
**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
Washington, DC 20549

FORM 10-Q

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

For the quarterly period ended October 29, 2022

OR

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

Commission file number: 001-35535

TILLY'S, INC.

(Exact name of Registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

45-2164791
(I.R.S. Employer
Identification No.)

10 Whatney
Irvine, CA 92618
(Address of principal executive offices)

(949) 609-5599
(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, \$0.001 par value per share	TLYS	New York Stock Exchange

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

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

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

Large accelerated filer Accelerated Filer
Non-accelerated 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 Exchange Act Rule 12b-2) Yes No

As of December 2, 2022, the registrant had the following shares of common stock outstanding:

Class A common stock \$0.001 par value

22,537,461

Class B common stock \$0.001 par value

7,306,108

TILLY'S, INC.
FORM 10-Q
For the Quarterly Period Ended October 29, 2022

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Forward-Looking Statements

This Quarterly Report on Form 10-Q ("this "Report") contains forward-looking statements that are subject to risks and uncertainties. All statements other than statements of historical or current fact included in this Report are forward-looking statements. Forward-looking statements refer to our current expectations and projections relating to our financial condition, results of operations, plans, objectives, strategies, future performance and business. You can identify forward-looking statements by the fact that they do not relate strictly to historical or current facts. These statements may include words such as "anticipate", "estimate", "expect", "project", "plan", "intend", "believe", "may", "might", "will", "should", "can have", "likely" and other words and terms of similar meaning in connection with any discussion of the timing or nature of future operating or financial performance or other events. For example, all statements we make relating to our estimated and projected earnings, revenues, comparable store sales, operating income, earnings per share, costs, expenditures, cash flows, growth rates and financial results, our plans and objectives for future operations, growth or initiatives, strategies or the expected outcome or impact of pending or threatened litigation are forward-looking statements. All forward-looking statements are subject to risks and uncertainties that may cause actual results to differ materially from those that we expected, including:

- the impacts of inflation on consumer spending generally and on our expense management, operating results and financial condition;
- the continued impacts of the COVID-19 pandemic generally and on our operations, future financial or operational results, including with respect to our expense management, our ability to reduce costs, and our ability to effectively manage inventory levels on an ongoing basis relative to net sales performance and changing market conditions;
- our ability to adapt to downward trends in traffic for our stores and changes in our customers' purchasing patterns;
- our ability to successfully open new stores and profitably operate our existing stores;
- our ability to attract customers to our e-commerce website and generate acceptable levels of return from our digital marketing efforts and other e-commerce growth initiatives;
- increases in costs of energy, transportation or utility costs and in the costs of labor and employment;
- our ability to efficiently utilize our e-commerce fulfillment center;
- effectively adapting to new challenges associated with our expansion into new geographic markets;
- our ability to establish, maintain and enhance a strong brand image;
- our ability to generate adequate cash from our existing stores and e-commerce to support our growth;
- our ability to identify and respond to new and changing customer fashion preferences and fashion-related trends;
- our ability to compete effectively in an environment of intense competition both in stores and online;
- our ability to adjust to increasing costs of mailing catalogs, paper and printing;
- the success of the malls, power centers, neighborhood and lifestyle centers, outlet centers and street-front locations in which our stores are located;
- our ability to attract customers in the various retail venues and geographies in which our stores are located;
- our ability to adapt to declines in consumer confidence and decreases in consumer spending;
- our ability to adapt to significant changes in sales due to the seasonality of our business;
- our ability to compete on social media marketing platforms;
- natural disasters, unusually adverse weather conditions, port delays, boycotts, epidemics, pandemics, acts of war, terrorism, civil unrest and other unanticipated events;
- our dependence on third-party vendors to provide us with sufficient quantities of merchandise at acceptable prices and on time;
- our ability to balance proprietary branded merchandise with the third-party branded merchandise we sell;
- most of our merchandise is made in foreign countries, making price and availability of our merchandise susceptible to international trade conditions;
- failure of our vendors and their manufacturing sources to use acceptable labor or other practices;
- our dependence upon key executive management or our inability to hire or retain the talent required for our business;
- our ability to effectively adapt to our planned expansion;
- our ability to secure desirable lease arrangements and other economics to support the rate of our planned store growth.
- failure of our information technology systems to support our current and growing business, before and after our planned upgrades;
- disruptions in our supply chain and distribution center;
- our indebtedness and lease obligations, including restrictions contained therein;

- our reliance upon independent third-party transportation providers for certain of our product shipments;
- our ability to increase comparable store sales or sales per square foot, which may cause our operations and stock price to be volatile;
- disruptions to our information systems in the ordinary course of business or as a result of systems upgrades;
- our inability to protect our trademarks or other intellectual property rights;
- the impact of governmental laws and regulations and the outcomes of legal proceedings;
- our ability to secure our data and comply with privacy laws and the security standards for the credit card industry;
- our failure to maintain adequate internal controls over our financial and management systems; and
- continuing costs incurred as a result of being a public company.

We derive many of our forward-looking statements from our operating budgets and forecasts, which are based upon detailed assumptions. While we believe that our assumptions are reasonable, we caution that it is very difficult to predict the impact of known factors, and it is impossible for us to anticipate all factors that could affect our actual results.

See “Risk Factors” within our most recent Annual Report on Form 10-K for a more complete discussion of the risks and uncertainties mentioned above and for discussion of other risks and uncertainties. All forward-looking statements attributable to us are expressly qualified in their entirety by these cautionary statements as well as others made in this Report and hereafter in our other SEC filings and public communications. You should evaluate all forward-looking statements made by us in the context of these risks and uncertainties.

We caution you that the risks and uncertainties identified by us may not be all of the factors that are important to you. Furthermore, the disclosures and forward-looking statements included in this Report are made only as of the date hereof. We undertake no obligation to publicly update or revise any forward-looking statement as a result of new information, future events or otherwise, except as otherwise required by law.

Part I. Financial Information
Item 1. Financial Statements (Unaudited)

TILLY'S, INC.
CONSOLIDATED BALANCE SHEETS
(In thousands, except par value)
(Unaudited)

	October 29, 2022	January 29, 2022	October 30, 2021
ASSETS			
Current assets:			
Cash and cash equivalents	\$ 75,786	\$ 42,201	\$ 59,392
Marketable securities	29,985	97,027	96,237
Receivables	11,352	6,705	8,881
Merchandise inventories	81,589	65,645	86,692
Prepaid expenses and other current assets	16,036	16,400	9,682
Total current assets	214,748	227,978	260,884
Operating lease assets	222,664	216,508	226,547
Property and equipment, net	51,279	47,530	49,392
Deferred tax assets	10,261	11,446	11,894
Other assets	1,488	1,361	1,520
TOTAL ASSETS	\$ 500,440	\$ 504,823	\$ 550,237
LIABILITIES AND STOCKHOLDERS' EQUITY			
Current liabilities:			
Accounts payable	\$ 30,225	\$ 28,144	\$ 46,378
Accrued expenses	17,239	19,073	20,084
Deferred revenue	13,859	17,096	13,568
Accrued compensation and benefits	9,756	17,056	17,106
Current portion of operating lease liabilities	50,047	51,504	51,717
Current portion of operating lease liabilities, related party	2,771	2,533	2,582
Other liabilities	806	761	727
Total current liabilities	124,703	136,167	152,162
Noncurrent portion of operating lease liabilities	176,621	171,965	182,700
Noncurrent portion of operating lease liabilities, related party	23,129	21,000	21,625
Other liabilities	455	978	1,112
Total long-term liabilities	200,205	193,943	205,437
Total liabilities	324,908	330,110	357,599
Commitments and contingencies (Notes 2 and 5)			
Stockholders' equity:			
Common stock (Class A), \$0.001 par value; 100,000 shares authorized; 22,537, 23,719 and 23,658 shares issued and outstanding, respectively	23	24	24
Common stock (Class B), \$0.001 par value; 35,000 shares authorized; 7,306, 7,306 and 7,306 shares issued and outstanding, respectively	7	7	7
Preferred stock, \$0.001 par value; 10,000 shares authorized; no shares issued or outstanding	—	—	—
Additional paid-in capital	168,749	166,929	165,983
Retained earnings	6,634	7,754	26,616
Accumulated other comprehensive income (loss)	119	(1)	8
Total stockholders' equity	175,532	174,713	192,638
TOTAL LIABILITIES AND STOCKHOLDERS' EQUITY	\$ 500,440	\$ 504,823	\$ 550,237

The accompanying notes are an integral part of these consolidated financial statements.

TILLY'S, INC.
CONSOLIDATED STATEMENTS OF INCOME
(In thousands, except per share data)
(Unaudited)

	Thirteen Weeks Ended		Thirty-Nine Weeks Ended	
	October 29, 2022	October 30, 2021	October 29, 2022	October 30, 2021
Net sales	\$ 177,847	\$ 206,096	\$ 491,930	\$ 571,205
Cost of goods sold (includes buying, distribution, and occupancy costs)	122,346	128,612	338,870	362,751
Rent expense, related party	918	745	2,680	2,149
Total cost of goods sold (includes buying, distribution, and occupancy costs)	123,264	129,357	341,550	364,900
Gross profit	54,583	76,739	150,380	206,305
Selling, general and administrative expenses	48,134	47,609	137,405	135,607
Rent expense, related party	134	133	400	400
Total selling, general, and administrative expenses	48,268	47,742	137,805	136,007
Operating income	6,315	28,997	12,575	70,298
Other income (expense), net	675	(1)	862	(219)
Income before income taxes	6,990	28,996	13,437	70,079
Income tax expense	1,841	8,162	3,656	17,888
Net income	\$ 5,149	\$ 20,834	\$ 9,781	\$ 52,191
Basic earnings per share of Class A and Class B common stock	\$ 0.17	\$ 0.67	\$ 0.32	\$ 1.72
Diluted earnings per share of Class A and Class B common stock	\$ 0.17	\$ 0.66	\$ 0.32	\$ 1.68
Weighted average basic shares outstanding	29,894	30,915	30,226	30,429
Weighted average diluted shares outstanding	30,050	31,352	30,428	31,016

The accompanying notes are an integral part of these consolidated financial statements.

TILLY'S, INC.
CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME
(In thousands)
(Unaudited)

	Thirteen Weeks Ended		Thirty-Nine Weeks Ended	
	October 29, 2022	October 30, 2021	October 29, 2022	October 30, 2021
Net income	\$ 5,149	\$ 20,834	\$ 9,781	\$ 52,191
Other comprehensive income (loss), net of tax:				
Net change in unrealized gain (loss) on available-for-sale securities, net of tax	73	(4)	120	(12)
Other comprehensive income (loss), net of tax	73	(4)	120	(12)
Comprehensive income	\$ 5,222	\$ 20,830	\$ 9,901	\$ 52,179

The accompanying notes are an integral part of these consolidated financial statements.

TILLY'S, INC.
CONSOLIDATED STATEMENT OF STOCKHOLDERS' EQUITY
(In thousands)
(Unaudited)

	Number of Shares		Common Stock	Additional Paid-in Capital	Retained Earnings	Accumulated Other Comprehensive Income	Total Stockholders' Equity
	Common Stock (Class A)	Common Stock (Class B)					
Balance at July 30, 2022	22,805	7,306	\$ 30	\$ 168,120	\$ 3,372	\$ 46	\$ 171,568
Net income	—	—	—	—	5,149	—	5,149
Share-based compensation expense	—	—	—	613	—	—	613
Employee stock option exercises	3	—	—	16	—	—	16
Repurchase of common stock	(271)	—	—	—	(1,887)	—	(1,887)
Net change in unrealized gain on available-for-sale securities	—	—	—	—	—	73	73
Balance at October 29, 2022	<u>22,537</u>	<u>7,306</u>	<u>\$ 30</u>	<u>\$ 168,749</u>	<u>\$ 6,634</u>	<u>\$ 119</u>	<u>\$ 175,532</u>

	Number of Shares		Common Stock	Additional Paid-in Capital	Retained Earnings	Accumulated Other Comprehensive (Loss)/Income	Total Stockholders' Equity
	Common Stock (Class A)	Common Stock (Class B)					
Balance at July 31, 2021	23,651	7,306	\$ 31	\$ 165,407	\$ 5,782	\$ 12	\$ 171,232
Net income	—	—	—	—	20,834	—	20,834
Share-based compensation expense	—	—	—	521	—	—	521
Employee stock option exercises	7	—	—	55	—	—	55
Net change in unrealized loss on available-for-sale securities	—	—	—	—	—	(4)	(4)
Balance at October 30, 2021	<u>23,658</u>	<u>7,306</u>	<u>\$ 31</u>	<u>\$ 165,983</u>	<u>\$ 26,616</u>	<u>\$ 8</u>	<u>\$ 192,638</u>

TILLY'S, INC.
CONSOLIDATED STATEMENT OF STOCKHOLDERS' EQUITY
(In thousands)
(Unaudited)

	Number of Shares		Common Stock	Additional Paid-in Capital	Retained Earnings	Accumulated Other Comprehensive (Loss)/Income	Total Stockholders' Equity
	Common Stock (Class A)	Common Stock (Class B)					
Balance at January 29, 2022	23,719	7,306	\$ 31	\$ 166,929	\$ 7,754	\$ (1)	\$ 174,713
Net income	—	—	—	—	9,781	—	9,781
Restricted stock	63	—	—	—	—	—	—
Share-based compensation expense	—	—	—	1,764	—	—	1,764
Employee stock option exercises	13	—	—	56	—	—	56
Repurchase of common stock	(1,258)	—	(1)	—	(10,901)	—	(10,902)
Net change in unrealized gain on available-for-sale securities	—	—	—	—	—	120	120
Balance at October 29, 2022	22,537	7,306	\$ 30	\$ 168,749	\$ 6,634	\$ 119	\$ 175,532

	Number of Shares		Common Stock	Additional Paid-in Capital	Retained Earnings	Accumulated Other Comprehensive Income	Total Stockholders' Equity
	Common Stock (Class A)	Common Stock (Class B)					
Balance at January 30, 2021	22,477	7,306	\$ 30	\$ 155,437	\$ 5,135	\$ 20	\$ 160,622
Net income	—	—	—	—	52,191	—	52,191
Dividends paid (\$1.00 per share)	—	—	—	—	(30,710)	—	(30,710)
Restricted stock	20	—	—	—	—	—	—
Share-based compensation expense	—	—	—	1,417	—	—	1,417
Employee stock option exercises	1,161	—	1	9,129	—	—	9,130
Net change in unrealized loss on available-for-sale securities	—	—	—	—	—	(12)	(12)
Balance at October 30, 2021	23,658	7,306	\$ 31	\$ 165,983	\$ 26,616	\$ 8	\$ 192,638

The accompanying notes are an integral part of these consolidated financial statements.

TILLY'S, INC.
CONSOLIDATED STATEMENTS OF CASH FLOWS
(In thousands)
(Unaudited)

	Thirty-Nine Weeks Ended	
	October 29, 2022	October 30, 2021
Cash flows from operating activities:		
Net income	\$ 9,781	\$ 52,191
Adjustments to reconcile net income to net cash (used in) provided by operating activities:		
Depreciation and amortization	10,515	13,123
Insurance proceeds from casualty loss	—	117
Share-based compensation expense	1,764	1,417
Impairment of assets	14	136
Loss on disposal of assets	64	52
Gain on sales and maturities of marketable securities	(230)	(101)
Deferred income taxes	1,167	57
Changes in operating assets and liabilities:		
Receivables	(705)	1,847
Merchandise inventories	(15,944)	(31,111)
Prepaid expenses and other current assets	557	(3,698)
Accounts payable	2,068	21,402
Accrued expenses	(4,253)	(9,804)
Accrued compensation and benefits	(7,300)	7,207
Operating lease liabilities	(4,637)	(5,205)
Deferred revenue	(3,237)	76
Other liabilities	(706)	(856)
Net cash (used in) provided by operating activities	(11,082)	46,850
Cash flows from investing activities:		
Proceeds from marketable securities	117,189	95,224
Purchases of marketable securities	(49,779)	(126,420)
Purchases of property and equipment	(11,897)	(10,911)
Proceeds from sale of property and equipment	—	17
Insurance proceeds from casualty loss	—	29
Net cash provided by (used in) investing activities	55,513	(42,061)
Cash flows from financing activities:		
Share repurchases	(10,902)	—
Proceeds from exercise of stock options	56	9,129
Dividends paid	—	(30,710)
Net cash used in financing activities	(10,846)	(21,581)
Change in cash and cash equivalents	33,585	(16,792)
Cash and cash equivalents, beginning of period	42,201	76,184
Cash and cash equivalents, end of period	\$ 75,786	\$ 59,392
Supplemental disclosures of cash flow information:		
Income taxes paid	\$ 1,440	\$ 26,493
Supplemental disclosure of non-cash activities:		
Unpaid purchases of property and equipment	\$ 3,511	\$ 1,702
Operating lease liabilities arising from obtaining operating lease assets	\$ 47,092	\$ 32,787

The accompanying notes are an integral part of these consolidated financial statements.

TILLY'S, INC.
NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS
(Unaudited)

Note 1: Description of the Company and Basis of Presentation

Tillys is a leading destination specialty retailer of casual apparel, footwear, accessories and hardgoods for young men, young women, boys and girls with an extensive assortment of iconic global, emerging, and proprietary brands rooted in an active and social lifestyle. Tillys is headquartered in Irvine, California and operated 247 stores, in 33 states as of October 29, 2022. Our stores are located in malls, lifestyle centers, 'power' centers, community centers, outlet centers and street-front locations. Customers may also shop online, where we feature the same assortment of products as carried in our brick-and-mortar stores, supplemented by additional online-only styles. Our goal is to serve as a destination for the latest, most relevant merchandise and brands important to our customers.

The Tillys concept began in 1982, when our co-founders, Hezy Shaked and Tilly Levine, opened their first store in Orange County, California. Since 1984, the business has been conducted through World of Jeans & Tops, a California corporation, or "WOJT", which operates under the name "Tillys". In May 2011, Tilly's, Inc., a Delaware corporation, was formed solely for the purpose of reorganizing the corporate structure of WOJT in preparation for an initial public offering. As part of the initial public offering in May 2012, WOJT became a wholly owned subsidiary of Tilly's, Inc.

The consolidated financial statements include the accounts of Tilly's, Inc. and WOJT. All intercompany accounts and transactions have been eliminated in consolidation.

As used in these Notes to the Consolidated Financial Statements, except where the context otherwise requires or where otherwise indicated, the terms "the Company", "we", "our", "us" and "Tillys" refer to Tilly's, Inc. and its subsidiary, WOJT.

We have prepared the accompanying unaudited consolidated financial statements in accordance with accounting principles generally accepted in the United States of America ("GAAP") for interim financial reporting. These unaudited consolidated financial statements have been prepared pursuant to the rules and regulations of the Securities and Exchange Commission (the "SEC"). Certain information and footnote disclosures normally included in financial statements prepared in accordance with GAAP have been omitted from this Quarterly Report on Form 10-Q as is permitted by SEC rules and regulations.

In the opinion of management, the accompanying unaudited consolidated financial statements contain all normal and recurring adjustments necessary to present fairly the financial condition, results of operations and cash flows for the interim periods presented. The results of operations for the thirteen and thirty-nine week periods ended October 29, 2022 are not necessarily indicative of results to be expected for the full fiscal year. The accompanying unaudited consolidated financial statements should be read in conjunction with the consolidated financial statements and notes included in our Annual Report on Form 10-K for the fiscal year ended January 29, 2022 ("fiscal 2021").

Fiscal Periods

Our fiscal year ends on the Saturday closest to January 31. References to fiscal 2022 refer to the fiscal year ending January 28, 2023. References to the fiscal quarters or first nine months ended October 29, 2022 and October 30, 2021 refer to the thirteen and thirty-nine week periods ended as of those dates, respectively.

Economic Impacts of the COVID-19 Pandemic on our Business

The economic impacts resulting from the COVID-19 pandemic (the "pandemic") have had, and may continue to have, a material effect on our business, financial condition and results of operations, as well as on the market generally, including its impacts on inflationary cost pressures, supply chain disruptions, competition for and availability of labor, management of our workforce, consumer behavior, store traffic, demands on our information technology and e-commerce capabilities, and inventory and expense management. The scope and nature of these impacts continue to evolve, and we may continue to experience similar or new adverse impacts in the future arising from the pandemic that may have material adverse effects on our future business, financial condition and results of operations.

