

FRANCHISE DISCLOSURE DOCUMENT



Johnstone Supply, Inc.

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<https://www.johnstonesupply.com>

As a JOHNSTONE® franchisee, you will continue to sell “Johnstone Product Offerings” including heating, ventilation, air conditioning and refrigeration equipment, repair and replacement parts and maintenance supplies for residential, light commercial and facilities maintenance.

The initial investment necessary to begin operation of a JOHNSTONE® Branch franchised business as part of the Conversion ranges from \$140,500 to \$19,890,000. This includes \$140,500 to \$19,890,000 that must be paid to the franchisor or its affiliates.

This disclosure document summarizes certain provisions of your Distribution (franchise) Agreement and other information in plain English. Read this disclosure document and all accompanying agreements carefully. You must receive this disclosure document at least 14 calendar-days before you sign a binding agreement with, or make any payment to, franchisor or an affiliate in connection with the proposed distribution relationship (the franchise sale). **Note, however, that no governmental agency has verified the information contained in this document.**

You may wish to receive your disclosure document in another format that is more convenient to you. To discuss the availability of disclosures in different formats, contact Mark Askew, VP of Membership, Johnstone Supply, at 11632 NE Ainsworth Circle, Portland, Oregon 97220, and (503) 419-9079, or Mark.Askew@johnstonesupply.com.

The terms of your Distribution Agreement will govern your franchise relationship. Don't rely on this disclosure document alone to understand your contract. Read all of your contract carefully. Show your Distribution Agreement, all related agreements, and this disclosure document to an advisor, like a lawyer or an accountant.

Entering into a franchise like the Distribution Agreement is a complex investment. The information in this disclosure document can help you make up your mind. More information on franchising, such as “[A Consumer's Guide to Buying a Franchise](#),” which can help you understand how to use this disclosure document, is available from the Federal Trade Commission. You can contact the FTC at 1-877-FTC-HELP or by writing to the FTC at 600 Pennsylvania Avenue, NW, Washington, D.C. 20580. You can also visit the FTC's home page at www.ftc.gov for additional information. Call your state agency or visit your public library for other sources of information on franchising.

There may be laws on franchising in your state. Ask your state agencies about them.

Issuance Date: September 30, 2021

How to Use This Franchise Disclosure Document

Here are some questions you may be asking about buying a franchise and tips on how to find more information:

QUESTION	WHERE TO FIND INFORMATION
How much can I earn?	Item 19 may give you information about outlet sales, costs, profits or losses. You should also try to obtain information from others, like current and former franchisees. You can find their names and contact information in Item 20.
How much will I need to invest?	Items 5 and 6 list fees you will be paying to the franchisor or at the franchisor's direction. Item 7 lists the initial investment to open. Item 8 describes the suppliers you must use.
Does the franchisor have the financial ability to provide support to my business?	Item 21 or Exhibit I includes financial statements. Review these statements carefully.
Is the franchise system stable, growing, or shrinking?	Item 20 summarizes the recent history of the number of company-owned and franchised outlets.
Will my business be the only Johnstone business in the area?	Item 12 and the "territory" provisions in the franchise agreement describe whether the franchisor and other franchisees can compete with you.
Does the franchisor have a troubled legal history?	Items 3 and 4 tell you whether the franchisor or its management have been involved in material litigation or bankruptcy proceedings.
What's it like to be a Johnstone franchisee?	Item 20 lists current or former franchisees. You can contact them to ask about their experiences.
What else should I know?	These questions are only a few things you should look for. Review all 23 Items and all Exhibits in this disclosure document to better understand this franchise opportunity. See the table of contents.

What You Need to Know About Franchising *Generally*

Continuing responsibility to pay fees. You may have to pay royalties and other fees even if you are losing money.

Business model can change. The franchise agreement may allow the franchisor to change its manuals and business model without your consent. These changes may require you to make additional investments in your franchise business or may harm your franchise business.

Supplier restrictions. You may have to buy or lease items from the franchisor or a limited group of suppliers the franchisor designates. These items may be more expensive than similar items you could buy on your own.

Operating restrictions. The franchise agreement may prohibit you from operating a similar business during the term of the franchise. There are usually other restrictions. Some examples may include controlling your location, your access to customers, what you sell, how you market, and your hours of operation.

Competition from franchisor. Even if the franchise agreement grants you a territory, the franchisor may have the right to compete with you in your territory.

Renewal. Your franchise agreement may not permit you to renew. Even if it does, you may have to sign a new agreement with different terms and conditions in order to continue to operate your franchise business.

When your franchise ends. The franchise agreement may prohibit you from operating a similar business after your franchise ends even if you still have obligations to your landlord or other creditors.

Some States Require Registration

Your state may have a franchise law, or other law, that requires franchisors to register before offering or selling franchises in the state. Registration does not mean that the state recommends the franchise or has verified the information in this document. To find out if your state has a registration requirement, or to contact your state, use the agency information in Exhibit E.

Your state also may have laws that require special disclosures or amendments to be made to your franchise agreement. If so, you should check the State Specific Addenda. See the Table of Contents for the location of the State Specific Addenda (Exhibit J).

Special Risks to Consider About *This Franchise*

Certain states require that the following risk(s) be highlighted:

1. **Out-of-State Dispute Resolution.** The Distribution Agreement requires you to resolve disputes with the franchisor by mediation, arbitration, and/or litigation only in Delaware. Out-of-state mediation, arbitration, or litigation may force you to accept a less favorable settlement for disputes. It may also cost more to mediate, arbitrate, or litigate with the franchisor in Delaware than in your own state.

Certain states may require other risks to be highlighted. Check the “State Specific Addenda” (Exhibit J) to see whether your state requires other risks to be highlighted.

FOR MICHIGAN BASED MEMBERS ONLY

Michigan Addendum to the Disclosure Document

THE STATE OF MICHIGAN PROHIBITS CERTAIN UNFAIR PROVISIONS THAT ARE SOMETIMES IN FRANCHISE DOCUMENTS. IF ANY OF THE FOLLOWING PROVISIONS ARE IN THESE FRANCHISE DOCUMENTS, THE PROVISIONS ARE VOID AND CANNOT BE ENFORCED AGAINST YOU:

- (a) A prohibition on the right of a franchisee to join an association of franchisees.
- (b) A requirement that a franchisee assent to a release, assignment, novation, waiver, or estoppel that deprives a franchisee of rights and protections provided in this act. This shall not preclude a franchisee, after entering into a franchise agreement, from settling any and all claims.
- (c) A provision that permits a franchisor to terminate a franchise prior to the expiration of its term except for good cause. Good cause shall include the failure of the franchisee to comply with any lawful provision of the franchise agreement and to cure such failure after being given written notice thereof and a reasonable opportunity, which in no event need be more than 30 days, to cure such failure.
- (d) A provision that permits a franchisor to refuse to renew a franchise without fairly compensating the franchisee by repurchase or other means for the fair market value at the time of expiration of the franchisee's inventory, supplies, equipment, fixtures, and furnishings. Personalized materials, which have no value to the franchisor and inventory, supplies, equipment, fixtures, and furnishings not reasonably required in the conduct of the franchise business, are not subject to compensation. This subsection applies only if: (i) the term of the franchise is less than 5 years and (ii) the franchisee is prohibited by the franchise or other agreement from continuing to conduct substantially the same business under another trademark, service mark, trade name, logo type, advertising, or other commercial symbol in the same area subsequent to the expiration of the franchise or the franchisee does not receive at least 6 months advance notice of franchisor's intent not to renew the franchise.
- (e) A provision that permits the franchisor to refuse to renew a franchise on terms generally available to other franchisees of the same class or type under similar circumstances. This section does not require a renewal provision.
- (f) A provision requiring that arbitration or litigation be conducted outside this state. This shall not preclude the franchisee from entering into an agreement, at the time of arbitration, to conduct arbitration at a location outside this state.
- (g) A provision which permits a franchisor to refuse to permit a transfer of ownership of a franchise, except for good cause. This subdivision does not prevent a franchisor from exercising a right of first refusal to purchase the franchise. Good cause shall include, but is not limited to: (i) The failure of the proposed transferee to meet the franchisor's then current reasonable qualifications or standards; (ii) The fact that the proposed transferee is a competitor of the franchisor or subfranchisor; (iii) The unwillingness of the proposed transferee to agree in writing to comply with all lawful obligations; (iv) The failure of the franchisee or proposed

transferee to pay any sums owing to the franchisor or to cure any default in the franchise agreement existing at the time of the proposed transfer.

(h) A provision that requires the franchisee to resell to the franchisor items that are not uniquely identified with the franchisor. This subdivision does not prohibit a provision that grants to a franchisor a right of first refusal to purchase the assets of a franchise on the same terms and conditions as a bona fide third party willing and able to purchase those assets, nor does this subdivision prohibit a provision that grants the franchisor the right to acquire the assets of a franchise for the market or appraised value of such assets if the franchisee has breached the lawful provisions of the franchise agreement and has failed to cure the breach in the manner provided in subdivision (c).

(i) A provision which permits the franchisor to directly or indirectly convey, assign, or otherwise transfer its obligation to fulfill contractual obligations to the franchisee unless provision has been made for providing the required contractual services.

THE FACT THAT THERE IS A NOTICE OF THIS OFFERING ON FILE WITH THE ATTORNEY GENERAL DOES NOT CONSTITUTE APPROVAL, RECOMMENDATION, OR ENDORSEMENT BY THE ATTORNEY GENERAL.

Any questions regarding this notice should be directed to Department of the Attorney General's Office, Consumer Protection Division, Franchise Section, G. Mennen Williams Building, 525 W. Ottawa Street, Lansing, Michigan 48913; telephone number (517) 335-7567.

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ITEM 1
THE FRANCHISOR, AND ANY PARENTS, PREDECESSORS, AND AFFILIATES

As used in this disclosure document, the terms “Johnstone” and the “Cooperative” refer to Johnstone Supply, Inc., an Oregon cooperative corporation unless otherwise indicated. “Johnstone LLC” refers to Johnstone Supply, LLC, a Delaware limited liability company, into which Johnstone will convert in the Conversion transaction referenced in this Item 1. “Redwood” refers to Redwood Capital Investments and certain of its Affiliates, including Johnstone Supply Buyer, LLC (“JS Buyer”), Johnstone Supply Intermediate, LLC (“Intermediate LLC”), Johnstone Supply Holdings, LLC (“Holdings LLC”) and Annandale Merger Sub, LLC, each a Delaware limited liability company. “Johnstone Supply” refers to the operating business generally, whether prior to or after the closing of the conversion transaction.

On September 22, 2021, the members of the Cooperative voted to approve a transaction whereby Johnstone will convert from an Oregon cooperative corporation into Johnstone LLC (the “Conversion”) pursuant to an Agreement and Plan of Conversion and Merger dated August 24, 2021 (the “Conversion and Merger Agreement”). Following the Conversion, Johnstone LLC will merge with a wholly-owned subsidiary of Redwood, resulting in Redwood, through subsidiaries, owning a controlling interest in Johnstone LLC. In connection with the Conversion, former members and their affiliated non-member patronage agreements will terminate. Former members will continue to do business uninterrupted with Johnstone LLC and will execute the Distribution Agreement that is the subject of this disclosure document, a copy of which is attached to this Disclosure Document as Exhibit A. Prior to the Conversion, Johnstone has operated as a cooperative, on a “one member, one vote” principle. Non-member Affiliates of Johnstone members operated through non-member patronage agreements and were affiliated with a member “main branch”. Post-Conversion, such non-members may continue to operate their Branches by executing a joinder to their affiliated JS Business Owner’s Distribution Agreement.

The Distribution Agreement and related agreements will entitle JS Business Owners and their approved Affiliates to continue to operate Johnstone-branded Branches and continue to purchase Johnstone Product Offerings and continue to engage in the wholesale distribution of heating, ventilation, air conditioning and refrigeration equipment, repair and replacement parts and maintenance supplies for residential, light commercial and facilities maintenance.

JS Business Owners

You (as a franchisee) will continue to operate Johnstone-branded Branch locations under the JOHNSTONE® trademark and other associated trademarks, service marks, trade names, logos, emblems, slogans or other indicia of origin which are or may be designated by Johnstone Supply for use in accordance with the Distribution Agreement (and License Agreement attached to the Distribution Agreement) within a specified assigned geographical area (the “Territory”). You will continue to sell Johnstone Product Offerings including heating, ventilation, air conditioning and refrigeration equipment, repair and replacement parts and maintenance supplies for residential, light commercial and facilities maintenance. Johnstone Product Offerings are HVAC/R equipment and parts, supplies, and accessories that are offered for sale by Johnstone LLC into the residential and light commercial end markets and are either (i) to be shipped to JS Business Owners from a Johnstone Supply distribution center, (ii) shipped through a Johnstone Supply-approved direct shipment program or (iii) shipped through a direct purchase program from the manufacturer to the JS Business Owners, as designated by Johnstone LLC.

Johnstone Supply Branch locations vary in size from 7,500 sq. feet to 15,000 sq. feet depending on the market size of the Territory and whether the Branch location is a main or secondary Branch. We assume that you will continue to operate from your current approved Branch location. In order to continue to operate the Branch, you must sign (a) the form of Distribution Agreement attached to this disclosure document as Exhibit A (the “Distribution Agreement”); (b) the form of Intellectual Property License Agreement attached to Distribution Agreement as Exhibit 1 (the “License Agreement”); (c)

Contribution Election Form attached to this disclosure document as Exhibit B (the “Contribution Election Form”); (d) the Owner’s Certificate and Indemnity attached to this disclosure document as Exhibit C; and (e) Equity Holders Agreement attached to this disclosure document as Exhibit D (the “Equity Holders Agreement”). This disclosure document is only being used to convert existing members and their affiliated non-members of the cooperative to JS Business Owners. We will not use this disclosure document to solicit non-converting JS Business Owners. As part of the Conversion, former members that enter into a Distribution Agreement will be required to contribute a portion of the issued units with an aggregate value (for all JS Business Owners) of up to a certain agreed upon amount in exchange for common units of Johnstone Supply Intermediate, LLC (“Intermediate LLC”), and immediately thereafter JS Business Owners shall contribute the common units received from Intermediate LLC to Holdings LLC in exchange for common units of Holdings LLC (such common units, the “Common Units”), as more particularly described in the Contribution Election Form and the Equity Holders Agreement (collectively, the “Rollover Documents”). Following the Conversion and transactions contemplated by the Rollover Documents, assuming all members of the Cooperative participate in the rollover transaction, the former members as “Continuing Investors” will collectively own 30% of the equity interests of Holdings, which will indirectly wholly own, and thereby control, Johnstone LLC. The dollar amount of the Continuing Investors’ contributed common units, based on the aggregate purchase price set forth in the Conversion and Merger Agreement and assuming no deductions to such amount and full participation in the rollover transaction, will range in value from \$140,500 to \$19,890,000.

Our Business

The activities of Johnstone Supply primarily include the purchase of heating, ventilation, air conditioning, and refrigeration (“HVAC/R”) supplies, equipment, and related third-party merchandise for resale, prior to the Conversion to its members, and after the Conversion to JS Business Owners. Products are distributed primarily through Johnstone Supply’s distribution facilities located in Portland, Oregon; Alburtis, Pennsylvania; Jacksonville, Florida; Las Vegas, Nevada; Joliet, Illinois; and Lancaster, Texas. In addition to revenues received from the sale of merchandise, Johnstone Supply also derives revenues from assessing fees for services performed. Such fees vary according to the type or volume of services provided.

Industry Overview

The HVAC/R equipment distribution industry is characterized by a small number of large participants (the top three companies have an approximately 30% market share) but is otherwise largely fragmented, and represents a \$33 billion market. Large-scale distributors have negotiating power with manufacturers, but often do not offer broad product lines or a full line of after-market parts. Profitability is generally dependent on a balanced portfolio of equipment, installation supplies and parts, combined with overall distribution costs. Market share can be driven by quality of service and contractor loyalty. Johnstone Supply’s competitors are generally regional wholesale distributors operating within a specific geographic footprint, such as Gensco in the Pacific Northwest, Mingleddorff’s in the Southeast, and Munch’s in the Midwest. Two primary national competitors are Watsco, Inc., which has consolidated regional distributors, and Ferguson Enterprises. These competitors with more resources are rapidly investing in technology and compete with Johnstone, and will compete with Johnstone LLC, for national accounts.

Industry Specific Regulations

Federal, state and local labor regulations, including minimum age and minimum wage laws and other laws and regulations apply to businesses generally. There are national standards regulating the HVAC/R industry. There are state or other local codes, ordinances or statutes which regulate and license HVAC/R contractors and/or HVAC/R technicians. These laws could affect your business. These laws vary from place to place. You are responsible for obtaining any licenses or permits required by your locality for performing the work of the franchise. You may also be required to comply with any executive orders issued in response to the COVID-19 pandemic that may impact your business. There may be other laws that apply to the business and you should investigate these laws.

The HVAC/R industry must comply with the Clean Air Act, a federal environmental law that is enforced by the U.S. Environmental Protection Agency (the “EPA”). Section 608 of the Clean Air Act prohibits the knowing release of refrigerant during the maintenance, service, repair or disposal of air-conditioning and refrigeration equipment. The EPA requires proper refrigerant management practices by those who buy or sell refrigerant, technicians, owners and operators of AC and refrigeration systems, and others. These requirements apply for all refrigerants that contain ozone-depleting substances, including hydrochlorofluorocarbons, hydrofluorocarbons (“HFCs”), hydrofluoroolefins and blends thereof. The EPA has established servicing practices to prevent the release of all refrigerants for motor vehicle air conditioners (“MVACs”) and MVAC-like appliances. When payment of any kind is exchanged, including non-monetary payment, any person working on an MVAC must be certified under Section 609 of the Clean Air Act and use approved refrigerant handling equipment. HVAC/R distributors and wholesalers must comply with the EPA’s refrigerant management requirements, including restrictions regarding to whom non-exempt refrigerants can be sold or distributed, restrictions on the sale or distribution of non-exempt used refrigerants, and detailed requirements for documenting refrigerant sales.

Under the Clean Air Act, the EPA has issued rules under its Significant New Alternatives Policy (“SNAP”) which are applicable to the HVAC/R industry. The SNAP program identifies and evaluates substitutes for ozone-depleting substances for particular end-uses. SNAP rules applicable to the HVAC/R industry relate to end-uses including MVAC systems, self-chilling cans, centrifugal chillers, positive displacement chillers household refrigerators and freezers, retail standalone food refrigeration, in-room air conditioning units, self-contained commercial ice machines, vending machines, residential and light commercial air conditions and heat pumps, and cold storage warehousing. SNAP rules also include bans of some substances such as the refrigerant blend MT-31 and refrigerants containing hexafluoropropylene.

Certain states have adopted their own laws in response to court decisions and EPA guidance reversing portions of SNAP Rules 20 and 21. SNAP Rule 20 had banned the use of certain high-Global Warming Potential (“GWP”) HFCs, and SNAP Rule 21 had reclassified certain previously acceptable substitutes as unacceptable in HVAC/R end-uses. California fully adopted SNAP Rules 20 and 21, but also passed restrictions on other GWP substances. Other states have also adopted HFC bans into their own state regulations, including Colorado, Delaware, Maryland, Massachusetts, New Jersey, New York, Vermont, Virginia, and Washington, while many others have proposed similar bills.

Corporate History

Johnstone, an Oregon cooperative corporation, was established in April 1981 with a principal business address at 11632 NE Ainsworth Circle, Portland, Oregon 97220. After the Conversion, Johnstone will be Johnstone Supply’s predecessor. As of 2021, Johnstone had approximately 446 Johnstone Supply-branded locations owned by members and their affiliated non-members across 47 U.S. states and Ontario, Canada. Johnstone has never offered franchises in any other line of business but is acting as the intermediary “franchisor” under this disclosure document.

Business Model

Johnstone Supply’s business model aims to allow JS Business Owners to provide best-in-class, local customer service and market knowledge while delivering on the benefits of a national distributor. Johnstone Supply leases its six distribution centers whereas JS Business Owners may own or lease their respective Branch locations, focusing on growing market shares in their local geographies. This model fosters an entrepreneurial spirit while, at the same time, enabling JS Business Owners to take advantage of group buying power. The majority of Johnstone Supply’s product mix is in the repair and replacement market, resulting in a more resilient business relative to competitors, as impact from the more volatile new construction market is reduced.

Distribution Model

Johnstone’s Product Information Management (“PIM”) system stores the company’s proprietary SKU data with 19 million model-to-part and 3 million part-to-part crosses. Its cross-reference tool

("JXI"TM) is a search technology that Branch locations access through the Johnstone Supply website or their enterprise resource planning system ("ERP") which enables speed at the counter and speed of search for digital product information.

Approximately 75,000 products are stocked by 446 Branches in coordination with six strategically placed distribution centers to deliver high local availability. Johnstone Supply's distribution centers serve as a logistical resource for ordering parts and equipment that are more compact, lighter and less easily damaged through the handling process and frequent, smaller deliveries. Second shifts have increased services by increasing the hours to pick and put away products.

Dropship sales directly from manufacturers are an integral part of Johnstone Supply's business model that enables JS Business Owners to place orders for products and equipment that are shipped directly to Branches rather than through Johnstone Supply's distribution centers. The majority of bulky, heavy and easily damaged products and equipment are drop shipped to minimize repackaging and shrinkage costs. Drop shipping enables more efficient order processing, reduced handling and streamlined accounts payable processing.

Supplier Overview

Johnstone Supply has developed long-term relationships with top-tier, blue chip suppliers and continues to grow these relationships through semi-annual trade shows and by delivering industry leading growth versus the competition. These collaborative relationships benefit both Johnstone Supply and these suppliers by enhancing the marketing and delivery of product to the HVAC/R contractor. Suppliers allow real-time inventory access, which benefits Johnstone Supply by its knowing which suppliers have stocked items, leading to the reduction of duplicate inventory across the company. Johnstone Supply forecasts distribution center sales down to the JS Business Owner level and aggregates data to the distribution center level, providing suppliers with unique visibility to inventory and sales data and building alignment between suppliers and Johnstone.

Locations and Facilities

Johnstone Supply leases and operates six distribution centers, listed below. Prior to the Conversion, approximately 446 Branch locations were owned or leased by the respective Cooperative members and their affiliated non-members.

Portland, OR	96,303 sq. ft.
Las Vegas, NV	130,000 sq. ft.
Dallas, TX	155,873 sq. ft.
Joliet, IL	236,273 sq. ft.
Alberta, PA	156,715 sq. ft.
Jacksonville, FL	168,500 sq. ft.

Our Parents and Affiliates

After the Conversion, our parent will be Holdings LLC, formed on August 18, 2021 with a principal business address at 7301 Parkway Drive, Hanover, MD 21076-1159. Our parent does not provide services to JS Business Owners and does not offer franchises in any line of business. Our parent will indirectly wholly own Johnstone LLC through Intermediate LLC and JS Buyer.

The John M. Shank Memorial Scholarship Fund (the "Memorial Fund") is an Oregon nonprofit corporation formed in 2004 in honor of Johnstone Supply's founder. It provides scholarships to Johnstone Supply employees and their children. After Hurricane Katrina, the Memorial Fund also provides disaster relief.

There are no other affiliates that are required to be disclosed in this Item that either (a) offer or sell franchises in any line of business; or (b) provide services to JS Business Owners. There are no other parents required to be disclosed in this Item.

ITEM 2

BUSINESS EXPERIENCE

Executive Officers and Significant Management Employees

Julie Schultz, Chief Financial Officer and Interim Chief Executive Officer, has been with Johnstone since November 2004, serving as Controller prior to being appointed as Chief Financial Officer in February 2010. She was also appointed as Interim Chief Executive Officer in July 2021.

Mike Chill, Chief Information Officer, joined Johnstone in April 2019 from HBM Holdings located in St. Louis MO, where he served as Vice President of IT and Corporate Officer beginning in September 2016.

Steve Porter, Chief Marketing Officer. He joined Johnstone in April 1992 and has served in progressively responsible roles within Johnstone's Marketing, Merchandising and Channel Management functions. He was named Vice President of Product Management in January 2010 and was named Chief Marketing Officer in July 2021.

Carlos Hernandez, Vice President, Supply Chain, joined Johnstone in July 2017 after serving as Director of Supply Chain for Gaco Western located Waukesha Wisconsin from June 2016 to July 2017 and as Regional Vice President of Logistics and Distribution for Essentra located in Westchester Illinois from November 2014 to May 2016.

Johanna Glode, Vice President, Organization Development, Corporate Secretary and Human Resources, has served in various roles at Johnstone since May 1998, including being named Vice President of Organization Development in May 2002 and Corporate Secretary in January 2012.

Kevin Dier, Vice President, Business Development, joined Johnstone in April 2000 and has served as Vice President of Business Development since April 2007.

Mark Askew, Vice President Membership, has been at Johnstone since April 2005 in various roles.

Current Directors of Johnstone Prior to Conversion

Stephen Brown joined the Albuquerque, New Mexico Johnstone member group as a business partner in September 2002. Stephen currently serves as Vice Chairman of the Board and Chair of the Membership Committee and has served in those positions since September 2015.

Brad Cowles has served as President of Core & Main Fire Protection located in St. Louis, MO since January 2018. From January 2017 to December 2019, Brad served as the Chief Operating Officer for Core & Main. From January 2015 to January 2017 he served as the Chief Information Officer of HD Supply located in Atlanta, GA. Mr. Cowles serves on the Finance Committee and the Special Circumstances Committee of the Board and has served in those positions since September 2019.

M. Todd Cramer is the Chief Executive Officer of the Johnstone member group in Knoxville, Tennessee, the Chief Manager of Cramer Investments located in Tennessee. He previously served on the Finance Committee of the Board from September 2015 – September 2016.

Mark Layton has served as the Chief Executive Officer of 7 Seven Advisors since May 2013. Mark has served as a full-time faculty member at the Neeley Business School at Texas Christian University, Fort Worth, Texas since July 2017. Mark currently serves on the Technology Committee of the Board and as Chair of the Board's Special Circumstances Committee and has served in those positions since September 2020.

Matt Popma has served as the President of the Johnstone member group in Tigard, Oregon since January 2014. He currently serves on the Board's Technology Committee and has served in that position since September 2020.

Henry Puente served as President of the Ware Group (the Johnstone member group in Jacksonville, Florida) from May 2004 – December 2018, and as CEO since January 2019. He currently serves on the Board's Finance Committee and has served in that position since 2019.

Ryan Sadlier has served as the Vice President of Operations for the Johnstone member group in Tacoma, Washington since September 2011. He serves as Chair of the Technology Committee and Board Sponsor for the Integrated Supply Chain Committee and has served in that position since September 2020.

Jeffrey Sheehan joined the Cooperative in 1997 upon opening a Johnstone location in Detroit, Michigan. He serves as Chief Executive Officer of Chester Limited Inc. He currently serves as the Chair of the Board and has served in that position since September 2015.

Michelle Thompson has served as the President of the Johnstone member group in Las Vegas, Nevada and affiliate Johnstone entities, as well as the Sunstone Group, the group's management company since May 2004. Michelle serves as the Chair of the Finance Committee of the Board and has served in that position since September 2018.

Future Directors of Holdings, LLC

Jeremy ("Ryan") Mostrom served as a Director since the Conversion. Additionally, Ryan has been employed as a Principal of Redwood Capital Investments, LLC in Hanover, Maryland since April 2016. Additionally, Ryan serves, remotely from Hanover, Maryland, as a member of the Board of Directors of the following companies that are part of Redwood's portfolio of businesses it owns: Premier Trailer Leasing LLC, Lakeshore Beverage LLC, Pepin Distributing LLC, Silver Eagle Distributors Houston LLC and Southern Land Company.

Kevin A. Loden has served as a Director since the Conversion. Additionally, Kevin has been employed as a Principal of Redwood Capital Investments, LLC in Hanover, Maryland since September 2014. Additionally, Kevin serves, remotely from Hanover, Maryland, as a member of the Board of Directors of the following companies that are part of Redwood's portfolio of businesses it owns: Beltway Capital Management, Premier Trailer Leasing LLC, Tradepoint Atlantic, Morgan Automotive, Hudson Automotive, RV Retailer LLC, Lakeshore Beverage LLC, Pepin Distributing LLC, Silver Eagle Distributors Houston LLC, Thompson Gas LLC, Dead River Company, Southern Land Company, and Workwear Outfitters.

David Matthew Watson has served as a Director since the Conversion. Additionally, David has been employed as Managing Director of Redwood Capital Investments, LLC in Hanover, Maryland since March 2011. Additionally, David serves, remotely from Hanover, Maryland, as a member of the Board of Directors of the following companies that are part of Redwood's portfolio of businesses it owns: Beltway Capital Management, Premier Trailer Leasing LLC, Tradepoint Atlantic, Morgan Automotive, Hudson Automotive, RV Retailer LLC, Lakeshore Beverage LLC, Pepin Distributing LLC, Silver Eagle Distributors Houston LLC, Thompson Gas LLC, Dead River Company, Southern Land Company, and Workwear Outfitters.

ITEM 3
LITIGATION

No litigation is required to be disclosed in this Item.

ITEM 4
BANKRUPTCY

No bankruptcy is required to be disclosed in this Item.

ITEM 5
INITIAL FEES

JS Business Owners converting to the Distribution Agreement will not be charged new application fees, initial fees, setup fees, in connection with the Conversion, nor will they have to make additional expenditures on initial inventory because there is no interruption in the operations.

Rollover Contribution

As part of the Conversion, each Continuing Investor (i.e. JS Business Owner) will be required to contribute a portion of its units of Johnstone LLC in exchange for common units of Intermediate LLC, and immediately thereafter Continuing Investors shall contribute the common units received from Intermediate LLC to Holdings LLC in exchange for Common Units, as more particularly described in the Rollover Documents. Following the Conversion and transactions contemplated by the Rollover Documents, assuming all members of the Cooperative participate in the rollover transaction, the Continuing Investors will collectively own 30% of the equity interests of Holdings LLC, which will indirectly wholly own, and thereby control, Johnstone LLC. The dollar amount of each Continuing Investors' contributed Common Units, based on the aggregate purchase price set forth in the Conversion and Merger Agreement and assuming no deductions to such amount, will range in value from \$140,500 to \$19,890,000.

ITEM 6
OTHER FEES

Type of Fee (1)	Amount	Due Date	Remarks
Application Fee	\$1,000	With application	This fee is payable to Johnstone Supply in connection with opening new Branches, transfer of Branches, or any Assignment of a Distribution Agreement (including a Change of Control) occurring post-Conversion.(2)
New Branch Fee	\$10,000 (per Branch)	Due 30 days prior to opening	This fee is payable to Johnstone Supply in connection with new Branches (including transferred Branches) occurring post-Conversion.(2)
New Branch Setup Fee	\$5,000 (per Branch)	Due 30 days prior to opening	This fee is payable to Johnstone Supply in connection with all new Branches (including transferred Branches) occurring post-Conversion.(2)
JXI™ Fee (New Branch)	\$950 (per Branch)	At annual renewal	This fee is payable to Johnstone Supply in connection with all new Branches (including transferred Branches) occurring post-Conversion.(2)
Initial Inventory (New Branch)	Varies depending on Branch size and market	Johnstone Product Offerings purchased directly from distribution centers may be paid for on 180 day, no interest terms.	This fee is payable to Johnstone Supply. Please see the New Branch/Member Guidelines and New Branch Extended Terms polices set forth in the Johnstone Manuals.
JXI™ Fees (recurring)	\$2,000 per year (main Branch) \$750 per year (each additional Branch)	Annually in January after first renewal	This fee is payable to Johnstone Supply.
Johnstone University Fees	Billed at a monthly rate of 0.03363% of the previous month's reported sales with a monthly cap of \$625 per JS Business Owner	As incurred	This fee is payable to Johnstone Supply. A subscription to Johnstone University is optional.
Other training fees	Varies	In connection with service	This fee is payable to Johnstone Supply. Includes e-learning courses and instructor-led training. These services are optional.
Net Promoter Score	Varies, but averages between \$78 to \$102 per Branch	Per contract / agreement	This fee is paid by Johnstone Supply, which in turn collects the fee from JS Business Owners. This subscription is optional.
Consulting Fees	Varies	In connection with service	This fee is payable to Johnstone Supply. Johnstone University provides consulting to Branches for business planning & execution (EOS & Pinnacle), employee engagement

Type of Fee (1)	Amount	Due Date	Remarks
			surveys, merchandising, and other projects as requested by JS Business Owners.
PartStock	\$1000/Yr/User	January	This fee is payable to Johnstone Supply. PartStock is a mobile part ordering technology that JS Business Owners may make available to their Customers. This subscription is optional.
Experian	Based on usage	Invoiced monthly	This fee is paid by Johnstone Supply, which in turn collects the fee from JS Business Owners to pass through to Experian. This subscription is optional.
Monster.com	Varies	As incurred	This fee is paid by Johnstone Supply, which in turn collects the fee from JS Business Owners. This subscription is optional.
Microsoft Office 365 – Exchange Only	\$4.00/month per user	April	This fee is payable to Johnstone Supply as part of a “true up” invoice each April that reflects actual usage. This subscription is optional.
Microsoft Office 365 – E1 License	\$8.00/month per user	April	This fee is payable to Johnstone Supply as part of a “true up” invoice each April that reflects actual usage. This subscription is optional. Email/Cal/Teams/SharePoint/OneDrive/ & Web version of office suite
Email Security - Mimecast	\$2.00/month per email user	April	This fee is payable to Johnstone Supply as part of a “true up” invoice each April that reflects actual usage. This subscription is optional. Charges to begin in Johnstone Supply’s Fiscal Year 2023.
ERP Programs (including Eclipse and DDI (Inform))	Varies	In connection with service	This fee is payable to Johnstone Supply. Johnstone Supply pays the service provider and collects approximately 50% of the fee from by those JS Business Owners utilizing Eclipse and DDI Enterprise Resource Planning systems. This subscription is required for those with DDI or Eclipse.
Software Updates	Actual cost of updates	As incurred	The Distribution Agreement gives Johnstone Supply the right to require JS Business Owners, at their expense, to use any system software that Johnstone Supply may develop in the future.
Asset Panda	\$3 per item per calendar year	Invoice is created in January based on number of items tracked in Asset Panda at end of December.	This fee is payable to Johnstone Supply. This is an equipment maintenance tracking / reminder service. This subscription is optional. Regular invoice terms for the Branches for a miscellaneous invoice.

Type of Fee (1)	Amount	Due Date	Remarks
Dealer Trips and Events	Varies	Specific to event	This fee is payable to Johnstone Supply. Johnstone Supply organizes incentive trips and events for JS Business Owners to offer to their Customers. Costs are then reimbursed by participating JS Business Owners. Participation is optional.
Third Party Billing (for Johnstone Multi-Territory Customer Sales Program, formerly the Strategic/National Accounts Program)	Varies	Monthly – as incurred	The Next Step transaction processing fee is paid by Johnstone Supply and then collected from JS Business Owners; it is calculated at 1.5% of total Strategic Account sales per Branch processed during that monthly period. Participation in the existing Specialty Sales Programs is currently optional. Under the Distribution Agreement, participation in some Specialty Sales Programs may be required in the future.
Strategic Account Rebates (Multi-Territory Customer Sales Program, formerly the Strategic/National Accounts Program)	Varies (depending on what % of total sales was negotiated)	Quarterly	Johnstone Supply pays rebates to participating Customers and then receives reimbursement by JS Business Owners. The process to calculate rebates owed is performed quarterly based on sales for the previous period. Participation in the existing Specialty Sales Programs is currently optional. Under the Distribution Agreement, participation in some Specialty Sales Programs may be required in the future.
Catalogs/Flyers	Varies by publication and quantity	Part of member monthly billing	This fee is payable to Johnstone Supply. These are optional purchases.
JS Merchandise	Varies by item	Billed with normal distribution center orders	This fee is payable to Johnstone Supply. These are optional purchases.
Required Advertising	Varies In 2021 the amount is \$0	Monthly	This fee is payable to Johnstone Supply. Each year Johnstone Supply will provide JS Business Owners with a dollar amount and guidelines for advertising spending that will be the obligation of or charged to the JS Business Owner. The charge is a calculation of the percentage used and your sales.
Check or wire fees	\$25	At time of payment	This fee is payable to Johnstone Supply. Regular payments for inventory purchases are to be made by ACH transfer. If payments are made by check or wire a fee is applied.
Interest	Interest on the amount owed from the date due until paid	When any payment is overdue	This fee is payable to Johnstone Supply. Any account having a delinquent balance will be assessed a service charge on the delinquent balance of 0.75% per statement period, an annual percentage rate of 18%.

Type of Fee (1)	Amount	Due Date	Remarks
Strategic Member Acquisition Funding Program	Interest is assessed on extended terms using Johnstone Supply's current borrowing rate plus 1%	Monthly	This fee is payable to Johnstone Supply. This program is available to qualifying acquisitions and members given there is line of credit availability and Johnstone Supply approval. See Item 10.
NSF Fee	Varies by State law	At time of notification by the bank	This fee is payable to Johnstone Supply. A check or payment is returned due to insufficient funds in the bank account that the payment was drafted on.
Freight Charges	Varies	Billed as a line item on each sales order invoice Invoices are processed overnight daily once product has shipped. A miscellaneous invoice(s) will be sent to you monthly to true up the freight costs originally invoiced to the actual costs billed by carrier after audit and reconciliation. The invoices are due based on your regular payment terms.	This fee is payable to Johnstone Supply. All freight charges are your responsibility. Johnstone Supply has negotiated freight contracts with preferred carriers for each distribution center that leverage the aggregate freight volume of Johnstone Supply and obtained rates that may be more competitive than a JS Business Owner. JS Business Owners are also able to contract with their own carriers meeting the criteria detailed in the Distribution Center Ordering and Shipping policy in the Johnstone Manuals. Direct carrier payments are made by JS Business Owners to their contracted carrier.
Rush Service Fee	\$2.25 per line in 2021 \$2.35 per line in 2022	With freight charges	This fee is payable to Johnstone Supply.
Will Call Fee	\$2.50 per order	With freight charges	This fee is payable to Johnstone Supply.
UPS or FedEx Rush Charges	As charged by UPS or FedEx	At time of sales order invoice Differences found through audit as incurred, charged as miscellaneous invoice billing	This fee is payable to Johnstone Supply. See Distribution Center Ordering and Shipping policy in the Johnstone Manuals.
Saturday delivery	As charged by UPS or FedEx	At time of sales order invoice Differences found through audit as incurred,	This fee is payable to Johnstone Supply. See Distribution Center Ordering and Shipping policy in the Johnstone Manuals.

Type of Fee (1)	Amount	Due Date	Remarks
		charged as miscellaneous invoice billing	
Sold Order Fee	\$0.00 in 2021 \$2.35 per line in 2022	With freight charges	This fee is payable to Johnstone Supply. Fee to partially cover additional costs incurred in processing order.
Additional Shipping Insurance	Varies	As incurred, charged as miscellaneous invoice billing	This fee is payable to Johnstone Supply. See Distribution Center Ordering and Shipping policy in the Johnstone Manuals.
Unauthorized Returns	\$10 handling fee plus all freight charges for items returned to the Branch	With freight charges	This fee is payable to Johnstone Supply.
Restocking Fee	15% of goods returned	As incurred, charged as miscellaneous invoice billing	This fee is payable to Johnstone Supply. Charged for returns made later than 90 days after date of purchase or not originally purchased from a distribution center.
Return to Different Distribution Center	\$10 per shipment plus all freight charge	As incurred, charged as miscellaneous invoice billing	This fee is payable to Johnstone Supply.
Indemnification	Will vary under circumstances	As incurred Will vary under circumstances.	This fee is payable to Johnstone Supply. You must indemnify and hold Johnstone Supply and its Affiliates harmless in all actions arising out of or resulting from or connected with your activities under the Distribution Agreement, excluding our gross negligence or willful misconduct.
Costs and Attorney's Fees	Will vary under circumstances	As incurred	This fee is payable to Johnstone Supply. Payable upon your failure to comply with the Distribution Agreement, the License Agreement, and/or certain other agreements executed by JS Business Owners.

NOTES

- (1) Unless otherwise noted, all fees are imposed by and payable to us are non-refundable and are uniformly imposed on JS Business Owners.
- (2) New Branch Fees apply to all Branches opened or transferred post-Conversion by JS Business Owners.

ITEM 7
ESTIMATED INITIAL INVESTMENT

YOUR ESTIMATED INITIAL INVESTMENT

Type of Expenditure	Low Amount	High Amount	Method of Payment	When Due	To Whom Payment Is to Be Made
Rollover Contribution (1)	\$140,500	\$19,890,000	See Contribution Election Form	At closing of the Conversion	See Note 1 below.
TOTAL(2)	\$140,500	\$19,890,000			

NOTES

- (1)** As part of the Conversion discussed in more detail in Item 1, former Cooperative members that enter into a Distribution Agreement will be required to contribute a portion of their Johnstone LLC common units with an aggregate value (for all JS Business Owners) of up to a certain agreed upon amount in exchange for common units of Intermediate LLC, and immediately thereafter JS Business Owners will contribute the common units received from Intermediate LLC to Holdings LLC in exchange for Common Units of Holdings LLC, as more particularly described in the Rollover Documents attached as Exhibits B and D to this disclosure document. Following the Conversion and transactions contemplated by the Rollover Documents, assuming all members of the Cooperative participate in the rollover transaction, the former members as “Continuing Investors” will collectively own 30% of the equity interests of Holdings LLC, which will indirectly wholly own, and thereby control, Johnstone LLC. The dollar amount of the Continuing Investors’ contributed Johnstone LLC common units, based on the aggregate purchase price set forth in the Conversion and Merger Agreement and assuming no deductions to such amount and full participation in the rollover transaction, will range in value from \$140,500 to \$19,890,000.
- (2)** Because this is a conversion offering for those JS Business Owners that operate a business that will have no interruption in operation, we assume that you have properly accounted for all expenses you will need to operate for the first three months after the Conversion.

ITEM 8
RESTRICTIONS ON SOURCES OF PRODUCTS AND SERVICES

Johnstone Supply is not the only supplier of HVAC/R products, and except as set forth in the Distribution Agreement and Johnstone policy manuals (the “Johnstone Manuals”), you are not prohibited from obtaining products or services from other sources.

HVAC/R Equipment and Supplies

In the Distribution Agreement, “Johnstone Product Offerings” are defined as HVAC/R equipment and PS&A (parts, supplies, and accessories associated with HVAC/R equipment) that are offered for sale by Johnstone Supply into the residential and light commercial end markets and either (i) to be shipped to you from a Johnstone Supply distribution center, (ii) shipped through a Johnstone Supply-approved direct shipment or (iii) shipped through a direct purchase program from the manufacturer to you, as designated by Johnstone Supply.

You are not permitted to purchase any available and in-stock Johnstone Product Offerings other than from Johnstone Supply (which includes purchases (i) from a Johnstone Supply distribution center, (ii) shipped through a Johnstone Supply-approved direct (drop) shipment program, (iii) shipped through a Johnstone Supply-approved direct purchase program from a manufacturer, or (iv) from other JS Business Owners). Information regarding approved drop shipment and direct purchase programs is available on the Johnstone Supply website or by contacting Johnstone Supply product department. (Distribution Agreement § 2.08.)

Additionally you are required to meet certain defined “Minimum Performance Requirements” that relate to Johnstone Product Offerings:

Your annual purchases of all goods for resale (measured by gross cost of goods sold and subject to adjustment from time to time) must consist of Johnstone Product Offerings sourced from Johnstone Supply or its Affiliates at the following levels: (a) during the first 2 years of the Distribution Agreement, at least 75% and (b) during the remaining Initial Term, at least 80% (the “Minimum Purchase Percentage Requirement”). The Minimum Purchase Percentage Requirement may be satisfied by purchases shipped from Johnstone Supply distribution centers and/or Johnstone Supply-approved direct purchase or direct shipment programs with designated manufacturers from which we receive a financial benefit. You may purchase Johnstone Product Offerings from other JS Business Owners, however, any such purchases will be deducted from the selling JS Business Owner’s annual purchases for the applicable year and added to the purchasing JS Business Owner’s annual purchases for the same applicable year, in each case for purposes of calculating the applicable JS Business Owner’s satisfaction of the Minimum Purchase Percentage Requirement.

You must satisfy minimum dollar purchase requirements in excess of \$1,500,000 multiplied by the number of your Branch locations in the Territory which have been opened a minimum of 2 years. This requirement will be adjusted annually at our discretion based on several factors including the overall growth of sales of all JS Business Owners.

You must satisfy Annual Sales Performance Goals in the Region related to Johnstone Product Offerings. The Annual Sales Performance Goals will be based on annual (i) revenue per capita and (ii) growth in revenue per capita in each of your Service Areas versus the performance of all other JS Business Owners in the applicable Region identified on Schedule A of the Distribution Agreement. Your revenue per capita must exceed the bottom 10% of the Region or exceed a revenue per capita growth percentage above the bottom 25% of the Region compared to the other JS Business Owners in the Region. Actual performance in the Service Areas relative to the Region will be measured each Fiscal Year, with Notice as soon as practicable the following Fiscal Year of any shortfall.

You must satisfy minimum product assortment and inventory levels (outlined below) in each major product category. To meet the minimum product assortment requirements, you must meet or exceed the following percent of total sales minimums:

HVAC/R equipment: 20%

HVAC/R parts and supplies: 25%

We also require that you operate a point-of-sale computer system in connection with the operation of your Branch and also utilize an enterprise resource planning system (“ERP System”) to transmit data between your Branches and Johnstone Supply. JS Business Owners who are entering into Distribution Agreements as part of the Conversion are not currently required to replace their existing ERP Systems. However, Johnstone Supply does not provide any technical or other support for ERP Systems other than DDI Inform, Epicor Eclipse, or Infor SXe. We require that you transmit all merchandise orders, sales reporting, warehouse communications, inventory reporting, Purchase Order SKU level details of drop shipment orders and other required business intelligence data through the ERP System and other electronic systems now utilized or hereafter adopted or modified by Johnstone Supply (which you may be required to implement), including Customer information as required for participation in Specialty Sales Programs. We also require all Johnstone Product Offering orders to comply with all ordering and shipping policies set forth in the Johnstone Manuals. See Item 11 for detailed information on computer hardware and software.

Johnstone Supply does not provide any product warranties but will assign to JS Business Owners, to the extent authorized by the applicable manufacturer or other supplier, all warranties granted by such manufacturer and suppliers in accordance with applicable warranty policies and limitations. Where necessary, Johnstone will continue to facilitate warranty claims by JS Business Owners with manufacturers and other suppliers.

Transportation

Freight costs for all types of orders will be your responsibility. We have signed contracts with a set of preferred carriers for each distribution center that leverage the aggregate freight volume of Johnstone Supply and obtained rates that may be more competitive than JS Business Owners could negotiate on your own volume. You will be able to select alternate carriers other than our preferred carriers. However, alternate carriers need to meet the same requirements as preferred carriers for picking up freight at the distribution centers, which requirements are set forth in the Johnstone Manuals, including scheduling capability, required licenses, and necessary hazardous materials certifications. The list of preferred carriers is set forth in the Johnstone Manuals.

Branches can place 2 scheduled weekly stocking orders and unlimited daily rush orders from their servicing distribution center. Extra order and ship days are available for additional fees. Each Branch is assigned one distribution center as its primary Shipping Point for regular weekly orders. Branches must place their twice-weekly stock order only with their assigned primary distribution center. However, rush orders may be placed with any distribution center, depending on circumstances such as stock availability, ship times, etc. Additional fees apply. There is no minimum order size for any type of order.

Other requirements related to ordering and shipping are set forth in the Johnstone Manuals. See Item 6 for more information on charges relating to shipping and carriers.

JS Business Owner Branches and Operations

Branches

Each Branch must be of sufficient size to support the volume and breadth of a complete offering of Johnstone Product Offerings within the Service Area. While Branches may be of varying size and depth/breadth of locally carried inventory and services, you must ensure that the Service Area(s) encompassing the assigned Territories of the Branches provide for adequate showroom and warehousing. All new Branch locations must meet the minimum square footage and minimum inventory requirements below. Adequate parking and loading space must also be provided. You must, at all times, maintain a clean and safe working space for your Customers and employees.

Size and Inventory Guidelines:

Minimum	Small Market CBSA < 250K	Medium Market CBSA 250K-750K	Large Market CBSA 750K+
Square footage main Branch	10,000	12,000	15,000
Square footage additional Branch	7,500	8,500	10,000
Inventory main Branch	\$250,000	\$300,000	\$375,000
Inventory additional Branch	\$200,000	\$250,000	\$300,000

“CBSA” means core-based statistical area. We will define market size by CBSA. There will be exceptions based on geographic size of the CBSA, as well as urban or rural areas.

Delivery

You must offer will call, delivery and common carrier modes of transacting business with your Customers. Your Branch vehicles should be of adequate size, clean, well-maintained and of overall professional appearance and be of a configuration appropriate to transport the wide variety of Johnstone Product Offerings.

Training

You must provide ongoing training requirements of your employees and Customers. Whether through dedicated training space in one Branch of a Service Area, arrangements with local trade schools, joint arrangements with other JS Business Owners, through digital offerings, or any combination thereof, you are obligated to provide ongoing training resources, a calendar of regular training events and the promotion of Johnstone online training resources. You may utilize Johnstone University for some aspects of training.

Staffing

You must employ and continuously train an ample staff of inside and outside sales associates, customer service and counter personnel, technical service associates, and business development or account managers responsible for the development of sales demand and to support such demand amongst the Customers in your Territory.

Hours of Operation

All Branches must be open and available to the Customer for time periods appropriate for the Service Area and local Territory. Generally, all Branches should be open between 7:30 am to 4:30 pm every weekday except for holidays, emergency declaration, government mandate or days of religious observance. Your Branches shall also offer emergency after hour service as a Customer accommodation. Any extended closure of a Branch greater than 5 business days must be reported to Johnstone Supply.

Cyber-Security

You are required to comply with all information technology, web use, and social media policies set forth in the Johnstone Manuals. You must complete a security self-assessment questionnaire annually, by December 31 each year. You must also participate in an annual cyber-security audit, address deficiencies, implement updated policies, and comply with all state and federal laws regarding unauthorized disclosures of Customer and proprietary product data.

Entity Name Use

In connection with your sale of Johnstone Product Offerings, you must use our name, trademarks, trade names, logo, and related items (the “Johnstone Brand”) and to represent and advertise your affiliation with us. However, you may not use “Johnstone” as part of your entity (corporation,

limited liability company, partnership, or other legal entity) name. We own the Johnstone Brand, and you do not have any ownership interest in the Johnstone Brand. You may only use the Johnstone Brand on, or relating to, Johnstone Product Offerings or as otherwise specifically approved by us. You are specifically authorized to use “Johnstone Supply” as part of your assumed business name.

Logo and Trademark Use

The Johnstone Supply logo is an official trademarked design and should be used as provided without alteration in compliance with the License Agreement and Johnstone Manuals. You may not utilize the name, logo, or trademark in any manner which may create the perception that you possess sole marketing rights to an area greater than the Territory granted to you in the Distribution Agreement.

Website

All national Search Engine Marketing (“SEM”) campaigns will be initiated and run through the Johnstone eCommerce department. All Customer traffic resulting from these campaigns will be directed to the appropriate JS Business Owner website, based on Customer geography. Customers that fall outside of all existing Territories will be directed to the website of the nearest Branch.

You may run local SEM campaigns (i.e. campaigns in which keyword advertisements are limited to targeted geographies), but you should coordinate and manage it through the Johnstone eCommerce department.

You may not advertise in any way in which an online Customer in another JS Business Owner’s Territory can be directly linked to your website. This includes: SEM keywords, web banners, third-party emails, third-party forums, blogs, social networks, RSS feeds, newsletters, videos and other mass communications.

You may not sell current/active Johnstone Product Offerings via any public facing website other than the Johnstone Supply website (e.g., eBay, Craigslist, Amazon storefronts, etc.).

You may not operate, advertise through, or provide links through any site that offers HVAC/R equipment and PS&A directly to the residential homeowner Customer or other End User.

You may not sell Johnstone Product Offerings to third parties who sell online to the Customer or other End User (this excludes licensed contractors who use the web to promote and sell their services online).

Social Media

You and your employees are prohibited from using social media to: (a) violate our IT and communication system policies; (b) violate confidential and proprietary rights and agreements; (c) defame or disparage us or our Affiliates, Customers, clients, business partners, suppliers, competitors or other JS Business Owners or their businesses; (d) harass other employees in any way; (e) circumvent policies prohibiting unlawful discrimination against current, future or past employees; (f) violate any laws or ethical standards; or (g) violate any laws dealing with antitrust or fair trade practices as well as any correspondence with competitors. All use of social media must comply with the current Johnstone Supply Information Technology Requirements.

Advertising

We will develop and maintain a web and other digital and social site presence (e.g., LinkedIn, Facebook, Twitter, etc.), national, regional and local digital paid-search advertising, a digital catalog, digital flyers and templates, and other advertising materials as deemed necessary in our reasonable discretion. We, at our discretion, may require you to participate in these programs and charge fees (that should be market competitive) to you to recover costs and provide a modest profit for us. We may develop seasonal or specialty marketing, advertising and promotional campaigns that you may, at your discretion and cost, determine to participate in.

Supplier Negotiation and Purchasing Programs

Because Johnstone Supply negotiates prices, discounts, rebates and other aspects of purchase with manufacturers and other suppliers or Johnstone Product Offerings, all direct communications with such manufacturers and suppliers must comply with the Johnstone Supply supplier negotiations policy set forth in the Johnstone Manuals. There is no formal process for approval of additional suppliers of Johnstone Product Offerings or other services; you should contact the Product Department to make any suggestions.

Johnstone Supply will also negotiate direct purchase programs with approved vendors of record from which Johnstone Supply receives a direct financial benefit. These programs allow JS Business Owners to order Johnstone Product Offerings directly from the manufacturer for shipment directly to Branch locations. Approved manufacturers are published on the Johnstone Supply website JS Business Owner-only (formerly member-only) pages.

Johnstone Supply will authorize Johnstone Product Offering purchases between JS Business Owners to qualify as part of the Minimum Purchase Percentage Requirement. Any such purchases shall be deducted from the selling JS Business Owner's annual purchases for the applicable year and added to the purchasing JS Business Owner's annual purchases for the same applicable year, in each case for purposes of calculating the applicable JS Business Owner's satisfaction of the Minimum Purchase Percentage Requirement.

Johnstone Supply will provide Group Purchasing Programs, credit terms, reporting and benchmarking resources, and other incentive programs, as detailed in the Johnstone Manuals.

Johnstone Supply has negotiated optional group purchasing program that JS Business Owners may participate in at their option. The details of each program are available in the JS Business Owner's section of Johnstone Supply's access portal ("JEN") and currently include programs with epaCUBE, Kibble Insurance, Constant Contact, Lithtex, ProKepp, RenderSEO, On-Hold Concepts, ATT, Echo Logistics, Ford Fleet, GM Fleet, HARDI, NATE, Nestle Bottled Water, Staples, Zebra Scanners, Verizon, Backupify, CDW, Mimecast, and Zoom, among others.

Johnstone Supply negotiates and enters into purchase arrangements, which may include discounted pricing, special terms, rebates or other incentives with manufacturers and other suppliers for the benefit of Johnstone Supply and JS Business Owners. Post-Conversion, the former Cooperative policies regarding rebates will be modified. Johnstone Supply shall credit or pay to you all rebates and other financial incentives received by Johnstone Supply from "Equipment Manufacturers" (the initial list of which are set forth on Schedule B to the Distribution Agreement, which may be updated from time to time). Johnstone Supply shall not be required to credit or pay to you any rebates Johnstone receives from suppliers or vendors that are not Equipment Manufacturers. Rebates shall be credited or paid to JS Business Owners in accordance with the volume, allocation and apportionment, and payment policies set forth in the Johnstone Manuals.

Johnstone Supply will also negotiate or recognize certain "Manufacturer Reimbursement Programs" offered by manufacturers to address local market and Customer specific pricing requirements (i.e. special bids) and intended to pursue specific business opportunities and/or to help insure that JS Business Owners are competitive in their local marketplace. Examples include the Goodman "PAP" and Johnson Controls "IPA" programs. Qualifying sales under Manufacturer Reimbursement Programs will be reported by JS Business Owners directly to the manufacturer on a monthly basis and approved reimbursements or other financial consideration will be provided directly by the manufacturer to the applicable JS Business Owners.

Johnstone Supply also provides its own rebate incentive program for purchases directly from Johnstone distribution centers (the "DC Rebate Program"). The current terms of the DC Rebate Program are based on volume of purchases and growth of purchases.

The DC Volume portion will be paid to JS Business Owners based on the JS Business Owner's net DC purchases for the fiscal quarter:

DC Volume – Calculated on quarterly volume (Net):

- \$2.2M+ 0.50% of DC volume dollars
- \$3.3M+ 0.75% of DC volume dollars
- \$4.4M+ 1.00% of DC volume dollars
- \$5.5M+ 1.50% of DC volume dollars
- \$7.5M+ 2.00% of DC volume dollars
- \$9.5M+ 2.50% of DC volume dollars

The DC Growth portion will be paid to JS Business Owners based on fiscal year-over-year growth of JS Business Owner’s net DC purchases:

DC Growth – Calculated quarterly on year-over-year percentage increase of trailing 12 months purchases (Net):

- 20%+ 0.15% rebate on growth dollars
- 30%+ 0.25% rebate on growth dollars
- 40%+ 0.35% rebate on growth dollars

DC Rebate Programs are subject to the payment and other terms set forth in the Johnstone Manuals.

Insurance

During the Term of the Distribution Agreement and for a period of 1 year thereafter, you will, at your own expense, maintain and carry in full force and effect, such policies of insurance, including types and amounts, as set forth below.

Your Annual Revenue	Recommended Minimum Amount of Liability Insurance Required
\$20M+	\$10M per occurrence and in aggregate
\$10M-\$20M	\$5M per occurrence and in aggregate
\$5M-\$10M	\$3M per occurrence and in aggregate
<\$5M	\$2M per occurrence and in aggregate

Please note that the levels recommended above are just the minimum levels required. Actual insurance purchased may vary by JS Business Owner and may exceed recommended minimum levels commensurate with exposure as determined by you and your insurance broker.

You shall obtain insurance to cover commercial general liability, automobile liability and umbrella liability (including product liability). Subscribers to Johnstone University are also required to carry professional liability insurance, in such amounts as Johnstone Supply may require.

You must submit a Certificate of Insurance to the Johnstone Supply Finance Department on an annual basis, concurrent with your insurance renewal. Compliance with the minimum levels is required at each renewal.

Required purchases from approved suppliers or purchases in accordance with our standards and specifications have historically represented approximately 65% of members’ and non-members’ total cost of goods sold.

Post-Conversion, purchases from approved suppliers or purchases in accordance with our standards and specifications will be 75% of the total cost of goods sold during each of the first two years and 80% thereafter in connection with the ongoing operation of the Branch.

As of the end of the most recent fiscal year (April 30, 2021), Johnstone Supply derived income from merchandise sales to members and non-members (net of product returns) of \$851,058,435. During the same period, Johnstone Supply received \$2,314,137 of income associated with other services to

members and non-members. The Cooperative accounted for rebates received from vendors as a reduction of the cost of inventory and, therefore, rebates are classified as a reduction of cost of sales. Vendor rebates received totaled \$102,521,116 in the fiscal year ended April 30, 2021. During the same period approximately \$105,777,658 was distributed to members and non-members as part of the Cooperative's large vendor rebate program, pro rata, based on purchases volume. Johnstone Supply also receives purchase discounts and advertising allowances from manufacturers. For the fiscal year ended April 30, 2021, purchase discounts totaled \$23,691,562, of which \$15,509,680 are accounted for as a reduction of cost of sales and the remaining \$8,181,882 are accounted for as a reduction of net product sales. Advertising allowances totaled \$10,516,765 and are accounted for as a reduction of expenses.

Post-Conversion, income derived from product sales (net of product returns) is projected to be \$891,568,076. Income associated with other services is expected to remain unchanged. Johnstone Supply will continue to account for rebates received from vendors as a reduction of the cost of inventory and, therefore, rebates are classified as a reduction of cost of sales. However, because of the expected changes to the rebate program post-Conversion, approximately \$78,766,895 is projected to be distributed to JS Business Owners and their approved Affiliates as part of Johnstone Supply's large vendor rebate program as described in Section 10.03 of the Distribution Agreement. Purchase discounts and advertising allowances are expected to remain unchanged.

Except for the DC Rebate Program, large vendor rebates, and the Minimum Performance Requirements, we do not provide material benefits to you (including renewal rights or the right to additional franchises) based on whether you purchase through the sources we designate or approve.

As of the issuance date of this disclosure document, we have no purchasing or distribution cooperatives serving our system. Because this is our first year offering franchises, we did not derive revenue or material consideration as a result of required franchisee purchases or leases. However, we have the right to do so in the future and to negotiate purchase arrangements with suppliers for the benefit of franchisees, and/or to derive revenue or other material consideration as a result of required purchases or leases.

ITEM 9
FRANCHISEE'S OBLIGATIONS

This table lists your principal obligations under the Distribution Agreement. It will help you find more detailed information about your obligations in the agreement and in other items of this disclosure document.

Obligation	Section in Distribution Agreement	Disclosure Document Item
a. Site selection and acquisition/lease	N/A	
b. Pre-opening purchases/leases	N/A	
c. Site development and other pre-opening requirements	N/A	
d. Initial and ongoing training	Distribution Agreement Section 5.01	Items 6, 8 & 11
e. Opening	N/A	
f. Fees	Distribution Agreement Sections 2.01, 10.04	Items 5, 6, 8, & 11
g. Compliance with standards and policies/operating manual	Distribution Agreement Sections 2.01, 5.01 and License Agreement	Items 8, 11, 12, 13 & 14
h. Trademarks and proprietary information	Distribution Agreement Section 2.01 and License Agreement and related agreements	Items 13 & 14
i. Restrictions on products/services offered	Distribution Agreement Sections 2.08 and 5.01	Item 16
j. Warranty and customer service requirements	Distribution Agreement Articles XIV and XV and License Agreement Article IX	Item 8
k. Territorial development and sales quotas	Distribution Agreement Sections 2.01, 2.03, 2.06, 5.02, and Schedule A	Items 1, 8, & 12
l. Ongoing product/service purchases	Distribution Agreement Sections 2.02, 2.08, 2.09, and 5.02	Items 6, 8, 11, 16, & 17
m. Maintenance, appearance and remodeling requirements	Distribution Agreement Section 5.01	Item 8
n. Insurance	Distribution Agreement Article XVIII	Item 8
o. Advertising	Distribution Agreement Section 6.03	Items 8 & 11
p. Indemnification	Distribution Agreement Article XVI, License Agreement Article VIII	Items 6, 11, & 13
q. Owner's participation/management/staffing	Distribution Agreement Section 5.01	Items 8, 11 & 15
r. Records and reports	Distribution Agreement Sections 5.01, and 8.01, Article XIII	Item 8
s. Inspections and audits	Distribution Agreement Section 13.03, License Agreement Article III	Items 8 & 11
t. Transfer	Distribution Agreement Section 19.10	Item 17
u. Renewal	Distribution Agreement Section 2.05	Item 17
v. Post-termination obligations	Distribution Agreement Sections 2.08(c) and 3.03	Item 17
w. Non-competition covenants	Distribution Agreement Sections 2.08(c)	Item 17
x. Dispute resolution	Distribution Agreement Section 19.14, License Agreement Article XI	Item 17

ITEM 10 **FINANCING**

Except as stated below, neither we, nor our agents, nor our Affiliates, directly or indirectly, provide any financing arrangements to franchisees or guarantee your notes or any other financial obligations. Johnstone Supply has no obligation to provide JS Business Owners with any financing, but we may agree to provide payment terms for a portion of initial inventory purchases and some JS Business Owners' expansion efforts under specified terms and conditions. Our decision to provide payment terms is based, in part, on the JS Business Owner's credit-worthiness, the security interests and guarantees available to support obligations to Johnstone Supply, and our then-current credit and financing policies. We may terminate the Distribution Agreement if you do not pay us.

New Branches

All new Branches opened by current JS Business Owners will receive 180-day, no-interest terms for up to \$300,000 of inventory purchased from Johnstone Supply distribution centers. These extended terms are effective upon new Branch approval, but are not retroactive. Qualifying purchases must be made prior to the one month anniversary of the new Branch opening date.

Strategic Acquisitions

In order to support your expansion through strategic acquisition of new Branches, Johnstone Supply may provide 60-day payment terms for all inventory purchased from Johnstone Supply distribution centers by JS Business Owner's Branches within its Territory (with a credit limit of up to \$5 million) for two years following an approved acquisition and 45-day terms for the third year. Extended payment terms are not available for inventory purchases that are drop-shipped to Branches from manufacturers or purchased directly with manufacturers. Interest is assessed on extended terms using Johnstone Supply's current borrowing rate plus 1%.

Guaranty and Security Interest

We may require a security interest in your assets in connection with the financing outlined in this Item 10. We may also require other forms of security such as a letter of credit, security interests in accounts receivable or inventory, among others. Additionally, we may require the shareholders, members, partners and/or other owners of you to guaranty all obligations to Johnstone Supply and agree to pay the entire debt and all collection costs. We have the right to require a spouse's personal guaranty. We may also require a cross-corporate guaranty of obligations related to other of your approved Affiliates. The common forms of Security Agreement, Personal Guaranty, and Cross-Corporate Guaranty are attached to this disclosure document as Exhibits F - H. Because each Security Agreement and Guaranty is separately negotiated, the Exhibits are forms only. Each former member and non-member patron of the Cooperative will reaffirm their existing Security Agreements and Guarantees in connection with the Conversion.

Johnstone Supply does not currently sell accounts receivable or other payment obligations of JS Business Owners to third parties or derive income from referrals or placement of financing with any third party lender.

Setoff

Johnstone Supply may setoff or recoup any liability or obligation it may owe to you against any liability or obligation for which you are liable to Johnstone Supply under the Distribution Agreement, any other agreement, or otherwise.

ITEM 11
FRANCHISOR'S OBLIGATIONS

Except as listed below, Johnstone Supply is not required to provide JS Business Owners with any assistance.

Pre-Opening Obligations

Because this is a conversion offering with no interruption in the operation of the Branches, Johnstone Supply has very limited pre-opening obligations to you that will happen instantaneously with the Effective Date of the Distribution Agreement and Rollover Documents:

1. Issue membership interests in Holdings LLC as outlined in the Rollover Documents. (Contribution Election Form, See Exhibit B).

Our Obligations During Operation of Branches

During operation, Johnstone Supply will:

1. Make available and sell the Johnstone Product Offerings to you at the then-current Prices and on the terms and conditions set forth in the Distribution Agreement and the Johnstone Manuals. (Distribution Agreement § 7). These may be purchased (i) from a Johnstone Supply distribution center, (ii) shipped through a Johnstone Supply-approved direct shipment program, (iii) shipped through an approved direct purchase program from a manufacturer, or (iv) from other JS Business Owners as authorized in the Distribution Agreement (Distribution Agreement § 2.08), and as more fully described in Item 8.
 - Johnstone Product Offerings may change from time to time in our discretion. However, we must provide 90 days' prior notice before discontinuance, allow a "Last-Time Buy Period," and repurchase some of the inventory as provided in Article VII of the Distribution Agreement.
 - Solely with respect to the Johnstone Product Offerings, Johnstone Supply will also provide to you on an exclusive basis a breadth of services that ensures you are able to offer solutions at competitive pricing for your Customers. Minimally, these services will be not less than the breadth of services provided to members prior to the Conversion. (Distribution Agreement § 6.01). Certain of those services are discussed below.
 - Johnstone Supply will use commercially reasonable efforts to ensure the uninterrupted supply of Johnstone Product Offerings to you. Johnstone will promptly provide you with any notices received from manufacturers regarding delays, disruptions, or unavailability of Johnstone Product Offerings. (Distribution Agreement § 13.02).
 - If a manufacturer or any Governmental Authority, determines that any Johnstone Product Offerings sold to you must be recalled or removed, Johnstone Supply and you will cooperate with each other in implementing such recall with respect to the reshipment, storage, or disposal of recalled Johnstone Product Offerings, the preparation and maintenance of relevant records and reports, and notification to any Customers or End Users. (Distribution Agreement § 15.03).
 - Johnstone Supply will indemnify you in accordance with the terms set forth in Sections 16.02 and 16.03 of the Distribution Agreement. Additionally, Johnstone Supply will use reasonable efforts to obtain indemnity and insurance agreements from manufacturers and suppliers for the benefit of Johnstone Supply and JS Business Owners consistent with historic practices where possible. (Distribution Agreement § 16.04).
2. Operate sufficient distribution centers with sufficient capacity, technology and Personnel to facilitate supply chain management, logistics, and transportation functions, and use commercially reasonable efforts to service the next day and next morning delivery needs of the

Branch network at levels selected and paid for by the applicable JS Business Owners (Distribution Agreement § 6.01). Approximately 75,000 products are stocked by existing Branches in coordination with six strategically placed distribution centers to deliver high local availability. Johnstone Supply's distribution centers serve as a logistical resource for ordering parts and equipment that are more compact, lighter and less easily damaged through the handling process and frequent, smaller deliveries. You will be assigned to a primary distribution center for ordering purposes.

- Johnstone Supply will identify and engage with common carriers and other parties to negotiate freight agreements that leverage the aggregate freight volume of Johnstone Supply, thus generating freight rates that may be more competitive than a JS Business Owner could negotiate on its own volume ("Preferred Carriers"). You will be solely responsible for all costs of shipping regardless of the carrier used and no Price discount shall be offered for self-pickup. If you utilize a carrier that is not a Preferred Carrier, you will be responsible for such carrier's compliance with all transportation and other policies as set forth in the Johnstone Manuals, including scheduling pickup with applicable Johnstone distribution centers and manufacturers. (Distribution Agreement Article IX). Ordering and shipping policies are set forth in the Johnstone Manuals.
 - Johnstone Supply will also negotiate dropship sales programs to enable JS Business Owners to place orders for some Johnstone Product Offerings to be shipped directly to Branches rather than through Johnstone Supply's distribution centers. The majority of bulky, heavy and easily damaged products and equipment are drop shipped to minimize repackaging and shrinkage costs. (Distribution Agreement § 2.08).
 - Johnstone Supply will also negotiate direct purchase programs with approved vendors of record from which Johnstone Supply receives a direct financial benefit. These programs allow JS Business Owners to order Johnstone Product Offerings directly from the manufacturer for shipment directly to Branch locations. Approved manufacturers are published on the Johnstone Supply website in the "JEN" (JS Business Owner-only) system. (Distribution Agreement § 2.08).
 - Johnstone Supply will authorize Johnstone Product Offering purchases between JS Business Owners to qualify as part of the Minimum Purchase Percentage Requirement. Any such purchases shall be deducted from the selling JS Business Owner's annual purchases for the applicable year and added to the purchasing JS Business Owner's annual purchases for the same applicable year, in each case for purposes of calculating the applicable JS Business Owner's satisfaction of the Minimum Purchase Percentage Requirement. (Distribution Agreement § 2.08).
3. Provide Group Purchasing Programs, credit terms, reporting and benchmarking resources, and other incentive programs, as detailed in the Johnstone Manuals (Distribution Agreement § 6.01) and as more fully described in Item 8.
- Johnstone Supply authorizes JS Business Owners to pay for their purchases of Johnstone Product Offerings directly from Johnstone Supply in accordance with the payment terms set forth in the Credit Policy Sections of Johnstone Manuals. (Distribution Agreement § 10.4). Terms are generally "net 30" meaning payment is due 30 days from the statement date, unless a deferred date or terms apply. After this period, the charges become delinquent. JS Business Owners will receive two statements every month. All regular charges between the 1st and the 15th of a month appear on the mid-month statement dated the 15th and will be due on the 15th of the following month. All charges between the 16th and the last day of a month appear on the month-end statement and will be due on the last day of the following month. Any account having a delinquent balance will be assessed a service charge on the delinquent balance of 0.75% per statement period, an annual percentage rate of 18%. Johnstone Supply may pass on to the JS Business Owners any extended terms offered by the manufacturers, subject to each manufacturer's policy. Credit

terms are subject to your credit-worthiness, the security interests and guarantees available to support obligations to Johnstone Supply, and our then-current credit and financing policies. We may terminate the Distribution Agreement if you do not pay us. See Item 6 for information related to miscellaneous, true-up, and optional fee payments.

4. Provide strategic and advisory support and services to JS Business Owners consistent with the scope and breadth of such services provided prior to the Conversion, including Johnstone University. During the first 12 months following the Conversion, these services will be consistent with the scope and breadth of such services provided immediately prior to the Conversion.
 - Johnstone University provides online learning, instructor led training, tracking and certification for employees and HVAC/R professionals. It includes tools, structure and training support for JS Business Owners to learn about HVAC/R and drive business results, for Customers to received product, technical, and industry training and certifications, and for suppliers to provide updated information on new and existing products.
 - Johnstone Supply also provides optional training and other consulting services directly or through Johnstone University. The cost for such training and consulting services varies by service and method provided (i.e. online or in person). (Distribution Agreement § 6.01).
5. Meet the “Johnstone Service Requirements”, the measurement criteria for which are set forth in the Johnstone Manuals. Post-Conversion the initial Johnstone Service Requirements will be: (a) distribution center service levels (each, line and order fill); (b) inventory availability (in-stock positions by velocity); (c) distribution center quality (order accuracy); and (d) technology availability (including uptime and transmission reliability).
6. Develop and provide JS Business Owners with technology tools developed or licensed by Johnstone Supply for JS Business Owners’ use during the Term of the Distribution Agreement;
 - Johnstone Supply will license to you for non-exclusive use, certain Johnstone Intellectual Property on the terms set forth in the License Agreement (License Agreement § 2.1).
 - Johnstone Supply will provide JS Business Owners with access to JXI™, Johnstone Supply’s search technology that Branch locations access through the Johnstone Supply website or their ERP system which enables ordering and searching for digital product information.
 - Johnstone Supply will provide JS Business Owners with optional access to the PartStock application, which allows mobile ordering of just the equipment, parts and supplies.
 - You will have access to Johnstone’s mobile website, which is optimized to be used on all mobile devices and affords users with the same functionality as the main website.
 - You will have access to the Johnstone Supply Toolkit application, which is a mobile application that provides contractors with tools and functionalities such as sizing charts, product calculators, store locations, efficiency savings calculators, and other information.
 - You will also have access to the Johnstone Supply mobile application for Apple and Android. Our mobile app offers time saving features such as auto-login, Order Pad quick entries, real-time pricing and availability, store locators, electronic tools of the trade, saved lists, and order history.
7. Host one annual trade show for the benefit of the JS Business Owners (the costs of travel and lodging to be borne by the attending JS Business Owner) and offer one other in-person meeting collectively with all JS Business Owners per year.
8. Use commercially reasonable efforts to develop an improved pricing methodology and process between Johnstone Supply and the JS Business Owners and between the JS Business Owners

and their Customers. Johnstone Supply may, from time to time, make suggestions to JS Business Owners with regard to pricing policies. Except with respect to Specialty Sales Programs, Johnstone Supply does not require specific prices. Johnstone Supply has the right to negotiate Specialty Sales Programs, including pricing that will bind all JS Business Owners providing included products or services through those programs, to the extent permitted by applicable law. Johnstone Supply will also continue to develop and support the Specialty Sales Programs. (Distribution Agreement § 6.01).

9. Participate in the Strategic Plan Alignment Program (Distribution Agreement § 6.01).
 - Johnstone Supply will publish annually its forward-looking strategic plan, detailing past performance, forward looking initiatives and goals for the upcoming period. In connection with the planning process, JS Business Owners will submit their Annual Business Plan as it relates to their key initiatives, goals, and action plans each year. Johnstone Supply will schedule follow-up meetings in person or electronically via teleconference to meet with JS Business Owners and their teams to review overall alignment between the organizations, forward looking goals, past performance, gaps, concerns, best practices and resource requirements. A list of Strategic Plan Alignment indicators is attached to the Strategic Plan Alignment policy in the Johnstone Manuals.
 - In addition to Annual Strategic Plan information, Johnstone Supply will provide JS Business Owners regular reporting on their own key metrics and benchmarking for comparison purposes.
10. Provide continued vendor access and relevancy; use commercially reasonable efforts to improve vendor programs; and (a) provide a regular flow of new products (consistent with history); (b) focus on cost of goods sold reduction and maintained/improved payment terms/dating programs; and (c) maintain and improve pricing and data flow.
11. Develop and maintain a web and other digital and social site presence (e.g. LinkedIn, Facebook, Twitter, etc.), national, regional and local digital paid-search advertising, a digital catalog, digital flyers and templates, and other advertising materials as deemed necessary in the reasonable discretion of Johnstone Supply. Johnstone, at its discretion may require JS Business Owners to participate in these programs and charge fees (that should be market competitive) to the JS Business Owners to recover costs and provide a modest profit for Johnstone. Johnstone may develop seasonal or specialty marketing, advertising and promotional campaigns that you may at your discretion and cost determine to participate in.
 - Johnstone Supply's current advertising programs include the publication and maintenance of an electronic catalog, daily product information updates available in the PIM system, monthly distribution of flyers in both electronic and print form, and newsletter email templates designed for use with Constant Contact email marketing and social media campaigns. Each year Johnstone Supply will provide JS Business Owners with a dollar amount and guidelines for advertising spending that will be the obligation of or charged to you. For 2021 the required advertising spend is zero (\$0).

Selecting the Location of Branches

For converting JS Business Owners who were former members of the Cooperative and have uninterrupted operation of the Branch, there is no additional time to select a location for the Branch.

Time Between Signing the Franchise Agreement and Opening

For converting JS Business Owners who were former members of the Cooperative and have uninterrupted operation of the Branch, there is no additional time to needed to open the Branch.

Training and Development

For converting JS Business Owners who were former members of the Cooperative and have uninterrupted operation of the Branch, there is no additional training to be completed prior to execution of the Distribution Agreement.

Information Technology Requirements

Johnstone Supply's current policies regarding electronic communications, data transmissions, and digital marketing between Johnstone Supply & JS Business Owners are set forth in the Johnstone Manuals.

Table of Contents of Johnstone Manuals

All Cooperative members and non-member patrons have been provided with access to the Johnstone Manuals, including revisions related to the Conversion. Therefore, no table of contents is included in this disclosure document.

ITEM 12 **TERRITORY**

You are granted the right to operate from a single approved location. Any requested relocation of a Branch is subject to Johnstone Supply's written approval. You will receive the right to operate a Johnstone Supply-branded Branch or Branches within the assigned Territory, outlined on Schedule A of your Distribution Agreement, which consists of the domiciled zip code of the Branch location and every zip code that is adjacent to that domiciled zip code and for which it shares a common border. The details of Territory assignment are set forth in the Johnstone Manuals. There is no minimum territory.

We have the sole discretion to grant you an expansion of the Territory or additional territories, subject to the policies set forth in the Johnstone Manuals. We do not grant you any options, rights of first refusal, or similar rights to acquire additional franchises.

You may terminate the Distribution Agreement (including all related Purchase Orders), on Notice to us if we reduce the Territory granted to you, other than as authorized by the Distribution Agreement.

You are provided limited territorial protection of their Territory. Subject to the transition provisions of the Distribution Agreement (discussed below), you may not Solicit orders of Johnstone Product Offerings within the assigned Territory of other JS Business Owners. Subject to the terms of the Johnstone Manuals, you are not prohibited from fulfilling orders from outside of their assigned Territory nor prohibited from Soliciting orders from an area that is unassigned to any other JS Business Owners. No sale of Johnstone Product Offerings to a Customer located in your Territory through the Specialty Sales Programs by any other JS Business Owner will be considered a violation of the Distribution Agreement. We have the right to terminate your Distribution Agreement if the Minimum Performance Requirements are not met; therefore, continuation of your limited territorial exclusivity depends on achieving a certain sales volume, market penetration, or other contingency.

