notes.

On October 31, 2019, K. Hovnanian, the Company, the Notes Guarantors, Wilmington Trust, National Association, as administrative agent, and affiliates of certain investment managers (the “Investors”), as lenders, entered into a credit agreement (the “Secured Credit Agreement”) providing for up to \$125.0 million in aggregate amount of Secured Revolving Loans to be used for general corporate purposes, upon the terms and subject to the conditions set forth therein. Secured Revolving Loans are to be borrowed by K. Hovnanian and guaranteed by the Notes Guarantors. Availability under the Secured Credit Agreement will terminate on December 28, 2022 and the Secured Revolving Loans will bear interest at a rate per annum equal to 7.75%, and interest will be payable in arrears, on the last business day of each fiscal quarter. In connection with the entering into of the Secured Credit Agreement, K. Hovnanian terminated its then existing Secured Credit Facility.

On October 31, 2019, K. Hovnanian completed private placements of senior secured notes as follows: (i) K. Hovnanian issued an aggregate of \$350.0 million of 7.75% Senior Secured 1.125 Lien Notes due 2026 (the “1.125 Lien Notes”) in part pursuant to a Note Purchase Agreement, dated October 31, 2019, among K. Hovnanian, the Notes Guarantors and certain Investors as purchasers thereof (the “1.125 Lien Notes Purchase Agreement”) and in part pursuant to the Exchange Agreement (as defined below), with the proceeds from the sale of 1.125 Lien Notes under the 1.125 Lien Notes Purchase Agreement used to fund the cash payments to certain Exchanging Holders (as defined below) under the Exchange Agreement; and (ii) K. Hovnanian issued an aggregate of \$282.3 million of 10.5% Senior Secured 1.25 Lien Notes due 2026 (the “1.25 Lien Notes”), pursuant to a Note Purchase Agreement (the “1.25 Lien Notes Purchase Agreement”), dated October 31, 2019, among K. Hovnanian, the Notes Guarantors and certain Investors as purchasers thereof (the “1.25 Lien Notes Purchasers”), the proceeds of which were used to fund the Satisfaction and Discharge (as defined below).

In addition, on October 31, 2019, K. Hovnanian completed private exchanges of (i) approximately \$221.0 million aggregate principal amount of its 10.0% Senior Secured Notes due 2022 (the “10.0% 2022 Notes”) and approximately \$114.0 million aggregate principal amount of its 10.5% Senior Secured Notes due 2024 (the “10.5% 2024 Notes”) and, together with the 10.0% 2022 Notes, the “Second Lien Notes”) held by certain participating bondholders (the “Exchanging Holders”) for a portion of the \$350.0 million aggregate principal amount of 1.125 Lien Notes described above and/or cash, and (ii) approximately \$99.6 million aggregate principal amount of its 10.5% 2024 Notes held by certain of the Exchanging Holders for approximately \$103.1 million aggregate principal amount of 11.25% Senior Secured 1.5 Lien Notes due 2026 (the “1.5 Lien Notes”) and, together with the 1.125 Lien Notes and the 1.25 Lien Notes, the “New Secured Notes”), pursuant to an Exchange Agreement, dated October 30, 2019 (the “Exchange Agreement”), among K. Hovnanian, the Notes Guarantors and the Exchanging Holders.

On October 31, 2019, K. Hovnanian issued notices of redemption for all of its outstanding 9.50% Senior Secured Notes due 2020 (the “9.50% Notes”), 2.000% Senior Secured Notes due 2021 (the “2.000% Notes”) and 5.000% Senior Secured Notes due 2021 (the “5.000% Notes”) and deposited with Wilmington Trust, National Association, as trustee under the indenture (the “9.50% Notes Indenture”) governing the 9.50% Notes and as trustee under the indenture (the “5.000%/2.000% Notes Indenture”) governing the 5.000% Notes and the 2.000% Notes sufficient funds to satisfy and discharge (collectively, the “Satisfaction and Discharge”) (i) the 9.50% Indenture and to fund the redemption of all outstanding 9.50% Notes and to pay accrued and unpaid interest on the redeemed notes to, but not including, the November 10, 2019 redemption date and (ii) the 5.000%/2.000% Indenture and to fund the redemption of all outstanding 5.000% Notes and 2.000% Notes and to pay accrued and unpaid interest on the redeemed notes to, but not including, the November 30, 2019 redemption date. Proceeds from the issuance of the 1.25 Lien Notes together with cash on hand were used to fund the Satisfaction and Discharge. Upon the Satisfaction and Discharge of the 9.50% Notes Indenture, all of the collateral securing the 9.50% Notes was released and the restrictive covenants and events of default contained therein ceased to have effect and upon the Satisfaction and Discharge of the 5.000%/2.000% Notes Indenture, all of the collateral securing the 5.000% Notes and the 2.000% Notes was released and the restrictive covenants and events of default contained therein ceased to have effect as to both such series of Notes.

The Company and K. Hovnanian obtained the consent of certain lenders/holders under its existing debt instruments to amend such debt instruments in connection with the issuance of the New Secured Notes and the execution of the indentures governing the New Secured Notes and the Secured Credit Agreement. The Company, K. Hovnanian and the guarantors also amended such debt instruments to add the Former New Secured Group Guarantors as guarantors thereunder and, in the case of the Second Lien Notes, to add the Former New Secured Group Guarantors as pledgors and grantors of their assets (subject to permitted liens and certain exceptions) to secure such Second Lien Notes.

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The transactions that were consummated on October 31, 2019, as described, are collectively referred to herein as the “2019 Transactions.” The 2019 Transactions resulted in a loss in extinguishment of debt of \$42.4 million for the year ended October 31, 2019 which is included as “Loss on Extinguishment of Debt” on the Consolidated Statement of Operations.

See Note 9 to the Consolidated Financial Statements included elsewhere in this Annual Report on Form 10-K for a further discussion of K. Hovnanian’s Credit Facilities, senior secured notes and senior notes.

Mortgages and Notes Payable

We have nonrecourse mortgage loans for certain communities totaling \$203.6 million and \$95.6 million (net of debt issuance costs) at October 31, 2019 and October 31, 2018, respectively, which are secured by the related real property, including any improvements, with an aggregate book value of \$410.2 million and \$241.9 million, respectively. The weighted-average interest rate on these obligations was 8.3% and 6.1% at October 31, 2019 and October 31, 2018, respectively, and the mortgage loan payments on each community primarily correspond to home deliveries.

Our wholly owned mortgage banking subsidiary, K. Hovnanian American Mortgage, LLC (“K. Hovnanian Mortgage”), originates mortgage loans primarily from the sale of our homes. Such mortgage loans and related servicing rights are sold in the secondary mortgage market within a short period of time. In certain instances, we retain the servicing rights for a small amount of loans. The loans are secured by the mortgages held for sale and repaid when we sell the underlying mortgage loans to permanent investors. As of October 31, 2019 and 2018, we had an aggregate of \$140.2 million and \$113.2 million, respectively, outstanding under several of K. Hovnanian Mortgage’s short-term borrowing facilities.

See Note 8 to the Consolidated Financial Statements for a discussion of these agreements and facilities.

Equity

On July 3, 2001, our Board of Directors authorized a stock repurchase program to purchase up to 0.2 million shares of Class A Common Stock. We did not repurchase any shares under this program during fiscal 2019 or 2018. As of October 31, 2019, the maximum number of shares of Class A Common Stock that may yet be purchased under this program is 22 thousand. (See Part II, Item 5 for information on equity purchases).

On July 12, 2005, we issued 5,600 shares of 7.625% Series A Preferred Stock, with a liquidation preference of \$25,000 per share. Dividends on the Series A Preferred Stock are not cumulative and are payable at an annual rate of 7.625%. The Series A Preferred Stock is not convertible into the Company’s common stock and is redeemable in whole or in part at our option at the liquidation preference of the shares. The Series A Preferred Stock is traded as depositary shares, with each depositary share representing 1/1000th of a share of Series A Preferred Stock. The depositary shares are listed on the NASDAQ Global Market under the symbol “HOVNP.” In fiscal 2019, 2018 and 2017, we did not make any dividend payments on the Series A Preferred Stock as a result of covenant restrictions in our debt instruments. Certain debt instruments to which we are a party contain restrictions on the payment of cash dividends. As a result of the most restrictive of these provisions, we are not currently able to pay any cash dividends. We have never paid a cash dividend to common stockholders. We anticipate that we will continue to be restricted from paying dividends, which are not cumulative, for the foreseeable future.

On October 31, 2019, in connection with the issuance of the 7.75% Senior Secured 1.25 Lien Notes due 2026, we issued and sold an aggregate of 178,427 shares of Class A Common Stock, par value \$0.01 per share (and associated Preferred Stock Purchase Rights), to the purchasers of such Notes for an aggregate purchase price of \$1,784.27. The issuance was exempt from registration under Section 4(a)(2) of the Securities Act of 1933.

Inventory Activities

Total inventory, excluding consolidated inventory not owned, increased \$111.9 million during the year ended October 31, 2019 from October 31, 2018. Total inventory, excluding consolidated inventory not owned, increased in the Northeast by \$12.6 million, in the Mid-Atlantic by \$46.5 million, in the Midwest by \$9.7 million, in the Southeast by \$3.8 million, in the Southwest by \$7.5 million and in the West by \$31.8 million. These inventory fluctuations were primarily attributable to new land purchases and land development, partially offset by home deliveries and land sales during the period. During the year ended October 31, 2019, we had aggregate impairments in the amount of \$2.7 million. We wrote-off costs in the aggregate amount of \$3.6 million during the year ended October 31, 2019 related to land options that expired or that we terminated, as the communities’ forecasted profitability was not projected to produce adequate returns on investment commensurate with the risk. In the last few years, we have been able to acquire new land parcels at prices that we believe will generate reasonable returns under current homebuilding market conditions. There can be no assurances that this trend will continue in the near term. Substantially all homes under construction or completed and included in inventory at October 31, 2019 are expected to be closed during the next six to nine months.

Consolidated inventory not owned increased \$102.4 million. Consolidated inventory not owned consists of options related to land banking and model financing transactions that were added to our Consolidated Balance Sheets in accordance with US GAAP. The increase from October 31, 2018 to October 31, 2019 was primarily due to an increase in land banking transactions along with an increase in the sale and leaseback of certain model homes during the period. We have land banking arrangements, whereby we sell land parcels to the land bankers and they provide us an option to purchase back finished lots on a predetermined schedule. Because of our options to repurchase these parcels, for accounting purposes in accordance with ASC 606-10-55-70, these transactions are considered a financing rather than a sale. For purposes of our Consolidated Balance Sheet, at October 31, 2019, inventory of \$136.1 million was recorded to “Consolidated inventory not owned,” with a corresponding amount of \$89.8 million (net of debt issuance costs) recorded to “Liabilities from inventory not owned” for the amount of net cash received from the transactions. In addition, we sell and lease back certain of our model homes with the right to participate in the potential profit when each home is sold to a third party at the end of the respective lease. As a result of our continued involvement, for accounting purposes in accordance with ASC 606-10-55-68, these sale and leaseback transactions are considered a financing rather than a sale. Therefore, for purposes of our Consolidated Balance Sheet, at October 31, 2019, inventory of \$54.2 million was recorded to “Consolidated inventory not owned,” with a corresponding amount of \$51.2 million (net of debt issuance costs) recorded to “Liabilities from inventory not owned” for the amount of net cash received from the transactions.

When possible, we option property for development prior to acquisition. By optioning property, we are only subject to the loss of the cost of the option and predevelopment costs if we choose not to exercise the option. As a result, our commitment for major land acquisitions is reduced. The costs associated with optioned properties are included in “Land and land options held for future development or sale” on the Consolidated Balance Sheets. Also included in “Land and land options held for future development or sale” are amounts associated with inventory in mothballed communities. We mothball (or stop development on) certain communities when we determine the current performance does not justify further investment at the time. That is, we believe we will generate higher returns if we decide against spending money to improve land today and save the raw land until such time as the markets improve or we determine to sell the property. As of October 31, 2019, we had mothballed land in 13 communities. The book value associated with these communities at October 31, 2019 was \$13.8 million, which was net of impairment charges recorded in prior periods of \$138.1 million. We continually review communities to determine if mothballing is appropriate. During fiscal 2019, we did not mothball any additional communities, but we sold two previously mothballed communities and re-activated three previously mothballed communities.

Inventories held for sale, which are land parcels where we have decided not to build homes, and are actively marketing the land for sale, represented \$6.4 million of our total inventories at October 31, 2018, and are reported at the lower of carrying amount or fair value less costs to sell. There were no inventories held for sale at October 31, 2019. In determining fair value for land held for sale, management considers, among other things, prices for land in recent comparable sale transactions, market analysis studies, which include the estimated price a willing buyer would pay for the land (other than in a forced liquidation sale) and recent bona fide offers received from outside third parties.

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The following tables summarize home sites included in our total residential real estate.

	Total Home Sites	Contracted Not Delivered	Remaining Home Sites Available
October 31, 2019:			
Northeast	3,297	152	3,145
Mid-Atlantic	5,297	343	4,954
Midwest	3,898	450	3,448
Southeast	4,693	282	4,411
Southwest	7,188	663	6,525
West	5,260	301	4,959
Consolidated total	29,633	2,191	27,442
Unconsolidated joint ventures	4,226	461	3,765
Owned	11,374	1,658	9,716
Optioned	18,004	278	17,726
Construction to permanent financing lots	255	255	-
Consolidated total	29,633	2,191	27,442
Lots controlled by unconsolidated joint ventures	4,226	461	3,765
October 31, 2018:			
Northeast	3,920	51	3,869
Mid-Atlantic	4,795	296	4,499
Midwest	4,758	394	4,364
Southeast	4,671	251	4,420
Southwest	6,783	523	6,260
West	5,630	311	5,319
Consolidated total	30,557	1,826	28,731
Unconsolidated joint ventures	4,029	366	3,663
Owned	12,729	1,356	11,373
Optioned	17,610	252	17,358
Construction to permanent financing lots	218	218	-
Consolidated total	30,557	1,826	28,731
Lots controlled by unconsolidated joint ventures	4,029	366	3,663

The following table summarizes our started or completed unsold homes and models, excluding unconsolidated joint ventures, in active and substantially completed communities. The increase in the total homes from October 31, 2018 to October 31, 2019 is primarily due to the increase in community count during the period, along with a planned increase of additional unsold homes in certain markets to take advantage of increased sales pace.

	October 31, 2019			October 31, 2018		
	Unsold Homes	Models	Total	Unsold Homes	Models	Total
Northeast	58	12	70	24	5	29
Mid-Atlantic	63	12	75	38	19	57
Midwest	31	10	41	19	10	29
Southeast	78	15	93	62	11	73
Southwest	320	12	332	335	14	349
West	213	19	232	93	12	105
Total	763	80	843	571	71	642
Started or completed unsold homes and models per active selling communities (1)	5.4	0.6	6.0	4.6	0.6	5.2

(1) Active selling communities (which are communities that are open for sale with ten or more home sites available) were 141 and 123 at October 31, 2019 and 2018, respectively. This ratio does not include substantially completed communities, which are communities with less than ten home sites available.

Other Balance Sheet Activities

Homebuilding – Restricted cash and cash equivalents increased \$8.1 million from October 31, 2018 to \$20.9 million at October 31, 2019. The increase was primarily due to cash collateral for new letters of credit issued during the period.

Investments in and advances to unconsolidated joint ventures increased \$3.3 million during the fiscal year ended October 31, 2019 compared to October 31, 2018. The increase was primarily due to the income from two of our joint ventures during fiscal 2019, along with new capital contributions for existing joint ventures and a new joint venture during fiscal 2019, partially offset by a note receivable from one of our joint ventures that was paid off the fourth quarter of fiscal 2019, along with partner distributions during the period. As of October 31, 2019 and October 31, 2018, we had investments in ten and nine unconsolidated homebuilding joint ventures, respectively, and one unconsolidated land development joint venture for both periods. We have no guarantees associated with our unconsolidated joint ventures, other than guarantees limited only to performance and completion of development, environmental indemnification and standard warranty and representation against fraud, misrepresentation and similar actions, including a voluntary bankruptcy.

Receivables, deposits and notes, net increased \$9.7 million from October 31, 2018 to \$44.9 million at October 31, 2019. The increase was primarily due to an increase in receivables for reimbursements of expenditures in connection with certain structured lot option agreements, along with increased receivables related to the timing of home closings during the period, as well as a new insurance receivable for premium adjustments and a new receivable related to the funding of the Satisfaction and Discharge as described under “ – Capital Resources and Liquidity”. These increases were partially offset by a decrease related the return of a municipal receivable during the period.

Prepaid expenses and other assets were as follows as of:

(In thousands)	October 31, 2019	October 31, 2018	Dollar Change
Prepaid insurance	\$2,061	\$2,514	\$(453)
Prepaid project costs	32,015	28,667	3,348
Other prepaids	10,808	7,505	3,303
Other assets	820	464	356
Total	\$45,704	\$39,150	\$6,554

Prepaid insurance decreased slightly due to the timing of premium payments. These costs are amortized over the life of the associated insurance policy, which can be one to three years. Prepaid project costs consist of community specific expenditures that are used over the life of the community. Such prepaids are expensed as homes are delivered, and therefore have increased as our community count has increased. Other prepaids increased primarily due to costs associated with the refinancing of our senior secured revolving credit facility in the fourth quarter of fiscal 2019.

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Financial services assets consist primarily of residential mortgages receivable held for sale of which \$163.0 million and \$129.0 million at October 31, 2019 and 2018, respectively, were being temporarily warehoused and are awaiting sale in the secondary mortgage market. The increase in mortgage loans held for sale from October 31, 2018 was primarily related to an increase in the volume of loans originated during the fourth quarter of 2019 compared to the fourth quarter of 2018, partially offset by a decrease in the average loan value.

Nonrecourse mortgages secured by inventory increased to \$203.6 million at October 31, 2019, from \$95.6 million at October 31, 2018. The increase was primarily due to a new mortgage on several communities that are part of a consolidated joint venture entered into in the second quarter of fiscal 2019, along with new mortgages for other communities in most of our segments obtained during fiscal 2019, as well as additional loan borrowings on existing mortgages, partially offset by the payment of existing mortgages during the period.

Accounts payable and other liabilities are as follows as of:

(In thousands)	October 31, 2019	October 31, 2018	Dollar Change
Accounts payable	\$141,667	\$127,795	\$13,872
Reserves	92,083	99,229	(7,146)
Accrued expenses	19,208	14,884	4,324
Accrued compensation	53,157	53,200	(43)
Other liabilities	14,078	9,791	4,287
Total	\$320,193	\$304,899	\$15,294

The increase in accounts payable was primarily due to the increase in deliveries in the fourth quarter of fiscal 2019 as compared to the fourth quarter of fiscal 2018. Reserves decreased during the period, primarily due to a reduction in our construction defect reserves in connection with our annual assessment as our loss experience has continued to improve over the past few years. Accrued expenses increased primarily due to accruals for legal fees associated with the 2019 Transactions (as previously defined). Other liabilities increased primarily due to several new municipal loans and bonds for land development issued during the period.

Customers' deposits increased \$5.8 million from October 31, 2018 to \$35.9 million at October 31, 2019. The increase was primarily related to the increase in backlog during the year.

Liabilities from inventory not owned increased \$77.6 million to \$141.0 million at October 31, 2019. The increase was due an increase in land banking transactions during the period, along with an increase in the sale and leaseback of certain model homes, both of which are accounted for as financing transactions as described above.

Accrued interest decreased \$16.5 million to \$19.1 million at October 31, 2019. The decrease was primarily due to interest payments made on debt in connection with the 2019 Transactions (as previously defined) during the fourth quarter of fiscal 2019.

Financial Services (liabilities) increased \$25.7 million from \$143.4 million at October 31, 2018, to \$169.1 million at October 31, 2019. The increase is primarily due to an increase in amounts outstanding under our mortgage warehouse lines of credit, and directly correlates to the increase in the volume of mortgage loans held for sale during the period.

Results of Operations**Total Revenues**

Compared to the prior period, revenues increased (decreased) as follows:

(Dollars in thousands)	Year Ended		
	October 31, 2019	October 31, 2018	October 31, 2017
Homebuilding:			
Sale of homes	\$43,454	\$(433,805)	\$(260,757)
Land sales	(15,066)	(24,319)	(27,445)
Other revenues	(3,502)	3,080	1,494
Financial services	797	(5,388)	(13,874)
Total change	\$25,683	\$(460,432)	\$(300,582)
Total revenues percent change	1.3%	(18.8)%	(10.9)%

Homebuilding

Sale of homes revenues increased \$43.5 million, or 2.3%, for the year ended October 31, 2019, decreased \$433.8 million, or 18.5%, for the year ended October 31, 2018, and decreased \$260.8 million, or 10.0%, for the year ended October 31, 2017 as compared to the same period of the prior year. The increased revenues in fiscal 2019 were primarily due to the number of home deliveries increasing 2.0%, and the average price per home increasing to \$394,194 in fiscal 2019 from \$393,280 in fiscal 2018. The increase in deliveries in fiscal 2019 were primarily due to the result of an increase in community count in fiscal 2019 as compared to fiscal 2018 of 14.6%. The decreased revenues in fiscal 2018 were primarily due to the number of home deliveries decreasing 13.5% and the average price per home decreasing to \$393,280 in fiscal 2018 from \$417,714 in fiscal 2017. The decreased revenues in fiscal 2017 were primarily due to the number of home deliveries decreasing 13.3%, partially offset by the average price per home increasing to \$417,714 in fiscal 2017 from \$402,350 in fiscal 2016. The decrease in fiscal 2018 and 2017 deliveries were primarily the result of a reduction in community count by 5.4% and 22.2%, respectively. The fluctuations in average prices for fiscal 2019, 2018, and 2017 were primarily the result of geographic and community mix of our deliveries. For fiscal 2018, there were also home price decreases (which we increase or decrease in communities depending on the respective community's performance), partially offset by price increases in some communities primarily in the West. For fiscal 2017, we were also able to raise home prices in certain communities. For further detail on changes in segment revenues see "Homebuilding Operations by Segment" below. For further detail on land sales and other revenue, see the section titled "Land Sales and Other Revenues" below.

Information on homes delivered by segment is set forth below:

(Housing Revenue in thousands)	Year Ended		
	October 31, 2019	October 31, 2018	October 31, 2017
Northeast:			
Housing revenues	\$116,889	\$96,012	\$166,752
Homes delivered	192	178	351
Average price	\$608,797	\$539,393	\$475,077
Mid-Atlantic:			
Housing revenues	\$356,674	\$354,153	\$463,271
Homes delivered	652	672	856
Average price	\$547,046	\$527,013	\$541,205
Midwest:			
Housing revenues	\$203,734	\$196,307	\$199,009
Homes delivered	680	662	640
Average price	\$299,609	\$296,536	\$310,951
Southeast:			
Housing revenues	\$219,860	\$237,948	\$257,066
Homes delivered	545	596	614
Average price	\$403,413	\$399,242	\$418,675
Southwest:			
Housing revenues	\$627,201	\$637,568	\$826,422
Homes delivered	1,866	1,873	2,357
Average price	\$336,121	\$340,399	\$350,624
West:			
Housing revenues	\$425,324	\$384,240	\$427,513
Homes delivered	1,011	866	784
Average price	\$420,696	\$443,695	\$545,297
Consolidated total:			
Housing revenues	\$1,949,682	\$1,906,228	\$2,340,033
Homes delivered	4,946	4,847	5,602
Average price	\$394,194	\$393,280	\$417,714
Unconsolidated joint ventures:(1)			
Housing revenues	\$485,324	\$599,979	\$310,573
Homes delivered	774	984	547
Average price	\$627,034	\$609,735	\$567,774

(1) Represents housing revenue and home deliveries for our unconsolidated homebuilding joint ventures for the period. We provide this data as a supplement to our consolidated results as an indicator of the volume managed in our unconsolidated joint ventures. See Note 20 to the Consolidated Financial Statements for a further discussion of our joint ventures.

The increase in housing revenues during year ended October 31, 2019, as compared to year ended October 31, 2018, was primarily attributed to our increased deliveries, as our community count has increased year over year, and by the increase in average sales price. Housing revenues in fiscal 2019 increased in all of our homebuilding segments combined by 2.3%, and average sales price increased by 0.2%, excluding unconsolidated joint ventures. In our homebuilding segments, homes delivered increased in fiscal 2019 as compared to fiscal 2018 by 7.9%, 2.7% and 16.7% in the Northeast, Midwest and West, respectively, and decreased by 3.0%, 8.6% and 0.4% in the Mid-Atlantic, Southeast and Southwest, respectively. Overall in fiscal 2019 as compared to fiscal 2018 homes delivered increased 2.0% across all our segments, excluding unconsolidated joint ventures.

The decrease in housing revenues during year ended October 31, 2018, as compared to year ended October 31, 2017, was primarily attributed to our decreased deliveries, as our community count decreased year over year, and by the decrease in average sales price. Housing revenues in fiscal 2018 decreased in all of our homebuilding segments combined by 18.5%, and average sales price decreased by 5.8%, excluding unconsolidated joint ventures. In our homebuilding segments, homes delivered decreased in fiscal 2018 as compared to fiscal 2017 by 49.3%, 21.5%, 2.9% and 20.5% in the Northeast, Mid-Atlantic, Southeast and Southwest, respectively, and increased by 3.4% and 10.5% in the Midwest and West, respectively. Overall in fiscal 2018 as compared to fiscal 2017 homes delivered decreased 13.5% across all our segments, excluding unconsolidated joint ventures.

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Quarterly housing revenues and net sales contracts by segment, excluding unconsolidated joint ventures, for the years ended October 31, 2019, 2018 and 2017 are set forth below (net contracts are defined as new contracts executed during the period for the purchase of homes, less cancellations of contracts in the same period):

(In thousands)	Quarter Ended			
	October 31, 2019	July 31, 2019	April 30, 2019	January 31, 2019
Housing revenues:				
Northeast	\$70,650	\$20,694	\$13,040	\$12,505
Mid-Atlantic	135,866	86,811	80,818	53,179
Midwest	68,714	47,261	42,870	44,889
Southeast	76,414	50,217	49,346	43,883
Southwest	213,089	152,615	143,634	117,863
West	127,413	110,251	97,844	89,816
Consolidated total	\$692,146	\$467,849	\$427,552	\$362,135
Sales contracts (net of cancellations):				
Northeast	\$37,860	\$37,560	\$62,580	\$34,950
Mid-Atlantic	86,296	99,807	118,245	81,514
Midwest	54,682	58,794	68,744	37,046
Southeast	69,765	58,648	64,772	40,460
Southwest	166,723	202,553	192,630	115,338
West	102,460	131,483	120,616	57,018
Consolidated total	\$517,786	\$588,845	\$627,587	\$366,326

(In thousands)	Quarter Ended			
	October 31, 2018	July 31, 2018	April 30, 2018	January 31, 2018
Housing revenues:				
Northeast	\$25,606	\$26,701	\$23,513	\$20,192
Mid-Atlantic	99,493	79,593	104,058	71,009
Midwest	67,395	45,579	42,816	40,517
Southeast	72,828	47,472	60,974	56,674
Southwest	193,000	157,406	158,958	128,204
West	135,353	86,108	77,798	84,981
Consolidated total	\$593,675	\$442,859	\$468,117	\$401,577
Sales contracts (net of cancellations):				
Northeast	\$16,044	\$18,045	\$15,278	\$25,363
Mid-Atlantic	84,027	76,324	117,399	63,213
Midwest	44,167	43,596	67,308	49,416
Southeast	41,126	71,381	62,741	50,455
Southwest	123,485	177,174	198,487	141,458
West	83,933	102,183	93,213	69,397
Consolidated total	\$392,782	\$488,703	\$554,426	\$399,302

(In thousands)	Quarter Ended			
	October 31, 2017	July 31, 2017	April 30, 2017	January 31, 2017
Housing revenues:				
Northeast	\$27,913	\$40,015	\$45,917	\$52,907
Mid-Atlantic	149,881	113,111	100,120	100,159
Midwest	72,944	40,620	41,794	43,651
Southeast	78,267	68,408	54,005	56,386
Southwest	209,223	209,041	224,898	183,260
West	128,555	103,087	100,819	95,052
Consolidated total	\$666,783	\$574,282	\$567,553	\$531,415
Sales contracts (net of cancellations):				
Northeast	\$24,407	\$26,648	\$29,918	\$38,045
Mid-Atlantic	77,112	97,017	123,045	102,246
Midwest	38,139	48,257	61,489	45,566
Southeast	56,354	73,896	55,577	46,451
Southwest	142,926	177,285	227,500	170,884
West	91,048	103,342	142,522	84,423
Consolidated total	\$429,986	\$526,445	\$640,051	\$487,615

Contracts per average active selling community in fiscal 2019 were 39.0 compared to fiscal 2018 of 35.9. Our reported level of sales contracts (net of cancellations) has been positively impacted by an increase in community count, along with an increase in the pace of sales in most of the Company's segments during fiscal 2019. Cancellation rates represent the number of cancelled contracts in the quarter divided by the number of gross sales contracts executed in the quarter. For comparison, the following are historical cancellation rates, excluding unconsolidated joint ventures:

Quarter	2019	2018	2017	2016	2015
First	24%	18%	19%	20%	16%
Second	19%	17%	18%	19%	16%
Third	19%	19%	19%	21%	20%
Fourth	21%	23%	22%	20%	20%

Another common and meaningful way to analyze our cancellation trends is to compare the number of contract cancellations as a percentage of the beginning backlog. The following table provides this historical comparison, excluding unconsolidated joint ventures.

Quarter	2019	2018	2017	2016	2015
First	16%	12%	12%	13%	11%
Second	20%	15%	16%	14%	14%
Third	16%	14%	13%	12%	13%
Fourth	14%	13%	12%	11%	12%

Most cancellations occur within the legal rescission period, which varies by state but is generally less than two weeks after the signing of the contract. Cancellations also occur as a result of a buyer's failure to qualify for a mortgage, which generally occurs during the first few weeks after signing. As shown in the tables above, the contract cancellations over the past several years have been within what we believe to be a normal range. However, market conditions remain uncertain and it is difficult to predict what cancellation rates will be in the future.

An important indicator of our future results is recently signed contracts and our home contract backlog for future deliveries. Our consolidated contract backlog, excluding unconsolidated joint ventures, by segment is set forth below:

(Dollars in thousands)	October 31, 2019	October 31, 2018	October 31, 2017
Northeast:			
Total contract backlog	\$86,557	\$30,496	\$51,778
Number of homes	152	51	98
Mid-Atlantic: (1)			
Total contract backlog	\$193,387	\$180,546	\$185,123
Number of homes	343	296	309
Midwest:			
Total contract backlog	\$122,681	\$107,149	\$98,969
Number of homes	450	394	382
Southeast:			
Total contract backlog	\$121,921	\$108,137	\$120,382
Number of homes	282	251	285
Southwest:			
Total contract backlog	\$230,898	\$180,854	\$177,818
Number of homes	663	523	509
West:			
Total contract backlog	\$124,700	\$138,448	\$173,963
Number of homes	301	311	400
Totals: (1)			
Total consolidated contract backlog	\$880,144	\$745,630	\$808,033
Number of homes	2,191	1,826	1,983

(1) Contract backlog as of October 31, 2019 excludes 29 homes that were sold to one of our joint ventures at the time of the joint venture formation.

Contract backlog dollars increased 18.0% as of October 31, 2019 compared to October 31, 2018, and the number of homes in backlog increased 20.0% for the same period. The increase in backlog was driven by a 14.3% increase in net contracts and the increase in community count for the year ended October 31, 2019 compared to the prior fiscal year. In the month of November 2019, excluding unconsolidated joint ventures, we signed an additional 404 net contracts amounting to \$159.1 million in contract value.

Total cost of sales on our Consolidated Statements of Operations includes expenses for consolidated housing and land and lot sales, including inventory impairment loss and land option write-offs (defined as "land charges" in the tables below). A breakout of such expenses for housing sales and homebuilding gross margin is set forth below.

Homebuilding gross margin before cost of sales interest expense and land charges is a non-GAAP financial measure. This measure should not be considered as an alternative to homebuilding gross margin determined in accordance with GAAP as an indicator of operating performance.

Management believes this non-GAAP measure enables investors to better understand our operating performance. This measure is also useful internally, helping management evaluate our operating results on a consolidated basis and relative to other companies in our industry. In particular, the magnitude and volatility of land charges for the Company, and for other homebuilders, have been significant and, as such, have made financial analysis of our industry more difficult. Homebuilding metrics excluding land charges, as well as interest amortized to cost of sales, and other similar presentations prepared by analysts and other companies are frequently used to assist investors in understanding and comparing the operating characteristics of homebuilding activities by eliminating many of the differences in companies' respective level of impairments and levels of debt.

(Dollars in thousands)	Year Ended		
	October 31, 2019	October 31, 2018	October 31, 2017
Sale of homes	\$1,949,682	\$1,906,228	\$2,340,033
Cost of sales, excluding interest expense and land charges	1,596,237	1,555,894	1,937,116
Homebuilding gross margin, before cost of sales interest expense and land charges	353,445	350,334	402,917
Cost of sales interest expense, excluding land sales interest expense	70,520	56,588	76,902
Homebuilding gross margin, after cost of sales interest expense, before land charges	282,925	293,746	326,015
Land charges	6,288	3,501	17,813
Homebuilding gross margin	\$276,637	\$290,245	\$308,202
Gross margin percentage	14.2%	15.2%	13.2%
Gross margin percentage, before cost of sales interest expense and land charges	18.1%	18.4%	17.2%
Gross margin percentage, after cost of sales interest expense, before land charges	14.5%	15.4%	13.9%

Cost of sales expenses as a percentage of consolidated home sales revenues are presented below:

	Year Ended		
	October 31, 2019	October 31, 2018	October 31, 2017
Sale of homes	100.0%	100%	100%
Cost of sales, excluding interest expense and land charges:			
Housing, land and development costs	72.1%	71.9%	73.1%
Commissions	3.7%	3.6%	3.4%
Financing concessions	1.4%	1.2%	1.2%
Overheads	4.7%	4.9%	5.1%
Total cost of sales, before interest expense and land charges	81.9%	81.6%	82.8%
Cost of sales interest	3.6%	3.0%	3.3%
Land charges	0.3%	0.2%	0.7%
Gross margin percentage	14.2%	15.2%	13.2%
Gross margin percentage, before cost of sales interest expense and land charges	18.1%	18.4%	17.2%
Gross margin percentage, after cost of sales interest expense and before land charges	14.5%	15.4%	13.9%

We sell a variety of home types in various communities, each yielding a different gross margin. As a result, depending on the mix of communities delivering homes, consolidated gross margin may fluctuate up or down. Total homebuilding gross margin percentage decreased to 14.2% for the year ended October 31, 2019 compared to 15.2% for the same period last year. This decrease was primarily due to the increase in cost of sales interest as previously discussed in “ – Overview.” Also contributing to the decrease is the mix of communities delivering compared to the same period of the prior year, along with a slight increase in direct costs and financing concessions. Total homebuilding gross margin percentage increased to 15.2% for the year ended October 31, 2018 compared to 13.2% for the same period of the prior year. This increase was primarily due to the mix of communities delivering homes and the reduction of our warranty reserves, as a result of our annual analysis performed in the fourth quarter of each year, along with a \$6.3 million benefit from a one-time credit related to a land development reimbursement from a municipality in California. For the years ended October 31, 2019, 2018 and 2017, gross margin was favorably impacted by the reversal of prior period inventory impairments of \$37.7 million, \$51.7 million and \$74.4 million, respectively, which represented 1.9%, 2.7% and 3.2%, respectively, of “Sale of homes” revenue.

Reflected as inventory impairment loss and land option write-offs in cost of sales (“land charges”), we have written off or written down certain inventories totaling \$6.3 million, \$3.5 million and \$17.8 million during the years ended October 31, 2019, 2018 and 2017, respectively, to their estimated fair value. See Note 12 to the Consolidated Financial Statements for an additional discussion. During the years ended October 31, 2019, 2018 and 2017, we wrote off residential land options and approval and engineering costs totaling \$3.6 million, \$1.4 million and \$2.7 million, respectively, which are included in the total land charges mentioned above. Option, approval and engineering costs are written off when a community’s pro forma profitability is not projected to produce adequate returns on the investment commensurate with the risk and when we believe it is probable we will cancel the option, or when a community is redesigned engineering costs related to the initial design are written off. Such write-offs were located in all segments in fiscal 2019, 2018 and 2017. The inventory impairments amounted to \$2.7 million, \$2.1 million and \$15.1 million for the years ended October 31, 2019, 2018 and 2017, respectively. It is difficult to predict impairment levels, and should it become necessary or desirable to have additional land sales, further lower prices, or should the estimates or expectations used in determining estimated cash flows or fair value decrease or differ from current estimates in the future, we may need to recognize additional impairments.

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Below is a breakdown of our lot option walk-aways and impairments by segment for fiscal 2019. In fiscal 2019, we walked away from 22.3% of all the lots we controlled under option contracts. The remaining 77.7% of our option lots are in communities that we believe remain economically feasible.

The following table represents lot option walk-aways by segment for the year ended October 31, 2019:

(Dollars in millions)	Dollar Amount of Walk Away	Number of Walk- Away Lots	% of Walk- Away Lots	Total Option Lots(1)	Walk- Away Lots as a % of Total Option Lots
Northeast	\$0.6	880	17.1%	3,681	23.9%
Mid-Atlantic	0.5	976	18.9%	3,906	25.0%
Midwest	0.9	901	17.5%	3,427	26.3%
Southeast	0.3	825	16.0%	3,806	21.7%
Southwest	0.6	778	15.1%	5,856	13.3%
West	0.7	793	15.4%	2,481	32.0%
Total	\$3.6	5,153	100.0%	23,157	22.3%

(1) Includes lots optioned at October 31, 2019 and lots optioned that the Company walked away from in the year ended October 31, 2019.

The following table represents impairments by segment for the year ended October 31, 2019:

(In millions)	Dollar Amount of Impairment	% of Impairments	Pre- Impairment Value(1)	% of Pre- Impairment Value
Northeast	\$0.2	7.4%	\$7.8	2.6%
Mid-Atlantic	0.3	11.1%	1.7	17.6%
Midwest	1.4	51.9%	4.6	30.4%
Southeast	0.7	25.9%	2.2	31.8%
Southwest	0.1	3.7%	1.2	8.3%
West	-	-%	-	-%
Total	\$2.7	100.0%	\$17.5	15.4%

(1) Represents carrying value, net of prior period impairments, if any, at the time of recording the applicable period's impairments.

Land Sales and Other Revenues

Land sales and other revenues consist primarily of land and lot sales. A breakout of land and lot sales is set forth below:

(In thousands)	Year Ended		
	October 31, 2019	October 31, 2018	October 31, 2017
Land and lot sales	\$9,211	\$24,277	\$48,596
Cost of sales, excluding interest	8,540	10,661	24,688
Land and lot sales gross margin, excluding interest	671	13,616	23,908
Land and lot sales interest expense	205	4,097	11,634
Land and lot sales gross margin, including interest	\$466	\$9,519	\$12,274

Land sales are ancillary to our residential homebuilding operations and are expected to continue in the future but may significantly fluctuate up or down. Although we budget land sales, they are often dependent upon receiving approvals and entitlements, the timing of which can be uncertain. As a result, projecting the amount and timing of land sales is difficult. There were six land sales in the year ended October 31, 2019, compared to four in the same period of the prior year, resulting in a \$15.1 million decrease in land sales revenue. Despite an increase in the number of land sales in fiscal 2019, there was a significant land sale in the Northeast segment in fiscal 2018 which resulted in the decrease in land sales revenue during fiscal 2019. There were four land sales in the year ended October 31, 2018, compared to ten in the same period of the prior year, resulting in a \$24.3 million decrease in land sales revenue.

Land sales and other revenues decreased \$18.6 million for the year ended October 31, 2019 and decreased \$21.2 million for the year ended October 31, 2018 compared to the same periods in the prior year. Other revenues include income from contract cancellations where the deposit has been forfeited due to contract terminations, interest income, cash discounts and miscellaneous one-time receipts. The decrease from fiscal 2018 to fiscal 2019 and the decrease from fiscal 2017 to fiscal 2018 was mainly due to the fluctuations in land sales revenue noted above. Slightly offsetting the decrease from fiscal 2017 to fiscal 2018 was the gain recognized from the sale of our former corporate headquarters building in the first quarter of fiscal 2018.

Homebuilding Selling, General and Administrative

Homebuilding selling, general and administrative (“SGA”) expenses increased \$7.6 million to \$166.8 million for the year ended October 31, 2019 as compared to the year ended October 31, 2018. The increase was primarily related to a decrease of joint venture management fees received of \$4.2 million, which offset general and administrative expenses, as a result of less unconsolidated joint venture deliveries, and \$3.3 million less of a reduction of our construction defect reserves (a \$6.9 million reduction in fiscal 2019 as compared to \$10.2 million reduction in fiscal 2018) based on our annual actuarial analysis. SGA decreased \$37.1 million to \$159.2 million for the year ended October 31, 2018 as compared to the year ended October 31, 2017. The decrease was primarily related to a \$10.2 million reduction in our construction defect reserves based on our annual actuarial analysis, along with a \$2.3 million reduction for a litigation settlement, and \$12.5 million of additional reserves recorded in fiscal 2017 related to the Grandview II litigation. The remaining decrease is due to the reduction of our community count, a decrease in insurance costs and the increase of joint venture management fees received, which offset general and administrative expenses, as a result of more joint venture deliveries.

Homebuilding Operations by Segment

Financial information relating to the Company's operations was as follows:

Segment Analysis (Dollars in thousands, except average sales price)

	Years Ended October 31,				
	2019	Variance 2019 Compared to 2018	2018	Variance 2018 Compared to 2017	2017
Northeast					
Homebuilding revenue	\$124,372	\$8,076	\$116,296	\$(93,213)	\$209,509
Income before income taxes	\$20,954	\$85	\$20,869	\$18,569	\$2,300
Homes delivered	192	14	178	(173)	351
Average sales price	\$608,797	\$69,404	\$539,393	\$64,316	\$475,077
Mid-Atlantic					
Homebuilding revenue	\$357,247	\$2,557	\$354,690	\$(109,436)	\$464,126
Income before income taxes	\$14,327	\$(4,430)	\$18,757	\$1,566	\$17,191
Homes delivered	652	(20)	672	(184)	856
Average sales price	\$547,046	\$20,033	\$527,013	\$(14,192)	\$541,205
Midwest					
Homebuilding revenue	\$204,461	\$7,862	\$196,599	\$(3,171)	\$199,770
(Loss) income before income taxes	\$(649)	\$(2,177)	\$1,528	\$2,679	\$(1,151)
Homes delivered	680	18	662	22	640
Average sales price	\$299,609	\$3,073	\$296,536	\$(14,415)	\$310,951
Southeast					
Homebuilding revenue	\$220,082	\$(21,538)	\$241,620	\$(18,782)	\$260,402
Loss before income taxes	\$(10,060)	\$(146)	\$(9,914)	\$(3,715)	\$(6,199)
Homes delivered	545	(51)	596	(18)	614
Average sales price	\$403,413	\$4,171	\$399,242	\$(19,433)	\$418,675
Southwest					
Homebuilding revenue	\$629,344	\$(8,938)	\$638,282	\$(189,221)	\$827,503
Income before income taxes	\$33,459	\$(16,393)	\$49,852	\$(21,688)	\$71,540
Homes delivered	1,866	(7)	1,873	(484)	2,357
Average sales price	\$336,121	\$(4,278)	\$340,399	\$(10,225)	\$350,624
West					
Homebuilding revenue	\$425,516	\$40,889	\$384,627	\$(45,919)	\$430,546
Income before income taxes	\$40,018	\$(7,969)	\$47,987	\$28,351	\$19,636
Homes delivered	1,011	145	866	82	784
Average sales price	\$420,696	\$(22,999)	\$443,695	\$(101,602)	\$545,297

Homebuilding Results by Segment

Northeast – Homebuilding revenues increased 6.9% in fiscal 2019 compared to fiscal 2018 primarily due to a 7.9% increase in homes delivered and a 12.9% increase in average selling price, partially offset by a \$12.8 million decrease in land sales and other revenue. The increase in average sales price was the result of new communities delivering higher priced, larger single family homes and townhomes in higher-end submarkets of the segment in fiscal 2019 compared to certain communities delivering in fiscal 2018 that had lower priced, single family homes and townhomes in lower-end submarkets of the segment that are no longer delivering.

Income before income taxes increased \$0.1 million to \$21.0 million, which was mainly due to the increase in homebuilding revenues discussed above and the increase in gross margin percentage before interest expense for fiscal 2019 compared to fiscal 2018. This increase was partially offset by a \$1.0 million decrease in income from unconsolidated joint ventures and a \$0.5 million increase in selling, general and administrative costs for fiscal 2019 compared to fiscal 2018.

Homebuilding revenues decreased 44.5% in fiscal 2018 compared to fiscal 2017 primarily due to a 49.3% decrease in homes delivered, partially offset by a 13.5% increase in average selling price. The increase in average sales price was the result of some new communities delivering higher priced single family homes in higher-end submarkets of the segment in fiscal 2018 compared to certain communities delivering in fiscal 2017 that had lower priced single family homes in similar submarkets of the segment that are no longer delivering. Also impacting the increase in average sales price was higher option revenue and location premiums and the result of our ability to raise prices in fiscal 2018 in certain communities that were delivering homes during both periods.

Income before income taxes increased \$18.6 million to \$20.9 million, which was mainly due a \$24.6 million improvement in loss from unconsolidated joint ventures to income, along with a \$10.6 million decrease in selling, general and administrative costs and a \$2.8 million decrease in inventory impairment loss and land option write-offs. The increase was partially offset by the decrease in homebuilding revenues discussed above and the decrease in gross margin percentage before interest expense for fiscal 2018 compared to fiscal 2017.

Mid-Atlantic – Homebuilding revenues increased 0.7% in fiscal 2019 compared to fiscal 2018 primarily due to a 3.8% increase in average sales price, partially offset by a 3.0% decrease in homes delivered. The increase in average sales price was the result of new communities delivering higher priced, larger single family homes in higher-end submarkets of the segment in fiscal 2019 compared to certain communities delivering in fiscal 2018 that had lower priced, single family homes and townhomes in mid to higher-end submarkets of the segment that are no longer delivering.

Income before income taxes decreased \$4.4 million to \$14.3 million, due mainly to a \$0.6 million increase in inventory impairment loss and land option write-offs and a slight decrease in gross margin percentage before interest expense for fiscal 2019 compared to fiscal 2018.

Homebuilding revenues decreased 23.6% in fiscal 2018 compared to fiscal 2017 primarily due to a 21.5% decrease in homes delivered and a 2.6% decrease in average sales price. The decrease in average sales price was the result of new communities delivering lower priced, smaller single family homes in lower-end submarkets of the segment in fiscal 2018 compared to certain communities delivering in fiscal 2017 that had higher priced, larger single family homes in higher-end submarkets of the segment that are no longer delivering.

Income before income taxes increased \$1.6 million to \$18.8 million, due mainly to a \$2.3 million decrease in selling, general and administrative costs and a \$1.9 million decrease in inventory impairment loss and land option write-offs and a slight increase in gross margin percentage before interest expense for fiscal 2018 compared to fiscal 2017.

Midwest – Homebuilding revenues increased 4.0% in fiscal 2019 compared to fiscal 2018 primarily due to a 2.7% increase in homes delivered and a 1.0% increase in average sales price. The increase in average sales price was the result of new communities delivering higher priced, larger single family homes in higher-end submarkets of the segment in fiscal 2019 compared to certain communities delivering in fiscal 2018 that had lower priced, smaller single family homes in lower-end submarkets of the segment that are no longer delivering. Also impacting the increase in average sales price was higher option revenue in certain communities.

Income before taxes decreased \$2.2 million to a loss of \$0.6 million. The decrease was primarily due to a \$2.0 million increase in selling, general and administrative costs and a \$2.1 million increase in inventory impairment loss and land option write-offs, while gross margin percentage before interest expense was flat for fiscal 2019 compared to fiscal 2018.

Homebuilding revenues decreased 1.6% in fiscal 2018 compared to fiscal 2017. There was a 4.6% decrease in average sales price, partially offset by a 3.4% increase in homes delivered. The decrease in average sales price was the result of new communities delivering lower priced, smaller single family homes in lower-end submarkets of the segment in fiscal 2018 compared to certain communities delivering in fiscal 2017 that had higher priced, larger single family homes in higher-end submarkets of the segment that are no longer delivering.

Loss before income taxes improved \$2.7 million to income of \$1.5 million. The improvement was primarily due to a \$2.7 million decrease in selling, general and administrative costs and the \$0.6 million decrease in loss from unconsolidated joint ventures, partially offset by a slight decrease in gross margin percentage before interest expense.

Southeast – Homebuilding revenues decreased 8.9% in fiscal 2019 compared to fiscal 2018 primarily due to an 8.6% decrease in homes delivered, partially offset by a 1.0% increase in average sales price. The increase in average sales price was the result of new communities delivering higher priced, single family homes in higher-end submarkets of the segment in fiscal 2019 compared to certain communities delivering in fiscal 2018 that had lower priced, smaller single family homes and townhomes in lower-end submarkets of the segment that are no longer delivering. Also impacting the increase in average sales price was higher option revenue in certain communities.

Loss before income taxes increased \$0.1 million to a loss of \$10.0 million due to the decrease in homebuilding revenue discussed above and a \$1.2 million increase in selling, general and administrative costs, partially offset by a \$0.6 million decrease in inventory impairment loss and land option write-offs, a \$3.3 million improvement in loss from unconsolidated joint ventures to income and a slight increase in gross margin percentage before interest expense for fiscal 2019 compared to fiscal 2018.

Homebuilding revenues decreased 7.2% in fiscal 2018 compared to fiscal 2017. The decrease was primarily due to a 2.9% decrease in homes delivered and a 4.6% decrease in average sales price. The decrease in average sales price was the result of new communities delivering lower priced, single family homes and townhomes in lower-end submarkets of the segment in fiscal 2018 compared to some communities delivering in fiscal 2017 that had higher priced, larger single family homes and townhomes in higher-end submarkets of the segment that are no longer delivering.

Loss before income taxes increased \$3.7 million to a loss of \$9.9 million due to the decrease in homebuilding revenue discussed above, a \$1.6 million increase in selling, general and administrative costs and a \$2.9 million decrease in income from unconsolidated joint ventures to a loss, partially offset by a \$7.3 million decrease in inventory impairment loss and land option write-offs. Additionally, the gross margin percentage before interest expense was flat for fiscal 2018 compared to fiscal 2017.

Southwest – Homebuilding revenues decreased 1.4% in fiscal 2019 compared to fiscal 2018 primarily due to a 0.4% decrease in homes delivered and a 1.3% decrease in average sales price. The decrease in average sales price was the result of new communities delivering lower priced, smaller single family homes in lower-end submarkets of the segment in fiscal 2019 compared to some communities delivering in fiscal 2018 that had higher priced, larger single family homes in higher-end submarkets of the segment that are no longer delivering.

Income before income taxes decreased \$16.4 million to \$33.5 million in fiscal 2019 mainly due to the decrease in homebuilding revenues discussed above and a decrease in gross margin percentage before interest expense for fiscal 2019 compared to fiscal 2018, partially offset by a \$2.8 million increase in income from unconsolidated joint ventures and a \$1.9 million decrease in selling, general and administrative costs.

Homebuilding revenues decreased 22.9% in fiscal 2018 compared to fiscal 2017 primarily due to a 20.5% decrease in homes delivered and a 2.9% decrease in average sales price. The decrease in average sales price was the result of new communities delivering lower priced, smaller single family homes in lower-end submarkets of the segment in fiscal 2018 compared to some communities delivering in fiscal 2017 that had higher priced, larger single family homes and townhomes in higher-end submarkets of the segment that are no longer delivering.

Income before income taxes decreased \$21.7 million to \$49.9 million in fiscal 2018 mainly due to the decrease in homebuilding revenues discussed above, partially offset by a \$5.5 million increase in income from unconsolidated joint ventures. Additionally, the gross margin percentage before interest expense was flat for fiscal 2018 compared to fiscal 2017.

West – Homebuilding revenues increased 10.6% in fiscal 2019 compared to fiscal 2018 primarily due to a 16.7% increase in homes delivered, partially offset by a 5.2% decrease in average sales price. The decrease in average sales price was the result of new communities delivering lower priced, smaller single family homes in lower-end submarkets of the segment in fiscal 2019 compared to some communities delivering in fiscal 2018 that had higher priced, larger single family homes in higher-end submarkets of the segment that are no longer delivering.

Income before income taxes decreased \$8.0 million to \$40.0 million in fiscal 2019 due mainly to a \$4.1 million increase in selling, general and administrative costs, a \$3.2 million decrease in income from unconsolidated joint ventures to a loss and a slight decrease in gross margin percentage before interest expense.

Homebuilding revenues decreased 10.7% in fiscal 2018 compared to fiscal 2017 primarily due to an 18.6% decrease in average sales price and a \$2.6 million decrease in land sales and other revenue, partially offset by 10.5% increase in homes delivered. The decrease in average sales price was the result of new communities delivering lower priced, single family homes in lower-end submarkets of the segment in fiscal 2018 compared to some communities delivering in fiscal 2017 that had higher priced, single family homes in higher-end submarkets of the segment that are no longer delivering. Partially offsetting the decrease in average sales price was the impact of price increases in certain communities within the segment.

Income before income taxes increased \$28.4 million to \$48.0 million in fiscal 2018 due mainly to an increase in gross margin percentage before interest expense, along with a \$3.6 million increase in income from unconsolidated joint ventures and a \$1.8 million decrease in inventory impairment loss and land option write-offs. This increase in income was partially offset by a \$4.7 million increase in selling, general and administrative costs.

Financial Services

Financial services consist primarily of originating mortgages from our home buyers, selling such mortgages in the secondary market, and title insurance activities. We use mandatory investor commitments and forward sales of MBS to hedge our mortgage-related interest rate exposure on agency and government loans. These instruments involve, to varying degrees, elements of credit and interest rate risk. Credit risk associated with MBS forward commitments and loan sales transactions is managed by limiting our counterparties to investment banks, federally regulated bank affiliates and other investors meeting our credit standards. Our risk, in the event of default by the purchaser, is the difference between the contract price and fair value of the MBS forward commitments. For the years ended October 31, 2019, 2018 and 2017, our conforming conventional loan originations as a percentage of our total loans were 65.8%, 69.8% and 69.0%, respectively. FHA/VA loans represented 29.8%, 24.6%, and 25.1%, respectively, of our total loans. The remaining 4.4%, 5.6% and 5.9% of our loan originations represent jumbo and/or USDA loans. Profits and losses relating to the sale of mortgage loans are recognized when legal control passes to the buyer of the mortgage and the sales price is collected.

During the years ended October 31, 2019, 2018, and 2017, financial services provided a \$17.6 million, \$18.2 million and \$26.4 million pretax profit, respectively. In fiscal 2019, financial services pretax profit decreased \$0.6 million primarily due to the geographic mix of title company activity within each period. In fiscal 2018, financial services pretax profit decreased \$8.2 million compared to fiscal 2017 due to the decrease in homebuilding deliveries, and the decrease in the basis point spread between the loans originated and the implied rate from the sale of the loans as a result of the competitive financial services market and recent increases in mortgage rates. In the market areas served by our wholly owned mortgage banking subsidiaries, 70.9%, 72.4%, and 67.8% of our noncash home buyers obtained mortgages originated by these subsidiaries during the years ended October 31, 2019, 2018, and 2017, respectively.

Corporate General and Administrative

Corporate general and administrative expenses include the operations at our headquarters in New Jersey. These expenses include payroll, stock compensation, legal expenses, rent and facility costs and other costs associated with our executive offices, information services, human resources, corporate accounting, training, treasury, process redesign, internal audit, national and digital marketing, construction services and administration of insurance, quality and safety. Corporate general and administrative expenses decreased \$3.3 million for the year ended October 31, 2019 compared to the year ended October 31, 2018, and increased \$10.3 million for the year ended October 31, 2018 compared to the year ended October 31, 2017. The decrease in expense for fiscal 2019 was due to decreased legal fees (including litigation) related to financing transactions and higher costs for ongoing litigations involving the Company during fiscal 2018 which did not recur in fiscal 2019, along with a decrease in stock compensation expense, primarily due to the cancellation of certain stock awards that did not meet their performance criteria in fiscal 2019. Also impacting the decrease for fiscal 2019 is an increase in the adjustment to reserves for self-insured medical claims, which were reduced based on claim estimates. The increase in expense for fiscal 2018 was primarily due to increased legal (including litigation) fees related to our fiscal 2018 financing transactions and higher costs for ongoing litigations involving the Company. Also contributing to the increase in corporate general and administrative expenses was rent expense incurred during the year ended October 31, 2018, related to (i) the sale and leaseback of our former corporate headquarters building for the period from November 2017 to February 2018, and (ii) our new corporate headquarters building which we moved into in February 2018. Additionally impacting the increase was an increase in stock compensation expense in fiscal 2018, as a result of lower expense in fiscal 2017, resulting from the forfeiture of compensation under our long-term incentive plan due to the retirement of a senior executive, along with the cancellation of certain stock awards that did not meet their performance criteria.

Other Interest

Other interest decreased \$13.2 million to \$90.1 million for the year ended October 31, 2019 compared to October 31, 2018, and increased \$6.0 million to \$103.3 million for the year ended October 31, 2018 compared to October 31, 2017. Our assets that qualify for interest capitalization (inventory under development) are less than our debt, and therefore a portion of interest not covered by qualifying assets must be directly expensed. In fiscal 2019, the decrease was due to our assets that qualify for interest capitalization increasing by more than our debt, therefore the amount of directly expensed interest decreased. In fiscal 2018, the increase was attributed to more interest incurred as a result of the senior secured notes issued in July 2017 that have a higher interest rate than the senior secured notes which they refinanced and additional amounts outstanding under the term loan facility in fiscal 2018 compared to fiscal 2017.

Loss on Extinguishment of Debt

As a result of the 2019 Transactions we consummated on October 31, 2019 and discussed above under “- Capital Resources and Liquidity - Debt Transactions” and under Note 9 to the Consolidated Financial Statements. We incurred a \$42.4 million loss on extinguishment of debt, a majority of which was non-cash.

We incurred a \$7.5 million loss on extinguishment of debt during the year ended October 31, 2018 due to several financing and refinancing transactions completed in fiscal 2018 as described in Note 9 to the Consolidated Financial Statements under “ - Fiscal 2018.”

We incurred a \$34.9 million loss on extinguishment of debt during the year ended October 31, 2017 due to three items that occurred during fiscal 2017. First, we repurchased in open market transactions \$31.5 million aggregate principal amount of Senior Notes and 6,925 senior exchangeable note units representing \$6.9 million stated amount of senior exchangeable note units. The aggregate purchase price for these transactions was \$30.8 million, plus accrued and unpaid interest. These transactions resulted in a gain on extinguishment of debt of \$7.8 million. Second, we incurred \$0.4 million of costs associated with the Senior Secured Notes issued during the fourth quarter of fiscal 2016. Third, we completed certain refinancing transactions as described in Note 9 to the Consolidated Financial Statements under “ - Fiscal 2017,” which resulted in a loss on extinguishment of debt of \$42.3 million.

Income (Loss) from Unconsolidated Joint Ventures

Income (loss) from unconsolidated joint ventures consists of our share of the earnings or losses of our joint ventures. Income (loss) from unconsolidated joint ventures increased \$4.9 million for the year ended October 31, 2019 from income of \$24.0 million for the year ended October 31, 2018 to income of \$28.9 million. The increase is due to our share of income from certain of our joint ventures delivering more homes resulting in increased profits for fiscal 2019 compared to fiscal 2018. Income (loss) from unconsolidated joint ventures increased \$31.0 million for the year ended October 31, 2018 from a loss of \$7.0 million for the year ended October 31, 2017 to income of \$24.0 million. The increase is due to the recognition of our share of income from certain of our joint ventures delivering more homes and increased profits in the current fiscal year as compared to the prior fiscal year when they reported losses primarily due to startup costs.

Total Taxes

The total income tax expense of \$2.4 million and \$3.6 million for the years ended October 31, 2019 and 2018 was primarily related to state tax expense from income generated that was not offset by tax benefits in states where we fully reserve the tax benefit from net operating losses. The total income tax expense of \$286.9 million for the year ended October 31, 2017 was primarily due to increasing our valuation allowance to fully reserve against our deferred tax assets (“DTAs”). In addition, the same years were also impacted by state tax expense from income generated in some states, which was not offset by tax benefits in other states that had losses for which we fully reserve the net operating losses.

Deferred federal and state income tax assets primarily represent the deferred tax benefits arising from net operating loss (“NOL”) carryforwards and temporary differences between book and tax income which will be recognized in future years as an offset against future taxable income. If the combination of future years’ income (or loss) and the reversal of the timing differences results in a loss, such losses can be carried forward to future years. In accordance with ASC 740, we evaluate our deferred tax assets (“DTAs”) quarterly to determine if valuation allowances are required. ASC 740 requires that companies assess whether valuation allowances should be established based on the consideration of all available evidence using a “more likely than not” standard.

As of October 31, 2019, we considered all available positive and negative evidence to determine whether, based on the weight of that evidence, our valuation allowance for our DTAs was appropriate in accordance with ASC 740. As listed in Note 11 to the Consolidated Financial Statements, in order of the weighting of each factor, is the available positive and negative evidence that we considered in determining that it is more likely than not that all of our DTAs will not be realized. In analyzing these factors, overall the negative evidence, both objective and subjective, outweighed the positive evidence. Based on this analysis, we determined that the current valuation allowance for deferred taxes of \$623.2 million as of October 31, 2019, which fully reserves for our DTAs, is appropriate.

Off-Balance Sheet Financing

In the ordinary course of business, we enter into land and lot option purchase contracts in order to procure land or lots for the construction of homes. Lot option contracts enable us to control significant lot positions with a minimal capital investment and substantially reduce the risks associated with land ownership and development. At October 31, 2019, we had \$70.0 million in option deposits in cash and letters of credit to purchase land and lots with a total purchase price of \$1.3 billion. Our financial exposure is generally limited to forfeiture of the nonrefundable deposits, letters of credit and other nonrefundable amounts incurred. We have no material third-party guarantees.

Unconsolidated Joint Ventures

As discussed in Note 20 – Investments in Unconsolidated Joint Ventures in the Notes to Consolidated Financial Statements, we have investments in unconsolidated joint ventures in various markets where our homebuilding operations are located. Our unconsolidated joint ventures had total combined assets of \$539.7 million at October 31, 2019 and \$602.0 million at October 31, 2018. Our investments in unconsolidated joint ventures totaled \$127.0 million at October 31, 2019 and \$123.7 million at October 31, 2018. As of October 31, 2019 and 2018, our unconsolidated joint ventures had outstanding debt totaling \$186.9 and \$236.7 million, respectively, under separate construction loan agreements with different third-party lenders and affiliates of certain investment partners to finance their respective land development activities, with the outstanding debt secured by the corresponding underlying property and related project assets and non-recourse to us. While we and our unconsolidated joint venture partners provide certain guarantees and indemnities to the lender, we do not have a guaranty or any other obligation to repay our outstanding debt or to support the value of the collateral underlying the outstanding debt. We do not believe that our existing exposure under our guaranty and indemnity obligations related to the outstanding debt is material to our consolidated financial statements. As discussed in Note 19 – Variable Interest Entities in the Notes to Consolidated Financial Statements. We determined that none of our joint ventures at October 31, 2019 and 2018 were a variable interest entity. All our unconsolidated joint ventures were accounted for under the equity method because we did not have a controlling financial interest.

Contractual Obligations

The following summarizes our aggregate contractual commitments at October 31, 2019.

(In thousands)	Payments Due by Period (1)				
	Total	Less than 1 year	1-3 years	3-5 years	More than 5 years
Long term debt (2)(3)(4)	\$2,391,127	\$139,331	\$492,180	\$440,704	\$1,318,912
Operating leases	30,833	9,785	14,722	4,572	1,754
Total	\$2,421,960	\$149,116	\$506,902	\$445,276	\$1,320,666

- (1) Total contractual obligations exclude our accrual for uncertain tax positions of \$1.3 million recorded for financial reporting purposes as of October 31, 2019 because we were unable to make reasonable estimates as to the period of cash settlement with the respective taxing authorities.
- (2) Represents our senior unsecured term loan credit facility, senior secured and senior notes and other notes payable and \$839.5 million of related interest payments for the life of such debt.
- (3) Does not include \$203.6 million of nonrecourse mortgages secured by inventory. These mortgages have various maturities spread over the next two to three years and are paid off as homes are delivered.
- (4) Does not include the mortgage warehouse lines of credit made under our Master Repurchase Agreements. See “- Capital Resources and Liquidity.” Also does not include our \$125.0 million Secured Credit Facility under which there were no borrowings outstanding as of October 31, 2019.

We had outstanding letters of credit and performance bonds of \$19.2 million and \$202.9 million, respectively, at October 31, 2019, related principally to our obligations to local governments to construct roads and other improvements in various developments. We do not believe that any such letters of credit or bonds are likely to be drawn upon.

Inflation

Inflation has a long-term effect, because increasing costs of land, materials and labor result in increasing sale prices of our homes. In general, these price increases have been commensurate with the general rate of inflation in our housing markets and have not had a significant adverse effect on the sale of our homes. A significant risk faced by the housing industry generally is that rising house construction costs, including land and interest costs, will substantially outpace increases in the income of potential purchasers and therefore limit our ability to raise home sale prices, which may result in lower gross margins.

Inflation has a lesser short-term effect, because we generally negotiate fixed price contracts with many, but not all, of our subcontractors and material suppliers for the construction of our homes. These prices usually are applicable for a specified number of residential buildings or for a time period of between three to twelve months. Construction costs for residential buildings represent approximately 54.0% of our homebuilding cost of sales for fiscal 2019.

Safe Harbor Statement

All statements in this Annual Report on Form 10-K that are not historical facts should be considered as “Forward-Looking Statements” within the meaning of the “Safe Harbor” provisions of the Private Securities Litigation Reform Act of 1995. Such statements involve known and unknown risks, uncertainties and other factors that may cause actual results, performance or achievements of the Company to be materially different from any future results, performance or achievements expressed or implied by the forward-looking statements. Such forward-looking statements include but are not limited to statements related to the Company's goals and expectations with respect to its financial results for future financial periods. Although we believe that our plans, intentions and expectations reflected in, or suggested by, such forward-looking statements are reasonable, we can give no assurance that such plans, intentions or expectations will be achieved. By their nature, forward-looking statements: (i) speak only as of the date they are made, (ii) are not guarantees of future performance or results and (iii) are subject to risks, uncertainties and assumptions that are difficult to predict or quantify. Therefore, actual results could differ materially and adversely from those forward-looking statements as result of a variety of factors. Such risks, uncertainties and other factors include, but are not limited to:

- Changes in general and local economic, industry and business conditions and impacts of a significant homebuilding downturn;
- Adverse weather and other environmental conditions and natural disasters;

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- High leverage and restrictions on the Company’s operations and activities imposed by the agreements governing the Company’s outstanding indebtedness;
- Availability and terms of financing to the Company;
- The Company’s sources of liquidity;
- Changes in credit ratings;
- The seasonality of the Company’s business;
- The availability and cost of suitable land and improved lots and sufficient liquidity to invest in such land and lots;
- Shortages in, and price fluctuations of, raw materials and labor, including due to changes in trade policies, including the imposition of tariffs and duties on homebuilding materials and products and related trade disputes with and retaliatory measures taken by other countries;
- Reliance on, and the performance of, subcontractors;
- Regional and local economic factors, including dependency on certain sectors of the economy, and employment levels affecting home prices and sales activity in the markets where the Company builds homes;
- Increases in cancellations of agreements of sale;
- Fluctuations in interest rates and the availability of mortgage financing;
- Changes in tax laws affecting the after-tax costs of owning a home;
- Operations through unconsolidated joint ventures with third parties;
- Government regulation, including regulations concerning development of land, the home building, sales and customer financing processes, tax laws and the environment;
- Legal claims brought against us and not resolved in our favor, such as product liability litigation, warranty claims and claims made by mortgage investors;
- Levels of competition;
- Successful identification and integration of acquisitions;
- Significant influence of the Company’s controlling stockholders;
- Availability of net operating loss carryforwards;
- Utility shortages and outages or rate fluctuations;
- Geopolitical risks, terrorist acts and other acts of war;
- Loss of key management personnel or failure to attract qualified personnel;
- Information technology failures and data security breaches; and
- Negative publicity.

Certain risks, uncertainties and other factors are described in detail in Part I, Item 1 “Business” and Part I, Item 1A “Risk Factors” in this Annual Report on Form 10-K as updated by our subsequent filings with the SEC. Except as otherwise required by applicable securities laws, we undertake no obligation to publicly update or revise any forward-looking statements, whether as a result of new information, future events, changed circumstances or any other reason after the date of this Annual Report on Form 10-K.

ITEM 7A
QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

A primary market risk facing us is interest rate risk on our long term debt, including debt instruments at variable interest rates. In connection with our mortgage operations, mortgage loans held for sale and the associated mortgage warehouse lines of credit under our Master Repurchase Agreements are subject to interest rate risk; however, such obligations reprice frequently and are short-term in duration. In addition, we hedge the interest rate risk on mortgage loans by obtaining forward commitments from private investors. Accordingly, the interest rate risk from mortgage loans is not material. We do not use financial instruments to hedge interest rate risk except with respect to mortgage loans. We are also subject to foreign currency risk but we do not believe this risk is material. The following tables set forth as of October 31, 2019 and 2018, our long-term debt obligations, principal cash flows by scheduled maturity, weighted-average interest rates and estimated fair value ("FV").

Long-Term Debt Tables

Long-Term Debt as of October 31, 2019 by Fiscal Year of Debt Maturity

(Dollars in thousands)	2020	2021	2022	2023	2024	Thereafter	Total	FV at 10/31/19
Long term debt(1)(2):								
Fixed rate	\$-	\$-	\$218,994	\$0	\$211,391	\$1,118,720	\$1,549,105	\$1,310,638
Weighted-average interest rate	-%	-%	10.0%	0%	10.50%	8.51%	8.99%	

(1) Does not include the mortgage warehouse lines of credit made under our Master Repurchase Agreements. Also does not include our \$125.0 million Secured Credit Facility under which there were no borrowings outstanding as of October 31, 2019.

(2) Does not include \$203.6 million of nonrecourse mortgages secured by inventory. These mortgages have various maturities spread over the next two to three years and are paid off as homes are delivered.

Long-Term Debt as of October 31, 2018 by Fiscal Year of Debt Maturity

(Dollars in thousands)	2019	2020	2021	2022	2023	Thereafter	Total	FV at 10/31/18
Long term debt(1)(2):								
Fixed rate	\$-	\$-	\$75,000	\$635,000	\$-	\$783,257	\$1,493,257	\$1,357,179
Weighted-average interest rate	-%	-%	9.50%	8.21%	-%	8.79%	8.58%	

(1) Does not include the mortgage warehouse lines of credit made under our Master Repurchase Agreements. Also does not include our \$125.0 million Secured Credit Facility under which there were no borrowings outstanding as of October 31, 2018.

(2) Does not include \$95.6 million of nonrecourse mortgages secured by inventory. These mortgages have various maturities spread over the next two to three years and are paid off as homes are delivered.

ITEM 8
FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA

Financial statements of Hovnanian Enterprises, Inc. and its consolidated subsidiaries are set forth herein beginning on page 68.

ITEM 9
CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE

None.

**ITEM 9A
CONTROLS AND PROCEDURES**

The Company maintains disclosure controls and procedures that are designed to ensure that information required to be disclosed in the Company's reports under the Securities Exchange Act of 1934, as amended, is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms, and that such information is accumulated and communicated to the Company's management, including its chief executive officer and chief financial officer, as appropriate, to allow timely decisions regarding required disclosures. Any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving the desired control objectives. The Company's management, with the participation of the Company's chief executive officer and chief financial officer, has evaluated the effectiveness of the design and operation of the Company's disclosure controls and procedures as of October 31, 2019. Based upon that evaluation and subject to the foregoing, the Company's chief executive officer and chief financial officer concluded that the design and operation of the Company's disclosure controls and procedures are effective to accomplish their objectives.

Changes in Internal Control Over Financial Reporting

There was no change in the Company's internal control over financial reporting that occurred during the quarter ended October 31, 2019 that has materially affected, or is reasonably likely to materially affect, the Company's internal control over financial reporting.

Management's Report on Internal Control Over Financial Reporting

Our management is responsible for establishing and maintaining adequate internal control over financial reporting, as such term is defined in Exchange Act Rule 13a-15(f).

All internal control systems, no matter how well designed, have inherent limitations. Therefore, even those systems determined to be effective can provide only reasonable assurance with respect to financial statement preparation and presentation.

Under the supervision and with the participation of our management, including our principal executive officer and principal financial officer, we conducted an evaluation of the effectiveness of our internal control over financial reporting based on the framework in *Internal Control - Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission (2013 Framework). Based on our evaluation under the framework in *Internal Control - Integrated Framework*, our management concluded that our internal control over financial reporting was effective as of October 31, 2019.

The effectiveness of the Company's internal control over financial reporting as of October 31, 2019 has been audited by Deloitte & Touche LLP, the Company's independent registered public accounting firm, as stated in their report below.

**ITEM 9B
OTHER INFORMATION**

None.

PART III**ITEM 10
DIRECTORS, EXECUTIVE OFFICERS, AND CORPORATE GOVERNANCE**

The information called for by Item 10, except as set forth in this Item 10, is incorporated herein by reference to our definitive proxy statement to be filed pursuant to Regulation 14A in connection with our annual meeting of shareholders to be held on March 24, 2020, which will involve the election of directors.

Information About Our Executive Officers

Our executive officers are listed below and brief summaries of their business experience and certain other information with respect to them are set forth following the table. Each executive officer holds such office for a one-year term.

Name	Age	Position	Year Started With Company
Ara K. Hovnanian	62	Chairman of the Board, Chief Executive Officer, President and Director of the Company	1979
Lucian T. Smith, III	59	Chief Operating Officer	2007
J. Larry Sorsby	64	Executive Vice President, Chief Financial Officer and Director of the Company	1988
Brad G. O'Connor	49	Vice President, Chief Accounting Officer and Corporate Controller	2004

Mr. Hovnanian has been Chief Executive Officer since July 1997 after being appointed President in 1988 and Executive Vice President in 1983. Mr. Hovnanian joined the Company in 1979 and has been a Director of the Company since 1981 and was Vice Chairman from 1998 through November 2009. In November 2009, he was elected Chairman of the Board following the death of Kevork S. Hovnanian, the chairman and founder of the Company and the father of Mr. Hovnanian.

Mr. Smith was appointed Chief Operating Officer, effective November 1, 2016. Mr. Smith joined the Company in April 2007 as a Region President and was promoted to Group President in January 2010. Most recently Mr. Smith has served as Executive Vice President of Homebuilding Operations, a position he had held since August 2015.

Mr. Sorsby has been Chief Financial Officer of Hovnanian Enterprises, Inc. since 1996, and Executive Vice President since November 2000. Mr. Sorsby was also Senior Vice President from March 1991 to November 2000 and was elected as a Director of the Company in 1997. He is Chairman of the Board of Visitors for Urology at The Children's Hospital of Philadelphia ("CHOP") and also serves on the Foundation Board of Overseers at CHOP.

Mr. O'Connor joined the Company in April 2004 as Vice President and Associate Corporate Controller. In December 2007, he was promoted to Vice President, Corporate Controller and then in May 2011, he also became Vice President, Chief Accounting Officer. Prior to joining the Company, Mr. O'Connor was the Corporate Controller for Amershem Biosciences, and prior to that a Senior Manager in the audit practice of PricewaterhouseCoopers LLP.

Code of Ethics and Corporate Governance Guidelines

In more than 50 years of doing business, we have been committed to enhancing our shareholders' investment through conduct that is in accordance with the highest levels of integrity. Our Code of Ethics is a set of guidelines and policies that govern broad principles of ethical conduct and integrity embraced by our Company. Our Code of Ethics applies to our principal executive officer, principal financial officer, chief accounting officer, and all other associates of our Company, including our directors and other officers.

We also remain committed to fostering sound corporate governance principles. The Company's Corporate Governance Guidelines assist the Board of Directors of the Company (the "Board") in fulfilling its responsibilities related to corporate governance conduct. These guidelines serve as a framework, addressing the function, structure, and operations of the Board, for purposes of promoting consistency of the Board's role in overseeing the work of management.

We have posted our Code of Ethics on our web site at www.khov.com under "Investor Relations/Corporate Governance." We have also posted our Corporate Governance Guidelines on our web site at www.khov.com under "Investor Relations/Corporate Governance." A printed copy of the Code of Ethics and Guidelines is also available to the public at no charge by writing to: Hovnanian Enterprises, Inc., Attn: Human Resources Department, 90 Matawan Road, Fifth Floor, Matawan, NJ 07747 or calling corporate headquarters at 732-747-7800. We will post amendments to or waivers from our Code of Ethics that are required to be disclosed by the rules of either the SEC or the New York Stock Exchange (the "NYSE") on our web site at www.khov.com under "Investor Relations/Corporate Governance."

Audit Committee, Compensation Committee and Corporate Governance and Nominating Committee Charters

We have adopted charters that apply to the Company's Audit Committee, Compensation Committee and Corporate Governance and Nominating Committee. We have posted the text of these charters on our web site at www.khov.com under "Investor Relations/Corporate Governance." A printed copy of each charter is available at no charge to any shareholder who requests it by writing to: Hovnanian Enterprises, Inc., Attn: Human Resources Department, 90 Matawan Road, Fifth Floor, Matawan, NJ 07747 or calling corporate headquarters at 732-747-7800.

**ITEM 11
EXECUTIVE COMPENSATION**

The information called for by Item 11 is incorporated herein by reference to our definitive proxy statement to be filed pursuant to Regulation 14A in connection with our annual meeting of shareholders to be held on March 24, 2020.

**ITEM 12
SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS**

The information called for by Item 12, is incorporated herein by reference to our definitive proxy statement to be filed pursuant to Regulation 14A in connection with our annual meeting of shareholders to be held on March 24, 2020.

**ITEM 13
CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS AND DIRECTOR INDEPENDENCE**

The information called for by Item 13 is incorporated herein by reference to our definitive proxy statement to be filed pursuant to Regulation 14A in connection with our annual meeting of shareholders to be held on March 24, 2020.

**ITEM 14
PRINCIPAL ACCOUNTANT FEES AND SERVICES**

The information called for by Item 14 is incorporated herein by reference to our definitive proxy statement to be filed pursuant to Regulation 14A in connection with our annual meeting of shareholders to be held on March 24, 2020.

PART IV
ITEM 15
EXHIBITS AND FINANCIAL STATEMENT SCHEDULES

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No schedules have been prepared because the required information of such schedules is not present, is not present in amounts sufficient to require submission of the schedule, or because the required information is included in the financial statements and notes thereto.

ITEM 16
Form 10-K Summary

None.

Exhibits:

- 3(a) [Restated Certificate of Incorporation of the Registrant \(Incorporated by reference to Exhibits to Current Report of the Registrant on Form 8-K filed on March 29, 2019\).](#)
- 3(b) [Amended and Restated Bylaws of the Registrant \(Incorporated by reference to Exhibits to Current Report on Form 8-K of the Registrant filed December 3, 2018\).](#)
- 4(a) [Specimen Class A Common Stock Certificate \(Incorporated by reference to Exhibits to Current Report of the Registrant on Form 8-K filed on March 29, 2019\).](#)
- 4(b) [Specimen Class B Common Stock Certificate \(Incorporated by reference to Exhibits to Current Report of the Registrant on Form 8-K filed on March 29, 2019\).](#)
- 4(c) [Certificate of Designations, Powers, Preferences and Rights of the 7.625% Series A Preferred Stock of Hovnanian Enterprises, Inc., dated July 12, 2005 \(Incorporated by reference to Exhibits to Current Report on Form 8-K of the Registrant filed on July 13, 2005\).](#)
- 4(d) [Certificate of Designations of the Series B Junior Preferred Stock of Hovnanian Enterprises, Inc., dated August 14, 2008 \(Incorporated by reference to Exhibits to Quarterly Report on Form 10-Q for the quarter ended July 31, 2008 of the Registrant\).](#)
- 4(e) [Rights Agreement, dated as of August 14, 2008, between Hovnanian Enterprises, Inc. and National City Bank, as Rights Agent, which includes the Form of Certificate of Designation as Exhibit A, Form of Right Certificate as Exhibit B and the Summary of Rights as Exhibit C \(Incorporated by reference to Exhibits to the Registration Statement on Form 8-A of the Registrant filed August 14, 2008\).](#)
- 4(f) [Amendment No. 1 to Rights Agreement, dated as of January 11, 2018, between Hovnanian Enterprises, Inc. and Computershare Trust Company, N.A \(as successor to National City Bank\), as Rights Agent, which includes the amended and restated Form of Rights Certificate as Exhibit 1 and the amended and restated Summary of Rights as Exhibit 2 \(Incorporated by reference to Exhibits to Current Report on Form 8-K of the Registrant filed January 11, 2018\).](#)
- 4(g) [Indenture, dated as of February 1, 2018, relating to the 13.5% Senior Notes due 2026 and 5.0% Senior Notes due 2040, by and among K. Hovnanian Enterprises, Inc., Hovnanian Enterprises, Inc., the other guarantors party thereto and Wilmington Trust, National Association, as Trustee, including the forms of 13.5% Senior Notes due 2026 and 5.0% Senior Notes due 2040 \(Incorporated by reference to Exhibits to Current Report on Form 8-K of the Registrant filed February 2, 2018\).](#)
- 4(h) [Second Supplemental Indenture, dated as of May 30, 2018, relating to the 13.5% Senior Notes due 2026 and 5.0% Senior Notes due 2040, among K. Hovnanian Enterprises, Inc., Hovnanian Enterprises, Inc., the other guarantors party thereto and Wilmington Trust, National Association, as trustee \(Incorporated by reference to Exhibits to Current Report on Form 8-K of the Registrant filed May 30, 2018\).](#)
- 4(i) [Sixth Supplemental Indenture, dated as of October 31, 2019, relating to the 13.5% Senior Notes due 2026 and 5.0% Senior Notes due 2040, among K. Hovnanian Enterprises, Inc., Hovnanian Enterprises, Inc., the other guarantors party thereto and Wilmington Trust, National Association, as trustee \(Incorporated by reference to Exhibits to Current Report on Form 8-K of the Registrant filed on October 31, 2019\).](#)
- 4(j) [Indenture dated as of July 27, 2017, relating to the 10.000% Senior Secured Notes due 2022 and the 10.500% Senior Secured Notes due 2024, among K. Hovnanian Enterprises, Inc., Hovnanian Enterprises, Inc., the other guarantors party thereto and Wilmington Trust, National Association, as trustee and collateral agent, including the forms of 10.000% Senior Secured Notes due 2022 and the 10.500% Senior Secured Note due 2024 \(Incorporated by reference to Exhibits to Current Report on Form 8-K of the Registrant filed on July 28, 2017\).](#)
- 4(k) [Second Supplemental Indenture, dated January 16, 2018, relating to the 10.500% Senior Secured Notes due 2024, by and among K. Hovnanian Enterprises, Inc., Hovnanian Enterprises, Inc., the other guarantors party thereto and Wilmington Trust, National Association, as trustee and collateral agent \(Incorporated by reference to Exhibits to Current Report on Form 8-K of the Registrant filed January 16, 2018\).](#)
- 4(l) [Ninth Supplemental Indenture, dated as of October 30, 2019, relating to the 10.000% Senior Secured Notes due 2022 and 10.500% Senior Secured Notes due 2024, among K. Hovnanian Enterprises, Inc., Hovnanian Enterprises, Inc., the other guarantors party thereto and Wilmington Trust, National Association, as trustee and collateral agent \(Incorporated by reference to Exhibits to Current Report on Form 8-K of the Registrant filed on October 31, 2019\).](#)
- 4(m) [Indenture, dated as of November 5, 2014, relating to the 8.000% Senior Notes due 2027, among K. Hovnanian Enterprises, Inc., Hovnanian Enterprises, Inc., the other guarantors party thereto and Wilmington Trust, National Association, as Trustee, including the form of 8.000% Senior Notes \(Incorporated by reference to Exhibits to Current Report on Form 8-K of the Registrant filed November 5, 2014\).](#)
- 4(n) [Eighteenth Supplemental Indenture, dated as of October 17, 2019, relating to the 8.000% Senior Notes due 2027, among K. Hovnanian Enterprises, Inc., Hovnanian Enterprises, Inc., the other guarantors party thereto and Wilmington Trust, National Association, as trustee \(Incorporated by reference to Exhibits to Current Report on Form 8-K of the Registrant filed on October 31, 2019\).](#)
- 4(o) [Nineteenth Supplemental Indenture, dated as of October 31, 2019, relating to the 8.000% Senior Notes due 2027, among K. Hovnanian Enterprises, Inc., Hovnanian Enterprises, Inc., the other guarantors party thereto and Wilmington Trust, National Association, as trustee \(Incorporated by reference to Exhibits to Current Report on Form 8-K of the Registrant filed on October 31, 2019\).](#)
- 4(p) [Twentieth Supplemental Indenture, dated as of November 1, 2019, relating to 8.000% Senior Notes due 2027, among K. Hovnanian Enterprises, Inc., Hovnanian Enterprises, Inc., the other guarantors party thereto and Wilmington Trust, National Association, as trustee \(Incorporated by reference to Exhibits to Current Report on Form 8-K of the Registrant filed November 5, 2019\).](#)
- 4(q) [Indenture, dated as of October 31, 2019, relating to the 7.75% Senior Secured 1.125 Lien Notes due 2026, among K. Hovnanian Enterprises, Inc., Hovnanian Enterprises, Inc., the other guarantors party thereto and Wilmington Trust, National Association, as trustee and collateral agent, including the form of 7.75% Senior Secured 1.125 Lien Notes due 2026 \(Incorporated by reference to Exhibits to Current Report on Form 8-K of the Registrant filed on October 31, 2019\).](#)
- 4(r) [First Supplemental Indenture, dated as of November 27, 2019, relating to the 7.75% Senior Secured 1.125 Lien Notes due 2026, among K. Hovnanian Enterprises, Inc., Hovnanian Enterprises, Inc., the other guarantors party thereto and Wilmington Trust, National Association, as trustee and collateral agent \(Incorporated by reference to Exhibits to Current Report on Form 8-K of the Registrant filed December 3, 2019\).](#)

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- 4(s) [Indenture, dated as of October 31, 2019, relating to the 10.5% Senior Secured 1.25 Lien Notes due 2026, among K. Hovnanian Enterprises, Inc., Hovnanian Enterprises, Inc., the other guarantors party thereto and Wilmington Trust, National Association, as trustee and collateral agent, including the form of 10.5% Senior Secured 1.25 Lien Notes due 2026 \(Incorporated by reference to Exhibits to Current Report on Form 8-K of the Registrant filed on October 31, 2019\).](#)
- 4(t) [First Supplemental Indenture, dated as of November 27, 2019, relating to the 10.5% Senior Secured 1.25 Lien Notes due 2026, among K. Hovnanian Enterprises, Inc., Hovnanian Enterprises, Inc., the other guarantors party thereto and Wilmington Trust, National Association, as trustee and collateral agent \(Incorporated by reference to Exhibits to Current Report on Form 8-K of the Registrant filed December 3, 2019\).](#)
- 4(u) [Tenth Supplemental Indenture, dated as of December 6, 2019, relating to the 10.500% Senior Secured Notes due 2024, by and among K. Hovnanian Enterprises, Inc., Hovnanian Enterprises, Inc., the other guarantors party thereto and Wilmington Trust, National Association, as trustee and collateral agent \(Incorporated by reference to Exhibits to Current Report on form 8-K of the Registrant filed December 6, 2019\).](#)
- 4(v) [Indenture, dated as of October 31, 2019, relating to the 11.25% Senior Secured 1.5 Lien Notes due 2026, among K. Hovnanian Enterprises, Inc., Hovnanian Enterprises, Inc., the other guarantors party thereto and Wilmington Trust, National Association, as trustee and collateral agent, including the form of 11.25% Senior Secured 1.5 Lien Notes due 2026 \(Incorporated by reference to Exhibits to Current Report on Form 8-K of the Registrant filed on October 31, 2019\).](#)
- 4(w) [First Supplemental Indenture, dated as of November 27, 2019, relating to the 11.25% Senior Secured 1.5 Lien Notes due 2026, among K. Hovnanian Enterprises, Inc., Hovnanian Enterprises, Inc., the other guarantors party thereto and Wilmington Trust, National Association, as trustee and collateral agent \(Incorporated by reference to Exhibits to Current Report on Form 8-K of the Registrant filed December 3, 2019\).](#)
- 4(x) [Indenture, dated as of December 10, 2019, relating to the 10.000% Senior Secured 1.75 Lien Notes due 2025, among K. Hovnanian Enterprises, Inc., Hovnanian Enterprises, Inc., the other guarantors party thereto and Wilmington Trust, National Association, as trustee and collateral agent, including the form of 10.000% Senior Secured 1.75 Lien Notes due 2025 \(Incorporated by reference to Exhibits to Current Report on Form 8-K of the Registrant filed December 11, 2019\).](#)
- 4(y) [Description of the Registrant's securities.](#)
- 10(a) [Credit Agreement, dated as of October 31, 2019, by and among K. Hovnanian Enterprises Inc., Hovnanian Enterprises, Inc., the other guarantors party thereto, Wilmington Trust, National Association, as Administrative Agent, and the lenders party thereto \(Incorporated by reference to Exhibits to Current Report on Form 8-K of the Registrant filed on October 31, 2019\).](#)
- 10(b) [First Amendment, dated as of November 27, 2019, to the Credit Agreement, dated as of October 31, 2019, among Hovnanian Enterprises, Inc., K. Hovnanian Enterprises Inc., the subsidiary guarantors party thereto, the lenders party thereto and Wilmington Trust, National Association, as administrative agent \(Incorporated by reference to Exhibits to Current Report on Form 8-K of the Registrant filed December 3, 2019\).](#)
- 10(c) [\\$212,500,000 Credit Agreement, dated as of January 29, 2018, by and among K. Hovnanian Enterprises Inc., Hovnanian Enterprises, Inc., the other guarantors party thereto, Wilmington Trust, National Association, as Administrative Agent, and the lenders party thereto \(Incorporated by reference to Exhibits to Current Report on Form 8-K of the Registrant filed February 2, 2018\).](#)
- 10(d) [First Amendment, dated as of May 14, 2018, to the \\$212,500,000 Credit Agreement, dated as of January 29, 2018, among Hovnanian Enterprises, Inc., K. Hovnanian Enterprises Inc., the subsidiary guarantors party thereto, the lenders party thereto and Wilmington Trust, National Association, as administrative agent \(Incorporated by reference to Exhibits to Current Report on Form 8-K of the Registrant filed May 14, 2018\).](#)
- 10(e) [Second Amendment, dated as of October 31, 2019, to the \\$212,500,000 Credit Agreement, dated as of January 29, 2018, among Hovnanian Enterprises, Inc., K. Hovnanian Enterprises Inc., the subsidiary guarantors party thereto, the lenders party thereto and Wilmington Trust, National Association, as administrative agent.](#)
- 10(f) [Collateral Agency Agreement, dated as of July 27, 2017, among K. Hovnanian Enterprises, Inc., Hovnanian Enterprises, Inc., the other guarantors party thereto, Wilmington Trust, National Association, as Notes Collateral Agent and Wilmington Trust, National Association, as Collateral Agent \(Incorporated by reference to Exhibits to Current Report on Form 8-K of the Registrant filed on July 28, 2017\).](#)
- 10(g) [Security Agreement, dated as of July 27, 2017, among K. Hovnanian Enterprises, Inc., Hovnanian Enterprises, Inc., the other guarantors party thereto and Wilmington Trust, National Association, as Collateral Agent \(Incorporated by reference to Exhibits to Current Report on Form 8-K of the Registrant filed on July 28, 2017\).](#)
- 10(h) [Pledge Agreement, dated as of July 27, 2017, among K. Hovnanian Enterprises, Inc., Hovnanian Enterprises, Inc., the other guarantors party thereto and Wilmington Trust, National Association, as Collateral Agent \(Incorporated by reference to Exhibits to Current Report on Form 8-K of the Registrant filed on July 28, 2017\).](#)
- 10(i) [Third Amended and Restated Mortgage Tax Collateral Agency Agreement, dated as of October 31, 2019, among K. Hovnanian Enterprises, Inc., Hovnanian Enterprises, Inc., the other guarantors party thereto and Wilmington Trust, National Association, as Mortgage Tax Collateral Agent, Notes Collateral Agent and Junior Joint Collateral Agent \(Incorporated by reference to Exhibits to Current Report on Form 8-K of the Registrant filed on October 31, 2019\).](#)
- 10(j) [Trademark Security Agreement, dated as of July 27, 2017, between K. HOV IP II, Inc. and Wilmington Trust, National Association, as Collateral Agent \(Incorporated by reference to Exhibits to Current Report on Form 8-K of the Registrant filed on July 28, 2017\).](#)
- 10(k) [Second Amended and Restated Intercreditor Agreement, dated as of October 31, 2019, among K. Hovnanian Enterprises, Inc., Hovnanian Enterprises, Inc., the other guarantors party thereto and Wilmington Trust, National Association, as Administrative Agent, 1.125 Lien Trustee, 1.125 Lien Collateral Agent, 1.25 Lien Trustee, 1.25 Lien Collateral Agent, 1.5 Lien Trustee, 1.5 Lien Collateral Agent, Joint First Lien Collateral Agent, Mortgage Tax Collateral Agent, 10.000% Junior Trustee, 10.000% Junior Collateral Agent, 10.500% Junior Trustee, 10.500% Junior Collateral Agent and Junior Joint Collateral Agent \(Incorporated by reference to Exhibits to Current Report on Form 8-K of the Registrant filed on October 31, 2019\).](#)
- 10(l) [Credit Agreement, dated as of December 10, 2019, relating to the 1.75 Lien Term Loans, among K. Hovnanian Enterprises, Inc., Hovnanian Enterprises, Inc., the subsidiary guarantors named therein, Wilmington Trust, National Association, as Administrative Agent, and the lenders party thereto \(Incorporated by reference to Exhibits to Current Report on Form 8-K of the Registrant filed December 11, 2019\).](#)
- 10(m) [Joinder, dated as of December 10, 2019, to the Second Amended and Restated Intercreditor Agreement, dated as of October 31, 2019, among K. Hovnanian Enterprises, Inc., Hovnanian Enterprises, Inc., the subsidiary guarantors named therein and Wilmington Trust, National Association, as 1.75 Lien Trustee, 1.75 Term Loan Administrative Agent and 1.75 Pari Passu Lien Collateral Agent \(Incorporated by reference to Exhibits to Current Report on Form 8-K of the Registrant filed December 11, 2019\).](#)