Note 2: Summary of Significant Accounting Policies

Information regarding our significant accounting policies is contained in Note 2, "Summary of Significant Accounting Policies", of the consolidated financial statements in our Annual Report on Form 10-K for the fiscal year ended January 29, 2022.

Revenue Recognition

Revenue is recognized for store sales when the customer receives and pays for the merchandise at the register, net of estimated returns. Taxes collected from our customers are recorded on a net basis. For e-commerce sales, we recognize revenue, net of sales taxes and estimated sales returns, and the related cost of goods sold at the time the merchandise is shipped to the customer.

Amounts related to shipping and handling that are billed to customers are reflected in net sales, and the related costs are reflected in cost of goods sold in the Consolidated Statements of Income.

The following table summarizes net sales from our retail stores and e-commerce (in thousands):

	Thirteen Weeks Ended		Thirty-Nine Weeks Ended	
	October 29, 2022	October 30, 2021	October 29, 2022	October 30, 2021
Retail stores	\$ 141,539	\$ 165,255	\$ 396,109	\$ 457,557
E-commerce	36,308	40,841	95,821	113,648
Total net sales	\$ 177,847	\$ 206,096	\$ 491,930	\$ 571,205

The following table summarizes the percentage of net sales by department:

	Thirteen Weeks Ended		Thirty-Nine Weeks Ended	
	October 29, 2022	October 30, 2021	October 29, 2022	October 30, 2021
Mens	36 %	37 %	36 %	36 %
Womens	25 %	25 %	26 %	27 %
Accessories	19 %	18 %	17 %	16 %
Footwear	11 %	10 %	12 %	11 %
Boys	4 %	5 %	4 %	5 %
Girls	4 %	4 %	4 %	4 %
Hardgoods/Outdoor	1 %	1 %	1 %	1 %
Total net sales	100 %	100 %	100 %	100 %

The following table summarizes the percentage of net sales by third-party and proprietary branded merchandise:

	Thirteen Weeks Ended		Thirty-Nine Weeks Ended	
	October 29, 2022	October 30, 2021	October 29, 2022	October 30, 2021
Third-party	69 %	68 %	69 %	70 %
Proprietary	31 %	32 %	31 %	30 %
Total net sales	100 %	100 %	100 %	100 %

We accrue for estimated sales returns by customers based on historical sales return results. As of October 29, 2022, January 29, 2022 and October 30, 2021, our reserve for sales returns was \$1.9 million, \$1.9 million and \$2.3 million, respectively, and is included in accrued expenses on the accompanying Consolidated Balance Sheets.

We recognize revenue from gift cards as they are redeemed for merchandise. Prior to redemption, we maintain a current liability for unredeemed gift cards, the balance of which was \$8.7 million, \$11.2 million and \$7.9 million as of October 29, 2022, January 29, 2022 and October 30, 2021, respectively, and is included in deferred revenue on the accompanying Consolidated Balance Sheets. Our gift cards do not have expiration dates and in most cases there is no legal obligation to remit unredeemed gift cards to relevant jurisdictions. Based on actual historical redemption patterns, we determined that a small percentage of gift cards are unlikely to be redeemed, which we refer to as gift card breakage. Based on our historical gift card breakage rate, we recognize breakage revenue over the redemption period in proportion to actual gift card redemptions. Total revenue recognized from gift cards was \$2.6 million and \$2.9 million for the thirteen weeks ended October 29, 2022 and October 30, 2021, respectively. For the thirteen weeks ended October 29, 2022 and October 30, 2021, the opening gift card balance was \$8.9 million and \$7.9 million, respectively, of which \$0.7 million and \$0.6 million respectively, was recognized as revenue during these periods. Total revenue recognized from gift cards was \$9.9 million and \$10.1 million for the thirty-nine weeks ended October 29, 2022 and October 30, 2021, respectively. For the thirty-nine weeks ended October 29, 2022 and October 30, 2021, the opening gift card balance was \$11.2 million and \$9.6 million, respectively, of which \$4.6 million and \$4.0 million, respectively, was recognized as revenue during these periods.

We have a customer loyalty program where customers accumulate points based on purchase activity. Once a loyalty member achieves a certain point level, the member earns an award that may be used towards the purchase of merchandise. Unredeemed awards and accumulated partial points are accrued as deferred revenue, and awards redeemed by the member for merchandise

are recorded as an increase to net sales. Our loyalty program allows customers to redeem their awards instantly or build up to additional awards over time. During the first quarter of fiscal 2022, we modified our expiration policy related to unredeemed awards and accumulated partial points from expiration at 365 days after the customer's last purchase activity to expiration at 365 days after the customer's original purchase date. As a result of this modification in expiration policy, the estimated liability was reduced by \$0.5 million during the first quarter of fiscal 2022. A liability is estimated based on the standalone selling price of awards and partial points earned and estimated redemptions. The deferred revenue for this program was \$5.2 million, \$5.9 million and \$5.7 million as of October 29, 2022, January 29, 2022 and October 30, 2021, respectively. The value of points redeemed through our loyalty program was \$2.2 million and \$2.8 million for the thirteen weeks ended October 29, 2022 and October 30, 2021, respectively. For the thirteen weeks ended October 29, 2022 and October 30, 2021, the opening loyalty program balance was \$5.3 million and \$5.1 million, respectively, of which \$1.8 million and \$1.4 million, respectively, was recognized as revenue during these periods. The value of points redeemed through our loyalty program was \$6.5 million and \$7.7 million for the thirty-nine weeks ended October 29, 2022 and October 30, 2021, respectively. For the thirty-nine weeks ended October 29, 2022 and October 30, 2021, the opening loyalty program balance was \$5.9 million and \$3.9 million, respectively, of which \$4.9 million and \$3.7 million, respectively, was recognized as revenue during these periods.

Leases

We conduct all of our retail sales and corporate operations in leased facilities. Lease terms generally range up to ten years in duration (subject to elective extensions) and provide for escalations in base rents. Generally, we do not consider any additional renewal periods to be reasonably certain of being exercised. Most store leases include tenant allowances from landlords, rent escalation clauses and/or contingent rent provisions. Certain leases provide for additional rent based on a percentage of sales and annual rent increases generally based upon the Consumer Price Index. In addition, most of our store leases are net leases, which typically require us to be responsible for certain property operating expenses, including property taxes, insurance, common area maintenance, in addition to base rent. Many of our store leases contain certain co-tenancy provisions that permit us to pay rent based on a pre-determined percentage of sales when the occupancy of the retail center falls below minimums established in the lease. For non-cancelable operating lease agreements, operating lease assets and operating lease liabilities are established for leases with an expected term greater than one year, and we recognize lease expense on a straight-line basis. Contingent rent, determined based on a percentage of net sales in excess of specified levels, is recognized as rent expense when the achievement of those specified net sales is probable.

We lease approximately 172,000 square feet of office and warehouse space (10 and 12 Whatney, Irvine, California) from a company that is owned by the co-founders of Tillys. During each of the thirteen and thirty-nine week periods ended October 29, 2022 and October 30, 2021 we incurred rent expense of \$0.5 million and \$1.6 million, respectively, related to this lease. Our lease began on January 1, 2003 and terminates on December 31, 2027.

We lease approximately 26,000 square feet of office and warehouse space (11 Whatney, Irvine, California) from a company that is owned by one of the co-founders of Tillys. During the thirteen and thirty-nine week periods ended October 29, 2022, we incurred rent expense of \$0.2 million and \$0.4 million, respectively, related to this lease. During the thirteen and thirty-nine week periods ended October 30, 2021, we incurred rent expense of \$0.1 million and \$0.3 million, respectively, related to this lease. Pursuant to the lease agreement, the lease payment adjusts annually based upon the Los Angeles/Anaheim/Riverside Urban Consumer Price Index, with the adjustment not to be below 3% nor exceed 7% in any one annual increase. The lease began on June 29, 2012 and was set to terminate on June 30, 2022. During June 2022, this lease was amended to, among other things, extend the term for an additional 10-year term and adjust the annual payment increases. Pursuant to the amended lease agreement, the lease payments adjust annually based upon the greater of 5% or the Consumer Price Index, and the lease now terminates on June 30, 2032.

We lease approximately 81,000 square feet of office and warehouse space (17 Pasteur, Irvine, California) from a company that is owned by one of the co-founders of Tillys. We use this property as our e-commerce distribution center. During the thirteen and thirty-nine week periods ended October 29, 2022, we incurred rent expense of \$0.4 million and \$1.1 million, respectively, related to this lease. During the thirteen and thirty-nine week periods ended October 30, 2021, we incurred rent expense of \$0.3 million and \$0.7 million, respectively, related to this lease. Pursuant to the lease agreement, the lease payment adjusts annually based upon the Los Angeles/Anaheim/Riverside Urban Consumer Price Index, with the adjustment not to be below 3% nor exceed 7% in any one annual increase. The lease began on November 1, 2011 with a 10-year term ending on October 31, 2021. During October 2021, this lease was amended to, among other things, extend the term for an additional 10-year term and adjust the annual payment increases. Pursuant to the amended lease agreement, the lease payment adjusts annually based upon the greater of 5% or the Consumer Price Index and now terminates on October 31, 2031.

We sublease a portion of our office space, approximately 5,887 square feet, in the 17 Pasteur Irvine, California facility to Tilly's Life Center, ("TLC"), a related party and a charitable organization. The lease term is for 5 years and terminates January 31, 2027. Sublease income is recognized on a straight-line basis over the sublease agreement and is recorded as an offset within the selling, general and administrative section in the Consolidated Statements of Income.

The maturity of operating lease liabilities and sublease income as of October 29, 2022 were as follows (in thousands):

Fiscal Year	Related Party	Other	Total	Sublease Income
2022	\$ 966	\$ 17,011	\$ 17,977	\$ 22
2023	3,932	60,804	64,736	90
2024	4,085	50,941	55,026	95
2025	4,244	41,384	45,628	99
2026	4,411	30,148	34,559	104
Thereafter	13,491	71,619	85,110	
Total minimum lease payments	31,129	271,907	303,036	410
Less: Amount representing interest	5,229	45,239	50,468	—
Present value of operating lease liabilities	\$ 25,900	\$ 226,668	\$ 252,568	\$ 410

As of October 29, 2022, additional operating lease contracts that have not yet commenced are approximately \$2.3 million.

Lease expense for the thirteen and thirty-nine week periods ended October 29, 2022 and October 30, 2021 was as follows (in thousands):

	Thirteen Weeks Ended October 29, 2022			Thirteen Weeks Ended October 30, 2021		
	Cost of goods sold	SG&A	Total	Cost of goods sold	SG&A	Total
Fixed operating lease expense	\$ 16,230	\$ 331	\$ 16,561	\$ 15,092	\$ 321	\$ 15,413
Variable lease expense	4,274	10	4,284	4,907	15	4,922
Total lease expense	\$ 20,504	\$ 341	\$ 20,845	\$ 19,999	\$ 336	\$ 20,335

	Thirty-Nine Weeks Ended October 29, 2022			Thirty-Nine Weeks Ended October 30, 2021		
	Cost of goods sold	SG&A	Total	Cost of goods sold	SG&A	Total
Fixed operating lease expense	\$ 47,221	\$ 972	\$ 48,193	\$ 45,338	\$ 959	\$ 46,297
Variable lease expense	12,285	33	12,318	13,642	16	13,658
Total lease expense	\$ 59,506	\$ 1,005	\$ 60,511	\$ 58,980	\$ 975	\$ 59,955

For the thirteen and thirty-nine weeks ended October 30, 2021, we corrected an immaterial error of \$94 thousand and \$283 thousand, respectively, which consisted solely of a reclassification of fixed operating lease expense from SG&A to cost of goods sold, on the table above.

Supplemental lease information for the thirty-nine weeks ended October 29, 2022 and October 30, 2021 was as follows:

	Thirty-Nine Weeks Ended October 29, 2022	Thirty-Nine Weeks Ended October 30, 2021
Cash paid for amounts included in the measurement of operating lease liabilities (in thousands)	\$52,971	\$51,823
Weighted average remaining lease term (in years)	5.8 years	5.6 years
Weighted average interest rate (1)	6.32%	6.16%

(1) Since our leases do not provide an implicit rate, we use our incremental borrowing rate ("IBR") on date of adoption, at lease inception, or lease modification in determining the present value of future minimum payments.

Common Stock Share Repurchases

We may repurchase shares of our common stock from time to time pursuant to authorizations approved by our Board of Directors (see Note 9). As permitted under Delaware corporation law, shares repurchased are retired and, accordingly, are not presented separately as treasury stock in the consolidated financial statements. Instead, the value of repurchased shares is deducted from retained earnings.

Income Taxes

Our income tax expense was \$3.7 million, or 27.2% of pre-tax income, compared to an income tax expense of \$17.9 million, or 25.5% of pre-tax income, for the thirty-nine weeks ended October 29, 2022 and October 30, 2021, respectively. The increase in the effective income tax rate was primarily due to the discrete tax effects of stock-based compensation.

Reclassifications of Prior Year Presentation

Certain prior year amounts on the Consolidated Balance Sheets, have been reclassified to conform with the current year presentation. These reclassifications had no effect on the reported results of operations. A reclassification has been made to last year's Consolidated Balance Sheet as of October 30, 2021 to identify deferred tax assets of \$11.9 million and the long-term portion of credit facility costs of \$0.2 million. This change in classification does not affect previously reported cash flows from operating activities in the Consolidated Statements of Cash Flows.

New Accounting Standards Not Yet Adopted

In November 2019, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU") No. 2019-11, *Codification Improvements to Topic 326, Financial Instruments-Credit Losses* which amends ("ASU") No. 2016-13 *Measurement of Credit Losses on Financial Instruments* ("ASU 2016-13"), which modifies or replaces existing models for impairment of trade and other receivables, debt securities, loans, beneficial interests held as assets, purchased-credit impaired financial assets and other instruments. The new standard requires entities to measure expected losses over the life of the asset and recognize an allowance for estimated credit losses upon recognition of the financial instrument. ASU 2019-11 will become effective for us in the first quarter of fiscal 2023, with early adoption permitted and must be adopted using the modified retrospective method. We expect the new rules to apply to our fixed income securities recorded at amortized cost and classified as held-to-maturity and our trade receivables. We do not expect the adoption of this new standard to have a material impact on our consolidated financial statements and related disclosures.

In March 2020, the FASB issued ASU No. 2020-04, *Reference Rate Reform (Topic 848): Facilitation of the Effects of Reference Rate Reform on Financial Reporting*, which provides optional expedients and exceptions for applying GAAP to contracts, hedging relationships and other transactions affected by reference rate reform if certain criteria are met. The amendments apply only to contracts, hedging relationships and other transactions that reference London Interbank Offered Rate ("LIBOR") or another reference rate expected to be discontinued because of reference rate reform. The amendments are effective for all entities as of March 12, 2020 through December 31, 2022. This guidance will have no impact on our consolidated financial statements and related disclosures since the Company has no LIBOR based loans.

Note 3: Marketable Securities

Marketable securities as of October 29, 2022 consisted of commercial paper, classified as available-for-sale, and fixed income securities, classified as held-to-maturity, as we have the intent and ability to hold them to maturity. Our investments in commercial paper and fixed income securities are recorded at fair value and amortized cost, respectively, which approximates fair value. All of our marketable securities are less than one year from maturity.

The following table summarizes our investments in marketable securities at October 29, 2022, January 29, 2022 and October 30, 2021 (in thousands):

October 29, 2022				
	Cost or Amortized Cost	Gross Unrealized Holding Gains	Gross Unrealized Holding Losses	Estimated Fair Value
Commercial paper	\$ 24,789	\$ 136	\$ —	\$ 24,925
Fixed income securities	5,060	—	—	5,060
Total marketable securities	\$ 29,849	\$ 136	\$ —	\$ 29,985

January 29, 2022				
	Cost or Amortized Cost	Gross Unrealized Holding Gains	Gross Unrealized Holding Losses	Estimated Fair Value
Commercial paper	\$ 64,235	\$ 9	\$ (11)	\$ 64,233
Fixed income securities	32,794	—	—	32,794
Total marketable securities	\$ 97,029	\$ 9	\$ (11)	\$ 97,027

October 30, 2021				
	Cost or Amortized Cost	Gross Unrealized Holding Gains	Gross Unrealized Holding Losses	Estimated Fair Value
Commercial paper	\$ 64,261	\$ 12	\$ (1)	\$ 64,272
Fixed income securities	31,965	—	—	31,965
Total marketable securities	\$ 96,226	\$ 12	\$ (1)	\$ 96,237

We recognized gains on investments for commercial paper that matured during the thirteen and thirty-nine week periods ended October 29, 2022 and October 30, 2021. Upon recognition of the gains, we reclassified these amounts out of "Accumulated Other Comprehensive Income" and into "Other income (expense), net" on the Consolidated Statements of Income.

The following table summarizes our gains on investments for commercial paper (in thousands):

	Thirteen Weeks Ended		Thirty-Nine Weeks Ended	
	October 29, 2022	October 30, 2021	October 29, 2022	October 30, 2021
Gains on investments	\$ 109	\$ 19	\$ 174	\$ 91

Note 4: Credit Agreement

New Credit Agreement

On January 20, 2022, we entered into a senior secured credit agreement (the "Credit Agreement") and revolving line of credit note (the "Note") with Wells Fargo Bank, National Association (the "Bank"). The Credit Agreement provides for a senior secured revolving credit facility ("Revolving Facility") of up to \$25.0 million ("Revolving Commitment") consisting of revolving loans, letters of credit and swing line loans, with a sub-limit on letters of credit outstanding at any time of \$15.0 million. The Revolving Facility matures on January 20, 2024. The payment and performance in full of the secured obligations under the Revolving Facility are secured by a lien on and security interest in all of the assets of our company.

The payment and performance in full of the obligations under the Credit Agreement are guaranteed by the Company pursuant to a continuing guaranty (the "Guaranty") granted by the Company in favor of the Bank. The payment and performance of the Company's obligations under the Guaranty are secured by a lien on, and pledge of, all of the equity interests owned by the Company.

Borrowings under the Revolving Facility bear interest at a rate per annum equal to the daily simple Secured Overnight Financing Rate ("SOFR") plus 0.75%. Amounts available to be drawn under outstanding letters of credit accrue fees in an amount equal to 1.00% per annum. The unused portion of the Revolving Commitment is not subject to a commitment fee.

Under the Credit Agreement, we are subject to a variety of affirmative and negative covenants of types customary in a cash-flow-based lending facility, including financial covenants that require maintenance of (1) a ratio of total funded debt to earnings before interest, taxes, depreciation, amortization and annual rent expenses no greater than 4.00 to 1.00 and (2) a fixed charge coverage ratio of not less than 1.25 to 1.00 (calculation of which takes into account dividends, distributions, redemptions and repurchases of the equity interests of the Company only if the Company's cash on hand, net of any amounts outstanding under the Credit Agreement, is less than \$50.0 million after giving effect to such dividends, distributions, redemptions or repurchases).

Events of default under the Credit Agreement include, among other things, failure to pay principal, interest, fees or other amounts; covenant defaults; material inaccuracy of representations and warranties; bankruptcy events with respect to the Company; actual or asserted invalidity of any of the loan documents; or a change of control of the Company.

In connection with the entry into the Credit Agreement, on January 20, 2022, we entered into certain ancillary agreements, including (i) a security agreement in favor of the Bank (ii) the Guaranty entered into by the Company, and (iii) a third party pledge agreement entered into by the Company in favor of the Bank. The security agreement, the guaranty and the pledge agreement replaced (i) the guaranty by the Company in favor of the Bank, dated November 9, 2020, and (ii) the security agreement dated as of November 9, 2020, between the Company and the Bank, which were both terminated concurrently with the termination of the Prior Credit Agreement (as defined below).

As of October 29, 2022, we were in compliance with all of our covenants and had no outstanding borrowings under the Credit Agreement.

Prior Credit Agreement

The Credit Agreement replaced our previously existing asset-backed credit agreement (the "Prior Credit Agreement"), dated as of November 9, 2020, as amended, with the Bank, which had revolving commitments of up to \$65.0 million, a sub-limit on letters of credit of \$10.0 million and a sub-limit for swing-line loans of \$7.5 million.