“Solicit” and “Solicitation” with respect to a Customer or prospective Customer means to conduct sales and marketing activities either in person or remotely, electronically, digitally, by phone, flyer, mailer, billboard, signage or other similar communications. Additional information regarding Solicitation is set forth in the Johnstone Manuals.

During the first 12 months after the Distribution Agreement Effective Date (the “Transition Period”), you may exercise the rights granted in the Distribution Agreement in both their Territory and their former “Johnstone Patron Trade Area” (if there is any difference between them), provided that during the Transition Period, any other former Johnstone Patron that is a current JS Business Owner and has a Johnstone Patron Trade Area that also encompasses all or a portion of the Territory shall also be authorized to act as a JS Business Owner in such Territory or Johnstone Patron Trade Area.

You may not sell current/active Johnstone Product Offerings via any public facing website other than the Johnstone Supply website (e.g., eBay, Craigslist, Amazon storefronts, etc.).

Johnstone Supply does not operate or franchise, or currently plan to operate or franchise, any business under a different trademark that sells or will sell goods or services similar to those that JS Business Owners sell.

ITEM 13
TRADEMARKS

We grant to you the right to operate a Branch under the marks “Johnstone” and “Johnstone Supply” and to use our other current or future trademarks in its operation. By trademarks, we mean trade names, trademarks, service marks, trade dress, and logos used to identify Johnstone Supply system and Branches.

The following trademarks have been registered with the U.S. Patent and Trademark Office (“USPTO”) and are owned by us. All required affidavits of continued use and renewals have been filed.



Registration No.: 1773286
Registered: May 25, 1993
Register: Principal



Registration No.: 1773287
Registered: May 25, 1993
Register: Principal



Registration No.: 3050713
Registered: 24-JAN-2006
Register: Principal

JOHNSTONE
Registration No.: 1816249
Registered: 11-JAN-1994
Register: Principal

JOHNSTONE
Registration No.: 0949208
Registered: 26-DEC-1972
Register: Principal

JOHNSTONE SUPPLY
Registration No.: 2172387
Registered: 14-JUL-1998
Register: Principal



Registration No.: 6036282



Registered: 21-APR-2020
Register: Principal

Registration No.: 3839874
Registered: 31-AUG-2010
Register: Principal

PART STOCK

Registration No.: 5613820
Registered: 20-NOV-2018
Register: Supplemental



Registration No.: 6481506
Registered: 14-SEP-2021
Register: Principal

You must use all trademarks in full compliance with our policies. You are specifically authorized to use “Johnstone Supply” as part of the assumed business name of your Branch. You may not use the trademarks in the sale of any unauthorized products or services, in any manner not authorized in writing by us, or in any manner that is inconsistent with the franchise agreement.

There are no currently effective material determinations of the USPTO, the Trademark Trial and Appeal Board (“TTAB”), the trademark administrator of any state or any court involving the principal trademarks. There are also no pending infringement, opposition, or cancellation proceedings or any pending material litigation involving the principal trademarks. There are no agreements currently in effect that significantly limit our rights to use or license the use of the trademarks. We do not know of any superior prior rights or infringing uses that could materially affect your use of the trademarks.

Neither the Distribution Agreement nor the License Agreement contain any provisions under which we are required to defend or indemnify you against any (a) claims of infringement or unfair competition arising out of your use of the trademarks; or (b) claim arising out of infringements, imitations, illegal uses, or misuses of any trademark we license to you. We are not required to protect your right to use the trademarks.

The License Agreement requires that you promptly give Notice in writing to us of any infringements or suspected or threatened infringements, imitations, illegal uses, or misuses of the trademarks that come to your attention. We have the right to control any administrative proceeding or litigation involving the trademarks. We do not have to take affirmative action when notified of these claims. You must also fully cooperate in defending or settling the litigation. You may not directly or indirectly contest the validity or our ownership of the trademarks, use any term or design similar to our trademarks, or otherwise make use of any trademark in a manner inconsistent with the Distribution Agreement.

The Distribution Agreement contains a provision that limits your use and registration of any domain names containing a trademark we license to you or any domain name similar to johnstonesupply.com without the express written permission of Johnstone Supply. This provision provides a license to use your specific johnstonesupply.com subdomain name. You must comply with any additional policies and standards that we issue regarding web sites and web pages such as the “Web Site Policy and Application Guidelines”. We will control the operation of the johnstonesupply.com domain name, including your Branch’s subdomain. Any questions regarding these policies and compliance should be directed to us.

If we deem it necessary for you to modify or discontinue use of a trademark, you shall comply with our directions within ten (10) business days after we provide notice of our instructions. We will not be required to reimburse you for any expenses associated with your modification or discontinuation of a trademark we license to you, including any loss of goodwill associated with modifying or

discontinuing your use of a mark or for any expenditures you make to promote a modified or substitute trademark.

ITEM 14
PATENTS, COPYRIGHTS, AND PROPRIETARY INFORMATION

We do not own any patents that are material to your Branch or the Johnstone Supply system. However, you may receive the right to use our proprietary information or material to which we claim rights and interests, including copyrights. For example, these items include, but are not limited to, marketing materials, manuals, guides, software, and databases, including our JXI™ software and database (“JXI”™). Although these materials have not been registered with the United States Copyright Office, we still claim copyrights in and to these materials and may seek such registrations in the future.

We do not have to take any action against the unauthorized use of this proprietary material by third parties, but will respond to such unauthorized use as we think appropriate. We are not required to defend you against any infringement, unfair competition or other claim connected with your use of any of this material.

Unless otherwise agreed to under additional licenses (such as the JXI™ licensing agreement noted below), if we deem it necessary for you to modify or discontinue use of subject matter covered by a copyright, you shall comply with our instructions within ten (10) business days after our notice to you. We will not be required to reimburse you for your expenses in modifying or discontinuing the use of subject matter covered by a copyright or any loss of goodwill associated with any modified or discontinued subject matter or for any expenditures made by you to promote a substitute.

As a Branch owner, one of the digital services offered to you is PartStock. To offer PartStock to you, we have a licensing agreement (the “PartStock Agreement”) with the original developer, Controls Center, Inc. The PartStock Agreement has permitted us to develop and improve upon the original PartStock software and build it into what it is today. The PartStock Agreement also allows us to license PartStock to you, which includes the right for you to sublicense PartStock to certain approved Affiliates. Changes to this agreement could affect your ability to access and use PartStock. Unless terminated at an earlier date, the current agreement we have with Controls Center, Inc. is effective until January 1, 2039.

Under the terms the PartStock Agreement, we have an obligation to provide commercially reasonable assistance to protect the software, and we will do so. We have no obligation to defend you against any claims arising from your use of PartStock. Should any proceeding arise out of any infringement, imitation, illegal use, or misuse of PartStock, we may control the action at our sole discretion.

JXI™ Licensing

In addition to the Distribution Agreement, we may, from time to time, enter into licensing arrangements with you for other proprietary material, such as our proprietary JXI™. For example, if you would like to access and use JXI™, we will ask you to sign a specific JXI™ licensing agreement (“JXI™ License”). We offer access and use of JXI™ “as is” and for your convenience as a Branch owner. The JXI™ License grants a limited license to you regarding your use of JXI™ solely for internal business use at your locations and also establishes the fees for such use. As a Branch owner, your license to JXI™ will remain effective until you cease to be a JS Business Owner either of us terminates the agreement. To note, your breach of the JXI™ License would constitute a breach of the franchise agreement and vice versa.

Under the JXI™ License, we have no obligation to defend you against any claims arising from your use of JXI™. In the event that any claims arise out of infringements, imitations, illegal uses, or misuses of the JXI™, we may pursue and take over any action in our sole discretion. Modifications to the terms of your use of JXI™ must be in writing and signed by both of us. However, at any time, we may terminate the JXI™ License on thirty (30) days notice for whatever reason, including discontinuing JXI™. We may do so at our sole discretion and without any additional obligation to you.

JXI™ and all other materials and information provided or disclosed to you regarding the Johnstone Supply system are disclosed in confidence. You may not disclose any part of this information

to third parties and may only disclose this information to your representatives on a need-to-know basis as further described in the Distribution Agreement. You also must agree not to contest our interest in Johnstone Supply's trade secrets, confidential and proprietary information, and the other intellectual property that comprises the Johnstone Supply system.

ITEM 15
OBLIGATION TO PARTICIPATE IN THE ACTUAL OPERATION OF THE FRANCHISE
BUSINESS

During the term of the Distribution Agreement, your business must be devoted to sales of HVAC/R equipment and PS&A products. Sales of other products must be ancillary and related to your existing business. You are not obligated to participate in the direct operation of Branches, although you are encouraged to do so. There are no limits on whom you can hire as an on-premises supervisor. The on-premises supervisor does not need to complete our training program and does not need to have an equity interest in you in order to serve as the on-premises supervisor. You do not have to impose any non-competition covenants on your manager. Your manager must comply with all confidentiality restrictions contained in the Distribution Agreement and Johnstone Manuals.

Johnstone Supply may require the shareholders, members, partners and/or other owners of a JS Business Owner to guaranty all obligations to Johnstone Supply and agree to pay the entire debt and all collection costs. We have the right to require a spouse's personal guaranty. We may also require a cross-corporate guaranty of obligations related to your approved Affiliates.

ITEM 16
RESTRICTIONS ON WHAT THE FRANCHISEE MAY SELL

Johnstone Supply does not restrict the types of goods and services that you may offer, except as follows:

During the Term of the Distribution Agreement, your business must be devoted to sales of HVAC/R equipment and PS&A products. Sales of other products must be ancillary and related to your existing business. Johnstone Product Offerings may change from time to time in our discretion. However, we must provide 90 days' prior notice before discontinuance, allow a "Last-Time Buy Period," and repurchase some of the inventory as provided in Article VII of the Distribution Agreement. See Item 11 for more information.

You must meet the Minimum Purchase Percentage Requirements and other Minimum Performance Requirements set forth in Sections 2.08 and 5.01 of the Distribution Agreement.

You may not engage in any other business through a Licensed Johnstone Mark-branded Branch or through any internet site or other online sales process (other than the Johnstone Online Sales Program) that references the Johnstone Intellectual Property.

During the Term of the Distribution Agreement, neither you, nor any holder of an equity interest in you may either directly or indirectly: (a) operate, own, manage, or be employed by or consult with, any Competitive Business other than one operated under the Distribution Agreement, or any business or other venture offering or selling franchises or licenses for a Competitive Business; (b) divert or attempt to divert any Customer or potential Customer to any competitor of Johnstone Supply or any Affiliate of Johnstone Supply; (c) hire, offer to hire, entice away, solicit, or in any other way persuade or attempt to persuade any employee, officer, director, or independent contractor of Johnstone Supply or any Affiliate of Johnstone Supply, to leave the employ of, or to terminate any business relationship with, Johnstone Supply or any Affiliate of Johnstone Supply, during the term of such employment or relationship and for one (1) year thereafter, without the prior written consent of Johnstone Supply, which shall not be unreasonably withheld; or (d) otherwise interfere with the business activities of Johnstone Supply or any Affiliate of Johnstone Supply with respect to any of the foregoing. This restriction will also bind any former holder of an equity interest in you and your approved Affiliates for a period of one (1) year after transfer of such interest.

Except as provided in the Distribution Agreement, you shall not appoint any subdistributor or other Person to resell or distribute Johnstone Product Offerings. You may appoint the approved Affiliate(s) listed on Schedule C of the Distribution Agreement, referred to as a "JSBO Affiliate", as a subdistributor of the Johnstone Product Offerings, provided that they meet the requirements set forth in Section 2.07 of the Distribution Agreement and execute the required joinder and other agreements referenced therein.

See Items 8 and 9 for more specific information on restrictions covering what you may sell.

ITEM 17
RENEWAL, TERMINATION, TRANSFER, AND DISPUTE RESOLUTION

FRANCHISE RELATIONSHIP

These tables list certain important provisions of the Distribution Agreement. You should read these provisions in the Distribution Agreement attached to this disclosure document.

Provision	Section in Distribution Agreement	Summary
a. Length of the franchise term	Section 2.04	Initial term commences on the Effective Date and continues until December 31, 2026, unless earlier terminated as provided in the Distribution Agreement or under applicable Law.
	Section 6.1 of License Agreement	Same term as Distribution Agreement.
b. Renewal or extension	Section 2.05	On or before the 4 th anniversary of the Effective Date, either Party may give Notice of nonrenewal for any reason. Without such Notice, and provided that you are in full compliance with the Distribution Agreement and satisfies the applicable requirements, the relationship will renew for successive 3-year terms unless and until either Party provides Notice of nonrenewal at least 1 year before the end of the then-current term or unless and until earlier terminated as provided under the Distribution Agreement or applicable Law.
c. Requirements for you to renew or extend	Sections 2.05, 5.02	You must be in full compliance with the Distribution Agreement and satisfy the applicable requirements, including Minimum Performance Requirements. The Minimum Performance Requirements are: (a) satisfaction of the Minimum Purchase Percentage Requirement; (b) satisfaction of minimum dollar purchase requirements in excess of \$1,500,000 multiplied by the number of Branch locations in the Territory which have been opened a minimum of 2 years; (c) satisfaction of required annual sales performance goals in the Region; and (d) satisfaction of minimum product assortment and inventory levels in each major product category as outlined in the Johnstone Manuals.
d. Termination by you	Section 3.01	You may terminate on Notice to Johnstone Supply for cause. Termination is effective on Johnstone Supply's receipt of your Notice of termination (subject to any applicable cure period) or any later date set forth in the Notice.

e. Termination by us without cause	Not Applicable	
f. Termination by us with cause	Section 3.02	Johnstone Supply may terminate the Distribution Agreement on Notice to you for cause including if Johnstone Supply terminates the License Agreement. Termination is effective on your receipt of Johnstone Supply's Notice of termination (subject to any applicable cure period) or any later date set forth in the Notice.
	Section 7.1 of License Agreement	Johnstone Supply may terminate the License Agreement on Notice to you for cause including if Johnstone Supply terminates the Distribution Agreement. Termination is effective on your receipt of Johnstone Supply's Notice of termination (subject to any applicable cure period) or any later date set forth in the Notice.
g. "Cause" defined-curable defaults	Sections 3.01, 3.02	Curable defaults by Johnstone Supply include: failure to meet the Johnstone Service Requirements (1 year); material breach of the Distribution Agreement (90 days); failure to make a timely payment of any amount due to you that is not the subject of a good-faith dispute (30 days). Curable defaults by you include: failure to meet the Minimum Performance Requirements (1 year); material breach of the Distribution Agreement (90 days); failure to make timely payment of any amount due to Johnstone Supply that is not the subject of a good-faith dispute (30 days); becoming insolvent or becoming the subject of bankruptcy or related proceeding (90 days).
	Section 7.1 of License Agreement	Curable defaults by you under License Agreement include: breach of the License Agreement (30 days).
h. "Cause" defined-non-curable defaults	Sections 3.01, 3.02	Non-curable defaults by Johnstone Supply include: knowingly maintaining false books or records or knowingly submitting any report required under Section 13.01 of the Distribution Agreement that is knowingly false; engaging in any conduct or practice that is fraudulent, unethical, or deceptive or that knowingly damages or knowingly tarnishes the Licensed Johnstone Marks; violation of the confidentiality provisions under Article XII of the Distribution Agreement; reduction of the Territory granted to you, other than as authorized by the Distribution Agreement. Non-curable defaults by you include: completion of or attempt to complete an Assignment not in

		compliance with the Distribution Agreement; knowingly maintaining false books or records or knowingly submitting any false reports; engaging in any conduct or practice that is fraudulent, unethical, or deceptive or that knowingly damages or knowingly tarnishes the Licensed Johnstone Marks; breach of the confidentiality provisions in Article XII.
	Section 7.1 of License Agreement	Non-curable defaults under License Agreement by you include: (a) material failure to comply with applicable law in (i) the use of the Licensed Johnstone Intellectual Property; or (ii) the conduct of your business; (b) in the event of (i) its voluntary or involuntary insolvency, (ii) your commission of an action of bankruptcy, (iii) adjudication of bankruptcy, (iv) filing of a petition for voluntary or involuntary bankruptcy or similar proceeding, (v) an agreement between you and your creditors generally is entered into providing for extension or composition of debt, (vi) a receiver is appointed to administer its assets, or (vii) its assets are liquidated; (c) in the event of use of any of the Licensed Johnstone Intellectual Property in any manner that exceeds the scope of the license granted in Section 2.1 or is otherwise inconsistent with the terms of the License Agreement; (d) in the event you fail to comply with your obligation to use the Licensed Johnstone Intellectual Property in a manner consistent with Section 3.3; or (e) in the event of the termination of the Distribution Agreement.
i. Your obligations on termination/ nonrenewal	Section 3.03	Obligations include: destroy Confidential Information; cease usage of all Johnstone Intellectual Property
	Section 6.2 of License Agreement	Obligations include: cease usage, and return, all Johnstone Intellectual Property
j. Assignment of contract by us	Section 19.10(a) of Distribution Agreement and Section 12.10(a) of License Agreement	Johnstone Supply may not assign without your prior written consent, provided that Johnstone Supply may assign without your prior written consent (i) to any of its Affiliates, or (ii) in the event of a corporate reorganization, consolidation, merger, or acquisition.
k. "Assignment" by you- defined	Section 19.10(b) of	Any sale, assignment, or transfer of the Distribution Agreement or any of its rights, interests, duties, obligations, or remedies associated with the Distribution Agreement, whether by operation of

	Distribution Agreement	law, contract, or otherwise. If you are a corporation, partnership, limited liability company, or other form of business entity, (i) any direct or indirect transfer or the issuance of 25% or more of the equity interests of, or voting rights in, you or (ii) any merger or amalgamation of you with, or any sale of all or substantially all of the assets of you to, one or more third parties (a “Change of Control”).
l. Our approval of assignment by you	Section 19.10(b)	No assignment without Johnstone Supply’s prior written approval.
	Section 12.10(b) of License Agreement	You will not sell, assign, or otherwise transfer the License Agreement or any of its rights, interests, duties, obligations, or remedies associated with the License Agreement, whether by operation of law, contract, or otherwise, without prior written approval from Johnstone Supply, and the License Agreement will not be sold, assigned or otherwise transferred by you except in connection with the simultaneous sale, assignment or transfer, as applicable, of the Distribution Agreement.
m. Conditions for our approval of assignment	Section 19.10(c)	Conditions include: assignee qualified; execution of a new Distribution Agreement with Johnstone Supply; compliance of all contractual obligations to Johnstone Supply; all of your accrued money obligations are satisfied; all equity interests in Johnstone Supply and/or its Affiliates held by you are liquidated or transferred as required by the Johnstone Organizational Documents; subject to the Right of First Refusal and Exit Auction provisions.
n. Our right of first refusal to acquire your business	Section 19.10(d)	Johnstone Supply or its designee can match any offer to effectuate an Assignment, at any time from and after the 2-year anniversary of the Effective Date. The Right of First Refusal does not apply to a Change of Control where the only transfer being made is of an equity interest in you from an existing equity holder to any member of the Family Group of such equity holder. “Family Group” means any of (i) the applicable equity holder’s or its direct or indirect owner’s spouse and descendants (whether natural or adopted) and any trust solely for the benefit of the applicable equity holder or its direct or indirect owner and/or the applicable equity holder’s or its direct or indirect owner’s spouse and/or descendants, and (ii) the applicable equity holder’s or its direct or indirect owner’s mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law provided that any such individual was involved on a

		full-time basis with the business of you for at least twelve (12) months prior to the contemplated transfer.
o. Our option to purchase your business	Not Applicable	See above.
p. Your death or disability	Not Applicable	
q. Non-competition covenants during the term of the franchise	Section 2.08	The Distribution Agreement does not preclude you from engaging in the sale or distribution of other goods and products except as follows: (a) you must meet the Minimum Purchase Percentage Requirement; (b) your business must be devoted to sales of HVAC/R equipment and PS&A products; (c) you will not be involved in a Competitive Business, attempt to divert customers to any competitor, persuade a Johnstone employee to leave Johnstone, or otherwise interfere with Johnstone's business activities; (d) you may not purchase any available and in-stock Johnstone Product Offerings other than from Johnstone.
r. Non-competition covenants after the franchise is terminated or expires	Section 2.08	The non-competition provisions of Section 2.08 will bind any former holder of an equity interest in you and approved Affiliates for a period of one (1) year after transfer of such interest.
s. Modification of the agreement	Section 19.08 of Distribution Agreement and Section 12.4 of License Agreement	No modification is effective unless it is in writing, identified as a modification and signed by an authorized Representative of each Party.
t. Integration/merger clause	Sections 4.01, 19.02 of Distribution Agreement & Section 12.1 of	The express terms and conditions contained in the Distribution Agreement (together with the Exhibits, Schedules, the Johnstone Manuals, and the Purchase Orders) exclusively govern and control each Party's respective rights and obligations.

	License Agreement	
u. Dispute resolution by arbitration or mediation	Section 19.14(b) of Distribution Agreement.	<p>Any dispute, controversy, or claim arising out of or relating to the Distribution Agreement, or the breach, termination or invalidity hereof (each, a “Dispute”), shall be submitted for negotiation and resolution to the Chief Executive Officer and Chief Financial Officer of Johnstone Supply (or to such other person of equivalent or superior position designated by Johnstone Supply in a written Notice to you) and your designated officer (or to such other person of equivalent or superior position designated by you in a written Notice to Johnstone Supply), by delivery of written Notice (each, a “Dispute Notice”) from either Party to the other Party. Such Persons shall negotiate in good faith to resolve the Dispute. If the Parties cannot resolve any Dispute within thirty (30) days after delivery of the applicable Dispute Notice, either party may initiate arbitration in accordance with the Distribution Agreement.</p> <p>Any Dispute between the Parties will be exclusively resolved through binding arbitration in Wilmington, Delaware, before a single, independent arbitrator, using the facilities and commercial arbitration rules of the American Arbitration Association. The Parties will jointly share the costs of the arbitrators’ fees and the fees payable to the AAA, but each Party shall bear its own legal fees and other legal expenses. The provisions of the Federal Arbitration Act, Title 9 US Code, will govern arbitration under the Distribution Agreement, except to the extent it is inconsistent with any provision of the Distribution Agreement.</p>
	Section 11.1 of License Agreement	<p>Jurisdiction and venue in any suit, action or proceeding brought by any Party shall lie in any federal or state courts located in Delaware. The Parties irrevocably agree that venue would be proper in such court, and hereby waive any objection that any such court is an improper or inconvenient forum for the resolution of such suit, action or proceeding. The Parties further agree that the mailing by certified or registered mail, return receipt requested, of any process required by any such court shall constitute valid and lawful service of process against them, without necessity for service by any other means provided by statute or rule of court.</p>
v. Choice of forum	Section 19.14(b) of	Arbitration under the Distribution Agreement will be in Wilmington, Delaware.

	Distribution Agreement.	
	Section 11.1 of License Agreement	Jurisdiction and venue will lie in any federal or state courts located in Delaware.
w. Choice of law	Section 19.13 of Distribution Agreement & Section 11.1 of License Agreement	Delaware law applies.

Certain states require franchisors to make additional disclosures related to the information contained in this disclosure document. These disclosures are contained in Exhibit J to this disclosure document.

ITEM 18
PUBLIC FIGURES

We do not use any public figure to promote the Johnstone Supply system.

ITEM 19
FINANCIAL PERFORMANCE REPRESENTATION

The FTC's Franchise Rule permits a franchisor to provide information about the actual or potential financial performance of its franchised and/or franchisor-owned outlets, if there is a reasonable basis for the information, and if the information is included in the disclosure document. Financial performance information that differs from that included in Item 19 may be given only if: (1) a franchisor provides the actual records of an existing outlet you are considering buying; or (2) a franchisor supplements the information provided in this Item 19, for example, by providing information about possible performance at a particular location or under particular circumstances.

Johnstone Supply does not make any representations about a JS Business Owner's future financial performance or the past financial performance of Branches. Johnstone Supply also does not authorize our employees or representatives to make any such representations either orally or in writing. JS Business Owners converting an existing Branch or receiving transfer of a Branch may be provided with the actual records of that Branch. If you receive any other financial performance information or projections of future income, you should report it to Johnstone Supply's management by contacting Mark Askew, VP of Membership, Johnstone Supply, at 11632 NE Ainsworth Circle, Portland, Oregon 97220, or (503) 419-9079, or Mark.Askew@johnstonesupply.com; the Federal Trade Commission; and the appropriate state regulatory agencies.

ITEM 20
OUTLETS AND FRANCHISEE INFORMATION

As noted in the introduction, Johnstone Supply has been a supply cooperative serving its member and non-member patrons prior to the Conversion. Therefore there have been no “Franchised”, “Company Owned”, or “Affiliate Owned” outlets as of April 30 of each fiscal year.

Table No. 1
System-Wide Outlet Summary for Years 2019 to 2021

Outlet Type	Year	Outlets at the Start of the Year	Outlets at the End of the Year	Net Change
Franchised	2019	0	0	0
	2020	0	0	0
	2021	0	0	0
Company-Owned	2019	0	0	0
	2020	0	0	0
	2021	0	0	0
Affiliate-Owned	2019	0	0	0
	2020	0	0	0
	2021	0	0	0
Total Outlets	2019	0	0	0
	2020	0	0	0
	2021	0	0	0

Table No. 2
Transfers of Outlets from Franchisees to New Owners
(Other than Johnstone)
For Years 2019 to 2021

Outlet Type	Year	Number of Transfers
Franchised	2019	0
	2020	0
	2021	0
Company-Owned	2019	0
	2020	0
	2021	0
Affiliate-Owned	2019	0
	2020	0
	2021	0
Total Outlets	2019	0
	2020	0
	2021	0

Table No. 3
Status of Franchised Outlets for Years 2019 to 2021

Outlet Type	Year	Outlets At Start of Year	Outlets Opened	Terminations	Non-Renewals	Reacquired by Johnstone	Ceased Operations – Other Reason	Outlets at End of Year
Franchised	2019	0	0	0	0	0	0	0
	2020	0	0	0	0	0	0	0
	2021	0	0	0	0	0	0	0
Total Outlets	2019	0	0	0	0	0	0	0
	2020	0	0	0	0	0	0	0
	2021	0	0	0	0	0	0	0

Table No. 4
Status of Company- and affiliate- Owned Outlets for Years 2019 to 2021

Outlet Type	Year	Outlets At Start of Year	Outlets Opened	Terminations	Non-Renewals	Reacquired by Johnstone	Ceased Operations – Other Reason	Outlets at End of Year
Company-Owned	2019	0	0	0	0	0	0	0
	2020	0	0	0	0	0	0	0
	2021	0	0	0	0	0	0	0
Affiliate-Owned	2019	0	0	0	0	0	0	0
	2020	0	0	0	0	0	0	0
	2021	0	0	0	0	0	0	0
Total Outlets	2019	0	0	0	0	0	0	0
	2020	0	0	0	0	0	0	0
	2021	0	0	0	0	0	0	0

Table No. 5
Projected Openings as of April 30, 2021(4)

State	Franchise Agreements Signed But Outlet Not Opened	Projected New Franchise Outlet in the Next Fiscal Year	Projected New Company-Owned Outlet in the Next Fiscal Year
Alabama	0	7	0
Alaska	0	1	0
Arizona	0	7	0
Arkansas	0	4	0
California	0	41	0

Colorado	0	4	0
Connecticut	0	3	0
Delaware	0	3	0
District of Columbia	0	0	0
Florida	0	34	0
Georgia	0	12	0
Hawaii	0	2	0
Idaho	0	2	0
Illinois	0	19	0
Indiana	0	11	0
Iowa	0	6	0
Kansas	0	3	0
Kentucky	0	11	0
Louisiana	0	6	0
Maine	0	2	0
Maryland	0	6	0
Massachusetts	0	9	0
Michigan	0	23	0
Minnesota	0	6	0
Mississippi	0	2	0
Missouri	0	13	0
Montana	0	2	0
Nebraska	0	4	0
Nevada	0	4	0
New Hampshire	0	0	0
New Jersey	0	13	0
New Mexico	0	6	0
New York	0	15	0
North Carolina	0	18	0
North Dakota	0	1	0
Ohio	0	10	0
Oklahoma	0	8	0
Oregon	0	5	0
Pennsylvania	0	18	0
Rhode Island	0	1	0
South Carolina	0	12	0
South Dakota	0	2	0
Tennessee	0	13	0
Texas	0	44	0
Utah	0	3	0

Vermont	0	0	0
Virginia	0	9	0
Washington	0	13	0
West Virginia	0	3	0
Wisconsin	0	9	0
Wyoming	0	0	0
Guam	0	1	0
Ontario, Canada	0	4	0
Total	0	455	0

NOTES

- (1) Because this disclosure document relates to converting Branches, there were no franchisees as of April 30, 2021 (the most recently completed fiscal year).
- (2) Because this disclosure document relates to converting Branches, there were no franchisees who had a Branch terminated, cancelled, not renewed or who otherwise voluntarily or involuntarily ceased to do business under a franchise agreement during the most recently completed fiscal year, franchisees transferred, franchisees who left the system for other reasons or who have not communicated with Johnstone Supply in the 10 weeks prior to the issuance date of this disclosure document. If you buy this franchise, your contact information may be disclosed to other buyers when you leave the franchise system.
- (3) During the last three fiscal years, Johnstone Supply has not signed any confidentiality agreements with current or former franchisees that would restrict them from speaking openly with you about their experiences with us.
- (4) Because this disclosure document relates to the Conversion of the Cooperative, Table 5 includes the expected conversion of all 446 existing Branches by JS Business Owners, as well as the expected opening of 9 new Branches by JS Business Owners post-Conversion.

ITEM 21
FINANCIAL STATEMENTS

Johnstone Supply's fiscal year end is April 30 of each year. Included in this disclosure document is our (a) audited financial statements for the fiscal years ending April 30, 2019, April 30, 2020 and April 30, 2021; and (b) unaudited balance sheet as of August 31, 2021 and profit and loss statement for the period of operation from January 1, 2021 through August 31, 2021.

ITEM 22
CONTRACTS

1. Exhibit A: Distribution Agreement
2. Exhibit B: Contribution Election Form
3. Exhibit C: Owner's Certificate and Indemnity
4. Exhibit D: Equity Holders' Agreement
5. Exhibit F: Security Agreement
6. Exhibit G: Personal Guaranty
7. Exhibit H: Cross-Corporate Guaranty
8. Exhibit J: State-Specific Addenda

ITEM 23
RECEIPT

Two copies of the Receipt page are attached to this Disclosure Document as Exhibit L.

EXHIBIT A
DISTRIBUTION AGREEMENT

[Attached]

DISTRIBUTION AGREEMENT

between

[JS BUSINESS OWNER]

and

JOHNSTONE SUPPLY, LLC

dated as of

[DATE]

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DISTRIBUTION AGREEMENT

This Distribution Agreement (the “*Agreement*”), dated and effective as of [Date], 2021 (the “*Effective Date*”), is between [Corporate Name], a [Jurisdiction of Organization] [Corporate Form] (“*JS Business Owner*”) and the JSBO Affiliates that are signatories hereto and Johnstone Supply, LLC, a Delaware limited liability company (“*Johnstone*,” and together with JS Business Owner, the “*Parties*,” and each, a “*Party*”).

RECITALS

WHEREAS, for four (4) decades prior to the Effective Date, the Cooperative was a wholesale distribution cooperative (organized as an Oregon cooperative) with Johnstone Patrons operating in forty-seven (47) US states and Canada;

WHEREAS, with the support of Johnstone Patrons, the Cooperative has converted into Johnstone, a non-cooperative limited liability company, in order to maximize growth opportunities and improve operating efficiencies for the benefit of Johnstone and the former Johnstone Patrons;

WHEREAS, Johnstone is a wholesale distributor of the Johnstone Product Offerings;

WHEREAS, JS Business Owner is in the business of selling certain HVAC/R products, equipment, parts, supplies, accessories, and related items into the residential and light commercial end markets;

WHEREAS, Johnstone wishes to sell the Johnstone Product Offerings to JS Business Owner and appoint JS Business Owner as an exclusive distributor for Johnstone Product Offerings in the Territory, and JS Business Owner wishes to purchase the Johnstone Product Offerings from Johnstone and resell the Johnstone Product Offerings to Customers in the Territory, in each case subject to the terms and conditions of this Agreement; and

WHEREAS, JS Business Owner, if it was a Johnstone Patron, will execute this Agreement together with the Owner’s Certificate of Indemnity, Equity Holders Agreement, License Agreement, and certain other Transaction Documents contemplated by the Conversion and Merger Agreement (as defined herein).

NOW, THEREFORE, in consideration of the mutual covenants, terms, and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE I DEFINITIONS

Capitalized terms have the meanings set forth in this Section or in the Section in which they are otherwise defined in this Agreement.

“*AAA*” has the meaning provided in Section 19.14(b).

“*Action*” means any claim, action, cause of action, demand, lawsuit, arbitration, inquiry, audit, notice of violation, proceeding, litigation, citation, summons, subpoena, or investigation of any nature, civil, criminal, administrative, regulatory, or other, whether at law, in equity, or otherwise.

“*Advisory Board*” means a group of JS Business Owners selected by JS Business Owners that will assist and advise Johnstone in connection with Johnstone’s distribution business in accordance with the

Charter of the Advisory Board of Johnstone Supply, LLC; attached hereto as Exhibit 2; a copy of which is also available in the Johnstone Manuals.

“**Affiliate**” of a Person means any other Person that directly or indirectly, through one or more intermediaries, Controls, is Controlled by, or is under common Control with, this Person.

“**Annual Business Plan**” has the meaning provided in Section 5.01(k).

“**Annual Sales Performance Goals**” has the meaning provided in Section 5.02(c).

“**Assignment**” has the meaning provided in Section 19.10(b).

“**Assignment Notice**” has the meaning provided in Section 19.10(d).

“**Branch**” means each sales outlet operated by a JS Business Owner in its assigned Territory.

“**Business Day**” means any day except Saturday, Sunday, or a federal holiday.

“**Change of Control**” has the meaning provided in Section 19.10(b).

“**Competitive Business**” means any business primarily engaged in the distribution, marketing, or sale of HVAC/R equipment or other products of the type provided by Johnstone.

“**Confidential Information**” has the meaning provided in Section 12.01.

“**Control**” (and with correlative meanings, the terms “Controlled by” and “under common Control with”) means, regarding any Person, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of another Person, whether through the ownership of voting securities, by contract, or otherwise.

“**Conversion and Merger Agreement**” means that certain Agreement and Plan of Conversion and Merger, dated as of August 24, 2021 by and among the Cooperative, the Members’ Representatives named therein, Johnstone Supply Buyer, LLC and Annandale Merger Sub, LLC.

“**Cooperative**” means Johnstone Supply, Inc., an Oregon cooperative corporation prior to conversion to a Delaware limited liability company.

“**Customer**” means a purchaser that (a) purchases Johnstone Product Offerings from any JS Business Owners for the purposes of resale to End Users; (b) is authenticated by the JS Business Owners as a contractor, facilities manager, or other similar business; and (c) is directly involved in the installation, maintenance, or repair of said products, as further defined and subject to the limitations set forth in the Johnstone Manuals. Johnstone, at its sole discretion, may from time to time modify or adapt this definition.

“**Disclosing Party**” has the meaning provided in Section 12.01.

“**Dispute**” has the meaning provided in Section 19.14(a).

“**Dispute Notice**” has the meaning provided in Section 19.14(a).

“**End User**” means the final purchaser that has acquired Johnstone Product Offerings from JS Business Owner or JS Business Owner’s Customer for its own and its Affiliates’ internal use and not for resale, remarketing, or distribution.

“Equipment Manufacturers” has the meaning provided in Section 10.03(a).

“ERP System” means a Johnstone-approved enterprise resource planning system utilized to transmit data between Johnstone and JS Business Owner.

“Exit Auction” has the meaning provided in Section 19.10(e).

“Exit Notice” has the meaning provided in Section 19.10(e).

“Family Group” has the meaning provided in Section 19.10(d).

“Federal Arbitration Act” has the meaning provided in Section 19.14(b).

“Fiscal Year” means Johnstone’s fiscal year, which ends on April 30, and begins on May 1 of each calendar year.

“Force Majeure Event” has the meaning provided in Section 19.17.

“Forecast” means, regarding any applicable period, a good-faith forecast of JS Business Owner’s sales and product demand during the period, by applicable categories of Johnstone Product Offerings, which approximates, as nearly as possible based on information available at the time to JS Business Owner, the Purchase Orders JS Business Owner will place in the applicable period.

“Franchise Laws” means the Federal Trade Commission Rule of Franchising and any other domestic or foreign Law regulating the offer or sale of franchises, or governing the relationships between franchisors and franchisees.

“Governmental Authority” means any federal, state, local, or foreign government or political subdivision thereof, or any agency or instrumentality of the government or political subdivision, or any self-regulated organization or other non-governmental regulatory authority, or quasi-governmental authority (to the extent that the rules, regulations, or orders of this organization or authority have the force of Law), or any arbitrator, court, or tribunal of competent jurisdiction.

“Governmental Order” means any order, writ, judgment, injunction, decree, stipulation, award, or determination entered by or with any Governmental Authority.

“Group Purchasing Programs” means programs offered by Johnstone to JS Business Owners to obtain discounts or other benefits from vendors based on the collective participation of JS Business Owners, including insurance offerings, office and warehouse supplies purchased, and small parcel delivery services.

“HVAC/R” means heating, ventilation, air conditioning, and refrigeration products or services, as applicable in each case for the residential and light commercial end markets.

“Indemnified Party” means Johnstone Indemnified Party or JS Business Owner Indemnified Party, as applicable.

“Indemnifying Party” means Johnstone Indemnifying Party or JS Business Owner Indemnifying Party, as applicable.

“Initial Term” has the meaning provided in Section 2.04.

“Intellectual Property Rights” means all industrial and other intellectual property rights comprising or relating to: (a) patents; (b) trademarks; (c) internet domain names, whether or not registered by any authorized private registrar or Governmental Authority, web addresses, web pages, website, and URLs; (d) works of authorship, expressions, designs, and design registrations, whether or not copyrightable, including copyrights and copyrightable works, software, and firmware, data, data files, and databases and other specifications and documentation; (e) trade secrets; and (f) all industrial and other intellectual property rights, and all rights, interests, and protections that are associated with, equivalent or similar to, or required for the exercise of, any of the foregoing, however arising, in each case whether registered or unregistered and including all registrations and applications for, and renewals or extensions of, these rights or forms of protection under the Laws of any jurisdiction throughout in any part of the world.

“Johnstone Indemnified Party” has the meaning provided in Section 16.01.

“Johnstone Indemnifying Party” has the meaning provided in Section 16.02.

“Johnstone Intellectual Property” means all Intellectual Property Rights owned by Johnstone and which Johnstone from time-to-time in writing may authorize JS Business Owner to use on or in connection with the Johnstone Product Offerings as a licensed distributor. Specifically, Johnstone Intellectual Property includes the Licensed Johnstone Marks, the Licensed Software, and any additional intellectual property specified in the License Agreement.

“Johnstone Manuals” means the manual of Johnstone’s policies and procedures, as amended or updated from time to time in the sole and reasonable discretion of Johnstone, including through policy communications to JS Business Owner.

“Johnstone Multi-Territory Customer Sales Program” means the sales program established by Johnstone to service Multi-Territory Customer accounts.

“Johnstone Online Sales Program” means the online sales program established by Johnstone for the marketing and servicing of existing Customers, attraction of new Customers, and sales digitally via internet websites, mobile applications, or other digital methods for the benefit of Johnstone and its distributors.

“Johnstone Organizational Documents” means the certificate of formation, limited liability company agreement, and other organizational documents of Johnstone and its Affiliates, as may be amended from time to time.

“Johnstone Patron Trade Area” has the meaning set forth in Schedule A.

“Johnstone Patrons” means each of the former members of the Cooperative and their Affiliates.

“Johnstone Product Offerings” means HVAC/R equipment and PS&A that are offered for sale by Johnstone into the residential and light commercial end markets and either (i) to be shipped to JS Business Owners from a Johnstone distribution center, (ii) shipped through a Johnstone-approved direct shipment or (iii) shipped through a direct purchase program from the manufacturer to the JS Business Owners, as designated by Johnstone.

“Johnstone Service Requirements” has the meaning provided in Section 6.01(e).

“Johnstone University” means the product, technical, and business training program (as well as any accompanying materials) offered by Johnstone to JS Business Owners and their Customers.

“**JS Business Owner**” has the meaning set forth in the preamble of this Agreement. For avoidance of doubt, reference to “**JS Business Owners**” means, collectively, all distributors appointed by Johnstone, and reference to a “business owner” is not intended to and shall not convey any ownership or other interest in the assets of Johnstone (including the Licensed Johnstone Marks) except as expressly set forth in this Agreement, the License Agreement, and the Johnstone Organizational Documents.

“**JS Business Owner Indemnified Party**” has the meaning provided in Section 16.02.

“**JS Business Owner Indemnifying Party**” has the meaning provided in Section 16.01.

“**JSBO Affiliate**” has the meaning provided in Section 2.07.

“**Last-Time Buy Period**” has the meaning provided in Section 7.02.

“**Law**” means any statute, law, ordinance, regulation, rule, code, constitution, treaty, common law, Governmental Order, or other requirement or rule of law of any Governmental Authority.

“**License Agreement**” has the meaning provided in Section 2.01(a).

“**Licensed Johnstone Marks**” means any designations of source, sponsorship, association, or origin owned by Johnstone, including any trademarks, service marks, trade dress, trade names, brand names, logos, corporate names, or domain names, as specified in the License Agreement.

“**Licensed Software**” means any electronic tools developed or otherwise owned by Johnstone, any mobile applications, database search engines, and contractor selling tools as specified in the License Agreement as well as any version updates to the foregoing.

“**Losses**” has the meaning provided in Section 16.01.

“**Manufacturer Reimbursement Programs**” has the meaning provided in Section 10.03(a).

“**Minimum Performance Requirements**” are those JS Business Owner performance standards set forth in Section 5.02.

“**Minimum Purchase Percentage Requirement**” has the meaning given to it in Section 2.08(a).

“**Multi-Territory Customer**” means any Customer that, on its own behalf or through agents, Affiliates, buying groups, or other third parties owns, manages, Controls or otherwise operates a business in more than one location whose presence is not confined within any one particular JS Business Owner’s Territory regardless of purchase volumes. These encompass Customers that were previously referred to by the Cooperative as “Strategic” or “National Accounts”. Identification of a Customer as a Multi-Territory Customer shall be determined by Johnstone in its sole discretion.

“**Notice**” has the meaning provided in Section 19.04.

“**Notify**” has the meaning provided in Section 19.04.

“**Order Acknowledgment**” has the meaning provided in Section 8.03.

“**Person**” means any individual, partnership, corporation, trust, limited liability entity, unincorporated organization, association, Governmental Authority, or any other entity.

“**Personnel**” means agents, employees, or subcontractors engaged or appointed by Johnstone or JS Business Owner.

“**Preferred Carriers**” has the meaning provided in Section 9.01.

“**Prices**” has the meaning provided in Section 10.01.

“**Product Markups**” has the meaning provided in Section 10.02.

“**PS&A**” means parts, supplies, and accessories associated with HVAC/R equipment.

“**Purchase Order**” means the purchase order generated by transmission of JS Business Owner’s order request into the applicable ERP System or, where circumstances do not otherwise permit transmission via the applicable ERP System, manually submitted.

“**Put Right**” has the meaning provided in Section 19.10(f).

“**Put Right Notice**” has the meaning provided in Section 19.10(f).

“**Receiving Party**” has the meaning provided in Section 12.01.

“**Region**” means the geographic areas sharing similar HVAC/R climate characteristics and market needs as detailed in the Johnstone Manuals. Regions will generally align with those published by the Heating Air-Conditioning & Refrigeration Distributors International association, as modified to meet Johnstone’s operations. JS Business Owner’s Region is set forth on Schedule A.

“**Renewal Term**” has the meaning provided in Section 2.05.

“**Representatives**” means a Party’s Affiliates, employees, officers, directors, partners, shareholders, agents, attorneys, third-party advisors, successors, and permitted assigns.

“**Right of First Refusal**” has the meaning provided in Section 19.10(d).

“**Service Area**” means an area which is deemed serviceable by a Branch location that consists of all zip codes whose geographical center is closer to the Branch location than any other Branch location, but whose distance does not exceed a maximum of fifty (50) miles in any direction.

“**SKU**” means the applicable stock keeping unit.

“**Shipping Point**” means: (a) for shipments from a Johnstone distribution center, the relevant Johnstone distribution center, and (b) for shipments through a Johnstone-approved direct shipment program from the manufacturer to a JS Business Owner, the manufacturer’s shipping dock.

“**Solicit**” and “**Solicitation**” with respect to a Customer or prospective Customer means to conduct sales and marketing activities either in person or remotely, electronically, digitally, by phone, flyer, mailer, billboard, signage or other similar communications. Johnstone’s policies with respect to Soliciting Customers are set forth in the Johnstone Manuals.

“**Specialty Sales Program(s)**” means promotional and other sales programs offered to Customers, and includes the Johnstone Multi-Territory Customer Sales Program and Johnstone Online Sales Program, and may include other programs as determined in Johnstone’s reasonable discretion.

“**Strategic Plan Alignment Program**” means the program in which JS Business Owners will meet with Johnstone annually (unless otherwise determined on an individual basis) to conduct a business review of key performance metrics, performance toward achieving those metrics, stated plans and goals to achieve metrics, and/or challenges to meeting overall sales, purchases and brand representation goals.

“**Term**” has the meaning set forth in Section 2.05.

“**Territory**” means the domiciled zip code of a Branch location and every zip code that is adjacent to that domiciled zip code and for which it shares a common border as set forth on Schedule A. The extent of and Solicitation policies related to an assigned Territory are provided in the Johnstone Manuals.

“**Transition Period**” means the twelve (12) month period during which JS Business Owner’s Territory transitions as provided in Schedule A.

“**US**” means the United States of America, including its territories, possessions, and military bases.

ARTICLE II APPOINTMENT AND TERM

Section 2.01 Appointment; Acceptance.

(a) Subject to JS Business Owner’s compliance with the specific terms of this Agreement, the Johnstone Intellectual Property License Agreement attached hereto as Exhibit 1 (the “**License Agreement**”), and the Johnstone Manuals, Johnstone hereby grants to JS Business Owner the right to (i) serve as the exclusive distributor of Johnstone Product Offerings through Branches located in the Territory as described on Schedule A; (ii) use the Johnstone Intellectual Property; (iii) conduct JS Business Owner’s distribution of Johnstone Product Offerings; and (iv) utilize, subject to any applicable fees, the services offered by Johnstone for the sale or resale of Johnstone Product Offerings, including Johnstone University, Johnstone advertising programs, Specialty Sales Programs, and technology and supply chain infrastructure.

(b) JS Business Owner hereby accepts such appointment for the Term in accordance with the terms and conditions of this Agreement. Contemporaneous with JS Business Owner’s appointment, JS Business Owner (and each JSBO Affiliate, as applicable) has delivered the required documents referenced herein and in the attached Exhibits (including a fully completed and executed copy of Exhibit 4), and approves the Charter of the Advisory Board of Johnstone Supply, LLC attached as Exhibit 2. JS Business Owner has also delivered to Johnstone such applications, business and financial information, security agreements, guarantees and other documents as required for appointment of a distributor by Johnstone’s application process and the Johnstone Manuals.

Section 2.02 Johnstone Product Offerings. Subject to JS Business Owner’s compliance with the terms of this Agreement, Johnstone shall sell to JS Business Owner and JS Business Owner shall purchase Johnstone Product Offerings from Johnstone for resale to Customers.

Section 2.03 Solicitation Outside of the Territory. Subject to the transition provisions of this Agreement (including Schedule A) and the terms of the Johnstone Manuals, JS Business Owner agrees not to Solicit orders of Johnstone Product Offerings within the assigned territory of other JS Business Owners. Subject to the terms of the Johnstone Manuals, JS Business Owner is not prohibited from fulfilling orders from outside of their assigned Territory nor prohibited from soliciting orders from territory that is unassigned to any other JS Business Owners. No sale of Johnstone Product Offerings to a Customer located

in JS Business Owner's Territory through the Specialty Sales Programs by any other JS Business Owner shall be considered a violation of this Agreement.

Section 2.04 Initial Term. The term of this Agreement commences on the Effective Date and continues until December 31, 2026, unless earlier terminated as provided herein or under applicable Law (the "**Initial Term**").

Section 2.05 Renewal of Term. At any time on or before the fourth (4th) anniversary of the Effective Date, either Party may give Notice of nonrenewal for any reason. Upon expiration of the Initial Term, if neither Party delivers a Notice of non-renewal, and provided that JS Business Owner is in full compliance with this Agreement and satisfies the applicable requirements (including Minimum Performance Requirements) for JS Business Owners, the relationship between the Parties will renew under the then current form of Johnstone distribution agreement for additional successive three (3)-year terms unless and until either Party provides Notice of nonrenewal at least one (1) year before the end of the then-current term or unless and until earlier terminated as provided under this Agreement or applicable Law (each a "**Renewal Term**" and together with the Initial Term, the "**Term**"). If either Party provides timely Notice of its intent not to renew this Agreement, then, subject to Section 2.04, unless earlier terminated in accordance with its terms, this Agreement terminates on the expiration of the then-current Term.

Section 2.06 Additional Grant of Territory. Johnstone has the sole discretion to grant JS Business Owner an expansion of the Territory or additional territories, subject to the policies set forth in the Johnstone Manuals.

Section 2.07 No Right to Appoint a Subdistributor. Except as provided herein, JS Business Owner shall not appoint any subdistributor or other Person to resell or distribute Johnstone Product Offerings. JS Business Owner may appoint the Affiliate(s) listed on Schedule C (each, a "**JSBO Affiliate**") as a subdistributor of the Johnstone Product Offerings, provided that:

(a) JS Business Owner shall at all times hold a majority of the economic interests in, and Control such JSBO Affiliate;

(b) JS Business Owner remains directly liable to Johnstone for the due performance of all obligations under this Agreement (including the License Agreement and all provisions of the Johnstone Manuals), including payment for all Johnstone Product Offerings;

(c) each JSBO Affiliate and each holder of an equity interest therein has agreed in writing to be bound by the terms of this Agreement (including the License Agreement, Minimum Performance Requirements and territory guidelines, and all other provisions of the Johnstone Manuals, regardless of whether such terms explicitly reference such JSBO Affiliate) by executing the Joinder to Distribution Agreement by JSBO Affiliates attached hereto as Exhibit 3;

(d) JS Business Owner, each JSBO Affiliate, and the holder or holders of any Controlling equity interest, and/or those in Control in each, as a condition of this Agreement, have executed such security agreements and personal and cross-corporate guarantees of all obligations owed to Johnstone in form satisfactory to Johnstone; and

(e) all agreements between JS Business Owner and each JSBO Affiliate are subordinate in all respects to this Agreement's terms.

Section 2.08 Right to Sell Competitive Goods; Competitive Businesses. This Agreement does not preclude JS Business Owner from engaging in the sale or distribution of other goods and products except as follows:

(a) JS Business Owner's and each JSBO Affiliate's annual purchases of all goods for resale (measured by gross cost of goods sold and subject to adjustment from time to time in accordance with Section 19.17 as a result of any applicable Force Majeure Events) must consist of Johnstone Product Offerings sourced from Johnstone and/or its Affiliates at the following levels: (a) during the first two (2) years of this Agreement, at least seventy-five percent (75%) and (b) during the remaining Initial term, at least eighty percent (80%) (the "**Minimum Purchase Percentage Requirement**"). The Minimum Purchase Percentage Requirement may be satisfied by purchases shipped from Johnstone distribution centers and/or Johnstone-approved direct purchase or direct shipment programs with designated manufacturers from which Johnstone receives a financial benefit. JS Business Owners may purchase Johnstone Product Offerings from other JS Business Owners, however, any such purchases shall be deducted from the selling JS Business Owner's annual purchases for the applicable year and added to the purchasing JS Business Owner's annual purchases for the same applicable year, in each case for purposes of calculating the applicable JS Business Owner's satisfaction of the Minimum Purchase Percentage Requirement.

(b) During the Term of this Agreement, JS Business Owner's business must be devoted to sales of HVAC/R equipment and PS&A products. Sales of other products must be ancillary and related to JS Business Owner's existing business.

(c) During the Term of this Agreement, neither JS Business Owner, nor any holder of an equity interest in JS Business Owner will either directly or indirectly: (i) operate, own, manage, or be employed by or consult with, any Competitive Business other than one operated under this Agreement, or any business or other venture offering or selling franchises or licenses for a Competitive Business; (ii) divert or attempt to divert any Customer or potential Customer to any competitor of Johnstone or any Affiliate of Johnstone; (iii) hire, offer to hire, entice away, solicit, or in any other way persuade or attempt to persuade any employee, officer, director, or independent contractor of Johnstone or any Affiliate of Johnstone, to leave the employ of, or to terminate any business relationship with, Johnstone or any Affiliate of Johnstone, during the term of such employment or relationship and for one (1) year thereafter, without the prior written consent of Johnstone, which shall not be unreasonably withheld; or (iv) otherwise interfere with the business activities of Johnstone or any Affiliate of Johnstone with respect to any of the foregoing. This Section 2.08 shall bind any former holder of an equity interest in JS Business Owner (or JSBO Affiliate) for a period of one (1) year after transfer of such interest.

(d) Notwithstanding anything contained herein to the contrary, no JS Business Owner, nor any JSBO Affiliate, shall be permitted to purchase any available and in-stock Johnstone Product Offerings other than from Johnstone (which shall include, for the avoidance of doubt, purchases (i) from a Johnstone distribution center, (ii) shipped through a Johnstone-approved direct shipment program, (iii) shipped through a direct purchase program from the manufacturer, or (iv) from other JS Business Owners).

Section 2.09 Specialty Sales Programs. Subject to JS Business Owner's eligibility, JS Business Owner may be required to participate in a variety of Johnstone's Specialty Sales Programs. JS Business Owner's participation shall be subject to the terms and conditions of each such program, which may include, but shall not be limited to, the following:

(a) Prior to participating in any Specialty Sales Program, JS Business Owner shall execute such agreements, undertakings, or other instruments as Johnstone may require as a condition to participation in any particular program, as outlined in the Johnstone Manuals. JS Business Owner agrees to

abide by the terms and conditions of such agreements, which may include certain brand and product assortment offering requirements, pricing, and services standards.

(b) Participation in Specialty Sales Programs is subject to Johnstone's quality control and Customer service standards, which JS Business Owner will at all times maintain in addition to the terms of this Agreement. Johnstone may centralize all accounts, invoicing, and payments for Specialty Sales Programs or designate a third party to perform such functions.

(c) JS Business Owner may be required to incur costs associated with participation in such Specialty Sales Program, which costs will be outlined in the terms and conditions of each program.

ARTICLE III TERMINATION

Section 3.01 JS Business Owner's Right to Terminate the Agreement. JS Business Owner may terminate this Agreement (including all related Purchase Orders), on Notice to Johnstone:

(a) if Johnstone fails to meet, in any material respect, the Johnstone Service Requirements for any calendar year following December 31, 2021, and either the failure cannot be cured or, if the failure can be cured, it is not cured by Johnstone within a one (1)-year cure period following Johnstone's receipt of Notice of such failure;

(b) except as otherwise specifically provided under this Section 3.01, if Johnstone is in material breach of this Agreement (which shall be deemed to include any material breach of the Johnstone Manuals that has a material and adverse impact on the relationship between Johnstone and JS Business Owner governed by this Agreement) and either the breach cannot be cured or, if the breach can be cured, it is not cured by Johnstone within ninety (90) days following Johnstone's receipt of written Notice of such breach;

(c) if Johnstone knowingly maintains false books or records or knowingly submits any report required under Section 13.01 that is knowingly false;

(d) if Johnstone fails to make a timely payment of any amount due to the JS Business Owner that is not the subject of a good-faith dispute and does not cure such failure within thirty (30) days following Johnstone's receipt of Notice of such failure;

(e) if Johnstone engages in any conduct or practice that is fraudulent, unethical, or deceptive or that knowingly damages or knowingly tarnishes the Licensed Johnstone Marks;

(f) if Johnstone violates the confidentiality provisions under Article XII; or

(g) if Johnstone reduces the Territory granted to JS Business Owner, other than as authorized by this Agreement.

Any termination under this Section 3.01 is effective on Johnstone's receipt of JS Business Owner's Notice of termination (subject to any applicable cure period) or any later date set forth in the Notice.

Section 3.02 Johnstone's Right to Terminate the Agreement. Johnstone may terminate this Agreement (including all related Purchase Orders) on Notice to JS Business Owner:

(a) if JS Business Owner fails to meet, in any material respect, the Minimum

Performance Requirements for any Fiscal Year, and either the breach cannot be cured or, if the breach can be cured, it is not cured by JS Business Owner within one (1) year following JS Business Owner's receipt of written Notice of such breach;

(b) except as otherwise specifically provided under this Section 3.02, if JS Business Owner is in material breach of this Agreement (which shall be deemed to include any material breach of the Johnstone Manuals that has a material and adverse impact on the relationship between Johnstone and JS Business Owner governed by this Agreement) and either the breach cannot be cured or, if the breach can be cured, it is not cured by JS Business Owner within ninety (90) days following JS Business Owner's receipt of written Notice of such breach;

(c) If JS Business Owner completes or attempts to complete an Assignment (including a Change of Control) not in compliance with this Agreement;

(d) if JS Business Owner knowingly maintains false books or records or knowingly submits any false reports;

(e) if JS Business Owner fails to make a timely payment of any amount due to Johnstone that is not the subject of a good-faith dispute and does not cure such failure within thirty (30) days following JS Business Owner's receipt of Notice of such failure;

(f) if JS Business Owner engages in any conduct or practice that is fraudulent, unethical, or deceptive or that knowingly damages or knowingly tarnishes the Licensed Johnstone Marks;

(g) if JS Business Owner breaches the confidentiality provisions in Article XII

(h) if Johnstone terminates the License Agreement; or

(i) if JS Business Owner fails to cure within ninety (90) days after:

(i) becoming insolvent or is generally unable to pay, or fails to pay, its debts as they become due;

(ii) filing or having filed against it a petition for voluntary or involuntary bankruptcy or otherwise becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency Law;

(iii) seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition, or other relief with respect to it or its debts;

(iv) making or seeking to make a general assignment for the benefit of its creditors; or

(v) applying for or having a receiver, trustee, custodian, or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business.

Any termination under this Section 3.02 is effective on JS Business Owner's receipt of Johnstone's Notice of termination (subject to any applicable cure period) or any later date set forth in the Notice.

Section 3.03 Effect of Expiration or Termination.

(a) Unless the Parties agree otherwise, any termination under Section 3.01 or Section 3.02 automatically terminates (i) all related Purchase Orders under Article VIII, and (ii) the License Agreement.

(b) Upon the expiration or earlier termination of this Agreement:

(i) Subject to the exception in the following sentence, each Party shall promptly cease to use and destroy all documents and tangible materials (and any copies) containing, reflecting, incorporating, or based on the other Party's Confidential Information, including business intelligence data (including Customer information) originated from Johnstone and shared with JS Business Owner or originated from JS Business Owner and shared with Johnstone. Johnstone shall not be obligated to destroy Confidential Information disclosed or made available by JS Business Owner relating to JS Business Owner's distribution of Johnstone Product Offerings under this Agreement, including but not limited to information and data entered into the ERP System by or on behalf of JS Business Owner, and may continue to retain and use such Confidential Information for Johnstone's records and other internal business purposes; provided, Johnstone shall continue to maintain the confidentiality of such Confidential Information in accordance with Article XII for so long as it remains in Johnstone's possession, custody, or control. Each Party shall promptly certify in writing to the other Party that it has complied with the requirements of this clause;

(ii) JS Business Owner shall cease to use all Johnstone Intellectual Property and, at Johnstone's direction, shall promptly return and procure the return to Johnstone or destroy all Johnstone Intellectual Property in its possession, custody or control and shall not retain any copies of the same, except as may be required by Law, or otherwise by JS Business Owner in connection with litigation, audit, or corporate governance purposes;

(iii) Johnstone shall have the right and option, which may be exercised in Johnstone's sole discretion or as may be required by applicable Law, to repurchase all of JS Business Owner's inventory of Johnstone Product Offerings in salable condition at JS Business Owner's actual cost for such merchandise; and

(iv) All rights granted to JS Business Owner shall immediately revert to Johnstone.

(c) The Party terminating this Agreement, or in the case of the expiration of this Agreement, each Party, shall not be liable to the other Party for any damage of any kind (whether direct or indirect) incurred by the other Party by reason of the expiration or earlier termination of this Agreement. Termination of this Agreement will not constitute a waiver of any of either Party's rights, remedies, or defenses under this Agreement, at law, in equity, or otherwise.

(d) Expiration or earlier termination of this Agreement does not affect any rights or obligations that are to survive the expiration or earlier termination of this Agreement under Section 19.03 or were incurred by the Parties before the expiration or earlier termination.

**ARTICLE IV
ORDER OF PRECEDENCE**

Section 4.01 Order of Precedence. The express terms and conditions contained in this Agreement (together with the Exhibits, Schedules, and Johnstone Manuals) exclusively govern and control

each Party's respective rights and obligations regarding the purchase and sale of the Johnstone Product Offerings, and the Parties' agreement is expressly limited to such terms and conditions. Notwithstanding the foregoing, in the event of any conflict between this Agreement and any Exhibit, Schedule, or the Johnstone Manuals, the order of precedence is: (a) this Agreement; (b) the relevant Exhibit or Schedule; and (c) the Johnstone Manuals.

Without limitation of anything contained in this Article IV, any additional, contrary, or different terms contained in any of JS Business Owner's general terms and conditions or any other document issued by JS Business Owner (including a Purchase Order) are deemed rejected by Johnstone and will not modify this Agreement or be binding on the Parties unless such terms have been fully approved in a signed writing by authorized Representatives of both Parties.

ARTICLE V JS BUSINESS OWNER PERFORMANCE OBLIGATIONS

Section 5.01 General Performance Obligations. JS Business Owner shall:

(a) comply with all of the requirements of this Agreement, the Johnstone Manuals, the Johnstone Organizational Documents, and JS Business Owner's Annual Business Plan, all as modified from time to time;

(b) resell, locally market, support, merchandise, warehouse, and deliver Johnstone Product Offerings to Customers located in the Territory;

(c) employ and appropriately and continuously train an ample staff of inside and outside sales associates, customer service and counter Personnel, technical service associates, and business development or account managers responsible for the development of sales demand and to support such demand amongst the Customers and the contractor community in the Territory;

(d) provide contractor training services and maintain training facilities in the Territory;

(e) maintain a place or places of business, including adequate showroom, storage, training, warehouse facilities, required signage, and delivery and pick-up capabilities as required for JS Business Owner to perform its duties under this Agreement;

(f) meet all Minimum Performance Requirements;

(g) transmit all merchandise orders, sales reporting, warehouse communications, inventory reporting, Purchase Order SKU level details of drop shipment orders and other required business intelligence data as required by Johnstone through the ERP System and other electronic systems now utilized or hereafter adopted or modified by Johnstone (which JS Business Owner may be required to implement), including Customer information as required for participation in Specialty Sales Programs;

(h) not make any false or materially misleading representations or warranties to any Customer regarding Johnstone or the Johnstone Product Offerings;

(i) not engage in any competitive, misleading, or deceptive practices regarding Johnstone or the Johnstone Product Offerings;

(j) not engage in any other business through a Licensed Johnstone Mark-branded Branch or through any internet site or other online sales process (other than the Johnstone Online Sales Program) that references the Johnstone Intellectual Property;

(k) participate in Johnstone's Strategic Plan Alignment Program, including by meeting with Johnstone's designated Representatives as soon as reasonably practicable during each Fiscal Year to review JS Business Owner's financial and operational results (including JS Business Owner's satisfaction of its Minimum Performance Requirements) for the prior year and review JS Business Owner's Annual Business Plan prepared by the JS Business Owner in accordance with the Johnstone Manuals (the "**Annual Business Plan**");

(l) attend in person (unless physically unable) at least two (2) Johnstone-sponsored annual events at JS Business Owner's expense;

(m) meet participation and performance requirements applicable to the Specialty Sales Program requirements (including Johnstone Online Sales Program requirements);

(n) meet brand support standards, including Branch appearance, minimum inventory support levels by product category, sales and support Personnel levels, delivery and pickup options, provisions of training and technical support services, and implementation of required technology including goals for percentage of the JS Business Owner's business conducted electronically; and

(o) meet data and cyber security requirements with improvement targets set by Johnstone.

Section 5.02 Minimum Performance Requirements. During the Term of this Agreement, the Minimum Performance Requirements are:

(a) satisfaction of the Minimum Purchase Percentage Requirement by JS Business Owner and its JSBO Affiliates. The Minimum Purchase Percentage Requirement will be monitored and reported quarterly and JS Business Owner's reported purchases will be compared to Johnstone's record of transactions through Johnstone (including authorized direct ship and direct purchase programs);

(b) satisfaction of minimum dollar purchase requirements in excess of \$1,500,000 multiplied by the number of JS Business Owners' and its JSBO Affiliates' Branch locations in the Territory which have been opened a minimum of two (2) years. This requirement will be adjusted annually at Johnstone's discretion based on several factors including the overall growth of sales of all JS Business Owners;

(c) satisfaction of required annual sales performance goals (the "**Annual Sales Performance Goals**") in the Region. The Annual Sales Performance Goals will be based on annual (i) revenue per capita and (ii) growth in revenue per capita in each of the JS Business Owner's (including its JSBO Affiliates') Service Areas versus the performance of all other JS Business Owners in the applicable Region identified on Schedule A. JS Business Owner's (including its JSBO Affiliates') revenue per capita must exceed the bottom ten percent (10%) of the Region or exceed a revenue per capita growth percentage above the bottom twenty-five percent (25%) of the Region compared to the other JS Business Owners in the Region. Actual performance in the Service Areas relative to the Region will be measured each Fiscal Year, with Notice as soon as practicable the following Fiscal Year of any shortfall; and

(d) satisfaction of minimum product assortment and inventory levels in each major product category as outlined in the Johnstone Manuals.

ARTICLE VI
JOHNSTONE PERFORMANCE OBLIGATIONS

Section 6.01 Johnstone Performance Obligations. During the Term Johnstone shall:

(a) solely with respect to the Johnstone Product Offerings, provide to the JS Business Owners on an exclusive basis a breadth of services that ensures the JS Business Owner is able to offer solutions at competitive pricing for the JS Business Owners' Customers. Minimally, these services shall be not less than the breadth of services provided by the Cooperative to Johnstone Patrons immediately prior to the Effective Date;

(b) operate sufficient distribution centers with sufficient capacity, technology and Personnel to facilitate supply chain management, logistics, and transportation functions, and use commercially reasonable efforts to service the next day and next morning delivery needs of the Branch network at levels selected and paid for by the applicable JS Business Owners;

(c) provide Group Purchasing Programs, credit terms, reporting and benchmarking resources, and other incentive programs, as detailed in the Johnstone Manuals;

(d) during the Transition Period, provide strategic and advisory support and services to JS Business Owners consistent with the scope and breadth of such services provided by the Cooperative to the Johnstone Patrons immediately prior to the Effective Date, including Johnstone University. Thereafter, Johnstone, at its discretion, may choose to adapt, evolve, change, discontinue, charge a reasonable service fee for, or otherwise modify said advisory and support services as it deems appropriate;

(e) meet certain mutually agreed upon minimum key performance indicators related to the breadth of supply chain services Johnstone offers to JS Business Owner (the "***Johnstone Service Requirements***") as detailed in Section 6.02 and subject to adjustment from time to time in accordance with Section 19.17 as a result of any applicable Force Majeure Events;

(f) develop and provide JS Business Owners with technology tools developed or licensed by Johnstone, including the Licensed Software, for JS Business Owners' use during the Term;

(g) host one annual trade show for the benefit of the JS Business Owners (the costs of travel and lodging to be borne by the attending JS Business Owner) and offer one other in-person meeting collectively with all JS Business Owners per year;

(h) use commercially reasonable efforts to develop an improved pricing methodology and process between Johnstone and the JS Business Owners and between the JS Business Owners and their Customers. This program is envisioned to incorporate: (A) markup tiers that will reward JS Business Owners' purchase volume levels from Johnstone; (B) considerations for varying demand and pricing characteristics of different products and product categories (e.g., more or less competitive products); (C) cost to serve components, such as order size and packaging characteristics (e.g., pieces vs. cases vs. pallets); (D) market pricing recommendations to JS Business Owners; and (E) other aspects to be determined in the reasonable discretion of Johnstone;

(i) participate in the Strategic Plan Alignment Program in accordance with Section 5.01(k);

(j) develop and support Specialty Sales Programs;

- (k) provide continued vendor access and relevancy;
- (l) use commercially reasonable efforts to improve vendor programs; and
- (m) (i) provide a regular flow of new products (consistent with history); (ii) focus on cost of goods sold reduction and maintained/improved payment terms/dating programs; and (iii) maintain and improve pricing and data flow.

Section 6.02 Johnstone Service Requirements. The measurement criteria for each of the Johnstone Service Requirements are set forth in the Johnstone Manuals. During the Term of this Agreement, the Johnstone Service Requirements will include without limitation:

- (a) distribution center service levels (each, line and order fill);
- (b) inventory availability (in-stock positions by velocity);
- (c) distribution center quality (order accuracy); and
- (d) technology availability (including uptime and transmission reliability).

Section 6.03 Advertising. Johnstone shall develop and maintain a web and other digital and social site presence (e.g. LinkedIn, Facebook, Twitter, etc.), national, regional and local digital paid-search advertising, a digital catalog, digital flyers and templates, and other advertising materials as deemed necessary in the reasonable discretion of Johnstone. Johnstone, at its discretion may require JS Business Owners to participate in these programs and charge fees (that should be market competitive) to the JS Business Owners to recover costs and provide a modest profit for Johnstone. Johnstone may develop seasonal or specialty marketing, advertising and promotional campaigns that JS Business Owner may at its discretion and cost determine to participate in.

ARTICLE VII AGREEMENT TO PURCHASE AND SELL THE JOHNSTONE PRODUCT OFFERINGS

Section 7.01 Terms of the Sale. Johnstone shall make available and sell the Johnstone Product Offerings to JS Business Owner at the then current Prices and on the terms and conditions set forth in this Agreement and the Johnstone Manuals.

Section 7.02 Availability/Changes in Johnstone Product Offerings. Johnstone shall provide JS Business Owner with at least ninety (90) days' prior Notice before Johnstone discontinues a Johnstone Product Offering (the period of time from the delivery of Notice through the end of the Notice period, the "***Last-Time Buy Period***") and JS Business Owner may, at its sole discretion, return (subject to the requirements of the Johnstone Manuals) any such discontinued Johnstone Product Offerings in its inventory for a full credit or exercise its last-time buy rights under Section 7.03. If any new product under this Section 7.02 negatively affects JS Business Owner's ability to sell any similar Johnstone Product Offering then in JS Business Owner's inventory, then JS Business Owner can declare its inventory of such similar Johnstone Product Offering functionally discontinued, shall so Notify Johnstone, and shall return under Section 9.02 the affected inventory for return credit for a period of ninety (90) days following the date of functional discontinuation. This Section 7.02 and Section 7.03 shall not apply to any discontinuance of a product offering by a manufacturer.

Section 7.03 Last-Time Buy. JS Business Owner may make last-time buys during the Last-Time Buy Period of enough Johnstone Product Offerings to fulfill its then-pending commitments to its

Customers. Johnstone shall use commercially reasonable efforts to supply the last time buy and is in no event required to supply any Johnstone Product Offering if Johnstone reasonably determines that: (a) the product is infringing; (b) the sale would violate applicable Law; or (c) the sale would deplete the inventory of other pending orders.

ARTICLE VIII ORDER PROCEDURE

Section 8.01 Non-Binding Forecasts. Periodically, in time frames determined as necessary by Johnstone, but at least quarterly, JS Business Owners shall provide Johnstone with non-binding sales and purchase Forecasts for distribution center and drop ship purchases. Except for minimum purchase requirements as provided in this Agreement, JS Business Owner makes no representation or warranty as to the quantity of Johnstone Product Offerings that it will purchase. However, JS Business Owner will prepare the Forecast in good faith and ensure the Forecast represents reasonable expectations of future sales and purchase levels and will not use the Forecast process to obtain priority allocations of inventory to the detriment of Johnstone or other JS Business Owners. JS Business Owner must Notify Johnstone immediately if JS Business Owner (a) alters its purchases by SKU from distribution center to drop ship or vice versa or (b) gains or loses significant business compared to its most recent Forecast. Failure to timely Notify Johnstone will result in the impacted Johnstone Product Offering being excluded from the Johnstone Service Requirements whenever the item's demand exceeds the average three-month demand for the same current, previous, and next month of the preceding calendar year.

Section 8.02 Purchase Orders. The initiation, acceptance, and rejection of Purchase Orders shall conform to Johnstone's ordering and shipping policies as provided in the Johnstone Manuals.

Section 8.03 Purchase Order Confirmations. Johnstone shall provide an order acknowledgment to JS Business Owner for each Purchase Order issued hereunder (each, an "**Order Acknowledgment**"), including notifications of rejections, adjustments, and backordered items in accordance with the policies set forth in the Johnstone Manuals. For orders entered less than two (2) hours before the order cut off time, such Purchase Order confirmation may not arrive to the Branch prior to the order being processed at the distribution center. Changes to orders placed within that time window will be honored when feasible and practical.

Section 8.04 JS Business Owner's Right to Terminate Purchase Orders. In addition to its rights under Section 3.01 to terminate all effective Purchase Orders in connection with the termination of this Agreement, JS Business Owner may terminate any Purchase Order prior to receipt of an Order Acknowledgment except for the case when the order has already been picked and loaded on the truck. Picked and loaded orders will be subject to the return policy in the Johnstone Manuals.

ARTICLE IX SHIPMENT AND DELIVERY

Section 9.01 Shipment and Delivery Requirements. Johnstone will identify and engage with common carriers and other parties to negotiate freight agreements that leverage the aggregate freight volume of Johnstone, thus generating freight rates that may be more competitive than a JS Business Owner could negotiate on its own volume ("**Preferred Carriers**"). JS Business Owner shall be solely responsible for all costs of shipping regardless of the carrier used and no Price discount shall be offered for self-pickup. If JS Business Owner utilizes a carrier that is not a Preferred Carrier, JS Business Owner shall be responsible for such carrier's compliance with all transportation and other policies as set forth in the Johnstone Manuals, including scheduling pickup with applicable Johnstone distribution centers and manufacturers. Each

shipment constitutes a separate sale, and JS Business Owner shall pay for the units shipped, whether the shipment is in whole or partial fulfillment of a Purchase Order.

Section 9.02 Acceptance and Return of Johnstone Product Offerings.

(a) JS Business Owner shall inspect Johnstone Product Offerings received under this Agreement upon receipt of the Johnstone Product Offerings. JS Business Owner will be deemed to have accepted the Johnstone Product Offerings unless it timely submits discrepancy reports in accordance with the Johnstone Manuals. Johnstone shall determine, in its sole discretion, whether the discrepancy report is approved.

(b) Claims for loss or damage to Johnstone Product Offerings during shipping shall be filed by the JS Business Owner directly with the carrier, as is current practice, in each case in accordance with the policies in the Johnstone Manuals. Johnstone will not be responsible for loss or damage to Johnstone Product Offerings in transit.

(c) JS Business Owner acknowledges and agrees that the remedies set forth in this Section 9.02 and the Johnstone Manuals are JS Business Owner's exclusive remedy for the delivery of nonconforming or excess Johnstone Product Offerings. All returns of accepted Johnstone Product Offerings will be made in conformance with the Inventory Return Policy in the Johnstone Manuals.

Section 9.03 Title and Risk of Loss.

(a) Title to Johnstone Product Offerings shipped under any Purchase Order passes to JS Business Owner on Johnstone's delivery of such Johnstone Product Offerings to the carrier at the Shipping Point.

(b) Risk of loss to Johnstone Product Offerings shipped under any Purchase Order passes to JS Business Owner on Johnstone's delivery of such Johnstone Product Offerings to the carrier at the Shipping Point.

ARTICLE X PRICE AND PAYMENT

Section 10.01 Price. The prices paid by JS Business Owner for Johnstone Product Offerings shall be the then-applicable price in Johnstone's ordering system at the time of order (the "**Prices**"). All Prices are "Free on Board (FOB)" Shipping Point. All Prices are exclusive of shipping and delivery costs and all sales, use and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any Governmental Authority on any amounts payable by JS Business Owner. JS Business Owner shall be responsible for all such charges, costs, and taxes; provided that JS Business Owner shall not be responsible for any taxes imposed on, or with respect to, Johnstone's income, revenues, gross receipts, Personnel, or real or personal property or other assets.

Section 10.02 Markup. The Parties acknowledge that Johnstone's Prices reflect a markup over the manufacturer's price to Johnstone exclusive of any rebates (the "**Product Markups**"). During the first twenty-four (24) months after the Effective Date, the Prices shall be increased from the Product Markups that existed at the Cooperative prior to the Effective Date. The initial increases in Product Markup shall be materially consistent with financial projections as provided by the Cooperative's Board of Directors prior to the Effective Date but will ensure that the JS Business Owners remain commercially viable. During the twenty-four (24) month period, Johnstone may modify pricing as it deems necessary to ensure that the JS Business Owners remain commercially viable, or make changes to the pricing methodology entirely in

order to address changes in product or purchase method mix of the business or provide incentives and rewards to JS Business Owners for volume growth and cost to serve considerations. Nothing in this Section 10.02 shall prohibit Johnstone from increasing Prices to reflect manufacturer price increases.

Section 10.03 Rebates.

(a) For purposes of this Agreement, “*Equipment Manufacturers*” means Persons that manufacture HVAC/R equipment constituting Johnstone Product Offerings and offer equipment rebates and Manufacturer Reimbursement Programs that are passed on from Johnstone to JS Business Owners as provided in this Agreement and the Johnstone Manuals. The initial list of Equipment Manufacturers for whom rebates will be passed on to JS Business Owners is attached as Schedule B. The list may be amended or updated by Johnstone from time to time, including through policy communications to JS Business Owner. “*Manufacturer Reimbursement Programs*” means programs offered by manufacturers to address local market and Customer specific pricing requirements (i.e. special bids) and intended to pursue specific business opportunities and/or to help insure that JS Business Owners are competitive in their local marketplace. Examples include the Goodman “PAP” and Johnson Controls “IPA” programs.

(b) Johnstone shall credit or pay to JS Business Owner all rebates and other financial incentives received by Johnstone from Equipment Manufacturers set forth on Schedule B, as may be updated from time to time. Johnstone shall not be required to credit or pay to JS Business Owner any rebates Johnstone receives from suppliers or vendors that are not Equipment Manufacturers. Rebates shall be credited or paid to JS Business Owners in accordance with the volume, allocation and apportionment, and payment policies set forth in the Johnstone Manuals. Qualifying sales under Manufacturer Reimbursement Programs will be reported by JS Business Owners directly to the manufacturer on a monthly basis and approved reimbursements or other financial consideration will be provided directly by the manufacturer to the applicable JS Business Owners.

Section 10.04 Invoices and Payment. JS Business Owner shall pay Johnstone for the Johnstone Product Offerings and shall pay all applicable freight, service, and other charges in accordance with Johnstone’s then-current invoicing, credit, and payment policies as set forth in the Johnstone Manuals.