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- 10(n)* [Form of 2019 Long-Term Incentive Program Award Agreement \(Incorporated by reference to Exhibits to Quarterly Report on Form 10-Q for the quarter ended April 30, 2019 of the Registrant\).](#)
- 10(o)* [Form of Non-Qualified Stock Option Agreement \(2012\) for Ara K. Hovnanian \(Incorporated by reference to Exhibits to Quarterly Report on Form 10-Q for the quarter ended July 31, 2012 the Registrant\).](#)
- 10(p)* [Amended and Restated 2008 Hovnanian Enterprises, Inc. Stock Incentive Plan \(Incorporated by reference to Appendix A to the Registrant's definitive Proxy Statement on Schedule 14A of the Registrant filed on February 1, 2010\).](#)
- 10(q)* [Management Agreement dated August 12, 1983, for the management of properties by K. Hovnanian Investment Properties, Inc \(Incorporated by reference to Exhibits to Registration Statement \(No. 2-85198\) on Form S-1 of the Registrant\).](#)
- 10(r)* [Management Agreement dated December 15, 1985, for the management of properties by K. Hovnanian Investment Properties, Inc \(Incorporated by reference to Exhibits to Annual Report on Form 10-K for the year ended October 31, 2003 of the Registrant\).](#)
- 10(s)* [Executive Deferred Compensation Plan as amended and restated on January 1, 2014 \(Incorporated by reference to Exhibits to Annual Report on Form 10-K for the year ended October 31, 2018 of the Registrant\).](#)
- 10(t)* [Death and Disability Agreement between the Registrant and Ara K. Hovnanian, dated February 2, 2006 \(Incorporated by reference to Exhibits to Quarterly Report on Form 10-Q for the quarter ended January 31, 2006 of the Registrant\).](#)
- 10(u)* [Form of Nonqualified Stock Option Agreement \(Class B shares\).\(Incorporated by reference to Exhibits to Annual Report on Form 10-K for the year ended October 31, 2008 of the Registrant\).](#)
- 10(v)* [Form of Stock Option Agreement for Directors \(Incorporated by reference to Exhibits to Annual Report on Form 10-K for the year ended October 31, 2008 of the Registrant\).](#)
- 10(w)* [Form of 2018 Long-Term Incentive Program Award Agreement \(Incorporated by reference to Exhibits to Quarterly Report on Form 10-Q for the quarter ended January 31, 2018 of the Registrant\).](#)
- 10(x)* [Form of 2016 Long Term Incentive Program Award Agreement \(Incorporated by reference to Exhibits to Quarterly Report on Form 10-Q for the quarter ended January 31, 2016 of the Registrant\).](#)
- 10(y)* [Form of Change in Control Severance Protection Agreement entered into with Brad G. O'Connor \(Incorporated by reference to Exhibits to Quarterly Report on Form 10-Q for the quarter ended January 31, 2012 of the Registrant\).](#)
- 10(z)* [Form of Amendment to Outstanding Stock Option Grants \(Incorporated by reference to Exhibits to Quarterly Report on Form 10-Q for the quarter ended April 30, 2012 of the Registrant.\).](#)
- 10(aa)* [Form of Amendment to 2011 Non-Qualified Stock Option Agreement for Ara K. Hovnanian \(Incorporated by reference to Exhibits to Quarterly Report on Form 10-Q for the quarter ended April 30, 2012 of the Registrant.\).](#)
- 10(bb)* [Form of Amendment to 2011 Incentive Stock Option Agreement for J. Larry Sorsby \(Incorporated by reference to Exhibits to Quarterly Report on Form 10-Q for the quarter ended April 30, 2012 of the Registrant.\).](#)
- 10(cc)* [Form of Incentive Stock Option Agreement \(2012\) \(Incorporated by reference to Exhibits to Quarterly Report on Form 10-Q for the quarter ended July 31, 2012 of the Registrant\).](#)
- 10(dd)* [Form of Stock Option Agreement \(2012\) for Directors \(Incorporated by reference to Exhibits to Quarterly Report on Form 10-Q for the quarter ended July 31, 2012 of the Registrant\).](#)
- 10(ee)* [Form of Market Share Unit Agreement Class A shares \(2014 grants and thereafter\).\(Incorporated by reference to Exhibits to Quarterly Report on Form 10-Q for the quarter ended July 31, 2014 of the Registrant\).](#)
- 10(ff)* [Form of Market Share Unit Agreement Class B shares \(2014 grants and thereafter\).\(Incorporated by reference to Exhibits to Quarterly Report on Form 10-Q for the quarter ended July 31, 2014 of the Registrant\).](#)
- 10(gg)* [Form of Incentive Stock Option Agreement \(2014 grants and thereafter\).\(Incorporated by reference to Exhibits to Quarterly Report on Form 10-Q for the quarter ended July 31, 2014 of the Registrant\).](#)
- 10(hh)* [Form of Restricted Share Unit Agreement \(2014 grants and thereafter\).\(Incorporated by reference to Exhibits to Quarterly Report on Form 10-Q for the quarter ended July 31, 2014 of the Registrant\).](#)
- 10(ii)* [Form of Stock Option Agreement for Directors \(2014 grants and thereafter\).\(Incorporated by reference to Exhibits to Quarterly Report on Form 10-Q for the quarter ended July 31, 2014 of the Registrant\).](#)
- 10(jj)* [2012 Hovnanian Enterprises, Inc. Amended and Restated Stock Incentive Plan \(Incorporated by reference to Appendix A to the Registrant's definitive Proxy Statement on Schedule 14A filed on February 4, 2019\).](#)
- 10(kk)* [Amended and Restated Hovnanian Enterprises, Inc. Senior Executive Short-Term Incentive Plan \(Incorporated by reference to Appendix B to the Registrant's definitive Proxy Statement on Schedule 14A filed on January 27, 2014\).](#)
- 10(ll)* [Form of Letter Agreement Relating to Change in Control Severance Protection Agreement entered into with Brad G. O'Connor \(Incorporated by reference to Exhibits to Quarterly Report on Form 10-Q for the quarter ended January 31, 2015 of the Registrant\).](#)
- 10(mm)* [Market Share Unit Agreement Class A \(2016 grants and thereafter\).\(Incorporated by reference to Exhibits to Quarterly Report on Form 10-Q for the quarter ended July 31, 2016 of the Registrant\).](#)
- 10(nn)* [Market Share Unit Agreement Class B \(2016 grants and thereafter\).\(Incorporated by reference to Exhibits to Quarterly Report on Form 10-Q for the quarter ended July 31, 2016 of the Registrant\).](#)
- 10(oo)* [Market Share Unit Agreement \(Gross Margin Performance Vesting\) Class A \(2016 grants and thereafter\).\(Incorporated by reference to Exhibits to Quarterly Report on Form 10-Q for the quarter ended July 31, 2016 of the Registrant\).](#)
- 10(pp)* [Market Share Unit Agreement \(Gross Margin Performance Vesting\) Class B \(2016 grants and thereafter\).\(Incorporated by reference to Exhibits to Quarterly Report on Form 10-Q for the quarter ended July 31, 2016 of the Registrant\).](#)
- 10(qq)* [Market Share Unit Agreement \(Debt Reduction Performance Vesting\) Class A \(2016 grants and thereafter\).\(Incorporated by reference to Exhibits to Quarterly Report on Form 10-Q for the quarter ended July 31, 2016 of the Registrant\).](#)
- 10(rr)* [Market Share Unit Agreement \(Debt Reduction Performance Vesting\) Class B \(2016 grants and thereafter\).\(Incorporated by reference to Exhibits to Quarterly Report on Form 10-Q for the quarter ended July 31, 2016 of the Registrant\).](#)
- 10(ss)* [Premium-Priced Incentive Stock Option Agreement Class A \(2016 grants and thereafter\).\(Incorporated by reference to Exhibits to Quarterly Report on Form 10-Q for the quarter ended July 31, 2016 of the Registrant\).](#)
- 10(tt)* [Premium-Priced Non-qualified Stock Option Agreement Class B \(2016 grants and thereafter\).\(Incorporated by reference to Exhibits to Quarterly Report on Form 10-Q for the quarter ended July 31, 2016 of the Registrant\).](#)

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10(uu)*	Incentive Stock Option Agreement Class A (2016 grants and thereafter).(Incorporated by reference to Exhibits to Quarterly Report on Form 10-Q for the quarter ended July 31, 2016 of the Registrant).
10(vv)*	Restricted Share Unit Agreement Class A (2016 grants and thereafter).(Incorporated by reference to Exhibits to Quarterly Report on Form 10-Q for the quarter ended July 31, 2016 of the Registrant).
10(ww)*	Director Restricted Share Unit Agreement Class A (2016 grants and thereafter).(Incorporated by reference to Exhibits to Quarterly Report on Form 10-Q for the quarter ended July 31, 2016 of the Registrant).
10(xx)*	Market Share Unit Agreement (Pre-tax Profit performance Vesting) Class A (2017 grants and thereafter).(Incorporated by reference to Exhibits to Quarterly Report on Form 10-Q for the quarter ended July 31, 2017 of the Registrant).
10(yy)*	Market Share Unit Agreement (Pre-tax Profit performance Vesting) Class B (2017 grants and thereafter).(Incorporated by reference to Exhibits to Quarterly Report on Form 10-Q for the quarter ended July 31, 2017 of the Registrant).
10(zz)*	Market Share Unit Agreement (Gross Margin Improvement Performance Vesting) Class A (2017 grants and thereafter).(Incorporated by reference to Exhibits to Quarterly Report on Form 10-Q for the quarter ended July 31, 2017 of the Registrant).
10(aaa)*	Market Share Unit Agreement (Gross Margin Improvement Performance Vesting) Class B (2017 grants and thereafter).(Incorporated by reference to Exhibits to Quarterly Report on Form 10-Q for the quarter ended July 31, 2017 of the Registrant).
10(bbb)*	Market Share Unit Agreement Class A (Pre-tax Profit Performance Vesting).(2018 grants and thereafter).(Incorporated by reference to Quarterly Report on Form 10-Q for the quarter ended July 31, 2018 of the Registrant).
10(ccc)*	Market Share Unit Agreement Class B (Pre-tax Profit Performance Vesting).(2018 grants and thereafter).(Incorporated by reference to Quarterly Report on Form 10-Q for the quarter ended July 31, 2018 of the Registrant).
10(ddd)*	Market Share Unit Agreement Class A (Stock Multiplier Performance Vesting).(2018 grants and thereafter).(Incorporated by reference to Quarterly Report on Form 10-Q for the quarter ended July 31, 2018 of the Registrant).
10(eee)*	Market Share Unit Agreement Class B (Stock Multiplier Performance Vesting).(2018 grants and thereafter).(Incorporated by reference to Quarterly Report on Form 10-Q for the quarter ended July 31, 2018 of the Registrant).
10(fff)*	Market Share Unit Agreement Class A (Community Count Performance Vesting).(2018 grants and thereafter).(Incorporated by reference to Quarterly Report on Form 10-Q for the quarter ended July 31, 2018 of the Registrant).
10(ggg)*	Market Share Unit Agreement Class B (Community Count Performance Vesting).(2018 grants and thereafter).(Incorporated by reference to Quarterly Report on Form 10-Q for the quarter ended July 31, 2018 of the Registrant).
10(hhh)*	Premium-Priced Incentive Stock Option Agreement Class A (2018 grants and thereafter).(Incorporated by reference to Quarterly Report on Form 10-Q for the quarter ended July 31, 2018 of the Registrant).
10(iii)*	Premium-Priced Non-Qualified Stock Option Agreement Class B (2018 grants and thereafter).(Incorporated by reference to Quarterly Report on Form 10-Q for the quarter ended July 31, 2018 of the Registrant).
10(jjj)*	Incentive Stock Option Agreement Class A (2018 grants and thereafter).(Incorporated by reference to Quarterly Report on Form 10-Q for the quarter ended July 31, 2018 of the Registrant).
10(kkk)*	Non-Qualified Stock Option Agreement Class B (2018 grants and thereafter).(Incorporated by reference to Quarterly Report on Form 10-Q for the quarter ended July 31, 2018 of the Registrant).
10(III)*	Director Stock Option Agreement Class A (2018 grants and thereafter).(Incorporated by reference to Quarterly Report on Form 10-Q for the quarter ended July 31, 2018 of the Registrant).
10(mmm)*	Form of Letter Agreement entered into with Lucian Theon Smith III (Incorporated by reference to Annual Report on Form 10-K for the year ended October 31, 2017 of the Registrant).
10(nnn)*	Amendment to Form of Letter Agreement entered into with Lucian Theon Smith III (Incorporated by reference to Exhibits to Quarterly Report on Form 10-Q for the quarter ended January 31, 2018 of the Registrant).
10(ooo)	Security Agreement, dated as of October 31, 2019, relating to Senior Secured Revolving Credit Facility, made by K. Hovnanian Enterprises, Inc., Hovnanian Enterprises, Inc. and the other guarantors party thereto in favor of Wilmington Trust, National Association, as Administrative Agent and Joint First Lien Collateral Agent (Incorporated by reference to Exhibits to Current Report on Form 8-K of the Registrant filed on October 31, 2019).
10(ppp)	Pledge Agreement, dated as of October 31, 2019, relating to Senior Secured Revolving Credit Facility, given by K. Hovnanian Enterprises, Inc., Hovnanian Enterprises, Inc. and the other guarantors party thereto to Wilmington Trust, National Association, as Administrative Agent and Joint First Lien Collateral Agent (Incorporated by reference to Exhibits to Current Report on Form 8-K of the Registrant filed on October 31, 2019).
10(qqq)	Trademark Security Agreement, dated as of October 31, 2019, relating to Senior Secured Revolving Credit Facility, made by K. HOV IP II, Inc. in favor of Wilmington Trust, National Association, as Administrative Agent (Incorporated by reference to Exhibits to Current Report on Form 8-K of the Registrant filed on October 31, 2019).
10(rrr)	1.125 Lien Security Agreement, dated as of October 31, 2019, relating to the 7.75% Senior Secured 1.125 Lien Notes due 2026, made by K. Hovnanian Enterprises, Inc., Hovnanian Enterprises, Inc. and the other guarantors party thereto in favor of Wilmington Trust, National Association, as 1.125 Lien Collateral Agent and Joint First Lien Collateral Agent (Incorporated by reference to Exhibits to Current Report on Form 8-K of the Registrant filed on October 31, 2019).
10(sss)	1.125 Lien Pledge Agreement, dated as of October 31, 2019, relating to the 7.75% Senior Secured 1.125 Lien Notes due 2026, given by K. Hovnanian Enterprises, Inc., Hovnanian Enterprises, Inc. and the other guarantors party thereto to Wilmington Trust, National Association, as 1.125 Lien Collateral Agent and Joint First Lien Collateral Agent (Incorporated by reference to Exhibits to Current Report on Form 8-K of the Registrant filed on October 31, 2019).
10(ttt)	1.125 Lien Trademark Security Agreement, dated as of October 31, 2019, made by K. HOV IP II, Inc. in favor of Wilmington Trust, National Association, as 1.125 Lien Collateral Agent (Incorporated by reference to Exhibits to Current Report on Form 8-K of the Registrant filed on October 31, 2019).
10(uuu)	1.25 Lien Security Agreement, dated as of October 31, 2019, relating to the 10.5% Senior Secured 1.25 Lien Notes due 2026, made by K. Hovnanian Enterprises, Inc., Hovnanian Enterprises, Inc. and the other guarantors party thereto in favor of Wilmington Trust, National Association, as 1.25 Lien Collateral Agent and Joint First Lien Collateral Agent (Incorporated by reference to Exhibits to Current Report on Form 8-K of the Registrant filed on October 31, 2019).
10(vvv)	1.25 Lien Pledge Agreement, dated as of October 31, 2019, relating to the 10.5% Senior Secured 1.25 Lien Notes due 2026, given by K. Hovnanian Enterprises, Inc., Hovnanian Enterprises, Inc. and the other guarantors party thereto to Wilmington Trust, National Association, as the 1.25 Lien Collateral Agent and the Joint First Lien Collateral Agent (Incorporated by reference to Exhibits to Current Report on Form 8-K of the Registrant filed on October 31, 2019).

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10(www)	1.25 Lien Trademark Security Agreement, dated as of October 31, 2019, by K. HOV IP II, Inc. in favor of Wilmington Trust, National Association, as 1.25 Lien Collateral Agent (Incorporated by reference to Exhibits to Current Report on Form 8-K of the Registrant filed on October 31, 2019).
10(xxx)	1.5 Lien Security Agreement, dated as of October 31, 2019, relating to the 11.25% Senior Secured 1.5 Lien Notes due 2026, made by K. Hovnanian Enterprises, Inc., Hovnanian Enterprises, Inc. and the other guarantors party thereto in favor of Wilmington Trust, National Association, as the 1.5 Lien Collateral Agent and the Joint First Lien Collateral Agent (Incorporated by reference to Exhibits to Current Report on Form 8-K of the Registrant filed on October 31, 2019).
10(yyy)	1.5 Lien Pledge Agreement, dated as of October 31, 2019, relating to the 11.25% Senior Secured 1.5 Lien Notes due 2026, given by K. Hovnanian Enterprises, Inc., Hovnanian Enterprises, Inc. and the other guarantors party thereto to Wilmington Trust, National Association, as the 1.5 Lien Collateral Agent and the Joint First Lien Collateral Agent (Incorporated by reference to Exhibits to Current Report on Form 8-K of the Registrant filed on October 31, 2019).
10(zzz)	1.5 Lien Trademark Security Agreement, dated as of October 31, 2019, made by K. HOV IP II, Inc. in favor of Wilmington Trust, National Association, as 1.5 Lien Collateral Agent (Incorporated by reference to Exhibits to Current Report on Form 8-K of the Registrant filed on October 31, 2019).
10(aaaa)	1.75 Lien Security Agreement, dated as of December 10, 2019, relating to the 10.000% Senior Secured 1.75 Lien Notes due 2025 and the 1.75 Lien Term Loans, made by K. Hovnanian Enterprises, Inc., Hovnanian Enterprises, Inc. and the other guarantors party thereto in favor of Wilmington Trust, National Association, as the 1.75 Lien Pari Passu Collateral Agent, the Joint First Lien Collateral Agent, Administrative Agent and 1.75 Lien Collateral Agent (Incorporated by reference to Exhibits to Current Report on Form 8-K of the Registrant filed December 11, 2019).
10(bbbb)	1.75 Lien Pledge Agreement, dated as of December 10, 2019, relating to the 10.000% Senior Secured 1.75 Lien Notes due 2025 and the 1.75 Lien Term Loans, given by K. Hovnanian Enterprises, Inc., Hovnanian Enterprises, Inc. and the other guarantors party thereto in favor of Wilmington Trust, National Association, as the 1.75 Lien Pari Passu Collateral Agent and the Joint First Lien Collateral Agent (Incorporated by reference to Exhibits to Current Report on Form 8-K of the Registrant filed December 11, 2019).
10(cccc)	1.75 Lien Trademark Security Agreement, dated as of December 10, 2019, made by K. HOV IP II, Inc. in favor of Wilmington Trust, National Association, as 1.75 Lien Pari Passu Collateral Agent (Incorporated by reference to Exhibits to Current Report on Form 8-K of the Registrant filed December 11, 2019).
10(dddd)	First Lien Collateral Agency Agreement, dated as of October 31, 2019, among K. Hovnanian Enterprises, Inc., Hovnanian Enterprises, Inc., the other guarantors party thereto and Wilmington Trust, National Association, as Administrative Agent, 1.125 Lien Collateral Agent, 1.25 Lien Collateral Agent, 1.5 Lien Collateral Agent and Joint First Lien Collateral Agent (Incorporated by reference to Exhibits to Current Report on Form 8-K of the Registrant filed on October 31, 2019).
10(eeee)	First Lien Intercreditor Agreement, dated as of October 31, 2019, among K. Hovnanian Enterprises, Inc., Hovnanian Enterprises, Inc., the other guarantors party thereto and Wilmington Trust, National Association, as Administrative Agent, 1.125 Lien Trustee, 1.125 Lien Collateral Agent, 1.25 Lien Trustee, 1.25 Lien Collateral Agent, 1.5 Lien Trustee, 1.5 Lien Collateral Agent and Joint First Lien Collateral Agent (Incorporated by reference to Exhibits to Current Report on Form 8-K of the Registrant filed on October 31, 2019).
10(ffff)	Joinder No. 1, dated as of December 10, 2019, to the First Lien Intercreditor Agreement and First Lien Collateral Agency Agreement, each dated as of October 31, 2019, among Wilmington Trust, National Association, as 1.75 Lien Trustee and 1.75 Pari Passu Lien Collateral Agent, and acknowledged by Wilmington Trust, National Association, as 1.75 Lien Collateral Agent, with acknowledged receipt by Wilmington Trust, National Association, as Senior Credit Agreement Administrative Agent, 1.125 Lien Trustee, 1.125 Lien Collateral Agent, 1.25 Lien Trustee, 1.25 Lien Collateral Agent, 1.5 Lien Trustee, 1.5 Lien Collateral Agent and Joint First Lien Collateral Agent (Incorporated by reference to Exhibits to Current Report on Form 8-K of the Registrant filed December 11, 2019).
10(gggg)	Joinder No. 2, dated as of December 10, 2019, to the First Lien Intercreditor Agreement and First Lien Collateral Agency Agreement, each dated as of October 31, 2019, among Wilmington Trust, National Association, as Administrative Agent and 1.75 Pari Passu Lien Collateral Agent, with acknowledged receipt by the Senior Credit Agreement Administrative Agent, 1.125 Lien Trustee, 1.125 Lien Collateral Agent, 1.25 Lien Trustee, 1.25 Lien Collateral Agent, 1.5 Lien Trustee, 1.5 Lien Collateral Agent and Joint First Lien Collateral Agent (Incorporated by reference to Exhibits to Current Report on Form 8-K of the Registrant filed December 11, 2019).
21	Subsidiaries of the Registrant.
23(a)	Consent of Deloitte & Touche LLP.
23(b)	Consent of Deloitte & Touche LLP.
23(c)	Consent of Deloitte & Touche LLP.
31(a)	Rule 13a-14(a)/15d-14(a) Certification of Chief Executive Officer.
31(b)	Rule 13a-14(a)/15d-14(a) Certification of Chief Financial Officer.
32(a)	Section 1350 Certification of Chief Executive Officer.
32(b)	Section 1350 Certification of Chief Financial Officer.
99(a)	Financial Statements of GTIS – HOV Holdings V, L.L.C.
99(b)	Financial Statements of GTIS – HOV Holdings VI, L.L.C.
101	The following financial information from our Annual Report on Form 10-K for the year ended October 31, 2019, formatted in Extensible Business Reporting Language (XBRL): (i) the Consolidated Balance Sheets at October 31, 2019 and October 31, 2018, (ii) the Consolidated Statements of Operations for the years ended October 31, 2019, 2018 and 2017, (iii) the Consolidated Statements of Changes in Equity Deficit for years ended October 31, 2019, 2018 and 2017 (iv) the Consolidated Statements of Cash Flows for the years ended October 31, 2019, 2018 and 2017, and (v) the Notes to Consolidated Financial Statements.
*	<i>Management contracts or compensatory plans or arrangements.</i>

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this Annual Report on Form 10-K to be signed on its behalf by the undersigned, thereunto duly authorized.

HOVNANIAN ENTERPRISES, INC.

By: /s/ ARA K. HOVNANIAN
Ara K. Hovnanian
Chairman of the Board, Chief Executive
Officer and President
December 19, 2019

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant on December 19, 2019, and in the capacities indicated.

<u>/s/ ARA K. HOVNANIAN</u> Ara K. Hovnanian	Chairman of the Board, Chief Executive Officer, President and Director (Principal Executive Officer)
<u>/s/ J. LARRY SORSBY</u> J. Larry Sorsby	Executive Vice President, Chief Financial Officer and Director (Principal Financial Officer)
<u>/s/ BRAD G. O'CONNOR</u> Brad G. O'Connor	Vice President – Chief Accounting Officer and Corporate Controller (Principal Accounting Officer)
<u>/s/ EDWARD A. KANGAS</u> Edward A. Kangas	Chairman of Audit Committee and Director
<u>/s/ JOSEPH A. MARENGI</u> Joseph A. Marengi	Chairman of Compensation Committee and Director
<u>/s/ VINCENT PAGANO JR.</u> Vincent Pagano Jr.	Chairman of Corporate Governance and Nominating Committee and Director

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HOVNANIAN ENTERPRISES, INC. AND SUBSIDIARIES INDEX TO CONSOLIDATED FINANCIAL STATEMENTS

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No schedules have been prepared because the required information of such schedules is not present, is not present in amounts sufficient to require submission of the schedule, or because the required information is included in the financial statements and notes thereto.

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors and Stockholders of Hovnanian Enterprises Inc.

Opinions on the Financial Statements and Internal Control over Financial Reporting

We have audited the accompanying consolidated balance sheets of Hovnanian Enterprises Inc. and subsidiaries (the "Company") as of October 31, 2019 and 2018, the related consolidated statements of operations, equity deficit, and cash flows, for each of the three years in the period ended October 31, 2019, and the related notes (collectively referred to as the "financial statements"). We also have audited the Company's internal control over financial reporting as of October 31, 2019, based on criteria established in Internal Control — Integrated Framework (2013) issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the Company as of October 31, 2019 and 2018, and the results of their operations and their cash flows for each of the three years in the period ended October 31, 2019, in conformity with accounting principles generally accepted in the United States of America. Also, in our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of October 31, 2019, based on criteria established in Internal Control — Integrated Framework (2013) issued by COSO.

Basis for Opinions

The Company's management is responsible for these financial statements, for maintaining effective internal control over financial reporting, and for its assessment of the effectiveness of internal control over financial reporting, included in the accompanying Management's Report on Internal Control over Financial Reporting. Our responsibility is to express an opinion on these financial statements and an opinion on the Company's internal control over financial reporting based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) (PCAOB) and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud, and whether effective internal control over financial reporting was maintained in all material respects.

Our audits of the financial statements included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures to respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. Our audit of internal control over financial reporting included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, and testing and evaluating the design and operating effectiveness of internal control based on the assessed risk. Our audits also included performing such other procedures as we considered necessary in the circumstances. We believe that our audits provide a reasonable basis for our opinions.

Definition and Limitations of Internal Control over Financial Reporting

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

/s/ DELOITTE & TOUCHE LLP

New York, New York
December 19, 2019

We have served as the Company's auditor since 2009.

HOVNANIAN ENTERPRISES, INC. AND SUBSIDIARIES
CONSOLIDATED BALANCE SHEETS

(In thousands)	October 31, 2019	October 31, 2018
ASSETS		
Homebuilding:		
Cash and cash equivalents	\$130,976	\$187,871
Restricted cash and cash equivalents	20,905	12,808
Inventories:		
Sold and unsold homes and lots under development	993,647	878,876
Land and land options held for future development or sale	108,565	111,368
Consolidated inventory not owned	190,273	87,921
Total inventories	1,292,485	1,078,165
Investments in and advances to unconsolidated joint ventures	127,038	123,694
Receivables, deposits and notes, net	44,914	35,189
Property, plant and equipment, net	20,127	20,285
Prepaid expenses and other assets	45,704	39,150
Total homebuilding	1,682,149	1,497,162
Financial services	199,275	164,880
Total assets	\$1,881,424	\$1,662,042
LIABILITIES AND EQUITY		
Homebuilding:		
Nonrecourse mortgages secured by inventory, net of debt issuance costs	\$203,585	\$95,557
Accounts payable and other liabilities	320,193	304,899
Customers' deposits	35,872	30,086
Liabilities from inventory not owned, net of debt issuance costs	141,033	63,387
Revolving and term loan credit facilities, net of debt issuance costs	201,528	201,389
Notes payable (net of discount, premium and debt issuance costs) and accrued interest	1,297,543	1,273,446
Total homebuilding	2,199,754	1,968,764
Financial services	169,145	143,448
Income taxes payable	2,301	3,334
Total liabilities	2,371,200	2,115,546
Equity:		
Hovnanian Enterprises, Inc. stockholders' equity deficit:		
Preferred stock, \$0.01 par value - authorized 100,000 shares; issued and outstanding 5,600 shares with a liquidation preference of \$140,000 at October 31, 2019 and 2018	135,299	135,299
Common stock, Class A, \$0.01 par value - authorized 16,000,000 shares; issued 5,973,727 shares at October 31, 2019 and 5,783,858 shares at October 31, 2018	60	58
Common stock, Class B, \$0.01 par value (convertible to Class A at time of sale) - authorized 2,400,000 shares; issued 650,363 shares at October 31, 2019 and 649,673 shares at October 31, 2018	7	6
Paid in capital - common stock	715,504	710,349
Accumulated deficit	(1,225,973)	(1,183,856)
Treasury stock - at cost - 470,430 shares of Class A common stock and 27,669 shares of Class B common stock at October 31, 2019 and 2018	(115,360)	(115,360)
Total Hovnanian Enterprises, Inc. stockholders' equity deficit	(490,463)	(453,504)
Noncontrolling interest in consolidated joint ventures	687	-
Total equity deficit	(489,776)	(453,504)
Total liabilities and equity	\$1,881,424	\$1,662,042

See notes to consolidated financial statements.

HOVNANIAN ENTERPRISES, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF OPERATIONS

(In thousands except per share data)	October 31, 2019	Year Ended October 31, 2018	October 31, 2017
Revenues:			
Homebuilding:			
Sale of homes	\$1,949,682	\$1,906,228	\$2,340,033
Land sales and other revenues	13,082	31,650	52,889
Total homebuilding	1,962,764	1,937,878	2,392,922
Financial services	54,152	53,355	58,743
Total revenues	2,016,916	1,991,233	2,451,665
Expenses:			
Homebuilding:			
Cost of sales, excluding interest	1,604,777	1,566,555	1,961,804
Cost of sales interest	70,725	60,685	88,536
Inventory impairment loss and land option write-offs	6,288	3,501	17,813
Total cost of sales	1,681,790	1,630,741	2,068,153
Selling, general and administrative	166,784	159,202	196,320
Total homebuilding expenses	1,848,574	1,789,943	2,264,473
Financial services	36,525	35,128	32,346
Corporate general and administrative	66,364	69,632	59,367
Other interest	90,056	103,297	97,304
Other operations	1,561	1,584	1,518
Total expenses	2,043,080	1,999,584	2,455,008
Loss on extinguishment of debt	(42,436)	(7,536)	(34,854)
Income (loss) from unconsolidated joint ventures	28,932	24,033	(7,047)
(Loss) income before income taxes	(39,668)	8,146	(45,244)
State and federal income tax provision:			
State	2,449	3,626	11,261
Federal	-	-	275,688
Total income taxes	2,449	3,626	286,949
Net (loss) income	\$(42,117)	\$4,520	\$(332,193)
Per share data:			
Basic:			
Net (loss) income per common share	\$(7.06)	\$0.73	\$(56.23)
Weighted-average number of common shares outstanding	5,968	5,941	5,908
Assuming dilution:			
Net (loss) income per common share	\$(7.06)	\$0.72	\$(56.23)
Weighted-average number of common shares outstanding	5,968	6,072	5,908

See notes to consolidated financial statements.

HOVNANIAN ENTERPRISES, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CHANGES IN EQUITY DEFICIT

	A Common Stock		B Common Stock		Preferred Stock		Paid-In Capital	Accumulated Deficit	Treasury Stock	Noncontrolling Interest	Total
	Shares Issued and Outstanding	Amount	Shares Issued and Outstanding	Amount	Shares Issued and Outstanding	Amount					
Balance, October 31, 2016	5,281,840	\$58	610,042	\$6	5,600	\$135,299	\$707,670	\$(856,183)	\$(115,360)	-	\$(128,510)
Stock options, amortization and issuances	1,930						556				556
Restricted stock amortization, issuances and forfeitures	7,542		2,362				(224)				(224)
Conversion of Class B to Class A common stock	100		(100)								-
Net (loss)								(332,193)			(332,193)
Balance, October 31, 2017	5,291,412	\$58	612,304	\$6	5,600	\$135,299	\$708,002	\$(1,188,376)	\$(115,360)	-	(460,371)
Stock options, amortization and issuances	1,210						802				802
Restricted stock amortization, issuances and forfeitures	20,672		9,834				1,545				1,545
Conversion of Class B to Class A common stock	134		(134)								-
Net income								4,520			4,520
Balance, October 31, 2018	5,313,428	\$58	622,004	\$6	5,600	\$135,299	\$710,349	\$(1,183,856)	\$(115,360)	-	\$(453,504)
Stock options, amortization and issuances							808				808
Restricted stock amortization, issuances and forfeitures	11,210		922	1			(126)				(125)
Issuance of shares for debt	178,427	2					4,473				4,475
Conversion of Class B to Class A common stock	232		(232)								-
Changes in noncontrolling interest in consolidated joint ventures										687	687
Net (loss)								(42,117)			(42,117)
Balance, October 31, 2019	5,503,297	\$60	622,694	\$7	5,600	\$135,299	\$715,504	\$(1,225,973)	\$(115,360)	\$687	\$(489,776)

See notes to consolidated financial statements.

HOVNANIAN ENTERPRISES, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CASH FLOWS

(In thousands)	Year Ended		
	October 31, 2019	October 31, 2018	October 31, 2017
Cash flows from operating activities:			
Net (loss) income	\$(42,117)	\$4,520	\$(332,193)
Adjustments to reconcile net (loss) income to net cash (used in) provided by operating activities:			
Depreciation	4,172	3,156	4,249
Compensation from stock options and awards	721	3,669	557
Amortization of bond discounts, premiums and deferred financing costs	8,128	8,822	13,875
Gain on sale and retirement of property and assets	(25)	(3,619)	(166)
(Income) loss from unconsolidated joint ventures	(28,932)	(24,033)	7,047
Distributions of earnings from unconsolidated joint venture	29,919	-	1,864
Loss on extinguishment of debt	42,436	7,536	34,854
Noncontrolling interest in consolidated joint ventures	4	-	-
Inventory impairment and land option write-offs	6,288	3,501	17,813
Deferred income tax provision	-	-	285,578
(Increase) decrease in assets:			
Origination of mortgage loans	(1,089,825)	(1,069,519)	(1,045,991)
Sale of mortgage loans	1,054,535	1,071,250	1,078,649
Receivables, prepaids, deposits and other assets	(15,911)	20,669	5,249
Inventories	(220,608)	(58,801)	255,444
(Decrease) increase in liabilities:			
State and federal income tax payable	(1,033)	1,107	282
Customers' deposits	5,786	(3,686)	(3,657)
Accounts payable, accrued interest and other accrued liabilities	(2,665)	(31,394)	(21,876)
Net cash (used in) provided by operating activities	(249,127)	(66,822)	301,578
Cash flows from investing activities:			
Proceeds from sale of property and assets	29	38,303	270
Purchase of property, equipment, and other fixed assets and acquisitions	(4,005)	(5,193)	(6,478)
Investment in and advances to unconsolidated joint ventures	(13,256)	(26,271)	(36,803)
Distributions of capital from unconsolidated joint ventures	8,925	28,662	13,304
Net cash (used in) provided by investing activities	(8,307)	35,501	(29,707)
Cash flows from financing activities:			
Proceeds from mortgages and notes	318,462	181,101	199,275
Payments related to mortgages and notes	(209,445)	(162,192)	(218,468)
Proceeds from model sale leaseback financing programs	33,188	22,749	10,270
Payments related to model sale leaseback financing programs	(25,791)	(30,123)	(28,798)
Proceeds from land bank financing programs	104,961	18,827	29,190
Payments related to land bank financing programs	(33,902)	(38,991)	(71,757)
Proceeds from partner contributions to consolidated joint venture	683	-	-
Net proceeds (payments) related to mortgage warehouse lines of credit	27,101	(1,388)	(31,023)
Payments related to unsecured revolving credit facility	-	(52,000)	-
Payments related to senior secured term loan facility	-	(76,829)	-
Proceeds from senior unsecured term loan facility	-	202,547	-
Proceeds from senior secured notes, net of discount	578,231	-	840,000
Payments related to senior secured, senior, senior amortizing and senior exchangeable notes	(570,032)	(285,095)	(861,976)
Deferred financing costs from land banking financing programs and note issuances	(16,748)	(8,035)	(14,556)
Net cash provided by (used in) financing activities	206,708	(229,429)	(147,843)
Net (decrease) increase in cash and cash equivalents, and restricted cash and cash equivalents	(50,726)	(260,750)	124,028
Cash and cash equivalents, and restricted cash and cash equivalents balance, beginning of year	232,992	493,742	369,714
Cash and cash equivalents, and restricted cash and cash equivalents balance, end of year	\$182,266	\$232,992	\$493,742
Supplemental disclosures of cash flows:			
Cash paid during the period for:			
Interest, net of capitalized interest (see Note 3 to the Consolidated Financial Statements)	\$109,107	\$112,016	\$89,836
Income taxes	\$3,483	\$2,520	\$1,089
Reconciliation of Cash, cash equivalents and restricted cash			
Homebuilding: Cash and cash equivalents	\$130,976	\$187,871	\$463,697
Homebuilding: Restricted cash and cash equivalents	20,905	12,808	2,077
Financial Services: Cash and cash equivalents, included in Financial services assets	5,578	6,948	5,623
Financial Services: Restricted cash and cash equivalents, included in Financial services assets	24,807	25,365	22,345

Total cash, cash equivalents and restricted cash shown in the statement of cash flows	\$182,266	\$232,992	\$493,742
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See notes to consolidated financial statements.

Supplemental disclosure of noncash investing activities:

In the first quarter of fiscal 2018, we acquired the remaining assets of one of our joint ventures, resulting in a \$13.0 million reduction in our investment in the joint venture and a corresponding increase to inventory.

Supplemental disclosure of noncash financing activities:

In the second quarter of fiscal 2018, we completed a debt for debt exchange of existing 8.0% Senior Notes due November 1, 2019 for newly issued 13.5% Senior Notes due 2026 and 5.0% Senior Notes due 2040. See Note 9 for further information.

In the fourth quarter of fiscal 2019, we completed a partial debt for debt exchange of existing 10.0% Senior Secured Notes due 2022 and 10.5% Senior Secured Notes due 2024 for a combination of cash and newly issued 7.75% 1.125 Lien Notes due 2026 and 11.25% 1.5 Lien Notes due 2026. See Note 9 for further information.

1. Basis of Presentation

Basis of Presentation - The accompanying Consolidated Financial Statements have been prepared in accordance with generally accepted accounting principles in the United States of America (“US GAAP”) and include Hovnanian Enterprises, Inc.’s (“HEI”) accounts and those of all its consolidated subsidiaries, after elimination of all intercompany balances and transactions. HEI’s fiscal year ends October 31. Noncontrolling interest represents the proportionate equity interest in a consolidated joint venture that is not 100% owned by the Company. One of HEI’s subsidiaries owns a 99% controlling interest in the consolidated joint venture and therefore HEI is required to consolidate the joint venture within its Consolidated Financial Statements. The 1% that we do not own is accounted for as noncontrolling interest.

Reclassifications - Effective October 31, 2018 we early adopted Accounting Standards Update (“ASU”) 2016-18 “Statement of Cash Flows (Topic 230): Restricted Cash” (“ASU 2016-18”). As a result, restricted cash amounts are no longer shown within the operating and investing activities as these balances are now included in the beginning and ending cash balances in our Consolidated Statements of Cash Flows. The adoption also resulted in the reclassification of restricted cash in operating and investing activities of \$4.0 million and \$2.6 million, respectively, for the year ended October 31, 2017. These amounts are now included in the beginning and ending cash balances for the respective periods. See also the reconciliation of cash, cash equivalents and restricted cash on the Consolidated Statements of Cash Flows.

Reverse Stock Split – As discussed in Note 14, in March 2019, the Company’s stockholders approved and the Board of Directors determined to effectuate a reverse stock split (the “Reverse Stock Split”) of the Company’s common stock at a ratio of 1-for-25, and a corresponding decrease in the number of authorized shares of the common stock. The Reverse Stock Split became effective on March 29, 2019, and every 25 issued shares (including treasury shares) of Class A Common Stock, par value \$0.01 per share (the “Class A Common Stock”), were combined into one share of Class A Common Stock, and every 25 issued shares (including treasury shares) of Class B Common Stock, par value \$0.01 per share (the “Class B Common Stock”), were combined into one share of Class B Common Stock. All share and per share amounts throughout this report have been retroactively adjusted to reflect the reverse stock split.

2. Business

HEI conducts all of its homebuilding and financial services operations through its subsidiaries (references herein to the “Company”, “we”, “us” or “our” refer to HEI and its consolidated subsidiaries and should be understood to reflect the consolidated business of HEI’s subsidiaries). Our operations consist of homebuilding, financial services and corporate. Our homebuilding operations are made up of six reportable segments defined as Northeast, Mid-Atlantic, Midwest, Southeast, Southwest and West. Homebuilding operations comprise the substantial part of our business, representing approximately 97% of consolidated revenues for the year ended October 31, 2019, approximately 97% for the year ended October 31, 2018 and approximately 98% for the year ended October 31, 2017. HEI is a Delaware corporation, which through its subsidiaries, was building and selling homes at October 31, 2019 in 141 consolidated new home communities in Arizona, California, Delaware, Florida, Georgia, Illinois, Maryland, New Jersey, Ohio, Pennsylvania, South Carolina, Texas, Virginia, Washington, D.C. and West Virginia. Our homebuilding subsidiaries offer a wide variety of homes that are designed to appeal to first-time buyers, first and second-time move-up buyers, luxury buyers, active lifestyle buyers and empty nesters. Our financial services operations, which are a reportable segment, provide mortgage banking and title services to the homebuilding operations’ customers. Our financial services subsidiaries do not typically retain or service the mortgages that they originate but rather sell the mortgages and related servicing rights to investors. Corporate primarily includes the operations of our corporate office whose primary purpose is to provide executive services, accounting, information services, human resources, management reporting, training, cash management, internal audit, risk management, and administration of process redesign, quality, and safety.

See Note 10 “Operating and Reporting Segments” for further disclosure of our reportable segments.

3. Summary of Significant Accounting Policies

Use of Estimates - The preparation of financial statements in conformity with US GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates and these differences could have a significant impact on the financial statements.

Income Recognition from Home and Land Sales - We are primarily engaged in the development, construction, marketing and sale of residential single-family and multi-family homes where the planned construction cycle is less than 12 months. For these homes, in accordance with Accounting Standards Codification (“ASC”) 606-10, “Revenue from Contracts with Customers,” revenue is recognized when title is conveyed to the buyer, adequate initial and continuing investments have been received and there is no continued involvement.

Income Recognition from Mortgage Loans - Our Financial Services segment originates mortgages, primarily for our homebuilding customers. We use mandatory investor commitments and forward sales of mortgage-backed securities (“MBS”) to hedge our mortgage-related interest rate exposure on agency and government loans.

We elected the fair value option for our mortgage loans held for sale in accordance with ASC 825, “Financial Instruments,” which permits us to measure our loans held for sale at fair value. Management believes that the election of the fair value option for loans held for sale improves financial reporting by mitigating volatility in reported earnings caused by measuring the fair value of the loans and the derivative instruments used to economically hedge them without having to apply complex hedge accounting provisions.

Substantially all of the mortgage loans originated are sold within a short period of time in the secondary mortgage market on a servicing released, nonrecourse basis, although the Company remains liable for certain limited representations, such as fraud, and warranties related to loan sales. Mortgage investors could seek to have us buy back loans or compensate them from losses incurred on mortgages we have sold based on claims that we breached our limited representations and warranties. We have established reserves for probable losses.

Cash and Cash Equivalents - Cash represents cash deposited in checking accounts. Cash equivalents include certificates of deposit, Treasury bills and government money-market funds with maturities of 90 days or less when purchased. Our cash balances are held at a few financial institutions and may, at times, exceed insurable amounts. We believe we help to mitigate this risk by depositing our cash in major financial institutions. At October 31, 2019 and 2018, \$143.1 million and \$199.6 million, respectively, of the total cash and cash equivalents was in cash equivalents and Restricted cash and cash equivalents, the book value of which approximates fair value.

Fair Value of Financial Instruments - The fair value of financial instruments is determined by reference to various market data and other valuation techniques as appropriate. Our financial instruments consist of cash and cash equivalents, restricted cash and cash equivalents, receivables, deposits and notes, accounts payable and other liabilities, customer deposits, mortgage loans held for sale, nonrecourse mortgages, mortgage warehouse lines of credit, senior secured revolving credit facility, accrued interest, senior unsecured term loan credit facility, senior secured notes and senior notes. The fair value of the senior secured credit facility, senior unsecured term loan credit facility, senior secured notes and senior notes is estimated based on the quoted market prices for the same or similar issues or on the current rates offered to us for debt of the same remaining maturities or when not available, are estimated based on third-party broker quotes or management’s estimate of the fair value based on available trades for similar debt instruments. The fair value of all of our other financial instruments approximates their carrying amounts.

Inventories - Inventories consist of land, land development, home construction costs, capitalized interest, construction overhead and property taxes. Construction costs are accumulated during the period of construction and charged to cost of sales under specific identification methods. Land, land development and common facility costs are allocated based on buildable acres to product types within each community, then charged to cost of sales equally based upon the number of homes to be constructed in each product type.

We record inventories in our consolidated balance sheets at cost unless the inventory is determined to be impaired, in which case the inventory is written down to its fair value. Our inventories consist of the following three components: (1) sold and unsold homes and lots under development, which includes all construction, land, capitalized interest and land development costs related to started homes and land under development in our active communities; (2) land and land options held for future development or sale, which includes all costs related to land in our communities in planning or mothballed communities; and (3) consolidated inventory not owned, which includes all costs related to variable interest entities, and other options, which consists primarily of model homes financed with an investor and inventory related to land banking arrangements accounted for as financings.

We decide to mothball (or stop development on) certain communities when we determine that the current performance does not justify further investment at the time. When we decide to mothball a community, the inventory is reclassified on our Consolidated Balance Sheets from “Sold and unsold homes and lots under development” to “Land and land options held for future development or sale.” During fiscal 2019, we did not mothball any communities, but we sold two previously mothballed communities and re-activated three previously mothballed communities. As of October 31, 2019 and 2018, the net book value associated with our 13 and 18 total mothballed communities was \$13.8 million and \$24.5 million, respectively, which was net of impairment charges recorded in prior periods of \$138.1 million and \$186.1 million, respectively.

We sell and lease back certain of our model homes with the right to participate in the potential profit when each home is sold to a third party at the end of the respective lease. As a result of our continued involvement, for accounting purposes in accordance with ASC 606-10-55-68, these sale and leaseback transactions are considered a financing rather than a sale. Therefore, for purposes of our Consolidated Balance Sheets, at October 31, 2019 and 2018, inventory of \$54.2 million and \$50.5 million, respectively, was recorded to “Consolidated inventory not owned,” with a corresponding amount of \$51.2 million and \$43.9 million, respectively, recorded to “Liabilities from inventory not owned” for the amount of net cash received from the transactions.

We have land banking arrangements, whereby we sell our land parcels to the land banker and they provide us an option to purchase back finished lots on a predetermined schedule. Because of our options to repurchase these parcels, for accounting purposes, in accordance with ASC 606-10-55-70, these transactions are considered a financing rather than a sale. For purposes of our Consolidated Balance Sheets, at October 31, 2019 and 2018, inventory of \$136.1 million and \$37.4 million, respectively, was recorded to “Consolidated inventory not owned,” with a corresponding amount of \$89.8 million and \$19.5 million, respectively, recorded to “Liabilities from inventory not owned” for the amount of net cash received from the transactions.

The recoverability of inventories and other long-lived assets is assessed in accordance with the provisions of ASC 360-10, “Property, Plant and Equipment – Overall.” ASC 360-10 requires long-lived assets, including inventories, held for development to be evaluated for impairment based on undiscounted future cash flows of the assets at the lowest level for which there are identifiable cash flows. As such, we evaluate inventories for impairment at the individual community level, the lowest level of discrete cash flows that we measure.

We evaluate inventories of communities under development and held for future development for impairment when indicators of potential impairment are present. Indicators of impairment include, but are not limited to, decreases in local housing market values, decreases in gross margins or sales absorption rates, decreases in net sales prices (base sales price net of sales incentives), or actual or projected operating or cash flow losses. The assessment of communities for indication of impairment is performed quarterly. As part of this process, we prepare detailed budgets for all of our communities at least semi-annually and identify those communities with a projected operating loss. For those communities with projected losses, we estimate the remaining undiscounted future cash flows and compare those to the carrying value of the community, to determine if the carrying value of the asset is recoverable.

The projected operating profits, losses or cash flows of each community can be significantly impacted by our estimates of the following:

- future base selling prices;
- future home sales incentives;
- future home construction and land development costs; and
- future sales absorption pace and cancellation rates.

These estimates are dependent upon specific market conditions for each community. While we consider available information to determine what we believe to be our best estimates as of the end of a quarterly reporting period, these estimates are subject to change in future reporting periods as facts and circumstances change. Local market-specific conditions that may impact our estimates for a community include:

- the intensity of competition within a market, including available home sales prices and home sales incentives offered by our competitors;
- the current sales absorption pace for both our communities and competitor communities;
- community-specific attributes, such as location, availability of lots in the market, desirability and uniqueness of our community, and the size and style of homes currently being offered;
- potential for alternative product offerings to respond to local market conditions;
- changes by management in the sales strategy of the community;

- current local market economic and demographic conditions and related trends and forecasts; and
- existing home inventory supplies, including foreclosures and short sales.

These and other local market-specific conditions that may be present are considered by management in preparing projection assumptions for each community. The sales objectives can differ between our communities, even within a given market. For example, facts and circumstances in a given community may lead us to price our homes with the objective of yielding a higher sales absorption pace, while facts and circumstances in another community may lead us to price our homes to minimize deterioration in our gross margins, although it may result in a slower sales absorption pace. In addition, the key assumptions included in our estimate of future undiscounted cash flows may be interrelated. For example, a decrease in estimated base sales price or an increase in homes sales incentives may result in a corresponding increase in sales absorption pace. Additionally, a decrease in the average sales price of homes to be sold and closed in future reporting periods for one community that has not been generating what management believes to be an adequate sales absorption pace may impact the estimated cash flow assumptions of a nearby community. Changes in our key assumptions, including estimated construction and development costs, absorption pace and selling strategies, could materially impact future cash flow and fair value estimates. Due to the number of possible scenarios that would result from various changes in these factors, we do not believe it is possible to develop a sensitivity analysis with a level of precision that would be meaningful to an investor.

If the undiscounted cash flows are more than the carrying value of the community, then the carrying amount is recoverable, and no impairment adjustment is required. However, if the undiscounted cash flows are less than the carrying amount, then the community is deemed impaired and is written down to its fair value. We determine the estimated fair value of each community by determining the present value of its estimated future cash flows at a discount rate commensurate with the risk of the respective community, or in limited circumstances, prices for land in recent comparable sale transactions, market analysis studies, which include the estimated price a willing buyer would pay for the land (other than in a forced liquidation sale), and recent bona fide offers received from outside third parties. Our discount rates used for all impairments recorded from October 31, 2017 to October 31, 2019 ranged from 16.8% to 19.8%. The estimated future cash flow assumptions are virtually the same for both our recoverability and fair value assessments. Should the estimates or expectations used in determining estimated cash flows or fair value, including discount rates, decrease or differ from current estimates in the future, we may be required to recognize additional impairments related to current and future communities. The impairment of a community is allocated to each lot on a relative fair value basis.

From time to time, we write off deposits and approval, engineering and capitalized interest costs when we determine that it is no longer probable that we will exercise options to buy land in specific locations or when we redesign communities and/or abandon certain engineering costs. In deciding not to exercise a land option, we take into consideration changes in market conditions, the timing of required land takedowns, the willingness of land sellers to modify terms of the land option contract (including timing of land takedowns), and the availability and best use of our capital, among other factors. The write-off is recorded in the period it is deemed not probable that the optioned property will be acquired. In certain instances, we have been able to recover deposits and other pre-acquisition costs that were previously written off. These recoveries have not been significant in comparison to the total costs written off.

Inventories held for sale are land parcels ready for sale in their current condition, where we have decided not to build homes but are instead actively marketing for sale. These land parcels represented \$6.4 million of our total inventories at October 31, 2018 and are reported at the lower of carrying amount or fair value less costs to sell. There were no inventories held for sale at October 31, 2019. In determining fair value for land held for sale, management considers, among other things, prices for land in recent comparable sale transactions, market analysis studies, which include the estimated price a willing buyer would pay for the land (other than in a forced liquidation sale) and recent bona fide offers received from outside third parties.

Warranty Costs and Construction Defect Reserves - We accrue for warranty costs that are covered under our existing general liability and construction defect policy as part of our general liability insurance deductible. This accrual is expensed as selling, general and administrative costs. For homes delivered in fiscal 2019 and 2018, our deductible under our general liability insurance is a \$20 million aggregate for construction defect and warranty claims. For bodily injury claims, our deductible per occurrence in fiscal 2019 and 2018 is \$0.25 million, up to a \$5 million limit. Our aggregate retention for construction defect, warranty and bodily injury claims is \$20 million for fiscal 2019 and 2018. We do not have a deductible on our worker's compensation insurance. Reserves for estimated losses for construction defects, warranty and bodily injury claims have been established using the assistance of a third-party actuary. We engage a third-party actuary that uses our historical warranty and construction defect data to assist our management in estimating our unpaid claims, claim adjustment expenses and incurred but not reported claims reserves for the risks that we are assuming under the general liability and construction defect programs. The estimates include provisions for inflation, claims handling and legal fees. These estimates are subject to a high degree of variability due to uncertainties such as trends in construction defect claims relative to our markets and the types of products we build, claim settlement patterns, insurance industry practices and legal interpretations, among others. Because of the high degree of judgment required in determining these estimated liability amounts, actual future costs could differ significantly from our currently estimated amounts. In addition, we establish a warranty accrual for lower cost-related issues to cover home repairs, community amenities and land development infrastructure that are not covered under our general liability and construction defect policy. We accrue an estimate for these warranty costs as part of cost of sales at the time each home is closed and title and possession have been transferred to the homebuyer. See Note 16 for additional information on the amount of warranty costs recognized in cost of goods sold and administrative expenses.

Interest - Interest attributable to properties under development during the land development and home construction period is capitalized and expensed along with the associated cost of sales as the related inventories are sold. Interest incurred in excess of interest capitalized, which occurs when assets qualifying for interest capitalization are less than our outstanding debt balances, is expensed as incurred in “Other interest.”

Interest costs incurred, expensed and capitalized were:

(In thousands)	Year Ended		
	October 31, 2019	October 31, 2018	October 31, 2017
Interest capitalized at beginning of year	\$68,117	\$71,051	\$96,688
Plus interest incurred(1)	165,906	161,048	160,203
Less cost of sales interest expensed	70,725	60,685	88,536
Less other interest expensed(2)(3)	90,056	103,297	97,304
Less interest contributed to unconsolidated joint venture(4)	1,978	-	-
Interest capitalized at end of year(5)	\$71,264	\$68,117	\$71,051

(1) Data does not include interest incurred by our mortgage and finance subsidiaries.

(2) Other interest expensed includes interest that does not qualify for interest capitalization because our assets that qualify for interest capitalization (inventory under development) do not exceed our debt, which amounted to \$56.9 million, \$76.2 million and \$69.1 million for the years ended October 31, 2019, 2018 and 2017, respectively. Other interest also includes interest on completed homes, land in planning and fully developed lots without homes under construction, which does not qualify for capitalization, and therefore, is expensed. This component of other interest was \$33.2 million, \$27.1 million and \$28.2 million for the years ended October 31, 2019, 2018 and 2017, respectively.

(3) Cash paid for interest, net of capitalized interest, is the sum of other interest expensed, as defined above, and interest paid by our mortgage and finance subsidiaries adjusted for the change in accrued interest on notes payable, which is calculated as follows:

(In thousands)	Year Ended		
	October 31, 2019	October 31, 2018	October 31, 2017
Other interest expensed	\$90,056	\$103,297	\$97,304
Interest paid by our mortgage and finance subsidiaries	2,536	2,478	1,944
Decrease (increase) in accrued interest	16,515	6,241	(9,412)
Cash paid for interest, net of capitalized interest	\$109,107	\$112,016	\$89,836

(4) Represents capitalized interest which was included as part of the assets contributed to the joint venture the Company entered into in June 2019, as discussed in Note 20. There was no impact to the Consolidated Statement of Operations as a result of this transaction.

(5) Capitalized interest amounts are shown gross before allocating any portion of impairments, if any, to capitalized interest.

Land Options - Costs incurred to obtain options to acquire improved or unimproved home sites are capitalized. Such amounts are either included as part of the purchase price if the land is acquired or charged to “Inventory impairments loss and land option write-offs” if we determine we will not exercise the option. If the options are with variable interest entities and we are the primary beneficiary, we record the land under option on the Consolidated Balance Sheets under “Consolidated inventory not owned” with an offset under “Liabilities from inventory not owned.” If the option has terms that require us to record it as financing, then we record the option on the Consolidated Balance Sheets under “Consolidated inventory not owned” with an offset under “Liabilities from inventory not owned.” In accordance with ASC 810-10 “Consolidation – Overall,” we record costs associated with other options on the Consolidated Balance Sheets under “Land and land options held for future development or sale.”

Unconsolidated Homebuilding and Land Development Joint Ventures - Investments in unconsolidated homebuilding and land development joint ventures are accounted for under the equity method of accounting. Under the equity method, we recognize our proportionate share of earnings and losses earned by the joint venture upon the delivery of lots or homes to third parties. Our ownership interests in the joint ventures vary but our voting interests are generally 50% or less. In determining whether or not we must consolidate joint ventures where we are the managing member of the joint venture, we assess whether the other partners have specific rights to overcome the presumption of control by us as the manager of the joint venture. In most cases, the presumption is overcome because the joint venture agreements require that both partners agree on establishing the significant operating and capital decisions of the partnership, including budgets, in the ordinary course of business. The evaluation of whether or not we control a venture can require significant judgment. In accordance with ASC 323-10, "Investments - Equity Method and Joint Ventures – Overall," we assess our investments in unconsolidated joint ventures for recoverability, and if it is determined that a loss in value of the investment below its carrying amount is other than temporary, we write down the investment to its fair value. We evaluate our equity investments for impairment based on the joint venture's projected cash flows. This process requires significant management judgment and estimates. During fiscal 2019 and fiscal 2017, we wrote down certain joint venture investments by \$0.9 million and \$2.8 million, respectively. There were no write-downs in fiscal 2018.

Deferred Bond Issuance Costs - Costs associated with borrowings under our credit facilities and the issuance of senior secured and senior notes are capitalized and amortized over the term of each note's issuance. The capitalization of the costs are recorded as a contra liability within our debt balances, except for the revolving credit facility costs, which are recorded as a prepaid asset.

Debt Issued At a Discount/Premium - Debt issued at a discount or premium to the face amount is amortized up or down, as applicable, to its face amount utilizing the effective interest method over the term of the note and recorded as a component of interest on the Consolidated Statements of Operations.

Advertising Costs - Advertising costs are expensed as incurred. During the years ended October 31, 2019, 2018 and 2017, advertising costs expensed totaled \$17.1 million, \$16.4 million and \$17.9 million, respectively.

Deferred Income Taxes - Deferred income taxes are provided for temporary differences between amounts recorded for financial reporting and for income tax purposes. If the combination of future years' income (or loss) combined with the reversal of the timing differences results in a loss, such losses can be carried back to prior years or carried forward to future years to recover the deferred tax assets. In accordance with ASC 740-10, "Income Taxes – Overall," we evaluate our deferred tax assets quarterly to determine if valuation allowances are required. ASC 740-10 requires that companies assess whether valuation allowances should be established based on the consideration of all available evidence using a "more-likely-than-not" standard.

In evaluating the exposures associated with our various tax filing positions, we recognize tax liabilities in accordance with ASC 740-10, for more likely than not exposures. We re-evaluate the exposures associated with our tax positions on a quarterly basis. This evaluation is based on factors such as changes in facts or circumstances, changes in tax law, new audit activity by taxing authorities, and effectively settled issues. Determining whether an uncertain tax position is effectively settled requires judgment. Such a change in recognition or measurement would result in the recognition of a tax benefit or an additional charge to the tax provision. A number of years may elapse before a particular matter for which we have established a liability is audited and fully resolved or clarified. We adjust our liability for unrecognized tax benefits and income tax provision in the period in which an uncertain tax position is effectively settled, or the statute of limitations expires for the relevant taxing authority to examine the tax position or when more information becomes available. Due to the complexity of some of these uncertainties, the ultimate resolution may result in a liability that is materially different from our current estimate. Any such changes will be reflected as increases or decreases to income tax expense in the period in which they are determined.

Prepaid Expenses - Prepaid expenses which relate to specific housing communities (model setup, architectural fees, homeowner warranty program fees, etc.) are amortized to cost of sales as the applicable inventories are sold. All other prepaid expenses are amortized over a specific time period or as used and charged to overhead expense.

Allowance for Doubtful Accounts – We regularly review our receivable balances, which are included in Receivables, deposits and notes on the Consolidated Balance Sheets, for collectability and record an allowance against a receivable when it is deemed that collectability is uncertain. These receivables include receivables from our insurance carriers, receivables from municipalities related to the development of utilities or other infrastructure, and other miscellaneous receivables. The balance for allowance for doubtful accounts was \$12.2 million and \$11.4 million at October 31, 2019 and 2018, respectively, which primarily related to allowances for receivables from municipalities and an allowance for a receivable for a prior year land sale. During fiscal 2019 and 2018, we recorded \$0.5 million and \$0.6 million, respectively, in recoveries. During fiscal 2019 and 2018, we recorded \$1.3 million and \$4.8 million of additional reserves, respectively. There were \$0.1 million of write-offs in fiscal 2018.

Stock Options - We account for our stock options under ASC 718-10, “Compensation - Stock Compensation – Overall,” which requires the fair-value based method of accounting for stock awards granted to employees and measures and records the cost of employee services received in exchange for an award of equity instruments based on the grant-date fair value of the award. That cost is recognized over the period during which an employee is required to provide service in exchange for the award.

Compensation cost arising from nonvested stock granted to employees and from nonemployee stock awards is based on the fair value of the awards at the grant date recognized as expense using the straight-line method over the vesting period.

Per Share Calculations - Basic earnings per share is computed by dividing net income (loss) (the “numerator”) by the weighted-average number of common shares outstanding, adjusted for nonvested shares of restricted stock (the “denominator”) for the period. Computing diluted earnings per share is similar to computing basic earnings per share, except that the denominator is increased to include the dilutive effects of options and nonvested shares of restricted stock, as well as common shares issuable upon exchange of our Senior Exchangeable Notes issued as part of our 6.0% Exchangeable Note Units (which matured and were paid in full in fiscal 2018). Any options that have an exercise price greater than the average market price are considered to be anti-dilutive and are excluded from the diluted earnings per share calculation.

All outstanding nonvested shares that contain nonforfeitable rights to dividends or dividend equivalents that participate in undistributed earnings with common stock are considered participating securities and are included in computing earnings per share pursuant to the two-class method. The two-class method is an earnings allocation formula that determines earnings per share for each class of common stock and participating securities according to dividends or dividend equivalents and participation rights in undistributed earnings in periods where we have net income. The Company’s restricted common stock (“nonvested shares”) are considered participating securities.

Recent Accounting Pronouncements

In May 2014, the Financial Accounting Standards Board (“FASB”) issued ASU No. 2014-09, “Revenue from Contracts with Customers” (Topic 606), (“ASU 2014-09”). ASU 2014-09 requires entities to recognize revenue that represents the transfer of promised goods or services to customers in an amount equivalent to the consideration to which the entity expects to be entitled to in exchange for those goods or services. The following steps should be applied to determine this amount: (1) identify the contract(s) with a customer; (2) identify the performance obligations in the contract; (3) determine the transaction price; (4) allocate the transaction price to the performance obligations in the contract; and (5) recognize revenue when (or as) the entity satisfies a performance obligation. ASU 2014-09 supersedes the revenue recognition requirements in ASC 605, “Revenue Recognition,” and most industry-specific guidance in the Accounting Standards Codification. The FASB has also issued a number of updates to this standard. The standard was effective for us for annual and interim periods beginning November 1, 2018 and we applied the modified retrospective method of adoption. The implementation did not result in any significant changes to our business processes, systems, or internal controls, or have a material impact on our Consolidated Financial Statements.

In February 2016, the FASB issued ASU No. 2016-02, “Leases (Topic 842)” (“ASU 2016-02”), which provides guidance for accounting for leases. ASU 2016-02 requires lessees to classify leases as either finance or operating leases and to record a right-of-use asset and a lease liability for all leases with a term greater than 12 months regardless of the lease classification. The lease classification will determine whether the lease expense is recognized based on an effective interest rate method or on a straight line basis over the term of the lease. Accounting for lessors remains largely unchanged from current GAAP. ASU 2016-02 is effective for the Company beginning November 1, 2019. In July 2018, the FASB issued ASU No. 2018-10 “Codification Improvements to Topic 842, Leases” (“ASU 2018-10”) and ASU No. 2018-11 “Leases (Topic 842) Targeted Improvements” (“ASU 2018-11”). ASU 2018-10 provides certain amendments that affect narrow aspects of the guidance issued in ASU 2016-02. ASU 2018-11 allows all entities adopting ASU 2016-02 to choose an additional (and optional) transition method of adoption, under which an entity initially applies the new leases standard at the adoption date and recognizes a cumulative-effect adjustment to the opening balance of retained earnings in the period of adoption. ASU 2018-11 also allows lessors to not separate nonlease components from the associated lease component if certain conditions are met. We have elected to apply the modified retrospective transition approach. Our consolidated balance sheets will be impacted by the recording of a right of use asset and corresponding lease liability for substantially all of our current operating leases, which is primarily comprised of office space leases. The liability will be equal to the present value of the remaining lease payments, which we estimate will be approximately \$25 million, while the right of use asset will be based on the liability, subject to adjustment, such as for internal direct costs. The right of use asset and lease liability are expected to have a gross-up impact on our consolidated balance sheets, however, we do not expect this to have a material impact on our consolidated statements of operations or cash flows. We also do not expect significant changes to our business processes, systems, or internal controls as a result of implementing this standard.

In July 2018, the FASB issued ASU No. 2018-09, “Codification Improvements” (“ASU 2018-09”). ASU 2018-09 provides amendments to a wide variety of topics in the FASB’s Accounting Standards Codification, which applies to all reporting entities within the scope of the affected accounting guidance. The transition and effective date guidance are based on the facts and circumstances of each amendment. Some of the amendments in ASU 2018-09 do not require transition guidance and were effective upon issuance of ASU 2018-09. However, many of the amendments do have transition guidance with effective dates for annual periods beginning after December 15, 2018. We do not expect any material impact of adopting the applicable guidance on our Consolidated Financial Statements.

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In August 2018, the FASB issued ASU No. 2018-13, “Fair Value Measurement (Topic 820) - Disclosure Framework” (“ASU 2018-13”), which improves the disclosure requirements for fair value measurements. ASU 2018-13 is effective for us beginning November 1, 2020. Early adoption is permitted for any removed or modified disclosures. We are currently evaluating the potential impact of adopting this guidance on our Consolidated Financial Statements.

In August 2018, the FASB issued ASU No. 2018-15 “Intangibles-Goodwill and Other-Internal-Use Software (Subtopic 350-40): Customer’s Accounting for Implementation Costs Incurred in a Cloud Computing Arrangement That is a Service Contract” (“ASU 2018-15”). ASU 2018-15 aligns the requirements for capitalizing implementation costs incurred in a hosting arrangement that is a service contract with the requirements for capitalizing implementation costs incurred to develop or obtain internal-use software. ASU 2018-15 is effective for us beginning November 1, 2020. Early adoption is permitted. We are currently evaluating the potential impact of adopting this guidance on our Consolidated Financial Statements.

4. Leases

We lease certain property under non-cancelable leases. Office leases are generally for terms of three to five years and generally provide renewal options. Model home leases are generally for shorter terms of approximately one to three years with renewal options on a month-to-month basis. In most cases, we expect that in the normal course of business, leases that will expire will be renewed or replaced by other leases. The future lease payments required under operating leases that have initial or remaining non-cancelable terms in excess of one year are as follows:

Years Ending October 31,	(In thousands)
2020	\$9,785
2021	8,009
2022	6,713
2023	3,384
2024	1,188
Thereafter	1,754
Total	\$30,833

Net rental expense for the three years ended October 31, 2019, 2018 and 2017, was \$14.8 million, \$14.4 million and \$10.8 million, respectively. These amounts represent all of the above described lease types and also include rent expense for our corporate headquarters and various month-to-month leases on model homes, furniture and equipment. Certain leases contain renewal or purchase options and generally provide that the Company shall pay for insurance, taxes and maintenance.

5. Property, Plant and Equipment

Homebuilding property, plant, and equipment consists of land, land improvements, buildings, building improvements, furniture and equipment used to conduct day-to-day business and are recorded at cost less accumulated depreciation.

Property, plant, and equipment balances as of October 31, 2019 and 2018 were as follows:

(In thousands)	October 31,	
	2019	2018
Land and land improvements	\$1,639	\$1,639
Buildings	9,155	9,155
Building improvements	11,552	10,958
Furniture	4,338	5,305
Equipment, including capitalized software	35,423	33,015
Total	62,107	60,072
Less accumulated depreciation	41,980	39,787
Total	20,127	20,285

6. Restricted Cash and Deposits

Homebuilding - Restricted cash and cash equivalents on the Consolidated Balance Sheets totaled \$20.9 million and \$12.8 million as of October 31, 2019 and 2018, respectively, which primarily consists of cash collateralizing our letter of credit agreements and facilities as discussed in Note 9.

Financial services restricted cash and cash equivalents, which are included in Financial services other assets on the Consolidated Balance Sheets, totaled \$24.8 million and \$25.4 million as of October 31, 2019 and 2018, respectively. Included in these balances were (1) financial services customers' deposits of \$22.8 million at October 31, 2019 and \$23.4 million as of October 31, 2018, which are subject to restrictions on our use, and (2) \$2.0 million at both October 31, 2019 and 2018 of restricted cash under the terms of our mortgage warehouse lines of credit.

Total Homebuilding Customers' deposits are shown as a liability on the Consolidated Balance Sheets. These liabilities are significantly more than the applicable periods' restricted cash balances because in some states the deposits are not restricted from use and, in other states, we are able to release the majority of these customer deposits to cash by pledging letters of credit and surety bonds.

7. Mortgage Loans Held for Sale

Our wholly owned mortgage banking subsidiary, K. Hovnanian American Mortgage, LLC ("K. Hovnanian Mortgage") originates mortgage loans, primarily from the sale of our homes. Such mortgage loans are sold in the secondary mortgage market within a short period of time of origination. Mortgage loans held for sale consist primarily of single-family residential loans collateralized by the underlying property. We have elected the fair value option to record loans held for sale and therefore these loans are recorded at fair value with the changes in the value recognized in the Consolidated Statements of Operations in "Revenues: Financial services." We currently use forward sales of mortgage-backed securities ("MBS"), interest rate commitments from borrowers and mandatory and/or best efforts forward commitments to sell loans to third-party purchasers to protect us from interest rate fluctuations. These short-term instruments, which do not require any payments to be made to the counterparty or purchaser in connection with the execution of the commitments, are recorded at fair value. Gains and losses on changes in the fair value are recognized in the Consolidated Statements of Operations in "Revenues: Financial services."

At October 31, 2019 and 2018, \$143.2 million and \$115.2 million, respectively, of mortgages held for sale were pledged against our mortgage warehouse lines of credit (see Note 8). We may incur losses with respect to mortgages that were previously sold that are delinquent and which had underwriting defects, but only to the extent the losses are not covered by mortgage insurance or resale value of the home. The reserves for these estimated losses are included in the "Financial services" liability balances on the Consolidated Balance Sheets. As of October 31, 2019 and 2018, we had reserves specifically for 20 and 46 identified mortgage loans, respectively, as well as reserves for an estimate for future losses on mortgages sold but not yet identified to us. In fiscal 2018, the adjustment to pre-existing provisions for losses from changes in estimates was primarily due to the settlement of a dispute for significantly less than the amount that had been previously reserved.

The activity in our loan origination reserves in fiscal 2019 and 2018 was as follows:

(In thousands)	Year Ended October 31,	
	2019	2018
Loan origination reserves, beginning of period	\$2,563	\$3,158
Provisions for losses during the period	198	160
Adjustments to pre-existing provisions for losses from changes in estimates	(143)	(755)
Payments/settlements	(1,350)	-
Loan origination reserves, end of period	\$1,268	\$2,563

8. Mortgages

Nonrecourse. We have nonrecourse mortgage loans for certain communities totaling \$203.6 million and \$95.6 million (net of debt issuance costs) at October 31, 2019 and 2018, respectively, which are secured by the related real property, including any improvements, with an aggregate book value of \$410.2 million and \$241.9 million, respectively. The weighted-average interest rate on these obligations was 8.3% and 6.1% at October 31, 2019 and 2018, respectively, and the mortgage loan payments on each community primarily correspond to home deliveries.

Mortgage loans. K. Hovnanian Mortgage originates mortgage loans primarily from the sale of our homes. Such mortgage loans and related servicing rights are sold in the secondary mortgage market within a short period of time. In certain instances, we retain the servicing rights for a small amount of loans. K. Hovnanian Mortgage finances the origination of mortgage loans through various master repurchase agreements, which are recorded in financial services liabilities on the Consolidated Balance Sheets.

Our secured Master Repurchase Agreement with JPMorgan Chase Bank, N.A. (“Chase Master Repurchase Agreement”) is a short-term borrowing facility that provides up to \$50.0 million through its maturity on January 31, 2020. The loan is secured by the mortgages held for sale and is repaid when we sell the underlying mortgage loans to permanent investors. Interest is payable monthly on outstanding advances at an adjusted LIBOR rate, which was 1.78% at October 31, 2019, plus the applicable margin of 2.5% or 2.625% based upon type of loan. As of October 31, 2019 and 2018, the aggregate principal amount of all borrowings outstanding under the Chase Master Repurchase Agreement was \$47.1 million and \$40.3 million, respectively.

K. Hovnanian Mortgage has another secured Master Repurchase Agreement with Customers Bank (“Customers Master Repurchase Agreement”) which is a short-term borrowing facility that provides up to \$50.0 million through its maturity on February 14, 2020. The loan is secured by the mortgages held for sale and is repaid when we sell the underlying mortgage loans to permanent investors. Interest is payable daily or as loans are sold to permanent investors on outstanding advances at the current LIBOR rate, plus the applicable margin ranging from 2.25% to 5.0% based on the type of loan and the number of days outstanding on the warehouse line. As of October 31, 2019 and 2018, the aggregate principal amount of all borrowings outstanding under the Customers Master Repurchase Agreement was \$47.6 million and \$40.2 million, respectively.

K. Hovnanian Mortgage also has a secured Master Repurchase Agreement with Comerica Bank (“Comerica Master Repurchase Agreement”) which is a short-term borrowing facility that provides up to \$50.0 million through its maturity on June 17, 2020. The loan is secured by the mortgages held for sale and is repaid when we sell the underlying mortgage loans to permanent investors. Interest is payable monthly at the current LIBOR rate, subject to a floor of 0.25%, plus the applicable margin of 2.0% or 3.25% based upon the type of loan. As of October 31, 2019 and 2018, the aggregate principal amount of all borrowings outstanding under the Comerica Master Repurchase Agreement was \$45.5 million and \$32.7 million, respectively.

The Chase Master Repurchase Agreement, Customers Master Repurchase Agreement and Comerica Master Repurchase Agreement (together, the “Master Repurchase Agreements”) require K. Hovnanian Mortgage to satisfy and maintain specified financial ratios and other financial condition tests. Because of the extremely short period of time mortgages are held by K. Hovnanian Mortgage before the mortgages are sold to investors (generally a period of a few weeks), the immateriality to us on a consolidated basis of the size of the Master Repurchase Agreements, the levels required by these financial covenants, our ability based on our immediately available resources to contribute sufficient capital to cure any default, were such conditions to occur, and our right to cure any conditions of default based on the terms of the applicable agreement, we do not consider any of these covenants to be substantive or material. As of October 31, 2019, we believe we were in compliance with the covenants under the Master Repurchase Agreements.

9. Senior Notes and Credit Facilities

Senior notes and credit facilities balances as of October 31, 2019 and October 31, 2018, were as follows:

(In thousands)	October 31, 2019(1)	October 31, 2018(1)
Senior Secured Notes:		
9.5% Senior Secured Notes due November 15, 2020	\$-	\$75,000
2.0% Senior Secured Notes due November 1, 2021	-	53,203
5.0% Senior Secured Notes due November 1, 2021	-	141,797
10.0% Senior Secured Notes due July 15, 2022	218,994	440,000
10.5% Senior Secured Notes due July 15, 2024	211,391	400,000
7.75% Senior Secured 1.125 Lien Notes due February 15, 2026	350,000	-
10.5% Senior Secured 1.25 Lien Notes due February 15, 2026	282,322	-
11.25% Senior Secured 1.5 Lien Notes due February 15, 2026	103,141	-
Total Senior Secured Notes	\$1,165,848	\$1,110,000
Senior Notes:		
8.0% Senior Notes due November 1, 2019 (2)	\$-	\$-
13.5% Senior Notes due February 1, 2026	90,590	90,590
5.0% Senior Notes due February 1, 2040	90,120	90,120
Total Senior Notes	\$180,710	\$180,710
Senior Unsecured Term Loan Credit Facility due February 1, 2027	\$202,547	\$202,547
Senior Secured Revolving Credit Facility (3)	\$-	\$-
Net discounts and premium	\$(49,145)	\$(39,934)
Net debt issuance costs	\$(19,970)	\$(14,085)
Total notes payable, net of discount, premium and debt issuance costs	\$1,479,990	\$1,439,238

(1) “Notes payable” on our Consolidated Balance Sheets as of October 31, 2019 and 2018 consists of the total senior secured and senior notes shown above, as well as accrued interest of \$19.1 million and \$35.6 million, respectively.

(2) \$26.0 million of 8.0% Senior Notes due 2019 are owned by a wholly-owned consolidated subsidiary of HEI. Therefore, in accordance with GAAP, such notes are not reflected on the Consolidated Balance Sheets of HEI. On November 1, 2019, the maturity of the 8.0% Senior Notes was extended to November 1, 2027.

(3) At October 31, 2019, provides for up to \$125.0 million in aggregate amount of senior secured first lien revolving loans. Availability thereunder will terminate on December 28, 2022.

As of October 31, 2019, future maturities of our borrowings were as follows (*in thousands*):

Fiscal Year Ended October 31, (1)	
2020	\$-
2021	-
2022	218,994
2023	-
2024	211,391
Thereafter	1,118,720
Total	\$1,549,105

(1) Does not include our \$125.0 million Senior Secured Revolving Credit Facility under which there were no borrowings outstanding as of October 31, 2019.

General

Except for K. Hovnanian, the issuer of the notes and borrower under the Credit Facilities (as defined below), our home mortgage subsidiaries, certain of our title insurance subsidiaries, joint ventures and subsidiaries holding interests in our joint ventures, we and each of our subsidiaries are guarantors of the Credit Facilities, the senior secured notes and senior notes outstanding at October 31, 2019 (collectively, the “Notes Guarantors”), which include the subsidiaries that had guaranteed (collectively, the “Former New Secured Group Guarantors”) K. Hovnanian’s 9.50% Notes, 2.000% Notes and 5.000% Notes (each as defined under “—Fiscal 2019” below). As a result of the 2019 Transactions (as defined in and described under “—Fiscal 2019” below), K. Hovnanian’s obligations under the Credit Facilities, the senior secured notes and senior notes are guaranteed by the Notes Guarantors (including the Former New Secured Group Guarantors) and, in the case of the Senior Secured Revolving Credit Facility and the senior secured notes, will be secured in accordance with the terms of the applicable Debt Instrument by substantially all of the assets owned by K. Hovnanian and the Notes Guarantors (including the assets owned by the Former New Secured Group Guarantors), subject to permitted liens and certain exceptions.

The credit agreements governing the Credit Facilities and the indentures governing the senior secured and senior notes (together, the “Debt Instruments”) outstanding at October 31, 2019 do not contain any financial maintenance covenants, but do contain restrictive covenants that limit, among other things, the Company’s ability and that of certain of its subsidiaries, including K. Hovnanian, to incur additional indebtedness (other than non-recourse indebtedness, certain permitted indebtedness and refinancing indebtedness), pay dividends and make distributions on common and preferred stock, repay certain indebtedness prior to its respective stated maturity, repurchase common and preferred stock, make other restricted payments (including investments), sell certain assets (including in certain land banking transactions), incur liens, consolidate, merge, sell or otherwise dispose of all or substantially all of their assets and enter into certain transactions with affiliates. The Debt Instruments also contain customary events of default which would permit the lenders or holders thereof to exercise remedies with respect to the collateral (as applicable), declare the loans made under the Term Loan Facility (defined below) (the “Term Loans”) and loans made under the Secured Credit Agreement (as defined below) (the “Secured Revolving Loans”) or notes to be immediately due and payable if not cured within applicable grace periods, including the failure to make timely payments on the Term Loans, Secured Revolving Loans or notes or other material indebtedness, cross default to other material indebtedness, the failure to comply with agreements and covenants and specified events of bankruptcy and insolvency, with respect to the Term Loans and Secured Revolving Loans, material inaccuracy of representations and warranties and with respect to the Term Loans and Secured Revolving Loans, a change of control, and, with respect to the Secured Revolving Loans and senior secured notes, the failure of the documents granting security for the Secured Revolving Loans and senior secured notes to be in full force and effect, and the failure of the liens on any material portion of the collateral securing the Secured Revolving Loans and senior secured notes to be valid and perfected. As of October 31, 2019, we believe we were in compliance with the covenants of the Debt Instruments.

If our consolidated fixed charge coverage ratio is less than 2.0 to 1.0, as defined in the applicable Debt Instrument, we are restricted from making certain payments, including dividends, and from incurring indebtedness other than certain permitted indebtedness, refinancing indebtedness and nonrecourse indebtedness. As a result of this ratio restriction, we are currently restricted from paying dividends (in the case of the payment of dividends on preferred stock, our secured debt leverage ratio must also be less than 4.0 to 1.0), which are not cumulative, on our 7.625% Series A Preferred Stock. We anticipate that we will continue to be restricted from paying dividends for the foreseeable future. Our inability to pay dividends is in accordance with covenant restrictions and will not result in a default under our Debt Instruments or otherwise affect compliance with any of the covenants contained in our Debt Instruments.

Under the terms of our Debt Instruments, we have the right to make certain redemptions and prepayments and, depending on market conditions and covenant restrictions, may do so from time to time. We also continue to actively analyze and evaluate our capital structure and explore transactions to simplify our capital structure and to strengthen our balance sheet, including those that reduce leverage and/or extend maturities, and will seek to do so with the right opportunity. We may also continue to make debt purchases and/or exchanges for debt or equity from time to time through tender offers, exchange offers, open market purchases, private transactions, or otherwise, or seek to raise additional debt or equity capital, depending on market conditions and covenant restrictions.

Fiscal 2019

On January 15, 2019, pursuant to the Commitment Letter (defined below under “ - Fiscal 2018”), the Company issued \$25.0 million in aggregate principal amount of the Additional 10.5% 2024 Notes to the GSO Entities (defined below under “ - Fiscal 2018”) at a discount for a purchase price of \$21.3 million in cash. The Additional 10.5% 2024 Notes were issued as additional notes of the same series as the 10.5% 2024 Notes.

On October 31, 2019, K. Hovnanian, the Company, the Notes Guarantors, Wilmington Trust, National Association, as administrative agent, and affiliates of certain investment managers (the “Investors”), as lenders, entered into a credit agreement (the “Secured Credit Agreement” and, together with the Term Loan Facility, the “Credit Facilities”) providing for up to \$125.0 million in aggregate amount of Secured Revolving Loans to be used for general corporate purposes, upon the terms and subject to the conditions set forth therein. Secured Revolving Loans are to be borrowed by K. Hovnanian and guaranteed by the Notes Guarantors. Availability under the Secured Credit Agreement will terminate on December 28, 2022 and the Secured Revolving Loans will bear interest at a rate per annum equal to 7.75%, and interest will be payable in arrears, on the last business day of each fiscal quarter. In connection with the entering into of the Secured Credit Agreement, K. Hovnanian terminated the 2018 Secured Credit Facility (as defined below under “— Fiscal 2018”).

On October 31, 2019, K. Hovnanian completed private placements of senior secured notes as follows: (i) K. Hovnanian issued an aggregate of \$350.0 million of 7.75% Senior Secured 1.125 Lien Notes due 2026 (the “1.125 Lien Notes”) in part pursuant to a Note Purchase Agreement, dated October 31, 2019, among K. Hovnanian, the Notes Guarantors and certain Investors as purchasers thereof (the “1.125 Lien Notes Purchase Agreement”) and in part pursuant to the Exchange Agreement (as defined below), with the proceeds from the sale of 1.125 Lien Notes under the 1.125 Lien Notes Purchase Agreement used to fund the cash payments to certain Exchanging Holders (as defined below) under the Exchange Agreement; and (ii) K. Hovnanian issued an aggregate of \$282.3 million of 10.5% Senior Secured 1.25 Lien Notes due 2026 (the “1.25 Lien Notes”), pursuant to a Note Purchase Agreement (the “1.25 Lien Notes Purchase Agreement”), dated October 31, 2019, among K. Hovnanian, the Notes Guarantors and certain Investors as purchasers thereof (the “1.25 Lien Notes Purchasers”), the proceeds of which were used to fund the Satisfaction and Discharge (as defined below).

In addition, on October 31, 2019, K. Hovnanian completed private exchanges of (i) approximately \$221.0 million aggregate principal amount of its 10.0% Senior Secured Notes due 2022 (the “10.0% 2022 Notes”) and approximately \$114.0 million aggregate principal amount of its 10.5% Senior Secured Notes due 2024 (the “10.5% 2024 Notes” and, together with the 10.0% 2022 Notes, the “Second Lien Notes”) held by certain participating bondholders (the “Exchanging Holders”) for a portion of the \$350.0 million aggregate principal amount of 1.125 Lien Notes described above and/or cash, and (ii) approximately \$99.6 million aggregate principal amount of its 10.5% 2024 Notes held by certain of the Exchanging Holders for approximately \$103.1 million aggregate principal amount of 11.25% Senior Secured 1.5 Lien Notes due 2026 (the “1.5 Lien Notes” and, together with the 1.125 Lien Notes and the 1.25 Lien Notes, the “New Secured Notes”), pursuant to an Exchange Agreement, dated October 30, 2019 (the “Exchange Agreement”), among K. Hovnanian, the Notes Guarantors and the Exchanging Holders.

On October 31, 2019, K. Hovnanian issued notices of redemption for all of its outstanding 9.50% Senior Secured Notes due 2020 (the “9.50% Notes”), 2.000% Senior Secured Notes due 2021 (the “2.000% Notes”) and 5.000% Senior Secured Notes due 2021 (the “5.000% Notes”) and deposited with Wilmington Trust, National Association, as trustee under the indenture (the “9.50% Notes Indenture”) governing the 9.50% Notes and as trustee under the indenture (the “5.000%/2.000% Notes Indenture”) governing the 5.000% Notes and the 2.000% Notes sufficient funds to satisfy and discharge (collectively, the “Satisfaction and Discharge”) (i) the 9.50% Indenture and to fund the redemption of all outstanding 9.50% Notes and to pay accrued and unpaid interest on the redeemed notes to, but not including, the November 10, 2019 redemption date and (ii) the 5.000%/2.000% Indenture and to fund the redemption of all outstanding 5.000% Notes and 2.000% Notes and to pay accrued and unpaid interest on the redeemed notes to, but not including, the November 30, 2019 redemption date. Proceeds from the issuance of the 1.25 Lien Notes together with cash on hand were used to fund the Satisfaction and Discharge. Upon the Satisfaction and Discharge of the 9.50% Notes Indenture, all of the collateral securing the 9.50% Notes was released and the restrictive covenants and events of default contained therein ceased to have effect and upon the Satisfaction and Discharge of the 5.000%/2.000% Notes Indenture, all of the collateral securing the 5.000% Notes and the 2.000% Notes was released and the restrictive covenants and events of default contained therein ceased to have effect as to both such series of Notes.

The Company and K. Hovnanian obtained the consent of certain lenders/holders under its existing debt instruments to amend such debt instruments in connection with the issuance of the New Secured Notes and the execution of the indentures governing the New Secured Notes and the Secured Credit Agreement. The Company, K. Hovnanian and the guarantors also amended such debt instruments to add the Former New Secured Group Guarantors as guarantors thereunder and, in the case of the Second Lien Notes, to add the Former New Secured Group Guarantors as pledgors and grantors of their assets (subject to permitted liens and certain exceptions) to secure such Second Lien Notes.

The transactions that were consummated on October 31, 2019, as described, are collectively referred to herein as the “2019 Transactions.” The 2019 Transactions resulted in a loss in extinguishment of debt of \$42.4 million for the year ended October 31, 2019, which is included as “Loss on Extinguishment of Debt” on the Consolidated Statement of Operations.

Fiscal 2018

On December 1, 2017, our 6.0% Senior Exchangeable Note Units were paid in full, which units consisted of \$53.9 million principal amount of our Senior Exchangeable Notes that matured and the final installment payment of \$2.1 million on our 11.0% Senior Amortizing Notes.

On December 28, 2017, the Company and K. Hovnanian announced that they had entered into a commitment letter (the “Commitment Letter”) in respect of certain financing transactions with GSO Capital Partners LP (“GSO”) on its own behalf and on behalf of one or more funds managed, advised or sub-advised by GSO (collectively, the “GSO Entities”), and had commenced a private exchange offer with respect to the 8.0% Senior Notes due 2019 (on November 1, 2019, the maturity of such Notes was extended to 2027) (the “8.0% Notes”) (the “Exchange Offer”).

Pursuant to the Commitment Letter, the GSO Entities agreed to, among other things, provide the principal amount of the following: (i) a senior unsecured term loan credit facility (the “Term Loan Facility”) to be borrowed by K. Hovnanian and guaranteed by the Company and certain of its subsidiaries, pursuant to which the GSO Entities committed to lend K. Hovnanian Term Loans consisting of \$132.5 million of initial term loans (the “Initial Term Loans”) on the settlement date of the Exchange Offer for purposes of refinancing K. Hovnanian’s 7.0% Senior Notes due 2019 (the “7.0% Notes”), and up to \$80.0 million of delayed draw term loans (the “Delayed Draw Term Loans”) for purposes of refinancing certain of the 8.0% Notes, in each case, upon the terms and subject to the conditions set forth therein, and (ii) a senior secured first lien credit facility (the “2018 Secured Credit Facility”) to be borrowed by K. Hovnanian and guaranteed by certain of its subsidiaries, pursuant to which the GSO Entities committed to lend to K. Hovnanian up to \$125.0 million of senior secured first priority loans to fund the repayment of K. Hovnanian’s then outstanding secured term loans and for general corporate purposes, upon the terms and subject to the conditions set forth therein. In addition, pursuant to the Commitment Letter, the GSO Entities committed to purchase, and K. Hovnanian agreed to issue and sell, on January 15, 2019, \$25.0 million in aggregate principal amount of additional 10.5% 2024 Notes (the “Additional 10.5% 2024 Notes”), upon the terms and subject to conditions set forth therein.

On January 29, 2018, K. Hovnanian, the Notes Guarantors, Wilmington Trust, National Association, as administrative agent, and the GSO Entities entered into the Term Loan Facility. K. Hovnanian borrowed the Initial Term Loans on February 1, 2018 to fund, together with cash on hand, the redemption on February 1, 2018 of all \$132.5 million aggregate principal amount of 7.0% Notes, which resulted in a loss on extinguishment of debt of \$0.5 million for the nine months ended July 31, 2018. On May 29, 2018, K. Hovnanian completed the redemption of \$65.7 million aggregate principal amount of the 8.0% Notes (representing all of the outstanding 8.0% Notes, excluding the \$26 million of 8% Notes held by the Subsidiary Purchaser (as defined below)) with approximately \$70.0 million in borrowings on the Delayed Draw Term Loans under the Unsecured Term Loan Facility (with the completion of this redemption, the remaining committed amounts under the Delayed Draw Term Loans may not be borrowed). This transaction resulted in a loss on extinguishment of debt of \$4.3 million for the year ended October 31, 2018. The Term Loans bear interest at a rate equal to 5.0% per annum and interest is payable in arrears, on the last business day of each fiscal quarter. The Term Loans will mature on February 1, 2027.

On January 29, 2018, K. Hovnanian, the subsidiary guarantors named therein, Wilmington Trust, National Association, as administrative agent, and the GSO Entities entered into the Secured Credit Facility, which provided for a \$125.0 million secured revolving credit facility. This Secured Credit Facility was terminated on October 31, 2019 in connection with the 2019 Transactions.

On February 1, 2018, K. Hovnanian accepted all of the \$170.2 million aggregate principal amount of 8.0% Notes validly tendered and not validly withdrawn in the Exchange Offer (representing 72.14% of the aggregate principal amount of 8.0% Notes outstanding prior to the Exchange Offer), and in connection therewith, K. Hovnanian issued \$90.6 million aggregate principal amount of its 13.5% Senior Notes due 2026 (the “2026 Notes”) and \$90.1 million aggregate principal amount of its 5.0% Senior Notes due 2040 (the “2040 Notes”) under a new indenture. Also, as part of the Exchange Offer, K. Hovnanian at Sunrise Trail III, LLC, a wholly-owned subsidiary of the Company (the “Subsidiary Purchaser”), purchased for \$26.5 million in cash an aggregate of \$26.0 million in principal amount of the 8.0% Notes (the “Purchased 8.0% Notes”). The 2026 Notes and the 2040 Notes were issued by K. Hovnanian and guaranteed by certain of its subsidiaries, except the Subsidiary Purchaser, which does not guarantee the 2026 Notes or the 2040 Notes. The 2026 Notes bear interest at 13.5% per annum and mature on February 1, 2026. The 2040 Notes bear interest at 5.0% per annum and mature on February 1, 2040. Interest on the 2026 Notes and the 2040 Notes is payable semi-annually on February 1 and August 1 of each year to holders of record at the close of business on January 15 or July 15, as the case may be, immediately preceding each such interest payment date. The Exchange Offer was treated as a substantial modification of debt, and resulted in a loss on extinguishment of debt of \$0.9 million for the fiscal year ended October 31, 2018. The 2026 Notes and the 2040 Notes were recorded at fair value (based on management’s estimate using available trades for similar debt instruments) on the date of the issuance of the 2026 Notes and the 2040 Notes.