The Prior Credit Agreement was terminated concurrently with the entry into the Credit Agreement. The maximum borrowings permitted under the Prior Credit Agreement was equal to the lesser of (x) the revolving commitment and (y) the borrowing base. The borrowing base was equal to (a) 90% of the borrower's eligible credit card receivables, plus (b) 90% of the cost of the borrower's eligible inventory, less inventory reserves established by the agent, and adjusted by the appraised value of such eligible inventory, plus (c) 90% of the cost of the borrower's eligible in-transit inventory, less inventory reserves established by the agent, and adjusted by the appraised value of such eligible in-transit inventory (not to exceed 10% of the total amount of all eligible inventory included in the borrowing base) less (d) reserves established by the agent. As of the date the Prior Credit Agreement was terminated, we had no outstanding borrowings under the Credit Agreement, and the only utilization of the letters of credit sub-limit under the Credit Agreement was a \$2.025 million irrevocable standby letter of credit, which was previously issued under the Prior Credit Agreement and was transferred on such date to the Credit Agreement.

The unused portion of the revolving commitment under the Prior Credit Agreement accrued a commitment fee, which ranged from 0.375% to 0.50% per annum, based on the average daily borrowing capacity under the revolving facility over the applicable fiscal quarter. Borrowings under the Prior Credit Agreement bear interest at a rate per annum that ranged from the LIBOR rate plus 2.0% to the LIBOR rate plus 2.25%, or the base rate plus 1.0% to the base rate plus 1.25%, based on the average daily borrowing capacity under the Prior Credit Agreement over the applicable fiscal quarter. We were allowed to elect to apply either the LIBOR rate or base rate interest to borrowings at our discretion, other than in the case of swing line loans, to which the base rate shall apply.

Under the Prior Credit Agreement, we were subject to a variety of affirmative and negative covenants of types customary in an asset-based lending facility, including a financial covenant relating to availability, and customary events of default. Prior to the first anniversary of the closing date, we were prohibited from declaring or paying any cash dividends to our respective stockholders or repurchasing of our own common stock. After the first anniversary of the closing date, we were allowed to declare and pay cash dividends to our respective stockholders and repurchase our own common stock, provided, among other things, no default or event of default exists as of the date of any such payment and after giving effect thereto, certain minimum availability and minimum projected availability tests are satisfied.

Note 5: Commitments and Contingencies

Indemnifications, Commitments, and Guarantees

During the normal course of business, we have made certain indemnifications, commitments, and guarantees under which we may be required to make payments for certain transactions. These indemnifications include, but are not limited to, those given to various lessors in connection with facility leases for certain claims arising from such facility or lease and indemnifications to our directors and officers to the maximum extent permitted under the laws of the state of Delaware. The majority of these indemnifications, commitments, and guarantees do not provide for any limitation of the maximum potential future payments we could be obligated to make, and their duration may be indefinite. We have not recorded any liability for these indemnifications, commitments, and guarantees in the accompanying Consolidated Balance Sheets.

Legal Proceedings

From time to time, we may become involved in lawsuits and other claims arising from our ordinary course of business. We establish loss provisions for matters in which losses are probable and can be reasonably estimated. For some matters, we are currently unable to predict the ultimate outcome, determine whether a liability has been incurred or make an estimate of the reasonably possible liability that could result from an unfavorable outcome because of the uncertainties related to the occurrence, amount and range of loss on any pending litigation or claim. Because of the unpredictable nature of these matters, we cannot provide any assurances regarding the outcome of any litigation or claim to which we are a party or that the ultimate outcome of any of the matters threatened or pending against us, including those disclosed below, will not have a material adverse effect on our financial condition, results of operations or cash flows.

Juan Carlos Gonzales, on behalf of himself and all others similarly situated, v. Tilly's Inc. et al, Superior Court of California, County of Orange, Case No. 30-2017-00948710-CU-OE-CXC. In October 2017, the plaintiff filed a putative class action against us, alleging various violations of California's wage and hour laws. The complaint seeks class certification, unspecified damages, unpaid wages, penalties, restitution, interest and attorneys' fees and costs. In December 2017, we filed an answer to the complaint, denying all of the claims and asserting various defenses. In April 2018, the plaintiff filed a separate action under the Private Attorneys General Act ("PAGA") against us seeking penalties on behalf of himself and other similarly situated employees for the same alleged violations of California's wage and hour laws. We requested the plaintiff to dismiss the class action claims based on an existing class action waiver in an arbitration agreement which plaintiff signed with our co-defendant, BaronHR, the staffing company that employed plaintiff to work at the Company. In June 2018, the plaintiff's class action complaint was dismissed. The parties mediated the PAGA case with a well-respected mediator in March 2020. The case did not settle during mediation nor during ensuing negotiations. The court has not yet issued a trial date. By agreement between co-defendant BaronHR and Tilly's, BaronHR is required to indemnify us for all of our losses and expenses incurred in connection with this matter. To reduce our indemnifiable losses and expenses in this matter, we have requested that BaronHR enforce its arbitration agreement in light of recent developments in applicable case law, and move to compel the individual PAGA claim to arbitration and dismiss the representative PAGA claims. We have defended this case vigorously, and will continue to do so. We believe that a loss is currently not probable or estimable under FASB Accounting Standards Codification ("ASC") 450, "Contingencies," and no accrual has been made with regard to this matter.

Allison B. Johnson, on behalf of herself and others similarly situated, v. World of Jeans & Tops, Inc. dba Tilly's et al, Superior Court of California, County of Fresno, Case No. 22CECG03658. In November 2022, the plaintiff filed a putative class action against us, alleging various violations of California's wage and hour laws. The complaint seeks class certification, unspecified damages, unpaid wages, penalties, restitution, interest, and attorneys' fees and costs. We have also been served with a notice to the California Labor and Workforce Development Agency regarding the plaintiff's intention to file a representative action pursuant to PAGA against us seeking penalties on behalf of herself and other similarly situated employees for the same alleged violations of California's wage and hour laws. We are at the preliminary stages of investigating the allegations made in the complaint and intend to defend this case vigorously. We believe that a loss is currently not probable or estimable under ASC 450, "Contingencies," and no accrual has been made with regard to this matter.

Note 6: Fair Value Measurements

We determine fair value based on a three-level valuation hierarchy as described below. Fair value is defined as the exit price associated with the sale of an asset or transfer of a liability in an orderly transaction between market participants at the measurement date. The three-level hierarchy of inputs used to determine fair value is as follows:

- *Level 1* – Quoted prices in active markets for identical assets and liabilities.
- *Level 2* – Inputs other than Level 1 that are observable, either directly or indirectly, such as quoted prices for similar assets and liabilities; quoted prices in markets that are not active; or other inputs that are observable or can be corroborated by observable market data for substantially the full term of the assets or liabilities.
- *Level 3* – Unobservable inputs (i.e. projections, estimates, interpretations, etc.) that are supported by little or no market activity and that are significant to the fair value of the assets or liabilities.

We measure certain financial assets at fair value on a recurring basis, including our marketable securities which are classified as available-for-sale securities, and certain cash equivalents, specifically money market securities, commercial paper, municipal bonds and certificates of deposits. The money market accounts are valued based on quoted market prices in active markets. The available-for-sale marketable securities are valued based on other observable inputs for those securities (including market corroborated pricing or other models that utilize observable inputs such as interest rates and yield curves) based on information provided by independent third party entities.

From time to time, we measure certain assets at fair value on a non-recurring basis, including evaluation of long-lived assets for impairments using Company-specific assumptions which would fall within Level 3 of the fair-value hierarchy.

Fair value calculations contain significant judgments and estimates, which may differ from actual results due to, among other things, economic conditions, changes to the business model or changes in operating performance.

During the thirteen and thirty-nine week periods ended October 29, 2022 and October 30, 2021, we did not make any transfers between Level 1 and Level 2 financial assets. Furthermore, as of October 29, 2022, January 29, 2022 and October 30, 2021, we did not have any Level 3 financial assets. We conduct reviews on a quarterly basis to verify pricing, assess liquidity and determine if significant inputs have changed that would impact the fair value hierarchy disclosure.

Financial Assets

In accordance with the provisions of ASC 820, *Fair Value Measurement*, we categorized our financial assets based on the priority of the inputs to the valuation technique for the instruments as follows (in thousands):

	October 29, 2022			January 29, 2022			October 30, 2021		
	Level 1	Level 2	Level 3	Level 1	Level 2	Level 3	Level 1	Level 2	Level 3
Cash equivalents (1):									
Money market securities	\$ 62,848	\$ —	\$ —	\$32,764	\$ —	\$ —	\$52,532	\$ —	\$ —
Commercial paper	\$ —	\$9,948	\$ —	\$ —	\$4,999	\$ —	\$ —	\$ —	\$ —
Marketable securities:									
Commercial paper	\$ —	\$ 24,925	\$ —	\$ —	\$ 64,233	\$ —	\$ —	\$ 64,272	\$ —

(1) Excluding cash.

Impairment of Long-Lived Assets

On at least a quarterly basis, we assess whether events or changes in circumstances have occurred that potentially indicate the carrying value of long-lived assets may not be recoverable. Based on Level 3 inputs of historical operating performance, including sales trends, gross margin rates, current cash flows from operations and the projected outlook for each our stores, we determined that certain stores would not be able to generate sufficient cash flows over the remaining term of the related leases to recover our investment in the respective stores. As a result, we recorded non-recurring, non-cash impairment charges of less than \$0.1 million and \$0.1 million in the thirty-nine weeks ended October 29, 2022 and October 30, 2021, respectively, to write-down the carrying value of certain long-lived store assets to their estimated fair values.

	Thirteen Weeks Ended		Thirty-Nine Weeks Ended	
	October 29, 2022	October 30, 2021	October 29, 2022	October 30, 2021
	(\$ in thousands)			
Carrying value of assets with impairment	\$ 1	\$ —	\$ 14	\$ 176
Fair value of assets impaired	\$ —	\$ —	\$ —	\$ 40
Number of stores tested for impairment	8	1	9	12
Number of stores with impairment	1	—	2	1

Note 7: Share-Based Compensation

The Tilly's, Inc. 2012 Second Amended and Restated Equity and Incentive Plan, as amended in June 2020 (the "2012 Plan"), authorizes up to 6,613,900 shares for issuance of options, shares or rights to acquire our Class A common stock and allows for, among other things, operating income and comparable store sales growth targets as additional performance goals that may be used in connection with performance-based awards granted under the 2012 Plan. As of October 29, 2022, there were 1,778,595 shares available for future issuance under the 2012 Plan.

Stock Options

We grant stock options to certain employees that give them the right to acquire our Class A common stock under the 2012 Plan. The exercise price of options granted is equal to the closing price per share of our stock at the date of grant. The non-qualified options vest at a rate of 25% on each of the first four anniversaries of the grant date provided that the award recipient continues to be employed by us through each of those vesting dates and expire ten years from the date of grant.

The following table summarizes stock option activity for the thirty-nine weeks ended October 29, 2022 (aggregate intrinsic value in thousands):

	Stock Options	Grant Date Weighted Average Exercise Price	Weighted Average Remaining Contractual Life (in Years)	Aggregate Intrinsic Value (1)
Outstanding at January 29, 2022	1,570,211	\$ 9.02		
Granted	522,500	\$ 9.37		
Exercised	(13,500)	\$ 4.13		
Forfeited	(35,500)	\$ 9.66		
Expired	(60,468)	\$ 14.63		
Outstanding at October 29, 2022	1,983,243	\$ 8.96	7.6	\$ 2,211
Exercisable at October 29, 2022	759,043	\$ 9.52	5.9	\$ 836

(1) Intrinsic value for stock options is defined as the difference between the market price of our Class A common stock on the last business day of the fiscal period and the weighted average exercise price of in-the-money stock options outstanding at the end of the fiscal period. The market value per share was \$8.85 at October 29, 2022.

The stock option awards were measured at fair value on the grant date using the Black-Scholes option valuation model. Key input assumptions used to estimate the fair value of stock options include the exercise price of the award, the expected option term, expected volatility of our stock over the option's expected term, the risk-free interest rate over the option's expected term and our expected annual dividend yield, if any. We account for forfeitures as they occur. We issue shares of Class A common stock when stock option awards are exercised.

The fair values of stock options granted during the thirteen and thirty-nine weeks ended October 29, 2022 and October 30, 2021 were estimated on the grant date using the following assumptions:

	Thirteen Weeks Ended		Thirty-Nine Weeks Ended	
	October 29, 2022	October 30, 2021	October 29, 2022	October 30, 2021
Weighted average grant-date fair value per option granted	\$3.82	\$7.96	\$4.94	\$5.69
Expected option term (1)	5.2 years	5.3 years	5.2 years	5.4 years
Weighted average expected volatility factor (2)	58.6%	59.4%	58.6%	59.9%
Weighted average risk-free interest rate (3)	3.6%	1.0%	2.4%	0.9%
Expected annual dividend yield (4)	—%	—%	—%	—%

(1) The expected option term of the awards represents the estimated time that options are expected to be outstanding based upon historical option data.

(2) Stock volatility for each grant is measured using the historical daily price changes of our common stock over the most recent period equal to the expected option term of the awards.

(3) The risk-free interest rate is determined using the rate on treasury securities with the same term as the expected life of the stock option as of the grant date.

(4) We do not currently have a dividend policy.

Restricted Stock Awards

Restricted stock awards ("RSAs") represent restricted shares issued upon the date of grant in which the recipient's rights in the stock are restricted until the shares are vested, whereas restricted stock units ("RSUs") represent shares issuable in the future upon vesting. Under the 2012 Plan, we grant RSAs to independent members of our Board of Directors and RSUs to certain employees. RSAs granted to Board members vest at a rate of 50% on each of the first two anniversaries of the grant date provided that the respective award recipient continues to serve on our Board of Directors through each of those vesting dates. The RSUs granted to certain employees vest at a rate of 25% on each of the first four anniversaries of the grant date provided that the respective recipient continues to be employed by us through each of those vesting dates. We determine the fair value of restricted stock underlying the RSAs and RSUs based upon the closing price of our Class A common stock on the date of grant.

The following table summarizes the status of non-vested RSAs changes during the thirty-nine weeks ended October 29, 2022:

	Restricted Stock	Weighted Average Grant-Date Fair Value
Nonvested at January 29, 2022	45,464	\$ 10.56
Granted	63,492	\$ 7.56
Vested	(35,472)	\$ 9.02
Nonvested at October 29, 2022	<u>73,484</u>	<u>\$ 8.71</u>

Share-based compensation expense associated with stock options and restricted stock is recognized on a straight-line basis over the requisite service period. The following table summarizes share-based compensation expense recorded in the Consolidated Statements of Income (in thousands):

	Thirteen Weeks Ended		Thirty-Nine Weeks Ended	
	October 29, 2022	October 30, 2021	October 29, 2022	October 30, 2021
Cost of goods sold (1)	\$ 100	\$ 75	\$ 280	\$ 119
Selling, general, and administrative	513	446	1,484	1,298
Total share-based compensation	<u>\$ 613</u>	<u>\$ 521</u>	<u>\$ 1,764</u>	<u>\$ 1,417</u>

(1) Share-based compensation expense for the thirty-nine weeks ended October 30, 2021 includes forfeiture credits due to the departure of the Company's prior Chief Merchandising Officer effective March 19, 2021.

At October 29, 2022, there was \$4.9 million of total unrecognized share-based compensation expense related to unvested stock options and restricted stock. This cost has a weighted average remaining recognition period of 2.6 years.

Note 8: Earnings Per Share

Earnings per share is computed under the provisions of ASC 260, *Earnings Per Share*. Basic earnings per share is computed based on the weighted average number of shares of common stock outstanding during the period. Diluted earnings per share is computed based on the weighted average number of shares of common stock plus the effect of dilutive potential shares of common stock (i.e., in-the-money outstanding stock options as well as RSAs) outstanding during the period using the treasury stock method, whereby proceeds from such exercise, unamortized compensation and hypothetical excess tax benefits, if any, on share-based awards are assumed to be used by us to purchase shares of common stock at the average market price during the period.

The components of basic and diluted earnings per share were as follows (in thousands, except per share amounts):

	Thirteen Weeks Ended		Thirty-Nine Weeks Ended	
	October 29, 2022	October 30, 2021	October 29, 2022	October 30, 2021
Net income	\$ 5,149	\$ 20,834	\$ 9,781	\$ 52,191
Weighted average basic shares outstanding	29,894	30,915	30,226	30,429
Dilutive effect of in-the-money stock options and RSAs	156	437	202	587
Weighted average shares for diluted earnings per share	<u>30,050</u>	<u>31,352</u>	<u>30,428</u>	<u>31,016</u>
Basic earnings per share of Class A and Class B common stock	\$ 0.17	\$ 0.67	\$ 0.32	\$ 1.72
Diluted earnings per share of Class A and Class B common stock	<u>\$ 0.17</u>	<u>\$ 0.66</u>	<u>\$ 0.32</u>	<u>\$ 1.68</u>

The following stock options have been excluded from the calculation of diluted earnings per share as the effect of including these stock options would have been anti-dilutive (in thousands):

	Thirteen Weeks Ended		Thirty-Nine Weeks Ended	
	October 29, 2022	October 30, 2021	October 29, 2022	October 30, 2021
Stock options	1,529	677	1,408	800
Restricted stock	10	—	10	20
Total	1,539	677	1,418	820

Note 9: Share Repurchase Program

On March 14, 2022, our Board of Directors authorized a share repurchase program, pursuant to which we are authorized to repurchase up to 2,000,000 shares of our Class A common stock through March 14, 2023, in open market transactions through a broker-dealer at prevailing market prices, in block trades or by any other means in accordance with federal securities laws. During the thirty-nine weeks ended October 29, 2022, we repurchased 1,258,330 shares of our Class A common stock at a weighted average price of \$8.63 per share for a total of \$10.9 million under the program. At October 29, 2022, the remaining repurchase authorization totaled 741,670 shares.

We are not obligated to repurchase any specific number or amount of shares of Class A common stock pursuant to the program, and we may modify, suspend or discontinue the program at any time. We will determine the timing and amount of repurchased shares, if any, in our discretion based on a variety of factors, such as the market price of our Class A common stock, corporate requirements, general market and economic conditions and applicable legal requirements.

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

The following discussion and analysis of the financial condition and results of our operations should be read together with the financial statements and related notes of Tilly's, Inc. included in Part I Item 1 of this Quarterly Report on Form 10-Q (this "Report") and with our audited consolidated financial statements and the related notes included in our Annual Report on Form 10-K for the fiscal year ended January 29, 2022. As used in this Report, except where the context otherwise requires or where otherwise indicated, the terms "the Company", "World of Jeans & Tops", "we", "our", "us", "Tillys" and "Tilly's" refer to Tilly's, Inc. and its subsidiary.

Overview

Tillys is a destination specialty retailer of casual apparel, footwear, accessories and hardgoods for men, women, boys and girls. We believe we bring together an unparalleled selection of iconic global, emerging, and proprietary brands rooted in an active and outdoor lifestyle. The Tillys concept began in 1982, when our co-founders, Hezy Shaked and Tilly Levine, opened our first store in Orange County, California. As of October 29, 2022, we operated 247 stores in 33 states, averaging approximately 7,286 square feet per store, compared to 243 total stores last year at this time. We also sell our products through our e-commerce website, www.tillys.com.

Known or Anticipated Trends

Economic and Operational Trends

Economic and Operational Impacts of the COVID-19 Pandemic. The economic impacts resulting from the COVID-19 pandemic (the "pandemic") have had, and may continue to have, a material effect on our business, financial condition and results of operations, as well as on the market generally. We may experience adverse impacts in the future, particularly related to broader economic conditions that result in significant part from pandemic-related factors. Further, we believe our operating results for fiscal 2021 were significantly aided by the considerable pent-up consumer demand exiting 2020 pandemic restrictions and the impact of federal stimulus payments. Additionally, the factors noted below have had, and are expected to continue to have, an adverse impact on our operating results during fiscal 2022. As a result, we expect our fiscal 2022 fourth quarter operating results will remain below fiscal 2021 levels. In addition to the economic impacts on us, the pandemic has had, and may continue to have, far-reaching impacts on many aspects of our operations, directly and indirectly, including on consumer behavior, store traffic, inventory and expense management, and management of our workforce.