Section 10.05 Setoff. Without prejudice to any other right or remedy it may have, Johnstone may setoff or recoup any liability or obligation it may owe to JS Business Owner against any liability or obligation for which JS Business Owner is liable to Johnstone under this Agreement, any other agreement, or otherwise.

ARTICLE XI [INTENTIONALLY OMITTED]

ARTICLE XII CONFIDENTIALITY

Section 12.01 Scope of Confidential Information. From time to time during the Term, either Party (as “*Disclosing Party*”) may disclose or make available to the other Party (as “*Receiving Party*”) information about its business affairs, goods and services, Forecasts, confidential information, and materials comprising or relating to Intellectual Property Rights, trade secrets, third-party confidential information, and other sensitive or proprietary information; such information, as well as the terms of this Agreement, whether orally or in written, electronic, or other form or media, and whether or not marked, designated, or otherwise identified as “confidential,” constitutes “*Confidential Information*” hereunder. Confidential Information excludes information that, at the time of disclosure:

(a) is or becomes generally available to and known by the public other than as a result of, directly or indirectly, any breach of this Article XII by Receiving Party or any of its Representatives;

(b) is or becomes available to Receiving Party on a non-confidential basis from a third-party source, provided that such third party is not and was not prohibited from disclosing such Confidential Information;

(c) was known by or in the possession of Receiving Party or its Representatives before being disclosed by or on behalf of Disclosing Party; or

(d) was or is independently developed by Receiving Party without reference to or use of, in whole or in part, any of Disclosing Party's Confidential Information.

Section 12.02 Protection of Confidential Information. Receiving Party shall, for three (3) years from receipt of such Confidential Information:

(a) protect and safeguard the confidentiality of Disclosing Party's Confidential Information with at least the same degree of care as Receiving Party would protect its own Confidential Information, but in no event with less than a commercially reasonable degree of care;

(b) not use Disclosing Party's Confidential Information, or permit it to be accessed or used, for any purpose other than to exercise its rights or perform its obligations under this Agreement; and

(c) not disclose any such Confidential Information to any Person, except:

(i) to Receiving Party's Representatives who need to know the Confidential Information to assist Receiving Party, or act on its behalf, to exercise its rights or perform its obligations under this Agreement; or

(ii) pursuant to applicable federal, state, or local Law, regulation, or a valid order issued by a court or governmental agency of competent jurisdiction, provided that Receiving Party shall first provide Disclosing Party with: (a) prompt Notice of such requirement so that Disclosing Party may seek, at its sole cost and expense, a protective order, or other remedy; and (b) reasonable assistance, at Disclosing Party's sole cost and expense, in opposing such disclosure or seeking a protective order or other limitations on disclosure.

The Receiving Party shall be responsible for any breach of this Article XII caused by any of its Representatives. The provisions of this Article XII shall survive termination or expiration of this Agreement for any reason for a period of three (3) years after such termination or expiration, provided that extent that any item of the Confidential Information meets the definition of a "trade secret" under applicable Law, the provisions of this Article XII shall survive indefinitely. On the expiration or earlier termination of this Agreement, Receiving Party and its Representatives shall, under Section 3.03(b), promptly destroy all Confidential Information and copies thereof that it has received under this Agreement and certify all such destruction in writing to the Disclosing Party.

In the event of any conflict between the terms and provisions of this Article XII and those of any other provision in this Agreement, the terms and provisions of this Article XII will prevail.

**ARTICLE XIII
CERTAIN OBLIGATIONS OF THE PARTIES**

Section 13.01 Johnstone's and JS Business Owner's Reports. In order to assist Johnstone with its Customer support efforts, JS Business Owner will maintain its books and records segregated in such a manner as to provide for a convenient separation of transactions between the JS Business Owner and Johnstone and JS Business Owner's other business, real estate and non-business activities. JS Business Owner shall maintain, and shall provide Johnstone with, such financial and sales information relating to JS Business Owner's operations and this Agreement as from time to time may be reasonably required by Johnstone and as provided in the Johnstone Manuals.

Section 13.02 Protection Against Supply Interruptions. Johnstone shall use commercially reasonable efforts to ensure the uninterrupted supply of Johnstone Product Offerings to JS Business Owner. Johnstone shall promptly provide JS Business Owner with any notices received from manufacturers regarding delays, disruptions, or unavailability of Johnstone Product Offerings.

Section 13.03 Audit and Inspection Rights.

(a) On three (3) Business Days' Notice, during the Term and for one (1) year after the expiration or earlier termination of this Agreement, whichever is later, Johnstone may audit JS Business Owner's files relating to its sales, marketing, and inventory of Johnstone Product Offerings regarding transactions that took place in the immediately preceding twelve (12) months. Johnstone may conduct any audit under this Section 13.03 at any time during regular business hours.

(b) During the Term, JS Business Owner shall, on three (3) Business Days' Notice, make available for physical inspection by Johnstone at any time during regular business hours: (i) any and all Johnstone branding requirements and, Johnstone Product Offerings in JS Business Owner's inventory, and (ii) all JS Business Owner's places of business and marketing offices.

**ARTICLE XIV
REPRESENTATIONS, WARRANTIES, AND COVENANTS**

Section 14.01 Johnstone's Representations and Warranties. Johnstone represents, warrants, and covenants to JS Business Owner that:

(a) it is a limited liability company duly organized, validly existing, and in good standing in the State of Delaware;

(b) it is duly qualified to do business and is in good standing in every jurisdiction in which such qualification is required for purposes of this Agreement, except where the failure to be so qualified, in the aggregate, would not reasonably be expected to adversely affect its ability to perform its obligations under this Agreement;

(c) it has the full right, power, and authority to enter into this Agreement, to grant the rights and licenses granted under this Agreement, and to perform its obligations under this Agreement;

(d) the execution of this Agreement by its Representative whose signature is set forth at the end hereof has been duly authorized by all necessary action of the Party;

(e) it is in material compliance with all Laws and contracts applicable to this Agreement, the Johnstone Product Offerings, and the operation of its business; and

(f) when executed and delivered by each of JS Business Owner and Johnstone, this Agreement will constitute the legal, valid, and binding obligation of Johnstone, enforceable against Johnstone in accordance with its terms, except as may be limited by any applicable bankruptcy, insolvency, reorganization, moratorium, or similar laws and equitable principles related to or affecting creditors' rights generally or the effect of general principles of equity.

Section 14.02 JS Business Owner's Representations and Warranties. JS Business Owner represents, warrants, and covenants warrants to Johnstone that, with respect to JS Business Owner and each JSBO Affiliate:

(a) it is duly organized or incorporated, validly existing, and in good standing in the jurisdiction of its organization or incorporation;

(b) it is duly qualified to do business and is in good standing in every jurisdiction in which such qualification is required for purposes of this Agreement, except where the failure to be so qualified, in the aggregate, would not reasonably be expected to adversely affect its ability to perform its obligations under this Agreement;

(c) it has the full right, power, and authority to enter into this Agreement, to grant the rights and licenses granted under this Agreement, and to perform its obligations under this Agreement;

(d) the execution (or acknowledgment of a JSBO Affiliate if applicable) of this Agreement by its Representative whose signature is set forth at the end hereof has been duly authorized by all necessary action of the Party;

(e) it is in material compliance with all Laws and contracts applicable to this Agreement, the Johnstone Product Offerings, and the operation of its business;

(f) it has and will maintain data security practices in compliance with all applicable Laws, industry standards, guidelines, and best practices;

(g) the execution, delivery, and performance of this Agreement will not violate, conflict with, require consent under, or result in any breach or default under:

(i) any of its organizational documents;

(ii) any applicable Law; or

(iii) with or without notice or lapse of time or both, the provisions of any material contract or agreement to which it is a party or to which any of its material assets are bound.; and

(h) when executed and delivered by each of Johnstone and JS Business Owner, this Agreement (or Joinder of a JSBO Affiliate if applicable) will constitute the legal, valid, and binding obligation of JS Business Owner and each JSBO Affiliate, enforceable against JS Business Owner and each JSBO Affiliate in accordance with its terms, except as may be limited by any applicable bankruptcy, insolvency, reorganization, moratorium, or similar laws and equitable principles related to or affecting creditors' rights generally, or the effect of general principles of equity.

ARTICLE XV PRODUCT WARRANTIES

Section 15.01 Product Warranties.

(a) The Parties acknowledge and agree that the Johnstone Product Offerings are manufactured by third parties. ACCORDINGLY, JOHNSTONE (TOGETHER WITH ITS AFFILIATES AND REPRESENTATIVES) MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO ANY THE JOHNSTONE PRODUCT OFFERINGS, INCLUDING ANY (i) WARRANTY OF MERCHANTABILITY, (ii) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, (iii) WARRANTY OF TITLE; OR (iv) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE. JS Business Owner acknowledges that it has not relied on any representation or warranty made by Johnstone and JS Business Owner shall look solely to the warranties provided by the manufacturer of the Johnstone Product Offerings (if any). Johnstone hereby assigns all such warranties to JS Business Owner to the extent authorized by the applicable manufacturer or other supplier, and JS Business Owner may pass through to Customers and End Users all warranties granted by such manufacturer and suppliers in accordance with applicable warranty policies and limitations. Where necessary, Johnstone shall continue to facilitate warranty claims by JS Business Owners with manufacturers and other suppliers.

(b) JS Business Owner shall not make any representations or warranties on behalf of Johnstone or its Affiliates with respect to the Johnstone Product Offerings that JS Business Owner sells or resells. JS Business Owner shall be solely responsible for any additional warranties JS Business Owner may provide to its Customers.

Section 15.02 Recalls. If a manufacturer or any Governmental Authority, determines that any Johnstone Product Offerings sold to JS Business Owner must be recalled or removed, the Parties will cooperate with each other in implementing such recall with respect to the reshipment, storage, or disposal of recalled Johnstone Product Offerings, the preparation and maintenance of relevant records and reports, and notification to any Customers or End Users.

ARTICLE XVI INDEMNIFICATION

Section 16.01 JS Business Owner Indemnification. Subject to the terms and conditions of this Agreement, including those set forth in Section 16.03, JS Business Owner and each JSBO Affiliate (a “**JS Business Owner Indemnifying Party**”) shall indemnify, defend, and hold harmless Johnstone, officers, directors, owners, employees, agents, Affiliates, successors, and permitted assigns (collectively, a “**Johnstone Indemnified Party**”) against any and all losses, damages, liabilities, deficiencies, claims, Actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable attorneys’ fees, fees and the costs of enforcing any right to indemnification under this Agreement, and the cost of pursuing any insurance providers, incurred by Indemnified Party (collectively, “**Losses**”) arising out of or relating to any claim of a third party:

(a) relating to a material breach or non-fulfillment of any representation, warranty, or covenant under this Agreement by JS Business Owner Indemnifying Party or its Personnel;

(b) alleging or relating to any act or omission of JS Business Owner Indemnifying Party or its Personnel (including any recklessness or willful misconduct) in connection with the performance of its obligations under this Agreement;

(c) relating to the conduct and operation of JS Business Owner Indemnifying Party's business and dealings with its Customers and third parties, including (i) any representations or warranties made by a JS Business Owner Indemnifying Party or its Personnel that a product can be used for a purpose not intended by its manufacturer, (ii) assistance with selecting or using a product or service, or (iii) statements regarding products made in social media or non-Johnstone produced advertising;

(d) relating to any cyber security incident, such as a data breach or malicious software attack, caused by (i) the acts or omissions of JS Business Owner Indemnifying Party or its Personnel or (ii) the failure of JS Business Owner Indemnifying Party's data security practices;

(e) alleging or relating to any bodily injury, death of any Person, or damage to real or tangible personal property caused by the acts or omissions of JS Business Owner Indemnifying Party or its Personnel;

(f) caused by the failure of JS Business Owner Indemnifying Party or its Personnel to comply with applicable Laws; or

(g) alleging that the JS Business Owner Indemnifying Party breached its agreement with a third party as a result of or in connection with entering into, performing under or terminating this Agreement.

Section 16.02 Johnstone Indemnification. Subject to the terms and conditions set forth in Section 16.03, Johnstone (as "***Johnstone Indemnifying Party***") shall indemnify, hold harmless, and defend JS Business Owner and its officers, directors, employees, owners, agents, Affiliates, successors, and permitted assigns (collectively, "***JS Business Owner Indemnified Party***") against any and all Losses awarded against JS Business Owner Indemnified Party in a final non-appealable judgment, arising out of or resulting from any claim of a third party alleging or relating to:

(a) a material breach or non-fulfillment of any representation, warranty, or covenant under this Agreement by Johnstone Indemnifying Party or its Personnel;

(b) alleging or relating to any act or omission of Johnstone Indemnifying Party or its Personnel (including any recklessness or willful misconduct) in connection with the performance of its obligations under this Agreement;

(c) alleging or relating to any bodily injury, death of any Person, or damage to real or tangible personal property caused by the acts or omissions of Johnstone Indemnifying Party or its Personnel;

(d) caused by the failure of Johnstone Indemnifying Party or its Personnel to comply with applicable Laws; or

(e) alleging that the Johnstone Indemnifying Party breached its agreement with a third party as a result of or in connection with entering into, performing under or terminating this Agreement.

Notwithstanding anything to the contrary in this Agreement, this Section 16.02 does not apply to any claim (whether direct or indirect) covered by Article VIII of the License Agreement or any claim (whether direct or indirect) for which a sole or exclusive remedy is provided for under another section of this Agreement, including Section 9.02.

Section 16.03 Exceptions and Limitations on Indemnification. Notwithstanding anything to the contrary in this Agreement, no Indemnifying Party is obligated to indemnify or defend an Indemnified

Party against any claim (whether direct or indirect) if the claim or corresponding Losses arise out of or result from, in whole or in part, the Indemnified Party's or its Personnel's:

(a) gross negligence or more culpable act or omission (including recklessness or willful misconduct);

(b) bad-faith failure to comply with any of its obligations set forth in this Agreement;
or

(c) use of the products purchased under this Agreement (including Johnstone Product Offerings) in any manner that does not materially conform with the then-current usage instructions, guidelines, or specifications provided by the manufacturer or other supplier of such product.

Section 16.04 Third-Party Indemnification. Johnstone shall use reasonable efforts to obtain indemnity and insurance agreements from manufacturers and suppliers for the benefit of Johnstone and JS Business Owners consistent with historic practices where possible.

ARTICLE XVII LIMITATION OF LIABILITY

Section 17.01 No Liability for Consequential or Indirect Damages. EXCEPT FOR LIABILITY FOR INDEMNIFICATION, LIABILITY FOR BREACH OF CONFIDENTIALITY, OR LIABILITY FOR INFRINGEMENT OR MISAPPROPRIATION OF INTELLECTUAL PROPERTY RIGHTS, IN NO EVENT IS EITHER PARTY OR ITS REPRESENTATIVES LIABLE FOR CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE, OR ENHANCED DAMAGES, ARISING OUT OF OR RELATING TO ANY BREACH OF THIS AGREEMENT, REGARDLESS OF: (A) WHETHER THE DAMAGES WERE FORESEEABLE; (B) WHETHER OR NOT THE BREACHING PARTY WAS ADVISED OF THE POSSIBILITY OF THE DAMAGES; AND (C) THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT, OR OTHERWISE) ON WHICH THE CLAIM IS BASED, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

ARTICLE XVIII INSURANCE OBLIGATIONS

Section 18.01 Insurance. Without limiting an Indemnifying Party's indemnification obligations under this Agreement, during the Term and for a period of one (1) year thereafter, JS Business Owner will, at its own expense, maintain and carry in full force and effect, such policies of insurance, including types and amounts, as set forth in the Johnstone Manuals.

Section 18.02 Insurance Contract Requirements. JS Business Owner shall ensure that all insurance policies required pursuant to Section 18.01:

- (a) are issued by insurance companies reasonably acceptable to Johnstone;
- (b) provide that such insurance carriers give Johnstone at least 30 days' prior Notice of cancellation or non-renewal of policy coverage, provided that, prior to such cancellation, JS Business Owner has new insurance policies in place that meet the requirements of this Article XVIII;
- (c) provide that such insurance be primary insurance and any similar insurance in the name of Johnstone shall be excess and non-contributory;

(d) name Johnstone and Johnstone’s Affiliates, including, in each case, all successors and permitted assigns, as additional insureds; and

(e) waive any right of subrogation of the insurers against Johnstone or any of its Affiliates.

Section 18.03 Insurance Certificates. On request, JS Business Owner shall provide Johnstone with copies of the certificates of insurance and policy endorsements for all insurance coverage required by this Article XVIII, and shall not do anything to invalidate such insurance. This Section 18.03 shall not be construed in any manner as waiving, restricting, or limiting the liability of either Party for any obligations imposed under this Agreement (including any provisions requiring a party hereto to indemnify, defend, and hold the other harmless under this Agreement).

ARTICLE XIX MISCELLANEOUS

Section 19.01 Further Assurances. Upon Johnstone’s reasonable request, JS Business Owner shall, at its sole cost and expense, execute and deliver all such further documents and instruments, and take all such further acts, necessary to give full effect to this Agreement.

Section 19.02 Entire Agreement. Subject to Article IV, this Agreement, including the recitals (which are incorporated by this reference) and together with any related Exhibits, Schedules, and the Johnstone Manuals, together with the Purchase Orders, constitutes the sole and entire agreement of the Parties with respect to the subject matter contained herein and therein and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties.

Section 19.03 Survival. Subject to the limitations and other provisions of this Agreement: (a) the representations and warranties of the Parties contained herein shall survive the expiration or earlier termination of this Agreement, and (b) Article XII through Article XIX of this Agreement, as well as any other provision that, in order to give proper effect to its intent, should survive such expiration or termination, shall survive the expiration or earlier termination of this Agreement.

Section 19.04 Notices. All notices, requests, consents, claims, demands, waivers, and other communications under this Agreement (each, a “*Notice*”, and with the correlative meaning, “*Notify*”) must be in writing and addressed to the other Party at its address set forth below (or to such other address that the receiving Party may designate from time to time in accordance with this Section 19.04). Unless otherwise agreed herein, all Notices must be delivered by personal delivery, nationally recognized overnight courier, or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a Notice is effective only (a) on receipt by the receiving Party, and (b) if the Party giving the Notice has complied with the requirements of this Section 19.04.

Notice to JS Business Owner:

[JS BUSINESS OWNER ADDRESS]

Facsimile:

Phone:

E-mail:

Attention:

With a copy to, which shall not constitute Notice:

Notice to Johnstone:

[JOHNSTONE ADDRESS]

Facsimile:

Phone:

E-mail:

Attention:

With a copy to, which shall not constitute Notice:

Section 19.05 Interpretation. For purposes of this Agreement, (a) the words “include,” “includes,” and “including” are deemed to be followed by the words “without limitation”; (b) the word “or” is not exclusive; (c) the words “herein,” “hereof,” “hereby,” “hereto,” and “hereunder” refer to this Agreement as a whole; (d) words denoting the singular have a comparable meaning when used in the plural and vice-versa; and (e) words denoting any gender include all genders. Unless the context otherwise requires, references in this Agreement: (x) to sections, exhibits, schedules, attachments, and appendices mean the sections of, and exhibits, schedules, attachments, and appendices attached to this Agreement; (y) to an agreement, instrument, or other document means such agreement, instrument, or other document as amended, supplemented, and modified from time to time to the extent permitted by the provisions thereof; and (z) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. The Parties drafted this Agreement without regard to any presumption or rule requiring construction or interpretation against the Party drafting an instrument or causing any instrument to be drafted. The exhibits, schedules, attachments, and appendices referred to herein are an integral part of this Agreement to the same extent as if they were set forth verbatim herein.

Section 19.06 Headings. The headings in this Agreement are for reference only and do not affect the interpretation of this Agreement.

Section 19.07 Severability. All terms and conditions of this Agreement will be deemed enforceable to the fullest extent permissible under applicable Law. If any one or more of the provisions of this Agreement should be ruled wholly or partly invalid or unenforceable by a court or other government body of competent jurisdiction, then: (a) the validity and enforceability of all provisions of this Agreement not ruled to be invalid or unenforceable shall be unaffected; (b) the effect of the ruling shall be limited to the jurisdiction of the court or other government body making the ruling; (c) the provision(s) held wholly or partly invalid or unenforceable shall be deemed amended, and the court or other government body is authorized and requested to reform such provision(s), to the minimum extent necessary to render them valid and enforceable in conformity with the Parties’ intent as manifested herein; (d) if the court or other government body declines or is unable to reform the provision(s), then the Parties shall in good faith negotiate a reformation of the provision(s), to the minimum extent necessary to render them valid and enforceable in conformity with the Parties’ intent as manifested herein; and (e) if the ruling and/or the controlling principle of law or equity leading to the ruling, is subsequently overruled, modified, or amended by legislative, judicial, or administrative action, then the provision(s) in question as originally set forth in this Agreement shall be deemed valid and enforceable to the maximum extent permitted by the new controlling principle of law or equity. Notwithstanding any other provision of this Agreement, to the extent that the provisions of this Agreement provide for periods of Notice less than those required by applicable Law, or provide for termination, cancellation, nonrenewal or the like other than in accordance with applicable Law, such provisions shall, to the extent such are not in accordance with applicable Law, be superseded by said Law.

Section 19.08 Amendment and Modification. No amendment to or modification of or rescission, termination, or discharge of this Agreement is effective unless it is in writing, identified as an amendment to or rescission, termination, or discharge of this Agreement or the Purchase Order and signed by an authorized Representative of each Party.

Section 19.09 Waiver.

(a) No waiver under this Agreement is effective unless it is in writing, identified as a waiver to this Agreement, and signed by an authorized Representative of the Party waiving its right.

(b) Any waiver authorized on one occasion is effective only in that instance and only for the purpose stated, and does not operate as a waiver on any future occasion.

(c) None of the following constitutes a waiver or estoppel of any right, remedy, power, privilege, or condition arising from this Agreement:

(i) any failure or delay in exercising any right, remedy, power, or privilege or in enforcing any condition under this Agreement; or

(ii) any act, omission, or course of dealing between the Parties.

Section 19.10 Assignment; Change of Control.

(a) Johnstone may not assign any of its rights or obligations under this Agreement, in whole or in part, without JS Business Owner's prior written consent; provided that Johnstone may assign any or all of its rights and obligations under this Agreement without the prior written consent of JS Business Owner (i) to any of its Affiliates, or (ii) in the event Johnstone shall hereafter effect a corporate reorganization, consolidate with, merge into, or be acquired by any Person or transfer of all or substantially all of its properties or assets to any Person.

(b) JS Business Owner shall not sell, assign, or otherwise transfer this Agreement or any of its rights, interests, duties, obligations, or remedies associated with this Agreement, whether by operation of law, contract, or otherwise (an "**Assignment**"), without prior written approval from Johnstone. Any Assignment lacking Johnstone's written consent or that otherwise violates the restrictions in this Agreement will be ineffective against Johnstone and will constitute a terminable default under this Agreement. During the Term of this Agreement, in addition to any other Assignment, if JS Business Owner is a corporation, partnership, limited liability company, or other form of business entity, (i) any direct or indirect transfer or the issuance, by a single event or any combination or series of related events, of twenty-five percent (25%) or more of the equity interests of, or voting rights in, JS Business Owner or (ii) any merger or amalgamation of JS Business Owner with, or any sale of all or substantially all of the assets of JS Business Owner to, one or more third parties (each, a "**Change of Control**") shall constitute an Assignment of the Agreement and which requires Johnstone's written consent in accordance with this Section 19.10. Any proposed Change of Control of a JSBO Affiliate or any Branch is subject to the requirements of this Section 19.10.

(c) Johnstone's consent to any proposed Assignment shall be evaluated under the then-current assignment and transfer policy of Johnstone, which shall require, among other things that:

(i) the assignee (A) shall not be a competitor of Johnstone; (B) shall be of good moral character and reputation; (C) shall have a sufficient credit rating, financial capabilities, and competent business qualifications reasonably acceptable to Johnstone; and (D) shall meet Johnstone's then-current standards for approval of a JS Business Owner. JS Business Owner shall provide Johnstone with the information it may reasonably require to make a determination concerning each proposed assignee;

(ii) the assignee shall execute a new distribution agreement with Johnstone, on the terms satisfactory to Johnstone, assuming all of JS Business Owner's obligations thereunder;

(iii) all equity holders of the assignee shall enter into a written agreement in form satisfactory to Johnstone jointly and severally guaranteeing the full payment and performance of the assignee's obligations to Johnstone and agreeing to be personally bound by all covenants and restrictions imposed upon the assignee under this Agreement;

(iv) all accrued money obligations of JS Business Owner shall be satisfied prior to any Assignment;

(v) all equity interest in Johnstone and/or its Affiliates held by JS Business Owner must be liquidated or transferred as required by the Johnstone Organizational Documents in connection with the Assignment; and

(vi) any proposed Assignment shall be subject to the Right of First Refusal and Exit Auction provisions herein.

(d) If, at any time during the Term of this Agreement, JS Business Owner receives and desires to enter into a bona fide offer from a third party to effectuate an Assignment (including any Change of Control other than a Change of Control where the only transfer being made is of an equity interest in the applicable JS Business Owner from an existing equity holder to any member of the Family Group of such equity holder, which any such transfer shall be excluded from the Right of First Refusal contained herein (but for the avoidance of doubt shall be subject to Section 19.10(c)), JS Business Owner will Notify Johnstone of the full terms of the offer, including the identity of the offeror and a copy of any proposed agreement (the "**Assignment Notice**"). Upon receipt of an Assignment Notice at any time from and after the two (2)-year anniversary of the Effective Date, Johnstone shall have the right and option, exercisable within thirty (30) days and closing within one hundred and twenty (120) days after delivery of the Assignment Notice, to Notify JS Business Owner that Johnstone or its designee intends to purchase or lease the business on the same terms and conditions offered by the offeror (the "**Right of First Refusal**"). As used herein, "**Family Group**" means any of (i) the applicable equity holder's or its direct or indirect owner's spouse and descendants (whether natural or adopted) and any trust solely for the benefit of the applicable equity holder or its direct or indirect owner and/or the applicable equity holder's or its direct or indirect owner's spouse and/or descendants, and (ii) the applicable equity holder's or its direct or indirect owner's mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law provided that any such individual was involved on a full-time basis with the business of the applicable JS Business Owner for at least twelve (12) months prior to the contemplated transfer.

(e) In addition to the provisions in Section 19.10(d), JS Business Owner may, during the Term of this Agreement, provide Notice to Johnstone of its desire to sell its business (an "**Exit Notice**") and that it wishes to proceed with an auction process (the "**Exit Auction**") as detailed in the Johnstone Manuals (which will include bidders that are current JS Business Owners and, if approved by Johnstone, non-distributors). For a period of thirty (30) days following JS Business Owner's selection of a winning bidder from any Exit Auction occurring at any time from and after the two (2)-year anniversary of the Effective Date, Johnstone will have the ability to exercise its Right of First Refusal and match such winning bidder's purchase terms if such winning bidder's price is higher than the price last offered by Johnstone and consummate the purchase of JS Business Owner's business on such terms.

(f) Notwithstanding the other provisions of this Section 19.10, if JS Business Owner was formerly a Johnstone Patron, then during the first twenty-four (24) months after the Effective Date, JS Business Owner may exercise the following put right (the "**Put Right**"). Upon written Notice to Johnstone

(the “**Put Right Notice**”), JS Business Owner shall have the right to sell, and cause Johnstone (or Johnstone’s designee) to purchase, all (but not less than all) of JS Business Owner’s (and/or its JSBO Affiliates’) business assets relating to the distribution and sale of Johnstone Product Offerings. The sale of the business assets will be structured as an asset sale and will be on a debt-free, cash-free basis, and will include sufficient net working capital (including inventory and accounts receivable), fixed assets (including vehicles and fixtures, and all other equipment necessary to conduct the business), all rights and obligations under this Agreement, and a lease with at least a three (3)-year term based on market-rate lease pricing for any real estate owned by JS Business Owner and required to conduct the ongoing business under this Agreement. The purchase price will be .2 times the average annual trailing revenue for the JS Business Owner for the twenty-four (24) month period ending on the last day of the month preceding the delivery of the Put Right Notice. The purchase price will be subject to a working capital adjustment based upon the JS Business Owner transferring target net working capital to Johnstone (or Johnstone’s designee). The target net working capital will be based upon normalized working capital to run the business. The purchase agreement will contain customary representations, warranties, and indemnities, and a non-compete and non-solicit for a period of at least five (5) years (to the extent enforceable under applicable law). Prior to closing on any proposed sale through this Put Right, Johnstone shall have the opportunity to diligence JS Business Owner’s operations and if Johnstone reasonably determines the selling operations contain a material liability (contingent or otherwise) that could reasonably be viewed as transferring to Johnstone as a result of the contemplated transaction, Johnstone may reject the contemplated put.

Section 19.11 Successors and Assigns. This Agreement is binding on and inures to the benefit of the Parties to this Agreement and their respective permitted successors and permitted assigns.

Section 19.12 No Third-Party Beneficiaries. Except as otherwise expressly provided herein, this Agreement benefits solely the Parties to this Agreement and their respective permitted successors and assigns, and nothing in this Agreement, express or implied, confers on any other Person any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Agreement.

Section 19.13 Choice of Law. This Agreement, including all Purchase Order documents and exhibits, schedules, attachments, and appendices attached to this Agreement and thereto, and all matters arising out of or relating to this Agreement, are governed by, and construed in accordance with, the Laws of the State of Delaware, United States of America, without regard to the conflict-of-laws provisions thereof to the extent such principles or rules would require or permit the application of the Laws of any jurisdiction other than those of the State of Delaware. The Parties agree that the United Nations Convention on Contracts for the International Sale of Johnstone Product Offerings does not apply to this Agreement.

Section 19.14 Dispute Resolution.

(a) Except as otherwise provided herein, any dispute, controversy, or claim arising out of or relating to this Agreement, or the breach, termination or invalidity hereof (each, a “**Dispute**”), shall be submitted for negotiation and resolution to the Chief Executive Officer and Chief Financial Officer of Johnstone (or to such other person of equivalent or superior position designated by Johnstone in a written Notice to JS Business Owner) and the designated officer of JS Business Owner (or to such other person of equivalent or superior position designated by JS Business Owner in a written Notice to Johnstone), by delivery of written Notice (each, a “**Dispute Notice**”) from either Party to the other Party. Such Persons shall negotiate in good faith to resolve the Dispute. If the Parties cannot resolve any Dispute within thirty (30) days after delivery of the applicable Dispute Notice, either Party may initiate arbitration in accordance with this Agreement.

(b) Except as otherwise provided herein, any Dispute between the Parties will be exclusively resolved through binding arbitration in Wilmington, Delaware before a single, independent

arbitrator, using the facilities and commercial arbitration rules of the American Arbitration Association (“AAA”). The arbitrator must be either a retired judge or an attorney with a minimum of ten (10) years’ experience in the practice of commercial distribution Law who agrees to follow and apply the express provisions of this Agreement in determining their award. The Parties will jointly share the costs of the arbitrators’ fees and the fees payable to the AAA, but each Party shall bear its own legal fees and other legal expenses. The provisions of the Federal Arbitration Act, Title 9 US Code (the “*Federal Arbitration Act*”), will govern arbitration under this Agreement, except to the extent it is inconsistent with any provision of this Agreement, including this Section 19.14(b). The award of the arbitrator will be final and binding, except to the extent an arbitration award is appealable under the Federal Arbitration Act and may be enforced in any court of competent jurisdiction. The arbitrator shall not have authority to hear or decide any class action composed of JS Business Owners of Johnstone, to grant injunctive or other equitable relief to any Party, to modify the terms of this Agreement, or to include in any award to any Party any amounts on account of punitive, special, or consequential damages. Johnstone shall not be required to arbitrate any collection action not in excess of \$50,000, any action for equitable relief as provided in Section 19.14(c), or any claims that may be asserted against a guarantor of any obligations under this Agreement.

(c) Each Party acknowledges and agrees that (i) a breach or threatened breach by such Party of any of its obligations under Article XII or the License Agreement would give rise to irreparable harm to the other Party for which monetary damages would not be an adequate remedy, and (ii) in the event of a breach or a threatened breach by such Party of any such obligations, the other Party shall, in addition to any and all other rights and remedies that may be available to such Party at law, at equity, or otherwise in respect of such breach, be entitled to equitable relief without first mediating or arbitrating such Dispute, including a temporary restraining order, an injunction, specific performance, and any other relief that may be available from a court of competent jurisdiction, without any requirement to post a bond or other security, and without any requirement to prove actual damages or that monetary damages will not afford an adequate remedy. Each Party agrees that such Party will not oppose or otherwise challenge the appropriateness of equitable relief or the entry by a court of competent jurisdiction of an order granting equitable relief, in either case, consistent with the terms of this Section 19.14(c).

(d) Notwithstanding the provisions of the above Section 19.14 of this Agreement, any and all disputes arising under the Intellectual Property License Agreement shall be governed and resolved exclusively pursuant to the terms of the Intellectual Property License Agreement, including Article XI of that agreement. For the avoidance of doubt, Section 19.14 of this Agreement shall be inapplicable to all disputes arising under the Intellectual Property License Agreement, including but not limited to any breach, contemplated breach or alleged breach of Article VII of that agreement.

Section 19.15 Cumulative Remedies. All rights and remedies provided in this Agreement are cumulative and not exclusive, and the exercise by either Party of any right or remedy does not preclude the exercise of any other rights or remedies that may now or subsequently be available at law, in equity, by statute, in any other agreement between the Parties, or otherwise.

Section 19.16 Counterparts. This Agreement may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement. Notwithstanding anything to the contrary in Section 19.04, a signed copy of this Agreement delivered by facsimile, e-mail, or other means of electronic transmission is deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

Section 19.17 Force Majeure. Any delay or failure of either Party to perform its obligations under this Agreement will be excused to the extent that the delay or failure was caused directly by an event beyond such Party’s control, without such Party’s fault or negligence, and that by its nature could not have been foreseen by such Party or, if it could have been foreseen, was unavoidable (which events may include

natural disasters, epidemic or pandemic, embargoes, explosions, riots, wars, or acts of terrorism) (each, a “**Force Majeure Event**”). Johnstone’s financial inability to perform, changes in cost, market conditions, or contract disputes will not excuse performance by Johnstone under this Section 19.17. Johnstone shall give JS Business Owner prompt written Notice of any event or circumstance that is reasonably likely to result in a Force Majeure Event and the anticipated duration of such Force Majeure Event. Johnstone shall use all diligent efforts to end the Force Majeure Event, ensure that the effects of any Force Majeure Event are minimized, and resume full performance under this Agreement. In addition to its other rights under this Agreement or the Law, during any Force Majeure Event, JS Business Owner may cancel any pending Purchase Order, purchase substitute goods constituting Johnstone Product Offerings from other sources without liability to Johnstone, and such alternative orders shall not adversely affect JS Business Owner’s Minimum Purchase Percentage Requirements under Section 2.08(a) and Section 5.02(a).

Section 19.18 Independent Contractors. The Parties are independent contractors and nothing in this Agreement shall be deemed or constructed as creating a joint venture, employment, partnership, or agency relationship between Johnstone and JS Business Owner. Neither Party, by virtue of this Agreement, will have any right, power, or authority to act or create an obligation, express or implied, on behalf of the other Party. Each Party assumes responsibility for the actions of its Personnel under this Agreement and will be solely responsible for their supervision, daily direction, and control, wage rates, withholding income taxes, disability benefits, or the manner and means through which the work under this Agreement will be accomplished. Except as provided otherwise in this Agreement, JS Business Owner has the sole discretion to determine JS Business Owner’s methods of operation, JS Business Owner’s accounting practices, the types and amounts of insurance JS Business Owner carries, JS Business Owner’s Personnel practices, JS Business Owner’s advertising and promotion, JS Business Owner’s Customers, and JS Business Owner’s operational areas and methods. The relationship created hereby between the Parties is intended to be solely that of supplier and distributor.

Section 19.19 No Public Announcements. Neither Party nor any of its Representatives shall (orally or in writing) publicly disclose, issue any press release or make any other public statement, or otherwise communicate with the media concerning the existence of this Agreement or the subject matter hereof without the prior written approval of the other Party, except if and to the extent that such Party is required to make any public disclosure or filing regarding the subject matter of this Agreement: (a) by applicable Law or (b) in connection with enforcing its rights under this Agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the Effective Date.

[JS BUSINESS OWNER]

By _____

Name:

Title:

JOHNSTONE SUPPLY, LLC

By _____

Name:

Title:

SCHEDULE A

DESCRIPTION OF TERRITORY

TERRITORY:

[Insert for each JS Business Owner]

JOHNSTONE PATRON TRADE AREA:

Transition to Territory. JS Business Owner's former Johnstone Patron Trade Area is set forth above. During the Transition Period, JS Business Owner shall be authorized to exercise the rights granted in this Agreement in both the Territory and Johnstone Patron Trade Area (if there is any difference between them), provided that during the Transition Period, any other Johnstone Patron that is a current JS Business Owner and has a Johnstone Patron Trade Area that also encompasses all or a portion of the Territory shall also be authorized to act as a JS Business Owner in such Territory or Johnstone Patron Trade Area.

REGION:

[Insert for each JS Business Owner]

SCHEDULE B

EQUIPMENT MANUFACTURERS

FOR REBATE AND OTHER MANUFACTURER REIMBURSEMENT PROGRAMS

This list is subject to change from time to time upon Notice to JS Business Owners.

Bosch

National Comfort Products

Daikin Industries Ltd. (including Goodman, Amana, and Quietflex brands)

Friedrich Air Conditioning

Heat Controller, Inc.

Style Crest, Inc.

Johnson Controls-York Int'l-UPG (including Coleman, Evcon, York, Guardian, Hitachi and Source 1 brands)

Fujitsu General

Aspen Manufacturing

First Co.

International Comfort Products

Rheem Manufacturing Company

Nortek Global HVAC

SCHEDULE C
JSBO AFFILIATES

[Complete for each JSBO Affiliate]

Company's exact corporate name: _____

Company's corporate form and state of organization: _____

Address for Notices: _____

Facsimile number: _____

Phone number: _____

E-mail: _____

Attn: _____

EXHIBIT 1
LICENSE AGREEMENT

[See attached]

**INTELLECTUAL PROPERTY LICENSE AGREEMENT
U.S. DISTRIBUTORS ONLY**

This Intellectual Property License Agreement (“*License Agreement*”) is effective as of _____, 2021 (the “*Effective Date*”) by and between Johnstone Supply, LLC, a Delaware limited liability company with a principal place of business at [ADDRESS] (hereinafter referred to as “*Johnstone*” or “*Licensor*”) and [LICENSEE], a [STATE AND ENTITY] with a principal place of business at _____ (hereinafter referred to as “*Licensee*”).

RECITALS

WHEREAS, Johnstone is a wholesale distributor of heating, ventilation, air conditioning, and refrigeration (“*HVAC/R*”) equipment, repair and replacement parts, and maintenance supplies for residential, light commercial, and facilities maintenance applications;

WHEREAS, Licensee is in the business of selling certain HVAC/R products, equipment, parts, supplies, accessories, and related items;

WHEREAS, for four (4) decades prior to the Effective Date, Johnstone’s predecessor, Johnstone Supply, Inc. (the “*Cooperative*”) was a wholesale distribution cooperative, with cooperative members and their affiliates (“*Johnstone Patrons*”) operating in forty-seven (47) U.S. States and Canada;

WHEREAS, with the support of the Johnstone Patrons, the Cooperative converted into Johnstone in order to maximize growth opportunities and improve operating efficiencies for the benefit of Johnstone and the Johnstone Patrons;

WHEREAS, Johnstone is entering into distribution agreements with individual distributors, including former Johnstone Patrons (collectively “*JS Business Owners*”), including Licensee, governing distribution of Johnstone Product Offerings to Customers. The distribution agreement between Johnstone and Licensee is referred to herein as the “*Distribution Agreement*”; and

WHEREAS, in order to fulfill its obligations under the Distribution Agreement, Licensee requires a limited license to use certain Johnstone Intellectual Property, and Johnstone is willing to grant such a license, subject to the terms and conditions of this License Agreement and the Distribution Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, terms, and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

TERMS AND CONDITIONS

**ARTICLE I
DEFINITIONS**

Capitalized terms have the meanings set out in this Article, or in the Article in which they first appear in this License Agreement. Any capitalized term used in this License Agreement but not defined in this Article or in the Article in which it first appears, has the meaning set forth in the Distribution Agreement. The recitals above are made part of this License Agreement.

“*Licensed Johnstone Intellectual Property*” means (a) the trademarks, service marks, brand names, and logos listed in Schedule A (“*Licensed Johnstone Marks*”); (b) the software listed in Schedule

B (“*Licensed Software*”), (c) the other Intellectual Property Rights listed in Schedule B, and (d) any additional Johnstone Intellectual Property authorized by Johnstone from time-to-time in writing pursuant to the Distribution Agreement for use on or in connection with the Johnstone Product Offerings as a licensed distributor. This definition excludes any Intellectual Property Rights licensed to Licensee under the JXI Cross Referencing System License Agreement, dated [●] that remains in effect between Licensee and Johnstone by virtue of assignment or operation of law.

ARTICLE II GRANT OF LICENSE

2.1 Upon the terms and conditions set forth herein, Licensor hereby grants Licensee and Licensee hereby accepts, for the Term of this License Agreement, a non-exclusive, non-transferrable, non-assignable, non-sub-licensable right to use (a) the Licensed Johnstone Marks (i) within Licensee’s Johnstone Patron Trade Area until the expiration of the Transition Period, and (ii) within Licensee’s Territory at any time during the Term, and (b) the Licensed Johnstone Intellectual Property excluding the Licensed Johnstone Marks, in each of clauses (a) and (b) solely for Licensee’s internal business operations undertaken in the ordinary course to distribute Johnstone Product Offerings in strict accordance with the terms of the Distribution Agreement.

2.2 Johnstone specifically reserves any and all rights that are not expressly granted in this License Agreement with respect to any Johnstone Intellectual Property, including the Licensed Johnstone Intellectual Property.

ARTICLE III USE AND LIMITATIONS

3.1 **Use of Licensed Johnstone Intellectual Property.** Licensee shall use the Licensed Johnstone Intellectual Property in a manner consistent with the terms of the Distribution Agreement and this License Agreement, including but not limited to all limitations and usage parameters noted in Schedule B, and all applicable national, federal, state, district, and local Law. At no time may Licensee modify the Licensed Johnstone Intellectual Property in any manner without Johnstone’s prior written consent.

3.2 **Use of Licensed Johnstone Marks.** Licensee acknowledges that the Licensed Johnstone Marks have established prestige and goodwill and are well-recognized in the minds of the trade and the public, that they are of great importance and value to Licensor, and that the high standards and reputation for quality symbolized by the Licensed Johnstone Marks shall be maintained. Accordingly, Licensee’s use of the Licensed Johnstone Marks shall be: (a) in accordance with all applicable Law and industry standards, including, without limitation, as they relate to importation and exportation; (b) in a manner and at a level of quality at least as high as that observed by Licensee for like or comparable products; (c) in a manner and at a level of quality at least as high as that observed by Licensor for like or comparable products; (d) in strict adherence to the Johnstone Manuals (as defined herein), or as otherwise pre-approved by Licensor in writing; (e) in a manner consistent with any samples thereof provided to Licensor pursuant to Section 3.3; (f) in a manner consistent with the Cooperative’s and Licensor’s high quality standards and reputation; and (g) as otherwise directed by Licensor in its reasonable discretion and on a non-discriminatory basis with respect to Licensee (clauses (a)-(g) collectively, the “*Quality Standards*”). Licensee is specifically authorized to use “Johnstone Supply” as part of its assumed business name.

3.3 **Quality Control.**

(a) General. In order to maintain the goodwill associated with its products and services, the Cooperative created numerous policies to ensure that licensees used Licensed Johnstone Marks

in a manner that was consistent with the quality and character that customers had come to expect from the Cooperative (and as such policies may be updated and/or supplemented from time to time, the “*Johnstone Manuals*”). The Johnstone Manuals specific to this License Agreement are listed in Schedule C, and subject to change by Johnstone from time to time. Licensee shall only use and permit the use of Licensed Johnstone Marks in accordance with Johnstone Manuals and all other Quality Standards, unless Johnstone has explicitly authorized otherwise in writing. Licensor shall have the right, at any time, in its reasonable discretion and on a non-discriminatory basis with respect to Licensee, to modify or supplement the Johnstone Manuals to be maintained by Licensee by providing written notice thereof to Licensee. Licensor shall have the right, not more than once per year, to request and receive from Licensee, at Licensee’s expense, a reasonable number of product samples, packaging, advertising and related marketing materials embodying the Licensed Johnstone Marks. In addition, the quality of Licensee’s products and services shall at all times meet Johnstone’s Quality Standards and specifications for Johnstone Intellectual Property, including those described in the Johnstone Manuals attached in Schedule C. Licensee will comply with the Quality Standards and recognizes that failure to comply may result in a material breach.

Questions regarding Johnstone Manuals should be directed to the following Johnstone contacts:

<u>[Primary Contact]</u>	<u>Backup Contact</u>
Johnstone	Johnstone
Attention:	Attention:
Title:	Title:
[Insert Address]	[Insert Address]
Telephone:	Telephone:
Email:]	Email:

Johnstone shall update Licensee with respect to any changes in the contact(s) as necessary.

(b) Non-compliance. If Licensor determines that Licensee is not in compliance with this License Agreement, Licensor may notify Licensee in writing of such non-compliance. The notice of non-compliance shall set forth in reasonable detail a description of the nature of the non-compliance and any requested action for curing the non-compliance. Upon receipt of the notice of non-compliance, Licensee shall act promptly to correct the issues identified therein. If the non-compliance is not cured to the reasonable satisfaction of Licensor within ten (10) days of the notice of non-compliance, without limiting Licensor’s rights under Article VII, Licensor may direct Licensee to cease all use of the Licensed Johnstone Intellectual Property at issue. Licensee understands that damages at law would be an inadequate remedy in the event of any failure by Licensee to comply in accordance with this Section 3.3 and such rights may be enforced in accordance with Section 11.3. The foregoing shall be without prejudice to, and without limiting, any of Licensor’s other rights and remedies under this License Agreement or at law or in equity.

(c) Reports; Inspection. At Licensor’s reasonable request during the Term, Licensee will submit to Licensor information regarding Licensee’s use of the Licensed Johnstone Marks, including with respect to Licensee’s compliance with the Quality Standards, as Licensor may request from time to time. If at any time Licensee becomes aware of any non-compliance by Licensee with respect to quality control of the Licensed Johnstone Marks or the Quality Standards as required under this License Agreement, Licensee shall promptly report such non-compliance to Licensor, and in any event no longer than ten (10) days after Licensee becomes aware of such non-compliance. At the reasonable request of Licensor and at the expense of Licensor, Licensee shall permit representatives of Licensor or representatives appointed by Licensor to inspect Licensee’s operations to monitor Licensee’s use of the Licensed Johnstone Marks. Licensee shall furnish to Licensor all other data and reports as reasonably requested by Licensor.

3.4 **Use of Internet Domain Names.** Licensee will not make use of or register any domain names containing a Licensed Johnstone Mark or any domain name similar to johnstonesupply.com without the express written permission of Johnstone. Licensee's license to the johnstonesupply.com is limited to displaying content on Licensee's specific subdomain, [●], and all such content contained or displayed therein will comply with the Quality Standards; provided that Licensor will control the operation of the johnstonesupply.com domain name, including Licensee's subdomain.

3.5 Licensed Software Restrictions.

(a) Except to Representatives over Licensee's network, and subject at all times to the limitations and usage parameters set forth in Schedule B, Licensee will not copy, distribute, redistribute, perform, display, transfer, or otherwise make available the Licensed Software or any component or portion thereof without Johnstone's express prior written consent.

(b) In addition, Licensee will not:

- (i) Modify or create derivative works of the Licensed Software;
- (ii) Reverse engineer, derive source code from, modify source code from, or decompile source code from the Licensed Software, or otherwise misappropriate the Licensed Software, in whole or in part;
- (iii) Scrape any information from the Licensed Software;
- (iv) Transfer copies of the Licensed Software from one device to another device via any means;
- (v) Attempt to circumvent any technology used by Johnstone or any third party to protect the Licensed Software;
- (vi) Attempt to circumvent any territorial restrictions applied by Johnstone;
- (vii) Use any of the Licensed Software for any illegal or unlawful purpose;
- (viii) Permit any third party to use or have access to the Licensed Software on a commercial timesharing basis to operate the third party's business;
- (ix) Remove or alter any copyright, trademark, or other intellectual property notices contained on or provided through the Licensed Software; or
- (x) Use or disclose the Licensed Software in any manner that violates Licensee's confidentiality obligations under Article IV of this License Agreement.

3.6 **Third-Party Materials.** Access to and use of the Licensed Johnstone Intellectual Property may require the use of third-party software and services that are governed by and require Licensee's agreement to terms which are separate from this License Agreement and for which Johnstone bears no responsibility or obligation. Licensee will comply with all applicable third-party terms in its use of the Licensed Johnstone Intellectual Property under this License Agreement and the Distribution Agreement. As part of such compliance, Licensee may be required to enter into a separate agreement with third-party providers in order to receive or continue to access and use the Licensed Johnstone Intellectual Property,

and Licensee shall be responsible for entering any such separate agreements at Licensee's sole cost and expense.

ARTICLE IV CONFIDENTIALITY

4.1 The Parties agree that all Confidential Information disclosed between the Parties in connection with this License Agreement will be subject to the confidentiality provisions in Article XII of the Distribution Agreement.

4.2 Licensee acknowledges that the Johnstone Intellectual Property (excluding trademarks and published works) is Johnstone's Confidential Information (as defined in the Distribution Agreement).

ARTICLE V OWNERSHIP

5.1 Licensee acknowledges that Licensee does not acquire any ownership rights in the Licensed Johnstone Intellectual Property as a result of this License Agreement or Licensee's use of the Licensed Johnstone Intellectual Property. Licensee has no rights to use the Licensed Johnstone Intellectual Property except as expressly provided by the terms of this License Agreement. All title, ownership, and Intellectual Property Rights in and to the Licensed Johnstone Intellectual Property are owned by Johnstone.

5.2 Licensee acknowledges the validity of the Licensed Johnstone Marks and any registrations thereof and Johnstone's right, title, and interest in and to the use of such Licensed Johnstone Marks, including Johnstone's right to register all Licensed Johnstone Marks.

5.3 Unless expressly permitted in writing, Licensee will not make use of or register any trademarks, domain names, or social media accounts or user names that use or incorporate, or are confusingly similar to, any of the Licensed Johnstone Marks.

5.4 All use of the Licensed Johnstone Marks by Licensee shall inure to the benefit of Johnstone. Licensee agrees that it will not, at any time during or after the Term, directly or indirectly apply for any registration as owner or exclusive licensee of the Licensed Johnstone Marks, or of any trademarks confusingly similar to the Licensed Johnstone Marks. The obligations of this paragraph shall survive the expiration of this License Agreement or any termination of this License Agreement by either Party and for whatever cause (including any cancellation by operation of Law).

5.5 Licensee agrees to promptly give Notice in writing to Johnstone of any infringements or suspected or threatened infringements, imitations, illegal uses, or misuses of the Licensed Johnstone Intellectual Property that come to Licensee's attention. Johnstone may decide in its absolute discretion whether and what steps should be taken to challenge such infringements including the institution of legal proceedings. Johnstone will have sole control over and will conduct any action(s) as it deems necessary pursuant to this paragraph, and shall be responsible for its own attorneys' fees associated with such action, and shall be entitled to keep all damages and/or settlement amounts received as a result of such action. Licensee undertakes fully and without reservation whatsoever to render to Johnstone all assistance in connection with any matter pertaining to the protection of Johnstone Intellectual Property including, but not limited to furnishing documents, records, files, and other information, making available its employees, executing all necessary documents, and providing its written consent to be joined as a party to any legal proceedings as Johnstone may request.

5.6 All comments, feedback, suggestions, ideas, and other submissions disclosed or submitted to Johnstone by Licensee in connection with this License Agreement or the Distribution Agreement (“**Feedback**”), as well as any improvements to or derivatives of Johnstone Intellectual Property, will be the exclusive property of Johnstone. Licensee hereby agrees that Johnstone may use, sell, exploit, and disclose such Feedback, improvements, and derivatives in any manner, without restriction, and without compensation to Licensee.

5.7 If, notwithstanding the Parties’ intentions set forth in the preceding paragraphs, Licensee acquires any right, title, or interest in or to (a) any Johnstone Intellectual Property, (b) any modifications, improvements, or derivatives of any Johnstone Intellectual Property, (c) any Feedback, or (d) any intellectual property substantially or confusingly similar to any Johnstone Intellectual Property, in the course of carrying out its obligations or exercising its rights under this License Agreement or the Distribution Agreement, then Licensee hereby assigns to Johnstone or any designee of Johnstone all of Licensee’s rights, title, and interest in and to any of the foregoing, including the Intellectual Property Rights therein or thereto and any related goodwill incident to any of the foregoing or to any such Intellectual Property Rights. No consideration other than the mutual covenants and considerations of this License Agreement shall be necessary for any such assignment, transfer, or conveyance. Licensee shall, at Licensee’s sole cost and expense, execute and deliver such further documents and instruments and shall take such other actions as may be reasonably necessary or desirable to effect the transfer of ownership of any of the foregoing (a) through (d).

5.8 If Licensor deems it necessary for Licensee to modify or discontinue use of any of the Johnstone Intellectual Property, and/or use one or more additional or substitute trade names, trademarks, service marks or other commercial symbols, Licensee shall comply with Licensor’s directions within ten (10) business days after notice to Licensee by Licensor. Licensor will not be required to reimburse Licensee for its expenses in modifying or discontinuing the use of any item of Johnstone Intellectual Property or any loss of goodwill associated with any modified or discontinued item of Johnstone Intellectual Property or for any expenditures made by Licensee to promote a modified or substitute item of Johnstone Intellectual Property.

5.9 Licensee shall not, directly or indirectly, during the Term or thereafter, anywhere in the world (a) attack or challenge the validity of the Johnstone Intellectual Property, the Licensor’s ownership of the Johnstone Intellectual Property, or the licenses granted to Licensee in this License Agreement; (b) apply to register any of the Johnstone Intellectual Property, any derivative of any Johnstone Intellectual Property, or any component or translation thereof, or any term or design confusingly similar thereto; (c) permit any action or omission in derogation of any of the rights of Licensor in or to the Johnstone Intellectual Property; (d) use the Johnstone Intellectual Property or any other marks that, to any reasonable Person, would be confusingly similar to or a translation thereof, except as permitted in Section 2.1; (e) use the Johnstone Intellectual Property or Licensed Johnstone Marks name in any manner that might dilute the distinctiveness of such assets or otherwise to disparage Licensor; or (f) use the Johnstone Intellectual Property in any manner inconsistent with this License Agreement.

ARTICLE VI TERM AND TERMINATION

6.1 Unless terminated under Article VII, this License Agreement shall commence on the Effective Date and shall continue in effect until the Distribution Agreement is terminated (the “**Term**”). This License Agreement will automatically terminate upon the termination of the Distribution Agreement without the need for any action by the Parties hereto.

6.2 Upon termination of this License Agreement, (i) such termination shall also be grounds for termination of the Distribution Agreement, (ii) the licenses granted hereunder to Licensee will terminate in their entirety, (iii) Licensee will immediately cease all use of Licensed Johnstone Intellectual Property, (iv) Licensee will take any further actions required under Section 3.03 of the Distribution Agreement, and (v) Licensee shall return to Licensor, or destroy at Licensor's option, all Johnstone Intellectual Property in Licensee's possession.

ARTICLE VII BREACH

7.1 Johnstone will have the right to terminate this License Agreement on Notice to Licensee:

(a) in the event Licensee breaches any term of this License Agreement and either the breach cannot be cured (as reasonably determined by Johnstone) or, if the breach can be cured, it is not cured by Licensee within thirty (30) days following Licensee's receipt of written Notice of such breach;

(b) in the event Licensee materially fails to comply with applicable Law in (i) its use of the Licensed Johnstone Intellectual Property; or (ii) the conduct of Licensee's business;

(c) in the event of (i) Licensee's voluntary or involuntary insolvency, (ii) Licensee's commission of an action of bankruptcy, (iii) adjudication of Licensee's bankruptcy, (iv) Licensee's filing of a petition for voluntary or involuntary bankruptcy or similar proceeding, (v) an agreement between Licensee and its creditors generally is entered into providing for extension or composition of debt, (vi) a receiver is appointed to administer the assets of Licensee, or (vii) the assets of Licensee are liquidated;

(d) in the event Licensee uses any of the Licensed Johnstone Intellectual Property in any manner that exceeds the scope of the license granted in Section 2.1 or is otherwise inconsistent with the terms of this License Agreement; or

(e) in the event Licensee fails to comply with its obligation to use the Licensed Johnstone Intellectual Property in a manner consistent with Section 3.3 and fails to cure within the period specified in Section 3.3;

7.2 By way of example only and without limiting the generality of the foregoing, Licensee's breach of Section 5.9 will constitute a material breach of this License Agreement that is not capable of cure.

7.3 Any breach of this License Agreement by Licensee will also be considered a breach of the Distribution Agreement.

ARTICLE VIII INDEMNIFICATION

8.1 **Licensee Indemnification.** Subject to the terms and conditions of this License Agreement, Licensee shall indemnify, defend, and hold harmless Johnstone and its officers, directors, owners, employees, agents, Affiliates, successors, and assigns (each, a "***Johnstone Indemnified Party***") against any and all losses, damages, liabilities, deficiencies, claims, Actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable attorneys' fees, the fees and costs of enforcing any right to indemnification under this License Agreement, and the cost of pursuing any insurance providers, incurred by a Johnstone Indemnified Party arising out of or relating to (a) Licensee's breach of any of its warranties, representations, or covenants in this License Agreement; (b) any act or omission by Licensee or its Personnel, including any negligent acts or omissions, gross negligence, willful

misconduct, strict liability, fraud or violation of Law, in connection with this License Agreement; (c) any infringement or misappropriation of any third party Intellectual Property Right or other proprietary right resulting from Licensee's performance of its obligations or exercise of its rights under this License Agreement or the Distribution Agreement (except to the extent such claim solely arises out of and would not have arisen but for Licensee's use of Licensed Johnstone Intellectual Property in strict accordance with this License Agreement and the Distribution Agreement); (d) any personal or bodily injury (including death) or damage to property caused by any act or omission of Licensee or its Personnel; or (e) Licensee's conduct of its business (except for any claim or infringement or misappropriation to the extent it solely arises out of and would not have arisen but for Licensee's use of the Licensed Johnstone Intellectual Property in strict accordance with this License Agreement and the Distribution Agreement).

8.2 Licensee shall have the right to (and shall be responsible to pay for) legal counsel of its own choice to defend any action(s) covered by this subparagraph and should Johnstone elect to retain counsel to consult with it or with Licensee's counsel in connection with any action(s) covered by this subparagraph, Johnstone may do so at its own expense.

8.3 Johnstone will give Licensee reasonable notice of each claim for which it wants indemnity, provided that failure to provide such notice will not release Licensee from any obligations hereunder except to the extent that Licensee is materially prejudiced by such failure. Johnstone will also give Licensee its reasonable cooperation in the defense of each claim, at Licensee's expense. Licensee will use counsel reasonably satisfactory to Johnstone to defend each claim. A Johnstone Indemnified Party may participate in the defense at its own expense. Licensee will not settle any claim without the Johnstone Indemnified Party's prior written consent, which may not be unreasonably withheld. Licensee will see that any settlement it makes of any claim is made confidential, except where not permitted by Law. Licensee's duty to defend is independent of its duty to indemnify.

ARTICLE IX WARRANTIES BY LICENSEE

9.1 Licensee represents and warrants that (a) this License Agreement has been duly authorized, executed, and delivered by, and constitutes a valid and legally binding obligation of, Licensee and (b) this License Agreement has been and, upon execution and delivery, will be, duly executed and delivered by Licensee, and this License Agreement constitutes, upon execution and delivery, legal, valid and binding obligations of Licensee, enforceable against Licensee in accordance with its terms, subject to the effect of any applicable Law relating to bankruptcy, reorganization, insolvency, moratorium, fraudulent conveyance or preferential transfers, or similar Law relating to or affecting creditors' rights generally and subject, as to enforceability, to the effect of general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

9.2 Licensee represents and warrants that it will not (a) take any action or conduct its operations in such a manner as to bring public ridicule, contempt, censure, or disparagement upon itself, Johnstone Intellectual Property, Johnstone Product Offerings, or Johnstone; (b) willingly do or cause to be done, using the Johnstone Intellectual Property, (i) any illegal or unethical acts or (ii) any act or thing that disparages, disputes, tarnishes, degrades, injures, attacks, challenges, impairs, dilutes, or is likely to harm the reputation or goodwill associated with Johnstone, or its products or services, or the Licensed Johnstone Marks or the rights of Johnstone therein, including using the Licensed Johnstone Marks in any false, misleading, inaccurate, obscene or scandalous manner; or (c) knowingly use the Licensed Johnstone Marks in connection with any products or services or advertising, marketing, promotional or other materials that infringe, misappropriate or violate any Intellectual Property Rights of any third party.

9.3 Licensee represents and warrants that there is no pending or threatened litigation that may affect the legality, validity, or enforceability of this License Agreement, or Licensee's ability to fully perform its obligations hereunder.

ARTICLE X WARRANTIES BY JOHNSTONE

10.1 Johnstone represents and warrants that (a) this License Agreement has been duly authorized, executed, and delivered by, and constitutes a valid and legally binding obligation of, Johnstone and (b) this License Agreement has been and, upon execution and delivery, will be, duly executed and delivered by Johnstone, and this License Agreement constitutes, upon execution and delivery, legal, valid and binding obligations of Johnstone, enforceable against Johnstone in accordance with its terms, subject to the effect of any applicable Law relating to bankruptcy, reorganization, insolvency, moratorium, fraudulent conveyance or preferential transfers, or similar Law relating to or affecting creditors' rights generally and subject, as to enforceability, to the effect of general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

10.2 Johnstone represents and warrants that it is the sole and exclusive legal and beneficial owner of the entire right, title, and interest in and to, or otherwise has the right to license, the Licensed Johnstone Intellectual Property.

10.3 Johnstone represents and warrants that there is no pending or threatened litigation that may affect the legality, validity, enforceability of this License Agreement, or Johnstone's ability to fully perform its obligations hereunder.

10.4 **No Other Warranties.** EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN THIS ARTICLE X, JOHNSTONE DOES NOT MAKE, AND HEREBY DISCLAIMS, ANY AND ALL OTHER EXPRESS AND/OR IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, AVAILABILITY, AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE.

ARTICLE XI LAWS, JURISDICTION AND DISPUTES

11.1 This License Agreement, including all documents and exhibits, schedules, attachments, and appendices attached to this License Agreement, and all matters arising out of or relating to this License Agreement, are governed by, and construed in accordance with, the Laws of the State of Delaware, United States of America, without regard to the conflict of laws provisions thereof to the extent such principles or rules would require or permit the application of the Laws of any jurisdiction other than those of the State of Delaware. The Parties agree that jurisdiction and venue in any suit, action or proceeding brought by any Party pursuant to this agreement shall properly and exclusively lie in any federal or state courts located in Delaware. The Parties irrevocably agree that venue would be proper in such court, and hereby waive any objection that any such court is an improper or inconvenient forum for the resolution of such suit, action or proceeding. The Parties further agree that the mailing by certified or registered mail, return receipt requested, of any process required by any such court shall constitute valid and lawful service of process against them, without necessity for service by any other means provided by statute or rule of court.

11.2 EACH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT SUCH PARTY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION, DIRECTLY OR INDIRECTLY, ARISING OUT OF OR RELATING TO THIS LICENSE AGREEMENT. EACH PARTY ACKNOWLEDGES AND AGREES THAT (A) NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER; (B) SUCH PARTY UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER; (C) SUCH PARTY MAKES THIS WAIVER VOLUNTARILY; AND (D) SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THIS LICENSE AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 11.2.

11.3 Each of the Parties acknowledges and agrees that the other Party would be irreparably damaged immediately, extensively and irreparably and no adequate remedy at law would exist in the event that any of the provisions of this License Agreement were not performed in accordance with their specific terms or were otherwise breached or violated. Accordingly, in addition to, and not in limitation of, any other remedy available to any Party at law or in equity, the Parties hereby acknowledge and agree that each Party shall be entitled to an injunction or injunctions to prevent any breaches or violations of the provisions of this License Agreement and to the remedy of specific performance of this License Agreement and the terms and provisions hereof. Each of the Parties hereby waives, and agrees not to assert, to the fullest extent permitted by Law, (a) any defense that a remedy of injunctive relief or specific performance is unenforceable, invalid, contrary to Law or inequitable for any reason; (b) any defense in any action for injunctive relief or specific performance, including the defense that a remedy at law would be adequate or that monetary damages would provide an adequate remedy; (c) any requirement under any Law to post bond or other security as a prerequisite to obtaining equitable relief; and (d) any defense that injunctive relief or specific performance will cause an undue hardship to any Party.

ARTICLE XII MISCELLANEOUS

12.1 **Entire Agreement.** This License Agreement, including the Recitals, which are incorporated by this reference, together with the Distribution Agreement, contains all the terms agreed between the parties regarding this subject matter and supersedes any prior agreement, understanding or arrangement between the parties, whether oral or in writing, regarding such subject matter. No representation, undertaking, or promise shall be taken to have been given or be implied from anything said or written in negotiations between the parties prior to this License Agreement except as expressly stated in this License Agreement and the Distribution Agreement. Neither Johnstone nor Licensee shall have any remedy in respect of any untrue statement made by the other upon which that Party relied in entering into this License Agreement (unless such untrue statement was made fraudulently) and that Party's only remedy shall be for breach of contract as provided in this License Agreement.

12.2 **Survival.** Provisions of this License Agreement which either are expressed to survive its expiry or termination or from their nature or context it is contemplated that they are to survive such termination, shall remain in full force and effect notwithstanding such expiry or termination.

12.3 **Further Assurances.** The parties shall do and execute all such further acts and things as are reasonably required to give full effect to the rights given and the transactions contemplated by this License Agreement.

12.4 **Modification.** No amendment to or modification of or rescission, termination, or discharge of this License Agreement is effective unless it is in writing, identified as an amendment to or rescission,

termination, or discharge of this License Agreement, and signed by an authorized Representative of each Party.

12.5 Counterparts. This License Agreement may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement. A signed copy of this License Agreement delivered by facsimile, email, or other means of electronic transmission is deemed to have the same legal effect as delivery of an original signed copy of this License Agreement.

12.6 Interpretation. For purposes of this License Agreement, (a) the words “include,” “includes,” and “including” are deemed to be followed by the words “without limitation”; (b) the word “or” is not exclusive; (c) the words “herein,” “hereof,” “hereby,” “hereto,” and “hereunder” refer to this License Agreement as a whole; (d) words denoting the singular have a comparable meaning when used in the plural and vice-versa; and (e) words denoting any gender include all genders. Unless the context otherwise requires, references in this License Agreement: (x) to articles, sections, exhibits, schedules, attachments, and appendices mean the articles of, sections of, and exhibits, schedules, attachments, and appendices attached to this License Agreement; (y) to an agreement, instrument, or other document means such agreement, instrument, or other document as amended, supplemented, and modified from time to time to the extent permitted by the provisions thereof; and (z) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. The Parties drafted this License Agreement without regard to any presumption or rule requiring construction or interpretation against the Party drafting an instrument or causing any instrument to be drafted. The exhibits, schedules, attachments, and appendices referred to herein are an integral part of this License Agreement to the same extent as if they were set forth verbatim herein.

12.7 Headings. The headings in this License Agreement are for reference only and do not affect the interpretation of this License Agreement.

12.8 Severability. All terms and conditions of this License Agreement will be deemed enforceable to the fullest extent permissible under applicable Law. If any one or more of the provisions of this License Agreement should be ruled wholly or partly invalid or unenforceable by a court or other government body of competent jurisdiction, then: (a) the validity and enforceability of all provisions of this License Agreement not ruled to be invalid or unenforceable shall be unaffected; (b) the effect of the ruling shall be limited to the jurisdiction of the court or other government body making the ruling; (c) the provision(s) held wholly or partly invalid or unenforceable shall be deemed amended, and the court or other government body is authorized and requested to reform such provision(s), to the minimum extent necessary to render them valid and enforceable in conformity with the Parties’ intent as manifested herein; (d) if the court or other government body declines or is unable to reform the provision(s), then the Parties shall in good faith negotiate a reformation of the provision(s), to the minimum extent necessary to render them valid and enforceable in conformity with the Parties’ intent as manifested herein; and (e) if the ruling and/or the controlling principle of law or equity leading to the ruling, is subsequently overruled, modified, or amended by legislative, judicial, or administrative action, then the provision(s) in question as originally set forth in this License Agreement shall be deemed valid and enforceable to the maximum extent permitted by the new controlling principle of law or equity. Notwithstanding any other provision of this License Agreement, to the extent that the provisions of this License Agreement provide for periods of Notice less than those required by applicable Law, or provide for termination, cancellation, nonrenewal or the like other than in accordance with applicable Law, such provisions shall, to the extent such are not in accordance with applicable Law, be superseded by said Law.

12.9 **Waiver.**

(a) No waiver under this License Agreement is effective unless it is in writing, identified as a waiver to this License Agreement, and signed by an authorized Representative of the Party waiving its right.

(b) Any waiver authorized on one occasion is effective only in that instance and only for the purpose stated, and does not operate as a waiver on any future occasion.

(c) None of the following constitutes a waiver or estoppel of any right, remedy, power, privilege, or condition arising from this License Agreement:

(i) any failure or delay in exercising any right, remedy, power, or privilege or in enforcing any condition under this License Agreement; or

(ii) any act, omission, or course of dealing between the Parties.

12.10 **Assignment; Change of Control.**

(a) Johnstone may not assign any of its rights or obligations under this License Agreement, in whole or in part, without Licensee's prior written consent; provided that Johnstone may assign any or all of its rights and obligations under this License Agreement without the prior written consent of Licensee (i) to any of its Affiliates, or (ii) in the event Johnstone shall hereafter effect a corporate reorganization, consolidate with, merge into, or be acquired by any Person or transfer of all or substantially all of its properties or assets to any Person.

(b) Licensee shall not sell, assign, or otherwise transfer this License Agreement or any of its rights, interests, duties, obligations, or remedies associated with this License Agreement, whether by operation of law, contract, or otherwise, without prior written approval from Johnstone, and this License Agreement shall not be sold, assigned or otherwise transferred by Licensee except in connection with the simultaneous sale, assignment or transfer, as applicable, of the Distribution Agreement.

12.11 **Successors and Assigns.** This License Agreement is binding on and inures to the benefit of the Parties to this License Agreement and their respective permitted successors and permitted assigns.

12.12 **No Third-Party Beneficiaries.** Except as otherwise expressly provided herein, this License Agreement benefits solely the Parties to this License Agreement and their respective permitted successors and assigns, and nothing in this License Agreement, express or implied, confers on any other Person any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this License Agreement.

12.13 **Independent Contractors.** The Parties are independent contractors and nothing in this License Agreement shall be deemed or constructed as creating a joint venture, employment, partnership, or agency relationship between Johnstone and Licensee. Neither Party, by virtue of this License Agreement, will have any right, power, or authority to act or create an obligation, express or implied, on behalf of the other Party. Each Party assumes responsibility for the actions of its Personnel under this License Agreement and will be solely responsible for their supervision, daily direction, and control, wage rates, withholding income taxes, disability benefits, or the manner and means through which the work under this License Agreement will be accomplished. Except as provided otherwise in this License Agreement, Licensee has the sole discretion to determine Licensee's methods of operation, Licensee's accounting practices, the types and amounts of insurance Licensee carries, Licensee's Personnel practices, Licensee's advertising and

promotion, Licensee's Customers, and Licensee's operational areas and methods. The relationship created hereby between the Parties is intended to be solely that of supplier and distributor.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have executed this License Agreement as of the date written above:

JOHNSTONE SUPPLY, LLC

[LICENSEE]




By: _____
Name: _____
Title: _____


By: _____
Name: _____
Title: _____


SCHEDULE A

LICENSED JOHNSTONE MARKS

U.S. Trademarks:

Mark	Serial/Registration No.	Goods and Services
	1773286	Class 042: wholesale store and catalog services specializing in motors and motor accessories; blowers, fans and ventilation equipment; heating and air conditioning controls; HVAC/refrigeration equipment; refrigeration and air conditioning; pumps; water heater parts; appliance parts; maintenance and installation supplies; electrical; and tools and test instruments.
	1773287	Class 042: wholesale store and catalog services specializing in motors and motor accessories; blowers, fans and ventilation equipment; heating and air conditioning controls; HVAC/refrigeration equipment; refrigeration and air conditioning; pumps; water heater parts; appliance parts; maintenance and installation supplies; electrical; and tools and test instruments.
	3050713	Class 035: wholesale store and catalog services specializing in motors and motor accessories; blowers, fans and ventilation equipment; heating and air conditioning controls; HVAC/refrigeration equipment; refrigeration and air conditioning; pumps; water heater parts; appliance parts; maintenance and installation supplies; electrical; and tools and test instruments.
JOHNSTONE	0949208	Class 006: Kits containing nuts, bolts, and screws

		<p>Class 009: Electrical terminals; generator cartridges</p> <p>Class 008: Motor-driven belts</p> <p>Class 009: Thermocouples and thermostats</p>
JOHNSTONE	1816249	<p>Class 042: wholesale store and catalog services specializing in motors and motor accessories; blowers, fans and ventilation equipment; heating and air conditioning controls; HVAC/refrigeration equipment; refrigeration and air conditioning; pumps; water heater parts; appliance parts; maintenance and installation supplies; electrical; and tools and test instruments.</p>
JOHNSTONE SUPPLY	2172387	<p>Class 035: wholesale store and catalog services specializing in motors and motor accessories; blowers, fans and ventilation equipment; heating and air conditioning controls; HVAC/refrigeration equipment; refrigeration and air conditioning; pumps; water heater parts; appliance parts; maintenance and installation supplies; electrical; and tools and test instruments.</p>
 <p>JOHNSTONE UNIVERSITY</p>	6036282	<p>Class 041: Educational and training services provided in connection with the heating, ventilation, air conditioning, and refrigeration (HVACR) industry, namely, classes regarding HVACR goods and services, communications, business, and finance in the HVACR industry, and the installation of HVACR goods.</p>
<i>parallel</i>	3839874	<p>Class 007: Parts for heating, air conditioning and refrigerating systems, namely, electric motors.</p>
PART STOCK	5613820	<p>Class 009: Mobile application program to enable heating and air</p>

		conditioning contractors to ascertain availability and to maintain inventory of heating and air conditioning equipment and parts.
	88764499	Class 042: Providing a website featuring non-downloadable software for enabling heating and air conditioning contractors to ascertain availability and to maintain inventory of heating and air conditioning equipment and parts.

U.S. Trademarks - Unregistered Marks:

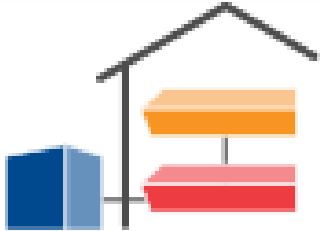
**THE
POWER
OF** ***JOHNSTONE***

**THE
POWER
OF** ***JOHNSTONE***



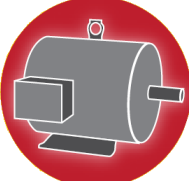
**JOHNSTONE
SUPPLY**

System Selector



**JOHNSTONE
SUPPLY**

Mini-Split Selector

MOTOR  **FINDER**



Supplier
of the MONTH



DIRECT CONNECT

SCHEDULE B

LICENSED JOHNSTONE INTELLECTUAL PROPERTY AND USAGE PARAMETERS

Product	Description	Additional Limitations	Fee	Fee Type
<u>https://johnstonesupply.com</u>	<u>Internet Domain Name</u>			
<u>AHRI System Selector</u>	<u>Licensed Software</u>			
<u>DirectConnect</u>	<u>Licensed Software</u>			
<u>JEN</u>	<u>Licensed Software</u>			
<u>Johnstone University Content</u>	<u>Licensed Software</u>			
<u>Motor Finder</u>	<u>Licensed Software</u>			
<u>PartStock (current version)</u>	<u>Licensed Software</u>			

SCHEDULE C

JOHNSTONE MANUALS

- Guidelines for Logo and Trademark Usage
- Johnstone University Brand Guidelines

EXHIBIT 2

CHARTER OF THE ADVISORY BOARD OF JOHNSTONE SUPPLY, LLC

[See attached]

**CHARTER OF THE ADVISORY BOARD
OF
JOHNSTONE SUPPLY, LLC**

Adopted as of [●], 2021

I. Establishment

The advisory board as described herein (the “*Advisory Board*”) is established to assist and advise Johnstone Supply, LLC (“*Johnstone*”) in connection with Johnstone’s distribution business governed by the Distribution Agreements between JS Business Owners and Johnstone (collectively, the “*Distribution Agreements*”), to which this charter (this “*Charter*”) is attached as an exhibit. Capitalized terms used but not defined in this Charter will have the meanings assigned to them by the Distribution Agreements or that certain Amended and Restated Limited Liability Company Agreement of Johnstone Supply Holdings, LLC (“*Holdings LLC*”), dated [●], 2021, by and among Holdings, LLC and its Members (the “*LLC Agreement*”).

II. Membership; Appointment and Removal

The Advisory Board shall be comprised of seven (7) members, which shall include each of the Continuing Investor Managers (as defined in the LLC Agreement) for so long as the Continuing Investors have the right to appoint any Continuing Investor Managers pursuant to Section 5.5(a)(ii) of the LLC Agreement. Each Advisory Board member must be a director, officer or owner of at least 10% interest of a JS Business Owner and such JS Business Owner (and its JSBO Affiliates) must be in material compliance with the terms of its Distribution Agreement. Subject to the appointment of the initial members of the Advisory Board and the filling of vacancies as set forth below, the appointment and removal (with or without cause) shall be by the affirmative vote of a majority of the JS Business Owners as of the date of such vote.

Notwithstanding the foregoing, a member of the Advisory Board shall be removed by the remaining members of the Advisory Board if such member: (i) has engaged in conduct detrimental to Johnstone, the Johnstone brand, or a JS Business Owner; (ii) commits or enters a plea of nolo contendere to a felony or other crime involving moral turpitude or the commission of any crime involving misappropriation, embezzlement, conversion of any property (including confidential or proprietary information) or business opportunities or fraud with respect to Holdings LLC or any of its Subsidiaries or any of their customers or suppliers; (iii) has failed to attend three (3) consecutive meetings of the Advisory Board; or (iv) is provided notice by Johnstone that such Advisory Board member’s JS Business Owner is in material non-compliance with the terms of its Distribution Agreement.

III. Initial Members, Term and Advisory Board Leadership

The initial members of the Advisory Board shall be Henry Puente, Michelle Thompson, Todd Cramer, Ryan Sadlier, and the three (3) other individuals elected for new terms to the Board of Directors of Johnstone Supply, Inc., an Oregon cooperative corporation (the “*Cooperative*”), at

its 2021 annual cooperative members meeting. The terms of such initial members shall be identical to the current terms of such members in their respective roles as members of the Board of Directors of the Cooperative prior to its conversion to Johnstone. Upon the expiration of an Advisory Board member's initial term, he or she shall be elected or otherwise replaced with another individual by the affirmative vote of a majority of the JS Business Owners as of the date of such vote, and such reappointed or newly appointed member (as applicable) shall serve a three (3) year term. Consistent with the Board of Directors of the Cooperative, the three (3) year terms of the Advisory Board will be staggered in order to help ensure continuity. If there is a vacancy on the Advisory Board caused by resignation, death, or incapacity of a member of the Advisory Board, then the Advisory Board shall appoint a member for the balance of the term of such vacant seat by the affirmative vote of a majority of the Advisory Board who are in office as of the date of such vote. For the avoidance of doubt, a vacancy must be filled by a director, officer or owner of at least 10% interest of a JS Business Owner and such JS Business Owner (and its JSBO Affiliates) must be in material compliance with the terms of its Distribution Agreement.