K. Hovnanian's 2026 Notes are redeemable in whole or in part at K. Hovnanian's option at any time prior to February 1, 2025 at a redemption price equal to 100% of their principal amount plus an applicable "Make Whole Amount". At any time and from time to time on or after February 1, 2025, K. Hovnanian may also redeem some or all of the 2026 Notes at a redemption price equal to 100.0% of their principal amount.

K. Hovnanian's 2040 Notes are redeemable in whole or in part at K. Hovnanian's option at any time prior to February 1, 2020 at a redemption price equal to 100.0% of their principal amount plus an applicable "Make-Whole Amount". At any time and from time to time on or after February 1, 2020 and prior to February 1, 2021 K. Hovnanian may redeem some or all of the 2040 Notes at a redemption price equal to 102.50% of their principal amount and at any time and from time to time after February 1, 2020, K. Hovnanian may also redeem some or all of the 2040 Notes at a redemption price equal to 100.0% of their principal amount.

Fiscal 2017

During the year ended October 31, 2017, we repurchased in open market transactions \$17.5 million aggregate principal amount of 7.0% Notes, \$14.0 million aggregate principal amount of 8.0% Notes and 6,925 senior exchangeable note units representing \$6.9 million stated amount of senior exchangeable note units. The aggregate purchase price for these transactions was \$30.8 million, plus accrued and unpaid interest. These transactions resulted in a gain on extinguishment of debt of \$7.8 million, which is included as "Loss on Extinguishment of Debt" on the Consolidated Statement of Operations. This gain was offset by \$0.4 million of costs associated with the 9.50% 2020 Notes issued during the fourth quarter of fiscal 2016 and the debt transactions during the third quarter of fiscal 2017 discussed below.

On July 27, 2017, K. Hovnanian issued \$440.0 million aggregate principal amount of 10.0% 2022 Notes and \$400.0 million aggregate principal amount of 10.5% 2024 Notes. The net proceeds from these issuances together with available cash were used to (i) purchase \$575,912,000 principal amount of 7.25% Senior Secured First Lien Notes due 2020 (the "7.25% First Lien Notes"), \$87,321,000 principal amount of 9.125% Senior Secured Second Lien Notes due 2020 (the "9.125% Second Lien Notes" and, together with the 7.25% First Lien Notes, the "2020 Secured Notes") and all \$75,000,000 principal amount of 10.0% Senior Secured Second Lien Notes due 2018 (the "10.0% Second Lien Notes") that were tendered and accepted for purchase pursuant to K. Hovnanian's offers to purchase for cash (the "Tender Offers") any and all of the 7.25% First Lien Notes, the 9.125% Second Lien Notes and the 10.0% Second Lien Notes and to pay related tender premiums and accrued and unpaid interest thereon to the date of purchase and (ii) satisfy and discharge all obligations (and cause the release of the liens on the collateral securing such indebtedness) under the indentures under which the 7.25% First Lien Notes, the 9.125% Second Lien Notes and the 10.0% Second Lien Notes were issued and in connection therewith to call for redemption on October 15, 2017 and on November 15, 2017 all remaining \$1,088,000 principal amount of 7.25% First Lien Notes and all remaining \$57,679,000 principal amount of 9.125% Second Lien Notes, respectively, that were not validly tendered and purchased in the applicable Tender Offer in accordance with the redemption provisions of the indentures governing the 2020 Secured Notes. These transactions resulted in a loss on extinguishment of debt of \$42.3 million for fiscal 2017, which is included as "Loss on Extinguishment of Debt" on the Consolidated Statement of Operations.

Secured Obligations

The 10.0% 2022 Notes have a maturity of July 15, 2022 and bear interest at a rate of 10.0% per annum payable semi-annually on January 15 and July 15 of each year, to holders of record at the close of business on January 1 and July 1, as the case may be, immediately preceding such interest payment dates. K. Hovnanian may also redeem some or all of the 10.0% 2022 Notes at 105.0% of principal commencing July 15, 2019, at 102.50% of principal commencing July 15, 2020 and at 100.0% of principal commencing July 15, 2021.

The 10.5% 2024 Notes have a maturity of July 15, 2024 and bear interest at a rate of 10.5% per annum payable semi-annually on January 15 and July 15 of each year, to holders of record at the close of business on January 1 and July 1, as the case may be, immediately preceding such interest payment dates. The 10.5% 2024 Notes are redeemable in whole or in part at our option at any time prior to July 15, 2020 at 100.0% of their principal amount plus an applicable "Make-Whole Amount." K. Hovnanian may also redeem some or all of the 10.5% 2024 Notes at 105.25% of principal commencing July 15, 2020, at 102.625% of principal commencing July 15, 2021 and at 100.0% of principal commencing July 15, 2022. In addition, K. Hovnanian may also redeem up to 35.0% of the aggregate principal amount of the 10.5% 2024 Notes prior to July 15, 2020 with the net cash proceeds from certain equity offerings at 110.50% of principal.

The 1.125 Lien Notes have a maturity of February 15, 2026 and bear interest at a rate of 7.75% per annum payable semi-annually on February 15 and August 15 of each year, to holders of record at the close of business on February 1 and August 1, as the case may be, immediately preceding such interest payment dates. The 1.125 Lien Notes are redeemable in whole or in part at our option at any time prior to February 15, 2022 at 100.0% of their principal amount plus an applicable "Make-Whole Amount." In addition, up to 35% of the original aggregate principal amount of the 1.125 Lien Notes may be redeemed with the net cash proceeds from certain equity offerings at 107.75% of principal at any time prior to February 15, 2022. K. Hovnanian may also redeem some or all of the 1.125 Lien Notes at 103.875% of principal commencing February 15, 2022, at 101.937% of principal commencing February 15, 2023 and at 100.0% of principal commencing February 15, 2024.

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The 1.25 Lien Notes have a maturity of February 15, 2026 and bear interest at a rate of 10.5% per annum payable semi-annually on February 15 and August 15 of each year, to holders of record at the close of business on February 1 and August 1, as the case may be, immediately preceding such interest payment dates. The 1.25 Lien Notes are redeemable in whole or in part at our option at any time prior to February 15, 2022 at 100.0% of their principal amount plus an applicable “Make-Whole Amount.” In addition, up to 35% of the original aggregate principal amount of the 1.25 Lien Notes may be redeemed with the net cash proceeds from certain equity offerings at 110.5% of principal at any time prior to February 15, 2022. K. Hovnanian may also redeem some or all of the 1.25 Lien Notes at 105.25% of principal commencing February 15, 2022, at 102.625% of principal commencing February 15, 2023 and at 100.0% of principal commencing February 15, 2024.

The 1.5 Lien Notes have a maturity of February 15, 2026 and bear interest at a rate of 11.25% per annum payable semi-annually on February 15 and August 15 of each year, to holders of record at the close of business on February 1 and August 1, as the case may be, immediately preceding such interest payment dates. The 1.5 Lien Notes are redeemable in whole or in part at our option at any time prior to February 15, 2026 at 100.0% of their principal amount.

Each series of New Secured Notes and the guarantees thereof are secured by the same assets (including the assets owned by the Former New Secured Group Guarantors) that secure the Secured Credit Agreement and the Second Lien Notes. Among the New Secured Notes, the liens securing the 1.125 Lien Notes are senior to the liens securing the 1.25 Lien Notes and the 1.5 Lien Notes and any other future secured obligations that are junior in priority with respect to the assets securing the 1.125 Lien Notes, and the liens securing the 1.25 Lien Notes are senior to the liens securing the 1.5 Lien Notes and any other future secured obligations that are junior in priority with respect to the assets securing the 1.25 Lien Notes, in each case, with respect to the assets securing such New Secured Notes. In respect of K. Hovnanian’s other secured obligations, the liens securing the New Secured Notes are junior to the liens securing the Secured Credit Agreement, are on a parity with any future secured obligations that are equal in priority with respect to the assets securing the applicable series of New Secured Notes and are senior to the liens securing the Second Lien Notes and any other future secured obligations that are junior in priority with respect to the assets securing the applicable series of New Secured Notes.

As of October 31, 2019, the collateral securing the Secured Credit Facility, the New Secured Notes and the Second Lien Notes would have included (in the case of the Secured Credit Facility and the New Secured Notes, such collateral will be perfected in accordance with the terms of the applicable Debt Instrument) (1) \$136.9 million of cash and cash equivalents, which included \$19.9 million of restricted cash collateralizing certain letters of credit (subsequent to such date, fluctuations as a result of cash uses include general business operations and real estate and other investments along with cash inflow primarily from deliveries); (2) \$504.7 million aggregate book value of real property, which does not include the impact of inventory investments, home deliveries or impairments thereafter and which may differ from the value if it were appraised; and (3) equity interests in joint venture holding companies with an aggregate book value of \$188.9 million.

Senior Notes

On February 1, 2018, K. Hovnanian borrowed the Initial Term Loans in the amount of \$132.5 million under the Term Loan Facility, and proceeds of such Initial Term Loans, together with cash on hand, were used to redeem all of its outstanding \$132.5 million aggregate principal amount of 7.0% Notes (upon redemption, all 7.0% Notes were cancelled).

As discussed above, the 8.0% Notes were the subject of the Exchange Offer that closed on February 1, 2018 and, on May 29, 2018, K. Hovnanian completed the redemption of \$65.7 million aggregate principal amount of the 8.0% Notes, which was funded with borrowings of the Delayed Draw Term Loans under the Term Loan Facility (upon redemption, such redeemed 8.0% Notes were cancelled).

Other

In June 2013, K. Hovnanian, as borrower, and we and certain of our subsidiaries, as guarantors, entered into a five-year, \$75.0 million unsecured revolving credit facility with Citicorp USA, Inc., as administrative agent and issuing bank, and Citibank, N.A., as a lender. This facility matured and was paid in full in September 2018 with borrowings under the 2018 Secured Credit Facility and cash on hand.

We have certain stand-alone cash collateralized letter of credit agreements and facilities under which there was a total of \$19.2 million and \$12.5 million letters of credit outstanding at October 31, 2019 and October 31, 2018, respectively. These agreements and facilities require us to maintain specified amounts of cash as collateral in segregated accounts to support the letters of credit issued thereunder, which will affect the amount of cash we have available for other uses. At October 31, 2019 and October 31, 2018, the amount of cash collateral in these segregated accounts was \$19.9 million and \$12.7 million, respectively, which is reflected in “Restricted cash and cash equivalents” on the Consolidated Balance Sheets.

10. Operating and Reporting Segments

HEI's operating segments are components of the Company's business for which discrete financial information is available and reviewed regularly by the chief operating decision maker, our Chief Executive Officer, to evaluate performance and make operating decisions. Based on this criteria, each of the Company's communities qualifies as an operating segment, and therefore, it is impractical to provide segment disclosures for this many segments. As such, HEI has aggregated the homebuilding operating segments into six reportable segments.

HEI's homebuilding operating segments are aggregated into reportable segments based primarily upon geographic proximity, similar regulatory environments, land acquisition characteristics and similar methods used to construct and sell homes. HEI's reportable segments consist of the following six homebuilding segments and a financial services segment noted below.

Homebuilding:

- (1) Northeast (New Jersey and Pennsylvania)
- (2) Mid-Atlantic (Delaware, Maryland, Virginia, Washington D.C. and West Virginia)
- (3) Midwest (Illinois and Ohio)
- (4) Southeast (Florida, Georgia and South Carolina)
- (5) Southwest (Arizona and Texas)
- (6) West (California)

Financial Services

Operations of the Homebuilding segments primarily include the sale and construction of single-family attached and detached homes, attached townhomes and condominiums, urban infill and active lifestyle homes in planned residential developments. In addition, from time to time, operations of the homebuilding segments include sales of land. Operations of the Financial Services segment include mortgage banking and title services provided to the homebuilding operations' customers. Our financial services subsidiaries do not typically retain or service mortgages that we originate but rather sell the mortgages and related servicing rights to investors.

Corporate and unallocated primarily represents operations at our headquarters in New Jersey. This includes our executive offices, information services, human resources, corporate accounting, training, treasury, process redesign, internal audit, construction services, and administration of insurance, quality and safety. It also includes interest income and interest expense resulting from interest incurred that cannot be capitalized in inventory in the Homebuilding segments, as well as the gains or losses on extinguishment of debt from any debt repurchases or exchanges.

Evaluation of segment performance is based primarily on operating earnings from continuing operations before provision for income taxes ("Income (loss) before income taxes"). Income (loss) before income taxes for the Homebuilding segments consist of revenues generated from the sales of homes and land, income (loss) from unconsolidated entities, management fees and other income, less the cost of homes and land sold, selling, general and administrative expenses and interest expense. Income (loss) before income taxes for the Financial Services segment consist of revenues generated from mortgage financing, title insurance and closing services, less the cost of such services and selling, general and administrative expenses incurred by the Financial Services segment.

Operational results of each segment are not necessarily indicative of the results that would have occurred had the segment been an independent stand-alone entity during the periods presented.

Financial information relating to HEI's segment operations was as follows:

(In thousands)	Year Ended October 31,		
	2019	2018	2017
Revenues:			
Northeast	\$124,372	\$116,296	\$209,509
Mid-Atlantic	357,247	354,690	464,126
Midwest	204,461	196,599	199,770
Southeast	220,082	241,620	260,402
Southwest	629,344	638,282	827,503
West	425,516	384,627	430,546
Total homebuilding	1,961,022	1,932,114	2,391,856
Financial services	54,152	53,355	58,743
Corporate and unallocated	1,742	5,764	1,066
Total revenues	\$2,016,916	\$1,991,233	\$2,451,665
Income (loss) before income taxes:			
Northeast	\$20,954	\$20,869	\$2,300
Mid-Atlantic	14,327	18,757	17,191
Midwest	(649)	1,528	(1,151)
Southeast	(10,060)	(9,914)	(6,199)
Southwest	33,459	49,852	71,540
West	40,018	47,987	19,636
Total homebuilding	98,049	129,079	103,317
Financial services	17,627	18,227	26,397
Corporate and unallocated (1)	(155,344)	(139,160)	(174,958)
Income (loss) before income taxes	\$(39,668)	\$8,146	\$(45,244)

(1) Corporate and unallocated for the year ended October 31, 2019 included corporate general and administrative costs of \$66.4 million, interest expense of \$55.5 million (a component of Other interest on our Consolidated Statements of Operations), loss on extinguishment of debt of \$42.4 million, and \$9.0 million of other income and expenses along with the adjustment to our insurance reserves. Corporate and unallocated for the year ended October 31, 2018 included corporate general and administrative costs of \$69.6 million, interest expense of \$76.2 million (a component of Other interest on our Consolidated Statements of Operations), loss on extinguishment of debt of \$7.5 million, and \$14.1 million of other income and expenses primarily related to interest income and gain on the sale of our former corporate headquarters building, along with the adjustment to our insurance reserves. Corporate and unallocated for the year ended October 31, 2017 included corporate general and administrative costs of \$59.4 million, interest expense of \$69.1 million (a component of Other interest on our Consolidated Statements of Operations), loss on extinguishment of debt of \$34.9 million, \$12.5 million adjustment for construction defect reserves (discussed in Note 16) and \$0.9 million of other income and expenses primarily related to interest income, rental income, bond amortization and stock compensation.

(In thousands)	October 31,	
	2019	2018
Assets:		
Northeast	\$163,342	\$152,607
Mid-Atlantic	264,894	217,807
Midwest	117,242	85,398
Southeast	281,654	246,497
Southwest	357,052	320,452
West	311,919	244,886
Total homebuilding	1,496,103	1,267,647
Financial services	199,275	164,880
Corporate and unallocated	186,046	229,515
Total assets	\$1,881,424	\$1,662,042

(In thousands)	October 31,	
	2019	2018
Investments in and advances to unconsolidated joint ventures:		
Northeast	\$49,340	\$51,094
Mid-Atlantic	9,166	7,307
Midwest	4,382	3,738
Southeast	52,983	39,509
Southwest	10,019	18,219
West	(33)	2,445
Total homebuilding	125,857	122,312
Corporate and unallocated	1,181	1,382
Total investments in and advances to unconsolidated joint ventures	\$127,038	\$123,694

(In thousands)	Year Ended October 31,		
	2019	2018	2017
Homebuilding interest expense:			
Northeast	\$10,011	\$11,811	\$20,308
Mid-Atlantic	18,563	15,051	23,886
Midwest	7,121	5,874	7,799
Southeast	18,798	14,934	13,646
Southwest	27,731	21,820	25,278
West	23,051	18,309	25,799
Total homebuilding	105,275	87,799	116,716
Corporate and unallocated	55,506	76,183	69,124
Financial services interest expense (1)	334	104	(630)
Total interest expense, net	\$161,115	\$164,086	\$185,210

(1) Financial services interest expenses are included in the Financial services lines on the Consolidated Statements of Operations in the respective revenues and expenses sections.

(In thousands)	Year Ended October 31,		
	2019	2018	2017
Depreciation:			
Northeast	\$188	\$135	\$71
Mid-Atlantic	209	63	50
Midwest	1,097	1,106	858
Southeast	230	124	83
Southwest	331	70	78
West	326	45	94
Total homebuilding	2,381	1,543	1,234
Financial services	14	14	16
Corporate and unallocated	1,777	1,599	2,999
Total depreciation	\$4,172	\$3,156	\$4,249

(In thousands)	Year Ended October 31,		
	2019	2018	2017
Net additions to operating properties and equipment:			
Northeast	\$107	\$142	\$442
Mid-Atlantic	168	318	71
Midwest	237	621	3,773
Southeast	221	701	28
Southwest	741	23	18
West	921	55	80
Total homebuilding	2,395	1,860	4,412
Financial services	-	-	-
Corporate and unallocated	1,610	3,333	2,066
Total net additions to operating properties and equipment	\$4,005	\$5,193	\$6,478

(In thousands)	Year Ended October 31,		
	2019	2018	2017
Equity in earnings (losses) from unconsolidated joint ventures:			
Northeast	\$19,242	\$20,231	\$(4,376)
Mid-Atlantic	3,404	799	1,180
Midwest	(432)	(775)	(1,424)
Southeast	1,310	(2,032)	837
Southwest	7,951	5,165	(306)
West	(2,543)	645	(2,958)
Total equity in earnings (losses) from unconsolidated joint ventures	\$28,932	\$24,033	\$(7,047)

11. Income Taxes

Income taxes payable (receivable), including deferred benefits, consists of the following:

(In thousands)	Year Ended October 31,	
	2019	2018
State income taxes:		
Current	\$2,301	\$3,334
Deferred	-	-
Federal income taxes:		
Current	-	-
Deferred	-	-
Total	\$2,301	\$3,334

The provision for income taxes is composed of the following charges:

(In thousands)	Year Ended October 31,		
	2019	2018	2017
Current income tax expense:			
Federal (1)	\$-	\$-	\$-
State (2)	2,449	3,626	1,371
Total current income tax expense:	2,449	3,626	1,371
Deferred income tax expense:			
Federal	-	-	275,688
State	-	-	9,890
Total deferred income tax expense:	-	-	285,578
Total	\$2,449	\$3,626	\$286,949

- (1) *The current federal income tax expense is net of the use of federal net operating losses totaling \$0.8 million for the year ended October 31, 2019. The current federal income tax expense did not include the use of federal net operating losses for the years ended October 31, 2018 and 2017.*
- (2) *The current state income tax expense is net of the use of state net operating losses totaling \$1.3 million, \$4.4 million and \$18.2 million for the years ended October 31, 2019, 2018 and 2017, respectively.*

The total income tax expense of \$2.4 million and \$3.6 million for the periods ending October 31, 2019 and 2018 was primarily related to state tax expense from income generated that was not offset by tax benefits in states where we fully reserve the tax benefit from net operating losses. The total income tax expense of \$286.9 million for the period ended October 31, 2017 was primarily due to increasing our valuation allowance to fully reserve against our deferred tax assets (“DTAs”). In addition, the same periods were also impacted by state tax expense from income generated in some states, which was not offset by tax benefits in other states that had losses for which we fully reserve the net operating losses.

Our federal net operating losses of \$1.6 billion expire between 2028 and 2037, and \$16.5 million have an indefinite carryforward period. Of our \$2.5 billion of state NOLs, \$211.4 million expire between 2020 through 2024; \$1.2 billion expire between 2025 through 2029; \$758.9 million expire between 2030 through 2034; \$274.5 million expire between 2035 through 2039; and \$62.3 million have an indefinite carryforward period.

On December 22, 2017, the President of the United States signed into law the Tax Cuts and Jobs Act of 2017 (the “Act”). Effective January 1, 2018, the comprehensive U.S. tax reform package, among other things, lowered the corporate tax rate from 35% to 21%. Under the accounting rules, companies are required to recognize the effects of changes in tax laws and tax rates on deferred tax assets and liabilities in the period in which the new legislation is enacted. The effects of the Act on the Company include one major category which is the remeasurement of deferred taxes. Consequently, we recorded a decrease related to deferred tax assets and liabilities of \$298.5 million and \$12.2 million, respectively, with a corresponding net adjustment to the valuation allowance in fiscal 2018, therefore there was no income tax expense or benefit as a result of the tax law changes. The Act contained additional changes that impacted our taxable income determinations, including, but not limited to elimination of the corporate alternative minimum tax and limitations on the deductibility of certain executive compensation in fiscal 2019. The ultimate impact of tax reform may differ from our interpretations and assumptions due to additional regulatory guidance that may be issued. As of October 31, 2019, we have completed our analysis of the impacts of the Tax Act under SAB 118 within the measurement period with immaterial differences to our provisional amounts previously recorded.

Deferred federal and state income tax assets (“DTAs”) primarily represent the deferred tax benefits arising from NOL carryforwards and temporary differences between book and tax income which will be recognized in future years as an offset against future taxable income. If the combination of future years’ income (or loss) and the reversal of the timing differences results in a loss, such losses can be carried forward to future years. In accordance with ASC 740, we evaluate our DTAs quarterly to determine if valuation allowances are required. ASC 740 requires that companies assess whether valuation allowances should be established based on the consideration of all available evidence using a “more likely than not” standard.

As of October 31, 2019, we considered all available positive and negative evidence to determine whether, based on the weight of that evidence, our valuation allowance for our DTAs was appropriate in accordance with ASC 740. Listed below, in order of the weighting of each factor, is the available positive and negative evidence that we considered in determining that it is more likely than not that all of our DTAs will not be realized. In analyzing these factors, overall the negative evidence, both objective and subjective, outweighed the positive evidence. Based on this analysis, we determined that the current valuation allowance for deferred taxes of \$623.2 million as of October 31, 2019, which fully reserves for our DTAs, is appropriate.

1. Fiscal 2017 financial results, especially the \$50.2 million pre-tax loss in the third quarter of fiscal 2017 primarily from the \$42.3 million loss on extinguishment of debt during the quarter, that put us in a cumulative three-year pre-tax loss position as of July 31, 2017. As of October 31, 2019, the Company has pre-tax income when adjusted for permanent differences on a three-year cumulative basis. However, on a US GAAP basis, the Company is still in a three-year cumulative pre-tax loss position as of October 31, 2019. Therefore, it is too early to conclude whether we will continue to not be in a three-year cumulative loss position going forward on a tax accounting basis. Per ASC 740, cumulative losses are one of the most objectively verifiable forms of negative evidence. (Negative Objective Evidence)

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2. In the third quarter of fiscal 2017, second and third quarters of fiscal 2018, and fourth quarter of fiscal 2019, we completed debt refinancing/restructuring transactions which, by extending our debt maturities, will enable us to allocate cash to invest in new communities and grow our community count to get back to sustained profitability. (Positive Objective Evidence)
3. Our net contracts per community and our absolute net contracts increased in the fourth quarter of fiscal 2019 compared to the fourth quarter of 2018 and for the full fiscal year of 2019 compared to the full fiscal year of 2018. This is a reversal of the negative trend we had seen in the second quarter of 2019. (Positive Objective Evidence)
4. We incurred pre-tax losses during the housing market decline and the slower than expected housing market recovery. (Negative Objective Evidence)
5. We exited two geographic markets in fiscal 2016 and completed the wind down of operations in two other markets in fiscal 2018, that have historically had losses. By exiting these underperforming markets, the Company has been able to redeploy capital to better performing markets, which over time should improve our profitability. (Positive Subjective Evidence)
6. The historical cyclicity of the U.S. housing market, a more restrictive mortgage lending environment compared to before the housing downturn of 2007-2009, the uncertainty of the overall US economy and government policies and consumer confidence, all or any of which could continue to hamper a sustained, stronger recovery of the housing market. (Negative Subjective Evidence)

The deferred tax assets and liabilities have been recognized in the Consolidated Balance Sheets as follows:

(In thousands)	Year Ended October 31,	
	2019	2018
Deferred tax assets:		
Inventory impairment loss	47,000	60,854
Uniform capitalization of overhead	3,917	4,183
Warranty and legal reserves	4,404	4,774
Acquisition intangibles	424	1,185
Compensation	8,477	11,033
Deferred Income	5,167	428
Interest Expense	6,616	1,646
Restricted stock bonus	1,553	1,344
Stock options	4,288	4,358
Provision for losses	16,820	18,044
Joint venture loss	4,392	3,384
Federal net operating losses	334,142	334,971
State net operating losses	184,740	191,064
Other	1,280	923
Total deferred tax assets	623,220	638,191
Total deferred tax liabilities	-	-
Valuation allowance	(623,220)	(638,191)
Net deferred income taxes	\$-	\$-

The effective tax rate varied from the statutory federal income tax rate. The effective tax rate is affected by a number of factors, the most significant of which has been the valuation allowance related to our deferred tax assets. Due to the effects of these factors, our effective tax rates for 2019, 2018 and 2017 are not correlated to the amount of our income or loss before income taxes. The sources of these factors were as follows:

	Year Ended October 31,		
	2019	2018	2017
Computed "expected" tax rate	21.0%	21.0%	35.0%
State income taxes, net of federal income tax benefit	(5.0)	17.2	1.0
Permanent differences, net	(42.4)	74.0	(2.4)
Deferred tax asset valuation allowance impact	20.8	(70.8)	(667.8)
Tax contingencies	0.5	1.0	-
Adjustments to prior years' tax accruals	(1.0)	2.1	-
Effective tax rate	(6.1)%	44.5%	(634.2)%

ASC 740-10 provides that a tax benefit from an uncertain tax position may be recognized when it is more likely than not that the position will be sustained upon examination, including resolutions of any related appeals or litigation processes, based on the technical merits.

Income tax positions must meet a more-likely-than-not recognition threshold at the effective date to be recognized upon the adoption of ASC 740-10 and in subsequent periods. This interpretation also provides guidance on measurement, derecognition, classification, interest and penalties, accounting in interim periods, disclosure, and transition.

We recognize tax liabilities in accordance with ASC 740-10 and we adjust these liabilities when our judgment changes as a result of the evaluation of new information not previously available. Due to the complexity of some of these uncertainties, the ultimate resolution may result in a liability that is materially different from our current estimate of the tax liabilities. These differences will be reflected as increases or decreases to income tax expense in the period in which they are determined.

We recognize interest and penalties related to unrecognized tax benefits within the income tax expense line in the accompanying consolidated statement of operations. Accrued interest and penalties are included within the related tax liability line in the consolidated balance sheet.

The following is a tabular reconciliation of the total amount of unrecognized tax benefits for the year (in millions) excluding interest and penalties:

	Year Ended October 31,	
	2019	2018
Unrecognized tax benefit—November 1,	\$1.2	\$1.1
Gross increases—tax positions in current period	-	0.3
Lapse of statute of limitations	(0.3)	(0.2)
Unrecognized tax benefit—October 31,	\$0.9	\$1.2

Related to the unrecognized tax benefits noted above, as of October 31, 2019 and 2018, we have recognized a liability for interest and penalties of \$0.4 and \$0.3 million, respectively. For the years ended October 31, 2019 and 2018, we recognized \$32 thousand and \$41 thousand, respectively, of interest and penalties in income tax expense. For the year ended October 31, 2017, we recognized \$45 thousand of interest and penalties in net income tax benefit.

It is likely that, within the next year, the amount of the Company's unrecognized tax benefits will decrease by \$0.2 million, excluding penalties and interest. This reduction is expected primarily due to the expiration of the statutes of limitation. The portion of unrecognized tax benefits that, if recognized, would affect the Company's effective tax rate (excluding any related impact to the valuation allowance) is \$0.9 million and \$1.2 million for the years ended October 31, 2019 and 2018. The recognition of unrecognized tax benefits could have an impact on the Company's deferred tax assets and the valuation allowance.

The consolidated federal tax returns have been audited through October 31, 2018 and these years are closed. We are also subject to various income tax examinations in the states in which we do business. The outcome for a particular audit cannot be determined with certainty prior to the conclusion of the audit, appeal, and in some cases, litigation process. As each audit is concluded, adjustments, if any, are appropriately recorded in the period determined. To provide for potential exposures, tax reserves are recorded, if applicable, based on reasonable estimates of potential audit results. However, if the reserves are insufficient upon completion of an audit, there could be an adverse impact on our financial position and results of operations. The statute of limitations for our major tax jurisdictions remains open for examination for tax years 2015 – 2018.

12. Reduction of Inventory to Fair Value

We record impairment losses on inventories related to communities under development and held for future development when events and circumstances indicate that they may be impaired and the undiscounted cash flows estimated to be generated by those assets are less than their related carrying amounts. If the expected undiscounted cash flows are less than the carrying amount, then the community is written down to its fair value. We estimate the fair value of each impaired community by determining the present value of the estimated future cash flows at a discount rate commensurate with the risk of the respective community. For the years ended October 31, 2019, 2018 and 2017, our discount rates used for the impairments recorded ranged from 17.3% to 18.3%, 16.8% to 19.8% and 18.3% to 19.8%, respectively. Should the estimates or expectations used in determining cash flows or fair value decrease or differ from current estimates in the future, we may need to recognize additional impairments.

During the years ended October 31, 2019 and 2018, we evaluated inventories of all 393 and 391 communities under development and held for future development or sale, respectively, for impairment indicators through preparation and review of detailed budgets or other market indicators of impairment. We performed undiscounted future cash flow analyses during the years ended October 31, 2019 and 2018 for nine and five of those communities (i.e., those with a projected operating loss or other impairment indicators), respectively, with an aggregate carrying value of \$58.9 million and \$11.2 million, respectively. As a result of our undiscounted future cash flow analyses, we performed discounted cash flow analyses for six of those communities and recorded aggregate impairment losses, which are included in the Consolidated Statement of Operations on the line entitled “Homebuilding: Inventory impairment loss and land option write-offs” and deducted from inventory, of \$2.7 million, \$2.1 million and \$15.1 million for the years ended October 31, 2019, 2018 and 2017, respectively. The three communities that did not require a discounted cash flow analysis to be performed during the year ended October 31, 2019, had an aggregate carrying value of \$41.3 million and undiscounted future cash flows that exceeded the carrying amount by less than 20%. During the year ended October 31, 2018, all five communities that required discounted cash flow analyses were impaired, which resulted in recording aggregate impairment losses of \$2.1 million. The pre-impairment value in the table below represents the carrying value, net of prior period impairments, if any, at the time of recording the impairments.

The following table represents impairments by segment for fiscal 2019, 2018 and 2017:

(Dollars in millions)

	Year Ended October 31, 2019		
	Number of Communities	Dollar Amount of Impairment	Pre-Impairment Value (1)
Northeast	2	\$0.2	\$7.8
Mid-Atlantic	1	0.3	1.7
Midwest	1	1.4	4.6
Southeast	1	0.7	2.2
Southwest	1	0.1	1.2
West	-	-	-
Total	6	\$2.7	\$17.5

(Dollars in millions)

	Year Ended October 31, 2018		
	Number of Communities	Dollar Amount of Impairment	Pre-Impairment Value (1)
Northeast	1	\$0.4	\$1.0
Mid-Atlantic	-	-	-
Midwest	1	0.1	0.5
Southeast	3	1.6	9.7
Southwest	-	-	-
West	-	-	-
Total	5	\$2.1	\$11.2

(Dollars in millions)

	Year Ended October 31, 2017		
	Number of Communities	Dollar Amount of Impairment	Pre-Impairment Value (1)
Northeast	2	\$3.3	\$22.2
Mid-Atlantic	1	1.5	8.5
Midwest	2	0.2	0.8
Southeast	3	8.1	18.3
Southwest	-	-	-
West	2	2.0	3.1
Total	10	\$15.1	\$52.9

(1) Represents carrying value, net of prior period impairments, if any, at the time of recording the applicable period’s impairments.

The Consolidated Statements of Operations line entitled “Homebuilding: Inventory impairment loss and land option write-offs” also includes write-offs of options and approval, engineering and capitalized interest costs that we record when we redesign communities and/or abandon certain engineering costs and we do not exercise options in various locations because the communities’ pro forma profitability is not projected to produce adequate returns on investment commensurate with the risk. The total aggregate write-offs related to these items were \$3.6 million, \$1.4 million and \$2.7 million for the years ended October 31, 2019, 2018 and 2017, respectively. Occasionally, these write-offs are offset by recovered deposits (sometimes through legal action) that had been written off in a prior period as walk-away costs. Historically, these recoveries have not been significant in comparison to the total costs written off.

The following table represents write-offs of such costs by segment for fiscal 2019, 2018 and 2017:

(In millions)	Year Ended October 31,		
	2019	2018	2017
Northeast	\$0.6	\$0.6	\$0.5
Mid-Atlantic	0.5	0.2	0.6
Midwest	0.9	0.1	0.3
Southeast	0.3	-	0.8
Southwest	0.6	0.2	0.4
West	0.7	0.3	0.1
Total	\$3.6	\$1.4	\$2.7

13. Per Share Calculations

Basic earnings per share is computed by dividing net (loss) income (the “numerator”) by the weighted-average number of common shares outstanding, adjusted for nonvested shares of restricted stock (the “denominator”) for the period. Computing diluted earnings per share is similar to computing basic earnings per share, except that the denominator is increased to include the dilutive effects of options and nonvested shares of restricted stock, as well as common shares issuable upon exchange of our Senior Exchangeable Notes issued as part of our 6.0% Exchangeable Notes Units (which matured and were paid in full in fiscal 2018). Any options that have an exercise price greater than the average market price are considered to be anti-dilutive and are excluded from the diluted earnings per share calculation.

All outstanding nonvested shares that contain nonforfeitable rights to dividends or dividend equivalents that participate in undistributed earnings with common stock are considered participating securities and are included in computing earnings per share pursuant to the two-class method. The two-class method is an earnings allocation formula that determines earnings per share for each class of common stock and participating securities according to dividends or dividend equivalents and participation rights in undistributed earnings in periods when we have net income. The Company’s restricted common stock (“nonvested shares”) are considered participating securities.

Basic and diluted earnings per share for the periods presented below were calculated as follows:

(In thousands, except per share data)	Year Ended October 31,		
	2019	2018	2017
Numerator:			
Net (loss) earnings attributable to Hovnanian	\$(42,117)	\$4,520	\$(332,193)
Less: undistributed earnings allocated to nonvested shares	-	(159)	-
Numerator for basic earnings per share	\$(42,117)	\$4,361	\$(332,193)
Plus: undistributed earnings allocated to nonvested shares	-	159	-
Less: undistributed earnings reallocated to nonvested shares	-	(159)	-
Numerator for diluted earnings per share	\$(42,117)	\$4,361	\$(332,193)
Denominator:			
Denominator for basic earnings per share	5,968	5,941	5,908
Effect of dilutive securities:			
Share-based payments	-	131	-
Denominator for diluted earnings per share – weighted-average shares outstanding	5,968	6,072	5,908
Basic earnings (loss) per share	\$(7.06)	\$0.73	\$(56.23)
Diluted earnings (loss) per share	\$(7.06)	\$0.72	\$(56.23)

Incremental shares attributed to nonvested stock and outstanding options to purchase common stock of 0.3 and 0.1 million for the years ended October 31, 2019 and 2017 respectively, were excluded from the computation of diluted earnings per share because we had a net loss for the period, and any incremental shares would not be dilutive. For the year ended October 31, 2018, 33 thousand shares of common stock issuable upon the exchange of our 6% senior exchangeable note units (which were issued in fiscal 2012), were excluded from the computation of diluted earnings per share because they were anti-dilutive. Also, for the year ended October 31, 2017, 0.4 million shares of common stock issuable upon the exchange of our 6% senior exchangeable note units were excluded from the computation of diluted earnings per share because we had a net loss for the period.

In addition, shares related to out-of-the money stock options that could potentially dilute basic earnings per share in the future that were not included in the computation of diluted earnings per share were 0.2 million for each of the years ended October 31, 2019, 2018 and 2017, because to do so would have been anti-dilutive for the periods presented.

14. Capital Stock

Common Stock - Each share of Class A Common Stock entitles its holder to one vote per share, and each share of Class B Common Stock generally entitles its holder to ten votes per share. The amount of any regular cash dividend payable on a share of Class A Common Stock will be an amount equal to 110% of the corresponding regular cash dividend payable on a share of Class B Common Stock. If a shareholder desires to sell shares of Class B Common Stock, such stock must be converted into shares of Class A Common Stock at a one to one conversion rate.

On March 19, 2019, the Company's stockholders approved at an annual meeting an amendment to our Certificate of Incorporation to effect a reverse stock split (the "Reverse Stock Split") of the Company's common stock at a ratio of 1-for-25, and a corresponding decrease in the number of authorized shares of the common stock. Following the stockholders' approval, the Board of Directors, on March 19, 2019, determined to effectuate the Reverse Stock Split, which became effective on March 29, 2019, and every 25 issued shares (including treasury shares) of Class A Common Stock, par value \$0.01 per share (the "Class A Common Stock"), were combined into one share of Class A Common Stock, and every 25 issued shares (including treasury shares) of Class B Common Stock, par value \$0.01 per share (the "Class B Common Stock"), were combined into one share of Class B Common Stock. No fractional shares were issued in connection with the Reverse Stock Split. All share and per share amounts have been retroactively adjusted to reflect the reverse stock split.

On August 4, 2008, our Board of Directors adopted a shareholder rights plan (the "Rights Plan"), which was amended on January 11, 2018, designed to preserve shareholder value and the value of certain tax assets primarily associated with net operating loss (NOL) carryforwards and built-in losses under Section 382 of the Internal Revenue Code. Our ability to use NOLs and built-in losses would be limited if there was an "ownership change" under Section 382. This would occur if shareholders owning (or deemed under Section 382 to own) 5% or more of our stock increase their collective ownership of the aggregate amount of our outstanding shares by more than 50 percentage points over a defined period of time. The Rights Plan was adopted to reduce the likelihood of an "ownership change" occurring as defined by Section 382. Under the Rights Plan, one right was distributed for each share of Class A Common Stock and Class B Common Stock outstanding as of the close of business on August 15, 2008. Effective August 15, 2008, if any person or group acquires 4.9% or more of the outstanding shares of Class A Common Stock without the approval of the Board of Directors, there would be a triggering event causing significant dilution in the voting power of such person or group. However, existing stockholders who owned, at the time of the Rights Plan's initial adoption on August 4, 2008, 4.9% or more of the outstanding shares of Class A Common Stock will trigger a dilutive event only if they acquire additional shares. The approval of the Board of Directors' decision to adopt the Rights Plan may be terminated by the Board of Directors at any time, prior to the Rights being triggered. The Rights Plan will continue in effect until August 14, 2021, unless it expires earlier in accordance with its terms. The approval of the Board of Directors' decision to initially adopt the Rights Plan and the amendment thereto were approved by shareholders. Our stockholders also approved an amendment to our Certificate of Incorporation to restrict certain transfers of Class A Common Stock in order to preserve the tax treatment of our NOLs and built-in losses under Section 382 of the Internal Revenue Code. Subject to certain exceptions pertaining to pre-existing 5% stockholders and Class B stockholders, the transfer restrictions in our Restated Certificate of Incorporation generally restrict any direct or indirect transfer (such as transfers of our stock that result from the transfer of interests in other entities that own our stock) if the effect would be to (i) increase the direct or indirect ownership of our stock by any person (or public group) from less than 5% to 5% or more of our common stock; (ii) increase the percentage of our common stock owned directly or indirectly by a person (or public group) owning or deemed to own 5% or more of our common stock; or (iii) create a new "public group" (as defined in the applicable United States Treasury regulations). Transfers included under the transfer restrictions include sales to persons (or public groups) whose resulting percentage ownership (direct or indirect) of common stock would exceed the 5% thresholds discussed above, or to persons whose direct or indirect ownership of common stock would by attribution cause another person (or public group) to exceed such threshold.

On July 3, 2001, our Board of Directors authorized a stock repurchase program to purchase up to 0.2 million shares of Class A Common Stock. There were no shares purchased during the year ended October 31, 2019. As of October 31, 2019, the maximum number of shares of Class A Common Stock that may yet be purchased under this program is 22 thousand.

On October 31, 2019, in connection with the issuance of the 7.75% Senior Secured 1.25 Lien Notes due 2026, we issued and sold an aggregate of 178,427 shares of Class A Common Stock, par value \$0.01 per share (and associated Preferred Stock Purchase Rights), to the purchasers of such Notes for an aggregate purchase price of \$1,784.27. The issuance was exempt from registration under Section 4(a)(2) of the Securities Act of 1933.

Preferred Stock - On July 12, 2005, we issued 5,600 shares of 7.625% Series A Preferred Stock, with a liquidation preference of \$25,000 per share. Dividends on the Series A Preferred Stock are not cumulative and are payable at an annual rate of 7.625%. The Series A Preferred Stock is not convertible into the Company’s common stock and is redeemable in whole or in part at our option at the liquidation preference of the shares. The Series A Preferred Stock is traded as depositary shares, with each depositary share representing 1/1000th of a share of Series A Preferred Stock. The depositary shares are listed on the NASDAQ Global Market under the symbol “HOVNP.” In fiscal 2019, 2018 and 2017, we did not pay any dividends on the Series A Preferred Stock due to covenant restrictions in our debt instruments. We anticipate that we will continue to be restricted from paying dividends, which are not cumulative, for the foreseeable future.

Retirement Plan - We have established a tax-qualified, defined contribution savings and investment retirement plan (a 401(k) plan). All associates are eligible to participate in the retirement plan, and employer contributions are based on a percentage of associate contributions and our operating results. Plan costs charged to operations were \$7.3 million, \$7.0 million and \$6.8 million for the years ended October 31, 2019, 2018 and 2017, respectively.

15. Stock Plans

The fair value of option awards is established at the date of grant using a Black-Scholes option pricing model with the following weighted-average assumptions for the years ended October 31, 2019, 2018 and 2017: risk free interest rate of 1.99%, 2.80% and 2.05%, respectively; dividend yield of zero; historical volatility factor of the expected market price of our common stock of 0.56, 0.50 and 0.53, respectively; a weighted-average expected life of the option of 7.98 years, 8.0 years and 7.64 years, respectively; and an estimated forfeiture rate of 7.84%, 9.90% and 9.92%, respectively.

For the years ended October 31, 2019, 2018 and 2017, total stock-based compensation expense was \$0.7 million, \$3.7 million (\$2.0 million post tax) and \$0.6 million, respectively. Included in this total stock-based compensation expense was expense from stock options of \$0.8 million, \$0.7 million and \$0.5 million for the years ended October 31, 2019, 2018 and 2017, respectively. The fiscal 2019 expense includes income of \$2.6 million from previously recognized expense of certain performance based restricted stock grants for which the performance metrics are no longer expected to be satisfied. This income was offset by the vesting of restricted stock of \$2.4 million during the year ended October 31, 2019. The fiscal 2017 expense includes income of \$2.0 million from previously recognized expense of certain performance based restricted stock grants for which the performance metrics are no longer expected to be satisfied. This income was offset by the vesting of restricted stock of \$2.1 million during the year ended October 31, 2017.

We have a stock incentive plan for certain officers and key employees and directors. Options are granted by a committee appointed by the Board of Directors or its delegate in accordance with the stock incentive plan. The exercise price of all stock options must be at least equal to the fair market value of the underlying shares on the date of the grant. Stock options granted to officers and associates generally vest in four equal installments on the second, third, fourth and fifth anniversaries of the date of the grant. All options expire 10 years after the date of the grant. At the time of our annual stock grant in the third quarter of fiscal 2019, each of the six of our existing non-employee directors of the Company were given the choice to receive stock options or a reduced number of shares of restricted stock units subject to a two-year post-vesting holding period, or a combination thereof, with restricted stock units based on the fair market value on the date of grant and stock options based on grant date Black-Scholes value. All such directors elected to receive restricted stock units. Non-employee directors’ stock options and restricted stock units vest in three equal installments on the first, second and third anniversaries of the date of the grant. Stock option transactions are summarized as follows:

	October 31, 2019	Weighted- Average Exercise Price	October 31, 2018	Weighted- Average Exercise Price	October 31, 2017	Weighted- Average Exercise Price
Options outstanding at beginning of period	278,569	\$73.76	274,423	\$85.22	294,950	\$100.80
Granted	110,975	\$9.44	37,825	\$56.30	9,450	\$58.47
Exercised	-	\$-	1,210	\$49.91	1,930	\$51.85
Forfeited	2,038	\$53.96	2,000	\$64.25	18,093	\$146.28
Expired	56,025	\$64.41	30,469	\$156.95	9,954	\$416.94
Options outstanding at end of period	331,481	\$53.93	278,569	\$73.76	274,423	\$85.22
Options exercisable at end of period	147,019		191,748		210,360	

The total intrinsic value of options exercised during fiscal 2018 and 2017 was \$26 thousand and \$12 thousand, respectively. The intrinsic value of a stock option is the amount by which the market value of the underlying stock exceeds the exercise price of the option. At October 31, 2019, there were no options exercisable which had an intrinsic value. Exercise prices for options outstanding at October 31, 2019 ranged from \$7.85 to \$157.00.

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The weighted-average fair value of grants made in fiscal 2019, 2018 and 2017 was \$4.46, \$27.09 and \$33.28 per share, respectively. Based on the fair value at the time they were granted, the weighted-average fair value of options vested in fiscal 2019, 2018 and 2017 was \$36.07, \$69.56 and \$65.24 per share, respectively.

The following table summarizes the exercise price range and related number of options outstanding at October 31, 2019:

Range of Exercise Prices	Number Outstanding	Weighted-Average Exercise Price	Weighted-Average Remaining Contractual Life
\$7.85 – \$38.50	111,575	\$9.60	9.61
\$38.75 – \$60.25	102,530	\$50.00	5.26
\$61.00 – \$110.25	65,197	\$73.55	4.99
\$118.25 – \$157.00	52,179	\$131.91	1.67
	331,481	\$53.93	6.11

The following table summarizes the exercise price range and related number of exercisable options at October 31, 2019:

Range of Exercise Prices	Number Exercisable	Weighted-Average Exercise Price	Weighted-Average Remaining Contractual Life
\$7.85 – \$38.50	300	\$38.50	6.66
\$38.75 – \$60.25	52,029	\$48.59	3.28
\$61.00 – \$110.25	42,511	\$79.75	3.13
\$118.25 – \$157.00	52,179	\$131.91	1.67
	147,019	\$87.15	2.67

Officers and key associates who are eligible to receive equity grants may elect to receive either a stated number of stock options, or a reduced number of shares of restricted stock units, or a combination thereof. Shares underlying restricted stock units granted to officers and associates generally vest in four equal installments on the second, third, fourth and fifth anniversaries of the grant date. Participants aged 60 years or older, or aged 58 with 15 years of service, are eligible to vest in their equity awards on an accelerated basis on their retirement (which in the case of the restricted stock units only applies to a retirement that is at least one year after the date of grant). During the years ended October 31, 2019, 2018 and 2017, we granted 107,650 (including 103,612 units to certain of our non-employee directors), 20,292 (including 15,904 units to certain of our non-employee directors) and 14,662 (including 11,937 units to certain of our non-employee directors) restricted stock units, respectively, and also issued 8,380, 5,936 and 4,055 units, relating to awards granted in prior fiscal years, respectively. During the years ended October 31, 2019 and 2017, 656 and 18,100 restricted stock units were forfeited, respectively.

For the year ended October 31, 2019 total compensation cost recognized in the Consolidated Statement of Operations for the annual restricted stock unit grants, market share unit grants (discussed below), and the stock portion of the long-term incentive plan (also discussed below) was income of \$0.2 million. For the years ended October 31, 2018 and 2017 total compensation cost recognized in the Consolidated Statement of Operations for the annual restricted stock unit grants, market share unit grants (discussed below), and the stock portion of the long-term incentive plan (also discussed below) was \$2.8 million and \$21 thousand, respectively. In addition to nonvested share awards summarized in the following table, there were 33,643, 21,609 and 12,497 vested share awards at October 31, 2019, 2018 and 2017, respectively, which were deferred at the participants' election.

A summary of the Company’s nonvested Time-Based share awards for the years ended October 31, 2019, 2018, and 2017 are as follows:

	October 31, 2019	Weighted- Average Grant Date Fair Value	October 31, 2018	Weighted- Average Grant Date Fair Value	October 31, 2017	Weighted- Average Grant Date Fair Value
Nonvested Time-Based at beginning of period	105,594	\$61.77	96,091	\$60.50	100,300	\$63.70
Granted	164,050	\$7.66	37,888	\$54.95	32,349	\$60.31
Vested	21,329	\$45.52	22,821	\$55.19	15,511	\$75.78
Forfeited	17,106	\$86.96	5,564	\$20.87	21,047	\$64.30
Nonvested Time-Based at end of period	231,210	\$23.01	105,594	\$61.77	96,091	\$60.50

A summary of the Company’s nonvested Performance-Based share awards for the years ended October 31, 2019, 2018, and 2017 are as follows:

	October 31, 2019	Weighted- Average Grant Date Fair Value	October 31, 2018	Weighted- Average Grant Date Fair Value	October 31, 2017	Weighted- Average Grant Date Fair Value
Nonvested Performance-Based at beginning of period	101,407	\$69.28	150,881	\$50.26	189,275	\$64.43
Granted	56,400	\$10.10	47,277	\$70.41	17,000	\$70.88
Vested	8,655	\$42.69	5,390	\$72.52	33,147	\$148.05
Forfeited	12,836	\$93.31	91,361	\$38.27	22,247	\$40.84
Nonvested Performance-Based at end of period	136,316	\$44.22	101,407	\$69.28	150,881	\$50.26

Included in the above table are awards for the share portion of long-term incentive plans (“LTIPs”) for certain officers and associates, which are performance based plans. This includes 30,277 target 2018 LTIP shares which were granted during fiscal year 2018. This also includes the remaining 4,439 2016 LTIP shares which were granted during fiscal 2016 and based on performance outcomes between 2016 and 2018. LTIP shares vest in the third, fourth and fifth fiscal years after grant date, subject to certain performance metrics.

Also included in the tables above are 98,550 target Time-based and 101,600 Performance-based Market Share Units (“MSUs”) of which 56,400 of each Time-based and Performance-based were granted to certain officers in fiscal 2019. Also MSU grants from fiscal years 2014 through 2017 were adjusted by 16,450 Time-based and 12,836 Performance-based in fiscal 2019, as certain performance conditions at measurement periods were not met and only a portion of the shares were vested, resulting in the reversal of \$2.6 million of expense during the period. Additionally, 1,158 from the 2016 MSUs net shares were issued during fiscal 2019. Fifty percent of the MSUs will vest in four equal annual installments, commencing on the second anniversary of the grant date subject to stock price performance conditions, pursuant to which the actual number of shares issuable with respect to vested MSUs may range from 0% to 200% of the target number of shares covered by the MSU awards, generally depending on the growth in the 60-day average trading price of the Company’s shares during the period between the grant date and the relevant vesting dates. The remaining fifty percent of the MSUs are also subject to financial performance conditions in addition to the stock price performance conditions applicable to all MSUs. These additional performance-based MSUs vest in four equal installments with the first installment vesting on January 1, three years after the MSU grant date (for example, January 1, 2022 for the 2019 MSU grant) and the remaining annual installments commencing on the third anniversary of the grant date, except that no portion of the award will vest unless the Committee determines that the Company achieved (1) for the 2019 MSU grants, specified community count improvement (as to 25% of the MSU amount) and pre-tax profit (as to 25% of the MSU amount) goals comparing the fiscal year of the grant date and the second fiscal year following the grant date (fiscal 2020 compared to fiscal 2018), (2) for the 2017 and 2016 MSU grants, specified gross margin improvement (as to 25% of the MSU amount) and debt reduction (as to 25% of the MSU amount) goals comparing the fiscal year of the grant date and the second fiscal year following the grant date (fiscal 2019 compared to fiscal 2017).

The fair value of the MSU grants is determined using the Monte-Carlo simulation model, which simulates a range of possible future stock prices and estimates the probabilities of the potential payouts. This model uses the average closing trading price of the Company's Class A Common Stock on the New York Stock Exchange over the 60 calendar day period ending on the grant date. This model also incorporates the following ranges of assumptions:

- The expected volatility is based on our stock's historical volatility commensurate with the life 2 years, 2.6 years, 3 years, 4 years and 5 years.
- The risk-free interest rate is based on the U.S. Treasury rate assumption ranging from 2-5 years.
- The expected dividend yield is not applicable since we do not currently pay dividends.

The following assumptions were used for 2019 MSU grants: historical volatility factor of the expected market price of our common stock of 62.51%, 59.60%, 57.04%, 60.03% and 56.86% for the 2 year, 2.6 year, 3 year, 4 year and 5 year vesting tranches, respectively and the concluded risk free rate assumptions of 1.80% and 1.81% equals the continuously compounded 2.55 year and 4 year yield, respectively and dividend yield of zero for all time periods. The following assumptions were used for 2018 MSU Grants: historical volatility factor of the expected market price of our common stock of 48.41%, 51.92%, 56.11%, 52.59% and 49.57% for the 2 year, 2.6 year, 3 year, 4 year and 5 year vesting tranches, respectively; the concluded risk free rate assumptions of 2.56% and 2.68% equals the continuously compounded 2.56 year and 4 year yield, respectively and dividend yield of zero for all time periods. The following assumptions were used for 2017 MSU grants: historical volatility factor of the expected market price of our common stock of 57.93%, 54.61%, 52.66%, 48.85% and 50.78% for the 2 year, 2.6 year, 3 year, 4 year and 5 year vesting tranches, respectively; risk free interest rates of 1.35%, 1.43%, 1.49%, 1.63% and 1.76% for each vesting tranche, respectively; and dividend yield of zero for all time periods.

Based on the terms of our equity compensation plans, awards that are forfeited become available to us for future grants under the plan. As of October 31, 2019, we had 22 thousand shares authorized and remaining for future issuance under our equity compensation plans. In addition, as of October 31, 2019, there were \$4.2 million of total unrecognized compensation costs related to nonvested share-based compensation arrangements. That cost is expected to be recognized over a weighted-average period of 1.8 years.

16. Warranty Costs

General liability insurance for homebuilding companies and their suppliers and subcontractors is very difficult to obtain. The availability of general liability insurance is limited due to a decreased number of insurance companies willing to underwrite for the industry. In addition, those few insurers willing to underwrite liability insurance have significantly increased the premium costs. To date, we have been able to obtain general liability insurance but at higher premium costs with higher deductibles. Our subcontractors and suppliers have advised us that they have also had difficulty obtaining insurance that also provides us coverage. As a result, we have an owner controlled insurance program for certain of our subcontractors whereby the subcontractors pay us an insurance premium (through a reduction of amounts we would otherwise owe such subcontractors for their work on our homes) based on the risk type of the trade. We absorb the liability associated with their work on our homes as part of our overall general liability insurance at no additional cost to us because our existing general liability and construction defect insurance policy and related reserves for amounts under our deductible covers construction defects regardless of whether we or our subcontractors are responsible for the defect. For the fiscal years ended October 31, 2019 and 2018, we received \$4.8 million and \$4.6 million, respectively, from subcontractors related to the owner controlled insurance program, which we accounted for as reductions to inventory.

We accrue for warranty costs that are covered under our existing general liability and construction defect policy as part of our general liability insurance deductible. This accrual is expensed as selling, general and administrative costs. For homes delivered in fiscal 2019 and 2018, our deductible under our general liability insurance is a \$20 million aggregate for construction defect and warranty claims. For bodily injury claims, our deductible per occurrence in fiscal 2019 and 2018 is \$0.25 million, up to a \$5 million limit. Our aggregate retention for construction defect, warranty and bodily injury claims is \$20 million for fiscal 2019 and 2018. In addition, we establish a warranty accrual for lower cost-related issues to cover home repairs, community amenities and land development infrastructure that are not covered under our general liability and construction defect policy. We accrue an estimate for these warranty costs as part of cost of sales at the time each home is closed and title and possession have been transferred to the homebuyer. Additions and charges in the warranty reserve and general liability reserve for the fiscal years ended October 31, 2019 and 2018 were as follows:

(In thousands)	Year Ended October 31,	
	2019	2018
Balance, beginning of period	\$95,064	\$127,702
Additions – Selling, general and administrative	8,408	9,024
Additions – Cost of sales	6,260	17,180
Charges incurred during the period	(18,757)	(43,462)
Changes to pre-existing reserves	(1,604)	(15,380)
Balance, end of period	<u>\$89,371</u>	<u>\$95,064</u>

Warranty accruals are based upon historical experience. We engage a third-party actuary that uses our historical warranty and construction defect data to assist our management in estimating our unpaid claims, claim adjustment expenses and incurred but not reported claims reserves for the risks that we are assuming under the general liability and construction defect programs. The estimates include provisions for inflation, claims handling and legal fees. The majority of the charges incurred during fiscal 2018 represented a payment for construction defect reserves related to the settlement of a litigation matter. Also, as a result of reductions in our construction defect claims in recent years and the impact of these reductions on the actuarial analysis on our total reserves, we recorded reductions in our construction defect reserves of \$6.9 million in the fourth quarter of fiscal 2019 and \$10.2 million in the fourth quarter of fiscal 2018. These reductions are reflected in the changes to pre-existing reserves in the table above.

Insurance claims paid by our insurance carriers, excluding insurance deductibles paid, were \$0.1 million and \$0.2 million for the fiscal years ended October 31, 2019 and 2018, respectively, for prior year deliveries.

17. Transactions with Related Parties

During the years ended October 31, 2019, 2018 and 2017, an engineering firm owned by Tavit Najarian, a relative of Ara K. Hovnanian, our Chairman of the Board of Directors and our Chief Executive Officer, provided services to the Company totaling \$0.9 million, \$0.7 million and \$0.8 million, respectively. Neither the Company nor Mr. Hovnanian has a financial interest in the relative's company from whom the services were provided.

Mr. Carson Sorsby, the son of J. Larry Sorsby, one of our directors and Chief Financial Officer, is employed by the Company's mortgage subsidiary. His total commissions from the Company's mortgage affiliate totaled approximately \$223,000, \$148,000 and \$191,000 in fiscal 2019, 2018 and 2017, respectively.

Mr. Alexander Hovnanian, the son of Ara K. Hovnanian, our Chairman of the Board of Directors and our Chief Executive Officer, is employed by the Company. Mr. Hovnanian was Division President of the Northeast Division in fiscal 2019. His total compensation was approximately \$609,000, \$514,000 and \$336,000 in fiscal 2019, 2018 and 2017, respectively.

18. Commitments and Contingent Liabilities

We are involved in litigation arising in the ordinary course of business, none of which is expected to have a material adverse effect on our financial position, results of operations or cash flows, and we are subject to extensive and complex laws and regulations that affect the development of land and home building, sales and customer financing processes, including zoning, density, building standards and mortgage financing. These laws and regulations often provide broad discretion to the administering governmental authorities. This can delay or increase the cost of development or homebuilding. The significant majority of our litigation matters are related to construction defect claims. Our estimated losses from construction defect litigation matters, if any, are included in our construction defect reserves.

We also are subject to a variety of local, state, federal and foreign laws and regulations concerning protection of health and the environment, including those regulating the emission or discharge of materials into the environment, the management of storm water runoff at construction sites, the handling, use, storage and disposal of hazardous substances, impacts to wetlands and other sensitive environments, and the remediation of contamination at properties that we have owned or developed or currently own or are developing ("environmental laws"). The particular environmental laws that apply to a site may vary greatly according to the community site, for example, due to the community, the environmental conditions at or near the site, and the present and former uses of the site. These environmental laws may result in delays, may cause us to incur substantial compliance, remediation and/or other costs, and can prohibit or severely restrict development and homebuilding activity. In addition, noncompliance with these laws and regulations could result in fines and penalties, obligations to remediate, permit revocations or other sanctions; and contamination or other environmental conditions at or in the vicinity of our developments may result in claims against us for personal injury, property damage or other losses.

We anticipate that increasingly stringent requirements will continue to be imposed on developers and homebuilders in the future. For example, for a number of years, the EPA and U.S. Army Corps of Engineers have been engaged in rulemakings to clarify the scope of federally regulated wetlands, which included a June 2015 rule many affected businesses contend impermissibly expanded the scope of such wetlands that was challenged in court, stayed, and remains in litigation. A proposal was made in June 2017 to formally rescind the June 2015 rule and reinstate the rule scheme previously in place while the agencies initiate a new substantive rulemaking on the issue. A February 2018 rule purported to delay the effective date of the June 2015 rule until February 2020, but was enjoined nationwide in August 2018 by a federal district court in South Carolina and later by a federal district court in the State of Washington in response to lawsuits (the net result of which, according to the EPA, is that the June 2015 rule applies in 22 states, the District of Columbia, and the United States territories, and that the pre-June 2015 regime applies in the rest). In October 2019, the EPA and U.S. Army Corps of Engineers promulgated a new rule, to become effective December 23, 2019, repealing the June 2015 rule and reinstating the previous rule scheme. It is unclear how these and related developments, including at the state or local level, ultimately may affect the scope of regulated wetlands where we operate. Although we cannot reliably predict the extent of any effect these developments regarding wetlands, or any other requirements that may take effect may have on us, they could result in time-consuming and expensive compliance programs and in substantial expenditures, which could cause delays and increase our cost of operations. In addition, our ability to obtain or renew permits or approvals and the continued effectiveness of permits already granted or approvals already obtained is dependent upon many factors, some of which are beyond our control, such as changes in policies, rules and regulations and their interpretations and application.

In March 2013, we received a letter from the Environmental Protection Agency (“EPA”) requesting information about our involvement in a housing redevelopment project in Newark, New Jersey that a Company entity undertook during the 1990s. We understand that the development is in the vicinity of a former lead smelter and that tests on soil samples from properties within the development conducted by the EPA showed elevated levels of lead. We also understand that the smelter ceased operations many years before the Company entity involved acquired the properties in the area and carried out the re-development project. We responded to the EPA’s request. In August 2013, we were notified that the EPA considers us a potentially responsible party (or “PRP”) with respect to the site, that the EPA will clean up the site, and that the EPA is proposing that we fund and/or contribute towards the cleanup of the contamination at the site. We began preliminary discussions with the EPA concerning a possible resolution but do not know the scope or extent of the Company’s obligations, if any, that may arise from the site and therefore cannot provide any assurance that this matter will not have a material impact on the Company. The EPA requested additional information in April 2014 and again in March 2017 and the Company responded to the information requests. On May 2, 2018 the EPA sent a letter to the Company entity demanding reimbursement for 100% of the EPA’s costs to clean-up the site in the amount of \$2.7 million. The Company responded to the EPA’s demand letter on June 15, 2018 setting forth the Company’s defenses and expressing its willingness to enter into settlement negotiations. The parties subsequently executed a Tolling Agreement to toll the statute of limitations on collection until December 20, 2019 and are preparing an agreement to extend it to June 20, 2020 to allow the parties time to discuss settlement. The Company received a letter from the EPA on November 4, 2019 asking if the Company remained interested in settlement negotiations. The Company responded affirmatively and such negotiations are ongoing. Two other PRPs identified by the EPA are now also in negotiations with the EPA and in preliminary negotiations with the Company regarding the site. In the course of negotiations, the EPA informed the Company that the New Jersey Department of Environmental Protection has also incurred costs remediating part of the site. We believe that we have adequate reserves for this matter.

In 2015, the condominium association of the Four Seasons at Great Notch condominium community (the “Great Notch Plaintiff”) filed a lawsuit in the Superior Court of New Jersey, Law Division, Passaic County (the “Court”) alleging various construction defects, design defects, and geotechnical issues relating to the community. The operative complaint (“Complaint”) asserts claims against Hovnanian Enterprises, Inc. and several of its affiliates, including K. Hovnanian at Great Notch, LLC, K. Hovnanian Construction Management, Inc., and K. Hovnanian Companies, LLC. The Complaint also asserts claims against various other design professionals and contractors. The Great Notch Plaintiff has also filed a motion, which remains pending, to permit it to pursue a claim to pierce the corporate veil of K. Hovnanian at Great Notch, LLC to hold its alleged parent entities liable for any damages awarded against it. To date, the Hovnanian-affiliated defendants have reached a partial settlement with the Great Notch Plaintiff as to a portion of the Great Notch Plaintiff’s claims against them for an amount immaterial to the Company. On its remaining claims against the Hovnanian-affiliated defendants, the Great Notch Plaintiff has asserted damages of approximately \$119.5 million, which amount is potentially subject to treble damages pursuant to the Great Notch Plaintiff’s claim under the New Jersey Consumer Fraud Act. On August 17, 2018, the Hovnanian-affiliated defendants filed a motion for summary judgment seeking dismissal of all of the Great Notch Plaintiff’s remaining claims against them, which was withdrawn without prejudice to re-file with supplemental evidence. The trial is currently scheduled for April 20, 2020. An initial court-ordered mediation session took place on November 19, 2019. An additional mediation session is contemplated, but has not yet been scheduled. The Hovnanian-affiliated defendants intend to defend these claims vigorously.

19. Variable Interest Entities

The Company enters into land and lot option purchase contracts to procure land or lots for the construction of homes. Under these contracts, the Company will fund a stated deposit in consideration for the right, but not the obligation, to purchase land or lots at a future point in time with predetermined terms. Under the terms of the option purchase contracts, many of the option deposits are not refundable at the Company’s discretion. Under the requirements of ASC 810, certain option purchase contracts may result in the creation of a variable interest in the entity (“VIE”) that owns the land parcel under option.

In compliance with ASC 810, the Company analyzes its option purchase contracts to determine whether the corresponding land sellers are VIEs and, if so, whether the Company is the primary beneficiary. Although the Company does not have legal title to the underlying land, ASC 810 requires the Company to consolidate a VIE if the Company is determined to be the primary beneficiary. In determining whether it is the primary beneficiary, the Company considers, among other things, whether it has the power to direct the activities of the VIE that most significantly impact the VIE's economic performance. Such activities would include, among other things, determining or limiting the scope or purpose of the VIE, selling or transferring property owned or controlled by the VIE, or arranging financing for the VIE. The Company also considers whether it has the obligation to absorb losses of the VIE or the right to receive benefits from the VIE. As a result of its analyses, the Company determined that as of October 31, 2019 and 2018, it was not the primary beneficiary of any VIEs from which it is purchasing land under option purchase contracts.

We will continue to secure land and lots using options, some of which are with VIEs. Including deposits on our unconsolidated VIEs, at October 31, 2019, we had total cash and letters of credit deposits amounting to \$70.0 million to purchase land and lots with a total purchase price of \$1.3 billion. The maximum exposure to loss with respect to our land and lot options is limited to the deposits plus any pre-development costs invested in the property, although some deposits are refundable at our request or refundable if certain conditions are not met.

20. Investments in Unconsolidated Homebuilding and Land Development Joint Ventures

We enter into homebuilding and land development joint ventures from time to time as a means of accessing lot positions, expanding our market opportunities, establishing strategic alliances, managing our risk profile, leveraging our capital base and enhancing returns on capital. Our homebuilding joint ventures are generally entered into with third-party investors to develop land and construct homes that are sold directly to third-party home buyers. Our land development joint ventures include those entered into with developers and other homebuilders as well as financial investors to develop finished lots for sale to the joint venture's members or other third parties.

During the first quarter of fiscal 2017, we transferred one community we owned and our option to buy three communities to an existing joint venture, resulting in our receiving \$11.2 million of net cash. During the first quarter of fiscal 2018, we acquired the remaining assets of one of our joint ventures, resulting in a \$13.0 million reduction in our investment in the joint venture and a corresponding increase to inventory. During the third quarter of fiscal 2019, we contributed one community we owned to an existing joint venture, resulting in our receiving \$15.9 million of net cash.

The tables set forth below summarize the combined financial information related to our unconsolidated homebuilding and land development joint ventures that are accounted for under the equity method.

(Dollars in thousands)	October 31, 2019		
	Homebuilding	Land Development	Total
Assets:			
Cash and cash equivalents	\$108,520	\$2,203	\$110,723
Inventories	397,804	6,038	403,842
Other assets	24,896	233	25,129
Total assets	\$531,220	\$8,474	\$539,694
Liabilities and equity:			
Accounts payable and accrued liabilities	\$71,297	\$592	\$71,889
Notes payable	186,882	-	186,882
Total liabilities	258,179	592	258,771
Equity of:			
Hovnanian Enterprises, Inc.	120,891	4,747	125,638
Others	152,150	3,135	155,285
Total equity	273,041	7,882	280,923
Total liabilities and equity	\$531,220	\$8,474	\$539,694
Debt to capitalization ratio	41%	0%	40%

October 31, 2018

(Dollars in thousands)	Homebuilding	Land Development	Total
Assets:			
Cash and cash equivalents	\$50,010	\$2,275	\$52,285
Inventories	506,650	8,004	514,654
Other assets	35,105	-	35,105
Total assets	\$591,765	\$10,279	\$602,044
Liabilities and equity:			
Accounts payable and accrued liabilities	\$79,108	\$746	\$79,854
Notes payable	236,665	-	236,665
Total liabilities	315,773	746	316,519
Equity of:			
Hovnanian Enterprises, Inc.	114,950	4,369	119,319
Others	161,042	5,164	166,206
Total equity	275,992	9,533	285,525
Total liabilities and equity	\$591,765	\$10,279	\$602,044
Debt to capitalization ratio	46%	0%	45%

As of October 31, 2019, we had advances outstanding of \$1.4 million and as of October 31, 2018, we had advances and a note receivable of \$4.6 million to these unconsolidated joint ventures. These amounts were included in the “Accounts payable and accrued liabilities” balances in the tables above. On our Consolidated Balance Sheets, our “Investments in and advances to unconsolidated joint ventures” amounted to \$127.0 million and \$123.7 million at October 31, 2019 and 2018, respectively. In some cases, our net investment in these joint ventures is less than our proportionate share of the equity reflected in the table above because of the differences between asset impairments recorded against our joint venture investments and any impairments recorded in the applicable joint venture. Impairments of joint venture investments are recorded at fair value while impairments recorded in the joint venture are recorded when undiscounted cash flows trigger the impairment. During the year ended October 31, 2019, we recorded a \$0.9 million write down in our investment in one of our joint ventures in the West. During the year ended October 31, 2018, we did not write-down any of our joint venture investments; however, one of our joint ventures in the Northeast and one of our joint ventures in the Mid-Atlantic recorded asset impairments. We recorded our proportionate share of these impairment charges of \$0.7 million and \$0.6 million, respectively, as part of our share of the net income (loss) of the ventures.

For The Year Ended October 31, 2019

(Dollars in thousands)	Homebuilding	Land Development	Total
Revenues	\$488,914	\$8,704	\$497,618
Cost of sales and expenses	(456,563)	(7,948)	(464,511)
Joint venture net income	\$32,351	\$756	\$33,107
Our share of net income	\$28,761	\$378	\$29,139

For The Year Ended October 31, 2018

(Dollars in thousands)	Homebuilding	Land Development	Total
Revenues	\$602,681	\$6,418	\$609,099
Cost of sales and expenses	(577,106)	(5,173)	(582,279)
Joint venture net income	\$25,575	\$1,245	\$26,820
Our share of net income	\$23,904	\$623	\$24,527

For The Year Ended October 31, 2017

(Dollars in thousands)	Homebuilding	Land Development	Total
Revenues	\$312,164	\$5,685	\$317,849
Cost of sales and expenses	(324,514)	(4,633)	(329,147)
Joint venture net (loss) income	\$(12,350)	\$1,052	\$(11,298)
Our share of net (loss) income	\$(7,189)	\$526	\$(6,663)

“Income (loss) from unconsolidated joint ventures” is reflected as a separate line in the accompanying Consolidated Statements of Operations and reflects our proportionate share of the income or loss of these unconsolidated homebuilding and land development joint ventures. The difference between our share of the income or loss from these unconsolidated joint ventures in the tables above compared to the Consolidated Statements of Operations is due primarily to the reclassification of the intercompany portion of management fee income from certain joint ventures and the deferral of income for lots purchased by us from certain joint ventures. To compensate us for the administrative services we provide as the manager of certain joint ventures we receive a management fee based on a percentage of the applicable joint venture’s revenues. These management fees, which totaled \$16.9 million, \$21.1 million and \$11.3 million for the years ended October 31, 2019, 2018 and 2017, are recorded in “Homebuilding: Selling, general and administrative” on the Consolidated Statements of Operations.

In determining whether or not we must consolidate joint ventures that we manage, we assess whether the other partners have specific rights to overcome the presumption of control by us as the manager of the joint venture. In most cases, the presumption is overcome because the joint venture agreements require that both partners agree on establishing the operations and capital decisions of the partnership, including budgets in the ordinary course of business.

Typically, our unconsolidated joint ventures obtain separate project specific mortgage financing. For some of our joint ventures, obtaining financing was challenging, therefore, some of our joint ventures are capitalized only with equity. The total debt to capitalization ratio of all our joint ventures is currently 40%. Any joint venture financing is on a nonrecourse basis, with guarantees from us limited only to performance and completion of development, environmental warranties and indemnification, standard indemnification for fraud, misrepresentation and other similar actions, including a voluntary bankruptcy filing. In some instances, the joint venture entity is considered a VIE under ASC 810-10 "Consolidation – Overall" due to the returns being capped to the equity holders; however, in these instances, we have determined that we are not the primary beneficiary, and therefore we do not consolidate these entities.

21. Fair Value of Financial Instruments

ASC 820, "Fair Value Measurements and Disclosures," provides a framework for measuring fair value, expands disclosures about fair-value measurements and establishes a fair-value hierarchy which prioritizes the inputs used in measuring fair value summarized as follows:

- Level 1: Fair value determined based on quoted prices in active markets for identical assets.
- Level 2: Fair value determined using significant other observable inputs.
- Level 3: Fair value determined using significant unobservable inputs.

Our financial instruments measured at fair value on a recurring basis are summarized below:

(In thousands)	Fair Value Hierarchy	Fair Value at October 31, 2019	Fair Value at October 31, 2018
Mortgage loans held for sale (1)	Level 2	\$166,007	\$130,709
Forward contracts	Level 2	(64)	13
Total		\$165,943	\$130,722
Interest rate lock commitments	Level 3	\$42	\$(28)
Total		\$165,985	\$130,694

(1) The aggregate unpaid principal balance was \$161.1 million and \$127.6 million at October 31, 2019 and 2018, respectively.

We elected the fair value option for our loans held for sale in accordance with ASC 825, "Financial Instruments," which permits us to measure financial instruments at fair value on a contract-by-contract basis. Management believes that the election of the fair value option for loans held for sale improves financial reporting by mitigating volatility in reported earnings caused by measuring the fair value of the loans and the derivative instruments used to economically hedge them without having to apply complex hedge accounting provisions. Fair value of loans held for sale is based on independent quoted market prices, where available, or the prices for other mortgage loans with similar characteristics.

The Financial Services segment had a pipeline of loan applications in process of \$484.2 million at October 31, 2019. Loans in process for which interest rates were committed to the borrowers totaled \$37.7 million as of October 31, 2019. Substantially all of these commitments were for periods of 60 days or less. Since a portion of these commitments is expected to expire without being exercised by the borrowers, the total commitments do not necessarily represent future cash requirements.

The Financial Services segment uses investor commitments and forward sales of mandatory MBS to hedge its mortgage-related interest rate exposure. These instruments involve, to varying degrees, elements of credit and interest rate risk. Credit risk is managed by entering into MBS forward commitments, option contracts with investment banks, federally regulated bank affiliates and loan sales transactions with permanent investors meeting the segment's credit standards. The segment's risk, in the event of default by the purchaser, is the difference between the contract price and fair value of the MBS forward commitments and option contracts. At October 31, 2019, the segment had open commitments amounting to \$11.5 million to sell MBS with varying settlement dates through November 20, 2019.

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The assets accounted for using the fair value option are initially measured at fair value. Gains and losses from initial measurement and subsequent changes in fair value are recognized in the Consolidated Financial Statements in “Revenues: Financial services.” The fair values that are included in income are shown, by financial instrument and financial statement line item, below:

Year Ended October 31, 2019			
(In thousands)	Mortgage Loans Held for Sale	Interest Rate Lock Commitments	Forward Contracts
Fair value included in net loss all reflected in financial services revenues	\$4,869	\$42	\$(64)

Year Ended October 31, 2018			
(In thousands)	Mortgage Loans Held for Sale	Interest Rate Lock Commitments	Forward Contracts
Fair value included in net income all reflected in financial services revenues	\$3,115	\$(28)	\$13

Year Ended October 31, 2017			
(In thousands)	Mortgage Loans Held for Sale	Interest Rate Lock Commitments	Forward Contracts
Fair value included in net loss all reflected in financial services revenues	\$4,256	\$(14)	\$15

The Company's assets measured at fair value on a nonrecurring basis are those assets for which the Company has recorded valuation adjustments and write-offs during the fiscal years ended October 31, 2019 and 2018. The assets measured at fair value on a nonrecurring basis are all within the Company's Homebuilding operations and are summarized below:

Nonfinancial Assets

Year Ended October 31, 2019				
(In thousands)	Fair Value Hierarchy	Pre- Impairment Amount	Total Losses	Fair Value
Sold and unsold homes and lots under development	Level 3	\$9,670	\$(2,494)	\$7,176
Land and land options held for future development or sale	Level 3	\$7,801	\$(185)	\$7,616

Year Ended October 31, 2018				
(In thousands)	Fair Value Hierarchy	Pre- Impairment Amount	Total Losses	Fair Value
Sold and unsold homes and lots under development	Level 3	\$11,170	\$(2,117)	\$9,053
Land and land options held for future development or sale	Level 3	\$-	\$-	\$-

We record impairment losses on inventories related to communities under development and held for future development when events and circumstances indicate that they may be impaired and the undiscounted cash flows estimated to be generated by those assets are less than their related carrying amounts. If the expected undiscounted cash flows are less than the carrying amount, then the community is written down to its fair value. We estimate the fair value of each impaired community by determining the present value of its estimated future cash flows at a discount rate commensurate with the risk of the respective community. Should the estimates or expectations used in determining cash flows or fair value decrease or differ from current estimates in the future, we may be required to recognize additional impairments. We recorded inventory impairments, which are included in the Consolidated Statements of Operations as “Inventory impairment loss and land option write-offs” and deducted from inventory, of \$2.7 million, \$2.1 million and \$15.1 million for the years ended October 31, 2019, 2018 and 2017, respectively. See Note 12 for further detail of the communities evaluated for impairment.

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The fair value of our cash equivalents, restricted cash and cash equivalents and customer's deposits approximates their carrying amount, based on Level 1 inputs.

The fair value of each series of our Notes are listed below. Level 2 measurements are estimated based on recent trades or quoted market prices for the same issues or based on recent trades or quoted market prices for our debt of similar security and maturity to achieve comparable yields. Level 3 measurements are estimated based on third-party broker quotes or management's estimate of the fair value based on available trades for similar debt instruments.

Fair Value as of October 31, 2019

(In thousands)	Level 1	Level 2	Level 3	Total
Senior Secured Notes:				
10.0% Senior Secured Notes due July 15, 2022	\$-	\$189,430	\$-	\$189,430
10.5% Senior Secured Notes due July 15, 2024	-	166,999	-	166,999
7.75% Senior Secured 1.125 Lien Notes due February 15, 2026	-	-	350,000	350,000
10.5% Senior Secured 1.25 Lien Notes due February 15, 2026	-	-	282,322	282,322
11.25% Senior Secured 1.5 Lien Notes due February 15, 2026	-	-	103,141	103,141
Senior Notes:				
13.5% Senior Notes due February 1, 2026	-	-	80,254	80,254
5.0% Senior Notes due February 1, 2040	-	-	31,993	31,993
Senior Unsecured Term Loan Credit Facility due February 1, 2027	-	-	106,499	106,499
Total fair value	\$-	\$356,429	\$954,209	\$1,310,638

Fair Value as of October 31, 2018

(In thousands)	Level 1	Level 2	Level 3	Total
Senior Secured Notes:				
9.5% Senior Secured Notes due November 15, 2020	\$-	\$-	\$74,250	\$74,250
2.0% Senior Secured Notes due November 1, 2021	-	-	40,434	40,434
5.0% Senior Secured Notes due November 1, 2021	-	124,781	-	124,781
10.0% Senior Secured Notes due July 15, 2022	-	424,670	-	424,670
10.5% Senior Secured Notes due July 15, 2024	-	366,720	-	366,720
Senior Notes:				
13.5% Senior Notes due February 1, 2026	-	88,148	-	88,148
5.0% Senior Notes due February 1, 2040	-	35,628	-	35,628
Senior Unsecured Term Loan Credit Facility due February 1, 2027	-	-	114,328	114,328
Total fair value	\$-	\$1,039,947	\$229,012	\$1,268,959

The Senior Secured Revolving Credit Facility is not included in the above tables because there were no borrowings outstanding thereunder as of October 31, 2019 and 2018.

22. Unaudited Summarized Consolidated Quarterly Information

Summarized quarterly financial information for the years ended October 31, 2019 and 2018 is as follows:

(In thousands, except per share data)	Three Months Ended			
	October 31, 2019	July 31, 2019	April 30, 2019	January 31, 2019
Revenues	\$713,590	\$482,041	\$440,691	\$380,594
Expenses	677,429	491,412	461,393	406,558
Inventory impairment loss and land option write-offs	2,687	1,435	1,462	704
Loss on extinguishment of debt	(42,436)	-	-	-
Income from unconsolidated joint ventures	8,376	3,742	7,252	9,562
(Loss) before income taxes	(586)	(7,064)	(14,912)	(17,106)
State and federal income tax provision	1,221	537	345	346
Net (loss)	\$(1,807)	\$(7,601)	\$(15,257)	\$(17,452)
Per share data:				
Basic and assuming dilution:				
Net (loss) per common share	\$(0.30)	\$(1.27)	\$(2.56)	\$(2.93)
Weighted-average number of common shares outstanding	5,982	5,971	5,962	5,958

(In thousands, except per share data)	Three Months Ended			
	October 31, 2018	July 31, 2018	April 30, 2018	January 31, 2018
Revenues	\$614,811	\$456,712	\$502,544	\$417,166
Expenses	581,680	463,004	509,352	442,047
Inventory impairment loss and land option write-offs	318	96	2,673	414
Loss on extinguishment of debt	(1,830)	(4,266)	(1,440)	-
Income (loss) from unconsolidated joint ventures	17,134	10,732	1,343	(5,176)
Income (loss) before income taxes	48,117	78	(9,578)	(30,471)
State and federal income tax provision (benefit)	1,939	1,104	245	338
Net income (loss)	\$46,178	\$(1,026)	\$(9,823)	\$(30,809)
Per share data:				
Basic:				
Net income (loss) per common share	\$7.75	\$(0.18)	\$(1.65)	\$(5.20)
Weighted-average number of common shares outstanding	5,957	5,947	5,937	5,921
Assuming dilution:				
Net income (loss) per common share	\$7.34	\$(0.18)	\$(1.65)	\$(5.20)
Weighted-average number of common shares outstanding	6,077	5,947	5,937	5,921

23. Subsequent Events

On November 5, 2019, K. Hovnanian commenced a private offer to exchange its 10.0% 2022 Notes and its 10.5% 2024 Notes for its newly issued 10.0% 1.75 Lien Notes due 2025 (the “1.75 Lien Notes”). In conjunction with this exchange offer, K. Hovnanian solicited consents to proposed amendments (the “Proposed Amendments”) from the holders of such Notes to the indenture, dated as of July 27, 2017, among HEI, K. Hovnanian and the other guarantors parties thereto and Wilmington Trust, National Association, as trustee and collateral agent (the “Existing Indenture”), providing for, among other matters, the elimination of most of the restrictive covenants, certain of the affirmative covenants and certain of the events of default contained in such indenture.

The Exchange Offers and the Consent Solicitations expired at 11:59 p.m., New York City time, on December 5, 2019. As of the expiration date of the Exchange Offers, K. Hovnanian had received tenders from holders of \$23.2 million in aggregate principal amount, or 10.6%, of the 10.0% 2022 Notes and \$141.7 million in aggregate principal amount, or 67.0%, of the 10.5% 2024 Notes, all of which were accepted for exchange, and had received the requisite consents in connection with the Consent Solicitation for the 10.5% 2024 Notes. K. Hovnanian did not receive the requisite consents in connection with the Consent Solicitation for the 10% 2022 Notes and therefore the 10.5% 2022 Notes will continue to be subject to the terms of the Existing Indenture without giving effect to the Proposed Amendments. On December 6, 2019, K. Hovnanian, HEI, as guarantor, the other guarantors party thereto and Wilmington Trust, National Association, as trustee and collateral agent, entered into the Tenth Supplemental Indenture, dated as of December 6, 2019, amending and supplementing the Existing Indenture in respect of the Proposed Amendments, which amendments became operative on the settlement date of the Exchange Offer.

On December 10, 2019, K. Hovnanian settled the exchange offer and issued \$158.5 million aggregate principal amount of 1.75 Lien Notes and paid cash to exchanging holders in respect of accrued and unpaid interest on the 10.0% 2022 Notes and 10.5% 2024 Notes accepted for exchange to, but not including, the settlement date and, if applicable, amounts due in lieu of fractional amounts of 1.75 Lien Notes. The 1.75 Lien Notes were issued under an Indenture, dated as of December 10, 2019, among HEI, K. Hovnanian, the guarantors party thereto and Wilmington Trust, National Association, as trustee and collateral agent (the “New 2025 Notes Indenture”). The 1.75 Lien Notes are guaranteed by HEI and the Notes Guarantors and the 1.75 Lien Notes and the guarantees thereof will be secured by substantially all of the assets owned by K. Hovnanian and the Notes Guarantors, subject to permitted liens and certain exceptions. The New 1.75 Lien Notes bear interest at 10.0% per annum and mature on November 15, 2025. Interest on the 1.75 Lien Notes is payable semi-annually on May 15 and November 15 of each year, beginning on May 15, 2020, to holders of record at the close of business on May 1 or November 1, as the case may be, immediately preceding each such interest payment date. The New 2025 Notes Indenture contains restrictive covenants that are substantially similar to those contained in the indentures governing the New Secured Notes.

In addition, on December 10, 2019, K. Hovnanian, HEI, the other Notes Guarantors party thereto, Wilmington Trust, National Association, as administrative agent, and affiliates of certain investment managers (the “Investors”), as lenders, entered into a credit agreement (the “1.75 Lien Credit Agreement”) providing for \$81.5 million of senior secured 1.75 lien term loans (the “1.75 Lien Term Loans”), that were borrowed by K. Hovnanian and guaranteed by the Notes Guarantors in exchange for \$163.0 million of K. Hovnanian’s senior unsecured term loans due February 1, 2027 pursuant to an Exchange Agreement, dated December 10, 2019, by and among K. Hovnanian, HEI, the other Notes Guarantors party thereto and the Investors. The 1.75 Lien Term Loans and the guarantees thereof will be secured on a pari passu basis with the 1.75 Lien Notes by the same assets that will secure the 1.75 Lien Notes, subject to permitted liens and certain exceptions. The 1.75 Lien Term Loans will bear interest at a rate equal to 10.0% per annum and will mature on January 31, 2028. The 1.75 Lien Credit Agreement contains representations and warranties and covenants that are substantially similar to those contained in the Secured Credit Agreement.

DESCRIPTION OF CAPITAL STOCK

The following description of the common stock and preferred stock of Hovnanian Enterprises, Inc. (“Hovnanian” or the “Company”) summarizes the material terms and provisions of the common stock and the preferred stock. For the complete terms of our common stock and preferred stock, please refer to Hovnanian’s restated certificate of incorporation, the “Restated Certificate of Incorporation,” amended and restated bylaws, the “Amended and Restated By-Laws” and Amended Rights Plan (as defined below). The terms of these securities may also be affected by the General Corporation Law of the State of Delaware. The summary below is qualified in its entirety by reference to the Restated Certificate of Incorporation, Amended and Restated By-laws and Amended Rights Plan.

The authorized capital stock of Hovnanian is 18,500,000 shares, consisting of 16,000,000 shares of Class A Common Stock, par value \$.01 per share, the “Class A Common Stock”, 2,400,000 shares of Class B Common Stock, par value \$.01 per share, the “Class B Common Stock” and together with the Class A Common Stock, the “Common Stock”, and 100,000 shares of preferred stock, par value \$.01 per share, in the series and with the designations, powers, preferences and relative, participating, optional or other special rights thereof, and qualifications, limitations or restrictions thereon, as may be fixed from time to time by the Board of Directors of Hovnanian (the “Board of Directors”) for each series.

Common Stock

As of October 31, 2019, 5,973,727 shares of Class A Common Stock and 650,363 shares of Class B Common Stock were issued and outstanding. The Class A Common Stock is traded on the New York Stock Exchange under the symbol “HOV”. There is no established public trading market for the Class B Common Stock. In order to trade Class B Common Stock, the shares must be converted into Class A Common Stock on a one-for-one basis. The outstanding Class A Common Stock and Class B Common Stock is fully paid and non-assessable. The rights, powers and preferences of holders of Class A Common Stock are subject to, and may be adversely affected by, the rights of the holder of shares of any series of preferred stock that Hovnanian may designate and issue.

Dividends. Subject to the rights of the holders of any outstanding preferred stock, and subject to any other provisions of the Restated Certificate of Incorporation, holders of Class A Common Stock and Class B Common Stock are entitled to receive dividends and other distributions (including stock splits or divisions of stock) in cash, stock or property of Hovnanian as may be declared thereon by the Board of Directors from time to time out of assets or funds of Hovnanian legally available therefor, *provided* that in the case of special cash dividends or distributions or dividends or distributions payable in preferred stock, holders of Class A Common Stock and Class B Common Stock shall be entitled to share ratably as a single class, and provided, further, that in the case of regular cash dividends, no such dividend shall be declared or paid on one class of common stock unless a cash dividend is simultaneously declared and paid on the other class of common stock, and any such dividend will be paid on the Class A Common Stock in an amount per share of Class A Common Stock equal to 110% of the amount of such dividend paid on each share of Class B Common Stock, and *provided, further*, that, in the case of dividends or other distributions payable in stock of Hovnanian other than preferred stock, including distributions pursuant to stock splits or divisions of stock of Hovnanian other than preferred stock, only shares of Class A Common Stock shall be distributed with respect to Class A Common Stock and only shares of Class B Common Stock in an amount per share equal to the amount per share paid with respect to the Class A Common Stock shall be distributed with respect to Class B Common Stock, and *provided, further*, that neither class of common stock may be combined or reclassified (including any reclassification in connection with a consolidation or merger in which Hovnanian is the continuing corporation) unless the other class of common stock is likewise combined or reclassified, and that, in the case of any such combination or reclassification of Class A Common Stock, the shares of Class B Common Stock shall also be combined or reclassified so that the number of issued shares of Class B Common Stock immediately following such combination or reclassification shall bear the same relationship to the number of issued shares immediately prior to such combination or reclassification as the number of issued shares of Class A Common Stock immediately following such combination or reclassification bears to the number of issued shares of Class A Common Stock immediately prior to such combination or reclassification.

Certain debt instruments to which Hovnanian is a party contain restrictions on the payment of cash dividends.

Voting Rights. Except as otherwise specifically provided in our Restated Certificate of Incorporation or as otherwise required by law, with respect to all matters upon which stockholders are entitled to vote or to which stockholders are entitled to give consent, the holders of the outstanding shares of Class A Common Stock and the holders of the outstanding shares of Class B Common Stock vote together without regard to class. Holders of Class A Common Stock are entitled to one vote for each share held by them on all matters presented to shareholders. Holders of Class B Common Stock are generally entitled to ten votes per share held by them on all matters presented to stockholders, *provided, however*, that each share of Class B Common Stock held of record in nominee name, to the extent of Hovnanian’s knowledge, is entitled to only one vote per share held; and provided, further, however, that the holder of any such share held in nominee name shall be entitled, notwithstanding the limitation of the foregoing proviso, to the number of votes to which such holder otherwise would be entitled at any meeting of stockholders of Hovnanian, to the extent such holder establishes to the satisfaction of Hovnanian that such share of Class B Common Stock has been held continuously since the date of issuance for the benefit or account of the same named beneficial owner of such shares (as defined in Paragraph (4)(E) of the Restated Certificate of Incorporation) or any Permitted Transferee thereof (as defined in Paragraph (4)(A) of the Restated Certificate of Incorporation).

Liquidation Rights. In the event the Company shall be liquidated (either partially or completely), dissolved or wound up, whether voluntarily or involuntarily, the holders of the Class A Common Stock and the Class B Common Stock shall be entitled to share ratably as a single class in the net assets of the Company available to the holders of Common Stock.

Preemptive and Other Rights. The holders of Class A Common Stock do not have preemptive rights as to additional issues of Common Stock or conversion rights. The shares of Class A Common Stock are not subject to redemption or to any further calls or assessments and are not entitled to the benefit of any sinking fund provisions.

Conversion of Class B Common Stock into Class A Common Stock.

(A) Each share of Class B Common Stock may, at any time or from time to time, at the option of the holder thereof, be converted into one fully paid and nonassessable share of Class A Common Stock, in the manner described in Paragraphs 3(A) to 3(D) of the Restated Certificate of Incorporation. All shares of Class A Common Stock which shall be issued upon conversion of the Class B Common Stock will, upon issuance, be fully paid and nonassessable and not subject to any preemptive rights.

(B) All issued shares of Class B Common Stock shall be deemed, without further action on the part of any person, to be immediately and automatically converted into shares of Class A Common Stock (in which case, the Class B Common Stock shall automatically be cancelled and shall no

longer be authorized for issuance) in each of the instances set forth below:

(i) If and when on any record date for determining the stockholders entitled to participate in any dividend or distribution on the Common Stock of the Company, or any annual or special meeting of stockholders or action of common stockholders by written consent, the number of issued and outstanding shares of Class B Common Stock is less than 5% of the aggregate number of shares of Class A Common Stock and Class B Common Stock then outstanding; and

(ii) In the event that the Board of Directors, by a majority vote thereof, determines that there has been a material adverse change in the liquidity of the market for, or the marketability of, the then outstanding shares of Class A Common Stock due to a delisting of the Class A Common Stock from a national securities exchange or the cessation of the quotation of bids for the Class A Common Stock in any quotation system operated by an association of securities dealers, or due to requirements of federal or state law applicable to trading in the Class A Common Stock, attributable to the existence of the Class A Common Stock and Class B Common Stock.