Inflationary Cost Pressures. As of the date of this filing, the macro-economic environment arising out of the pandemic, supply chain disruptions and certain geo-political matters have resulted in significant price increases for the merchandise we purchase for sale to our customers as well as for gasoline, food and other consumables across the economy. We believe that these price increases have had, and will likely continue to have, a negative impact on consumer behavior and, by extension, our results of operations and financial condition during fiscal 2022.

Supply Chain Disruptions. We source a significant portion of our merchandise assortment from third parties who manufacture their products in countries that have experienced widespread issues with the pandemic and resulting macro-economic environment, thereby significantly impacting the global supply chain for merchandise inventories. These issues have resulted in, and are continuing to result in, shipping delays and increased shipping costs throughout the retail industry, including for us, which negatively affects both our ability to meet our customers' expectations timely and our results of operations. As a result, we have had to continuously adjust our merchandise planning, allocation and pricing strategies from historical practices, among other impacts, especially in anticipation of this year's holiday season.

Labor Challenges and Wage Inflation. The pandemic and the resulting factors above have also created challenges related to the availability of sufficient labor from time to time, and have caused a significant increase in the competition for labor among consumer facing companies. This competition for labor has driven significant increases in wages beyond government-mandated increases in minimum wages in order to compete for sufficient labor availability and/or to prevent the loss of existing workforce in our stores, distribution centers and corporate offices. We expect these pressures to continue through the end of fiscal 2022.

Preliminary Fiscal 2023 New Store Openings and Capital Expenditure Plans

During fiscal 2023, we currently expect to open up to 15 new stores within existing markets, primarily in California, Texas and the Northeast, assuming we are able to negotiate what we believe to be acceptable lease economics. We expect our total capital expenditures for fiscal 2023 not to exceed \$25 million, inclusive of our new store plans and upgrades to certain distribution and information technology infrastructure systems.

How We Assess the Performance of Our Business

In assessing the performance of our business, we consider a variety of performance and financial measures. The key indicators of the financial condition and operating performance of our business are net sales, comparable store sales, gross profit, selling, general and administrative ("SG&A") expenses and operating income.

Net Sales

Net sales reflect revenue from the sale of our merchandise at store locations and through e-commerce, net of sales taxes. Store sales are reflected in sales when the merchandise is received by the customer. For e-commerce sales, we recognize revenue, and the related cost of goods sold at the time the merchandise is shipped to the customer. Net sales also include shipping and handling fees for e-commerce shipments that have been shipped to the customer. Net sales are net of returns on sales during the period as well as an estimate of returns expected in the future stemming from current period sales. We recognize revenue from gift cards as they are redeemed for merchandise. Prior to redemption, we maintain a current liability for unredeemed gift card balances. Our gift cards do not have expiration dates and in most cases there is no legal obligation to remit unredeemed gift cards to relevant jurisdictions. Based on actual historical redemption patterns, we determined that a small percentage of gift cards are unlikely to be redeemed (which we refer to as gift card "breakage"). Based on our historical gift card breakage rate, we recognize breakage revenue over the redemption period in proportion to actual gift card redemptions.

Our business is seasonal and as a result our revenues fluctuate from quarter to quarter. In addition, our revenues in any given quarter can be affected by a number of factors including the timing of holidays and weather patterns. The third and fourth quarters of the fiscal year, which include the back-to-school and holiday sales seasons, have historically produced stronger sales and disproportionately stronger operating results than have the first two quarters of the fiscal year.

Comparable Store Net Sales

Comparable store net sales is a measure that indicates the change in year-over-year comparable store net sales which allows us to evaluate how our store base (including our e-commerce platform) is performing. Numerous factors affect our comparable store sales, including:

- overall economic trends;
- our ability to attract traffic to our stores and online platform;
- our ability to identify and respond effectively to consumer preferences and fashion trends;
- competition;
- the timing of our releases of new and seasonal styles;
- changes in our product mix;
- pricing;
- the level of customer service that we provide in stores;
- our ability to source and distribute products efficiently;
- calendar shifts of holiday or seasonal periods;
- the number and timing of store openings and the relative proportion of new stores to mature stores; and
- the timing and success of promotional and advertising efforts.

Our comparable store sales are defined as sales from our e-commerce platform and stores open on a daily basis compared to the same respective fiscal dates of the prior year. A remodeled, relocated or refreshed store is included in comparable store sales, both during and after construction, if the square footage of the store used to sell merchandise was not changed by more than 20% in any fiscal month. We include sales from our e-commerce platform as part of comparable store sales as we manage and analyze our business on a single omni-channel basis and have substantially integrated our investments and operations for our stores and e-commerce platform to give our customers seamless access and increased ease of shopping. Comparable store sales exclude gift card breakage income and e-commerce shipping and handling fee revenue. Some of our competitors and other retailers may calculate comparable or "same store" sales differently than we do. As a result, data in this Report regarding our comparable store sales may not be comparable to similar data made available by other retailers.

Gross Profit

Gross profit is equal to our net sales less our cost of goods sold. Cost of goods sold reflects the direct cost of purchased merchandise as well as buying, distribution, and occupancy costs. Buying costs include compensation and benefit expense for our internal buying organization. Distribution costs include costs for receiving, processing and warehousing our store merchandise and shipping of merchandise to or from our distribution and e-commerce fulfillment centers and to our e-commerce customers and between store locations. Occupancy costs include the rent, common area maintenance, utilities, property taxes, security and depreciation costs of all store locations. These costs are significant and can be expected to continue to increase as our company grows. The components of our reported cost of goods sold may not be comparable to those of other retail companies.

We regularly analyze the components of gross profit as well as gross profit as a percentage of net sales. Specifically we look at the initial markup on purchases, markdowns and reserves, shrinkage, buying costs, distribution costs and occupancy costs. Any inability to obtain acceptable levels of initial markups, a significant increase in our use of markdowns or a significant increase in inventory shrinkage or inability to generate sufficient sales leverage on the buying, distribution, and occupancy components of cost of goods sold could have an adverse impact on our gross profit and results of operations.

Gross profit is also impacted by shifts in the proportion of sales of proprietary branded products compared to third-party branded products, as well as by sales mix shifts within and between brands and between major product departments such as young men's and women's apparel, footwear or accessories. A substantial shift in the mix of products could have a material impact on our results of operations. In addition, gross profit and gross profit as a percent of sales have historically been higher in the third and fourth quarters of the fiscal year, as these periods include the back-to-school and winter holiday selling seasons. This reflects that various costs, including occupancy costs, generally do not increase in proportion to the seasonal sales increase.

Selling, General and Administrative Expenses

Our selling, general and administrative, or SG&A, expenses are comprised of store selling expenses and corporate-level general and administrative expenses. Store selling expenses include store and regional support costs, including personnel, advertising and debit and credit card processing costs, e-commerce receiving and processing costs and store supplies costs. General and administrative expenses include the payroll and support costs of corporate functions such as executive management, legal, accounting, information systems, human resources, impairment charges and other centralized services. Store selling expenses generally vary proportionately with net sales and store growth. In contrast, general and administrative expenses are generally not directly proportional to net sales and store growth but will be expected to increase over time to support the needs of our growing company. SG&A expenses as a percentage of net sales are usually higher in lower-volume periods and lower in higher-volume periods.

Operating Income

Operating income equals gross profit less SG&A expenses. Operating income excludes interest income, interest expense and income taxes. Operating income percentage measures operating income as a percentage of our net sales.

Results of Operations

The following tables summarize key components of our unaudited results of operations for the periods indicated, both in dollars (in thousands) and as a percentage of our net sales:

	Thirteen Weeks Ended		Thirty-Nine Weeks Ended	
	October 29, 2022	October 30, 2021	October 29, 2022	October 30, 2021
Statements of Income Data:				
Net sales	\$ 177,847	\$ 206,096	\$ 491,930	\$ 571,205
Cost of goods sold	122,346	128,612	338,870	362,751
Rent expense, related party	918	745	2,680	2,149
Total cost of goods sold	123,264	129,357	341,550	364,900
Gross profit	54,583	76,739	150,380	206,305
Selling, general and administrative expenses	48,134	47,609	137,405	135,607
Rent expense, related party	134	133	400	400
Total selling, general and administrative expenses	48,268	47,742	137,805	136,007
Operating income	6,315	28,997	12,575	70,298
Other income (expense), net	675	(1)	862	(219)
Income before income taxes	6,990	28,996	13,437	70,079
Income tax expense	1,841	8,162	3,656	17,888
Net income	\$ 5,149	\$ 20,834	\$ 9,781	\$ 52,191
Percentage of Net Sales:				
Net sales	100.0 %	100.0 %	100.0 %	100.0 %
Cost of goods sold	68.8 %	62.4 %	68.9 %	63.5 %
Rent expense, related party	0.5 %	0.4 %	0.5 %	0.4 %
Total cost of goods sold	69.3 %	62.8 %	69.4 %	63.9 %
Gross profit	30.7 %	37.2 %	30.6 %	36.1 %
Selling, general and administrative expenses	27.1 %	23.1 %	27.9 %	23.7 %
Rent expense, related party	0.1 %	0.1 %	0.1 %	0.1 %
Total selling, general and administrative expenses	27.1 %	23.2 %	28.0 %	23.8 %
Operating income	3.6 %	14.1 %	2.6 %	12.3 %
Other income (expense), net	0.4 %	0.0 %	0.2 %	0.0 %
Income before income taxes	3.9 %	14.1 %	2.7 %	12.3 %
Income tax expense	1.0 %	4.0 %	0.7 %	3.1 %
Net income	2.9 %	10.1 %	2.0 %	9.1 %

The following table presents store operating data for the periods indicated:

	Thirteen Weeks Ended		Thirty-Nine Weeks Ended	
	October 29, 2022	October 30, 2021	October 29, 2022	October 30, 2021
Operating Data:				
Stores operating at end of period	247	243	247	243
Comparable store net sales change (1)	(14.9)%	31.3 %	(14.9)%	18.2 %
Total square feet at end of period (in '000s)	1,800	1,781	1,800	1,781
Average net sales per physical store (in '000s) (2)	\$ 578	\$ 678	\$ 1,635	\$ 1,892
Average net sales per square foot (2)	\$ 79	\$ 93	\$ 224	\$ 258
E-commerce net sales (in '000s) (3)	\$ 36,308	\$ 40,841	\$ 95,821	\$ 113,648
E-commerce net sales as a percentage of net sales	20.4 %	19.8 %	19.5 %	19.9 %

(1) Our comparable store net sales are defined as sales from our e-commerce platform and stores open on a daily basis compared to the same respective fiscal dates of the prior year. A remodeled or relocated store is included in comparable store net sales, both during and after construction, if the square footage of the store used to sell merchandise was not changed by more than 20% in any fiscal month. We include sales from our e-commerce platform as part of our comparable store net sales as we manage and analyze our business on an omni-channel basis and have substantially integrated our investments and

operations for our stores and e-commerce platform to give our customers seamless access and increased ease of shopping. Comparable store net sales exclude gift card breakage income, and e-commerce shipping and handling fee revenue.

- (2) The number of stores and the amount of square footage reflect the number of days during the period that stores were open. E-commerce sales, e-commerce shipping and handling fee revenue and gift card breakage income are excluded from net sales in deriving average net sales per retail store and average net sales per square foot.
- (3) E-commerce net sales include e-commerce sales and e-commerce shipping and handling fee revenue.

Third Quarter (13 Weeks) Ended October 29, 2022 Compared to Third Quarter (13 Weeks) Ended October 30, 2021

Net Sales

Total net sales were \$177.8 million, a decrease of \$28.2 million, or 13.7%, compared to \$206.1 million last year, primarily due to the impacts of last year's pent-up consumer demand and stimulus payments resulting from the pandemic.

- Net sales from physical stores were \$141.5 million, a decrease of \$23.7 million or 14.4%, compared to \$165.3 million last year. Net sales from physical stores represented 79.6% of total net sales compared to 80.2% of total net sales last year. We ended the third quarter with 247 total stores compared to 243 total stores at the end of the third quarter last year.
- Net sales from e-commerce were \$36.3 million, a decrease of \$4.5 million or 11.1%, compared to \$40.8 million last year. E-commerce net sales represented 20.4% of total net sales compared to 19.8% of total net sales last year.

Gross Profit

Gross profit was \$54.6 million, or 30.7% of net sales, compared to \$76.7 million, or 37.2% of net sales, last year. Buying, distribution and occupancy costs deleveraged by 360 basis points collectively due to carrying these costs against a significantly lower level of net sales this year. Product margins declined by 300 basis points primarily due to an increased markdown rate compared to last year, during which we experienced record full price selling with an abnormally low markdown rate.

Selling, General and Administrative Expenses

SG&A expenses were \$48.3 million or 27.1% of net sales, compared to \$47.7 million, or 23.2% of net sales, last year. The primary components of the SG&A variances, both in terms of percentage of net sales and total dollars, were as follows:

%	\$ millions	Primarily Attributable to
2.1%	\$0.6	Increase in store payroll and related benefits as a result of having four net additional stores along with higher hourly wage rates.
0.7%	0.5	Increase in corporate payroll primarily due to wage inflation.
(0.9)%	(1.8)	Decrease in corporate bonus expense due to lack of a bonus accrual in fiscal 2022.
0.1%	(0.6)	Decrease in marketing expenses.
2.0%	1.8	Net change in all other SG&A expenses.
4.0%	\$0.5	Total

Operating Income

Operating income was \$6.3 million, or 3.6% of net sales, compared to \$29.0 million, or 14.1% of net sales, last year.

Income Tax Expense

Income tax expense was \$1.8 million, or 26.3% of pre-tax income, compared to \$8.2 million, or 28.1% of pre-tax income, last year. The decrease in the effective income tax rate was primarily due to the discrete tax effects of stock-based compensation.

Net Income and Income Per Diluted Share

Net income was \$5.1 million, or \$0.17 per diluted share, compared to \$20.8 million, or \$0.66 per diluted share, last year.

Thirty-Nine Weeks Ended October 29, 2022 Compared to Thirty-Nine Weeks Ended October 30, 2021*Net Sales*

Total net sales were \$491.9 million, a decrease of \$79.3 million or 13.9%, compared to \$571.2 million last year, primarily due to the impacts of last year's pent-up consumer demand and stimulus impacts resulting from the pandemic.

- Net sales from physical stores were \$396.1 million, a decrease of \$61.4 million or 13.4%, compared to \$457.6 million last year. Net sales from stores represented 80.5% of total net sales compared to 80.1% of total net sales last year.
- Net sales from e-commerce were \$95.8 million, a decrease of \$17.8 million or 15.7%, compared to \$113.6 million last year. E-commerce net sales represented 19.5% of total net sales compared to 19.9% of total net sales last year.

Gross Profit

Gross profit was \$150.4 million, or 30.6% of net sales, compared to \$206.3 million, or 36.1% of net sales, last year. Buying, distribution, and occupancy costs deleveraged by 300 basis points collectively despite being \$0.9 million lower than last year due to carrying these costs against a significantly lower level of net sales this year. Product margins declined by 250 basis points primarily due to an increased markdown rate compared to last year, during which we experienced record full price selling with an abnormally low markdown rate.

Selling, General and Administrative Expenses

SG&A expenses were \$137.8 million or 28.0% of net sales, compared to \$136.0 million, or 23.8% of net sales, last year. The primary components of the SG&A variances, both in terms of percentage of net sales and total dollars, were as follows:

%	\$ millions	Primarily Attributable to
2.4%	\$3.1	Increase in store payroll and related benefits as a result of having four net additional stores along with higher hourly wage rates.
0.3%	1.7	Credit from the reversal of a disputed California sales tax assessment in last year's first quarter.
0.3%	1.0	Increase in software as a service costs.
(1.1)%	(6.1)	Decrease in corporate bonus expense due to lack of a bonus accrual in fiscal 2022.
0.2%	(1.0)	Decrease in e-commerce marketing expense.
2.1%	3.1	Net change in all other SG&A expenses.
4.2%	\$1.8	Total

Operating Income

Operating income was \$12.6 million, or 2.6% of net sales, compared to \$70.3 million, or 12.3% of net sales, last year.

Income Tax Expense

Income tax expense was \$3.7 million, or 27.2% of pre-tax income, compared to \$17.9 million, or 25.5% of pre-tax income, last year. The increase in the effective income tax rate was primarily due to the discrete tax effects of stock-based compensation.

Net Income and Income Per Diluted Share

Net income was \$9.8 million, or \$0.32 per diluted share, compared to \$52.2 million, or \$1.68 per diluted share, last year.

Liquidity and Capital Resources

Our business relies on cash flows from operating activities as well as cash on hand as our primary sources of liquidity. We currently expect to finance company operations, store growth and remodels and all of our planned capital expenditures with existing cash on hand, marketable securities and cash flows from operations.

In addition to cash and cash equivalents and marketable securities, the most significant components of our working capital are merchandise inventories, accounts payable and accrued expenses. We believe that cash flows from operating activities, our cash and marketable securities on hand, and credit facility availability will be sufficient to cover our working capital requirements and anticipated capital expenditures for the next 12 months from the filing of this Report. If cash flows from operations are not sufficient or available to meet our capital requirements, then we will be required to obtain additional equity or debt financing in the future. There can be no assurance that equity or debt financing will be available to us when we need it or, if available, that the terms will be satisfactory to us and not dilutive to our stockholders.

Working Capital

Working capital at October 29, 2022, was \$90.0 million compared to \$91.8 million at January 29, 2022, a decrease of \$1.8 million. The primary changes in our working capital during the first three quarters of fiscal 2022 were as follows:

\$ millions	Description
\$91.8	Working capital at January 29, 2022
(22.6)	Decrease in cash, cash equivalents, and marketable securities primarily due to lower net income and payment of fiscal 2021 corporate bonus.
(10.9)	Repurchase of shares under our share repurchase program.
13.9	Increase in merchandise inventories, net of accounts payable.
7.3	Increase primarily due to a decrease in accrued compensation and benefits, including payment of fiscal 2021 corporate bonus.
4.6	Increase in receivables, primarily due to timing of credit and debit card receivables.
3.2	Increase primarily due to a decrease in gift card liability.
1.8	Increase primarily due to a decrease in accrued expenses.
0.9	Other net increases.
\$90.0	Working capital at October 29, 2022

Cash Flow Analysis

A summary of operating, investing and financing activities for the thirty-nine weeks ended October 29, 2022 compared to the thirty-nine weeks ended October 30, 2021 is shown in the following table (in thousands):

	Thirty-Nine Weeks Ended	
	October 29, 2022	October 30, 2021
Net cash (used in) provided by operating activities	\$ (11,082)	\$ 46,850
Net cash provided by (used in) investing activities	55,513	(42,061)
Net cash used in financing activities	(10,846)	(21,581)
Net change in cash and cash equivalents	\$ 33,585	\$ (16,792)

Net Cash (Used in) Provided by Operating Activities

Operating activities consist primarily of net income adjusted for non-cash items that include depreciation, asset impairment write-downs, deferred income taxes and share-based expense, plus the effect on cash of changes during the period in our assets and liabilities.

Net cash used in operating activities was \$11.1 million this year compared to net cash provided of \$46.9 million last year. The \$57.9 million decrease in cash provided by operating activities was primarily due to lower net sales in fiscal 2022 compared to record net sales in fiscal 2021. The net sales decline was primarily due to the impacts of pent-up customer demand following the winding down of the 2020 pandemic restrictions and the pandemic-related federal stimulus payments on fiscal 2021 operations, coupled with the negative impact of a highly inflationary consumer environment in fiscal 2022.

Net Cash Provided by (Used In) Investing Activities

Cash flows from investing activities consist primarily of capital expenditures and maturities and purchases of marketable securities.

Net cash provided by investing activities was \$55.5 million this year compared to \$42.1 million in net cash used last year. Net cash provided by investing activities in the first three quarters of fiscal 2022 consisted of maturities of marketable securities of \$117.2 million, partially offset by the purchases of marketable securities of \$49.8 million and capital expenditures totaling \$11.9 million. Net cash used in investing activities during the first three quarters of fiscal 2021 consisted of purchases of marketable securities of \$126.4 million and capital expenditures totaling \$10.9 million, partially offset by the maturities of marketable securities of \$95.2 million.