The Advisory Board shall appoint a Chair and Vice Chair of the Advisory Board. The Chair and Vice Chair of the Advisory Board shall be elected annually by the affirmative vote of a majority of the Advisory Board who are in office as of the date of such vote. The Chair and the Vice Chair shall serve one (1) year terms. The Chair and the Vice Chair shall have such duties, rights, and responsibilities as are typical for a Chair and Vice Chair of a board of directors.

IV. Responsibilities of the Advisory Board

The Advisory Board shall assist and advise the JS Business Owners and Johnstone in connection with their mutual business operations and relationships under the Distribution Agreements pursuant to the attached Advisory Board Policy and shall specifically have the following additional responsibilities:

a. nominate and appoint (including without limitation as a result of a vacancy caused by resignation, death, or incapacity) the Continuing Investor Managers to the Board of Johnstone Supply Holdings, LLC as defined and outlined in Section 5.5(a)(ii) of the LLC Agreement, and which Continuing Investor Managers must have the following attributes (as determined in the Advisory's Board reasonable discretion):

- i. a current member of the Advisory Board;
- ii. strong business acumen and financial literacy;
- iii. the ability to utilize strategic thinking, including the ability to look ahead, anticipate future scenarios, create a vision and develop business strategies;
- iv. informed judgment and decision making based on analysis and experience;
- v. high performance standards and ability to hold self and others to high standards;
- vi. ability to make decisions that are in the best long-term interest of Johnstone and JS Business Owners;
- vii. ability to devote the time necessary to his/her responsibilities;

- viii. ability to positively influence and lead others, and cognizant of his/her influence on Johnstone staff, JS Business Owners and suppliers;
 - ix. ability to avoid conflict of interest situations and work for the good of both Johnstone and JS Business Owners and not for personal gain;
 - x. willingness to take an active part in Board meetings, express opinions freely, listen to others, and be willing to abide by and support majority decisions of the Board; and
 - xi. be knowledgeable of the Distribution Agreement and the governance of Johnstone;
- b. meet regularly throughout the year either in-person or via remote means frequently enough to ensure that the Advisory Board can appropriately conduct its responsibilities;
 - c. provide an update on at least a quarterly basis regarding activities and accomplishments of the Advisory Board to the JS Business Owners; and
 - d. record and publish “minutes” of all Advisory Board meetings.

V. Responsibilities of Johnstone

Johnstone shall reimburse the Advisory Board for all reasonable direct out-of-pocket expenses incurred relating to the two (2) in-person conferences and/or retreats and regular “town hall” format or conference calls.

Johnstone shall provide commercially reasonable analytical information necessary for the Advisory Board to conduct its responsibilities outlined in Section IV.

Johnstone shall cause certain members of its senior leadership team and the Redwood Investor (as defined by the LLC Agreement), in each case, as determined by Johnstone in its reasonable discretion, to attend and participate in Advisory Board meetings.

Johnstone shall: (i) inform and discuss in advance with the Advisory Board of material and/or important business changes that are being contemplated by Johnstone; (ii) present Johnstone’s annual strategic plan to the Advisory Board; and (iii) share with the Advisory Board Johnstone’s financial results regularly and in a timely manner, in each case, in a form and manner to be determined by Johnstone in its reasonable discretion.

VI. Confidentiality

Each member of the Advisory Board shall retain in confidence all Confidential Information transmitted to him or her or otherwise obtained through his or her membership on the Advisory Board relating to Johnstone and JS Business Owners; provided, however, the Advisory Board may summarize Confidential Information for purposes of fulfilling its reporting obligations under this Charter, unless Johnstone specifically identifies certain Confidential Information that is not to be summarized or distributed. For purposes of this Charter, “**Confidential Information**” shall mean all information that any Advisory Board member receives from Johnstone in its capacity as an Advisory Board member. No member of the Advisory Board shall, directly or indirectly, make any use of any Confidential Information for any purpose except in furtherance of the Advisory Board’s obligations under the terms of this Charter. In addition, no member of the Advisory Board

shall use, directly or indirectly, any Confidential Information concerning Johnstone or any JS Business Owner obtained as a result of serving on the Advisory Board for any personal or business purpose without express written consent of Johnstone or the JS Business Owner, as applicable.

Confidential Information shall not include any information that: (i) is at the time of disclosure or subsequently becomes publicly available without a breach by the Advisory Board member of any obligations owed the disclosing party; (ii) became known to the Advisory Board member on a non-confidential basis prior to the disclosing party's disclosure of such information to the Advisory Board member; or (iii) became known to the Advisory Board member on a non-confidential basis from a source other than the disclosing party other than by the breach of an obligation of confidentiality owed to the disclosing party.

VII. Amendment

This Charter may only be amended with the consent of Johnstone and the affirmative vote of a majority of the JS Business Owners as of the date of such vote.

Policy: Advisory Board

(Capitalized terms adapt the definition outlined in the Distribution Agreement)

Effective:

[●]

Purpose: The Advisory Board is a group of JS Business Owners selected by JS Business Owners to assist and advise Johnstone in connection with Johnstone’s distribution business. This policy outlines the responsibilities of the Advisory Board as well as restrictions on its actions.

The Advisory Board shall:

- a. make recommendations on minimum requirements with respect to store layouts, the breadth of service offerings, and a variety of operational issues related to the strategic and advisory support and services provided by Johnstone;
- b. determine, in conjunction with Johnstone, the location and content of two (2) in-person (conditions allowing) conferences and/or retreats organized by Johnstone with the full group of JS Business Owners each year held in the United States;¹
- c. lead and organize regular “town hall” format or conference calls;
- d. provide input and make recommendations to Johnstone regarding (i) regular updates to Johnstone Manuals, (ii) minimum performance standards for JS Business Owners, (iii) key performance requirements of Johnstone, (iv) technology development priorities, (v) supply chain expansion and development priorities, (vi) new manufacturers for consideration, (vii) strategic changes/events in the HVAC/R industry, and (viii) other similar business priorities and considerations;
- e. provide input and make recommendations to Johnstone regarding (i) national brand promotion and advertising programs, (ii) national digital advertising program that will improve the presence of the Johnstone brand and products across the web, and (iii) training programs for the JS Business Owner, their staff, and Customers (including Johnstone University); and
- f. provide input and make recommendations to Johnstone regarding the implementation and operations of the Johnstone Specialty Sales Program (e.g. Strategic/National Account Sales & Online Sales Programs), and other strategic sales programs as maybe developed.

¹ Note to Draft: It is our understanding that Johnstone / corporate organizes these bi-annual meetings today and we would like support from Advisory Board, but don’t expect that practice to change

The Advisory Board shall not make recommendations on the following topics:

- a. Decisions on exclusivity, creation, expansion, or elimination of Territory;
- b. Minimum or maximum recommended pricing, rebates, and discounts (both to JS Business Owners and to End Users); and
- c. Assigning customer accounts to certain JS Business Owners.

All recommendations by the Advisory Board are merely advisory, and sole decision-making authority regarding the operations of Johnstone rest solely with Johnstone.

EXHIBIT 3

JOINDER TO DISTRIBUTION AGREEMENT BY JSBO AFFILIATES

The undersigned (the “*Company*”) has been selected by the JS Business Owner identified below as an authorized JSBO Affiliate of the JS Business Owner in connection with JS Business Owner’s distribution of Johnstone Product Offerings pursuant to the Distribution Agreement (the “*Agreement*”) between JS Business Owner and Johnstone Supply, LLC. Capitalized terms not otherwise defined in this Joinder to Distribution Agreement by JSBO Affiliates (this “*Joinder*”) will have the meaning ascribed to them in the Agreement.

1. In consideration of the opportunity to act as a JSBO Affiliate under the Agreement, the Company acknowledges (a) that it has been informed of and agrees to be bound by all terms, covenants and obligations applicable to JS Business Owner under the Agreement, including the License Agreement, Minimum Performance Requirements and Territory guidelines, and all other provisions of the Johnstone Manuals; (b) Johnstone will have the right to enforce the Agreement terms against the Company, including the License Agreement, Minimum Performance Requirements and Territory guidelines, and all other provisions of the Johnstone Manuals; and (c) Company will appoint no sub-distributors or agents or assign any rights or obligations related to the Agreement without Johnstone’s written consent.

2. Company certifies that, as of the date hereof (a) all of the representations and warranties applicable to the JS Business Owner, including those contained in Section 14 of the Agreement, are true and correct as if each such representation and warranty had been made by the Company and (b) Company is an Affiliate of JS Business Owner and under Control of JS Business Owner.

3. Company reaffirms (a) all of its covenants and obligations set forth in that certain [Security Agreement] dated [•] between Company and Johnstone Supply, Inc. n/k/a Johnstone, and any other related security interest documents to which Company is a party (as the same may be amended or replaced) (the “*Security Documents*”), (b) all security interests granted to Johnstone or otherwise supporting Company’s obligations to Johnstone (the “*Existing Liens*”), and all guaranty[ies] executed by Company in favor of Johnstone. The undersigned individual[s], constituting all of the [shareholders/members] of Company, further reaffirm[s] all of [his/her/their respective] covenants and obligations under any personal guaranty[ies] executed by [him/her/them] in favor of Johnstone. Upon execution of this Joinder, the Existing Liens shall continue and the Security Documents shall continue to secure Company’s obligations to Johnstone.

4. Company agrees that its prior Non-Member Patronage Agreement with Johnstone Supply, Inc., an Oregon cooperative corporation (“*Prior Agreement*”) is terminated effective the date of this Joinder and shall no longer have any force or effect, provided that such termination shall not: (a) release Company from its obligations of confidentiality or inspection imposed under the Prior Agreement; (b) affect the right of Johnstone to setoff any claim it may have against Company against any amounts which may be payable to Company under the Prior Agreement, subject to the terms of the Conversion and Merger Agreement; (c) affect the ability of Johnstone to recover from the other Company any money owed to Johnstone by Company under the Prior Agreement, if any; and (d) terminate the Company’s interests, if any, in any unpaid patronage credits or rebates that accrued prior to termination, any unclosed cooperative pool, or any capital credits that accrued prior to termination, in each case, solely to the extent payable in accordance with the Conversion and Merger Agreement. Except for the parties’ rights and obligations under this Joinder, the Agreement, and the rights and obligations set forth in this paragraph, the Company (on behalf of the Company and, as applicable, its employees, officers, managers, equityholders, members, directors, shareholders, Representatives, agents, successors, predecessors, affiliates, attorneys and assigns (the “*Releasing Parties*”)) hereby releases, acquits and forever discharges Johnstone and its employees, officers,

directors, Representatives, agents, successors, predecessors, affiliates, attorneys and assigns (collectively, the “**Released Parties**”), from any and all claims, rights, demands, causes of action, suits, debts, obligations, liabilities, damages, losses, costs and expenses (including attorneys’ fees), whether based on federal, state, local, statutory or common law or any other law, rule, or regulation, of any kind, nature and/or description, matured or unmatured, liquidated or unliquidated, accrued or unaccrued, actual or potential, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not asserted, threatened, alleged or litigated, at law, equity or otherwise, arising out of, relating to, or resulting from any circumstances, conduct, facts, events, transactions, acts, occurrences, statements, representations, misrepresentations or omissions, errors, negligence, breach of contract, tort, violation of Law, matter or cause occurring or arising prior to or on the date of this Joinder, and arising from or related in any way to the ownership, management or operation of Johnstone Supply, LLC or its predecessor on or prior to the date of this Joinder, which any of the Releasing Parties has had, now has, or may have in the future against the Released Parties.

5. Company acknowledges and agrees that any and all agreements, rights, and obligations between JS Business Owner and Company are subordinate in all respects to the Agreement’s terms.

IN WITNESS WHEREOF, the Company has executed this Agreement as of _____, _____, 2021.

[JSBO]

By _____
Name:
Title:

[SHAREHOLDERS/MEMBERS] OF JSBO:

By _____
[Individual]

By _____
[Individual]

EXHIBIT 4

JS BUSINESS OWNER

FRANCHISE LAW EXEMPTIONS QUALIFICATION CERTIFICATION

This Certification is given, dated and effective as of [expected to be on or before December 30, 2021 for Johnstone Supply, Inc. members, (the “*Effective Date*”)] by _____, a _____ (“*JS Business Owner*”), with its principal place of business located at _____, _____, _____ to Johnstone Supply, Inc., an Oregon cooperative corporation (the “*Cooperative*”) and its successor, Johnstone Supply, LLC (“*Johnstone*”) for Johnstone to rely upon in connection with entering into a Distribution Agreement with JS Business Owner.

CERTIFICATION

The following acknowledgments, certifications, representations and warranties are accurate, true and correct, and the Cooperative and Johnstone are authorized to rely upon them in connection with entering into the Distribution Agreement with JS Business Owner. The undersigned is a duly authorized director, officer, principal owner or other authorized representative of JS Business Owner who is authorized to sign and deliver this Certification on JS Business Owner’s behalf and warrant and represent that the same are true and correct as of the Effective Date.

Check (✓) any and all of the following that apply:

1. JS Business Owner, on its own or together with its affiliates, has over 5 years of business experience having been engaged in 1 or more businesses of any type for more than 5 years.
2. JS Business Owner, on its own or together with its affiliates, has engaged in business as a member (or non-member patron as applicable) of Johnstone for more than 2 years immediately preceding the Effective Date.
3. JS Business Owner, on its own or together with its affiliates and parents, has a net worth of at least \$6,165,500.
4. JS Business Owner’s total initial investment in its Johnstone business (inclusive of its capital contribution in Johnstone in connection with the execution of the Distribution Agreement, purchases of products from Johnstone for the first 3 months immediately following the Effective Date, and initial capital it made to initially commence operations, but exclusive of the cost of unimproved land and any financing from Johnstone or its affiliates) exceeds \$1,233,000. Accordingly, the JS Business Owner acknowledges:

The franchise sale is for more than \$1,233,000 — excluding the cost of unimproved land and any financing received from the franchisor or an affiliate — and thus is exempted from the Federal Trade Commission’s Franchise Rule disclosure requirements, pursuant to 16 CFR 436.8(a)(5)(i).

5. All of the equity owners of JS Business Owner either:

- (a) are natural persons who had an individual income in excess \$300,000 in each of the 2 most recent years or joint income with that person's spouse in excess of \$500,000 in each of those years, and has a reasonable expectation of reaching the same income level in the current year; and/or
 - (b) are natural persons whose individual net worth, or joint net worth with that person's spouse, exceeds \$1,000,000, excluding the value of their primary residence and also excluding any mortgages on such residence as the corresponding liability.
- 6. JS Business Owner, together with its principal owners, are seasoned business operators who have knowledge and experience in financial and business matters such that JS Business Owner has evaluated the merits and risks of the prospective franchise investment.
- 7. JS Business Owner, through the undersigned and its other officers, directors and authorized representatives, has knowledge and experience in financial and business matters, either alone or with professional advisors who are unaffiliated with, and not directly or indirectly compensated by, Johnstone or an affiliate or their selling agents, and the undersigned has the capacity to evaluate the merits and risks of, and protect its own interests in, if any, an investment in the franchise.
- 8. JS Business Owner is able to bear the economic risks of an investment in the franchise.
- 9. JS Business Owner is acquiring the franchise for the purpose of conducting the business as a franchise distributorship and not with a view towards, or for a sale of the franchise or any interest in the franchise. JS Business Owner has no contract, undertaking, agreement or arrangement with any person to sell or transfer the franchise or any interest in it and has no present plans or intentions to enter into any such contract, undertaking or arrangement.

IN WITNESS WHEREOF, the undersigned executes this certification and declares that it is accurate, truthful and correct.

JS BUSINESS OWNER

Signature: _____

Print Name: _____

Title: _____

Date: _____

EXHIBIT B
CONTRIBUTION ELECTION FORM

[Attached]

CONTRIBUTION ELECTION FORM¹

To: Each Cooperative Member (a “Member”) of Johnstone Supply, Inc., an Oregon cooperative corporation (the “Cooperative”):

I. ELECTION.

A. Rollover Election.

____ **YES**, the undersigned Member (the “Undersigned”) elects to make a “Rollover Election” meaning that, after giving effect to the Conversion and the receipt by the Undersigned of Company Units of Johnstone Supply LLC, a Delaware limited liability company (“Johnstone”), the Undersigned elects:

(1) to receive, in exchange for Company Units with a value (based on the Cash Consideration to which such Company Units would otherwise be entitled assuming the Elected Rollover Amount was \$0) equal to the Undersigned’s Base Rollover Amount (as defined below) to which the Undersigned would otherwise be entitled as a result of the Merger, a number of Common Units (the “Intermediate Common Units”) of Johnstone Supply Intermediate, LLC, a Delaware limited liability company (“Intermediate”), equal to (a) the product (the “Undersigned’s Base Rollover Amount”) of the Undersigned’s ratable percentage (determined based on the Company Units of Johnstone received by the Undersigned in the Conversion relative to the total Company Units of Johnstone issued in the Conversion) *multiplied by* the Rollover Amount, *divided by* (b) \$100 (such exchange, the “Intermediate Rollover Exchange”); and

(2) immediately after the Intermediate Rollover Exchange described above, exchange its Intermediate Common Units for an identical number of Common Units (the “Holdings Common Units”) of Johnstone Supply Holdings, LLC, a Delaware limited liability company (“Holdings”) (such exchange, the “Holdings Rollover Exchange”).

By initialing or marking “YES” above and executing and delivering the “Required Accompanying Documents” in Part I.C below, the Undersigned hereby makes a Rollover Election and agrees to consummate the Intermediate Rollover Exchange and Holdings Rollover Exchange and hereby (A) acknowledges that he, she or it

¹ Capitalized terms used, but not otherwise defined, in the Contribution Election Form have the meanings set forth in the Agreement and Plan of Conversion and Merger, dated as of August 24, 2021, by and among the Cooperative, certain Members’ Representatives named therein, Johnstone Supply Buyer, LLC, a Delaware limited liability company, and Annandale Merger Sub, LLC, a Delaware limited liability company (as amended, modified, supplemented or waived from time to time, the “Merger Agreement”). This Contribution Election Form should be reviewed in connection with that certain Confidential Information Statement with respect to Common Units of Johnstone Supply Holdings, LLC, dated as of August 30, 2021 (as amended, modified, supplemented or waived from time to time, the “Information Statement”).

will, after giving effect to the Conversion and the Intermediate Rollover Exchange and Holdings Rollover Exchange, become a member of Holdings, will no longer be a member of Johnstone or Intermediate or have any rights under the Johnstone limited liability company agreement (the “Johnstone LLC Agreement”), (B) acknowledges, accepts and agrees to the statements set forth in Part II below, (C) makes the representations, warranties, covenants and agreements set forth in Part III below and (D) agrees to the transfer restrictions and other agreements set forth in Part IV below.

_____ **NO**, the Undersigned does not elect to make a Rollover Election and does not elect to receive Intermediate Common Units (or Holdings Common Units) and instead elects to receive the entire portion of the Cash Consideration to which the Undersigned is entitled in cash in exchange for 100% of the Undersigned’s Company Units at the effective time of the Merger. By initialing or marking this paragraph, the Undersigned hereby acknowledges, accepts and agrees to the statements set forth in Part II below. **In marking “NO”, the Undersigned acknowledges and agrees that, unless otherwise agreed in writing by Johnstone, Johnstone will not enter into a Distribution Agreement with the Undersigned.**

If you marked **YES** above, please indicate below in Part I.B if you wish to make an “Upsize Election”. If you marked **NO** above, you are not eligible to make an Upsize Election.

B. Upsize Election

_____ **YES**, the Undersigned elects to make an “Upsize Election” meaning that, to the extent that any other Member of the Cooperative did not make a timely Rollover Election and thus any portion of the Rollover Amount is not subscribed for by one or more Members (the portion not subscribed for, the “Remaining Rollover Amount”), the Undersigned elects:

(1) to receive, in exchange for Company Units with a value (based on the Cash Consideration to which such Company Units would otherwise be entitled assuming the Elected Rollover Amount was \$0) equal to the Undersigned’s Additional Rollover Amount (as defined below) to which the Undersigned would otherwise be entitled as a result of the Merger, a number of Intermediate Common Units equal to (a) the product (the “Undersigned’s Additional Rollover Amount”) equal to the Undersigned’s ratable percentage (determined based on the Company Units of Johnstone received by the Undersigned in the Conversion relative to the total Company Units of Johnstone issued in the Conversion that are held by all Members that have made timely Upsize Elections) *multiplied by* the Remaining Rollover Amount *divided by* (b) \$100 (the “Intermediate Upsize Exchange”); and

(2) immediately after the Intermediate Upsize Exchange described above, exchange its Intermediate Common Units for an identical number of Company Common Units (such exchange, the “Holdings Upsize Exchange”).

By initialing or marking this paragraph and executing and delivering the “Required Accompanying Documents” in Part I.C below, the Undersigned hereby makes an Upsize Election and agrees to consummate the Intermediate Upsize Exchange and Holdings Upsize Exchange and hereby (A) acknowledges that he, she or it will, after giving effect to the Conversion and the Intermediate Upsize Exchange and Holdings Upsize Exchanges, become a member of Holdings, will no longer be a member of Johnstone or Intermediate or have any rights under the Johnstone LLC Agreement, (B) acknowledges, accepts and agrees to the statements set forth in Part II below, (C) makes the representations, warranties, covenants and agreements set forth in Part III below and (D) agrees to the transfer restrictions and other agreements set forth in Part IV below.

____ **NO**, the Undersigned does not elect to make an Upsize Election. By initialing or marking this paragraph, the Undersigned hereby acknowledges, accepts and agrees to the statements set forth in Part II below.

C. Required Accompanying Documents. Please confirm your election by:

- marking and executing this Contribution Election Form;
- executing and delivering and having notarized the Power of Attorney attached hereto as Appendix B;
- executing and delivering a joinder to the Limited Liability Company Agreement of Intermediate attached hereto as Appendix C; and
- executing and delivering a joinder to the Limited Liability Company Agreement of Holdings attached hereto as attached hereto as Appendix D.

In order to make a Rollover Election you will also need to execute and deliver the Distribution Agreement and all documents required to be executed and delivered in connection therewith, as directed by Johnstone and as more fully described in the Franchise Disclosure Document from Johnstone, dated on or about September 30, 2021.

D. Default; If No Election is Made.

IF YOU FAIL TO TIMELY DELIVER THIS CONTRIBUTION ELECTION FORM PROPERLY COMPLETED ON OR BEFORE 11:59 P.M. EASTERN TIME OCTOBER 22, 2021 (AS THE SAME MAY BE EXTENDED BY WRITTEN NOTICE FROM HOLDINGS, THE “DEADLINE DATE”). YOU WILL AUTOMATICALLY BE DEEMED TO HAVE FOREGONE AND IRREVOCABLY WAIVED YOUR RIGHT TO MAKE ANY OF THE FOREGOING ELECTIONS WITH RESPECT TO YOUR COMPANY UNITS AND WILL RECEIVE THE

CONSIDERATION DESCRIBED BELOW. UNLESS OTHERWISE AGREED IN WRITING BY JOHNSTONE, IF THE UNDERSIGNED FAILS TO MAKE A ROLLOVER ELECTION BY THE DEADLINE DATE, JOHNSTONE WILL NOT ENTER INTO A DISTRIBUTION AGREEMENT WITH THE UNDERSIGNED.

As a default option, and if no further action by you, pursuant to the Merger Agreement and in accordance with the Company LLC Agreement, your Company Units will, in connection with the consummation of the Merger, convert into the right to receive only Cash Consideration (subject to delivery of the completed and executed Owner's Certificate and Indemnity) as described in the Merger Agreement.

E. Effect of Election

By making the Rollover Election or the Upsize Election, as applicable, you are agreeing to consummate the Intermediate Rollover Exchange and Holdings Rollover Exchange (in the case of a Rollover Election) and an Intermediate Upsize Exchange and Holdings Upsize Exchange (in the case of an Upsize Election) and, subject to the following paragraph, are agreeing to deliver to (a) Intermediate all right, title and interest in and to your Company Units delivered as part of the Intermediate Rollover Exchange or the Intermediate Upsize Exchange, as applicable, and (b) Holdings all right, title and interest in and to your Intermediate Common Units delivered as part of the Holdings Rollover Exchange or the Holdings Upsize Exchange, as applicable. You should consult your own tax advisor as to the consequence of making the Rollover Election and the Upsize Election.

Notwithstanding any contribution of Company Units in exchange for Intermediate Common Units (and thereafter Holdings Common Units), a Member making a Rollover Election or Upsize Election will be entitled to receive in respect of each Company Unit outstanding immediately prior to the Intermediate Rollover Exchange or the Intermediate Upsize Exchange, as applicable, its ratable portion of any cash paid to former holders of Company Units to the extent paid (A) pursuant to Section 1.05(c) of the Merger Agreement, or (B) upon the release of all or any portion the Indemnification Escrow Amount, the Purchase Price Adjustment Escrow Amount, the PPP Escrow Amount and/or the Members' Representatives Escrow Fund pursuant to the terms of the Escrow Agreement or the PPP Escrow Agreement (as applicable) (any amounts payable pursuant to (A) or (B), the "Post-Closing Cash Payments").

The Undersigned understands that in order to make this Contribution Election Form valid, the Undersigned is executing and delivering this Contribution Election Form (and thereby acknowledges, accepts and agrees to the statements set forth in Part II below, and to the extent in which the Undersigned has marked YES in Part I.A or Part I.B above, (i) makes the representations, warranties, covenants and agreements set forth in Part III below and (ii) agrees to the transfer restrictions and other agreements set forth in Part IV below) and is simultaneously delivering the “Required Accompanying Documents” in Section I.C above, as applicable, properly and accurately completed.

In addition, the Undersigned understands that Holdings may require that the Undersigned execute and/or provide additional documents, information, certificates or other instruments to effectuate fully the consummation of transactions contemplated hereby, and the Undersigned agrees to execute and return to the Manager of Johnstone in a timely manner all such items as requested of the Undersigned by such Manager.

DATED: _____, 2021

If Undersigned is a Natural Person:

Signature

Print Name

If Undersigned is an Entity:

Name of Entity
(Fill in necessary signature block information below)

By: _____
Name: _____
Title: _____

II. ACKNOWLEDGEMENTS AND AGREEMENTS.

The Undersigned acknowledges and agrees that it has received, and reviewed to its satisfaction, the Contribution Election Form, that certain Confidential Information Statement with respect to Common Units of Holdings, dated as of August 30, 2021 (as the same may be supplemented), the Merger Agreement, the Distribution Agreement and the Franchise Disclosure Document of Johnstone, dated as of September 30, 2021, and the other agreements related to the Merger referenced herein or therein.

The Undersigned further understands, acknowledges and accepts the following:

- A. The Undersigned's decision whether or not to elect to make a Rollover Election or Upsize Election is voluntary and within the Undersigned's discretion. None of the Cooperative, Johnstone, Intermediate, Holdings, Buyer or any of their respective affiliates or representatives or anyone else on behalf of the foregoing is making any recommendation as to what the Undersigned's decision should be.
- B. Upon consummation of the Intermediate Rollover Exchange or the Intermediate Upsize Exchange, as applicable, the Undersigned will no longer be a member of Johnstone or have rights under the Company LLC Agreement. Upon consummation of the Holdings Rollover Exchange or the Holdings Upsize Exchange, as applicable, the Undersigned will no longer be a member of Intermediate or have rights as a member or equityholder of Intermediate.
- C. **The Rollover Amount and accordingly the Undersigned's Base Rollover Amount and the Undersigned's Additional Rollover Amount are not known and will not be known until immediately prior to consummation of the Intermediate Rollover Exchange and the Intermediate Upsize Exchange and may vary (including materially) based on a number of factors, as more fully outlined in the Confidential Information Statement. In making the Rollover Election or Upsize Election, as applicable, the Undersigned is committing to the Intermediate Rollover Exchange and the Intermediate Upsize Exchange, as applicable, and the Holdings Rollover Exchange and the Holdings Upsize Election, as applicable, regardless of the amounts of the Rollover Amount, the Undersigned's Base Rollover Amount and Undersigned's Additional Rollover Amount, as finally determined, and the Undersigned waives rights, claims and causes of action related thereto.**
- D. The Undersigned acknowledges and agrees that the aggregate number of Company Units to be issued upon the Conversion to all Members will be equal to the Cash Consideration plus the Elected Rollover Amount and notwithstanding any consummation of the Rollover Election or the Upsize Election by the Undersigned or the consummation of a similar election by any other Member, the Company Units that are being exchanged in any Intermediate Rollover Exchange and the Intermediate Upsize Exchange (whether by the Undersigned or any other Member consummating a similar exchange) will continue to participate in Post-Closing Cash Payments based on the ratable number of Company Units issued to each such Member as a result of the Conversion.

- E. If the Undersigned makes a Rollover Election or Upsize Election, the Undersigned acknowledges and agrees that it must return this Contribution Election Form properly completed in accordance with the below instructions on or before the Deadline Date. The Undersigned may change its election at any time until the Deadline Date by cancelling their initial Contribution Election Form in writing and returning an updated Contribution Election Form in accordance with the below instructions. The Undersigned acknowledges and agrees that Johnstone, Intermediate and Holdings are relying on the elections made in this Contribution Election Form and the Undersigned's other agreements set forth in this Contribution Election Form in committing to consummate the transactions contemplated by the Merger Agreement and as a result, at the Deadline Date, the Undersigned's elections will become irrevocable and shall not be subject to change unless otherwise agreed by Holdings. If the Undersigned does not return this Contribution Election Form in accordance with the below instructions on or before the Deadline Date, the Undersigned will automatically be determined to have foregone and irrevocably waive the right to make the Rollover Election and the Upsize Election, and will receive the consideration described under "Default; If No Election is Made" above.

III. REPRESENTATIONS, WARRANTIES, COVENANTS AND AGREEMENTS IF AN ELECTION IS MADE.

The Undersigned represents and warrants to each of Johnstone, Intermediate and Holdings as follows as of the date of this Contribution Election Form and as of the Closing Date:

(a) The Undersigned possesses all requisite power and authority to enter into this Contribution Election Form and the agreements contemplated hereby and to perform the Undersigned's obligations hereunder and thereunder. The execution and delivery by the Undersigned of this Contribution Election Form and the agreements contemplated hereby, the performance by the Undersigned of the Undersigned's obligations hereunder and thereunder, and the consummation by the Undersigned of the transactions contemplated hereby and thereby have been duly authorized by the Undersigned. This Contribution Election Form has been duly executed and delivered by the Undersigned and constitutes the Undersigned's legal, valid and binding obligation, enforceable against the Undersigned in accordance with its terms, subject to applicable bankruptcy, insolvency and similar laws affecting creditors' rights generally.

(b) The execution and delivery by the Undersigned of this Contribution Election Form and the agreements contemplated hereby, and the performance by the Undersigned of the Undersigned's obligations hereunder and thereunder, do not and will not violate (i) any provision of any material agreement to which the Undersigned is a party or by which it, he or she is bound or (ii) any law, rule, regulation, judgment, order or decree to which the Undersigned is subject. No consent, waiver, approval, authorization, exemption, registration, license or declaration is required to be made or obtained by the Undersigned in connection with the execution, delivery or enforceability of this Contribution Election Form and the agreements contemplated hereby or the consummation of any of the transactions contemplated herein and therein.

(c) As of the date hereof, there are no actions, suits, proceedings or orders pending or, to the Undersigned's knowledge, threatened against the Undersigned at law or in equity, or before or by any governmental entity, with respect to the Company Units or the Undersigned's membership interest in the Cooperative, which would adversely affect the Undersigned's performance under this Contribution Election Form and the agreements contemplated hereby or the consummation of the transactions contemplated hereby or thereby.

(d) The Undersigned owns all right, title and interest in and to the Company Units being exchanged by the Undersigned in the Intermediate Rollover Exchange and the Intermediate Upsize Exchange and, assuming the valid issuance thereof by Intermediate of the Intermediate Common Units received by the Undersigned in such exchanges, will own all right, title and interest in and to the Intermediate Common Units being exchanged by the Undersigned in the Holdings Rollover Exchange and the Holdings Upsize Exchange.

(e) As of the date hereof, the Undersigned is not in violation of any law, rule, regulation, judgment, order or decree, which violation could reasonably be expected at any time to have a material adverse effect upon the Undersigned's ability to enter into this Contribution Election Form and the agreements contemplated hereby or to perform the Undersigned's obligations hereunder and thereunder.

(f) There are, and shall be, no claims for brokerage commissions, finders' fees or similar compensation payable by Holdings or any of its subsidiaries in connection with the transactions contemplated by this Contribution Election Form based on any arrangement or agreement to which the Undersigned is a party or to which the Undersigned is subject.

(g) The Intermediate Common Units and Holdings Common Units to be acquired by the Undersigned pursuant to this Contribution Election Form shall be acquired for the Undersigned's own account and not with a view to, or intention of, distribution thereof in violation of the Securities Act or any applicable state securities laws, and such Intermediate Common Units and Holdings Common Units will not subsequently be disposed of by the Undersigned in contravention of the Securities Act or any applicable state securities laws.

(h) The Undersigned understands that (i) the offer and sale of the Intermediate Common Units and Holdings Common Units have not been registered under the Securities Act; (ii) the Intermediate Common Units and Holdings Common Units must be held indefinitely and the Undersigned must continue to bear the economic risk of the investment in such units unless the offer and sale of

such Intermediate Common Units and Holdings Common Units are subsequently registered under the Securities Act and all applicable state securities laws or an exemption from such registration is available; and (iii) there is no established market for the Intermediate Common Units and Holdings Common Units and it is not anticipated that there will be any public market for such Intermediate Common Units and Holdings Common Units in the foreseeable future.

(i) The Undersigned's financial situation is such that the Undersigned (i) can afford to bear the economic risk of holding the Holdings Common Units for an indefinite period of time; (ii) has adequate means for providing for the Undersigned's current needs and contingencies; and (iii) can afford to suffer a complete loss of investment in the Holdings Common Units.

(j) The Undersigned is an "accredited investor," as such term is defined in Rule 501(a) of Regulation D promulgated under the Securities Act, and/or the Undersigned's knowledge and experience in financial and business matters is such that the Undersigned is capable of evaluating the merits and risks of the investment in the Intermediate Common Units and the Holdings Common Units. The Undersigned is acquiring the Intermediate Common Units and the Holdings Common Units pursuant to this Contribution Election Form for the Undersigned's own account with the present intention of holding such securities for investment purposes and has no intention of selling such securities in a public distribution in violation of federal securities laws or any applicable state securities laws. The Undersigned acknowledges and agrees that the Accredited Investor Questionnaire previously submitted by the Undersigned to the Cooperative remains accurate and complete in all respects and may be relied upon by Holdings, Intermediate, Johnstone and the Cooperative.

(k) The Undersigned has independently, and without reliance upon Holdings, any of its affiliates or any representative or agent of the foregoing, and based on such documents and information as the Undersigned has deemed appropriate, performed his, her or its own due diligence and business investigations with respect to Holdings, Intermediate, Buyer and their respective Subsidiaries and made its, his or her own investment decision with respect to the investment represented by the Intermediate Common Units and the Holdings Common Units. The Undersigned is fully familiar with the nature of the businesses of Holdings and its Subsidiaries. The Undersigned has had an opportunity to ask questions and receive responses concerning the terms and conditions of the offering and issuance of the Intermediate Common Units and the Holdings Common Units hereunder and has had full access to such other information as the Undersigned has requested. Except as expressly set forth in this Contribution Election Form or any other Required Accompanying Document to which such Person is party, the Undersigned acknowledges that none of Holdings, Intermediate, Buyer, Johnstone, their respective subsidiaries, affiliates, successors, beneficiaries, heirs and assigns and its and their past and present directors, managers, officers, employees, and agents

(including, without limitation, their attorneys) makes or has made, and the Undersigned nor any Person acting on the Undersigned's behalf or any direct or indirect equityholder of the Undersigned has relied upon, any representations or warranties to the Undersigned regarding Holdings or its subsidiaries or affiliates or the Undersigned's receipt or ownership of Intermediate Common Units or Holdings Common Units. The Undersigned understands that, except as required under applicable law, the Undersigned shall have no right to be advised of any material information regarding Holdings or any of its Subsidiaries at any time prior to, upon or in connection with the repurchase or sale of any Intermediate Common Units and the Holdings Common Units or otherwise.

(l) The Undersigned understands that any forward-looking information related to Holdings provided to the Undersigned by Holdings or any other Person is uncertain and speculative in nature and such Person conducted its own assessment of such information.

IV. OTHER AGREEMENTS.

If and only if the Undersigned has made a Rollover Election, the Undersigned hereby agrees to comply with the following:

- A. In the event that any of the statements, representations or warranties made or information provided by the Undersigned herein is untrue or ceases to be true as of any date subsequent to the date hereof, will not be true as of the Closing, or if there is any change in the form of entity of the Undersigned (*e.g.*, conversion of a limited partnership into a limited liability company), the Undersigned shall promptly but in no event later than five calendar days after the Undersigned's knowledge thereof (and in any event five Business Days prior to the Closing) notify the Company of such change.
- B. The Undersigned agrees and consents to, and hereby waives for the benefit of Holdings, Intermediate, Buyer, Johnstone, and their respective affiliates, subsidiaries, equityholders, officers, directors, managers, attorneys and other advisors, any and all claims and causes of action arising out of, related to or in connection with, the transactions contemplated by the Merger Agreement, including but not limited to, for all purposes of the Articles of Incorporation of the Cooperative and the Johnstone LLC Agreement.
- C. Effective as of the Closing, unless separately executed and delivered by Holdings, Intermediate or the Buyer, the Undersigned agrees that, automatically and without further action on the part of any party hereto, any side letter or similar arrangement (excluding, for the avoidance of doubt, any Required Accompanying Documents) executed by the Undersigned with Johnstone shall be cancelled and terminated without further liability to any party thereto.
- D. The Undersigned acknowledges and agrees that, including after any termination of the Merger Agreement, (i) prior to the Conversion, all membership interests in the Cooperative shall be subject to the Articles of Incorporation and Bylaws of the Cooperative and (ii)

after the Conversion, all Company Units held by the Undersigned shall be subject to the Company LLC Agreement, in each case as in effect prior to the making of any Rollover Election or Upsize Election hereunder and prior to the consummation of the transactions contemplated hereby, as though the Rollover Election and Upsize Election and the other transactions contemplated hereby were never consummated and this Contribution Election Form never entered into.

V. MISCELLANEOUS.

This Contribution Election Form and the various appendices hereto, and all claims or causes of action (whether at law or in equity, in contract or in tort) that may be based upon, arise out of or relate to this Contribution Election Form, the various appendices hereto, or the negotiation, execution or performance hereof, or the transactions contemplated hereby, shall be governed by, and construed in accordance with, the laws of the State of Delaware, without giving effect to any choice of law or conflict of law provisions (whether of the State of Delaware or any other jurisdiction) that would cause the application of the Laws of any other jurisdictions other than the State of Delaware.

ANY LEGAL SUIT, ACTION, OR PROCEEDING ARISING OUT OF OR BASED UPON THIS CONTRIBUTION ELECTION FORM OR THE TRANSACTIONS CONTEMPLATED HEREBY (EACH, A "COVERED CLAIM") SHALL BE INSTITUTED EXCLUSIVELY IN THE DELAWARE CHANCERY COURT OR, IF SUCH COURT SHALL NOT HAVE JURISDICTION, ANY FEDERAL COURT LOCATED IN THE STATE OF DELAWARE OR OTHER DELAWARE STATE COURT AND THE APPLICABLE APPELLATE COURTS (THE "CHOSEN COURT"). THE UNDERSIGNED EXPRESSLY AGREES AND ACKNOWLEDGES THAT EACH OF THE CHOSEN COURTS IS AN APPROPRIATE AND CONVENIENT FORUM FOR RESOLUTION OF ANY AND ALL COVERED CLAIMS, THAT IT WILL NOT SUFFER ANY UNDUE HARDSHIP OR INCONVENIENCE IF REQUIRED TO LITIGATE IN SUCH COURT, AND THAT SUCH COURT IS FULLY COMPETENT AND LEGALLY CAPABLE OF ADJUDICATING ANY COVERED CLAIM. THE UNDERSIGNED FURTHER REPRESENTS THAT IT HAS AGREED TO THE JURISDICTION OF THE CHOSEN COURTS, IN RESPECT OF COVERED CLAIMS AFTER BEING FULLY AND ADEQUATELY ADVISED BY LEGAL COUNSEL OF ITS OWN CHOICE CONCERNING THE PROCEDURES AND LAWS APPLIED IN SUCH COURTS AND HAS NOT RELIED ON ANY REPRESENTATION BY ANY OTHER PARTY AS TO THE CONTENT, SCOPE OR EFFECT OF SUCH PROCEDURES AND LAW, AND WILL NOT CONTEND OTHERWISE IN ANY PROCEEDING IN ANY COURT OF ANY JURISDICTION. THE UNDERSIGNED HEREBY IRREVOCABLY SUBMITS, FOR ITSELF AND IN RESPECT TO ITS AFFILIATES AND PROPERTIES, GENERALLY AND UNCONDITIONALLY, TO THE EXCLUSIVE PERSONAL JURISDICTION OF THE CHOSEN COURTS IN RESPECT OF COVERED CLAIMS. THE UNDERSIGNED HEREBY CONSENTS TO AND GRANTS ANY SUCH COURT JURISDICTION OVER THE PERSON OF SUCH PARTIES AND, TO THE EXTENT PERMITTED BY LAW, OVER THE SUBJECT MATTER OF SUCH DISPUTE AND AGREE THAT THE MAILING OF PROCESS OR OTHER PAPERS IN CONNECTION WITH ANY SUCH ACTION OR PROCEEDING IN ANY MANNER AS MAY BE PERMITTED BY APPLICABLE LAW SHALL BE VALID AND SUFFICIENT SERVICE THEREOF.

THE UNDERSIGNED HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION, OR CAUSE OF ACTION (A) ARISING UNDER THIS CONTRIBUTION ELECTION FORM OR THE VARIOUS APPENDICES HERETO OR (B) IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO IN RESPECT OF THIS CONTRIBUTION ELECTION FORM OR ANY OF THE TRANSACTIONS RELATED HERETO (INCLUDING THE MERGER), IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER IN CONTRACT, TORT, EQUITY, OR OTHERWISE. THE UNDERSIGNED HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION, OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY AND THAT THE COMPANY OR JOHNSTONE MAY FILE AN ORIGINAL COUNTERPART OF A COPY OF THIS CONTRIBUTION ELECTION FORM WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE UNDERSIGNED TO THE IRREVOCABLE WAIVER OF THEIR RIGHT TO TRIAL BY JURY, EXCEPT TO THE EXTENT PROHIBITED BY LAWS, REGULATIONS, POLICIES OR DIRECTIVES APPLICABLE TO ANY GOVERNMENTAL ENTITY.

TO THE FULLEST EXTENT PERMITTED BY LAW, THE UNDERSIGNED IRREVOCABLY WAIVES AND RELEASES ALL CLAIMS AND RIGHTS OF ACTION, WHETHER KNOWN OR UNKNOWN, INCLUDING THE RIGHT TO SEEK RESCISSION, THAT ARISE FROM OR RELATE TO THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, INCLUDING THE ISSUANCE OF THE SECURITIES, THAT THE UNDERSIGNED MAY HAVE NOW OR IN THE FUTURE UNDER THE PARTICIPANT LIABILITY OR MATERIAL AID PROVISIONS OF OREGON REVISED STATUTES ("ORS") 59.115, ORS 59.137 OR ANY OTHER PROVISION OF THE OREGON SECURITIES LAW OF SIMILAR LAWS OF ANOTHER STATE OR LEGAL JURISDICTION THAT IMPOSES LIABILITY ON A PERSON FOR PARTICIPATING OR MATERIALLY AIDING IN THE SALE OF SECURITIES. THOSE PARTIES IDENTIFIED IN ORS 59.115(3) AND ORS 59.137(1) AND (2) ARE INTENDED THIRD-PARTY BENEFICIARIES OF THIS WAIVER. NOTHING IN THIS WAIVER LIMITS OR RESTRICTS THE UNDERSIGNED FROM ASSERTING CLAIMS UNDER THE FEDERAL SECURITIES LAWS OR FOR BREACH OF CONTRACT. THE UNDERSIGNED ACKNOWLEDGES AND AGREES THAT THE PROTECTIONS AFFORDED TO IT UNDER THE FEDERAL SECURITIES LAWS OR FOR BREACH OF CONTRACT ARE ADEQUATE AND APPROPRIATE GIVEN THE UNDERSIGNED'S LEVEL OF SOPHISTICATION AND/OR STATUS AS AN ACCREDITED INVESTOR.

The Undersigned understands and agrees that the method of delivery of this Contribution Election Form is at the election and risk of the holder of Company Units. The Undersigned hereby acknowledges that the Undersigned has read Appendix A hereto.

If this Contribution Election Form is to be signed by the registered holder(s) of the Company Units represented thereby, it must be signed by the registered holder(s) exactly as the name(s) of such registered holder(s) appear(s) on the records of Johnstone. If this Contribution Election Form is to be signed by or on behalf of a person other than the registered holder(s), see Appendix A hereto.

Except as provided above, this Contribution Election Form shall remain in full force and effect notwithstanding the death or incapacity of one or more of the Undersigned, and shall be binding upon the heirs, personal representatives, successors and assignees of the Undersigned.

The Undersigned's election hereunder is conditioned entirely on the subsequent consummation of the Merger, and in the event the Merger is for any reason not consummated or the Merger Agreement is terminated, the Undersigned's election hereunder will be deemed null and void and of no force and effect. To the extent that the Rollover Election or the Upsize Election was consummated and the Merger Agreement is subsequently terminated prior to consummation of the Merger, Holdings and Johnstone may cause all actions taken in connection herewith to be unwound and the Undersigned shall take any actions reasonably requested to cause such unwind to occur.

If any term or provision of this Contribution Election Form is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Contribution Election Form or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal, or unenforceable, the parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

* * * * *

Appendix A

INSTRUCTIONS FOR CONTRIBUTION ELECTION FORM

General

This Contribution Election Form, together with appendices hereto, should be properly filled in, dated, signed by the registered holder(s) of the Company Units and returned to the Company as instructed via DocuSign. A Contribution Election Form delivered by DocuSign on or prior to the Deadline Date will be held on behalf of the applicable holder pending the consummation of the Merger, whereupon it will become effective. In the event that the Merger Agreement is terminated, such Contribution Election Form will be deemed null and void.

Endorsements

Signatures on the Contribution Election Form must correspond in every particular with the registered name(s) of such holder(s) in the books and records of Johnstone and the authorized signatories with respect thereto. If any Company Units are owned of record by two or more joint owners, all such owners must sign the Contribution Election Form. When the Contribution Election Form is signed by the registered holder(s) of the Company Units, as applicable, no endorsements of certificates or separate stock powers are required. In case the Contribution Election Form is executed by an attorney-in-fact, executor, administrator, guardian or other fiduciary, or by an officer of a corporation, the person executing the Contribution Election Form must give his full title in such capacity and appropriate evidence of authority to act in such capacity must be forwarded with the Contribution Election Form. If any Company Units are registered in different names, it will be necessary to complete, sign and submit as many separate copies of this Contribution Election Form and any necessary or required documents as there are different registrations of holders of Company Units, as applicable.

Questions

If you have questions regarding this Contribution Election Form, please email KLGates_JohnstoneLegal@klgates.com or call 704-331-7551.

Appendix B

POWER OF ATTORNEY

The Undersigned hereby constitutes, appoints and grants Jeffrey Sheehan (the “Manager”) of Johnstone Supply, LLC, a Delaware limited liability company (“Johnstone”) (in each case to the extent the Undersigned has elected a Rollover Election or Upsize Election in connection with the Contribution Election Form to which this Power of Attorney is appended (the “Contribution Election Form”), with full power to act as its true and lawful representative and attorney-in-fact, in its name, place and stead, to:

- (i) accept, upon written agreement of Holdings and Intermediate, the Contribution Election Form of the Undersigned in connection with the transactions contemplated by the Merger Agreement;
- (ii) accept, upon written agreement of Holdings and Intermediate, the execution and delivery of the Undersigned’s counterpart signature page to, and cause release at the time of consummation of the Intermediate Rollover Exchange and (if applicable) the Intermediate Upsize Exchange of, the Undersigned’s counterpart signature page to each of the following documents, in each case substantially in the applicable form attached to the Contribution Election Form with such changes as Holdings or Intermediate may accept in writing (the “Transaction Documents”):
 - (a) a joinder to the Limited Liability Company Agreement of Johnstone Supply Intermediate, LLC, a Delaware limited liability company, attached hereto as Appendix C;
 - (b) a joinder to the Limited Liability Company Agreement of Johnstone Supply Holdings, LLC, a Delaware limited liability company, attached hereto as Appendix D; and
 - (c) the Distribution Agreement and all documents required to be executed and delivered in connection therewith, as more fully described in the Franchise Disclosure Document from Johnstone, dated on or about September 30, 2021.
- (iii) upon the Undersigned’s written request, execute the Transaction Documents, as applicable, on behalf of the Undersigned, and the undersigned agrees to be bound thereby in all respects, to the extent such documents were not executed and properly and timely delivered by the undersigned in accordance with this Contribution Election Form and any other documents necessary or appropriate to effect the election made by the undersigned in the Contribution Election Form;
- (iv) consummate the Intermediate Rollover Exchange and Holdings Rollover Exchange on behalf of the Undersigned and, if applicable, consummate the Intermediate Upsize Exchange and Holdings Upsize Exchange on behalf of the Undersigned,

including by delivering all right, title and interest in and to the Company Units and Intermediate Common Units, as applicable, in connection therewith;

- (v) complete any relevant details and schedules of and to the Transaction Documents in respect of the issuance or receipt of Intermediate Common Units or Holdings Common Units; and
- (vi) such other documents or instruments as may be required under the laws of the United States, any state thereof or any other jurisdiction in connection with any or all of the foregoing.

The undersigned hereby empowers each attorney-in-fact acting pursuant hereto to determine in its sole discretion the time when, purpose for and manner in which any power herein conferred upon it shall be exercised, and the conditions, provisions and covenants of any instruments or documents which may be executed by it pursuant hereto; provided that the powers of attorney granted herein shall only be exercised in accordance with clauses (i) through (vi) above. The powers of attorney granted herein are coupled with an interest in favor of the Manager and as such (a) shall be irrevocable and continue in full force and effect notwithstanding the subsequent death, incapacity, disability, insolvency or dissolution of the undersigned regardless of whether the Manager has notice thereof and (b) shall survive the delivery of an assignment by the undersigned of the whole or any portion of its interest in Johnstone. Capitalized terms used but not defined herein shall have the respective meanings given to such terms in the Contribution Election Form and, to the extent not expressly provided for herein, in the Merger Agreement.

This Power of Attorney shall be governed and construed in accordance with the laws of the State of Delaware.

* * * * *

IN WITNESS WHEREOF, the undersigned has executed this Power of Attorney on the date set forth below.

Dated _____

**FOR COMPLETION BY UNDERSIGNED WHO ARE NATURAL PERSONS:
(i.e., individuals)**

Undersigned's Name: _____
(*print or type*)

Undersigned's Signature: _____
(*signature*)

**FOR COMPLETION BY UNDERSIGNED WHO ARE NOT NATURAL PERSONS:
(i.e., corporations, partnerships, limited liability companies, trusts or other entities)**

Undersigned's

Entity Name: _____
(*Fill in necessary signature block information below*)

By: _____
(*Signature of authorized representative*)

Name: _____
(*Print or type name of authorized representative*)

Title: _____
(*Title of authorized representative*)

Appendix C

Joinder to Limited Liability Company Agreement of Johnstone Supply Intermediate, LLC

The undersigned is executing and delivering this “Joinder” pursuant to the Limited Liability Company Agreement of Johnstone Supply Intermediate, LLC, a Delaware limited liability company (the “Company”) (as the same may hereafter be amended, the “LLC Agreement”), between the Company and the Company’s members named therein from time to time. Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the LLC Agreement. By executing and delivering to the Company this Joinder, the undersigned hereby agrees to become a party to, to be bound by, and to comply in full with the provisions of the LLC Agreement as a “Member” in the same manner as if the undersigned were an original signatory to the LLC Agreement.

Accordingly, the undersigned has executed and delivered this Joinder, effective as of _____, 2021.

**FOR COMPLETION BY UNDERSIGNED WHO ARE NATURAL PERSONS:
(i.e., individuals)**

Undersigned’s Name: _____
(*print or type*)

Undersigned’s Signature: _____
(*signature*)

**FOR COMPLETION BY UNDERSIGNED WHO ARE NOT NATURAL PERSONS:
(i.e., corporations, partnerships, limited liability companies, trusts or other entities)**

Undersigned’s

Entity Name: _____
(*Fill in necessary signature block information below*)

By: _____
(*Signature of authorized representative*)

Name: _____
(*Print or type name of authorized representative*)

Title: _____
(*Title of authorized representative*)

Appendix D

Joinder to Amended and Restated Limited Liability Company Agreement of Johnstone Supply Holdings, LLC

The undersigned is executing and delivering this “Joinder” pursuant to the Amended and Restated Limited Liability Company Agreement of Johnstone Supply Holdings, LLC, a Delaware limited liability company (the “Company”) (as the same may hereafter be amended, the “LLC Agreement”), between the Company and the Company’s members named therein from time to time. Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the LLC Agreement. By executing and delivering to the Company this Joinder, the undersigned hereby agrees to become a party to, to be bound by, and to comply in full with the provisions of the LLC Agreement as a “Member” and “Unitholder” in the same manner as if the undersigned were an original signatory to the LLC Agreement.

Accordingly, the undersigned has executed and delivered this Joinder, effective as of _____, 2021.

FOR COMPLETION BY UNDERSIGNED WHO ARE NATURAL PERSONS: (i.e., individuals)

Undersigned’s Name: _____
(*print or type*)

Undersigned’s Signature: _____
(*signature*)

FOR COMPLETION BY UNDERSIGNED WHO ARE NOT NATURAL PERSONS: (i.e., corporations, partnerships, limited liability companies, trusts or other entities)

Undersigned’s

Entity Name: _____
(*Fill in necessary signature block information below*)

By: _____
(*Signature of authorized representative*)

Name: _____
(*Print or type name of authorized representative*)

Title: _____
(*Title of authorized representative*)

EXHIBIT C
OWNER'S CERTIFICATE AND INDEMNITY

[Attached]

OWNER'S CERTIFICATE AND INDEMNITY

As a condition to receiving the consideration to which the undersigned member ("**Owner**") of Johnstone Supply, LLC, a Delaware limited liability company (the "**Company**") is entitled in connection with the Closing under that certain Agreement and Plan of Conversion and Merger dated as of August 24, 2021 (the "**Merger Agreement**"), by and among Johnstone Supply, Inc., an Oregon cooperative corporation (as predecessor to the Company), Jeffrey Sheehan, Stephen Brown and Michelle Thompson, as the Members' representatives (the "**Members' Representatives**"), Johnstone Supply Buyer, LLC, a Delaware limited liability company (the "**Buyer**"), and Annandale Merger Sub, LLC, a Delaware limited liability company ("**Merger Sub**"), the Owner hereby acknowledges that (without limiting Owner's rights with respect to any Rollover Units (to the extent Owner is an Electing Member and has properly completed, executed and delivered a Contribution Election Form in accordance with the terms of the Merger Agreement), by virtue of the merger contemplated by the Merger Agreement, all of the Owner's membership units in the Company (the "**Membership Interest**") have been converted solely into the right payment of the applicable portion of the Cash Consideration (the "**Surrender and Exchange**"). Capitalized terms used and not otherwise defined herein shall have the meanings ascribed to them in the Merger Agreement.

This Owner's Certificate and Indemnity is provided to JPMorgan Chase Bank, N.A., as Exchange Agent for the Company.

THIS OWNER'S CERTIFICATE AND INDEMNITY SHOULD BE COMPLETED, SIGNED AND SUBMITTED, TOGETHER WITH THE OTHER DOCUMENTS DESCRIBED IN SECTION 5 BELOW, TO THE ADDRESS SET FORTH BELOW. DELIVERY OF THIS OWNER'S CERTIFICATE AND INDEMNITY TO AN ADDRESS OTHER THAN AS SET FORTH BELOW WILL NOT CONSTITUTE A VALID DELIVERY.

Method of delivery of this Owner's Certificate and Indemnity is at the option and risk of Owner. Owner shall deliver this Owner's Certificate by submission through the [online submission portal organized by Agent and for which instructions for access were previously provided to Owner].

In connection with the Surrender and Exchange, Owner hereby agrees as follows:

1. Surrender; Exchange; Closing.
 - a. Owner acknowledges and agrees that, as of the Closing, Owner will receive his/her/its applicable allocation of Cash Consideration, and Owner will cease having any rights with respect to the Membership Interest, except the right to receive his/her/its applicable allocation of Cash Consideration. Owner hereby irrevocably confirms that its Membership Interest, at the effective time of the merger contemplated by the Merger Agreement and without further action on the part of the Owner, was converted into the right to receive Owner's applicable allocation of Cash Consideration in accordance with the terms of the Merger Agreement.

- b. Owner acknowledges, approves of and irrevocably agrees to be bound by and comply with the terms and conditions of the Merger Agreement applicable by its terms to Owner in his/her/its capacity as a Member of the Company as though Owner were party to the Merger Agreement (including, for the avoidance of doubt Article VI and such other provisions of Article VIII and Annex 2 of the Merger Agreement that would need to be incorporated in order to understand and give effective to Article VI). Owner hereby unequivocally, unconditionally and irrevocably agrees to appoint the Members' Representatives to act on Owner's behalf in any matters that arise following the Closing and that arise as a result of or in connection with the Merger Agreement and the other agreements, instruments and documents executed by the Merger Agreement, in each case, subject to and in accordance with the terms of the Merger Agreement. Owner acknowledges that the Buyer will rely upon the Owner's appointment of the Members' Representatives as a material inducement to the Buyer's willingness to enter into the Merger Agreement. Owner hereby acknowledges and agrees that, the Buyer and Merger Sub shall not be liable to the Owner or any other person for any action taken or not taken by the Members' Representatives or any failure by the Members' Representatives to perform their duties and obligations under the Merger Agreement and the Owner acknowledges and agrees to, without limitation, the provisions of Section 8.15 of the Merger Agreement (but subject to the indemnity specified therein).
 - c. Owner acknowledges and agrees that he/she/it will not receive the applicable allocation of Cash Consideration until the Exchange Agent has received and approved a completed and signed Owner's Certificate and Indemnity, together with all other documents described in Section 5 below and any other documents the Exchange Agent may require. Once Exchange Agent has received and approved the documents as set forth above, Exchange Agent will, subject to and in accordance with the terms of the Merger Agreement, pay to Owner the applicable allocation of Cash Consideration by wire transfer in accordance with Owner's wire instructions provided herewith.
2. Representations and Warranties. Owner hereby represents and warrants that (a) Owner is the sole and exclusive record and beneficial owner of the Membership Interest surrendered in connection with the Surrender and Exchange, and has good and valid title to such Membership Interest, free and clear of Encumbrances; (b) there are no limitations or restrictions on Owner's right to transfer (and Surrender and Exchange) the Membership Interest as contemplated by the Merger Agreement and this Owner's Certificate and Indemnity; (c) except for the transactions contemplated by the Merger Agreement and this Owner's Certificate and Indemnity, there are no options, warrants, purchase rights, convertible securities, or other agreements or commitments (written or oral) obligating Owner to transfer or sell the Membership Interest; (d) Owner has all necessary power and authority to execute this Owner's Certificate and Indemnity and to carry out its obligations hereunder; (e) the execution and delivery of this Owner's Certificate and Indemnity has been duly authorized by all requisite action on the part of Owner and, if Owner is a trust or other entity, the Owner is duly incorporated or organized, validly existing and in good standing under the applicable Laws of its respective jurisdiction of incorporation or

organization, and the execution, delivery and performance by Owner of this Owner's Certificate and Indemnity has been duly authorized by all necessary action on the part of the Owner and its trustee(s) and beneficiaries, board of directors or similar applicable governing body; (f) the execution and delivery of this Owner's Certificate and Indemnity and the Surrender and Exchange will not (i) result in a violation or breach of any provision of the organizational documents of Owner (if applicable), (ii) result in a violation or breach of any provision of applicable Law, or (iii) require the consent, notice or other action by any Person under, conflict with, result in a violation or breach of, constitute a default under or result in the acceleration of any right or obligations under, any Contract to which Owner is a party, or otherwise result in the creation of any Encumbrance on the Membership Interest, (g) Owner is an "accredited investor" as such term is defined in Rule 501 under the Securities Act of 1933, as amended (the "**Securities Act**"), (h) other than any Rollover Units (to the extent Owner is an Electing Member and has properly completed, executed and delivered a Contribution Election Form in accordance with the terms of the Merger Agreement), the Membership Interest is Owner's only interest (whether in the form of membership units or otherwise), directly or indirectly, in the Company, and (i) Owner has completed and returned the Franchise Law Exemptions Qualification Certification provided to Owner and Owner's responses thereto are true and accurate.

3. **Indemnity.** Owner shall indemnify and defend each Buyer Indemnified Party against any and all Losses resulting from (a) any inaccuracy in or breach of the representations and warranties contained in Section 1 of this Owner's Certificate and Indemnity, and (b) any breach or default by Owner under this Owner's Certificate and Indemnity, including the performance of the covenants set forth herein.
4. **Release.** Upon payment of Owner's applicable allocation of the Cash Consideration to Owner, Owner (on behalf of Owner and, as applicable, its employees, officers, managers, equityholders, members, directors, shareholders, representatives, agents, successors, predecessors, affiliates, attorneys and assigns (the "**Releasing Parties**")) hereby releases, acquits and forever discharges the Buyer, Merger Sub, the Company (including from and after the Closing, the Surviving Company), the other members of the Company and the Surviving Company, the Members' Representatives, each Buyer Indemnified Party and each of their respective employees, officers, directors, representatives, agents, successors, predecessors, affiliates, attorneys and assigns (collectively, the "**Released Parties**"), from any and all claims, rights, demands, causes of action, suits, debts, obligations, liabilities, damages, losses, costs and expenses (including attorneys' fees), whether based on federal, state, local, statutory or common law or any other law, rule, or regulation, of any kind, nature and/or description, matured or unmatured, liquidated or unliquidated, accrued or unaccrued, actual or potential, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not asserted, threatened, alleged or litigated, at law, equity or otherwise (collectively, "**Release Claims**"), arising out of, relating to, or resulting from any circumstances, conduct, facts, events, transactions, acts, occurrences, statements, representations, misrepresentations or omissions, errors, negligence, breach of contract, tort, violation of law, matter or cause occurring or arising prior to or on the Closing Date and arising from or related in any way to the ownership, management or operation of the Company on or prior to the Closing Date, which any of Owner or the Releasing Parties has

had, now has, or may have in the future against the Released Parties, except (a) his, her or its rights under the this Owner's Certificate and Indemnity, the Merger Agreement, or any other Transaction Documents, (b) claims for indemnity under the Organizational Documents, (c) any rights specifically afforded to such Releasing Parties under any policy of insurance carried by the Company, (d) the Owner's interests, if any, in any unpaid patronage credits that accrued prior to the Closing, but solely to the extent payable in accordance with the terms of the Merger Agreement, and (e) the Owner's interest, if any, in any rebates payable after the Closing, but solely to the extent payable in accordance with the terms of the Merger Agreement. Owner acknowledges and agrees that Owner's Patronage Agreement with Johnstone Supply, Inc. terminated automatically upon Owner's Surrender and Exchange of the Membership Interest.

5. Payment Documentation. Owner acknowledges and agrees that it will not receive any payment (or issuance) of his/her/its allocation of the Cash Consideration until the Exchange Agent receives (a) a completed and executed IRS Form W-9, (b) Owner's wire instructions for payment of the Cash Consideration, and (c) an executed Owner's Certificate and Indemnity.
6. [Confirmation and Reaffirmation]. Owner reaffirms (a) all of its covenants and obligations set forth in that certain [Security Agreement] dated [•] between Owner and the Company and any other related security interest documents to which Owner is a party (as the same may be amended or replaced) (the "**Security Documents**"), (b) all liens granted to the Company in Owner's membership interest (including Owner's cooperative membership interest prior to the Conversion) or otherwise supporting Owner's account with the Company (the "**Existing Liens**"), and (c) all agreements and documents identified on Schedule A attached hereto. The undersigned individual[s], constituting all of the [shareholders/members] of Owner, further reaffirm[s] all of [his/her/their respective] covenants and obligations under any personal guaranty[ies] executed by [him/her/them] in favor of the Company. Upon the issuance of the Rollover Units to Owner (if any), such Rollover Units shall constitute part of the collateral under the Security Documents and shall be subject to the Existing Liens, and will thereafter continue to be collateral subject to the terms and conditions of the Security Documents.]
7. Miscellaneous.
 - a. This Agreement shall be governed by and construed in accordance with the internal Laws of the State of Delaware without giving effect to any choice or conflict of law provision or rule (whether of the State of Delaware or any other jurisdiction) that would cause the application of Laws of any jurisdiction other than those of the State of Delaware. All notices to Owner shall be sent to the address set forth on the signature page hereto. Owner shall be responsible for all costs and expenses, including, without limitation, fees and disbursements of counsel, financial advisors, and accountants, incurred in connection with this Owner's Certificate and Indemnity, the Merger Agreement, and the transactions contemplated hereby and thereby. If any term or provision of this Owner's Certificate and Indemnity is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or

unenforceability shall not affect any other term or provision of this Owner's Certificate and Indemnity or invalidate or render unenforceable such term or provision in any other jurisdiction.

- b. ANY LEGAL SUIT, ACTION, OR PROCEEDING ARISING OUT OF OR BASED UPON THIS OWNER'S CERTIFICATE AND INDEMNITY OR THE TRANSACTIONS CONTEMPLATED HEREBY (EACH, A "**COVERED CLAIM**") SHALL BE INSTITUTED EXCLUSIVELY IN THE DELAWARE CHANCERY COURT OR, IF SUCH COURT SHALL NOT HAVE JURISDICTION, ANY FEDERAL COURT LOCATED IN THE STATE OF DELAWARE OR OTHER DELAWARE STATE COURT AND THE APPLICABLE APPELLATE COURTS (THE "**CHOSEN COURT**"). OWNER EXPRESSLY AGREES AND ACKNOWLEDGES THAT EACH OF THE CHOSEN COURTS IS AN APPROPRIATE AND CONVENIENT FORUM FOR RESOLUTION OF ANY AND ALL COVERED CLAIMS, THAT IT WILL NOT SUFFER ANY UNDUE HARDSHIP OR INCONVENIENCE IF REQUIRED TO LITIGATE IN SUCH COURT, AND THAT SUCH COURT IS FULLY COMPETENT AND LEGALLY CAPABLE OF ADJUDICATING ANY COVERED CLAIM. OWNER FURTHER REPRESENTS THAT IT HAS AGREED TO THE JURISDICTION OF THE CHOSEN COURTS, IN RESPECT OF COVERED CLAIMS AFTER BEING FULLY AND ADEQUATELY ADVISED BY LEGAL COUNSEL OF ITS OWN CHOICE CONCERNING THE PROCEDURES AND LAWS APPLIED IN SUCH COURTS AND HAS NOT RELIED ON ANY REPRESENTATION BY ANY OTHER PARTY AS TO THE CONTENT, SCOPE OR EFFECT OF SUCH PROCEDURES AND LAW, AND WILL NOT CONTEND OTHERWISE IN ANY PROCEEDING IN ANY COURT OF ANY JURISDICTION. OWNER HEREBY IRREVOCABLY SUBMITS, FOR ITSELF AND IN RESPECT TO ITS AFFILIATES AND PROPERTIES, GENERALLY AND UNCONDITIONALLY, TO THE EXCLUSIVE PERSONAL JURISDICTION OF THE CHOSEN COURTS IN RESPECT OF COVERED CLAIMS. OWNER HEREBY CONSENTS TO AND GRANTS ANY SUCH COURT JURISDICTION OVER THE PERSON OF OWNER AND, TO THE EXTENT PERMITTED BY LAW, OVER THE SUBJECT MATTER OF SUCH DISPUTE AND AGREE THAT THE MAILING OF PROCESS OR OTHER PAPERS IN CONNECTION WITH ANY SUCH ACTION OR PROCEEDING TO OWNER'S ADDRESS SET FORTH ON THE SIGNATURE PAGE HERETO OR IN SUCH OTHER MANNER AS MAY BE PERMITTED BY APPLICABLE LAW SHALL BE VALID AND SUFFICIENT SERVICE THEREOF.
- c. OWNER ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS OWNER'S CERTIFICATE AND INDEMNITY IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND, THEREFORE, OWNER IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR

RELATING TO THIS OWNER'S CERTIFICATE AND INDEMNITY OR THE TRANSACTIONS CONTEMPLATED HEREBY. OWNER CERTIFIES AND ACKNOWLEDGES THAT (i) NO REPRESENTATIVE OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT SEEK TO ENFORCE THE FOREGOING WAIVER IN THE EVENT OF A LEGAL ACTION; (ii) IT HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER; AND (iii) IT MAKES THIS WAIVER VOLUNTARILY.

- d. A signed copy of this Owner's Certificate and Indemnity (including by electronic signature) delivered by facsimile, e-mail, or other means of electronic transmission (including DocuSign or other similar service providers) shall be deemed to have the same legal effect as delivery of an original signed copy of this Owner's Certificate and Indemnity.
- e. Owner has been represented by counsel in connection with this Owner's Certificate and Indemnity and the transactions contemplated hereby. Accordingly, any rule of law or any legal decision that would require interpretation of any claimed ambiguities in a document against the drafting Party has no application and is expressly waived.

[Signature Page Follows]

IN WITNESS WHEREOF, Owner has executed this Owner's Certificate and Indemnity to be executed as of the Effective Date.

OWNER:

If an entity:

[•]

By: _____

Name: _____

Title: _____

If an individual:

[Individual]

**[SHAREHOLDERS/MEMBERS] OF
OWNER:**

[Individual]

[Individual]

SCHEDULE A

Reaffirmed Documents/Agreements

[To Be Inserted]

EXHIBIT D
EQUITY HOLDERS' AGREEMENT

[Attached]

JOHNSTONE SUPPLY HOLDINGS, LLC

**AMENDED AND RESTATED
LIMITED LIABILITY COMPANY AGREEMENT**

Entered into as of [●], 2021

THE UNITS REPRESENTED BY THIS AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT HAVE NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED, OR UNDER ANY OTHER APPLICABLE SECURITIES LAWS OF THE UNITED STATES OR ANY OTHER JURISDICTION. SUCH UNITS MAY NOT BE SOLD, ASSIGNED, PLEDGED OR OTHERWISE DISPOSED OF AT ANY TIME WITHOUT EFFECTIVE REGISTRATION UNDER SUCH ACT AND LAWS OR EXEMPTION THEREFROM, AND COMPLIANCE WITH THE OTHER RESTRICTIONS ON TRANSFERABILITY SET FORTH HEREIN.

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JOHNSTONE SUPPLY HOLDINGS, LLC

AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT

This Amended and Restated Limited Liability Company Agreement of Johnstone Supply Holdings, LLC (the “Company”), dated as of [●], 2021 (the “Effective Date”), is adopted by, executed and agreed to, for good and valuable consideration, by and among the Company and the Members.

WHEREAS, the Company was formed as a Delaware limited liability company pursuant to and in accordance with the Delaware Act;

WHEREAS, the Company’s indirect wholly-owned Subsidiary, Johnstone Supplier Buyer, LLC (“JS Buyer”) is party to that certain Agreement and Plan of Conversion and Merger, dated as of August 24, 2021, by and among JS Buyer, Annandale Merger Sub, LLC (“JS Merger Sub”), Johnstone and certain Members’ Representatives party thereto (as amended, modified, supplemented or waived from time to time, the “Purchase Agreement”), pursuant to which JS Buyer is acquiring all of the outstanding Equity Securities of Johnstone through (a) the Rollover Transactions referenced below and the contribution of Johnstone Equity Securities acquired by Johnstone Supply Intermediate, LLC (“Intermediate”) through the Rollover Transactions to JS Buyer and (b) at least one (1) day after giving effect to the Rollover Transactions, by a merger of JS Merger Sub with and into Johnstone;

WHEREAS, the initial limited liability company agreement of the Company was entered into as of [●], 2021 (the “Original Agreement”);

WHEREAS, on the Effective Date, the Original Agreement is being amended and restated, and superseded in its entirety, by this Agreement;

WHEREAS, in connection with the transactions contemplated by the Purchase Agreement, the Company has offered to the Continuing Members the right to exchange certain Equity Securities of Johnstone for common units in Intermediate, followed by the immediate contribution of such common units by the Continuing Members to the Company in exchange for the Common Units, by executing and delivering a rollover election form as provided in connection therewith and, in connection with any such exchange, such Continuing Members will execute and deliver a counterpart to this Agreement to become party to this Agreement as Members (the “Rollover Transaction”).

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

ARTICLE I

DEFINITIONS

Capitalized terms used but not otherwise defined herein shall have the following meanings:

“Additional Member” means a Person admitted to the Company as a Member pursuant to Section 11.2.

“Adjusted Capital Account Deficit” means with respect to any Capital Account as of the end of any Taxable Year, the amount by which the balance in such Capital Account is less than zero. For this purpose, such Person’s Capital Account balance shall be:

- (i) reduced for any items described in Treasury Regulation Section 1.704-1(b)(2)(ii)(d)(4), (5), and (6), and
- (ii) increased for any amount such Person is obligated to contribute to the Company or is treated as being obligated to contribute to the Company pursuant to Treasury Regulation Section 1.704-1(b)(2)(ii)(c) (relating to partner liabilities to a partnership) or 1.704-2(g)(1) and 1.704-2(i) (relating to minimum gain).

“Affiliate” of any particular Person means (i) any other Person controlling, controlled by or under common control with such particular Person, where “control” means either (A) the possession, directly or indirectly, of the power to direct the management and policies of a Person whether through the ownership of voting securities, by contract or otherwise, or (B) the ownership of fifty percent (50%) or more of the outstanding voting securities and/or voting equity interests in the Person, and (ii) without limiting the foregoing and with respect only to the Redwood Investor, any investment vehicle controlled by the same management company, managing member, or direct or indirect general partner or manager of the Redwood Investor.

“Advisory Board” has the meaning set forth in the Distribution Agreement.

“Affiliated Institution” means, with respect to any Board Indemnitee, any investment fund, investment advisor, investment manager, institutional investor or other financial intermediary with which such Board Indemnitee is Affiliated or of which such Board Indemnitee is a direct or indirect member, equityholder, partner, manager, director or employee.

“Agreement” means this Agreement, as amended, modified and waived from time to time in accordance with the terms hereof.

“Annual Repurchase Price” has the meaning set forth in Section 10.4(d).

“Annual Sale Election Notice” has the meaning forth in Section 10.4(d).

“Annual Sale Notice” has the meaning forth in Section 10.4(d).

“Annual Sale Right” has the meaning forth in Section 10.4(d).

“Applicable Repurchase Price” means (a) for purposes of the Call Option and the Put Option, the Fair Market Value of each Continuing Investor Unit as of the closing date therefor determined pursuant to Article XIV and (b) for purposes of the Annual Sale Right, the Annual Repurchase Price for each Continuing Investor Unit set forth in the Annual Sale Notice.

“Applicable Tax Rate” means, with respect to any period, the rate determined in good faith by the Board to be the sum of the highest maximum marginal federal, state and local income Tax rates then applicable to any holder or indirect holder of Units (or its partners or members, as applicable) based on the information available to the Board (taking into account the character of such taxable income and, if applicable, any deductibility of state and local income Tax for federal income Tax purposes).

“Approved Amendment Rights” has the meaning set forth in Section 16.2.

“Approved Sale” has the meaning set forth in Section 10.2(a).

“Assignee” means a Person to whom Units have been Transferred in accordance with the terms of this Agreement and the other agreements contemplated hereby, but who has not become a Member pursuant to ARTICLE X.

“Assignment” has the meaning given to such term in the Distribution Agreement.

“Base Rate” means, on any date, a variable rate per annum equal to the rate of interest most recently published by The Wall Street Journal as the “prime rate” at large U.S. money center banks.

“Board” has the meaning set forth in Section 5.1(a).

“Board Indemnitee” means (a) each Manager, (b) each former Manager, (c) any Person who is or was a member, partner, Partnership Representative (as defined in the Code), officer, director, agent, fiduciary or trustee of the Company or any of its Subsidiaries or any Affiliate of the foregoing, (d) any Person who is or was serving at the request of the Board or any Affiliate of any of the foregoing as an officer, director, member, partner, Partnership Representative, agent, fiduciary or trustee of another Person; provided that a Person shall not be a Board Indemnitee by reason of providing, on a fee-for-services basis, trustee, fiduciary or custodial services, and (e) any Person the Board in its sole discretion designates as a “Board Indemnitee” for purposes of this Agreement.

“Book Value” means, with respect to any Company property, the Company’s adjusted basis for federal income tax purposes, adjusted from time to time to reflect the adjustments required or permitted by Treasury Regulation Section 1.704-1(b)(2)(iv)(d)-(g) (in the case of permitted adjustments, to the extent the Company makes such permitted adjustments (as determined by the Board)); provided that the Book Value of any asset contributed to the Company shall be equal to its Fair Market Value.

“Business” means, at any particular time, the wholesale distribution of heating, ventilation, air conditioning and refrigeration equipment, parts and supplies and any other business in which the Company and/or any of its Subsidiaries may engage from time to time.

“Call Option” has the meaning set forth in Section 10.4(a).

“Call Option Notice” has the meaning set forth in Section 10.4(b).

“Call Option Trigger Event” has the meaning set forth in Section 10.4(a).

“Capital Account” means the capital account maintained for a Member pursuant to Section 3.2.

“Capital Contributions” means any cash, cash equivalents, or the Fair Market Value of other property which a Unitholder contributes or is deemed to have contributed to the Company with respect to any Unit pursuant to Section 3.1 net of any liabilities assumed by the Company for such Unitholder in connection with such contribution and net of any liabilities to which the assets contributed by such Unitholder are subject, and, for the avoidance of doubt, shall include the subscription or purchase price paid to the Company by a Unitholder for such Unit.

“CEO Manager” has the meaning set forth in Section 5.5(a)(i).

“Certificate” means the Company’s Certificate of Formation as filed with the Secretary of State of the State of Delaware, as the same may be amended from time to time in accordance with this Agreement and the Delaware Act.

“Certificated Units” has the meaning set forth in Section 10.12.

“Change of Control” has the meaning given to such term in the Distribution Agreement.

“Code” means the United States Internal Revenue Code of 1986, as amended.

“Common Unit” means a Unit having the rights and obligations specified with respect to Common Units in this Agreement.

“Confidential Information” has the meaning set forth in Section 15.4.

“Continuing Investor Manager” has the meaning set forth in Section 5.5(a)(ii).

“Continuing Investor Units” has the meaning set forth in Section 10.4(a).