(C) Except as provided in the Restated Certificate of Incorporation, shares of Class B Common Stock that are converted into shares of Class A Common Stock shall be restored to the status of authorized but unissued shares of Class B Common Stock and may again be issued by the Company as permitted in accordance with the terms of the Restated Certificate of Incorporation.

Merger and Consolidation. In the event of a merger, consolidation, acquisition, tender offer, recapitalization, reorganization or other business combination to which the Company is a party (whether or not the Company is the surviving corporation), in which shares of Class A Common Stock and Class B Common Stock are exchanged for or changed into other stock or securities, cash and/or any other property, then, and in such event, each share of Class A Common Stock and Class B Common Stock shall be entitled to receive the same per share consideration pursuant to such merger, consolidation, acquisition, tender offer, recapitalization, reorganization or other business combination unless different treatment of the shares of each such class is approved by the affirmative vote of the holders of a majority of the outstanding shares of Class A Common Stock and by the affirmative vote of the holders of a majority of the outstanding shares of Class B Common Stock, each voting separately as a class.

Transfer Restrictions in the Restated Certificate of Incorporation. Restated Certificate of Incorporation contains certain provisions that restrict certain transfers of Class A Common Stock in order to preserve the tax treatment of the Company's net operating loss carryforwards and built-in losses under Section 382 of the Internal Revenue Code, or "NOLs". Subject to certain exceptions pertaining to pre-existing 5% stockholders and holders of Class B Common Stock, the transfer restrictions in the Restated Certificate of Incorporation generally restrict any direct or indirect transfer (such as transfers of our stock that result from the transfer of interests in other entities that own our stock if the effect would be to: (i) increase the direct or indirect ownership of Hovnanian's stock by any person (or public group) from less than 5% to 5% or more of Hovnanian's Common Stock; (ii) increase the percentage of Hovnanian's Common Stock owned directly or indirectly by a person (or public group) owning or deemed to own 5% or more of Hovnanian's Common Stock; or (iii) create a new "public group" (as defined in the applicable Treasury regulations). Transfers included under the transfer restrictions include sales to persons (or public groups) whose resulting percentage ownership (direct or indirect) of Common Stock would exceed the 5% thresholds discussed above, or to persons whose direct or indirect ownership of Common Stock would by attribution cause another person (or public group) to exceed such threshold.

Consequences of Prohibited Transfers. In accordance with the Restated Certificate of Incorporation, any direct or indirect transfer attempted in violation of the restrictions would be void as of the date of the purported transfer as to the purported transferee (or, in the case of an indirect transfer, the ownership of the direct owner of Class A Common Stock would terminate simultaneously with the transfer), and the purported transferee (or in the case of any indirect transfer, the direct owner) would not be recognized as the owner of the shares owned in violation of the restrictions for any purpose, including for purposes of voting and receiving dividends or other distributions in respect of such Class A Common Stock, or in the case of options, receiving Class A Common Stock in respect of their exercise. Class A Common Stock purportedly acquired in violation of the transfer restrictions is referred to as "excess stock."

In addition to the purported transfer being void as of the date of the purported transfer, upon demand, the purported transferee must transfer the excess stock to Hovnanian's agent along with any dividends or other distributions paid with respect to such excess stock. Hovnanian's agent is required to sell such excess stock in an arms' length transaction (or series of transactions) that would not constitute a violation under the transfer restrictions. The net proceeds of the sale, together with any other distributions with respect to such excess stock received by Hovnanian's agent, after deduction of all costs incurred by the agent, will be distributed first to the purported transferee in an amount, if any, up to the cost (or in the case of gift, inheritance or similar transfer, the fair market value of the excess stock on the date of the violative transfer) incurred by the purported transferee to acquire such excess stock, and the balance of the proceeds, if any, will be distributed to a charitable beneficiary. If the excess stock is sold by the purported transferee, such person will be treated as having sold the excess stock on behalf of the agent, and will be required to remit all proceeds to Hovnanian's agent (except to the extent Hovnanian grants written permission to the purported transferee to retain an amount not to exceed the amount such person otherwise would have been entitled to retain had Hovnanian's agent sold such shares).

To the extent permitted by law, any stockholder who knowingly violates the transfer restrictions will be liable for any and all damages suffered by Hovnanian as a result of such violation, including damages resulting from a reduction in or elimination of the ability to utilize the NOLs and any professional fees incurred in connection with addressing such violation.

With respect to any transfer of Class A Common Stock which does not involve a transfer of "securities" of Hovnanian within the meaning of the General Corporation Law of the State of Delaware but which would cause any 5% stockholder to violate the transfer restrictions, the following procedure will apply in lieu of those described above. In such case, no such 5% stockholder shall be required to dispose of any interest that is not a security of Hovnanian, but such 5% stockholder and/or any person whose ownership of securities of Hovnanian is attributed to such 5% stockholder will be deemed to have disposed of (and will be required to dispose of) sufficient securities, simultaneously with the transfer, to cause such 5% stockholder not to be in violation of the transfer restrictions, and such securities will be treated as excess stock to be disposed of through the agent under the provisions summarized above, with the maximum amount payable to such 5% stockholder or such other person that was the direct holder of such excess stock from the proceeds of sale by the agent being the fair market value of such excess stock at the time of the prohibited transfer.

Exceptions. The Board of Directors has the discretion to approve transfers that would otherwise be restricted by the Restated Certificate of Incorporation.

Preferred Stock

The Restated Certificate of Incorporation authorizes the Board of Directors to issue from time to time up to 100,000 shares of preferred stock, in one or more series, and to fix the number of shares in each series and the designations, powers, preferences and relative, participating, optional or other special rights thereof, and qualifications, limitations or restrictions thereof. The preferred stock may be issued by the Board of Directors without further action by

Hovnanian's stockholders as an anti-takeover device. As of October 31, 2019, 5,600 shares of Hovnanian's preferred stock were issued and outstanding, consisting of entirely of Hovnanian's 7.625% Series A Preferred Stock (liquidation preference \$25,000.00 per share) par value \$.01 per share, the "Series A Preferred Stock".

7.625% Series A Preferred Stock

Dividends. Dividends on the Series A Preferred Stock are not cumulative. The Series A Preferred Stock ranks senior to Hovnanian's Common Stock with respect to the payment of dividends to the extent provided in the Certificate of Designations, Powers, Preferences and Rights of the 7.625% Series A Preferred Stock, or the "Certificate". The Certificate provides that unless dividends have been declared and paid or set apart for payment on the Series A Preferred Stock for the then-current quarterly dividend period, no dividend may be declared or paid or set apart for payment on Hovnanian's Common Stock for that period, other than dividends or distributions paid in shares of, or options, warrants or rights to subscribe for or purchase shares of, the Common Stock of Hovnanian or any other stock of Hovnanian ranking, as to the payment of dividends and the distribution of assets upon dissolution, liquidation or winding up of Hovnanian, junior to the Series A Preferred Stock.

The Series A Preferred Stock is traded as depositary shares, with each depositary share representing 1/1,000th of a share of Series A Preferred Stock, and is listed on the Nasdaq Global Market under the symbol "HOVNP".

Voting Rights. The Series A Preferred Stock has no voting rights except as provided for in the Certificate or as otherwise required by law. However, so long as any shares of Series A Preferred Stock are outstanding, Hovnanian will not, without the vote of the holders of at least a majority of the shares of the Series A Preferred Stock, (1) authorize, create or issue any capital stock of Hovnanian ranking, as to dividends or upon liquidation, dissolution or winding up, senior to the Series A Preferred Stock, or reclassify any authorized capital stock of Hovnanian into any such shares of such capital stock, or issue any obligation or security convertible into or evidencing the right to purchase any such shares, or (2) amend, alter or repeal the Certificate, or the Restated Certificate of Incorporation, whether by merger, consolidation or otherwise, in a way that adversely affects the powers, preferences or special rights of the Series A Preferred Stock. Any increase in the amount of authorized Common Stock or preferred stock or any increase or decrease in the number of shares of any series of preferred stock or the authorization, creation and issuance of other classes or series of stock, in each case ranking equally with or junior to the Series A Preferred Stock will not be deemed to adversely affect such powers, preferences or special rights.

Optional Redemption. Hovnanian may, at its option, redeem the Series A Preferred Stock, in whole or, from time to time, in part, upon not less than 30 nor more than 60 days' notice, at a price per share equal to the liquidation preference plus accrued and unpaid dividends (whether earned or not earned or declared) for the then-current quarterly dividend period to the redemption date (but without accumulation of any undeclared dividends from prior dividend periods), if any, *provided, however*, that any redemption that would reduce the aggregate liquidation preference of the Series A Preferred Stock outstanding to \$25 million or less in the aggregate would be restricted to a redemption in whole only. There is no sinking fund for the redemption or purchase of the Series A Preferred Stock. Holders of the Series A Preferred Stock will have no right to require the redemption of the Series A Preferred Stock.

Maturity. The Series A Preferred Stock does not have a maturity date, and Hovnanian is not required to redeem the Series A Preferred Stock. In addition, Hovnanian is not required to set aside funds to redeem the Series A Preferred Stock.

Liquidation Preference. The Series A Preferred Stock has liquidation preferences over Hovnanian's Common Stock. Upon any liquidation, dissolution or winding up of Hovnanian, the holders of the Series A Preferred Stock will be entitled to receive out of the assets of Hovnanian available for distribution to its stockholders, an amount equal to the liquidation preference of \$25,000 per share plus all accrued and unpaid dividends for the then-current quarterly dividend period to but excluding the date of final distribution, but without accumulation of unpaid dividends on the Series A Preferred Stock, before any payment or distribution out of Hovnanian's assets may be made to or set apart for the holders of Hovnanian's Common Stock or other junior equity. If, upon any liquidation, dissolution or winding up of Hovnanian, the assets of Hovnanian, or proceeds thereof, distributable among the holders of shares Series A Preferred Stock and any stock ranking equally with the Series A Preferred Stock shall be insufficient to pay in full the preferential amounts to which such stock would be entitled, then such assets, or the proceeds thereof, shall be distributable among such holders ratably in accordance with the respective amounts which would be payable on such shares if all amounts payable thereon were paid in full (but without, in the case of any non-cumulative preferred stock, accumulation of unpaid dividends for prior dividend periods). Neither a consolidation nor merger of Hovnanian, nor a sale, lease, exchange or transfer of all or substantially all of Hovnanian's assets will be deemed to be a liquidation, dissolution or winding up of Hovnanian.

Depositary Shares

Each depositary share represents 1/1,000th of a share of Series A Preferred Stock. The depositary shares are evidenced by depositary receipts, and the underlying shares of Series A Preferred Stock have been deposited pursuant to a deposit agreement among Hovnanian, Computershare Trust Company, N.A. as successor depositary, and the holders of the depositary receipts. Subject to the terms of the deposit agreement, the depositary shares are entitled to all the rights and preferences of the Series A Preferred Stock in proportion to the applicable fraction of a share of preferred stock represented by such depositary share.

Dividends and Other Distributions. The depositary will distribute all cash dividends and other cash distributions received on the Series A Preferred Stock to the holders of record of the depositary receipts in proportion to the number of depositary shares held by each holder. In the event of a distribution other than in cash, the depositary will distribute property received by it to the holders of record of the depositary receipts in proportion to the number of depositary shares held by each holder.

The depositary will distribute dividends and other distributions only in an amount that can be distributed without attributing to any holder of depositary receipts a fraction of one cent. Any balance not so distributable will be held by the depositary and will be added to the next sum received by the depositary for distribution.

Taxes and Other Governmental Charges. Hovnanian pays all transfer and other taxes and governmental charges arising solely from the existence of the depositary arrangements. Hovnanian pays charges of the depositary in connection with the deposit of Series A Preferred Stock and any redemption of Series A Preferred Stock. The amount paid as dividends or otherwise distributable by the depositary with respect to the depositary shares or the underlying Series A Preferred Stock is reduced by any amounts required to be withheld by Hovnanian or the depositary on account of taxes or other governmental charges. Holders of depositary receipts pay other transfer and other taxes and governmental charges and such other charges, including a fee for the withdrawal of shares of Series A Preferred Stock upon surrender of depositary receipts, as are expressly provided in the deposit agreement to be for their accounts. The depositary may refuse to make any payment or distribution, or any transfer, exchange or withdrawal of any depositary shares or shares of Series A Preferred Stock, until such taxes or other governmental charges are paid.

Redemption of Depositary Shares. If Hovnanian redeems the Series A Preferred Stock, in whole or in part, the corresponding depositary shares will also be redeemed. The redemption price per depositary share will be equal to 1/1,000th of the redemption price per share of Series A Preferred Stock.

Withdrawal of Series A Preferred Stock. Underlying shares of Series A Preferred Stock may be withdrawn from the depositary arrangement upon surrender of depositary receipts and upon payment of the taxes, charges and fees provided for in the deposit agreement. Subject to the terms of the deposit agreement, the holder of depositary receipts will receive the appropriate number of shares of Series A Preferred Stock and any money or property represented by such depositary shares. Only whole shares of Series A Preferred Stock may be withdrawn; if a holder holds an amount other than a whole multiple of 1,000 depositary shares, the depositary will deliver along with the withdrawn shares of Series A Preferred Stock a new depositary receipt evidencing the excess number of depositary shares. Except as described in the deposit agreement, holders of withdrawn shares of Series A Preferred Stock will not be entitled to redeposit such shares or to receive depositary shares.

Voting Rights. Because each depositary share represents ownership of 1/1,000th of a share of Series A Preferred Stock, and each share of Series A Preferred Stock is entitled to a vote per share based on liquidation preference under the limited circumstances described above, holders of depositary receipts are entitled to 1/1,000th of such vote per depositary share under such limited circumstances.

Amended Rights Plan

On July 29, 2008, the Board of Directors adopted a shareholder rights plan and declared a dividend of one preferred share purchase right for each outstanding share of Class A Common Stock and Class B Common Stock, which was subsequently paid to stockholders of record as of August 15, 2008. On January 11, 2018, Hovnanian entered into Amendment No. 1 to the Rights Agreement dated August 14, 2008 (as amended, the “Amended Rights Plan”). Subject to the terms, provisions and conditions of the Amended Rights Plan (and adjusting in accordance therewith for the reverse stock split of the Company’s Common Stock at a ratio of 1-for-25 effected on March 29, 2019, if and when it becomes exercisable, each right would entitle its holder to purchase from Hovnanian one ten-thousandth of a share of Hovnanian’s Series B Junior Preferred Stock (the “Series B Preferred Stock”) for a purchase price of \$415.00, the “Purchase Price.” If issued, each fractional share of Series B Preferred Stock would give the stockholder approximately the same dividend, voting and liquidation rights as does one share of Hovnanian’s Class A Common Stock. However, prior to exercise, a right does not give its holder any rights as a stockholder of Hovnanian, including without limitation any dividend, voting or liquidation rights.

The Board of Directors adopted the Amended Rights Plan in an effort to preserve shareholder value by attempting to protect against a possible limitation on Hovnanian’s ability to use its NOLs to reduce potential future federal income tax obligations. Any person or group that acquires 4.9% or more of the outstanding shares of Class A Common Stock without the approval of the Board of Directors is referred to as an “Acquiring Person.”

Exercisability. The rights will not be exercisable until the earlier of (i) 10 business days after a public announcement by us that a person or group has become an Acquiring Person and (ii) 10 business days after the commencement of a tender or exchange offer by a person or group for 4.9% of the Class A Common Stock.

Until the date that the rights become exercisable, the “Distribution Date,” the rights are evidenced by Hovnanian’s Class A Common Stock and Class B Common Stock certificates which contain a notation to that effect. Any transfer of shares of Class A Common Stock and/or Class B Common Stock prior to the Distribution Date constitutes a transfer of the associated rights. After the Distribution Date, the rights may be transferred separately from the transfer of the underlying shares of Class A Common Stock or Class B Common Stock. After the Distribution Date, each holder of a right, other than rights beneficially owned by the Acquiring Person (which will thereupon become void), will thereafter have the right to receive upon exercise of a right and payment of the Purchase Price, that number of shares of Class A Common Stock or Class B Common Stock, as the case may be, having a market value of two times the Purchase Price.

Exchange. After the Distribution Date, the Board of Directors may exchange the rights (other than rights owned by an Acquiring Person which will have become void), in whole or in part, at an exchange ratio of one share of Common Stock, or a fractional share of Series B Preferred Stock (or of a share of a similar class or series of Hovnanian’s preferred stock having similar rights, preferences and privileges) of equivalent value, per right (subject to adjustment).

Expiration. The Amended Rights Plan will continue in effect until August 14, 2021, unless it expires earlier in accordance with its terms.

Redemption. At any time prior to the time an Acquiring Person becomes such, the Board of Directors may redeem the rights in whole, but not in part, at a price of \$0.01 per right, the “Redemption Price.” The redemption of the rights may be made effective at such time, on such basis and with such conditions as the Board of Directors in its sole discretion may establish. Immediately upon any redemption of the rights, the right to exercise the rights will terminate and the only right of the holders of rights will be to receive the Redemption Price.

Anti-Dilution Provisions. The Board of Directors may adjust the purchase price of the preferred shares, the number of preferred shares issuable and the number of outstanding rights to prevent dilution that may occur as a result of certain events, including among others, a stock dividend, a stock split or a reclassification of the preferred stock or Common Stock. No adjustments to the purchase price of less than 1% will be made.

Amendments. Before the Distribution Date, the Board of Directors may amend or supplement the Amended Rights Plan without the consent of the holders of the rights. After the Distribution Date, the Board of Directors may amend or supplement the Amended Rights Plan only to cure an ambiguity, to alter time period provisions, to correct inconsistent provisions, or to make any additional changes to the Amended Rights Plan, but only to the extent that those changes do not impair or adversely affect any rights holder.

Exceptions. The Board of Directors may exempt any person or group from triggering the dilutive effect of the Amended Rights Plan.

Series B Junior Preferred Stock

Dividends. Subject to the rights of the holders of any shares of any series of preferred stock ranking prior to the Series B Preferred Stock with respect to dividends, the holders of shares of Series B Preferred Stock, in preference to the holders of Common Stock of the Company, and of any other junior stock, will be entitled to receive, when, as and if declared by the Board out of funds legally available for the purpose, dividends payable in cash (except as otherwise provided below) on such dates as are from time to time established for the payment of dividends on the Common Stock (each such date being referred to herein as a “Dividend Payment Date”), commencing on the first Dividend Payment Date after the first issuance of a share or fraction of a share of Series B Preferred Stock (the “First Dividend Payment Date”), in an amount per share (rounded to the nearest cent) equal to, subject to the provision for adjustment discussed below, the greater of (i) \$1 and (ii) ten thousand (10,000) times the aggregate per share amount of all cash dividends, and ten thousand (10,000) times the aggregate per share amount (payable in kind) of all non-cash dividends, other than a dividend payable in shares of Common Stock, or a subdivision of the outstanding shares of Common Stock (by reclassification or otherwise), declared on the Common Stock since the immediately preceding Dividend

Payment Date or, with respect to the First Dividend Payment Date, since the first issuance of any share or fraction of a share of Series B Preferred Stock. In the event that the Company at any time (i) declares a dividend on the outstanding shares of Common Stock payable in shares of Common Stock, (ii) subdivides the outstanding shares of Common Stock, (iii) combines the outstanding shares of Common Stock into a smaller number of shares or (iv) issues any shares of its capital stock in a reclassification of the outstanding shares of Common Stock (including any such reclassification in connection with a consolidation or merger in which the Company is the continuing or surviving corporation), then, in each such case and regardless of whether any shares of Series B Preferred Stock are then issued or outstanding, the amount to which holders of shares of Series B Preferred Stock would otherwise be entitled immediately prior to such event will be correspondingly adjusted by multiplying such amount by a fraction, the numerator of which is the number of shares of Common Stock outstanding immediately after such event and the denominator of which is the number of shares of Common Stock that were outstanding immediately prior to such event.

The Company will declare a dividend on the Series B Preferred Stock immediately after it declares a dividend on the Class A Common Stock and/or Class B Common Stock (other than a dividend payable in shares of Common Stock). Each such dividend on the Series B Preferred Stock will be payable immediately prior to the time at which the related dividend on the Class A Common Stock and/or Class B Common Stock is payable.

Dividends will accrue, and be cumulative, on outstanding shares of Series B Preferred Stock from the Dividend Payment Date next preceding the date of issue of such shares, subject to certain exceptions. Accrued but unpaid dividends will cumulate from the applicable Dividend Payment Date but will not bear interest.

Voting Rights. The holders of shares of Series B Preferred Stock have the following voting rights: (1) Subject to the provision for adjustment hereinafter set forth and except as otherwise provided in the Restated Certificate of Incorporation or required by law, each share of Series B Preferred Stock shall entitle the holder thereof to 10,000 votes, on all matters upon which the holders of the Common Stock of the Company are entitled to vote. In the event the Company shall at any time after the record date declare or pay any dividend on the Common Stock payable in shares of Common Stock, or effect a subdivision or combination or consolidation of the outstanding shares of Common Stock (by reclassification or otherwise than by payment of a dividend in shares of Common Stock) into a greater or lesser number of shares of Common Stock, then in each such case the number of votes per share to which holders of shares of Series B Preferred Stock were entitled immediately prior to such event shall be adjusted by multiplying such number by a fraction, the numerator of which is the number of shares of Common Stock outstanding immediately after such event and the denominator of which is the number of shares of Common Stock that were outstanding immediately prior to such event; (2) except as otherwise provided in the Certificate of Designation of Series B Junior Preferred Stock, in the Restated Certificate of Incorporation or in any other certificate of designations creating a series of preferred stock or any similar stock, and except as otherwise required by law, the holders of shares of Series B Preferred Stock and the holders of shares of Common Stock and any other capital stock of the Company having general voting rights shall vote together as one class on all matters submitted to a vote of stockholders of the Company; and (3) except as set forth in the Certificate of Designation of Series B Junior Preferred Stock, or as otherwise provided by law, holders of Series B Preferred Stock have no special voting rights and their consent is not required (except to the extent they are entitled to vote with holders of Common Stock as set forth in the Certificate of Designation of Series B Junior Preferred Stock) for taking any corporate action.

Restrictions. Whenever dividends or other dividends or distributions payable on the Series B Preferred Stock are in arrears, thereafter and until all accrued and unpaid dividends and distributions, whether or not declared, on shares of Series B Preferred outstanding have been paid in full, the Company will not: (1) declare or pay dividends, or make any other distributions, on any shares of stock ranking junior (either as to dividends or upon liquidation, dissolution or winding up) ("Junior Stock") to the shares of Series B Preferred Stock; (2) declare or pay dividends, or make any other distributions, on any shares of stock ranking on a parity (either as to dividends or upon liquidation, dissolution or winding up) ("Parity Stock") with the shares of Series B Preferred Stock, except dividends paid ratably on the shares of Series B Preferred Stock and all such Parity Stock on which dividends are payable or in arrears in proportion to the total amounts to which the holders of all such shares are then entitled; (3) redeem, purchase or otherwise acquire for consideration shares of any Junior Stock; provided, however, that the Company may at any time redeem, purchase or otherwise acquire shares of any such Junior Stock in exchange for shares of any other Junior Stock of the Company; or (4) redeem, purchase or otherwise acquire for consideration any shares of Series B Preferred Stock, or any shares of Parity Stock, except in accordance with a purchase offer made in writing or by publication (as determined by the Board of Directors) to all holders of such shares upon such terms as the Board of Directors, after consideration of the respective annual dividend rates and other relative rights and preferences of the respective series and classes, may determine in good faith will result in fair and equitable treatment among the respective series or classes. The Company will not permit any majority-owned subsidiary of the Company to purchase or otherwise acquire for consideration any shares of stock of the Company unless the Company could, under Section 4(a) of the Certificate of Designation of Series B Junior Preferred Stock, purchase or otherwise acquire such shares at such time and in such manner.

Liquidation, Dissolution or Winding Up. Upon any liquidation, dissolution or winding up of the Company, no distribution will be made (a) to the holders of shares of Junior Stock unless, prior thereto, the holders of shares of Series B Preferred Stock have received an amount equal to accrued and unpaid dividends and distributions thereon, whether or not declared, to the date of such payment; provided, however, that the holders of shares of Series B Preferred Stock will be entitled to receive an aggregate amount per share, subject to the provision for adjustment hereinafter set forth, equal to a minimum per share liquidation payment of \$10,000 but will be entitled to an aggregate per share liquidation payment of 10,000 times the payment made per share of Common Stock or (b) to the holders of shares of Parity Stock, except distributions made ratably on the shares of Series B Preferred Stock and all such Parity Stock in proportion to the total amounts to which the holders of all such shares are entitled upon such liquidation, dissolution or winding up. In the event the Company at any time (i) declares a dividend on the outstanding shares of Common Stock payable in shares of Common Stock, (ii) subdivides the outstanding shares of Common Stock, (iii) combines the outstanding shares of Common Stock into a smaller number of shares or (iv) issues any shares of its capital stock in a reclassification of the outstanding shares of Common Stock (including any such reclassification in connection with a consolidation or merger in which the Company is the continuing or surviving corporation), then, in each such case and regardless of whether any shares of Series B Preferred Stock are then issued or outstanding, the aggregate amount to which each holder of shares of Series B Preferred Stock would otherwise be entitled immediately prior to such event will be correspondingly adjusted by multiplying such amount by a fraction, the numerator of which is the number of shares of Common Stock outstanding immediately after such event and the denominator of which is the number of shares of Common Stock that were outstanding immediately prior to such event.

Consolidation, Merger, etc. In the event that the Company enters into any consolidation, merger, combination or other transaction in which the shares of Common Stock are exchanged for or changed into other stock or securities, cash and/or any other property, then, in each such case, each share of Series B Preferred Stock will at the same time be similarly exchanged for or changed into an amount per share, subject to the provision for adjustment hereinafter set forth, equal to ten thousand times the aggregate amount of stock, securities, cash and/or any other property (payable in kind), as the case may be, into which or for which each share of Common Stock is changed or exchanged. In the event the Company at any time (a) declares a dividend on the outstanding shares of Common Stock payable in shares of Common Stock, (b) subdivides the outstanding shares of Common Stock, (c) combines the outstanding shares of Common Stock in a smaller number of shares or (d) issues any shares of its capital stock in a reclassification of the outstanding shares of Common Stock (including any such reclassification in connection with a consolidation or merger in which the Company is the continuing or surviving corporation), then, in each such case and regardless of whether any shares of Series B Preferred Stock are then issued or outstanding, the amount set forth in the preceding sentence with respect to the exchange or change of shares of Series B Preferred Stock will be correspondingly adjusted by multiplying such amount by a fraction, the

numerator of which is the number of shares of Common Stock outstanding immediately after such event and the denominator of which is the number of shares of Common Stock that were outstanding immediately prior to such event.

SECOND AMENDMENT TO THE CREDIT AGREEMENT

This SECOND AMENDMENT, dated as of October 31, 2019 (this "Amendment"), to the \$212,500,000 Credit Agreement, dated as of January 29, 2018 (as amended by the First Amendment, dated as of May 14, 2019 and as further amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), among HOVNANIAN ENTERPRISES, INC., a Delaware corporation ("Holdings"), K. HOVNANIAN ENTERPRISES, INC., a California corporation ("Borrower"), the Subsidiaries of Holdings from time to time party thereto (each a "Subsidiary Guarantor" and collectively, together with Holdings, the "Guarantors"), each lender from time to time party thereto (collectively, the "Lenders" and individually, each a "Lender") and WILMINGTON TRUST, NATIONAL ASSOCIATION, as administrative agent ("Administrative Agent"), is entered into by and among the Borrower, Holdings, the Administrative Agent and the Lenders signatory hereto (which constitute Required Lenders).

W I T N E S S E T H:

WHEREAS, the Borrower, Holdings, the Administrative Agent and the Lenders have requested an amendment to the Credit Agreement; and

WHEREAS, pursuant to Section 9.01 of the Credit Agreement, the Borrower, Holdings, the Subsidiary Guarantors, the Lenders party hereto (which constitute the Required Lenders) and the Administrative Agent are willing to agree to this Amendment on the terms set forth herein.

NOW THEREFORE, in consideration of the premises and mutual covenants hereinafter set forth, the parties hereto agree as follows:

ARTICLE 1. DEFINITIONS

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

ARTICLE 2. AMENDMENT

SECTION 2.1. Amendments the Credit Agreement. Each of the parties hereto agrees that, upon the satisfaction of the conditions precedent set forth in Section 3.1 below, (i) the Credit Agreement shall be amended to delete the stricken text (indicated textually in the same manner as the following example: ~~stricken text~~) and to add the double-underlined text (indicated textually in the same manner as the following example: double-underlined text) as set forth in the pages of the Credit Agreement attached as Exhibit A hereto and (ii) Schedule 1.01 of the Credit Agreement shall be replaced in its entirety with the schedule set forth in Exhibit B hereto.

SECTION 2.2. Guarantees. Each guarantor listed in Schedule I and II hereto, by its execution of this Amendment, agrees to be a Guarantor with respect to the obligations under the Credit Agreement and to be bound by the terms of the Credit Agreement applicable to Guarantors, including, but not limited to, Article X thereof.

ARTICLE 3.
CONDITIONS; GENERAL

SECTION 3.1. Effectiveness. This Amendment shall become effective as of the date (the “Second Amendment Effective Date”) on which the Administrative Agent (or its outside counsel) shall have received (i) a duly executed and completed counterpart hereof that bears the signature of each of the Borrower and Holdings, (ii) a duly executed and completed counterpart hereof that bears the signature of the Administrative Agent and (iii) duly executed and completed counterparts hereof that bear the signatures of Lenders sufficient to constitute the Required Lenders.

SECTION 3.2. Representations and Warranties. Each of the Borrower and Holdings represents and warrants to each of the Lenders and the Administrative Agent that, as of the Second Amendment Effective Date:

(a) This Amendment has been duly authorized, executed and delivered by it, and this Amendment and the Credit Agreement, as amended hereby, constitutes its valid and binding obligation, enforceable against it in accordance with its terms except as the enforceability thereof may be limited by the effects of bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and other similar laws relating to or affecting creditors’ rights generally, general equitable principles (whether considered in a proceeding in equity or at law) and an implied covenant of good faith and fair dealing.

(b) At the time of entering into, and immediately after giving effect to, this Amendment, no Default or Event of Default has occurred and is continuing.

SECTION 3.3. Effect of Amendment.

(a) Except as expressly set forth herein, the execution, delivery and effectiveness of this Amendment shall not, by implication or otherwise, alter, modify, amend or in any way affect any of the terms, conditions, obligations, liabilities, covenants or agreements contained in the Credit Agreement, or any other provision of the Credit Agreement or of any other Loan Document, which shall remain in full force and effect and are hereby ratified and confirmed.

(b) The execution, delivery and effectiveness of this Amendment shall not, by implication or otherwise, (i) constitute or operate as a waiver of any Defaults or Events of Default that may be continuing under the Credit Agreement or (ii) limit, impair, constitute or operate as a waiver of, or otherwise affect any of the rights, powers, privileges or remedies of, the Lenders or the Administrative Agent under the Credit Agreement or any other Loan Document.

(c) On and after the Second Amendment Effective Date, each reference in the Credit Agreement to “this Agreement”, “hereunder”, “hereof”, “herein”, or words of like import, and each reference to the Credit Agreement in any other Loan Document shall be deemed a reference to the Credit Agreement, as amended hereby, and this Amendment and the Credit Agreement shall be read together and construed as a single instrument. This Amendment shall constitute a Loan Document under the terms of the Credit Agreement.

SECTION 3.4. General.

(a) Incorporation by Reference. Sections 9.12 through (and including) 9.16 and Section 9.19 of the Credit Agreement are hereby incorporated by reference and shall apply to this Amendment, *mutatis mutandis*.

(b) Counterparts. This Amendment may be executed by one or more of the parties to this Amendment in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Delivery by telecopier or other electronic transmission (including portable document format) of an executed counterpart of a signature page to this Amendment shall be effective as delivery of an original executed counterpart hereof.

(c) Headings. The headings of this Amendment are used for convenience of reference only, are not part of this Amendment and shall not affect the construction of, or be taken into consideration in interpreting, this Amendment.

(d) Binding; Administrative Agent. Each of the Lenders party hereto, by its execution below, (i) authorizes the Administrative Agent to execute and deliver this Amendment and (ii) agrees to be bound by the terms and conditions of this Amendment. Wilmington Trust, National Association is entering into this Amendment solely in its capacity as Administrative Agent under the Credit Agreement and as such in executing this Amendment and acting hereunder, it shall be entitled to the rights, benefits, protections, indemnities and immunities afforded to it as Administrative Agent under the Credit Agreement.

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

HOVNANIAN ENTERPRISES, INC.,
as Holdings

By: /s/ David Bachstetter
Name: David Bachstetter
Title: Vice President, Finance and Treasurer

K. HOVNANIAN ENTERPRISES, INC.,
as the Borrower

By: /s/ David Bachstetter
Name: David Bachstetter
Title: Vice President, Finance and Treasurer

K. HOV IP, II, INC.,

By: /s/ David Bachstetter
Name: David Bachstetter
Title: Vice President, Finance and Treasurer

**On behalf of each of the entities listed on
Schedules I and II hereto**

By: /s/ David Bachstetter
Name: David Bachstetter
Title: Vice President, Finance and Treasurer

[Hovnanian – Second Amendment to Credit Agreement (Term Loan Credit Facility)]

WILMINGTON TRUST, NATIONAL ASSOCIATION,
as Administrative Agent

By: /s/ Jeffery Rose

Name: Jeffery Rose

Title: Vice President

[Hovnanian – Second Amendment to Credit Agreement (Term Loan Credit Facility)]

Signature Page of Lenders on file with the Administrative Agent

[Hovnanian – Second Amendment to Credit Agreement (Term Loan Credit Facility)]

List of New Guarantors

AMBER RIDGE, LLC
GTIS-HOV DULLES PARKWAY PARENT LLC
GTIS-HOV FESTIVAL LAKES LLC
GTIS-HOV GREENFIELD CROSSING PARENT LLC
GTIS-HOV HOLDINGS LLC
GTIS-HOV POSITANO LLC
GTIS-HOV RANCHO 79 LLC
GTIS-HOV RESIDENCES AT DULLES PARKWAY LLC
GTIS-HOV RESIDENCES AT GREENFIELD CROSSING LLC
GTIS-HOV VILLAGES AT PEPPER MILL LLC
GTIS-HOV WARMINSTER LLC
HOMEBUYERS FINANCIAL USA, LLC
HOVSITE CATALINA LLC
HOVSITE CHURCHILL CLUB LLC
HOVSITE CIDER GROVE LLC
HOVSITE FIRENZE LLC
HOVSITE GREENWOOD MANOR LLC
HOVSITE HUNT CLUB LLC
HOVSITE IRISH PRAIRIE LLC
HOVSITE LIBERTY LAKES LLC
HOVSITE MONTEVERDE 1 & 2 LLC
HOVSITE MONTEVERDE 3 & 4 LLC
HOVSITE PROVIDENCE LLC
HOVSITE SOUTHAMPTON LLC
K. HOVNANIAN SOUTHERN CALIFORNIA DIVISION, LLC
K. HOVNANIAN AMBER GLEN, LLC
K. HOVNANIAN ARIZONA NEW GC, LLC
K. HOVNANIAN ASPIRE AT MORRIS WOODS, LLC
K. HOVNANIAN AT 23 NORTH, LLC
K. HOVNANIAN AT AMBERLEY WOODS, LLC
K. HOVNANIAN AT AUTUMN RIDGE, LLC
K. HOVNANIAN AT BALTIC & AEGEAN ASBURY PARK, LLC
K. HOVNANIAN AT BRADWELL ESTATES, LLC
K. HOVNANIAN AT BRITTANY MANOR BORROWER, LLC
K. HOVNANIAN AT BRITTANY MANOR, LLC
K. HOVNANIAN AT CADENCE PARK, LLC
K. HOVNANIAN AT CANTER V, LLC
K. HOVNANIAN AT CEDAR LANE ESTATES, LLC
K. HOVNANIAN AT DEER RIDGE, LLC
K. HOVNANIAN AT DOMINION CROSSING, LLC
K. HOVNANIAN AT EAGLE HEIGHTS, LLC
K. HOVNANIAN AT EMBREY MILL, LLC

K. HOVNANIAN AT GRANDE PARK, LLC
K. HOVNANIAN AT HAMMOCK BREEZE, LLC
K. HOVNANIAN AT HIDDEN LAKE, LLC
K. HOVNANIAN AT HUNTER'S POND, LLC
K. HOVNANIAN AT LAKES AT NEW RIVERSIDE, LLC
K. HOVNANIAN AT MADISON SQUARE, LLC
K. HOVNANIAN AT MANALAPAN IV, LLC
K. HOVNANIAN AT MAPLE HILL LLC
K. HOVNANIAN AT MARYLAND RIDGE, LLC
K. HOVNANIAN AT MELODY FARM, LLC
K. HOVNANIAN AT MERIDIAN HILLS, LLC
K. HOVNANIAN AT MORRIS TWP II, LLC
K. HOVNANIAN AT MYSTIC DUNES, LLC
K. HOVNANIAN AT NORTH GROVE CROSSING, LLC
K. HOVNANIAN AT NORTH POINTE ESTATES LLC
K. HOVNANIAN AT ORCHARD MEADOWS, LLC
K. HOVNANIAN AT PELHAM'S REACH, LLC
K. HOVNANIAN AT PHILADELPHIA I, L.L.C.
K. HOVNANIAN AT PINCKNEY FARM, LLC
K. HOVNANIAN AT PORT IMPERIAL URBAN RENEWAL II, L.L.C.
K. HOVNANIAN AT PORT IMPERIAL URBAN RENEWAL III, L.L.C.
K. HOVNANIAN AT RANDALL HIGHLANDS, LLC
K. HOVNANIAN AT RAYMOND FARM, LLC
K. HOVNANIAN AT RIVER HILLS, LLC
K. HOVNANIAN AT SILVERWOOD GLEN, LLC
K. HOVNANIAN AT SOLARE, LLC
K. HOVNANIAN AT TAMARACK SOUTH LLC
K. HOVNANIAN AT TANGLEWOOD OAKS, LLC
K. HOVNANIAN AT THE BOULEVARDS AT WESTFIELDS, LLC
K. HOVNANIAN AT THE HIGHLANDS AT SUMMERLAKE GROVE, LLC
K. HOVNANIAN AT THE MEADOWS, LLC
K. HOVNANIAN AT TOWER HILL, LLC
K. HOVNANIAN AT VALLETTA, LLC
K. HOVNANIAN AT VILLAGE OF ROUND HILL, LLC
K. HOVNANIAN AT VISTA LAGO, LLC
K. HOVNANIAN AT WADE'S GRANT, L.L.C.
K. HOVNANIAN AT WATERFORD, LLC
K. HOVNANIAN AT WELLSPRINGS, LLC
K. HOVNANIAN AT WILLOWSFORD GREENS III, LLC
K. HOVNANIAN CA LAND HOLDINGS, LLC
K. HOVNANIAN CALIFORNIA NEW GC, LLC
K. HOVNANIAN COMPANIES OF ARIZONA, LLC
K. HOVNANIAN COMPANIES OF FLORIDA, LLC
K. HOVNANIAN CYPRESS CREEK, LLC
K. HOVNANIAN DELAWARE NEW GC, LLC
K. HOVNANIAN DFW ASCEND AT HIGHTOWER, LLC

K. HOVNANIAN DFW BAYSIDE, LLC
K. HOVNANIAN DFW BERKSHIRE II, LLC
K. HOVNANIAN DFW BERKSHIRE, LLC
K. HOVNANIAN DFW CALLOWAY TRAILS, LLC
K. HOVNANIAN DFW CANYON FALLS, LLC
K. HOVNANIAN DFW CARILLON, LLC
K. HOVNANIAN DFW COMMODORE AT PRESTON, LLC
K. HOVNANIAN DFW DIVISION, LLC
K. HOVNANIAN DFW HERON POND, LLC
K. HOVNANIAN DFW HIGH POINTE, LLC
K. HOVNANIAN DFW MAXWELL CREEK, LLC
K. HOVNANIAN DFW MILRANY RANCH, LLC
K. HOVNANIAN DFW MUSTANG LAKES II, LLC
K. HOVNANIAN DFW MUSTANG LAKES, LLC
K. HOVNANIAN DFW OAKMONT PARK, LLC
K. HOVNANIAN DFW PARKVIEW, LLC
K. HOVNANIAN DFW RICHWOODS, LLC
K. HOVNANIAN DFW WATSON CREEK, LLC
K. HOVNANIAN FLORIDA NEW GC, LLC
K. HOVNANIAN FOREST LAKES, LLC
K. HOVNANIAN GEORGIA NEW GC, LLC
K. HOVNANIAN HOMES - DFW II, L.L.C.
K. HOVNANIAN HOMES AT KNOLLAC ACRES, LLC
K. HOVNANIAN HOMES AT PARKSIDE, LLC
K. HOVNANIAN HOMES AT WILLOWSFORD GRANGE, LLC
K. HOVNANIAN HOMES AT WILLOWSFORD NEW, LLC
K. HOVNANIAN HOMES OF DELAWARE I, LLC
K. HOVNANIAN HOMES OF FLORIDA I, LLC
K. HOVNANIAN HOMES OF MARYLAND I, LLC
K. HOVNANIAN HOMES OF MARYLAND II, LLC
K. HOVNANIAN HOMES OF VIRGINIA I, LLC
K. HOVNANIAN HOUSTON DIVISION, LLC
K. HOVNANIAN HOUSTON ELDRIDGE PARK, LLC
K. HOVNANIAN HOUSTON GREATWOOD LAKE, LLC
K. HOVNANIAN HOUSTON LAKES OF BELLA TERRA WEST, LLC
K. HOVNANIAN HOUSTON LAUREL GLEN, LLC
K. HOVNANIAN HOUSTON MIDTOWN PARK I, LLC
K. HOVNANIAN HOUSTON PARK LAKES EAST, LLC
K. HOVNANIAN HOUSTON PARKWAY TRAILS, LLC
K. HOVNANIAN ILLINOIS NEW GC, LLC
K. HOVNANIAN ILLINOIS OLD GC, LLC
K. HOVNANIAN IVY TRAIL, LLC
K. HOVNANIAN JV HOLDINGS, L.L.C.
K. HOVNANIAN JV SERVICES COMPANY, L.L.C.
K. HOVNANIAN LAKE PARKER, LLC
K. HOVNANIAN MARYLAND DIVISION, LLC

K. HOVNANIAN MEADOW LAKES, LLC
K. HOVNANIAN MONTCLAIRE ESTATES, LLC
K. HOVNANIAN NEW JERSEY NEW GC, LLC
K. HOVNANIAN NORTHERN CALIFORNIA DIVISION, LLC
K. HOVNANIAN OCOEE LANDINGS, LLC
K. HOVNANIAN OF HOUSTON III, L.L.C.
K. HOVNANIAN OHIO NEW GC, LLC
K. HOVNANIAN ORLANDO DIVISION, LLC
K. HOVNANIAN PARKVIEW AT STERLING MEADOWS, LLC
K. HOVNANIAN PENNSYLVANIA NEW GC, LLC
K. HOVNANIAN REDFERN TRAILS, LLC
K. HOVNANIAN RIVINGTON, LLC
K. HOVNANIAN SAN SEBASTIAN, LLC
K. HOVNANIAN SERENO, LLC
K. HOVNANIAN SOUTH CAROLINA NEW GC, LLC
K. HOVNANIAN SOUTHEAST FLORIDA DIVISION, LLC
K. HOVNANIAN TERRALARGO, LLC
K. HOVNANIAN TEXAS OPERATIONS NEW, LLC
K. HOVNANIAN TEXAS OPERATIONS OLD, LLC
K. HOVNANIAN VIRGINIA NEW GC, LLC
K. HOVNANIAN WEST VIRGINIA NEW GC, LLC
K. HOVNANIAN'S FOUR SEASONS AT CAROLINA OAKS, LLC
K. HOVNANIAN'S FOUR SEASONS AT MALIND BLUFF, LLC
K. HOVNANIAN'S SONATA AT THE PRESERVE, LLC
LINKS AT CALUSA SPRINGS, LLC
TRAVERSE PARTNERS, LLC

List of Existing Guarantors

2700 EMPIRE, LLC
ARBOR TRAILS, LLC
BUILDER SERVICES NJ, L.L.C.
BUILDER SERVICES PA, L.L.C.
EASTERN NATIONAL ABSTRACT, INC.
EASTERN NATIONAL TITLE AGENCY ARIZONA, LLC
EASTERN NATIONAL TITLE AGENCY FLORIDA, LLC
EASTERN NATIONAL TITLE AGENCY ILLINOIS, LLC
EASTERN NATIONAL TITLE AGENCY MARYLAND, LLC
EASTERN NATIONAL TITLE AGENCY VIRGINIA, INC.
EASTERN NATIONAL TITLE AGENCY, INC.
F&W MECHANICAL SERVICES, L.L.C.
GLENRISE GROVE, L.L.C.
HOMEBUYERS FINANCIAL SERVICES, L.L.C.
HOVNANIAN DEVELOPMENTS OF FLORIDA, INC.
HOVNANIAN LAND INVESTMENT GROUP OF FLORIDA, L.L.C.
HOVNANIAN LAND INVESTMENT GROUP OF MARYLAND, L.L.C.
HOVNANIAN LAND INVESTMENT GROUP, L.L.C.
K. HOVNANIAN ABERDEEN, LLC
K. HOVNANIAN ACQUISITIONS, INC.
K. HOVNANIAN ARIZONA OLD GC, LLC
K. HOVNANIAN ASBURY POINTE, LLC
K. HOVNANIAN ASPIRE AT BELLEVUE RANCH, LLC
K. HOVNANIAN ASPIRE AT RIVER TERRACE, LLC
K. HOVNANIAN ASPIRE AT WATERSTONE, LLC
K. HOVNANIAN AT 240 MISSOURI, LLC
K. HOVNANIAN AT ACACIA PLACE, LLC
K. HOVNANIAN AT AIRE ON MCDOWELL, LLC
K. HOVNANIAN AT ALEXANDER LAKES, LLC
K. HOVNANIAN AT ALISO, LLC
K. HOVNANIAN AT ALLENTOWN, L.L.C.
K. HOVNANIAN AT ANDALUSIA, LLC
K. HOVNANIAN AT ASBURY PARK URBAN RENEWAL, LLC
K. HOVNANIAN AT ASHBY PLACE, LLC
K. HOVNANIAN AT ASHLEY POINTE LLC
K. HOVNANIAN AT AVENIR, LLC
K. HOVNANIAN AT BAKERSFIELD 463, L.L.C.
K. HOVNANIAN AT BARNEGAT II, L.L.C.
K. HOVNANIAN AT BEACON PARK AREA 129 II, LLC
K. HOVNANIAN AT BEACON PARK AREA 129, LLC
K. HOVNANIAN AT BEACON PARK AREA 137, LLC
K. HOVNANIAN AT BENSEN'S MILL ESTATES, LLC
K. HOVNANIAN AT BLACKSTONE, LLC

K. HOVNANIAN AT BOCA DUNES, LLC
K. HOVNANIAN AT BRANCHBURG II, LLC
K. HOVNANIAN AT BRANCHBURG, L.L.C.
K. HOVNANIAN AT BRANCHBURG-VOLLERS, LLC
K. HOVNANIAN AT BRENFORD STATION, LLC
K. HOVNANIAN AT BRIDGEWATER I, L.L.C.
K. HOVNANIAN AT BURCH KOVE, LLC
K. HOVNANIAN AT CAMP HILL, L.L.C.
K. HOVNANIAN AT CAPISTRANO, L.L.C.
K. HOVNANIAN AT CARLSBAD, LLC
K. HOVNANIAN AT CATANIA, LLC
K. HOVNANIAN AT CATON'S RESERVE, LLC
K. HOVNANIAN AT CEDAR GROVE III, L.L.C.
K. HOVNANIAN AT CEDAR LANE, LLC
K. HOVNANIAN AT CHESTERFIELD, L.L.C.
K. HOVNANIAN AT CHRISTINA COURT, LLC
K. HOVNANIAN AT CHURCHILL FARMS LLC
K. HOVNANIAN AT CIELO, L.L.C.
K. HOVNANIAN AT COOSAW POINT, LLC
K. HOVNANIAN AT CORAL LAGO, LLC
K. HOVNANIAN AT DOYLESTOWN, LLC
K. HOVNANIAN AT DUNELLEN URBAN RENEWAL, LLC
K. HOVNANIAN AT EAST BRUNSWICK III, LLC
K. HOVNANIAN AT EAST BRUNSWICK, LLC
K. HOVNANIAN AT EAST WINDSOR, LLC
K. HOVNANIAN AT EDEN TERRACE, L.L.C.
K. HOVNANIAN AT EGG HARBOR TOWNSHIP II, L.L.C.
K. HOVNANIAN AT EL DORADO RANCH II, L.L.C.
K. HOVNANIAN AT EL DORADO RANCH, L.L.C.
K. HOVNANIAN AT EMBREY MILL VILLAGE, LLC
K. HOVNANIAN AT ESTATES AT WHEATLANDS, LLC
K. HOVNANIAN AT ESTATES OF CHANCELLORSVILLE, LLC
K. HOVNANIAN AT ESTATES OF FOX CHASE, LLC
K. HOVNANIAN AT FAIRFIELD RIDGE, LLC
K. HOVNANIAN AT FIDDYMENT RANCH, LLC
K. HOVNANIAN AT FIFTH AVENUE, L.L.C.
K. HOVNANIAN AT FLORENCE I, L.L.C.
K. HOVNANIAN AT FLORENCE II, L.L.C.
K. HOVNANIAN AT FOX PATH AT HAMPTON LAKE, LLC
K. HOVNANIAN AT FRANKLIN II, L.L.C.
K. HOVNANIAN AT FRANKLIN, L.L.C.
K. HOVNANIAN AT FREEHOLD TOWNSHIP III, LLC
K. HOVNANIAN AT FRESNO, LLC
K. HOVNANIAN AT GALLERY, LLC
K. HOVNANIAN AT GALLOWAY RIDGE, LLC
K. HOVNANIAN AT GASLAMP SQUARE, L.L.C.

K. HOVNANIAN AT GILROY 60, LLC
K. HOVNANIAN AT GILROY, LLC
K. HOVNANIAN AT GREAT NOTCH, L.L.C.
K. HOVNANIAN AT HACKETTSTOWN II, L.L.C.
K. HOVNANIAN AT HAMPTON COVE, LLC
K. HOVNANIAN AT HAMPTON LAKE, LLC
K. HOVNANIAN AT HANOVER ESTATES, LLC
K. HOVNANIAN AT HERSHEY'S MILL, INC.
K. HOVNANIAN AT HIDDEN BROOK, LLC
K. HOVNANIAN AT HIGHLAND PARK, LLC
K. HOVNANIAN AT HILLSBOROUGH, LLC
K. HOVNANIAN AT HILLTOP RESERVE II, LLC
K. HOVNANIAN AT HILLTOP RESERVE, LLC
K. HOVNANIAN AT HOLLY RIDGE, LLC
K. HOVNANIAN AT HOWELL FORT PLAINS, LLC
K. HOVNANIAN AT HOWELL II, LLC
K. HOVNANIAN AT HOWELL, LLC
K. HOVNANIAN AT HUDSON POINTE, L.L.C.
K. HOVNANIAN AT HUNTFIELD, LLC
K. HOVNANIAN AT INDIAN WELLS, LLC
K. HOVNANIAN AT ISLAND LAKE, LLC
K. HOVNANIAN AT JACKS RUN, LLC
K. HOVNANIAN AT JACKSON I, L.L.C.
K. HOVNANIAN AT JACKSON, L.L.C.
K. HOVNANIAN AT JAEGER RANCH, LLC
K. HOVNANIAN AT LA LAGUNA, L.L.C.
K. HOVNANIAN AT LAKE BURDEN, LLC
K. HOVNANIAN AT LAKE FLORENCE, LLC
K. HOVNANIAN AT LAKE LECLARE, LLC
K. HOVNANIAN AT LAKE RIDGE ESTATES, LLC
K. HOVNANIAN AT LEE SQUARE, L.L.C.
K. HOVNANIAN AT LENAH WOODS, LLC
K. HOVNANIAN AT LIBERTY HILL FARM, LLC
K. HOVNANIAN AT LILY ORCHARD, LLC
K. HOVNANIAN AT LINK CROSSING, LLC
K. HOVNANIAN AT LITTLE EGG HARBOR TOWNSHIP II, L.L.C.
K. HOVNANIAN AT LOWER MACUNGIE TOWNSHIP I, L.L.C.
K. HOVNANIAN AT LOWER MACUNGIE TOWNSHIP II, L.L.C.
K. HOVNANIAN AT LOWER MAKEFIELD TOWNSHIP I, L.L.C.
K. HOVNANIAN AT LUKE LANDING, LLC
K. HOVNANIAN AT LUNA VISTA, LLC
K. HOVNANIAN AT MAGNOLIA PLACE, LLC
K. HOVNANIAN AT MAIN STREET SQUARE, LLC
K. HOVNANIAN AT MALAN PARK, L.L.C.
K. HOVNANIAN AT MANALAPAN CROSSING, LLC
K. HOVNANIAN AT MANALAPAN II, L.L.C.

K. HOVNIANIAN AT MANALAPAN III, L.L.C.
K. HOVNIANIAN AT MANALAPAN RIDGE, LLC
K. HOVNIANIAN AT MANALAPAN V, LLC
K. HOVNIANIAN AT MANALAPAN VI, LLC
K. HOVNIANIAN AT MANTECA, LLC
K. HOVNIANIAN AT MAPLE AVENUE, L.L.C.
K. HOVNIANIAN AT MARLBORO TOWNSHIP IX, L.L.C.
K. HOVNIANIAN AT MARLBORO TOWNSHIP V, L.L.C.
K. HOVNIANIAN AT MARLBORO VI, L.L.C.
K. HOVNIANIAN AT MEADOWRIDGE VILLAS, LLC
K. HOVNIANIAN AT MELANIE MEADOWS, LLC
K. HOVNIANIAN AT MENDHAM TOWNSHIP, L.L.C.
K. HOVNIANIAN AT MIDDLE TOWNSHIP II, L.L.C.
K. HOVNIANIAN AT MIDDLETOWN III, LLC
K. HOVNIANIAN AT MIDDLETOWN, LLC
K. HOVNIANIAN AT MILLVILLE II, L.L.C.
K. HOVNIANIAN AT MONROE IV, L.L.C.
K. HOVNIANIAN AT MONROE NJ II, LLC
K. HOVNIANIAN AT MONROE NJ III, LLC
K. HOVNIANIAN AT MONROE NJ, L.L.C.
K. HOVNIANIAN AT MONTANA VISTA DOBBINS, LLC
K. HOVNIANIAN AT MONTANA VISTA, LLC
K. HOVNIANIAN AT MONTGOMERY, LLC
K. HOVNIANIAN AT MONTVALE II, LLC
K. HOVNIANIAN AT MONTVALE, L.L.C.
K. HOVNIANIAN AT MORRIS TWP, LLC
K. HOVNIANIAN AT MUIRFIELD, LLC
K. HOVNIANIAN AT NORTH BERGEN. L.L.C.
K. HOVNIANIAN AT NORTH BRUNSWICK VI, L.L.C.
K. HOVNIANIAN AT NORTH CALDWELL II, L.L.C.
K. HOVNIANIAN AT NORTH CALDWELL III, L.L.C.
K. HOVNIANIAN AT NORTH CALDWELL IV, L.L.C.
K. HOVNIANIAN AT NORTH HILL, LLC
K. HOVNIANIAN AT NORTH WILDWOOD, L.L.C.
K. HOVNIANIAN AT NORTHAMPTON, L.L.C.
K. HOVNIANIAN AT NORTHRIDGE ESTATES, LLC
K. HOVNIANIAN AT NORTON LAKE LLC
K. HOVNIANIAN AT NOTTINGHAM MEADOWS, LLC
K. HOVNIANIAN AT OAK POINTE, LLC
K. HOVNIANIAN AT OAKLAND, LLC
K. HOVNIANIAN AT OCEAN VIEW BEACH CLUB, LLC
K. HOVNIANIAN AT OCEANPORT, L.L.C.
K. HOVNIANIAN AT OLD BRIDGE II, LLC
K. HOVNIANIAN AT OLD BRIDGE, L.L.C.
K. HOVNIANIAN AT PALM VALLEY, L.L.C.
K. HOVNIANIAN AT PARK PASEO, LLC

K. HOVNIANIAN AT PARKSIDE, LLC
K. HOVNIANIAN AT PARSIPPANY, L.L.C.
K. HOVNIANIAN AT PAVILION PARK, LLC
K. HOVNIANIAN AT PIAZZA SERENA, L.L.C
K. HOVNIANIAN AT PICKETT RESERVE, LLC
K. HOVNIANIAN AT PLANTATION LAKES, L.L.C.
K. HOVNIANIAN AT POINTE 16, LLC
K. HOVNIANIAN AT PORT IMPERIAL URBAN RENEWAL V, L.L.C.
K. HOVNIANIAN AT PORT IMPERIAL URBAN RENEWAL VIII, L.L.C.
K. HOVNIANIAN AT POSITANO, LLC
K. HOVNIANIAN AT PRAIRIE POINTE, LLC
K. HOVNIANIAN AT QUAIL CREEK, L.L.C.
K. HOVNIANIAN AT RANCHO CABRILLO, LLC
K. HOVNIANIAN AT RAPHO, L.L.C
K. HOVNIANIAN AT REDTAIL, LLC
K. HOVNIANIAN AT RESERVES AT WHEATLANDS, LLC
K. HOVNIANIAN AT RESIDENCE AT DISCOVERY SQUARE, LLC
K. HOVNIANIAN AT RETREAT AT MILLSTONE, LLC
K. HOVNIANIAN AT RIDGEMONT, L.L.C.
K. HOVNIANIAN AT ROCK LEDGE, LLC
K. HOVNIANIAN AT ROCKLAND VILLAGE GREEN, LLC
K. HOVNIANIAN AT ROCKY RUN VILLAGE, LLC
K. HOVNIANIAN AT RODERUCK, L.L.C.
K. HOVNIANIAN AT ROSEMARY LANTANA, L.L.C.
K. HOVNIANIAN AT SAGEBROOK, LLC
K. HOVNIANIAN AT SANTA NELLA, LLC
K. HOVNIANIAN AT SAWMILL, INC.
K. HOVNIANIAN AT SCOTTSDALE HEIGHTS, LLC
K. HOVNIANIAN AT SEABROOK, LLC
K. HOVNIANIAN AT SEASONS LANDING, LLC
K. HOVNIANIAN AT SHELDON GROVE, LLC
K. HOVNIANIAN AT SHREWSBURY, LLC
K. HOVNIANIAN AT SIENNA HILLS, LLC
K. HOVNIANIAN AT SIERRA VISTA, LLC
K. HOVNIANIAN AT SIGNAL HILL, LLC
K. HOVNIANIAN AT SILVER LEAF, LLC
K. HOVNIANIAN AT SILVER SPRING, L.L.C.
K. HOVNIANIAN AT SILVERSTONE G, LLC
K. HOVNIANIAN AT SILVERSTONE, LLC
K. HOVNIANIAN AT SKYE ISLE, LLC
K. HOVNIANIAN AT SKYE ON MCDOWELL, LLC
K. HOVNIANIAN AT SMITHVILLE, INC.
K. HOVNIANIAN AT SOMERSET, LLC
K. HOVNIANIAN AT SOUTH BRUNSWICK II, LLC
K. HOVNIANIAN AT SOUTH BRUNSWICK III, LLC
K. HOVNIANIAN AT SOUTH BRUNSWICK IV, LLC

K. HOVNIANIAN AT SPRING ISLE, LLC
K. HOVNIANIAN AT STANTON, LLC
K. HOVNIANIAN AT STATION SQUARE, L.L.C.
K. HOVNIANIAN AT SUMMERLAKE, LLC
K. HOVNIANIAN AT SUNRIDGE PARK, LLC
K. HOVNIANIAN AT SUNRISE TRAIL II, LLC
K. HOVNIANIAN AT TERRA BELLA TWO, LLC
K. HOVNIANIAN AT THE COMMONS AT RICHMOND HILL, LLC
K. HOVNIANIAN AT THE MEADOWS 9, LLC
K. HOVNIANIAN AT THE MONARCH, L.L.C.
K. HOVNIANIAN AT THE PROMENADE AT BEAVER CREEK, LLC
K. HOVNIANIAN AT THOMPSON RANCH, LLC
K. HOVNIANIAN AT TOWNES AT COUNTY CENTER, LLC
K. HOVNIANIAN AT TRAFFORD PLACE, LLC
K. HOVNIANIAN AT TRAIL RIDGE, LLC
K. HOVNIANIAN AT TRAMORE LLC
K. HOVNIANIAN AT UNION PARK, LLC
K. HOVNIANIAN AT UPPER PROVIDENCE, LLC
K. HOVNIANIAN AT UPPER UWCHLAN II, L.L.C.
K. HOVNIANIAN AT UPPER UWCHLAN, L.L.C.
K. HOVNIANIAN AT VALLE DEL SOL, LLC
K. HOVNIANIAN AT VENTANA LAKES, LLC
K. HOVNIANIAN AT VERONA ESTATES, LLC
K. HOVNIANIAN AT VERONA URBAN RENEWAL, L.L.C.
K. HOVNIANIAN AT VERRADO CASCINA, LLC
K. HOVNIANIAN AT VERRADO MARKETSIDE, LLC
K. HOVNIANIAN AT VICTORVILLE, L.L.C.
K. HOVNIANIAN AT VILLAGE CENTER, LLC
K. HOVNIANIAN AT VILLAGES AT COUNTRY VIEW, LLC
K. HOVNIANIAN AT VILLAS AT THE COMMONS, LLC
K. HOVNIANIAN AT VINEYARD HEIGHTS, LLC
K. HOVNIANIAN AT VISTA DEL SOL, L.L.C.
K. HOVNIANIAN AT WALDWICK, LLC
K. HOVNIANIAN AT WALKERS GROVE, LLC
K. HOVNIANIAN AT WALL DONATO, LLC
K. HOVNIANIAN AT WALL QUAIL RIDGE, LLC
K. HOVNIANIAN AT WARREN TOWNSHIP II, LLC
K. HOVNIANIAN AT WARREN TOWNSHIP, L.L.C.
K. HOVNIANIAN AT WATERSTONE, LLC
K. HOVNIANIAN AT WEST VIEW ESTATES, L.L.C.
K. HOVNIANIAN AT WESTBROOK, LLC
K. HOVNIANIAN AT WESTSHORE, LLC
K. HOVNIANIAN AT WHEELER RANCH, LLC
K. HOVNIANIAN AT WHEELER WOODS, LLC
K. HOVNIANIAN AT WHITEMARSH, LLC
K. HOVNIANIAN AT WILDWOOD BAYSIDE, L.L.C.

K. HOVNIANIAN AT WOODCREEK WEST, LLC
K. HOVNIANIAN AT WOOLWICH I, L.L.C.
K. HOVNIANIAN BELDEN POINTE, LLC
K. HOVNIANIAN BELMONT RESERVE, LLC
K. HOVNIANIAN BUILD ON YOUR LOT DIVISION, LLC
K. HOVNIANIAN CALIFORNIA OLD GC, INC.
K. HOVNIANIAN CALIFORNIA REGION, INC.
K. HOVNIANIAN CAMBRIDGE HOMES, L.L.C.
K. HOVNIANIAN CENTRAL ACQUISITIONS, L.L.C.
K. HOVNIANIAN CHICAGO DIVISION, INC.
K. HOVNIANIAN CLASSICS, L.L.C.
K. HOVNIANIAN COMMUNITIES, INC.
K. HOVNIANIAN COMPANIES OF MARYLAND, INC.
K. HOVNIANIAN COMPANIES OF NEW YORK, INC.
K. HOVNIANIAN COMPANIES OF SOUTHERN CALIFORNIA, INC.
K. HOVNIANIAN COMPANIES, LLC
K. HOVNIANIAN CONSTRUCTION II, INC
K. HOVNIANIAN CORNERSTONE FARMS, LLC
K. HOVNIANIAN CRAFTBUILT HOMES OF SOUTH CAROLINA, L.L.C.
K. HOVNIANIAN CYPRESS KEY, LLC
K. HOVNIANIAN D.C. GROUP, LLC
K. HOVNIANIAN DELAWARE DIVISION, INC.
K. HOVNIANIAN DELAWARE OLD GC, LLC
K. HOVNIANIAN DEVELOPMENTS OF D.C., INC.
K. HOVNIANIAN DEVELOPMENTS OF GEORGIA, INC.
K. HOVNIANIAN DEVELOPMENTS OF MINNESOTA, INC.
K. HOVNIANIAN DEVELOPMENTS OF NEW YORK, INC.
K. HOVNIANIAN DEVELOPMENTS OF NORTH CAROLINA, INC.
K. HOVNIANIAN DEVELOPMENTS OF PENNSYLVANIA, INC.
K. HOVNIANIAN DEVELOPMENTS OF TEXAS, INC.
K. HOVNIANIAN DEVELOPMENTS OF WEST VIRGINIA, INC.
K. HOVNIANIAN DFW AUBURN FARMS, LLC
K. HOVNIANIAN DFW BELMONT, LLC
K. HOVNIANIAN DFW BLUFF CREEK, LLC
K. HOVNIANIAN DFW COURTS AT BONNIE BRAE, LLC
K. HOVNIANIAN DFW CREEKSIDE ESTATES II, LLC
K. HOVNIANIAN DFW CREEKSIDE ESTATES, LLC
K. HOVNIANIAN DFW DIAMOND CREEK ESTATES, LLC
K. HOVNIANIAN DFW ENCORE OF LAS COLINAS II, LLC
K. HOVNIANIAN DFW ENCORE OF LAS COLINAS, LLC
K. HOVNIANIAN DFW HARMON FARMS, LLC
K. HOVNIANIAN DFW HERITAGE CROSSING, LLC
K. HOVNIANIAN DFW HOMESTEAD, LLC
K. HOVNIANIAN DFW INSPIRATION, LLC
K. HOVNIANIAN DFW LEXINGTON, LLC
K. HOVNIANIAN DFW LIBERTY CROSSING II, LLC

K. HOVNANIAN DFW LIBERTY CROSSING, LLC
K. HOVNANIAN DFW LIBERTY, LLC
K. HOVNANIAN DFW LIGHT FARMS II, LLC
K. HOVNANIAN DFW LIGHT FARMS, LLC
K. HOVNANIAN DFW MIDTOWN PARK, LLC
K. HOVNANIAN DFW PALISADES, LLC
K. HOVNANIAN DFW PARKSIDE, LLC
K. HOVNANIAN DFW RIDGEVIEW, LLC
K. HOVNANIAN DFW SANFORD PARK, LLC
K. HOVNANIAN DFW SEVENTEEN LAKES, LLC
K. HOVNANIAN DFW THE PARKS AT ROSEHILL, LLC
K. HOVNANIAN DFW TRAILWOOD II, LLC
K. HOVNANIAN DFW TRAILWOOD, LLC
K. HOVNANIAN DFW VILLAS AT MUSTANG PARK, LLC
K. HOVNANIAN DFW VILLAS AT THE STATION, LLC
K. HOVNANIAN DFW WELLINGTON VILLAS, LLC
K. HOVNANIAN DFW WELLINGTON, LLC
K. HOVNANIAN DFW WILDRIDGE, LLC
K. HOVNANIAN EASTERN PENNSYLVANIA, L.L.C.
K. HOVNANIAN EDGEBROOK, LLC
K. HOVNANIAN EDISON GROUP, LLC
K. HOVNANIAN ESTATES AT REGENCY, L.L.C.
K. HOVNANIAN ESTATES AT WEKIVA, LLC
K. HOVNANIAN FALLS POINTE, LLC
K. HOVNANIAN FINANCIAL SERVICES GROUP, LLC
K. HOVNANIAN FIRST HOMES, L.L.C.
K. HOVNANIAN FLORIDA OLD GC, LLC
K. HOVNANIAN FLORIDA REALTY, L.L.C.
K. HOVNANIAN FOREST VALLEY, LLC
K. HOVNANIAN FOUR SEASONS AT CHESTNUT RIDGE, LLC
K. HOVNANIAN GEORGIA OLD GC, LLC
K. HOVNANIAN GRAND CYPRESS, LLC
K. HOVNANIAN GRANDEFIELD, LLC
K. HOVNANIAN GREAT WESTERN HOMES, LLC
K. HOVNANIAN HAMPTONS AT OAK CREEK II, L.L.C.
K. HOVNANIAN HIDDEN HOLLOW, LLC
K. HOVNANIAN HIGHLAND RIDGE, LLC
K. HOVNANIAN HOLDINGS NJ, L.L.C.
K. HOVNANIAN HOMES - DFW, L.L.C.
K. HOVNANIAN HOMES AT BROOK MANOR, LLC
K. HOVNANIAN HOMES AT BURKE JUNCTION, LLC
K. HOVNANIAN HOMES AT CREEKSIDE, LLC
K. HOVNANIAN HOMES AT GREENWAY FARM, L.L.C.
K. HOVNANIAN HOMES AT JONES STATION 1, L.L.C.
K. HOVNANIAN HOMES AT LEIGH MILL, LLC
K. HOVNANIAN HOMES AT REEDY CREEK, LLC

K. HOVNANIAN HOMES AT RUSSETT, L.L.C.
K. HOVNANIAN HOMES AT SALT CREEK LANDING, LLC
K. HOVNANIAN HOMES AT SHELL HALL, LLC
K. HOVNANIAN HOMES AT SHENANDOAH SPRINGS, LLC
K. HOVNANIAN HOMES AT ST. JAMES PLACE, LLC
K. HOVNANIAN HOMES AT THE ABBY, LLC
K. HOVNANIAN HOMES AT THE HIGHLANDS, LLC
K. HOVNANIAN HOMES AT THE PADDOCKS, LLC
K. HOVNANIAN HOMES AT THOMPSON'S GRANT, LLC
K. HOVNANIAN HOMES AT WILLOWSFORD GRANT II, LLC
K. HOVNANIAN HOMES AT WILLOWSFORD GRANT, LLC
K. HOVNANIAN HOMES AT WILLOWSFORD GREENS, LLC
K. HOVNANIAN HOMES NORTHERN CALIFORNIA, INC.
K. HOVNANIAN HOMES OF D.C., L.L.C.
K. HOVNANIAN HOMES OF LONGACRE VILLAGE, L.L.C.
K. HOVNANIAN HOMES OF MARYLAND, L.L.C.
K. HOVNANIAN HOMES OF MINNESOTA AT ARBOR CREEK, LLC
K. HOVNANIAN HOMES OF MINNESOTA AT AUTUMN MEADOWS, LLC
K. HOVNANIAN HOMES OF MINNESOTA AT BRYNWOOD, LLC
K. HOVNANIAN HOMES OF MINNESOTA AT CEDAR HOLLOW, LLC
K. HOVNANIAN HOMES OF MINNESOTA AT FOUNDER'S RIDGE, LLC
K. HOVNANIAN HOMES OF MINNESOTA AT HARPERS STREET WOODS, LLC
K. HOVNANIAN HOMES OF MINNESOTA AT OAKS OF OXBOW, LLC
K. HOVNANIAN HOMES OF MINNESOTA AT REGENT'S POINT, LLC
K. HOVNANIAN HOMES OF MINNESOTA, L.L.C.
K. HOVNANIAN HOMES OF NORTH CAROLINA, INC.
K. HOVNANIAN HOMES OF PENNSYLVANIA, L.L.C.
K. HOVNANIAN HOUSTON BAYOU OAKS AT WEST OREM, LLC
K. HOVNANIAN HOUSTON CAMBRIDGE HEIGHTS, LLC
K. HOVNANIAN HOUSTON CITY HEIGHTS, LLC
K. HOVNANIAN HOUSTON CREEK BEND, LLC
K. HOVNANIAN HOUSTON DRY CREEK VILLAGE, LLC
K. HOVNANIAN HOUSTON KATY POINTE, LLC
K. HOVNANIAN HOUSTON MAGNOLIA CREEK, LLC
K. HOVNANIAN HOUSTON PROPERTY I, LLC
K. HOVNANIAN HOUSTON PROPERTY II, LLC
K. HOVNANIAN HOUSTON RIVER FARMS, LLC
K. HOVNANIAN HOUSTON SUNSET RANCH, LLC
K. HOVNANIAN HOUSTON TERRA DEL SOL, LLC
K. HOVNANIAN HOUSTON THUNDER BAY SUBDIVISION, LLC
K. HOVNANIAN HOUSTON TRANQUILITY LAKE ESTATES, LLC
K. HOVNANIAN HOUSTON WOODSHORE, LLC
K. HOVNANIAN INDIAN TRAILS, LLC
K. HOVNANIAN LADUE RESERVE, LLC
K. HOVNANIAN LAKE GRIFFIN RESERVE, LLC
K. HOVNANIAN LAKES OF GREEN, LLC

K. HOVNIANIAN LANDINGS 40S, LLC
K. HOVNIANIAN LEGACY AT VIA BELLA, LLC
K. HOVNIANIAN LIBERTY ON BLUFF CREEK, LLC
K. HOVNIANIAN MAGNOLIA AT WESTSIDE, LLC
K. HOVNIANIAN MANALAPAN ACQUISITION, LLC
K. HOVNIANIAN MARYLAND REGION, INC.
K. HOVNIANIAN MEADOW VIEW AT MOUNTAIN HOUSE, LLC
K. HOVNIANIAN MONARCH GROVE, LLC
K. HOVNIANIAN NEW JERSEY OLD GC, LLC
K. HOVNIANIAN NORTH CENTRAL ACQUISITIONS, L.L.C.
K. HOVNIANIAN NORTH JERSEY ACQUISITIONS, L.L.C.
K. HOVNIANIAN NORTHEAST DIVISION, INC.
K. HOVNIANIAN NORTHEAST SERVICES, L.L.C.
K. HOVNIANIAN NORTHERN OHIO DIVISION, LLC
K. HOVNIANIAN NORTHPOINTE 40S, LLC
K. HOVNIANIAN NORTON PLACE, LLC
K. HOVNIANIAN OF HOUSTON II, L.L.C.
K. HOVNIANIAN OHIO OLD GC, LLC
K. HOVNIANIAN OHIO REALTY, L.L.C.
K. HOVNIANIAN OHIO REGION, INC.
K. HOVNIANIAN OPERATIONS COMPANY, INC.
K. HOVNIANIAN OSPREY RANCH, LLC
K. HOVNIANIAN PA REAL ESTATE, INC.
K. HOVNIANIAN PENNSYLVANIA BUILD ON YOUR LOT DIVISION, LLC
K. HOVNIANIAN PENNSYLVANIA OLD GC, LLC
K. HOVNIANIAN PHOENIX DIVISION, INC.
K. HOVNIANIAN PHOENIX GROUP, LLC
K. HOVNIANIAN PINESWOOD RESERVE, LLC
K. HOVNIANIAN PORT IMPERIAL URBAN RENEWAL, INC.
K. HOVNIANIAN PRESERVE AT TURTLE CREEK LLC
K. HOVNIANIAN PROPERTIES OF RED BANK, LLC
K. HOVNIANIAN REYNOLDS RANCH, LLC
K. HOVNIANIAN RIVENDALE, LLC
K. HOVNIANIAN RIVERSIDE, LLC
K. HOVNIANIAN SCHADY RESERVE, LLC
K. HOVNIANIAN SHERWOOD AT REGENCY, LLC
K. HOVNIANIAN SOUTH CAROLINA OLD GC, LLC
K. HOVNIANIAN SOUTH FORK, LLC
K. HOVNIANIAN SOUTH JERSEY ACQUISITIONS, L.L.C.
K. HOVNIANIAN SOUTHEAST COASTAL DIVISION, INC.
K. HOVNIANIAN SOUTHERN CALIFORNIA DIVISION, LLC
K. HOVNIANIAN SOUTHERN NEW JERSEY, L.L.C.
K. HOVNIANIAN STERLING RANCH, LLC
K. HOVNIANIAN SUMMIT HOLDINGS, L.L.C.
K. HOVNIANIAN T&C HOMES AT FLORIDA, L.L.C.
K. HOVNIANIAN T&C HOMES AT ILLINOIS, L.L.C.

K. HOVNIANIAN TIMBRES AT ELM CREEK, LLC
K. HOVNIANIAN UNION PARK, LLC
K. HOVNIANIAN VENTURE I, L.L.C.
K. HOVNIANIAN VILLAGE GLEN, LLC
K. HOVNIANIAN VIRGINIA DIVISION, INC.
K. HOVNIANIAN VIRGINIA OLD GC, INC.
K. HOVNIANIAN WATERBURY, LLC
K. HOVNIANIAN WEST VIRGINIA BUILD ON YOUR LOT DIVISION, LLC
K. HOVNIANIAN WEST VIRGINIA OLD GC, LLC
K. HOVNIANIAN WHITE ROAD, LLC
K. HOVNIANIAN WINDING BAY PRESERVE, LLC
K. HOVNIANIAN WINDWARD HOMES, LLC
K. HOVNIANIAN WOODLAND POINTE, LLC
K. HOVNIANIAN WOODRIDGE PLACE, LLC
K. HOVNIANIAN'S ASPIRE AT UNION VILLAGE, LLC
K. HOVNIANIAN'S COVE AT ASBURY PARK, LLC
K. HOVNIANIAN'S FOUR SEASONS AT BAKERSFIELD, L.L.C.
K. HOVNIANIAN'S FOUR SEASONS AT BAYMONT FARMS L.L.C.
K. HOVNIANIAN'S FOUR SEASONS AT BEAUMONT, LLC
K. HOVNIANIAN'S FOUR SEASONS AT BELLA VISTA, LLC
K. HOVNIANIAN'S FOUR SEASONS AT BELLE TERRE, LLC
K. HOVNIANIAN'S FOUR SEASONS AT BRIARGATE, LLC
K. HOVNIANIAN'S FOUR SEASONS AT COLTS FARM, LLC
K. HOVNIANIAN'S FOUR SEASONS AT KENT ISLAND II, LLC
K. HOVNIANIAN'S FOUR SEASONS AT LOS BANOS, LLC
K. HOVNIANIAN'S FOUR SEASONS AT MORENO VALLEY, L.L.C.
K. HOVNIANIAN'S FOUR SEASONS AT NEW KENT VINEYARDS, L.L.C.
K. HOVNIANIAN'S FOUR SEASONS AT NEW LENOX, LLC
K. HOVNIANIAN'S FOUR SEASONS AT PALM SPRINGS, LLC
K. HOVNIANIAN'S FOUR SEASONS AT RUSH CREEK II, LLC
K. HOVNIANIAN'S FOUR SEASONS AT RUSH CREEK, L.L.C.
K. HOVNIANIAN'S FOUR SEASONS AT SILVER MAPLE FARM, L.L.C.
K. HOVNIANIAN'S FOUR SEASONS AT ST. MARGARETS LANDING, L.L.C.
K. HOVNIANIAN'S FOUR SEASONS AT THE MANOR II, LLC
K. HOVNIANIAN'S FOUR SEASONS AT THE MANOR, LLC
K. HOVNIANIAN'S FOUR SEASONS AT VIRGINIA CROSSING, LLC
K. HOVNIANIAN'S PARKSIDE AT TOWNGATE, L.L.C.
K. HOVNIANIAN'S PROSPECT PLACE AT MORRISTOWN, LLC
K. HOVNIANIAN'S VERANDA AT RIVERPARK II, LLC
K. HOVNIANIAN'S VERANDA AT RIVERPARK, LLC
K. HOVNIANIAN'S WOODLANDS AT FREEHOLD, LLC
KHH SHELL HALL LOAN ACQUISITION, LLC
KHOV WINDING BAY II, LLC
LANDARAMA, INC.
M & M AT MONROE WOODS, L.L.C.
M&M AT CHESTERFIELD, L.L.C.

M&M AT CRESCENT COURT, L.L.C.
M&M AT WEST ORANGE, L.L.C.
MATZEL & MUMFORD AT EGG HARBOR, L.L.C.
MCNJ, INC.
MIDWEST BUILDING PRODUCTS & CONTRACTOR SERVICES OF PENNSYLVANIA, L.L.C.
MIDWEST BUILDING PRODUCTS & CONTRACTOR SERVICES OF WEST VIRGINIA, L.L.C.
MIDWEST BUILDING PRODUCTS & CONTRACTOR SERVICES, L.L.C.
MM-BEACHFRONT NORTH I, LLC
NEW HOME REALTY, LLC
PARK TITLE COMPANY, LLC
PINE AYR, LLC
RIDGEMORE UTILITY L.L.C.
ROUTE 1 AND ROUTE 522, L.L.C.
SEABROOK ACCUMULATION CORPORATION
SHELL HALL CLUB AMENITY ACQUISITION, LLC
SHELL HALL LAND ACQUISITION, LLC
STONEBROOK HOMES, INC.
TERRAPIN REALTY, L.L.C.
THE MATZEL & MUMFORD ORGANIZATION, INC
WASHINGTON HOMES, INC.
WTC VENTURES, L.L.C.

Redesignated Subsidiaries

AMBER RIDGE, LLC
GTIS-HOV DULLES PARKWAY PARENT LLC
GTIS-HOV FESTIVAL LAKES LLC
GTIS-HOV GREENFIELD CROSSING PARENT LLC
GTIS-HOV HOLDINGS LLC
GTIS-HOV POSITANO LLC
GTIS-HOV RANCHO 79 LLC
GTIS-HOV RESIDENCES AT DULLES PARKWAY LLC
GTIS-HOV RESIDENCES AT GREENFIELD CROSSING LLC
GTIS-HOV VILLAGES AT PEPPER MILL LLC
GTIS-HOV WARMINSTER LLC
HOMEBUYERS FINANCIAL USA, LLC
HOVSITE CATALINA LLC
HOVSITE CHURCHILL CLUB LLC
HOVSITE CIDER GROVE LLC
HOVSITE FIRENZE LLC
HOVSITE GREENWOOD MANOR LLC
HOVSITE HUNT CLUB LLC
HOVSITE IRISH PRAIRIE LLC
HOVSITE LIBERTY LAKES LLC
HOVSITE MONTEVERDE 1 & 2 LLC
HOVSITE MONTEVERDE 3 & 4 LLC
HOVSITE PROVIDENCE LLC
HOVSITE SOUTHAMPTON LLC
K. HOVNANIAN AMBER GLEN, LLC
K. HOVNANIAN ARIZONA NEW GC, LLC
K. HOVNANIAN AT AMBERLEY WOODS, LLC
K. HOVNANIAN AT BRADWELL ESTATES, LLC
K. HOVNANIAN AT CADENCE PARK, LLC
K. HOVNANIAN AT CANTER V, LLC
K. HOVNANIAN AT CEDAR LANE ESTATES, LLC
K. HOVNANIAN AT DOMINION CROSSING, LLC
K. HOVNANIAN AT EAGLE HEIGHTS, LLC
K. HOVNANIAN AT EMBREY MILL, LLC
K. HOVNANIAN AT GRANDE PARK, LLC
K. HOVNANIAN AT HAMMOCK BREEZE, LLC
K. HOVNANIAN AT HUNTER'S POND, LLC
K. HOVNANIAN AT MADISON SQUARE, LLC
K. HOVNANIAN AT MANALAPAN IV, LLC
K. HOVNANIAN AT MAPLE HILL LLC
K. HOVNANIAN AT MELODY FARM, LLC
K. HOVNANIAN AT MERIDIAN HILLS, LLC
K. HOVNANIAN AT MORRIS TWP II, LLC

K. HOVNIANIAN AT MYSTIC DUNES, LLC
K. HOVNIANIAN AT NORTH GROVE CROSSING, LLC
K. HOVNIANIAN AT NORTH POINTE ESTATES LLC
K. HOVNIANIAN AT ORCHARD MEADOWS, LLC
K. HOVNIANIAN AT PELHAM'S REACH, LLC
K. HOVNIANIAN AT PHILADELPHIA I, L.L.C.
K. HOVNIANIAN AT PINCKNEY FARM, LLC
K. HOVNIANIAN AT PORT IMPERIAL URBAN RENEWAL II, L.L.C.
K. HOVNIANIAN AT PORT IMPERIAL URBAN RENEWAL III, L.L.C.
K. HOVNIANIAN AT RANDALL HIGHLANDS, LLC
K. HOVNIANIAN AT RAYMOND FARM, LLC
K. HOVNIANIAN AT RIVER HILLS, LLC
K. HOVNIANIAN AT SILVERWOOD GLEN, LLC
K. HOVNIANIAN AT SOLARE, LLC
K. HOVNIANIAN AT TAMARACK SOUTH LLC
K. HOVNIANIAN AT TANGLEWOOD OAKS, LLC
K. HOVNIANIAN AT THE BOULEVARDS AT WESTFIELDS, LLC
K. HOVNIANIAN AT THE HIGHLANDS AT SUMMERLAKE GROVE, LLC
K. HOVNIANIAN AT THE MEADOWS, LLC
K. HOVNIANIAN AT VALLETTA, LLC
K. HOVNIANIAN AT VILLAGE OF ROUND HILL, LLC
K. HOVNIANIAN AT WADE'S GRANT, L.L.C.
K. HOVNIANIAN AT WATERFORD, LLC
K. HOVNIANIAN AT WELLSPRINGS, LLC
K. HOVNIANIAN AT WILLOWSFORD GREENS III, LLC
K. HOVNIANIAN CA LAND HOLDINGS, LLC
K. HOVNIANIAN CALIFORNIA NEW GC, LLC
K. HOVNIANIAN COMPANIES OF ARIZONA, LLC
K. HOVNIANIAN CYPRESS CREEK, LLC
K. HOVNIANIAN DELAWARE NEW GC, LLC
K. HOVNIANIAN DFW BAYSIDE, LLC
K. HOVNIANIAN DFW BERKSHIRE II, LLC
K. HOVNIANIAN DFW BERKSHIRE, LLC
K. HOVNIANIAN DFW CALLOWAY TRAILS, LLC
K. HOVNIANIAN DFW CANYON FALLS, LLC
K. HOVNIANIAN DFW CARILLON, LLC
K. HOVNIANIAN DFW COMMODORE AT PRESTON, LLC
K. HOVNIANIAN DFW HERON POND, LLC
K. HOVNIANIAN DFW HIGH POINTE, LLC
K. HOVNIANIAN DFW MAXWELL CREEK, LLC
K. HOVNIANIAN DFW MILRANY RANCH, LLC
K. HOVNIANIAN DFW MUSTANG LAKES II, LLC
K. HOVNIANIAN DFW MUSTANG LAKES, LLC
K. HOVNIANIAN DFW PARKVIEW, LLC
K. HOVNIANIAN DFW RICHWOODS, LLC
K. HOVNIANIAN DFW WATSON CREEK, LLC

K. HOVNANIAN FLORIDA NEW GC, LLC
K. HOVNANIAN GEORGIA NEW GC, LLC
K. HOVNANIAN HOMES - DFW II, L.L.C.
K. HOVNANIAN HOMES AT KNOLLAC ACRES, LLC
K. HOVNANIAN HOMES AT PARKSIDE, LLC
K. HOVNANIAN HOMES AT WILLOWSFORD GRANGE, LLC
K. HOVNANIAN HOMES AT WILLOWSFORD NEW, LLC
K. HOVNANIAN HOMES OF DELAWARE I, LLC
K. HOVNANIAN HOMES OF FLORIDA I, LLC
K. HOVNANIAN HOMES OF MARYLAND I, LLC
K. HOVNANIAN HOMES OF MARYLAND II, LLC
K. HOVNANIAN HOMES OF VIRGINIA I, LLC
K. HOVNANIAN HOUSTON ELDRIDGE PARK, LLC
K. HOVNANIAN HOUSTON LAKES OF BELLA TERRA WEST, LLC
K. HOVNANIAN HOUSTON LAUREL GLEN, LLC
K. HOVNANIAN HOUSTON MIDTOWN PARK I, LLC
K. HOVNANIAN HOUSTON PARK LAKES EAST, LLC
K. HOVNANIAN HOUSTON PARKWAY TRAILS, LLC
K. HOVNANIAN ILLINOIS NEW GC, LLC
K. HOVNANIAN JV HOLDINGS, L.L.C.
K. HOVNANIAN JV SERVICES COMPANY, L.L.C.
K. HOVNANIAN LAKE PARKER, LLC
K. HOVNANIAN MONTCLAIRE ESTATES, LLC
K. HOVNANIAN NEW JERSEY NEW GC, LLC
K. HOVNANIAN OCOEE LANDINGS, LLC
K. HOVNANIAN OF HOUSTON III, L.L.C.
K. HOVNANIAN OHIO NEW GC, LLC
K. HOVNANIAN ORLANDO DIVISION, LLC
K. HOVNANIAN PARKVIEW AT STERLING MEADOWS, LLC
K. HOVNANIAN PENNSYLVANIA NEW GC, LLC
K. HOVNANIAN REDFERN TRAILS, LLC
K. HOVNANIAN SAN SEBASTIAN, LLC
K. HOVNANIAN SERENO, LLC
K. HOVNANIAN SOUTH CAROLINA NEW GC, LLC
K. HOVNANIAN TERRALARGO, LLC
K. HOVNANIAN TEXAS OPERATIONS NEW, LLC
K. HOVNANIAN VIRGINIA NEW GC, LLC
K. HOVNANIAN WEST VIRGINIA NEW GC, LLC
K. HOVNANIAN'S FOUR SEASONS AT CAROLINA OAKS, LLC
K. HOVNANIAN'S FOUR SEASONS AT MALIND BLUFF, LLC
K. HOVNANIAN'S SONATA AT THE PRESERVE, LLC
LINKS AT CALUSA SPRINGS, LLC
TRAVERSE PARTNERS, LLC

Amended Credit Agreement

\$212,500,000

CREDIT AGREEMENT

Dated as of January 29, 2018, as amended by
the First Amendment, dated as of May 14, 2018; and
the Second Amendment, dated as of October 31, 2019

among

K. HOVNIANIAN ENTERPRISES, INC.,
as Borrower

HOVNIANIAN ENTERPRISES, INC.,
as Holdings

THE SUBSIDIARIES OF HOLDINGS NAMED HEREIN,
as Subsidiary Guarantors

WILMINGTON TRUST, NATIONAL ASSOCIATION,
as Administrative Agent

and

THE LENDERS PARTY HERETO

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CREDIT AGREEMENT

This CREDIT AGREEMENT (as amended, restated, amended and restated or otherwise modified from time to time, this "Agreement") is entered into as of January 29, 2018, as amended as of May 14, 2018 and as of October 31, 2019, among HOVNANIAN ENTERPRISES, INC., a Delaware corporation ("Holdings"), K. HOVNANIAN ENTERPRISES, INC., a California corporation (the "Borrower"), the Subsidiaries of Holdings from time to time party hereto (each a "Subsidiary Guarantor" and collectively, together with Holdings, the "Guarantors"), each lender from time to time party hereto (collectively, the "Lenders" and individually, each a "Lender") and WILMINGTON TRUST, NATIONAL ASSOCIATION, as Administrative Agent (as defined herein).

PRELIMINARY STATEMENTS

The Borrower has requested that the Initial Term Lenders make Initial Term Loans to the Borrower in an aggregate principal amount of \$212,500,000 comprised of \$132,500,000 of First Draw Term Loans and up to \$80,000,000 of Delayed Draw Term Loans.

The Guarantors have agreed to guarantee the Loan Obligations of the Borrower hereunder pursuant to the Guarantee.

The Lenders have agreed to provide the Loans on the terms and subject to the conditions set forth in this Agreement and the other Loan Documents.

In consideration of the mutual covenants and agreements contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto covenant and agree as follows:

ARTICLE I

DEFINITIONS AND ACCOUNTING TERMS

SECTION 1.01 Defined Terms. As used in this Agreement, the following terms shall have the meanings set forth below:

"1.125 Lien Notes" means the Borrower's 7.75% Senior Secured 1.125 Lien Notes due 2026 issued pursuant to the 1.125 Lien Notes Indenture.

"1.125 Lien Notes Indenture" means the Indenture, dated as of October 31, 2019, as amended or supplemented from time to time, among the Borrower, the guarantors party thereto and Wilmington Trust, National Association, as trustee and collateral agent.

"1.25 Lien Notes" means the Borrower's 10.5% Senior Secured 1.25 Lien Notes due 2026 issued pursuant to the 1.25 Lien Notes Indenture.

"1.25 Lien Notes Indenture" means the Indenture, dated as of October 31, 2019, as amended or supplemented from time to time, among the Borrower, the guarantors party thereto and Wilmington Trust, National Association, as trustee and collateral agent.

"1.5 Lien Notes" means the Borrower's 11.25% Senior Secured 1.5 Lien Notes due 2026 issued pursuant to the 1.5 Lien Notes Indenture.

“1.5 Lien Notes Indenture” means the Indenture, dated as of October 31, 2019, as amended or supplemented from time to time, among the Borrower, the guarantors party thereto and Wilmington Trust, National Association, as trustee and collateral agent.

“7.000% Notes” means the Borrower’s 7.000% Senior Notes due 2019 issued under the 7.000% Notes Indenture.

“7.000% Notes Indenture” means the indenture governing the Borrower’s 7.000% Notes, dated as of January 10, 2014 (as may be amended or supplemented as of the date hereof or from time to time), among the Borrower, Holdings, each of the other guarantors named therein and Wilmington Trust, National Association as Trustee (as defined in the 7.000% Notes Indenture).

“7.000% Notes Refinancing” shall have the meaning assigned to such term in Section 4.02(i).

“Acquired Indebtedness” means (a) with respect to any Person that becomes a Restricted Subsidiary (or is merged into Holdings, the Borrower or any Restricted Subsidiary) after the Closing Date, Indebtedness of such Person or any of its Subsidiaries existing at the time such Person becomes a Restricted Subsidiary (or is merged into Holdings, the Borrower or any Restricted Subsidiary) that was not incurred in connection with, or in contemplation of, such Person becoming a Restricted Subsidiary (or being merged into Holdings, the Borrower or any Restricted Subsidiary) and (b) with respect to Holdings, the Borrower or any Restricted Subsidiary, any Indebtedness expressly assumed by Holdings, the Borrower or any Restricted Subsidiary in connection with the acquisition of any assets from another Person (other than Holdings, the Borrower or any Restricted Subsidiary), which Indebtedness was not incurred by such other Person in connection with or in contemplation of such acquisition. Indebtedness incurred in connection with or in contemplation of any transaction described in clause (a) or (b) of the preceding sentence shall be deemed to have been incurred by Holdings or a Restricted Subsidiary, as the case may be, at the time such Person becomes a Restricted Subsidiary (or is merged into Holdings, the Borrower or any Restricted Subsidiary) in the case of clause (a) or at the time of the acquisition of such assets in the case of clause (b), but shall not be deemed Acquired Indebtedness.