Net Cash Used in Financing Activities

Financing activities primarily consist of cash dividend payments, borrowings and repayments of our line of credit, taxes paid in lieu of shares issued for share based compensation, share repurchases and proceeds from employee exercises of stock options.

Net cash used in financing activities was \$10.8 million this year compared to net cash used of \$21.6 million last year. Financing activities in the first three quarters of fiscal 2022 consisted of cash used to repurchase shares of our common stock of

\$10.9 million, partially offset by proceeds from the exercise of stock options of \$56 thousand. Financing activities in the first three quarters of fiscal 2021 consisted of dividends paid of \$30.7 million, partially offset by proceeds from the exercise of stock options of \$9.1 million.

Credit Agreement

New Credit Agreement

On January 20, 2022, we entered into a senior secured credit agreement (the "Credit Agreement") and revolving line of credit note (the "Note") with Wells Fargo Bank, National Association (the "Bank"). The Credit Agreement provides for a senior secured revolving credit facility ("Revolving Facility") of up to \$25.0 million ("Revolving Commitment") consisting of revolving loans, letters of credit and swing line loans, with a sub-limit on letters of credit outstanding at any time of \$15.0 million. The Revolving Facility matures on January 20, 2024. The payment and performance in full of the secured obligations under the Revolving Facility are secured by a lien on and security interest in all of the assets of our company.

The payment and performance in full of the obligations under the Credit Agreement are guaranteed by the Company pursuant to a continuing guaranty (the "Guaranty") granted by the Company in favor of the Bank. The payment and performance of the Company's obligations under the Guaranty are secured by a lien on, and pledge of, all of the equity interests owned by the Company.

Borrowings under the Revolving Facility bear interest at a rate per annum equal to the daily simple Secured Overnight Financing Rate ("SOFR") plus 0.75%. Amounts available to be drawn under outstanding letters of credit accrue fees in an amount equal to 1.00% per annum. The unused portion of the Revolving Commitment is not subject to a commitment fee.

Under the Credit Agreement, we are subject to a variety of affirmative and negative covenants of types customary in a cash-flow-based lending facility, including financial covenants that require maintenance of (1) a ratio of total funded debt to earnings before interest, taxes, depreciation, amortization and annual rent expenses no greater than 4.00 to 1.00 and (2) a fixed charge coverage ratio of not less than 1.25 to 1.00 (calculation of which takes into account dividends, distributions, redemptions and repurchases of the equity interests of the Company only if the Company's cash on hand, net of any amounts outstanding under the Credit Agreement, is less than \$50.0 million after giving effect to such dividends, distributions, redemptions or repurchases).

Events of default under the Credit Agreement include, among other things, failure to pay principal, interest, fees or other amounts; covenant defaults; material inaccuracy of representations and warranties; bankruptcy events with respect to the Company; actual or asserted invalidity of any of the loan documents; or a change of control of the Company.

In connection with the entry into the Credit Agreement, on January 20, 2022, we entered into certain ancillary agreements, including (i) a security agreement in favor of the Bank (ii) the Guaranty entered into by the Company and (iii) a third party pledge agreement entered into by the Company in favor of the Bank. The security agreement, the guaranty and the pledge agreement replaced (a) the guaranty by the Company in favor of the Bank, dated November 9, 2020, and (b) the security agreement dated as of November 9, 2020, between the Company and the Bank, which were both terminated concurrently with the termination of the Prior Credit Agreement.

As of October 29, 2022, we were in compliance with all of our covenants and had no outstanding borrowings under the Credit Agreement.

Prior Credit Agreement

The Credit Agreement replaced our previously existing asset-backed credit agreement (the "Prior Credit Agreement"), dated as of November 9, 2020, as amended, with the Bank, which had revolving commitments of up to \$65.0 million, a sub-limit on letters of credit of \$10.0 million and a sub-limit for swing-line loans of \$7.5 million.

The Prior Credit Agreement was terminated concurrently with the entry into the Credit Agreement. The maximum borrowings permitted under the Prior Credit Agreement was equal to the lesser of (x) the revolving commitment and (y) the borrowing base. The borrowing base was equal to (a) 90% of the borrower's eligible credit card receivables, plus (b) 90% of the cost of the borrower's eligible inventory, less inventory reserves established by the agent, and adjusted by the appraised value of such eligible inventory, plus (c) 90% of the cost of the borrower's eligible in-transit inventory, less inventory reserves established by the agent, and adjusted by the appraised value of such eligible in-transit inventory (not to exceed 10% of the total amount of all eligible inventory included in the borrowing base) less (d) reserves established by the agent. As of the date the Prior Credit Agreement was terminated, we had no outstanding borrowings under the Credit Agreement and the only utilization of the letters of credit sub-limit under the Credit Agreement was a \$2.025 million irrevocable standby letter of credit, which was previously issued under the Prior Credit Agreement and was transferred on such date to the Credit Agreement.

The unused portion of the revolving commitment under the Prior Credit Agreement accrued a commitment fee, which ranged from 0.375% to 0.50% per annum, based on the average daily borrowing capacity under the revolving facility over the applicable fiscal quarter. Borrowings under the Prior Credit Agreement bear interest at a rate per annum that ranged from the LIBOR rate plus 2.0% to the LIBOR rate plus 2.25%, or the base rate plus 1.0% to the base rate plus 1.25%, based on the average daily borrowing capacity under the Prior Credit Agreement over the applicable fiscal quarter. We were allowed to elect to apply either the LIBOR rate or base rate interest to borrowings at our discretion, other than in the case of swing line loans, to which the base rate shall apply.

Under the Prior Credit Agreement, we were subject to a variety of affirmative and negative covenants of types customary in an asset-based lending facility, including a financial covenant relating to availability, and customary events of default. Prior to the first anniversary of the closing date, we were prohibited from declaring or paying any cash dividends to our respective stockholders or repurchasing of our own common stock. After the first anniversary of the closing date, we were allowed to declare and pay cash dividends to our respective stockholders and repurchase our own common stock, provided, among other things, no default or event of default exists as of the date of any such payment and after giving effect thereto and certain minimum availability and minimum projected availability tests are satisfied.

Contractual Obligations

As of October 29, 2022, there were no material changes to our contractual obligations as described in the “Management’s Discussion and Analysis of Financial Condition and Results of Operations” section of our Annual Report on Form 10-K for the fiscal year ended January 29, 2022.

Critical Accounting Policies and Estimates

The preparation of financial statements in accordance with accounting principles generally accepted in the United States requires the appropriate application of certain accounting policies, some of which require us to make estimates and assumptions about future events and their impact on amounts reported in our consolidated financial statements. Since future events and their impact cannot be determined with absolute certainty, the actual results will inevitably differ from our estimates. As noted elsewhere in this Report, the COVID-19 pandemic has had significant impacts on our business and the economy generally, making estimates and assumptions about future events far more difficult, if not impossible. A summary of our significant accounting policies is included in Note 2 to the consolidated financial statements in our Annual Report on Form 10-K for the fiscal year ended January 29, 2022.

Item 3. Quantitative and Qualitative Disclosures About Market Risk

As of October 29, 2022, there were no material changes in the market risks described in the “Quantitative and Qualitative Disclosure About Market Risks” section of our Annual Report on Form 10-K for the fiscal year ended January 29, 2022.

Item 4. Controls and Procedures

Evaluation of Disclosure Controls and Procedures

Our management, including our Chief Executive Officer and our Chief Financial Officer, with the participation of our Disclosure Committee, evaluated the effectiveness of our disclosure controls and procedures as of October 29, 2022. The term “disclosure controls and procedures,” as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act, means controls and other procedures of a company that are designed to ensure that information required to be disclosed by a company in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC’s rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by a company in the reports that it files or submits under the Exchange Act is accumulated and communicated to our management, including its principal executive and principal financial officers, as appropriate to allow timely decisions regarding required disclosure. Based on the evaluation of our disclosure controls and procedures as of October 29, 2022, our Chief Executive Officer and Chief Financial Officer concluded that, as of such date, our disclosure controls and procedures were effective at the reasonable assurance level.

Changes in Internal Control Over Financial Reporting

There was no change in our internal control over financial reporting identified in connection with the evaluation required by Rule 13a-15(d) and 15d-15(d) of the Exchange Act that occurred during the thirteen weeks ended October 29, 2022 that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

Inherent Limitations on Effectiveness of Controls

Our management, including our Chief Executive Officer and Chief Financial Officer, believes that our disclosure controls and procedures and internal control over financial reporting are designed to provide reasonable assurance of achieving their objectives and are effective at the reasonable assurance level. However, our management does not expect that our disclosure

controls and procedures or our internal control over financial reporting will prevent all errors and all fraud. A control system, no matter how well conceived and operated, can provide only reasonable, not absolute, assurance that the objectives of the control system are met. Further, the design of a control system must reflect the fact that there are resource constraints, and the benefits of controls must be considered relative to their costs. Because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that all control issues and instances of fraud, if any, have been detected.

These inherent limitations include the realities that judgments in decision making can be faulty, and that breakdowns can occur because of a simple error or mistake. Additionally, controls can be circumvented by the individual acts of some persons, by collusion of two or more people or by management override of the controls. The design of any system of controls also is based in part upon certain assumptions about the likelihood of future events, and there can be no assurance that any design will succeed in achieving its stated goals under all potential future conditions; over time, controls may become inadequate because of changes in conditions, or the degree of compliance with policies or procedures may deteriorate. Because of the inherent limitations in a cost-effective control system, misstatements due to error or fraud may occur and not be detected.

Part II. Other Information

Item 1. Legal Proceedings

The information contained in “[Note 5: Commitments and Contingencies](#)” to our consolidated financial statements included in this Report is incorporated by reference into this Item.

Item 1A. Risk Factors

We operate in a rapidly changing environment that involves a number of risks that could materially and adversely affect our business, financial condition, prospects, operating results or cash flows. In addition to the other information set forth in this Report, please refer to the section titled “Risk Factors” in our Annual Report on Form 10-K for the fiscal year ended January 29, 2022 for a detailed discussion of the risks that affect our business.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds

The following table presents our repurchases of Class A common stock during each of the fiscal months during our first nine months of fiscal 2022:

Fiscal Period	Total Number of Shares Purchased	Average Price Paid Per Share	Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs (1)	Maximum Number of Shares That May Yet be Purchased Under the Plans or Programs (1)
January 30, 2022 - February 26, 2022	—	\$ —	—	—
February 27, 2022 - April 2, 2022	428,089	9.36	428,089	1,571,911
April 3, 2022 - April 30, 2022	463,944	8.93	892,033	1,107,967
May 1, 2022 - May 28, 2022	95,394	8.76	987,427	1,012,573
May 29, 2022 - July 2, 2022	—	—	987,427	1,012,573
July 3, 2022 - July 30, 2022	—	—	987,427	1,012,573
July 31, 2022 - August 27, 2022	—	—	987,427	1,012,573
August 28, 2022 - October 1, 2022	270,903	6.93	1,258,330	741,670
October 2, 2022 - October 29, 2022	—	—	1,258,330	741,670
Total	1,258,330	\$ 8.63	1,258,330	741,670

(1) On March 14, 2022, our Board of Directors authorized a share repurchase program, pursuant to which we are authorized to repurchase up to 2,000,000 shares of our Class A common stock through March 14, 2023, in open market transactions through a broker-dealer at prevailing market prices, in block trades or by any other means in accordance with federal securities laws.

Item 6. Exhibits

Exhibit No.	Description of Exhibit
3.1	Third Amended and Restated Bylaws of the Company (incorporated by reference to Form 8-K filed by the Company with the Securities and Exchange Commission on November 22, 2022)
31.1*	Certification of Chief Executive Officer pursuant to Rule 13a-14(a) of the Securities Exchange Act of 1934, as amended.
31.2*	Certification of Chief Financial Officer pursuant to Rule 13a-14(a) of the Securities Exchange Act of 1934, as amended.
32.1**	Certification of Chief Executive Officer and Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
101	Interactive data files from Tilly’s, Inc.’s Quarterly Report on Form 10-Q for the quarter ended October 29, 2022, formatted in iXBRL (Inline eXtensible Business Reporting Language): (i) the Consolidated Balance Sheets; (ii) the Consolidated Statements of Income; (iii) the Consolidated Statements of Comprehensive Income; (iv) the Consolidated Statement of Stockholders’ Equity; (v) the Consolidated Statements of Cash Flows and (vi) Notes to the Consolidated Financial Statements.
104	Cover Page Interactive Data File (formatted as Inline XBRL and contained in Exhibit 101)
*	Filed herewith.
**	Furnished herewith and not “filed” for purposes of Section 18 of the Securities Exchange Act of 1934, as amended.

SIGNATURES

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

Date: December 7, 2022

Tilly's, Inc.

/s/ Edmond Thomas

Edmond Thomas

President, Chief Executive Officer and Director

(Principal Executive Officer)

Date: December 7, 2022

/s/ Michael Henry

Michael Henry

Executive Vice President, Chief Financial Officer

(Principal Financial Officer)

**THIRD AMENDED AND RESTATED
BYLAWS OF
TILLY'S, INC.
(a Delaware corporation)**

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**THIRD AMENDED AND RESTATED
BYLAWS OF
TILLY'S, INC.**

ARTICLE I - CORPORATE OFFICES

1.1 REGISTERED OFFICE.

The registered office of Tilly's, Inc. (the "Corporation") shall be fixed in the Corporation's certificate of incorporation, as the same may be amended from time to time.

1.2 OTHER OFFICES.

The Corporation's board of directors (the "Board") may at any time establish other offices at any place or places where the Corporation is qualified to do business.

ARTICLE II - MEETINGS OF STOCKHOLDERS

2.1 PLACE OF MEETINGS.

Meetings of stockholders shall be held at any place, within or outside the State of Delaware, designated by the Board. The Board may, in its sole discretion, determine that a meeting of stockholders shall not be held at any place, but may instead be held solely by means of remote communication as authorized by Section 211 of the General Corporation Law of the State of Delaware (the "DGCL"). In the absence of any such designation or determination, stockholders' meetings shall be held at the Corporation's principal executive office.

2.2 ANNUAL MEETING.

The Board shall designate the place, if any, date and time of the annual meeting. At the annual meeting, directors shall be elected and other proper business properly brought before the meeting in accordance with Section 2.4 of this Article II may be transacted.

2.3 SPECIAL MEETING.

A special meeting of the stockholders may be called at any time by the Board, chairperson of the Board, chief executive officer or president (in the absence of a chief executive officer), but such special meetings may not be called by any other person or persons.

No business may be transacted at such special meeting other than the business specified in such notice to stockholders. Nothing contained in this paragraph of this Section 2.3 shall be construed as limiting, fixing, or affecting the time when a meeting of stockholders called by action of the Board may be held.

2.4 ADVANCE NOTICE PROCEDURES FOR BUSINESS BROUGHT BEFORE A MEETING.

(i) At an annual meeting of the stockholders, only such business shall be conducted as shall have been properly brought before the meeting. To be properly brought before an annual meeting, business must be (a) brought before the meeting by the Corporation and specified in the notice of meeting (or

any supplement thereto) given by or at the direction of the Board or any committee thereof, (b) brought before the meeting by or at the direction of the Board or any committee thereof or (c) otherwise properly brought before the meeting by a stockholder present in person who (A) was a stockholder of record of the Corporation (and, with respect to any beneficial owner, if different, on whose behalf such business is proposed, only if such beneficial owner was the beneficial owner of shares of the Corporation) both at the time of giving the notice provided for in this Section 2.4 and at the time of the meeting, (B) is entitled to vote at the meeting and (C) has complied with this Section 2.4 as to such business. Except for proposals properly made in accordance with Rule 14a-8 under the Securities Exchange Act of 1934, as amended, and the rules and regulations thereunder (as so amended and inclusive of such rules and regulations, the “Exchange Act”), and included in the notice of meeting given by or at the direction of the Board, the foregoing clause (c) shall be the exclusive means for a stockholder to propose business to be brought before an annual meeting of the stockholders. Stockholders shall not be permitted to propose business to be brought before a special meeting of the stockholders, and the only matters that may be brought before a special meeting are the matters specified in the notice of meeting given by or at the direction of the person calling the meeting pursuant to Article II, Section 2.3 of these bylaws. For purposes of this Section 2.4, “present in person” shall mean that the stockholder proposing that the business be brought before the annual meeting of the Corporation, or a qualified representative of such proposing stockholder, appear at such annual meeting. A “qualified representative” of such proposing stockholder shall be a duly authorized officer, manager or partner of such stockholder or any other person authorized by a writing executed by such stockholder or an electronic transmission delivered by such stockholder to act for such stockholder as proxy at the meeting of stockholders and such person must produce such writing or electronic transmission, or a reliable reproduction of the writing or electronic transmission, at the meeting of stockholders. Stockholders seeking to nominate persons for election to the Board must comply with Section 2.5 of these bylaws, and this Section 2.4 shall not be applicable to nominations except as expressly provided in Section 2.5 of these bylaws.

(ii) Without qualification, for business to be properly brought before an annual meeting by a stockholder, the stockholder must (a) provide Timely Notice (as defined below) thereof in writing and in proper form to the Secretary of the Corporation and (b) provide any updates or supplements to such notice at the times and in the forms required by this Section 2.4. To be timely, a stockholder’s notice must be delivered to, or mailed and received at, the principal executive offices of the Corporation not less than ninety (90) days nor more than one hundred twenty (120) days prior to the one-year anniversary of the preceding year’s annual meeting (which anniversary date, in the case of the first annual meeting following the closing of the Corporation’s initial public offering, shall be deemed to be June 1, 2012) ; *provided, however*, that if the date of the annual meeting is more than thirty (30) days before or more than sixty (60) days after such anniversary date, notice by the stockholder to be timely must be so delivered, or mailed and received, not later than the ninetieth (90th) day prior to such annual meeting or, if later, the tenth (10th) day following the day on which public disclosure of the date of such annual meeting was first made (such notice within such time periods, “Timely Notice”). In no event shall any adjournment or postponement of an annual meeting or the announcement thereof commence a new time period for the giving of Timely Notice as described above.