“Continuing Investors” means the Persons that may from time to time be listed under the subheading titled “Continuing Investors” on the Schedule of Unitholders attached hereto, and any other Member who acquires Equity Securities after the date hereof pursuant to the terms of Section 3.1, and designated as a “Continuing Investor” by the Board with the approval of the Redwood Investor.

“Date of Formation” has the meaning set forth in Section 2.1.

“Deferred Distribution Amount” has the meaning set forth in Section 4.2(c).

“Delaware Act” means the Delaware Limited Liability Company Act, 6 Del.L. §§ 18-101, et seq., as it may be amended from time to time, and any successor thereto.

“Distributable Cash Flow” means, for any period, EBITDA of the Company and its Subsidiaries, as determined by the Board based upon the consolidated financial statements of the Company and its Subsidiaries (prepared in accordance with GAAP), less (i) annual capital expenditures and a reserve for reasonably foreseeable capital expenditures or obligations under this Agreement, the Distribution Agreement, the Purchase Agreement or other agreements entered into in connection with the Purchase Agreement, (ii) working capital investments, (iii) interest expense, (iv) required debt repayment or amortization; and (v) any other reserves determined in good faith by the Redwood Investor.

“Distribution” means each distribution made by the Company to a Unitholder, whether in cash, property or securities of the Company or any of its Subsidiaries and whether by liquidating distribution, redemption, repurchase or otherwise, other than an Exempt Distribution.

“Distribution Agreement” means, with respect to each Continuing Investor, any Distribution Agreement entered into in connection with the transactions contemplated by the Purchase Agreement, in each case by and between the Company or any of its Subsidiaries, on the one hand, and any Continuing Investor and one or more of its JSBO Affiliates, on the other hand, as amended, modified, extended, replaced, supplemented or waived from time to time.

“EBITDA” means, with respect to any Person for any period, net income of such Person (excluding extraordinary or non-recurring income) for such period plus to the extent reducing net income of such Person for such period, interest expense, income tax expense, depreciation expense and amortization expense.

“Effective Date” has the meaning given to such term in the preamble hereto.

“Equity Commitment Letter” has the meaning given to such term in the Purchase Agreement.

“Equity Securities” means, with respect to any Person, (i) additional Units, stock or other equity interests (including, in the case of the Company, other classes, groups or series of Units having such relative rights, powers, and/or obligations as may from time to time be established by the Board, including rights, powers and/or duties different from, senior to or more favorable than existing classes, groups and series of units, stock and other equity interests in the Company, and including, without limitation, any so called “profits interests”), (ii) obligations, evidences of indebtedness or other securities or interests convertible or exchangeable into Units, stock or other equity interests in the Company and (iii) warrants, options or other rights to purchase or otherwise acquire Units, stock or other equity interests in the Company.

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

“Event of Withdrawal” means the death, retirement, resignation, expulsion, bankruptcy or dissolution of a Member or the occurrence of any other event that terminates the continued membership of a Member in the Company.

“Exempt Distribution” means (i) any redemption or repurchase by the Company of any Units or other Equity Securities of the Company in connection with the termination or cessation of employment of an employee of the Company or any of its Subsidiaries, (ii) any redemption, repurchase or exchange by the Company of Units of a current or former employee, board member or other service provider of the Company or any of its Subsidiaries in exchange for Equity Securities or assets of a Subsidiary or the exercise of any put or call rights of a Member other than the Redwood Investor or an Affiliate thereof (including pursuant to Section 10.4), (iii) any recapitalization or exchange of securities of the Company, and any subdivision (by unit split or otherwise) or any combination (by reverse unit split or otherwise) of any outstanding Units, (iv) a Tax Distribution or (v) any redemption, repurchase or exchange which, if structured as a Transfer, would qualify as or be part of an Exempt Transfer or would be part of a transaction involving an issuance of Equity Securities that are not New Securities.

“Exempt Transfer” means a Transfer (i) by the Redwood Investor or an Affiliate thereof in exchange for cash consideration; provided that this clause (i) shall only apply to any Transfer if the aggregate number of Units to be Transferred pursuant to this clause (i), together with all other Units previously Transferred pursuant to this clause (i), is less than or equal to twenty percent (20%) of the aggregate number of all Units of any class owned by the Redwood Investor and its Affiliates as of the Effective Date, (ii) to a Permitted Transferee, (iii) in connection with a merger, consolidation, conversion, recapitalization, exchange of Units or Equity Securities or other similar transaction approved by the Board in accordance with this Agreement, (iv) in connection with an Approved Sale, (v) by a Unitholder (other than the Redwood Investor or any Affiliate thereof) in exchange for Equity Securities of a Subsidiary that has been approved by the Board, (vi) that is a purchase by or forfeiture to the Company, the Redwood Investor or any Affiliate thereof by any Unitholder or transferee thereof after termination of such Person’s service relationship with the Company or any of its Subsidiaries, (vii) of membership interests or other Equity Securities of the Redwood Investor, (viii) as part of an Exempt Distribution, (ix) in a Public Sale or (x) as required by any Offeree in accordance with Section 3.1(e)(iv).

“Fair Market Value” has the meaning set forth in ARTICLE XIV.

“Family Group” means a Member’s or its direct or indirect owner’s spouse and descendants (whether natural or adopted) and any trust solely for the benefit of the Member or its direct or indirect owner and/or the Member’s or its direct or indirect owner’s spouse and/or descendants.

“Fiscal Quarter” means the Company’s quarterly accounting period.

“Fiscal Year” has the meaning set forth in Section 8.2.

“Forfeiture Allocations” has the meaning set forth in Section 4.4(f).

“Governmental Entity” means the United States of America or any other nation, any state or other political subdivision thereof, or any entity exercising executive, legislative, judicial, regulatory or administrative functions of government.

“HSR Act” has the meaning set forth in Section 13.6.

“Incentive Unit” has the meaning set forth in Section 3.1(d)(i).

“Incentive Unit Grant Agreement” has the meaning set forth in Section 3.1(d)(i).

“Incentive Unitholder” has the meaning set forth in Section 3.1(d)(i).

“Indebtedness” means at a particular time, without duplication, (i) any indebtedness for borrowed money or issued in substitution for or exchange of indebtedness for borrowed money, (ii) any indebtedness evidenced by any note, bond, debenture or other debt security, (iii) any indebtedness for the deferred purchase price of property or services with respect to which a Person is liable, contingently or otherwise, as obligor or otherwise (other than trade payables and other current liabilities incurred in the ordinary course of business which are not more than 120 days past due), and (iv) any commitment by which a Person assures a creditor against loss (including, without limitation, contingent reimbursement obligations with respect to letters of credit).

“Johnstone” means Johnstone Supply, LLC, a Delaware limited liability company, the successor by conversion accomplished in accordance with the terms of the Purchase Agreement from Johnstone Supply, Inc.

“JSBO Affiliate” means with respect to a Continuing Investor, any JSBO Affiliate that has executed and delivered a counterpart to the Distribution Agreement with respect to such Continuing Investor as a JSBO Affiliate of such Continuing Investor.

“Liquidation Assets” has the meaning set forth in Section 13.2(b).

“Liquidation FMV” has the meaning set forth in Section 13.2(b).

“Liquidation Statement” has the meaning set forth in Section 13.2(b).

“Losses” means items of Company loss and deduction determined according to Section 3.2.

“Majority Continuing Investors” means the Continuing Investors holding a majority of the Common Units then held by all Continuing Investors; provided that if no Continuing Investor then holds any Common Units, then “Majority Continuing Investors” means the Continuing Investors who would

receive a majority of the dollars received by all Continuing Investors if an amount equal to the Total Equity Value were distributed to all Units in accordance with Sections 4.2 and 13.2.

“Manager” has the meaning set forth in Section 5.2.

“Member” means each of the Persons listed on the Schedule of Members attached hereto, and any Person admitted to the Company as a Substituted Member or an Additional Member, but in each case only for so long as such Person is a Unitholder and in each case in such Person’s capacity as such.

“Minimum Gain” means the partnership minimum gain determined pursuant to Treasury Regulation Section 1.704-2(d).

“New Securities” means any Equity Securities of the Company first issued after the Effective Date; provided, however, that the term “New Securities” does not include:

(a) any Equity Securities issued to employees, managers, directors or consultants of the Company or any Subsidiary in connection with their performance of services therefor;

(b) any Equity Securities issued in connection with the acquisition of all or a part of another Person or assets of such Person by the Company or any Subsidiary (whether by merger, consolidation, contribution, purchase of assets, purchase of securities or other reorganization);

(c) any Equity Securities issued to lenders in connection with any indebtedness for borrowed money obtained by the Company or any Subsidiary in a transaction that is not primarily intended as an equity financing;

(d) any Equity Securities issued pursuant to a Public Offering; and

(e) any Equity Securities issued in connection with any split, distribution or reclassification of Units, any Equity Securities issued in exchange or upon conversion of other Equity Securities (including in connection with any merger, consolidation or recapitalization of the Company) or other Equity Securities distributed in accordance with Section 4.2 of this Agreement.

“Notice” has the meaning set forth in Section 9.4(a).

“Offeree” has the meaning set forth in Section 3.1(e)(i).

“Option Notice” has the meaning set forth in Section 10.4(c).

“Option Trigger Event” means either a Call Option Trigger Event or Put Option Trigger Event.

“Other Business” has the meaning set forth in Section 7.10(a).

“Participation Threshold” has the meaning set forth in Section 3.1(d)(iii).

“Partnership Representative” has the meaning set forth in the Partnership Tax Audit Rules.

“Partnership Tax Audit Rules” means Sections 6221 through 6241 of the Code, together with any guidance issued thereunder or successor provisions and any similar provision of state or local Tax laws.

“Permitted Transferee” means (i) with respect to any Member who is a natural person, a member of such Member’s Family Group, (ii) with respect to any Member which is an entity, any of such Member’s Affiliates, (iii) with respect to the Redwood Investor, a transferee of membership interests of the Redwood Investor or any owner thereof; (iv) with respect to any Member that is an ERISA trust, any successor ERISA trust or trustee of any such trust; or (v) with respect to a Continuing Investor, (x) the Company or any Redwood Investor pursuant to the Call Option, Put Option, or Annual Sale Right or (y) any other Person that is (A) an assignee of such Continuing Investor’s rights under the Distribution Agreement pursuant to an Assignment of the Distribution Agreement by such Continuing Investor or (B) a buyer of such Continuing Investor’s business after delivery of an Exit Notice (as defined in the Distribution Agreement), in each case so long such Assignment or sale (or the process related thereto) complies with the Distribution Agreement; provided that in no event shall any of the following be a Permitted Transferee: (x) any competitor of the Company or any of its Subsidiaries (it being understood and agreed that “a competitor of the Company or any of its Subsidiaries” shall not be deemed to include any Person solely due to such Person’s passive investment in a Person who would otherwise be considered a competitor of the Company or any of its Subsidiaries), (y) any Person whose directors, officers, general partners, managers or owners of more than 5% of such Person’s equity value are directors, officers, managers, limited partners or owners of more than 5% of the equity of an entity that is a wholesale distributor of heating, ventilation, air conditioning, or refrigeration equipment, parts or supplies or (z) any Person engaged in any activity that would prohibit such Person from having an interest in the Company in accordance with applicable law.

“Person” means an individual, a partnership, a corporation, a limited liability company, an association, a joint stock company, a trust, a joint venture, an unincorporated organization, association or other entity or a Governmental Entity.

“Pre-Approved Matters” has the meaning set forth in Section 7.10(b).

“Preemptive Pro Rata Share” has the meaning set forth in Section 3.1(e)(i).

“Pro Rata Basis” means, with respect to each Unitholder, and as determined with respect to any particular expense, liability or obligation incurred (or amount of proceeds withheld) in connection with any Transfer of Equity Securities pursuant to any Approved Sale, the amount such Unitholder’s proceeds would be reduced as a percentage of the aggregate reduction in proceeds to applicable Unitholders assuming the Total Equity Value of the Company implied by such Transfer or Approved Sale were being distributed to the Unitholders in accordance with Section 4.2 in connection with such Transfer or Approved Sale and as if such expense, liability or obligation were incurred and satisfied (or such amount of proceeds were withheld) prior to such distribution, as determined in good faith by the Board.

“Pro Rata Share” means with respect to each Unit, the proportional amount such Unit would receive if an amount equal to the Total Equity Value were distributed to all Units in accordance with Section 4.2, and with respect to each Unitholder, such Unitholder’s pro rata share of Total Equity Value represented by all Units owned by such Unitholder. For the avoidance of doubt, as long as the Units of the Company consist solely of a single class or series of Common Units (with no Participation Threshold applicable to any Common Units), as it does on the Effective Date, the “Pro Rata Share” of each Unitholder shall be calculated in the same manner as the Preemptive Pro Rata Share.

“Proceeding” has the meaning set forth in Section 7.2.

“Profits” means items of Company income and gain determined according to Section 3.2.

“Public Offering” means any sale, in an underwritten public offering registered under the Securities Act, of equity securities of the Company or any of its Subsidiaries (or, in each case, any corporate

successor thereto); provided that the following shall not be considered a Public Offering: (i) any issuance of common equity securities as consideration for a merger or acquisition and (ii) any issuance of common equity securities or rights to acquire common equity securities to employees, managers or consultants of or to the Company or its Subsidiaries as part of an incentive or compensation plan.

“Public Sale” means any sale of securities to the public pursuant to a Public Offering or to the public through a broker, dealer or market maker pursuant to the provisions of Rule 144 adopted under the Securities Act (or any similar provision then in force).

“Purchase Agreement” has the meaning set forth in the Recitals.

“Put Option” has the meaning set forth in Section 10.4(a).

“Put Option Notice” has the meaning set forth in Section 10.4(b).

“Put Option Trigger Event” has the meaning set forth in Section 10.4(a).

“Redwood” means Redwood Capital Investments, LLC, a Maryland limited liability company.

“Redwood Annual Valuation” means the value for the Company derived from the audited financial statements of Redwood (or any applicable Affiliate) and its Affiliates, derived annually and in the ordinary course of business for Redwood, and made available to the Board.

“Redwood Investor” means RCI Annandale, LLC or, if elected by Redwood (or the then current Redwood Investor) in connection with a Transfer permitted hereunder, the transferee(s) thereof. To the extent that the Redwood Investor, directly or indirectly, holds its Units in the Company through one or more new companies formed for the purpose of holding such Units, the “Redwood Investor” shall, without duplication, include such new company(ies) as well.

“Redwood Investor Equity” means (i) any Units or other Equity Securities owned by the Redwood Investor or any Permitted Transferee thereof and (ii) any securities issued directly or indirectly with respect to the foregoing securities by way of a unit split, unit dividend, or other division of securities, or in connection with a combination of securities, recapitalization, merger, consolidation or other reorganization. As to any particular securities constituting Redwood Investor Equity, such securities shall cease to be Redwood Investor Equity when they have been (a) effectively registered under the Securities Act and disposed of in accordance with the registration statement covering them, (b) distributed to the public through a broker, dealer or market maker pursuant to Rule 144 under the Securities Act (or any similar provision then in force) or (c) repurchased by the Company or any Subsidiary; provided that, upon any Transfer of Redwood Investor Equity, the transferor thereof may designate such Redwood Investor Equity from and after the date of such Transfer as no longer being Redwood Investor Equity (as long as Units constituting Redwood Investor Equity are thereafter outstanding).

“Redwood Manager” has the meaning set forth in Section 5.5(a)(iii).

“Redwood Subscription Agreement” means that certain Subscription Agreement, dated on or about the Effective Date, by and between the Company and the Redwood Investor.

“Referee” has the meaning set forth in Section 14.1

“Regulatory Allocations” has the meaning set forth in Section 4.4(e).

“Required Interest” means Members holding a majority of Common Units issued and outstanding.

“Restricted Units” means all Units other than Units which have (i) been registered under the Securities Act and disposed of in accordance with the registration statement covering them, (ii) become eligible for sale pursuant to Rule 144(k) under the Securities Act or (iii) been otherwise Transferred and new certificates for them not bearing the Securities Act legend set forth in Section 10.12 have been delivered by the Company.

“ROFO Excluded Transfer” means an Exempt Transfer, other than an Exempt Transfer that is (i) a Transfer of membership interests of the Redwood Investor other than to an Affiliate or Family Member of the transferor or (ii) a Transfer of Units or other Equity Securities (including by merger, consolidation, conversion, recapitalization, or exchange of Units) other than to an Affiliate or Family of the transferor and other than as part of a Solvent Reorganization.

“ROFO Initiating Investor” has the meaning set forth in Section 10.3(a).

“ROFO Notice” has the meaning set forth in Section 10.3(a).

“ROFO Offer Notice” has the meaning set forth in Section 10.3(a).

“ROFO Period” has the meaning set forth in Section 10.3(a).

“ROFO Price” has the meaning set forth in Section 10.3(a).

“ROFO Transfer” has the meaning set forth in Section 10.3(a).

“Rollover Transactions” has the meaning set forth in the Preamble.

“Sale of the Company” means (i) a sale or disposition of all or substantially all of the assets of the Company and its Subsidiaries on a consolidated basis, as determined by the Board, or (ii) any transaction or series of related transactions that results in any Person or group (within the meaning of Section 13(d)(3) of the Exchange Act), other than the Members as of the Effective Date and/or one or more Affiliates of the foregoing, becoming the owner of more than fifty percent (50%) of the Common Units of the Company.

“Securities Act” means the Securities Act of 1933, as amended, and applicable rules and regulations thereunder, and any successor to such statute, rules or regulations. Any reference herein to a specific section, rule or regulation of the Securities Act shall be deemed to include any corresponding provisions of future law.

“Securities Exchange Act” means the Securities Exchange Act of 1934, as amended, and applicable rules and regulations thereunder, and any successor to such statute, rules or regulations. Any reference herein to a specific section, rule or regulation of the Securities Exchange Act shall be deemed to include any corresponding provisions of future law.

“Solvent Reorganization” means any solvent reorganization of the Company or any Subsidiary of the Company, including by merger, consolidation, recapitalization, transfer or sale of equity interests or assets, or contribution of assets and/or liabilities, or any liquidation, exchange of securities, conversion of entity, migration of entity, formation of new entity, or any other transaction or group of related transactions (in each case other than to or with a third party), in which:

(a) all Unitholders of the same class or series of Units are offered the same consideration in respect of such class or series of Units (as adjusted for any adjustment that would, in accordance with Section 4.2, result in a holder of a class or series of Units receiving a different amount per Unit of such series or class); and

(b) the non-economic rights of the holders of Units under this Agreement are preserved in all material respects (it being understood by way of illustration and not limitation that the relocation of a covenant or restriction from one instrument to another shall be deemed a preservation if the relocation is necessitated, by virtue of any law or regulation applicable to the Company or any of its Affiliates following such Solvent Reorganization, as a result of any change in jurisdiction or form of entity in connection with the Solvent Reorganization; provided that such covenants and restrictions are retained in instruments that are, as nearly as practicable and to the extent consistent with business and transactional objectives, equivalent to the instruments in which such restrictions or covenants were contained prior to the Solvent Reorganization).

“Statement of Disagreement” has the meaning set forth in Section 13.2(c).

“Subsidiary” means, with respect to any Person, any corporation, limited liability company, partnership, association or business entity of which (i) if a corporation, a majority of the total voting power of shares of stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person or a combination thereof, or (ii) if a limited liability company, partnership, association or other business entity (other than a corporation), a majority of limited liability company, partnership or other similar ownership interest thereof is at the time owned or controlled, directly or indirectly, by any Person or one or more Subsidiaries of that Person or a combination thereof. For purposes hereof, a Person or Persons shall be deemed to have a majority ownership interest in a limited liability company, partnership, association or other business entity (other than a corporation) if such Person or Persons shall be allocated a majority of limited liability company, partnership, association or other business entity gains or losses or shall be or control any managing director or general partner of such limited liability company, partnership, association or other business entity. For purposes hereof, references to a “Subsidiary” of any Person shall be given effect only at such times that such Person has one or more Subsidiaries, and, unless otherwise indicated, the term “Subsidiary” refers to a Subsidiary of the Company.

“Substituted Member” means a Person that is admitted as a Member to the Company pursuant to Section 11.1.

“Supplemental Call Option Notice” has the meaning set forth in Section 10.4(c).

“Tag-Along Sale” has the meaning set forth in Section 10.3(b).

“Tag Notice” has the meaning set forth in Section 10.3(b).

“Tag Response Notice” has the meaning set forth in Section 10.3(b).

“Tax” or “Taxes” means any federal, state, local or foreign income, gross receipts, franchise, estimated, alternative minimum, add-on minimum, sales, use, transfer, registration, value added, excise, natural resources, severance, stamp, occupation, premium, windfall profit, environmental, customs, duties, real property, personal property, capital stock, social security, unemployment, disability, payroll, license, employee or other withholding, or other tax, of any kind whatsoever, including any interest, penalties or additions to tax or additional amounts in respect of the foregoing.

“Tax Distribution” has the meaning set forth in Section 4.1.

“Taxable Year” means the Company’s accounting period for federal income tax purposes determined pursuant to Section 9.2.

“Threshold Units” has the meaning set forth in Section 3.1(d)(iii).

“Total Equity Value” means the aggregate proceeds that would be received by the Unitholders if: (i) the assets of the Company (including for the avoidance of doubt capital securities of the Company’s Subsidiaries) as a going concern were sold at their Fair Market Value; (ii) the Company satisfied and paid in full all of its obligations and liabilities (including all Taxes, costs and expenses incurred in connection with such transaction, in respect of any Indebtedness of the Company and any reserves established by the Board for contingent liabilities); and (iii) such net sale proceeds were then distributed in accordance with Section 4.2, all as determined by the Board.

“Transfer” means any sale, transfer, assignment, pledge, mortgage, exchange, hypothecation, grant of a security interest or other direct or indirect disposition or encumbrance of an interest (whether with or without consideration, whether voluntarily or involuntarily or by operation of law) or the acts thereof. The terms “Transferee,” “Transferred,” and other forms of the word “Transfer” shall have correlative meanings.

“Treasury Regulations” means the income tax regulations promulgated under the Code and effective as of the date hereof. Such term shall, at the Board’s sole discretion, be deemed to include any future amendments to such regulations and any corresponding provisions of succeeding regulations (whether or not such amendments and corresponding provisions are mandatory or discretionary).

“Unit” means a unit of “limited liability company interest” (within the meaning of the Delaware Act) of a Member or an Assignee in the Company representing a fractional part of interests in Profits, Losses and Distributions of the Company held by all Members and Assignees, including the Common Units; provided that any class or group of Units issued shall have relative rights, powers and duties set forth in this Agreement. The term “Unit” shall include any and all benefits to which the holder of such Unit may be entitled as provided in this Agreement, together with all obligations of such Person to comply with the terms and provisions of this Agreement.

“Unitholder” means any owner of one or more Units as reflected on the Company’s books and records, in his, her or its capacity as such.

ARTICLE II

ORGANIZATIONAL MATTERS

2.1 Formation of Company. The Company was formed on [●], 2021 (the “Date of Formation”) under the name “Johnstone Supply Holdings, LLC”, pursuant to the provisions of the Delaware Act.

2.2 Agreement of Membership. The Members hereby execute this Agreement for the purpose of establishing the affairs of the Company and the conduct of its business in accordance with the provisions of the Delaware Act. This Agreement amends and restates and shall supersede the Original Agreement in its entirety. The Members hereby agree that during the term of the Company set forth in Section 2.6 the rights and obligations of the Unitholders with respect to the Company will be determined in accordance with the terms and conditions of this Agreement and (except where the Delaware Act

provides that such rights and obligations specified in the Delaware Act shall apply “unless otherwise provided in a limited liability company agreement” or words of similar effect and such rights and obligations are set forth in this Agreement) the Delaware Act; provided that, notwithstanding the foregoing, but without limiting any rights expressly provided to any particular Member hereunder, Section 18-210 of the Delaware Act (entitled “Contractual Appraisal Rights”) and, except as otherwise expressly set forth herein, Section 18-305(a) of the Delaware Act (entitled “Access to and Confidentiality of Information; Records”) shall not apply or be incorporated into this Agreement. Notwithstanding anything herein to the contrary, the Board, in its discretion, may elect to delete, withhold or redact the ownership information, name and contact information of any or all other Members (including on the Schedule of Unitholders) from any or all other Members of the Company.

2.3 Name. The name of the Company shall be “Johnstone Supply Holdings, LLC”. The Board in its sole discretion may change the name of the Company at any time and from time to time. Notification of any such change shall be given to all Unitholders. The Company’s business may be conducted under its name and/or any other name or names deemed advisable by the Board.

2.4 Purpose. The purpose of the Company shall be (i) to purchase and hold, directly or indirectly, the Equity Securities of its Subsidiaries, investments and/or the businesses thereof and to perform such other obligations and duties as are imposed upon the Company under this Agreement and the other agreements contemplated hereby and thereby, (ii) to engage in the Business, and (iii) to engage in any other lawful act or activity for which limited liability companies may be organized under the Delaware Act.

2.5 Principal Office; Registered Office. The principal office of the Company shall be located at such place as the Board may from time to time designate, and all business and activities of the Company shall be deemed to have occurred at its principal office. The Company may maintain offices at such other place or places as the Board deems advisable. Notification of any such change shall be given to all Unitholders. The registered office of the Company in the State of Delaware shall be located at 1209 Orange Street, in the City of Wilmington, Delaware 19801, and the registered agent for service of process on the Company in the State of Delaware at such registered office shall be CT Corporation.

2.6 Term. The term of the Company commenced upon the filing of the Certificate and execution of the Original Agreement in accordance with the Delaware Act and shall continue in existence until termination and dissolution thereof in accordance with the provisions of ARTICLE XIII.

2.7 Company Status. The Unitholders intend that the Company not be a partnership (including a limited partnership) or joint venture, and that no Unitholder be a partner or joint venturer of any other Unitholder by virtue of this Agreement, for any purposes other than as set forth in the last sentence of this Section 2.7, and neither this Agreement nor any other document entered into by the Company or any Unitholder relating to the subject matter hereof shall be construed to suggest otherwise. Subject to Section 10.11 and unless otherwise determined by the Board, the Unitholders intend that the Company shall be treated as a partnership for federal and, if applicable, state or local income tax purposes, and each Unitholder and the Company shall file all tax returns and shall otherwise take all tax and financial reporting positions in a manner consistent with such treatment, to the extent permitted by applicable law or financial accounting standards.

2.8 Representations and Warranties of Members; Indemnification. As a material inducement to the Company to enter into this Agreement and to issue Units to the Members hereunder, each of the Members represents and warrants for itself (severally and not jointly) that as of the date such Member becomes party hereto:

(a) Investment Intent. The Units to be acquired by such Member pursuant to this Agreement shall be acquired for such Member's own account and not with a view to, or intention of, distribution thereof in violation of the Securities Act or any applicable state securities laws, and such Units will not subsequently be disposed of by such Member in contravention of the Securities Act or any applicable state securities laws.

(b) Accredited Investor; Sophistication. Unless Units are issued to such Member solely pursuant to Rule 701 promulgated under the Securities Act or otherwise as determined by the Board, such Member is an "accredited investor" as such term is defined in Rule 501(a) promulgated under the Securities Act, is sophisticated in financial matters and is able to evaluate the risks and benefits of the investment in the Units.

(c) Lack of Liquidity. Such Member is able to bear the risk of its investment in the Units for an indefinite period of time and is aware that transfer of the Units may not be possible because (i) such transfer is subject to contractual restrictions on transfer as set forth herein and (ii) the Units have not been registered under the Securities Act or any applicable state securities laws and, therefore, cannot be sold unless subsequently registered under the Securities Act and such applicable state securities laws or an exemption from such registration is available.

(d) Opportunity for Information. Such Member has had an opportunity to ask questions and receive responses concerning the terms and conditions of the offering and sale of the Units hereunder and has had full access to such other information as he, she or it has requested. Such Member acknowledges that none of the Company, its Subsidiaries, Affiliates, successors, beneficiaries, heirs and assigns and its and their past and present directors, managers, officers, employees, and agents (including, without limitation, their attorneys) makes or has made any representations or warranties to such Member regarding the Company or its Subsidiaries or such Member's receipt or ownership of Units. Such Member understands that, except as set forth in Section 15.2 or otherwise required under applicable law, such Member shall have no right to be advised of any material information regarding the Company or any of its Subsidiaries at any time prior to, upon or in connection with the repurchase or sale of any Units or otherwise.

(e) Forward-Looking Information. Such Member understands that any forward-looking information related to the Company provided to such Member by the Company or any other Member (or an Affiliate of such other Member) is uncertain and speculative in nature and such Member conducted its own assessment of such information.

(f) Binding Obligations; No Conflicts. This Agreement and the other agreements contemplated hereby and thereby of even date herewith constitute the legal, valid and binding obligations of such Member, enforceable against such Member in accordance with their terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and limitations on the availability of equitable remedies, and the execution delivery and performance of such agreements by such Member do not and shall not conflict with, violate or cause a breach of, any agreement, contract or instrument to which such Member is a party or by which such Member is bound or any judgment, order or decree to which such Member is subject, except for any such conflict, violation and/or breach that does not have and would not reasonably be expected to have a material adverse impact on the Company or such Member's ability to perform its obligations under this Agreement and the other agreements contemplated hereby.

(g) Anti-Money Laundering. Such Member hereby acknowledges that the Company seeks to comply with all applicable anti-money laundering laws and regulations. In furtherance of such efforts, the Member hereby represents and agrees that, to the best of its knowledge: (i) no part of the funds used by the Member to acquire the Units or to satisfy its capital commitment obligations with respect thereto

has been, or shall be, directly or indirectly derived from, or related to, any activity that may contravene United States federal or state or non-United States laws and regulations, including anti-money laundering laws and regulations and (ii) no capital commitment, contribution or payment to the Company by the Member and no distribution to the Member shall cause the Company or the Board to be in violation of any applicable anti-money laundering laws or regulations including, without limitation, the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 and the United States Department of the Treasury Office of Foreign Assets Control regulations. The Member acknowledges and agrees that, notwithstanding anything to the contrary contained in this Agreement or any other agreement, to the extent required by any anti-money laundering law or regulation, the Company and the Board may prohibit additional capital contributions, restrict distributions or take any other reasonably necessary or advisable action with respect to the Units, and the Member shall have no claim, and shall not pursue any claim, against the Company, the Board or any other person or entity in connection therewith.

(h) Indemnification. Each Member, severally and not jointly, hereby agrees to indemnify the Company and hold it harmless from and against any and all claims, losses, damages, liabilities, judgments, fines, settlements, compromises, awards, costs, expenses or other amounts (including, without limitation, any reasonable attorney fees, expert witness fees or related costs) arising out of or otherwise related to a breach of any of the representations and warranties of such Member as set forth in this Section 2.8.

ARTICLE III

CAPITAL CONTRIBUTIONS

3.1 Unitholders.

(a) Authorized Units; Rights of Certain Units. The authorized Units which the Company has authority to issue consist of [●] authorized Common Units; provided that (i) the number of authorized Common Units may be increased or decreased (but not below the number of Common Units already issued by the Company) from time to time as determined in the sole discretion of the Board and (ii) the Board shall have sole discretion to authorize the issuance by the Company of any other Equity Securities (subject to Section 3.1(e), if applicable). No Units issued hereunder shall be Certificated Units unless otherwise determined by the Board; provided that the Board may in its discretion issue Certificated Units to any holder representing the Units held by such holder. The ownership by a Member of Common Units shall entitle such Member to allocations of Profits and Losses and other items and Distributions of cash and other property as set forth in ARTICLE IV hereof and such other rights and obligations specified in this Agreement.

(b) Issuances of Units; Current Arrangements. The Redwood Investor has, by its execution hereof, agreed to make and, on or prior to the Effective Date, is making Capital Contributions in the aggregate amount set forth opposite the Redwood Investor's name on the Schedule of Unitholders attached hereto under the column "Capital Contributions in Respect of Common Units" and, in exchange therefor and upon receipt of such Capital Contributions, the Company is issuing to each such Member the number of Common Units set forth opposite such Member's name on the Schedule of Unitholders attached hereto. Each Continuing Investor has, by its execution and delivery of an election form in connection with the Rollover Transactions and this Agreement, agreed to exchange Equity Securities of Johnstone for common units of Intermediate and then exchange such common units for the Common Units and thereby is making Capital Contributions in the aggregate amount determined in accordance with such election form and, in exchange therefor, the Company will issue to each such Continuing Investor the number of Common Units determined in accordance with the election form. The amount of Capital Contributions made by, and

the number of Common Units issued to, each such Continuing Investor is set forth opposite each such Continuing Unitholder's name on the Schedule of Unitholders attached hereto. Nothing herein shall require any Member to make further Capital Contributions.

(c) Issuance of Additional Units and Interests.

(i) Subject to compliance with Section 3.1(e), the Board shall have the right to cause the Company to issue Equity Securities on such terms and subject to such conditions as it determines; provided that at any time following the Effective Date, the Company shall not issue Equity Securities to any Person unless such Person shall have executed a counterpart to this Agreement. In such event, the Board shall have the power to amend the Schedule of Unitholders to reflect such additional issuances and dilution and to make any such other amendments as it deems necessary or desirable to reflect such additional issuances (including, without limitation, amending this Agreement to increase the authorized number of Units of any class or creating a new class of Units and to add the terms of such new class including economic and governance rights which may be different from the Common Units or any other outstanding securities) so long as such amendments do not otherwise adversely affect in any material respect any class of Unitholders in any manner differently from any other class of Unitholders (with it being understood and agreed that, among other things, any ratable dilution arising from such issuance shall not be deemed to adversely affect in any material respect any class of Unitholders in any manner differently from any other class of Unitholders).

(ii) In the discretion of the Board, but subject to the requirements of Section 3.1(c)(i), new Units may be issued in exchange for Capital Contributions and/or may be issued as consideration to a Member for property or services and may, in the discretion of the Board, be issued with a Participation Threshold determined and adjusted in accordance with Section 3.1(d).

(d) Incentive Equity.

(i) Without limiting the rights of the Company to issue or grant other Equity Securities on any terms that it determines (but subject to Section 3.1(e), if applicable), the Company may issue Common Units in consideration for services rendered or to be rendered (any such Common Unit shall be referred to herein as an "Incentive Unit") to existing or new employees, officers, directors, other service providers or consultants of the Company or its Subsidiaries (each in its capacity as such, an "Incentive Unitholder") pursuant to written plans or agreements approved by the Board (each such plan or agreement, regardless of its actual title, as amended, modified and waived from time to time in accordance with its terms, an "Incentive Unit Grant Agreement"); provided that in no event shall such Incentive Units exceed 7.5% of the total issued and outstanding Common Units unless approved by the affirmative vote of a majority of the Board including at least one (1) Continuing Investor Manager (so long as there are Continuing Investor Managers as set forth in this Agreement). The Company may make such Incentive Units and any issuance thereof subject to the terms and conditions of any Incentive Unit Grant Agreement (including vesting terms).

(ii) Incentive Units granted pursuant to an Incentive Unit Grant Agreement are intended to be granted in exchange for services provided or to be provided to the Company or any Subsidiary thereof. Consistent with the foregoing, any such Incentive Units are intended to be treated as "profits interests" under IRS Revenue Procedure 93-27 and IRS Revenue Procedure 2001-43 and the provisions of this Agreement shall be interpreted and applied consistently therewith. Except as otherwise provided by the Board, any Incentive Unitholder who receives such Incentive Units shall make a timely and effective election under Section 83(b) of the Code with

respect to such Incentive Units. The Company and all Unitholders will (A) treat such Incentive Units as outstanding for tax purposes, (B) treat such Incentive Unitholder as a Member of the Company for Tax purposes with respect to such Units and (C) file all tax returns and reports consistently with the foregoing, and neither the Company nor any of its Unitholders will deduct any amount (as wages, compensation or otherwise) for the fair market value of such Incentive Units for federal income tax purposes. Notwithstanding anything in this Section 3.1(d) or elsewhere in this Agreement to the contrary, each holder of Incentive Units acknowledges and agrees that neither the Company nor any Unitholder shall have any liability, and no Incentive Unitholder shall have any right, remedy or recourse against the Company or any other Unitholder, with respect to the achievement (or non-achievement) of the Tax results intended or attempted to be achieved pursuant to this Agreement.

(iii) Further to the intended tax treatment referenced in Section 3.1(d)(ii), the Board may, in connection with the issuance thereof, establish an initial “Participation Threshold” for each such Incentive Unit in accordance with this Section 3.1(d). The initial Participation Threshold or Participation Thresholds so established shall be set forth on the Schedule of Unitholders, and the Schedule of Unitholders shall be amended from time to time by the Board as necessary to reflect any adjustments to the Participation Thresholds determined in accordance herewith. Any Participation Threshold to which any Incentive Unit issued to an Incentive Unitholder is subject shall be established on such terms and such basis as the Board determines (e.g., on a per Unit basis or an aggregate basis and determined with regard to one or more classes of Units). Once established, a Participation Threshold may be adjusted by the Board as it determines appropriate to reflect Distributions, Capital Contributions, subdivisions, splits, combinations or other events with respect to Common Units (“Threshold Units”) that (A) were outstanding immediately prior to the issuance of the Incentive Unit and (B) were relevant to the establishment of such Participation Threshold.

(iv) The Board shall have the ability, in its sole discretion, to reclassify Incentive Units issued after the date of this Agreement with a different Participation Threshold into a sub-class or sub-series of Common Units or other Incentive Units and amend this Agreement to reflect such reclassification.

(v) Without limiting the foregoing, (A) in the event of any Distribution pursuant to Section 4.2, the Participation Threshold of each Incentive Unit outstanding at the time of such Distribution shall be reduced (but not below zero) by the amount that each Common Unit receives in such Distribution pursuant to such Section (with such reduction occurring immediately after the determination of the portion of such Distribution, if any, that such Incentive Unit is entitled to receive) and (B) in the event of any Capital Contribution with respect to outstanding Common Units (i.e., a Capital Contribution in respect of which no new Units are issued), the Participation Threshold of each Incentive Unit outstanding at the time of such Capital Contribution shall be increased by the amount contributed with respect to each Common Unit to the extent that an equivalent Capital Contribution is not made with respect to such Incentive Unit. No adjustment to the Participation Threshold shall be made in connection with (A) any redemption or repurchase by the Company or any Unitholder of any Units or (B) any Capital Contribution by any Unitholder in exchange for newly issued Units. If the Company at any time subdivides (by any Unit split or otherwise) Common Units into a greater number of Units, the Participation Threshold of each Incentive Unit outstanding immediately prior to such subdivision shall be proportionally reduced, and if the Company at any time combines (by reverse Unit split or otherwise) Common Units into a smaller number of Units, the Participation Threshold of each Incentive Unit outstanding immediately prior to such combination shall be proportionately increased.

(vi) Notwithstanding anything in this Section 3.1(d) to the contrary, the Board shall have the power to amend the provisions of this Section 3.1(d) and Section 4.2 to achieve the economic results intended by this Agreement with respect to Incentive Units, including that the Incentive Units issued to any service providers in connection with services provided or to be provided to or for the benefit of the Company or any Subsidiary thereof are “profits interests” within the meaning of Internal Revenue Service Revenue Procedures 93-27 and 2001-43, Internal Revenue Service Notice 2005-43 and any future Internal Revenue Service guidance.

(e) Preemptive Rights.

(i) In any issuance or sale of New Securities to any Person (collectively, the “Offeree”) after the Effective Date, the Company hereby grants to each Member holding the then-outstanding Common Units (other than Incentive Units) that is an accredited investor, the right, on the terms set forth below, to purchase such Member’s Preemptive Pro Rata Share of New Securities that the Company may from time to time propose to sell and issue to the Offeree for cash or other consideration. “Preemptive Pro Rata Share,” with respect to any Member, means a percentage equal to (i) the total outstanding Common Units (other than Incentive Units) held by such Member as of immediately prior to the date of determination divided by (ii) the total outstanding Common Units (other than Incentive Units) held by all Members as of immediately prior to the date of determination.

(ii) In the event the Company is selling or has sold New Securities to an Offeree, it shall give each Member with preemptive rights pursuant to Section 3.1(e) written notice of such sale (which such notice may be given after such sale, provided, however, any such notice will be given within ten (10) days of any such sale), describing the type of New Securities, the consideration and the general terms upon which the Company is selling or has sold the same. Each Member with preemptive rights pursuant to Section 3.1(e) shall have ten (10) business days from the date of receipt of any such notice to agree to purchase all or any portion of its Preemptive Pro Rata Share of such New Securities for cash consideration at the price and upon the general terms specified in the notice by giving written notice to the Company (in the manner provided in the notice from the Company) and stating therein the quantity of New Securities to be purchased. Any Person entitled to exercise preemptive rights in accordance with this Section 3.1(e) shall be entitled to designate an Affiliate to exercise all or a portion of its rights under this Section 3.1(e).

(iii) In the event the Company proposes to offer to an Offeree one or more New Securities as a strip, the rights granted pursuant to this Section 3.1(e) shall be exercisable only as to the strip of such New Securities, and not separately as to any component of such strip of New Securities.

(iv) Notwithstanding anything herein to the contrary, in lieu of offering any New Securities to each Member with preemptive rights pursuant to Section 3.1(e) at the time such New Securities are otherwise offered, issued or sold to an Offeree, the Company may comply with the provisions of this Section 3.1(e) by (A) making an offer to issue or sell an additional number of such New Securities or (B) causing such Offeree to sell a portion of the total number of such New Securities issued or sold, in either case, to the Members with preemptive rights pursuant to Section 3.1(e) following the issuance and sale of New Securities to an Offeree in accordance with their respective Preemptive Pro Rata Shares. In such event, for all purposes of this Section 3.1(e)(iv), each such Member’s Preemptive Pro Rata Share shall be determined taking into consideration the actual number of New Securities issued or sold to such Offeree so as to achieve the same economic effect as if such offer were made to such Members prior to such issuance or sale to such Offeree.

(v) The rights of all Members under this Section 3.1(e) shall terminate upon the consummation of a Public Offering and, with respect to any Member, the date that such Member owns no Common Units, as applicable.

3.2 Capital Accounts.

(a) The Company shall maintain a separate Capital Account for each Unitholder according to the rules of Treasury Regulation Section 1.704-1(b)(2)(iv). For this purpose, the Company may (in the sole discretion of the Board), upon the occurrence of the events specified in Treasury Regulation Section 1.704-1(b)(2)(iv)(f), increase or decrease the Capital Accounts in accordance with the rules of such regulation and Treasury Regulation Section 1.704-1(b)(2)(iv)(g) to reflect a revaluation of Company property.

(b) For purposes of computing the amount of any item of Company income, gain, loss or deduction to be allocated pursuant to ARTICLE IV and to be reflected in the Capital Accounts, the determination, recognition and classification of any such item shall be the same as its determination, recognition and classification for federal income tax purposes (including any method of depreciation, cost recovery or amortization used for this purpose); provided that:

(i) The computation of all items of income, gain, loss and deduction shall include those items described in Code Section 705(a)(1)(B) or Code Section 705(a)(2)(B) and Treasury Regulation Section 1.704-1(b)(2)(iv)(i), without regard to the fact that such items are not includable in gross income or are not deductible for federal income tax purposes.

(ii) If the Book Value of any Company property is adjusted pursuant to Treasury Regulation Section 1.704-1 (b)(2)(iv)(e) or (f), the amount of such adjustment shall be taken into account as gain or loss from the disposition of such property.

(iii) Items of income, gain, loss or deduction attributable to the disposition of Company property having a Book Value that differs from its adjusted basis for tax purposes shall be computed by reference to the Book Value of such property.

(iv) Items of depreciation, amortization and other cost recovery deductions with respect to Company property having a Book Value that differs from its adjusted basis for tax purposes shall be computed by reference to the property's Book Value in accordance with Treasury Regulation Section 1.704-1(b)(2)(iv)(g).

(v) To the extent an adjustment to the adjusted tax basis of any Company asset pursuant to Code Sections 732(d), 734(b) or 743(b) is required, pursuant to Treasury Regulation Section 1.704-1(b)(2)(iv)(m), to be taken into account in determining Capital Accounts, the amount of such adjustment to the Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis).

3.3 Negative Capital Accounts. No Unitholder shall be required to pay to any other Unitholder or the Company any deficit or negative balance which may exist from time to time in such Unitholder's Capital Account (including upon and after dissolution of the Company).

3.4 No Withdrawal. No Person shall be entitled to withdraw any part of such Person's Capital Contributions or Capital Account or to receive any Distribution from the Company, except as expressly provided herein.

3.5 Loans From Unitholders. Loans by Unitholders to the Company shall not be considered Capital Contributions. If any Unitholder shall loan funds to the Company in excess of the amounts required hereunder to be contributed by such Unitholder to the capital of the Company, the making of such loans shall not result in any increase in the amount of the Capital Account of such Unitholder. The amount of any such loans shall be a debt of the Company to such Unitholder and shall be payable or collectible in accordance with the terms and conditions upon which such loans are made.

3.6 Distributions In-Kind. To the extent that the Company distributes property in-kind to the Members, the Company shall be treated as making a distribution equal to the Fair Market Value of such property for purposes of Section 4.1 and such property shall be treated as if it were sold for an amount equal to its Fair Market Value and any resulting gain or loss shall be allocated to the Members' Capital Accounts in accordance with Sections 4.3 through 4.5. The Board may require as a condition of Distribution of securities hereunder that the Unitholders execute and deliver such documents as the Board may deem necessary or appropriate to ensure compliance with all U.S. federal and state securities laws which apply to such Distribution and any further transfer of the distributed securities, and may appropriately legend the certificates which represent such securities to reflect any restriction on transfer with respect to such laws. If the Company distributes property in kind that was contributed to the Company (or received in a tax free exchange for property contributed to the Company), the Company shall, if possible, distribute (and be deemed to distribute) such property to the Unitholder who contributed such property, to the extent that such Unitholder is entitled to receive a Distribution at such time under the economic priorities set out in Section 4.1.

ARTICLE IV

DISTRIBUTIONS AND ALLOCATIONS

4.1 Tax Distributions. To the extent funds of the Company may be available for distribution by the Company and to the extent not otherwise restricted by the terms of any credit facility to which the Company or any of its Subsidiaries is subject, the Board shall cause the Company to distribute to the Unitholders with respect to each Fiscal Quarter of the Company an amount of cash (a "Tax Distribution") which in the good faith judgment of the Board is equal to the Applicable Tax Rate multiplied by the excess of (a) the net taxable income of the Company (if any) allocable to the Unitholders in respect of such Fiscal Quarter (determined without regard to any items of taxable income or deduction allocated under Section 704(c) of the Code with respect to contributed property), over (b) the amount of any taxable loss allocated by the Company to the Unitholders for prior Fiscal Quarters (to the extent such loss has not been previously used to offset taxable income pursuant to this clause), with such Tax Distribution to be made to the Unitholders in the same proportions that such net taxable income as described in clause (a) was allocated to the Unitholders during such Fiscal Quarter. The Board shall be entitled to adjust subsequent Tax Distributions up or down to reflect any variation between estimated Tax Distributions previously made with respect to a Fiscal Quarter and the Tax Distributions that would have been computed under this Section 4.1 based on subsequent Tax information. The Company shall take commercially reasonable actions, taking into account then current market conditions, such that Tax Distributions may be made (and Subsidiaries of the Company may make distributions to Company so they may Tax Distributions) in accordance with this Section 4.1 under any credit facility to which the Company or any of its Subsidiaries is subject.

4.2 Other Distributions.

(a) Except for Tax Distributions as set forth in Section 4.1 and subject to the remaining provisions of Section 4.2, the Board (i) may in its sole discretion (but shall not be obligated to) cause the Company to make Distributions, at any time or from time to time and (ii) from and after the completion of

the first full Fiscal Quarter after the Effective Date, in addition to any other Distributions that may be made at the discretion of the Board pursuant to the preceding clause (i), the Board shall cause the Company to make Distributions of at least fifty percent (50%) of the Company's Distributable Cash Flow with respect to each Fiscal Quarter of the Company (as determined in good faith by the Board) within 60 days after the end of each such Fiscal Quarter (provided that no such Distributions shall be made or required pursuant to this clause (ii) unless (and if so, only to the extent) the Board determines in good faith that (x) such Distributions are permitted under applicable law, (y) each of the Company and its Subsidiaries is not then in default, and after giving effect to such Distributions will be in pro forma compliance with the covenants and other agreements, under the Company's or any of its Subsidiaries' respective credit facilities, if any, and (z) it believes any Tax costs of such Distribution do not outweigh the benefits of such Distribution (determined without regard to the Tax position of any Unitholder)); provided that any such Distribution shall be made to the holders of the outstanding Common Units ratably among such holders in the proportion that the number of Common Units held by each such holder immediately prior to such Distribution bears to the aggregate number of Common Units outstanding immediately prior to such Distribution. Any Tax Distribution to any Unitholder pursuant to Section 4.1 shall be treated as an advance to such Unitholder of amounts to which they are otherwise entitled under, and shall reduce the amount of any other Distributions to such Unitholder pursuant to, this Section 4.2(a) and any Distribution of Distributable Cash Flow to a Unitholder with respect to a Fiscal Quarter shall (to the extent so paid) be deemed in satisfaction of all or a portion of the Tax Distribution payable to such Member pursuant to Section 4.1 with respect to such Fiscal Quarter.

(b) Notwithstanding anything herein to the contrary, for all purposes of Section 4.2(a), if any Incentive Unit has been granted with a Participation Threshold that is greater than \$0 as established in accordance with this Agreement, then such Incentive Unit will not have the right to receive any Distributions under Section 4.2(a) and will not be treated as issued and outstanding for purposes of calculating Distributions under this Section 4.2 until the applicable Participation Threshold (as adjusted in accordance herewith), as a result of Distributions in respect of any applicable Threshold Units with respect thereto, has been reduced to \$0 as determined by the Board.

(c) Notwithstanding anything to the contrary in Section 4.2(a), (i) no Unit that, in accordance with an Incentive Unit Grant Agreement, is subject to vesting but has not vested, shall be entitled to participate in a Distribution pursuant to Section 4.2(a) unless otherwise determined by the Board, provided that, for the avoidance of doubt, such Unit shall be entitled to participate in Tax Distributions pursuant to Section 4.1 and (ii) no Unit shall be deemed subject to vesting unless it was expressly subject to vesting when issued or subjected to vesting in any subsequent agreement between the Company and the holder thereof (that is, unless subjected to vesting in such a written agreement, such Unit shall be deemed vested for all purposes hereof). To the extent that any Incentive Unit is, in accordance with an Incentive Unit Grant Agreement(s), subject to "time vesting" and at the time of Distribution, such Incentive Unit remains unvested, the Board shall either (A) elect to have the Company retain amounts that would otherwise have been Distributed to such Incentive Units had such Incentive Units been vested at the time of Distribution or (B) establish a reserve on the books and records of the Company in such amount for the benefit of the holder of such Incentive Unit, and the Company shall pay such amounts (the "Deferred Distribution Amount") to the holder(s) thereof if such Incentive Unit subsequently "time vests" in accordance with the Incentive Unit Grant Agreement(s) pursuant to which they were issued without violation of this Section 4.2(c). Any Deferred Distribution Amounts shall be paid out of the first available proceeds of the next Distribution until fully paid, but only, for the avoidance of doubt, in respect of such time vesting Units that actually vest.

(d) Notwithstanding the foregoing, the Board may, without violation of this Section 4.2, withhold all or any portion of a Distribution to a Unitholder (i) to offset any *bona fide* debts or obligations owed by such Unitholder or any Affiliate or Family Group to the Company or any of its Subsidiaries or (ii)

if such Member does not timely execute an undertaking to return all or a portion of such Distribution upon the occurrence of one or more contingencies; provided that in the case of clause (ii), the Redwood Investor has executed a similar undertaking on a ratable basis with respect to matters that are not specific to the Member referenced in clause (ii) (e.g., representations and warranties regarding such Member).

(e) In connection with any Sale of the Company, unless otherwise determined by the Board, the aggregate cash, securities and other property to be received in such Sale of the Company as consideration in respect of the Units shall be allocated in such Sale of the Company among the Unitholders as if, and treated as if, such consideration were Distributed by the Company to the Unitholders pursuant to the provisions of Section 4.2. Any purchaser in a Sale of the Company may conclusively rely on any allocation of consideration certificate provided by the Board with respect to any consideration to be paid in connection with a Sale of the Company and no Member or Unitholder shall have any claim or recourse against such a purchaser who complies with such certificate.

4.3 Allocations. Except as otherwise provided in Section 4.4 and Section 4.7, Profits and Losses for any Taxable Year shall be allocated among the Unitholders in such a manner that, as of the end of such Taxable Year, the sum of (a) the Capital Account of each Unitholder, (b) such Unitholder's share of Minimum Gain (as determined according to Treasury Regulation Section 1.704-2(g)) and (c) such Unitholder's partner nonrecourse debt minimum gain (as defined in Treasury Regulation Section 1.704-2(i)(3)) shall be equal to the respective net amounts, positive or negative, which would be distributed to them or for which they would be liable to the Company under the Delaware Act, determined as if the Company were to (i) liquidate the assets of the Company for an amount equal to their Book Value and (ii) distribute the proceeds of liquidation pursuant to Section 13.2. For purposes of allocating Profits and Losses, and all other items of income, gain, deduction and loss, pursuant to this Section 4.3 (and the other provisions of this ARTICLE IV to the extent applicable), all outstanding Incentive Units shall be treated as vested, including, for the avoidance of doubt, for purposes of determining the amount that would be distributed to the holders of such Units pursuant to clause (ii) in the first sentence of this Section 4.3.

4.4 Special Allocations.

(a) Losses attributable to partner nonrecourse debt (as defined in Treasury Regulation Section 1.704-2(b)(4)) shall be allocated in the manner required by Treasury Regulation Section 1.704-2(i). If there is a net decrease during a Taxable Year in partner nonrecourse debt minimum gain (as defined in Treasury Regulation Section 1.704-2(i)(3)), Profits for such Taxable Year (and, if necessary, for subsequent Taxable Years) shall be allocated to the Unitholders in the amounts and of such character as determined according to Treasury Regulation Section 1.704-2(i)(4). This Section 4.4(a) is intended to be a minimum gain chargeback provision that complies with the requirements of Treasury Regulation Section 1.704-2(i)(4) and shall be interpreted consistently therewith.

(b) Nonrecourse deductions (as determined according to Treasury Regulation Section 1.704-2(b)(1)) for any Taxable Year shall be allocated to each Unitholder ratably among such Unitholders based upon the Capital Contributions made by the Unitholders. Except as otherwise provided in Section 4.4(a), if there is a net decrease in the Minimum Gain during any Taxable Year, each Unitholder shall be allocated Profits for such Taxable Year (and, if necessary, for subsequent Taxable Years) in the amounts and of such character as determined according to Treasury Regulation Section 1.704-2(f). This Section 4.4(b) is intended to be a minimum gain chargeback provision that complies with the requirements of Treasury Regulation Section 1.704-2(f), and shall be interpreted in a manner consistent therewith.

(c) If any Unitholder that unexpectedly receives an adjustment, allocation or distribution described in Treasury Regulation Section 1.704-1(b)(2)(ii)(d)(4), (5) and (6) has an Adjusted Capital Account Deficit as of the end of any Taxable Year, computed after the application of Sections 4.4(a) and

4.4(b) but before the application of any other provision of this ARTICLE IV, then Profits for such Taxable Year shall be allocated to such Unitholder in proportion to, and to the extent of, such Adjusted Capital Account Deficit. This Section 4.4(c) is intended to be a qualified income offset provision as described in Treasury Regulation Section 1.704-1(b)(2)(ii)(d) and shall be interpreted in a manner consistent therewith.

(d) Profits and Losses shall be allocated in a manner consistent with the manner that the adjustments to the Capital Accounts are required to be made pursuant to Treasury Regulation Section 1.704-1(b)(2)(iv)(j), (k), and (m).

(e) The allocations set forth in Section 4.4(a)-(c) (the “Regulatory Allocations”) are intended to comply with certain requirements of Sections 1.704-1(b) and 1.704-2 of the Treasury Regulations. The Regulatory Allocations may not be consistent with the manner in which the Unitholders intend to allocate Profit and Loss of the Company or make Company distributions. Accordingly, notwithstanding the other provisions of this ARTICLE IV, but subject to the Regulatory Allocations, income, gain, deduction and loss shall be reallocated among the Unitholders so as to eliminate the effect of the Regulatory Allocations and thereby cause the respective Capital Accounts of the Unitholders to be in the amounts (or as close thereto as possible) they would have been if Profit and Loss (and such other items of income, gain, deduction and loss) had been allocated without reference to the Regulatory Allocations. In general, the Unitholders anticipate that this will be accomplished by specially allocating other Profit and Loss (and such other items of income, gain, deduction and loss) among the Unitholders so that the net amount of the Regulatory Allocations and such special allocations to each such Unitholder is zero. In addition, if in any Taxable Year or portion thereof there is a decrease in Minimum Gain, or in partner nonrecourse debt minimum gain, and application of the minimum gain chargeback requirements set forth in Section 4.4(a) or Section 4.4(b) would cause a distortion in the economic arrangement among the Unitholders, the Unitholders may, if they do not expect that the Company will have sufficient other income to correct such distortion, request the Internal Revenue Service to waive either or both of such minimum gain chargeback requirements. If such request is granted, this Agreement shall be applied in such instance as if it did not contain such minimum gain chargeback requirement.

(f) The Unitholders acknowledge that allocations like those described in Proposed Treasury Regulation Section 1.704-1(b)(4)(xii)(c) (“Forfeiture Allocations”) may result from the allocations of Profits and Losses provided for in this Agreement. For the avoidance of doubt, the Company is entitled to make Forfeiture Allocations and, once required by applicable final or temporary guidance, allocations of Profits and Losses will be made in accordance with Proposed Treasury Regulation Section 1.704-1(b)(4)(xii)(c) or any successor provision or guidance.

(g) Company Losses shall not be allocated to a Member if such allocation of Losses would cause the Member to have an Adjusted Capital Account Deficit. Company Losses that cannot be allocated to a Member shall be allocated to the other Members; provided, however, that, if no Member may be allocated Company Losses due to the limitations of this Section 4.4(g), Company Losses shall be allocated to all holders of Units in accordance with their respective outstanding Units.

4.5 Allocations upon Transfer or Issuance of Units. If any Member Transfers an interest in the Company within a Taxable Year or if any Member acquires an interest from the Company within a Taxable Year, allocations of Company Profits, Losses and corresponding Tax items shall be made in a manner determined by the Board that is not inconsistent with the Code and the Treasury Regulations.

4.6 Tax Allocations.

(a) The income, gains, losses, deductions and credits of the Company will be allocated, for federal, state, local and foreign income tax purposes, among the Unitholders in accordance with the

allocation of such income, gains, losses, deductions and credits among the Unitholders for computing their Capital Accounts; except that if any such allocation is not permitted by the Code or other applicable law, the Company's subsequent income, gains, losses, deductions and credits will be allocated among the Unitholders so as to reflect as nearly as possible the allocation set forth herein in computing their Capital Accounts.

(b) Items of Company taxable income, gain, loss and deduction with respect to any property contributed to the capital of the Company shall be allocated among the Unitholders in accordance with Code Section 704(c), using a reasonable method specified in Treasury Regulations Section 1.704-3 as determined by the Board, so as to take account of any variation between the adjusted basis of such property to the Company for federal income tax purposes and its Book Value.

(c) If the Book Value of any Company asset is adjusted pursuant to Treasury Regulation Section 1.704-1(b)(2)(iv)(e) or (f) subsequent allocations of items of taxable income, gain, loss and deduction with respect to such asset shall take account of any variation between the adjusted basis of such asset for federal income tax purposes and its Book Value in the same manner as under Code Section 704(c) using a reasonable method specified in Treasury Regulations Section 1.704-3 as determined by the Board.

(d) Allocations of tax credits, tax credit recapture and any items related thereto shall be allocated to the Unitholders according to their interests in such items as determined by the Board taking into account the principles of Treasury Regulation Section 1.704-1(b)(4)(ii).

(e) Allocations pursuant to this Section 4.6 are solely for purposes of federal, state, local and foreign taxes and shall not affect, or in any way be taken into account in computing, any Unitholder's Capital Account or share of Profits, Losses, Distributions or other Company items pursuant to any provision of this Agreement.

4.7 Offsetting Allocations. If, and to the extent that, any Member is deemed to recognize any item of income, gain, deduction or loss as a result of any transaction between such Member and the Company pursuant to Sections 83, 482 or 7872 of the Code or any similar provision now or hereafter in effect, the Board may in its discretion allocate any corresponding Profit or Loss of the Company to the Member who recognizes such item in order to reflect the Members' economic interest in the Company.

4.8 Indemnification and Reimbursement for Payments on Behalf of a Unitholder. If the Company is required by law to make any payment to a Governmental Entity that is specifically attributable, in the Board's good faith discretion, to a Unitholder or a Unitholder's status as such, (including, without limitation, federal, state, local or non-U.S. withholding, personal property, personal property replacement, and unincorporated business taxes (including any liabilities for Taxes imposed pursuant to the Partnership Tax Audit Rules)), then such Unitholder shall indemnify and contribute to the Company in full for the entire amount paid (including interest, penalties and related expenses). The Board may offset Distributions (including Tax Distributions) to which a Person is otherwise entitled under this Agreement against such Person's obligation to indemnify the Company under this Section 4.8. A Unitholder's obligation to indemnify and make contributions to the Company under this Section 4.8 shall survive the termination, dissolution, liquidation and winding up of the Company or any Transfer or other disposition of a Unit held by such Unitholder, and for purposes of this Section 4.8, the Company shall be treated as continuing in existence. The Company may pursue and enforce all rights and remedies it may have against each Unitholder under this Section 4.8, including instituting a lawsuit to collect such indemnification and contribution with interest calculated at a rate equal to the Base Rate plus three percentage points per annum (but not in excess of the highest rate per annum permitted by law). Each Member hereby covenants and agrees on behalf of itself and its successors and assigns, without further consideration, to prepare, execute, acknowledge, file, record, publish and deliver such other information, instruments, documents, tax forms

and statements reasonably requested by the Board and to take such other actions as may be reasonably necessary, advisable or appropriate to enable the Board to effectively carry out the purposes of the Company and this Agreement.

ARTICLE V MANAGEMENT

5.1 Management by the Board.

(a) Authority of the Board. Except for situations in which the approval of the Members is expressly required by this Agreement or nonwaivable provisions of applicable law, (i) the powers of the Company shall be solely exercised by or under the exclusive authority of, and the business and affairs of the Company shall be managed under the exclusive direction of, the board of managers of the Company (the “Board”) and (ii) the Board may, without any vote, consent or approval of any Member, Unitholder, group or class of Members or Unitholders or other Person, make all decisions and take all actions for the Company, including, without limitation, the following:

- (i) entering into, making and performing contracts, agreements and other undertakings binding the Company that may be necessary, appropriate or advisable in furtherance of the purposes of the Company and making all decisions and waivers thereunder;
- (ii) maintaining the assets of the Company in good order;
- (iii) collecting sums due the Company;
- (iv) opening and maintaining bank and investment accounts and arrangements, drawing checks and other orders for the payment of money and designating individuals with authority to sign or give instructions with respect to those accounts and arrangements;
- (v) acquiring, utilizing for Company purposes and disposing of any assets of the Company;
- (vi) selling all or substantially all of the assets of the Company (including equity securities owned by the Company);
- (vii) to the extent that funds of the Company are available therefor, paying debts and obligations of the Company;
- (viii) hiring and employing executives, supervisors and other personnel;
- (ix) selecting, removing and changing the authority and responsibility of lawyers, accountants and other advisers and consultants;
- (x) borrowing money or otherwise committing the credit of the Company for its activities and voluntary prepayments or extensions of debt;
- (xi) obtaining insurance for the Company;
- (xii) increasing the authorized number of Units of any class or series;

(xiii) authorizing and completing any split, subdivision, combination or reverse split of any class or series of Units;

(xiv) authorizing, approving, entering into any agreement regarding and consummating the issuance or sale of any Equity Securities or rights exercisable for or convertible into Equity Securities and, in each case, the terms of such Equity Securities or rights;

(xv) authorizing, approving, entering into any agreement regarding and consummating any merger, consolidation, conversion or division involving the Company or any Sale of the Company;

(xvi) establishing reserves for commitments and obligations (contingent or otherwise) of the Company;

(xvii) determining and making Distributions of Company cash and other property as provided in Section 4.1, Section 4.2, and Article XIII;

(xviii) establishing a seal for the Company;

(xix) filing a petition under the federal bankruptcy laws or under any other receivership, insolvency or reorganization laws; and

(xx) voting, causing to be voted or providing a consent in respect of any Equity Securities owned by the Company or any Subsidiary thereof (including any vote with respect to matters governed by Section 280G of the Code);

provided that nothing in this Section 5.1(a) shall limit the right of the Board to delegate the ordinary course operation of the Company's business to officers and employees of the Company, subject to the Board's overall supervision and approval.

(b) Officer Supervision. The management of the business and affairs of the Company by the officers and the exercising of their powers shall be conducted under the supervision of and subject to the approval of the Board.

5.2 Actions by the Board. In managing the business and affairs of the Company and exercising their powers, the Board may act (i) through meetings and written consents and (ii) through any officer to whom authority and duties have been delegated. Whenever an act, consent or other matter is to be taken by the Company pursuant to this Agreement, such act shall, unless validly delegated to a specific Member or an officer by members of the Board (each, a "Manager") holding a majority of the voting power of all of the Managers of the Board or unless another vote or consent is expressly required by this Agreement, require the consent of the majority of voting power of all of the Managers of the Board to be validly taken.

5.3 Delegation of Authority and Duties. The Board may, from time to time, delegate to one or more Persons, or a committee thereof, such authority and duties as the Board may deem advisable. The Board also may assign titles (including chairman, chief executive officer, president, vice president, secretary, assistant secretary, treasurer and assistant treasurer) to any Unitholder or other individual and may delegate to such Person certain authority and duties. Any number of titles may be held by the same individual. Any delegation pursuant to this Section 5.3 may be revoked at any time by the Board.

5.4 Fiduciary Duties. No Manager shall, in his or her capacity as such, owe any duty arising at law or in equity (including any fiduciary duty) to the Company or any of its Members, Unitholders or creditors; provided that nothing in this Agreement shall be deemed to waive any contractual (or implied contractual) duty of good faith and fair dealing, and each Manager shall be deemed to owe to the Company the same fiduciary duty of loyalty that a director of a Delaware corporation owes to such corporation; provided that such duty of loyalty is expressly limited and modified as set forth in Section 5.4(b) of this Agreement.

(b) Notwithstanding the foregoing or anything the contrary contained herein, a Manager's duty of loyalty to the Company shall not apply (and no claim for breach of such duty at loyalty may be asserted) with respect to any of the matters set forth in or permitted by Section 7.10(a) or Section 15.4(b) or any of the Pre-Approved Matters.

5.5 Number and Appointment.

(a) Each of the Managers shall be "managers" within the meaning of the Delaware Act. The number of Managers shall be established by the Redwood Investor and shall be no less than three (3) and no more than nine (9). The Managers shall be appointed as follows:

(i) the individual serving from time to time as the Chief Executive Officer of the Company shall have the right to serve as a Manager for so long as he or she serves as the Chief Executive Officer of the Company (the "CEO Manager");

(ii) the Advisory Board (acting on behalf of the Continuing Investors) shall have the right to appoint (x) three (3) Managers for so long as the Continuing Investors continue to own at least 66.7% of the Common Units held by the Continuing Investors as of the Effective Date, or (y) two (2) Managers for so long as the Continuing Investors continue to own less than 66.7% but at least 33.3% of the Common Units held by the Continuing Investors as of the Effective Date (each Manager appointed pursuant to this Section 5.5(a)(ii), a "Continuing Investor Manager"); and

(iii) the Redwood Investor shall have the right to appoint the remaining Managers (each Manager appointed pursuant to this Section 5.5(a)(iii), a "Redwood Manager").

(b) The initial Board on the Effective Date shall consist of [●] (as the CEO Manager), [●], [●] and [●] (as the Continuing Investor Managers) and [●], [●] and [●] (as the Redwood Managers).¹

5.6 Term; Removal; Resignation; Vacancies.

(a) Each Manager appointed shall serve effective upon the Company's receipt of notice appointing such Manager (or at such later time or upon the happening of some event as specified in such notice) from the Person or Persons entitled to appoint such Manager (except that the Managers identified by name in Section 5.5(b) shall serve from the Effective Date) and until a successor is appointed in accordance with the terms hereof or his or her earlier resignation, death or removal.

(b) The CEO Manager will be removed from the Board automatically at the time such individual is no longer serving as the Chief Executive Officer of the Company. Any Continuing Investor

¹ Initial Board to be selected in accordance with Section 5.5(a) and, for Continuing Investor Managers, the Advisory Board charter.

Manager shall be removed from the Board, with or without cause, only (i) at the written request of the Advisory Board, (ii) by action of the remaining Managers determining that such Continuing Investor Manager has engaged, directly or indirectly, in conduct competitive with the Company and its Subsidiaries or (iii) automatically at such time as the Advisory Board (on behalf of the Continuing Investors) are no longer entitled to appoint a Manager. Any Redwood Manager shall be removed from the Board, with or without cause, only at the written request of the Redwood Investor.

(c) Any Manager may resign at any time. Such resignation shall be made in writing and shall take effect at the time specified therein, or if no time is specified, at the time of its receipt by the remaining Manager. The acceptance of a resignation shall not be necessary to make it effective, unless expressly so provided in the resignation.

(d) Any vacancy in the Board, whether arising by removal, resignation, death, disability or otherwise, shall be filled by the Person or Persons entitled to appoint such Manager pursuant to the terms of Section 5.5(a). If any Person or Persons fail to appoint a Manager pursuant to the terms of this Section 5.6(d), then such position on the Board shall remain vacant until such Person or Persons exercise their right to appoint a Manager as provided hereunder.

5.7 The Board Meetings.

(a) Quorum; Voting. The Redwood Investor may, by written notice delivered to the Company at any time and from time to time, designate one (1) or more Managers to have three (3) votes in each matter submitted to the Managers for vote. Each Manager not so designated to have three (3) votes by the Redwood Investor shall be entitled to one (1) vote in any matter submitted to Managers for vote except as otherwise provided in a written notice from the Redwood Investor. Managers holding a majority of the total voting power of Managers fixed by, or in the manner provided in, this Agreement and including at least one (1) Redwood Manager and one (1) Continuing Investor Manager shall constitute a quorum for the transaction of business of the Board, and except as otherwise provided in this Agreement, the act of a majority of the votes held by all Managers present at a meeting of the Board at which a quorum is present shall be the act of the Board; provided that if no Continuing Investor Managers fail to attend two (2) consecutive meetings for which notice has been provided and for which a telephonic option has been provided, the immediately following meeting at which a quorum is otherwise present shall not fail to have a quorum by reason of failure of a Continuing Investor Manager to be present at such meeting. A Manager who is present at a meeting of the Board at which action on any Company matter is taken shall be presumed to have assented to the action unless its dissent shall be entered in the minutes of the meeting or unless he shall file his written dissent to such action with the Person acting as secretary of the meeting before the adjournment thereof or shall deliver such dissent to the Company immediately after the adjournment of the meeting. Such right to dissent shall not apply to a Manager who voted in favor of such action.

(b) Place; Attendance. Meetings of the Board may be held at such place or places as shall be determined from time to time by resolution of the Board. At all meetings of the Board, business shall be transacted in such order as shall from time to time be determined by resolution of the Managers. Attendance of a Manager at a meeting shall constitute a waiver of notice of such meeting, except where a Manager attends a meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

(c) Time, Place and Notice. Regular meetings of the Board shall be held at such times and places as shall be designated from time to time by resolution of the Managers, or as requested by the Members holding the Required Interest. Notice of such Board meetings shall be provided to all Managers, and unless waived, at least forty-eight (48) hours in advance of the meeting. For all meetings of the Board,

a telephonic option for participation by the Managers meeting the specifications set forth in the last sentence of Section 5.9 shall be included at the time notice for such meeting is given.

(d) Special Meetings. Special meetings of the Board may be called by any two (2) Managers on at least forty-eight (48) hours' notice to each other Manager. Such notice need not state the purpose or purposes of, nor the business to be transacted at, such meeting, except as may otherwise be required by law or provided for in this Agreement. For all special meetings of the Board, a telephonic option for participation by the Managers meeting the specifications set forth in the last sentence of Section 5.9 shall be included at the time notice for such meeting is given.

5.8 Approval or Ratification of Acts or Contracts. Any Manager in its discretion may submit any act or contract for approval or ratification at any meeting of the Board, and any act or contract that shall be approved or be ratified by the Board that is not in violation of this Agreement or applicable law shall be valid and binding upon the Company.

5.9 Action by Written Consent. Any action permitted or required by the Delaware Act, the Certificate or this Agreement to be taken at a meeting of the Board or any committee designated by the Board may be taken without a meeting if a consent in writing, setting forth the action to be taken, is signed by the Managers or members of such committee having voting power, as the case may be, that would be necessary to take such action at a meeting at which the Managers or members of such committee, as the case may be, were present and voted; provided that each Continuing Investor Manager shall have been provided a copy of such written consent not less than 48 hours prior to action being taken by written consent unless such written consent is executed by a majority of the Continuing Investor Managers. Such consent shall have the same force and effect as a vote at a meeting and may be stated as such in any document or instrument filed with the Secretary of State of Delaware, and the execution of such consent shall constitute attendance or presence in person at a meeting of the Board or any such committee, as the case may be. Unless otherwise restricted by the Certificate, members of any committee designated by the Board may participate in and hold a meeting by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation in such meeting shall constitute attendance and presence in person at such meeting, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

5.10 Officers.

(a) Designation and Appointment. The Board may (but need not), from time to time, designate and appoint one or more persons as an officer of the Company. An officer need not be a resident of the State of Delaware, a Unitholder or a Member. Any officers so designated shall have such authority and perform such duties as the Board may, from time to time, delegate to them. The Board may assign titles to particular officers. Except as otherwise set forth in this Agreement or unless the Board otherwise decides, if the title is one commonly used for officers of a business corporation formed, the assignment of such title shall constitute the delegation to such officer of the authority and duties that are normally associated with that office, subject to any specific delegation of authority and duties made to such officer by the Board pursuant to the third sentence of this Section 5.10(a). Each officer shall hold office until such officer's successor shall be duly designated and shall qualify or until such officer's death or until such officer shall resign or shall have been removed in the manner hereinafter provided. Any number of offices may be held by the same individual. The compensation, if any, of the agents of the Company shall be fixed from time to time by the Board.

(b) Resignation. Any officer (subject to any contract rights available to the Company, if applicable) may resign as such at any time. Such resignation shall be made in writing and shall take effect

at the time specified therein, or if no time be specified, at the time of its receipt by the Board. The acceptance of a resignation shall not be necessary to make it effective, unless expressly so provided in the resignation. Any officer may be removed as such, either with or without cause, by the Board in its sole discretion at any time; provided, however, that such removal shall be without prejudice to the contract rights, if any, of the individual so removed. Designation of an officer shall not of itself create contract rights. Any vacancy occurring in any office of the Company may be filled by the Board.

5.11 Reliance by Third Parties. Every agreement, instrument or document executed by the Redwood Investor or any officer, in each case, as duly authorized by the Board in the name of the Company with respect to any business or property of the Company shall be conclusive evidence in favor of any Person relying thereon or claiming thereunder that (i) at the time of the execution or delivery thereof, this Agreement was in full force and effect, (ii) such agreement, instrument or document was duly executed according to this Agreement and is binding upon the Company and (iii) the Redwood Investor or such officer was duly authorized and empowered to execute and deliver such agreement, instrument or document for and on behalf of the Company.

ARTICLE VI

AUTHORITY OF UNITHOLDERS AND MEMBERS

6.1 Lack of Authority. No Unitholder or Member (in its capacity as such) has the authority or power to act for or on behalf of the Company, to do any act that would be binding on the Company or to make any expenditures on behalf of the Company, unless such specific authority has been expressly granted to and not revoked from such Person by the Board, and the Unitholders hereby consent to the exercise by the Board of the powers conferred on them by law and this Agreement.

6.2 Members' Right to Act. Without in any way limiting the provisions of Section 5.1(a), except as expressly and specifically provided in this Agreement, or as otherwise required under nonwaivable provisions of applicable law, the Members shall have no right to vote on any Company matter. For situations for which the approval of the Members generally (rather than the approval of the Board or a particular group of Members) is specifically and expressly required by this Agreement or by applicable law, the Members shall act through meetings and written consents as described in this Section 6.2. Except where another level is expressly specified by this Agreement or nonwaivable provisions of applicable law, where approval, action or consent of the Members is expressly required in accordance with this Agreement or nonwaivable provisions of applicable law, such approval, action or consent shall be obtained if received from holders of the Required Interest (it being understood and agreed that the Incentive Units shall have no votes in any such matter). The actions by the Members permitted hereunder may be taken at a meeting called by the Board or by Members holding the Required Interest on at least five (5) days' prior written notice to the other Members entitled to vote or consent thereon, which notice shall state the purpose or purposes for which such meeting is being called. A representative of the Board shall preside at all meetings of the Members, or in his or her absence, the Members attending the meeting shall elect their own chairman of the meeting. The Secretary of the Company shall act as secretary of all meetings of the Members and keep the minutes. In the absence of the Secretary, the chairman of the meeting may appoint any person to act as the secretary of the meeting. The actions taken by the Members entitled to vote or consent at any meeting (as opposed to by written consent), however called and noticed, shall be as valid as though taken at a meeting duly held after regular call and notice if (but not until), either before, at or after the meeting, the Members entitled to vote or consent as to whom it was improperly held signs a written waiver of notice or a consent to the holding of such meeting or an approval of the minutes thereof. The actions by the Members entitled to vote or consent may be taken by vote of the Members entitled to vote or consent at a meeting by written consent (without a meeting and without a vote) so long as such consent is signed by the Members having not less than the minimum percentages of Units or each class of Units that would be

necessary to authorize or take such action at a meeting at which all Members entitled to vote thereon were present and voted. Any action taken pursuant to such written consent of the Members shall have the same force and effect as if taken by the Members at a meeting thereof.

ARTICLE VII

LIMITED LIABILITY, EXCULPATION, AND INDEMNIFICATION

7.1 Limited Liability of Members.

(a) Limitation of Liability. Except as otherwise required by applicable law and as explicitly set forth in this Agreement, the debts, liabilities, commitments and other obligations of the Company, whether arising in contract, tort or otherwise, shall be solely the debts, obligations and liabilities of the Company, and no Member or Unitholder shall have any personal liability whatsoever in its capacity as a Member or Unitholder, whether to the Company, to any of the other Members or Unitholders, to the creditors of the Company or to any other Person, for the debts, liabilities, commitments or any other obligations of the Company or for any Losses of the Company. Accordingly, a Member or Unitholder shall be liable only to make its Capital Contributions to the Company required pursuant to the terms hereof and the other payments expressly provided for herein. To the extent that the Redwood Investor is, under applicable law, deemed to be jointly and severally liable for the debts or liabilities of the Company, the Company and each of the Members acknowledges and agrees that the Redwood Investor may, without breach of this Agreement or any duty owed by the Redwood Investor, seek to have such debts and liabilities be non-recourse to the Redwood Investor. No Member shall, in its capacity as such, be deemed to owe any fiduciary duty to any other Member.

(b) Liability of Board Indemnitees.