“Administrative Agent” means (a) on the date hereof, Wilmington Trust, National Association in its capacity as administrative agent under any of the Loan Documents or (b) at any time after the date hereof, any permitted successor administrative agent appointed in accordance with the terms hereof.

“Administrative Agent’s Office” means the Administrative Agent’s address and, as appropriate, account as set forth on Schedule 9.02, or such other address or account as the Administrative Agent may from time to time notify in writing to the Borrower and the Lenders.

“Administrative Questionnaire” means an Administrative Questionnaire substantially in the form of Exhibit D.

“Affiliate” means, when used with reference to a specified Person, any Person directly or indirectly controlling, or controlled by or under direct or indirect common control with, the Person specified.

“Affiliate Transaction” has the meaning specified in Section 6.10.

“Agent Fee Letter” means that certain letter, dated as of the date hereof, by and among the Borrower and the Administrative Agent.

“Agent-Related Person” means the Administrative Agent, together with its Affiliates, and the officers, directors, employees, agents and attorneys-in-fact of such Persons and Affiliates.

“Agents” means, collectively, the Administrative Agent and the Supplemental Administrative Agents (if any).

“Aggregate Commitments” means the Term Commitments of all the Lenders.

“Aggregate Exposure” means, with respect to a Lender at any time, an amount equal to such Lender’s Total Outstandings at such time *plus* the amount of such Lender’s unfunded Commitment then in effect (if any).

“Aggregate Exposure Percentage” means, with respect to a Lender at any time, the ratio (expressed as a percentage) of (a) such Lender’s Aggregate Exposure at such time to (b) the sum of the Aggregate Exposures of all Lenders at such time.

“Agreement” has the meaning specified in the introductory paragraph.

“Applicable Debt” means all Indebtedness of Holdings, the Borrower or any other Loan Party (a) under Credit Facilities or (b) that is publicly traded (including in the Rule 144A market), including, without limitation, the Borrower’s senior notes outstanding on the Closing Date and the Exchange Notes.

“Applicable Rate” means with respect to an Initial Term Loan, 5.0% per annum.

“Appropriate Lender” means, at any time, with respect to Loans of any Class, the Lenders of such Class.

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

“Asset Acquisition” means (a) an Investment by Holdings, the Borrower or any Restricted Subsidiary in any other Person if, as a result of such Investment, such Person shall become a Restricted Subsidiary or shall be consolidated or merged with or into Holdings, the Borrower or any Restricted Subsidiary or (b) the acquisition by Holdings, the Borrower or any Restricted Subsidiary of the assets of any Person, which constitute all or substantially all of the assets or of an operating unit or line of business of such Person or which is otherwise outside the ordinary course of business.

“Asset Disposition” means any sale, transfer, conveyance, lease or other disposition (including, without limitation, by way of merger, consolidation or sale and leaseback or sale of shares of Capital Stock in any Subsidiary) (each, a “transaction”) by Holdings, the Borrower or any Restricted Subsidiary to any Person of any Property having a Fair Market Value in any transaction or series of related transactions of at least \$10.0 million. The term “Asset Disposition” shall not include:

- (a) a transaction between Holdings, the Borrower and any Restricted Subsidiary or a transaction between Restricted Subsidiaries,
- (b) a transaction in the ordinary course of business, including, without limitation, sales (directly or indirectly), sales subject to repurchase options, dedications and other donations to governmental authorities, leases and sales and leasebacks of (i) homes, improved land and unimproved land and (ii) real estate (including related amenities and improvements),

(c) a transaction involving the sale of Capital Stock of, or the disposition of assets in, an Unrestricted Subsidiary; (other than a JV Holding Company or Permitted Joint Venture, except a sale or disposition to a Restricted Subsidiary).

(d) any exchange or swap of assets of Holdings, the Borrower or any Restricted Subsidiary for assets (including Capital Stock of any Person that is or will be a Restricted Subsidiary following receipt thereof) that (i) are to be used by Holdings, the Borrower or any Restricted Subsidiary in the ordinary course of its Real Estate Business and (ii) have a Fair Market Value not less than the Fair Market Value of the assets exchanged or swapped,

(e) any sale, transfer, conveyance, lease or other disposition of assets and properties that is governed by Section 6.11 hereof,

(f) dispositions of mortgage loans and related assets and mortgage-backed securities in the ordinary course of a mortgage lending business,

(g) the creation of a Permitted Lien and dispositions in connection with Permitted Liens,

(h) any sale, transfer, conveyance, lease or other disposition that constitutes a Restricted Payment or Permitted Investment,

(i) sales, transfers and other dispositions of Investments in joint ventures to the extent required by, or made pursuant to, customary buy/sell arrangements between the joint venture parties set forth in joint venture arrangements and similar binding arrangements,

(j) the unwinding of any Hedging Obligations,

(k) foreclosures, condemnation, eminent domain or any similar action on assets,

(l) any financing transaction with respect to property built or acquired by Holdings or any Restricted Subsidiary after the Closing Date,

(m) any surrender or waiver of contractual rights or the settlement, release or surrender of contractual rights or other litigation claims in the ordinary course of business, and

(n) the issuance of directors' qualifying shares and shares issued to foreign nationals or other third parties as required by applicable Law.

“Assignment and Assumption” means an Assignment and Assumption substantially in the form of Exhibit C or in another form reasonably acceptable to the Administrative Agent.

“Attorney Costs” means and includes all reasonable and documented out-of-pocket fees, expenses and disbursements of any law firm or other external counsel.

“Attributable Debt” means, with respect to any Capitalized Lease Obligations, the capitalized amount thereof determined in accordance with GAAP.

“Bankruptcy Law” means Title 11 of the United States Code, as amended, or any similar federal or state law for the relief of debtors.

“Board of Directors” means, when used with reference to the Borrower or Holdings, as the case may be, the board of directors or any duly authorized committee of that board or any director or directors and/or officer or officers to whom that board or committee shall have delegated its authority.

“Borrower” has the meaning specified in the introductory paragraph to this Agreement.

“Borrowing” means a borrowing of First Draw Term Loans, Delayed Draw Term Loans, Refinancing Term Loans or Extended Term Loans, as the context may require.

“Business Day” means any day other than a Saturday, Sunday or other day on which commercial banks are authorized to close under the Laws of, or are in fact closed in the state where the Administrative Agent’s Office is located.

“Capital Stock” means, with respect to any Person, any and all shares, interests, participations or other equivalents (however designated) of or in such Person’s capital stock or other equity interests, and options, rights or warrants to purchase such capital stock or other equity interests, whether now outstanding or issued after the Closing Date, including, without limitation, all Disqualified Stock and Preferred Stock, but excluding any debt security that is convertible into, or exchangeable for, Capital Stock.

“Capitalized Lease Obligations” of any Person means the obligations of such Person to pay rent or other amounts under a lease that is required to be capitalized for financial reporting purposes in accordance with GAAP, and the amount of such obligations will be the capitalized amount thereof determined in accordance with GAAP.

“Cash Equivalents” means:

(a) U.S. dollars, Canadian dollars, euros, pound sterling, any national currency of any participating member state in the European Union or local currencies held from time to time in the ordinary course of business;

(b) securities issued or directly and fully guaranteed or insured by the U.S. government or any country that is a member state of the European Union or any agency or instrumentality thereof having maturities of one year or less from the date of acquisition;

(c) certificates of deposit, time deposits, eurodollar time deposits, overnight bank deposits or bankers’ acceptances with maturities of one year or less from the date of acquisition, in each case with any domestic commercial bank having capital and surplus in excess of \$500.0 million;

(d) marketable general obligations issued by any state of the United States of America or any political subdivision of any such state or any public instrumentality thereof maturing within one year from the date of acquisition and, at the time of acquisition, having a credit rating of at least “A” or the equivalent thereof by S&P or Moody’s, or carrying an equivalent rating by a nationally recognized Rating Agency, if both of the two named Rating Agencies cease publishing ratings of investments;

(e) repurchase obligations for underlying securities of the types described in clauses (b), (c) and (d) of this definition entered into with any financial institution meeting the qualifications specified in clause (c) of this definition;

(f) commercial paper rated P-1, A-1 or the equivalent thereof by Moody’s or S&P, respectively, and in each case maturing within one year after the date of acquisition;

(g) investments with average maturities of one year or less from the date of acquisition in money market funds rated AAA- (or the equivalent thereof) or better by S&P or Aaa3 (or the equivalent thereof) or better by Moody's; and

(h) investments in investment companies or money market funds substantially all of the assets of which consist of securities described in the foregoing clauses (a) through (g) of this definition.

Notwithstanding the foregoing, Cash Equivalents shall include amounts denominated in currencies other than those set forth in clause (a) above; provided that such amounts are converted into any currency listed in clause (a) as promptly as practicable and in any event within ten (10) Business Days following the receipt of such amounts.

“Cash Management Services” means any of the following to the extent not constituting a line of credit (other than an overnight overdraft facility that is not in default): ACH transactions, treasury and/or cash management services, including, without limitation, controlled disbursement services, overdraft facilities, foreign exchange facilities, deposit and other accounts and merchant services.

“Casualty Event” means any event that gives rise to the receipt by Holdings, the Borrower or any Restricted Subsidiary of any insurance proceeds or condemnation awards in respect of any equipment, fixed assets or real property (including any improvements thereon) to replace or repair any such equipment, fixed assets or real property.

“Change of Control” means:

(a) any sale, lease or other transfer (in one transaction or a series of transactions) of all or substantially all of the consolidated assets of Holdings and its Restricted Subsidiaries to any Person (other than a Restricted Subsidiary); provided, however, that a transaction where the holders of all classes of Common Equity of Holdings immediately prior to such transaction own, directly or indirectly, more than 50% of all classes of Common Equity of such Person immediately after such transaction shall not be a Change of Control;

(b) a “person” or “group” (within the meaning of Section 13(d) of the Exchange Act (other than (x) Holdings or (y) the Permitted Hovnanian Holders)) becomes the “beneficial owner” (as defined in Rule 13d-3 under the Exchange Act) of Common Equity of Holdings representing more than 50% of the voting power of the Common Equity of Holdings; or

(c) the stockholders of Holdings approve any plan or proposal for the liquidation or dissolution of Holdings; provided, however, that a liquidation or dissolution of Holdings which is part of a transaction that does not constitute a Change of Control under the proviso contained in clause (a) of this definition shall not constitute a Change of Control.

“Change of Control Offer” has the meaning specified in Section 6.16.

“Change of Control Repurchase Date” has the meaning specified in Section 6.16.

“Class” (a) when used with respect to Lenders, refers to whether such Lenders are the Initial Term Lenders, Refinancing Term Lenders or Extending Term Lenders with loans or commitments hereunder with identical terms, (b) when used with respect to Term Commitments, refers to whether such Term Commitments are Initial Term Commitments or Term Commitments in respect of Refinancing Term Loans with identical terms and (c) when used with respect to Loans or a Borrowing, refers to whether such Loans, or the Loans comprising such Borrowing, are Initial Term Loans, Refinancing Term Loans or Extended Term Loans with identical terms, in the case of each of clauses (a), (b) and (c), under this Agreement as originally in effect or as amended or otherwise modified pursuant to Sections 2.13, 2.14 or 9.01, of which such Loan, Borrowing or Term Commitment shall be a part.

“Closing Date” means the first date all the conditions precedent in Section 4.02 are satisfied or waived in accordance with Section 4.02, which date shall be no later than the Commitment Termination Date.

“Code” means the U.S. Internal Revenue Code of 1986, as amended from time to time, and rules and regulations related thereto.

“Commission” means the U.S. Securities and Exchange Commission.

“Commitment Termination Date” means March 1, 2018.

“Common Equity” of any Person means Capital Stock of such Person that is generally entitled to (a) vote in the election of directors of such Person or (b) if such Person is not a corporation, vote or otherwise participate in the selection of the governing body, partners, managers or others that will control the management or policies of such Person.

“Compensation Period” has the meaning specified in Section 2.10(b)(ii).

“Competitors” means those Persons identified in writing to the Administrative Agent and the Initial Term Lenders on or prior to the Effective Date as competitors or who are clearly identifiable Affiliates of such Persons solely by similarity of such Affiliate’s name.

“Connection Income Taxes” means Other Connection Taxes that are imposed on or measured by net income (however denominated) or that are franchise Taxes or branch profits Taxes.

“Consolidated Cash Flow Available for Fixed Charges” means, for any period, Consolidated Net Income for such period plus (each to the extent deducted in calculating such Consolidated Net Income and determined in accordance with GAAP) the sum for such period, without duplication, of:

(a) provision for taxes based on income or profits or capital gains, including, without limitation, U.S. federal, state, non-U.S., franchise, excise, value added and similar taxes and foreign withholding taxes of such Person paid or accrued during such period, including any penalties and interest relating to such taxes or arising from any tax examinations,

(b) Consolidated Interest Expense,

(c) depreciation and amortization expenses and other non-cash charges to earnings,

(d) any fees, expenses, charges or losses (other than depreciation or amortization expense) related to any Equity Offering, Permitted Investment, acquisition, disposition, recapitalization or the incurrence of Indebtedness permitted to be incurred by this Agreement (including a refinancing thereof) (whether or not successful), including (i) such fees, expenses or charges related to the making of Loans hereunder, incurrence of indebtedness pursuant to the New Secured Credit Agreement and the issuance of the Exchange Notes and (ii) any amendment or other modification of the Loans hereunder, the New Secured Credit Agreement, the Exchange Notes or other Indebtedness,

(e) any other non-cash charges, including any write offs, write downs, expenses, losses or items, excluding any such charge that represents an accrual or reserve for a cash expenditure for a future period,

(f) costs of surety bonds incurred in such period in connection with financing activities,

(g) any costs or expense incurred by Holdings or a Restricted Subsidiary pursuant to any management equity plan or stock option plan or any other management or employee benefit plan or agreement or any stock subscription or shareholder agreement, to the extent that such cost or expenses are funded with cash proceeds contributed to the capital of Holdings or net cash proceeds of an issuance of Qualified Stock solely to the extent that such net cash proceeds are excluded from the calculation set forth in clause (iii) of Section 6.04(a),

(h) effects of adjustments (including the effects of such adjustments pushed down to Holdings and its Restricted Subsidiaries) in any line item in such Person's consolidated financial statements in accordance with GAAP resulting from the application of purchase accounting, or the amortization or write-off of any amounts thereof, net of taxes,

(i) any impairment charge, asset write-off or write-down pursuant to ASC 350 and ASC 360 (formerly Financial Accounting Standards Board Statement Nos. 142 and 144, respectively) and the amortization of intangibles arising pursuant to ASC 805 (formerly Financial Accounting Standards Board Statement No. 141), and

(j) cash receipts (or any netting arrangements resulting in reduced cash expenses) not included in Consolidated Cash Flow Available for Fixed Charges in any period to the extent non-cash gains relating to such receipts were deducted in the calculation of Consolidated Cash Flow Available for Fixed Charges pursuant to clause (k) below for any previous period and not added back, *minus*

(k) non-cash gains increasing Consolidated Net Income for such period, excluding any non-cash gains which represent the reversal of any accrual of, or cash reserve for, anticipated cash charges that reduced Consolidated Cash Flow Available for Fixed Charges in any prior period; provided that, to the extent non-cash gains are deducted pursuant to this clause (k) for any previous period and not otherwise added back to Consolidated Cash Flow Available for Fixed Charges, Consolidated Cash Flow Available for Fixed Charges shall be increased by the amount of any cash receipts (or any netting arrangements resulting in reduced cash expenses) in respect of such non-cash gains received in subsequent periods to the extent not already included therein, and *plus* or *minus* (as applicable and without duplication) to eliminate the following items to the extent reflected in Consolidated Net Income,

(l) (i) any net gain or loss resulting in such period from currency gains or losses related to Indebtedness, intercompany balances and other balance sheet items, and (ii) any unrealized net gain or loss resulting in such period from Hedging Obligations, and the application of Financial Accounting Standards Codification No. 815—Derivatives and Hedging (formerly Financing Accounting Standards Board Statement No. 133), and its related pronouncements and interpretations (or any successor provision).

“Consolidated Fixed Charge Coverage Ratio” means, with respect to any determination date, the ratio of (x) Consolidated Cash Flow Available for Fixed Charges for the prior four full fiscal quarters (the “Four Quarter Period”) for which financial results have been reported immediately preceding the determination date (the “Transaction Date”), to (y) the aggregate Consolidated Interest Incurred for the Four Quarter Period. For purposes of this definition, “Consolidated Cash Flow Available for Fixed Charges” and “Consolidated Interest Incurred” shall be calculated after giving effect on a *pro forma* basis for the period of such calculation to:

(a) the incurrence or the repayment, repurchase, redemption, retirement, defeasance or other discharge or the assumption by another Person that is not an Affiliate (collectively, “repayment”) of any Indebtedness of Holdings, the Borrower or any Restricted Subsidiary (and the application of the proceeds thereof) giving rise to the need to make such calculation, and any incurrence or repayment of other Indebtedness (and the application of the proceeds thereof), at any time on or after the first day of the Four Quarter Period and on or prior to the Transaction Date, as if such incurrence or repayment, as the case may be (and the application of the proceeds thereof), occurred on the first day of the Four Quarter Period, except that Indebtedness under revolving credit facilities shall be deemed to be the average daily balance of such Indebtedness during the Four Quarter Period (as reduced on such *pro forma* basis by the application of any proceeds of the incurrence of Indebtedness giving rise to the need to make such calculation);

(b) any Asset Disposition, Asset Acquisition (including, without limitation, any Asset Acquisition giving rise to the need to make such calculation as a result of Holdings, the Borrower or any Restricted Subsidiary (including any Person that becomes a Restricted Subsidiary as a result of any such Asset Acquisition) incurring Acquired Indebtedness at any time on or after the first day of the Four Quarter Period and on or prior to the Transaction Date), Investment, merger or consolidation as if such Asset Disposition, Asset Acquisition (including the incurrence or repayment of any such Indebtedness), Investment, merger or consolidation and the inclusion, notwithstanding clause (b) of the definition of “Consolidated Net Income,” of any Consolidated Cash Flow Available for Fixed Charges associated with such Asset Acquisition or other transaction as if it occurred on the first day of the Four Quarter Period; provided, however, that the Consolidated Cash Flow Available for Fixed Charges associated with any Asset Acquisition or other transaction shall not be included to the extent the net income so associated would be excluded pursuant to the definition of “Consolidated Net Income,” other than clause (b) thereof, as if it applied to the Person or assets involved before they were acquired; and

(c) the Consolidated Cash Flow Available for Fixed Charges and the Consolidated Interest Incurred attributable to discontinued operations, as determined in accordance with GAAP, shall be excluded.

Furthermore, in calculating “Consolidated Cash Flow Available for Fixed Charges” for purposes of determining the denominator (but not the numerator) of this “Consolidated Fixed Charge Coverage Ratio,”

(a) interest on Indebtedness in respect of which a *pro forma* calculation is required that is determined on a fluctuating basis as of the Transaction Date (including Indebtedness actually incurred on the Transaction Date) and which will continue to be so determined thereafter shall be deemed to have accrued at a fixed rate per annum equal to the rate of interest on such Indebtedness in effect on the Transaction Date, and

(b) notwithstanding the immediately preceding clause (a), interest on such Indebtedness determined on a fluctuating basis, to the extent such interest is covered by agreements relating to Interest Protection Agreements, shall be deemed to accrue at the rate per annum resulting after giving effect to the operation of such agreements.

“Consolidated Interest Expense” of Holdings for any period means the Interest Expense of Holdings, the Borrower and the Restricted Subsidiaries for such period, determined on a consolidated basis in accordance with GAAP.

“Consolidated Interest Incurred” for any period means the Interest Incurred of Holdings, the Borrower and the Restricted Subsidiaries for such period, determined on a consolidated basis in accordance with GAAP.

“Consolidated Net Income” for any period means the aggregate net income (or loss) of Holdings and its Subsidiaries for such period, determined on a consolidated basis in accordance with GAAP; provided, that there will be excluded from such net income (loss) (to the extent otherwise included therein), without duplication:

(a) the net income (or loss) of (x) any Unrestricted Subsidiary (other than a Mortgage Subsidiary) or (y) any Person (other than a Restricted Subsidiary or a Mortgage Subsidiary) that is accounted for by the equity method of accounting, except, in each case, to the extent that any such income has actually been received by Holdings, the Borrower or any Restricted Subsidiary in the form of cash dividends or similar cash distributions during such period,

(b) except to the extent includable in Consolidated Net Income pursuant to clause (a) of this definition, the net income (or loss) of any Person that accrued prior to the date that (i) such Person becomes a Restricted Subsidiary or is merged with or into or consolidated with Holdings, the Borrower or any of its Restricted Subsidiaries (except, in the case of an Unrestricted Subsidiary that is redesignated a Restricted Subsidiary during such period, to the extent of its retained earnings from the beginning of such period to the date of such redesignation) or (ii) the assets of such Person are acquired by Holdings or any Restricted Subsidiary,

(c) solely for the purpose of determining the amount available for Restricted Payments under clause (iii) of Section 6.04(a), the net income of any Restricted Subsidiary that is not a Loan Party to the extent that (but only so long as) the declaration or payment of dividends or similar distributions by such Restricted Subsidiary of that income is not permitted by operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Restricted Subsidiary during such period, except, the net income of any such Restricted Subsidiary for such period will be included in such Consolidated Net Income up to the aggregate amount of cash that could have been distributed by such Restricted Subsidiary during such period to Holdings or another Restricted Subsidiary as a dividend,

(d) the gains or losses, together with any related provision for taxes, realized during such period by Holdings, the Borrower or any Restricted Subsidiary resulting from (i) the acquisition of securities, or extinguishment of Indebtedness or Hedging Obligations or other derivative instruments (including deferred financing costs written off and premiums paid), of Holdings or any Restricted Subsidiary, (ii) any Asset Disposition by Holdings or any Restricted Subsidiary, (iii) any non-cash income (or loss) related to currency gains or losses related to Indebtedness, intercompany balances and other balance sheet items and to Hedging Obligations pursuant to Financial Accounting Standards Codification No. 815—Derivatives and Hedging (formerly Financing Accounting Standards Board Statement No. 133) and its related pronouncements and interpretations (or any successor provision) and (iv) any non-cash expense, income or loss attributable to the movement in mark-to-market valuation of foreign currencies, Indebtedness or derivative instruments pursuant to GAAP,

(e) any extraordinary, unusual or non-recurring gain or loss (but excluding any impairment charges), in each case, less all fees and expenses relating thereto and any expenses, severance, relocation costs, curtailments or modifications to pension and post-retirement employee benefits plans, integration and other restructuring and business optimization costs, charges, reserves or expenses (including relating to acquisitions after the Effective Date), and one-time compensation charges together with any related provision for taxes, realized by Holdings, the Borrower or any Restricted Subsidiary,

(f) the cumulative effect of a change in accounting principles and changes as a result of adoption or modification of accounting policies during such period,

(g) any net after-tax gains or losses on disposal of disposed, abandoned, transferred, closed or discontinued operations,

(h) any after-tax effect of gains or losses (less all fees and expenses relating thereto) attributable to asset dispositions or abandonments other than in the ordinary course of business, as determined in good faith by Holdings,

(i) (A) any non-cash compensation expense recorded from grants of stock appreciation or similar rights, phantom equity, stock options, restricted stock, units or other rights to officers, directors, managers or employees and (B) non-cash income (loss) attributable to deferred compensation plans or trusts,

(j) any fees and expenses incurred during such period, or any amortization thereof for such period, in connection with any acquisition, Investment, recapitalization, Asset Disposition, issuance or repayment of Indebtedness, issuance of Capital Stock, refinancing transaction or amendment or modification of any debt instrument (in each case, including any such transaction consummated prior to the Effective Date and any such transaction undertaken but not completed) and any charges or non-recurring merger costs incurred during such period as a result of any such transaction, and

(k) to the extent covered by insurance or indemnification and actually reimbursed, or, so long as the Borrower has made a determination that there exists reasonable evidence that such amount will in fact be reimbursed by the insurer or indemnifying party and only to the extent that such amount is (i) not denied by the applicable carrier or indemnifying party in writing within 180 days and (ii) in fact reimbursed within 365 days of the date of such evidence (with a deduction for any amount so added back to the extent not so reimbursed within 365 days), losses and expenses with respect to liability or casualty events or business interruption shall be excluded;

provided, further, that for purposes of calculating Consolidated Net Income solely as it relates to clause (iii) of Section 6.04(a), clauses (d)(ii) and (h) above shall not be applicable.

“Consolidated Tangible Assets” of Holdings as of any date means the total amount of assets of Holdings and its Restricted Subsidiaries (less applicable reserves and including any deferred tax assets (for which a valuation allowance has been recorded with respect thereto as if no such valuation allowance was required in making such calculation)) on a consolidated basis at the end of the fiscal quarter for which financial results have been reported immediately preceding such date, as determined in accordance with GAAP, less: (a) Intangible Assets and (b) appropriate adjustments on account of minority interests of other Persons holding equity investments in Restricted Subsidiaries, in the case of each of clauses (a) and (b) above, as reflected on the consolidated balance sheet of Holdings and its Restricted Subsidiaries as of the end of the fiscal quarter immediately preceding such date, with such *pro forma* adjustments to Consolidated Tangible Assets as are appropriate and consistent with the *pro forma* adjustment provisions set forth in the definition of “Consolidated Fixed Charge Coverage Ratio.”

“Consolidated Tangible Net Worth” of Holdings as of any date means the stockholders’ equity (including any Preferred Stock that is classified as equity under GAAP, other than Disqualified Stock) of Holdings and its Restricted Subsidiaries on a consolidated basis at the end of the fiscal quarter for which financial results have been reported immediately preceding such date, as determined in accordance with GAAP (provided that any deferred tax assets for which a valuation allowance has been recorded with respect thereto shall be included as if no such valuation allowance was required in making such calculation), less the amount of Intangible Assets reflected on the consolidated balance sheet of Holdings and its Restricted Subsidiaries as of the end of the fiscal quarter for which financial results have been reported immediately preceding such date.

“control” when used with respect to any Person, means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms “controlling” and “controlled” have meanings correlative to the foregoing.

“Credit Facilities” means, with respect to Holdings, the Borrower or any of its Restricted Subsidiaries, one or more debt facilities or other financing arrangements (including, without limitation, commercial paper facilities or indentures) providing for revolving credit loans, term loans, letters of credit or other long-term indebtedness, including any notes, mortgages, guarantees, collateral documents, instruments and agreements executed in connection therewith, and any amendments, supplements, modifications, extensions, renewals, restatements or refundings thereof and any indentures or credit facilities or commercial paper facilities that exchange, replace, refund, refinance, extend, renew, restate, amend, supplement or modify any part of the loans, notes, other credit facilities or commitments thereunder, including any such exchanged, replacement, refunding, refinancing, extended, renewed, restated, amended, supplemented or modified facility or indenture that increases the amount permitted to be borrowed thereunder or alters the maturity thereof (provided that such increase in borrowings is permitted under Section 6.03) or adds Holdings, the Borrower or Restricted Subsidiaries as additional borrowers or guarantors thereunder and whether by the same or any other agent, lender or group of lenders.

“Currency Agreement” of any Person means any foreign exchange contract, currency swap agreement or other similar agreement or arrangement designed to protect such Person or any of its Subsidiaries against fluctuations in currency values. For the avoidance of doubt, any Permitted Convertible Indebtedness Call Transaction will not constitute a Currency Agreement.

“Custodian” means any receiver, trustee, assignee, liquidator or similar official under any Bankruptcy Law.

“Debtor Relief Laws” means Title 11 of the United States Code, and all other liquidation, conservatorship, bankruptcy, general assignment for the benefit of creditors, moratorium, rearrangement, receivership, examinership, insolvency, reorganization, or similar debtor relief Laws of the United States or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

“Declined Proceeds” has the meaning specified in Section 2.03(b)(iii).

“Default” means any event, act or condition that is, or after notice or the passage of time or both would be, an Event of Default.

“Default Rate” means, with respect to any overdue Loan or interest, an interest rate equal to 2.00% per annum in excess of the interest rate otherwise applicable to such overdue Loan (or the Loan to which such overdue interest relates).

“Defaulting Lender” means, at any time, a Lender as to which the Administrative Agent has notified the Borrower that (a) such Lender has failed for two (2) or more Business Days to comply with its obligations under this Agreement to make a Loan (a “Lender Funding Obligation”) required to be funded hereunder, (b) such Lender has notified the Administrative Agent or Borrower in writing, that it will not comply with any such Lender Funding Obligation hereunder, or has defaulted on its Lender Funding Obligations under other loan agreements, credit agreements or other similar agreements in which it commits to extend credit generally or (c) such Lender has, for three (3) or more Business Days, failed to confirm in writing to the Borrower, in response to a written request of the Borrower (based on the reasonable belief that it may not fulfill its Lender Funding Obligations), that it will comply with its Lender Funding Obligations hereunder; provided, that any such Lender shall cease to be a Defaulting Lender under this clause (c) upon receipt of such confirmation by the Borrower. The Administrative Agent or Borrower will promptly send to all parties hereto a copy of any notice to the Borrower or Administrative Agent, as applicable, provided for in this definition.

“Delayed Draw Term Commitment” means, as to each Initial Term Lender, its obligation to fund Delayed Draw Term Loans to the Borrower pursuant to Section 2.01 and subject to Sections 4.03 and 6.17; provided, that the aggregate principal amount of such Initial Term Lender’s Delayed Draw Term Loans shall not exceed the amount set forth opposite such Initial Term Lender’s name in Schedule 2.01 under the caption “Delayed Draw Term Commitment” or in the Assignment and Assumption pursuant to which such Lender purchases such Delayed Draw Term Commitment, as applicable, as such amount may be adjusted from time to time in accordance with this Agreement. The aggregate principal amount of the Delayed Draw Term Commitments of all Lenders as of the Effective Date is \$80,000,000. The Initial Term Lenders shall have the right, on or before the date on which the Delayed Draw Term Loan Commitment is initially funded, to deliver an updated Schedule 2.01 to Holdings (with a copy to the Administrative Agent) providing for the re-allocation of the Delayed Draw Term Commitment solely among the Initial Term Lenders, which shall replace the Schedule 2.01 in effect on such date in its entirety; provided that, in no event shall the aggregate amount of Delayed Draw Term Commitments of the Initial Term Lenders as of the Closing Date be less than \$80,000,000.

“Delayed Draw Term Loan” has the meaning specified in Section 2.01.

“Designation Amount” has the meaning specified under the definition of “Unrestricted Subsidiary.”

“Disqualified Stock” means any Capital Stock that, by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable), or upon the happening of any event, (a) matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or is redeemable at the option of the holder thereof, in whole or in part, on or prior to the Latest Maturity Date on the date of determination or (b) is convertible into or exchangeable or exercisable for (whether at the option of the issuer or the holder thereof) (i) debt securities or (ii) any Capital Stock referred to in (a) above, in each case, at any time prior to the Latest Maturity Date on the date of determination; provided, however, that any Capital Stock that would not constitute Disqualified Stock but for provisions thereof giving holders thereof (or the holders of any security into or for which such Capital Stock is convertible, exchangeable or exercisable) the right to require Holdings to repurchase or redeem such Capital Stock upon the occurrence of a change in control or asset disposition occurring prior to the Latest Maturity Date on the date of determination shall not constitute Disqualified Stock if the change in control or asset disposition provision applicable to such Capital Stock are no more favorable to such holders than the provisions of Section 6.07 or Section 6.09 (as applicable) and such Capital Stock specifically provides that Holdings will not repurchase or redeem any such Capital Stock pursuant to such provisions prior to Holdings’ repurchase of the Loans as are required pursuant to the provisions of Section 6.07 or Section 6.09 hereof (as applicable).

“Dollar” and “\$” mean lawful money of the United States.

“Effective Date” means the date on which the conditions precedent in Section 4.01 are satisfied, which date is January 29, 2018.

“Eligible Assignee” means (a) a Lender; (b) an Affiliate of a Lender; (c) an Approved Fund; and (d) any other Person that meets the requirements to be an assignee under Section 9.07(b), provided, that under no circumstances shall (i) any Competitor be an assignee without the prior written consent of the Borrower and, (ii) subject to clauses (k) and (l) of Section 9.07, Holdings, the Borrower or any Affiliate thereof or a natural person, be an Eligible Assignee.

“Environmental Laws” has the meaning specified in Section 5.10.

“Equity Offering” means any public or private sale, after the Closing Date, of Qualified Stock of Holdings, other than (a) an Excluded Contribution, (b) public offerings registered on Form S-4 or S-8 or any successor form thereto or (c) any issuance pursuant to employee benefit plans or otherwise in compensation to officers, directors or employees.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended from time to time.

“Event of Default” has the meaning specified in Section 7.01.

“Exchange Act” means the United States Securities Exchange Act of 1934, as amended.

“Exchange Notes” means the (i) 13.5% Senior Notes due 2026 of the Borrower and (ii) 5.0% Senior Notes due 2040 of the Borrower issued under the Exchange Notes Indenture.

“Exchange Notes Guarantees” means the guarantee of the Exchange Notes by each guarantor under the Exchange Notes Indenture.

“Exchange Notes Indenture” means the Indenture, to be dated on or about February 1, 2018 (as it may be amended, supplemented or otherwise modified from time to time), by and among the Borrower, Holdings, each of the guarantors party thereto and the Exchange Notes Trustee under which the Exchange Notes are issued.

“Exchange Notes Trustee” means Wilmington Trust, National Association acting as the trustee under the Exchange Notes Indenture for the holders of the Exchange Notes, and any successor acting in such capacity.

“Excluded Contribution” means cash or Cash Equivalents received by Holdings as capital contributions to its equity (other than through the issuance of Disqualified Stock) or from the issuance or sale (other than to a Subsidiary) of Qualified Stock of Holdings, in each case, after the Effective Date and to the extent designated as an Excluded Contribution pursuant to an Officer’s Certificate of the Company.

“Excluded Subsidiary” means (a) each non-wholly owned Subsidiary and (b) each Subsidiary of Holdings (other than the Borrower) that has a book value of less than \$5.0 million, measured at the end of the most recently completed fiscal year for which financial statements have been provided as set forth under Section 6.12 (or if acquired or created subsequent to such delivery, measured at the most recent practicable date (or estimated in the reasonable judgment of Holdings)); provided that in each case, such Subsidiary has not guaranteed any other Applicable Debt of Holdings or the Borrower.

“Excluded Taxes” means any of the following Taxes imposed on or with respect to any Agent or Lender or required to be withheld or deducted from a payment to any Lender or an Agent, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed as a result of such Lender or Agent being organized under the laws of, or having its principal office or, in the case of any Lender, its applicable lending office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of a Lender, United States federal withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in a Loan or Term Commitment pursuant to a law in effect on the date on which (i) such Lender acquires such interest in the Loan or Term Commitment (other than pursuant to an assignment request by the Borrower under Section 3.07) or (ii) such Lender changes its Lending Office, except in each case to the extent that, pursuant to Section 3.01, amounts with respect to such Taxes were payable either to such Lender's assignor immediately before such Lender acquired the applicable interest in a Loan or Term Commitment or to such Lender immediately before it changed its Lending Office, (c) Taxes attributable to such Lender's or Agent's failure to comply with Section 3.01(f) and (d) any withholding Taxes imposed under FATCA.

“Existing Revolving Credit Agreement” means the Credit Agreement, dated as of June 7, 2013, among the Borrower, Holdings, the other guarantors party thereto, and the lender party thereto, as amended by the Credit Agreement First Amendment, dated as of June 11, 2013, the Credit Agreement Second Amendment, dated as of June 18, 2013, the Credit Agreement Third Amendment, dated as of June 27, 2013 and the Credit Agreement Fourth Amendment, dated as of July 10, 2013 and as further amended, restated, supplemented or otherwise modified from time to time hereafter, including any such amendment, restatement or other modification that increases the amount permitted to be borrowed thereunder or alters the maturity thereof (to the extent that such increase in borrowings is permitted under Section 6.03 hereof) or adds Holdings, the Borrower or Restricted Subsidiaries as additional borrowers or guarantors thereunder and whether by the same or any other agent, lender or group of lenders.

“Existing Secured Notes” means the Borrower's 10.000% Senior Secured Notes due 2022 and the Borrower's 10.500% Senior Secured Notes due 2024, issued under the Existing Secured Notes Indenture.

“Existing Secured Notes Indenture” means the Indenture, dated as of July 27, 2017, among the Borrower, Holdings and the other guarantors party thereto and the trustee named therein and the collateral agent named therein, in each case as amended and supplemented as of the date hereof and as further amended or supplemented from time to time hereafter.

“Existing Unsecured Notes” means the Borrower's 8.000% Senior Notes due 2019 issued under the Existing Unsecured Notes Indenture.

“Existing Unsecured Notes Exchange” means (a) the Borrower's offer to exchange, and subsequent exchange of, up to \$185,000,000 aggregate principal amount of its Existing Unsecured Notes for a combination of cash and Exchange Notes pursuant to the terms and conditions set forth in the confidential offering memorandum of the Borrower in respect of such offer and exchange, dated December 28, 2017, and (b) all payments made and securities issued in connection with the foregoing.

“Existing Unsecured Notes Indenture” means the Indenture governing the Existing Unsecured Notes, dated as of November 5, 2014, among the Borrower, the guarantors party thereto and Wilmington Trust, National Association, as trustee, as amended and supplemented as of the date hereof and as further amended or supplemented from time to time hereafter.

“Extended Term Loan Facility” means a facility providing for the Borrowing of Extended Term Loans.

“Extended Term Loans” shall have the meaning assigned to such term in Section 2.13(a)(ii).

“Extending Term Lender” shall have the meaning assigned to such term in Section 2.13(a)(ii).

“Extension” shall have the meaning specified in Section 2.13(a).

“Extension Offer” shall have the meaning specified in Section 2.13(a).

“Facility” means the Term Loan Facility.

“Fair Market Value” means, with respect to any asset, the price (after taking into account any liabilities relating to such assets) that would be negotiated in an arm’s-length transaction for cash between a willing seller and a willing and able buyer, neither of which is under any compulsion to complete the transaction, as such price is determined in good faith by the Board of Directors of Holdings or a duly authorized committee thereof, as evidenced by a resolution of such Board of Directors or committee.

“FATCA” means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations with respect thereto or official administrative interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the Code (or any amended or successor version described above), any intergovernmental agreements entered into to implement such Sections of the Code, and any laws, fiscal or regulatory legislation, rules, guidance notes and practices implementing the foregoing.

“First Draw Term Commitment” means, as to each Initial Term Lender, its obligation to make (i) First Draw Term Loans to the Borrower pursuant to Section 2.01 in an aggregate principal amount not to exceed the amount set forth opposite such Initial Term Lender’s name in Schedule 2.01 under the caption “First Draw Term Commitment” or in the Assignment and Assumption pursuant to which such Lender purchases such First Draw Term Commitment, as applicable, as such amount may be adjusted from time to time in accordance with this Agreement. The aggregate principal amount of the First Draw Term Commitments as of the Effective Date is \$132,500,000. The Initial Term Lenders shall have the right, on or before the Closing Date, to deliver an updated Schedule 2.01 to Holdings (with a copy to the Administrative Agent) providing for the re-allocation of the First Draw Term Commitment solely among the Initial Term Lenders, which shall replace any Schedule 2.01 in effect on such date in its entirety; provided that, in no event shall the aggregate principal amount of First Draw Term Commitments of the Initial Term Lenders as of the Closing Date be less than \$132,500,000.

“First Draw Term Loan” has the meaning specified in Section 2.01.

“Four Quarter Period” has the meaning specified in the definition of “Consolidated Fixed Charge Coverage Ratio”.

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

“GAAP” means generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as may be approved by a significant segment of the accounting profession of the United States, as in effect on the Effective Date.

“Governmental Authority” means any nation or government, any state or other political subdivision thereof, any agency, authority, instrumentality, regulatory body, court, administrative tribunal, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national body exercising such powers or functions).

“Guarantee” means the guarantee of the Loan Obligations by each Guarantor under this Agreement.

“guarantee” means any obligation, contingent or otherwise, of any Person directly or indirectly guaranteeing any Indebtedness of any other Person and, without limiting the generality of the foregoing, any obligation, direct or indirect, contingent or otherwise, of such Person: (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness of such other Person (whether arising by virtue of partnership arrangements, or by agreement to keep-well, to purchase assets, goods, securities or services, to take-or-pay, or to maintain financial statement conditions or otherwise) or (b) entered into for purposes of assuring in any other manner the obligee of such Indebtedness of the payment thereof or to protect such obligee against loss in respect thereof, in whole or in part; provided, that the term “guarantee” does not include endorsements for collection or deposit in the ordinary course of business. The term “guarantee” used as a verb has a corresponding meaning.

“Guarantors” has the meaning specified in the introductory paragraph to this Agreement.

“Hedging Obligations” means, with respect to any Person, the obligations of such Person under any Interest Protection Agreement, commodity swap agreement, commodity cap agreement, commodity collar agreement, Currency Agreement or similar agreement providing for the transfer or mitigation of interest rate, commodity price or currency risks either generally or under specific contingencies.

“Historical Financial Statements” has the meaning specified in Section 5.07.

“Holdings” has the meaning specified in the introductory paragraph to this Agreement.

“incurrence” has the meaning ascribed to it in Section 6.03 hereof.

“Indebtedness” of any Person means, without duplication,

(a) any liability of such Person (i) for borrowed money or under any reimbursement obligation relating to a letter of credit or other similar instruments (other than standby letters of credit or similar instruments issued for the benefit of, or surety, performance, completion or payment bonds, earnest money notes or similar purpose undertakings or indemnifications issued by, such Person in the ordinary course of business), (ii) evidenced by a bond, note, debenture or similar instrument (including a purchase money obligation) given in connection with the acquisition of any businesses, properties or assets of any kind or with services incurred in connection with capital expenditures (other than any obligation to pay a contingent purchase price which, as of the date of incurrence thereof, is not required to be recorded as a liability in accordance with GAAP), or (iii) in respect of Capitalized Lease Obligations (to the extent of the Attributable Debt in respect thereof),

(b) any Indebtedness of others that such Person has guaranteed to the extent of the guarantee; provided, however, that Indebtedness of Holdings and its Restricted Subsidiaries will not include the obligations of Holdings or a Restricted Subsidiary under warehouse lines of credit of Mortgage Subsidiaries to repurchase mortgages at prices no greater than 98% of the principal amount thereof, and upon any such purchase the excess, if any, of the purchase price thereof over the Fair Market Value of the mortgages acquired, will constitute Restricted Payments subject to Section 6.04 hereof,

(c) to the extent not otherwise included, the obligations of such Person under Hedging Obligations to the extent recorded as liabilities not constituting Interest Incurred, net of amounts recorded as assets in respect of such obligations, in accordance with GAAP, and

(d) all Indebtedness of others secured by a Lien on any asset of such Person, whether or not such Indebtedness is assumed by such Person;

provided, that Indebtedness shall not include accounts payable, liabilities to trade creditors of such Person or other accrued expenses arising in the ordinary course of business or completion guarantees entered into in the ordinary course of business. The amount of Indebtedness of any Person at any date shall be (i) the outstanding balance at such date of all unconditional obligations as described above, net of any unamortized discount to be accounted for as Interest Expense, in accordance with GAAP, (ii) the maximum liability of such Person for any contingent obligations under clause (a) of this definition at such date, net of an unamortized discount to be accounted for as Interest Expense in accordance with GAAP, (iii) in the case of clause (c) above, zero, if permitted under clause (f) of the definition of "Permitted Indebtedness" or, otherwise, the net termination amount payable in respect thereof, and (iv) in the case of clause (d) above, the lesser of (x) the fair market value of any asset subject to a Lien securing the Indebtedness of others on the date that the Lien attaches and (y) the amount of the Indebtedness secured.

For the avoidance of doubt, obligations of any Person under a Permitted Bond Hedge transaction or a Permitted Warrant transaction shall be deemed not to constitute Indebtedness.

"Indemnified Liabilities" has the meaning specified in Section 9.05.

"Indemnified Taxes" means (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of any Loan Party under any Loan Document and (b) to the extent not otherwise described in (a), Other Taxes.

"Indemnitees" has the meaning specified in Section 9.05.

"Initial Term Commitment" means the First Draw Term Commitment and the Delayed Draw Term Commitment.

"Initial Term Lenders" means the Lenders listed on Schedule 2.01.

"Initial Term Loans" means the First Draw Term Loan and the Delayed Draw Term Loans

“Initial Term Loan Facility” means the facility providing for the Borrowing of Initial Term Loans.

“Intangible Assets” of Holdings means all unamortized debt discount and expense, unamortized deferred charges, goodwill, patents, trademarks, service marks, trade names, copyrights and all other items (other than any deferred tax assets) which would be treated as intangibles on the consolidated balance sheet of Holdings and its Restricted Subsidiaries prepared in accordance with GAAP.

“Interest Expense” of any Person for any period means, without duplication, the aggregate amount of (a) interest which, in conformity with GAAP, would be set opposite the caption “interest expense” or any like caption on an income statement for such Person (including, without limitation, imputed interest included in Capitalized Lease Obligations, all commissions, discounts and other fees and charges owed with respect to letters of credit and bankers’ acceptance financing, the net costs (but reduced by net gains) associated with Currency Agreements and Interest Protection Agreements, amortization of other financing fees and expenses, the interest portion of any deferred payment obligation, amortization of discount or premium, if any, and all other noncash interest expense (other than interest and other charges amortized to cost of sales)), and (b) all interest actually paid by Holdings or a Restricted Subsidiary under any guarantee of Indebtedness (including, without limitation, a guarantee of principal, interest or any combination thereof) of any Person other than Holdings, the Borrower or any Restricted Subsidiary during such period; provided, that Interest Expense shall exclude any expense associated with the complete write-off of financing fees and expenses in connection with the repayment of any Indebtedness.

“Interest Incurred” of any Person for any period means, without duplication, the aggregate amount of (a) Interest Expense and (b) all capitalized interest and amortized debt issuance costs.

“Interest Payment Date” means, as to each Loan, (a) the last Business Day of each January, April, July and October to occur while such Loan is outstanding, commencing with the first such Interest Payment Date to occur immediately after the Closing Date, (b) each date of any repayment or prepayment made in respect thereof prior to the Termination Date of such Loan and (c) the Maturity Date of such Loan.

“Interest Protection Agreement” of any Person means any interest rate swap agreement, interest rate collar agreement, option or futures contract or other similar agreement or arrangement designed to protect such Person or any of its Subsidiaries against fluctuations in interest rates with respect to Indebtedness permitted to be incurred under this Agreement. For the avoidance of doubt, any Permitted Convertible Indebtedness Call Transaction will not constitute an Interest Protection Agreement.

“Investment Company Act” means the Investment Company Act of 1940, as amended.

“Investments” of any Person means (a) all investments by such Person in any other Person in the form of loans, advances or capital contributions, (b) all guarantees of Indebtedness of any other Person by such Person, (c) all purchases (or other acquisitions for consideration) by such Person of Indebtedness, Capital Stock or other securities of any other Person and (d) all other items that would be classified as investments in any other Person (including, without limitation, purchases of assets outside the ordinary course of business) on a balance sheet of such Person prepared in accordance with GAAP.

“IRS” means the United States Internal Revenue Service.

“JV Holding Company” means a Subsidiary of JV Holdings, the only material asset of which constitutes Capital Stock of one or more joint ventures owned on the Second Amendment Effective Date or Permitted Joint Ventures in existence on the Second Amendment Effective Date or acquired or formed after the Second Amendment Effective Date; provided that neither JV Holdings nor K. Hovnanian JV Services Company, L.L.C. shall be deemed a JV Holding Company.

“JV Holdings” means K. Hovnanian JV Holdings, L.L.C.

“JV Holdings Secured Group Notes” means the Borrower’s 2.00% Senior Secured Notes due 2021, the Borrower’s 5.00% Senior Secured Notes due 2021 and the Borrower’s 9.50% Senior Secured Notes due 2020, issued under the JV Holdings Secured Group Notes Indentures.

“JV Holdings Secured Group Notes Indentures” means (i) the Indenture dated as of November 1, 2011 among the Borrower, Holdings and the other guarantors party thereto and the trustee named therein and the collateral agent named therein relating to the Borrower’s 2.00% Senior Secured Notes due 2021 and 5.00% Senior Secured Notes due 2021 and (ii) the Indenture dated as of September 8, 2016, among the Borrower, Holdings, the other guarantors party thereto and the trustee named therein and the collateral agent named therein relating to the Borrower’s 9.50% Senior Secured Notes due 2020, in each case as amended and supplemented as of the date hereof and as further amended or supplemented from time to time hereafter.

“Latest Maturity Date” means, at any date of determination, the latest Maturity Date or expiration date applicable to any Loan or Commitment hereunder at such time, as extended in accordance with this Agreement from time to time.

“Laws” means, collectively, all applicable international, foreign, Federal, state, commonwealth and local statutes, treaties, rules, guidelines, regulations, ordinances, codes and administrative or judicial precedents or authorities, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, requests, licenses, authorizations and permits of, and agreements with, any Governmental Authority, in each case whether or not having the force of law.

“Lender” has the meaning specified in the introductory paragraph of this Agreement.

“Lender Funding Obligation” has the meaning specified in the definition of “Defaulting Lender.”

“Lending Office” means, as to any Lender, the office or offices of such Lender described as such in such Lender’s Administrative Questionnaire, or such other office or offices as a Lender may from time to time notify the Borrower and the Administrative Agent.

“Lien” means, with respect to any Property, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such Property. For purposes of this definition, a Person shall be deemed to own, subject to a Lien, any Property which it has acquired or holds subject to the interest of a vendor or lessor under any conditional sale agreement, capital lease or other title retention agreement relating to such Property.

“Loan” means an extension of credit by a Lender to the Borrower in the form of a Term Loan.

“Loan Documents” means, collectively, (a) this Agreement, (b) the Notes, (c) the Agent Fee Letter (for purposes of Section 9.05 only), (d) each other document, instrument or agreement entered into by a Loan Party for the benefit of any Agent or any Lender in connection with the foregoing and (e) any amendment, waiver, supplement or other modification to any of the foregoing.

“Loan Notice” means a notice of a Borrowing delivered pursuant to Section 2.02(a), which, if in writing, shall be substantially in the form of Exhibit A-1.

“Loan Obligations” means all advances to, and debts, liabilities, obligations, covenants and duties of, any Loan Party arising under any Loan Document or otherwise with respect to any Loan, whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest and fees that accrue after the commencement by or against any Loan Party of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding. Without limiting the generality of the foregoing, the Loan Obligations of the Loan Parties under the Loan Documents include the obligation to pay principal, interest, charges, expenses, fees, Attorney Costs indemnities and other amounts payable by any Loan Party under any Loan Document.

“Loan Parties” means, collectively, Holdings, the Borrower and each Subsidiary Guarantor.

“Make-Whole Premium” means, as of any date of determination, an amount equal to the excess, if any, of (a) the present value as of such prepayment date of (i) the principal amount of such Loans being prepaid plus the Prepayment Premium that would be payable in connection with a prepayment of such Loans occurring on the second anniversary of the Closing Date plus (ii) all interest that would have accrued on the principal amount of such Loans being prepaid from such date through the second anniversary of the Closing Date (excluding any accrued but unpaid interest to such prepayment date), in each case computed using a discount rate equal to the Treasury Rate (determined as of such prepayment date) plus 0.50%, over (b) the principal amount of such Loans being prepaid.

“Marketable Securities” means (a) equity securities that are listed on a national securities exchange and (b) debt securities that are rated by a nationally recognized rating agency, listed on a national securities exchange or covered by at least two reputable market makers.

“Material Adverse Effect” has the meaning specified in Section 5.01.

“Maturity Date” means with respect to the Initial Term Loan Facility, the ninth anniversary of the Closing Date; provided further that the reference to Maturity Date (i) with respect to Refinancing Term Loans shall be the final maturity date as specified in the applicable Refinancing Term Loan Amendment and (ii) with respect to Extended Term Loans shall be the final maturity date as specified in the applicable Extension Offer.

“Maximum Rate” has the meaning specified in Section 9.10.

“Minimum Extension Condition” shall have the meaning specified in Section 2.13(b).

“Moody’s” means Moody’s Investors Service, Inc. or any successor to its debt rating business.

“Mortgage Subsidiary” means any Subsidiary of Holdings substantially all of whose operations consist of the mortgage lending business.

“Most Recent Fiscal Quarter” means the most recently completed fiscal quarter for which financial statements have been provided pursuant to Section 6.12 hereof.

“Net Cash Proceeds” means

(a) with respect to an Asset Disposition or Casualty Event, payments received in cash (including any such payments received by way of deferred payment of principal pursuant to a note or installment receivable or otherwise (including any cash received upon sale or disposition of such note or receivable), but only as and when received), excluding any other consideration received in the form of assumption by the acquiring Person of Indebtedness or other obligations relating to the Property disposed of in such Asset Disposition, or received in any other non-cash form unless and until such non-cash consideration is converted into cash therefrom, in each case, net of all legal, title and recording tax expenses, commissions and other fees and expenses incurred, and all federal, state and local taxes required to be accrued as a liability under GAAP as a consequence of such Asset Disposition or Casualty Event, and in each case net of a reasonable reserve for the after-tax cost of any indemnification or other payments (fixed and contingent) attributable to the seller’s indemnities or other obligations to the purchaser undertaken by Holdings, the Borrower or any of its Restricted Subsidiaries in connection with such Asset Disposition, and net of all payments made on any Indebtedness which is secured by or relates to such Property in accordance with the terms of any Lien or agreement upon or with respect to such Property or which such Indebtedness must by its terms or by applicable Law be repaid out of the proceeds from such Asset Disposition or Casualty Event, and net of all contractually required distributions and payments made to minority interest holders in Restricted Subsidiaries or joint ventures as a result of such Asset Disposition or Casualty Event; and

(b) with respect to the incurrence or issuance of any Indebtedness by Holdings, the Borrower or any Restricted Subsidiary meeting the definition of Other Prepayment Event, the excess, if any, of (i) the sum of cash and Cash Equivalents received in connection with such incurrence or issuance over (ii) all taxes paid or reasonably estimated to be payable, and all fees, commissions, costs and other out-of-pocket expenses and other customary expenses incurred, in each case by the applicable party in connection with such incurrence or issuance.

“New Secured Credit Agreement” means the senior secured first lien revolving credit agreement, dated as of the Effective Date, among the Borrower, Holdings, the other guarantors party thereto, the lenders party thereto from time to time and Wilmington Trust, National Association, as administrative agent and collateral agent, as the same may be amended, restated, amended and restated, replaced, supplemented or otherwise modified from time to time.

“Non-Defaulting Lender” means, at any time, a Lender that is not a Defaulting Lender.

“New Secured Notes” means, collectively, [the 1.125 Lien Notes, the 1.25 Lien Notes and the 1.5 Lien Notes.](#)

“Non-Recourse Indebtedness” with respect to any Person means Indebtedness of such Person for which (a) the sole legal recourse for collection of principal and interest on such Indebtedness is against the specific property, including for the avoidance of doubt, assets directly related thereto or derived therefrom, identified in the instruments evidencing or securing such Indebtedness or other property of such Person financed pursuant to the Credit Facility of such Person under which such Indebtedness was incurred (provided that the aggregate principal amount of the total Indebtedness shall not exceed the purchase price or cost (including financing costs) of the properties financed thereby), (b) such properties were acquired (directly or indirectly, including through the purchase of Capital Stock of the Person owning such property), constructed or improved with the proceeds of such Indebtedness or such Indebtedness was incurred within 365 days after the acquisition (directly or indirectly, including through the purchase of Capital Stock of the Person owning such property) or completion of such construction or improvement and (c) no other assets of such Person may be realized upon in collection of principal or interest on such Indebtedness. Indebtedness which is otherwise Non-Recourse Indebtedness will not lose its character as Non-Recourse Indebtedness because there is recourse to the borrower, any guarantor or any other Person for (i) environmental warranties, covenants and indemnities, (ii) indemnities for and liabilities arising from fraud, misrepresentation, misapplication or non-payment of rents, profits, deposits, insurance and condemnation proceeds and other sums actually received by the borrower from secured assets to be paid to the lender, waste and mechanics’ liens, breach of separateness covenants, and other customary exceptions, (iii) in the case of the borrower thereof only, other obligations in respect of such Indebtedness that are payable solely as a result of a voluntary or collusive non-voluntary bankruptcy filing (or similar filing or action) by such borrower or (iv) similar customary “bad-boy” guarantees.

“Non-U.S. Lender” means a Lender that is not a U.S. Person.

“Note” means a Term Note.

“Note Purchase Agreement” means the agreement to be entered into by and among the Borrower, Holdings, the other guarantors named therein, and the Purchasers (as defined therein) party thereto, attached hereto as Exhibit K.

“Obligations” means with respect to any Indebtedness, all obligations (whether in existence on the Effective Date or arising afterwards, absolute or contingent, direct or indirect) for or in respect of principal (when due, upon acceleration, upon redemption, upon mandatory repayment or repurchase pursuant to a mandatory offer to purchase, or otherwise), premium, interest, penalties, fees, indemnification, reimbursement and other amounts payable and liabilities with respect to such Indebtedness, including all interest accrued or accruing after the commencement of any bankruptcy, insolvency or reorganization or similar case or proceeding at the contract rate (including, without limitation, any contract rate applicable upon default) specified in the relevant documentation, whether or not the claim for such interest is allowed as a claim in such case or proceeding.

“OFAC” has the meaning specified in Section 5.11.

“Officer,” when used with respect to the Borrower or Holdings, means the chairman of the Board of Directors, the president or chief executive officer, any vice president, the chief financial officer, the treasurer, any assistant treasurer, the controller, any assistant controller, the secretary or any assistant secretary of the Borrower or Holdings, as the case may be.

“Officers’ Certificate,” when used with respect to the Borrower or Holdings, means a certificate signed by the chairman of the Board of Directors, the president or chief executive officer, or any vice president and by the chief financial officer, the treasurer, any assistant treasurer, the controller, any assistant controller, the secretary or any assistant secretary of the Borrower or Holdings, as the case may be.

“Opinion of Counsel” means a written opinion signed by legal counsel of the Borrower or Holdings, who may be an employee of, or counsel to, the Borrower or Holdings, and who shall be reasonably satisfactory to the Administrative Agent.

“Other Connection Taxes” means, with respect to any Lender or Agent, Taxes imposed as a result of a present or former connection between such Lender or Agent and the jurisdiction imposing such Tax (other than connections arising from such Lender or Agent having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Loan Document, or sold or assigned an interest in any Loan or Loan Document).

“Other Prepayment Event” means the incurrence by the Borrower or any of its Restricted Subsidiaries of any Indebtedness, other than Indebtedness permitted under Section 6.03 (other than Refinancing Loans or any Refinancing Indebtedness which Refinances the Loans) or permitted by the Required Lenders pursuant to Section 9.01.

“Other Taxes” means all present or future stamp, court, or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made pursuant to Section 3.07).

“Outstanding Amount” means with respect to any Term Loans on any date of determination, the aggregate outstanding principal amount thereof on such date after giving effect to any Borrowings, prepayments or repayments of Term Loans occurring on such date.

“Parent Company” means, with respect to a Lender, the bank holding company (as defined in Federal Reserve Board Regulation Y), if any, of such Lender, and/or any Person owning, beneficially or of record, directly or indirectly, a majority of the economic or voting Capital Stock of such Lender.

“Participant” has the meaning specified in Section 9.07(e).

“Participant Register” has the meaning specified in Section 9.07(e).

“PATRIOT Act” means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Title III of Pub. L. No. 107-56 (signed into Law October 26, 2001)).

“Permitted Bond Hedge” means any call or capped call option (or substantively equivalent derivative transaction) on Holdings’ Capital Stock purchased by Holdings, the Borrower or any Restricted Subsidiary in connection with the issuance of any Permitted Convertible Indebtedness; provided that the purchase price for such Permitted Bond Hedge, less the proceeds received by Holdings, the Borrower or the Restricted Subsidiaries from the sale of any related Permitted Warrant, does not exceed the net proceeds received by Holdings, the Borrower or the Restricted Subsidiaries from the sale of such Permitted Convertible Indebtedness issued in connection with the Permitted Bond Hedge.

“Permitted Convertible Indebtedness” means Indebtedness of Holdings, the Borrower or any Restricted Subsidiary permitted to be incurred under the terms of this Agreement that is either (a) convertible or exchangeable into Capital Stock of Holdings (and cash in lieu of fractional shares) and/or cash (in an amount determined by reference to the price of such Capital Stock) or (b) sold as units with call options, warrants or rights to purchase (or substantially equivalent derivative transactions) that are exercisable for Capital Stock of Holdings and/or cash (in an amount determined by reference to the price of such Capital Stock).

“Permitted Convertible Indebtedness Call Transaction” means any Permitted Bond Hedge and any Permitted Warrant.

“Permitted Hovnanian Holders” means, collectively, Ara K. Hovnanian, the members of his immediate family and the members of the immediate family of the late Kevork S. Hovnanian, the respective estates, spouses, heirs, ancestors, lineal descendants, legatees and legal representatives of any of the foregoing and the trustee of any *bona fide* trust of which one or more of the foregoing are the sole beneficiaries or the grantors thereof, or any entity of which any of the foregoing, individually or collectively, beneficially own more than 50% of the Common Equity. Any Person or group whose acquisition of beneficial ownership constitutes a Change of Control in respect of which a Change of Control Offer is made in accordance with the requirements of this Agreement (or would result in a Change of Control Offer in the absence of the waiver of such requirement by Lenders in accordance with this Agreement) will thereafter constitute Permitted Hovnanian Holders.

“Permitted Indebtedness” means:

(a) Indebtedness under (i) this Agreement and the other Loan Documents, (ii) the Exchange Notes (and the Exchange Notes Guarantees), other than Additional Notes (as defined in the Exchange Notes Indenture) and (iii) other Indebtedness, including under the Existing Revolving Credit Agreement, in an aggregate amount outstanding at any one time (including for purposes of determining amounts outstanding under this clause (a) (iii), any Refinancing Indebtedness in respect thereof, which Refinancing Indebtedness shall be deemed to have been incurred under this clause (a) (iii)) not to exceed \$75.0 million (and the guarantees thereof);

(b) Indebtedness incurred under Credit Facilities in an aggregate principal amount outstanding at any one time (including for purposes of determining amounts outstanding under this clause (b)), any Refinancing Indebtedness in respect thereof, which Refinancing Indebtedness shall be deemed to have been incurred under this clause (b)) not to exceed the greater of (i) \$250.0 million and (ii) 10.0% of Consolidated Tangible Assets measured at the time of incurrence;

(c) Indebtedness outstanding on the Effective Date, excluding Indebtedness constituting Permitted Indebtedness pursuant to clauses (b), (d) through (f), (h), (j), (l), and (n) through (s) below, which shall instead be incurred under such clauses;

(d) Indebtedness in respect of obligations of Holdings and its Subsidiaries to the trustees under indentures for debt securities;

(e) intercompany debt obligations of (i) Holdings to the Borrower, (ii) the Borrower to Holdings, (iii) Holdings or the Borrower to any Restricted Subsidiary and (iv) any Restricted Subsidiary to Holdings or the Borrower or any other Restricted Subsidiary; provided, however, that any Indebtedness of any Restricted Subsidiary or the Borrower or Holdings owed to any Restricted Subsidiary or the Borrower that ceases to be a Restricted Subsidiary shall be deemed to be incurred and shall be treated as an incurrence for purposes of Section 6.03 at the time the Restricted Subsidiary in question ceases to be a Restricted Subsidiary;

(f) Indebtedness of Holdings or the Borrower or any Restricted Subsidiary under Hedging Obligations, in the case of any Currency Agreements or Interest Protection Agreements in a notional amount no greater than the payments due (at the time the related Currency Agreement or Interest Protection Agreement is entered into) with respect to the Indebtedness or currency being hedged, to the extent entered into in the ordinary course of business and not for speculative purposes;

(g) Purchase Money Indebtedness and Capitalized Lease Obligations entered into in the ordinary course of business in an aggregate principal amount (including for purposes of determining amounts outstanding under this clause (g)), any Refinancing Indebtedness in respect thereof, which Refinancing Indebtedness shall be deemed to have been incurred under this clause (g)) at any one time outstanding not to exceed \$50.0 million;

(h) obligations for, pledge of assets in respect of, and guaranties of, bond financings of political subdivisions or enterprises thereof in the ordinary course of business;

(i) Indebtedness entered into in the ordinary course of business secured only by office buildings owned or occupied by Holdings or any Restricted Subsidiary, which Indebtedness does not exceed \$25.0 million aggregate principal amount outstanding at any one time;

(j) Indebtedness under warehouse lines of credit, repurchase agreements and Indebtedness secured by mortgage loans and related assets of mortgage lending Subsidiaries in the ordinary course of a mortgage lending business;

(k) Indebtedness of Holdings, the Borrower or any Restricted Subsidiary which, together with all other Indebtedness under this clause (k), does not exceed ~~\$175.0~~325.0 million aggregate principal amount outstanding at any one time, including for purposes of determining amounts outstanding under this clause (k), any Refinancing Indebtedness in respect thereof, which Refinancing Indebtedness shall be deemed to have been incurred under this clause (k);

(l) obligations in respect of self-insurance, performance, bid, appeal and surety bonds and completion guarantees and similar obligations provided by Holdings or any Restricted Subsidiary or obligations in respect of letters of credit, bank guarantees or similar instruments related thereto, in each case, in the ordinary course of business;

(m) Indebtedness of (x) Holdings, the Borrower or a Restricted Subsidiary incurred or issued to finance an acquisition or (y) Persons that are acquired by Holdings, the Borrower or any Restricted Subsidiary or merged into or consolidated with Holdings, the Borrower or a Restricted Subsidiary in accordance with the terms of this Agreement (including designating an Unrestricted Subsidiary a Restricted Subsidiary); provided that after giving effect to such acquisition, merger or consolidation, either: (i) Holdings could incur at least \$1.00 of Indebtedness pursuant to Section 6.03(a), or (ii) the Consolidated Fixed Charge Coverage Ratio would be equal to or greater than the Consolidated Fixed Charge Coverage Ratio immediately prior to such transaction or the ratio of Indebtedness of Holdings and the Restricted Subsidiaries to Consolidated Tangible Net Worth of Holdings would be equal to or less than the ratio immediately prior to such transaction;

(n) Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business;

(o) Indebtedness of Holdings or any Restricted Subsidiary supported by a letter of credit (which letter of credit is incurred pursuant to another clause hereof (other than clause (l) of this definition), in a principal amount not in excess of the stated amount of such letter of credit;

(p) Indebtedness of Holdings or any Restricted Subsidiary consisting of (i) the financing of insurance premiums or (ii) take or pay obligations contained in supply arrangements, in each case incurred in the ordinary course of business;

(q) Indebtedness of Holdings or any of its Restricted Subsidiaries in respect of Cash Management Services;

(r) obligations (other than Indebtedness for borrowed money) of Holdings or any of its Restricted Subsidiaries under an agreement with any governmental authority, quasi-governmental entity, utility, adjoining (or common master plan) landowner or seller of real property, in each case entered into in the ordinary course of business in connection with the acquisition of real property, to entitle, develop or construct infrastructure thereupon; and

(s) the incurrence by Holdings or any Restricted Subsidiary of Indebtedness deemed to exist pursuant to the terms of a joint venture agreement as a result of a failure of Holdings or such Restricted Subsidiary to make a required capital contribution therein; provided that the only recourse on such Indebtedness is limited to Holdings' or such Restricted Subsidiary's equity interests in the related joint venture.

"Permitted Investment" means:

(a) Cash Equivalents;

(b) any Investment in Holdings, the Borrower or any Restricted Subsidiary or any Person that becomes a Restricted Subsidiary as a result of such Investment or that is consolidated or merged with or into, or transfers all or substantially all of the assets of it or an operating unit or line of business to, Holdings or a Restricted Subsidiary;

(c) any receivables, loans or other consideration taken by Holdings, the Borrower or any Restricted Subsidiary in connection with any asset sale otherwise permitted by this Agreement;

(d) Investments received in connection with any bankruptcy or reorganization proceeding, or as a result of foreclosure, perfection or enforcement of any Lien or any judgment or settlement of any Person in exchange for or satisfaction of Indebtedness or other obligations or other property received from such Person, or for other liabilities or obligations of such Person created, in accordance with the terms of this Agreement;

(e) Investments in Hedging Obligations described in the definition of "Permitted Indebtedness";

(f) any loan or advance to an executive officer, director or employee of Holdings or any Restricted Subsidiary made in the ordinary course of business or in accordance with past practice; provided, however, that any such loan or advance exceeding \$1.0 million shall have been approved by the Board of Directors of Holdings or a committee thereof consisting of disinterested members;

(g) Investments in interests in issuances of collateralized mortgage obligations, mortgages, mortgage loan servicing, or other mortgage related assets;

(h) obligations of Holdings or a Restricted Subsidiary under warehouse lines of credit of Mortgage Subsidiaries to repurchase mortgages;

(i) Investments in an aggregate amount at any time outstanding not to exceed the greater of (i) \$125.0 million and (ii) 5.0% of Consolidated Tangible Assets (measured at the time made and without giving effect to subsequent changes in value);

(j) Guarantees issued in accordance with Section 6.03;

(k) Investments existing on the Effective Date not otherwise constituting Permitted Investments pursuant to clause (b) above;

(l) Permitted Bond Hedges which constitute Investments;

(m) extensions of trade credit and credit in connection with the sale of land owned by Holdings or a Restricted Subsidiary which is zoned by the applicable governmental authority having jurisdiction for construction and use as a detached or attached (including town homes or condominium) single-family house (but excluding mobile homes), or the sale of a detached or attached (including town homes or condominium) single-family house (but excluding mobile homes) owned by Holdings or a Restricted Subsidiary which is completed or for which there has been a start of construction and which has been or is being constructed on any such land;

(n) obligations (but not payments thereon) with respect to homeowners association obligations, community facility district bonds, metro district bonds, mello-roos bonds and subdivision improvement bonds and similar bonding requirements arising in the ordinary course of business of a homebuilder;

(o) guarantee obligations, including completion guarantee or indemnification obligations (other than for the payment of borrowed money) entered into in the ordinary course of business and incurred for the benefit of any adjoining landowner, lender, seller of real property or municipal government authority (or enterprises thereof) in connection with the acquisition, construction, subdivision, entitlement and development of real property;

(p) Investments the payment for which consists of Qualified Stock of Holdings; provided that such Qualified Stock will not increase the amount available for Restricted Payments under clause (iii) of Section 6.04(a);

(q) advances, loans or extensions of trade credit in the ordinary course of business by Holdings or any of the Restricted Subsidiaries;

(r) intercompany current liabilities owed to Unrestricted Subsidiaries or joint ventures incurred in the ordinary course of business in connection with the cash management operations of Holdings and its Subsidiaries; and

(s) insurance, lease, utility and workers' compensation, performance and other similar deposits made in the ordinary course of business.

“Permitted Joint Venture” means any joint venture between the Borrower, Holdings or any of its Subsidiaries, on the one hand, and any other person that is not an affiliate of Holdings, on the other; provided that (i) such joint venture is solely engaged in the business of the development, construction and sale of homes and has no assets, liabilities or operations other than those reasonably related to such business, and (ii) such Person owns no Capital Stock or other equity interests in, or Indebtedness of, Holdings or any of its Restricted Subsidiaries and makes no Investments in Holdings or any of its Restricted Subsidiaries.

“Permitted Liens” means

(a) Liens for taxes, assessments or governmental or quasi-governmental charges or claims that (i) are not yet delinquent for a period of more than 30 days, (ii) are being contested in good faith by appropriate proceedings and as to which appropriate reserves have been established or other provisions have been made in accordance with GAAP, if required, or (iii) encumber solely property abandoned or in the process of being abandoned;

(b) statutory Liens of landlords and carriers', warehousemen's, mechanics', suppliers', materialmen's, repairmen's or other Liens imposed by law and arising in the ordinary course of business and with respect to amounts that, to the extent applicable, either (i) are not yet delinquent for a period of more than 30 days or (ii) are being contested in good faith by appropriate proceedings and as to which appropriate reserves have been established or other provisions have been made in accordance with GAAP, if required;

(c) Liens incurred or deposits made in the ordinary course of business in connection with workers' compensation, unemployment insurance and other types of social security or similar legislation or other insurance related obligations (including, but not limited to, in respect of deductibles, self-insured retention amounts and premiums and adjustments thereto) or indemnification obligations of (including obligations in respect of letters of credit or bank guarantees for the benefit of) insurance carriers providing property, casualty or liability insurance, or good faith deposits in connection with bids, tenders, contracts (other than for the payment of Indebtedness) or leases to which such Person is a party, or deposits to secure public or statutory obligations of such Person or deposits of cash or U.S. government bonds to secure surety, stay, customs or appeal bonds to which such Person is a party, or deposits as security for contested taxes or import duties or for the payment of rent, performance and return-of-money bonds and other similar obligations (including letters of credit issued in lieu of any such bonds or to support the issuance thereof and including those to secure health, safety and environmental obligations);

(d) Liens incurred or deposits made to secure the performance of tenders, bids, leases, statutory obligations, surety and appeal bonds, development obligations, progress payments, government contracts, utility services, developer's or other obligations to make on-site or off-site improvements and other obligations of like nature (exclusive of obligations for the payment of borrowed money but including the items referred to in the parenthetical in clause (a)(i) of the definition of "Indebtedness"), in each case incurred in the ordinary course of business of Holdings, the Borrower and the Restricted Subsidiaries;

(e) attachment or judgment Liens not giving rise to a Default or an Event of Default;

(f) easements, dedications, assessment district or similar Liens in connection with municipal or special district financing, rights-of-way, restrictions, reservations and other similar charges, burdens, and other similar charges or encumbrances not materially interfering with the ordinary course of business of Holdings, the Borrower and the Restricted Subsidiaries;

(g) zoning restrictions, licenses, restrictions on the use of real property or minor irregularities in title thereto, which do not materially impair the use of such real property in the ordinary course of business of Holdings, the Borrower and the Restricted Subsidiaries;

(h) Liens securing Indebtedness incurred pursuant to clauses (a)(i), (i) or (j) of the definition of "Permitted Indebtedness";

(i) (a) Liens securing Indebtedness (including Refinancing Indebtedness) of Holdings, the Borrower or any Restricted Subsidiary permitted to be incurred under this Agreement; provided, that the aggregate amount of all consolidated Indebtedness of Holdings, the Borrower and the Restricted Subsidiaries (including, with respect to Capitalized Lease Obligations, the Attributable Debt in respect thereof) secured by Liens under this clause (i)(a) (together with the principal amounts outstanding under the Existing Secured Notes and any refinancing, replacement or renewal thereof that constitutes secured Indebtedness which is not permitted by and incurred under another clause of this definition of “Permitted Liens” (other than clauses (s) and (w)) shall not exceed the greater of (i) ~~\$840.0~~365.0 million and (ii) 37.6% of Consolidated Tangible Assets at any one time outstanding (after giving effect to the incurrence of such Indebtedness and the use of the proceeds thereof) measured at the time of incurrence; provided that any Indebtedness incurred to refund, refinance or extend (including Refinancing Indebtedness) Indebtedness secured by Liens pursuant to this clause (i)(a) shall be permitted to be secured by Liens pursuant to this clause (i)(a) notwithstanding that at the time of incurrence thereof, such Indebtedness may exceed the amount of Indebtedness that would then be permitted to be secured under this clause (i)(a) due to a diminution in the amount of Consolidated Tangible Assets; and (b) Liens securing Indebtedness of Holdings, the Borrower or any Restricted Subsidiary permitted to be incurred under this Agreement; provided, that the aggregate amount of all consolidated Indebtedness of Holdings, the Borrower and the Restricted Subsidiaries (including, with respect to Capitalized Lease Obligations, the Attributable Debt in respect thereof) secured by Liens under this clause (i)(b) shall not exceed \$431.2 million at any one time outstanding (after giving effect to the incurrence of such Indebtedness and the use of the proceeds thereof) measured at the time of incurrence;

(j) Liens securing Non-Recourse Indebtedness and Refinancing Non-Recourse Indebtedness of Holdings, the Borrower or any Restricted Subsidiary; provided, that such Liens apply only to (i) the property financed, constructed or improved out of the net proceeds of ~~such the~~ Non-Recourse Indebtedness within 365 days after the incurrence of ~~such the~~ Non-Recourse Indebtedness, and, including for the avoidance of doubt, assets directly related thereto or derived therefrom or other property of Holdings, the Borrower or any Restricted Subsidiary financed pursuant to the Credit Facility of such person under which the Non-Recourse Indebtedness or Refinancing Non-Recourse Indebtedness was incurred, or (ii) licenses, permits, authorizations, consent forms or contracts related to the acquisition, development, use or improvement of such property;

(k) Liens securing Purchase Money Indebtedness; provided, that such Liens apply only to (i) the property financed, designed, installed, constructed or improved with the proceeds of such Purchase Money Indebtedness within 365 days after the incurrence of such Purchase Money Indebtedness, and, including for the avoidance of doubt, assets directly related thereto or derived therefrom or other property of Holdings, the Borrower or any Restricted Subsidiary financed pursuant to the Credit Facility of such person under which the Purchase Money Indebtedness was incurred, or (ii) licenses, permits, authorizations, consent forms or contracts related to the acquisition, development, use or improvement of such property;

(l) Liens on property or assets of Holdings, the Borrower or any Restricted Subsidiary securing Indebtedness of Holdings, the Borrower or any Restricted Subsidiary owing to Holdings, the Borrower or one or more Restricted Subsidiaries;

(m) leases, subleases, licenses or sublicenses (including of intellectual property) granted to others not materially interfering with the ordinary course of business of Holdings and the Restricted Subsidiaries;

(n) purchase money security interests (including, without limitation, Capitalized Lease Obligations); provided, that such Liens apply only to the Property acquired and the related Indebtedness is incurred within 365 days after the acquisition of such Property;

(o) any right of first refusal, right of first offer, option, contract or other agreement to sell an asset; provided that such sale is not otherwise prohibited under this Agreement;

(p) any right of a lender or lenders to which Holdings, the Borrower or a Restricted Subsidiary may be indebted to offset against, or appropriate and apply to the payment of such, Indebtedness and any and all balances, credits, deposits, accounts or money of Holdings, the Borrower or a Restricted Subsidiary with or held by such lender or lenders or its Affiliates;

(q) any pledge or deposit of cash or property in conjunction with obtaining surety, performance, completion or payment bonds and letters of credit or other similar instruments or providing earnest money obligations, escrows or similar purpose undertakings or indemnifications in the ordinary course of business of Holdings, the Borrower and the Restricted Subsidiaries;

(r) Liens for homeowner, condominium, property owner association developments and similar fees, assessments and other payments;

(s) Liens securing Refinancing Indebtedness (except Liens securing Refinancing Indebtedness in respect of Indebtedness secured pursuant to clauses (i), (qq) and (rr) under this definition); provided, that such Liens extend only to the assets securing the Indebtedness being refinanced;

(t) Liens incurred in the ordinary course of business as security for the obligations of Holdings, the Borrower and the Restricted Subsidiaries with respect to indemnification in respect of title insurance providers;

(u) Liens on property of a Person existing at the time such Person is merged with or into or consolidated with Holdings or any Subsidiary of Holdings or becomes a Subsidiary of Holdings; provided, that such Liens were in existence prior to the contemplation of such merger or consolidation or acquisition and do not extend to any assets other than those of the Person merged into or consolidated with Holdings or the Subsidiary or acquired by Holdings or its Subsidiaries;

(v) Liens on property existing at the time of acquisition thereof by Holdings or any Subsidiary of Holdings, provided, that such Liens were in existence prior to the contemplation of such acquisition;

(w) Liens existing on the Effective Date (other than Liens securing obligations under the Existing Secured Notes or the Senior Secured Super Priority Term Loan Credit Agreement) and any extensions, renewals, refinancings or replacements thereof;

(x) Liens on specific items of inventory or other goods and proceeds of any Person securing such Person's obligations in respect of bankers' acceptances issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or other goods;

(y) pledges, deposits and other Liens existing under, or required to be made in connection with, (i) earnest money obligations, escrows or similar purpose undertakings or indemnifications in connection with any purchase and sale agreement, (ii) development agreements or other contracts entered into with governmental authorities (or an entity sponsored by a governmental authority) in connection with the entitlement of real property or (iii) agreements for the funding of infrastructure, including in respect of the issuance of community facility district bonds, metro district bonds, subdivision improvement bonds and similar bonding requirements arising in the ordinary course of business of a homebuilder;

(z) Liens securing obligations of Holdings or any Restricted Subsidiary to any third party in connection with any option, repurchase right or right of first refusal to purchase real property granted to the master developer or the seller of real property that arises as a result of the non-use or non-development of such real property by Holdings or any Restricted Subsidiary and joint development agreements with third parties to perform and/or pay for or reimburse the costs of construction and/or development related to or benefiting property (and additions, accessions, improvements and replacements and customary deposits in connection therewith and proceeds and products therefrom) of Holdings or any Restricted Subsidiary and property belonging to such third parties, in each case entered into in the ordinary course of business; provided that such Liens do not at any time encumber any property, other than the property (and additions, accessions, improvements and replacements and customary deposits in connection therewith and proceeds and products therefrom) financed by such Indebtedness and the proceeds and products thereof;

(aa) Liens securing Hedging Obligations and Cash Management Services permitted to be incurred under this Agreement, so long as the related Indebtedness is, and is permitted under this Agreement to be, secured by a Lien on the same property securing such Hedging Obligations or Cash Management Services;

(bb) Liens arising from Uniform Commercial Code (or equivalent statute) financing statement filings regarding operating leases or consignments entered into by Holdings or any Restricted Subsidiary in the ordinary course of business;

(cc) Liens in favor of the Borrower or any other Loan Party;

(dd) deposits made or other security provided to secure liabilities to insurance carriers under insurance or self-insurance arrangements in the ordinary course of business;

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

(ff) Liens (i) of a collection bank arising under Section 4-210 of the Uniform Commercial Code or any comparable or successor provision on items in the course of collection, (ii) attaching to pooling, commodity trading accounts or other commodity brokerage accounts incurred in the ordinary course of business and (iii) in favor of banking or other financial institutions or electronic payment service providers arising as a matter of law encumbering deposits (including the right of set-off) and which are within the general parameters customary in the banking or finance industry;

(gg) the rights reserved or vested in any Person by the terms of any lease, license, grant or permit held by Holdings or any of its Restricted Subsidiaries or by a statutory provision, to terminate any such lease, license, grant or permit, or to require annual or periodic payments as a condition to the continuance thereof;

(hh) restrictive covenants affecting the use to which real property may be put; provided that the covenants are complied with;

(ii) security given to a public utility or any municipality or governmental authority when required by such utility or authority in connection with the operations of that Person in the ordinary course of business;

(jj) zoning by-laws and other land use restrictions, including, without limitation, site plan agreements, development agreements and contract zoning agreements;

(kk) Liens arising out of conditional sale, title retention, consignment or similar arrangements for sale of goods entered into by Holdings or any Restricted Subsidiary in the ordinary course of business;

(ll) any Lien granted pursuant to a security agreement between Holdings, the Borrower or any Restricted Subsidiary and a licensee of their intellectual property to secure the damages, if any, of such licensee resulting from the rejection by Holdings, the Borrower or such Restricted Subsidiary of such licensee in a bankruptcy, reorganization or similar proceeding with respect to ~~the~~ Holdings, the Borrower or such Restricted Subsidiary; provided that such Liens do not cover any assets other than the intellectual property subject to such license;

(mm) Liens on the Equity Interests of Unrestricted Subsidiaries;

(nn) any encumbrance or restriction (including put and call arrangements) with respect to capital stock of any joint venture or similar arrangement pursuant to any joint venture or similar agreement;

(oo) Liens on property or assets used to defease or to irrevocably satisfy and discharge Indebtedness; provided that such defeasance or satisfaction and discharge is not prohibited by this Agreement;

(pp) easements, rights-of-way, dedications, covenants, conditions, restrictions, reservations and assessment district or similar Liens in connection with municipal or special district financing, agreements with adjoining landowners or state or local government authorities, quasi-governmental entities or utilities and other similar charges or encumbrances incurred in the ordinary course of business and which do not, in the aggregate, materially interfere with the ordinary course of business of Holdings and its Subsidiaries;

(qq) Liens securing Indebtedness (including Refinancing Indebtedness) of the Borrower or any other Loan Party incurred under Credit Facilities that constitute revolving credit loans, term loans, letters of credit or similar lines of credit in an aggregate amount at any time outstanding not to exceed the greater of (i) \$125.0 million and (ii) 5.6% of Consolidated Tangible Assets measured at the time of the incurrence; provided that any Indebtedness incurred to refund, refinance or extend (including Refinancing Indebtedness) Indebtedness secured by Liens pursuant to this clause (qq) shall be permitted to be secured by Liens pursuant to this clause (qq) notwithstanding that at the time of incurrence thereof, such Indebtedness may exceed the amount of Indebtedness that would then be permitted to be secured under this clause (qq) due to a diminution in the amount of Consolidated Tangible Assets; and

(rr) Liens securing obligations (including Indebtedness and Refinancing Indebtedness) not to exceed ~~\$50.0~~25.0 million at any one time outstanding.

For purposes of determining compliance with [Section 6.05 and](#) this definition of “Permitted Liens”, (x) a Lien need not be incurred solely by reference to one category of Permitted Liens described in this definition but may be incurred under any combination of such categories (including in part under one such category and in part under any other such category) and (y) in the event that a Lien (or any portion thereof) meets the criteria of one or more of such categories of Permitted Liens, the Borrower shall, in its sole discretion, classify or reclassify such Lien (or any portion thereof) in any manner that complies with this definition.

Liens securing the 1.125 Lien Notes and the 1.5 Lien Notes shall be deemed to be, and shall expressly be permitted to be, incurred under clause (i)(a) (taking into account the proviso in the definition of “Refinancing Indebtedness” such that the entire aggregate principal amount of the 1.125 Lien Notes and the 1.5 Lien Notes shall be permitted to be secured under such clause (i)(a) of this definition, (y) Liens securing the 1.25 Lien Notes shall be deemed to be, and shall expressly be permitted to be, incurred under clause (i)(b) of this definition and (z) Liens securing the Senior Credit Facility shall be deemed to be, and shall expressly be permitted to be, incurred under clause (qq) of this definition.

“Permitted Warrant” means any call option on, warrant or right to purchase (or substantively equivalent derivative transaction) Holdings’ Capital Stock sold by Holdings, the Borrower or any Restricted Subsidiary substantially concurrently with any purchase by Holdings, the Borrower or any Restricted Subsidiary of a related Permitted Bond Hedge.

“Person” means any individual, corporation, partnership, limited liability company, joint venture, incorporated or unincorporated association, joint stock company, trust, unincorporated organization or government or any agency or political subdivision thereof.

“Pledge” has the meaning specified in [Section 9.07\(i\)](#).

“Pledgee” has the meaning specified in [Section 9.07\(i\)](#).

“Pledging Lender” has the meaning specified in [Section 9.07\(i\)](#).

“Preferred Stock” of any Person means all Capital Stock of such Person which has a preference in liquidation or with respect to the payment of dividends.

“Prepayment Notice” has the meaning specified in [Section 2.03\(a\)\(i\)](#), which shall be substantially in the form of [Exhibit A-2](#).

“Prepayment Premium” means, with respect to the payment or repayment of any Loan pursuant to [Section 2.03](#) or [Section 2.14](#), (a) prior to the second anniversary of the Closing Date, an amount equal to the Make-Whole Premium, (b) on or after the second anniversary of the Closing Date and prior to the third anniversary of the Closing Date, an amount equal to the principal amount of the Loans prepaid or repaid multiplied by 2.50% and (c) on or after the third anniversary of the Closing Date, 0.00%.

“Priority Prepayment Period” means the date from and including the Conversion Date (as defined in the New Secured Credit Agreement) until the date on which all amounts outstanding under the New Secured Credit Agreement have been paid in full in cash in accordance with the terms of the New Secured Credit Agreement and all other Obligations (as defined in the New Secured Credit Agreement) and commitments have been satisfied or terminated in accordance with the terms of the New Secured Credit Agreement.

“Pro Rata Share” means, with respect to each Lender at any time, a fraction (expressed as a percentage, carried out to the ninth decimal place), the numerator of which is the amount of the Term Commitments of such Lender under the applicable Facility or Facilities or the Outstanding Amount of such Lender’s Term Loans under such Facility at such time and the denominator of which is the amount of the Aggregate Commitments under the applicable Facility or Facilities or the aggregate Outstanding Amount of all Term Loans under such Facility at such time.

“Property” of any Person means all types of real, personal, tangible, intangible or mixed property owned by such Person, whether or not included in the most recent consolidated balance sheet of such Person and its Subsidiaries under GAAP.

“Public Filings” means Holding’s annual report on Form 10-K for the fiscal year ended October 31, 2017, each subsequently filed quarterly report on Form 10-Q and current report on Form 8-K (other than Items 2.02 and 7.01) and all other documents filed by Holdings with the Securities and Exchange Commission since November 1, 2017 under Section 13(a), 13(c), 14 and 15(d) of the Exchange Act on or prior to the Effective Date (other than Items 2.02 and 7.01 of a Form 8-K).

“Purchase Money Indebtedness” means Indebtedness of Holdings, the Borrower or any Restricted Subsidiary incurred for the purpose of financing all or any part of the purchase price, or the cost of design, installation, construction, lease or improvement, of any property to be used in the business of Holdings, the Borrower and the Restricted Subsidiaries; provided, however, that (a) the aggregate principal amount of such Indebtedness shall not exceed such purchase price or cost (including financing costs) and (b) such Indebtedness shall be incurred no later than 365 days after the acquisition of such property or completion of such design, installation, construction, lease or improvement.

“Purchasing Borrower Party” means Holdings or any subsidiary of Holdings.

“Qualified Stock” means Capital Stock of Holdings other than Disqualified Stock.

“Rating Agency” means a statistical rating agency or agencies, as the case may be, nationally recognized in the United States and selected by Holdings (as certified by a resolution of the Board of Directors of Holdings) which shall be substituted for S&P or Moody’s, or both, as the case may be.

“Real Estate Business” means homebuilding, housing construction, real estate development or construction and the sale of homes and related real estate activities, including the provision of mortgage financing or title insurance.

“Refinance” has the meaning specified in Section 2.14.

“Refinancing Effective Date” has the meaning specified in Section 2.14.

“Refinancing Indebtedness” means Indebtedness (to the extent not Permitted Indebtedness) that refunds, refinances or extends any Indebtedness of Holdings, the Borrower or any Restricted Subsidiary (other than Non-Recourse Indebtedness and Permitted Indebtedness described under clauses (d) through (f), (h) through (j), (l), and (n) through (s) of the definition thereof), but only to the extent that:

(a) the Refinancing Indebtedness is subordinated, if at all, to the Loans or the Guarantees, as the case may be, to the same extent as the Indebtedness being refunded, refinanced or extended,

(b) the Refinancing Indebtedness is scheduled to mature either (x) no earlier than the Indebtedness being refunded, refinanced or extended or (y) after the maturity date of the Loans,

(c) the portion, if any, of the Refinancing Indebtedness that is scheduled to mature on or prior to the maturity date of the Loans has a Weighted Average Life to Maturity at the time such Refinancing Indebtedness is incurred that is equal to or greater than the Weighted Average Life to Maturity of the portion of the Indebtedness being refunded, refinanced or extended that is scheduled to mature on or prior to the maturity date of the Loans, and

(d) such Refinancing Indebtedness is in an aggregate principal amount that is equal to or less than the aggregate principal amount then outstanding under the Indebtedness being refunded, refinanced or extended (plus all accrued interest thereon and the amount of any premiums (including tender premiums) and fees, costs and expenses incurred in connection with the refinancing thereof);

provided, that for purposes of determining the principal amount outstanding under clauses (a)(iii), (b), (g) and (k) of “Permitted Indebtedness” and clauses (i), (qq) and (rr) of “Permitted Liens,” the principal amount referred to in such clauses shall be calculated excluding any principal amount that was incurred in respect of amounts set forth in the parenthetical in clause (d) of this definition and such principal amount shall nonetheless be permitted under such clauses.

“Refinancing Term Lender” has the meaning specified in Section 2.14(v)(i).

“Refinancing Term Loan Amendment” has the meaning specified in Section 2.14(vii).

“Refinancing Term Loan Facility” means a facility providing for the Borrowing of Refinancing Term Loans.

“Refinancing Term Loan Series” has the meaning specified in Section 2.14(vi).

“Refinancing Term Loans” has the meaning specified in Section 2.14.

“Refinancing Non-Recourse Indebtedness” has the meaning ascribed to it in Section 6.03(b) hereof.

“Register” has the meaning specified in Section 9.07(c).

“Related Indemnitee” has the meaning specified in Section 9.05.

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

“Release” means any release, spill, emission, discharge, deposit, disposal, leaking, pumping, pouring, dumping, emptying, injection or leaching into the environment, or into, from or through any structure or facility.

“repayment” has the meaning specified in the definition of “Consolidated Fixed Charge Coverage Ratio”.

“Representatives” has the meaning specified in Section 9.08.

“Required Lenders” means, as of any date of determination, Lenders having more than 50% of the sum of the Aggregate Exposures of all Lenders on such date; provided that the Aggregate Exposures held or deemed held by any Defaulting Lender on such date shall be excluded for purposes of making a determination of Required Lenders.

“Responsible Officer” means the chief executive officer, president, executive vice president, vice president, chief financial officer, chief accounting officer, treasurer, assistant treasurer, controller or other similar officer of a Loan Party or, in the case of any foreign Subsidiary, any duly appointed authorized signatory or any director or managing member of such Person and, as to any document delivered on the Closing Date, any secretary or assistant secretary. Any document delivered hereunder that is signed by a Responsible Officer of a Loan Party shall be conclusively presumed to have been authorized by all necessary corporate, partnership and/or other action on the part of such Loan Party, and such Responsible Officer shall be conclusively presumed to have acted on behalf of such Loan Party.

“Restricted Investment” means any Investment other than a Permitted Investment.