(iii) To be in proper form for purposes of this Section 2.4, a stockholder’s notice to the Secretary shall set forth:

(a) As to each Proposing Person (as defined below), (A) the name and address of such Proposing Person (including, if applicable, the name and address that appear on the Corporation’s books and records) and (B) the class or series and number of shares of the Corporation that are, directly or indirectly, owned of record or beneficially owned (within the meaning of Rule 13d-3 under the Exchange Act) by such Proposing Person, except that such Proposing Person shall in all events be deemed to beneficially own any shares of any class or series of the Corporation as to which such Proposing Person has a right to acquire beneficial ownership at any time in the future (the disclosures to be made pursuant to the foregoing clauses (A) and (B) are referred to as “Stockholder Information”);

(b) As to each Proposing Person, (A) any derivative, swap or other transaction or series of transactions engaged in, directly or indirectly, by such Proposing Person, the

purpose or effect of which is to give such Proposing Person economic risk similar to ownership of shares of any class or series of the Corporation, including due to the fact that the value of such derivative, swap or other transactions are determined by reference to the price, value or volatility of any shares of any class or series of the Corporation, or which derivative, swap or other transactions provide, directly or indirectly, the opportunity to profit from any increase in the price or value of shares of any class or series of the Corporation ("Synthetic Equity Interests"), which Synthetic Equity Interests shall be disclosed without regard to whether (x) the derivative, swap or other transactions convey any voting rights in such shares to such Proposing Person, (y) the derivative, swap or other transactions are required to be, or are capable of being, settled through delivery of such shares or (z) such Proposing Person may have entered into other transactions that hedge or mitigate the economic effect of such derivative, swap or other transactions, (B) any proxy (other than a revocable proxy or consent given in response to a solicitation made pursuant to, and in accordance with, Section 14(a) of the Exchange Act by way of a solicitation statement filed on Schedule 14A), agreement, arrangement, understanding or relationship pursuant to which such Proposing Person has or shares a right to vote any shares of any class or series of the Corporation, (C) any agreement, arrangement, understanding or relationship, including any repurchase or similar so-called "stock borrowing" agreement or arrangement, engaged in, directly or indirectly, by such Proposing Person, the purpose or effect of which is to mitigate loss to, reduce the economic risk (of ownership or otherwise) of shares of any class or series of the Corporation by, manage the risk of share price changes for, or increase or decrease the voting power of, such Proposing Person with respect to the shares of any class or series of the Corporation, or which provides, directly or indirectly, the opportunity to profit from any decrease in the price or value of the shares of any class or series of the Corporation ("Short Interests"), (D) any rights to dividends on the shares of any class or series of the Corporation owned beneficially by such Proposing Person that are separated or separable from the underlying shares of the Corporation, (E) any performance related fees (other than an asset based fee) that such Proposing Person is entitled to based on any increase or decrease in the price or value of shares of any class or series of the Corporation, or any Synthetic Equity Interests or Short Interests, if any, (F)(x) if such Proposing Person is not a natural person, the identity of the natural person or persons associated with such Proposing Person responsible for the formulation of and decision to propose the business to be brought before the meeting (such person or persons, the "Responsible Person"), the manner in which such Responsible Person was selected, any fiduciary duties owed by such Responsible Person to the equity holders or other beneficiaries of such Proposing Person, the qualifications and background of such Responsible Person and any material interests or relationships of such Responsible Person that are not shared generally by any other record or beneficial holder of the shares of any class or series of the Corporation and that reasonably could have influenced the decision of such Proposing Person to propose such business to be brought before the meeting, and (y) if such Proposing Person is a natural person, the qualifications and background of such natural person and any material interests or relationships of such natural person that are not shared generally by any other record or beneficial holder of the shares of any class or series of the Corporation and that reasonably could have influenced the decision of such Proposing Person to propose such business to be brought before the meeting, (G) any significant equity interests or any Synthetic Equity Interests or Short Interests in any principal competitor of the Corporation held by such Proposing Persons, (H) any direct or indirect interest of such Proposing Person in any contract with the Corporation, any affiliate of the Corporation or any principal competitor of the Corporation (including, in any such case, any employment agreement, collective bargaining agreement or consulting agreement), (I) any pending or threatened litigation in which such Proposing Person is a party or material participant involving the Corporation or any of its officers or directors, or any affiliate of the Corporation, (J) any material transaction occurring during the prior twelve months between such Proposing Person, on the one hand, and the Corporation, any affiliate of the Corporation or any principal competitor of the Corporation, on the other hand, (K) a summary of any material discussions regarding the business proposed to be brought before the meeting (x)

between or among any of the Proposing Persons or (y) between or among any Proposing Person and any other record or beneficial holder of the shares of any class or series of the Corporation (including their names) and (L) any other information relating to such Proposing Person that would be required to be disclosed in a proxy statement or other filing required to be made in connection with solicitations of proxies or consents by such Proposing Person in support of the business proposed to be brought before the meeting pursuant to Section 14(a) of the Exchange Act (the disclosures to be made pursuant to the foregoing clauses (A) through (L) are referred to as “Disclosable Interests”); provided, however, that Disclosable Interests shall not include any such disclosures with respect to the ordinary course business activities of any broker, dealer, commercial bank, trust company or other nominee who is a Proposing Person solely as a result of being the stockholder directed to prepare and submit the notice required by these bylaws on behalf of a beneficial owner; and

(c) As to each item of business that the stockholder proposes to bring before the annual meeting, (A) a reasonably brief description of the business desired to be brought before the annual meeting, the reasons for conducting such business at the annual meeting and any material interest in such business of each Proposing Person, (B) the text of the proposal or business (including the text of any resolutions proposed for consideration and in the event that such business includes a proposal to amend the bylaws of the Corporation, the language of the proposed amendment), (C) a reasonably detailed description of all agreements, arrangements and understandings between or among any of the Proposing Persons or between or among any Proposing Person and any other person or entity (including their names) in connection with the proposal of such business by such stockholder and (D) any other information relating to such item of business that would be required to be disclosed in a proxy statement or other filing required to be made in connection with solicitations of proxies in support of the business proposed to be brought before the meeting pursuant to Section 14(a) of the Exchange Act; *provided, however*, that the disclosures required by this paragraph (c) shall not include any disclosures with respect to any broker, dealer, commercial bank, trust company or other nominee who is a Proposing Person solely as a result of being the stockholder directed to prepare and submit the notice required by these bylaws on behalf of a beneficial owner.

(iv) For purposes of this Section 2.4, the term “Proposing Person” shall mean (i) the stockholder providing the notice of business proposed to be brought before an annual meeting, (ii) the beneficial owner or beneficial owners, if different, on whose behalf the notice of the business proposed to be brought before the annual meeting is made, (iii) any affiliate or associate (each within the meaning of Rule 12b-2 under the Exchange Act for the purposes of these bylaws) of such stockholder or beneficial owner and (iv) any other person with whom such stockholder or beneficial owner (or any of their respective affiliates or associates) is Acting in Concert (as defined below).

(v) A person shall be deemed to be “Acting in Concert” with another person for purposes of these bylaws if such person knowingly acts (whether or not pursuant to an express agreement, arrangement or understanding) in concert with, or towards a common goal relating to the management, governance or control of the Corporation in parallel with, such other person where (A) each person is conscious of the other person’s conduct or intent and this awareness is an element in their decision-making processes and (B) at least one additional factor suggests that such persons intend to act in concert or in parallel, which such additional factors may include, without limitation, exchanging information (whether publicly or privately), attending meetings, conducting discussions, or making or soliciting invitations to act in concert or in parallel; *provided*, that a person shall not be deemed to be Acting in Concert with any other person solely as a result of the solicitation or receipt of revocable proxies or consents from such other person in response to a solicitation made pursuant to, and in accordance with, the Section 14(a) of the Exchange Act by way of a proxy or consent solicitation statement filed on Schedule 14A. A person Acting in Concert with another person shall be deemed to be Acting in Concert with any third party who is also Acting in Concert with such other person.

(vi) A stockholder providing notice of business proposed to be brought before an annual meeting shall further update and supplement such notice, if necessary, so that the information provided or required to be provided in such notice pursuant to this Section 2.4 shall be true and correct as of the record date for the determination of stockholders entitled to notice of the annual meeting and as of the date that is ten (10) business days prior to the meeting or any adjournment or postponement thereof, and such update and supplement shall be delivered to, or mailed and received by, the Secretary at the principal executive offices of the Corporation not later than five (5) business days after the record date for the determination of stockholders entitled to notice of the annual meeting (in the case of the update and supplement required to be made as of the record date), and not later than eight (8) business days prior to the date for the meeting or, if practicable, any adjournment or postponement thereof (and, if not practicable, on the first practicable date prior to the date to which the meeting has been adjourned or postponed) (in the case of the update and supplement required to be made as of ten (10) business days prior to the meeting or any adjournment or postponement thereof).

(vii) Notwithstanding anything in these bylaws to the contrary, no business shall be conducted at an annual meeting except in accordance with this Section 2.4. The presiding officer of the meeting shall, if the facts warrant, determine that the business was not properly brought before the meeting in accordance with this Section 2.4, and if he or she should so determine, he or she shall so declare to the meeting and any such business not properly brought before the meeting shall not be transacted. Notwithstanding the foregoing provisions of this Section 2.4, unless otherwise required by law, if the stockholder (or a qualified representative of the stockholder) does not appear at the annual meeting of stockholders of the Corporation to present the proposed business, such proposed business shall not be transacted, notwithstanding that proxies in respect of such vote may have been received by the Corporation. For purposes of these bylaws, to be considered a qualified representative of the stockholder, a person must be a duly authorized officer, manager or partner of such stockholder or must be authorized by a writing executed by such stockholder or an electronic transmission delivered by such stockholder to act for such stockholder as proxy at the annual meeting of stockholders and such person must produce such writing or electronic transmission, or a reliable reproduction of the writing or electronic transmission, at the meeting of stockholders.

(viii) This Section 2.4 is expressly intended to apply to any business proposed to be brought before an annual meeting of stockholders other than any proposal made pursuant to and in compliance with Rule 14a-8 under the Exchange Act. In addition to the requirements of this Section 2.4 with respect to any business proposed to be brought before an annual meeting, each Proposing Person shall comply with all applicable requirements of the Exchange Act with respect to any such business. Nothing in this Section 2.4 shall be deemed to affect the rights of stockholders to request inclusion of proposals in the Corporation's proxy statement pursuant to Rule 14a-8 under the Exchange Act. The notice requirements of this Section 2.4 shall be deemed satisfied by a stockholder with respect to business other than a nomination if the stockholder has notified the Corporation of his, her or its intention to present a proposal at an annual meeting in compliance with Rule 14a-8 of the Exchange Act and the applicable rules and regulations promulgated thereunder and such stockholder's proposal has been included in a proxy statement that has been prepared by the Corporation to solicit proxies for such annual meeting.

(ix) For purposes of these bylaws, "public disclosure" shall mean disclosure in a press release reported by a national news service or in a document publicly filed by the Corporation with the Securities and Exchange Commission pursuant to Sections 13, 14 or 15(d) of the Exchange Act.

2.5 ADVANCE NOTICE PROCEDURES FOR NOMINATIONS OF DIRECTORS.

(i) Nominations of any person for election to the Board at an annual meeting or at a special meeting (but only if the election of directors is a matter specified in the notice of meeting given by or at the direction of the person calling such special meeting) may be made at such meeting only (a) by or at the direction of the Board, including by any committee or persons appointed by the Board, or (b) by a stockholder present in person who (A) was a stockholder of record of the Corporation (and, with respect to any beneficial owner, if different, on whose behalf such nomination is proposed to be made, only if such beneficial owner was the beneficial owner of shares of the Corporation) both at the time of giving the notice provided for in

this Section 2.5 and at the time of the meeting, (B) is entitled to vote at the meeting and (C) has complied with this Section 2.5 as to such nomination. For purposes of this Section 2.5, “present in person” shall mean that the stockholder nominating any person for election to the Board at the meeting of the Corporation, or a qualified representative of such stockholder, appear at such meeting. A “qualified representative” of such proposing stockholder shall be a duly authorized officer, manager or partner of such stockholder or any other person authorized by a writing executed by such stockholder or an electronic transmission delivered by such stockholder to act for such stockholder as proxy at the meeting of stockholders and such person must produce such writing or electronic transmission, or a reliable reproduction of the writing or electronic transmission, at the meeting of stockholders. The foregoing clause (b) shall be the exclusive means for a stockholder to make any nomination of a person or persons for election to the Board to be considered by the stockholders at an annual meeting or special meeting.

(ii) Without qualification, for a stockholder to make any nomination of a person or persons for election to the Board at an annual meeting, the stockholder must (a) provide Timely Notice (as defined in Section 2.4(ii) of these bylaws) thereof in writing and in proper form to the Secretary of the Corporation and (b) provide any updates or supplements to such notice at the times and in the forms required by this Section 2.5. Without qualification, if the election of directors is a matter specified in the notice of meeting given by or at the direction of the person calling such special meeting, then for a stockholder to make any nomination of a person or persons for election to the Board at a special meeting, the stockholder must (a) provide timely notice thereof in writing and in proper form to the Secretary of the Corporation at the principal executive offices of the Corporation and (b) provide any updates or supplements to such notice at the times and in the forms required by this Section 2.5. To be timely, a stockholder’s notice for nominations to be made at a special meeting must be delivered to, or mailed and received at, the principal executive offices of the Corporation not earlier than the one hundred twentieth (120th) day prior to such special meeting and not later than the ninetieth (90th) day prior to such special meeting or, if later, the tenth (10th) day following the day on which public disclosure (as defined in Section 2.4(ix) of these bylaws) of the date of such special meeting was first made. In no event shall any adjournment or postponement of an annual meeting or special meeting or the announcement thereof commence a new time period for the giving of a stockholder’s notice as described above.

(iii) To be in proper form for purposes of this Section 2.5, a stockholder’s notice to the Secretary shall set forth:

(a) As to each Nominating Person (as defined below), the Stockholder Information (as defined in Section 2.4(iii)(a) of these bylaws) except that for purposes of this Section 2.5, the term “Nominating Person” shall be substituted for the term “Proposing Person” in all places it appears in Section 2.4(iii)(a);

(b) As to each Nominating Person, any Disclosable Interests (as defined in Section 2.4(iii)(b), except that for purposes of this Section 2.5 the term “Nominating Person” shall be substituted for the term “Proposing Person” in all places it appears in Section 2.4(iii)(b) and the disclosure in clause (L) of Section 2.4(iii)(b) shall be made with respect to the election of directors at the meeting); and provided that, in lieu of including the information set forth in Section 2.4(ii)(b)(F), the Nominating Person’s notice for purposes of this Section 2.5 shall include a representation as to whether the Nominating Person intends or is part of a group which intends to (x) deliver a proxy statement and/or form of proxy to holders of at least the percentage of the Corporation’s outstanding capital stock required to elect any nominee and (y) solicit the holders of shares representing at least 67% of the voting power of shares entitled to vote on the election of directors in support of director nominees other than the Corporation’s nominees in accordance with Rule 14a-19 promulgated under the Exchange Act; and;

(c) As to each person whom a Nominating Person proposes to nominate for election as a director, (A) all information with respect to such proposed nominee that would be required to be set forth in a stockholder’s notice pursuant to this Section 2.5 if such

proposed nominee were a Nominating Person, (B) all information relating to such proposed nominee that is required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for election of directors in a contested election pursuant to Section 14(a) under the Exchange Act (including such proposed nominee's written consent to being named in the proxy statement and accompanying proxy card relating to the Corporation's next meeting of shareholders at which directors are to be elected as a nominee and to serving as a director for a full term if elected), (C) a description of all direct and indirect compensation and other material monetary agreements, arrangements and understandings during the past three (3) years, and any other material relationships, between or among any Nominating Person, on the one hand, and each proposed nominee, his or her respective affiliates and associates and any other persons with whom such proposed nominee (or any of his or her respective affiliates and associates) is Acting in Concert (as defined in Section 2.4(v) of these bylaws), on the other hand, including, without limitation, all information that would be required to be disclosed pursuant to Item 404 under Regulation S-K if such Nominating Person were the "registrant" for purposes of such rule and the proposed nominee were a director or executive officer of such registrant (the disclosures to be made pursuant to the foregoing clauses (A) through (C) are referred to as "Nominee Information"), and (D) a completed and signed questionnaire, representation and agreement as provided in Section 2.5(vii); and

(d) The Corporation may require any proposed nominee to furnish such other information (A) as may reasonably be required by the Corporation to determine the eligibility of such proposed nominee to serve as an independent director of the Corporation in accordance with the Corporation's Corporate Governance Guidelines or (B) that could be material to a reasonable stockholder's understanding of the independence or lack of independence of such proposed nominee.

(iv) For purposes of this Section 2.5, the term "Nominating Person" shall mean (i) the stockholder providing the notice of the nomination proposed to be made at the meeting, (ii) the beneficial owner or beneficial owners, if different, on whose behalf the notice of the nomination proposed to be made at the meeting is made, (iii) any affiliate or associate of such stockholder or beneficial owner and (iv) any other person with whom such stockholder or such beneficial owner (or any of their respective affiliates or associates) is Acting in Concert.

(v) A stockholder providing notice of any nomination proposed to be made at a meeting shall further update and supplement such notice, if necessary, so that the information provided or required to be provided in such notice pursuant to this Section 2.5 shall be true and correct as of the record date for the determination of stockholders entitled to notice of the meeting and as of the date that is ten (10) business days prior to the meeting or any adjournment or postponement thereof, and such update and supplement shall be delivered to, or mailed and received by, the Secretary at the principal executive offices of the Corporation not later than five (5) business days after the record date for the determination of stockholders entitled to notice of the meeting (in the case of the update and supplement required to be made as of the record date), and not later than eight (8) business days prior to the date for the meeting or, if practicable, any adjournment or postponement thereof (and, if not practicable, on the first practicable date prior to the date to which the meeting has been adjourned or postponed) (in the case of the update and supplement required to be made as of ten (10) business days prior to the meeting or any adjournment or postponement thereof).

(vi) In addition to the other requirements of this Section 2.5 with respect to any nomination proposed to be made at a meeting, each Nominating Person shall comply with all applicable requirements of the Exchange Act with respect to any such nominations. Notwithstanding the foregoing provisions of this Section 2.5, unless otherwise required by law, (a) no Nominating Person shall solicit proxies in support of director nominees other than the Corporation's nominees unless such Nominating Person has complied with Rule 14a-19 promulgated under the Exchange Act in connection with the solicitation of such proxies, including the provision to the Corporation of notices required thereunder in a timely manner and (b) if any Nominating Person (1) provides notice pursuant to Rule 14a-19(b) promulgated

under the Exchange Act and (2) subsequently fails to comply with the requirements of Rule 14a-19(a)(2) and Rule 14a-19(a)(3) promulgated under the Exchange Act, including the provision to the Corporation of notices required thereunder in a timely manner, or fails to timely provide reasonable evidence sufficient to satisfy the Corporation that such Nominating Person has met the requirements of Rule 14a-19(a)(3) promulgated under the Exchange Act in accordance with the following sentence, then the Corporation shall disregard any proxies or votes solicited for the Nominating Person's candidates. If any Nominating Person provides notice pursuant to Rule 14a-19(b) promulgated under the Exchange Act, such Nominating Person shall deliver to the Corporation, no later than seven (7) business days prior to the applicable meeting, reasonable evidence that it has met the requirements of Rule 14a-19(a)(3) promulgated under the Exchange Act.

(vii) To be eligible to be a nominee for election as a director of the Corporation, the proposed nominee must be nominated in the manner prescribed in Section 2.5 and the candidate for nomination, whether nominated by the Board or by a stockholder of record, must have previously delivered (in accordance with the time periods prescribed for delivery of notice to such candidate given by or on behalf of the Board), to the Secretary at the principal executive offices of the Corporation (a) a completed written questionnaire (in the form provided by the Corporation upon written request of any stockholder of record therefor) with respect to the background, qualifications, stock ownership and independence of such proposed nominee and (b) a written representation and agreement (in the form provided by the Secretary upon written request of any stockholder of record therefor) that such proposed nominee (1) is not and, if elected as a director during his or her term of office, will not become a party to (x) any agreement, arrangement or understanding with, and has not given any commitment or assurance to, any person or entity as to how such proposed nominee, if elected as a director of the Corporation, will act or vote on any issue or question (a "Voting Commitment") that has not been disclosed to the Corporation or (y) any Voting Commitment that could limit or interfere with such proposed nominee's ability to comply, if elected as a director of the Corporation, with such proposed nominee's fiduciary duties under applicable law, (B) is not, and will not become a party to, any agreement, arrangement or understanding with any person or entity other than the Corporation with respect to any direct or indirect compensation, reimbursement or indemnification in connection with service or action as a director that has not been disclosed to the Corporation and (C) in such proposed nominee's individual capacity and on behalf of the stockholder (or the beneficial owner, if different) on whose behalf the nomination is made, would be in compliance, if elected as a director of the Corporation, and will comply with applicable publicly disclosed corporate governance, conflict of interest, confidentiality and stock ownership and trading policies and guidelines of the Corporation applicable to directors and in effect during such person's term in office as a director (and, if requested by any candidate for nomination, the Secretary of the Corporation shall provide to such candidate for nomination all such policies and guidelines then in effect), and (D) if elected as director of the Corporation, intends to serve the entire term until the next meeting at which such candidate would face re-election.

(viii) The Board may also require any proposed candidate for nomination as a director of the Corporation to furnish such other information as may reasonably be requested by the Board in writing prior to the meeting of stockholders at which such candidate's nomination is to be acted upon. Without limiting the generality of the foregoing, the Board may request such other information in order for the Board to determine the eligibility of such candidate for nomination to be an independent director of the Corporation or to comply with the Director qualification standards and additional selection criteria in accordance with the Corporation's Corporate Governance Guidelines. Such other information shall be delivered to, or mailed and received by, the Secretary at the principal executive offices of the Corporation (or any other office specified by the Corporation in any public announcement) not later than five (5) business days after the request by the Board has been delivered to, or mailed and received by, the Nominating Person.

(ix) No candidate shall be eligible for nomination as a director of the Corporation unless such candidate for nomination and the Nominating Person seeking to place such candidate's name in nomination has complied with Section 2.5. The presiding officer at the meeting shall, if the facts warrant, determine that a nomination was not properly made in accordance with Section 2.5, and if he or she should so determine, he or she shall so declare such determination to the meeting, the defective nomination shall be disregarded and any ballots cast for the candidate in question (but in the case of any form of ballot listing

other qualified nominees, only the ballots cast for the nominee in question) shall be void and of no force or effect.