(i) Notwithstanding anything to the contrary set forth in this Agreement, no Board Indemnitee shall be liable to the Company, the Members or any other Persons who have acquired Equity Securities, for any losses, claims, damages, liabilities, joint or several, expenses (including legal fees and expenses), judgments, fines, penalties, interest, settlements or other amounts arising as a result of any act or omission of a Board Indemnitee, or for any breach of contract (including breach of this Agreement) or any breach of duties (including breach of fiduciary duties) whether arising hereunder, at law, in equity or otherwise, unless there has been a final and non-appealable judgment entered by a court of competent jurisdiction determining that, in respect of the matter in question, the Board Indemnitee acted in bad faith or engaged in fraud, willful misconduct or intentional violation of law.

(ii) The Board may exercise any of the powers granted to it by this Agreement and perform any of the duties imposed upon it hereunder either directly or by or through its agents, and the Board shall not be responsible for any misconduct or negligence on the part of any such agent appointed by the Board in good faith.

(iii) Any amendment, modification or repeal of this Section 7.1(b) or any provision hereof shall be prospective only and shall not in any way affect the limitations on the

liability of the Board Indemnitees under this Section 7.1(b) as in effect immediately prior to such amendment, modification or repeal with respect to claims arising from or relating to matters occurring, in whole or in part, prior to such amendment, modification or repeal, regardless of when such claims may arise or be asserted, and provided such Person became an Board Indemnitee hereunder prior to such amendment, modification or repeal.

(c) Observance of Formalities. Notwithstanding anything contained herein to the contrary, the failure of the Company, the Board or any Unitholder to observe any formalities or procedural or other requirements relating to the exercise of its powers or management of the Company's business and affairs under this Agreement or the Delaware Act shall not be grounds for imposing personal liability on any of the Members or Unitholders.

(d) Return of Distributions. In accordance with the Delaware Act and the laws of the State of Delaware, a member of a limited liability company may, under certain circumstances, be required to return amounts previously distributed to such member. It is the intent of the Unitholders that no Distribution to any Unitholder pursuant to ARTICLE IV hereof shall be deemed a return of money or other property paid or distributed in violation of the Delaware Act. The payment of any such Distribution of money or property to a Unitholder shall be deemed to be a compromise within the meaning of the Delaware Act, and, unless otherwise agreed in writing by such Unitholder in connection with such Distribution, the Unitholder receiving any such money or property shall not be required to return to any Person any such money or property. However, if any court of competent jurisdiction holds that, notwithstanding the provisions of this Agreement, any Unitholder is obligated to make any such payment, such obligation shall be the obligation solely of such Unitholder and not of any other Unitholder or the Board. Notwithstanding the foregoing, a Unitholder will be required to return to the Company any Distribution to the extent made to it as a result of clear and manifest accounting, clerical or other similar error (as determined in good faith by the Board).

7.2 Right to Indemnification. Subject to the limitations and conditions as provided in this ARTICLE VII, each Person who was or is made a party or is threatened to be made a party to or is involved in any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or arbitrative (hereinafter, a "Proceeding"), or any appeal in such a Proceeding or any inquiry or investigation that could lead to such a Proceeding, by reason of the fact that he or she, or a Person of whom he or she is the legal representative, is or was a Unitholder or Member or one of their respective Affiliates or member of such Unitholder or Member's Family Group, or is or was serving as an officer of the Company or is or was serving at the request of the Company as a manager, director, officer, partner, joint venturer, proprietor, trustee, employee, agent or similar functionary of another foreign or domestic limited liability company, corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise shall be indemnified by the Company to the fullest extent permitted by the Delaware Act, as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the Company to provide broader indemnification rights than said law permitted the Company to provide prior to such amendment) against judgments, penalties (including excise and similar taxes and punitive damages), fines, settlements and reasonable expenses (including, without limitation, attorneys' fees) actually incurred by such Person in connection with such Proceeding, and indemnification under this ARTICLE VII shall continue as to a Person who has ceased to serve in the capacity that initially entitled such Person to indemnity hereunder; provided that no such Person shall be indemnified for any judgments, penalties, fines, settlements or expenses (i) to the extent attributable to such Person's willful misconduct or intentional violation of law (or, if the Delaware Act is hereafter amended or interpreted to permit a higher required standard of culpability for conduct subject to indemnification, to the extent not in violation of such higher required standard), (ii) for any present or future breaches of any representations, warranties or covenants by such Person contained in this Agreement or in any other agreement with the Company or (iii) in any action (except an action to enforce indemnification rights set forth in this Section 7.2) brought by such Person. It is expressly acknowledged that the

indemnification provided in this ARTICLE VII could involve indemnification for negligence or under theories of strict liability.

7.3 Contract with the Company. The rights granted pursuant to this ARTICLE VII shall be deemed contract rights, and no amendment, modification or repeal of this ARTICLE VII shall have the effect of limiting or denying any such rights with respect to actions taken or Proceedings arising prior to any such amendment, modification or repeal.

7.4 Advance Payment. The right to indemnification conferred in this ARTICLE VII shall include the right to be paid or reimbursed by the Company the reasonable expenses incurred by a Person of the type entitled to be indemnified under Section 7.2 who was, is or is threatened to be made a named defendant or respondent in a Proceeding in advance of the final disposition of the Proceeding and without any determination as to the Person's ultimate entitlement to indemnification; provided, however, that the payment of such expenses incurred by any such Person in advance of the final disposition of a Proceeding shall be made only upon delivery to the Company of a written affirmation by such Person of his or her good faith belief that he or she has met the standard of conduct necessary for indemnification under ARTICLE VII and a written undertaking, by or on behalf of such Person, to repay all amounts so advanced if it shall ultimately be determined that such indemnified Person is not entitled to be indemnified under this ARTICLE VII or otherwise.

7.5 Indemnification of Employees and Agents. The Company, by adoption of a resolution of the Board, may indemnify and advance expenses to any employees or agents of the Company who are not or were not officers of the Company but who are or were serving at the request of the Company as a manager, director, officer, partner, venturer, proprietor, trustee, employee, agent or similar functionary of another foreign or domestic limited liability company, corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise against liabilities and expenses asserted against such Person and incurred by such Person in such a capacity or arising out of their status as such a Person, to the same extent that it may indemnify and advance expenses to officers under this ARTICLE VII.

7.6 Appearance as a Witness. Notwithstanding any other provision of this ARTICLE VII, the Company may pay or reimburse expenses incurred by an officer in connection with the appearance as a witness or other participation in a Proceeding at a time when such officer is not a named defendant or respondent in the Proceeding.

7.7 Nonexclusivity of Rights. The right to indemnification and the advancement and payment of expenses conferred in this ARTICLE VII shall not be exclusive of any other right that an officer or other Person indemnified pursuant to Section 7.5 may have or hereafter acquire under any law (common or statutory), provision of the Certificate or this Agreement, any agreement, vote of Members or otherwise. Without limiting the foregoing, the Company and each Member hereby acknowledge that one or more of the Board Indemnitees may have certain rights to indemnification, advancement of expenses and/or insurance provided by an Affiliated Institution. The Company and each Member hereby agree that, with respect to any such Board Indemnitee, the Company (a) is, relative to each Affiliated Institution, the indemnitor of first resort (i.e., its obligations to the applicable Board Indemnitee under this Agreement are primary and any duplicative, overlapping or corresponding obligations of an Affiliated Institution are secondary), (b) shall be required to make all advances and other payments under this Agreement, and shall be fully liable therefor, without regard to any rights any such Board Indemnitee may have against his or her Affiliated Institution (and, if an Affiliate of the Company makes such advances or payments, then the Company's obligations to indemnify hereunder shall include reimbursement of such Affiliate and such Affiliate shall be deemed a Board Indemnitee hereunder for purposes of its entitlement to such reimbursement), and (c) irrevocably waives, relinquishes and releases any such Affiliated Institution from

any and all claims against such Affiliated Institution for contribution, subrogation or any other recovery of any kind in respect thereof. The Company further agrees that no advancement or payment by an Affiliated Institution on behalf of any Board Indemnitee with respect to any claim for which such Board Indemnitee has sought indemnification from the Company shall affect the foregoing and any such Affiliated Institution shall have a right of contribution and/or be subrogated to the extent of such advancement or payment to all of the rights of recovery of any such applicable Board Indemnitee against the Company. The Company and each Member agree that each Affiliated Institution is an express third party beneficiary of the terms of this Section 7.7.

7.8 Insurance. The Company shall purchase and maintain insurance, at its expense, to protect itself and any Person who is or was serving as an officer or agent of the Company or is or was serving at the request of the Company as a manager, director, officer, partner, venturer, proprietor, trustee, employee, agent or similar functionary of another foreign or domestic limited liability company, corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise against any expense, liability or loss, whether or not the Company would have the power to indemnify such Person against such expense, liability or loss under this ARTICLE VII.

7.9 Savings Clause. If this ARTICLE VII or any portion hereof shall be invalidated on any ground by any court of competent jurisdiction, then the Company shall nevertheless indemnify and hold harmless each Person indemnified pursuant to this ARTICLE VII as to costs, charges and expenses (including attorneys' fees), judgments, fines and amounts paid in settlement with respect to any action, suit or proceeding, whether civil, criminal, administrative or investigative to the full extent permitted by any applicable portion of this ARTICLE VII that shall not have been invalidated and to the fullest extent permitted by applicable law.

7.10 Investment Opportunities; Conflicts of Interest; Duties.

(a) Investment Opportunities. Each Member acknowledges and agrees that, subject to the other express provisions of this Agreement, (i) the Members (other than Members that are full-time employees of the Company or any of its Subsidiaries) and their respective Affiliates are permitted to have, and may presently or in the future have, investments or other business relationships with entities engaged in the Business (including in areas in which the Company or any of its Subsidiaries may in the future engage in business), and in related businesses other than through the Company or any of its Subsidiaries (an "Other Business"), (ii) the Members (other than Members that are full-time employees of the Company or any of its Subsidiaries) and their respective Affiliates have and may develop a strategic relationship with businesses that are and may be competitive or complimentary with the Company or any of its Subsidiaries, (iii) none of the Members (other than Members that are full-time employees of the Company or any of its Subsidiaries) or their respective Affiliates (including their respective representatives serving on the Board) will be prohibited by virtue of their investments in the Company or its Subsidiaries or their or any of their personnel's, member's or partners' service to the Board, the Company or any of its Subsidiaries (as a director, manager, officer, consultant or otherwise) from pursuing and engaging in any such activities, (iv) none of the Members (other than Members that are full-time employees of the Company or any of its Subsidiaries) or their respective Affiliates (including their respective representatives serving on the Board) will be obligated to inform the Company, or any Member, Unitholder or officer of any such opportunity, relationship or investment, (v) neither the Company nor any other Member, Unitholder or officer will acquire or be entitled to any interest or participation in any Other Business as a result of the participation therein of any of the Members (other than Members that are full-time employees of the Company or any of its Subsidiaries) or their respective Affiliates and (vi) the involvement of the Members (other than Members that are full-time employees of the Company or any of its Subsidiaries) or their respective Affiliates (including their respective representatives serving on the Board) in any Other Business will not constitute a conflict of interest by such Persons with respect to the Company, any of its Subsidiaries or its Members

or Unitholders. None of the foregoing clauses (i) through (vi) shall limit or amend any obligations under any other agreement to which such Member is a party.

(b) Transactions with the Company. Notwithstanding anything to the contrary contained in this Agreement, the Company may transact business with any officer or director of the Company, any Member, the Redwood Investor or any of their respective Affiliates; provided that, from and after the Effective Date until such time as the Continuing Investors cease to hold at least five percent (5%) of the total issued and outstanding Common Units, in the case of any transaction entered into outside of the ordinary course of business of the Company and its Subsidiaries between the Company or any of its Subsidiaries, on the one hand, and the Redwood Investor or any of its controlled Affiliates, on the other hand, the terms of such transaction are either, (i) when taken as a whole, no less favorable to the Company than those which would reasonably be expected to be obtained by the Company in an arm's length transaction entered into in the ordinary course of business or (ii) otherwise approved by a majority of the Continuing Investor Managers. Without limiting the generality of the foregoing and without implying that any of the following transactions are (or are not) ordinary course or would (or would not) require the approval of a majority of the Continuing Investor Managers, by its execution of this Agreement (or, if applicable, any joinder to this Agreement) or ownership of Units, each Unitholder acknowledges, agrees and consents to each of the following (and, for the avoidance of doubt, none of the following shall be construed to conflict with or violate the provisions of this Section 7.10(b) and no Unitholder shall be entitled to make any claim for breach of this Section 7.10(b) in the event of any of the following): (A) the performance by the Company and its Subsidiaries of its obligations under, including payments to the Redwood Investor of amounts contemplated by, this Agreement, the Equity Commitment Letter and under any expense reimbursement or indemnification provisions of the Redwood Subscription Agreement, in each case as in effect on the date hereof, and any exercise of any rights thereunder by any party thereto; (B) without limiting any rights that may be contained in any agreement between the Company and one or more Members (other than for the avoidance of doubt, this Section 7.10(b)), the consummation of any Approved Sale or other Transfer by the Redwood Investor, whenever and however accomplished; (C) the issuance and sale of Units and other Equity Securities to any Person (including the Redwood Investor) so long as such issuance and sale does not violate any applicable provisions of Section 3.1(e); (D) the performance and/or exercise by the Company and the other Members of any of their respective rights and obligations under this Agreement and the Purchase Agreement; and (E) any guaranty, reimbursement, or indemnification agreements or other obligations or the pledge of collateral or other credit support, any release, modification or provision thereof or any action that results in the release, modification or provision thereof, in each case, (i) by the Redwood Investor, any Permitted Transferee of the Redwood Investor or any Affiliate of the foregoing, and (ii) for the benefit of the Company or its Subsidiaries. Notwithstanding anything to the contrary contained in this Agreement, from and after the date hereof until such time as the Continuing Investors cease to hold at least five percent (5%) of the total issued and outstanding Common Units, this Section 7.10(b) shall not be amended, modified or waived without the prior written consent of the Majority Continuing Investors (clauses (A) - (E), the "Pre-Approved Matters").

(c) Conflicts of Interest. Unless otherwise expressly provided in this Agreement, whenever a potential conflict of interest exists or arises between the Company or any of its Subsidiaries, on the one hand, and any Member or any Affiliate thereof, on the other, any resolution or course of action approved by the Board on behalf of the Company or such Subsidiary in respect of such conflict of interest shall be permitted and deemed approved by all Members, and shall not constitute a breach of this Agreement, or any agreement contemplated herein or therein, or of any duty hereunder or existing at law, in equity or otherwise, if the resolution or course of action in respect of such conflict of interest is (i) on terms not materially less favorable to the Company or such Subsidiary than those generally being provided to or available from unrelated third parties, (ii) approved by Members holding a majority of the Common Units held by all Members (other than the Member with respect to which the conflict of interest in question exists) or (iii) fair and reasonable to the Company or such Subsidiary, taking into account the totality of the

relationships between the parties involved (including other transactions that may be or have been particularly favorable or advantageous to the Company or such Subsidiary); provided further that none of the Pre-Approved Matters shall be subject to this restriction.

(d) Standards of Conduct; Modification of Duties.

(i) Notwithstanding any other provision of this Agreement or other applicable provision of law to the contrary, whenever in this Agreement or any other agreement contemplated hereby or otherwise the Board is permitted to or required to make a decision, it shall be entitled to consider only such interests and factors as it desires, and shall have no duty or obligation (fiduciary or otherwise) to give any consideration to any interest of or factors affecting the Company or the Members, and shall not be subject to any other or different standards imposed by this Agreement, any other agreement contemplated hereby, under the Delaware Act or under any other law, rule or regulation. Whenever in this Agreement or any other agreement contemplated hereby or otherwise the Board is permitted to or required to make a decision in “good faith” then for purposes of this Agreement, the Board shall be conclusively presumed to be acting in good faith if such Person or Persons subjectively believe(s) that the decision made or not made is in the best interests of the Company.

(ii) Whenever the Board makes a determination or takes or declines to take any other action, whether under this Agreement or any other agreement contemplated hereby or otherwise, then the Board is entitled, to the fullest extent permitted by law, to make such determination or to take or decline to take such other action free of any duty (including any fiduciary duty) or obligation, whatsoever to the Company, any Member, any Unitholder, any creditor or any other Person bound by this Agreement, and the Board shall not, to the fullest extent permitted by law, be required to act pursuant to any other standard imposed by this Agreement, any other agreement contemplated hereby or under the Delaware Act or any other law, rule or regulation or at equity.

(iii) Except as expressly set forth in this Agreement (including without limitation Section 5.4), to the fullest extent permitted by law, neither the Board nor any other Board Indemnitee shall have any duties or liabilities, including fiduciary duties, to the Company, any Member or any other Person bound by this Agreement, and the provisions of this Agreement, to the extent that they restrict or otherwise modify or eliminate the duties and liabilities, including fiduciary duties, of the Board or any other Board Indemnitee otherwise existing at law or in equity, are agreed by the Members to replace such other duties and liabilities of the Board or such other Board Indemnitee.

(iv) The Members expressly acknowledge that the Board is under no obligation to consider the separate interests of the Members (including, without limitation, the tax consequences to Members) in deciding whether to cause the Company to take (or decline to take) any actions, and that the Board shall not be liable for monetary damages for losses sustained, liabilities incurred or benefits not derived by Members in connection with such decisions.

(v) The Board may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, bond, debenture or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties.

(vi) The Board may consult with legal counsel, accountants, appraisers, management consultants, investment bankers and other consultants and advisers selected by it, and

any act taken or omitted to be taken in reliance upon the advice or opinion of such Persons as to matters that the Board reasonably believes to be within such Person's professional or expert competence shall be conclusively presumed to have been done or omitted in good faith and in accordance with such advice or opinion.

(vii) The Board shall have the right, in respect of any of its powers or obligations hereunder, to act through any of its duly authorized officers or any duly appointed attorney or attorneys-in-fact. Each such attorney shall, to the extent provided by the Board in the power of attorney, have full power and authority to do and perform each and every act and duty that is permitted or required to be done by the Board hereunder.

ARTICLE VIII

BOOKS, RECORDS, ACCOUNTING AND REPORTS

8.1 Records and Accounting. The Company shall keep, or cause to be kept, appropriate books and records with respect to the Company's business, including all books and records necessary to provide any information, lists and copies of documents required to be provided pursuant to Section 7.2 or pursuant to applicable laws. All matters concerning accounting procedures and determinations, and other determinations not specifically and expressly provided for by the terms of this Agreement, shall be determined by the Board, whose determination shall be final and conclusive as to all of the Unitholders absent manifest clerical error.

8.2 Fiscal Year. The fiscal year (the "Fiscal Year") of the Company shall constitute the 12-month period ending on [April 30] of each calendar year, or such other annual accounting period as may be established by the Board.

8.3 Transmission of Communications. Each Person that owns or controls Units on behalf of, or for the benefit of, another Person or Persons shall be responsible for conveying any report, notice or other communication received from the Board to such other Person or Persons.

8.4 Tax Reports. The Company shall use reasonable best efforts to deliver or cause to be delivered, as soon as practicable after the end of each Taxable Year (and in any event within 75 days after the end of each Taxable Year), to each Person who was a Unitholder at any time during such Taxable Year all information necessary for the preparation of such Person's United States federal, state, local and foreign income Tax returns, including without limitation all Schedule K-1s (and any corresponding or similar forms for state, local and foreign tax purposes) at any time the Company is taxed as a partnership. The Company also shall use commercially reasonable efforts to deliver or cause to be delivered, within 10 days after the end of each quarter of each Taxable Year, an estimate of such Member's share of the taxable income of the Company in respect of such quarter.

ARTICLE IX

TAX MATTERS

9.1 Preparation of Tax Returns. The Company shall arrange for the preparation and timely filing of all returns required to be filed by the Company.

9.2 Tax Elections. The Taxable Year shall be the Fiscal Year set forth in Section 8.2 if permitted by the Code, unless the Board shall determine otherwise in its sole discretion and in compliance with applicable laws. The Board shall, in its sole discretion, determine whether to make or revoke any

available election pursuant to the Code (including pursuant to the Partnership Tax Audit Rules). Each Unitholder will upon request supply any information necessary to give proper effect to such election.

9.3 Tax Controversies. The Redwood Investor is hereby designated the Partnership Representative and is authorized to represent the Company (at the Company's expense) in connection with all examinations of the Company's affairs by tax authorities, including resulting administrative and judicial proceedings, and to sign consents, enter into settlement and other agreements with such authorities with respect to any such examinations or proceedings, to appoint an individual to act as the "designated individual" (within the meaning of the Partnership Tax Audit Rules) and to expend Company funds for professional services reasonably incurred in connection therewith. Each Unitholder agrees to cooperate with the Partnership Representative, to provide any reasonably requested information to the Partnership Representative, to do or refrain from doing any or all things reasonably requested by the Partnership Representative with respect to the conduct of such proceedings, and join in the making of any elections under the Partnership Tax Audit Rules. The Partnership Representative shall keep all Continuing Investor Managers reasonably informed of the progress of any material examinations, audits or other proceedings. A Unitholder's obligations to comply with the requirements of this Section 9.3 shall survive such Unitholder's ceasing to be a Unitholder of the Company and/or the termination, dissolution, liquidation and winding up of the Company and, for purposes of this Section 9.3, the Company shall be treated as continuing in existence.

9.4 Code §83 Safe Harbor Election.

(a) By executing this Agreement, each Unitholder authorizes and directs the Company to elect to have the "Safe Harbor" described in the proposed Revenue Procedure set forth in Internal Revenue Service Notice 2005-43 (the "Notice") apply to any interest in the Company transferred to a service provider by the Company on or after the effective date of such Revenue Procedure in connection with services provided to the Company. For purposes of making such Safe Harbor election, the Partnership Representative is hereby designated as the "Partner who has responsibility for federal income tax reporting" by the Company and, accordingly, execution of such Safe Harbor election by the Partnership Representative constitutes execution of a "Safe Harbor Election" in accordance with Section 3.03(1) of the Notice. The Company and each Unitholder hereby agrees to comply with all requirements of the Safe Harbor described in the Notice, including the requirement that each Unitholder shall prepare and file all federal income Tax returns reporting the income Tax effects of each Unit issued by the Company that qualifies for the Safe Harbor in a manner consistent with the requirements of the Notice.

(b) Any Unitholder or former Unitholder that fails to comply with requirements set forth in Section 9.4(a) shall indemnify and hold harmless the Company and each adversely affected Unitholder and former Unitholder from and against any and all losses, liabilities, Taxes, damages, judgments, fines, costs, penalties, amounts paid in settlement and reasonable out-of-pocket costs and expenses incurred in connection therewith (including, costs and expenses of suits and proceedings, and reasonable fees and disbursements of counsel), in each case resulting from such Unitholder's or former Unitholder's failure to comply with such requirements. The Board may offset Distributions to which a Person is otherwise entitled under this Agreement against such Person's obligation to indemnify the Company and any other Person under this Section 9.4(b) (and any amount so offset with respect to such Person's obligation to indemnify a Person other than the Company shall be paid over to such other Person by the Company). A Unitholder's obligations to comply with the requirements of Sections 9.4(a) and 9.4(b) shall survive such Unitholder's ceasing to be a Unitholder of the Company and/or the termination, dissolution, liquidation and winding up of the Company, and, for purposes of this Section 9.4, the Company shall be treated as continuing in existence.

(c) Each Unitholder authorizes the Partnership Representative to amend Section 9.4(a) to the extent necessary to achieve substantially the same tax treatment with respect to any Units in the Company transferred to a service provider by the Company in connection with services provided to the Company as set forth in Section 4 of the Notice (e.g., to reflect changes from the rules set forth in the Notice in subsequent Internal Revenue Service guidance), provided that such amendment is not materially adverse to such Unitholder (as compared with the after-tax consequences that would result if the provisions of the Notice applied to all Units of the Company transferred to a service provider by the Company in connection with services provided to the Company).

ARTICLE X

TRANSFER OF COMPANY INTERESTS

10.1 Transfers.

(a) No Unitholder shall Transfer any interest in any Units except in compliance with this ARTICLE X. Except (i) pursuant to Section 10.2, Section 10.3, or Section 10.4, or (ii) in an Exempt Transfer applicable to such Unitholder (but subject to Section 10.2, Section 10.3, or Section 10.4 as applicable), no Unitholder shall Transfer, or offer or agree to Transfer, all or any part of any interest of such Unitholder's Units, unless otherwise consented to in writing by the Board.

(b) Except in connection with an Approved Sale, a Public Sale or a Transfer to the Company or except as otherwise determined by the Board, each Transferee of Units or other interest(s) in the Company shall, as a condition prior to such Transfer, execute a counterpart to this Agreement pursuant to which such Transferee shall agree to be bound by the provisions of this Agreement.

(c) Notwithstanding the provisions of this Section 10.1, a Member may not make a Transfer of Units to a Permitted Transferee if such Transfer has as a purpose the avoidance of or is otherwise undertaken in contemplation of avoiding the restrictions on Transfers in this Agreement (it being understood that the purpose of this Section 10.1(c) is to prohibit the Transfer of Units to a Permitted Transferee followed by a change in the relationship between the Transferor and the Permitted Transferee (or a change of control of such Transferor or Permitted Transferee) after the Transfer with the result and effect that the Transferor has indirectly made a Transfer of Units by using a Permitted Transferee, which Transfer would not have been directly permitted under this Section 10.1 had such change in such relationship occurred prior to such Transfer). In the event a Permitted Transferee of any Member ceases to be a Permitted Transferee of such Member, any Units previously Transferred by such Member to such Permitted Transferee shall automatically, and without further action on the part of any Person, be transferred back to such Member, and the Board shall be authorized to amend this Agreement and the Company's other books and records as necessary to reflect that such Permitted Transferee no longer owns such Units.

(d) Each Member agrees that it shall not permit any direct or indirect Transfer or issuance of Equity Securities of such Member, any of its direct or indirect equityholders or any of its JSBO Affiliates to the extent such Transfer or issuance would, if taken by such Member with respect to its Units or if taken by its direct or indirect equityholders or such JSBO Affiliate with respect to its Equity Securities would be as if such equityholder of JSBO Affiliate was a Member party to this Agreement and such Equity Securities were Units, be in violation of the restrictions on Transfers applicable to such Member under this Agreement (it being understood that the purpose of this Section 10.1(d) is to prohibit the Transfer of Equity Securities of such Member, such direct or indirect equityholder of such Member or such JSBO Affiliate or issuances of Equity Securities in such Member, such direct or indirect equityholder or such JSBO Affiliate that has the result and effect that the Member, such direct or indirect equityholder of JSBO Affiliate has indirectly made a Transfer or issuance would not have been directly permitted as a Transfer by such Member under

this Section 10.1). To the extent that any such direct or indirect Transfer or issuance of Equity Securities of such Member, its direct or indirect equityholders or any of its JSBO Affiliates would constitute a violation of this Agreement if undertaken as a Transfer of Units by such Member, such Transfer or issuance will be deemed a breach of this Agreement by such Member and, in the case of a Continuing Investor, an Assignment by such Member in violation of the Distribution Agreement.

(e) No Member shall be entitled to Transfer any Units or any other rights under this Agreement (including to an Affiliate) at any time, other than as part of an Approved Sale, unless the Board is reasonably satisfied that such Transfer would not:

(i) result in or be reasonably likely to result in material adverse regulatory or tax consequences, including any materially increased reporting requirements, for the Company and its Subsidiaries taken as a whole (in each case as reasonably determined by the Board in consultation with legal counsel);

(ii) violate the Securities Act or any state (or other U.S. or non-U.S. jurisdiction) securities or “Blue Sky” laws applicable to the Company or the Units or cause the Company to become subject to the public reporting requirements of the SEC;

(iii) be made to a Transferee that is not an “accredited investor” within the meaning of Regulation D promulgated under the Securities Act;

(iv) be a non-exempt “prohibited transaction” under ERISA or the Code or cause all or any portion of the assets of the Company to constitute “plan assets” under ERISA or Section 4975 of the Code; or

(v) cause the Company to become a “publicly traded partnership”, as such term is defined in Sections 469(k)(2) or 7704(b) of the Code.

10.2 Approved Sale; Drag Along Obligations.

(a) If the holders of the Required Interest approve a Sale of the Company at any time (an “Approved Sale”), the Board and each Unitholder shall approve, vote for, consent to and raise no objections against or claims with respect to such Approved Sale. If the Approved Sale is structured as a (i) merger or consolidation, notwithstanding anything to the contrary in the Delaware Act, each Unitholder shall waive any dissenters rights, appraisal rights or similar rights in connection with such merger or consolidation or (ii) sale of Units, each Unitholder shall agree to sell all of his, her or its Units on the terms and conditions approved by the holders of the Required Interest. Each Unitholder shall take all necessary or desirable actions (solely in such Unitholder’s capacity as a Unitholder) in connection with the consummation of the Approved Sale as requested by the holders of the Required Interest, including executing and delivering any and all consents, waivers, agreements, instruments and other documents approved (and in substantially the same form as executed) by the holders of the Required Interest. Furthermore, in connection with any Approved Sale, the Company shall (and the Company shall cause each of its Subsidiaries and each of its and their respective officers, managers, directors, employees, financial advisors, consultants, attorneys and other agents and representatives to) take all necessary or desirable actions in connection with the consummation of the Approved Sale and any related transactions (including any auction or competitive bid process in connection with or preceding such Approved Sale) as reasonably requested by the holders of the Required Interest, including (i) retaining investment bankers and other advisors approved by the holders of the Required Interest; (ii) participating in management meetings and preparing pitchbooks and confidential information memoranda; (iii) furnishing information and copies of documents; (iv) preparing and making filings with governmental authorities; (v) providing assistance with legal, accounting, tax, financial,

benefits and other due diligence; (vi) executing, acknowledging and delivering transfer agreements, sale agreements, escrow agreements, consents, assignments, releases, waivers and other documents or instruments which in each case are no more burdensome than those executed by the holders of the Required Interest (it being acknowledged and agreed that Unitholders that are also employees or service providers of the Company or any of its Subsidiaries may be required, in connection with the pursuit or consummation of an Approved Sale, to enter into confidentiality, noncompetition, non-solicitation and non-hire provisions approved by the Board); and (vii) otherwise cooperating with the holders of the Required Interest, the prospective buyer(s), any investment bankers, consultants or other professional advisors who have been retained in connection with such Approved Sale and their respective representatives, including with respect to prospective structures for such Approved Sale.

(b) The obligations of the Unitholders with respect to an Approved Sale under this Section 10.2 are subject to the satisfaction of the conditions that each Unitholder shall receive in exchange for the Units held by such Unitholder the same amount of the aggregate consideration (or, in the event of a sale of less than all of the issued and outstanding Units, the equity value implied by such aggregate consideration), however described or allocated, from such transaction that such Unitholder would have received if such aggregate consideration (or equity value) had been distributed by the Company in accordance with the provisions of Section 4.2 of this Agreement.

(c) Notwithstanding anything herein to the contrary, the Unitholders shall be severally obligated to join on a Pro Rata Basis (as if such indemnification obligations reduced the aggregate proceeds available for distribution or payment to the Unitholders in such Approved Sale) in any indemnification obligations the holders of the Required Interest agreed to in connection with such Approved Sale; provided that no Unitholder shall be obligated to enter into indemnification obligations with respect to matters particular to any other Unitholder or such other Unitholder's (or its Permitted Transferees') Units, and no Unitholder shall be required to agree to indemnification obligations in excess of the proceeds received by such Unitholder (and its Permitted Transferees) in such Approved Sale; provided, further, that, unless a prospective Transferee permits a Unitholder to give a guarantee, letter of credit or other mechanism (which shall be dealt with on an individual basis), any escrow of proceeds of any such transaction shall be withheld on a Pro Rata Basis among all Unitholders (as if such escrow reduced the aggregate proceeds available for distribution or payment to the Unitholders in such Approved Sale). Unless paid by the Company concurrent with or prior to the closing of such Approved Sale, each Unitholder shall pay its share determined on a Pro Rata Basis (as if such expenses reduced the aggregate proceeds available for distribution or payment to the Unitholders in such Approved Sale) of the expenses incurred by the Company pursuant to an Approved Sale to the extent such expenses are incurred for the benefit of all Unitholders (as reasonably determined by the holders of the Required Interest). Expenses incurred by any Unitholder on its own behalf (including the fees and disbursements of counsel, advisors and other Persons retained by such Unitholder in connection with the Approved Sale) will not be considered costs incurred for the benefit of all Unitholders and, to the extent not paid by the Company, will be the responsibility of such Unitholder. Each Unitholder shall enter into any indemnification, contribution or equityholder/seller representative agreement requested by the Board or the holders of the Required Interest to the extent containing terms not inconsistent with this Section 10.2(c) and hereby consents and agrees to abide by the customary provisions of any merger or similar agreement providing for an equityholder/seller representative. Each Unitholder shall enter into any other agreement which the holders of the Required Interest approve and (other than non-competition and non-solicitation agreements to be entered into by Incentive Unitholders) enter into on the same terms and conditions (other than as differences in such terms and conditions might result from holdings of different classes of Units). Without limiting the immediately prior sentence, each Unitholder shall enter into any indemnification, contribution or equityholder/seller representative agreement requested by the Board or the holders of the Required Interest to the extent containing terms not inconsistent with this Section 10.2(c), and the provisions of this Section 10.2(c) requiring several liability or no liability for certain matters respecting other Unitholders shall be deemed complied with if such requirement is addressed through such

agreement, even if the purchase and sale agreement or merger agreement related to the Approved Sale provides for joint and several liability.

(d) If the Board enters into any negotiation or transaction for which Rule 506 (or any similar rule then in effect) promulgated by the Securities Exchange Commission may be available with respect to such negotiation or transaction (including a merger, consolidation or other reorganization), then those other Unitholders that do not qualify at the time as “accredited investors” (as such term is defined in Rule 501 under the Securities Act) shall, at the request of the Board, appoint a “purchaser representative” (as such term is defined in Rule 501 promulgated under the Securities Act) designated by the Board. If any Unitholder so appoints a purchaser representative, the Company shall pay the fees of such purchaser representative. However, if any Unitholder declines to appoint the purchaser representative designated by the Company, such holder shall appoint another purchaser representative, and such holder shall be responsible for the fees of the purchaser representative so appointed.

(e) In no manner shall this Section 10.2 be construed to grant to any Unitholder any dissenters rights or appraisal rights or, notwithstanding anything to the contrary in the Delaware Act, give any Unitholder or Member any right to vote in any transaction structured as a merger or consolidation (it being understood that the Members and Unitholders have expressly waived rights under Section 18-210 of the Delaware Act and any similar provision subsequently enacted and have granted to the Board the sole right to approve or consent to a merger or consolidation of the Company without approval or consent of any other Members or Unitholders) or a sale of all of, substantially all or any of the assets of the Company (it being understood that Members and Unitholders have waived any and all rights to approve such transaction and have granted to the Board the sole right to approve or consent to such transaction without approval or consent of any Members or Unitholders).

10.3 ROFO Investor; Tag Along Obligations.

(a) Right of First Offer.

(i) If at any time that the Continuing Investors collectively own at least 66.7% of the Common Units held by the Continuing Investors as of the Effective Date, the Redwood Investor or any of its Permitted Transferees (as applicable, the “ROFO Initiating Investor”) desires to Transfer more than 20% of its Units (other than pursuant to a ROFO Excluded Transfer, a “ROFO Transfer”), such ROFO Initiating Investor shall give notice of such desire to the Continuing Investors, together with the number and type of Units that it the ROFO Initiating Investor desires to Transfer (the “ROFO Notice”). At any time on or prior to the 20th Business Day after receiving a ROFO Notice (the “ROFO Period”), the Majority Continuing Investors shall have the right, upon written notice to the ROFO Initiating Investor (the “ROFO Offer Notice”), to offer to purchase all (but not less than all) of the Units that the ROFO Initiating Investor is offering in such ROFO Transfer which ROFO Offer Notice shall include the proposed cash purchase price per Unit (the “ROFO Price”), the other material terms of the offer (including any conditions to Closing and the proposed timing for the closing of such purchase by the Majority Continuing Investors) and evidence of committed financing to consummate the transaction.

(ii) To the extent that the Majority Continuing Investors do not timely deliver a ROFO Offer Notice or deliver a ROFO Offer Notice that does not comply with Section 10.3(a), the ROFO Initiating Investor shall be entitled to Transfer such Units subject to the ROFO Transfer subject only to compliance with Section 10.3(b) as applicable. If the Majority Continuing Investors deliver a ROFO Offer Notice that meets the requirements of Section 10.3(a), (x) the ROFO

Initiating Investor may reject such offer, in which case the ROFO Initiating Investor may execute a definitive transaction agreement with respect to the Transfer of the Units subject to such ROFO Transfer on terms not materially less favorable in the aggregate to the ROFO Initiating Investor than those set forth in the ROFO Offer Notice at any time on or prior to the 180th day following the expiration of the ROFO Period, subject only to compliance with Section 10.3(b) or (y) the ROFO Initiating Investor may accept the offer made in the ROFO Offer Notice, in which case the parties shall negotiate in good faith for a period not to exceed 30 days (unless otherwise agreed by the ROFO Initiating Investor) and, in the case of clause (y), if a definitive transaction agreement is not executed and delivered by the parties or the transaction contemplated thereby is terminated after such definitive transaction agreement is executed, the ROFO Initiating Investor may Transfer the Units subject to such ROFO Transfer on terms not materially less favorable in the aggregate to the ROFO Initiating Investor than those set forth in the ROFO Offer Notice pursuant to a definitive transaction agreement executed at any time on or prior to the 180th following the end of such 30 day period or termination of such purchase and sale agreement as applicable.

(b) Tag-Along. In the event that the Redwood Investor or its Permitted Transferee determine to Transfer all or any of its Units (other than pursuant to a ROFO Excluded Transfer, a “Tag-Along Sale”), then the Redwood Investor (or the applicable Permitted Transferee) shall be given written notice (the “Tag Notice”) of the proposed Tag-Along Sale to the Continuing Investors, the name and address of the proposed purchaser (if known), the proposed purchase price and the other material terms and conditions of the proposed Tag-Along Sale. The Continuing Investors will then have the option (exercisable by notice given to Redwood Investor or its Permitted Transferee (as applicable) within twenty (20) days of receipt of the Tag Notice (a “Tag Response Notice”) to include in the sale in place of or in addition to the Units that would otherwise be sold in such Transfer by Redwood Investor or its Permitted Transferee (as applicable), the applicable Continuing Investor’s Pro Rata Share of the same class of Units being Transferred by the Redwood Investor (or its Permitted Transferee) in such Tag-Along Sale. The Redwood Investor may not agree to sell any of its Units in a Tag-Along Sale unless the purchaser in such Tag-Along Sale (or the Redwood Investor or its Permitted Transferee or the Company) is willing to purchase the number of Units from the Continuing Investors determined in accordance with, and in the manner provided in, this Section 10.3(b), and any sale in violation of this Section 10.3(b) shall be void. In the event the Continuing Investors do not timely deliver a Tag Response Notice, the rights under this Section 10.3(b) with respect to such Transfer shall be deemed to be waived and the Redwood Investor and its Permitted Transferee (as applicable) will be entitled to Transfer such Units on the terms and conditions not materially more favorable to the Redwood Investor or such Permitted Transferee than those specified in the Tag Notice as long as such sale is consummated pursuant to a definitive transaction agreement that is executed and delivered within one hundred eighty (180) days of the expiration of the period for delivery Tag Response Notice, as applicable. Notwithstanding the foregoing, if any Tag-Along Sale is being accomplished by a merger, consolidation, conversion or exchange of Units and is structured in a way that results in the Continuing Investors receiving the same consideration as such Continuing Investors would have received had they determined to include their Units in a Tag-Along Sale, then such merger, consolidation, conversion or exchange of Units may be consummated without compliance with this Section 10.3(b).

10.4 Call Option and Annual Sale Right.

(a) Upon the occurrence of any of (i) a breach or deemed breach by such Continuing Investor of the restrictions on Transfer in this Agreement (including under Section 10.1(d)), (ii) the non-renewal or termination, for any reason, of a Distribution Agreement of a Continuing Investor (or all of such Distribution Agreements, if the applicable Continuing Investor has entered into more than one), or (iii) an Assignment by or Change of Control of such Continuing Investor (any such occurrence, a “Call Option Trigger Event” or any occurrence in clause (ii) or (iii), a “Put Option Trigger Event”), the Company and

the Redwood Investor (in the case of a Call Option Trigger Event) shall have the right (but not the obligation), and in the case of a Put Option Trigger Event the Continuing Investor shall have the right (but not the obligation) to cause the Company, to repurchase all of the applicable Continuing Investor's Common Units (whether held by such Continuing Investor or one or more of such Continuing Investor's Transferees (other than the Company, the Redwood Investor or their respective Affiliates), and with such Common Units collectively referred to herein as the "Continuing Investor Units") at the Applicable Repurchase Price pursuant to the terms and conditions set forth in this Section 10.4. The repurchase right of the Company and the Redwood pursuant to the foregoing sentence is referred to herein as the "Call Option" and the right of the Continuing Investor to cause repurchase by the Company pursuant to the foregoing sentence is referred to herein as the "Put Option".

(b) The Company (with the approval of the Board) may elect to purchase all of the Continuing Investor Units pursuant to the Call Option pursuant to Section 10.4(a) by delivering written notice (the "Call Option Notice") to the applicable Continuing Investor within twelve (12) months after the applicable Call Option Trigger Event. The Call Option Notice will set forth the number of Continuing Investor Units to be acquired from each holder and the time and place for the closing of the transaction, determined pursuant to Section 10.4(e). The Continuing Investor may elect to cause the Company to purchase all of the Continuing Investor Units pursuant to the Put Option pursuant to Section 10.4(a) by delivering written notice (the "Put Option Notice") to the Company within twelve (12) months after the applicable Put Option Trigger Event. The Put Option Notice will set forth the number of Continuing Investor Units to be acquired from each holder and the time and place for the closing of the transaction, determined pursuant to Section 10.4(e). In the event that both a Call Option Notice and a Put Option Notice are properly delivered in accordance with this Agreement, then the first in time notice shall control.

(c) If for any reason the Company determines not to purchase the Continuing Investor Units pursuant to the Call Option, the Redwood Investor shall be entitled to exercise the Call Option for all of the Continuing Investor Units. As soon as practicable after the Company has determined that it will not exercise the Call Option (which determination shall be made within six (6) months after the applicable Option Trigger Event), the Company shall give written notice (the "Option Notice") to the Redwood Investor setting forth the number of Continuing Investor Units and the purchase price for the Continuing Investor Units. The Redwood Investor may elect to purchase all of the Continuing Investor Units by giving written notice to the Company within six (6) months after the applicable Option Trigger Event. As soon as practicable (and in any event within twelve (12) months after the applicable Option Trigger Event), the Company shall notify the Continuing Investor as to the number of Continuing Investor Units being purchased from such holder by the Redwood Investor (the "Supplemental Call Option Notice"). At the time the Company delivers the Supplemental Call Option Notice to the holder(s) of Continuing Investor Units, the Company shall also deliver written notice to the Redwood Investor setting forth the number of Continuing Investor Units the Redwood Investor is entitled to purchase, the aggregate purchase price therefor and the time and place of the closing of the transaction. The Redwood Investor may assign its rights, in whole or in part, with respect to the Call Option to one or more Affiliates thereof.

(d) On an annual basis following the fifth anniversary of the Effective Date, any Continuing Investor shall have the right (but not the obligation) to put to the Company, in accordance with this Section 10.4(d), up to 50% of the Continuing Investor Units owned by the Continuing Investor as of the closing of the Rollover Transactions for a price equal to the Applicable Repurchase Price (the "Annual Sale Right"); provided that no such Continuing Investor shall have the right to put any Continuing Investor Units pursuant to the Annual Sale Right to the extent it would result in the Continuing Investor and its Permitted Transferees owning less than 50% of the Continuing Investor Units owned by the Continuing Investor as of the Effective Date. On an annual basis after such fifth anniversary in connection with the Annual Sale Right, the Company shall determine the fair market value of any Units or other Equity Securities of the Company as of the end of the immediately preceding Fiscal Year, determined from the

Redwood Annual Valuation and without applying any minority, liquidity or other discounts from such Redwood Annual Valuation to such Units or Equity Securities (the “Annual Repurchase Price”) to the Continuing Investors by written notice (the “Annual Sale Notice”). The Company shall use reasonable efforts to determine the Annual Repurchase Price within 60 days after receipt of the audited financial statements for the Company with respect to a particular year and shall deliver the Annual Sale Notice to the Continuing Investors within 30 days after such determination. Each Continuing Investor shall have the right to sell up to such number of Continuing Investor Units determined in accordance with this Section 10.4(d) at the Applicable Repurchase Price on the closing date determined in accordance with Section 10.4(e) by delivering written notice to the Company of its election to exercise its Annual Sale Right, and the number of Continuing Investor Units such Continuing Investor is electing to sell as part thereof, not later than 30 days following receipt of the Annual Sale Notice (the “Annual Sale Election Notice”). The Annual Sale Election Notice will set forth the time and place of the closing of the transaction, determined pursuant to Section 10.4(e).

(e) The closing of the purchase of the Continuing Investor Units pursuant to the Call Option, the Put Option or Annual Sale Right, as applicable, shall take place on the date designated by the Company, the Redwood Investor or the Continuing Investor in the Call Option Notice, the Supplemental Call Option Notice, the Put Option Notice or the Annual Sale Election Notice, as applicable, which date shall not be more than sixty (60) days, nor less than fifteen (15) days, after the delivery of the latest of such notice to be delivered, but subject to extension until Fair Market Value is determined. The Company will pay for the Continuing Investor Units to be purchased by it pursuant to the Call Option, the Put Option or the Annual Sale Right, as applicable, by first offsetting amounts outstanding under any *bona fide* debts owed by the Continuing Investor to the Company or any of its Subsidiaries, and will pay the remainder of the purchase price by a check or wire transfer of funds. The Redwood Investor will pay for the Continuing Investor Units purchased by a check or wire transfer of funds. The Company and the Redwood Investor will be entitled to receive customary representations and warranties and an equity-related release from the sellers regarding such sale and to require that all sellers’ signatures be guaranteed, and the Continuing Investor and any other sellers will be required to enter into customary repurchase and equity-related release documentation that the Company and the Redwood Investor may reasonably require.

(f) Notwithstanding anything to the contrary contained in this Agreement, all repurchases of Continuing Investor Units by the Company pursuant to the Call Option, the Put Option and the Annual Sale Right, as applicable, shall be subject to applicable restrictions contained in the Delaware Revised Uniform Limited Partnership Act, the Delaware Act, the Delaware General Corporation Law or such other governing corporate, partnership or limited liability company law, and in the Company’s and its Subsidiaries’ debt financing agreements with third parties (i.e., parties other than the Redwood Investor and/or any of its Affiliates or any Unitholder) (collectively, “**Repurchase Restrictions**”); provided, however, that the Company may not issue a Call Option Notice if such Repurchase Restrictions would, at the time such Call Option Notice is being delivered, prohibit the Company from paying the purchase price in full pursuant to Section 10.4(e) for any such repurchase pursuant to the Call Option. If any Repurchase Restrictions prohibit (i) the repurchase of Continuing Investor Units hereunder that the Company is otherwise entitled or required to make or (ii) dividends or other transfers of funds from one or more Subsidiaries to the Company to enable such repurchases, then (A) the Company shall make such repurchases as soon as it is permitted to make repurchases or receive funds from Subsidiaries to the extent permitted under such Repurchase Restrictions, and (B) with respect to the Put Option and the Annual Sale Right, the applicable Continuing Investor whose Continuing Investor Units are subject to the Put Option and the Annual Sale Right may at any time upon written notice to the Company, delivered at any time on or prior to the 60th day after being informed that the Repurchase Restrictions prohibit or limit the Continuing Investor Units being repurchased, withdraw its Put Option Notice or Annual Sale Election Notice (as applicable) such that any such Put Option Notice or Annual Sale Election Notice (as applicable) shall be void as though such Continuing Investor did not provide such notice (and, for the avoidance of

doubt, with such Continuing Investor retaining all rights with respect to the Put Option and the Annual Sale Right as set forth in this Agreement).

(g) If the Company and/or the Redwood Investor shall make available, at the time and place and in the amount and form provided in this Agreement, the consideration for the Continuing Investor Units to be repurchased in accordance with the provisions of this Agreement, then from and after such time, the Person from whom such securities are to be repurchased shall cease to have any rights as a holder of such securities (other than the right to receive payment of such consideration in accordance with this Section 10.4), and such securities shall be deemed purchased in accordance with the applicable provisions hereof and the purchaser thereof shall be deemed the owner (of record and beneficially) and holder of such securities, whether or not the certificate (if certificated) representing such Continuing Investor Units has been delivered as required by this Agreement.

(h) In connection with the exercise of the Call Option, the Put Option or the Annual Sale Right hereunder, the Board is hereby authorized to amend the Schedule of Unitholders attached to hereto, without the consent of the Continuing Investor or any other Unitholder, to reflect any such exercise of the Call Option, the Put Option or Annual Sale Right in accordance with the terms of this Agreement.

(i) Notwithstanding anything to the contrary in this Agreement, in connection with the exercise of any Call Option, Put Option or Annual Sale Right or satisfaction of any note issued as part of fulfilling obligations with respect to the Call Option, Put Option or Annual Sale Right, the Company may, in whole or in part, satisfy its obligations by distributing to such Continuing Investor, Equity Securities issued by a Subsidiary of the Company with a value (determined by the Company in good faith) equal to the Repurchase Price being paid for the Units or other Equity Securities being purchased (or, if applicable, equal to the obligations due under any such note). The Company and each Continuing Investor agree to treat any such distribution as a distribution of Equity Securities of such Subsidiary under Section 731(a) of the Code. Following such distribution, the Company shall cause the Subsidiary that issued the distributed securities to redeem or repurchase such securities from such holder for an amount of cash equal to the aggregate Repurchase Price to be purchased (or, if applicable, equal to the obligations due under such note), and the Continuing Investor shall take such actions reasonably requested by such Subsidiary to give effect to such redemption or repurchase.

10.5 Void Transfers. Any Transfer by any Member of any Units or other interest in the Company in contravention of this Agreement (including, without limitation, the failure of the Transferee to execute a counterpart in accordance with Section 10.1(b)) or which would cause the Company to not be treated as a partnership for U.S. federal income tax purposes shall be void and ineffectual and shall not bind or be recognized by the Company or any other party. No such purported assignee shall have any right to any Profits, Losses or Distributions of the Company.

10.6 Effect of Assignment.

(a) Any Member who shall assign any Units or other interest in the Company shall cease to be a Member of the Company with respect to such Units or other interest and shall no longer have any rights or privileges of a Member with respect to such Units or other interest.

(b) Any Person who acquires in any manner whatsoever any Units or other interest in the Company, irrespective of whether such Person has accepted and adopted in writing the terms and provisions of this Agreement, shall be deemed by the acceptance of the benefits of the acquisition thereof to have agreed to be subject to and bound by all of the terms and conditions of this Agreement that any predecessor in such Units or other interest in the Company of such Person was subject to or by which such predecessor was bound.

10.7 Additional Restrictions on Transfer.

(a) In addition to the other applicable restrictions on Transfer contained in this ARTICLE X, in connection with the Transfer of any Units other than in an Approved Sale or a Public Sale, the Member holding such Units will deliver written notice to the Company describing in reasonable detail the Transfer or proposed Transfer. In addition, if the Member holding such Units delivers to the Company an opinion of counsel (who may be counsel for the Company), reasonably satisfactory in form and substance to the Board and counsel for the Company (which opinion may be waived, in whole or in part, at the discretion of the Board on behalf of the Company) that no subsequent Transfer of such Units will require registration under the Securities Act, the Company will promptly upon such contemplated Transfer deliver new certificates or instruments, as the case may be, for such Units which do not bear the restrictive legend relating to the Securities Act as set forth below. If the Company is not required to deliver new certificates or instruments, as the case may be, for such Units not bearing such legend, the Member holding such Units will not Transfer the same until the prospective Transferee has confirmed to the Company in writing its agreement to be bound by the conditions contained in this Section 10.7.

(b) Notwithstanding any other provisions of this ARTICLE X, no Transfer of Units or any other interest in the Company may be made unless in the opinion of counsel (who may be counsel for the Company), reasonably satisfactory in form and substance to the Board and counsel for the Company (which opinion may be waived, in whole or in part, at the discretion of the Company), such Transfer would not violate any federal securities laws or any state or provincial securities or “blue sky” laws (including any investor suitability standards) applicable to the Company or the interest to be Transferred, or cause the Company to be required to register as an “Investment Company” under the U.S. Investment Company Act of 1940, as amended. Such opinion of counsel shall be delivered in writing to the Company prior to the date of the Transfer.

(c) Notwithstanding anything to the contrary in this Agreement, no Transfer of any Unit or economic interest shall be permitted or recognized by the Company (within the meaning of Treasury Regulation Section 1.7704-1(d)) if and to the extent that such Transfer would cause the Company to fail to qualify for the “lack of actual trading” safe harbor described in Treasury Regulation Section 1.7704-1(j) (unless the Board otherwise consents in its sole discretion).

10.8 Prospective Transferees. Subject to the terms of this Agreement, the Company agrees to cooperate, as may reasonably be requested, in order to provide any reasonable information and access to any reasonable information to any prospective Permitted Transferee in connection with a proposed Transfer, subject to receipt of a confidentiality agreement in form and substance satisfactory to the Company.

10.9 Transfer Fees and Expenses. Except as otherwise provided in this ARTICLE X, the Transferor and Transferee of any Units or other interest in the Company shall be jointly and severally obligated to reimburse the Company for all reasonable expenses (including attorneys’ fees and expenses) of any Transfer or proposed Transfer, whether or not consummated.

10.10 IPO; Solvent Reorganization; Lock-Up Agreement.

(a) If the Board approves an initial Public Offering or a Solvent Reorganization, each Member shall vote for, consent to (to the extent it has any voting or consenting rights) and raise no objections against such Public Offering or Solvent Reorganization, and the Company, the Board and each Unitholder shall take all reasonable actions in connection with the consummation of such Public Offering or Solvent Reorganization as requested by the Board. In the event of a Public Offering, each Unitholder agrees not to Transfer such Unitholder’s Units or equity securities in any successor to the Company for a

period as may be required by the Board upon the request of the underwriters engaged for the purpose of consummating such initial Public Offering.

(b) In connection with (but prior to the consummation of) an initial Public Offering, the Company or one of its Subsidiaries shall enter into a registration rights agreement with or for the benefit of the Members with respect to the registration of its securities in form and substance reasonably satisfactory to the Board and the holders of the Required Interest.

10.11 Incorporation of the Company. Without limiting the generality of Section 10.10, the Board may, in advance of, and in order to facilitate, a Public Offering of securities of the Company or a Solvent Reorganization, or for other reasons that the Board deems to be in the best interests of the Company, cause the Company to incorporate its business, or any portion thereof, including, without limitation, by way of: (a) the Transfer of all of the assets of the Company, subject to the liabilities of the Company, or the Transfer of any portion of such assets and liabilities, to one or more corporations in exchange for equity interests of said corporation(s) and the subsequent distribution of such equity interests, at such time as the Board may determine, to the Unitholders in accordance with this Agreement, (b) Transfer by each of the Unitholders of Units held by such Unitholder to one or more corporations in exchange for equity interests of said corporation(s) and, in connection therewith, each Unitholder hereby agrees to the Transfer of its Units in accordance with the terms of exchange as provided by the Board and further agrees that, as of the effective date of such exchange, any Units outstanding thereafter that shall not have been tendered for exchange shall represent only the right to receive a certificate representing the number of equity interests of said corporation(s) as provided in the terms of the exchange, (c) the merger of the Company with and into a corporation as a result of which the Unitholders receive as merger consideration equity interests of such corporation, as the surviving entity to the merger, which merger shall not be required to be approved by the Members, (d) if the only assets of the Company consist of cash and stock of a corporation, dissolve the Company and distribute such cash and shares of stock to the Unitholders, (e) an election by the Company to be treated as a corporation for U.S. federal income tax purposes or (f) the conversion of the Company to a corporation or other entity pursuant to applicable law, which conversion shall require only the approval of the Board and not be required to be approved by any of the other Members or any other Person. Each Unitholder will take all reasonable actions in connection with the consummation of such conversion as requested by the Board.

10.12 Legend. In the event that certificates representing the Units are issued (“Certificated Units”), such certificates will, as long as such Units are Restricted Units, bear the following legend:

“THE UNITS REPRESENTED BY THIS CERTIFICATE WERE ORIGINALLY ISSUED ON _____, 20__, HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “ACT”), OR APPLICABLE STATE SECURITIES LAWS (“STATE ACTS”) AND MAY NOT BE SOLD, ASSIGNED, PLEDGED OR TRANSFERRED OR OTHERWISE DISPOSED OF IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT UNDER THE ACT OR STATE ACTS OR AN EXEMPTION FROM REGISTRATION THEREUNDER. THE TRANSFER OF THE UNITS REPRESENTED BY THIS CERTIFICATE IS SUBJECT TO THE CONDITIONS SPECIFIED IN AN AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT, DATED AS OF [●], 2021, AS AMENDED AND MODIFIED FROM TIME TO TIME, GOVERNING THE ISSUER (THE “COMPANY”) AND BY AND AMONG CERTAIN INVESTORS. A COPY OF SUCH CONDITIONS

SHALL BE FURNISHED BY THE COMPANY TO THE HOLDER
HEREOF UPON WRITTEN REQUEST AND WITHOUT CHARGE.”

ARTICLE XI

ADMISSION OF MEMBERS

11.1 Substituted Members. In connection with the Transfer of Units of a Unitholder permitted under the terms of this Agreement and the other agreements contemplated hereby and thereby, the Transferee shall become a Substituted Member on the later of (a) the effective date of such Transfer and (b) the date on which the Company (by action of the Board) approves such Transferee as a Substituted Member. Any such admission shall be shown on the books and records of the Company.

11.2 Additional Members. A Person may be admitted to the Company as an Additional Member only as contemplated under Section 3.1 and only upon furnishing to the Company (a) a letter of acceptance, in form satisfactory to the Company, of all the terms and conditions of this Agreement, including the power of attorney granted in Section 16.1, and (b) such other documents or instruments as may be necessary or appropriate to effect such Person’s admission as a Member. Such admission shall become effective on the date on which the Company (notwithstanding anything to the contrary in the Delaware Act, by action of the Board) determines in its sole discretion that such conditions have been satisfied. Any such admission shall be shown on the books and records of the Company.

ARTICLE XII

WITHDRAWAL AND RESIGNATION OF UNITHOLDERS

12.1 Withdrawal and Resignation of Unitholders. No Unitholder shall have the power or right to withdraw or otherwise resign from the Company prior to the dissolution and winding up of the Company pursuant to ARTICLE XII, except as otherwise expressly permitted by this Agreement or any of the other agreements contemplated hereby. Upon a Transfer of all of a Unitholder’s Units in a Transfer permitted by this Agreement, subject to the provisions of Section 10.6, such Unitholder shall cease to be a Unitholder. Notwithstanding that payment on account of a withdrawal may be made after the effective time of such withdrawal, any completely withdrawing Unitholder will not be considered a Unitholder for any purpose after the effective time of such complete withdrawal, and, in the case of a partial withdrawal, such Unitholder’s Capital Account (and corresponding voting and other rights) shall be reduced for all other purposes hereunder upon the effective time of such partial withdrawal.

ARTICLE XIII

DISSOLUTION AND LIQUIDATION

13.1 Dissolution. The Company shall not be dissolved by the admission of Additional Members or Substituted Members. The Company shall dissolve, and its affairs shall be wound up upon the first to occur of the following:

- (a) the determination of the Board to dissolve; or
- (b) the entry of a decree of dissolution under the Delaware Act.

Except as otherwise set forth in this ARTICLE XIII, the Company is intended to have perpetual existence. An Event of Withdrawal shall not cause a dissolution of the Company and the Company shall continue in existence subject to the terms and conditions of this Agreement.

13.2 Liquidation and Termination. On the dissolution of the Company, the Board shall act as liquidator or may appoint one or more representatives, Members or other Persons as liquidator(s). The liquidators shall proceed diligently to wind up the affairs of the Company and make final distributions as provided herein and in the Delaware Act. The costs of liquidation shall be borne as a Company expense. Until final distribution, the liquidators shall continue to operate the Company properties with all of the power and authority of the Board. The steps to be accomplished by the liquidators are as follows:

(a) the liquidators shall pay, satisfy or discharge from Company funds all of the debts, liabilities and obligations of the Company (including, without limitation, all expenses incurred in liquidation) or otherwise make adequate provision for payment and discharge thereof (including, without limitation, the establishment of a cash fund for contingent liabilities in such amount and for such term as the liquidators may reasonably determine);

(b) as promptly as practicable after dissolution, the liquidators shall (i) with the approval of the Board if the Board is not the liquidator, determine the Fair Market Value (the "Liquidation FMV") of the Company's remaining assets (the "Liquidation Assets") in accordance with ARTICLE XIV hereof, (ii) determine the amounts to be distributed to each Unitholder in accordance with Section 4.2, and (iii) deliver to each Unitholder a statement (the "Liquidation Statement") setting forth the Liquidation FMV and the amounts and recipients of such Distributions;

(c) if the holders of the Required Interest do not deliver written notice to the liquidators disagreeing with the calculations in the Liquidation Statement (a "Statement of Disagreement") within 15 days after the date of the Liquidation Statement, the Liquidation Statement shall be final and binding on all Unitholders. In the event such holders give a Statement of Disagreement within such 15-day period, the holders of the Required Interest and the liquidators will attempt in good faith to agree on the Liquidation FMV, and any such agreement shall be final and binding on all Unitholders. If such Persons are unable to reach such agreement within 20 days after the date of the Statement of Disagreement, the holders of the Required Interest and the liquidators shall each, within 10 days thereafter, select an investment banker or other appraiser with experience in analyzing and making determinations concerning matters in the Business and in valuing entities like the Company (including calculating distribution mechanisms like that set forth in Section 4.2 above), and the two investment bankers/appraisers so selected shall together select a third such investment banker/appraiser similarly qualified. The three investment bankers/appraisers so selected shall each determine the Liquidation FMV in accordance with the provisions of ARTICLE XIV, shall determine the amount and allocation of Distributions in accordance with Section 4.2, and shall, within 30 days after their retention, provide the written results of such determination to the holders of Redwood Investor Equity and the liquidators. For purposes hereof, the Liquidation FMV and the amounts to be distributed with respect to each class of Units shall each be equal to the average of the two appraisals closest to each other with respect thereto, and such amounts shall be final and binding on all Unitholders. The costs of such appraisal shall be borne by the Company; and

(d) as soon as the Liquidation FMV and the proper amounts of Distributions have been determined in accordance with Section 13.2(c) above, the liquidators shall promptly distribute the Company's Liquidation Assets to the holders of Units in accordance with Section 4.2 above. Any non-cash Liquidation Assets will first be written up or down to their Fair Market Value, thus creating Profit or Loss (if any), which shall be allocated in accordance with Sections 4.3 and 4.4. In making such distributions, the liquidators shall allocate each type of Liquidation Assets (i.e., cash or cash equivalents, etc.) among the

Unitholders ratably based upon the aggregate amounts to be distributed with respect to the Units held by each such holder. To the extent that equity securities of any Subsidiary of the Company is distributed to any Unitholders in connection with the liquidation, such Unitholders hereby agree to enter into a securityholders agreement with such Subsidiary and each other Unitholder which contains restrictions on the Transfer of such equity security and other provisions (including with respect to the governance and control of such Subsidiary) in form and substance similar to the provisions and restrictions set forth herein (including, without limitation, in ARTICLE V and ARTICLE X). The distribution of cash and/or property to a Unitholder in accordance with the provisions of this Section 13.2 constitutes a complete distribution to the Unitholder of its interest in the Company and all the Company's property and constitutes a compromise to which all Unitholders have consented within the meaning of the Delaware Act. To the extent that a Unitholder returns funds to the Company, it has no claim against any other Unitholder for those funds.

13.3 Cancellation of Certificate. On completion of the distribution of Company assets as provided herein and the filing of the Certificate of Cancellation, the Company is terminated (and the Company shall not be terminated prior to such time), and the Board (or such other Person or Persons as the Delaware Act may require or permit) shall file a certificate of cancellation with the Secretary of State of Delaware, cancel any other filings made pursuant to this Agreement that are or should be canceled and take such other actions as may be necessary to terminate the Company. The Company shall be deemed to continue in existence for all purposes of this Agreement until it is terminated pursuant to this Section 13.3.

13.4 Reasonable Time for Winding Up. A reasonable time shall be allowed for the orderly winding up of the business and affairs of the Company and the liquidation of its assets pursuant to Section 13.2 in order to minimize any losses otherwise attendant upon such winding up.

13.5 Return of Capital. The liquidators shall not be personally liable for the return of Capital Contributions or any portion thereof to the Unitholders (it being understood that any such return shall be made solely from Company assets).

13.6 Hart-Scott-Rodino. In the event the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (the "HSR Act") is applicable to any Unitholder, the dissolution of the Company shall not be consummated until such time as the applicable waiting period (and extensions thereof) under the HSR Act have expired or otherwise been terminated with respect to each such Unitholder.

ARTICLE XIV

VALUATION

14.1 Fair Market Value. The "Fair Market Value" of any asset in question shall be the fair market value of such asset as determined in the reasonable discretion of the Board; provided that the Fair Market Value of any publicly-traded security as of any date, shall be the average closing prices of such security's sales on the primary domestic securities exchange on which such security may at the time be listed for the previous 20 days of such date on which such exchange was open; provided further that the Fair Market Value of any Units or other Equity Securities of the Company with respect to the Put Option or the Call Option shall be determined in mutually and in good faith by the Board and the applicable Continuing Investor, taking into account all relevant factors determinative of value and giving effect to a hypothetical liquidation of the Company at the Total Equity Value as of the Fiscal Quarter ended immediately prior to the Option Trigger Event, but without regard to any minority, liquidity or other discounts. If, for purposes of the Put Option or the Call Option, the Board and the applicable Continuing Investor are unable to agree on the Fair Market Value prior to the closing date determined pursuant to Section 10.4(e), the Fair Market Value will be determined as follows: The applicable Continuing Investor and the Board shall each select and engage an experienced third-party valuation firm within 10 Business

Days after such expected closing date. Each firm shall be instructed to determine the Fair Market Value based on the criteria set forth in this definition of Fair Market Value and deliver a determination that is shareable with the other party within 20 Business Days after such engagement and in no event later than 40 Business Days after the expected closing date under Section 10.4(e) unless otherwise agreed. If the two values are within 20% of each other, then the Fair Market Value will be deemed to be the average of the two values and the closing of the Put Option or Call Option, as applicable, shall occur not later than 15 days after such final determination. If the two values are more than 20% apart, then the two firms will, within 10 Business Days after delivery of their respective reports, select a third firm to undertake a valuation to be delivered within 20 Business Days after such engagement. The third firm shall not have access to the first two valuations. Whichever valuation of the initial two firms is closer to the valuation of the third firm shall be the Fair Market Value and the closing of the Put Option or Call Option, as applicable, shall occur not later than 15 days after such final determination.

ARTICLE XV

BOOKS AND RECORDS, REPORTS, AND CONFIDENTIALITY

15.1 Maintenance of Books.

(a) Books and Records. The Company shall keep books and records of account and shall keep minutes of the proceedings of, or maintain written consents executed by, its Members, the Board and each committee designated by the Board.

(b) Schedule of Unitholders; Schedule of Members. The Company will maintain, and as required update, (i) the attached Schedule of Unitholders, which sets forth with respect to each Member such Member's respective name and address, the number of Common Units owned by such Member and the amount of Capital Contributions made by such Member with respect thereto, and (ii) the attached Schedule of Members, which sets forth each Member of the Company. Upon any Member's written request, the Company shall provide a copy of the (i) then-current Schedule of Unitholders and/or Schedule of Members, and (ii) the then-current copy of this Agreement (as amended).

Notwithstanding the foregoing, in no event shall the Company be required to provide any such information to or about a holder of Incentive Units, and any such information may be redacted without violation of this Agreement or the Delaware Act.

15.2 Reports.

(a) Financial Statements. Prior to the earlier of an initial Public Offering or a Sale of the Company, the Company shall deliver to the Redwood Investor and, so long as the Continuing Investors have not breached any obligation to the Company or any of its Subsidiaries in respect of confidentiality, non-competition, non-solicitation and the like, the Company shall deliver (or cause to be delivered) to the Continuing Investors (or a representative thereof):

(i) no later than five (5) business days after the date on which the Company or any of its Subsidiaries delivers such materials to any secured lenders of the Company or any of its Subsidiaries (or, at any time the Company and its Subsidiaries have no secured lenders entitled to periodic financials, within 120 calendar days after the end of each Fiscal Year), audited statements of income or operations of the Company and its Subsidiaries for the Fiscal Year, and an audited balance sheet of the Company and its Subsidiaries as of the end of such Fiscal Year; and

(ii) within sixty (60) days after the end of the six month period ending after the end of each Fiscal Year, unaudited statements of income or operations of the Company and its Subsidiaries for such six month period and an unaudited balance sheet of the Company and its Subsidiaries as of the end of such six month period.

Notwithstanding the foregoing, in the event that any deliveries required to be provided under this Section 15.2(a) are provided to lenders of the Company or any of its Subsidiaries and are prepared for a Subsidiary of the Company, the Company may satisfy its obligations hereunder by causing such Subsidiary deliverable to be delivered to the Members entitled to receive the financial statements contemplated under this Section 15.2(a).

(b) Cost of Reports; No Additional Information. The Company shall bear the costs of all reports and other information provided pursuant to this Section 15.2. Except as otherwise provided in this Section 15.2 or in Section 15.1, each Member hereby waives any and all rights under the Delaware Act entitling such Member to additional information from or access to the Company.

15.3 Company Funds. The Board may not commingle the Company's funds with the funds of any Unitholder or officer.

15.4 Confidentiality.

(a) Each Unitholder (other than the Redwood Investor) recognizes and acknowledges that it may receive certain confidential and proprietary information and trade secrets of the Company and its Subsidiaries, including but not limited to confidential information of the Company and its Subsidiaries regarding identifiable, specific and discrete business opportunities being pursued by the Company or its Subsidiaries and other information provided pursuant to Section 15.1 or Section 15.2 hereof (the "Confidential Information"). Each Unitholder (other than the Redwood Investor), on behalf of itself and, to the extent that such Unitholder would be responsible for the acts of the following persons under principles of agency law, its directors, officers, shareholders, partners, employees, agents and members, agrees that it will not, during or after the term of this Agreement, whether through an Affiliate or otherwise, take commercial or proprietary advantage of or profit from any Confidential Information or disclose Confidential Information to any Person for any reason or purpose whatsoever, except (a) to authorized representatives and employees of the Company or the Subsidiaries and as otherwise may be proper in the course of performing such Unitholder's obligations, or enforcing such Unitholder's rights, under this Agreement, (b) as part of such Unitholder's normal reporting or review procedure, or in connection with such Unitholder's or such Unitholder's Affiliates' normal fund raising, marketing, informational or reporting activities, or to such Unitholder's (or any of its Affiliates') Affiliates, employees, auditors, attorneys or other agents, (c) to any *bona fide* prospective purchaser of the equity or assets of such Unitholder or its Affiliates or the Units held by such Unitholder, or prospective merger partner of such Unitholder or its Affiliates, provided that such purchaser or merger partner agrees to be bound by the provisions of this Section 15.4 or (d) as is required to be disclosed by order of a court of competent jurisdiction, administrative body or governmental body, or by subpoena, summons or legal process, or by law, rule or regulation, provided that the Unitholder required to make such disclosure shall provide to the Board prompt notice of such requirement. For purposes of this Section 15.4, Confidential Information shall not include any information which (i) such Person became aware of prior to its affiliation with the Company, (ii) such Person learns from sources other than the Company or its Subsidiaries (provided that such Person does not know or have reason to know, at the time of such Person's disclosure of such information, that such information was acquired by such source through violation of law, breach of contractual confidentiality obligations or breach of fiduciary duties) or (iii) is disclosed in a prospectus or other documents for dissemination to the public.

(b) Notwithstanding anything in this Section 15.4 to the contrary, the Redwood Investor may provide to its and its Affiliates current and prospective members and partners the following information: (i) the name and a general description of the Company, (ii) the fact that the Redwood Investor has an investment in the Company, (iii) the amount of the Redwood Investor's capital commitment to the Company, (iv) information about the amount of capital contributions made by the Redwood Investor to, and the amount of distributions received by the Redwood Investor from, the Company, (v) the Fair Market Value of the Redwood Investor's interest in the Company and (vi) such ratios and performance information as may be calculated by the Redwood Investor using the information in clauses (iii) through (v) above; provided that each recipient of such information disclosed is informed of the confidential nature of the information and agrees to treat such information confidentially in accordance with the terms of this Section 15.4, and the Redwood Investor shall be responsible for ensuring that each such recipient treats such information confidentiality in accordance with the terms of this Section 15.4. Each Unitholder acknowledges that (i) the Redwood Investor and its Affiliates are engaged in the business of investing and that in the ordinary course of business the Redwood Investor and its Affiliates pursue, acquire, invest in, manage, do business with and serve on the boards of companies that may be potential competitors to the Company and its Subsidiaries and (ii) except insofar as this Agreement restricts the disclosure of Confidential Information pursuant to this Section 15.4, this Section 15.4 shall not prevent the Redwood Investor or any of its Affiliates or representatives from investing in, doing business with, engaging in, managing and/or acquiring any business that may be similar or identical to or in direct or indirect competition with (now or in the future) the Company and its Subsidiaries. Further, each Unitholder acknowledges that Confidential Information may enhance the Redwood Investor's and its Affiliates' and representatives' knowledge and understanding of the industry of the Company and its Subsidiaries in a way that cannot be separated from such Person's other knowledge and such Unitholder agrees that this Section 15.4 shall not restrict the Redwood Investor's nor its Affiliates' or representatives' use of such overall knowledge and understanding of such industry for the Redwood Investor's or its Affiliates' or representatives' own internal purposes, including the purchase, sale, consideration of and decisions related to other investments.

ARTICLE XVI

GENERAL PROVISIONS

16.1 Power of Attorney.

(a) Each Unitholder hereby constitutes and appoints the Redwood Investor and the liquidators, with full power of substitution, as his, her or its true and lawful agent and attorney-in-fact, with full power and authority in his, her or its name, place and stead, to execute, swear to, acknowledge, deliver, file and record in the appropriate public offices (i) this Agreement, all certificates and other instruments and all amendments thereof in accordance with the terms hereof which the Board deems appropriate or necessary to form, qualify or continue the qualification of, the Company as a limited liability company in the State of Delaware and in all other jurisdictions in which the Company may conduct business or own property; (ii) all instruments which the Board deems appropriate or necessary to reflect any amendment, change, modification or restatement of this Agreement that was made in accordance with its terms; (iii) all conveyances and other instruments or documents which the Board and/or the liquidators deems appropriate or necessary to reflect the dissolution and liquidation of the Company pursuant to the terms of this Agreement, including a certificate of cancellation; (iv) all instruments relating to the admission, withdrawal or substitution of any Unitholder pursuant to ARTICLE XI or ARTICLE XII; (v) all agreements, certificates or other instruments required to be delivered pursuant to this Agreement, any Incentive Unit Grant Agreement, any rollover agreement or any other agreement entered into by the Company and any Member or prospective Member with respect to the issuance, purchase, sale and/or Transfer of Units; and

(vi) all instruments necessary or requested by the Board in accordance with any exercise of the Call Option pursuant to Section 10.4.

(b) The foregoing power of attorney is irrevocable and coupled with an interest, and shall survive the death, disability, incapacity, dissolution, bankruptcy, insolvency or termination of any Unitholder and the Transfer of all or any portion of his, her or its Units and shall extend to such Unitholder's heirs, successors, assigns and personal representatives.

16.2 Amendments. In addition to the right of the Board and the Company to amend this Agreement as expressly provided herein (including pursuant to Section 3.1 and Section 9.4) (collectively, the "Approved Amendment Rights"), this Agreement may be amended, modified, or waived with the written consent of the Redwood Investor; provided, that any amendment, modification or waiver that (x) is not contemplated by the Approved Amendment Rights and (y) materially adversely affects the rights, powers and preferences of the Continuing Investors in a manner that is disproportionate and adverse relative to the Redwood Investor shall require the written consent of the Majority Continuing Investors; provided, further, that any amendment, modification or waiver that (1) is not contemplated by the Approved Amendment Rights and (2) materially adversely affects the rights, powers and preferences of any class or series of Units in a manner that is disproportionate and adverse relative to all other classes or series of Units shall require the written consent of holders of a majority of the Units of such class or series so disproportionately and materially adversely affected. Notwithstanding the foregoing, this Agreement may also be amended, modified, or waived with the written consent of the Board and the Redwood Investor, without the consent or approval at any time of any other Member (each Member, by acquiring its Units, being deemed to consent to any such amendment, modification or waiver), and the Redwood Investor may execute, swear to, acknowledge, deliver, file and record all documents required or desirable in connection therewith, to reflect: (a) the admission, dilution, substitution, termination or withdrawal of any Member in accordance with the provisions of this Agreement; (b) a change that is necessary solely for the purpose of qualifying the Company as a corporation or another entity in which the Members have limited liability; (c) the creation or issuance of any other Units or Equity Securities, and the rights, powers and preferences with respect thereto, or the making of any Capital Contributions in each case in accordance with the terms of this Agreement; or (d) a change that is (i) of an inconsequential nature and does not adversely affect any Member in any material respect, (ii) required by this Agreement, including, without limitation, an amendment of any Schedule of this Agreement in connection with the issuance of any additional Units or (iii) necessary to reflect the current Capital Contributions and number of Units held by each Member, following any change to such items in accordance with the provisions of this Agreement.

16.3 Title to Company Assets. Company assets shall be deemed to be owned by the Company as an entity, and no Unitholder, individually or collectively, shall have any ownership interest in such Company assets or any portion thereof. Legal title to any or all Company assets may be held in the name of the Company or one or more nominees, as the Board may determine. In the event that legal title to any Company assets are to be held in the name of any nominee, the Company shall require that such nominee declare that such Company assets are to be held in trust by such nominee for the use and benefit of the Company in accordance with the provisions of this Agreement. All Company assets shall be recorded as the property of the Company on its books and records, irrespective of the name in which legal title to such Company assets is held.

16.4 Remedies. Each Unitholder shall have all rights and remedies set forth in this Agreement and all rights and remedies which such Person has been granted at any time under any other agreement or contract and all of the rights which such Person has under any law. Any Person having any rights under any provision of this Agreement or any other agreements contemplated hereby shall be entitled to enforce such rights specifically (without posting a bond or other security), to recover damages by reason of any breach of any provision of this Agreement and to exercise all other rights granted by law.

16.5 Successors and Assigns. All covenants and agreements contained in this Agreement shall bind and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors, legal representatives and permitted assigns, whether so expressed or not.

16.6 Severability. Whenever possible, each provision of this Agreement will be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality or unenforceability will not affect any other provision or the effectiveness or validity of any provision in any other jurisdiction, and this Agreement will be reformed, construed and enforced in such jurisdiction as if such invalid, illegal or unenforceable provision had never been contained herein.

16.7 Counterparts. This Agreement may be executed simultaneously in two or more separate counterparts, any one of which need not contain the signatures of more than one party, but each of which will be an original and all of which together shall constitute one and the same agreement binding on all the parties hereto.

16.8 Descriptive Headings; Interpretation. The descriptive headings of this Agreement are inserted for convenience only and do not constitute a substantive part of this Agreement. Whenever required by the context, any pronoun used in this Agreement shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns, pronouns and verbs shall include the plural and vice versa. The use of the word “including” in this Agreement shall be by way of example rather than by limitation. Reference to any agreement, document or instrument means such agreement, document or instrument as amended or otherwise modified from time to time in accordance with the terms thereof, and if applicable hereof. Wherever required by the context, references to a Fiscal Year shall refer to a portion thereof. The use of the words “or,” “either” and “any” shall not be exclusive. The parties hereto have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties hereto, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement. Wherever a conflict exists between this Agreement and any other agreement, this Agreement shall control but solely to the extent of such conflict.