“Restricted Payment” means any of the following:

(a) the declaration or payment of any dividend or any other distribution on Capital Stock of Holdings, the Borrower or any Restricted Subsidiary or any payment made to the direct or indirect holders (in their capacities as such) of Capital Stock of Holdings, the Borrower or any Restricted Subsidiary (other than (i) dividends or distributions payable solely in Qualified Stock and (ii) in the case of the Borrower or Restricted Subsidiaries, dividends or distributions payable to Holdings, the Borrower or a Restricted Subsidiary);

(b) the purchase, redemption or other acquisition or retirement for value of any Capital Stock of Holdings, the Borrower or any Restricted Subsidiary (other than a payment made to Holdings, the Borrower or any Restricted Subsidiary);

(c) any Investment (other than any Permitted Investment), including any Investment in an Unrestricted Subsidiary (including by the designation of a Subsidiary of Holdings as an Unrestricted Subsidiary); and

(d) the purchase, repurchase, redemption, acquisition or retirement for value, prior to the date for any scheduled maturity, sinking fund or amortization or other principal installment payment, of any Subordinated Indebtedness (other than (i) Indebtedness permitted under clause (d) of the definition of “Permitted Indebtedness” or (ii) the purchase, repurchase, redemption, defeasance, or other acquisition or retirement of Subordinated Indebtedness purchased in anticipation of satisfying a sinking fund obligation, amortization or principal installment or final maturity, in each case due within one year of the date of purchase, repurchase, redemption, defeasance or other acquisition or retirement).

“Restricted Subsidiary” means any Subsidiary of Holdings which is not an Unrestricted Subsidiary.

“Rule 144A” means Rule 144A under the Securities Act.

“S&P” means S&P Global Ratings, a division of S&P Global, Inc., and its successors.

“Sanctioned Country” has the meaning specified in Section 5.11(a).

“Sanctions” has the meaning specified in Section 5.11(a).

“Second Amendment” means that certain Second Amendment, dated as of October 31, 2019, among the Borrower, Holdings, the other guarantors party thereto, each lender party thereto and Wilmington Trust, National Association, as administrative agent.

“Second Amendment Effective Date” means October 31, 2019.

“Securities Act” means the United States Securities Act of 1933, as amended.

“Senior Credit Facility” means that certain Credit Agreement, dated as of October 31, 2019, among the Borrower, Holdings, the other guarantors party thereto, and the lenders party thereto, as amended, restated, supplemented, replaced, refinanced or otherwise modified from time to time hereafter, including any such amendment, restatement, supplement, replacement, refinancing or other modification that increases the amount permitted to be borrowed thereunder or alters the maturity thereof (to the extent such increase in borrowings is permitted under Section 6.03 hereof) or adds the Borrower, Holdings or Subsidiaries as additional borrowers or guarantors thereunder and whether by the same or any other agent, lender or group of lenders.

“Senior Secured Super Priority Term Loan Credit Agreement” means that certain Credit Agreement, dated as of July 29, 2016, among the Borrower, Holdings, the other guarantors party thereto, each lender from time to time party thereto and Wilmington Trust, National Association, as administrative agent and as collateral agent.

“Significant Subsidiary” means any Subsidiary of Holdings which would constitute a “significant subsidiary” as defined in Rule 1-02(w)(1) or (2) of Regulation S-X under the Securities Act and the Exchange Act as in effect on the Effective Date.

“Specified Representations” means the representations and warranties set forth in Article V, other than those representations and warranties set forth in Section 5.05, Section 5.07, Section 5.12 and Section 5.13.

“Specified Transactions” shall mean (1) the consummation of the Existing Unsecured Notes Exchange, (2) the entry into and effectiveness of this Agreement, and the borrowing of the First Draw Term Loans, (3) the 7.000% Notes Refinancing, (4) the entry into and effectiveness of the New Secured Credit Agreement and the Initial Borrowing (as defined therein) thereunder, (5) the refinancing of all Obligations outstanding under the Senior Secured Super Priority Term Loan Credit Agreement and (6) the entry into and effectiveness of the Note Purchase Agreement, and the consummation of the transactions contemplated thereby.

“Subordinated Indebtedness” means Indebtedness subordinated in right of payment to the Loans pursuant to a written agreement.

“Subsidiary” of any Person means any corporation or other entity of which a majority of the Capital Stock having ordinary voting power to elect a majority of the board of directors or other persons performing similar functions is at the time directly or indirectly owned or controlled by such Person.

“Subsidiary Guarantor” has the meaning specified in the introductory paragraph to this Agreement. Each Subsidiary Guarantor as of the date hereof is listed on Schedule 10.01 hereto.

“Successor” has the meaning specified in Section 6.11(i).

“Supplemental Administrative Agent” has the meaning specified in Section 8.10 and “Supplemental Administrative Agents” shall have the corresponding meaning.

“Support Agreement” means that certain support agreement, dated as of December 28, 2017 by and among the Borrower, Holdings and certain supporting holders named therein.

“Taxes” means all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

“Term Commitment” means an Initial Term Commitment, a commitment in respect of Refinancing Term Loans or a commitment in respect of Extended Term Loans.

“Term Lender” means, at any time, any Lender that has a Term Commitment or a Term Loan at such time.

“Term Loan Facility” means the Initial Term Loan Facility, each Refinancing Term Loan Facility and each Extended Term Loan Facility.

“Term Loans” means Initial Term Loans, Refinancing Term Loans and Extended Term Loans.

“Term Note” means a promissory note of the Borrower payable to any Term Lender or its registered assigns, in substantially the form of Exhibit B hereto, evidencing the aggregate indebtedness of the Borrower to such Term Lender resulting from the Initial Term Loans made by such Initial Term Lenders.

“Termination Date” means the date upon which all of the Loan Obligations (other than contingent obligations not yet accrued and payable) have been paid in full in cash and the Aggregate Commitments have expired or have been terminated.

“Total Outstandings” means, as of any date of determination, the aggregate Outstanding Amount of all Loans on such date.

“tranche” shall have the meaning specified in Section 2.13(a).

“Transaction Date” has the meaning specified in the definition of “Consolidated Fixed Charge Coverage Ratio”.

“Treasury Rate” means the yield to maturity at the time of computation of United States Treasury securities with a constant maturity, as compiled by and published in the most recent statistical release designated as “H.15” under the caption “Treasury constant maturities” or any successor publication which is published at least weekly by the Board of Governors of the Federal Reserve System (or companion online data resource published by the Board of Governors of the Federal Reserve System) and which establishes yield on actively traded United States Treasury securities adjusted to constant maturity that has become publicly available at least two Business Days prior to date of such prepayment (or, if such statistical release is no longer published, any publicly available source or similar market data), most nearly equal to the period from the date of such prepayment to the second anniversary of the Closing Date; provided, however, that if the period from the date of such prepayment to the second anniversary of the Closing Date is not equal to the constant maturity of a United States Treasury security for which a weekly average yield is given, the Treasury Rate shall be obtained by linear interpolation (calculated to the nearest one-twelfth of a year) from the weekly average yields of United States Treasury securities for which such yields are given, except that if the period from the date of such prepayment to the second anniversary of the Closing Date is less than one year, the weekly average yield on actually traded United States Treasury securities adjusted to a constant maturity of one year will be used.

“United States” and “U.S.” mean the United States of America.

“Unrestricted Subsidiary” means any Subsidiary of Holdings so designated by a resolution adopted by the Board of Directors of Holdings or a duly authorized committee thereof as provided below; provided, that the holders of Indebtedness thereof do not have direct or indirect recourse against Holdings, the Borrower or any Restricted Subsidiary, and neither Holdings, the Borrower nor any Restricted Subsidiary otherwise has liability for, any payment obligations in respect of such Indebtedness (including any undertaking, agreement or instrument evidencing such Indebtedness), except, in each case, to the extent that the amount thereof constitutes a Restricted Payment or Permitted Investment permitted by this Agreement, in the case of Non-Recourse Indebtedness, to the extent such recourse or liability is for the matters discussed in the last sentence of the definition of “Non-Recourse Indebtedness,” or to the extent such Indebtedness is a guarantee by such Subsidiary of Indebtedness of Holdings, the Borrower or a Restricted Subsidiary. As of the Second Amendment Effective Date, the Unrestricted Subsidiaries are the Subsidiaries of Holdings named in Schedule 1.01 hereto.

Subject to the foregoing, the Board of Directors of Holdings or a duly authorized committee thereof may designate any Subsidiary in addition to those named above to be an Unrestricted Subsidiary; provided, however, that (a) the net amount (the “Designation Amount”) then outstanding of all previous Investments by Holdings and the Restricted Subsidiaries in such Subsidiary will be deemed to be a Restricted Payment at the time of such designation and will reduce the amount available for Restricted Payments under Section 6.04 hereof to the extent provided therein, (b) Holdings must be permitted under Section 6.04 hereof or pursuant to the definition of “Permitted Investment” to make the Restricted Payment deemed to have been made pursuant to clause (a) of this paragraph, and (c) after giving effect to such designation, no Default or Event of Default shall have occurred or be continuing. In accordance with the foregoing, and not in limitation thereof, Investments made by any Person in any Subsidiary of such Person prior to such Person’s merger with Holdings or any Restricted Subsidiary (but not in contemplation or anticipation of such merger) shall not be counted as an Investment by Holdings or such Restricted Subsidiary if such Subsidiary of such Person is designated as an Unrestricted Subsidiary.

The Board of Directors of Holdings or a duly authorized committee thereof may also redesignate an Unrestricted Subsidiary to be a Restricted Subsidiary; provided, however, that (a) the Indebtedness of such Unrestricted Subsidiary as of the date of such redesignation could then be incurred under Section 6.03 hereof and (b) immediately after giving effect to such redesignation and the incurrence of any such additional Indebtedness, (i) Holdings and the Restricted Subsidiaries could incur \$1.00 of additional Indebtedness under Section 6.03(a) hereof or (ii) the Consolidated Fixed Charge Coverage Ratio would be equal to or greater than the Consolidated Fixed Charge Coverage Ratio immediately prior to such redesignation or the ratio of Indebtedness of Holding and the Restricted Subsidiaries to Consolidated Tangible Net Worth of Holdings would be equal to or less than the ratio immediately prior to such redesignation. Any such designation or redesignation by the Board of Directors of Holdings or a committee thereof will be evidenced to the Trustee by the filing with the Trustee of a certified copy of the resolution of the Board of Directors of Holdings or a committee thereof giving effect to such designation or redesignation and an Officers’ Certificate certifying that such designation or redesignation complied with the foregoing conditions and setting forth the underlying calculations of such Officers’ Certificate. The designation of any Person as an Unrestricted Subsidiary shall be deemed to include a designation of all Subsidiaries of such Person as Unrestricted Subsidiaries; provided, however, that the ownership of the general partnership interest (or a similar member’s interest in a limited liability company) by an Unrestricted Subsidiary shall not cause a Subsidiary of Holdings of which more than 95% of the equity interest is held by Holdings or one or more Restricted Subsidiaries to be deemed an Unrestricted Subsidiary. Notwithstanding the foregoing, the Guarantors listed on Schedule III to the Second Amendment shall be deemed to have been redesignated on the Second Amendment Effective Date as Restricted Subsidiaries in compliance with this definition and are expressly permitted to be Restricted Subsidiaries without any further action on the part of the Borrower, Holdings or any other Guarantor.

“U.S. Person” means any Person that is a “United States person” within the meaning of Section 7701(a)(30) of the Code.

“U.S. Tax Certificate” has the meaning set forth in Section 3.01(f)(ii)(B)(3).

“Weighted Average Life to Maturity” means, when applied to any Indebtedness or portion thereof at any date, the number of years obtained by dividing (a) the sum of the products obtained by multiplying (i) the amount of each then remaining installment, sinking fund, serial maturity or other required payment of principal, including, without limitation, payment at final maturity, in respect thereof, by (ii) the number of years (calculated to the nearest one-twelfth) that will elapse from such date and the making of such payment by (b) the sum of all such payments described in clause (a)(i) of this definition.

“Withholding Agent” means any Loan Party, the Administrative Agent and, for U.S. federal income tax purposes only, any other withholding agent.

SECTION 1.02 Rules of Construction. Unless the context otherwise requires or except as otherwise expressly provided:

(a) an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP;

(b) “herein,” “hereof” and other words of similar import refer to this Agreement as a whole and not to any particular Section, Article or other subdivision;

(c) all references to Sections or Articles or Exhibits refer to Sections or Articles or Exhibits of or to this Agreement unless otherwise indicated;

(d) references to agreements or instruments, or to statutes or regulations, are to such agreements or instruments, or statutes or regulations, as amended from time to time (or to successor statutes and regulations); and

(e) in the event that a transaction meets the criteria of more than one category of permitted transactions or listed exceptions, the Borrower may classify such transaction as it, in its sole discretion, determines.

SECTION 1.03 Times of Day. Unless otherwise specified, all references herein to times of day shall be references to New York time (daylight or standard, as applicable).

SECTION 1.04 Timing of Payment or Performance. When the payment of any obligation or the performance of any covenant, duty or obligation is stated to be due or performance required on a day which is not a Business Day, the date of such payment (other than as described in the definition of Interest Period) or performance shall extend to the immediately succeeding Business Day and such extension of time shall be reflected in computing interest or fees, as the case may be.

ARTICLE II

THE COMMITMENTS AND BORROWINGS

SECTION 2.01 Term Commitments and Loans. Subject to the terms and conditions set forth herein, each Initial Term Lender severally agrees to make loans (a) on the Closing Date to the Borrower (each, an “First Draw Term Loan” and, collectively, the “First Draw Term Loans”) in an amount denominated in Dollars equal to such Initial Term Lender’s First Draw Term Commitment and (b) in multiple draws on or after May 28, 2018 to the Borrower (each, a “Delayed Draw Term Loan” and, collectively, the “Delayed Draw Term Loans”) up to an amount denominated in Dollars equal to such Initial Term Lender’s Delayed Draw Term Commitment; provided that the aggregate principal amount of Delayed Draw Term Loans shall not exceed the principal amount outstanding, and any other amount, including interest, premium (if any), fees and expenses, required to repay or redeem, at or prior to maturity, Existing Unsecured Notes (other than any Existing Unsecured Notes owned or held by the Borrower or an Affiliate of the Borrower) that have not been tendered pursuant to, and remain outstanding after the consummation of, the Existing Unsecured Notes Exchange. Amounts borrowed under this Section 2.01 and repaid or prepaid may not be reborrowed.

SECTION 2.02 Borrowings. (a) Each Borrowing of Term Loans shall be made upon the Borrower’s irrevocable delivery to the Administrative Agent of a Loan Notice (which may be given by telephone as provided below), appropriately completed and signed by a Responsible Officer of the Borrower. Each such notice must be received by the Administrative Agent not later than 12:00 p.m. (noon) one (1) Business Day prior to the requested date of any Borrowing of Loans. Each telephonic notice delivered pursuant to this Section 2.02(a) must be confirmed promptly by delivery to the Administrative Agent of a written Loan Notice, appropriately completed and signed by a Responsible Officer of the Borrower. Each Borrowing of Loans shall be in a principal amount of \$500,000 or a whole multiple of \$100,000 in excess thereof. Each Loan Notice (whether telephonic or written) shall specify (i) the requested date of the Borrowing (which shall be a Business Day), (ii) the principal amount of Loans to be borrowed and (iii) the account of the Borrower to be credited with the proceeds of such Borrowing.

(b) Following receipt of a Loan Notice, the Administrative Agent shall promptly notify each Appropriate Lender of the amount of its Pro Rata Share of the applicable Class of Loans. In the case of each Borrowing, each Appropriate Lender shall make the amount of its Loan available to the Administrative Agent in immediately available funds at the Administrative Agent’s Office not later than 1:00 p.m. on the Business Day specified in the applicable Loan Notice. Subject to the terms and conditions hereof, the Administrative Agent shall make all funds so received available to the Borrower in like funds as received by the Administrative Agent by wire transfer of such funds in accordance with instructions provided to the Administrative Agent by the Borrower.

(c) The failure of any Lender to make the Loan to be made by it as part of any Borrowing shall not relieve any other Lender of its obligation, if any, hereunder to make its Loan on the date of such Borrowing, but no Lender shall be responsible for the failure of any other Lender to make the Loan to be made by such other Lender on the date of any Borrowing.

SECTION 2.03 Prepayments. (a) (i) The Borrower may, at its option, upon notice to the Administrative Agent (a “Prepayment Notice”), at any time, voluntarily prepay the principal outstanding amount of the Initial Term Loans made to the Borrower, in whole or in part, *plus* (a) all accrued and unpaid interest on the principal amount to be prepaid to, but excluding the date of, prepayment and (b) (other than in connection with a payment made in accordance with Section 6.16(e) pursuant to a Change of Control Offer) the Prepayment Premium, if applicable; provided, that (1) such notice must be received by the Administrative Agent not later than 12:00 p.m., one (1) Business Day prior to any date of prepayment; (2) any prepayment shall be in a principal amount of \$250,000 or a whole multiple of \$50,000 in excess thereof or, in each case, if less, the entire principal amount thereof then outstanding. Each such notice shall specify the date and amount of such prepayment and the Class(es) of Term Loans to be prepaid. The Administrative Agent will promptly notify each Appropriate Lender of its receipt of each such notice, and of the amount of such Lender’s Pro Rata Share of such prepayment. The Borrower shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein. Each prepayment of the Loans pursuant to this Section 2.03(a) shall be applied among the Facilities in such amounts as the relevant Borrower may direct in its sole discretion (and absent such direction, *pro rata* among the Term Loan Facilities and in direct order of maturity). Each prepayment made by any Borrower in respect of a particular Facility shall be paid to the Administrative Agent for the account of (and to be promptly disbursed to) the Appropriate Lenders in accordance with their respective Pro Rata Shares. The Administrative Agent shall have no obligation to calculate, or confirm the accuracy of, the Prepayment Premium or Make-Whole Premium.

(ii) Notwithstanding anything to the contrary contained in this Agreement, the Borrower may rescind any notice of prepayment under Section 2.03(a)(i) if such prepayment would have resulted from (A) a refinancing of all of the Facilities, which refinancing shall not be consummated or shall otherwise be delayed or (B) the refinancing of all or a portion of the Facilities pursuant to a Permitted Refinancing, which refinancing shall not be consummated or shall otherwise be delayed. Notices of prepayment may, at the Borrower’s discretion, be subject to one or more conditions precedent, including, but not limited to, completion of an Equity Offering, another offering or another transaction or event.

(iii) Other than during the Priority Prepayment Period, in the event and on each occasion that Holdings, the Borrower or any Restricted Subsidiary makes an Asset Disposition which results in the realization or receipt of Net Cash Proceeds, such Net Cash Proceeds of an Asset Disposition shall, subject to Section 2.03(c) below, within one year, at Holding’s election:

(A) be used pursuant to Section 2.03(a)(vi),

(B) be used to permanently prepay or permanently repay any (i) Indebtedness which had been secured by the assets sold in the relevant Asset Disposition or (ii) Indebtedness of a Restricted Subsidiary that is not a Guarantor, or

(C) be used to permanently prepay or permanently repay, subject to Section 2.03(b)(iii), the Term Loans, and, if Holdings or a Restricted Subsidiary elects or is required to do so, to repay, purchase or redeem any unsubordinated Indebtedness (on a *pro rata* basis if the amount available for such repayment, purchase, or redemption is less than the aggregate amount of (x) the aggregate principal amount of Loans held by the Term Loans Lenders who have not provided a Rejection Notice pursuant to Section 2.03(b)(iii) and (y) the lesser of the principal amount, or accreted value, of such unsubordinated Indebtedness tendered or to be repaid, repurchased or redeemed, plus, in each case, accrued interest to the date of repayment, purchase or redemption) at 100% of the principal amount or accreted value thereof, as the case may be, plus accrued and unpaid interest, if any, to the date of repurchase, repayment or redemption;

provided that pending any such application under this Section 2.03(a)(iii), Net Cash Proceeds may be used to temporarily reduce Indebtedness or otherwise be invested in any manner not prohibited by this Agreement.

(iv) Other than during the Priority Prepayment Period, in the event and on each occasion that a Casualty Event occurs, which results in the realization or receipt of Net Cash Proceeds, such Net Cash Proceeds of a Casualty Event shall, within one year, at Holding's election:

(A) be used pursuant to Section 2.03(a)(vi),

(B) be used to permanently prepay or permanently repay any (i) Indebtedness which had been secured by the assets that are the subject of such Casualty Event or (ii) Indebtedness of a Restricted Subsidiary that is not a Guarantor, or

(C) be used to permanently prepay or permanently repay, subject to Section 2.03(b)(iii), the Term Loans, and, if Holdings or a Restricted Subsidiary elects or is required to do so, to repay, purchase or redeem any unsubordinated Indebtedness (on a *pro rata* basis if the amount available for such repayment, purchase, or redemption is less than the aggregate amount of (x) the aggregate principal amount of Loans held by the Term Loans Lenders who have not provided a Rejection Notice pursuant to Section 2.03(b)(iii), and (y) the lesser of the principal amount, or accreted value, of such unsubordinated Indebtedness tendered or to be repaid, repurchased or redeemed, plus, in each case, accrued interest to the date of repayment, purchase or redemption) at 100% of the principal amount or accreted value thereof, as the case may be, plus accrued and unpaid interest, if any, to the date of repurchase, repayment or redemption;

provided that pending any such application under this Section 2.03(a)(iv), Net Cash Proceeds may be used to temporarily reduce Indebtedness or otherwise be invested in any manner not prohibited by this Agreement.

(v) Other than during the Priority Prepayment Period, in the event and on each occasion that any Other Prepayment Event occurs, which results in the realization or receipt of Net Cash Proceeds, the Borrower shall prepay, or cause to be prepaid, subject to Section 2.03(b)(iii), on or prior to the date which is ten (10) Business Days after the date of realization or receipt of such Net Cash Proceeds, an aggregate principal amount of Term Loans equal to 100% of all Net Cash Proceeds realized or received.

(vi) In lieu of the prepayments set forth in clauses (iii) and (iv) above, with respect to any Net Cash Proceeds realized or received with respect to any Asset Disposition or any Casualty Event, the Borrower or any of the Restricted Subsidiaries may, at its option, reinvest the Net Cash Proceeds from such event (or a portion thereof) within 12 months after receipt of such Net Cash Proceeds in assets (including Capital Stock of any Person that is or will be a Restricted Subsidiary following investment therein) used or useful in a Real Estate Business.

(b) Application.

(i) Application of Prepayments. All prepayments pursuant to Section 2.03(a)(iii), (iv), and (v) shall be applied to prepay the Term Loans among the various Classes thereof on a ratable basis (in accordance with the aggregate outstanding principal amount of the Term Loans of each such Class) on order of maturity, unless otherwise agreed among the Borrower and the Lenders providing Extended Loans in accordance with Section 2.13 (it being understood that, in any case, the Initial Loans shall not be allocated to any Class in an amount less than such Class's pro rate share of such prepayment). Unless otherwise provided herein, each such prepayment shall be paid to the Lenders in accordance with their respective Pro Rata Shares.

(ii) [Reserved].

(iii) Declined Proceeds. The Borrower shall notify the Administrative Agent in writing of any mandatory prepayments of Loans required to be made pursuant to Section 2.03(a)(iii), (iv), and (v), no less than ten (10) Business Days before the date of such mandatory prepayment. Each such notice shall specify the date of such prepayment and provide a reasonably detailed calculation of the aggregate amount of such prepayment to be made by the Borrower. The Administrative Agent will promptly notify each Lender of the contents of the Borrower's prepayment notice and of each Lender's Pro Rata Share, or other applicable share provided for under this Agreement. Each Lender may reject all or a portion of its Pro Rata Share, or other applicable share provided for under this Agreement, of such mandatory prepayment (such declined amounts, the "Declined Proceeds") of Loans, by providing written notice to the Administrative Agent (a "Rejection Notice") no later than 5:00 p.m., New York time, five (5) Business Days after the date of such Lender's receipt of notice from the Administrative Agent regarding such prepayment. A Rejection Notice from a Lender shall specify the principal amount of the mandatory repayment of Loans to be declined by such Lender. If a Lender fails to deliver a Rejection Notice to the Administrative Agent within the time frame specified above, or the Rejection Notice fails to specify the principal amount of the Loans to be declined, it will be deemed an acceptance of the total amount of such mandatory prepayment of Term Loans.

(iv) Any Declined Proceeds may be used by Holdings, the Borrower and the Subsidiaries for general corporate purposes (including, for the avoidance of doubt, the repayment or repurchase of Indebtedness), subject to the other covenants hereunder.

(c) Threshold. Notwithstanding the foregoing, the Borrower will not be required to make a prepayment from such Net Cash Proceeds in accordance with Section 2.03(a)(iii) except to the extent that such Net Cash Proceeds, together with the aggregate Net Cash Proceeds of prior Asset Dispositions (other than those so used) which have not been applied in accordance with this Section 2.03 and as to which no prior prepayments or repayments shall have been made, exceed \$25.0 million.

SECTION 2.04 Termination of Commitments. (a) Mandatory. The Initial Term Commitment of the Initial Term Lenders in respect of the First Draw Term Loans shall be automatically and permanently reduced to \$0 on the Closing Date upon the funding of the First Draw Term Loans. The Initial Term Commitment of the Initial Term Lenders in respect of the Delayed Draw Term Loans shall be automatically and permanently reduced on the earlier to occur of (i) the date upon which funding of the Delayed Draw Term Loans occur, in the amount of such funding of Delayed Draw Term Loans and (ii) the date on which the Borrower shall have provided written notice to the Administrative Agent that any Existing Unsecured Notes (other than any Existing Unsecured Notes owned or held by the Borrower or an Affiliate of the Borrower) shall no longer be outstanding and all other obligations (other than contingent obligations) shall have been satisfied pursuant to the terms of the Existing Unsecured Notes and the Existing Unsecured Notes Indenture, in such case, with the permanent reduction being to \$0.

(b) Closing Date. If the Commitment Termination Date occurs prior to the Closing Date, the Initial Term Commitments shall immediately and automatically terminate.

SECTION 2.05 Repayment of LoansPayment at Maturity. The Borrower hereby unconditionally promises to pay to the Administrative Agent for the ratable account of each Lender the then unpaid principal amount of each Term Loan on the Maturity Date of the applicable Term Loan Facility in an amount equal to the aggregate principal amount of all Term Loans of such Class outstanding on such date.

SECTION 2.06 Interest. (a) Subject to the provisions of Section 2.06(b), each Initial Term Loan shall bear interest on the outstanding principal amount thereof from the applicable borrowing date at a rate per annum equal to the Applicable Rate.

(b) While any Event of Default set forth in Sections 7.01(i) or (ii) (as applicable) exists with respect to the payment of any principal, interest or fees, or any Event of Default set forth in Sections 7.01(vii) or (viii), the Borrower shall pay interest on all overdue amounts hereunder at an interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws. Accrued and unpaid interest on past due amounts (including interest on past due interest) shall be due and payable upon demand.

(c) Interest on each Loan shall be due and payable in arrears on each Interest Payment Date applicable thereto and at such other times as may be specified herein. Interest hereunder shall be due and payable in accordance with the terms hereof before and after judgment, and before and after the commencement of any proceeding under any Debtor Relief Law.

SECTION 2.07 Fees. The Borrower shall pay or cause to be paid to the Agents such fees as shall have been separately agreed upon in writing in the amounts and at the times so specified. Such fees shall be fully earned when paid and shall not be refundable for any reason whatsoever.

SECTION 2.08 Computation of Interest and Fees. All computations of interest and other fees shall be made on the basis of a year of three hundred and sixty (360) and actual days elapsed. Interest shall accrue on each Loan for the day on which the Loan is made and shall not accrue on a Loan, or any portion thereof, for the day on which the Loan or such portion is paid; provided that any Loan that is repaid on the same day on which it is made shall, subject to Section 2.10(a), bear interest for one (1) day. Each determination by the Administrative Agent of an interest rate or fee hereunder shall be conclusive and binding for all purposes, absent manifest error.

SECTION 2.09 Evidence of Indebtedness. (a) The Loans made by each Lender shall be evidenced by one or more accounts or records maintained by such Lender and evidenced by one or more entries in the Register maintained by the Administrative Agent in accordance with Section 9.07(c), acting as a non-fiduciary agent solely for purposes of Treasury Regulation Section 5f.103-1(c), as agent for the Borrower, in each case in the ordinary course of business. The accounts or records maintained by each Lender shall be prima facie evidence absent manifest error of the amount of the Loans made by the Lenders to the Borrower and the interest and payments thereon. Any failure to so record or any error in doing so shall not, however, limit or otherwise affect the obligation of the Borrower hereunder to pay any amount owing with respect to the Loan Obligations. In the event of any conflict between the accounts and records maintained by any Lender and the Register in respect of such matters, the Register shall control in the absence of manifest error. Upon the request of any Lender made through the Administrative Agent, the Borrower shall execute and deliver to such Lender (through the Administrative Agent) a Note payable to such Lender, which shall evidence such Lender's Loans in addition to such accounts or records. Each Lender may attach schedules to its Note and endorse thereon the date, Type (if applicable), amount and maturity of its Loans and payments with respect thereto.

(b) Entries made in good faith by the Administrative Agent in the Register pursuant to Section 2.09(a), and by each Lender in its account or accounts pursuant to Section 2.09(a), shall be prima facie evidence of the amount of principal and interest due and payable or to become due and payable from the Borrower to, in the case of the Register, each Lender and, in the case of such account or accounts, such Lender, under this Agreement and the other Loan Documents, absent manifest error; provided that the failure of the Administrative Agent or such Lender to make an entry, or any finding that an entry is incorrect, in the Register or such account or accounts shall not limit or otherwise affect the obligations of the Borrower under this Agreement and the other Loan Documents.

SECTION 2.10 Payments Generally. (a) Except as otherwise required by applicable Law, all payments to be made by the Borrower shall be made without condition or deduction for any counterclaim, defense, recoupment or setoff. Except as otherwise expressly provided herein, all payments by the Borrower hereunder shall be made to the Administrative Agent, for the account of the respective Lenders to which such payment is owed, at the Administrative Agent's Office in Dollars and in immediately available funds not later than noon, 12:00 p.m. on the Business Day specified herein. The Administrative Agent will promptly distribute to each Lender its Pro Rata Share (or other applicable share as provided herein) of such payment in like funds as received by wire transfer to such Lender's Lending Office. All payments received by the Administrative Agent after noon, 12:00 p.m., shall be deemed received on the next succeeding Business Day in the Administrative Agent's sole discretion and any applicable interest or fee shall continue to accrue to the extent applicable.

(b) Unless the Borrower or any Lender has notified the Administrative Agent, prior to the date any payment is required to be made by it to the Administrative Agent hereunder, that the Borrower or such Lender, as the case may be, will not make such payment, the Administrative Agent may assume that the Borrower or such Lender, as the case may be, has timely made such payment and may (but shall not be so required to), in reliance thereon, make available a corresponding amount to the Person entitled thereto. If and to the extent that such payment was not in fact made to the Administrative Agent in immediately available funds, then:

(i) if the Borrower failed to make such payment, each Lender shall forthwith on demand repay to the Administrative Agent the portion of such assumed payment that was made available to such Lender in immediately available funds, together with interest thereon in respect of each day from and including the date such amount was made available by the Administrative Agent to such Lender to the date such amount is repaid to the Administrative Agent in immediately available funds at the applicable Federal Funds Rate from time to time in effect; and

(ii) if any Lender failed to make such payment, such Lender shall forthwith on demand pay to the Administrative Agent the amount thereof in immediately available funds, together with interest thereon for the period from the date such amount was made available by the Administrative Agent to the Borrower to the date such amount is recovered by the Administrative Agent (the "Compensation Period") at a rate per annum equal to the applicable Federal Funds Rate from time to time in effect. When such Lender makes payment to the Administrative Agent (together with all accrued interest thereon), then such payment amount (excluding the amount of any interest which may have accrued and been paid in respect of such late payment) shall constitute such Lender's Loan included in the applicable Borrowing. If such Lender does not pay such amount forthwith upon the Administrative Agent's demand therefor, the Administrative Agent may make a demand therefor upon the Borrower, and the Borrower shall pay such amount to the Administrative Agent, together with interest thereon for the Compensation Period at a rate per annum equal to the rate of interest applicable to the applicable Borrowing. Nothing herein shall be deemed to relieve any Lender from its obligation to fulfill its Term Commitment or to prejudice any rights which the Administrative Agent or the Borrower may have against any Lender as a result of any Default by such Lender hereunder.

A notice of the Administrative Agent to any Lender or the Borrower with respect to any amount owing under this Section 2.10(b), shall be conclusive, absent manifest error.

(c) If any Lender makes available to the Administrative Agent funds for any Loan to be made by such Lender as provided in this Article 2, and such funds are not made available to the Borrower by the Administrative Agent because the conditions to the applicable Borrowing set forth in Article 4 are not satisfied or waived in accordance with the terms hereof, the Administrative Agent shall promptly return such funds (in like funds as received from such Lender) to such Lender, without interest.

(d) The obligations of the Lenders hereunder to make Loans are several and not joint. The failure of any Lender to make any Loan or to fund any such participation on any date required hereunder shall not relieve any other Lender of its corresponding obligation to do so on such date, and no Lender shall be responsible for the failure of any other Lender to so make its Loan or purchase its participation.

(e) Nothing herein shall be deemed to obligate any Lender to obtain the funds for any Loan in any particular place or manner or to constitute a representation by any Lender that it has obtained or will obtain the funds for any Loan in any particular place or manner.

(f) Whenever any payment received by the Administrative Agent under this Agreement or any of the other Loan Documents is insufficient to pay in full all amounts then due and payable to the Administrative Agent and the Lenders under or in respect of this Agreement and the other Loan Documents on any date, such payment shall be distributed by the Administrative Agent and applied by the Administrative Agent and the Lenders in the order of priority set forth in clauses First through Last of Section 7.03. If the Administrative Agent receives funds for application to the Loan Obligations of the Loan Parties under or in respect of the Loan Documents under circumstances for which the Loan Documents do not specify the manner in which such funds are to be applied, the Administrative Agent may, but shall not be obligated to, elect to distribute such funds to each of the Lenders in accordance with such Lender's Pro Rata Share of the Outstanding Amount of all Loans outstanding at such time, in repayment or prepayment of such of the outstanding Loans or other Loan Obligations then owing to such Lender.

SECTION 2.11 Sharing of Payments. If any Lender shall obtain on account of the Loans made by it, any payment (whether voluntary, involuntary, through the exercise of any right of setoff, or otherwise, and other than (x) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans to any assignee or Participant or (y) as otherwise expressly provided elsewhere herein, including, without limitation, as provided in or contemplated by Section 2.13, Section 2.14 or Section 9.01) in excess of its ratable share (or other share contemplated hereunder) thereof, such Lender shall immediately (a) notify the Administrative Agent of such fact and (b) purchase from the other Lenders such participations in the Loans made by them, as shall be necessary to cause such purchasing Lender to share the excess payment in respect of such Loans or such participations, as the case may be, pro rata with each of them (and notify the Administrative Agent of such purchase); provided that if all or any portion of such excess payment is thereafter recovered from the purchasing Lender under any of the circumstances described in Section 9.06 (including pursuant to any settlement entered into by the purchasing Lender in its discretion), such purchase shall to that extent be rescinded and each other Lender shall repay to the purchasing Lender the purchase price paid therefor, together with an amount equal to such paying Lender's ratable share (according to the proportion of (i) the amount of such paying Lender's required repayment to (ii) the total amount so recovered from the purchasing Lender) of any interest or other amount paid or payable by the purchasing Lender in respect of the total amount so recovered, without further interest thereon. The Borrower agrees that any Lender so purchasing a participation from another Lender may, to the fullest extent permitted by Law, exercise all its rights of payment (including the right of setoff, but subject to Section 9.09) with respect to such participation as fully as if such Lender were the direct creditor of the Borrower in the amount of such participation. The Administrative Agent will keep records and maintain entries in the Register (which shall be conclusive and binding in the absence of manifest error) of participations purchased under this Section 2.11 and will in each case notify the Lenders following any such purchases or repayments. Each Lender that purchases a participation pursuant to this Section 2.11 shall from and after such purchase have the right to give all notices, requests, demands, directions and other communications under this Agreement with respect to the portion of the Loan Obligations purchased to the same extent as though the purchasing Lender were the original owner of the Loan Obligations purchased.

SECTION 2.12 [Reserved]

SECTION 2.13 Extensions of Term Loans. (a) Notwithstanding anything to the contrary in this Agreement, pursuant to one or more offers (each, an "Extension Offer") made from time to time by the Borrower to all Lenders of any Class of Term Loans with a like Maturity Date, in each case on a pro rata basis (based on the aggregate outstanding principal amount of such Term Loans) and on the same terms to each such Lender, the Borrower is hereby permitted to consummate from time to time transactions with individual Lenders that accept the terms contained in such Extension Offers to extend the Maturity Date of each such Lender's Term Loans and otherwise modify the terms of such Term Loans, subject to the provisions below, pursuant to the terms of the relevant Extension Offer (including, without limitation, by increasing the fees (other than fees on undrawn amounts) payable in respect of such Term Loans (and related outstandings) (each, an "Extension", and each group of Term Loans, in each case as so extended, as well as the original Initial Term Loans (in each case not so extended), being a "tranche"; any Extended Term Loans shall constitute a separate tranche of Term Loans from the tranche of Term Loans from which they were converted), so long as the following terms are satisfied:

(i) no Default or Event of Default shall have occurred and be continuing at the time the offering document in respect of an Extension Offer is delivered to the Lenders or at the time of the effectiveness of the Extension;

(ii) except as to interest rates, fees, amortization, final Maturity Date, premium, required prepayment dates and participation in prepayments (which shall, subject to the immediately succeeding clauses (iii), (iv) and (v), be determined between the Borrower and set forth in the relevant Extension Offer), the Term Loans of any Term Lender that agrees to an Extension with respect to such Term Loans (an "Extending Term Lender") extended pursuant to any Extension ("Extended Term Loans") shall have the same terms as the tranche of Term Loans subject to such Extension Offer;

(iii) the final Maturity Date of any Extended Term Loans shall be no earlier than the Latest Maturity Date of the Term Loans extended thereby;

(iv) the Weighted Average Life to Maturity of any Extended Term Loans shall be no shorter than the Weighted Average Life to Maturity of the Term Loans extended thereby;

(v) any Extended Term Loans may participate on a pro rata basis or a less than pro rata basis (but not greater than a pro rata basis) in any voluntary repayments or prepayments hereunder, in each case as specified in the respective Extension Offer;

(vi) if the aggregate principal amount of Term Loans (calculated on the face amount thereof), in respect of which Term Lenders shall have accepted the relevant Extension Offer shall exceed the maximum aggregate principal amount of Term Loans offered to be extended by the Borrower pursuant to such Extension Offer, then the Term Loans of such Term Lenders shall be extended ratably up to such maximum amount based on the respective principal amounts (but not to exceed actual holdings of record) with respect to which such Term Lenders have accepted such Extension Offer;

(vii) all documentation in respect of such Extension shall be consistent with the foregoing, and the covenants and events of default applicable to any Extended Term Loans shall be substantially identical to, or, taken as a whole, no more favorable to the Lenders providing such Extended Term Loans than those applicable to the Term Loans subject to such Extension Offer;

(viii) the Extended Term Loans are not secured by any assets or property not securing the Loan Obligations, and are not guaranteed by any Subsidiary of Holdings that is not a Subsidiary Guarantor; and

(ix) any applicable Minimum Extension Condition shall be satisfied unless waived by the Borrower.

(b) With respect to all Extensions consummated by the Borrower pursuant to this Section, (i) such Extensions shall not constitute payments or prepayments for purposes of Section 2.03 and (ii) shall be in an integral multiple of \$1.0 million and in an aggregate principal amount that is not less than \$10.0 million, provided that the Borrower may at its election specify as a condition (a "Minimum Extension Condition") to consummating any such Extension that a minimum amount (to be determined and specified in the relevant Extension Offer in the Borrower's sole discretion and which may be waived by the Borrower, but not less than \$10.0 million) of Term Loans of any or all applicable tranches be tendered. The Administrative Agent and the Lenders hereby consent to the transactions contemplated by this Section (including, for the avoidance of doubt, payment of any interest, fees or premium in respect of any Extended Term Loans on such terms as may be set forth in the relevant Extension Offer (which shall be consistent with the foregoing provisions of this Section 2.13)) and hereby waive the requirements of any provision of this Agreement (including, without limitation, Sections 2.03, 2.11 and 9.01) or any other Loan Document that may otherwise prohibit or conflict with any such Extension or any other transaction contemplated by this Section.

(c) No consent of any Lender or the Administrative Agent shall be required to effectuate any Extension, other than the consent of each Lender agreeing to such Extension with respect to one or more of its Term Loans (or a portion thereof). All Extended Term Loans and all obligations in respect thereof shall be Loan Obligations under this Agreement and the other Loan Documents that are equal in priority with all other applicable Loan Obligations under this Agreement and the other Loan Documents. The Lenders hereby irrevocably authorize the Administrative Agent to enter into amendments to this Agreement and the other Loan Documents with the Borrower as may be necessary in order to establish new tranches or sub-tranches in respect of Term Loans so extended and such technical amendments as may be necessary in the reasonable opinion of the Administrative Agent and the Borrower in connection with the establishment of such new tranches or sub-tranches, in each case on terms consistent with this Section.

(d) In connection with any Extension, the Borrower shall provide the Administrative Agent at least five (5) Business Days (or such shorter period as may be agreed by the Administrative Agent) prior written notice thereof, and shall agree to such procedures (including, without limitation, regarding timing, rounding and other adjustments and to ensure reasonable administrative management of the Facilities hereunder after such Extension), if any, as may be established by, or acceptable to, the Administrative Agent, in each case acting reasonably to accomplish the purposes of this Section 2.13.

SECTION 2.14 Refinancing Facilities. (a) The Borrower may by written notice to the Administrative Agent elect to request the establishment of one or more additional Classes of term loans under this Agreement ("Refinancing Term Loans"), which refinance, renew, replace, defease or refund (collectively, "Refinance"), in whole or in part, one or more Classes of Term Loans under this Agreement; provided, that such Refinancing Term Loans may not be in an amount greater than the Term Loans being Refinanced plus unpaid accrued interest, fees, expenses and premium (if any) thereon and underwriting discounts, fees, commissions and expenses incurred in connection with the Refinancing Term Loans. Each such notice shall specify the date (each, a "Refinancing Effective Date") on which the Borrower proposes that the Refinancing Term Loans shall be made, which shall be a date not less than five (5) Business Days after the date on which such notice is delivered to the Administrative Agent; provided that:

(i) the Weighted Average Life to Maturity of such Refinancing Term Loans shall not be shorter than the then remaining Weighted Average Life to Maturity of the Class or Classes of Term Loans being Refinanced and the Refinancing Term Loans shall not have a final maturity before the Maturity Date of the Term Loans being Refinanced;

(ii) the Refinancing Term Loans shall have terms and conditions agreed to by the Borrower and the lenders providing such Refinancing Term Loans, but shall be substantially the same as (or, taken as a whole, no more favorable to, the lenders providing such Refinancing Term Loans than) those applicable to the then outstanding Term Loans, except to the extent such covenants and other terms apply solely to any period after the Latest Maturity Date;

(iii) the proceeds of any Refinancing Term Loans shall be applied substantially concurrently with the incurrence thereof to the pro rata prepayment of the Class or Classes of Term Loans being Refinanced hereunder;

(iv) the Refinancing Term Loan Amendment shall set forth the principal installment payment dates of the Refinancing Term Loans, which dates may be delayed to later dates than the corresponding scheduled principal installment payment dates of the Term Loans being refinanced and, in any event, shall be no earlier than the Maturity Date;

(v) the Loan Parties and the Administrative Agent shall deliver such other documents and certificates as may be reasonably requested by the Refinancing Term Lenders;

(vi) the Refinancing Term Loans will be unsecured, or only to the extent the Obligations under the Loan Documents are secured pursuant to Section 6.05, rank pari passu or junior in priority with the other Loans hereunder with respect to the collateral constituting such security; and

(vii) with respect to any Refinancing Term Loans made, the Borrower shall pay the Prepayment Premium, if applicable, to the Lenders holding such Initial Term Loans being refinanced.

(b) The Borrower may approach any Lender or any other Person that would be an Eligible Assignee to provide all or a portion of the Refinancing Term Loans (a “Refinancing Term Lender”); provided any Lender offered or approached to provide all or a portion of the Refinancing Term Loans may elect or decline, in its sole discretion, to provide a Refinancing Term Loan. Any Refinancing Term Loans made on any Refinancing Effective Date shall be designated a series (a “Refinancing Term Loan Series”) of Refinancing Term Loans for all purposes of this Agreement and the selection of Refinancing Term Lenders shall be subject to any consent that would be required pursuant to Section 9.07(b) hereof; provided that any Refinancing Term Loans may, to the extent provided in the applicable Refinancing Term Loan Amendment, be designated as an increase in any previously established Refinancing Term Loan Series of Refinancing Term Loans made to the Borrower.

(c) The Refinancing Term Loans shall be established pursuant to an amendment to this Agreement among Holdings, the Borrower and the Refinancing Term Lenders providing such Refinancing Term Loans (a “Refinancing Term Loan Amendment”) which shall be consistent with the provisions set forth in paragraph(i) above. Each Refinancing Term Loan Amendment shall be binding on the Lenders (including the Refinancing Lenders), the Administrative Agent, the Loan Parties party thereto and the other parties hereto. Upon receipt of an Officer’s Certificate certifying that such Refinancing Term Loan Amendment is permitted under the Loan Documents, the Administrative Agent shall be permitted, and is hereby authorized, to enter into such amendments with the Borrower to effect the foregoing. Any Refinancing Term Loan made by a Term Lender pursuant to a Refinancing Term Loan Amendment shall be deemed a “Term Loan” for all purposes of this Agreement and each Lender with a Refinancing Term Loan shall become a Lender with respect to such Refinancing Term Loans and all matters relating thereto. Notwithstanding anything to the contrary herein, at no time shall there be Term Loans (including Refinancing Term Loans and Extended Term Loans) which have more than five different scheduled final maturity dates or shall there be more than five different “Term Loan Facilities”.

SECTION 2.15 Defaulting Lenders. (a) Reallocation of Defaulting Lender Commitment, Etc. If a Lender becomes, and during the period it remains, a Defaulting Lender, the following provisions shall apply with respect to such Defaulting Lender:

(i) any amount paid by the Borrower for the account of a Defaulting Lender that was or is a Lender under this Agreement (whether on account of principal, interest, fees, indemnity payments or other amounts) will not be paid or distributed to such Defaulting Lender, but will instead be retained by the Administrative Agent in a segregated non-interest-bearing account until (subject to Section 2.15(c)) the Termination Date and will be applied by the Administrative Agent, to the fullest extent permitted by Law, to the making of payments from time to time in the following order of priority: first, to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent under this Agreement; second, to satisfy the obligations, if any, of such Term Lender to make Term Loans to the Borrower; third, to the payment of post-default interest and then current interest due and payable to the Lenders hereunder other than Defaulting Lenders that are Lenders, ratably among them in accordance with the amounts of such interest then due and payable to them; fourth, to the payment of fees then due and payable to the Non-Defaulting Lenders that are Lenders hereunder, ratably among them in accordance with the amounts of such fees then due and payable to them; fifth, to the ratably payment of other amounts then due and payable to the Non-Defaulting Lenders that are Lenders; sixth, on the Termination Date, to the payment of any amounts owing to the Borrower as a result of a final judgment of a court of competent jurisdiction obtained by the Borrower against such Defaulting Lender as a result of such Defaulting Lender’s breach of its obligations under this Agreement; and seventh, after the Termination Date, to pay amounts owing under this Agreement to such Defaulting Lender or as a court of competent jurisdiction may otherwise direct.

(b) Fees. Anything herein to the contrary notwithstanding, during such period as a Lender is a Defaulting Lender, such Defaulting Lender will not be entitled to any fees accruing during such period pursuant to Section 2.07 (without prejudice to the rights of the Lenders other than Defaulting Lenders in respect of such fees).

(c) Cure. If the Borrower determines that a Lender that is a Defaulting Lender should no longer be deemed to be a Defaulting Lender, the Borrower will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein (which may include arrangements with respect to any amounts then held in the segregated account referred to in Section 2.15(a)), such Lender will, to the extent applicable, purchase such portion of outstanding Loans of the other Lenders and/or make such other adjustments as the Administrative Agent may determine to be necessary to cause the total Term Commitments pursuant to Section 2.01 of the Term Lenders to be on a *pro rata* basis in accordance with their respective Term Commitments, whereupon such Term Lender will cease to be a Defaulting Lender and will be a Non-Defaulting Lender (and such Term Commitments and Term Loans of each Term Lender will automatically be adjusted on a prospective basis to reflect the foregoing); provided that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrower while such Lender was a Defaulting Lender; provided, further, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Non-Defaulting Lender will constitute a waiver or release of any claim of any party hereunder arising from such Lender's having been a Defaulting Lender.

ARTICLE III

TAXES, PROTECTION AND ILLEGALITY

SECTION 3.01 Taxes. (a) Payments Free of Taxes. Any and all payments by or on account of any obligation of any Loan Party under any Loan Document shall be made without deduction or withholding for any Taxes, except as required by applicable Law. If any applicable Law (as determined in the good faith discretion of an applicable Withholding Agent) requires the deduction or withholding of any Tax from any such payment by a Withholding Agent, then the applicable Withholding Agent shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable Law and, if such Tax is an Indemnified Tax, then the sum payable by the applicable Loan Party shall be increased as necessary so that after such deduction or withholding has been made (including such deductions and withholdings applicable to additional sums payable under this Section 3.01) the applicable Lender or Agent receives an amount equal to the sum it would have received had no such deduction or withholding been made.

(b) Payment of Other Taxes by the Borrower. The Loan Parties shall timely pay to the relevant Governmental Authority in accordance with applicable Law, or at the option of the Administrative Agent timely reimburse it for, Other Taxes.

(c) Evidence of Payments. As soon as practicable after any payment of Taxes by any Loan Party to a Governmental Authority pursuant to this Section 3.01, such Loan Party shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(d) Indemnification by the Borrower. The Loan Parties shall jointly and severally indemnify each Lender and each Agent, within 10 days after demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section 3.01) payable or paid by such Lender or such Agent or required to be withheld or deducted from a payment to such Lender or such Agent and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Borrower by a Lender or Agent (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender or other Agent, shall be conclusive absent manifest error.

(e) Indemnification by the Lenders. Each Lender shall severally (but not jointly) indemnify the Administrative Agent, within 10 days after demand therefor, for (i) any Indemnified Taxes attributable to such Lender (but only to the extent that any Loan Party has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Loan Parties to do so), (ii) any Taxes attributable to such Lender's failure to comply with the provisions of Section 9.07(e) relating to the maintenance of a Participant Register and (iii) any Excluded Taxes attributable to such Lender, in each case, that are payable or paid by the Administrative Agent in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under any Loan Document or otherwise payable by the Administrative Agent to the Lender from any other source against any amount due to the Administrative Agent under this paragraph (e).

(f) Status of Lenders. (i) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Loan Document shall deliver to the Borrower and the Administrative Agent, at the time or times reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation reasonably requested by the Borrower or the Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by the Borrower or the Administrative Agent, shall deliver such other documentation prescribed by applicable Law or reasonably requested by the Borrower or the Administrative Agent as will enable the Borrower or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in Section 3.01(f)(i)(A), (i)(B) and (i)(D) below) shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

(ii) Without limiting the generality of the foregoing,

(A) any Lender that is a US Person shall deliver to the Borrower and the Administrative Agent on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), executed originals of IRS Form W-9 certifying that such Lender is exempt from United States federal backup withholding tax;

(B) any Non-U.S. Lender shall deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Non-U.S. Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), whichever of the following is applicable:

(1) in the case of a Non-U.S. Lender claiming the benefits of an income tax treaty to which the United States is a party (x) with respect to payments of interest under any Loan Document, executed originals of IRS Form W-8BEN or IRS Form W-8BEN-E establishing an exemption from, or reduction of, United States federal withholding Tax pursuant to the “interest” article of such tax treaty and (y) with respect to any other applicable payments under any Loan Document, IRS Form W-8BEN or IRS Form W-8BEN-E establishing an exemption from, or reduction of, United States federal withholding Tax pursuant to the “business profits” or “other income” article of such tax treaty;

(2) executed originals of IRS Form W-8ECI;

(3) in the case of a Non-U.S. Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate substantially in the form of Exhibit E-1 to the effect that such Non-U.S. Lender is not a “bank” within the meaning of Section 881(c)(3)(A) of the Code, a “10 percent shareholder” of the Borrower within the meaning of Section 881(c)(3)(B) of the Code, or a “controlled foreign corporation” described in Section 881(c)(3)(C) of the Code (a “U.S. Tax Certificate”) and (y) executed originals of IRS Form W-8BEN or IRS Form W-8BEN-E; or

(4) to the extent a Non-U.S. Lender is not the beneficial owner, executed originals of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN, IRS Form W-8BEN-E, a U.S. Tax Certificate substantially in the form of Exhibit E-2 or Exhibit E-3, IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable; provided that if the Non-U.S. Lender is a partnership and one or more direct or indirect partners of such Non-U.S. Lender are claiming the portfolio interest exemption, such Non-U.S. Lender may provide a U.S. Tax Certificate substantially in the form of Exhibit E-4 on behalf of each such direct and indirect partner;

(C) any Non-U.S. Lender shall deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Non-U.S. Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), executed originals of any other form prescribed by applicable Law as a basis for claiming exemption from or a reduction in United States federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by applicable Law to permit the Borrower or the Administrative Agent to determine the withholding or deduction required to be made; and

(D) if a payment made to a Lender under any Loan Document would be subject to United States federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower and the Administrative Agent at the time or times prescribed by Law and at such time or times reasonably requested by the Borrower or the Administrative Agent such documentation prescribed by applicable Law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this clause (D), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

Each Lender agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrower and the Administrative Agent in writing of its legal inability to do so.

(g) Treatment of Certain Refunds. If any party determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to this Section 3.01, (including by the payment of additional amounts pursuant to this Section 3.01), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section 3.01 with respect to the Taxes giving rise to such refund), net of all reasonable out-of-pocket expenses (including Taxes) of such indemnified party and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon the request of such indemnified party, shall repay to such indemnified party the amount paid over pursuant to this paragraph (g) (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that such indemnified party is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this paragraph (g), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this paragraph (g) the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This paragraph shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

(h) Change of Lending Office. Each Lender agrees that, upon the occurrence of any event giving rise to the operation of Section 3.01(a) or Section 3.01(d) with respect to such Lender, it will, if requested by the Borrower, use reasonable efforts to avoid the consequences of such event, including to designate another Lending Office for any Loan affected by such event or to assign its rights and obligations with respect to such Loan to another of its offices, branches or affiliates; provided that such efforts are made on terms that, in the reasonable judgment of such Lender, cause such Lender and its Lending Office(s) to suffer no material economic, legal or regulatory disadvantage; and provided further that nothing in this Section 3.01(h) shall affect or postpone any of the Loan Obligations of any Loan Party or Lender or the rights of the Lender or Loan Party pursuant to this Section 3.01.

(i) Survival. Each party's obligations under this Section 3.01 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Term Commitments and the repayment, satisfaction or discharge of all obligations under any Loan Document.

(j) Defined Terms. For purposes of this Section 3.01, the term "applicable Law" includes FATCA.

SECTION 3.02 [Reserved]

SECTION 3.03 [Reserved]

SECTION 3.04 Capital Adequacy. (a) [Reserved].

(b) If any Lender reasonably determines that the introduction of any Law regarding capital adequacy or liquidity requirements or any change therein or in the interpretation thereof, in each case after the date such Lender becomes a party to this Agreement, or compliance by such Lender (or its Lending Office) therewith, has the effect of reducing the rate of return on the capital of such Lender or any Person controlling such Lender as a consequence of such Lender's obligations hereunder (taking into consideration its policies with respect to capital adequacy and/or liquidity and such Lender's desired return on capital), then from time to time upon written demand of such Lender setting forth in reasonable detail the charge and the calculation of such reduced rate of return (with a copy of such demand to the Administrative Agent given in accordance with Section 3.06), the Borrower shall pay to such Lender such additional amounts as will compensate such Lender for such reduction.

(c) [Reserved].

(d) If any Lender requests compensation under this Section 3.04, then such Lender will, if requested by the Borrower, use commercially reasonable efforts to designate another Lending Office for any Loan affected by such event or to assign its rights and obligations with respect to such Loan to another of its offices, branches or affiliates; provided that such efforts are made on terms that, in the reasonable judgment of such Lender, cause such Lender and its Lending Office(s) to suffer no material economic, legal or regulatory disadvantage, and provided further that nothing in this Section 3.04(d) shall affect or postpone any of the Loan Obligations of the Borrower or the rights of such Lender pursuant to Section 3.04(a), Section 3.04(b) or Section 3.04(c).

(e) Notwithstanding anything herein to the contrary, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all rules, regulations, orders, requests, guidelines or directives in connection therewith or in implementation thereof and (ii) all requests, rules, guidelines, requirements and directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, are, in each case deemed to have been adopted and to have taken effect after the Effective Date.

SECTION 3.05 [Reserved]

SECTION 3.06 Matters Applicable to All Requests for Compensation. (a) Any Agent or any Lender claiming compensation under this Article 3 shall deliver a certificate to the Borrower setting forth in reasonable detail the additional amount or amounts to be paid to it hereunder, which shall be conclusive in the absence of manifest error. In determining such amount, such Agent or such Lender may use any reasonable averaging and attribution methods.

(b) With respect to any Lender's claim for compensation under Section 3.01 or Section 3.04, the Borrower shall not be required to compensate such Lender for any amount incurred more than one hundred and eighty (180) days prior to the date that such Lender notifies the Borrower of the event that gives rise to such claim and that such Lender has determined to request such compensation; provided that if the circumstance giving rise to such increased cost or reduction is retroactive, then such one hundred eighty (180)-day period referred to above shall be extended to include the period of retroactive effect thereof.

SECTION 3.07 Replacement of Lenders Under Certain Circumstances. (a) If at any time (x) the Borrower becomes obligated to pay additional amounts or indemnity payments described in Section 3.01(a) or (d) or Section 3.04 as a result of any condition described in such Sections or (y) any Lender becomes a Defaulting Lender, then the Borrower may, on ten (10) Business Days' prior written notice to the Administrative Agent and such Lender, replace such Lender by causing such Lender to (and such Lender shall be obligated to) assign pursuant to Section 9.07(b) (with the assignment fee to be paid by the Borrower in such instance) all of its rights and obligations under this Agreement to one or more Eligible Assignees; provided that (i) in the case of any such assignment resulting from a claim for compensation under Section 3.01(a) or (d) or Section 3.04, such assignment will result in a reduction in such compensation or payments thereafter, (ii) such Lender shall have received payment of an amount equal to the outstanding principal of its Term Loans, accrued but unpaid interest thereon, accrued but unpaid fees, premium and all other amounts payable to it hereunder from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts) and (iii) neither the Administrative Agent nor any Lender shall have any obligation to the Borrower to find a replacement Lender or other such Person.

(b) Any Lender being replaced pursuant to Section 3.07(a) above shall (i) execute and deliver an Assignment and Assumption with respect to such Lender's Term Commitment and outstanding Loans of the applicable Class (ii) deliver any Notes evidencing such Loans to the Borrower or the Administrative Agent; provided that the failure of any such Lender to execute an Assignment and Assumption shall not render such assignment invalid, and such Lender shall be deemed to have executed such Assignment and Assumption within one Business Day of a request that it do so in the event that it has failed to do so within such period, and such assignment shall be recorded in the Register. Pursuant to such Assignment and Assumption, (x) the assignee Lender shall acquire all or a portion, as the case may be, of the assigning Lender's Term Commitment and outstanding Loans of the applicable Class, (y) all obligations of the Borrower owing to the assigning Lender relating to the Loans and participations so assigned shall be paid in full by the assignee Lender to such assigning Lender concurrently with such Assignment and Assumption and (z) upon such payment and, if so requested by the assignee Lender, delivery to the assignee Lender of the appropriate Note or Notes executed by the Borrower, the assignee Lender shall become a Lender hereunder and the assigning Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Section 3.01, Section 3.04 and Section 9.05 (and bound by the obligations set forth in Section 9.08) with respect to facts and circumstances occurring prior to the effective date of such assignment.

(c) Notwithstanding anything to the contrary contained above, the Lender that acts as the Administrative Agent may not be replaced in such capacity hereunder except in accordance with the terms of Section 8.06.

SECTION 3.08 Survival. The Borrower's obligations under this Article 3 shall survive any assignment of rights by, or the replacement of, a Lender and the Termination Date.

ARTICLE IV

CONDITIONS PRECEDENT

SECTION 4.01 Conditions to Effectiveness. The effectiveness of this Agreement is subject solely to the satisfaction of the following conditions: (i) the Administrative Agent's receipt of executed counterparts of this Agreement, in the form of an original, facsimile or electronic copy (followed promptly by originals), duly executed and delivered by the Administrative Agent, each Lender and a Responsible Officer of each of the Borrower and Holdings, (ii) the Support Agreement shall be in full force and effect, and shall not have been waived, amended, or otherwise modified except in accordance with the terms thereof and (iii) there shall not have been promulgated, enacted, entered, filed, enforced or deemed applicable to the Specified Transactions a statute, rule, regulation, judgment, order, stay, decree or injunction, by any court or governmental regulatory or administrative agency or authority, tribunal, domestic or foreign, that would prohibit or prevent consummation of the Specified Transactions (it being understood that this clause (iii) shall be deemed satisfied upon the release of each parties signature to this Agreement). For the avoidance of doubt, any Default or Event of Default arising under this Agreement during the period between (and including) the Effective Date and the Closing Date shall be deemed to be a Default or Event of Default from such date as such Default or Event or Default occurs, until cured or waived, notwithstanding the fact that such date may occur prior to the Closing Date. It is understood and agreed that, for purposes of calculating the availability under any basket or ratio, or determining the availability of an exception to any covenant, agreement or provision, under this Agreement, such calculation or determination, as the case may be, shall take into account the effectiveness of this Agreement as of and from the Effective Date; provided, that, no action taken or omitted to be taken by the Borrower, Holdings or any of its Restricted Subsidiaries during the period between (and including) the Effective Date and the Closing Date shall give rise to a Default or Event of Default by virtue of this Section 4.01, so long as such action that is taken or omitted to be taken would not give rise to a Default or Event of Default had the "Closing Date" instead been the Effective Date.

SECTION 4.02 Conditions to Borrowing of the First Draw Term Loans (Closing Date). The obligation of each Lender to make the First Draw Term Loans hereunder on the Closing Date is subject to the satisfaction of solely the following conditions precedent (unless expressly waived in accordance with Section 9.01); provided that if the conditions have not been satisfied or waived in accordance with this Section 4.02, then each Lender as to which the conditions shall not have been met by the Commitment Termination Date shall, at its election, be relieved of all further obligations under this Agreement, without thereby waiving any rights such Lender may have by reason of such failure or such non-fulfillment:

(a) The receipt by the Administrative Agent and the Initial Term Lenders of the following, each of which shall be in the form of an original, facsimile or electronic copy unless otherwise specified, and each executed by a Responsible Officer of the Borrower:

(i) a Note executed by the Borrower in favor of each Lender requesting a Note at least two (2) Business Days prior to the Closing Date (the original to the Lender and a copy to the Administrative Agent), if any;

(ii) a certificate of the Borrower and each other Loan Party which would have been required to deliver a comparable certificate in connection with the prior closing of the Existing Secured Notes Indenture, dated the Closing Date and executed by the secretary or assistant secretary of the Borrower and each applicable Loan Party, respectively, in the form attached as Exhibit G-1 and G-2, respectively, hereto.

(b) (i) a certificate signed by a Responsible Officer of the Borrower, substantially in the form of Exhibit H-1 hereto and (ii) a Solvency Certificate in the form attached as Exhibit H-2.

(c) The receipt by the Administrative Agent and the Initial Term Lenders of (i) a written opinion of Simpson Thacher & Bartlett LLP, special counsel for the Borrower and Holdings, dated as of the Closing Date in the form attached as Exhibit I-1 and (ii) a written opinion of Michael Discafani, Vice President, Corporate Counsel and Secretary of the Borrower and Holdings, dated as of the Closing Date in the form attached as Exhibit I-2.

(d) To the extent requested by the Administrative Agent and/or the Initial Term Lenders not less than ten (10) Business Days prior to the Closing Date, the Administrative Agent and the Initial Term Lenders shall have received, at least three (3) Business Days prior to the Closing Date, all documentation and other information reasonably requested with respect to the Loan Parties required by regulatory authorities under applicable “know-your-customer” and anti-money laundering rules and regulations, including without limitation the PATRIOT Act.

(e) The Administrative Agent and Lenders shall have received a Loan Notice relating to the initial Borrowings in accordance with Section 2.02(a).

(f) Substantially concurrently with the making of Loans on the Closing Date, the Existing Unsecured Notes Exchange shall have been consummated.

(g) (A) The Specified Representations shall be true and correct in all material respects as of the Closing Date; provided that to the extent any such representations and warranties are qualified by “materiality,” “Material Adverse Effect” or similar language, such representations and warranties (after giving effect to any qualification therein) are true and correct in all respects as of the Closing Date (except, in each case, where such representations and warranties expressly relate to an earlier date, in which case such representations and warranties shall have been true and correct in all material respects as of such earlier date); and (B) upon consummation of the transactions contemplated by the Loan Documents and the application of the proceeds thereof, no Default or Event of Default shall have occurred.

(h) There shall not have been promulgated, enacted, entered, filed, enforced or deemed applicable to the Specified Transactions a statute, rule, regulation, judgment, order, stay, decree or injunction, by any court or governmental regulatory or administrative agency or authority, tribunal, domestic or foreign, that would prohibit or prevent consummation of the Specified Transactions.

(i) The proceeds of the First Draw Term Loans under this Agreement, will be used on the Closing Date to pay principal amounts due to holders of the 7.000% Notes, and to pay accrued and unpaid interest, fees, premiums, costs and expenses incurred in connection therewith and all other transactions relating thereto (collectively, the “7.000% Notes Refinancing”).

For purposes of determining satisfaction of the conditions specified in this Section 4.02, by the making of First Draw Term Loans the Borrower, the Administrative Agent and each Lender shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required hereunder to be consented to or approved by or acceptable or satisfactory to the Administrative Agent or such Lender, as the case may be.

SECTION 4.03 Conditions to Borrowing of the Delayed Draw Term Loans. The obligation of each Lender to make the Delayed Draw Term Loans hereunder, subject to the occurrence Closing Date, which Loans shall only be made on or after May 28, 2018, is subject to the satisfaction of solely the following conditions precedent (or expressly waived in accordance with Section 9.01):

(a) The Specified Representations shall be true and correct in all material respects as of the date of such Borrowing; provided that to the extent any such representations and warranties are qualified by “materiality,” “Material Adverse Effect” or similar language, such representations and warranties (after giving effect to any qualification therein) are true and correct in all respects as of the date of Borrowing (except, in each case, where such representations and warranties expressly relate to an earlier date, in which case such representations and warranties shall have been true and correct in all material respects as of such earlier date).

(b) The Administrative Agent and Lenders shall have received a Loan Notice Borrowings in accordance with Section 2.02(a).

(c) The proceeds of the Delayed Draw Term Loans under this Agreement, will be used to pay principal amounts due to holders of the Existing Unsecured Notes remaining outstanding after the consummation of the Existing Unsecured Notes Exchange (other than any Existing Unsecured Notes held by the Borrower or an Affiliate of the Borrower), and to pay any other amount, including interest, premium (if any), fees, costs and expenses, required to repay or redeem such Existing Unsecured Notes at or prior to the maturity date thereof, which shall be available upon the earliest of (i) the maturity date of the Existing Unsecured Notes, (ii) the date of acceleration of any amounts owed with respect to the Existing Unsecured Notes, (iii) the redemption date set forth in an effective redemption notice so long as all conditions precedent set forth in such notice have been satisfied pursuant to the Existing Unsecured Notes Indenture (provided, that (A) such notice shall not have been issued prior to May 18, 2018 and shall be in the form attached hereto as Exhibit L and (B) there shall have not been promulgated, enacted, entered, filed, enforced or deemed applicable to such redemption a statute, rule, regulation, judgment, order, stay, decree or injunction, by any court or governmental regulatory or administrative agency or authority, tribunal, domestic or foreign, that would prohibit or prevent consummation of such redemption of the Existing Unsecured Notes).

Each Loan Notice submitted by the Borrower in connection with a Borrowing of Delayed Draw Term Loans shall be deemed to be a representation and warranty made by the Borrower that the conditions specified in Section 4.03 have been satisfied on and as of the date of the applicable Borrowing.

ARTICLE V

REPRESENTATIONS AND WARRANTIES OF HOLDINGS AND THE BORROWER

The Borrower and Holdings jointly and severally, represent and warrant to, and agree with the Administrative Agent and each Lender, that:

SECTION 5.01 Good Standing of the Borrower, Holdings and its Subsidiaries. Each of the Borrower, Holdings and its subsidiaries has been duly incorporated or formed, as the case may be, is validly existing as a corporation, limited liability company or limited partnership, as the case may be, in good standing under the laws of its jurisdiction of incorporation or organization and has the corporate power, or its equivalent in the case of a limited partnership or limited liability company, and authority to carry on its business as described in the Public Filings, to own, lease and operate its properties and to enter into and perform its obligations under this Agreement and the other Loan Documents; and each is duly qualified and is in good standing as a foreign corporation, limited liability company or limited partnership, as the case may be, authorized to do business in each jurisdiction in which the nature of its business or its ownership or leasing of property requires such qualification, except where the failure to be so qualified would not have a material adverse effect on the business, prospects, financial condition or results of operations of Holdings and its subsidiaries, taken as a whole, or their ability to perform their respective obligations under this Agreement (a “Material Adverse Effect”).

SECTION 5.02 Loan Documents. Each of the Loan Documents has been duly authorized by the Borrower and each other Loan Party thereto; when each Loan Document has been duly executed and delivered by the Borrower and each other Loan Party that is a party thereto, and, assuming that each Loan Document is a valid and binding obligation of the Administrative Agent, each Loan Document will be, a valid and binding agreement of the Borrower and each other Loan Party that is a party thereto, enforceable against the Borrower and each other Loan Party in accordance with its terms except as the enforceability thereof may be limited by the effects of bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and other similar laws relating to or affecting creditors' rights generally, general equitable principles (whether considered in a proceeding in equity or at law) and an implied covenant of good faith and fair dealing.

SECTION 5.03 Absence of Defaults and Conflicts. The execution, delivery and performance of the Loan Documents by the Borrower and each of the Loan Parties, as applicable, compliance by the Borrower and each of the Loan Parties with all provisions hereof and thereof and the consummation of the transactions contemplated hereby and thereby will not conflict with or constitute a breach of any of the terms or provisions of the charter, by-laws or other organizational documents of the Borrower or any other Loan Party.

SECTION 5.04 Authorization of this Agreement. This Agreement has been duly authorized, executed and delivered by the Borrower, Holdings and each other Guarantor and is the legal, valid and binding obligation of the Borrower, Holdings and each other Guarantor, enforceable against the Borrower, Holdings and each other Guarantor in accordance with the terms hereof.

SECTION 5.05 Environmental Laws and ERISA. Except as disclosed in the Public Filings, neither the Borrower, Holdings nor any of its subsidiaries has (i) violated any foreign, federal, state or local law or regulation relating to the protection of human health and safety, the environment or hazardous or toxic substances or wastes, pollutants or contaminants ("Environmental Laws"), and, to the knowledge of the Borrower and Holdings, there are no pending or threatened liabilities relating to Environmental Laws or (ii) violated any provisions of ERISA, except, in each case, for such violations or liabilities, as the case may be, which, singly or in the aggregate, would not have a Material Adverse Effect.

SECTION 5.06 Litigation. There shall has not been promulgated, enacted, entered, filed, enforced or deemed applicable to the Specified Transactions a statute, rule, regulation, judgment, order, stay, decree or injunction, by any court or governmental regulatory or administrative agency or authority, tribunal, domestic or foreign, that would prohibit or prevent consummation of the Specified Transactions or which makes the Loan Documents or any of the Specified Transactions illegal, invalid or unenforceable.

SECTION 5.07 Financial Statements. The historical financial statements, together with related notes, included in Holdings' annual report on Form 10-K for the year ended October 31, 2017 (collectively, the "Historical Financial Statements"), present fairly the consolidated financial position, results of operations and changes in financial position of Holdings and its subsidiaries, on the basis stated therein and at the respective dates or for the respective periods to which they apply; such Historical Financial Statements have been prepared in accordance with GAAP consistently applied throughout the periods involved, except as disclosed therein.

SECTION 5.08 Investment Company Act. Each of the Borrower and the Loan Parties is not and, after giving effect to the Borrowing of Loans hereunder and the consummation of the transactions contemplated by the Loan Documents and the application of the net proceeds thereof, will not be, an “investment company,” as such term is defined in the Investment Company Act.

SECTION 5.09 Solvency. On the Closing Date, immediately after the consummation of the transactions contemplated by the Loan Documents (i) the present fair saleable value of the properties and assets of Holdings and its subsidiaries (on a consolidated basis) is not less than the total amount that would be required to pay the probable liability of Holdings and its subsidiaries (on a consolidated basis) on their total debts and liabilities (including contingent liabilities) as they become absolute and matured; (ii) Holdings and its subsidiaries (on a consolidated basis) are able to realize upon their properties and assets and generally pay their debts and other liabilities, contingent obligations and commitments as they mature and become due in the normal course of business; (iii) Holdings and its subsidiaries (on a consolidated basis) do not intend to, and do not believe that they will, incur debts or liabilities beyond their ability to pay as such debts and liabilities mature; and (iv) Holdings and its subsidiaries (on a consolidated basis) are not engaged in any business or transaction, and do not propose to engage in any business or transaction, for which their properties and assets would constitute unreasonably small capital after giving due consideration to the prevailing practices in the industry in which Holdings and its subsidiaries are engaged. For purposes of this Section 5.09, the amount of any contingent liability shall be computed in accordance with GAAP.

SECTION 5.10 Regulations T, U, X. Neither the Borrower nor any Loan Party nor any of their respective subsidiaries nor any agent thereof acting on their behalf has taken, and none of them will take, any action that might cause this Agreement or the borrowing of Loans to violate Regulation T, Regulation U or Regulation X of the Board of Governors of the Federal Reserve System.

SECTION 5.11 Sanctions. (a) Neither the Borrower or Holdings and its subsidiaries, nor any director or officer thereof, nor, to the Borrower’s or Holdings’ knowledge, any employee, agent, affiliate or representative of the Borrower or Holdings and its subsidiaries, is a Person that is, or is owned or controlled by a Person that is: (A) the target of any international economic sanction administered or enforced by the United States Government (including without limitation, the U.S. Department of Treasury’s Office of Foreign Assets Control (“OFAC”) and the U.S. Department of State), the United Nations Security Council, the European Union or Her Majesty’s Treasury (collectively, “Sanctions”) or (B) located, organized or resident in the Crimea region of Ukraine, Cuba, Iran, North Korea or Syria, or any other any country or territory to the extent that such country or territory itself is the subject of any comprehensive Sanction (each, a “Sanctioned Country”).

(b) Each Loan Party is in compliance in all material respects with all Laws concerning or relating to terrorism or money laundering (“Anti-Terrorism Laws”), including the Patriot Act, the Trading with the Enemy Act of the United States of America (50 U.S.C. App. §§1 *et seq.*), as amended (the “Trading with the Enemy Act”), the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended), and Executive Order No. 13224 on Terrorism Financing, effective September 24, 2001 (the “Executive Order”). No Loan Party or, to the knowledge of any Loan Party, other agents acting or benefiting in any capacity in connection with the Term Loans is (i) a Person with whom any Lender is prohibited from dealing or otherwise engaging in any transaction by any Anti-Terrorism Law, or (ii) a Person that is named as a “specially designated national and blocked person” on the most current list published by the United States Treasury Department Office of Foreign Asset Control at its official website or any replacement website or other replacement official publication of such list.

(c) Neither the Borrower or Holdings and its subsidiaries, nor any director or officer thereof, nor, to the Borrower's or Holdings' knowledge, any employee, agent, affiliate or representative of the Borrower or Holdings and its subsidiaries, has taken any action in violation of any Law in furtherance of an offer, payment, promise to pay or authorization or approval of the payment or giving of money, property, gifts or anything else of value, directly or indirectly, to any "government official" (including any officer or employee of a government or a government-owned, government-controlled or other quasi-governmental entity or of a public international organization, or any Person acting in an official capacity for or on behalf of any of the foregoing, or any political party or party official or candidate for political office) to influence official action or secure an improper advantage, and each Loan Party has conducted its businesses in compliance in all material respects with applicable anti-corruption Laws and has instituted and maintained and will continue to maintain adequate policies and procedures designed to promote and achieve compliance with all such laws and with the representation and warranty contained in this Section 5.11.

(d) The Borrower will not, directly or, to its knowledge, indirectly, use the proceeds of Loans, or lend, contribute or otherwise make available such proceeds to any Subsidiary, joint venture partner or other Person for the purpose of funding or facilitating any unlawful activities or business of or with any Person in any Sanctioned Country, or in any other manner that will result in a violation by any party to this Agreement of Sanctions, Anti-Terrorism Laws or anti-corruption Laws.

SECTION 5.12 Taxes. Except as could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, each of the Borrower, Holdings and its Restricted Subsidiaries (a) have timely filed or cause to be filed all Tax returns and reports required to have been filed, and (b) have paid or caused to be paid all Taxes levied or imposed on their properties, income or assets (whether or not shown on a Tax return) that are due and payable, including in their capacity as tax withholding agents, except any Taxes that are being contested in good faith by appropriate proceedings, provided that Holdings, the Borrower or such Restricted Subsidiary, as the case may be, has set aside on its books adequate reserves therefor in accordance with GAAP. There is no proposed Tax assessment, deficiency or other claim against Holdings, the Borrower or any Restricted Subsidiary that would reasonably be expected to, individually or in the aggregate, have a Material Adverse Effect.

SECTION 5.13 Compliance with Laws. Each of the Borrower, Holdings and its Restricted Subsidiaries is in compliance with all applicable Laws, orders, writs, injunctions and orders, except to the extent that failure to do so would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

ARTICLE VI

COVENANTS

Until the Termination Date, the Borrower and Holdings shall, and to the extent applicable, shall cause each Restricted Subsidiary to comply with the following covenants:

SECTION 6.01 Existence. Holdings and the Borrower shall each do or cause to be done all things necessary to preserve and keep in full force and effect their existence and the existence of each of the Restricted Subsidiaries in accordance with their respective organizational documents, and the material rights, licenses and franchises of Holdings, the Borrower and each Restricted Subsidiary; provided, that Holdings and the Borrower are not required to preserve any such right, license or franchise, or the existence of any Restricted Subsidiary, if the maintenance or preservation thereof is no longer desirable in the conduct of the business of Holdings and its Restricted Subsidiaries taken as a whole; and provided, further, that this Section shall not prohibit any transaction otherwise permitted by Section 6.07 or Section 6.11.

SECTION 6.02 Payment of Taxes. Holdings shall pay or discharge, and cause each of its Subsidiaries to pay or discharge, before the same become delinquent all material taxes, assessments and governmental charges levied or imposed upon Holdings or any Subsidiary or its income or profits or property, other than any such tax, assessment or charge the amount, applicability or validity of which is being contested in good faith by appropriate proceedings.

SECTION 6.03 Limitations on Indebtedness. (a) Holdings and the Borrower will not, and will not cause or permit any Restricted Subsidiary to, directly or indirectly, create, incur, assume, become liable for or guarantee the payment of (collectively, an “incurrence”) any Indebtedness (including Acquired Indebtedness); provided that Holdings, the Borrower and any other Loan Party may incur any Indebtedness (including Acquired Indebtedness) if, after giving effect thereto and the application of the proceeds therefrom, either (i) the Consolidated Fixed Charge Coverage Ratio on the date thereof would be at least 2.0 to 1.0 or (ii) the ratio of Indebtedness of Holdings and the Restricted Subsidiaries to Consolidated Tangible Net Worth of Holdings is less than 3.0 to 1.0.

(b) Notwithstanding the foregoing, the provisions of this Agreement will not prevent the incurrence of:

(i) Permitted Indebtedness,

(ii) Refinancing Indebtedness,

(iii) (A) Non-Recourse Indebtedness and (B) any Indebtedness which serves to refund, refinance or extend any such Non-Recourse Indebtedness (“Refinancing Non-Recourse Indebtedness”), provided that such Refinancing Non-Recourse Indebtedness is, except for clause (b) of the definition thereof, Non-Recourse Indebtedness,

(iv) any Guarantee of Indebtedness represented by the Loans,

(v) any guarantee of Indebtedness (other than the Loans) incurred under Credit Facilities in compliance with this Agreement, and

(vi) any guarantee by the Borrower, Holdings or any other Loan Party of Indebtedness that is permitted to be incurred in compliance with this Agreement; provided that in the event such Indebtedness that is being guaranteed is subordinated in right of payment to the Loans or a Guarantee, as the case may be, then the related guarantee shall be subordinated in right of payment to the Loans or such Guarantee, as the case may be.

(c) For purposes of determining compliance with this covenant, in the event that an item of Indebtedness may be incurred through Section 6.03(a) or by meeting the criteria of one or more of the types of Indebtedness described in Section 6.03(b) (or the definitions of the terms used therein), Holdings, in its sole discretion,

(i) may divide, classify or later reclassify the amount and type of such item of Indebtedness (or any portion thereof) under and comply with any of such paragraphs (or any of such definitions), as applicable,

(ii) may divide, classify or later reclassify the amount and type of such item of Indebtedness (or any portion thereof) into more than one of such paragraphs (or definitions), as applicable, and

(iii) may elect to comply with such paragraphs (or definitions), as applicable, in any order.

(d) Holdings and the Borrower will not, and will not cause or permit any other Loan Party to, directly or indirectly, in any event incur any Indebtedness that purports to be by its terms (or by the terms of any agreement governing such Indebtedness) subordinated to any other Indebtedness of Holdings or of such other Loan Party, as the case may be, unless such Indebtedness is also by its terms (or by the terms of any agreement governing such Indebtedness) made expressly subordinated to the Loans or the Guarantee of such other Loan Party, as the case may be, to the same extent and in the same manner as such Indebtedness is subordinated to such other Indebtedness of Holdings or such other Loan Party, as the case may be.

(e) Accrual of interest or dividends, the accretion of accreted value, the accretion or amortization of original issue discount and the payment of interest or dividends in the form of additional Indebtedness will not be deemed to be an incurrence of Indebtedness for purposes of this Section.

(f) For purposes of determining compliance with any U.S. dollar-denominated restriction on the incurrence of Indebtedness, the U.S. dollar-equivalent principal amount of Indebtedness denominated in another currency shall be calculated based on the relevant currency exchange rate in effect on the date such Indebtedness was incurred, in the case of term debt, or first committed, in the case of revolving credit debt; provided that if such Indebtedness is incurred to refinance other Indebtedness denominated in another currency, and such refinancing would cause the applicable U.S. dollar-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing, such U.S. dollar-denominated restriction shall be deemed not to have been exceeded so long as the principal amount of such Refinancing Indebtedness does not exceed (i) the principal amount of such Indebtedness being refinanced plus all accrued interest thereon plus (ii) the aggregate amount of fees, underwriting discounts, premiums and other costs and expenses incurred in connection with such refinancing. Notwithstanding any other provision of this [Section 6.03](#), the maximum amount of Indebtedness Holdings, the Borrower or a Restricted Subsidiary may incur pursuant to this covenant shall not be deemed to be exceeded solely as a result of fluctuations in the exchange rate of currencies. [For purposes of determining compliance with, and the outstanding principal amount of any particular Indebtedness incurred pursuant to and in compliance with, this Section 6.03, the principal amount of Indebtedness outstanding under any clause of Section 6.03\(b\) shall be determined after giving effect to the application of proceeds of any such Indebtedness to refinance any such other Indebtedness.](#)

(g) The principal amount of any Indebtedness incurred to refinance other Indebtedness, if incurred in a different currency from the Indebtedness being refinanced, shall be calculated based on the currency exchange rate applicable to the currencies in which such respective Indebtedness is denominated that is in effect on the date of such refinancing.

(h) For purposes of this [Section 6.03](#) and the other provisions of this Agreement, (i) unsecured Indebtedness shall not be treated as subordinated or junior to secured Indebtedness merely because it is unsecured, and (ii) senior Indebtedness shall not be treated as subordinated or junior to any other senior Indebtedness merely because it has a junior priority with respect to the same collateral.

(i) For purposes of determining compliance with this covenant, (i) all Indebtedness outstanding on the Effective Date under the Existing Revolving Credit Agreement shall be deemed to be incurred under clause (a)(iii) of the definition of “Permitted Indebtedness” and (ii) all Existing Unsecured Notes, JV Holdings Secured Group Notes, Existing Secured Notes and all Indebtedness outstanding on the Effective Date under the Senior Secured Super Priority Term Loan Credit Agreement shall be deemed to be incurred under clause (c) of the definition of “Permitted Indebtedness”.

(j) For purposes of determining compliance with this covenant, all Indebtedness outstanding on October 31, 2019 under the New Secured Notes and the Senior Credit Facility shall be deemed to be, and shall expressly be permitted to be, incurred under clause 6.03(b)(ii).

SECTION 6.04 Limitations on Restricted Payments. (a) Holdings and the Borrower will not, and will not cause or permit any Restricted Subsidiary to, directly or indirectly, make any Restricted Payment unless:

(i) no Default or Event of Default shall have occurred and be continuing at the time of or immediately after giving effect to such Restricted Payment;

(ii) immediately after giving effect to such Restricted Payment, Holdings could incur at least \$1.00 of Indebtedness pursuant to Section 6.03(a) hereof; and

(iii) immediately after giving effect to such Restricted Payment, the aggregate amount of all Restricted Payments (including the Fair Market Value of any non-cash Restricted Payment) declared or made on or after the Effective Date does not exceed the sum of:

(A) \$16.0 million, *plus*

(B) 50% of the Consolidated Net Income of Holdings on a cumulative basis during the period (taken as one accounting period) from and including February 1, 2018 and ending on the last day of Holdings’ fiscal quarter immediately preceding the date of such Restricted Payment (or in the event such Consolidated Net Income shall be a deficit, minus 100% of such deficit), *plus*

(C) 100% of the aggregate net cash proceeds of and the Fair Market Value of Property received by Holdings from (1) any capital contribution to Holdings after Effective Date or any issue or sale after the Effective Date of Qualified Stock (other than (i) to any Subsidiary of Holdings or (ii) any Excluded Contribution) and (2) the issue or sale on or after the Effective Date of any Indebtedness or other securities of Holdings or the Borrower convertible into or exchangeable or exercisable for Qualified Stock of Holdings that have been so converted, exchanged or exercised, as the case may be, *plus*

(D) in the case of the disposition or repayment of any Investment constituting a Restricted Payment (or if the Investment was made prior to the Effective Date, that would have constituted a Restricted Payment if made after the Effective Date, if such disposition or repayment results in cash received by Holdings, the Borrower or any Restricted Subsidiary), an amount (to the extent not included in the calculation of Consolidated Net Income referred to in (B)) equal to the return of capital with respect to such Investment, including by dividend, distribution or sale of Capital Stock (to the extent not included in the calculation of Consolidated Net Income referred to in (B)), *plus*

(E) with respect to any Unrestricted Subsidiary that is redesignated as a Restricted Subsidiary after the Effective Date, in accordance with the definition of “Unrestricted Subsidiary” (so long as the designation of such Subsidiary as an Unrestricted Subsidiary was treated under the Exchange Notes Indenture or this Agreement as a Restricted Payment made after the Effective Date, and only to the extent not included in the calculation of Consolidated Net Income referred to in (B)), an amount equal to the lesser of (x) the proportionate interest of Holdings or a Restricted Subsidiary in an amount equal to the excess of (I) the total assets of such Subsidiary, valued on an aggregate basis at the lesser of book value and Fair Market Value thereof, over (II) the total liabilities of such Subsidiary, determined in accordance with GAAP, and (y) the Designation Amount at the time of such Subsidiary’s designation as an Unrestricted Subsidiary.

(b) Clause (a) of this Section 6.04 (provided that in the case of clauses (iv) and (v) below no Default or Event of Default has occurred and is continuing at the time of such payment) will not prohibit:

(i) the payment of any dividend or distribution or the consummation of any irrevocable redemption within 60 days of its declaration or the giving of notice of such irrevocable redemption, as applicable, if such dividend or such payment could have been made on the date of its declaration or provision of notice, as applicable, without violation of the provisions of this Agreement;

(ii) the purchase, repayment, repurchase, redemption, defeasance or other acquisition, cancellation or retirement for value of any Subordinated Indebtedness of the Borrower, Holdings or any Restricted Subsidiary or shares of Capital Stock of Holdings in exchange for, or out of the net proceeds of the substantially concurrent sale (other than to a Subsidiary of Holdings or constituting an Excluded Contribution) of, shares of Qualified Stock;

(iii) (A) the purchase, repayment, redemption, repurchase, defeasance or other acquisition, cancellation or retirement for value of Subordinated Indebtedness of the Borrower, Holdings or any Restricted Subsidiary in exchange for, or out of proceeds of, Refinancing Indebtedness or (B) the making of any Restricted Payments in an aggregate amount made under this clause (B) not to exceed Excluded Contributions (after giving effect to all subsequent reductions in the amount of any Restricted Investment outstanding pursuant to this clause (B) as a result of the repayment or disposition thereof for cash);

(iv) the payment of dividends on Preferred Stock and Disqualified Stock up to an aggregate amount of \$10.0 million in any fiscal year; provided that immediately after giving effect to any declaration of such dividend, Holdings could incur at least \$1.00 of Indebtedness pursuant to clause (i) of Section 6.03(a);

(v) the purchase, redemption or other acquisition, cancellation or retirement for value of Capital Stock, or options, warrants, equity appreciation rights or other rights to purchase or acquire Capital Stock, of Holdings or any Subsidiary held by any present, future or former officers, directors, managers, employees or consultants of Holdings or any Subsidiary (or their estates or beneficiaries under their estates) not to exceed \$5.0 million in any calendar year (with unused amounts in any calendar year being carried over to succeeding calendar years subject to a maximum (without giving effect to the following proviso) of \$10.0 million in any calendar year); *provided* that such amount in any calendar year may be increased by an amount not to exceed: (A) the cash proceeds from the sale of Qualified Stock of the Company to any future, present or former officers, directors, managers, employees or consultants Holdings, any of its Subsidiaries that occurs after the Effective Date, to the extent the cash proceeds from the sale of such Qualified Stock have not otherwise been applied to the payment of Restricted Payments by virtue of Section 6.04(a) (iii)(c) above; *plus* (B) the cash proceeds of key man life insurance policies received by Holdings and the Restricted Subsidiaries after the Effective Date; *less* (C) the amount of any Restricted Payments previously made pursuant to clauses (A) and (B) of this clause (v); provided that Holdings may elect to apply all or any portion of the aggregate increase contemplated by clauses (A) and (B) of this clause (v) in any calendar year);

(vi) the making of cash payments in connection with any conversion or exchange of Permitted Convertible Indebtedness in an aggregate amount since the date of the indenture therefor not to exceed the sum of (A) the principal amount of such Permitted Convertible Indebtedness *plus* (B) any payments received by Holdings, the Borrower or any Restricted Subsidiaries pursuant to the exercise, settlement or termination of any related Permitted Bond Hedge;

(vii) any payments in connection with (including, without limitation, the purchase of) a Permitted Bond Hedge and the settlement of any related Permitted Warrant (A) by delivery of shares of Holdings' Capital Stock upon net share settlement of such Permitted Warrant or (B) by (x) set-off of such Permitted Warrant against the related Permitted Bond Hedge and (y) payment of an amount due upon termination of such Permitted Warrant in Capital Stock or using cash received upon the exercise, settlement or termination of a Permitted Bond Hedge upon any early termination thereof;

(viii) the purchase, repayment, repurchase, redemption, defeasance or other acquisition, cancellation or retirement for value of any Subordinated Indebtedness (A) at a purchase price not greater than 101% of the principal amount of such Subordinated Indebtedness in the event of a Change of Control in accordance with provisions similar to Section 6.16 hereof or (B) at a purchase price not greater than 100% of the principal amount thereof in accordance with provisions similar to Section 2.03(a)(iii) hereof; provided that, prior to or simultaneously with such purchase, repayment, repurchase, redemption, defeasance or other acquisition, cancellation, or retirement, Holdings, the Borrower or any Restricted Subsidiary has made, (i) payment in full of the Loans and any other amounts then due and owing to any Lender or the Administrative Agent hereunder, or (ii) made a Change of Control offer pursuant to Section 6.16 or any application of relevant proceeds pursuant to Section 2.03(a)(iii), as applicable, and completed the repurchase or repayments of all Term Loans which have accepted such Change of Control Offer or application of relevant proceeds;

(ix) (A) any payment of cash by Holdings, the Borrower or any of the Restricted Subsidiaries in respect of fractional shares of Holdings' Capital Stock upon the exercise, conversion or exchange of any stock options, warrants or other rights to purchase Capital Stock or other convertible or exchangeable securities and (B) payments made or expected to be made by Holdings, the Borrower or any of the Restricted Subsidiaries in respect of withholding or similar taxes payable in connection with the exercise or vesting of Capital Stock by any future, present or former officer, employee, director, manager or consultant and repurchases of Capital Stock deemed to occur upon exercise, conversion or exchange of stock options, warrants or other rights to purchase Capital Stock or other convertible or exchangeable securities if such Capital Stock represents all or a portion of the exercise price thereof;

(x) other Restricted Payments in an aggregate amount, when taken together with all other Restricted Payments made pursuant to this clause (x) not to exceed \$50.0 million (after giving effect to all subsequent reductions in the amount of Restricted Investments outstanding pursuant to this clause (x)) in the form of cash);

(xi) payments or distributions to satisfy dissenters' rights, pursuant to or in connection with a consolidation, merger or transfer of assets that complies with Section 6.11; ~~and~~

(xii) any purchase, repayment, repurchase, redemption, defeasance or other acquisition, cancellation or retirement for value of Subordinated Indebtedness from Net Cash Proceeds of an Asset Disposition to the extent permitted under Section 2.03; and

(xiii) Investments in any Permitted Joint Venture (which Investment may be made via an Investment in the JV Holding Company, if any, owning such Permitted Joint Venture) in an aggregate amount not to exceed at any one time outstanding (measured at the time made) (1) \$182.3 million (which amount represents the aggregate amount of such Investments existing on the Second Amendment Effective Date) plus (2) the sum of (a) \$100.0 million and (b) 100% of the amount of cash and Cash Equivalents received by any of the Borrower, Holdings, any Subsidiary Guarantor or any JV Holding Company from any such Permitted Joint Venture following the Second Amendment Effective Date and ending on the last day of the fiscal quarter of Holdings immediately preceding the date of such Investment for which financial statements have been provided pursuant to Section 6.12 hereof; provided that after giving effect to such Investment, the ratio of total Indebtedness to (x) "total inventories" less (y) "inventory not owned" (as of the last day of the Most Recent Fiscal Quarter) for all such Permitted Joint Ventures would not be greater than 55% (as of the last day of the Most Recent Fiscal Quarter);

provided, however, that each Restricted Payment described in clauses (i) and (ii) of this Section 6.04(b) shall be taken into account for purposes of computing the aggregate amount of all Restricted Payments pursuant to clause (iii) of Section 6.04(a).