(x) Notwithstanding anything in these bylaws to the contrary, no candidate for nomination shall be eligible to be seated as a director of the Corporation unless nominated and elected in accordance with Section 2.5

2.6 NOTICE OF STOCKHOLDERS' MEETINGS.

Unless otherwise provided by law, the certificate of incorporation or these bylaws, the notice of any meeting of stockholders shall be sent or otherwise given in accordance with either Section 2.7 or Section 8.1 of these bylaws not less than ten (10) nor more than sixty (60) days before the date of the meeting to each stockholder entitled to vote at the meeting as of the record date for determining stockholders entitled to notice of the meeting. The notice shall specify the place, if any, date and hour of the meeting, the record date for determining the stockholders entitled to vote at the meeting (if such date is different from the record date for stockholders entitled to notice of the meeting), the means of remote communication, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such meeting, and, in the case of a special meeting, the purpose or purposes for which the meeting is called.

2.7 MANNER OF GIVING NOTICE; AFFIDAVIT OF NOTICE.

Notice of any meeting of stockholders shall be deemed given:

(i) if mailed, when deposited in the United States mail, postage prepaid, directed to the stockholder at his or her address as it appears on the Corporation's records; or

(ii) if electronically transmitted as provided in Section 8.1 of these bylaws.

An affidavit of the secretary or an assistant secretary of the Corporation or of the transfer agent or any other agent of the Corporation that the notice has been given by mail or by a form of electronic transmission, as applicable, shall, in the absence of fraud, be prima facie evidence of the facts stated therein.

2.8 QUORUM.

Unless otherwise provided by law, the certificate of incorporation or these bylaws, the holders of a majority in voting power of the stock issued and outstanding and entitled to vote at the meeting, present in person or represented by proxy, shall constitute a quorum for the transaction of business at all meetings of the stockholders. If, however, such quorum is not present or represented at any meeting of the stockholders, then either (i) the presiding officer of the meeting or (ii) a majority in voting power of the stockholders entitled to vote at the meeting, present in person or represented by proxy, shall have power to adjourn the meeting from time to time in the manner provided in Section 2.9 of these bylaws until a quorum is present or represented. At such adjourned meeting at which a quorum is present or represented, any business may be transacted that might have been transacted at the meeting as originally noticed.

2.9 ADJOURNED MEETING; NOTICE.

When a meeting is adjourned to another time, date or place, if any, unless these bylaws otherwise require, notice need not be given of the adjourned meeting if the time, date, or place, if any, thereof, and the means of remote communications, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such adjourned meeting are announced at the meeting at which the adjournment is taken, or are provided in any other manner permitted by the DGCL. At the adjourned meeting, the Corporation may transact any business which might have been transacted at the original meeting. If the adjournment is for more than thirty (30) days a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting. If after the adjournment a new record date for

determination of stockholders entitled to vote is fixed for the adjourned meeting, the Board shall fix as the record date for determining stockholders entitled to notice of such adjourned meeting the same or an earlier date as that fixed for determination of stockholders entitled to vote at the adjourned meeting, and shall give notice of the adjourned meeting, to each stockholders of record as of the record date so fixed for notice of such adjourned meeting.

2.10 CONDUCT OF BUSINESS.

The date and time of the opening and the closing of the polls for each matter upon which the stockholders will vote at a meeting shall be announced at the meeting by the presiding officer of the meeting. The Board may adopt by resolution such rules and regulations for the conduct of the meeting of stockholders as it shall deem appropriate. Except to the extent inconsistent with such rules and regulations as adopted by the Board, the presiding officer of the meeting shall have the right and authority to convene and (for any or no reason) to adjourn the meeting, to prescribe such rules, regulations and procedures and to do all such acts as, in the judgment of such chairman, are appropriate for the proper conduct of the meeting. Such rules, regulations or procedures, whether adopted by the Board or prescribed by the presiding officer of the meeting, may include, without limitation, the following: (i) the establishment of an agenda or order of business for the meeting; (ii) rules and procedures for maintaining order at the meeting and the safety of those present; (iii) limitations on attendance at or participation in the meeting to stockholders entitled to vote at the meeting, their duly authorized and constituted proxies or such other persons as the chairman of the meeting shall determine; (iv) restrictions on entry to the meeting after the time fixed for the commencement thereof; and (v) limitations on the time allotted to questions or comments by participants. The presiding officer of the meeting of stockholders, in addition to making any other determinations that may be appropriate to the conduct of the meeting, shall, if the facts warrant, determine and declare to the meeting that a nomination or matter or business was not properly brought before the meeting and if such presiding officer should so determine, such chairman shall so declare to the meeting and any such matter or business not properly brought before the meeting shall not be transacted or considered. Unless and to the extent determined by the Board or the presiding officer of the meeting, meetings of stockholders shall not be required to be held in accordance with the rules of parliamentary procedure.

2.11 VOTING.

Except as may be otherwise provided in the certificate of incorporation or these bylaws, each stockholder shall be entitled to one (1) vote for each share of Class A Common Stock and ten (10) votes for each share of Class B Common Stock held by such stockholder.

At all meetings of stockholders for the election of directors at which a quorum is present a plurality of the votes cast shall be sufficient to elect a director. All other questions presented to the stockholders at a meeting at which a quorum is present shall, unless otherwise provided by the certificate of incorporation, these bylaws, the rules or regulations of any stock exchange applicable to the Corporation, or applicable law or pursuant to any regulation applicable to the Corporation or its securities, be decided by the affirmative vote of the holders of a majority in voting power of the shares of stock of the Corporation which are present in person or by proxy and entitled to vote thereon.

2.12 STOCKHOLDER ACTION BY WRITTEN CONSENT WITHOUT A MEETING.

Subject to the rights of the holders of the shares of any series of Preferred Stock or any other class of stock or series thereof having a preference over the Common Stock as to dividends or upon liquidation, any action required or permitted to be taken by the stockholders of the Corporation must be effected at a duly called annual or special meeting of stockholders of the Corporation and may not be effected by any consent in writing by such stockholders.

2.13 RECORD DATE FOR STOCKHOLDER NOTICE; VOTING; GIVING CONSENTS.

(a) In order that the Corporation may determine the stockholders entitled to notice of any meeting of stockholders or any adjournment thereof, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board, and which record date shall, unless otherwise required by law, not be more than sixty (60) nor less than ten (10) days before the date of such meeting. If the Board so fixes a date, such date shall also be the record date for determining the stockholders entitled to vote at such meeting unless the Board determines, at the time it fixes such record date, that a later date on or before the date of the meeting shall be the date for making such determination. If no record date is fixed by the Board, the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board may fix a new record date for determination of stockholders entitled to vote at the adjourned meeting, and in such case shall also fix as the record date for stockholders entitled to notice of such adjourned meeting the same or an earlier date as that fixed for determination of stockholders entitled to vote in accordance herewith at the adjourned meeting.

(b) In order that the Corporation may determine the stockholders entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board may fix a record date, which shall not be more than sixty (60) days prior to such other action. If no such record date is fixed, the record date for determining stockholders for any such purpose shall be at the close of business on the day on which the Board adopts the resolution relating thereto.

(c) In order that the Corporation may determine the stockholders entitled to express consent to corporate action in writing without a meeting, the Board may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board, and which record date shall not be more than ten (10) days after the date upon which the resolution fixing the record date is adopted by the Board. If no record date for determining stockholders entitled to express consent to corporate action in writing without a meeting is fixed by the Board, (i) when no prior action of the Board is required by law, the record date for such purpose shall be the first date on which a signed written consent setting forth the action taken or proposed to be taken is delivered to the Corporation in accordance with applicable law, and (ii) if prior action by the Board is required by law, the record date for such purpose shall be at the close of business on the day on which the Board adopts the resolution taking such prior action.

2.14 PROXIES.

Each stockholder entitled to vote at a meeting of stockholders may authorize another person or persons to act for such stockholder by proxy authorized by an instrument in writing or by a transmission permitted by law, including Rule 14a-19 promulgated under the Securities Exchange Act of 1934, as amended, filed in accordance with the procedure established for the meeting, but no such proxy shall be voted or acted upon after three (3) years from its date, unless the proxy provides for a longer period. The revocability of a proxy that states on its face that it is irrevocable shall be governed by the provisions of Section 212 of the DGCL. A proxy may be in the form of a telegram, cablegram or other means of electronic transmission which sets forth or is submitted with information from which it can be determined that the telegram, cablegram or other means of electronic transmission was authorized by the stockholder.

Any stockholder directly or indirectly soliciting proxies from other stockholders must use a proxy card color other than white, which shall be reserved for the exclusive use by the Board.

2.15 LIST OF STOCKHOLDERS ENTITLED TO VOTE.

The Corporation shall prepare, no later than the tenth day before each meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting (provided, however, that if the record date for determining the stockholders entitled to vote is less than ten (10) days before the date of the meeting, the list shall reflect the stockholders entitled to vote as of the tenth day before the meeting date), arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder. The Corporation shall not be required to include electronic mail addresses or other electronic contact information on such list. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting for a period of ten (10) days ending on the day before the meeting date: (i) on a reasonably accessible electronic network, provided that the information required to gain access to such list is provided with the notice of the meeting, or (ii) during ordinary business hours, at the Corporation's principal executive office. In the event that the Corporation determines to make the list available on an electronic network, the Corporation may take reasonable steps to ensure that such information is available only to stockholders of the Corporation. Such list shall presumptively determine the identity of the stockholders entitled to vote at the meeting and the number of shares held by each of them. Except as otherwise provided by law, the stock ledger shall be the only evidence as to who are the stockholders entitled to examine the list of stockholders required by this Section 2.15 or to vote in person or by proxy at any meeting of stockholders.

2.16 POSTPONEMENT AND CANCELLATION OF MEETING.

Any previously scheduled annual or special meeting of the stockholders may be postponed, and any previously scheduled annual or special meeting of the stockholders may be canceled, by resolution of the Board upon public notice given prior to the time previously scheduled for such meeting of stockholders.

2.17 INSPECTORS OF ELECTION.

Before any meeting of stockholders, the Board shall appoint an inspector or inspectors of election to act at the meeting or its adjournment and make a written report thereof. The number of inspectors shall be either one (1) or three (3). If any person appointed as inspector fails to appear or fails or refuses to act, then the chairperson of the meeting may, and upon the request of any stockholder or a stockholder's proxy shall, appoint a person to fill that vacancy.

Such inspectors shall:

- (i) determine the number of shares outstanding and the voting power of each, the number of shares represented at the meeting, the existence of a quorum, and the authenticity, validity, and effect of proxies;
- (ii) receive votes or ballots;
- (iii) hear and determine all challenges and questions in any way arising in connection with the right to vote;
- (iv) retain for a reasonable period, a record of the disposition of any challenges;
- (v) count and tabulate all votes;
- (vi) determine when the polls shall close;
- (vii) determine and certify the result; and

(viii) do any other acts that may be proper to conduct the election or vote with fairness to all stockholders.

The inspectors of election shall perform their duties impartially, in good faith, to the best of their ability and as expeditiously as is practical. If there are three (3) inspectors of election, the decision, act or certificate of a majority is effective in all respects as the decision, act or certificate of all. Any report or certificate made by the inspectors of election is prima facie evidence of the facts stated therein.

ARTICLE III - DIRECTORS

3.1 POWERS.

Subject to the provisions of the DGCL and any limitations in the certificate of incorporation relating to action required to be approved by the stockholders, the business and affairs of the Corporation shall be managed and all corporate powers shall be exercised by or under the direction of the Board.

3.2 NUMBER OF DIRECTORS.

The authorized number of directors shall be determined from time to time by resolution of the Board, provided the Board shall consist of at least one (1) member. No reduction of the authorized number of directors shall have the effect of removing any director before that director's term of office expires.

3.3 ELECTION, QUALIFICATION AND TERM OF OFFICE OF DIRECTORS.

Except as provided in Section 3.4 of these bylaws, each director, including a director elected to fill a vacancy, shall hold office until the expiration of the term for which elected and until such director's successor is duly elected and qualified or until such director's earlier death, resignation or removal. Directors need not be stockholders unless so required by the certificate of incorporation or these bylaws. The certificate of incorporation or these bylaws may prescribe other qualifications for directors.

3.4 RESIGNATION AND VACANCIES.

Any director may resign at any time upon notice given in writing or by electronic transmission to the Corporation. Except as otherwise required by applicable law or the certificate of incorporation, when one or more directors so resigns and the resignation is effective at a future date, a majority of the directors then in office, including those who have so resigned, shall have power to fill such vacancy or vacancies, the vote thereon to take effect when such resignation or resignations shall become effective, and each director so chosen shall hold office as provided in this section in the filling of other vacancies.

Unless otherwise provided in the certificate of incorporation or these bylaws, vacancies and newly created directorships resulting from any increase in the authorized number of directors elected by all of the stockholders having the right to vote as a single class may be filled by a majority of the directors then in office, although less than a quorum, or by a sole remaining director and each director so chosen shall hold office for the remainder of the full term of the director for which the vacancy was created or occurred and until his or her successor is duly elected and qualified or until such director's earlier death, resignation or removal.

3.5 ORGANIZATION.

Meetings of the Board shall be presided over by the chairperson of the Board, if any, or in his absence by the vice chairperson of the Board, if any, or in his absence by the chief executive officer (if the chief executive officer is a director), or in his absence by the president (if the president is a director), or in their absence by a chairperson chosen at the meeting. The secretary shall act as secretary of the meeting, but in his or her absence the chairperson of the meeting may appoint any person to act as secretary of the meeting.

3.6 PLACE OF MEETINGS; MEETINGS BY TELEPHONE.

The Board may hold meetings, both regular and special, either within or outside the State of Delaware.

Unless otherwise restricted by the certificate of incorporation or these bylaws, members of the Board, or any committee designated by the Board, may participate in a meeting of the Board, or any committee, by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and such participation in a meeting pursuant to this bylaw shall constitute presence in person at the meeting.

3.7 REGULAR MEETINGS.

Regular meetings of the Board may be held without notice at such date and time and at such place, if any, as shall from time to time be determined by the Board, provided, if the Board shall change the date and time or place of any regular meeting, notice of such action shall be given or waived as described in Section 3.8 hereof:

3.8 SPECIAL MEETINGS; NOTICE.

Special meetings of the Board for any purpose or purposes may be called at any time by the chairperson of the Board, the chief executive officer, the president, the secretary or a majority of the directors then in office.

Notice of the date, time and place, if any, of special meetings shall be:

- (i) delivered personally by hand, by courier or by telephone;
- (ii) sent by United States first-class mail, postage prepaid;
- (iii) sent by facsimile; or
- (iv) sent by electronic mail,

directed to each director at that director's address, telephone number, facsimile number or electronic mail address, as the case may be, as shown on the Corporation's records.

If the notice is (i) delivered personally by hand, by courier or by telephone, (ii) sent by facsimile or (iii) sent by electronic mail, it shall be delivered or sent at least twenty-four (24) hours before the time of the holding of the meeting. If the notice is sent by United States mail, it shall be deposited in the United States mail at least four (4) days before the time of the holding of the meeting. Any oral notice may be communicated to the director. The notice need not specify the place of the meeting (if the meeting is to be held at the Corporation's principal executive office) nor the purpose of the meeting.

Notice of such a meeting need not be given to any director who attends such meeting without protesting the lack of notice to him or her, prior to the commencement of such meeting or to any director who submits a signed waiver of notice, whether before or after such meeting.

3.9 QUORUM.

At all meetings of the Board, a majority of the authorized number of directors shall constitute a quorum for the transaction of business. The vote of a majority of the directors present at any meeting at which a quorum is present shall be the act of the Board, except as may be otherwise specifically provided by applicable law, the certificate of incorporation or these bylaws. If a quorum is not present at any meeting of the Board, then the directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present.

3.10 BOARD ACTION BY WRITTEN CONSENT WITHOUT A MEETING.

Unless otherwise restricted by the certificate of incorporation or these bylaws, any action required or permitted to be taken at any meeting of the Board, or of any committee thereof, may be taken without a meeting if all members of the Board or committee, as the case may be, consent thereto in writing or by electronic transmission and the writing or writings or electronic transmission or transmissions are filed with the minutes of proceedings of the Board or committee. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

3.11 TELEPHONIC MEETINGS.

Members of the Board, or any committee of directors designated by the Board, may participate in a meeting of the Board or such committee by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant to this Section 3.11 shall constitute presence in person at such meeting.

3.12 FEES AND COMPENSATION OF DIRECTORS.

Unless otherwise restricted by the certificate of incorporation or these bylaws, the Board shall have the authority to fix the compensation of directors.

ARTICLE IV - COMMITTEES

4.1 COMMITTEES OF DIRECTORS.

The Board may designate one (1) or more committees, each committee to consist of one (1) or more of the directors of the Corporation. The Board may designate one (1) or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of a member of a committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not such member or members constitute a quorum, may unanimously appoint another member of the Board to act at the meeting in the place of any such absent or disqualified member. Any such committee, to the extent provided in the resolution of the Board or in these bylaws, shall have and may exercise all the powers and authority of the Board in the management of the business and affairs of the Corporation, and may authorize the seal of the Corporation to be affixed to all papers that may require it; but no such committee shall have the power or authority to (i) approve or adopt, or recommend to the stockholders, any action or matter expressly required by the DGCL to be submitted to stockholders for approval, or (ii) adopt, amend or repeal any bylaw of the Corporation.

4.2 COMMITTEE MINUTES.

Each committee shall keep regular minutes of its meetings and report the same to the Board when required.

4.3 MEETINGS AND ACTION OF COMMITTEES.

Meetings and actions of committees shall be governed by, and held and taken in accordance with, the provisions of:

- (i) Section 3.5 (place of meetings and meetings by telephone);
- (ii) Section 3.7 (regular meetings);
- (iii) Section 3.8 (special meetings and notice);

- (iv) Section 3.9 (quorum);
- (v) Section 7.12 (waiver of notice); and
- (vi) Section 3.10 (action without a meeting),

with such changes in the context of those bylaws as are necessary to substitute the committee and its members for the Board and its members.
However:

- (i) the time of regular meetings of committees may be determined by resolution of the committee;
- (ii) special meetings of committees may also be called by resolution of the Board; and
- (iii) notice of special meetings of committees shall also be given to all alternate members, who shall have the right to attend all meetings of the committee. The committee may adopt rules for the government of the committee not inconsistent with the provisions of these bylaws.

ARTICLE V - OFFICERS

5.1 OFFICERS.

The officers of the Corporation shall be the chief executive officer, the president, one (1) or more vice presidents, the secretary and the treasurer. The Corporation may also have, at the discretion of the Board, a chairperson of the Board, a vice chairperson of the Board, a chief financial officer, one (1) or more assistant vice presidents, one (1) or more assistant treasurers, one (1) or more assistant secretaries, and any such other officers as may be appointed in accordance with the provisions of these bylaws. Any number of offices may be held by the same person.

5.2 APPOINTMENT OF OFFICERS.

The Board shall appoint the officers of the Corporation, except such officers as may be appointed in accordance with the provisions of Section 5.3 of these bylaws, subject to the rights, if any, of an officer under any contract of employment.

- (i) Chief Executive Officer.

The chief executive officer shall have the general control and management of the business and affairs of the Corporation, under the direction of the Board. He or she shall have power: (i) to select and appoint all necessary officers and employees of the Corporation except such officers as under these bylaws are to be appointed solely by the Board, (ii) to remove all appointed officers (other than officers as under these bylaws are to be appointed solely the Board) or employees whenever he or she shall deem it necessary, and to make new appointments to fill the vacancies and (iii) to suspend from office for cause any elected officer, which shall be forthwith declared in writing to the Board. The chief executive officer shall have such other authority and shall perform such other duties as may be determined by the Board.

- (ii) President.

The president shall have such authority and perform such duties relative to the business and affairs of the Corporation as may be determined by the Board or the chief executive officer. In the absence of both the chairperson and the chief executive officer, the president shall preside at meetings of the stockholders and of the directors. If the Board shall not have elected a chief executive officer, the president shall have such authority and shall perform such additional duties as in these bylaws is provided for the office of chief executive officer.

(iii) Vice Presidents.

Each vice president shall have such powers and perform all such duties as from time to time may be determined by the Board, the chief executive officer, the president or the senior officer to whom such officer reports.