16.9 Applicable Law. This Agreement and all claims, controversies, and causes of action arising out of or relating to this Agreement, whether sounding in contract, tort or statute shall be governed by, and construed in accordance with, the laws of the State of Delaware (including Section 18-1101(a) and Section 18-1101(b) of the Delaware Act), without giving effect to any choice of law or conflict of law rules or provisions (whether of the State of Delaware or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Delaware. Subject to Section 16.18, any dispute relating hereto shall be heard in the state or federal courts of Delaware, and the parties agree to jurisdiction and venue therein.

16.10 Addresses and Notices. All notices, demands or other communications to be given or delivered under or by reason of the provisions of this Agreement shall be in writing and shall be deemed to have been given or made when (a) delivered personally to the recipient, (b) emailed to the recipient, or (c) one (1) business day after being sent to the recipient by reputable overnight courier service (charges prepaid). Such notices, demands and other communications shall be sent to the address for such recipient set forth in the Company’s books and records, or to such other address or to the attention of such other person as the recipient party has specified by prior written notice to the sending party. Any notice to the Company shall be deemed given if received by the Company at the principal office of the Company designated pursuant to Section 2.5.

16.11 Creditors.

(a) None of the provisions of this Agreement shall be for the benefit of or enforceable by any creditors of the Company or any of its Affiliates, and no creditor who makes a loan to the Company or any of its Affiliates may have or acquire (except pursuant to the terms of a separate agreement executed by the Company in favor of such creditor) at any time as a result of making the loan any direct or indirect interest in Company Profits, Losses, Distributions, capital or property other than as a secured creditor.

(b) Anything herein to the contrary notwithstanding, nothing contained in this Agreement shall affect, limit or impair the rights and remedies of any Unitholder as a lender to the Company or its Affiliates pursuant to any agreement under which the Company or any of its Affiliates has or from time to time will have borrowed money from any such Unitholder. Without limiting the generality of the foregoing, no such Unitholder, in exercising its rights as a lender or other creditor, including making its decision on whether to foreclose on any collateral security, shall have any duty to consider (i) its status as a direct or indirect Unitholder of the Company, (ii) the interests of the Company or any of its Affiliates or (iii) any duty it may have to any other direct or indirect Unitholder of the Company arising from this Agreement, except as may be required under the applicable loan documents or by commercial law applicable to creditors generally.

16.12 Waiver. No failure by any party to insist upon the strict performance of any covenant, duty, agreement or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or any other covenant, duty, agreement or condition.

16.13 Further Action. The parties agree to execute and deliver all documents, provide all information and take or refrain from taking such actions as may be necessary or appropriate to achieve the purposes of this Agreement.

16.14 Offset. Whenever the Company is to pay any sum to any Unitholder or any Affiliate or related person thereof, any amounts that such Unitholder or such Affiliate or related person owes to the Company under any promissory note issued to the Company as partial payment for any Units of the Company may be deducted from that sum before payment.

16.15 Entire Agreement. This Agreement, those documents expressly referred to herein and other documents dated as of even date herewith embody the complete agreement and understanding among the parties and supersede and preempt any prior understandings, agreements or representations by or among the parties, written or oral, which may have related to the subject matter hereof in any way.

16.16 Opt-in to Article 8 of the Uniform Commercial Code. The Unitholders hereby agree that the Units shall be securities governed by Article 8 of the Uniform Commercial Code of the State of Delaware (and the Uniform Commercial Code of any other applicable jurisdiction).

16.17 Delivery by Facsimile or Electronic Format. This Agreement, the agreements referred to herein and each other agreement or instrument entered into in connection herewith or therewith or contemplated hereby or thereby, and any amendments hereto or thereto, to the extent signed and delivered by means of a facsimile machine or in electronic transmission in portable document format (pdf) or comparable electronic transmission, shall be treated in all manner and respects as an original agreement or instrument and shall be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person. At the request of any party hereto or to any such agreement or instrument, each other party hereto or thereto shall execute original forms thereof and deliver them to all other parties. No party hereto or to any such agreement or instrument shall raise the use of a facsimile

machine or electronic transmission to deliver a signature or the fact that any signature or agreement or instrument was transmitted or communicated through the use of a facsimile machine or electronic transmission as a defense to the formation or enforceability of a contract and each such party forever waives any such defense.

16.18 Arbitration. Except as set forth in Section 16.4, any controversy or claim arising out of or relating to this Agreement shall be settled exclusively by final and binding arbitration in accordance with the rules of the American Arbitration Association and shall take place in Baltimore, Maryland. Judgment upon the arbitration award may be entered in any court hearing jurisdiction thereof. In the event that a judgment is made pursuant to this Section 16.18, all reasonable out-of-pocket costs and reasonable legal costs incurred by the prevailing party shall be paid by the non-prevailing party. In the event that a non-arbitrated settlement is reached, each party shall pay their own respective costs and fees incurred thereby.

16.19 Survival. In addition to any other provision of this Agreement that expressly survives termination of this Agreement, ARTICLE VII, Section 15.4 and ARTICLE XVI shall survive and continue in full force in accordance with their respective terms notwithstanding any termination of this Agreement or the dissolution of the Company.

16.20 Acknowledgements. Upon execution and delivery of a counterpart to this Agreement or a joinder to this Agreement, each Member and Additional Member shall be deemed to acknowledge to the Board and the Company as follows: (a) the determination of such Member or Additional Member to purchase Units pursuant to this Agreement and any other agreement referenced herein has been made by such Member or Additional Member independent of any other Member and independent of any statements or opinions as to the advisability of such purchase or as to the properties, business, prospects or condition (financial or otherwise) of the Company or its Subsidiaries which may have been made or given by any other Member or by any agent or employee of any other Member, (b) no other Member has acted as an agent of such Member or Additional Member in connection with making its investment hereunder and that no other Member shall be acting as an agent of such Member or Additional Member in connection with monitoring its investment hereunder, (c) the Company and the Board have retained Kirkland & Ellis LLP in connection with the transactions contemplated hereby and expect to retain Kirkland & Ellis LLP as legal counsel in connection with the management and operation of and the investment in the Company, (d) Kirkland & Ellis LLP is not representing and will not represent any other Member or Additional Member in connection with the transaction contemplated hereby or any dispute which may arise between the Board and/or the Company, on the one hand, and any other Member or Additional Member, on the other hand, (e) such Member or Additional Member will, if it wishes counsel on the transactions contemplated hereby, retain its own independent counsel and (f) Kirkland & Ellis LLP may represent the Board and/or the Company in connection with any and all matters contemplated hereby (including, without limitation, any dispute between the Board and/or the Company, on the one hand, and any other Member or Additional Member, on the other hand) and such Member or Additional Member waives any conflict of interest in connection with such representation by Kirkland & Ellis LLP.

* * * * *

IN WITNESS WHEREOF, the undersigned have executed or caused to be executed on their behalf this Agreement as of the date first written above.

COMPANY:

JOHNSTONE SUPPLY HOLDINGS, LLC

By: _____

Name:

Its:

IN WITNESS WHEREOF, the undersigned has executed or caused to be executed on their behalf this Agreement as of the date first written above.

MEMBER:

Name: _____

Address:

SCHEDULE OF MEMBERS

Updated as of [●], 2021

MEMBER
RCI Annandale, LLC
[●]

SCHEDULE OF UNITHOLDERS

Updated as of [●], 2021

MEMBER	CAPITAL CONTRIBUTIONS IN RESPECT OF COMMON UNITS	NUMBER OF COMMON UNITS	NUMBER OF INCENTIVE UNITS	INCENTIVE UNIT PARTICIPATION THRESHOLD
Redwood Investor				
RCI Annandale, LLC 7301 Parkway Drive Hanover, MD 21076			-	-
Continuing Investors				
[●]			-	-
Total			-	-

EXHIBIT E

STATE ADMINISTRATORS AND AGENTS FOR SERVICE OF PROCESS

STATE	STATE REGULATORY AGENCY	AGENT TO RECEIVE PROCESS IN STATE, IF DIFFERENT THAN THE STATE REGULATORY AGENCY
California	<p>Department of Financial Protection and Innovation <i>Los Angeles</i> 320 West 4th Street, Suite 750 Los Angeles, CA 90013-2344 (213) 576-7500</p> <p><i>Sacramento</i> 2101 Arena Blvd. Sacramento, CA 95834 (916) 445-7205</p> <p><i>San Diego</i> 1350 Front Street, Room 2034 San Diego, CA 92101-3697 (619) 525-4233</p> <p><i>San Francisco</i> One Sansome Street, Suite 600 San Francisco, CA 94104-4428 (415) 972-8565</p> <p>Toll Free (866) 275-2676</p>	<p>Commissioner of Financial Protection and Innovation 320 West 4th Street, Suite 750 Los Angeles, CA 90013</p>
Hawaii	<p>Department of Commerce and Consumer Affairs Business Registration Division Commissioner of Securities P.O. Box 40 Honolulu, HI 96810 (808) 586-2722</p>	<p>Commissioner of Securities Department of Commerce and Consumer Affairs Business Registration Division Securities Compliance Branch 335 Merchant Street, Room 203 Honolulu, HI 96813</p>
Illinois	<p>Franchise Bureau Office of Attorney General 500 South Second Street Springfield, IL 62706 (217) 782-4465</p>	
Indiana	<p>Franchise Section Indiana Securities Division Secretary of State Room E-111 302 W. Washington Street Indianapolis, IN 46204 (317) 232-6681</p>	

STATE	STATE REGULATORY AGENCY	AGENT TO RECEIVE PROCESS IN STATE, IF DIFFERENT THAN THE STATE REGULATORY AGENCY
Maryland	Office of the Attorney General Securities Division 200 St. Paul Place Baltimore, MD 21202-2020 (410) 576-6360	Maryland Commissioner of Securities 200 St. Paul Place Baltimore, MD 21202-2020
Michigan	Michigan Attorney General's Office Consumer Protection Division Attn: Franchise Section 525 W. Ottawa Street Williams Building, 1st Floor Lansing, MI 48909 (517) 335-7567	
Minnesota	Minnesota Department of Commerce 85 7th Place East, Suite 280 St. Paul, MN 55101-2198 (651) 539-1500	Commissioner of Commerce Minnesota Department of Commerce 85 7th Place East, Suite 280 St. Paul, MN 55101-2198 (651) 539-1500
New York	New York State Department of Law Bureau of Investor Protection and Securities 28 Liberty Street, 21st Floor New York, NY 10005 (212) 416-8236	New York Secretary of State New York Department of State One Commerce Plaza 99 Washington Avenue, 6th Floor Albany, NY 12231-0001
North Dakota	Office of Securities Commissioner Fifth Floor 600 East Boulevard Bismarck, ND 58505-0510 (701) 328-4712	
Oregon	Department of Consumer & Business Services Division of Finance and Corporate Securities Labor and Industries Building Salem, OR 97310 (503) 378-4140	
Rhode Island	Department of Business Regulation Securities Division 1511 Pontiac Avenue John O. Pastore Complex-69-1 Cranston, RI 02920-4407 (401) 462-9527	

STATE	STATE REGULATORY AGENCY	AGENT TO RECEIVE PROCESS IN STATE, IF DIFFERENT THAN THE STATE REGULATORY AGENCY
South Dakota	Department of Labor and Regulation Division of Securities 124 S. Euclid, Suite 104 Pierre, SD 57501 (605) 773-3563	
Virginia	State Corporation Commission 1300 East Main Street 9th Floor Richmond, VA 23219 (804) 371-9051	Clerk State Corporation Commission 1300 East Main Street, 1st Floor Richmond, VA 23219
Washington	Department of Financial Institutions Securities Division 150 Israel Rd. SW Tumwater, WA 98501 (360) 902-8760	Director of Dept. of Financial Institutions Securities Division 150 Israel Rd. SW Tumwater, WA 98501
Wisconsin	Division of Securities Department of Financial Institutions Post Office Box 1768 Madison, WI 53701 (608) 266-2801	Administrator, Division of Securities Department of Financial Institutions 345 W. Washington Ave., 4th Floor Madison, Wisconsin 53703

EXHIBIT F
SECURITY AGREEMENT

[Attached]

SECURITY AGREEMENT

THIS SECURITY AGREEMENT is entered into this _____ day of _____, 2018 between JOHNSTONE SUPPLY, INC., an Oregon cooperative corporation (hereinafter referred to as “Secured Party”) and [Entity Name], a [State] corporation (hereinafter referred to as “Debtor”).

RECITALS:

A. Secured Party is a cooperative wholesale distributor of HVACR products. Debtor is a member of Secured Party. As a member of Secured Party, Debtor purchases HVACR products from Secured Party on account and periodically acquires financial interests in Secured Party, including rights to a distribution on an apportioned patronage basis of the net earnings of Secured Party.

B. Debtor desires to grant Secured Party a security interest in certain assets of Debtor to secure payment to Secured Party of all obligations of any nature owed to Secured Party by Debtor.

AGREEMENT:

NOW, THEREFORE, it is agreed as follows:

1. Creation of Security Interest. Debtor hereby assigns and grants to Secured Party a security interest in the Collateral (described in Section 2 below) as security for the full, timely and complete performance, payment and fulfillment by Debtor of all debts, obligations, covenants and conditions owed to Secured Party by Debtor (the “Obligations”).

2. Collateral. The property subject to this security interest shall constitute all of the following:

2.1 All of Debtor's interests in Secured Party including, without limitation, Debtor's apportioned share of all patronage dividends and refunds, interests in cooperative pools or funds, any net margins, overcharges or net credits, any valuation reserve or reserve for contingencies, any patronage capital credits, capital retains, invoice capital charges or membership capital (some of which interests may be represented by capital certificates or qualified or non-qualified written notices of allocation or per unit retain certificates), advertising funds and rebates from vendors or other third parties ("Cooperative Interests").

2.2 All proceeds of the foregoing, including, without limitation, proceeds of any insurance policies and all products of all such Cooperative Interests.

2.3 All books and records related to any of the foregoing.

2.4 All of the above property described in this Section 2 is referred to in this Security Agreement as the "Collateral."

3. Priority of Lien. Debtor represents that the security interest granted by this Security Agreement is a first lien on the Collateral prior to all other security interests, liens or encumbrances except _____

_____.

4. Restrictions on Debtor. During the term of this Security Agreement, except as expressly permitted by Secured Party's Bylaws or Secured Party's written consent, Debtor shall not sell, transfer, assign, pledge, grant a security interest in or otherwise encumber the Collateral.

5. Representatives, Warranties and Covenants of Debtor. Debtor represents, warrants and covenants to Secured Party as follows:

5.1 Corporate Existence. Debtor is a corporation duly organized and existing under the laws of the state of **State**, and is duly qualified in every other state in which it is doing business. Debtor's chief executive officer and principal place of business are located at: [**Entity Address**].

5.2 Corporate Authority. The execution, delivery and performance of this Security Agreement and all other agreements between Debtor and Secured Party are within Debtor's corporate powers, have been duly authorized, and are not in contravention of law or the terms of Debtor's Articles of Incorporation or Bylaws or of any agreement to which Debtor is a party or by which it is bound.

5.3 Ownership of Collateral. Debtor is the sole owner of each and all of the Collateral, and will defend the Collateral against the claims and demands of all other persons at any time claiming any interest therein.

5.4 Perfection of Security Interest. Debtor authorizes Secured Party to file financing statements, and do whatever may be necessary under the applicable Uniform Commercial Code in Oregon, the state of Debtor's organization, the state of Debtor's chief executive office, or the state where the Collateral is located, to perfect and continue Secured Party's interest in the Collateral, all at Debtor's expense.

5.5 Sale Prohibited. Debtor will not sell or otherwise transfer or dispose of any Collateral or any interest in the Collateral without the prior written consent of Secured Party.

5.6 Adverse Liens and Use. Except when it has received the prior written consent of Secured Party, Debtor shall keep all the Collateral free from any adverse liens, security interests or encumbrances. This Section 5.6 will not apply in the event of a good faith dispute by Debtor as to the reasonableness or validity of any adverse lien, security interest or

encumbrance, except that if Secured Party reasonably determines that the adverse claim substantially impairs its security, Secured Party may require Debtor to either pay the claim or deposit with Secured Party cash, a sufficient corporate surety bond or other security satisfactory to Secured Party to provide for the discharge of the claim plus any costs, attorneys' fees or other charges that could accrue as a result of foreclosure or sale under the claim.

5.7 Taxes and Assessments. Debtor shall pay or cause to be paid promptly when due all taxes and assessments assessed or levied against or based upon the Collateral. Debtor may, however, withhold payment of any tax, assessment or claim if a good faith dispute exists as to the obligation to pay, provided that if a lien arises as a result of such nonpayment, Debtor shall treat such lien as an adverse claim under Section 5.6.

5.8 Name Change. Debtor shall not change its corporate name or any assumed business name used by Debtor without prior written notice to Secured Party.

5.9 Structural Change. Debtor shall not liquidate, dissolve, merge, consolidate or participate in any plan of reorganization or exchange, or commence proceedings therefor, and shall not sell any assets (including any Collateral) or engage in any material transaction not in the ordinary course of business, or agree to do so without Secured Party's prior written consent. Debtor shall not make any change to its Articles of Incorporation or Bylaws without Secured Party's prior written consent.

6. Debtor's Right to Possession; Expenditures by Secured Party.

6.1 Until default, Debtor may have possession of the Collateral and use it in any lawful manner not inconsistent with this Security Agreement with Secured Party's Bylaws and any other agreement between Debtor and Secured Party and not inconsistent with any policy of insurance thereon.

6.2 At any time when Secured Party reasonably feels insecure, Secured Party, at its option (but without obligation), may discharge taxes, liens, security interests or other encumbrances at any time levied or placed on the Collateral, may pay for insurance on the Collateral, and may pay for the maintenance and preservation of the Collateral, and all such payments shall become a part of the Obligations secured hereby, payable on demand, with interest at the rate of 12% per annum from the date of payment by Secured Party. Such right shall be in addition to any other rights or any remedies to which Secured Party may be entitled on account of Debtor's default.

7. Default and Remedies. A default shall occur if:

7.1 Debtor shall be in default under any Obligations, or

7.2 There shall be a default by the Debtor in any of its obligations, covenants, warranties or representations under this Security Agreement or any other agreement with Secured Party, which default the Debtor does not cure, or commence and diligently prosecute to cure, within ten (10) days after written notice from the Secured Party.

7.3 Any warranty, representation or statement made or furnished to Secured Party by or on behalf of Debtor proves to have been false in any material respect when made or furnished.

7.4 Any levy, seizure, attachment, lien or encumbrance of or on the Collateral occurs which is not discharged by Debtor within 10 days or any sale, transfer or disposition of any interest in the Collateral occurs without the prior written consent of Secured Party pursuant to Sections 5.5 and 5.6.

7.5 Dissolution, termination of existence, insolvency, business failure, discontinuance as a going business, appointment of a receiver of any part of the property of,

assignment for the benefit of creditors by, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Debtor, or entry of any judgment that in the opinion of Secured Party would reasonably jeopardize the security interest given by this Security Agreement occurs.

If a default shall occur, the whole principal sum then due or unpaid under the Obligations or any obligation owed to Secured Party by Debtor, together with all interest accrued thereon, at the option of the Secured Party, and without further notice or demand, shall immediately become due and payable. In such event, the Secured Party and Debtor shall have all of the rights and remedies granted to them by the Uniform Commercial Code of Oregon. The rights, powers and remedies given to Secured Party by this Security Agreement shall be in addition to all rights, powers and remedies given to it by virtue of any statute or rule of law.

8. Time is of the Essence. Time is of the essence of this Security Agreement.

9. Costs and Expenses. Debtor shall pay to Secured Party on demand, together with interest at the rate of 12% per annum, any and all expenses (including reasonable attorneys' fees and legal expenses and costs, whether or not litigation is commenced, and also such fees, expenses and costs on appeal) reasonably incurred and extended by Secured Party in insuring, maintaining and/or protecting any Collateral and discharging encumbrances as provided by Section 6.2, in protecting, storing, maintaining and liquidating the Collateral, in collecting or attempting to collect proceeds thereof and in protecting and enforcing the covenants and other rights of Secured Party under this Security Agreement.

10. Termination. This Security Agreement shall terminate when Debtor is no longer a member of Secured Party and Debtor has paid to Secured Party all amounts of any nature due under the Obligations or otherwise owed to Secured Party by Debtor.

11. Binding Effect. This Security Agreement shall be binding upon the parties, their respective heirs, legal representatives, successors and assigns. Each party agrees to perform any further acts and execute and deliver any further documents which may be reasonably necessary to carry out the provisions of this Security Agreement.

12. Validity. If for any reason any clause or provision of this Security Agreement, or the application of any such clause or provision in a particular situation, circumstance or person, shall be held to be unenforceable, invalid or in violation of law by any court or other tribunal, then the application of such clause or provision in contexts or to situations, circumstances or persons other than that in or to which it is held unenforceable, invalid or in violation of law, shall not be affected thereby, and the remaining clauses and provisions hereof shall nevertheless remain in full force and effect.

13. Notices. All notices, requests, demands and other communications required or permitted to be given under this Security Agreement shall be in writing and shall be served either personally on the party to whom notice is to be given (in which case such notice shall be deemed to have been duly given on the date of such service), or mailed to the party to whom notice is to be given, by first class mail, registered or certified, return receipt requested, postage prepaid, and properly addressed as follows (in which case such notice shall be deemed to have been duly given on the second day following the date of such mailing):

To Secured Party: Johnstone Supply, Inc.
 Attn: Chief Financial Officer
 P.O. Box 3010
 Portland, OR 97208

To Debtor: **[Entity Name**
 Street Address
 City, State, Zip Code]

Any party by giving written notice to the other in the manner provided above may change his or its address for purposes of this Section.

14. Survival of Representation. All representations, warranties, covenants and agreements of the parties contained in this Security Agreement, or in any instrument, certificate, opinion or other writing provided for in it, shall survive the closing of any transaction related hereto and shall continue in effect until this Security Agreement is terminated pursuant to Section 10.

15. Effect of Headings. The titles or headings of the various Sections hereof are intended solely for convenience of reference and are not intended and shall not be deemed to modify, explain or place any construction upon any of the provisions of this Security Agreement.

16. General.

16.1 Secured Party shall not be deemed to have waived any rights under this Security Agreement or any other writing signed by Debtor unless such waiver is in writing and signed by Secured Party. No delay or omission on the part of Secured Party shall operate as a waiver of any right of Secured Party. A waiver by any party of a breach of a provision of this Security Agreement shall not constitute a waiver of or prejudice the party's right otherwise to demand strict compliance with that provision or any other provision. Election by Secured Party to pursue any remedy shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Debtor under this Security Agreement after failure of Debtor to perform shall not affect Secured Party's right to declare a default and exercise the remedies under Section 7.

16.2 All Secured Party's rights and remedies, whether evidenced here or by any other writing or law, shall be cumulative and may be exercised singularly or concurrently.

16.3 Secured Party may, at any time and at its option without further authorization from Debtor, file a copy or copies of this Security Agreement as a financing statement.

17. Applicable Law. This Security Agreement has been executed and delivered to Secured Party in the state of Oregon, and all transactions here contemplated are to be consummated in the state of Oregon. Except for filing requirements, Debtor agrees that the laws of the state of Oregon shall apply for the purpose of construing this instrument, determining its validity, and, to the fullest extent permitted by applicable law of any state in which the Debtor or any of the Collateral is located, the rights and remedies of Secured Party in the event of default under this Security Agreement.

IN WITNESS WHEREOF, the undersigned have hereunto set their hands and seals the day and year first above written.

Secured Party:

JOHNSTONE SUPPLY, INC.

By: _____
Signature

Print Name: **Julie Schultz/CFO**

Debtor:

ENTITY NAME

By: _____
Signature

Print Name: _____

EXHIBIT G
PERSONAL GUARANTY

[Attached]

PERSONAL CONTINUING GUARANTY - MEMBER

In consideration for the membership of Entity Name (“**Member**”) in Johnstone Supply, Inc., an Oregon cooperative corporate (“**Johnstone**”), the present and future membership benefits bestowed upon and credit advanced to Member, and in order to induce Johnstone to extend present or future credit to Member, which Johnstone is unwilling to do without this further assurance of payment, the undersigned, Guarantor Name, (hereinafter called “**Guarantor**”) hereby unconditionally and irrevocably guaranties to Johnstone, its successors and assigns, the due and punctual payment of any and all indebtedness and the full performance of any and all obligations to be paid and performed by Member to Johnstone, whether presently existing or incurred in the future (the “**Guarantied Obligations**”).

This Guaranty is an absolute, present, and continuing guaranty of payment and performance of the Guarantied Obligations and not of collectability. In the event that Member fails to timely pay or perform any Guarantied Obligation, the Guarantor will immediately pay or perform the same to Johnstone without presentment, protest, or demand for performance.

Without limiting the generality of any of the other provisions hereof, this Guaranty and the liability and obligations of Guarantor hereunder shall remain in full force and effect without regard to, and shall not be impaired or in any way affected by, nor shall Guarantor be exonerated or Guarantor’s liabilities and obligations discharged by any of the following events:

- (a) Any insolvency, bankruptcy, reorganization arrangement, liquidation, winding up or dissolution or any assignment for the benefit of creditors by the Member, or any discharge of the Member in connection with any of the foregoing;
- (b) Any limitation, discharge, or cessation of the liability of the Member for the Guarantied Obligations due to any statute, regulation, rule of law, proceeding, action, or inaction by any other person, court, governmental authority or other entity, or any other reason whatsoever;
- (c) Any merger, acquisition, consolidation or change in structure of or affecting the Member or any sale, lease, transfer or other disposition of any or all of the assets or capital stock of the Member;
- (d) Johnstone’s waiver of, exercise, or non-exercise of or delay in exercising, any power, right or remedy with respect to the Guarantied Obligations; or
- (e) The cessation or termination of Member’s relationship with Johnstone or the termination of Member’s Patronage Agreement with Johnstone.

Guarantor hereby waives the right to require Johnstone to first pursue the Member or to pursue any other recourse of any kind against any property or person which Johnstone may have (including any offset of any Member funds or amounts held by Johnstone) before seeking payment in full of the obligations under this Guaranty from Guarantor.

Guarantor waives all presentments, demands for performance, notices of nonperformance, protests, notices of protests, notices of dishonor, notices of acceptance of this Guaranty, and any notice of the existence, creation, or incurring of new or additional indebtedness between the Member and Johnstone.

Guarantor assumes the responsibility for keeping informed of the financial condition of Member and of all other circumstances bearing upon the risk of nonpayment or nonperformance of the Guaranteed Obligation that diligent inquiry would reveal. Guarantor agrees that Johnstone has no duty or obligation to advise Guarantor of any information known to it regarding Member's financial condition or any other such circumstances.

All obligations of Guarantor hereunder are primary and unconditional and, independent of the obligations of Member and shall be deemed to be for all purposes (including, without limitation, Johnstone's entitlement to provisional process in any suit or action hereon) obligations for the direct payment of money. If this Guaranty is signed by more than one party, all obligations and liability hereunder shall be joint and several.

Guarantor waives any claim or other right now existing or hereafter acquired against the Member on the Guaranteed Obligations, that arises from Guarantor's performance of the obligations under this Guaranty, including, without limitation, any right of contribution, indemnity, subrogation, reimbursement, or exoneration, whether or not such claim, right or remedy arises under contract, law, or equity.

Guarantor hereby agrees to indemnify Johnstone and hold it harmless from and against all loss and expense, including legal fees, suffered or incurred by Johnstone as a result of any actions or claims to avoid any payment received by Johnstone or its successors from the Member or for its account with respect to the Guaranteed Obligations.

The Guaranteed Obligations shall be automatically reinstated if and to the extent that for any reason any payment by or on behalf of the Member is rescinded or avoided, whether as a result of any proceedings in bankruptcy or reorganization or otherwise, and Guarantor agrees to indemnify Johnstone on demand for all reasonable payments, cost and expenses, including legal fees, incurred by Johnstone in connection with such rescission or avoidance.

Guarantor hereby expressly and irrevocably releases and waives any and all "claims" (as now or hereafter defined in the United States Bankruptcy Code, 11 USC 101, *et. seq.*) of any nature whatsoever, whether known or unknown and whether now existing or hereafter acquired, against the Member or the estate of the Member in any existing or future bankruptcy case in which the debtors include the Member or any other person or entity with respect to which Guarantor is an "insider" (as defined in the Bankruptcy Code), to the extent such claims in any manner relate to or arise out of this Guaranty or any Guaranteed Obligation (including, but not limited to, fixed or contingent claims based on subrogation, indemnity, reimbursement, contribution, or contract).

Guarantor agrees to reimburse Johnstone for all reasonable costs and expenses, including reasonable attorneys' fees, incurred by Johnstone in connection with the enforcement of this Guaranty, whether or not any suit or action is instituted. If Johnstone institutes any suit or action in connection with this Guaranty, the Guarantor agrees to pay Johnstone reasonable costs and expenses of such suit or action, including Johnstone's reasonable attorneys' fees as determined by any trial or appellate court.

These obligations of Guarantor under this Guaranty shall be binding upon Guarantor, his heirs, legal representatives, successors, and assigns.

This Guaranty shall continue in full force and effect until such time as Guarantor shall notify Johnstone in writing of Guarantor's election to terminate the Guaranty. Any such election to terminate shall be effective only as to Guaranteed Obligations incurred by Member to Johnstone 30 days after Johnstone's receipt of such notice, if any; provided, that this Guaranty shall be effective even as to Guaranteed Obligations arising after such period if Johnstone was committed to such Guaranteed Obligations prior to receipt of such notice. This Guaranty shall bind the estate of Guarantor as to Guaranteed Obligations created both before and after the death or incapacity of Guarantor; provided, that Guarantor's executor or other legal representative may terminate this Guaranty in the same manner in which Guarantor might have terminated it and with the same effect Termination of this Guaranty by one Guarantor of the Guaranteed Obligations shall not affect the liability of any other Guarantor of the Guaranteed Obligations.

This Guaranty shall be governed by the laws of the state of Oregon. If a lawsuit is commenced with respect to this Guaranty, Guarantor agrees to submit to the jurisdiction of the courts of Multnomah County, Oregon.

IN WITNESS WHEREOF, the Guarantor has executed this Continuing Guaranty as of the _____ day of _____, 2018.

GUARANTOR:

By: _____
Signature

Print Name: _____

Title: _____

PERSONAL CONTINUING GUARANTY (MULTIPLE OBLIGORS)

a _____

“Guarantor”

a _____
Member

“Obligor”

a _____
Nonmember Patron

“Obligor”

a _____
Nonmember Patron

“Obligor”

a _____
Nonmember Patron

“Obligor”

a _____
Nonmember Patron

“Obligor”

a _____
Nonmember Patron

“Obligor”

(Each of the above-named Member and Nonmember Patrons individually and collectively referred to herein as **“Obligor.”**)

In consideration for the benefits and rights to granted to Obligor by Johnstone Supply, Inc., an Oregon cooperative corporate (**“Johnstone”**), the present and future benefits bestowed upon and credit advanced to Obligors, and in order to induce Johnstone to extend present or future credit to Obligors, which Johnstone is unwilling to do without this further assurance of payment, _____, (**“Guarantor”**) hereby unconditionally and irrevocably guarantees to Johnstone, its successors and assigns, the due and punctual payment of any and all indebtedness and the full performance of any and all obligations to be paid and performed by Obligors to Johnstone, whether presently existing or incurred in the future (the **“Guaranteed Obligations”**).

This Guaranty is an absolute, present, and continuing guaranty of payment and performance of the Guaranteed Obligations and not of collectability. In the event that Obligor fails to timely pay or perform any Guaranteed Obligation, the Guarantor will immediately pay or perform the same to Johnstone without presentment, protest, or demand for performance.

Without limiting the generality of any of the other provisions hereof, this Guaranty and the liability and obligations of Guarantor hereunder shall remain in full force and effect without regard to, and shall not be impaired or in any way affected by, nor shall Guarantor be exonerated or Guarantor's liabilities and obligations discharged by any of the following events:

(a) Any insolvency, bankruptcy, reorganization arrangement, liquidation, winding up or dissolution or any assignment for the benefit of creditors by the Obligor, or any discharge of the Obligor in connection with any of the foregoing;

(b) Any limitation, discharge, or cessation of the liability of the Obligor for the Guaranteed Obligations due to any statute, regulation, rule of law, proceeding, action, or inaction by any other person, court, governmental authority or other entity, or any other reason whatsoever;

(c) Any merger, acquisition, consolidation or change in structure of or affecting the Obligor or any sale, lease, transfer or other disposition of any or all of the assets or capital stock of the Obligor;

(d) Johnstone's waiver of, exercise, or non-exercise of or delay in exercising, any power, right or remedy with respect to the Guaranteed Obligations; or

(e) The cessation or termination of Obligor's relationship with Johnstone or the termination of Obligor's Patronage Agreement with Johnstone.

Guarantor hereby waives the right to require Johnstone to first pursue the Obligor or to pursue any other recourse of any kind against any property or person which Johnstone may have (including any offset of any Obligor funds or amounts held by Johnstone) before seeking payment in full of the obligations under this Guaranty from Guarantor.

Guarantor waives all presentments, demands for performance, notices of nonperformance, protests, notices of protests, notices of dishonor, notices of acceptance of this Guaranty, and any notice of the existence, creation, or incurring of new or additional indebtedness between the Obligor and Johnstone.

Guarantor assumes the responsibility for keeping informed of the financial condition of Obligor and of all other circumstances bearing upon the risk of nonpayment or nonperformance of the Guaranteed Obligation that diligent inquiry would reveal. Guarantor agrees that Johnstone has no duty or obligation to advise Guarantor of any information known to it regarding Obligor's financial condition or any other such circumstances.

All obligations of Guarantor hereunder are primary and unconditional and, independent of the obligations of Obligor and shall be deemed to be for all purposes (including, without limitation, Johnstone's entitlement to provisional process in any suit or action hereon) obligations for the direct payment of money. If this Guaranty is signed by more than one party, all obligations and liability hereunder shall be joint and several.

Guarantor waives any claim or other right now existing or hereafter acquired against the Obligor on the Guaranteed Obligations, that arises from Guarantor's performance of the obligations under this Guaranty, including, without limitation, any right of contribution, indemnity, subrogation, reimbursement, or exoneration, whether or not such claim, right or remedy arises under contract, law, or equity.

Guarantor hereby agrees to indemnify Johnstone and hold it harmless from and against all loss and expense, including legal fees, suffered or incurred by Johnstone as a result of any actions or claims to avoid any payment received by Johnstone or its successors from the Obligor or for its account with respect to the Guaranteed Obligations.

The Guaranteed Obligations shall be automatically reinstated if and to the extent that for any reason any payment by or on behalf of the Obligor is rescinded or avoided, whether as a result of any proceedings in bankruptcy or reorganization or otherwise, and Guarantor agrees to indemnify Johnstone on demand for all reasonable payments, cost and expenses, including legal fees, incurred by Johnstone in connection with such rescission or avoidance.

Guarantor hereby expressly and irrevocably releases and waives any and all "claims" (as now or hereafter defined in the United States Bankruptcy Code, 11 USC 101, (*et. seq.*) of any nature whatsoever, whether known or unknown and whether now existing or hereafter acquired, against the Obligor or the estate of the Obligor in any existing or future bankruptcy case in which the debtors include the Obligor or any other person or entity with respect to which Guarantor is an "insider" (as defined in the Bankruptcy Code), to the extent such claims in any manner relate to or arise out of this Guaranty or any Guaranteed Obligation (including, but not limited to, fixed or contingent claims based on subrogation, indemnity, reimbursement, contribution, or contract).

Guarantor agrees to reimburse Johnstone for all reasonable costs and expenses, including reasonable attorneys' fees, incurred by Johnstone in connection with the enforcement of this Guaranty, whether or not any suit or action is instituted. If Johnstone institutes any suit or action in connection with this Guaranty, the Guarantor agrees to pay Johnstone reasonable costs and expenses of such suit or action, including Johnstone's reasonable attorneys' fees as determined by any trial or appellate court.

These obligations of Guarantor under this Guaranty shall be binding upon Guarantor, his heirs, legal representatives, successors, and assigns.

This Guaranty shall continue in full force and effect until such time as Guarantor shall notify Johnstone in writing of Guarantor's election to terminate the Guaranty. Any such election to terminate shall be effective only as to Guaranteed Obligations incurred by Obligor to Johnstone

30 days after Johnstone's receipt of such notice, if any; provided, that this Guaranty shall be effective even as to Guaranteed Obligations arising after such period if Johnstone was committed to such Guaranteed Obligations prior to receipt of such notice. This Guaranty shall bind the estate of Guarantor as to Guaranteed Obligations created both before and after the death or incapacity of Guarantor; provided, that Guarantor's executor or other legal representative may terminate this Guaranty in the same manner in which Guarantor might have terminated it and with the same effect Termination of this Guaranty by one Guarantor of the Guaranteed Obligations shall not affect the liability of any other Guarantor of the Guaranteed Obligations.

This Guaranty shall be governed by the laws of the state of Oregon. If a lawsuit is commenced with respect to this Guaranty, Guarantor agrees to submit to the jurisdiction of the courts of Multnomah County, Oregon.

IN WITNESS WHEREOF, the Guarantor has executed this Continuing Guaranty as of the _____ day of _____, 201__.

GUARANTOR:

By: _____
Print Name

EXHIBIT H
CROSS-CORPORATE GUARANTY

[Attached]

CROSS CORPORATE GUARANTY

_____	“Guarantor/Obligor”
a _____	
Member	
_____	“Guarantor/Obligor”
a _____	
Nonmember Patron	
_____	“Guarantor/Obligor”
a _____	
Nonmember Patron	
_____	“Guarantor/Obligor”
a _____	
Nonmember Patron	
_____	“Guarantor/Obligor”
a _____	
Nonmember Patron	
_____	“Guarantor/Obligor”
a _____	
Nonmember Patron	

(Each of the above-named entities being collectively, and individually, both a Guarantor and an Obligor in this Cross Corporate Guaranty.)

All of the above entities purchase HVAC/R products and services directly from or through Johnstone Supply, Inc., an Oregon cooperative corporation (“**Johnstone**”) and are either the member or a nonmember patron affiliated with, and/or related to that member of Johnstone. By this Cross Corporate Guaranty, the parties all intend and hereby agree to guarantee full and complete payment and performance of the Guaranteed Obligations (as defined below) of each of the entities named above.

In consideration for the benefits and rights granted to each Obligor named above by Johnstone, for the present and future benefits bestowed upon and credit advanced to each Obligor, and in order to induce Johnstone to extend present or future credit to each Obligor, which Johnstone is unwilling to do without this further assurance of payment, each entity, as a Guarantor hereunder hereby unconditionally and irrevocably guarantees to Johnstone, its successors and assigns, the due and punctual payment of any and all indebtedness and the full performance of any and all obligations to be paid and performed by each Obligor named above to Johnstone, whether presently existing or incurred in the future (the “Guaranteed Obligations”).

This Guaranty is an absolute, present, and continuing guaranty of payment and performance of the Guaranteed Obligations and not of collectability. In the event that an Obligor fails to timely pay or perform any Guaranteed Obligation, each Guarantor will immediately pay or perform the same to Johnstone without presentment, protest, or demand for performance.

Without limiting the generality of any of the other provisions hereof, this Guaranty and the liability and obligations of each Guarantor hereunder shall remain in full force and effect without regard to, and shall not be impaired or in any way affected by, nor shall any Guarantor be exonerated, or any Guarantor's liabilities and obligations discharged, by any of the following events:

(a) Any insolvency, bankruptcy, reorganization arrangement, liquidation, winding up or dissolution or any assignment for the benefit of creditors by any Obligor or Guarantor, or any discharge of any Obligor or Guarantor in connection with any of the foregoing;

(b) Any limitation, discharge, or cessation of the liability of an Obligor for the Guaranteed Obligations due to any statute, regulation, rule of law, proceeding, action, or inaction by any other person, court, governmental authority or other entity, or any other reason whatsoever;

(c) Any merger, acquisition, consolidation or change in structure of or affecting any Obligor or any sale, lease, transfer or other disposition of any or all of the assets or capital stock of any Obligor;

(d) Johnstone's waiver of, exercise, or non-exercise of or delay in exercising, any power, right or remedy with respect to the Guaranteed Obligations; or

(e) The cessation or termination any Obligor's relationship with Johnstone or the termination of any Obligor's Patronage Agreement or Nonmember Patronage Agreement with Johnstone.

Each Guarantor hereby waives the right to require Johnstone to first pursue any Obligor or to pursue any other recourse of any kind against any property or person (including any recourse against other Guarantors named herein) which Johnstone may have (including any offset of any Obligor funds or amounts held by Johnstone) before seeking payment in full of the obligations under this Guaranty from any Guarantor.

Each Guarantor waives all presentments, demands for performance, notices of nonperformance, protests, notices of protests, notices of dishonor, notices of acceptance of this Guaranty, and any notice of the existence, creation, or incurring of new or additional indebtedness between any Obligor and Johnstone.

Each Guarantor assumes the responsibility for keeping informed of the financial condition of each Obligor and of all other circumstances bearing upon the risk of nonpayment or nonperformance of the Guaranteed Obligation that diligent inquiry would reveal. Each Guarantor

agrees that Johnstone has no duty or obligation to advise each Guarantor of any information known to Johnstone regarding any Obligor's financial condition or any other such circumstances.

All obligations of each Guarantor hereunder are primary and unconditional and, independent of the obligations of the other Obligors and Guarantors and shall be deemed to be for all purposes (including, without limitation, Johnstone's entitlement to provisional process in any suit or action hereon) obligations for the direct payment of money. All obligations and liability hereunder shall be joint and several.

Each Guarantor waives any claim or other right now existing or hereafter acquired against all Obligors on the Guaranteed Obligations, that arises from Guarantor's performance of the obligations under this Guaranty, including, without limitation, any right of contribution, indemnity, subrogation, reimbursement, or exoneration, whether or not such claim, right or remedy arises under contract, law, or equity.

Each Guarantor hereby agrees to indemnify Johnstone and hold it harmless from and against all loss and expense, including legal fees, suffered or incurred by Johnstone as a result of any actions or claims to avoid any payment received by Johnstone or its successors from any Obligor or for its account with respect to the Guaranteed Obligations.

The Guaranteed Obligations shall be automatically reinstated if and to the extent that for any reason any payment by or on behalf of any Obligor is rescinded or avoided, whether as a result of any proceedings in bankruptcy or reorganization or otherwise, and each Guarantor agrees to indemnify Johnstone on demand for all reasonable payments, cost and expenses, including legal fees, incurred by Johnstone in connection with such rescission or avoidance.

Each Guarantor hereby expressly and irrevocably releases and waives any and all "claims" (as now or hereafter defined in the United States Bankruptcy Code, 11 USC 101, (*et. seq.*) of any nature whatsoever, whether known or unknown and whether now existing or hereafter acquired, against any Obligor or the estate of any Obligor in any existing or future bankruptcy case in which the debtors include any Obligor or any other person or entity with respect to which Guarantor is an "insider" (as defined in the Bankruptcy Code), to the extent such claims in any manner relate to or arise out of this Guaranty or any Guaranteed Obligation (including, but not limited to, fixed or contingent claims based on subrogation, indemnity, reimbursement, contribution, or contract).

Each Guarantor agrees to reimburse Johnstone for all reasonable costs and expenses, including reasonable attorneys' fees, incurred by Johnstone in connection with the enforcement of this Guaranty, whether or not any suit or action is instituted. If Johnstone institutes any suit or action in connection with this Guaranty, each Guarantor agrees to pay Johnstone reasonable costs and expenses of such suit or action, including Johnstone's reasonable attorneys' fees as determined by any trial or appellate court.

The obligations of each Guarantor under this Guaranty shall be binding upon that Guarantor, his heirs, legal representatives, successors, and assigns.

This Guaranty shall continue in full force and effect as to each Guarantor until such time as that Guarantor shall notify Johnstone in writing of that Guarantor's election to terminate this Guaranty with respect to that Guarantor. Any such election to terminate shall be effective only as to that Guarantor and only as to Guaranteed Obligations incurred by an Obligor to Johnstone after 30 days after Johnstone's receipt of such notice, if any; provided, that this Guaranty shall be effective even as to Guaranteed Obligations arising after such period if Johnstone was committed to such Guaranteed Obligations prior to receipt of such notice. This Guaranty shall bind the estate of each Guarantor as to Guaranteed Obligations created both before and after the death or incapacity of each Guarantor; provided, that each Guarantor's executor or other legal representative may terminate this Guaranty in the same manner in which Guarantor might have terminated it and with the same effect. Termination of this Guaranty by one Guarantor of the Guaranteed Obligations shall not affect the liability of any other Guarantor of the Guaranteed Obligations.

This Guaranty shall be governed by the laws of the state of Oregon. If a lawsuit is commenced with respect to this Guaranty, each Guarantor agrees to submit to the jurisdiction of the courts of Multnomah County, Oregon.

IN WITNESS WHEREOF, each Guarantor named above as a Guarantor/Obligor has executed this Cross Corporate Guaranty as of the ____ day of _____, 201__.

_____(Guarantor)

By: _____
Printed or Typed Name

Signature

Title

_____(Guarantor)

By: _____
Printed or Typed Name

Signature

Title

_____ (Guarantor)

By: _____
Printed or Typed Name

Signature

Title

_____ (Guarantor)

By: _____
Printed or Typed Name

Signature

Title

_____ (Guarantor)

By: _____
Printed or Typed Name

Signature

Title

_____ (Guarantor)

By: _____
Printed or Typed Name

Signature

Title

EXHIBIT I
FINANCIAL STATEMENTS

[Attached]

Consolidated Financial Statements and
Report of Independent Certified Public
Accountants

Johnstone Supply, Inc.

April 30, 2019 and 2018

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REPORT OF INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS

To the Board of Directors
Johnstone Supply, Inc.

We have audited the accompanying consolidated financial statements of Johnstone Supply, Inc. (an Oregon Cooperative Association) and subsidiaries, which comprise the consolidated balance sheets as of April 30, 2019 and 2018, and the related consolidated statements of income, changes in Member's equity, and cash flows for the years then ended, and the related notes to the financial statements.

Management's responsibility for the financial statements

Management is responsible for the preparation and fair presentation of these consolidated financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of consolidated financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's responsibility

Our responsibility is to express an opinion on these consolidated financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the consolidated financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the consolidated financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the consolidated financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of Johnstone Supply, Inc. and subsidiaries as of April 30, 2019 and 2018, and the results of their operations and their cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

Supplementary Information

Our audits were conducted for the purpose of forming an opinion on the consolidated financial statements as a whole. The April 30, 2019 and 2018 consolidating balance sheets and statements of income are presented for purposes of additional analysis and are not a required part of the consolidated financial statements. Such supplementary information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the consolidated financial statements. The information has been subjected to the auditing procedures applied in the audit of the consolidated financial statements and certain additional procedures. These additional procedures included comparing and reconciling the information directly to the underlying accounting and other records used to prepare the consolidated financial statements or to the consolidated financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the supplementary information is fairly stated, in all material respects, in relation to the consolidated financial statements as a whole.



Portland, Oregon
July 12, 2019

Johnstone Supply, Inc.
CONSOLIDATED BALANCE SHEETS
April 30, 2019 and 2018

	2019	2018
ASSETS		
Current assets		
Cash and cash equivalents	\$ 39,565,195	\$ 6,394
Accounts receivable, net	286,490,439	238,197,370
Inventories	139,080,856	141,525,140
Other current assets	3,193,022	12,352,144
Total current assets	468,329,512	392,081,048
Equipment and leasehold improvements, net	5,834,316	5,353,561
Deferred tax assets	2,903,844	3,904,625
Other assets	153,308	233,307
Total assets	\$ 477,220,980	\$ 401,572,541
LIABILITIES AND MEMBERS' EQUITY		
Current liabilities		
Accounts payable, trade	\$ 337,360,610	\$ 279,506,669
Accrued expenses	41,612,211	32,422,218
Current portion of capital lease obligations	685,430	611,611
Revolving line of credit	-	1,592,596
Patronage dividends payable	18,786,099	14,626,730
Total current liabilities	398,444,350	328,759,824
Long-term liabilities		
Deferred rent	950,245	966,611
Capital lease obligations, less current portion	832,174	314,306
Other long-term liabilities	753,609	414,315
Total liabilities	400,980,378	330,455,056
Commitments and contingencies (Note 10)		
Members' equity		
	76,240,602	71,117,485
Total liabilities and members' equity	\$ 477,220,980	\$ 401,572,541

The accompanying notes are an integral part of these statements.

Johnstone Supply, Inc.
CONSOLIDATED STATEMENTS OF INCOME
Years Ended April 30, 2019 and 2018

	<u>2019</u>	<u>2018</u>
Revenues		
Net merchandise sales	\$ 1,489,225,093	\$ 1,281,399,637
Member service fees	3,525,939	3,576,340
Total revenues	<u>1,492,751,032</u>	<u>1,284,975,977</u>
Costs and expenses		
Cost of merchandise sold	1,397,873,779	1,201,959,006
Warehousing, marketing, and administrative expenses	56,849,565	52,066,638
Total costs and expenses	<u>1,454,723,344</u>	<u>1,254,025,644</u>
Operating income	<u>38,027,688</u>	<u>30,950,333</u>
Other income (expense), net		
Interest expense	(764,147)	(544,269)
Other income	604,600	827,874
Total other income, net	<u>(159,547)</u>	<u>283,605</u>
Income before provision for income taxes	37,868,141	31,233,938
Provision for income taxes	<u>280,695</u>	<u>1,950,431</u>
Net income	<u>37,587,446</u>	<u>29,283,507</u>
Net income is comprised of		
Member/patronage	37,572,198	29,253,459
Nonmember/nonpatronage, net of related income taxes	15,248	30,048
Net income	<u>\$ 37,587,446</u>	<u>\$ 29,283,507</u>

The accompanying notes are an integral part of these statements.

Johnstone Supply, Inc.

CONSOLIDATED STATEMENTS OF CHANGES IN MEMBERS' EQUITY

Years Ended April 30, 2019 and 2018

	<u>Memberships</u>	<u>Capital Contribution</u>	<u>Allocated Patronage Credits</u>		<u>Unallocated Retained Margin</u>			<u>Total Members' Equity</u>
			<u>Qualified</u>	<u>Nonqualified</u>	<u>Member</u>	<u>Non-Member</u>		
					<u>Johnstone Supply, Inc.</u>	<u>Johnstone Supply, Inc.</u>	<u>Service One Logistics LLC</u>	
Balance, April 30, 2017	\$ 5,039,432	\$ 13,243,989	\$ 27,392,873	\$ 7,210,259	\$ 14,149,801	\$ 2,692,455	\$ 76,542	\$69,805,351
Memberships sold	150,000	-	-	-	-	-	-	150,000
2015 patronage credits paid	-	-	(13,494,643)	-	-	-	-	(13,494,643)
Allocation of 2017 net margin	-	-	14,149,801	-	(14,149,801)	-	-	-
Net income (loss)	-	-	-	-	29,253,459	26,585	3,463	29,283,507
2018 cash patronage refund	-	-	-	-	(14,626,730)	-	-	(14,626,730)
Balance, April 30, 2018	5,189,432	13,243,989	28,048,031	7,210,259	14,626,729	2,719,040	80,005	71,117,485
Memberships sold	220,000	-	-	-	-	-	-	220,000
2016 patronage credits paid	-	-	(13,898,230)	-	-	-	-	(13,898,230)
Allocation of 2018 net margin	-	-	14,626,729	-	(14,626,729)	-	-	-
Net income (loss)	-	-	-	-	37,572,198	15,248	-	37,587,446
2019 cash patronage refund	-	-	-	-	(18,786,099)	-	-	(18,786,099)
Balance, April 30, 2019	<u>\$ 5,409,432</u>	<u>\$ 13,243,989</u>	<u>\$ 28,776,530</u>	<u>\$ 7,210,259</u>	<u>\$ 18,786,099</u>	<u>\$ 2,734,288</u>	<u>\$ 80,005</u>	<u>\$76,240,602</u>

The accompanying notes are an integral part of these statements.

Johnstone Supply, Inc.

CONSOLIDATED STATEMENTS OF CASH FLOWS

Years Ended April 30, 2019 and 2018

	2019	2018
Cash flows from operating activities		
Net income	\$ 37,587,446	\$ 29,283,507
Adjustments to reconcile net income to net cash provided by operating activities		
Depreciation and amortization	2,103,973	2,102,367
Deferred income taxes	1,000,781	679,858
Loss (gain) on disposal of assets	(50)	12,572
Changes in assets and liabilities:		
Accounts receivable, net	(48,293,069)	32,149,702
Inventories	2,444,284	(39,921,118)
Other assets	9,239,121	(10,548,965)
Accounts payable, trade	57,853,941	56,748,681
Accrued expenses and other long term liabilities	9,565,986	8,752,567
Deferred rent	(16,366)	(208,049)
Net cash provided by operating activities	71,486,047	79,051,122
Cash flows from investing activities		
Proceeds on sale of assets	1,400	1,000
Purchases of equipment and leasehold improvements	(1,259,905)	(961,172)
Net cash used in investing activities	(1,258,505)	(960,172)
Cash flows from financing activities		
Net borrowings under revolving line of credit	(1,592,596)	(49,726,788)
Payments on capital lease obligations	(734,486)	(971,584)
Proceeds from sale of memberships	220,000	150,000
Patronage credits paid	(13,898,230)	(13,494,643)
Cash patronage distribution	(14,663,429)	(14,149,801)
Net cash used in financing activities	(30,668,741)	(78,192,816)
Net increase (decrease) in cash and cash equivalents	39,558,801	(101,866)
Cash and cash equivalents at beginning of year	6,394	108,260
Cash and cash equivalents at end of year	\$ 39,565,195	\$ 6,394
Supplemental disclosure of cash flow information:		
Cash paid during the year for		
Taxes	\$ 172,301	\$ 704,353
Interest	\$ 764,147	\$ 544,269
Supplemental disclosure of investing activities:		
Purchase of property and equipment on credit	\$ 1,326,173	\$ 345,704

The accompanying notes are an integral part of these statements.

Johnstone Supply, Inc.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

Years Ended April 30, 2019 and 2018

NOTE 1 - ORGANIZATION AND NATURE OF OPERATIONS

Johnstone Supply, Inc. (the "Cooperative") was incorporated on April 10, 1981, under the laws of the State of Oregon as a cooperative association. Members are admitted, subject to the approval of the Board of Directors, by agreeing to comply with the by-law provisions and paying the required nonrefundable membership fee. Membership in the Cooperative is nontransferable unless approved by the Board of Directors of the Cooperative. Each Member has one vote. Membership is limited to commercial enterprises which sell the merchandise distributed by the Cooperative.

The activities of the Cooperative primarily include the purchase of heating, ventilation, air conditioning, and refrigeration supplies, equipment, and related merchandise for resale to Members. As such, substantially all revenue is derived from related parties. Products are distributed primarily through the Cooperative's facilities located in Portland, Oregon; Alburtis, Pennsylvania; Jacksonville, Florida; Las Vegas, Nevada; Joliet, Illinois; and Lancaster, Texas. In addition to revenues received from the sale of merchandise to Members, the Cooperative also derives revenues from assessing Members' fees for services performed by the Cooperative for the benefit of the Members. Such fees vary according to the type or volume of services provided.

In March 2011, the Cooperative created a third party logistics company, Service One Logistics LLC ("Service One Logistics"), which provides logistic services out of the Las Vegas Distribution Center to a non-member customer. Service One Logistics is wholly-owned by the Cooperative. Service one had no significant activity or balances during fiscal year ended April 30, 2019 and 2018.

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Principles of consolidation

The accompanying consolidated financial statements include the accounts of the Cooperative and its wholly-owned subsidiary. All intercompany accounts and transactions were eliminated.

Use of estimates

The preparation of consolidated financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, and disclosure of contingent assets and liabilities at the date of the financial statements, and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates. Estimates used in the preparation of the consolidated financial statements include, but are not limited to, the net realizable value of trade accounts receivable, product sales returns, inventory in-transit, and depreciation and amortization.

Cash and cash equivalents

The Cooperative considers all investments with an original maturity of three months or less to be cash equivalents.

Johnstone Supply, Inc.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

Years Ended April 30, 2019 and 2018

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES - Continued

Accounts receivable

Accounts receivable are recorded at the invoiced amount and do not bear interest. The Cooperative extends unsecured credit to its Members. Based on the collection history of the Cooperative, review of specific accounts, existing economic conditions in the industry and financial stability of its Members, the Cooperative has estimated an allowance for doubtful accounts of \$160,000 as of April 30, 2019 and 2018. The Cooperative generally considers receivables to be past due and uncollectible after 120 days, at which time the accounts receivable are written off. The Cooperative does not have any off-balance sheet credit exposure related to its Members.

Inventories

Inventories, consisting primarily of merchandise held-for-sale to Members, are stated at the lower of cost or market. Cost is determined by the last-in, first-out (LIFO) method.

Equipment and leasehold improvements

Equipment and leasehold improvements are stated at cost less accumulated depreciation and amortization. Maintenance and repairs of equipment and leaseholds are charged to expense as incurred. Major improvements are capitalized. Upon retirement or sale, the cost and accumulated depreciation of the assets disposed of are removed from the accounts and resulting gains or losses are recognized in operations. Depreciation on equipment is computed using a straight-line method based on the estimated useful lives of the assets, generally five to seven years. Leasehold improvements are amortized on a straight-line method based on the shorter of the lease term or the estimated useful lives of the assets. Depreciation and amortization expense was \$2,103,973 and \$2,102,367 for the years ended April 30, 2019 and 2018, respectively.

Income taxes

The Cooperative is subject to federal and state income taxes on non-member income, net income distributed by means of nonqualified written notices of allocation, and net income not distributed to patrons.

Income taxes are accounted for under the asset and liability method, whereby deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in income in the period that includes the enactment date.

Johnstone Supply, Inc.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

Years Ended April 30, 2019 and 2018

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES - Continued

The Cooperative recognizes the tax benefit from uncertain tax positions only if it is more likely than not that the tax positions will be sustained on examination by the tax authorities, based on the technical merits of the positions. The tax benefit is measured based on the largest benefit that has a greater than 50% likelihood of being realized upon ultimate settlement. As of April 30, 2019 and 2018, the Cooperative had not identified any uncertain tax positions requiring accrual or disclosure.

The Cooperative recognizes state minimum taxes as income taxes classified as non-operating expenses. The Cooperative recognizes state capital stock taxes and all other non-income based state taxes as operating expenses. The Cooperative recognizes interest and penalties related to federal and state taxes as tax expense. The Cooperative files federal and six state tax returns, which are subject to examination by the taxing authorities for the three years subsequent to the return being filed. The Cooperative's tax returns from 2015 and subsequent years remain open for examination by the tax authorities.

Revenue recognition

Revenue from the sale of merchandise from inventory is recognized when products are shipped and the customer takes ownership and assumes risk of loss, collection of the relevant receivable is probable, persuasive evidence of an arrangement exists, and the sale price is fixed or determinable. Revenue is reported net of returns and discounts. For dropship sales, where product is ordered through the Cooperative and shipped directly from the third-party vendor to the Member, revenue is recognized at the time of shipment for the gross amount of the sale and related cost of sale. Member service fees are recognized at the time the related service is provided.

Merchandise sales are net of product returns, which were \$61,633,943 and \$50,092,939 and for the years ended April 30, 2019 and 2018, respectively.

Advertising

Advertising costs are offset by vendor advertising allowances and recognized as incurred. At April 30, 2019 and 2018, vendor advertising allowances of \$9,115,700 and \$9,046,784 exceeded costs incurred of \$2,314,083 and \$2,249,007, and were included as a \$6,801,618 and \$6,797,777 reduction of expenses in the accompanying consolidated statements of income, respectively.

Impairment of long-lived assets

Long-lived assets are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Recoverability of assets to be held and used is measured by a comparison of the carrying amount of an asset to estimated undiscounted future cash flows expected to be generated by the asset. If the carrying amount of an asset exceeds its estimated future cash flows, an impairment charge is recognized by the amount by which the carrying amount of the asset exceeds the fair value of the asset. Assets to be disposed of would be separately presented in the consolidated balance sheets and reported at the lower of the carrying amount or fair value less costs to sell, and would no longer be depreciated. The assets and liabilities of a disposal group classified as held-for-sale would be presented separately in the appropriate asset and liability sections of the consolidated balance sheets.

Johnstone Supply, Inc.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

Years Ended April 30, 2019 and 2018

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES - Continued

The Cooperative determined that there was no impairment of long-lived assets in 2019 and 2018.

Vendor rebates

The Cooperative accounts for rebates received from vendors as a reduction of the cost of inventory and, therefore, are classified as a reduction of cost of sales. Vendor rebates received totaled \$95,675,772 and \$72,800,248 for the years ended April 30, 2019 and 2018, respectively, and are classified as reductions of costs of merchandise sold in the accompanying consolidated statements of income.

Freight

Amounts billed to customers for freight costs are classified as revenue. Freight costs incurred by the Cooperative are classified in warehouse expenses and total \$16,806,293 and \$14,990,263 for the years ended April 30, 2019 and 2018, respectively.

Fair value measurements

The Cooperative measures the fair value for all financial and nonfinancial assets and liabilities that are recognized or disclosed at fair value in the financial statements on a recurring or nonrecurring basis, respectively.

Nonfinancial long-lived assets (such as equipment and leasehold improvements) are measured at fair value for impairment assessment purposes. The nonfinancial assets and liabilities are recognized at fair value subsequent to initial recognition when they are deemed to be other-than-temporarily impaired. There were no nonfinancial assets and liabilities deemed other-than-temporarily impaired and measured at fair value on a nonrecurring basis.

The Cooperative has established a three-tier fair value hierarchy, which prioritizes the inputs used in measuring fair value. These tiers include:

Level 1 - Observable inputs that reflect quoted prices (unadjusted) for identical assets or liabilities in active markets.

Level 2 - Inputs other than quoted prices included in Level 1 that are observable for the asset or liability through corroboration with observable market data.

Level 3 - Unobservable inputs that reflect the reporting entity's own assumptions.

The Cooperative has no financial assets or liabilities that are carried at fair value as of April 30, 2019 and 2018. The carrying amounts of financial instruments comprising cash and cash equivalents, accounts receivable and accounts payable approximate their fair values due to their short-term nature. The recorded balance of the Cooperative's revolving line of credit approximates fair value based on rates and terms available for similar borrowings.

Johnstone Supply, Inc.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

Years Ended April 30, 2019 and 2018

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES - Continued

Recent pronouncements

In May 2014, the FASB issued ASU No. 2014-09, Revenue from Contracts with Customers (ASU 2014-09). ASU 2014-09 is a comprehensive revenue recognition standard that will supersede nearly all existing revenue recognition guidance under current GAAP and replace it with a principle-based approach for determining revenue recognition. Under ASU 2014-09, revenue is recognized when a customer obtains control of promised goods or services and is recognized in an amount that reflects the consideration which the entity expects to receive in exchange for those goods or services. In addition, the standard requires disclosure of the nature, amount, timing, and uncertainty of revenue and cash flows arising from contracts with customers. The FASB has recently issued ASU No. 2016-08, ASU No. 2016-10, ASU No. 2016-11, ASU No. 2016-12, and ASU No. 2016-20, all of which clarify certain implementation guidance within ASU 2014-09. ASU 2014-09 is effective for interim and annual periods beginning after December 15, 2018 for non-public companies. The standard can be adopted either retrospectively to each prior reporting period presented (full retrospective method), or retrospectively with the cumulative effect of initially applying the guidance recognized at the date of initial application (the cumulative catch-up transition method). The new standard is anticipated to require significant changes in presentation of dropship sales. The Cooperative has historically presented dropship sales revenue as a principal, reporting the gross amount of the sale and related cost of sale; however, under the new standard, the Cooperative will likely present dropship sales revenue as the agent, reporting the net amount of the sale and related cost of sale. The Cooperative does not believe the adoption of this guidance will have a material impact on its financial position, results of operations, or cash flows. The Cooperative intends to adopt the provisions of ASU 2014-09 in the first quarter of its fiscal year ending April 30, 2020. The Cooperative intends to adopt the provisions of ASU 2014-09, by using the cumulative catch-up method in the first quarter of its fiscal year ending April 30, 2020.

In February 2016, the FASB issued ASU No. 2016-02, Leases (ASU 2016-02). ASU 2016-02 requires a lessee to record a right of use asset and a corresponding lease liability on the balance sheet for all leases with terms longer than 12 months. ASU 2016-02 is effective for all interim and annual reporting periods beginning after December 15, 2019. Early adoption is permitted. A modified retrospective transition approach is required for lessees for capital and operating leases existing at, or entered into after, the beginning of the earliest period presented in the financial statements. The Cooperative will adopt the provisions of this statement in the first quarter of its fiscal year ending April 30, 2021, and is currently assessing the potential impact on its financial position, results of operations, and liquidity.

NOTE 3 - INVENTORIES

Inventories determined by the LIFO method were \$139,080,856 and \$141,525,140, net of a LIFO reserve of \$26,863,790 and \$20,825,504 at April 30, 2019 and 2018, respectively. If the first-in, first-out (FIFO) inventory method, which approximates average replacement cost, had been used for these inventories, they would have been \$165,944,646 and \$162,350,644 at April 30, 2019 and 2018, respectively, and the income before the provision for income taxes would have increased by \$6,038,286 and \$3,483,604 for the years ended April 30, 2019 and 2018, respectively.

The allowance for inventory obsolescence was based on the aging of inventory, estimated usage and technology changes in products held by the Cooperative. As of April 30, 2019 and 2018, the allowance for inventory obsolescence was \$950,000.

Johnstone Supply, Inc.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

Years Ended April 30, 2019 and 2018

NOTE 4 - EQUIPMENT AND LEASEHOLD IMPROVEMENTS

This account is comprised of the following:

	2019	2018
Office equipment	\$ 1,771,457	\$ 1,746,436
Warehouse equipment	7,114,694	6,990,750
Computer software and equipment	10,713,685	10,064,829
Leasehold improvements	1,292,292	1,285,354
Equipment under capital lease	4,881,853	3,555,680
Assets in process	240,872	-
Total	26,014,853	23,643,049
Less accumulated depreciation and amortization	(20,180,537)	(18,289,488)
Equipment and leasehold improvements, net	\$ 5,834,316	\$ 5,353,561

Accumulated amortization of assets under capital leases was \$463,122 and \$1,704,784 as of April 30, 2019 and 2018, respectively. Amortization of assets under capital leases is included with depreciation and amortization expense.

NOTE 5 - INCOME TAXES

The provision for income taxes consists of the following:

	2019	2018
Current tax expense		
Federal	\$ (822,041)	\$ 1,127,538
State and local	101,955	143,035
Current tax (benefit) expense	(720,086)	1,270,573
Deferred tax expense	1,000,781	679,858
Provision for income taxes	\$ 280,695	\$ 1,950,431

Johnstone Supply, Inc.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

Years Ended April 30, 2019 and 2018

NOTE 5 - INCOME TAXES - Continued

Federal, state, and local income taxes payable by a cooperative are computed differently from taxes payable by other corporations, primarily because cooperatives are allowed to deduct qualified allocated patronage credits issued to Members within eight and a half months after the end of each taxable year. These allocations by the Cooperative, partly in cash and partly in qualified written notices of allocation, are taxable to the Members in the years in which they receive the cash or written notices.

The current provision for taxes differs from the customary federal statutory rate of 21.0% and 29.7%, for the years ending April 30, 2019 and 2018, respectively, as follows:

	2019		2018	
	Amount	Percent	Amount	Percent
Provision for income taxes	\$ 8,021,517	21.0%	\$ 9,279,177	29.7%
Provision for state income taxes	100,710	0.26%	149,744	0.5%
Benefit from deducting allocated qualified patronage credits	(7,873,743)	-20.6%	(8,696,887)	-27.9%
Impact of Tax Reform	-	0.0%	1,274,152	4.1%
Other	32,210	0.08%	(55,755)	-0.2%
Provision for income taxes	<u>\$ 280,694</u>	<u>0.7%</u>	<u>\$ 1,950,431</u>	<u>6.3%</u>

The tax effects of temporary differences that give rise to significant portions of the deferred tax assets and deferred tax liability at April 30 are presented below:

	2019	2018
Deferred income tax assets		
Future nonqualified patronage dividends	\$ 1,652,755	\$ 1,645,722
Section 263(A) adjustment	926,047	981,021
AMT credit	419,203	1,180,136
Deferred rent	247,298	289,852
Inventory adjustment	223,250	222,300
Deferred compensation	216,909	185,820
Vacation accrual	197,778	179,300
Net operating loss	38,235	-
Other	89,208	110,900
Total deferred tax assets	<u>4,010,683</u>	<u>4,795,051</u>
Deferred income tax liability		
Fixed assets	(1,018,478)	(815,959)
Prepaid expenses	(88,361)	(74,467)
Total deferred tax liabilities	<u>(1,106,839)</u>	<u>(890,426)</u>
Net deferred tax asset	<u>\$ 2,903,844</u>	<u>\$ 3,904,625</u>

Johnstone Supply, Inc.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

Years Ended April 30, 2019 and 2018

NOTE 6 - MEMBERS' EQUITY

The Cooperative is organized without capital stock. Starting October 1, 2011, the current cost of membership in the Cooperative is \$60,000 plus \$40,000 for each additional sales outlet. For existing Members, the cost of each new sales outlet is \$10,000.

Allocated patronage credits represent retained net margins which have been allocated to Members in the form of book credits – qualified and non-qualified.

- The qualified amounts have been reported to Members for inclusion in their taxable income.
- The non-qualified amounts have been allocated and reported to Members, but are not taxable to the Members until distributed.

Unallocated retained margin represents current net income after providing for estimated patronage dividends currently payable.

- The Member amounts represent current Johnstone Supply, Inc. net income after providing for estimated patronage dividends currently payable.
- The non-member amounts represent Johnstone Supply, Inc. differences between book and taxable income and the cumulative portion of the Cooperative's non-member related income and cumulative Service One Logistics, LLC earnings.

During July 2019 and July 2018, \$18,786,099 and \$14,626,729, respectively, of the unallocated retained margin was allocated to Members in the form of qualified allocated patronage credits.

On July 9, 2019, the Board of Directors approved payment of \$14,149,801 of 2017's qualified allocated patronage credits in addition to the patronage dividends payable of \$18,786,099 for a total September 2019 payment to Members of \$32,935,900.

On July 11, 2018, the Board of Directors approved payment of \$13,898,230 of 2016's qualified allocated patronage credits in addition to the patronage dividends payable of \$14,626,730 for a total September 2018 payment to Members of \$28,524,960.

NOTE 7 - EMPLOYEE RETIREMENT PLAN

The Cooperative sponsors a qualified retirement plan for eligible employees. The plan is composed of two parts: defined contribution and 401(k). Eligibility requirements are different for each part of the plan. The 401(k) part of the plan includes a Safe Harbor provision that can be elected each plan year at the Board of Directors discretion. If elected, this provision results in a minimum Cooperative 401(k) matching contribution. For the years ended April 30, 2019 and 2018, discretionary Cooperative contributions were \$852,898 and \$812,632, respectively.

Johnstone Supply, Inc.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

Years Ended April 30, 2019 and 2018

NOTE 8 - SELF INSURED MEDICAL BENEFITS

The Cooperative's UnitedHealthcare Choice Plus plan covers medical, dental, vision, and prescription benefits for eligible employees that elect coverage. The Cooperative has stop loss coverage of \$100,000 to protect against any individual large claims and \$2 million to protect against aggregate claims. The Cooperative has accrued \$353,783 and \$370,298 for potential claims incurred but not reported as of April 30, 2019 and 2018, respectively.

NOTE 9 - LINE OF CREDIT

The Company has a line of credit from a bank that is secured by the assets of the Cooperative. The agreement allows for maximum principal amount of \$120,000,000 for June, July, and September to November each year and \$100,000,000 for January to May, August, and December each year. The line of credit bears interest at the one month LIBOR rate plus 1.00%, and is due for renewal on October 1, 2022. At April 30, 2019 and 2018, total outstanding borrowings on this line of credit were \$0 and \$1,592,596, respectively. As of April 30, 2019 and 2018, the amount available under the line of credit was \$99,475,000 and \$97,882,404 with unused letters of credit of \$525,000, respectively.

NOTE 10 - COMMITMENTS AND CONTINGENCIES

Operating leases

The Cooperative is obligated under noncancellable operating leases, which contain escalation clauses, for its office and warehouse space that expires through 2026. Future minimum payments under these leases are as follows:

Fiscal year ending	Portland Office and Warehouse	Allentow n Warehouse	Florida Warehouse	Las Vegas Warehouse	Illinois Warehouse	Texas Warehouse	Total
2020	\$ 838,846	\$ 661,598	\$ 974,859	\$ 680,862	\$ 799,390	\$ 524,123	\$ 4,479,679
2021	913,542	-	993,417	701,286	823,018	531,917	3,963,179
2022	940,948	-	1,012,439	355,824	846,645	539,710	3,695,566
2023	969,176	-	1,031,937	-	796,437	547,504	3,345,054
2024	660,584	-	1,051,922	-	-	415,012	2,127,517
Thereafter	-	-	2,810,877	-	-	-	2,810,877
	<u>\$4,323,095</u>	<u>\$ 661,598</u>	<u>\$7,875,451</u>	<u>\$1,737,972</u>	<u>\$3,265,490</u>	<u>\$2,558,266</u>	<u>\$20,421,872</u>

The Cooperative records lease expense on a straight-line basis, resulting in a deferred rent liability of \$1,052,331 and \$1,238,682 at April 30, 2019 and 2018, respectively. Rent expense totaled \$4,774,939 and \$4,672,494 for the years ended April 30, 2019 and 2018, respectively.

Johnstone Supply, Inc.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

Years Ended April 30, 2019 and 2018

NOTE 10 - COMMITMENTS AND CONTINGENCIES - Continued

Capital leases

The Cooperative has seven capital lease agreements for the purchase of equipment. The monthly payments include interest ranging from 2.99% to 4.71%. Future minimum lease payments under the capital lease obligation are as follows:

	Years Ending April 30,
2020	\$ 736,538
2021	531,318
2022	333,380
Total minimum payments	1,601,236
Less amount representing interest	83,632
Total capital lease obligation	1,517,604
Less current portion	685,430
Capital lease obligation, less current portion	<u>\$ 832,174</u>

Litigation

The Cooperative is involved in various claims and legal actions arising in the ordinary course of business. In the opinion of management, the ultimate disposition of these matters will not have a material adverse effect on the Cooperative's financial position, results of operations, or liquidity.

NOTE 11 - CONCENTRATION OF CREDIT RISK

Financial instruments which potentially subject the Cooperative to credit risk consist of cash and cash equivalents and trade accounts receivable. The Cooperative's cash balances are with federally insured banks and periodically exceed the insured limits.

The Cooperative purchased product from two vendors in 2019 and 2018, which represented 52% and 47%, respectively, of total cost of products sold. Amounts due to these vendors represent 59% and 57% of trade payables at April 30, 2019 and 2018, respectively.

NOTE 12 - SUBSEQUENT EVENTS

The Cooperative has evaluated subsequent events through July 12, 2019, which is the date the consolidated financial statements were available to be issued, and identified no events, other than those disclosed above, that require consideration for adjustments to, or disclosure in the financial statements.

Supplementary Information

Johnstone Supply, Inc.
CONSOLIDATING BALANCE SHEETS
April 30, 2019 and 2018

ASSETS	April 30, 2019			April 30, 2018	
	Johnstone Supply, Inc.	Service One Logistics LLC	Consolidating Entries	Consolidated	Consolidated
Current assets					
Cash and cash equivalents	\$ 39,565,195	\$ -	\$ -	\$ 39,565,195	\$ 6,394
Accounts receivable, net	286,490,439	-	-	286,490,439	238,197,370
Accounts receivable, intercompany	-	81,005	(81,005)	-	-
Inventories	139,080,856	-	-	139,080,856	141,525,140
Other current assets	3,193,022	-	-	3,193,022	12,352,144
Total current assets	468,329,512	81,005	(81,005)	468,329,512	392,081,048
Equipment and leasehold improvements, net	5,834,316	-	-	5,834,316	5,353,561
Deferred tax asset	2,903,844	-	-	2,903,844	3,904,625
Other assets	154,308	-	(1,000)	153,308	233,307
Total assets	\$477,221,980	\$ 81,005	\$ (82,005)	\$ 477,220,980	\$ 401,572,541
LIABILITIES AND MEMBERS' EQUITY					
Current liabilities					
Accounts payable, trade	\$337,360,610	\$ -	\$ -	\$ 337,360,610	\$ 279,506,669
Accounts payable, intercompany	81,005	-	(81,005)	-	-
Accrued expenses	41,612,211	-	-	41,612,211	32,422,218
Current portion of capital lease obligations	685,430	-	-	685,430	611,611
Revolving line of credit	-	-	-	-	1,592,596
Patronage dividends payable	18,786,099	-	-	18,786,099	14,626,730
Total current liabilities	398,525,355	-	(81,005)	398,444,350	328,759,824
Noncurrent liabilities					
Deferred rent	950,245	-	-	950,245	966,611
Capital lease obligations, less current portion	832,174	-	-	832,174	314,306
Other long-term liabilities	753,609	-	-	753,609	414,315
Total liabilities	401,061,383	-	(81,005)	400,980,378	330,455,056
COMMITMENTS (Note 10)					
Members' equity	76,160,597	81,005	(1,000)	76,240,602	71,117,485
Total liabilities and members' equity	\$477,221,980	\$ 81,005	\$ (82,005)	\$ 477,220,980	\$ 401,572,541

The consolidating schedules should be read in conjunction with the consolidated financial statements and notes thereto. See accompanying report of independent certified public accountants.

Johnstone Supply, Inc.
CONSOLIDATING STATEMENTS OF INCOME
Years Ended April 30, 2019 and 2018

	Year Ended April 30, 2019			Year Ended
	Johnstone Supply, Inc.	Service One Logistics LLC	Consolidating Entries	April 30, 2018
	Consolidated			Consolidated
Revenues				
Net merchandise sales	\$ 1,489,225,093	\$ -	\$ -	\$ 1,489,225,093
Service fees	3,525,939	-	-	3,525,939
Total revenues	<u>1,492,751,032</u>	<u>-</u>	<u>-</u>	<u>1,492,751,032</u>
Costs and expenses				
Cost of merchandise sold	1,397,873,779	-	-	1,397,873,779
Warehousing, marketing, and administrative expenses	56,849,565	-	-	56,849,565
Total costs and expenses	<u>1,454,723,344</u>	<u>-</u>	<u>-</u>	<u>1,454,723,344</u>
Operating income	<u>38,027,688</u>	<u>-</u>	<u>-</u>	<u>38,027,688</u>
Other income (expense), net				
Interest expense	(764,147)	-	-	(764,147)
Other income	604,600	-	-	604,600
Total other income (expense), net	<u>(159,547)</u>	<u>-</u>	<u>-</u>	<u>(159,547)</u>
Income before provision for income taxes	37,868,141	-	-	37,868,141
Provision for income taxes	<u>280,695</u>	<u>-</u>	<u>-</u>	<u>280,695</u>
Net Income	<u>37,587,446</u>	<u>-</u>	<u>-</u>	<u>37,587,446</u>
Net income is comprised of				
Member/patronage	37,572,198	-	-	37,572,198
Nonmember/nonpatronage, net of related income taxes	15,248	-	-	15,248
Net income	<u>\$ 37,587,446</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 37,587,446</u>

The consolidating schedules should be read in conjunction with the consolidated financial statements and notes thereto. See accompanying report of independent certified public accountants.