For purposes of the proviso in Section 6.04(b)(xiii), the amount of "Indebtedness" outstanding at any one time shall be calculated as the sum of (x) the aggregate principal amount of all Indebtedness of Permitted Joint Ventures outstanding as of the last day of the Most Recent Fiscal Quarter plus (y) with respect to any Indebtedness of Permitted Joint Ventures incurred after the provision of the financial statements used for purposes of clause (x) above but prior to the date on which financial statements for a more recent fiscal quarter have been provided (in each case, pursuant to Section 6.12 hereof), the total principal amount or committed principal amount thereof shall be deemed to be incurred whether or not borrowed at the time of calculation of the amount of such Indebtedness.

(c) For purposes of determining the aggregate and permitted amounts of Restricted Payments made, the amount of any guarantee of any Investment in any Person that was initially treated as a Restricted Payment and which was subsequently terminated or expired, net of any amounts paid by Holdings or any Restricted Subsidiary in respect of such guarantee, shall be deducted.

(d) In determining the "Fair Market Value" for purposes of clause (iii) of Section 6.04(a), Property other than cash, Cash Equivalents and Marketable Securities shall be deemed to be equal in value to the "equity value" of the Capital Stock or other securities issued in exchange therefor. The equity value of such Capital Stock or other securities shall be equal to (i) the number of shares of Common Equity issued in the transaction (or issuable upon conversion or exercise of the Capital Stock or other securities issued in the transaction) multiplied by the closing sale price of the Common Equity on its principal market on the date of the transaction (less, in the case of Capital Stock or other securities which require the payment of consideration at the time of conversion or exercise, the aggregate consideration payable thereupon) or (ii) if the Common Equity is not then traded on a national securities exchange, or if the Capital Stock or other securities issued in the transaction do not consist of Common Equity (or Capital Stock or other securities convertible into or exercisable for Common Equity), the value (if more than \$10.0 million) of such Capital Stock or other securities as determined in good faith by the Board of Directors of Holdings.

(e) For purposes of determining compliance with this Section 6.04, in the event that a proposed Restricted Payment or Investment (or a portion thereof) meets the criteria of clauses (i) through (xiii) above or is entitled to be made pursuant to Section 6.04(a) and/or one or more of the exceptions contained in the definition of “Permitted Investments”, the Borrower will be entitled to divide, classify or later reclassify (based on circumstances existing on the date of such reclassification) such Restricted Payment or Investment (or portion thereof) among such clauses (i) through (xiii) and Section 6.04(a) and/or one or more of the exceptions contained in the definition of “Permitted Investments” in a manner that otherwise complies with this covenant.

SECTION 6.05 Limitations on Liens. Holdings and the Borrower will not, and will not cause or permit any Loan Party to, create, incur, assume or suffer to exist any Liens that secure obligations under any Indebtedness, other than Permitted Liens, on any of its Property, including any shares of Capital Stock or Indebtedness of another Person owned by the Borrower or any other Loan Party, unless contemporaneously therewith or prior thereto all Obligations under the Loan Documents are secured on an equal and ratable basis with the Indebtedness so secured until such time as such Indebtedness is no longer secured by a Lien or such Indebtedness can be secured by a Permitted Lien. Any Lien created pursuant to the preceding sentence shall provide by its terms that such Lien shall be automatically and unconditionally released and discharged upon the release and discharge of the Lien that gave rise to the obligation to secure the Obligations under the Loan Documents or upon notice to the Administrative Agent that the Lien that gave rise to the obligation to secure Obligations under the Loan Documents is a Permitted Lien.

SECTION 6.06 Limitations on Restrictions Affecting Restricted Subsidiaries. Holdings and the Borrower will not, and will not cause or permit any Restricted Subsidiary that is not a Loan Party to, create, assume or otherwise cause or suffer to exist or become effective any consensual encumbrance or restriction (other than encumbrances or restrictions imposed by law or by judicial or regulatory action or by provisions of agreements that restrict the assignability thereof) on the ability of such Restricted Subsidiary to:

(a) pay dividends or make any other distributions on its Capital Stock or any other interest or participation in, or measured by, its profits, owned by Holdings or any other Restricted Subsidiary, or pay interest on or principal of any Indebtedness owed to Holdings or any other Restricted Subsidiary,

(b) make loans or advances to Holdings or any other Restricted Subsidiary, or

(c) transfer any of its property or assets to Holdings or any other Restricted Subsidiary,

except for:

(i) encumbrances or restrictions existing under or by reason of applicable Law,

(ii) contractual encumbrances or restrictions in effect at or entered into on the Effective Date and any amendments, modifications, restatements, renewals, supplements, refundings, replacements or refinancings thereof; provided, that such amendments, modifications, restatements, renewals, supplements, refundings, replacements or refinancings are not materially more restrictive, taken as a whole, with respect to such dividend and other payment restrictions than those contained in such contractual encumbrances or restrictions, as in effect at or entered into on the Effective Date,

(iii) encumbrances or restrictions under any agreement or other instrument of a Person acquired by or merged or consolidated with or into Holdings or any Restricted Subsidiary, or of an Unrestricted Subsidiary that is designated a Restricted Subsidiary, or that is assumed in connection with the acquisition of assets from such Person, in each case that is in existence at the time of such transaction (but not created in contemplation thereof), which encumbrance or restriction is not applicable to any Person, or the properties or assets of any Person, other than the Person and its Subsidiaries, or the property or assets of the Person and its Subsidiaries, so acquired or designated,

(iv) any restrictions or encumbrances arising in connection with Refinancing Indebtedness; provided, however, that any restrictions and encumbrances of the type described in this clause (iv) that arise under such Refinancing Indebtedness shall not be materially more restrictive or apply to additional assets than those under the agreement creating or evidencing the Indebtedness being refunded, refinanced, replaced or extended; provided further, that any restrictions or encumbrances existing under or by reason of the New Secured Notes and the Senior Credit Facility (and the related agreements) shall be expressly permitted.

(v) any Permitted Lien, or any other agreement restricting the sale or other disposition of property, securing Indebtedness permitted by this Agreement if such Permitted Lien or agreement does not expressly restrict the ability of a Subsidiary of Holdings to pay dividends or make or repay loans or advances prior to default thereunder,

(vi) reasonable and customary borrowing base covenants set forth in agreements evidencing Indebtedness otherwise permitted by this Agreement,

(vii) customary non-assignment provisions in leases, licenses, encumbrances, contracts or similar assets entered into or acquired in the ordinary course of business,

(viii) any restriction with respect to a Restricted Subsidiary imposed pursuant to an agreement entered into for the sale or disposition of all or substantially all of the Capital Stock or assets of such Restricted Subsidiary pending the closing of such sale or disposition,

(ix) encumbrances or restrictions existing under or by reason of this Agreement and the other Loan Documents,

(x) purchase money obligations that impose restrictions on the property so acquired of the nature described in clause (c) of this Section 6.06.

(xi) Liens permitted under this Agreement securing Indebtedness that limit the right of the debtor to dispose of the assets subject to such Lien,

(xii) provisions with respect to the disposition or distribution of assets or property in joint venture agreements, assets sale agreements, stock sale agreements and other similar agreements,

(xiii) customary provisions of any franchise, distribution or similar agreements,

(xiv) restrictions on cash or other deposits or net worth imposed by contracts entered into in the ordinary course of business,

(xv) any encumbrances or restrictions existing under (A) development agreements or other contracts entered into with municipal entities, agencies or sponsors in connection with the entitlement or development of real property or (B) agreements for funding of infrastructure, including in respect of the issuance of community facility district bonds, metro district bonds, mello-roots bonds and subdivision improvement bonds, and similar bonding requirements arising in the ordinary course of business of a homebuilder,

(xvi) any encumbrances or restrictions that require “lockbox” or similar obligations with respect to Non-Recourse Indebtedness,

(xvii) any encumbrances or restrictions of the type referred to in clauses (a), (b) or (c) of this Section 6.06 imposed by any amendments, modifications, restatements, renewals, supplements, refundings, replacements or refinancings of the contracts, instruments or obligations referred to in clauses (i) and (ii) through (xvi) of this Section 6.06; provided, that such amendments, modifications, restatements, renewals, supplements, refundings, replacements or refinancings are, in the good faith judgment of Holdings’ Board of Directors or its chief executive officer or chief financial officer, not materially more restrictive with respect to such encumbrances or restrictions than those contained in the encumbrance or restrictions prior to such amendment, modification, restatement, renewal, supplement, refunding, replacement or refinancing, and

(xviii) any encumbrance or restriction under other Indebtedness of Restricted Subsidiaries permitted to be incurred subsequent to the Closing Date pursuant to Section 6.03; provided, that such encumbrances or restrictions will not materially affect the Borrower’s ability to make anticipated principal and interest payments on the Loans, as determined in the good faith judgment of Holdings’ Board of Directors or its chief executive officer or chief financial officer.

(d) For purposes of determining compliance with this Section 6.06: (i) the priority of any preferred stock in receiving dividends or liquidating distributions prior to dividends or liquidating distributions being paid on common stock shall not be deemed a restriction on the ability to make distributions on Capital Stock and (ii) the subordination of loans or advances made to Holdings or a Restricted Subsidiary to other Indebtedness incurred by Holdings or any such Restricted Subsidiary shall not be deemed a restriction on the ability to make loans or advances.

SECTION 6.07 Limitations on Dispositions of Assets. (a) Holdings and the Borrower will not, and will not cause or permit any Restricted Subsidiary to, make any Asset Disposition unless: (i) Holdings (or the Borrower or such Restricted Subsidiary, as the case may be) receives consideration at the time of such Asset Disposition at least equal to the Fair Market Value thereof, and (ii) not less than 70% of the consideration received by Holdings (or the Borrower or such Restricted Subsidiary, as the case may be) from such Asset Disposition and all other Asset Dispositions since the Closing Date, on a cumulative basis, is in the form of cash, Cash Equivalents and Marketable Securities; provided that the Borrower and the Restricted Subsidiaries will not be required to comply with the requirements of this subclause (ii) to the extent that the non-cash consideration received in connection with such Asset Disposition, together with the sum of all non-cash consideration received in connection with all prior Asset Dispositions that has not yet been converted into cash, Cash Equivalents or Marketable Securities, does not exceed \$25.0 million; *provided, however*, that when any non-cash consideration is converted into cash, Cash Equivalents or Marketable Securities, such cash shall constitute Net Cash Proceeds and be subject to Section 2.03.

(b) The amount of (i) any Indebtedness (as reflected on Holdings' most recent consolidated balance sheet or in the footnotes thereto, or if incurred or accrued subsequent to the date of such balance sheet, such Indebtedness that would have been reflected on Holdings' consolidated balance sheet or in the footnotes thereto if such incurrence or accrual had taken place on or prior to the date of such balance sheet, as determined in good faith by Holdings) of Holdings or the Borrower or any Restricted Subsidiary (other than any Subordinated Indebtedness) that is actually assumed by the transferee in such Asset Disposition (or is otherwise extinguished in connection with the transactions relating to such Asset Disposition), (ii) the fair market value (as determined in good faith by the Board of Directors of Holdings) of any property or assets (including Capital Stock of any Person that will be a Restricted Subsidiary) received that are used or useful in a Real Estate Business and (iii) any securities, notes or other obligations or assets received by Holdings or such Restricted Subsidiary from such transferee that are converted by Holdings or such Restricted Subsidiary into cash or Cash Equivalents, or by their terms are required to be satisfied for cash or Cash Equivalents (to the extent of the cash or Cash Equivalents received), in each case, within 180 days following the closing of such Asset Disposition, shall in each case be deemed to be consideration required by clause (ii) of Section 6.07(a) for purposes of determining the percentage of such consideration received by Holdings or the Restricted Subsidiaries.

(c) The Net Cash Proceeds of an Asset Disposition shall be applied pursuant to Section 2.03.

SECTION 6.08 Guarantees by Restricted Subsidiaries. Each existing Restricted Subsidiary (other than the Borrower (for so long as it remains the Borrower) and any Excluded Subsidiary) will be a Guarantor. Holdings is permitted to cause any Unrestricted Subsidiary to be a Guarantor. If the Borrower, Holdings or any of its Restricted Subsidiaries acquires or creates a Restricted Subsidiary (other than any Excluded Subsidiary) after the Closing Date, such Restricted Subsidiary shall execute a supplemental guarantee in the form of Exhibit J hereto, and deliver an Opinion of Counsel to the Administrative Agent to the effect that such supplemental guarantee has been duly authorized, executed and delivered by the new Restricted Subsidiary and constitutes a valid and binding obligation of the new Restricted Subsidiary, enforceable against the new Restricted Subsidiary in accordance with its terms (subject to customary exceptions).

SECTION 6.09 [Reserved]

SECTION 6.10 Limitations on Transactions with Affiliates. (a) Holdings and the Borrower will not, and will not cause or permit any Restricted Subsidiary to, make any loan, advance, guarantee or capital contribution to, or for the benefit of, or sell, lease, transfer or otherwise dispose of any property or assets to or for the benefit of, or purchase or lease any property or assets from, or enter into or amend any contract, agreement or understanding with, or for the benefit of, any Affiliate of Holdings or any Affiliate of any of Holdings' Subsidiaries involving aggregate payments or consideration in excess of \$7.5 million in a single transaction or series of related transactions (each, an "Affiliate Transaction"), except for any Affiliate Transaction the terms of which are at least as favorable as the terms which could be obtained by Holdings, the Borrower or such Restricted Subsidiary, as the case may be, in a comparable transaction made on an arm's-length basis with Persons who are not such a holder, an Affiliate of such a holder or an Affiliate of Holdings or any of Holdings' Subsidiaries.

(b) In addition, Holdings and the Borrower will not, and will not cause or permit any Restricted Subsidiary to, enter into an Affiliate Transaction unless:

(i) with respect to any such Affiliate Transaction involving or having a value of more than \$15.0 million, Holdings shall have (A) obtained the approval of a majority of the Board of Directors of Holdings and (B) either obtained the approval of a majority of Holdings' disinterested directors or obtained an opinion of a qualified independent financial advisor to the effect that such Affiliate Transaction is fair to Holdings, the Borrower or such Restricted Subsidiary, as the case may be, from a financial point of view, and

(ii) with respect to any such Affiliate Transaction involving or having a value of more than \$30.0 million, Holdings shall have (A) obtained the approval of a majority of the Board of Directors of Holdings and (B) delivered to the Administrative Agent an opinion of a qualified independent financial advisor to the effect that such Affiliate Transaction is fair to Holdings, the Borrower or such Restricted Subsidiary, as the case may be, from a financial point of view.

(c) Notwithstanding the foregoing, an Affiliate Transaction will not include:

(i) any contract, agreement or understanding with, or for the benefit of, or plan for the benefit of, employees of Holdings or its Subsidiaries generally (in their capacities as such) that has been approved by the Board of Directors of Holdings;

(ii) Capital Stock issuances to directors, officers and employees of Holdings or its Subsidiaries pursuant to plans approved by the stockholders of Holdings;

(iii) any Restricted Payment otherwise permitted under Section 6.04 hereof or any Permitted Investment (other than a Permitted Investment referred to in clause (b) of the definition thereof, except as permitted by clause (iv) below);

(iv) any transaction between or among Holdings and/or one or more Restricted Subsidiaries or between or among Restricted Subsidiaries (provided, however, no such transaction shall involve any other Affiliate of Holdings (other than an Unrestricted Subsidiary to the extent permitted by this Agreement)) and any Guarantees issued by Holdings or a Restricted Subsidiary for the benefit of Holdings or a Restricted Subsidiary, as the case may be, in accordance with Section 6.03;

(v) any transaction between Holdings or one or more Restricted Subsidiaries and one or more Unrestricted Subsidiaries (A) where all of the payments to, or other benefits conferred upon, such Unrestricted Subsidiaries are substantially contemporaneously dividended, or otherwise distributed or transferred without charge, to Holdings or a Restricted Subsidiary or (B) in the ordinary course of business, including, without limitation, sales (directly or indirectly), sales subject to repurchase options, leases and sales and leasebacks of (1) homes, improved land and unimproved land and (2) real estate (including related amenities and improvements);

(vi) issuances, sales or other transfers or dispositions of mortgages and collateralized mortgage obligations in the ordinary course of business between Restricted Subsidiaries and Unrestricted Subsidiaries of Holdings;

(vii) the payment of reasonable and customary fees to, and indemnity provided on behalf of, officers, directors, employees or consultants of Holdings, the Borrower or any Restricted Subsidiary;

(viii) transactions in which Holdings or any Restricted Subsidiary, as the case may be, delivers to the Administrative Agent an opinion of a qualified independent financial advisor stating that such transaction is fair to Holdings or such Restricted Subsidiary from a financial point of view or stating that the terms are not materially less favorable to Holdings or its relevant Restricted Subsidiary than those that would have been obtained in a comparable transaction by Holdings or such Restricted Subsidiary with an unrelated Person on an arm's length basis;

(ix) any agreement or arrangement as in effect as of the Effective Date, or any amendment thereto (so long as any such amendment is not disadvantageous in any material respect to the Lenders when taken as a whole as compared to the applicable agreement or arrangement as in effect on the Effective Date);

(x) transactions with joint ventures entered into in the ordinary course of business, including, without limitation, sales (directly or indirectly), sales subject to repurchase options, leases and sales and leasebacks of (A) homes, improved land and unimproved land and (B) real estate (including related amenities and improvements);

(xi) any transaction with a Person (other than an Unrestricted Subsidiary) which would constitute an Affiliate Transaction solely because Holdings or a Restricted Subsidiary owns Capital Stock in or otherwise controls such Person;

(xii) the issuance and transfer of Capital Stock of Holdings and the granting and performance of customary registration rights;

(xiii) any lease entered into between Holdings or any Restricted Subsidiary, as lessee, and any Affiliate of Holdings, as lessor, in the ordinary course of business;

(xiv) intellectual property licenses in the ordinary course of business;

(xv) transactions between Holdings or any of its Restricted Subsidiaries and any Person that would constitute an Affiliate Transaction solely because a director of which is also a director of Holdings; provided, however, that such director abstains from voting as a director of Holdings on any matter involving such other Person; and

(xvi) pledges of Capital Stock of Unrestricted Subsidiaries.

SECTION 6.11 Limitations on Mergers, Consolidations and Sales of Assets. Neither the Borrower nor any other Loan Party will consolidate or merge with or into, or sell, lease, convey or otherwise dispose of all or substantially all of its assets (including, without limitation, by way of liquidation or dissolution), or assign any of its obligations under this Agreement and any other Loan Document (as an entirety or substantially as an entirety in one transaction or in a series of related transactions), to any Person (in each case other than in a transaction in which Holdings, the Borrower or a Restricted Subsidiary is the survivor of a consolidation or merger, or the transferee in a sale, lease, conveyance or other disposition) unless:

(i) the Person formed by or surviving such consolidation or merger (if other than Holdings, the Borrower or the other Loan Parties, as the case may be), or to which such sale, lease, conveyance or other disposition or assignment will be made (collectively, the "Successor"), is a corporation or other legal entity organized and existing under the laws of the United States or any state thereof or the District of Columbia, and the Successor assumes by amendment hereto in a form reasonably satisfactory to the Administrative Agent all of the obligations of Holdings, the Borrower or the other Loan Parties, as the case may be, under this Agreement and any other Loan Document, as the case may be,

- (ii) immediately after giving effect to such transaction, no Default or Event of Default has occurred and is continuing, and
- (iii) immediately after giving effect to such transaction,

(A) Holdings (or its Successor) could incur at least \$1.00 of Indebtedness pursuant to Section 6.03(a) hereof, or

(B) the Consolidated Fixed Charge Coverage Ratio would be equal to or greater than the Consolidated Fixed Charge Coverage Ratio immediately prior to such transaction or the ratio of Indebtedness of Holdings and the Restricted Subsidiaries to Consolidated Tangible Net Worth of Holdings would be equal to or less than the ratio immediately prior to such transaction.

The foregoing provisions shall not apply to: (1) a transaction involving the sale or disposition of Capital Stock of a Guarantor, or the consolidation or merger of a Guarantor, or the sale, lease, conveyance or other disposition of all or substantially all of the assets of a Guarantor, that in any such case results in such Guarantor being released from its Guarantee, or (2) a transaction the purpose of which is to change the state of incorporation or formation of Holdings, the Borrower or any other Loan Party.

SECTION 6.12 Reports to Lenders. (a) Holdings shall file with the Commission the annual reports and the information, documents and other reports required to be filed pursuant to Section 13 or 15(d) of the Exchange Act. Holdings shall file with the Administrative Agent and deliver to each Lender such reports, information and documents within 15 days after it files them with the Commission. In the event that Holdings is no longer subject to these periodic reporting requirements of the Exchange Act, it will nonetheless continue to file reports with the Commission and the Administrative Agent and deliver such reports to each Lender as if it were subject to such reporting requirements. Regardless of whether Holdings is required to furnish such reports to its stockholders pursuant to the Exchange Act, Holdings will cause its consolidated financial statements and a "Management's Discussion and Analysis of Results of Operations and Financial Condition" written report, similar to those that would have been required to appear in annual or quarterly reports, to be delivered to each Lender.

(b) The posting of the reports, information and documents referred to above on Holdings' website or one maintained on its behalf for such purpose shall be deemed to satisfy Holdings' delivery obligations to the Administrative Agent and the Lenders. In addition, availability of the foregoing materials on the Commission's EDGAR service shall be deemed to satisfy Holdings' delivery obligations to the Administrative Agent and the Lenders. The Administrative Agent shall have no obligation to monitor whether Holdings posts such reports, information and documents on its website or the Commission's EDGAR service, or collect any such information from Holdings' website or the Commission's EDGAR service.

(c) Delivery of such reports, information and documents to the Administrative Agent is for informational purposes only and the Administrative Agent's receipt of them will not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Borrower's and/or Holdings' compliance with any of its covenants in this Agreement (as to which the Administrative Agent is entitled to rely exclusively on Officers' Certificates).

SECTION 6.13 Notice of Other Defaults. In the event that any Indebtedness that has an outstanding principal amount of \$40.0 million or more of the Borrower or any other Loan Party is declared due and payable before its maturity because of the occurrence of any default under such Indebtedness, the Borrower or the relevant Loan Party, as the case may be, shall promptly deliver to the Administrative Agent an Officers' Certificate stating such declaration; provided, that the term "Indebtedness" as used in this Section 6.13 shall not include Non-Recourse Indebtedness.

SECTION 6.14 [Reserved]

SECTION 6.15 Maintenance of Ratings. The Borrower shall use commercially reasonable efforts to, not later than sixty (60) days after the Closing Date (or such later date as may be agreed to by the Required Lenders), obtain and, thereafter maintain, (i) a public corporate credit rating (but not any particular rating) from S&P and a public corporate family rating (but not any particular rating) from Moody's, in each case in respect of the Borrower or Holdings and (ii) a public rating (but not any particular rating) in respect of the Loans from each of S&P and Moody's.

SECTION 6.16 Change of Control Offers. (a) Upon the occurrence of a Change of Control, each Lender shall have the right, at such Lender's option, to require the Borrower to purchase (the "Change of Control Offer") all or any part of such Lender's Loans and terminate such Lender's Term Commitments on a date (the "Change of Control Repurchase Date") that is no later than 90 days after notice of the Change of Control, with such purchase of Loans being at a price equal to 100% of the principal amount of the Loans held by such Lender plus accrued and unpaid interest, if any, to, but excluding, the Change of Control Repurchase Date.

(b) On or before the thirtieth day after any Change of Control, the Borrower shall provide written notice to the Administrative Agent and the Lenders, regarding the Change of Control and the repurchase right. The notice shall state the Change of Control Repurchase Date, the date by which the purchase right must be exercised, the price for the Loans and the procedure which the Lender must follow to exercise such right. To exercise such right, a Lender must deliver, at least ten days prior to the Change of Control Repurchase Date, written notice to the Borrower of the Lender's exercise of such right; *provided, however*, that if mandated by applicable Law, a Lender may be permitted to deliver such written notice nearer to the Change of Control Repurchase Date than may be specified by the Borrower.

(c) Notices may be delivered prior to the occurrence of a Change of Control stating that the Change of Control Offer is conditional on the occurrence of such Change of Control, and, if applicable, shall state that, in the Borrower's discretion, the Change of Control Repurchase Date may be delayed until such time as the Change of Control shall occur, or that such repurchase may not occur and such notice may be rescinded in the event that the Borrower shall determine that such condition will not be satisfied by the Change of Control Repurchase Date, or by the Change of Control Repurchase Date as so delayed.

(d) The Borrower will not be required to make a Change of Control Offer following a Change of Control if a third party makes the Change of Control Offer in the manner, at the times and otherwise in compliance with the requirements set forth in this Section 6.16 and purchases all such Loans validly tendered for purchase and not validly withdrawn under such Change of Control Offer.

(e) If Lenders holding not less than 90% of the sum of the Total Outstandings and unused Term Commitments then outstanding and which have not terminated pursuant to Section 2.04 validly tender and do not validly withdraw such Loans and Term Commitments in a Change of Control Offer and the Borrower, or any third party making a Change of Control Offer in lieu of the Borrower as permitted by this Section 6.16, purchases of all of the Loans validly tendered and not validly withdrawn by such Lenders, the Borrower or such third party shall have the right, upon not less than 10 nor more than 60 days' prior notice to the Lenders (with a copy to the Administrative Agent), given not more than 30 days following such purchase pursuant to the Change of Control Offer described in this Section 6.16, to purchase all Loans that remain outstanding following such repurchase at a price in cash equal to 100% of the principal amount thereof *plus* accrued and unpaid interest, if any, to, but not including, the date of repurchase, and to terminate all Term Commitments.

SECTION 6.17 Use of Proceeds. The proceeds of the First Draw Term Loans, will be used on the Closing Date to pay a portion of the amounts due in connection with the 7.000% Notes Refinancing in accordance with Section 4.02(i). The proceeds of the Delayed Draw Term Loans will be used to repay or redeem, at or prior to maturity, the principal amount outstanding and any other amount, including interest, premium (if any), fees, costs and expenses, required to repay or redeem, at or prior to maturity, any Existing Unsecured Notes (other than any Existing Unsecured Notes owned or held by the Borrower or an Affiliate of the Borrower) that have not been tendered pursuant to, and remain outstanding after the consummation of, the Existing Unsecured Notes Exchange, in accordance with Section 4.03(b).

ARTICLE VII

EVENTS OF DEFAULT AND REMEDIES

SECTION 7.01 Events of Default. “Event of Default” means any one or more of the following events:

- (i) the failure by Holdings, the Borrower and the other Loan Parties to pay interest on any Loan or any other amount payable hereunder or with respect to any other Loan Document when the same becomes due and payable and the continuance of any such failure for a period of 30 days;
- (ii) the failure by Holdings, the Borrower and the other Loan Parties to pay the principal of any Loan when the same becomes due and payable at maturity, upon acceleration or otherwise;
- (iii) the failure by Holdings, the Borrower or any Restricted Subsidiary to comply with any of its agreements or covenants in, or provisions of, this Agreement or the Guarantees and such failure continues for the period and after the notice specified below (except in the case of a default under Section 6.11, which will constitute an Event of Default with notice but without passage of time);
- (iv) the acceleration of any Indebtedness (other than Non-Recourse Indebtedness) of Holdings, the Borrower or any Restricted Subsidiary that has an outstanding principal amount of \$40.0 million or more, individually or in the aggregate, and such acceleration does not cease to exist or such Indebtedness is not satisfied, in either case, within 30 days after such acceleration;
- (v) the failure by Holdings, the Borrower or any Restricted Subsidiary to make any principal or interest payment in an amount of \$40.0 million or more, individually or in the aggregate, in respect of Indebtedness (other than Non-Recourse Indebtedness) of Holdings, the Borrower or any Restricted Subsidiary within thirty (30) days of such principal or interest becoming due and payable (after giving effect to any applicable grace period set forth in the documents governing such Indebtedness);
- (vi) a final judgment or judgments that exceed \$40.0 million or more, individually or in the aggregate, for the payment of money having been entered by a court or courts of competent jurisdiction against Holdings, the Borrower or any Restricted Subsidiaries and such judgment or judgments is not satisfied, stayed, annulled or rescinded within 60 days of being entered;

(vii) Holdings, the Borrower or any Restricted Subsidiary that is a Significant Subsidiary pursuant to or within the meaning of any Bankruptcy Law:

- (A) commences a voluntary case,
- (B) consents to the entry of an order for relief against it in an involuntary case,
- (C) consents to the appointment of a Custodian of it or for all or substantially all of its property, or
- (D) makes a general assignment for the benefit of its creditors;

(viii) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:

(A) is for relief against Holdings, the Borrower or any Restricted Subsidiary that is a Significant Subsidiary as debtor in an involuntary case,

(B) appoints a Custodian of Holdings, the Borrower or any Restricted Subsidiary that is a Significant Subsidiary or a Custodian for all or substantially all of the property of Holdings or any Restricted Subsidiary that is a Significant Subsidiary, or

(C) orders the liquidation of Holdings, the Borrower or any Restricted Subsidiary that is a Significant Subsidiary, and the order or decree remains unstayed and in effect for 60 days;

(ix) any Guarantee of a Loan Party that is a Significant Subsidiary ceases to be in full force and effect (other than in accordance with the terms of such Guarantee and this Agreement) or is declared null and void and unenforceable or found to be invalid or Holdings or any Subsidiary Guarantor denies its liability under its Guarantee (other than by reason of release of such Loan Party from its Guarantee in accordance with the terms of this Agreement and such Guarantee);

(x) any representation, warranty or certification made or deemed made by or on behalf of the Borrower or any other Loan Party herein, in any other Loan Document, or in any document required to be delivered in connection herewith or therewith shall be incorrect or misleading in any material respect (and in any respect if qualified by materiality) when made or deemed made;

(xi) any material provision of the Loan Documents (other than as described in subclause (viii) or subclause (ix) of this Section 7.01) shall for any reason be asserted by any Loan Party not to be a legal, valid and binding obligation of any Loan Party thereto other than as expressly permitted hereunder or thereunder; or

(xii) unless Holdings, the Borrower or a permitted third party has consummated a Change of Control Offer in accordance with Section 6.16 and the purchase of any Loans of Lenders exercising a repurchase right thereunder, the occurrence of a Change of Control.

A Default as described in subclause (iii) of this Section 7.01 will not be deemed an Event of Default until the Lenders of at least 25 percent in principal amount of the then outstanding Loans notify Holdings and the Administrative Agent, of the Default and (except in the case of a Default with respect to Section 6.11 hereof) Holdings does not cure the Default within 60 days after receipt of the notice. The notice must specify the Default, demand that it be remedied and state that the notice is a "Notice of Default." If such a Default is cured within such time period, it ceases to be a Default.

If an Event of Default (other than an Event of Default with respect to Holdings or the Borrower resulting from subclauses (vii) or (viii) of this Section 7.01), shall have occurred and be continuing under this Agreement, the Administrative Agent by notice to Holdings, or the Required Lenders by notice to Holdings and the Administrative Agent, may declare all Loans to be due and payable immediately. Upon such declaration of acceleration, the amounts due and payable on the Loans and all other Loan Obligations will be due and payable immediately. If an Event of Default specified in subclauses (iv) or (v) of this Section 7.01 occurs, the declaration of acceleration of the amounts due and payable on the Loans and all other Loan Obligations shall be automatically annulled if the default triggering such Event of Default pursuant to subclauses (iv) or (v) of this Section 7.01 shall be remedied or cured by Holdings, the Borrower or a Restricted Subsidiary or waived by the holders of the relevant Indebtedness within 20 days after the declaration of acceleration with respect thereto and if (1) the annulment of the acceleration of the amounts due and payable on the Loans would not conflict with any judgment or decree of a court of competent jurisdiction and (2) all existing Events of Default, except nonpayment of principal, premium, if any, or interest on the Loans that became due solely because of the acceleration of the amounts due and payable on the Loans, have been cured or waived. The Borrower shall provide the Administrative Agent with notice of any such annulment of a declaration of acceleration of the Loans. If an Event of Default with respect to Holdings or the Borrower specified in subclauses (vii) or (viii) of this Section 7.01 occurs, such an amount will *ipso facto* become and be immediately due and payable without any declaration, notice or other act on the part of the Administrative Agent and Holdings or any Lender. This provision, however, is subject to the condition that, if at any time after the unpaid principal amount (or such specified amount) of the Loans shall have been so declared due and payable and before any judgment or decree for the payment of the moneys due shall have been obtained or entered as hereinafter provided, the Borrower shall pay or shall deposit with the Administrative Agent a sum sufficient to pay all matured installments of interest, if any, upon all of the Loans and the principal of all the Loans, which shall have become due otherwise than by acceleration (with interest on overdue installments of interest, if any, to the extent that payment of such interest is enforceable under applicable Law and on such principal at the rate borne by the Loans to the date of such payment or deposit) and the reasonable compensation, disbursements, expenses and advances of the Administrative Agent (including, but not limited to, fees, expenses and disbursements of legal counsel) and all other amounts due to the Administrative Agent under Section 2.07 and Section 8.12 and any and all defaults under this Agreement, other than the nonpayment of such portion of the principal amount of and accrued interest, if any, on Loans which shall have become due by acceleration, shall have been cured or shall have been waived in accordance with Section 9.01 or provision deemed by the Administrative Agent to be adequate shall have been made therefor, then and in every such case the Required Lenders, by written notice to the Borrower and to the Administrative Agent, may rescind and annul such declaration and its consequences; but no such rescission and annulment shall extend to or shall affect any subsequent default, or shall impair any right consequent thereon. Notwithstanding the previous sentence, no waiver shall be effective against any Lender for any Event of Default or event which with notice or lapse of time or both would be an Event of Default with respect to any covenant or provision which cannot be modified or amended without the consent of the Lender of each outstanding Loan affected thereby, unless all such affected Lenders agree, in writing, to waive such Event of Default or other event.

If the Administrative Agent shall have proceeded to enforce any right under this Agreement and such proceedings shall have been discontinued or abandoned because of such rescission or annulment or for any reason or shall have been determined to be adverse to the Administrative Agent, then and in every such case the Borrower, the Administrative Agent and the Lenders shall be restored respectively to their several positions and rights hereunder, and all rights, remedies and powers of the Borrower, the Administrative Agent and the Lenders shall continue as though no such proceeding had been taken.

Except with respect to an Event of Default pursuant to clauses (i) or (ii) of this Section 7.01, the Administrative Agent shall not be charged with knowledge of any Event of Default unless written notice thereof shall have been given to a Responsible Officer of the Administrative Agent by the Borrower or any Lender and such notice references the Loans and this Agreement.

SECTION 7.02 [Reserved].

SECTION 7.03 Application of Funds. After the exercise of remedies provided for in Section 7.02 (or after the Loans have automatically become immediately due and payable and the Term Commitments have automatically terminated as set forth in the proviso to Section 7.02), any amounts received on account of the Loan Obligations shall be applied by the Administrative Agent in the following order:

First, to payment of that portion of the Loan Obligations constituting fees, indemnities, expenses and other amounts (including amounts payable under Article 3, but not including principal of or interest on any Loan) payable to the Administrative Agent in its capacity as such;

Second, to payment of that portion of the Loan Obligations constituting fees, indemnities and other amounts (other than principal and interest) payable to the Lenders (including amounts payable under Article 3), ratably among them in proportion to the amounts described in this clause Second payable to them;

Third, to payment of that portion of the Loan Obligations constituting accrued and unpaid interest on the Loans, ratably among the Lenders in proportion to the respective amounts described in this clause Third payable to them;

Fourth, to payment of that portion of the Loan Obligations constituting unpaid principal of the Loans;

Fifth, to the payment of all other Loan Obligations of the Loan Parties that are due and payable to the Administrative Agent and the other Secured Parties on such date, ratably based upon the respective aggregate amounts of all such Loan Obligations owing to the Administrative Agent and the other Secured Parties on such date; and

Last, the balance, if any, after all of the Loan Obligations have been paid in full, to the Borrower or as otherwise required by Law.

ARTICLE VIII

ADMINISTRATIVE AGENT AND OTHER AGENTS

SECTION 8.01 Appointment and Authority. (a) Each of the Lenders hereby irrevocably appoints Wilmington Trust, National Association to act on its behalf as the Administrative Agent hereunder and under the other Loan Documents and authorizes the Administrative Agent to take such actions on its behalf and to exercise such powers, rights and remedies as are delegated to the Administrative Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. In performing its functions and duties hereunder, the Administrative Agent shall act solely as an agent of the Lenders and does not assume and shall not be deemed to have assumed any obligation towards or relationship of agency or trust with or for Holdings or any of its Subsidiaries.

(b) [Reserved].

(c) The Administrative Agent shall have only those duties and responsibilities that are expressly specified herein and the other Loan Documents to which it is a party. The Administrative Agent may exercise such powers, rights and remedies and perform such duties by or through its agents or employees. The Administrative Agent's duties hereunder shall be entirely administrative in nature. The Administrative Agent (i) is not assuming any obligation under any Loan Document other than as expressly set forth therein and (ii) shall not have implied functions, responsibilities, duties, obligations or other liabilities under any Loan Document, and each Lender hereby waives and agrees not to assert any claim against the Administrative Agent based on the roles, duties and legal relationships expressly disclaimed in this or the immediately preceding sentence or in Section 8.03. The Administrative Agent shall not have, by reason hereof or any of the other Loan Documents, a fiduciary relationship in respect of any Lender; and nothing herein or any of the Loan Documents, expressed or implied, is intended to or shall be so construed as to impose upon the Administrative Agent any obligations in respect hereof or any of the other Loan Documents except as expressly set forth herein or therein. Any action taken by the Administrative Agent in reliance upon the instructions of the Required Lenders (or, where so required by Section 9.01, such greater proportion of Lenders) and the exercise by the Administrative Agent of the powers set forth herein or in the other Loan Documents, together with such other powers as are reasonably incidental thereto, shall be authorized and binding upon all of the Secured Parties.

SECTION 8.02 Rights as a Lender. The agency hereby created shall in no way impair or affect any of the rights and powers of, or impose any duties or obligations upon, the Administrative Agent in its individual capacity as a Lender hereunder. The Person serving as the Administrative Agent hereunder shall, if it is a Lender, have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Administrative Agent and the term "Lender" or "Lenders" shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the Administrative Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, own securities of, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of banking, trust or other business with Holdings or any Subsidiary or other Affiliate thereof as if such Person were not the Administrative Agent hereunder and may accept fees and other consideration from the Borrower for services in connection herewith and otherwise without any duty to account therefor to the Lenders. The Lenders acknowledge that pursuant to such activities, the Administrative Agent and its Related Parties may receive information regarding any Loan Party or any Affiliate of any Loan Party (including information that may be subject to confidentiality obligations in favor of such Loan Party or such Affiliate) and acknowledge that the Administrative Agent and its Related Parties shall be under no obligation to provide such information to them.

SECTION 8.03 Exculpatory Provisions. No Agent shall have any duties or obligations except those expressly set forth herein and in the other Loan Documents to which it is a party. Without limiting the generality of the foregoing, the Administrative Agent:

(a) shall not be subject to any fiduciary or other implied (or express) duties or obligations arising under the agency doctrine of any applicable Law or otherwise, regardless of whether a Default has occurred and is continuing;

(b) notwithstanding anything herein to the contrary, the Administrative Agent shall not be required to take any action (or omit to take any action) that, in its opinion or the opinion of its counsel, may expose the Administrative Agent to liability or that is contrary to any Loan Document or applicable Laws or if the Administrative Agent is not indemnified to its satisfaction; and

(c) shall not, except as expressly set forth herein and in the other Loan Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrower or any of its Affiliates that is communicated to or obtained by the Person serving as the Administrative Agent or any Agent-Related Person in any capacity.

The Administrative Agent and the Agent-Related Persons shall not be liable for any action taken or not taken by it or them (i)(A) under or in connection with any of the Loan Documents or (B) with the consent or at the request of the Required Lenders (or such other number or percentage of Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith shall be necessary, under the circumstances provided in Section 7.02 and 9.01) or (ii) in the absence of its own gross negligence, or willful misconduct; provided, that the Administrative Agent shall be deemed not to have knowledge of any Default or Event of Default unless and until notice describing such Default or Event of Default and stating it is a “notice of default” is given to the Administrative Agent by the Borrower or a Lender; provided, further, that in the event the Administrative Agent shall receive such a notice, the Administrative Agent shall give notice thereof to the Lenders; it being understood that the failure to give such notice shall not result in any liability on the part of the Administrative Agent.

The Administrative Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the representations, warranties, covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default, (iv) the execution, validity, enforceability, effectiveness, genuineness, collectability or sufficiency of this Agreement, any other Loan Document or any other agreement, instrument or document or the creation, perfection or priority of any Lien purported to be created by the Loan Documents, (v) the value or the sufficiency of any collateral pursuant to Section 6.05, (vi) the financial condition or business affairs of any Loan Party or any other Person liable for the payment of any Loan Obligations or as to the use of the proceeds of the Loans, (vii) the properties, books or records of any Loan Party, (viii) the existence or possible existence of any Event of Default or (ix) the satisfaction of any condition set forth in Article 4 or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent.

The Administrative Agent shall not have any liability arising from confirmations of the amount of outstanding Loans or the component amounts thereof.

Administrative Agent shall not be required to exercise any discretion or take, or to omit to take, any action, including with respect to enforcement or collection unless Administrative Agent has received satisfactory instructions from the Required Lenders (or, where expressly required by the terms of this Agreement, a greater proportion of the Lenders, it being understood, however, that with regards to enforcement actions following an Event of Default, the Administrative Agent shall be entitled to act upon the direction of the Required Lenders), and, if necessary in the Administrative Agent's opinion, satisfactory indemnity and security. Phrases such as "satisfactory to the Administrative Agent", "approved by the Administrative Agent", "acceptable to the Administrative Agent", "as determined by the Administrative Agent", "in the Administrative Agent's discretion", "selected by the Administrative Agent", and phrases of similar import authorize and permit the Administrative Agent to approve, disapprove, determine, act or decline to act in its discretion, it being understood that the Administrative Agent in exercising such discretion under the Loan Documents shall be acting on the instructions of the Required Lenders (or Lenders to the extent required hereunder) and shall be fully protected in, and shall incur no liability in connection with, acting or failing to act (or failing to act while awaiting such direction) pursuant to such instructions.

The Administrative Agent shall never be required to use, risk or advance its own funds or otherwise incur financial liability in the performance of any of its duties or the exercise of any of its rights and powers hereunder (including, but not limited to, no obligation to grant any credit extension or to make any advance hereunder).

Neither the Administrative Agent nor any Agent-Related Person shall be responsible for delays or failures in performance resulting from acts beyond its control. Such acts shall include but not be limited to acts of God, strikes, lockouts, riots, acts of war, epidemics, governmental regulations superimposed after the fact, fire, communication line failures, computer viruses, power failures, earthquakes, terrorist attacks or other disasters

The permissive authorizations, entitlements, powers and rights (including the right to request that the Borrower take an action or deliver a document and the exercise of remedies following an Event of Default) granted to the Administrative Agent herein shall not be construed as duties. The Administrative Agent shall have no responsibility for interest or income on any funds held by it hereunder and any funds so held shall be held un-invested pending distribution thereof.

Notwithstanding anything herein to the contrary, the Administrative Agent shall not have any duty to (i) file or prepare any financing or continuation statements or record any documents or instruments in any public office for purposes of creating, perfecting or maintaining any Lien or security interest created under the Loan Documents; (ii) take any necessary steps to preserve rights against any parties with respect to collateral, if any; or (iii) take any action to protect against any diminution in value of collateral, if any.

Knowledge of the Administrative Agent shall not be attributed or imputed to Wilmington Trust, National Association's other roles as trustee, administrative agent or collateral agent for the Issuer, and knowledge of Wilmington Trust, National Association in any other similar role for the Issuer shall not be attributed or imputed to each other or to the Administrative Agent.

SECTION 8.04 Reliance by Administrative Agent. The Administrative Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Loan, that by its terms must be fulfilled to the satisfaction of a Lender, the Administrative Agent may presume that such condition is satisfactory to such Lender unless the Administrative Agent shall have received notice to the contrary from such Lender prior to the making of such Loan. The Administrative Agent may consult with legal counsel (who may be counsel for the Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants, experts or professional advisors. No Lender shall have any right of action whatsoever against the Administrative Agent as a result of the Administrative Agent acting or refraining from acting hereunder or under any of the other Loan Documents in accordance with the instructions of Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents). If at any time the Administrative Agent is served with any judicial or administrative order, judgment, decree, writ or other form of judicial or administrative process which in any way affects any collateral pledged pursuant to Section 6.05 (including, but not limited to, orders of attachment or garnishment or other forms of levies or injunctions or stays relating to the transfer of such collateral), the Administrative Agent is authorized to comply therewith in any manner as it or its legal counsel of its own choosing deems appropriate; and if the Administrative Agent complies with any such judicial or administrative order, judgment, decree, writ or other form of judicial or administrative process, the Administrative Agent shall not be liable to any of the parties hereto or to any other person or entity even though such order, judgment, decree, writ or process may be subsequently modified or vacated or otherwise determined to have been without legal force or effect.

SECTION 8.05 Delegation of Duties. The Administrative Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub-agents appointed by the Administrative Agent and shall not be responsible for the acts of any such party appointed with due care. The Administrative Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory, indemnification and other provisions of this Article 8 shall apply to any such sub-agent and its Related Parties and to the Agent-Related Persons in any role or capacity, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Administrative Agent. All of the rights, benefits and privileges (including the exculpatory and indemnification provisions) of this Article 8 shall apply to any such sub-agent and to the Related Parties of any such sub-agent, and shall apply to their respective activities as sub-agent as if such sub-agent and Related Parties were named herein. Notwithstanding anything herein to the contrary, with respect to each sub-agent appointed by the Administrative Agent, (i) such sub-agent shall be a third party beneficiary under this Agreement with respect to all such rights, benefits and privileges (including exculpatory rights and rights to indemnification) and shall have all of the rights and benefits of a third party beneficiary, including an independent right of action to enforce such rights, benefits and privileges (including exculpatory rights and rights to indemnification) directly, without the consent or joinder of any other Person, against any or all of the Loan Parties and the Lenders, (ii) such rights, benefits and privileges (including exculpatory rights and rights to indemnification) shall not be modified or amended without the consent of such sub-agent and (iii) such sub-agent shall only have obligations to the Administrative Agent and not to any Loan Party, Lender or any other Person and no Loan Party, Lender or other Person shall have any rights, directly or indirectly, as a third party beneficiary or otherwise against such sub-agent.

SECTION 8.06 Resignation of Administrative Agent: Appointment of Successor. The Administrative Agent may at any time resign or, if it is a Defaulting Lender pursuant to clause (iv) of the definition thereof, be removed by the Borrower upon ten (10) days' prior written notice of such resignation or removal to the Lenders and the Borrower. Upon receipt of any such notice of resignation or removal, the Required Lenders shall have the right, with the consent of the Borrower (such consent not to be unreasonably withheld, conditioned or delayed and provided that no consent of the Borrower shall be required if an Event of Default has occurred and is continuing), to appoint a successor Administrative Agent which shall be a commercial bank or trust company with offices in the U.S. having combined capital and surplus in excess of \$100,000,000. If no such successor shall have been so appointed by the Required Lenders and accepted such appointment within thirty (30) days after notice of the Administrative Agent's resignation or removal, then, (i) in the case of a resignation of the Administrative Agent, the resigning Administrative Agent with the consent of the Borrower (such consent not to be unreasonably withheld, or delayed; provided that no consent of the Borrower shall be required if an Event of Default has occurred and is continuing) or (ii) in the case of a removal of the Administrative Agent, the Borrower, may, with the consent of the Required Lenders, on behalf of the Lenders, appoint a successor Administrative Agent; provided that if no qualifying Person has accepted such appointment, then such resignation or removal shall nonetheless become effective after such thirty-day period and (1) the retiring or removed Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents (except that in the case of any possessory collateral held by the Administrative Agent on behalf of the Lenders the retiring Administrative Agent shall continue to hold such collateral until such time as a successor Administrative Agent is appointed) and (2) all payments, communications and determinations provided to be made by, to or through the Administrative Agent shall instead be made by or to each Lender directly (and each Lender will cooperate with the Borrower to enable the Borrower to take such actions), until such time as the Required Lenders appoint a successor Administrative Agent as provided for above in this paragraph. Upon the acceptance of a successor's appointment as Administrative Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or retired) or removed Administrative Agent, and the retiring (or retired) or removed Administrative Agent shall be discharged from all of its duties and obligations hereunder and under the other Loan Documents (if not already discharged therefrom as provided above in this paragraph) other than its obligations under Section 9.08. The fees payable by the Borrower to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the resignation or removal of the Administrative Agent hereunder and under the other Loan Documents, the provisions of this Article 8 and Section 9.05 shall continue in effect for the benefit of such retiring or removed Administrative Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring or removed Administrative Agent was acting as the Administrative Agent.

SECTION 8.07 Non-Reliance on Administrative Agent and Other Lenders. Each Lender acknowledges that it has, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement, made its own independent investigation of the financial condition and affairs of Holdings and its Subsidiaries in connection with Borrowings hereunder, and made and shall continue to make its own appraisal of the creditworthiness of Holdings and its Subsidiaries. Each Lender also acknowledges that it will, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder. The Administrative Agent shall not have any duty or responsibility, either initially or on a continuing basis, or otherwise, to make any such investigation or any such appraisal on behalf of the Lenders or to provide any Lender with any credit or other information with respect thereto, whether coming into its possession before the making of the Loans or at any time or times thereafter, and the Administrative Agent shall not have any responsibility with respect to the accuracy or completeness of any information provided to the Lenders. Except for documents expressly required by this Agreement to be transmitted by the Administrative Agent to the Lenders, the Administrative Agent shall not have any duty or responsibility to provide any Secured Party with any credit or other information concerning the business, prospects, operations, property, financial and other condition or creditworthiness of any Loan Party or any Affiliate of any Loan Party that may come in to the possession of the Administrative Agent or any of its Related Parties.

SECTION 8.08 Guarantee Matters. The Lenders irrevocably authorize the Administrative Agent to, and the Administrative Agent shall:

(a) [Reserved];

(b) [Reserved];

(c) execute any documents and instruments reasonably requested by the Borrower to evidence the release of any Guarantor from its obligations under the Guarantee if (i) all or substantially all of the assets of any Guarantor other than Holdings or all of the Capital Stock of any Guarantor other than Holdings is sold (including by consolidation, merger, issuance or otherwise) or disposed of (including by liquidation, dissolution or otherwise) by Holdings or any of its Subsidiaries, (ii) unless Holdings elects otherwise, any Guarantor other than Holdings is designated an Unrestricted Subsidiary in accordance with the terms of this Agreement, (iii) such Person ceases to be a Restricted Subsidiary or becomes an Excluded Subsidiary as a result of a transaction or designation permitted hereunder (it being understood that, in each case under this clause (c), any such Person shall be automatically and unconditionally released and discharged from all obligations under its Guarantee upon notice from Borrower to the Administrative Agent to such effect, without any further action required on the part of the Administrative Agent or any Lender), in each case, only to the extent such transaction is in compliance with the Loan Documents;

(d) to the extent that the Obligations under the Loan Documents are secured or are to become secured pursuant to Section 6.05, enter into collateral and security agreements, documents or other instruments, including intercreditor and collateral trust agreements or arrangements (including any amendment, supplement or other modification of any collateral document to add or provide for additional secured parties) that are required in connection therewith, including intercreditor arrangements with representatives for holders of any other Indebtedness that is required or permitted to be secured on a pari passu basis with or subordinated to the Loan Obligations (or the Liens securing the Loan Obligations) pursuant to Section 6.03;

(e) release the Borrower from its obligations under the Loan Documents, without the consent of the Lenders, if: (1) Holdings or any successor to Holdings has assumed the obligations of the Borrower under the Loan Documents, by executing and delivering documentation that is reasonably satisfactory in form to the Administrative Agent and the Required Lenders, (2) the Borrower shall execute a Guarantee, (3) Holdings delivers an Opinion of Counsel to the Administrative Agent and the Required Lenders that such Guarantee is permitted by the terms of this Agreement, and has been duly authorized, executed and delivered by the Borrower and constitutes a valid and binding obligations of the Borrower, enforceable against the Borrower in accordance with its terms (subject to customary exceptions), until such time, if any, such Guarantee may be released pursuant to the terms of this Agreement, and that all conditions precedent (if any) to the execution of such Guarantee provided for in this Agreement have been complied with and (3) any other Loan party shall provide any affirmation reasonably requested by the Administrative Agent or the Required Lenders.

In each case as specified in this Section 8.08, upon receipt of an Officer's Certificate, the Administrative Agent will (and each Lender hereby authorizes the Administrative Agent to), at the Borrower's expense, deliver, upon the request of the applicable Loan Party, to such Loan Party or any designee of such Loan Party any certificates, powers or other physical collateral held by it and relating to such item of collateral, if any, (but subject to the requirements of any applicable intercreditor agreement) and execute and deliver to the applicable Loan Party such documents as such Loan Party may reasonably request to evidence the release of such item of collateral, if any, from the assignment and security interest granted under the applicable security documents entered into pursuant to Section 6.05, release such Guarantor from its obligations under the Guarantee or execute and deliver the agreements described in clause (d) above, in each case, in accordance with the terms of the Loan Documents and this Section 8.08; provided that the Borrower shall have delivered to the Administrative Agent (i) a certificate of a Responsible Officer of the Borrower certifying that any such transaction has been consummated in compliance with this Agreement and the other Loan Documents as the Administrative Agent shall reasonably request and (ii) an Opinion of Counsel confirming that such release is permitted by Section 8.08.

To the extent that the Obligations under the Loan Documents are secured or are to become secured pursuant to Section 6.05, the Lenders hereby further authorize the Administrative Agent on behalf of and for the benefit of the Lenders, (a) to be the agent for and representative of the Lenders with respect to any collateral securing the Obligations and any related Collateral Documents, (b) to enter into any applicable intercreditor agreement contemplated hereby and (c) to take any actions thereunder as may be necessary or advisable. The Lenders hereby further authorize the Administrative Agent on behalf of and for the benefit of the Lender to enter into any other intercreditor agreement reasonably required by the Loan Documents, and each Lender agrees to be bound by the terms of such intercreditor agreement.

Anything contained in any of the Loan Documents to the contrary notwithstanding, the Borrower, the Administrative Agent and each Lender hereby agree that unless the Administrative Agent consents thereto, no Lender shall have any right individually to enforce the Loan Documents, it being understood and agreed that all powers, rights and remedies hereunder may be exercised solely by the Administrative Agent on behalf of itself and the Lenders in accordance with the terms hereof.

SECTION 8.09 [Reserved]

SECTION 8.10 Appointment of Supplemental Administrative Agents. (a) It is the purpose of this Agreement and the other Loan Documents that there shall be no violation of any Law of any jurisdiction denying or restricting the right of banking corporations or associations to transact business as agent or trustee in such jurisdiction. It is recognized that in case of litigation under this Agreement or any of the other Loan Documents, and in particular in case of the enforcement of any of the Loan Documents, or in case the Administrative Agent deems that by reason of any present or future Law of any jurisdiction it may not exercise any of the rights, powers or remedies granted herein or in any of the other Loan Documents or take any other action which may be desirable or necessary in connection therewith, the Administrative Agent is hereby authorized to appoint an additional individual or institution selected by the Administrative Agent in its sole discretion as a separate trustee, co-trustee, administrative agent, collateral agent, administrative sub-agent or administrative co-agent (any such additional individual or institution being referred to herein individually as a "Supplemental Administrative Agent" and collectively as "Supplemental Administrative Agents").

(b) [Reserved]

(c) Should any instrument in writing from the Borrower or any other Loan Party be required by any Supplemental Administrative Agent so appointed by the Administrative Agent for more fully and certainly vesting in and confirming to it such rights, powers, privileges and duties, the Borrower shall, or shall cause such Loan Party to, execute, acknowledge and deliver any and all such instruments promptly upon request by the Administrative Agent. In case any Supplemental Administrative Agent, or a successor thereto, shall die, become incapable of acting, resign or be removed, all the rights, powers, privileges and duties of such Supplemental Administrative Agent, to the extent permitted by Law, shall vest in and be exercised by the Administrative Agent until the appointment of a new Supplemental Administrative Agent.

(d) No Administrative Agent shall be responsible for the actions of any other administrative agent appointed pursuant to this Section 8.10.

SECTION 8.11 Administrative Agent May File Proofs of Claim. In case of the pendency of any proceeding under any Debtor Relief Law or any other judicial proceeding relative to any Loan Party, the Administrative Agent (irrespective of whether the principal of any Loan shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrower) shall be entitled and empowered, by intervention in such proceeding or otherwise:

(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans and all other Loan Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders and the Administrative Agent under Section 2.07) allowed in such judicial proceeding; and

(b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same; and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender to make such payments to the Administrative Agent and, if the Administrative Agent shall consent to the making of such payments directly to the Lenders, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amounts due the Administrative Agent under Section 2.07.

Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender any plan of reorganization, arrangement, adjustment or composition affecting the Loan Obligations or the rights of any Lender to authorize the Administrative Agent to vote in respect of the claim of any Lender or in any such proceeding.

SECTION 8.12 Indemnification of Administrative Agent. Each Lender, on a pro rata basis, based on its Aggregate Exposure Percentage, severally (but not jointly) agrees to indemnify the Administrative Agent and its Related Parties, to the extent that the Administrative Agent or its Related Parties shall not have been reimbursed by any Loan Party, for and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses (including Attorney Costs (which shall be limited to one (1) counsel, at any given time, to the Administrative Agent, and if reasonably necessary, one (1) local counsel, at any given time, to the Administrative Agent in each relevant jurisdiction)) or disbursements of any kind or nature whatsoever which may be imposed on, incurred by or on behalf of or asserted against the Administrative Agent or its Related Parties (solely to the extent such Related Party was performing services on behalf of the Administrative Agent) in exercising its powers, rights and remedies or performing its duties hereunder or under the other Loan Documents or otherwise in its capacity as the Administrative Agent in any way relating to or arising out of this Agreement or the other Loan Documents (including in connection with enforcing a Lender's indemnification obligation hereunder); provided that no Lender shall be liable for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from the Administrative Agent's or its Related Parties', as applicable, gross negligence or willful misconduct, as determined by a court of competent jurisdiction in a final and non-appealable judgment.

In addition, each Lender hereby severally (but not jointly) agrees to reimburse the Administrative Agent and each of its Related Parties promptly upon demand for such Lender's pro rata share based on its Aggregate Exposure Percentage of any costs and expenses (including Attorney Costs (which shall be limited to one (1) counsel, at any given time, to the Administrative Agent, and if reasonably necessary, one (1) local counsel, at any given time, to the Administrative Agent in each relevant jurisdiction)) that may be incurred by the Administrative Agent or any of its Related Parties, to the extent not reimbursed by a Loan Party, in connection with the preparation, syndication, execution, delivery, administration, modification, consent, waiver or enforcement (whether through negotiations, through any work-out, bankruptcy, restructuring or other legal or other proceeding or otherwise) of, or legal advice in respect of its rights or responsibilities under, any Loan Document.

ARTICLE IX

MISCELLANEOUS

SECTION 9.01 Amendments, Etc. No amendment or waiver of any provision of this Agreement or any other Loan Document, and no consent to any departure by the Borrower or any other Loan Party therefrom, shall be effective unless in writing signed by the Required Lenders (or by the Administrative Agent with the consent of the Required Lenders) and the Borrower or the applicable Loan Party, as the case may be, and each such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; provided that no such amendment, waiver or consent shall:

(a) extend or increase the Term Commitment of any Lender without the prior written consent of such Lender (it being understood that a waiver of any condition precedent set forth in Section 4.02, or the waiver of any non-monetary Default or Event of Default shall not constitute an extension or increase of any Term Commitment of any Lender);

(b) postpone any date scheduled for any payment of principal, premium, interest or fees, without the prior written consent of each Lender directly and adversely affected thereby (it being understood that a waiver of any non-monetary Default or Event of Default shall not constitute a postponement of any date scheduled for any payment of principal, premium, interest or fees);

(c) reduce or forgive the principal of, or the rate of interest specified herein on, any Loan or (subject to clause (iii) of the second proviso to this Section 9.01) reduce or forgive any fees or premium payable hereunder or under any other Loan Document without the prior written consent of each Lender directly and adversely affected thereby; provided that only the consent of the Required Lenders shall be necessary to amend the definition of "Default Rate" or to waive any obligation of the Borrower to pay interest at the Default Rate;

(d) change any provision of this Section 9.01 without the prior written consent of each Lender directly and adversely affected thereby; provided that the consent of each Lender shall be required to reduce the voting percentage set forth in the definition of "Required Lenders" or Section 9.07(a) (solely with regard to the ability of the Borrower to assign or otherwise transfer any of its rights or obligations hereunder);

(e) amend, modify or change any provision that provides for the *pro rata* nature of disbursements by or payments to Lenders;

(f) other than in connection with a transaction permitted under Section 6.07 or Section 6.11, release all or substantially all of the aggregate value of the Guarantees; *provided* that the unused Term Commitment and the portion of the Total Outstandings held or deemed held by any Defaulting Lender shall be excluded for purposes of making such determination;

(g) except as necessary or advisable to carry out the express intent of sections of this Agreement (including, without limitation, Section 2.13, Section 2.14 and Section 9.01) permitting the addition of Classes of Loans or Term Commitments that may be incurred on a pari passu or junior basis in right of payment and/or Lien priority to the then-existing Loans and/or Term Commitments, or amend Section 7.03 or Section 2.10(f) in a manner that directly and adversely affects any Class without the consent of Lenders of such Class holding more than 50% of the Commitments in respect of such Class; and

(h) except as expressly set forth herein (including, without limitation, Section 2.13, Section 2.14 or this Section 9.01), amend Section 2.10(a) or Section 2.11 without the consent of each Lender directly and adversely affected thereby (it being understood that Section 2.13, Section 2.14 and Section 9.07 may be amended with the consent of the Required Lenders only).

and provided further that no amendment, waiver or consent shall, unless in writing and signed by the Administrative Agent in addition to the Lenders required above, affect the rights or duties of, or any fees or other amounts payable to, the Administrative Agent under this Agreement or any other Loan Document (it being understood that the Required Lenders may agree to grant forbearance without the consent of the Administrative Agent, so long as such forbearance is not related to any rights of the Administrative Agent). Notwithstanding anything to the contrary herein, no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder, except that (x) the Term Commitment of such Lender may not be increased or extended without the consent of such Lender and (y) the principal and accrued and unpaid interest of such Lender's Loans shall not be reduced or forgiven without the consent of such Lender.

Notwithstanding the foregoing, this Agreement may be amended (or amended and restated) with the prior written consent of the Required Lenders, the Administrative Agent and the Borrower (a) to add one or more additional credit facilities to this Agreement and to permit the extensions of credit from time to time outstanding thereunder and the accrued interest and fees in respect thereof to share ratably in the benefits of this Agreement and the other Loan Documents with any Term Loans and the accrued interest and fees in respect thereof and (b) to include appropriately the Lenders holding such credit facilities in any determination of the Required Lenders.

In addition, notwithstanding the foregoing, this Agreement may be amended with the prior written consent of the Administrative Agent, the Borrower and all of the applicable Refinancing Term Lenders (and no other Lenders) of the applicable Refinancing Term Loan Series providing such Refinancing Term Loans in connection with any refinancing facilities permitted pursuant to Section 2.14.

In addition, notwithstanding anything to the contrary contained in this Section 9.01 or any Loan Document, (a) the Borrower and the Administrative Agent may, without the input or consent of any other Lender, (i) effect amendments to this Agreement and the other Loan Documents as may be necessary in the reasonable opinion of the Borrower and the Administrative Agent to effect the provisions of Sections 2.13 or 2.14 (provided, that the consents of any applicable Lender shall be required, to the extent specified in Sections 2.13, or 2.14), (ii) evidence the succession of another Person to the Borrower or Holdings or successive successions, and the assumption by the successor Person of the covenants, agreements and obligations of the Borrower or Holdings herein, (iii) add to the covenants of the Borrower or Holdings such further covenants, restrictions, conditions or provisions for the protection of the Lenders, or to surrender any right or power herein conferred upon the Borrower or Holdings, and to make the occurrence, or the occurrence and continuance, of a default in any such additional covenants, restrictions, conditions or provisions an Event of Default permitting the enforcement of all or any of the several remedies provided in this Indenture as herein set forth; provided, however, that in respect of any such additional covenants, restrictions, conditions or provisions such amendment, supplemented Agreement or waiver may provide for a particular period of grace after default (which period may be shorter or longer than that allowed in the case of other defaults) or may provide for an immediate enforcement upon such an Event of Default or may limit the remedies available to the Administrative Agent upon such an Event of Default or may limit the right of Required Lenders to waive such an Event of Default, (iv) evidence and provide for the acceptance of appointment hereunder by a successor or replacement Administrative Agent, (v) to provide for any Guarantee, (vi) to add security to or for the benefit of the Loans, or to confirm and evidence the release, termination or discharge of any Guarantee of the Loans or Lien securing the Loans or any Guarantee when such release, termination or discharge is permitted by this Agreement, (vi) [reserved], (b) if the Administrative Agent and the Borrower have jointly identified an obvious error, ambiguity, defect, inconsistency or any error or omission of a technical nature, in each case, in any provision of the Loan Documents, then the Administrative Agent and the Borrower shall be permitted to amend such provision and (c) guarantees, collateral security documents and related documents executed by Subsidiaries in connection with this Agreement may be in a form reasonably determined by the Administrative Agent and may be amended, supplemented or waived without the consent of any Lender if such amendment, supplement or waiver is delivered in order to (x) comply with local Law, (y) cure ambiguities, omissions, mistakes or defects or (z) cause such guarantee, collateral security document or other document to be consistent with this Agreement and the other Loan Documents.

SECTION 9.02 Notices and Other Communications; Facsimile Copies. (a) *General.* Unless otherwise expressly provided herein, all notices and other communications provided for hereunder or any other Loan Document shall be in writing (including by facsimile or other electronic transmission). All such written notices shall be mailed, faxed or delivered (including electronically) to the applicable address, facsimile number or electronic mail address, as follows:

(i) if to the Borrower or the Administrative Agent, to the address, facsimile number or electronic mail address specified for such Person on Schedule 9.02 or to such other address, facsimile number or electronic mail address as shall be designated by such party in a notice to the other parties; and

(ii) if to any other Lender, to the address, facsimile number or electronic mail address specified in its Administrative Questionnaire or to such other address, facsimile number or electronic mail address as shall be designated by such party in a notice to the Borrower and the Administrative Agent.

All such notices and other communications shall be deemed to be given or made upon the earlier to occur of (i) actual receipt by the relevant party hereto and (ii) (A) if delivered by hand or by courier, when signed for by or on behalf of the relevant party hereto, (B) if delivered by mail, four (4) Business Days after deposit in the mail, postage prepaid, (C) if delivered by facsimile, when sent and receipt has been confirmed, and (D) if delivered by electronic mail, when delivered; provided that notices and other communications to the Administrative Agent pursuant to Article 2 shall not be effective until actually received by such Person. In no event shall a telephone or voice-mail message be effective as a notice, communication or confirmation hereunder; provided, however, this sentence shall not limit Section 8.04.

(b) *Effectiveness of Facsimile or Other Electronic Documents and Signatures.* Loan Documents may be transmitted and/or signed by facsimile or other electronic transmission (including portable document format). The effectiveness of any such documents and signatures shall, subject to applicable Law, have the same force and effect as manually signed originals and shall be binding on all Loan Parties, the Agents and the Lenders. The Administrative Agent may also require that any such documents and signatures be confirmed by a manually signed original thereof; provided that the failure to request or deliver the same shall not limit the effectiveness of any facsimile or other electronic document or signature.

(c) *Reliance by Agents and Lenders.* The Administrative Agent and the Lenders shall be entitled to rely and act upon any notices (including telephonic Loan Notices) purportedly given by or on behalf of the Borrower even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. The Borrower shall indemnify each Agent-Related Person and each Lender from all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of the Borrower in accordance with Section 9.05.

SECTION 9.03 No Waiver; Cumulative Remedies. No failure by any Lender or the Administrative Agent to exercise, and no delay by any such Person in exercising, any right, remedy, power or privilege hereunder or under any other Loan Document shall operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided, and provided under each other Loan Document, are cumulative and not exclusive of any rights, remedies, powers and privileges provided by Law.

SECTION 9.04 Expenses. Holdings and the Borrower, jointly and severally, agree to reimburse (1) the Administrative Agent in accordance with the Agent Fee Letter and (2) the Administrative Agent and the Lenders for all of their costs, fees and expenses incurred in connection with the enforcement or preservation of any rights under this Agreement, the other Loan Documents and any other documents prepared in connection herewith or therewith, including in each case the reasonable fees, disbursements and other charges of one outside counsel to the Administrative Agent and one outside counsel to the Lenders as a whole, and if reasonably necessary, one additional local counsel to the Administrative Agent in each relevant jurisdiction and one local counsel to the Lenders, taken as a whole, in each relevant jurisdiction (which may include a single special counsel acting in multiple jurisdictions); provided, however, that, with respect to the Lenders, the Borrower shall not at any time be required to pay, or cause to be paid, costs, fees and expenses with respect to any regulatory inquiry, third party claim or any claim, dispute or liability arising in connection with, or in any way relating to, the Specified Transactions or the making of the Initial Term Loans or the use of proceeds thereof.

SECTION 9.05 Indemnification by the Borrower. The Borrower shall indemnify and hold harmless the Administrative Agent, each Lender and their respective Affiliates and their and their respective Affiliates' directors, officers, employees, controlling persons, counsel, agents, attorneys-in-fact, trustees and advisors (collectively the "Indemnitees") from and against any and all liabilities, losses, damages, claims and expenses (including Attorney Costs (which shall be limited to one (1) counsel, at any given time, to the Administrative Agent and one (1) additional counsel for all other Indemnitees taken as a whole and solely in the case of a conflict of interest among or between Indemnitees, one (1) additional counsel to all similarly affected Indemnitees taken as a whole, and if reasonably necessary, one (1) local counsel, at any given time, to the Administrative Agent in each relevant jurisdiction and one (1) additional local counsel for all other Indemnitees taken as a whole in each relevant jurisdiction (which may include a single special counsel acting in multiple jurisdictions), and solely in the case of a conflict of interest, one (1) additional local counsel to all similarly affected Person, taken as a whole) of any kind or nature whatsoever which may at any time be imposed on, incurred by or asserted against any such Indemnitee, in each case, in any way relating to or arising after the Closing Date (or, in the case of the Administrative Agent only, in its capacity as such, the Effective Date) out of or in connection with (a) the enforcement, performance or administration of any Loan Document or any other agreement, letter or instrument delivered in connection with the transactions contemplated thereby or the consummation of the transactions contemplated thereby (including enforcing the Borrower's indemnification obligations hereunder), (b) any Term Commitment or Loan or the use or proposed use of the proceeds therefrom, or (c) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory (including any investigation of, preparation for, or defense of any pending or threatened claim, investigation, litigation or proceeding) and regardless of whether any Indemnitee is a party thereto (and regardless of whether such matter is instituted by a third party or by the Borrower or any other Loan Party) (all the foregoing, collectively, the "Indemnified Liabilities"), in all cases, whether or not caused by or arising, in whole or in part, out of the negligence of the Indemnitee; provided that notwithstanding anything herein to the contrary, the Borrower shall not be required to indemnify and such indemnity shall not, as to any Indemnitee (other than claims against an Indemnitee in its capacity as Administrative Agent), be available to the extent that such liabilities, obligations, losses, damages, penalties, claims, actions, judgments, suits, costs, expenses or disbursements, including with respect to regulatory inquiries, arise in connection with, or relate in any way to, the Specified Transactions, the making of the First Draw Term Loans or the use of proceeds of the First Draw Term Loans; provided further, that such indemnity shall not, as to any Indemnitee, be available to the extent that such liabilities, obligations, losses, damages, penalties, claims, actions, judgments, suits, costs, expenses or disbursements (x) have been determined in the final, non-appealable judgment of a court of competent jurisdiction to have resulted from the gross negligence or willful misconduct of such Indemnitee (or any of its Related Indemnitees) or (y) arise from claims of any of the Indemnitees solely against one (1) or more Indemnitees (other than claims against an Indemnitee in its capacity as Administrative Agent) that have not resulted from the action, inaction, participation or contribution of the Borrower, Holdings or any Affiliates of the foregoing or any of their respective officers, directors, stockholders, partners, members, employees, agents, representatives or advisors; provided further that Section 3.01 (instead of this Section 9.05) shall govern indemnities with respect to Taxes, except that Taxes representing losses, claims, damages, etc., with respect to a non-Tax claim shall be governed by this Section 9.05 (without duplication of Section 3.01). No Indemnitee shall be liable for any damages arising from the use by others of any information or other materials obtained through Syndtrak, IntraLinks, the internet, email or other similar information transmission systems in connection with this Agreement, in each case, except to the extent any such damages are found in a final non-appealable judgment of a court of competent jurisdiction to have resulted from the gross negligence or willful misconduct of such Indemnitee nor shall any Indemnitee or any Loan Party have any liability for any special, punitive, indirect or consequential damages relating to this Agreement or any other Loan Document or arising out of its activities in connection herewith or therewith (whether before or after the Closing Date); provided that nothing contained in this sentence shall limit the Borrower's indemnification and reimbursement obligations under this Agreement. The Borrower shall not be liable for any settlement in respect of any Indemnified Liabilities effected without the Borrower's prior written consent (which consent shall not be unreasonably withheld), but if settled with the Borrower's prior written consent, or (without limitation of the Borrower's obligations set forth above) if there is a final judgment against an Indemnitee, the Borrower agrees to indemnify and hold harmless each Indemnitee in the manner set forth above. The Borrower shall not, without the prior written consent of the affected Indemnitee (which consent shall not be unreasonably withheld or delayed), effect any settlement of any pending or threatened Indemnified Liability against such Indemnitee in respect of which indemnity could have been sought hereunder by such Indemnitee unless such settlement (a) includes an unconditional release of such Indemnitee from all liability or claims that are the subject matter of such claimed or threatened Indemnified Liability, (b) does not include any statement as to any admission of fault, culpability or failure to act by or on behalf of such Indemnitee and (c) includes customary confidentiality provisions reasonably acceptable to such Indemnitee. In the case of an investigation, litigation or other proceeding to which the indemnity in this Section 9.05 applies, such indemnity shall be effective whether or not such investigation, litigation or proceeding is brought by any Loan Party, its directors, shareholders or creditors or an Indemnitee or any other Person, whether or not any Indemnitee is otherwise a party thereto and whether or not any of the transactions contemplated hereunder or under any of the other Loan Documents is consummated. All amounts due under this Section 9.05 shall be reimbursed within ten (10) Business Days of written demand therefor (together with reasonable backup documentation). The agreements in this Section 9.05 shall survive the resignation of the Administrative Agent, the replacement of any Lender and the Termination Date. For purposes hereof, "Related Indemnitee" of an Indemnitee means (1) any Controlling Person or Controlled affiliate of such Indemnitee, (2) the respective partners, directors, officers, or employees of such Indemnitee or any of its Controlling Persons or Controlled affiliates and (3) the respective agents, advisors or other representatives of such Indemnitee or any of its Controlling Persons or Controlled affiliates, in the case of this clause (3), acting on behalf of or at the instructions of such Indemnitee, Controlling Person or such Controlled affiliate; provided that each reference to a Related Indemnitee in this sentence pertains to a Related Indemnitee involved in performing services under this Agreement and the Facilities. Notwithstanding the foregoing, if it is found by a final, non-appealable judgment of a court of competent jurisdiction in any such action, proceeding or investigation that any loss, claim, damage or liability of any Indemnitee has resulted from the gross negligence or willful misconduct of such Indemnitee (or any of its Related Indemnitees), such Indemnitee will repay such portion of the reimbursed amounts previously paid to such Indemnitee under this Section that is attributable to expenses incurred in relation to the act or omission of such Indemnitee which is the subject of such finding.

SECTION 9.06 Marshalling; Payments Set Aside. Neither the Administrative Agent nor any Lender shall be under any obligation to marshal any assets in favor of any Loan Party or any other Person or against or in payment of any or all of the Loan Obligations. To the extent that any payment by or on behalf of the Borrower is made to any Agent or any Lender, or any Agent or any Lender exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by such Agent or such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied, and all Liens, rights and remedies therefor or related thereto, shall be revived and continued in full force and effect as if such payment or payments had not been made or such enforcement or setoff had not occurred, and (b) each Lender severally agrees to pay to the Administrative Agent upon demand its applicable share of any amount so recovered from or repaid by any Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the applicable Federal Funds Rate from time to time in effect.

SECTION 9.07 Successors and Assigns. (a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each Lender and the acknowledgement of the Administrative Agent, and any such assignment without such consent shall be null and void (for the avoidance of doubt, any such transfer that occurs pursuant to a transaction permitted under Section 6.11 is permitted hereunder without any such consent), and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an Eligible Assignee in accordance with the provisions of Section 9.07(b), or (ii) by way of pledge or assignment of a security interest subject to the restrictions of Section 9.07(g) or Section 9.07(i), as the case may be. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in Section 9.07(e) and, to the extent expressly contemplated hereby, the Indemnitees) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Any Lender may at any time assign to one or more Eligible Assignees all or a portion of its rights and obligations under this Agreement; provided that (i) except in the case of an assignment to a Lender or an Affiliate of a Lender or an Approved Fund with respect to a Lender, the aggregate amount of such assignment, determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent shall not be less than \$1,000,000, in the case of any assignment in respect of any Term Loans (provided, however, that concurrent assignments to or by Approved Funds will be treated as a single assignment for the purpose of meeting the minimum transfer requirements), (ii) each of the Administrative Agent (except in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund (but subject to clause (iv) below)), and, so long as no Event of Default has occurred and is continuing, the Borrower consents to such assignment, (iii) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to the Loans or the Term Commitment assigned, except that this clause (iii) shall not prohibit any Lender from assigning all or a portion of its rights and obligations among separate Facilities on a non-pro rata basis, (iv) the parties (other than the Borrower unless its consent to such assignment is required hereunder) to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption together with a processing and recordation fee of \$3,500 (which fee (x) the Borrower shall not have an obligation to pay except as required in Section 3.07 and (y) may be waived or reduced by the Administrative Agent in its discretion) and (v) the assigning Lender shall deliver any Notes evidencing such Loans to the Borrower or the Administrative Agent if requested.

Subject to acceptance and recording thereof by the Administrative Agent pursuant to Section 9.07(c), from and after the effective date specified in each Assignment and Assumption, the Eligible Assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Section 3.01, Section 3.04 and Section 9.05 with respect to facts and circumstances occurring prior to the effective date of such assignment and shall continue to be bound by Section 9.08). Upon request, the Borrower (at its expense) shall execute and deliver a Note to the assignee Lender; provided that if the Borrower has previously issued an assigning Lender a Note, then the Borrower shall have no obligation to deliver a Note to the assignee Lender except upon the surrender by the assigning Lender of its Note (or receipt by the Borrower of a certificate of loss including reasonably satisfactory indemnification provisions).

(c) The Administrative Agent, acting solely for this purpose as an agent of the Borrower, shall maintain at the Administrative Agent's Office a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Term Commitments of, and principal amounts (and stated interest amounts) of the Loans, owing to each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive, absent manifest error, and the Borrower, the Agents and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as the owner of its interests in the Loans and amounts due under the Loan Documents as set forth in the Register and as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrower, any Agent, any Lender (solely with respect to such Lender's interest), at any reasonable time and from time to time upon reasonable prior notice. Notwithstanding anything to the contrary contained in this Agreement, the Loans and Loan Obligations are intended to be treated as registered obligations for U.S. federal income Tax purposes. Any right or title in or to any Loans and Loan Obligations (including with respect to the principal amount and any interest thereon) may only be assigned or otherwise transferred through the Register. This Section 9.07 shall be construed so that the Loans and Loan Obligations are at all times maintained in "registered form" within the meaning of Sections 163(f), 871(h)(2) and 881(c)(2) of the Code, Treasury Regulation Section 5f.103-1(c) and any other related regulations (or any successor provisions of the Code or such regulations).

(d) The words “execution,” “signed,” “signature” and words of like import in any Assignment and Assumption shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable Law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act or any other similar state laws based on the Uniform Electronic Transactions Act.

(e) Any Lender may at any time, with the consent of the Borrower so long as no Event of Default has occurred and is continuing (but without the consent of or notice to the Administrative Agent), sell participations to any Person (other than a natural person, the Borrower, Holdings or any Affiliate of the Borrower or Holdings or (unless a Default or Event of Default has occurred and is continuing) a Competitor) (each, a “Participant”) in all or a portion of such Lender’s rights and/or obligations under this Agreement (including all or a portion of its Term Commitment and/or the Loans owing to it); provided that (i) such Lender’s obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrower, the Agents and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender’s rights and obligations under this Agreement. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and the other Loan Documents and to approve any amendment, modification or waiver of any provision of this Agreement or the other Loan Documents; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, waiver or other modification described in the clauses (a) through (i) of the first proviso to Section 9.01 that directly and adversely affects such Participant. Subject to Section 9.07(f), the Borrower agrees that each Participant shall be entitled to the benefits of Section 3.01 and Section 3.04 (subject to the requirements and limitations therein, including the requirements under Section 3.01(f) and Section 3.06 read as if a Participant were a Lender (it being understood that the documentation required thereunder shall be delivered to the participating Lender and the Administrative Agent)) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to Section 9.07(b); provided that such Participant agrees to bound by such Sections, including for the avoidance of doubt to be subject to the provisions of Section 3.01(f) and Section 3.06 as if it were an assignee under paragraph (b) of this Section. To the extent permitted by Law, each Participant also shall be entitled to the benefits of Section 9.09 as though it were a Lender; provided that such Participant agrees to be subject to Section 2.11 as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant’s interest in the Loans or other obligations under the Loan Documents (the “Participant Register”); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant’s interest in any Term Commitments or any Loans or its other obligations under any Loan Document) to any Person except to the extent that such disclosure is necessary to establish that such Term Commitment or Loan or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender (and the Borrower, to the extent that the Participant requests payment from the Borrower) shall treat each person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary.

(f) A Participant shall not be entitled to receive any greater payment under Section 3.01 or Section 3.04 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant.

(g) Any Lender may at any time, without the consent of, or notice to, the Borrower or the Administrative Agent, pledge or assign a security interest in all or any portion of its rights under this Agreement (including under its Note, if any) to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank or any central bank having jurisdiction over such Lender; provided that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(h) [Reserved].

(i) Notwithstanding anything to the contrary contained herein, any Lender (a “Pledging Lender”) shall have the right from time to time in its discretion and without the consent of Borrower to pledge, securitize, encumber, hypothecate, or otherwise transfer (a “Pledge”) all or any portion of its interest in the Loan to an Eligible Assignee (each, a “Pledgee”); provided that unless and until the applicable Pledgee actually becomes a Lender in compliance with the other provisions of this Section 9.07, (i) no such Pledge shall release the Pledging Lender from any of its obligations under the Loan Documents and, (ii) such Pledgee shall not be entitled to exercise any of the rights of a Lender under the Loan Documents even though such Pledgee may have acquired ownership rights with respect to the pledged interest through foreclosure or otherwise (unless such Pledgee is an Eligible Assignee which has complied with the requirements of Section 9.07(b)).

(j) [Reserved].

(k) Assignments of Term Loans to any Purchasing Borrower Party shall be permitted through open market purchases and/or “Dutch auctions”, so long as any offer to purchase or take by assignment (other than through open market purchases) by such Purchasing Borrower Party shall have been made to all Term Lenders, so long as (i) no Default or an Event of Default has occurred and is continuing and (ii) the Term Loans purchased are immediately cancelled pursuant to Section 9.07(l).

(l) Upon any purchase of Loans by a Purchasing Borrower Party, such Loans shall be immediately contributed to the Borrower, whereupon, (i) the aggregate principal amount (calculated on the face amount thereof) of such Loans shall automatically be cancelled and retired by the Borrower on the date of such contribution or purchase (and, if requested by the Administrative Agent, with respect to a contribution of Loans, any applicable contributing Lender shall execute and deliver to the applicable Agent an Assignment and Assumption, or such other form as may be reasonably requested by the Administrative Agent, in respect thereof pursuant to which the respective Lender assigns its interest in such Loans to the Borrower for immediate cancellation) and (ii) the applicable Agent shall record such cancellation or retirement in the Register.

SECTION 9.08 [Reserved]

SECTION 9.09 Setoff. In addition to any rights and remedies of the Lenders provided by Law, upon the occurrence and during the continuance of any Event of Default, after obtaining the prior written consent of the Administrative Agent, each Lender is authorized at any time and from time to time, without prior notice to the Borrower or any other Loan Party, any such notice being waived by the Borrower (on its own behalf and on behalf of each other Loan Party) to the fullest extent permitted by Law, to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held by, and other Indebtedness at any time owing by, such Lender to or for the credit or the account of the respective Loan Parties against any and all Loan Obligations owing to such Lender hereunder or under any other Loan Document, now or hereafter existing, irrespective of whether or not such Lender shall have made demand under this Agreement or any other Loan Document and although such Loan Obligations may be contingent or unmatured or denominated in a currency different from that of the applicable deposit or Indebtedness; provided that in the event that any Defaulting Lender shall exercise any such right of setoff, (x) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Section 2.15 and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Administrative Agent and the Lenders and (y) the Defaulting Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the Loan Obligations owing to such Defaulting Lender as to which it exercised such right of setoff. Each Lender agrees promptly to notify the Borrower and the Administrative Agent after any such set off and application made by such Lender; provided that the failure to give such notice shall not affect the validity of such setoff and application. The rights of the Administrative Agent and each Lender under this Section 9.09 are in addition to other rights and remedies (including, without limitation, other rights of setoff) that the Administrative Agent and such Lender may have.

SECTION 9.10 Interest Rate Limitation. Notwithstanding anything to the contrary contained in any Loan Document, the interest paid or agreed to be paid under the Loan Documents shall not exceed the maximum rate of non-usurious interest permitted by applicable Law (the "Maximum Rate"). If any Agent or any Lender shall receive interest in an amount that exceeds the Maximum Rate, the excess interest shall be applied to the principal of the Loans or, if it exceeds such unpaid principal, refunded to the Borrower. In determining whether the interest contracted for, charged, or received by an Agent or a Lender exceeds the Maximum Rate, such Person may, to the extent permitted by applicable Law, (a) characterize any payment that is not principal as an expense, fee, or premium rather than interest, (b) exclude voluntary prepayments and the effects thereof, and (c) amortize, prorate, allocate, and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the Loan Obligations hereunder.

SECTION 9.11 Counterparts. This Agreement and each other Loan Document may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Delivery by telecopier or other electronic transmission (including portable document format) of an executed counterpart of a signature page to this Agreement and each other Loan Document shall be effective as delivery of an original executed counterpart of this Agreement and such other Loan Document. The Agents may also require that any such documents and signatures delivered by telecopier or other electronic means be confirmed by a manually signed original thereof; provided that the failure to request or deliver the same shall not limit the effectiveness of any document or signature delivered by telecopier or other electronic transmission.

SECTION 9.12 Integration. This Agreement, together with the other Loan Documents, comprises the complete and integrated agreement of the parties on the subject matter hereof and thereof and supersedes all prior agreements, written or oral, on such subject matter. In the event of any conflict between the provisions of this Agreement and those of any other Loan Document, the provisions of this Agreement shall control; provided that the inclusion of supplemental rights or remedies in favor of the Agents or the Lenders in any other Loan Document shall not be deemed to be a conflict with this Agreement. Each Loan Document was drafted with the joint participation of the respective parties thereto and shall be construed neither against nor in favor of any party, but rather in accordance with the fair meaning thereof.

SECTION 9.13 Survival. All representations and warranties made hereunder and in any other Loan Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by each Agent and each Lender, regardless of any investigation made by any Agent or any Lender or on their behalf and notwithstanding that any Agent or any Lender may have had notice or knowledge of any Default at the time of any Borrowing, and shall continue in full force and effect until the Termination Date. The provisions of Article 3 and Article 8 and Sections 9.05, 9.08, 9.15 and 9.16 shall survive and remain in full force and effect following the Termination Date.

SECTION 9.14 Severability. If any provision of this Agreement or the other Loan Documents is held to be illegal, invalid or unenforceable, the legality, validity and enforceability of the remaining provisions of this Agreement and the other Loan Documents shall not be affected or impaired thereby. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Without limiting the foregoing provisions of this Section 9.14, if and to the extent that the enforceability of any provisions in this Agreement relating to Defaulting Lenders shall be limited by Debtor Relief Laws, as determined in good faith by the Administrative Agent, then such provisions shall be deemed to be in effect only to the extent not so limited.

SECTION 9.15 GOVERNING LAW. (a) THIS AGREEMENT AND EACH OTHER LOAN DOCUMENT (OTHER THAN ANY LOAN DOCUMENT EXPRESSLY GOVERNED BY THE LAWS OF ANOTHER JURISDICTION) SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

(b) ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT SHALL BE BROUGHT IN THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK CITY IN THE BOROUGH OF MANHATTAN OR OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF SUCH STATE, AND BY EXECUTION AND DELIVERY OF THIS AGREEMENT, EACH OF THE BORROWER, EACH AGENT AND EACH LENDER CONSENTS, FOR ITSELF AND IN RESPECT OF ITS PROPERTY, TO THE EXCLUSIVE JURISDICTION OF THOSE COURTS AND APPELLATE COURTS FROM ANY THEREOF). EACH OF THE BORROWER, EACH AGENT AND EACH LENDER IRREVOCABLY WAIVES ANY OBJECTION, INCLUDING ANY OBJECTION TO THE LAYING OF VENUE OR BASED ON THE GROUNDS OF FORUM NON CONVENIENS, WHICH IT MAY NOW OR HEREAFTER HAVE TO THE BRINGING OF ANY ACTION OR PROCEEDING IN SUCH JURISDICTION IN RESPECT OF ANY LOAN DOCUMENT OR OTHER DOCUMENT RELATED THERETO.

SECTION 9.16 WAIVER OF RIGHT TO TRIAL BY JURY. EACH PARTY TO THIS AGREEMENT HEREBY EXPRESSLY WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION ARISING UNDER ANY LOAN DOCUMENT OR IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO OR ANY OF THEM WITH RESPECT TO ANY LOAN DOCUMENT, OR THE TRANSACTIONS RELATED THERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER FOUNDED IN CONTRACT OR TORT OR OTHERWISE; AND EACH PARTY HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY, AND THAT ANY PARTY TO THIS AGREEMENT MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION 9.16 WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE SIGNATORIES HERETO TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY.

SECTION 9.17 Binding Effect. This Agreement shall become effective when it shall have been executed by the Borrower and the Administrative Agent shall have been notified by each Lender that each such Lender has executed it and thereafter shall be binding upon and inure to the benefit of the Borrower, each Agent and each Lender and their respective successors and permitted assigns.

SECTION 9.18 U.S.A PATRIOT Act Notice. Each Lender that is subject to the PATRIOT Act and the Administrative Agent (for itself and not on behalf of any Lender) hereby notifies the Borrower that pursuant to the requirements of the PATRIOT Act, it is required to obtain, verify and record information that identifies the Borrower and each other Loan Party, which information includes the name and address of the Borrower and each other Loan Party and other information that will allow such Lender or the Administrative Agent, as applicable, to identify the Borrower and each other Loan Party in accordance with the PATRIOT Act.

SECTION 9.19 No Advisory or Fiduciary Relationship. In connection with all aspects of each transaction contemplated hereby, each of Holdings and the Borrower acknowledge and agrees that (a) the Facilities provided for hereunder and any related arranging or other services in connection therewith (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document) are an arm's-length commercial transaction between Holdings and the Borrower, on the one hand, and the Agents and the Lenders, on the other hand, and Holdings and the Borrower are capable of evaluating and understanding and understand and accept the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents (including any amendment, waiver or other modification hereof or thereof); (b) in connection with the process leading to such transaction, each of the Agents and the Lenders is and has been acting solely as a principal and is not the agent or fiduciary, for the Borrower; and (c) the Agents and the Lenders have not provided and will not provide any legal, accounting, regulatory or tax advice with respect to any of the transactions contemplated hereby (including any amendment, waiver or other modification hereof or of any other Loan Document) and Holdings and the Borrower have consulted their own legal, accounting, regulatory and tax advisors to the extent they have deemed appropriate.

ARTICLE X

GUARANTEES; RELEASE OF GUARANTOR

SECTION 10.01 Guarantee. Each of the Guarantors hereby unconditionally guarantees, jointly and severally with each other Guarantor, to each Lender and to the Administrative Agent and its successors and assigns, irrespective of the validity and enforceability of this Agreement, any other Loan Document or the obligations of the Borrower hereunder or thereunder, that: (i) the due and punctual payment of the principal of, premium, if any, and interest on the Loans, whether at maturity or on an interest payment date, by acceleration, pursuant to any prepayment pursuant to Section 2.03, Change of Control Offer or otherwise, to the extent lawful, and all other obligations of the Borrower to the Lenders or the Administrative Agent hereunder or thereunder shall be promptly paid in full when due, all in accordance with the terms hereof and thereof, including all amounts payable to the Administrative Agent under Section 9.05 hereof, and (ii) in case of any extension of time of payment or renewal of any Loans or any of such other obligations, the same shall be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at stated maturity, by acceleration or otherwise.