(iv) Secretary.

The secretary shall record the proceedings of all meetings of the Board, the committees of the Board and the stockholders, shall see that all notices are duly given in accordance with the provisions of these bylaws and as required by law, shall be custodian of the records and the seal of the Corporation and, if necessary or appropriate, affix and attest the seal to all documents to be executed on behalf of the Corporation under its seal, shall see that the books, reports, statements, certificates and other documents and records required by law to be kept and filed are properly kept and filed, and in general, shall perform all the duties incident to the office of secretary and such other duties as from time to time may be determined by the Board, the chief executive officer or the president.

(v) Treasurer.

The treasurer shall exercise general supervision over the receipt, custody and disbursement of corporate funds. The treasurer shall have such further powers and duties as may be determined from time to time by the Board, the chief executive officer or the president.

5.3 SUBORDINATE OFFICERS.

The Board may appoint, or empower the chief executive officer or, in the absence of a chief executive officer, the president, to appoint, such other officers and agents as the business of the Corporation may require. Each of such officers and agents shall hold office for such period, have such authority, and perform such duties as are provided in these bylaws or as the Board may from time to time determine.

5.4 REMOVAL AND RESIGNATION OF OFFICERS.

Subject to the rights, if any, of an officer under any contract of employment, any officer may be removed, either with or without cause, by an affirmative vote of the majority of the Board at any regular or special meeting of the Board or, except in the case of an officer chosen by the Board, by any officer upon whom such power of removal may be conferred by the Board.

Any officer may resign at any time by giving written notice to the Corporation. Any resignation shall take effect at the date of the receipt of that notice or at any later time specified in that notice. Unless otherwise specified in the notice of resignation, the acceptance of the resignation shall not be necessary to make it effective. Any resignation is without prejudice to the rights, if any, of the Corporation under any contract to which the officer is a party.

5.5 VACANCIES IN OFFICES.

Any vacancy occurring in any office of the Corporation shall be filled by the Board or as provided in Section 5.2.

5.6 REPRESENTATION OF SHARES OF OTHER COMPANIES.

The chairperson of the Board, the president, any vice president, the treasurer, the secretary or assistant secretary of this Corporation, or any other person authorized by the Board or the president or a vice president, is authorized to vote, represent and exercise on behalf of this Corporation all rights incident to any and all shares of any other entity or entities standing in the name of this Corporation. The authority granted herein

may be exercised either by such person directly or by any other person authorized to do so by proxy or power of attorney duly executed by such person having the authority.

5.7 AUTHORITY AND DUTIES OF OFFICERS.

All officers of the Corporation shall respectively have such authority and perform such duties in the management of the business of the Corporation as may be designated from time to time by the Board or the stockholders and, to the extent not so provided, as generally pertain to their respective offices, subject to the control of the Board.

5.8 COMPENSATION.

The compensation of the officers of the Corporation for their services as such officers shall be fixed from time to time by the Board, provided, however, that the Board may by resolution delegate to the chief executive officer the power to fix compensation of non-elected officers and agents appointed by the chief executive officer. An officer of the Corporation shall not be prevented from receiving compensation by reason of the fact that such officer is also a director of the Corporation.

ARTICLE VI - [RESERVED]

ARTICLE VII - GENERAL MATTERS

7.1 EXECUTION OF CORPORATE CONTRACTS AND INSTRUMENTS.

The Board, except as otherwise provided in these bylaws, may authorize any officer or officers, or agent or agents, to enter into any contract or execute any instrument in the name of and on behalf of the Corporation; such authority may be general or confined to specific instances.

7.2 STOCK CERTIFICATES; PARTLY PAID SHARES.

The shares of the Corporation shall be represented by certificates, provided that the Board may provide by resolution or resolutions that some or all of any or all classes or series of its stock shall be uncertificated shares. Any such resolution shall not apply to shares represented by a certificate until such certificate is surrendered to the Corporation. Notwithstanding the adoption of such a resolution by the Board, every holder of stock represented by certificates shall be entitled to have a certificate signed by, or in the name of the Corporation by the chairperson or vice-chairperson of the Board, or the president or vice-president, and by the treasurer or an assistant treasurer, or the secretary or an assistant secretary of the Corporation representing the number of shares registered in certificate form. Any or all of the signatures on the certificate may be a facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate has ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the Corporation with the same effect as if he were such officer, transfer agent or registrar at the date of issue.

The Corporation may issue the whole or any part of its shares as partly paid and subject to call for the remainder of the consideration to be paid therefor. Upon the face or back of each stock certificate issued to represent any such partly paid shares, upon the books and records of the Corporation in the case of uncertificated partly paid shares, the total amount of the consideration to be paid therefor and the amount paid thereon shall be stated. Upon the declaration of any dividend on fully paid shares, the Corporation shall declare a dividend upon partly paid shares of the same class, but only upon the basis of the percentage of the consideration actually paid thereon.

7.3 SPECIAL DESIGNATION ON CERTIFICATES.

If the Corporation is authorized to issue more than one class of stock or more than one series of any class, then the powers, the designations, the preferences and the relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights shall be set forth in full or summarized on the face or back of the certificate that the Corporation shall issue to represent such class or series of stock; *provided, however*, that, except as otherwise provided in Section 202 of the DGCL, in lieu of the foregoing requirements, there may be set forth on the face or back of the certificate that the Corporation shall issue to represent such class or series of stock a statement that the Corporation will furnish without charge to each stockholder who so requests the powers, the designations, the preferences and the relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights. The Corporation shall, within a reasonable time after the issuance or transfer of uncertificated stock, send to the registered owner thereof a written notice containing the information required to be set forth or stated on stock certificates pursuant to the DGCL.

7.4 LOST CERTIFICATES.

Except as provided in this Section 7.4, no new certificates or uncertificated shares for shares shall be issued to replace a previously issued certificate unless the latter is surrendered to the Corporation and cancelled at the same time. The Corporation may issue a new certificate of stock or uncertificated shares in the place of any certificate theretofore issued by it, alleged to have been lost, stolen or destroyed, and the Corporation may require the owner of the lost, stolen or destroyed certificate, or such owner's legal representative, to give the Corporation a bond sufficient to indemnify it against any claim that may be made against it on account of the alleged loss, theft or destruction of any such certificate or the issuance of such new certificate or uncertificated shares.

7.5 CONSTRUCTION; DEFINITIONS.

Unless the context requires otherwise, the general provisions, rules of construction and definitions in the DGCL shall govern the construction of these bylaws. Without limiting the generality of this provision, the singular number includes the plural, the plural number includes the singular, and the term "person" includes both a corporation and a natural person.

7.6 DIVIDENDS.

The Board, subject to any restrictions contained in either (i) the DGCL or (ii) the certificate of incorporation, may declare and pay dividends upon the shares of its capital stock. Dividends may be paid in cash, in property or in shares of the Corporation's capital stock.

The Board may set apart out of any of the funds of the Corporation available for dividends a reserve or reserves for any proper purpose and may abolish any such reserve. Such purposes shall include but not be limited to equalizing dividends, repairing or maintaining any property of the Corporation, and meeting contingencies.

7.7 FISCAL YEAR.

The fiscal year of the Corporation shall be fixed by resolution of the Board and may be changed by resolution of the Board.

7.8 SEAL.

The Corporation may adopt a corporate seal, which shall be adopted and which may be altered by the Board. The Corporation may use the corporate seal by causing it or a facsimile thereof to be impressed or affixed or in any other manner reproduced.

7.9 TRANSFER OF STOCK.

Shares of the Corporation shall be transferable in the manner prescribed by law and in these bylaws. Shares of stock of the Corporation shall be transferred on the books of the Corporation only by the holder of record thereof or by such holder's attorney duly authorized in writing, upon surrender to the Corporation of the certificate or certificates representing such shares endorsed by the appropriate person or persons (or by delivery of duly executed instructions with respect to uncertificated shares), with such evidence of the authenticity of such endorsement or execution, transfer, authorization and other matters as the Corporation may reasonably require, and accompanied by all necessary stock transfer stamps. No transfer of stock shall be valid as against the Corporation for any purpose until it shall have been entered in the stock records of the Corporation by an entry showing the names of the persons from and to whom it was transferred.

7.10 STOCK TRANSFER AGREEMENTS.

The Corporation shall have power to enter into and perform any agreement with any number of stockholders of any one or more classes of stock of the Corporation to restrict the transfer of shares of stock of the Corporation of any one or more classes owned by such stockholders in any manner not prohibited by the DGCL.

7.11 REGISTERED STOCKHOLDERS.

The Corporation:

(i) shall be entitled to recognize the exclusive right of a person registered on its books as the owner of shares to receive dividends and to vote as such owner; and

(ii) shall not be bound to recognize any equitable or other claim to or interest in such share or shares on the part of another person, whether or not it shall have express or other notice thereof, except as otherwise provided by the laws of Delaware.

7.12 WAIVER OF NOTICE.

Whenever notice is required to be given under any provision of the DGCL, the certificate of incorporation or these bylaws, a written waiver, signed by the person entitled to notice, or a waiver by electronic transmission by the person entitled to notice, whether before or after the time of the event for which notice is to be given, shall be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the stockholders need be specified in any written waiver of notice or any waiver by electronic transmission unless so required by the certificate of incorporation or these bylaws.

ARTICLE VIII - NOTICE BY ELECTRONIC TRANSMISSION

8.1 NOTICE BY ELECTRONIC TRANSMISSION.

Without limiting the manner by which notice otherwise may be given effectively to stockholders pursuant to the DGCL, the certificate of incorporation or these bylaws, any notice to stockholders given by the Corporation under any provision of the DGCL, the certificate of incorporation or these bylaws shall be effective if given by a form of electronic transmission consented to by the stockholder to whom the notice is given. Any such consent shall be revocable by the stockholder by written notice to the Corporation. Any such consent shall be deemed revoked if:

(i) the Corporation is unable to deliver by electronic transmission two (2) consecutive notices given by the Corporation in accordance with such consent; and

(ii) such inability becomes known to the secretary or an assistant secretary of the Corporation or to the transfer agent, or other person responsible for the giving of notice.

However, the inadvertent failure to treat such inability as a revocation shall not invalidate any meeting or other action.

Any notice given pursuant to the preceding paragraph shall be deemed given:

(i) if by facsimile telecommunication, when directed to a number at which the stockholder has consented to receive notice;

(ii) if by electronic mail, when directed to an electronic mail address at which the stockholder has consented to receive notice;

(iii) if by a posting on an electronic network together with separate notice to the stockholder of such specific posting, upon the later of (A) such posting and (B) the giving of such separate notice; and

(iv) if by any other form of electronic transmission, when directed to the stockholder.

An affidavit of the secretary or an assistant secretary or of the transfer agent or other agent of the Corporation that the notice has been given by a form of electronic transmission shall, in the absence of fraud, be prima facie evidence of the facts stated therein.

8.2 DEFINITION OF ELECTRONIC TRANSMISSION.

An “electronic transmission” means any form of communication, not directly involving the physical transmission of paper, that creates a record that may be retained, retrieved and reviewed by a recipient thereof, and that may be directly reproduced in paper form by such a recipient through an automated process.

ARTICLE IX - INDEMNIFICATION; ADVANCEMENT OF EXPENSES

9.1 INDEMNIFICATION OF DIRECTORS AND OFFICERS.

The Corporation shall indemnify and hold harmless, to the fullest extent permitted by the DGCL as it presently exists or may hereafter be amended, any director or officer of the Corporation who was or is made or is threatened to be made a party or is otherwise involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (a “Proceeding”) by reason of the fact that he or she, or a person for whom he or she is the legal representative, is or was a director or officer of the Corporation or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation or of a partnership, joint venture, trust, enterprise or non-profit entity, including service with respect to employee benefit plans, against all liability and loss suffered and expenses (including attorneys’ fees) reasonably incurred by such person in connection with any such Proceeding. Notwithstanding the preceding sentence, except as otherwise provided in Section 9.4, the Corporation shall be required to indemnify a person in connection with a Proceeding initiated by such person only if the Proceeding was authorized in advance in the specific case by the Board.

9.2 INDEMNIFICATION OF OTHERS.

The Corporation shall have the power to indemnify and hold harmless, to the extent permitted by applicable law as it presently exists or may hereafter be amended, any employee or agent of the Corporation

who was or is made or is threatened to be made a party or is otherwise involved in any Proceeding by reason of the fact that he or she, or a person for whom he or she is the legal representative, is or was an employee or agent of the Corporation or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation or of a partnership, joint venture, trust, enterprise or non-profit entity, including service with respect to employee benefit plans, against all liability and loss suffered and expenses (including attorneys' fees) reasonably incurred by such person in connection with any such Proceeding.

9.3 ADVANCEMENT OF EXPENSES.

The Corporation shall to the fullest extent not prohibited by applicable law pay the expenses (including attorneys' fees) incurred by any officer or director of the Corporation, and may pay the expenses incurred by any employee or agent of the Corporation, in defending any Proceeding in advance of its final disposition; *provided, however*, that such payment of expenses in advance of the final disposition of the Proceeding shall be made only upon receipt of an undertaking by the person to repay all amounts advanced if it should be ultimately determined that the person is not entitled to be indemnified under this Article IX or otherwise.

9.4 DETERMINATION; CLAIM.

If a claim for indemnification (following the final disposition of such Proceeding) or advancement of expenses under this Article IX is not paid in full within sixty (60) days after a written claim therefor has been received by the Corporation the claimant may file suit to recover the unpaid amount of such claim and, if successful in whole or in part, shall be entitled to be paid the expense of prosecuting such claim to the fullest extent permitted by law. In any such action the Corporation shall have the burden of proving that the claimant was not entitled to the requested indemnification or payment of expenses under applicable law.

9.5 NON-EXCLUSIVITY OF RIGHTS.

The rights conferred on any person by this Article IX shall not be exclusive of any other rights which such person may have or hereafter acquire under any statute, provision of the certificate of incorporation, these bylaws, agreement, vote of stockholders or disinterested directors or otherwise.

9.6 INSURANCE.

The Corporation may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust enterprise or non-profit entity against any liability asserted against him or her and incurred by him or her in any such capacity, or arising out of his or her status as such, whether or not the Corporation would have the power to indemnify him or her against such liability under the provisions of the DGCL.

9.7 OTHER INDEMNIFICATION; ADVANCEMENT OF EXPENSES.

The Corporation's obligation, if any, to indemnify or advance expenses to any person who was or is serving at its request as a director, officer, employee or agent of another corporation, partnership, joint venture, trust, enterprise or non-profit entity shall be reduced by any amount such person may collect as indemnification or advancement of expenses from such other corporation, partnership, joint venture, trust, enterprise or non-profit enterprise.

9.8 CONTINUATION OF INDEMNIFICATION.

The rights to indemnification and to advancement of expenses provided by, or granted pursuant to, this Article IX shall continue notwithstanding that the person has ceased to be a director or officer of the

Corporation and shall inure to the benefit of the estate, heirs, executors, administrators, legatees and distributees of such person.

9.9 AMENDMENT OR REPEAL.

The provisions of this Article IX shall constitute a contract between the Corporation, on the one hand, and, on the other hand, each individual who serves or has served as a director or officer of the Corporation (whether before or after the adoption of these bylaws), in consideration of such person's performance of such services, and pursuant to this Article IX the Corporation intends to be legally bound to each such current or former director or officer of the Corporation. With respect to current and former directors and officers of the Corporation, the rights conferred under this Article IX are present contractual rights and such rights are fully vested, and shall be deemed to have vested fully, immediately upon adoption of these bylaws. With respect to any directors or officers of the Corporation who commence service following adoption of these bylaws, the rights conferred under this provision shall be present contractual rights and such rights shall fully vest, and be deemed to have vested fully, immediately upon such director or officer commencing service as a director or officer of the Corporation. Any repeal or modification of the foregoing provisions of this Article IX shall not adversely affect any right or protection (i) hereunder of any person in respect of any act or omission occurring prior to the time of such repeal or modification or (ii) under any agreement providing for indemnification or advancement of expenses to an officer or director of the Corporation in effect prior to the time of such repeal or modification.

ARTICLE X - AMENDMENTS

These bylaws may be adopted, amended or repealed by the holders of at least sixty-six and two-thirds percent (66-2/3%) in voting power of all the then-outstanding shares of capital stock of the Corporation entitled to vote generally in the election of directors, voting as a single class. However, the Corporation may, in its certificate of incorporation, confer the power to adopt, amend or repeal these bylaws upon the directors. The fact that such power has been so conferred upon the directors shall not divest the stockholders of the power, nor limit their power to adopt, amend or repeal these bylaws in accordance with the provisions of the certificate of incorporation, these bylaws and applicable law.

ARTICLE XI - FORUM FOR ADJUDICATION OF DISPUTES

Unless the Corporation consents in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware shall, to the fullest extent permitted by law, be the sole and exclusive forum for (i) any derivative action or proceeding brought on behalf of the Corporation, (ii) any action asserting a claim of breach of a fiduciary duty owed by any director, officer or other employee of the Corporation to the Corporation or the Corporation's stockholders, (iii) any action asserting a claim arising pursuant to any provision of the DGCL, or (iv) any action asserting a claim governed by the internal affairs doctrine. In the event that the Court of Chancery of the State of Delaware does not have jurisdiction over any of the matters set forth in the foregoing sentence, the federal district court for the District of Delaware or other state courts of the State of Delaware, as applicable, shall, to the fullest extent permitted by law, be the sole and exclusive forum for any such claims. In addition, notwithstanding anything to the contrary set forth in this Article XI, unless the Corporation consents in writing to the selection of an alternative forum, the federal district courts of the United States of America shall, to the fullest extent permitted by law, be the sole and exclusive forum for the resolution of any complaint asserting a cause of action against the Corporation or any director, officer, employee or agent of the Corporation arising under the Securities Act of 1933, as amended, or the Exchange Act. Any person or entity purchasing or otherwise acquiring or holding any interest in shares of capital stock of the Corporation shall be deemed to have notice of and consented to the provisions of this Article XI.

TILLY'S, INC.

CERTIFICATE OF ADOPTION OF BYLAWS

I, the undersigned, do hereby certify that:

(1) I am the duly elected and acting Secretary of Tilly's, Inc., a Delaware corporation (the "Company"); and

(2) Attached hereto is a complete and accurate copy of the Third Amended and Restated Bylaws of the Company as duly adopted by the Board of Directors on November 17, 2022 and said Bylaws are presently in effect.

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Adoption of Bylaws as of the 17th day of November, 2022.

/s/ Sonya Attal

Sonya Attal
General Counsel and Corporate
Secretary

**CERTIFICATION OF CHIEF EXECUTIVE OFFICER
PURSUANT TO RULE 13a-14(a)
OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED**

I, Edmond Thomas, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Tilly's, Inc. for the quarter ended October 29, 2022;
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 7, 2022

/s/ Edmond Thomas

Edmond Thomas

President, Chief Executive Officer and Director

**CERTIFICATION OF CHIEF FINANCIAL OFFICER
PURSUANT TO RULE 13a-14(a)
OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED**

I, Michael Henry, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Tilly's, Inc. for the quarter ended October 29, 2022;
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 7, 2022

/s/ Michael Henry

Michael Henry

Chief Financial Officer

**CERTIFICATIONS OF CHIEF EXECUTIVE OFFICER AND CHIEF FINANCIAL OFFICER
PURSUANT TO 18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report on Form 10-Q for the fiscal quarter ended October 29, 2022 of Tilly's, Inc. (the "Company") as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Edmond Thomas, 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:

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

Date: December 7, 2022

/s/ Edmond Thomas

Edmond Thomas

President, Chief Executive Officer and Director

In connection with the Quarterly Report on Form 10-Q for the fiscal quarter ended October 29, 2022 of Tilly's, Inc. (the "Company") as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Michael Henry, 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:

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

Date: December 7, 2022

/s/ Michael Henry

Michael Henry

Chief Financial Officer

The foregoing certifications are being furnished solely to accompany the Report pursuant to 18 U.S.C. Section 1350 and in accordance with SEC Release No. 33-8238. These certifications shall not be deemed "filed" for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, nor shall they be incorporated by reference in any filing of the Company under the Securities Act of 1933, as amended, whether made before or after the date hereof, regardless of any general incorporation language in such filing.