If the Borrower fails to make any payment when due of any amount so guaranteed for whatever reason, each Guarantor shall be obligated, jointly and severally with each other Guarantor, to pay the same immediately. Each Guarantor hereby agrees that its obligations hereunder shall be continuing, absolute and unconditional, irrespective of, and shall be unaffected by, the validity, regularity or enforceability of the Loans, this Agreement, the absence of any action to enforce the same, any waiver or consent by any Lender or the Administrative Agent with respect to any provisions hereof or thereof, the recovery of any judgment against the Borrower, any action to enforce the same or any other circumstance which might otherwise constitute a legal or equitable discharge or defense of such Guarantor. If any Lender or the Administrative Agent is required by any court or otherwise to return to the Borrower or any Guarantor, or any custodian, trustee, liquidator or other similar official acting in relation to the Borrower or such Guarantor, any amount paid by the Borrower or any Guarantor to the Administrative Agent or such Lender, this Article X, to the extent theretofore discharged with respect to any Guarantee, shall be reinstated in full force and effect. Each Guarantor agrees that it shall not be entitled to any right of subrogation in relation to the Lenders in respect of any obligations guaranteed hereby by such Guarantor until payment in full of all such obligations. Each Guarantor further agrees that, as between such Guarantor, on the one hand, and the Lenders of Loans and the Administrative Agent on the other hand, (i) the maturity of the obligations guaranteed hereby may be accelerated as provided in Article VII hereof for the purposes of such Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the obligations guaranteed hereby and (ii) in the event of any acceleration of such obligations as provided in Article VII hereof such obligations (whether or not due and payable) shall forthwith become due and payable by such Guarantor, jointly and severally with each other Guarantor, for the purpose of this Article X. In addition, without limiting the foregoing, upon the effectiveness of an acceleration under Article VII, the Administrative Agent may make a demand for payment on the Loans under any Guarantee provided hereunder and not discharged.

SECTION 10.02 Obligations of each Guarantor Unconditional. Nothing contained in this Article X or elsewhere in this Agreement or in any other Loan Document is intended to or shall impair, as between each Guarantor and the Lenders, the obligations of such Guarantor which are absolute and unconditional, to pay to the Lenders the principal of, premium, if any, and interest on the Loans as and when the same shall become due and payable in accordance with the provisions of their Guarantee or is intended to or shall affect the relative rights of the Lenders and creditors of such Guarantor, nor shall anything herein or therein prevent the Administrative Agent or any Lender from exercising all remedies otherwise permitted by applicable Law upon any Default under this Agreement in respect of cash, property or securities of such Guarantor received upon the exercise of any such remedy.

Upon any distribution of assets of a Guarantor referred to in this Article X, the Administrative Agent, subject to the provisions of Article VIII, and the Lenders shall be entitled to rely upon any order or decree made by any court of competent jurisdiction in which such dissolution, winding up, liquidation or reorganization proceedings are pending, or a certificate of the liquidating trustee or agent or other person making any distribution to the Administrative Agent or to such Lenders for the purpose of ascertaining the persons entitled to participate in such distribution, the holders of other indebtedness of such Guarantor, the amount thereof or payable thereon, the amount or amounts paid or distributed thereon and all other facts pertinent thereto or to this Article X.

SECTION 10.03 Release of a Guarantor. (a) If (i) all or substantially all of the assets of any Guarantor other than Holdings or all of the Capital Stock of any Guarantor other than Holdings is sold (including by consolidation, merger, issuance or otherwise) or disposed of (including by liquidation, dissolution or otherwise) by Holdings or any of its Subsidiaries, (ii) unless Holdings elects otherwise, any Guarantor other than Holdings is designated an Unrestricted Subsidiary in accordance with the terms of this Agreement or becomes an Excluded Subsidiary, (iii) the Termination Date shall have occurred, or (iv) in accordance with Section 9.01, then in each case such Guarantor or the Person acquiring such assets (in the event of a sale or other disposition of all or substantially all of the assets of a Guarantor), as the case may be, shall be deemed automatically and unconditionally released and discharged from any of its obligations under this Agreement without any further action on the part of the Administrative Agent or any Lender.

SECTION 10.04 Execution and Delivery of Guarantee. The execution by each Guarantor of this Agreement (or a joinder to this Agreement) together with an executed guarantee substantially in the form included in Exhibit I evidences the Guarantee of such Guarantor.

SECTION 10.05 Limitation on Guarantor Liability. Notwithstanding anything to the contrary in this Article X, each Guarantor, the Administrative Agent and each Lender hereby confirms that it is the intention of all such parties that the Guarantee of such Guarantor not constitute a fraudulent conveyance under applicable fraudulent conveyance provisions of the Bankruptcy Law or any comparable provision of state law. To effectuate that intention, the Administrative Agent, the Lenders and the Guarantors hereby irrevocably agree that the obligations of each Guarantor under its Guarantee are limited to the maximum amount that would not render the Guarantor's obligations subject to avoidance under applicable fraudulent conveyance provisions of the Bankruptcy Law or any comparable provision of state law.

SECTION 10.06 Article X not to Prevent Events of Default. The failure to make a payment on account of principal, premium, if any, or interest, if any, on the Loans by reason of any provision in this Article X shall not be construed as preventing the occurrence of any Event of Default under Section 7.01 hereof.

SECTION 10.07 Waiver by the Guarantors. To the extent permitted by applicable Law, each Guarantor hereby irrevocably waives diligence, presentment, demand of payment, demand of performance, filing of claims with a court in the event of insolvency of bankruptcy of the Borrower, any right to require a proceeding first against the Borrower, the benefit of discussion, protest, notice and all demand whatsoever and covenants that this Guarantee shall not be discharged except by complete performance of the obligations contained in this Agreement, any other Loan Document and in this Article X.

SECTION 10.08 Subrogation and Contribution. Upon making any payment with respect to any obligation of the Borrower under this Article, the Guarantor making such payment shall be subrogated to the rights of the payee against the Borrower with respect to such obligation; *provided*, that the Guarantor may not enforce either any right of subrogation, or any right to receive payment in the nature of contribution, or otherwise, from any other Guarantor, with respect to such payment so long as any amount payable by the Borrower hereunder or under any other Loan Document remains unpaid.

Each Guarantor that makes a payment under its Guarantee shall be entitled, upon payment in full of all guaranteed obligations under this Agreement, to seek and receive contribution from and against each other Guarantor in an amount equal to such other Guarantor's pro rata portion of such payment based on the respective net assets of all the Guarantors at the time of such payment determined in accordance with GAAP.

SECTION 10.09 Stay of Acceleration. If acceleration of the time for payment of any amount payable by the Borrower under this Agreement or any other Loan Document is stayed upon the insolvency, bankruptcy or reorganization of the Borrower, all such amounts otherwise subject to acceleration under the terms of this Agreement are nonetheless payable by the Guarantors hereunder forthwith on demand by the Administrative Agent or the Lenders.

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SCHEDULE 1.01

Unrestricted Subsidiaries

77 HUDSON STREET JOINT DEVELOPMENT, L.L.C.
AL TAHALUF AL AQARY LLC (AL TAHALUF REAL ESTATE LIMITED LIABILITY COMPANY)
COBBLESTONE SQUARE DEVELOPMENT, L.L.C.
EASTERN NATIONAL TITLE AGENCY TEXAS, INC.
GTIS-HOV ARBORS AT MONROE LLC
GTIS-HOV ARBORS AT MONROE PARENT LLC
GTIS-HOV AT SILVERSTONE LLC
GTIS-HOV FOUR PONDS PARENT LLC
GTIS-HOV HEATHERFIELD PARENT LLC
GTIS-HOV HILLTOP AT CEDAR GROVE PARENT LLC
GTIS-HOV HOLDINGS IX LLC
GTIS-HOV HOLDINGS V LLC
GTIS-HOV HOLDINGS VI LLC
GTIS-HOV HOLDINGS VII LLC
GTIS-HOV HOLDINGS VIII LLC
GTIS-HOV LAKES OF CANE BAY PARENT LLC
GTIS-HOV LEELAND STATION LLC
GTIS-HOV NICHOLSON PARENT LLC
GTIS-HOV PARKSIDE OF LIBERTYVILLE LLC
GTIS-HOV PARKSIDE OF LIBERTYVILLE PARENT LLC
GTIS-HOV PENDER OAKS PARENT LLC
GTIS-HOV PINNACLE PEAK PATIO PARENT LLC
GTIS-HOV POINTE 16 LLC
GTIS-HOV RESIDENCES AT COLUMBIA PARK LLC
GTIS-HOV RESIDENCES AT COLUMBIA PARK PARENT LLC
GTIS-HOV SAUGANASH GLEN LLC
GTIS-HOV SAUGANASH GLEN PARENT LLC
GTIS-HOV WILLOWSFORD WINDMILL LLC
HILLTOP AT CEDAR GROVE URBAN RENEWAL, LLC
HOVSITE HOLDINGS II LLC
HOVSITE HOLDINGS III LLC
HOVSITE II CASA DEL MAR LEASEHOLD LLC
HOVSITE II CASA DEL MAR LLC
HOVSITE III AT PARKLAND LLC
K. HOVNANIAN 77 HUDSON STREET INVESTMENTS, L.L.C.
K. HOVNANIAN AMERICAN MORTGAGE, L.L.C.
K. HOVNANIAN ASPIRE AT BELLEVUE RANCH M2, LLC
K. HOVNANIAN AT 77 HUDSON STREET URBAN RENEWAL COMPANY, L.L.C.
K. HOVNANIAN AT BENNETT RANCH, LLC
K. HOVNANIAN AT DELRAY BEACH, L.L.C.

K. HOVNANIAN AT HEATHERFIELD, LLC
K. HOVNANIAN AT LADD RANCH, LLC
K. HOVNANIAN AT MIDDLETOWN IV, LLC
K. HOVNANIAN AT NICHOLSON, LLC
K. HOVNANIAN AT PINNACLE PEAK PATIO, LLC
K. HOVNANIAN AT PORT IMPERIAL INVESTMENT, LLC
K. HOVNANIAN AT PORT IMPERIAL URBAN RENEWAL VI, L.L.C.
K. HOVNANIAN AT POTOMAC TRACE, LLC
K. HOVNANIAN AT SOUTHPOINTE, LLC
K. HOVNANIAN AT TRENTON II, L.L.C.
K. HOVNANIAN AT TRENTON URBAN RENEWAL, L.L.C.
K. HOVNANIAN AT VILLAGO, LLC
K. HOVNANIAN GT INVESTMENT, L.L.C.
K. HOVNANIAN GT IX INVESTMENT, LLC
K. HOVNANIAN GT V INVESTMENT, LLC
K. HOVNANIAN GT VI INVESTMENT, LLC
K. HOVNANIAN GT VII INVESTMENT, LLC
K. HOVNANIAN GT VIII INVESTMENT, LLC
K. HOVNANIAN HOMES AT PENDER OAKS, LLC
K. HOVNANIAN HOVSITE II INVESTMENT, LLC
K. HOVNANIAN HOVSITE III INVESTMENT, LLC
K. HOVNANIAN M.E. INVESTMENTS, LLC
K. HOVNANIAN NASSAU GROVE HOLDINGS, L.L.C.
K. HOVNANIAN SOLA VISTA, LLC
K. HOVNANIAN TERRA LAGO INVESTMENT, LLC
K. HOVNANIAN'S FOUR SEASONS AT KENT ISLAND, L.L.C.
K. HOVNANIAN'S FOUR SEASONS AT LAKES OF CANE BAY LLC
MILLENNIUM TITLE AGENCY, LTD.
MM-BEACHFRONT NORTH II, L.L.C.
NASSAU GROVE ENTERPRISES, L.L.C.
PORT IMPERIAL PARTNERS, LLC
TERRA LAGO INDIO LLC
VISTAS AT SILVERSTONE LLC
WHI-REPUBLIC, LLC

Legal Entity Name	State of Formation
Eastern National Title Agency Arizona, LLC	AZ
K. Hovnanian Arizona New GC, LLC	AZ
K. HOVNIANIAN ARIZONA OPERATIONS, LLC	AZ
K. Hovnanian at 23 North, LLC	AZ
K. Hovnanian at 240 Missouri, LLC	AZ
K. Hovnanian at Acacia Place, LLC	AZ
K. Hovnanian at Aire on McDowell, LLC	AZ
K. Hovnanian at Catania, LLC	AZ
K. Hovnanian at Eagle Heights, LLC	AZ
K. Hovnanian at Gallery, LLC	AZ
K. Hovnanian at Galloway Ridge, LLC	AZ
K. Hovnanian at Luke Landing, LLC	AZ
K. Hovnanian at Maryland Ridge, LLC	AZ
K. Hovnanian at Montana Vista Dobbins, LLC	AZ
K. Hovnanian at Montana Vista, LLC	AZ
K. Hovnanian at Palm Valley, L.L.C.	AZ
K. Hovnanian at Park Paseo, LLC	AZ
K. Hovnanian at Pointe 16, LLC	AZ
K. Hovnanian at Quail Creek, L.L.C.	AZ
K. Hovnanian at Rancho Cabrillo, LLC	AZ
K. Hovnanian at Scottsdale Heights, LLC	AZ
K. Hovnanian at Sienna Hills, LLC	AZ
K. Hovnanian at Silverstone G, LLC	AZ
K. Hovnanian at Silverstone, LLC	AZ
K. Hovnanian at Skye on McDowell, LLC	AZ
K. Hovnanian at Solare, LLC	AZ
K. Hovnanian at Sunrise Trail II, LLC	AZ
K. Hovnanian at Sunrise Trail III, LLC	AZ
K. Hovnanian at The Meadows 9, LLC	AZ
K. Hovnanian at The Meadows, LLC	AZ
K. Hovnanian at Union Park, LLC	AZ
K. Hovnanian at Ventana Lakes, LLC	AZ
K. Hovnanian at Verrado Cascina, LLC	AZ
K. Hovnanian at Verrado Marketside, LLC	AZ
K. Hovnanian Companies of Arizona, LLC	AZ
K. HOVNIANIAN GREAT WESTERN HOMES, LLC	AZ
K. Hovnanian Legacy at Via Bella, LLC	AZ
K. Hovnanian Phoenix Division, Inc.	AZ
K. Hovnanian Phoenix Group, LLC	AZ
K. Hovnanian's Four Seasons at The Manor II, LLC	AZ
K. Hovnanian's Four Seasons at The Manor, LLC	AZ
2700 Empire, LLC	CA
GTIS-HOV Positano LLC	CA
GTIS-HOV Rancho 79 LLC	CA
K. HOV IP, II, Inc.	CA
K. Hovnanian Aspire at Bellevue Ranch, LLC	CA
K. Hovnanian Aspire at River Terrace, LLC	CA
K. Hovnanian at Aliso, LLC	CA
K. Hovnanian at Andalusia, LLC	CA
K. Hovnanian at Bakersfield 463, L.L.C.	CA
K. Hovnanian at Beacon Park Area 129 II, LLC	CA
K. Hovnanian at Beacon Park Area 129, LLC	CA
K. Hovnanian at Beacon Park Area 137, LLC	CA
K. Hovnanian at Blackstone, LLC	CA
K. Hovnanian at Cadence Park, LLC	CA
K. HOVNIANIAN AT CAPISTRANO, L.L.C.	CA
K. Hovnanian at Carlsbad, LLC	CA
K. Hovnanian at Cedar Lane, LLC	CA
K. Hovnanian at Cielo, L.L.C.	CA
K. Hovnanian at El Dorado Ranch II, L.L.C.	CA
K. Hovnanian at El Dorado Ranch, L.L.C.	CA
K. Hovnanian at Fiddymment Ranch, LLC	CA
K. Hovnanian at Fresno, LLC	CA
K. HOVNIANIAN AT GASLAMP SQUARE, L.L.C.	CA
K. Hovnanian at Gilroy 60, LLC	CA
K. Hovnanian at Gilroy, LLC	CA
K. Hovnanian at Hidden Lake, LLC	CA
K. Hovnanian at Jaeger Ranch, LLC	CA
K. Hovnanian at La Laguna, L.L.C.	CA
K. Hovnanian at Luna Vista, LLC	CA
K. Hovnanian at Malan Park, L.L.C.	CA
K. Hovnanian at Manteca, LLC	CA

K. Hovnanian at Melanie Meadows, LLC	CA
K. Hovnanian at Meridian Hills, LLC	CA
K. Hovnanian at Muirfield, LLC	CA
K. Hovnanian at Parkside, LLC	CA
K. Hovnanian at Pavilion Park, LLC	CA
K. Hovnanian at Piazza Serena, L.L.C	CA
K. Hovnanian at Positano, LLC	CA
K. HOVNANIAN AT ROSEMARY LANTANA, L.L.C.	CA
K. Hovnanian at Santa Nella, LLC	CA
K. Hovnanian at Sheldon Grove, LLC	CA
K. Hovnanian at Sierra Vista, LLC	CA
K. Hovnanian at Skye Isle, LLC	CA
K. Hovnanian at Stanton, LLC	CA
K. Hovnanian at Sunridge Park, LLC	CA
K. Hovnanian at Thompson Ranch, LLC	CA
K. Hovnanian at Trail Ridge, LLC	CA
K. Hovnanian at Valle Del Sol, LLC	CA
K. Hovnanian at Verona Estates, LLC	CA
K. Hovnanian at Victorville, L.L.C.	CA
K. Hovnanian at Village Center, LLC	CA
K. Hovnanian at Vineyard Heights, LLC	CA
K. Hovnanian at Vista Del Sol, L.L.C.	CA
K. Hovnanian at Vista Lago, LLC	CA
K. Hovnanian at Waterstone, LLC	CA
K. Hovnanian at West View Estates, L.L.C.	CA
K. Hovnanian at Westshore, LLC	CA
K. Hovnanian at Wheeler Ranch, LLC	CA
K. Hovnanian at Woodcreek West, LLC	CA
K. Hovnanian CA Land Holdings, LLC	CA
K. Hovnanian California New GC, LLC	CA
K. Hovnanian California Operations, Inc.	CA
K. Hovnanian California Region, Inc.	CA
K. Hovnanian Communities, Inc.	CA
K. Hovnanian Companies of Southern California, Inc.	CA
K. Hovnanian Companies, LLC	CA
K. Hovnanian Enterprises, Inc.	CA
K. Hovnanian GT Investment, L.L.C.	CA
K. Hovnanian Homes Northern California, Inc.	CA
K. Hovnanian JV Holdings, L.L.C.	CA
K. Hovnanian JV Services Company, L.L.C.	CA
K. Hovnanian Meadow View at Mountain House, LLC	CA
K. Hovnanian Northeast Division, Inc.	CA
K. Hovnanian Northern California Division, LLC	CA
K. Hovnanian Operations Company, Inc.	CA
K. Hovnanian Southern California Division, LLC	CA
K. Hovnanian Terra Lago Investment, LLC	CA
K. Hovnanian's Aspire at Union Village, LLC	CA
K. HOVNANIAN'S FOUR SEASONS AT BAKERSFIELD, L.L.C.	CA
K. Hovnanian's Four Seasons at Beaumont, LLC	CA
K. Hovnanian's Four Seasons at Los Banos, LLC	CA
K. Hovnanian's Four Seasons at Moreno Valley, L.L.C.	CA
K. Hovnanian's Four Seasons at Palm Springs, LLC	CA
K. Hovnanian's Parkside at Towngate, L.L.C.	CA
K. Hovnanian's Sonata at The Preserve, LLC	CA
K. Hovnanian's Veranda at RiverPark II, LLC	CA
K. Hovnanian's Veranda at RiverPark, LLC	CA
SEABROOK ACCUMULATION CORPORATION	CA
STONEBROOK HOMES, INC.	CA
K. Hovnanian Parkview at Sterling Meadows, LLC	CA
K. Hovnanian Developments of D.C., Inc.	DC
K. Hovnanian Homes at Parkside, LLC	DC
K. Hovnanian Homes of D.C., L.L.C.	DC
GTIS-HOV Dulles Parkway Parent LLC	DE
GTIS-HOV Greenfield Crossing Parent LLC	DE
GTIS-HOV Holdings LLC	DE
Homebuyers Financial USA, LLC	DE
Hovnanian Enterprises, Inc. (PARENT COMPANY)	DE
HovSite Catalina LLC	DE
HovSite Churchill Club LLC	DE
HovSite Cider Grove LLC	DE
HovSite Firenze LLC	DE
HovSite Greenwood Manor LLC	DE
HovSite Hunt Club LLC	DE
HovSite Irish Prairie LLC	DE
HovSite Liberty Lakes LLC	DE
HovSite Monteverde 1 & 2 LLC	DE

HovSite Monteverde 3 & 4 LLC	DE
HovSite Providence LLC	DE
HovSite Southampton LLC	DE
K. Hovnanian at Ashby Place, LLC	DE
K. Hovnanian at Autumn Ridge, LLC	DE
K. Hovnanian at Brenford Station, LLC	DE
K. Hovnanian at Cedar Lane Estates, LLC	DE
K. Hovnanian at Hidden Brook, LLC	DE
K. Hovnanian at North Brunswick VI, L.L.C.	DE
K. Hovnanian at Nottingham Meadows, LLC	DE
K. Hovnanian at Ocean View Beach Club, LLC	DE
K. Hovnanian at Plantation Lakes, L.L.C.	DE
K. Hovnanian at Retreat at Millstone, LLC	DE
K. Hovnanian at Seabrook, LLC	DE
K. Hovnanian at Tower Hill, LLC	DE
K. Hovnanian Central Acquisitions, L.L.C.	DE
K. Hovnanian Delaware Division, Inc.	DE
K. Hovnanian Delaware New GC, LLC	DE
K. Hovnanian Delaware Operations, LLC	DE
K. Hovnanian GT IX Investment, LLC	DE
K. Hovnanian GT V Investment, LLC	DE
K. Hovnanian GT VI Investment, LLC	DE
K. Hovnanian GT VII Investment, LLC	DE
K. Hovnanian GT VIII Investment, LLC	DE
K. Hovnanian Hamptons at Oak Creek II, L.L.C.	DE
K. Hovnanian Homes at Knollac Acres, LLC	DE
K. Hovnanian Homes of Delaware I, LLC	DE
K. Hovnanian Homes of Longacre Village, L.L.C.	DE
K. Hovnanian HovSite II Investment, LLC	DE
K. Hovnanian HovSite III Investment, LLC	DE
K. Hovnanian M.E. Investments, LLC	DE
K. Hovnanian Nassau Grove Holdings, L.L.C.	DE
K. Hovnanian New Jersey Operations, LLC	DE
K. Hovnanian North Central Acquisitions, L.L.C.	DE
K. Hovnanian North Jersey Acquisitions, L.L.C.	DE
K. Hovnanian South Jersey Acquisitions, L.L.C.	DE
K. Hovnanian's Four Seasons at Baymont Farms L.L.C.	DE
K. Hovnanian's Four Seasons at Belle Terre, LLC	DE
K. Hovnanian's Four Seasons at Silver Maple Farm, L.L.C.	DE
KHH Shell Hall Loan Acquisition, LLC	DE
Traverse Partners, LLC	DE
Washington Homes, Inc.	DE
WTC Ventures, L.L.C.	DE
Eastern National Title Agency Florida, LLC	FL
HOVNANIAN DEVELOPMENTS OF FLORIDA, INC.	FL
Hovnanian Land Investment Group of Florida, L.L.C.	FL
K. Hovnanian Amber Glen, LLC	FL
K. HOVNANIAN ASPIRE AT WATERSTONE, LLC	FL
K. HOVNANIAN AT AVENIR, LLC	FL
K. Hovnanian at Boca Dunes, LLC	FL
K. Hovnanian at Coral Lago, LLC	FL
K. Hovnanian at Delray Beach, L.L.C.	FL
K. Hovnanian at Hampton Cove, LLC	FL
K. Hovnanian at Hilltop Reserve II, LLC	FL
K. Hovnanian at Hilltop Reserve, LLC	FL
K. Hovnanian at Lake Burden, LLC	FL
K. Hovnanian at Lake Florence, LLC	FL
K. Hovnanian at Lake LeClare, LLC	FL
K. Hovnanian at Mystic Dunes, LLC	FL
K. Hovnanian at Pickett Reserve, LLC	FL
K. Hovnanian at Redtail, LLC	FL
K. Hovnanian at Spring Isle, LLC	FL
K. Hovnanian at Summerlake, LLC	FL
K. Hovnanian at Terra Bella Two, LLC	FL
K. Hovnanian at The Highlands at Summerlake Grove, LLC	FL
K. Hovnanian at Valletta, LLC	FL
K. Hovnanian at Walkers Grove, LLC	FL
K. Hovnanian Belmont Reserve, LLC	FL
K. Hovnanian Cambridge Homes, L.L.C.	FL
K. Hovnanian Companies of Florida, LLC	FL
K. Hovnanian Cypress Creek, LLC	FL
K. Hovnanian Cypress Key, LLC	FL
K. Hovnanian Estates at Wekiva, LLC	FL
K. HOVNANIAN FIRST HOMES, L.L.C.	FL
K. Hovnanian Florida New GC, LLC	FL
K. HOVNANIAN FLORIDA OPERATIONS, LLC	FL

K. Hovnanian Florida Realty, L.L.C.	FL
K. Hovnanian Grand Cypress, LLC	FL
K. Hovnanian Grandefield, LLC	FL
K. Hovnanian Homes of Florida I, LLC	FL
K. Hovnanian Ivy Trail, LLC	FL
K. Hovnanian Lake Griffin Reserve, LLC	FL
K. Hovnanian Lake Parker, LLC	FL
K. Hovnanian Magnolia at Westside, LLC	FL
K. Hovnanian Montclair Estates, LLC	FL
K. Hovnanian Ocoee Landings, LLC	FL
K. Hovnanian Orlando Division, LLC	FL
K. Hovnanian Osprey Ranch, LLC	FL
K. Hovnanian Pinewood Reserve, LLC	FL
K. HOVNANIAN PRESERVE AT TURTLE CREEK LLC	FL
K. Hovnanian Reynolds Ranch, LLC	FL
K. Hovnanian Riverside, LLC	FL
K. Hovnanian Rivington, LLC	FL
K. Hovnanian San Sebastian, LLC	FL
K. Hovnanian Sereno, LLC	FL
K. Hovnanian South Fork, LLC	FL
K. Hovnanian Southeast Florida Division, LLC	FL
K. Hovnanian Sterling Ranch, LLC	FL
K. Hovnanian T&C Homes at Florida, L.L.C.	FL
K. Hovnanian TerraLargo, LLC	FL
K. Hovnanian Union Park, LLC	FL
K. Hovnanian Winding Bay Preserve, LLC	FL
K. HOVNANIAN WINDWARD HOMES, LLC	FL
KHOV WINDING BAY II, LLC	FL
LINKS AT CALUSA SPRINGS, LLC	FL
K. Hovnanian at The Commons at Richmond Hill, LLC	GA
K. Hovnanian at Westbrook, LLC	GA
K. Hovnanian Developments of Georgia, Inc.	GA
K. Hovnanian Georgia New GC, LLC	GA
K. Hovnanian Georgia Operations, LLC	GA
K. HOVNANIAN HOMES AT CREEKSIDE, LLC	GA
Amber Ridge, LLC	IL
Arbor Trails, LLC	IL
EASTERN NATIONAL TITLE AGENCY ILLINOIS, LLC	IL
Glenrise Grove, L.L.C.	IL
K. Hovnanian at Amberley Woods, LLC	IL
K. Hovnanian at Ashley Pointe LLC	IL
K. Hovnanian at Bradwell Estates, LLC	IL
K. Hovnanian at Christina Court, LLC	IL
K. Hovnanian at Churchill Farms LLC	IL
K. Hovnanian at Deer Ridge, LLC	IL
K. Hovnanian at Estates of Fox Chase, LLC	IL
K. Hovnanian at Fairfield Ridge, LLC	IL
K. Hovnanian at Grande Park, LLC	IL
K. Hovnanian at Hanover Estates, LLC	IL
K. Hovnanian at Island Lake, LLC	IL
K. Hovnanian at Link Crossing, LLC	IL
K. Hovnanian at Maple Hill LLC	IL
K. Hovnanian at Meadowridge Villas, LLC	IL
K. Hovnanian at North Grove Crossing, LLC	IL
K. Hovnanian at North Pointe Estates LLC	IL
K. Hovnanian at Northridge Estates, LLC	IL
K. Hovnanian at Orchard Meadows, LLC	IL
K. Hovnanian at Prairie Pointe, LLC	IL
K. Hovnanian at Randall Highlands, LLC	IL
K. Hovnanian at River Hills, LLC	IL
K. Hovnanian at Sagebrook, LLC	IL
K. HOVNANIAN AT SILVER LEAF, LLC	IL
K. Hovnanian at Silverwood Glen, LLC	IL
K. Hovnanian at Somerset, LLC	IL
K. HOVNANIAN AT TAMARACK SOUTH LLC	IL
K. Hovnanian at Tanglewood Oaks, LLC	IL
K. Hovnanian at Trafford Place, LLC	IL
K. Hovnanian at Tramore LLC	IL
K. Hovnanian Chicago Division, Inc.	IL
K. Hovnanian Estates at Regency, L.L.C.	IL
K. HOVNANIAN ILLINOIS NEW GC, LLC	IL
K. HOVNANIAN ILLINOIS OPERATIONS, LLC	IL
K. Hovnanian T&C Homes at Illinois, L.L.C.	IL
K. HOVNANIAN VILLAS AT THE COMMONS, LLC	IL
K. Hovnanian's Four Seasons at Briargate, LLC	IL
K. Hovnanian's Four Seasons at New Lenox, LLC	IL

K. Hovnanian at Norton Lake LLC	IL
Eastern National Title Agency Maryland, LLC	MD
GTIS-HOV Villages at Pepper Mill LLC	MD
Homebuyers Financial Services, L.L.C.	MD
Hovnanian Land Investment Group of Maryland, L.L.C.	MD
Hovnanian Land Investment Group, L.L.C.	MD
K. Hovnanian at Brittany Manor, LLC	MD
K. Hovnanian at Caton's Reserve, LLC	MD
K. Hovnanian at Eden Terrace, L.L.C.	MD
K. Hovnanian at Roderuck, L.L.C.	MD
K. Hovnanian at Wade's Grant, L.L.C.	MD
K. Hovnanian Brittany Manor Borrower, LLC	MD
K. HOVNANIAN COMPANIES OF MARYLAND, INC.	MD
K. Hovnanian D.C. Group, LLC	MD
K. Hovnanian Homes at Greenway Farm, L.L.C.	MD
K. Hovnanian Homes at Jones Station 1, L.L.C.	MD
K. Hovnanian Homes at Russett, L.L.C.	MD
K. Hovnanian Homes at the Highlands, LLC	MD
K. Hovnanian Homes of Maryland I, LLC	MD
K. Hovnanian Homes of Maryland II, LLC	MD
K. Hovnanian Homes of Maryland, L.L.C.	MD
K. Hovnanian Maryland Division, LLC	MD
K. Hovnanian Maryland Region, Inc.	MD
K. Hovnanian's Four Seasons at Kent Island II, LLC	MD
K. Hovnanian's Four Seasons at St. Margarets Landing, L.L.C.	MD
Pine Ayr, LLC	MD
Ridgemore Utility L.L.C.	MD
K. Hovnanian Developments of Minnesota, Inc.	MN
K. Hovnanian Homes of Minnesota at Arbor Creek, LLC	MN
K. Hovnanian Homes of Minnesota at Autumn Meadows, LLC	MN
K. Hovnanian Homes of Minnesota at Brynwood, LLC	MN
K. Hovnanian Homes of Minnesota at Cedar Hollow, LLC	MN
K. Hovnanian Homes of Minnesota at Founder's Ridge, LLC	MN
K. Hovnanian Homes of Minnesota at Harpers Street Woods, LLC	MN
K. Hovnanian Homes of Minnesota at Oaks of Oxbow, LLC	MN
K. Hovnanian Homes of Minnesota at Regent's Point, LLC	MN
K. Hovnanian Homes of Minnesota, L.L.C.	MN
K. Hovnanian Liberty on Bluff Creek, LLC	MN
K. Hovnanian Timbres at Elm Creek, LLC	MN
K. Hovnanian's Four Seasons at Rush Creek II, LLC	MN
K. Hovnanian's Four Seasons at Rush Creek, L.L.C.	MN
K. Hovnanian at Burch Kove, LLC	NC
K. Hovnanian at Indian Wells, LLC	NC
K. Hovnanian at Lily Orchard, LLC	NC
K. Hovnanian at Main Street Square, LLC	NC
K. Hovnanian at Oak Pointe, LLC	NC
K. Hovnanian at The Promenade at Beaver Creek, LLC	NC
K. Hovnanian at Wheeler Woods, LLC	NC
K. Hovnanian Developments of North Carolina, Inc.	NC
K. Hovnanian Homes at Brook Manor, LLC	NC
K. Hovnanian Homes at Reedy Creek, LLC	NC
K. HOVNANIAN HOMES OF NORTH CAROLINA, INC.	NC
K. Hovnanian Sherwood at Regency, LLC	NC
Builder Services NJ, L.L.C.	NJ
Eastern National Title Agency, Inc.	NJ
F&W MECHANICAL SERVICES, L.L.C.	NJ
K. HOVNANIAN 77 HUDSON STREET INVESTMENTS, L.L.C.	NJ
K. Hovnanian Acquisitions, Inc.	NJ
K. Hovnanian American Mortgage, L.L.C.	NJ
K. HOVNANIAN ASPIRE AT MORRIS WOODS, LLC	NJ
K. Hovnanian at Asbury Park Urban Renewal, LLC	NJ
K. HOVNANIAN AT BALTIC & AEGEAN ASBURY PARK, LLC	NJ
K. Hovnanian at Barnegat II, L.L.C.	NJ
K. Hovnanian at Branchburg II, LLC	NJ
K. Hovnanian at Branchburg, L.L.C.	NJ
K. Hovnanian at Branchburg-Vollers, LLC	NJ
K. Hovnanian at Bridgewater I, L.L.C.	NJ
K. Hovnanian at Cedar Grove III, L.L.C.	NJ
K. Hovnanian at Chesterfield, L.L.C.	NJ
K. Hovnanian at Dunellen Urban Renewal, LLC	NJ
K. Hovnanian at East Brunswick III, LLC	NJ
K. Hovnanian at East Brunswick, LLC	NJ
K. Hovnanian at East Windsor, LLC	NJ
K. Hovnanian at Egg Harbor Township II, L.L.C.	NJ
K. Hovnanian at Fifth Avenue, L.L.C.	NJ
K. Hovnanian at Florence I, L.L.C.	NJ

K. Hovnanian at Florence II, L.L.C.	NJ
K. Hovnanian at Franklin II, L.L.C.	NJ
K. Hovnanian at Franklin, L.L.C.	NJ
K. Hovnanian at Freehold Township III, LLC	NJ
K. Hovnanian at Great Notch, L.L.C.	NJ
K. Hovnanian at Hackettstown II, L.L.C.	NJ
K. Hovnanian at Hillsborough, LLC	NJ
K. Hovnanian at Howell Fort Plains, LLC	NJ
K. Hovnanian at Howell II, LLC	NJ
K. Hovnanian at Howell, LLC	NJ
K. HOVNANIAN AT HUDSON POINTE, L.L.C.	NJ
K. Hovnanian at Jackson I, L.L.C.	NJ
K. Hovnanian at Jackson, L.L.C.	NJ
K. Hovnanian at Little Egg Harbor Township II, L.L.C.	NJ
K. Hovnanian at Manalapan Crossing, LLC	NJ
K. Hovnanian at Manalapan II, L.L.C.	NJ
K. Hovnanian at Manalapan III, L.L.C.	NJ
K. Hovnanian at Manalapan IV, LLC	NJ
K. HOVNANIAN AT MANALAPAN RIDGE, LLC	NJ
K. Hovnanian at Manalapan V, LLC	NJ
K. Hovnanian at Manalapan VI, LLC	NJ
K. Hovnanian at Maple Avenue, L.L.C.	NJ
K. Hovnanian at Marlboro Township IX, L.L.C.	NJ
K. Hovnanian at Marlboro Township V, L.L.C.	NJ
K. Hovnanian at Marlboro VI, L.L.C.	NJ
K. Hovnanian at Middle Township II, L.L.C.	NJ
K. Hovnanian at Middletown III, LLC	NJ
K. Hovnanian at Millville II, L.L.C.	NJ
K. Hovnanian at Monroe IV, L.L.C.	NJ
K. Hovnanian at Monroe NJ II, LLC	NJ
K. Hovnanian at Monroe NJ III, LLC	NJ
K. Hovnanian at Monroe NJ, L.L.C.	NJ
K. Hovnanian at Montgomery, LLC	NJ
K. Hovnanian at Montvale II, LLC	NJ
K. Hovnanian at Montvale, L.L.C.	NJ
K. Hovnanian at Morris Twp II, LLC	NJ
K. Hovnanian at Morris Twp, LLC	NJ
K. Hovnanian at North Bergen. L.L.C.	NJ
K. Hovnanian at North Caldwell II, L.L.C.	NJ
K. Hovnanian at North Caldwell III, L.L.C.	NJ
K. Hovnanian at North Caldwell IV, L.L.C.	NJ
K. Hovnanian at North Wildwood, L.L.C.	NJ
K. Hovnanian at Oakland, LLC	NJ
K. Hovnanian at Oceanport, L.L.C.	NJ
K. Hovnanian at Old Bridge II, LLC	NJ
K. Hovnanian at Old Bridge, L.L.C.	NJ
K. Hovnanian at Port Imperial Investment, LLC	NJ
K. Hovnanian at Port Imperial Urban Renewal II, L.L.C.	NJ
K. Hovnanian at Port Imperial Urban Renewal III, L.L.C.	NJ
K. HOVNANIAN AT PORT IMPERIAL URBAN RENEWAL V, L.L.C.	NJ
K. HOVNANIAN AT PORT IMPERIAL URBAN RENEWAL VIII, L.L.C.	NJ
K. Hovnanian at Ridgemont, L.L.C.	NJ
K. Hovnanian at Rock Ledge, LLC	NJ
K. Hovnanian at Shrewsbury, LLC	NJ
K. Hovnanian at Smithville, Inc.	NJ
K. Hovnanian at South Brunswick II, LLC	NJ
K. Hovnanian at South Brunswick III, LLC	NJ
K. Hovnanian at South Brunswick IV, LLC	NJ
K. Hovnanian at Station Square, L.L.C.	NJ
K. Hovnanian at The Monarch, L.L.C.	NJ
K. Hovnanian at Trenton II, L.L.C.	NJ
K. Hovnanian at Trenton Urban Renewal, L.L.C.	NJ
K. HOVNANIAN AT VERONA URBAN RENEWAL, L.L.C.	NJ
K. Hovnanian at Villages at Country View, LLC	NJ
K. Hovnanian at Wall Donato, LLC	NJ
K. Hovnanian at Wall Quail Ridge, LLC	NJ
K. Hovnanian at Warren Township II, LLC	NJ
K. Hovnanian at Warren Township, L.L.C.	NJ
K. Hovnanian at Wildwood Bayside, L.L.C.	NJ
K. Hovnanian at Woolwich I, L.L.C.	NJ
K. Hovnanian Construction II, Inc	NJ
K. HOVNANIAN EDISON GROUP, LLC	NJ
K. HOVNANIAN FINANCIAL SERVICES GROUP, LLC	NJ
K. Hovnanian Holdings NJ, L.L.C.	NJ
K. Hovnanian Manalapan Acquisition, LLC	NJ
K. HOVNANIAN NEW JERSEY NEW GC, LLC	NJ

K. Hovnanian Northeast Services, L.L.C.	NJ
K. Hovnanian Port Imperial Urban Renewal, Inc.	NJ
K. Hovnanian Properties of Red Bank, LLC	NJ
K. Hovnanian Southern New Jersey, L.L.C.	NJ
K. Hovnanian Venture I, L.L.C.	NJ
K. Hovnanian's Cove at Asbury Park, LLC	NJ
K. Hovnanian's Four Seasons at Bella Vista, LLC	NJ
K. HOVNANIAN'S FOUR SEASONS AT COLTS FARM, LLC	NJ
K. Hovnanian's Prospect Place at Morristown, LLC	NJ
K. Hovnanian's Woodlands at Freehold, LLC	NJ
LANDARAMA, INC.	NJ
M & M at Monroe Woods, L.L.C.	NJ
M&M at Chesterfield, L.L.C.	NJ
M&M at Crescent Court, L.L.C.	NJ
M&M at West Orange, L.L.C.	NJ
Matzel & Mumford at Egg Harbor, L.L.C.	NJ
MCNJ, Inc.	NJ
MM-Beachfront North I, LLC	NJ
Route 1 and Route 522, L.L.C.	NJ
Terrapin Realty, L.L.C.	NJ
The Matzel & Mumford Organization, Inc	NJ
K. Hovnanian at Waldwick, LLC	NJ
K. Hovnanian Classics, L.L.C.	NJ
K. HOVNANIAN COMPANIES OF NEW YORK, INC.	NY
K. Hovnanian Developments of New York, Inc.	NY
K. Hovnanian Aberdeen, LLC	OH
K. Hovnanian Asbury Pointe, LLC	OH
K. Hovnanian Belden Pointe, LLC	OH
K. Hovnanian Build on Your Lot Division, LLC	OH
K. Hovnanian Cornerstone Farms, LLC	OH
K. Hovnanian Edgebrook, LLC	OH
K. Hovnanian Falls Pointe, LLC	OH
K. Hovnanian Forest Lakes, LLC	OH
K. Hovnanian Forest Valley, LLC	OH
K. Hovnanian Four Seasons at Chestnut Ridge, LLC	OH
K. Hovnanian Hidden Hollow, LLC	OH
K. Hovnanian Highland Ridge, LLC	OH
K. Hovnanian Indian Trails, LLC	OH
K. Hovnanian LaDue Reserve, LLC	OH
K. Hovnanian Lakes of Green, LLC	OH
K. Hovnanian Landings 40s, LLC	OH
K. Hovnanian Meadow Lakes, LLC	OH
K. Hovnanian Monarch Grove, LLC	OH
K. Hovnanian Northern Ohio Division, LLC	OH
K. Hovnanian Northpointe 40s, LLC	OH
K. Hovnanian Norton Place, LLC	OH
K. Hovnanian Ohio New GC, LLC	OH
K. Hovnanian Ohio Realty, L.L.C.	OH
K. Hovnanian Ohio Region, Inc.	OH
K. Hovnanian Redfern Trails, LLC	OH
K. Hovnanian Rivendale, LLC	OH
K. Hovnanian Schady Reserve, LLC	OH
K. Hovnanian Village Glen, LLC	OH
K. Hovnanian Waterbury, LLC	OH
K. Hovnanian White Road, LLC	OH
K. Hovnanian Woodland Pointe, LLC	OH
MIDWEST BUILDING PRODUCTS & CONTRACTOR SERVICES, L.L.C.	OH
New Home Realty, LLC	OH
K. HOVNANIAN OHIO OPERATIONS, LLC	OH
K. Hovnanian Woodridge Place, LLC	OH
Builder Services PA, L.L.C.	PA
Eastern National Abstract, Inc.	PA
GTIS-HOV Warminster LLC	PA
K. Hovnanian at Allentown, L.L.C.	PA
K. HOVNANIAN AT CAMP HILL, L.L.C.	PA
K. Hovnanian at Doylestown, LLC	PA
K. Hovnanian at Hershey's Mill, Inc.	PA
K. Hovnanian at Lower Macungie Township I, L.L.C.	PA
K. Hovnanian at Lower Macungie Township II, L.L.C.	PA
K. Hovnanian at Lower Makefield Township I, L.L.C.	PA
K. Hovnanian at Middletown, LLC	PA
K. Hovnanian at Northampton, L.L.C.	PA
K. HOVNANIAN AT PHILADELPHIA I, L.L.C.	PA
K. HOVNANIAN AT RAPHO, L.L.C	PA
K. Hovnanian at Sawmill, Inc.	PA
K. Hovnanian at Silver Spring, L.L.C.	PA

K. Hovnanian at Upper Uwchlan II, L.L.C.	PA
K. Hovnanian at Upper Uwchlan, L.L.C.	PA
K. Hovnanian at Whitemarsh, LLC	PA
K. Hovnanian Developments of Pennsylvania, Inc.	PA
K. Hovnanian Eastern Pennsylvania, L.L.C.	PA
K. HOVNaNIAN HOMES OF PENNSYLVANIA, L.L.C.	PA
K. Hovnanian PA Real Estate, Inc.	PA
K. Hovnanian Pennsylvania Build on Your Lot Division, LLC	PA
K. Hovnanian Pennsylvania New GC, LLC	PA
K. Hovnanian Pennsylvania Operations, LLC	PA
Midwest Building Products & Contractor Services of Pennsylvania, L.L.C.	PA
K. Hovnanian at Upper Providence, LLC	PA
K. Hovnanian at Coosaw Point, LLC	SC
K. Hovnanian at Fox Path at Hampton Lake, LLC	SC
K. Hovnanian at Hammock Breeze, LLC	SC
K. Hovnanian at Hampton Lake, LLC	SC
K. Hovnanian at Lakes at New Riverside, LLC	SC
K. Hovnanian at Liberty Hill Farm, LLC	SC
K. Hovnanian at Magnolia Place, LLC	SC
K. Hovnanian at Pinckney Farm, LLC	SC
K. Hovnanian CraftBuilt Homes of South Carolina, L.L.C.	SC
K. Hovnanian Homes at Salt Creek Landing, LLC	SC
K. Hovnanian Homes at Shell Hall, LLC	SC
K. Hovnanian Homes at St. James Place, LLC	SC
K. Hovnanian Homes at The Abby, LLC	SC
K. Hovnanian Homes at The Paddocks, LLC	SC
K. Hovnanian South Carolina New GC, LLC	SC
K. Hovnanian South Carolina Operations, LLC	SC
K. Hovnanian Southeast Coastal Division, Inc.	SC
K. Hovnanian's Four Seasons at Carolina Oaks, LLC	SC
K. Hovnanian's Four Seasons at Malind Bluff, LLC	SC
Shell Hall Club Amenity Acquisition, LLC	SC
Shell Hall Land Acquisition, LLC	SC
Eastern National Title Agency Texas, Inc.	TX
K. Hovnanian Developments of Texas, Inc.	TX
K. Hovnanian DFW Auburn Farms, LLC	TX
K. Hovnanian DFW Bayside, LLC	TX
K. Hovnanian DFW Belmont, LLC	TX
K. Hovnanian DFW Berkshire II, LLC	TX
K. Hovnanian DFW Berkshire, LLC	TX
K. Hovnanian DFW Bluff Creek, LLC	TX
K. Hovnanian DFW Calloway Trails, LLC	TX
K. Hovnanian DFW Canyon Falls, LLC	TX
K. Hovnanian DFW Carillon, LLC	TX
K. Hovnanian DFW Commodore at Preston, LLC	TX
K. Hovnanian DFW Courts at Bonnie Brae, LLC	TX
K. Hovnanian DFW Creekside Estates II, LLC	TX
K. Hovnanian DFW Diamond Creek Estates, LLC	TX
K. Hovnanian DFW Division, LLC	TX
K. Hovnanian DFW Encore of Las Colinas II, LLC	TX
K. Hovnanian DFW Encore of Las Colinas, LLC	TX
K. Hovnanian DFW Harmon Farms, LLC	TX
K. Hovnanian DFW Heritage Crossing, LLC	TX
K. Hovnanian DFW Heron Pond, LLC	TX
K. Hovnanian DFW High Pointe, LLC	TX
K. Hovnanian DFW Hightower, LLC	TX
K. Hovnanian DFW Homestead, LLC	TX
K. Hovnanian DFW Inspiration, LLC	TX
K. Hovnanian DFW Lexington, LLC	TX
K. Hovnanian DFW Liberty Crossing II, LLC	TX
K. Hovnanian DFW Liberty Crossing, LLC	TX
K. Hovnanian DFW Liberty, LLC	TX
K. Hovnanian DFW Light Farms II, LLC	TX
K. Hovnanian DFW Light Farms, LLC	TX
K. Hovnanian DFW Maxwell Creek, LLC	TX
K. Hovnanian DFW Midtown Park, LLC	TX
K. Hovnanian DFW Milrany Ranch, LLC	TX
K. Hovnanian DFW Mustang Lakes II, LLC	TX
K. Hovnanian DFW Mustang Lakes, LLC	TX
K. Hovnanian DFW Oakmont Park, LLC	TX
K. Hovnanian DFW Palisades, LLC	TX
K. Hovnanian DFW Parkside, LLC	TX
K. Hovnanian DFW Parkview, LLC	TX
K. Hovnanian DFW Richwoods, LLC	TX
K. Hovnanian DFW Ridgeview, LLC	TX
K. Hovnanian DFW Sanford Park, LLC	TX

K. Hovnanian DFW Seventeen Lakes, LLC	TX
K. Hovnanian DFW The Parks at Rosehill, LLC	TX
K. Hovnanian DFW Trailwood II, LLC	TX
K. Hovnanian DFW Trailwood, LLC	TX
K. Hovnanian DFW Villas at Mustang Park, LLC	TX
K. Hovnanian DFW Villas at The Station, LLC	TX
K. Hovnanian DFW Watson Creek, LLC	TX
K. Hovnanian DFW Wellington Villas, LLC	TX
K. Hovnanian DFW Wellington, LLC	TX
K. Hovnanian DFW Wildridge, LLC	TX
K. Hovnanian Homes - DFW II, L.L.C.	TX
K. Hovnanian Homes - DFW, L.L.C.	TX
K. Hovnanian Houston Bayou Oaks at West Orem, LLC	TX
K. Hovnanian Houston Cambridge Heights, LLC	TX
K. Hovnanian Houston City Heights, LLC	TX
K. Hovnanian Houston Creek Bend, LLC	TX
K. Hovnanian Houston Division, LLC	TX
K. Hovnanian Houston Dry Creek Village, LLC	TX
K. Hovnanian Houston Eldridge Park, LLC	TX
K. Hovnanian Houston Greatwood Lake, LLC	TX
K. Hovnanian Houston Katy Pointe, LLC	TX
K. Hovnanian Houston Lakes of Bella Terra West, LLC	TX
K. Hovnanian Houston Laurel Glen, LLC	TX
K. Hovnanian Houston Magnolia Creek, LLC	TX
K. Hovnanian Houston Midtown Park I, LLC	TX
K. Hovnanian Houston Park Lakes East, LLC	TX
K. Hovnanian Houston Parkway Trails, LLC	TX
K. Hovnanian Houston Property I, LLC	TX
K. Hovnanian Houston Property II, LLC	TX
K. Hovnanian Houston River Farms, LLC	TX
K. Hovnanian Houston Sunset Ranch, LLC	TX
K. Hovnanian Houston Terra Del Sol, LLC	TX
K. Hovnanian Houston Thunder Bay Subdivision, LLC	TX
K. Hovnanian Houston Tranquility Lake Estates, LLC	TX
K. Hovnanian Houston Woodshore, LLC	TX
K. Hovnanian of Houston II, L.L.C.	TX
K. Hovnanian of Houston III, L.L.C.	TX
K. Hovnanian Texas Operations New, LLC	TX
K. Hovnanian Texas Operations, LLC	TX
PARK TITLE COMPANY, LLC	TX
K. Hovnanian DFW Creekside Estates, LLC	TX
Eastern National Title Agency Virginia, Inc.	VA
GTIS-HOV Festival Lakes LLC	VA
GTIS-HOV Residences at Dulles Parkway LLC	VA
GTIS-HOV Residences at Greenfield Crossing LLC	VA
K. Hovnanian at Alexander Lakes, LLC	VA
K. Hovnanian at Bensen's Mill Estates, LLC	VA
K. Hovnanian at Canter V, LLC	VA
K. Hovnanian at Dominion Crossing, LLC	VA
K. Hovnanian at Embrey Mill Village, LLC	VA
K. Hovnanian at Embrey Mill, LLC	VA
K. Hovnanian at Estates at Wheatlands, LLC	VA
K. Hovnanian at Estates of Chancellorsville, LLC	VA
K. Hovnanian at Highland Park, LLC	VA
K. Hovnanian at Holly Ridge, LLC	VA
K. Hovnanian at Hunter's Pond, LLC	VA
K. Hovnanian at Jacks Run, LLC	VA
K. Hovnanian at Lake Ridge Estates, LLC	VA
K. Hovnanian at Lee Square, L.L.C.	VA
K. Hovnanian at Lenah Woods, LLC	VA
K. Hovnanian at Madison Square, LLC	VA
K. Hovnanian at Melody Farm, LLC	VA
K. Hovnanian at North Hill, LLC	VA
K. Hovnanian at Pelham's Reach, LLC	VA
K. Hovnanian at Raymond Farm, LLC	VA
K. Hovnanian at Reserves at Wheatlands, LLC	VA
K. Hovnanian at Residence at Discovery Square, LLC	VA
K. Hovnanian at Rockland Village Green, LLC	VA
K. Hovnanian at Rocky Run Village, LLC	VA
K. Hovnanian at Seasons Landing, LLC	VA
K. Hovnanian at Signal Hill, LLC	VA
K. Hovnanian at The Boulevards at Westfields, LLC	VA
K. Hovnanian at Townes at County Center, LLC	VA
K. Hovnanian at Village of Round Hill, LLC	VA
K. Hovnanian at Waterford, LLC	VA
K. Hovnanian at Wellsprings, LLC	VA

K. Hovnanian at Willowsford Greens III, LLC	VA
K. Hovnanian Homes at Burke Junction, LLC	VA
K. Hovnanian Homes at Leigh Mill, LLC	VA
K. Hovnanian Homes at Thompson's Grant, LLC	VA
K. Hovnanian Homes at Willowsford Grange, LLC	VA
K. Hovnanian Homes at Willowsford Grant II, LLC	VA
K. Hovnanian Homes at Willowsford Grant, LLC	VA
K. Hovnanian Homes at Willowsford Greens, LLC	VA
K. Hovnanian Homes at Willowsford New, LLC	VA
K. Hovnanian Homes of Virginia I, LLC	VA
K. Hovnanian Summit Holdings, L.L.C.	VA
K. Hovnanian Virginia Division, Inc.	VA
K. Hovnanian Virginia New GC, LLC	VA
K. Hovnanian Virginia Operations, Inc.	VA
K. Hovnanian's Four Seasons at New Kent Vineyards, L.L.C.	VA
K. Hovnanian's Four Seasons at Virginia Crossing, LLC	VA
K. Hovnanian at Huntfield, LLC	WV
K. Hovnanian Developments of West Virginia, Inc.	WV
K. Hovnanian Homes at Shenandoah Springs, LLC	WV
K. Hovnanian West Virginia Build on Your Lot Division, LLC	WV
K. Hovnanian West Virginia New GC, LLC	WV
K. Hovnanian West Virginia Operations, LLC	WV
Midwest Building Products & Contractor Services of West Virginia, L.L.C.	WV

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in the following Registration Statements of our report dated December 19, 2019, relating to the consolidated financial statements of Hovnanian Enterprises, Inc. and subsidiaries (the “Company”), and the effectiveness of the Company’s internal control over financial reporting appearing in this Annual Report on Form 10-K of Hovnanian Enterprises, Inc. for the year ended October 31, 2019:

1. Registration Statements Nos. 333-113758, 333-106756, and 333-92977 on Form S-8 pertaining to the Amended and Restated 2008 Hovnanian Enterprises, Inc. Stock Incentive Plan (which superseded and replaced the Amended and Restated 1999 Hovnanian Enterprises, Inc. Stock Incentive Plan), and Hovnanian Enterprises, Inc. Senior Executive Short-Term Incentive Plan, as amended and restated;
2. Registration Statement No. 333-56972 on Form S-8 pertaining to the Hovnanian Enterprises, Inc. 1983 Stock Option Plan as amended and restated;
3. Registration Statement No. 333-56640 on Form S-8 pertaining to the Washington Homes Employee Stock Option Plan;
4. Registration Statement No. 333-180668 on Form S-8 pertaining to the 2012 Hovnanian Enterprises, Inc. Stock Incentive Plan; and
5. Registration Statement Nos. 333-194542, 333-210218 and 333-230417 on Form S-8 pertaining to the 2012 Hovnanian Enterprises, Inc. Amended and Restated Stock Incentive Plan.

/s/ Deloitte & Touche LLP

New York, New York
December 19, 2019

CONSENT OF INDEPENDENT AUDITORS

We consent to the incorporation by reference in the following Registration Statements of our report dated December 19, 2019, relating to the consolidated financial statements of GTIS-HOV Holdings V LLC and its subsidiaries as of October 31, 2019 and 2018, and for each of the three years in the period ended October 31, 2019, appearing in this Annual Report on Form 10-K of Hovnanian Enterprises, Inc. for the year ended October 31, 2019:

1. Registration Statements Nos. 333-113758, 333-106756, and 333-92977 on Form S-8 pertaining to the Amended and Restated 2008 Hovnanian Enterprises, Inc. Stock Incentive Plan (which superseded and replaced the Amended and Restated 1999 Hovnanian Enterprises, Inc. Stock Incentive Plan), and Hovnanian Enterprises, Inc. Senior Executive Short-Term Incentive Plan, as amended and restated;
2. Registration Statement No. 333-56972 on Form S-8 pertaining to the Hovnanian Enterprises, Inc. 1983 Stock Option Plan as amended and restated;
3. Registration Statement No. 333-56640 on Form S-8 pertaining to the Washington Homes Employee Stock Option Plan;
4. Registration Statement No. 333-180668 on Form S-8 pertaining to the 2012 Hovnanian Enterprises, Inc. Stock Incentive Plan; and
5. Registration Statement Nos. 333-194542, 333-210218 and 333-230417 on Form S-8 pertaining to the 2012 Hovnanian Enterprises, Inc. Amended and Restated Stock Incentive Plan.

/s/ Deloitte & Touche LLP

New York, New York
December 19, 2019

CONSENT OF INDEPENDENT AUDITORS

We consent to the incorporation by reference in the following Registration Statements of our report dated December 19, 2019, relating to the consolidated financial statements of GTIS-HOV Holdings VI LLC and its subsidiaries as of October 31, 2019 and 2018, and for the years then ended, and for the period from February 24, 2017 (date of inception) through October 31, 2017, appearing in this Annual Report on Form 10-K of Hovnanian Enterprises, Inc. for the year ended October 31, 2019:

1. Registration Statements Nos. 333-113758, 333-106756, and 333-92977 on Form S-8 pertaining to the Amended and Restated 2008 Hovnanian Enterprises, Inc. Stock Incentive Plan (which superseded and replaced the Amended and Restated 1999 Hovnanian Enterprises, Inc. Stock Incentive Plan), and Hovnanian Enterprises, Inc. Senior Executive Short-Term Incentive Plan, as amended and restated;
2. Registration Statement No. 333-56972 on Form S-8 pertaining to the Hovnanian Enterprises, Inc. 1983 Stock Option Plan as amended and restated;
3. Registration Statement No. 333-56640 on Form S-8 pertaining to the Washington Homes Employee Stock Option Plan;
4. Registration Statement No. 333-180668 on Form S-8 pertaining to the 2012 Hovnanian Enterprises, Inc. Stock Incentive Plan; and
5. Registration Statement Nos. 333-194542, 333-210218 and 333-230417 on Form S-8 pertaining to the 2012 Hovnanian Enterprises, Inc. Amended and Restated Stock Incentive Plan.

/s/ Deloitte & Touche LLP

New York, New York
December 19, 2019

CERTIFICATIONS
Exhibit 31(a)

I, Ara K. Hovnanian, certify that:

1. I have reviewed this Annual Report on Form 10-K for the year ended October 31, 2019 of Hovnanian Enterprises, Inc. (the “registrant”);
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant’s other certifying officer 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: December 19, 2019

/s/ARA K. HOVNANIAN

Ara K. Hovnanian

Chairman, President and Chief Executive Officer

CERTIFICATIONS
Exhibit 31(b)

I, J. Larry Sorsby, certify that:

1. I have reviewed this Annual Report on Form 10-K for the year ended October 31, 2019 of Hovnanian Enterprises, Inc. (the “registrant”);
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant’s other certifying officer 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: December 19, 2019

/s/J. LARRY SORSBY

J. Larry Sorsby

Executive Vice President and Chief Financial Officer

Exhibit 32(a)

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

In connection with the Annual Report of Hovnanian Enterprises, Inc. (the "Company") on Form 10-K for the year ended October 31, 2019 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Ara K. Hovnanian, President and Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 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 condition and results of operations of the Company.

Date: December 19, 2019

/s/ARA K. HOVNANIAN

Ara K. Hovnanian

Chairman, President and Chief Executive Officer

Exhibit 32(b)

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

In connection with the Annual Report of Hovnanian Enterprises, Inc. (the "Company") on Form 10-K for the year ended October 31, 2019 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, J. Larry Sorsby, Executive Vice President and Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 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 condition and results of operations of the Company.

Date: December 19, 2019

/s/J. LARRY SORSBY

J. Larry Sorsby

Executive Vice President and Chief Financial Officer

CONSOLIDATED FINANCIAL STATEMENTS

GTIS-HOV Holdings V LLC

As Of And For The Years Ended October 31, 2019 And 2018
And 2017 And Independent Auditors' Report

GTIS-HOV Holdings V LLC

Consolidated Financial Statements

As Of And For The Years Ended October 31, 2019 And 2018 And 2017

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INDEPENDENT AUDITORS' REPORT

To the Members of

GTIS-HOV Holdings V LLC

Matawan, New Jersey

We have audited the accompanying consolidated financial statements of GTIS-HOV Holdings V LLC and its subsidiaries (the "Company"), which comprise the consolidated balance sheets as of October 31, 2019 and 2018, and the related consolidated statements of operations, changes in members' equity, and cash flows for each of the three years in the period ended October 31, 2019, and the related notes to the consolidated financial statements.

Management's Responsibility for the Consolidated Financial Statements

Management is responsible for the preparation and fair presentation of these consolidated financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of consolidated financial statements that are free from material misstatement, whether due to fraud or error.

Auditors' Responsibility

Our responsibility is to express an opinion on these consolidated financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the consolidated financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the consolidated financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the Company's preparation and fair presentation of the consolidated financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of GTIS-HOV Holdings V LLC and its subsidiaries as of October 31, 2019 and 2018, and the results of their operations and their cash flows for each of the three years in the period ended October 31, 2019, in accordance with accounting principles generally accepted in the United States of America.

/s/ Deloitte & Touche LLP

New York, New York

December 19, 2019

GTIS-HOV Holdings V LLC

Consolidated Balance Sheets
(Dollars in Thousands)

	October 31,	
	2019	2018
Assets		
Cash and cash equivalents	\$ 14,234	\$ 16,774
Restricted cash	2,760	2,435
Receivables and deposits	1,618	2,881
Inventories:		
Land and land development	36,440	82,951
Construction in process	25,487	39,837
Consolidated inventory not owned	-	804
Total inventories	61,927	123,592
Prepaid expenses	3,232	4,263
Total assets	<u>\$ 83,771</u>	<u>\$ 149,945</u>
Liabilities and Members' equity		
Notes payable, net of debt issuance costs	\$ 15,244	\$ 69,897
Liabilities from inventory not owned	-	593
Accounts payable and other liabilities	13,510	23,698
Customers' deposits	1,980	5,600
Accrued interest	53	206
Total liabilities	30,787	99,994
Commitments and contingencies (Note 5)		
Members' equity	52,984	49,951
Total liabilities and members' equity	<u>\$ 83,771</u>	<u>\$ 149,945</u>

See notes to consolidated financial statements.

GTIS-HOV Holdings V LLC

Consolidated Statements of Operations
(Dollars in Thousands)

	Year Ended October 31, 2019	Year Ended October 31, 2018	Year Ended October 31, 2017
Revenue:			
Sale of homes	\$ 220,440	\$ 326,527	\$ 148,858
Other revenue	672	747	180
Total revenue	221,112	327,274	149,038
Expenses:			
Direct costs:			
Land and land development	70,916	111,811	53,419
Construction	88,076	128,058	59,494
Other	9,863	15,417	7,216
Direct cost of sales	168,855	255,286	120,129
Cost of sales interest	9,276	15,427	6,120
Indirect cost of sales:			
Construction and service overhead	5,272	6,907	3,070
Inventory impairment loss and land option write-off	-	722	-
Other	2,888	4,140	2,067
Total indirect cost of sales	8,160	11,769	5,137
Selling, general and administrative expense	15,622	23,722	13,992
Interest expense	241	5,264	6,184
Net income (loss)	\$ 18,958	\$ 15,806	\$ (2,524)

See notes to consolidated financial statements.

GTIS-HOV Holdings V LLC

Consolidated Statement of Changes in Members' Equity
(Dollars in Thousands)

For The Years Ended October 31, 2019 And 2018 And 2017

	K. Hovnanian GT V Investment, LLC	Hov V Parallel Blocker LLC	GTIS Hov V Co-Invest LP	Total
Balance at October 31, 2016	\$ 18,308	\$ 442	\$ 3,219	\$ 21,969
Capital Contributions	12,250	296	2,154	14,700
Net loss	(2,103)	(51)	(370)	(2,524)
Balance at October 31, 2017	28,455	687	5,003	34,145
Net income	13,172	318	2,316	15,806
Balance at October 31, 2018	41,627	1,005	7,319	49,951
Net income	15,798	382	2,778	18,958
Distributions	(13,271)	(320)	(2,334)	(15,925)
Balance at October 31, 2019	\$ 44,154	\$ 1,067	\$ 7,763	\$ 52,984

See notes to consolidated financial statements.

GTIS-HOV Holdings V LLC

Consolidated Statement of Cash Flows
(Dollars in Thousands)

	Year Ended October 31, 2019	Year Ended October 31, 2018	Year Ended October 31, 2017
Operating activities			
Net income (loss)	\$ 18,958	\$ 15,806	\$ (2,524)
Adjustments to reconcile net income (loss) to net cash provided by (used in) operating activities:			
Inventory impairment loss and land option write-off	-	722	-
Amortization of deferred financing costs	739	619	1,064
Changes in operating assets and liabilities:			
Receivables, deposits and prepaid expenses	2,294	2,294	(3,070)
Inventories	61,665	58,103	(78,631)
Accounts payable, other liabilities and accrued interest	(10,341)	(13,353)	23,946
Customers' deposits	(3,620)	(197)	3,498
Net cash provided by (used in) operating activities	<u>69,695</u>	<u>63,994</u>	<u>(55,717)</u>
Financing activities			
Member contributions	-	-	14,700
Member distributions	(15,925)	-	-
Proceeds from notes payable	41,351	55,227	88,792
Payments related to notes payable	(96,654)	(124,019)	(37,266)
Payments related to model sale leaseback financing program	(593)	-	-
Deferred financing costs from model financing program and notes payable	(89)	(145)	(1,371)
Net cash (used in) provided by financing activities	<u>(71,910)</u>	<u>(68,937)</u>	<u>64,855</u>
Net (decrease) increase in cash and cash equivalents and restricted cash	(2,215)	(4,943)	9,138
Cash and cash equivalents and restricted cash balance, beginning of year	19,209	24,152	15,014
Cash and cash equivalents and restricted cash balance, end of year	<u>\$ 16,994</u>	<u>\$ 19,209</u>	<u>\$ 24,152</u>
Supplemental disclosures of cash flows:			
Cash paid for interest, net of amounts capitalized	<u>\$ 394</u>	<u>\$ 36,799</u>	<u>\$ 53</u>
Reconciliation of cash and cash equivalents and restricted cash			
Cash and cash equivalents	\$ 14,234	\$ 16,774	\$ 23,266
Restricted cash	2,760	2,435	886
Total cash and cash equivalents and restricted cash	<u>\$ 16,994</u>	<u>\$ 19,209</u>	<u>\$ 24,152</u>

See notes to consolidated financial statements.

GTIS-HOV Holdings V LLC

Notes to Consolidated Financial Statements

As Of And For The Years Ended October 31, 2019 And 2018 And 2017

1. Description of Business

GTIS-HOV Holdings V LLC (with its subsidiaries, the “Company”) is a residential home developer that markets its products in Arizona, California, Illinois, Maryland, New Jersey, South Carolina and Virginia. All construction activity is performed by subcontractors supervised by the Company.

On April 29, 2016, K. Hovnanian GT V Investment, LLC (“K-Hov”) (a subsidiary of K. Hovnanian Enterprises, Inc.) entered into a joint venture agreement with Hov V Parallel Blocker LLC and GTIS Hov V Co-Invest LP (collectively, “GTIS”) (both affiliates of GTIS Partners) to develop, construct, and sell residential communities. The Company purchased eight properties from other subsidiaries of K. Hovnanian Enterprises, Inc. and one property from a third party. All properties were purchased at fair value. During Fiscal 2017, the Company purchased one property from a subsidiary of K. Hovnanian Enterprises, Inc. and two properties from a third party.

The Company is a limited-life entity. As the existing lots are developed, built on, and sold, operations will decline and cease when all the homes have been delivered. In accordance with the joint venture agreement, dissolution must ultimately occur no later than December 31, 2065. Capital was contributed by K-Hov and GTIS in the following proportion: 83.3333% by K-Hov; and 14.6551% and 2.0116% by GTIS. The joint venture agreement specifies how profits and losses and cash distributions are allocated to the investors. Also in accordance with the joint venture agreement, K-Hov is the managing member, with all significant decisions shared equally by both members.

2. Summary of Significant Accounting Policies

Basis of Presentation

The accompanying consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America (“GAAP”) and include the Company’s accounts and those of its wholly owned subsidiaries after elimination of all intercompany balances and transactions.

2. Summary of Significant Accounting Policies (continued)**Cash and Cash Equivalents**

The Company considers all highly liquid instruments with original maturities of three months or less when purchased to be cash equivalents. Cash includes deposits in checking accounts. Our cash and cash equivalents are held at financial institutions and may, at times, exceed insurable amounts. The Company believes that it mitigates the risk by depositing the cash and cash equivalents in major financial institutions.

Restricted Cash

Restricted cash includes cash collateralizing the per home warranty service dollars discussed below.

Inventories

Inventories are stated at cost unless the inventory is determined to be impaired, in which case the inventory is written down to its fair value. Inventories of houses include all direct costs of construction, plus capitalized costs, including construction administration, property taxes, interest, and legal fees that relate to development projects. Land, land development, and common facility costs are accumulated by development and are allocated to homes within each development based on buildable acres to product types within each community, which, along with direct construction costs, are allocated to each unit and relieved through cost of sales using the specific identification method.

Start-up costs incurred in connection with planned developments are expected to be recovered from the sale of homes and are capitalized. Management periodically reviews the feasibility of planned developments and expenses the costs of developments that are abandoned or which cannot be recovered through the realization of future sales revenue.

The Company records impairment losses on inventories related to communities under development when events and circumstances indicate they may be impaired and the Company will not be able to recover its recorded investment. For the years ended October 31, 2019 and 2017, the company did not record any inventory impairments. For the year ended October 31, 2018, the Company recorded inventory impairment losses of \$0.7 million.

2. Summary of Significant Accounting Policies (continued)

“Consolidated inventory not owned” consists of certain model sale leasebacks that are included on the balance sheet in accordance with GAAP. Some of the assets acquired by the Company included certain model homes sold and leased back with the right to participate in the potential profit when each home is sold to a third party at the end of the respective lease. As a result of this continued involvement, for accounting purposes in accordance with Accounting Standards Codification 360-20-40-38, these sale and leaseback transactions are considered a financing rather than a sale. Therefore, for purposes of the balance sheet, at October 31, 2018, inventory of \$0.8 million, was recorded to “Consolidated inventory not owned,” with a corresponding amount of \$0.6 million, recorded to “Liabilities from inventories not owned.” As of October 31, 2019, all models under the leaseback transactions have been sold to customers resulting in no balances in “Consolidated inventory not owned” and “Liabilities from inventory not owned.”

Interest

Interest attributable to properties under development during the land development and home construction period is capitalized and expensed along with the associated cost of sales as the related inventories are sold. Interest incurred in excess of interest capitalized is expensed immediately.

Warranty Allowances

The Company warrants a home for most ordinary defects generally for the first year of ownership and for major structural defects for the first 10 years of ownership. All warranty services will be provided by and are the responsibility of an affiliate of K-Hov. The Company pays a fixed fee per house (varies for each community) at closing. These fees are deposited into restricted cash accounts maintained by the Company until approvals are granted which allow for reimbursement to be paid to such affiliate, K. Hovnanian JV Services Company, L.L.C., to cover the cost of the warranty services after they have been incurred. Additions and charges to the warranty reserve, which is included in Accounts payable and other liabilities on the accompanying consolidated balance sheets, were as follows:

(In thousands)

	Year Ended	
	October 31, 2019	October 31, 2018
Balance, beginning of period	\$ 2,123	\$ 883
Additions	1,457	1,757
Charges	(804)	(517)
Balance, end of period	<u>\$ 2,776</u>	<u>\$ 2,123</u>

2. Summary of Significant Accounting Policies (continued)**Advertising Costs**

Advertising costs are expensed as incurred. Advertising costs expensed totaled \$1.4 million, \$2.5 million and \$2.2 million in the years ended October 31, 2019, October 31, 2018 and October 31, 2017, respectively, and are included in Selling, general and administrative expense on the accompanying consolidated statements of operations.

Income Taxes

A limited liability company is not subject to the payment of federal or state income taxes, as the components of its income and expenses flow through directly to the members. Accordingly, no provision for income taxes has been reflected in the accompanying consolidated financial statements.

Use of Estimates

The preparation of consolidated financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the consolidated financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates, and these differences could have a significant impact on the consolidated financial statements.

Recent Accounting Pronouncements

In May 2014, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU") No. 2014-09, "Revenue from Contracts with Customers" (Topic 606), ("ASU 2014-09"). ASU 2014-09 requires entities to recognize revenue that represents the transfer of promised goods or services to customers in an amount equivalent to the consideration to which the entity expects to be entitled to in exchange for those goods or services. The following steps should be applied to determine this amount: (1) identify the contract(s) with a customer; (2) identify the performance obligations in the contract; (3) determine the transaction price; (4) allocate the transaction price to the performance obligations in the contract; and (5) recognize revenue when (or as) the entity satisfies a performance obligation. ASU 2014-09 supersedes the revenue recognition requirements in ASC 605, "Revenue Recognition," and most industry-specific guidance in the Accounting Standards Codification. The FASB has also issued a number of updates to this standard. The standard was effective for us for annual and interim periods beginning November 1, 2018, and we applied the modified retrospective method of adoption.

2. Summary of Significant Accounting Policies (continued)

The implementation did not result in any significant changes to our business processes, systems, internal controls or have a material impact on our consolidated financial statements.

In August 2016, the FASB issued ASU No. 2016-15, "Statement of Cash Flows (Topic 230): Classification of Certain Cash Receipts and Cash Payments" ("ASU 2016-15"). ASU 2016-15 provides guidance on how certain cash receipts and cash payments are to be presented and classified in the statement of cash flows. ASU 2016-15 was effective for the Company's fiscal year beginning November 1, 2018. The implementation did not have a material impact on our consolidated financial statements.

In November 2016, the FASB issued ASU No. 2016-18, "Statement of Cash Flows (Topic 230): Restricted Cash" ("ASU 2016-18"). ASU 2016-18 amends the classification and presentation of changes in restricted cash or restricted cash equivalents in the statement of cash flows. ASU 2016-18 was effective for the Company's fiscal year beginning November 1, 2018. Early adoption is permitted. The implementation did not have a material impact on our consolidated financial statements.

In July 2018, the FASB issued ASU No. 2018-09, "Codification Improvements" ("ASU 2018-09"). ASU 2018-09 provides amendments to a wide variety of topics in the FASB's Accounting Standards Codification, which applies to all reporting entities within the scope of the affected accounting guidance. The transition and effective date guidance are based on the facts and circumstances of each amendment. Some of the amendments in ASU 2018-09 do not require transition guidance and were effective upon issuance of ASU 2018-09. However, many of the amendments do have transition guidance with effective dates for annual periods beginning after December 15, 2018. We do not expect any material impact of adopting the applicable guidance on our consolidated financial statements.

3. Related-Party Transactions

As the administrative member of the Company, K-Hov provides certain services to the Company. In connection with providing these services, K-Hov receives fees, which are summarized as follows:

GTIS-HOV Holdings V LLC

Notes to Consolidated Financial Statements (continued)

3. Related-Party Transactions (continued)

Administrative charge	4% of home sales revenue
Insurance charge	\$6,840 per home sold – Arizona \$6,679 per home sold – Illinois \$6,605 per home sold – California \$6,348 per home sold – Maryland \$8,099 per home sold – New Jersey \$6,605 per home sold – South Carolina \$6,155 per home sold – Virginia
Warranty services charge	\$2,038 per home sold – Arizona \$5,276 per home sold – California \$1,559 per home sold – Illinois \$5,564 per home sold – Maryland \$3,597 per home sold – New Jersey \$2,871 per home sold – South Carolina \$5,036 per home sold – Virginia

The administrative and insurance charges are included in Selling, general and administrative expense and the warranty services charge is included in Indirect cost of sales – Other on the consolidated statements of operations.

The following table summarizes the related party fees incurred:

(In thousands)	Year Ended October 31, 2019	Year Ended October 31, 2018	Year Ended October 31, 2017
Administrative charge	\$ 8,580	\$ 12,736	\$ 5,803
Insurance charge	\$ 2,718	\$ 3,931	\$ 1,789
Warranty services charge	\$ 1,457	\$ 1,757	\$ 870

4. Notes Payable

The Company had a secured promissory note with a lender that is an affiliate of GTIS that would have matured on April 30, 2023. As of October 31, 2019, this note, and all accrued interest associated therewith, was paid in full. As of October 31, 2018, the note had a principal balance

4. Notes Payable (continued)

of \$49.4 million. There was no accrued, unpaid interest as of October 31, 2019 and October 31, 2018. Interest was payable monthly at a rate of 16% per annum, which could have been deferred and added to the unpaid principal balance, and thereafter, could be subject to interest at the note rate. The note is secured by all of the Company's property and improvements, except for properties with separate secured loans described herein. The Company also had community-specific project financing in certain communities, secured by the related property and improvements. The total commitment for these loans as of October 31, 2019 and 2018 was \$62.0 million and \$77.1 million, respectively. Interest on amounts drawn is payable monthly at a rate ranging from 5.75% to 8.75% and 6.00% to 9.25% per annum as of October 31, 2019 and October 31, 2018, respectively. As of October 31, 2019 and 2018, the total amount drawn on all loans was \$15.3 million and \$21.2 million, respectively.

5. Commitments and Contingencies

The Company is not currently involved in any claims or legal actions arising in the ordinary course of its business. If the Company were to become involved in any, management would decide, based on the facts and circumstances at that time, if the ultimate disposition of these matters could have a material adverse effect on the Company's consolidated financial statements and assess whether a contingent liability would be necessary.

6. Subsequent Events

The Company evaluated subsequent events that took place after October 31, 2019, through December 19, 2019, the date the consolidated financial statements were available to be issued. The Company is not aware of any subsequent events that require disclosure in or adjustments to the consolidated financial statements as of October 31, 2019.

CONSOLIDATED FINANCIAL STATEMENTS

GTIS-HOV Holdings VI LLC

As Of And For The Years Ended October 31, 2019 And 2018 and The Period From February 24,
2017 (Inception) Through October 31, 2017 And Independent Auditors' Report

GTIS-HOV Holdings VI LLC

Consolidated Financial Statements

As Of And For The Years Ended October 31, 2019 And 2018 And The
Period From February 24, 2017 (Inception) through October 31, 2017

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INDEPENDENT AUDITORS' REPORT

To the Members of
GTIS-HOV Holdings VI LLC
Matawan, New Jersey

We have audited the accompanying consolidated financial statements of GTIS-HOV Holdings VI LLC and its subsidiaries (the "Company"), which comprise the consolidated balance sheets as of October 31, 2019 and 2018, and the related consolidated statements of operations, changes in members' equity, and cash flows for the years then ended, and for the period from February 24, 2017 (date of inception) through October 31, 2017, and the related notes to the consolidated financial statements.

Management's Responsibility for the Consolidated Financial Statements

Management is responsible for the preparation and fair presentation of these consolidated financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of consolidated financial statements that are free from material misstatement, whether due to fraud or error.

Auditors' Responsibility

Our responsibility is to express an opinion on these consolidated financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the consolidated financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the consolidated financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the Company's preparation and fair presentation of the consolidated financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of GTIS-HOV Holdings VI LLC and its subsidiaries as of October 31, 2019 and 2018, and the results of their operations and their cash flows for the years then ended and for the period from February 24, 2017 (date of inception) through October 31, 2017, in accordance with accounting principles generally accepted in the United States of America.

/s/ Deloitte & Touche LLP

New York, New York
December 19, 2019

GTIS-HOV Holdings VI LLC

Consolidated Balance Sheets
(Dollars in Thousands)

	October 31,	
	2019	2018
Assets		
Cash and cash equivalents	\$ 2,486	\$ 4,503
Restricted cash	632	328
Receivables and deposits	550	2,152
Inventories:		
Land and land development	8,654	25,522
Construction in process	6,703	7,523
Total inventories	15,357	33,045
Prepaid expenses	485	1,469
Total assets	<u>\$ 19,510</u>	<u>\$ 41,497</u>
Liabilities and Members' equity		
Notes payable, net of debt issuance costs	\$ 2,992	\$ 14,965
Accounts payable and other liabilities	5,918	6,161
Customers' deposits	657	1,545
Accrued interest	37	2,243
Total liabilities	9,604	24,914
Commitments and contingencies (Note 5)		
Members' equity	9,906	16,583
Total liabilities and members' equity	<u>\$ 19,510</u>	<u>\$ 41,497</u>

See notes to consolidated financial statements.

GTIS-HOV Holdings VI LLC

Consolidated Statements of Operations
(Dollars in Thousands)

	Year Ended October 31, 2019	Year Ended October 31, 2018	Period From February 24, 2017 (Inception) Through October 31, 2017
Revenue:			
Sale of homes	\$ 75,353	\$ 70,790	\$ -
Other revenue	34	7	-
Total revenue	75,387	70,797	-
Expenses:			
Direct costs:			
Land and land development	25,887	25,167	-
Construction	24,086	21,540	-
Other	2,390	2,395	-
Direct cost of sales	52,363	49,102	-
Cost of sales interest	2,790	1,793	-
Indirect cost of sales:			
Construction and service overhead	1,532	1,196	24
Other	1,205	1,485	-
Total indirect cost of sales	2,737	2,681	24
Selling, general and administrative expense	5,288	5,203	439
Interest expense	240	1,020	1,432
Net income (loss)	\$ 11,969	\$ 10,998	\$ (1,895)

See notes to consolidated financial statements.

GTIS-HOV Holdings VI LLC

Consolidated Statements of Changes in Members' Equity
(Dollars in Thousands)

For The Years Ended October 31, 2019 and 2018 and The Period From
February 24, 2017 (Inception) Through October 31, 2017

	K. Hovnanian GT VI Investment, LLC	Honeywell Parallel Blocker LLC	GTIS US Residential Strategies Fund II LP	Total
Initial Capital Contributions	\$ 6,003	\$ 486	\$ 235	\$ 6,724
Net loss	(1,692)	(137)	(66)	(1,895)
Balance at October 31, 2017	4,311	349	169	4,829
Capital Contributions	675	55	26	756
Net income	9,820	795	383	10,998
Balance at October 31, 2018	14,806	1,199	578	16,583
Net Income	10,687	865	417	11,969
Distributions	(16,648)	(1,348)	(650)	(18,646)
Balance at October 31, 2019	\$ 8,845	\$ 716	\$ 345	\$ 9,906

See notes to consolidated financial statements.

GTIS-HOV Holdings VI LLC

Consolidated Statements of Cash Flows

(Dollars in Thousands)

	Year Ended October 31, 2019	Year Ended October 31, 2018	Period From February 24, 2017 (Inception) Through October 31, 2017
Operating activities			
Net income (loss)	\$ 11,969	\$ 10,998	\$ (1,895)
Adjustments to reconcile net income (loss) to net cash provided by (used in) operating activities:			
Amortization of deferred financing costs	157	157	101
Changes in operating assets and liabilities:			
Receivables, deposits and prepaid expenses	2,586	(1,940)	(1,681)
Inventories	17,688	8,847	(41,892)
Accounts payable, other liabilities and accrued interest	(2,449)	3,643	4,761
Customers' deposits	(888)	(276)	1,821
Net cash provided by (used in) operating activities	29,063	21,429	(38,785)
Financing activities			
Member contributions	-	756	6,724
Member distributions	(18,646)	-	-
Proceeds from notes payable	22,859	24,510	34,884
Payments related to notes payable	(34,989)	(44,233)	-
Deferred financing costs from notes payable	-	-	(454)
Net cash (used in) provided by financing activities	(30,776)	(18,967)	41,154
Net (decrease) increase in cash and cash equivalents and restricted cash	(1,713)	2,462	2,369
Cash and cash equivalents and restricted cash balance, beginning of year	4,831	2,369	-
Cash and cash equivalents and restricted cash balance, end of year	\$ 3,118	\$ 4,831	\$ 2,369
Supplemental disclosures of cash flows:			
Cash paid for interest, net of amounts capitalized	\$ 2,445	\$ 4,098	\$ 471
Reconciliation of cash and cash equivalents and restricted cash			
Cash and cash equivalents	\$ 2,486	\$ 4,503	\$ 2,369
Restricted cash	632	328	-
Total cash and cash equivalents and restricted cash	\$ 3,118	\$ 4,831	\$ 2,369

See notes to consolidated financial statements.

GTIS-HOV Holdings VI LLC

Notes to Consolidated Financial Statements

As Of And For The Years Ended October 31, 2019 And 2018 And The
Period From February 24, 2017 (Inception) through October 31, 2017

1. Description of Business

GTIS-HOV Holdings VI LLC (with its subsidiaries, the “Company”) is a residential home developer that markets its products in New Jersey. All construction activity is performed by subcontractors supervised by the Company.

On February 24, 2017, K. Hovnanian GT VI Investment, LLC (“K-Hov”) (a subsidiary of K. Hovnanian Enterprises, Inc.) entered into a joint venture agreement with Honeywell Parallel Blocker LLC and US Residential Strategies Fund II LP (collectively, “GTIS”) (both affiliates of GTIS Partners) to develop, construct, and sell residential communities. The Company purchased the property from another subsidiary of K. Hovnanian Enterprises, Inc., which was purchased at fair value.

The Company is a limited-life entity. As the existing lots are developed, built on, and sold, operations will decline and cease when all the homes have been delivered. In accordance with the joint venture agreement, dissolution must ultimately occur no later than December 31, 2065. Capital was contributed by K-Hov and GTIS in the following proportion: 89.2857% by K-Hov; and 7.2283% and 3.4860% by GTIS. The joint venture agreement specifies how profits and losses and cash distributions are allocated to the investors. Also in accordance with the joint venture agreement, K-Hov is the managing member, with all significant decisions shared equally by both members.

2. Summary of Significant Accounting Policies

Basis of Presentation

The accompanying consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America (“GAAP”) and include the Company’s accounts and those of its wholly owned subsidiaries after elimination of all intercompany balances and transactions.

Cash and Cash Equivalents

The Company considers all highly liquid instruments with original maturities of three months or less when purchased to be cash equivalents. Cash includes deposits in checking accounts. Our cash and cash equivalents are held at financial institutions and may, at times, exceed insurable amounts. The Company believes that it mitigates the risk by depositing the cash and cash equivalents in major financial institutions.

2. Summary of Significant Accounting Policies (continued)

Restricted Cash

Restricted cash includes cash collateralizing the per home warranty service dollars discussed below.

Inventories

Inventories are stated at cost unless the inventory is determined to be impaired, in which case the inventory is written down to its fair value. Inventories of houses include all direct costs of construction, plus capitalized costs, including construction administration, property taxes, interest, and legal fees that relate to development projects. Land, land development, and common facility costs are accumulated by development and are allocated to homes within each development based on buildable acres to product types within each community, which, along with direct construction costs, are allocated to each unit and relieved through cost of sales using the specific identification method.

Start-up costs incurred in connection with planned developments are expected to be recovered from the sale of homes and are capitalized. Management periodically reviews the feasibility of planned developments and expenses the costs of developments that are abandoned or which cannot be recovered through the realization of future sales revenue.

The Company records impairment losses on inventories related to communities under development when events and circumstances indicate they may be impaired and the Company will not be able to recover its recorded investment. The Company has not recorded any inventory impairments since inception.

Interest

Interest attributable to properties under development during the land development and home construction period is capitalized and expensed along with the associated cost of sales as the related inventories are sold. Interest incurred in excess of interest capitalized is expensed immediately.

Notes to Consolidated Financial Statements (continued)

2. Summary of Significant Accounting Policies (continued)**Warranty Allowances**

The Company warrants a home for most ordinary defects generally for the first year of ownership and for major structural defects for the first 10 years of ownership. All warranty services will be provided by and are the responsibility of an affiliate of K-Hov. The Company pays a fixed fee per house at closing. These fees are deposited into restricted cash accounts maintained by the Company until approvals are granted which allow for reimbursement to be paid to such affiliate, K. Hovnanian JV Services Company, L.L.C., to cover the cost of the warranty services after they have been incurred. Additions and charges to the warranty reserve, which is included in Accounts payable and other liabilities on the accompanying consolidated balance sheets, were as follows:

(In thousands)	Year Ended October 31, 2019	Year Ended October 31, 2018
Balance, beginning of period	\$ 326	\$ -
Additions	374	328
Charges	(72)	(2)
Balance, end of period	<u>\$ 628</u>	<u>\$ 326</u>

Advertising Costs

Advertising costs are expensed as incurred. Advertising costs expensed totaled \$0.3 million, \$0.4 million and \$0.1 million in the years ended October 31, 2019, October 31, 2018 and in the period from February 24, 2017 (Inception) through October 31, 2017, respectively, and are included in Selling, general and administrative expense on the accompanying consolidated statement of operations.

Income Taxes

A limited liability company is not subject to the payment of federal or state income taxes, as the components of its income and expenses flow through directly to the members. Accordingly, no provision for income taxes has been reflected in the accompanying consolidated financial statements.

Use of Estimates

The preparation of consolidated financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates, and these differences could have a significant impact on the financial statements.

Recent Accounting Pronouncements

In May 2014, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU") No. 2014-09, "Revenue from Contracts with Customers" (Topic 606), ("ASU 2014-09"). ASU 2014-09 requires entities to recognize revenue that represents the transfer of promised goods or services

2. Summary of Significant Accounting Policies (continued)

to customers in an amount equivalent to the consideration to which the entity expects to be entitled to in exchange for those goods or services. The following steps should be applied to determine this amount: (1) identify the contract(s) with a customer; (2) identify the performance obligations in the contract; (3) determine the transaction price; (4) allocate the transaction price to the performance obligations in the contract; and (5) recognize revenue when (or as) the entity satisfies a performance obligation. ASU 2014-09 supersedes the revenue recognition requirements in ASC 605, "Revenue Recognition," and most industry-specific guidance in the Accounting Standards Codification. The FASB has also issued a number of updates to this standard. The standard was effective for us for annual and interim periods beginning November 1, 2018, and we applied the modified retrospective method of adoption. The implementation did not result in any significant changes to our business processes, systems, internal controls or have a material impact on our consolidated financial statements.

In August 2016, the FASB issued ASU No. 2016-15, "Statement of Cash Flows (Topic 230): Classification of Certain Cash Receipts and Cash Payments" ("ASU 2016-15"). ASU 2016-15 provides guidance on how certain cash receipts and cash payments are to be presented and classified in the statement of cash flows. ASU 2016-15 was effective for the Company's fiscal year beginning November 1, 2018. The implementation did not result in any material impact on our consolidated financial statements.

In November 2016, the FASB issued ASU No. 2016-18, "Statement of Cash Flows (Topic 230): Restricted Cash" ("ASU 2016-18"). ASU 2016-18 amends the classification and presentation of changes in restricted cash or restricted cash equivalents in the statement of cash flows. ASU 2016-18 was effective for the Company's fiscal year beginning November 1, 2018. The implementation did not result in any material impact on our consolidated financial statements.

In July 2018, the FASB issued ASU No. 2018-09, "Codification Improvements" ("ASU 2018-09"). ASU 2018-09 provides amendments to a wide variety of topics in the FASB's Accounting Standards Codification, which applies to all reporting entities within the scope of the affected accounting guidance. The transition and effective date guidance are based on the facts and circumstances of each amendment. Some of the amendments in ASU 2018-09 do not require transition guidance and were effective upon issuance of ASU 2018-09. However, many of the amendments do have transition guidance with effective dates for annual periods beginning after December 15, 2018. We do not expect any material impact of adopting the applicable guidance on our consolidated financial statements.

3. Related-Party Transactions

As the administrative member of the Company, K-Hov provides certain services to the Company. In connection with providing these services, K-Hov receives fees, which are summarized as follows:

Notes to Consolidated Financial Statements (continued)

3. Related-Party Transactions (continued)

Administrative charge	4% of home sales revenue
Warranty services charge	\$3,600 per home sold

The administrative charge is included in Selling, general and administrative expense, and the warranty services charge is included in Indirect cost of sales – Other on the consolidated statement of operations.

The following table summarizes the related party fees incurred:

(In thousands)

	Year Ended October 31, 2019	Year Ended October 31, 2018	The Period from February 24, 2017 (Inception) Through October 31, 2017
Administrative charge	\$ 2,818	\$ 2,699	\$ -
Warranty services charge	\$ 374	\$ 328	\$ -

4. Notes Payable

The Company had a secured promissory note with a lender that is an affiliate of GTIS that would have matured on April 30, 2023. As of October 31, 2019, the note was paid in full. As of October 31, 2018, the note had a principal balance of \$2.0 million. Interest was payable monthly at a rate of 10% per annum plus additional interest up to an 18% internal rate of return for the lender, which could have been deferred and added to the unpaid principal balance, and thereafter, could have been subject to interest at the note rate. The note was secured by all of the Company's property and improvements except for properties with separate secured loans described herein. The Company also had community-specific project financing in its community, secured by the related property and improvements. The total commitment for these loans as of October 31, 2019 and 2018 was \$40.0 million, respectively. Interest on amounts drawn is payable monthly at a rate of the lender's prime with a floor of 5.0% per annum. As of October 31, 2019 and 2018, the total amount drawn on all loans was \$3.0 million and \$12.8 million, respectively. As of October 31, 2019 and 2018, total accrued and unpaid interest for all notes payable was less than \$0.1 million and \$2.2 million, respectively.

5. Commitments and Contingencies

The Company is not currently involved in any claims or legal actions arising in the ordinary course of its business. If the Company were to become involved in any, management would decide, based on the facts and circumstances at that time, if the ultimate disposition of these matters could have a material adverse effect on the Company's consolidated financial statements and assess whether a contingent liability would be necessary.

6. Subsequent Events

The Company evaluated subsequent events that took place after October 31, 2019, through December 19, 2019, the date the consolidated financial statements were available to be issued. The Company is not aware of any subsequent events that require disclosure in or adjustments to the consolidated financial statements as of October 31, 2019.