Consolidated Financial Statements and
Report of Independent Certified Public
Accountants

Johnstone Supply, Inc.

April 30, 2020 and 2019

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REPORT OF INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS

Board of Directors
Johnstone Supply, Inc.

We have audited the accompanying consolidated financial statements of Johnstone Supply, Inc. (an Oregon Cooperative Association) and subsidiary, which comprise the consolidated balance sheets as of April 30, 2020 and 2019, and the related consolidated statements of income, changes in Member's equity, and cash flows for the years then ended, and the related notes to the financial statements.

Management's responsibility for the financial statements

Management is responsible for the preparation and fair presentation of these consolidated financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of consolidated financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's responsibility

Our responsibility is to express an opinion on these consolidated financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the consolidated financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the consolidated financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the consolidated financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of Johnstone Supply, Inc. and subsidiary as of April 30, 2020 and 2019, and the results of their operations and their cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

Emphasis of Matter

As discussed in Note 2 to the consolidated financial statements, the Company has adopted new accounting guidance effective May 1, 2019, related to the Accounting Standard Update (“ASU”) 2014-09, *Revenue from Contracts with Customers* (“Topic 606”). The adoption had a material impact on the Company’s consolidated financial statements. Our opinion is not modified with respect to this matter.

Supplementary Information

Our audit was conducted for the purpose of forming an opinion on the consolidated financial statements as a whole. The supplemental consolidating information as of and for the years ended April 30, 2020 and 2019 is presented for purposes of additional analysis and is not a required part of the consolidated financial statements. Such supplementary information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the consolidated financial statements. The information has been subjected to the auditing procedures applied in the audit of the consolidated financial statements and certain additional procedures. These additional procedures included comparing and reconciling the information directly to the underlying accounting and other records used to prepare the consolidated financial statements or to the consolidated financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the supplementary information is fairly stated, in all material respects, in relation to the consolidated financial statements as a whole.



Portland, Oregon
July, 10, 2020

Johnstone Supply, Inc.
CONSOLIDATED BALANCE SHEETS
April 30,

	2020	2019
ASSETS		
CURRENT ASSETS		
Cash and cash equivalents	\$ 456,067	\$ 39,565,195
Accounts receivable, net	374,472,668	286,490,439
Inventories	145,734,173	139,080,856
Other current assets	3,812,605	3,193,022
Total current assets	524,475,513	468,329,512
Equipment and leasehold improvements, net	7,365,178	5,834,316
Deferred tax assets	2,415,328	2,903,844
Other assets	133,314	153,308
Total assets	\$ 534,389,333	\$ 477,220,980
LIABILITIES AND MEMBERS' EQUITY		
CURRENT LIABILITIES		
Accounts payable, trade	\$ 370,805,158	\$ 337,360,610
Accrued expenses	44,216,052	41,612,211
Current portion of capital lease obligations	738,417	685,430
Revolving line of credit	19,925,374	-
Patronage dividends payable	16,954,465	18,786,099
Total current liabilities	452,639,466	398,444,350
LONG-TERM LIABILITIES		
Deferred rent	1,128,879	950,245
Capital lease obligations, less current portion	720,883	832,174
Other long-term liabilities	696,307	753,609
Total liabilities	455,185,535	400,980,378
Commitments and contingencies (Note 10)		
MEMBERS' EQUITY	79,203,798	76,240,602
Total liabilities and members' equity	\$ 534,389,333	\$ 477,220,980

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

Johnstone Supply, Inc.
CONSOLIDATED STATEMENTS OF INCOME
Years ended April 30,

	2020	2019
Revenues		
Revenues, net	\$ 681,308,403	\$ 661,585,003
Costs and expenses		
Cost of merchandise sold	583,256,326	566,707,750
Warehousing, marketing, and administrative expenses	64,918,736	56,831,387
Total costs and expenses	648,175,062	623,539,137
Operating income	33,133,341	38,045,866
Other income (expense), net		
Interest expense	(625,810)	(764,147)
Other income	1,710,536	604,600
Total other income, net	1,084,726	(159,547)
Income before provision for income taxes	34,218,067	37,886,319
Provision for income taxes	300,605	298,873
Net income	\$ 33,917,462	\$ 37,587,446
Net income is comprised of		
Member/patronage	\$ 33,908,930	\$ 37,572,198
Nonmember/nonpatronage, net of related income taxes	8,532	15,248
Net income	\$ 33,917,462	\$ 37,587,446

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

Johnstone Supply, Inc.

CONSOLIDATED STATEMENTS OF CHANGES IN MEMBERS' EQUITY

Years ended April 30,

	<u>Memberships</u>	<u>Capital Contribution</u>	<u>Allocated Patronage Credits</u>		<u>Unallocated Retained Margin</u>			<u>Total Members' Equity</u>
			<u>Qualified</u>	<u>Nonqualified</u>	<u>Member</u>	<u>Non-Member</u>		
					<u>Johnstone Supply, Inc.</u>	<u>Johnstone Supply, Inc.</u>	<u>Service One Logistics LLC</u>	
Balance, April 30, 2018	\$ 5,189,432	\$ 13,243,989	\$ 28,048,031	\$ 7,210,259	\$ 14,626,729	\$ 2,719,040	\$ 80,005	\$ 71,117,485
Memberships sold	220,000	-	-	-	-	-	-	220,000
2016 patronage credits paid	-	-	(13,898,230)	-	-	-	-	(13,898,230)
Allocation of 2018 net margin	-	-	14,626,729	-	(14,626,729)	-	-	-
Net income	-	-	-	-	37,572,198	15,248	-	37,587,446
2018 cash patronage refund	-	-	-	-	(18,786,099)	-	-	(18,786,099)
Balance, April 30, 2019	5,409,432	13,243,989	28,776,530	7,210,259	18,786,099	2,734,288	80,005	76,240,602
Memberships sold	150,000	-	-	-	-	-	-	150,000
2017 patronage credits paid	-	-	(14,149,801)	-	-	-	-	(14,149,801)
Allocation of 2019 net margin	-	-	18,786,099	-	(18,786,099)	-	-	-
Net income	-	-	-	-	33,908,930	8,532	-	33,917,462
2019 cash patronage refund	-	-	-	-	(16,954,465)	-	-	(16,954,465)
Balance, April 30, 2020	<u>\$ 5,559,432</u>	<u>\$ 13,243,989</u>	<u>\$ 33,412,828</u>	<u>\$ 7,210,259</u>	<u>\$ 16,954,465</u>	<u>\$ 2,742,820</u>	<u>\$ 80,005</u>	<u>\$ 79,203,798</u>

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

Johnstone Supply, Inc.

CONSOLIDATED STATEMENTS OF CASH FLOWS

Years ended April 30,

	2020	2019
Cash flows from operating activities		
Net income	\$ 33,917,462	\$ 37,587,446
Adjustments to reconcile net income to net cash provided by (used in) operating activities		
Depreciation and amortization	2,323,461	2,103,973
Deferred income taxes	488,516	1,000,781
Loss (gain) on disposal of assets	14,111	(50)
Changes in assets and liabilities:		
Accounts receivable, net	(87,982,229)	(48,293,069)
Inventories	(6,653,317)	2,444,284
Other assets	(636,271)	9,239,121
Accounts payable, trade	33,444,548	57,853,941
Accrued expenses and other long term liabilities	2,546,538	9,565,986
Deferred rent	178,634	(16,366)
Net cash (used in) provided by operating activities	(22,358,548)	71,486,047
Cash flows from investing activities		
Proceeds on sale of assets	2,145	1,400
Purchases of equipment and leasehold improvements	(3,155,387)	(1,259,905)
Net cash used in investing activities	(3,153,242)	(1,258,505)
Cash flows from financing activities		
Net borrowings under revolving line of credit	19,925,374	(1,592,596)
Payments on capital lease obligations	(773,496)	(734,486)
Proceeds from sale of memberships	150,000	220,000
Patronage credits paid	(14,149,801)	(13,898,230)
Cash patronage distribution	(18,749,417)	(14,663,429)
Net cash used in financing activities	(13,597,339)	(30,668,741)
Net increase (decrease) in cash and cash equivalents	(39,109,128)	39,558,801
Cash and cash equivalents at beginning of year	39,565,195	6,394
Cash and cash equivalents at end of year	\$ 456,067	\$ 39,565,195
Supplemental disclosure of cash flow information:		
Cash paid during the year for		
Taxes	\$ 133,930	\$ 172,301
Interest	\$ 625,810	\$ 764,147
Supplemental disclosure of investing activities:		
Purchase of property and equipment on credit	\$ 715,192	\$ 1,326,173

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

Johnstone Supply, Inc.

NOTES TO FINANCIAL STATEMENTS

April 30, 2020 and 2019

NOTE 1 - ORGANIZATION AND NATURE OF OPERATIONS

Johnstone Supply, Inc. (the "Cooperative") was incorporated on April 10, 1981, under the laws of the State of Oregon as a cooperative association. Members are admitted, subject to the approval of the Board of Directors, by agreeing to comply with the by-law provisions and paying the required nonrefundable membership fee. Membership in the Cooperative is nontransferable unless approved by the Board of Directors of the Cooperative. Each Member has one vote. Membership is limited to commercial enterprises which sell the merchandise distributed by the Cooperative.

The activities of the Cooperative primarily include the purchase of heating, ventilation, air conditioning, and refrigeration supplies, equipment, and related merchandise for resale to Members. As such, substantially all revenue is derived from related parties. Products are distributed primarily through the Cooperative's facilities located in Portland, Oregon; Alburtis, Pennsylvania; Jacksonville, Florida; Las Vegas, Nevada; Joliet, Illinois; and Lancaster, Texas. In addition to revenues received from the sale of merchandise to Members, the Cooperative also derives revenues from assessing Members' fees for services performed by the Cooperative for the benefit of the Members. Such fees vary according to the type or volume of services provided.

In March 2011, the Cooperative created a third-party logistics company, Service One Logistics LLC ("Service One Logistics"), which provides logistic services out of the Las Vegas Distribution Center to a non-member customer. Service One Logistics is wholly owned by the Cooperative. Service One Logistics had no significant activity or balances during fiscal years ended April 30, 2020 and 2019.

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Principles of Consolidation

The accompanying consolidated financial statements include the accounts of the Cooperative and its wholly-owned subsidiary. All intercompany accounts and transactions were eliminated.

Reclassifications

Certain reclassifications have been made to the prior year's data to conform to the current year's presentation. None of the changes affect our previously reported consolidated net revenues or net income.

Use of Estimates

The preparation of consolidated financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, and disclosure of contingent assets and liabilities at the date of the financial statements, and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates. Estimates used in the preparation of the consolidated financial statements include, but are not limited to, the net realizable value of trade accounts receivable, product sales returns, inventory in-transit, and depreciation and amortization.

Johnstone Supply, Inc.

NOTES TO FINANCIAL STATEMENTS - CONTINUED

April 30, 2020 and 2019

COVID-19 Uncertainty

In March 2020, the World Health Organization declared the outbreak of novel coronavirus disease ("COVID-19") as a pandemic, and the Cooperative expects its operations to be affected as the virus continues to proliferate. The Cooperative has adjusted certain aspects of its operations to protect its employees and customers while still meeting customers' needs. The Cooperative will continue to monitor the situation, and it is possible that it will implement further measures. Although there is existing uncertainty as to the severity and duration of COVID-19, in recent weeks the Cooperative has seen a positive trend in customer demand and end user market data.

Cash and Cash Equivalents

The Cooperative considers all investments with an original maturity of three months or less to be cash equivalents.

Accounts Receivable

Accounts receivable are recorded at the invoiced amount and do not bear interest. The Cooperative extends unsecured credit to its Members. Based on the collection history of the Cooperative, review of specific accounts, existing economic conditions in the industry and financial stability of its Members, the Cooperative has estimated an allowance for doubtful accounts of \$160,000 as of April 30, 2020 and 2019. The Cooperative generally considers receivables to be past due and uncollectible after 120 days, at which time the accounts receivable are written off. The Cooperative does not have any off-balance sheet credit exposure related to its Members.

Inventories

Inventories, consisting primarily of merchandise held-for-sale to Members, are stated at the lower of cost or market. Cost is determined by the last-in, first-out ("LIFO") method.

Equipment and Leasehold Improvements

Equipment and leasehold improvements are stated at cost less accumulated depreciation and amortization. Maintenance and repairs of equipment and leaseholds are charged to expense as incurred. Major improvements are capitalized. Upon retirement or sale, the cost and accumulated depreciation of the assets disposed of are removed from the accounts and resulting gains or losses are recognized in operations. Depreciation on equipment is computed using a straight-line method based on the estimated useful lives of the assets, generally four to seven years. Leasehold improvements are amortized on a straight-line method based on the shorter of the lease term or the estimated useful lives of the assets. Depreciation and amortization expense was \$2,323,461 and \$2,103,973 for the years ended April 30, 2020 and 2019, respectively.

Income Taxes

The Cooperative is subject to federal and state income taxes on non-member income, net income distributed by means of nonqualified written notices of allocation, and net income not distributed to patrons.

Income taxes are accounted for under the asset and liability method, whereby deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in income in the period that includes the enactment date.

Johnstone Supply, Inc.

NOTES TO FINANCIAL STATEMENTS - CONTINUED

April 30, 2020 and 2019

The Cooperative recognizes the tax benefit from uncertain tax positions only if it is more likely than not that the tax positions will be sustained on examination by the tax authorities, based on the technical merits of the positions. The tax benefit is measured based on the largest benefit that has a greater than 50% likelihood of being realized upon ultimate settlement. As of April 30, 2020 and 2019, the Cooperative had not identified any uncertain tax positions requiring accrual or disclosure.

The Cooperative recognizes state minimum taxes as income taxes classified as non-operating expenses. The Cooperative recognizes state capital stock taxes and all other non-income based state taxes as operating expenses. The Cooperative recognizes interest and penalties related to federal and state taxes as tax expense. The Cooperative files federal and nine state tax returns, which are subject to examination by the taxing authorities for the three years subsequent to the return being filed. The Cooperative's tax returns from 2016 and subsequent years remain open for examination by the tax authorities.

Revenue Recognition and Adoption of ASC 606

In May 2014, the Financial Standards Board ("FASB") issued Accounting Standards Update ("ASU") No. 2014-09, Revenue from Contracts with Customers (Topic 606), along with amendments issued in 2015 and 2016. On May 1, 2019, the Cooperative adopted this new revenue standard using the full retrospective method applied to open contracts during the years ending April 30, 2020 and 2019. The adoption of the new standard had an impact on the presentation and disclosure of dropship sales. These were previously included in net merchandise sales and cost of sales on a gross basis, but under Topic 606 they are presented net on the consolidated financial statements. Results for the current and comparative years are presented under the new revenue standard.

Revenue is recognized when performance obligations under the terms of contracts with the Cooperative's customers are satisfied; generally, this occurs with the transfer of control of merchandise or services. Revenue is measured as the amount of consideration the Cooperative expects to receive in exchange for transferring goods or providing services. The Cooperative excludes sales and usage-based taxes collected and recognizes revenues net of expected returns. Provisions for sales returns are provided at the time the related sales are recorded based on historic returns activity.

The Cooperative's warehouse merchandise revenue originates with a single performance obligation to ship the products, and therefore the Cooperative's performance obligations are satisfied when control of the products is transferred to the customer per the arranged shipping terms. The customer takes ownership and assumes risk of loss for warehouse merchandise upon shipment. The Cooperative considers shipping and handling as activities to fulfill its performance obligation for warehouse merchandise revenues. Freight and handling costs billed separately on an invoice to customers are classified as revenue while the outbound freight and handling costs incurred by the Cooperative are shown as a component of warehouse expenses.

The Cooperative has drop shipments that are direct shipment arrangements with various vendors to deliver products to its customers without having to physically hold the inventory at the Cooperative's warehouses, thereby increasing efficiency and reducing costs. The Cooperative recognizes revenue for direct shipment arrangements upon shipment to the customer with contract terms that typically specify FOB shipping point. The Cooperative has assessed the principal versus agent recognition criteria and determined that it is not primarily responsible for fulfilling the promise to customers to provide merchandise at negotiated prices with the vendors, does not assume inventory risk if the product is returned by the customers, and does not assume all the credit risk for the vendors with the customers. Therefore, the Cooperative concluded it is the agent for these transactions and recognizes the revenue and cost of goods sold from these arrangements on a net basis.

Johnstone Supply, Inc.

NOTES TO FINANCIAL STATEMENTS - CONTINUED

April 30, 2020 and 2019

The following table provides a reconciliation of the changes from adoption to the prior period financial statements:

	<u>2020</u>	<u>2019</u>
Dropship sales, gross	\$ 891,510,049	\$ 846,977,724
Less: costs of merchandise sold	<u>875,123,898</u>	<u>831,166,029</u>
Dropship sales, net	<u>\$ 16,386,152</u>	<u>\$ 15,811,694</u>

Member service fees are recognized at the time the related service is provided.

Merchandise sales are net of product returns, which were \$12,363,337 and \$11,522,313 and for the years ended April 30, 2020 and 2019, respectively.

The following table provides a summary of revenues by sales category:

	<u>2020</u>	<u>2019</u>
Net merchandise sales	\$ 661,470,099	\$ 642,247,369
Dropship, net	16,386,152	15,811,694
Member service fees	<u>3,452,153</u>	<u>3,525,939</u>
Total revenues	<u>\$ 681,308,403</u>	<u>\$ 661,585,003</u>

Advertising

Advertising costs are offset by vendor advertising allowances and recognized as incurred. At April 30, 2020 and 2019, vendor advertising allowances of \$8,850,490 and \$9,115,700, respectively, exceeded costs incurred of \$2,237,346 and \$2,314,083, respectively, and were included as a \$6,613,144 and \$6,801,618, respectively, reduction of expenses in the accompanying consolidated statements of income.

Impairment of Long-lived Assets

Long-lived assets are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Recoverability of assets to be held and used is measured by a comparison of the carrying amount of an asset to estimated undiscounted future cash flows expected to be generated by the asset. If the carrying amount of an asset exceeds its estimated future cash flows, an impairment charge is recognized by the amount by which the carrying amount of the asset exceeds the fair value of the asset. Assets to be disposed of would be separately presented in the consolidated balance sheets and reported at the lower of the carrying amount or fair value less costs to sell, and would no longer be depreciated. The assets and liabilities of a disposal group classified as held-for-sale would be presented separately in the appropriate asset and liability sections of the consolidated balance sheets.

The Cooperative determined that there was no impairment of long-lived assets in 2020 or 2019.

Johnstone Supply, Inc.

NOTES TO FINANCIAL STATEMENTS - CONTINUED

April 30, 2020 and 2019

Vendor Rebates

The Cooperative accounts for rebates received from vendors as a reduction of the cost of inventory and, therefore, are classified as a reduction of cost of sales. Vendor rebates received totaled \$98,748,430 and \$95,675,772 for the years ended April 30, 2020 and 2019, respectively, and are classified as reductions of costs of merchandise sold in the accompanying consolidated statements of income.

Freight

Freight costs incurred by the Cooperative are classified in warehouse expenses and total \$17,911,813 and \$16,806,293 for the years ended April 30, 2020 and 2019, respectively.

Fair Value Measurements

The Cooperative measures the fair value for all financial and nonfinancial assets and liabilities that are recognized or disclosed at fair value in the consolidated financial statements on a recurring or nonrecurring basis, respectively.

Nonfinancial long-lived assets (such as equipment and leasehold improvements) are measured at fair value for impairment assessment purposes. The nonfinancial assets and liabilities are recognized at fair value subsequent to initial recognition when they are deemed to be other-than-temporarily impaired. There were no nonfinancial assets and liabilities deemed other-than-temporarily impaired and measured at fair value on a nonrecurring basis.

The Cooperative has established a three-tier fair value hierarchy, which prioritizes the inputs used in measuring fair value. These tiers include:

- Level 1 - Observable inputs that reflect quoted prices (unadjusted) for identical assets or liabilities in active markets;
- Level 2 - Inputs other than quoted prices included in Level 1 that are observable for the asset or liability through corroboration with observable market data; and
- Level 3 - Unobservable inputs that reflect the reporting entity's own assumptions.

The Cooperative has no financial assets or liabilities that are carried at fair value as of April 30, 2020 and 2019. The carrying amounts of financial instruments comprising cash and cash equivalents, accounts receivable and accounts payable approximate their fair values due to their short-term nature. The recorded balance of the Cooperative's revolving line of credit approximates fair value based on rates and terms available for similar borrowings.

Recent Pronouncements

In February 2016, the FASB issued ASU No. 2016-02, *Leases* ("ASU 2016-02"). ASU 2016-02 requires a lessee to record a right of use asset and a corresponding lease liability on the balance sheet for all leases with terms longer than 12 months. ASU 2016-02 is effective for all interim and annual reporting periods beginning after December 15, 2020. Early adoption is permitted. A modified retrospective transition approach is required for lessees for capital and operating leases existing at, or entered into after, the beginning of the earliest period presented in the financial statements. The Cooperative will adopt the provisions of this statement in the first quarter of its fiscal year ending April 30, 2022, and is currently assessing the potential impact on its financial position, results of operations, and liquidity.

Johnstone Supply, Inc.

NOTES TO FINANCIAL STATEMENTS - CONTINUED

April 30, 2020 and 2019

NOTE 3 - INVENTORIES

Inventories determined by the LIFO method were \$145,734,173 and \$139,080,856, net of a LIFO reserve of \$27,035,928 and \$26,863,790 at April 30, 2020 and 2019, respectively. If the first-in, first-out inventory method, which approximates average replacement cost, had been used for these inventories, they would have been \$172,770,101 and \$165,944,646 at April 30, 2020 and 2019, respectively, and income before the provision for income taxes would have increased by \$172,138 and \$6,038,286 for the years ended April 30, 2020 and 2019, respectively.

The allowance for inventory obsolescence was based on the aging of inventory, estimated usage and technology changes in products held by the Cooperative. As of April 30, 2020 and 2019, the allowance for inventory obsolescence was \$950,000.

NOTE 4 - EQUIPMENT AND LEASEHOLD IMPROVEMENTS

This account is comprised of the following:

	2020	2019
Office equipment	\$ 2,227,789	\$ 1,771,457
Warehouse equipment	6,963,246	7,114,694
Computer software and equipment	11,940,342	10,713,685
Leasehold improvements	1,912,388	1,292,292
Equipment under capital lease	5,597,046	4,881,853
Assets in process	683,291	240,872
Total	29,324,102	26,014,853
Less: accumulated depreciation and amortization	(21,958,924)	(20,180,537)
Equipment and leasehold improvements, net	\$ 7,365,178	\$ 5,834,316

Accumulated amortization of assets under capital leases was \$248,177 and \$463,122 as of April 30, 2020 and 2019, respectively. Amortization of assets under capital leases is included with depreciation and amortization expense.

NOTE 5 - INCOME TAXES

The provision for income taxes consists of the following:

	2020	2019
Current tax expense		
Federal	\$ (415,978)	\$ (822,041)
State and local	228,067	120,133
	(187,911)	(701,908)
Deferred tax expense (benefit)	488,516	1,000,781
Provision for income taxes	\$ 300,605	\$ 298,873

Johnstone Supply, Inc.

NOTES TO FINANCIAL STATEMENTS - CONTINUED

April 30, 2020 and 2019

Federal, state, and local income taxes payable by a cooperative are computed differently from taxes payable by other corporations, primarily because cooperatives are allowed to deduct qualified allocated patronage credits issued to Members within eight and a half months after the end of each taxable year. These allocations by the Cooperative, partly in cash and partly in qualified written notices of allocation, are taxable to the Members in the years in which they receive the cash or written notices.

The current provision for taxes differs from the customary federal statutory rate of 21.0% for the years ended April 30, 2020 and 2019 as follows:

	2020		2019	
	Amount	Percent	Amount	Percent
Provision for income taxes	\$ 7,235,066	21.0%	\$ 8,021,517	21.0%
Provision for state income taxes	153,253	0.4%	121,445	0.3%
Benefit from deducting allocated qualified patronage credits	(7,097,787)	-20.6%	(7,873,743)	-20.6%
Other	10,073	0.0%	29,653	0.1%
	<u>\$ 300,605</u>	<u>0.9%</u>	<u>\$ 298,873</u>	<u>0.8%</u>

The tax effects of temporary differences that give rise to significant portions of the deferred tax assets and deferred tax liability at April 30 are presented below:

	2020	2019
Deferred income tax assets		
Future nonqualified patronage dividends	\$ 1,666,821	\$ 1,652,755
Section 263(A) adjustment	146,167	926,047
AMT credit	-	419,203
Deferred rent	307,294	247,298
Inventory adjustment	225,150	223,250
Deferred compensation	198,062	216,909
Vacation accrual	225,838	197,778
Net operating loss	682,137	38,235
Other	444,206	89,208
Total deferred tax assets	<u>3,895,674</u>	<u>4,010,683</u>
Deferred income tax liability		
Fixed assets	(1,379,151)	(1,018,478)
Prepaid expenses	(101,195)	(88,361)
Total deferred tax liabilities	<u>(1,480,346)</u>	<u>(1,106,839)</u>
Net deferred tax asset	<u>\$ 2,415,328</u>	<u>\$ 2,903,844</u>

Johnstone Supply, Inc.

NOTES TO FINANCIAL STATEMENTS - CONTINUED

April 30, 2020 and 2019

NOTE 6 - MEMBERS' EQUITY

The Cooperative is organized without capital stock. Starting October 1, 2011, the current cost of membership in the Cooperative is \$60,000 plus \$40,000 for each additional sales outlet. For existing Members, the cost of each new sales outlet is \$10,000.

Allocated patronage credits represent retained net margins which have been allocated to Members in the form of book credits - qualified and non-qualified.

- The qualified amounts have been reported to Members for inclusion in their taxable income.
- The non-qualified amounts have been allocated and reported to Members but are not taxable to the Members until distributed.

Unallocated retained margin represents current net income after providing for estimated patronage dividends currently payable.

- The Member amounts represent current Johnstone Supply, Inc. net income after providing for estimated patronage dividends currently payable.
- The non-member amounts represent the Cooperative differences between book and taxable income and the cumulative portion of the Cooperative's non-member related income and cumulative Service One Logistics, LLC earnings.

During July 2020 and July 2019, \$16,954,465 and \$18,786,099, respectively, of the unallocated retained margin was allocated to Members in the form of qualified allocated patronage credits.

On July 7, 2020, the Board of Directors approved payment of \$14,626,729 of 2018's qualified allocated patronage credits in addition to the patronage dividends payable of \$16,954,465 for a total September 2020 payment to Members of \$31,581,194.

On July 9, 2019, the Board of Directors approved payment of \$14,149,801 of 2017's qualified allocated patronage credits in addition to the patronage dividends payable of \$18,786,099 for a total September 2019 payment to Members of \$32,935,900.

NOTE 7 - EMPLOYEE RETIREMENT PLAN

The Cooperative sponsors a qualified retirement plan for eligible employees. The plan is composed of two parts: defined contribution and 401(k). Eligibility requirements are different for each part of the plan. The 401(k) part of the plan includes a Safe Harbor provision that can be elected each plan year at the Board of Directors' discretion. If elected, this provision results in a minimum Cooperative 401(k) matching contribution. For the years ended April 30, 2020 and 2019, discretionary Cooperative contributions were \$943,984 and \$852,898, respectively.

Johnstone Supply, Inc.

NOTES TO FINANCIAL STATEMENTS - CONTINUED

April 30, 2020 and 2019

NOTE 8 - SELF INSURED MEDICAL BENEFITS

The Cooperative's UnitedHealthcare Choice Plus plan covers medical, dental, vision, and prescription benefits for eligible employees that elect coverage. The Cooperative has stop loss coverage of \$100,000 to protect against any individual large claims and \$2 million to protect against aggregate claims. The Cooperative has accrued \$373,611 and \$353,783 for potential claims incurred but not reported as of April 30, 2020 and 2019, respectively.

NOTE 9 - LINE OF CREDIT

The Company has a line of credit from a bank that is secured by the assets of the Cooperative. The agreement allows for maximum principal amount of \$120,000,000 for June, July, and September to November each year and \$100,000,000 for January to May, August, and December each year. The line of credit was increased to \$150,000,000 effective March 25, 2020 to September 30, 2020. The line of credit bears interest at the one-month LIBOR rate plus 1.00% and is due for renewal on October 1, 2022. At April 30, 2020 and 2019, total outstanding borrowings on this line of credit were \$19,925,374 and \$0, respectively. As of April 30, 2020 and 2019, the amount available under the line of credit was \$129,549,626 and \$99,475,000, respectively, with unused letters of credit of \$525,000.

NOTE 10 - COMMITMENTS AND CONTINGENCIES

Operating Leases

The Cooperative is obligated under noncancellable operating leases, which contain escalation clauses, for its office and warehouse space that expire through 2026. Future minimum payments under these leases are as follows:

Fiscal Year Ending	Portland Office and Warehouse	Allentown Warehouse	Florida Warehouse	Las Vegas Warehouse	Illinois Warehouse	Texas Warehouse	Total
2021	\$ 913,542	\$ 887,284	\$ 993,417	\$ 701,286	\$ 823,018	\$ 531,917	\$ 4,850,463
2022	940,948	909,467	1,012,439	355,824	846,645	539,710	4,605,033
2023	969,176	932,203	1,031,937	-	796,437	547,504	4,277,257
2024	660,584	955,508	1,051,922	-	-	415,012	3,083,026
2025	-	895,913	1,072,407	-	-	-	1,968,320
Thereafter	-	-	1,738,470	-	-	-	1,738,470
	<u>\$ 3,484,249</u>	<u>\$ 4,580,376</u>	<u>\$ 6,900,592</u>	<u>\$ 1,057,110</u>	<u>\$ 2,466,099</u>	<u>\$ 2,034,143</u>	<u>\$20,522,569</u>

The Cooperative records lease expense on a straight-line basis, resulting in a deferred rent liability of \$1,296,599 and \$1,052,331 at April 30, 2020 and 2019, respectively. Rent expense totaled \$5,160,017 and \$4,774,939 for the years ended April 30, 2020 and 2019, respectively.

Johnstone Supply, Inc.

NOTES TO FINANCIAL STATEMENTS - CONTINUED

April 30, 2020 and 2019

Capital Leases

The Cooperative has ten capital lease agreements for the purchase of equipment. The monthly payments include interest ranging from 3.29% to 4.71%. Future minimum lease payments under the capital lease obligation are as follows:

	Years Ending April 30,
2021	\$ 782,627
2022	584,689
2023	154,229
Total minimum payments	<u>1,521,545</u>
Less amount representing interest	62,245
Total capital lease obligation	<u>1,459,300</u>
Less current portion	<u>738,417</u>
Capital lease obligation, less current portion	<u>\$ 720,883</u>

Litigation

The Cooperative is involved in various claims and legal actions arising in the ordinary course of business. In the opinion of management, the ultimate disposition of these matters will not have a material adverse effect on the Cooperative's financial position, results of operations, or liquidity.

NOTE 11 - CONCENTRATION OF CREDIT RISK

Financial instruments which potentially subject the Cooperative to credit risk consist of cash and cash equivalents and trade accounts receivable. The Cooperative's cash balances are with federally insured banks and periodically exceed the insured limits.

The Cooperative purchased product from two vendors in 2020 and 2019, which represented 54% and 52%, respectively, of total cost of products sold. Amounts due to these vendors represent 65% and 59% of trade payables at April 30, 2020 and 2019, respectively.

NOTE 12 - SUBSEQUENT EVENTS

On May 12, 2020, the Company entered into a loan with Wells Fargo in an aggregate principal amount of \$4,763,379 (the "Loan"), pursuant to the Paycheck Protection Program (the "PPP") under the CARES Act.

The Loan is evidenced by a promissory note (the "Note") dated May 12, 2020. The Loan matures two years from the disbursement date and bears interest at a rate of 1.000% per annum, with the first six months of interest deferred. Principal and interest are payable monthly commencing six months after the disbursement date and may be prepaid by the Company at any time prior to maturity with no prepayment penalties.

Johnstone Supply, Inc.

NOTES TO FINANCIAL STATEMENTS - CONTINUED

April 30, 2020 and 2019

Under the terms of the CARES Act, PPP Loan recipients can apply for and be granted forgiveness for all or a portion of loans granted under the PPP. The Loan is subject to forgiveness to the extent proceeds are used for payroll costs, including payments required to continue group health care benefits, and certain rent, utility, and mortgage interest expenses (collectively, "Qualifying Expenses"), pursuant to the terms and limitations of the PPP. The Company intends to use a significant majority of the Loan amount for Qualifying Expenses. However, no assurance is provided that the Company will obtain forgiveness of the Loan in whole or in part.

The Cooperative has evaluated subsequent events through July 10, 2020, which is the date the consolidated financial statements were available to be issued, and identified no events, other than those disclosed above, that require consideration for adjustments to, or disclosure in the financial statements.

SUPPLEMENTARY INFORMATION

Johnstone Supply, Inc.
CONSOLIDATING BALANCE SHEETS
Years ended April 30,

	April 30, 2020				April 30, 2019 Consolidated
	Johnstone Supply, Inc.	Service One Logistics LLC	Consolidating Entries	Consolidated	
ASSETS					
CURRENT ASSETS					
Cash and cash equivalents	\$ 456,067	\$ -	\$ -	\$ 456,067	\$ 39,565,195
Accounts receivable, net	374,472,668	-	-	374,472,668	286,490,439
Accounts receivable, intercompany	-	81,005	(81,005)	-	-
Inventories	145,734,173	-	-	145,734,173	139,080,856
Other current assets	3,812,605	-	-	3,812,605	3,193,022
Total current assets	524,475,513	81,005	(81,005)	524,475,513	468,329,512
Equipment and leasehold improvements, net	7,365,178	-	-	7,365,178	5,834,316
Deferred tax asset	2,415,328	-	-	2,415,328	2,903,844
Other assets	134,314	-	(1,000)	133,314	153,308
Total assets	<u>\$ 534,390,333</u>	<u>\$ 81,005</u>	<u>\$ (82,005)</u>	<u>\$ 534,389,333</u>	<u>\$ 477,220,980</u>
LIABILITIES AND MEMBERS' EQUITY					
CURRENT LIABILITIES					
Accounts payable, trade	\$ 370,805,158	\$ -	\$ -	\$ 370,805,158	\$ 337,360,610
Accounts payable, intercompany	81,005	-	(81,005)	-	-
Accrued expenses	44,216,052	-	-	44,216,052	41,612,211
Current portion of capital lease obligations	738,417	-	-	738,417	685,430
Revolving line of credit	19,925,374	-	-	19,925,374	-
Patronage dividends payable	16,954,465	-	-	16,954,465	18,786,099
Total current liabilities	452,720,471	-	(81,005)	452,639,466	398,444,350
NONCURRENT LIABILITIES					
Deferred rent	1,128,879	-	-	1,128,879	950,245
Capital lease obligations, less current portion	720,883	-	-	720,883	832,174
Other long-term liabilities	696,307	-	-	696,307	753,609
Total liabilities	455,266,540	-	(81,005)	455,185,535	400,980,378
COMMITMENTS (Note 10)					
MEMBERS' EQUITY					
	79,123,793	81,005	(1,000)	79,203,798	76,240,602
Total liabilities and members' equity	<u>\$ 534,390,333</u>	<u>\$ 81,005</u>	<u>\$ (82,005)</u>	<u>\$ 534,389,333</u>	<u>\$ 477,220,980</u>

Johnstone Supply, Inc.
CONSOLIDATING STATEMENTS OF INCOME
Years ended April 30,

	Year Ended April 30, 2020			April 30, 2019 Consolidated	
	Johnstone Supply, Inc.	Service One Logistics LLC	Consolidating Entries		Consolidated
Revenues					
Revenues, net	\$ 681,308,403	\$ -	\$ -	\$ 681,308,403	\$ 661,585,003
Costs and expenses					
Cost of merchandise sold	583,256,326	-	-	583,256,326	566,707,750
Warehousing, marketing, and administrative expenses	64,918,736	-	-	64,918,736	56,831,387
Total costs and expenses	648,175,062	-	-	648,175,062	623,539,137
Operating income	33,133,341	-	-	33,133,341	38,045,866
Other income (expense), net					
Interest expense	(625,810)	-	-	(625,810)	(764,147)
Other income	1,710,536	-	-	1,710,536	604,600
Total other income (expense), net	1,084,726	-	-	1,084,726	(159,547)
Income before provision for income taxes	34,218,067	-	-	34,218,067	37,886,319
Provision for income taxes	300,605	-	-	300,605	298,873
Net income	\$ 33,917,462	\$ -	\$ -	\$ 33,917,462	\$ 37,587,446
Net income is comprised of					
Member/patronage	\$ 33,908,930	\$ -	\$ -	\$ 33,908,930	\$ 37,572,198
Nonmember/nonpatronage, net of related income taxes	8,532	-	-	8,532	15,248
Net income	\$ 33,917,462	\$ -	\$ -	\$ 33,917,462	\$ 37,587,446

Consolidated Financial Statements and
Report of Independent Certified Public
Accountants

Johnstone Supply, Inc.

April 30, 2021 and 2020

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REPORT OF INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS

Board of Directors
Johnstone Supply, Inc.

We have audited the accompanying consolidated financial statements of Johnstone Supply, Inc. (an Oregon Cooperative Association) and subsidiary, which comprise the consolidated balance sheets as of April 30, 2021 and 2020, and the related consolidated statements of income, changes in member's equity, and cash flows for the years then ended, and the related notes to the financial statements.

Management's responsibility for the financial statements

Management is responsible for the preparation and fair presentation of these consolidated financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of consolidated financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's responsibility

Our responsibility is to express an opinion on these consolidated financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the consolidated financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the consolidated financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the consolidated financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of Johnstone Supply, Inc and subsidiary as of April 30, 2021 and 2020, and the results of their operations and their cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

Supplementary Information

Our audits were conducted for the purpose of forming an opinion on the consolidated financial statements as a whole. The supplemental consolidating information as of and for the years ended April 30, 2021 and 2020 is presented for purposes of additional analysis and is not a required part of the consolidated financial statements. Such supplementary information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the consolidated financial statements. The information has been subjected to the auditing procedures applied in the audit of the consolidated financial statements and certain additional procedures. These additional procedures included comparing and reconciling the information directly to the underlying accounting and other records used to prepare the consolidated financial statements or to the consolidated financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the supplementary information is fairly stated, in all material respects, in relation to the consolidated financial statements as a whole.

Grant Thornton LLP

Seattle, Washington

July 14, 2021

Johnstone Supply, Inc.

CONSOLIDATED BALANCE SHEETS

April 30,

	2021	2020
ASSETS		
CURRENT ASSETS		
Cash and cash equivalents	\$ 60,398,687	\$ 456,067
Accounts receivable, net	466,532,842	374,472,668
Inventories	126,852,117	145,734,173
Other current assets	3,068,466	3,812,605
Total current assets	656,852,112	524,475,513
Equipment and leasehold improvements, net	6,841,271	7,365,178
Deferred tax assets	1,171,435	2,415,328
Other assets	1,342,492	133,314
Total assets	\$ 666,207,310	\$ 534,389,333
LIABILITIES AND MEMBERS' EQUITY		
CURRENT LIABILITIES		
Accounts payable, trade	\$ 515,191,473	\$ 370,805,158
Accrued expenses	47,482,602	44,216,052
Current portion of capital lease obligations	755,780	738,417
Current portion of PPP loan	1,390,562	-
Revolving line of credit	-	19,925,374
Patronage dividends payable	18,967,659	16,954,465
Total current liabilities	583,788,076	452,639,466
LONG-TERM LIABILITIES		
Deferred rent	920,862	1,128,879
Capital lease obligations, less current portion	542,278	720,883
Debt PPP loan	3,372,817	-
Other long-term liabilities	2,436,548	696,307
Total liabilities	591,060,581	455,185,535
Commitments and contingencies (Note 10)		
MEMBERS' EQUITY	75,146,729	79,203,798
Total liabilities and members' equity	\$ 666,207,310	\$ 534,389,333

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

Johnstone Supply, Inc.

CONSOLIDATED STATEMENTS OF INCOME

Years ended April 30,

	2021	2020
Revenues		
Revenues, net	\$ 853,372,572	\$ 681,308,403
Costs and expenses		
Cost of merchandise sold	744,781,458	583,256,326
Warehousing, marketing, and administrative expenses	70,558,239	64,918,736
Total costs and expenses	815,339,697	648,175,062
Operating income	38,032,875	33,133,341
Other income (expense), net		
Interest expense	(608,084)	(625,810)
Other income	685,712	1,710,536
Total other income, net	77,628	1,084,726
Income before provision for income taxes	38,110,503	34,218,067
Provision for income taxes	169,502	300,605
NET INCOME	\$ 37,941,001	\$ 33,917,462
Net income is comprised of		
Member/patronage	\$ 37,935,318	\$ 33,908,930
Nonmember/nonpatronage, net of related income taxes	5,683	8,532
NET INCOME	\$ 37,941,001	\$ 33,917,462

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

Johnstone Supply, Inc.

CONSOLIDATED STATEMENTS OF CHANGES IN MEMBERS' EQUITY

Years ended April 30, 2021 and 2020

	Memberships	Capital Contribution	Allocated Patronage Credits		Unallocated Retained Margin			Total Members' Equity
			Qualified	Nonqualified	Member	Non-Member		
					Johnstone Supply, Inc.	Johnstone Supply, Inc.	Service One Logistics LLC	
Balance, April 30, 2019	\$ 5,409,432	\$ 13,243,989	\$ 28,776,530	\$ 7,210,259	\$ 18,786,099	\$ 2,734,288	\$ 80,005	\$ 76,240,602
Memberships sold	150,000	-	-	-	-	-	-	150,000
2017 patronage credits paid	-	-	(14,149,801)	-	-	-	-	(14,149,801)
Allocation of 2019 net margin	-	-	18,786,099	-	(18,786,099)	-	-	-
Net income (loss)	-	-	-	-	33,908,930	8,532	-	33,917,462
2019 cash patronage refund	-	-	-	-	(16,954,465)	-	-	(16,954,465)
Balance, April 30, 2020	5,559,432	13,243,989	33,412,828	7,210,259	16,954,465	2,742,820	80,005	79,203,798
Memberships sold	70,000	-	-	-	-	-	-	70,000
2018 patronage credits paid	-	-	(14,626,729)	-	-	-	-	(14,626,729)
Allocation of 2020 net margin	-	-	16,954,465	-	(16,954,465)	-	-	-
Memberships paid	(370,000)	-	-	-	-	-	-	(370,000)
Capital contribution paid	-	(893,423)	-	-	-	-	-	(893,423)
Nonqualified credits paid	-	-	-	(7,210,259)	-	-	-	(7,210,259)
Net income (loss)	-	-	-	-	37,935,318	5,683	-	37,941,001
2020 cash patronage refund	-	-	-	-	(18,967,659)	-	-	(18,967,659)
Balance, April 30, 2021	<u>\$ 5,259,432</u>	<u>\$ 12,350,566</u>	<u>\$ 35,740,564</u>	<u>\$ -</u>	<u>\$ 18,967,659</u>	<u>\$ 2,748,503</u>	<u>\$ 80,005</u>	<u>\$ 75,146,729</u>

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

Johnstone Supply, Inc.

CONSOLIDATED STATEMENTS OF CASH FLOWS

Years ended April 30,

	2021	2020
Cash flows from operating activities		
Net income	\$ 37,941,001	\$ 33,917,462
Adjustments to reconcile net income to net cash provided by (used in) operating activities		
Depreciation and amortization	2,514,146	2,323,461
Deferred income taxes	1,243,893	488,516
Loss (gain) on disposal of assets	-	14,111
Changes in assets and liabilities:		
Accounts receivable, net	(92,060,174)	(87,982,229)
Inventories	18,882,056	(6,653,317)
Other assets	960,157	(636,271)
Accounts payable, trade	144,386,315	33,444,548
Accrued expenses and other long-term liabilities	2,826,991	2,546,538
Deferred rent	(208,017)	178,634
	116,486,368	(22,358,548)
Net cash provided by (used in) operating activities		
Cash flows from investing activities		
Proceeds on sale of assets	-	2,145
Purchases of equipment and leasehold improvements	(1,413,065)	(3,155,387)
	(1,413,065)	(3,153,242)
Net cash used in investing activities		
Cash flows from financing activities		
Net borrowings under revolving line of credit	(19,925,374)	19,925,374
Proceeds from PPP loan	4,763,379	-
Payments on capital lease obligations	(738,416)	(773,496)
Proceeds from sale of memberships	70,000	150,000
Nonqualified patronage paid	(7,008,410)	-
Former member equity paid	(673,969)	-
Patronage credits paid	(14,663,428)	(14,149,801)
Cash patronage distribution	(16,954,465)	(18,749,417)
	(55,130,683)	(13,597,339)
Net cash used in financing activities		
Net increase (decrease) in cash and cash equivalents	59,942,620	(39,109,128)
Cash and cash equivalents at beginning of year	456,067	39,565,195
Cash and cash equivalents at end of year	\$ 60,398,687	\$ 456,067
Supplemental disclosure of cash flow information:		
Cash paid during the year for		
Taxes	\$ 212,114	\$ 133,930
Interest	608,084	625,810
Supplemental disclosure of investing activities:		
Purchase of property and equipment on credit	\$ 577,174	\$ 715,192

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

Johnstone Supply, Inc.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

April 30, 2021 and 2020

NOTE 1 - ORGANIZATION AND NATURE OF OPERATIONS

Johnstone Supply, Inc. (the "Cooperative") was incorporated on April 10, 1981, under the laws of the State of Oregon as a cooperative association. Members are admitted, subject to the approval of the Board of Directors, by agreeing to comply with the by-law provisions and paying the required nonrefundable membership fee. Membership in the Cooperative is nontransferable unless approved by the Board of Directors of the Cooperative. Each Member has one vote. Membership is limited to commercial enterprises which sell the merchandise distributed by the Cooperative.

The activities of the Cooperative primarily include the purchase of heating, ventilation, air conditioning, and refrigeration supplies, equipment, and related merchandise for resale to Members. As such, substantially all revenue is derived from related parties. Products are distributed primarily through the Cooperative's facilities located in Portland, Oregon; Alburtis, Pennsylvania; Jacksonville, Florida; Las Vegas, Nevada; Joliet, Illinois; and Lancaster, Texas. In addition to revenues received from the sale of merchandise to Members, the Cooperative also derives revenues from assessing Members' fees for services performed by the Cooperative for the benefit of the Members. Such fees vary according to the type or volume of services provided.

In March 2011, the Cooperative created a third-party logistics company, Service One Logistics LLC ("Service One Logistics"), to provide logistic services out of the Cooperative's Distribution Centers to non-member customers. Service One Logistics is wholly owned by the Cooperative. Service One Logistics had no significant activity or balances during fiscal years ended April 30, 2021 and 2020.

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Principles of Consolidation

The accompanying consolidated financial statements include the accounts of the Cooperative and its wholly owned subsidiary. All intercompany accounts and transactions were eliminated.

Use of Estimates

The preparation of consolidated financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, and disclosure of contingent assets and liabilities at the date of the consolidated financial statements, and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates. Estimates used in the preparation of the consolidated financial statements include, but are not limited to, the net realizable value of trade accounts receivable, product sales returns, inventory in-transit, and depreciation and amortization.

Cash and Cash Equivalents

The Cooperative considers all investments with an original maturity of three months or less to be cash equivalents.

Accounts Receivable

Accounts receivable are recorded at the invoiced amount and do not bear interest. The Cooperative extends unsecured credit to its Members. Based on the collection history of the Cooperative, review of specific accounts, existing economic conditions in the industry and financial stability of its Members, the Cooperative has estimated an allowance for doubtful accounts of \$160,000 as of April 30, 2021 and 2020. The Cooperative generally considers receivables to be past due and uncollectible after 120 days, at which time the accounts receivable are written off. The Cooperative does not have any off-balance sheet credit exposure related to its Members.

Johnstone Supply, Inc.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - CONTINUED

April 30, 2021 and 2020

Inventories

Inventories, consisting primarily of merchandise held for sale to Members, are stated at the lower of cost or market. Cost is determined by the last-in, first-out ("LIFO") method.

Equipment and Leasehold Improvements

Equipment and leasehold improvements are stated at cost less accumulated depreciation and amortization. Maintenance and repairs of equipment and leaseholds are charged to expense as incurred. Major improvements are capitalized. Upon retirement or sale, the cost and accumulated depreciation of the assets disposed of are removed from the accounts and resulting gains or losses are recognized in operations. Depreciation on equipment is computed using a straight-line method based on the estimated useful lives of the assets, generally four to seven years. Leasehold improvements are amortized on a straight-line method based on the shorter of the lease term or the estimated useful lives of the assets. Depreciation and amortization expense was \$2,514,146 and \$2,323,461 for the years ended April 30, 2021 and 2020, respectively.

Income Taxes

The Cooperative is subject to federal and state income taxes on non-member income, net income distributed by means of nonqualified written notices of allocation, and net income not distributed to patrons.

Income taxes are accounted for under the asset and liability method, whereby deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in income in the period that includes the enactment date.

The Cooperative recognizes the tax benefit from uncertain tax positions only if it is more likely than not that the tax positions will be sustained on examination by the tax authorities, based on the technical merits of the positions. The tax benefit is measured based on the largest benefit that has a greater than 50% likelihood of being realized upon ultimate settlement. As of April 30, 2021 and 2020, the Cooperative had not identified any uncertain tax positions requiring accrual or disclosure.

The Cooperative recognizes state minimum taxes and state capital stock taxes as income taxes classified as non-operating expenses. The Cooperative recognizes all other non-income based state taxes as operating expenses. The Cooperative recognizes interest and penalties related to federal and state taxes as tax expense. The Cooperative files federal and nine state tax returns, which are subject to examination by the taxing authorities for the three years subsequent to the return being filed. The Cooperative's tax returns from 2017 and subsequent years remain open for examination by the tax authorities.

Revenue Recognition

Revenue is recognized when performance obligations under the terms of contracts with the Cooperative's customers are satisfied; generally, this occurs with the transfer of control of merchandise or services. Revenue is measured as the amount of consideration the Cooperative expects to receive in exchange for transferring goods or providing services. The Cooperative excludes sales and usage-based taxes collected and recognizes revenues net of expected returns. Provisions for sales returns are provided at the time the related sales are recorded based on historic returns activity.

Johnstone Supply, Inc.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - CONTINUED

April 30, 2021 and 2020

The Cooperative's warehouse merchandise revenue originates with a single performance obligation to ship the products, and therefore the Cooperative's performance obligations are satisfied when control of the products is transferred to the customer per the arranged shipping terms. The customer takes ownership and assumes risk of loss for warehouse merchandise upon shipment. The Cooperative considers shipping and handling as activities to fulfill its performance obligation for warehouse merchandise revenues. Freight and handling costs billed separately on an invoice to customers are classified as revenue while the outbound freight and handling costs incurred by the Cooperative are shown as a component of warehouse expenses.

The Cooperative has drop shipments that are direct shipment arrangements with various vendors to deliver products to its customers without having to physically hold the inventory at the Cooperative's warehouses, thereby increasing efficiency and reducing costs. The Cooperative recognizes revenue for direct shipment arrangements upon shipment to the customer with contract terms that typically specify FOB shipping point. The Cooperative has assessed the principal versus agent recognition criteria and determined that it is not primarily responsible for fulfilling the promise to customers to provide merchandise at negotiated prices with the vendors, does not assume inventory risk if the product is returned by the customers, and does not assume all the credit risk for the vendors with the customers. Therefore, the Cooperative concluded it is the agent for these transactions and recognizes the revenue and cost of goods sold from these arrangements on a net basis.

The following table provides a reconciliation of the changes from adoption to the prior period financial statements:

	2021	2020
Dropship sales, gross	\$ 1,121,066,671	\$ 891,510,049
Less: costs of merchandise sold	1,101,857,147	875,123,898
Dropship sales, net	\$ 19,209,524	\$ 16,386,152

Member service fees are recognized at the time the related service is provided.

Merchandise sales are net of product returns, which were \$12,835,986 and \$12,363,337 and for the years ended April 30, 2021 and 2020, respectively.

The following table provides a summary of revenues by sales category:

	2021	2020
Net merchandise sales	\$ 831,848,911	\$ 661,470,099
Dropship, net	19,209,524	16,386,152
Member service fees	2,314,137	3,452,153
Total revenues	\$ 853,372,572	\$ 681,308,403

Advertising

Advertising costs are offset by vendor advertising allowances and recognized as incurred. At April 30, 2021 and 2020, vendor advertising allowances of \$10,516,765 and \$8,850,490, respectively, exceeded costs incurred of \$1,113,985 and \$2,237,346, respectively, and were included as a \$9,402,780 and \$6,613,144, respectively, reduction of expenses in the accompanying consolidated statements of income.

Johnstone Supply, Inc.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - CONTINUED

April 30, 2021 and 2020

Impairment of Long-lived Assets

Long-lived assets are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Recoverability of assets to be held and used is measured by a comparison of the carrying amount of an asset to estimated undiscounted future cash flows expected to be generated by the asset. If the carrying amount of an asset exceeds its estimated future cash flows, an impairment charge is recognized by the amount by which the carrying amount of the asset exceeds the fair value of the asset. Assets to be disposed of would be separately presented in the consolidated balance sheets and reported at the lower of the carrying amount or fair value less costs to sell, and would no longer be depreciated. The assets and liabilities of a disposal group classified as held-for-sale would be presented separately in the appropriate asset and liability sections of the consolidated balance sheets.

The Cooperative determined that there was no impairment of long-lived assets in 2021 or 2020.

Vendor Rebates

The Cooperative accounts for rebates received from vendors as a reduction of the cost of inventory and, therefore, are classified as a reduction of cost of sales. Vendor rebates received totaled \$102,521,116 and \$98,748,430 for the years ended April 30, 2021 and 2020, respectively, and are classified as reductions of costs of merchandise sold in the accompanying consolidated statements of income.

Freight

Freight costs incurred by the Cooperative are classified in warehouse expenses and total \$22,096,487 and \$17,911,813 for the years ended April 30, 2021 and 2020, respectively.

Fair Value Measurements

The Cooperative measures the fair value for all financial and nonfinancial assets and liabilities that are recognized or disclosed at fair value in the consolidated financial statements on a recurring or nonrecurring basis, respectively.

Nonfinancial long-lived assets (such as equipment and leasehold improvements) are measured at fair value for impairment assessment purposes. The nonfinancial assets and liabilities are recognized at fair value subsequent to initial recognition when they are deemed to be other-than-temporarily impaired. There were no nonfinancial assets and liabilities deemed other-than-temporarily impaired and measured at fair value on a nonrecurring basis.

The Cooperative has established a three-tier fair value hierarchy, which prioritizes the inputs used in measuring fair value. These tiers include:

- Level 1 - Observable inputs that reflect quoted prices (unadjusted) for identical assets or liabilities in active markets;
- Level 2 - Inputs other than quoted prices included in Level 1 that are observable for the asset or liability through corroboration with observable market data; and
- Level 3 - Unobservable inputs that reflect the reporting entity's own assumptions.

The Cooperative has no financial assets or liabilities that are carried at fair value as of April 30, 2021 and 2020. The carrying amounts of financial instruments comprising cash and cash equivalents, accounts receivable and accounts payable approximate their fair values due to their short-term nature. The recorded balance of the Cooperative's revolving line of credit approximates fair value based on rates and terms available for similar borrowings.

Johnstone Supply, Inc.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - CONTINUED

April 30, 2021 and 2020

Recent Pronouncements

In February 2016, the FASB issued ASU No. 2016-02, *Leases* (“ASU 2016-02”). ASU 2016-02 requires a lessee to record a right of use asset and a corresponding lease liability on the balance sheet for all leases with terms longer than 12 months. ASU 2016-02 is effective for all interim and annual reporting periods beginning after December 15, 2021. Early adoption is permitted. A modified retrospective transition approach is required for lessees for capital and operating leases existing at, or entered into after, the beginning of the earliest period presented in the financial statements. The Cooperative will adopt the provisions of this statement in the first quarter of its fiscal year ending April 30, 2023, and is currently assessing the potential impact on its financial position, results of operations, and liquidity.

NOTE 3 - INVENTORIES

Inventories determined by the LIFO method were \$126,852,117 and \$145,734,173, net of a LIFO reserve of \$33,048,649 and \$27,035,928 at April 30, 2021 and 2020, respectively. If the first-in, first-out inventory method, which approximates average replacement cost, had been used for these inventories, they would have been \$159,900,766 and \$172,770,101 at April 30, 2021 and 2020, respectively, and income before the provision for income taxes would have increased by \$6,012,721 and \$172,138 for the years ended April 30, 2021 and 2020, respectively.

The allowance for inventory obsolescence was based on the aging of inventory, estimated usage and technology changes in products held by the Cooperative. As of April 30, 2021 and 2020, the allowance for inventory obsolescence was \$950,000.

NOTE 4 - EQUIPMENT AND LEASEHOLD IMPROVEMENTS

This account is comprised of the following:

	2021	2020
Office equipment	\$ 2,250,349	\$ 2,227,789
Warehouse equipment	6,956,772	6,963,246
Computer software and equipment	13,390,022	11,940,342
Leasehold improvements	1,951,463	1,912,388
Equipment under capital lease	6,174,220	5,597,046
Assets in process	591,515	683,291
Total	31,314,341	29,324,102
Less: accumulated depreciation and amortization	(24,473,070)	(21,958,924)
Equipment and leasehold improvements, net	\$ 6,841,271	\$ 7,365,178

Accumulated amortization of assets under capital leases was \$753,728 and \$248,177 as of April 30, 2021 and 2020, respectively. Amortization of assets under capital leases is included with depreciation and amortization expense.

Johnstone Supply, Inc.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - CONTINUED

April 30, 2021 and 2020

NOTE 5 - INCOME TAXES

The provision for income taxes consists of the following:

	2021	2020
Current tax expense		
Federal	\$ (1,328,902)	\$ (415,978)
State and local	254,511	228,067
	(1,074,391)	(187,911)
Deferred tax expense (benefit)	1,243,893	488,516
Provision for income taxes	\$ 169,502	\$ 300,605

Federal, state, and local income taxes payable by a cooperative are computed differently from taxes payable by other corporations, primarily because cooperatives are allowed to deduct qualified allocated patronage credits issued to Members within eight and a half months after the end of each taxable year. These allocations by the Cooperative, partly in cash and partly in qualified written notices of allocation, are taxable to the Members in the years in which they receive the cash or written notices.

The current provision for taxes differs from the customary federal statutory rate of 21.0% for the years ended April 30, 2021 and 2020 as follows:

	2021		2020	
	Amount	Percent	Amount	Percent
Provision for income taxes	\$ 8,160,743	21.0%	\$ 7,235,066	21.0%
Provision for state income taxes	338,005	0.9%	153,253	0.4%
Benefit from deducting allocated qualified patronage credits	(7,956,864)	-20.5%	(7,097,787)	-20.6%
Other	(372,382)	-1.0%	10,073	0.1%
Provision for income taxes	\$ 169,502	0.4%	\$ 300,605	0.9%

Johnstone Supply, Inc.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - CONTINUED

April 30, 2021 and 2020

The tax effects of temporary differences that give rise to significant portions of the deferred tax assets and deferred tax liability at April 30 are presented below:

	2021	2020
Deferred income tax assets		
Future nonqualified patronage dividends	\$ 46,627	\$ 1,666,821
Section 263(A) adjustment	151,436	146,167
AMT credit	-	-
Deferred rent	263,901	307,294
Inventory adjustment	219,450	225,150
Deferred compensation	378,152	198,062
Vacation accrual	239,467	225,838
Net operating loss	538,111	682,137
Other	760,365	444,206
Total deferred tax assets	2,597,509	3,895,674
Deferred income tax liability		
Fixed assets	(1,294,952)	(1,379,151)
Prepaid expenses	(131,122)	(101,195)
Total deferred tax liabilities	(1,426,074)	(1,480,346)
Net deferred tax asset	\$ 1,171,435	\$ 2,415,328

NOTE 6 - MEMBERS' EQUITY

The Cooperative is organized without capital stock. Starting October 1, 2011, the current cost of membership in the Cooperative is \$60,000 plus \$40,000 for each additional sales outlet. For existing Members, the cost of each new sales outlet is \$10,000.

Allocated patronage credits represent retained net margins which have been allocated to Members in the form of book credits - qualified and non-qualified.

- The qualified amounts have been reported to Members for inclusion in their taxable income.
- The non-qualified amounts have been allocated and reported to Members but are not taxable to the Members until distributed.

Unallocated retained margin represents current net income after providing for estimated patronage dividends currently payable.

- The Member amounts represent current Johnstone Supply, Inc. net income after providing for estimated patronage dividends currently payable.
- The non-member amounts represent the Cooperative differences between book and taxable income and the cumulative portion of the Cooperative's non-member related income and cumulative Service One Logistics, LLC earnings.

During July 2021 and July 2020, \$18,967,659 and \$16,954,465, respectively, of the unallocated retained margin was allocated to Members in the form of qualified allocated patronage credits.

Johnstone Supply, Inc.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - CONTINUED

April 30, 2021 and 2020

On July 7, 2021, the Board of Directors approved payment of \$18,786,099 of 2019's qualified allocated patronage credits in addition to the patronage dividends payable of \$18,967,659 for a total September 2021 payment to Members of \$37,753,758.

On July 7, 2020, the Board of Directors approved payment of \$14,626,729 of 2018's qualified allocated patronage credits in addition to the patronage dividends payable of \$16,954,465 for a total September 2020 payment to Members of \$31,581,194.

NOTE 7 - EMPLOYEE RETIREMENT PLAN

The Cooperative sponsors a qualified retirement plan for eligible employees. The plan is composed of two parts: defined contribution and 401(k). Eligibility requirements are different for each part of the plan. The 401(k) part of the plan includes a Safe Harbor provision that can be elected each plan year at the Board of Directors' discretion. If elected, this provision results in a minimum Cooperative 401(k) matching contribution. For the years ended April 30, 2021 and 2020, discretionary Cooperative contributions were \$850,903 and \$943,984, respectively.

NOTE 8 - SELF INSURED MEDICAL BENEFITS

The Cooperative's UnitedHealthcare Choice Plus plan covers medical, dental, vision, and prescription benefits for eligible employees that elect coverage. The Cooperative has stop loss coverage of \$100,000 to protect against any individual large claims and \$2 million to protect against aggregate claims. The Cooperative has accrued \$386,611 and \$373,611 for potential claims incurred but not reported as of April 30, 2021 and 2020, respectively.

NOTE 9 - LINE OF CREDIT

The Company has a line of credit from a bank that is secured by the assets of the Cooperative. The agreement allows for maximum principal amount of \$170,000,000 for June, July, and September to November each year and \$120,000,000 for January to May, August, and December each year. The line of credit bears interest at the one-month London Interbank Offered Rate plus 1.50% and is due for renewal on October 1, 2022. The line of credit was temporarily increased to \$150,000,000 effective March 25, 2020 to September 30, 2020 in response to the Covid-19 pandemic.

This temporary increase was further amended to increase the maximum principal amount to \$200,000,000, effective August 1, 2020 to September 30, 2020, with no change to previously amended maximums for the months noted above.

At April 30, 2021 and 2020, total outstanding borrowings on this line of credit were \$0 and \$19,925,374, respectively. As of April 30, 2021 and 2020, the amount available under the line of credit was \$149,475,000 and \$129,549,626, respectively, with unused letters of credit of \$525,000.

Johnstone Supply, Inc.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - CONTINUED

April 30, 2021 and 2020

NOTE 10 - COMMITMENTS AND CONTINGENCIES

Operating Leases

The Cooperative is obligated under noncancellable operating leases, which contain escalation clauses, for its office and warehouse space that expire through 2026. Future minimum payments under these leases are as follows:

Fiscal Year Ending	Portland Office and Warehouse	Allentown Warehouse	Florida Warehouse	Las Vegas Warehouse	Illinois Warehouse	Texas Warehouse	Total
2022	\$ 940,948	\$ 909,467	\$ 1,012,439	\$ 355,824	\$ 846,645	\$ 539,710	\$ 4,605,033
2023	969,176	932,203	1,031,937	-	796,437	547,504	4,277,257
2024	660,584	955,508	1,051,922	-	-	415,012	3,083,026
2025	-	895,913	1,072,407	-	-	-	1,968,320
2026	-	-	1,093,404	-	-	-	1,093,404
Thereafter	-	-	645,067	-	-	-	645,067
	<u>\$ 2,570,708</u>	<u>\$ 3,693,091</u>	<u>\$ 5,907,175</u>	<u>\$ 355,824</u>	<u>\$ 1,643,082</u>	<u>\$ 1,502,226</u>	<u>\$15,672,106</u>

The Cooperative records lease expense on a straight-line basis, resulting in a deferred rent liability of \$1,142,426 and \$1,296,599 at April 30, 2021 and 2020, respectively. Rent expense totaled \$5,328,202 and \$5,160,017 for the years ended April 30, 2021 and 2020, respectively.

Capital Leases

The Cooperative has 9 capital lease agreements for the purchase of equipment. The monthly payments include interest ranging from 3.30% to 4.71%. Future minimum lease payments under the capital lease obligation are as follows:

<u>Years ending April 30,</u>	
2022	\$ 785,529
2023	355,068
2024	<u>200,840</u>
Total minimum payments	1,341,437
Less amount representing interest	<u>43,379</u>
Total capital lease obligation	1,298,058
Less current portion	<u>755,780</u>
Capital lease obligation, less current portion	<u>\$ 542,278</u>

Litigation

The Cooperative is involved in various claims and legal actions arising in the ordinary course of business. In the opinion of management, the ultimate disposition of these matters will not have a material adverse effect on the Cooperative's financial position, results of operations, or liquidity.

Johnstone Supply, Inc.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - CONTINUED

April 30, 2021 and 2020

NOTE 11 - CONCENTRATION OF CREDIT RISK

Financial instruments which potentially subject the Cooperative to credit risk consist of cash and cash equivalents and trade accounts receivable. The Cooperative's cash balances are with federally insured banks and periodically exceed the insured limits.

The Cooperative purchased product from two vendors in 2021 and 2020, which represented 52% and 54%, respectively, of total cost of products sold. Amounts due to these vendors represent 64% and 65% of trade payables at April 30, 2021 and 2020, respectively.

NOTE 12 - PROMISSORY NOTE

In May 2020, the Company executed a promissory note (the "PPP Loan") evidencing an unsecured loan in the amount of \$4,763,379 under the Paycheck Protection Program. The Paycheck Protection Program (or "PPP") was established under the Coronavirus Aid, Relief, and Economic Security Act (the "CARES Act") and is administered by the U.S. Small Business Administration ("SBA"). The Loan has been made through Wells Fargo (the "Lender").

The PPP Loan has a two-year term and bears interest at a rate of 1.00% per annum, accruing upon funding. Unless the PPP Loan is forgiven, the Company will be required to make monthly payments of principal and interest to the Lender. The PPP Note contains customary events of default relating to, among other things, payment defaults, providing materially false and misleading representations to the SBA or Lender, or breaching the terms of the PPP Loan documents. The occurrence of an event of default may result in the immediate repayment of all amounts outstanding, collection of all amounts owing from the Company, or filing suit and obtaining judgment. Under the terms of the CARES Act, PPP Loan recipients can apply for and be granted forgiveness for all or a portion of the loan granted under the PPP. Such forgiveness will be determined, subject to limitations, based on the use of loan proceeds for payment of payroll costs and any payments of mortgage interest, rent, and utilities. As of April 30, 2021, the Company intends to seek forgiveness of the PPP Loan and believes that it has complied with the requirements to receive forgiveness in the foreseeable future. However, no assurance is provided that forgiveness for any portion of the PPP Loan will be obtained and forgiveness is contingent upon meeting the criteria set forth in the PPP Note and the CARES Act. When this forgiveness is achieved, the amount of forgiveness will be recognized as other income in the consolidated statement of comprehensive income.

NOTE 13 - SUBSEQUENT EVENTS

The Cooperative has evaluated subsequent events through July 14, 2021, which is the date the consolidated financial statements were available to be issued, and identified no events, other than those disclosed above, that require consideration for adjustments to, or disclosure in the consolidated financial statements.

SUPPLEMENTAL INFORMATION

Johnstone Supply, Inc.

CONSOLIDATING BALANCE SHEETS

Year ended April 30,

	April 30, 2021			Consolidated	April 30, 2020 Consolidated
	Johnstone Supply, Inc.	Service One Logistics LLC	Consolidating Entries		
ASSETS					
CURRENT ASSETS					
Cash and cash equivalents	\$ 60,398,687	\$ -	\$ -	\$ 60,398,687	\$ 456,067
Accounts receivable, net	466,532,842	-	-	466,532,842	374,472,668
Accounts receivable, intercompany	-	81,005	(81,005)	-	-
Inventories	126,852,117	-	-	126,852,117	145,734,173
Other current assets	3,068,466	-	-	3,068,466	3,812,605
Total current assets	656,852,112	81,005	(81,005)	656,852,112	524,475,513
Equipment and leasehold improvements, net	6,841,271	-	-	6,841,271	7,365,178
Deferred tax asset	1,171,435	-	-	1,171,435	2,415,328
Other assets	1,343,492	-	(1,000)	1,342,492	133,314
Total assets	<u>\$ 666,208,310</u>	<u>\$ 81,005</u>	<u>\$ (82,005)</u>	<u>\$ 666,207,310</u>	<u>\$ 534,389,333</u>
LIABILITIES AND MEMBERS' EQUITY					
CURRENT LIABILITIES					
Accounts payable, trade	\$ 515,191,473	\$ -	\$ -	\$ 515,191,473	\$ 370,805,158
Accounts payable, intercompany	81,005	-	(81,005)	-	-
Accrued expenses	47,482,602	-	-	47,482,602	44,216,052
Current portion of capital lease obligations	755,780	-	-	755,780	738,417
Current portion of debt PPP Loan	1,390,562	-	-	1,390,562	-
Revolving line of credit	-	-	-	-	19,925,374
Patronage dividends payable	18,967,659	-	-	18,967,659	16,954,465
Total current liabilities	583,869,081	-	(81,005)	583,788,076	452,639,466
NONCURRENT LIABILITIES					
Deferred rent	920,862	-	-	920,862	1,128,879
Capital lease obligations, less current portion	542,278	-	-	542,278	720,883
Debt PPP Loan	3,372,817	-	-	3,372,817	-
Other long-term liabilities	2,436,548	-	-	2,436,548	696,307
Total liabilities	591,141,586	-	(81,005)	591,060,581	455,185,535
Commitments (Note 10)					
MEMBERS' EQUITY	<u>75,066,724</u>	<u>81,005</u>	<u>(1,000)</u>	<u>75,146,729</u>	<u>79,203,798</u>
Total liabilities and members' equity	<u>\$ 666,208,310</u>	<u>\$ 81,005</u>	<u>\$ (82,005)</u>	<u>\$ 666,207,310</u>	<u>\$ 534,389,333</u>

The consolidating schedules should be read in conjunction with the consolidated financial statements and notes thereto. See accompanying report of independent certified public accountants

Johnstone Supply, Inc.

CONSOLIDATING STATEMENTS OF INCOME

Year ended April 30,

	Year Ended April 30, 2021			April 30, 2020 Consolidated	
	Johnstone Supply, Inc.	Service One Logistics LLC	Consolidating Entries		Consolidated
Revenues					
Revenues, net	\$ 853,372,572	\$ -	\$ -	\$ 853,372,572	\$ 681,308,403
Costs and expenses					
Cost of merchandise sold	744,781,458	-	-	744,781,458	583,256,326
Warehousing, marketing, and administrative expenses	70,558,239	-	-	70,558,239	64,918,736
Total costs and expenses	815,339,697	-	-	815,339,697	648,175,062
Operating income	38,032,875	-	-	38,032,875	33,133,341
Other income (expense), net					
Interest expense	(608,084)	-	-	(608,084)	(625,810)
Other income	685,712	-	-	685,712	1,710,536
Total other income (expense), net	77,628	-	-	77,628	1,084,726
Income before provision for income taxes	38,110,503	-	-	38,110,503	34,218,067
Provision for income taxes	169,502	-	-	169,502	300,605
NET INCOME	<u>\$ 37,941,001</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 37,941,001</u>	<u>\$ 33,917,462</u>
Net income is comprised of					
Member/patronage	\$ 37,935,318	\$ -	\$ -	\$ 37,935,318	\$ 33,908,930
Nonmember/nonpatronage, net of related income taxes	5,683	-	-	5,683	8,532
NET INCOME	<u>\$ 37,941,001</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 37,941,001</u>	<u>\$ 33,917,462</u>

The consolidating schedules should be read in conjunction with the consolidated financial statements and notes thereto. See accompanying report of independent certified public accountants

Balance Sheet Summary

08/31/21

Description	Actual 2022 Aug-21	Actual 2021 Aug-20	\$ Change	% Change
Cash & Cash Equivalents	70,057,291	4,763,879	65,293,412	1370.59%
Accounts Receivable	539,893,184	487,047,452	52,845,732	10.85%
Intercompany	-	-	-	0.00%
Inventory	158,555,571	146,017,151	12,538,420	8.59%
LIFO Reserve	(33,048,649)	(27,035,928)	(6,012,721)	22.24%
Other Current Assets	3,192,093	3,641,078	(448,985)	-12.33%
Total Current Assets	738,649,490	614,433,632	124,215,858	20.22%
Property & Equipment	31,021,509	29,064,962	1,956,547	6.73%
Assets in Process	397,034	837,353	(440,319)	-52.58%
Accumulated Depreciation	(24,840,401)	(22,792,784)	(2,047,616)	8.98%
Total Property & Equipment	6,578,143	7,109,531	(531,388)	-7.47%
Deferred Taxes	1,171,435	2,415,328	(1,243,893)	-51.50%
Other Assets	1,343,492	134,314	1,209,178	900.26%
Total Assets	747,742,559	624,092,805	123,649,755	19.81%
Accounts Payable	(568,153,784)	(446,619,540)	(121,534,244)	27.21%
Accrued Income Tax	1,260,404	3,157	1,257,247	39829.28%
Rebate Liability	(27,554,844)	(23,156,150)	(4,398,693)	19.00%
Line of Credit	-	(19,998,376)	19,998,376	-100.00%
Capital Lease - ST	(602,842)	(711,747)	108,905	-15.30%
PPP Loan - ST	(4,763,379)	(1,789,236)	(2,974,143)	166.22%
Patronage Dividend Payable	(18,967,659)	(16,954,465)	(2,013,194)	11.87%
Deferred Rent - ST	(239,033)	(186,723)	(52,310)	28.01%
Other Current Liabilities	(15,567,290)	(11,389,462)	(4,177,828)	36.68%
Total Current Liabilities	(634,588,426)	(520,802,541)	(113,785,885)	21.85%
Capital Lease - LT	(400,885)	(488,275)	87,390	-17.90%
Deferred Rent - LT	(903,539)	(1,072,944)	169,405	-15.79%
PPP Loan - LT	-	(2,974,143)	2,974,143	-100.00%
LTIP - LT	(1,091,347)	(666,301)	(425,046)	63.79%
Other Long Term Liabilities	(1,364,946)	(30,006)	(1,334,940)	4448.91%
Total Other Liabilities	(3,760,717)	(5,231,669)	1,470,952	-28.12%
Total Liabilities	(638,349,143)	(526,034,210)	(112,314,933)	21.35%
Membership	(5,269,432)	(5,559,432)	290,000	-5.22%
Contributed Capital	(12,350,567)	(13,243,989)	893,423	-6.75%
Allocated Equities	(35,740,563)	(40,623,086)	4,882,523	-12.02%
Retained Earnings	(21,716,162)	(19,697,285)	(2,018,877)	10.25%
Income Summary	(34,316,692)	(18,934,802)	(15,381,890)	81.24%
Total Members' Equity	(109,393,416)	(98,058,594)	(11,334,822)	11.56%
Total Liabilities & Equity	(747,742,559)	(624,092,805)	(123,649,754)	19.81%
Current Ratio	1.16	1.18	(0.02)	
Debt to Equity	5.84	5.36	0.47	
Return on Assets	13.77%	9.10%	4.67	

**Combined
Income Statement and Budget Summary
08/31/21**

	MTD Actual 2022 Aug-21	MTD Actual 2021 Aug-20	% chg	MTD Budget 2022 Aug-21	% chg	YTD Actual 2022 Aug-21	YTD Actual 2021 Aug-20	% chg	YTD Budget 2022 Aug-21	% chg
DC Sales	97,261,070	79,611,808	22.17%	90,477,142	7.50%	370,959,766	326,332,494	13.68%	375,068,657	-1.10%
Dropship Sales	123,031,621	82,720,404	48.73%	90,992,444	35.21%	517,698,866	365,834,875	41.51%	409,648,231	26.38%
Product Sales	220,292,692	162,332,212	35.70%	181,469,586	21.39%	888,658,633	692,167,369	28.39%	784,716,888	13.25%
Rebates	-	-	0.00%	-	0.00%	-	-	0.00%	-	0.00%
Purchase Discounts	2,529,216	2,067,536	22.33%	2,232,938	13.27%	10,548,782	7,621,396	38.41%	8,231,106	28.16%
Advertising Fees	96,167	84,583	13.70%	119,732	-19.68%	363,097	371,197	-2.18%	441,360	-17.73%
Service Fees	2,625,382	2,152,118	21.99%	2,352,670	11.59%	10,911,880	7,992,593	36.52%	8,672,466	25.82%
Interest Income	8,441	-	0.00%	3,000	181.37%	23,876	-	0.00%	12,000	98.97%
Other Miscellaneous	2,034	6,000	-66.11%	6,250	-67.46%	15,038	16,202	-7.19%	25,000	-39.85%
Total Other Income	10,475	6,000	74.58%	9,250	13.24%	38,914	16,202	140.18%	37,000	5.17%
Total Revenues	222,928,549	164,490,330	35.53%	183,831,506	21.27%	899,609,426	700,176,164	28.48%	793,426,354	13.38%
DC COGS	86,068,771	71,949,608	19.62%	81,984,278	4.98%	326,513,297	296,593,109	10.09%	338,734,779	-3.61%
Dropship COGS	120,997,124	81,827,504	47.87%	90,173,512	34.18%	512,400,372	362,293,313	41.43%	405,961,397	26.22%
Total COGS	207,065,895	153,777,112	34.65%	172,157,790	20.28%	838,913,670	658,886,422	27.32%	744,696,176	12.65%
DC Expenses	4,506,127	4,841,229	-6.92%	5,845,784	-22.92%	17,575,008	15,409,797	14.05%	18,659,463	-5.81%
Corporate Expenses	2,579,235	1,980,923	30.20%	2,505,820	2.93%	8,786,136	6,964,709	26.15%	10,005,232	-12.18%
Total Expenses	7,085,362	6,822,152	3.86%	8,351,605	-15.16%	26,361,144	22,374,505	17.82%	28,664,695	-8.04%
Margin Before Taxes	8,777,292	3,891,066	125.58%	3,322,111	164.21%	34,334,613	18,915,237	81.52%	20,065,483	71.11%
Corporate Income Tax	(1,059)	(67,309)	-98.43%	8,500	-112.46%	17,921	(19,565)	-191.60%	34,000	-47.29%
Net Income	8,778,351	3,958,375	121.77%	3,313,611	164.92%	34,316,692	18,934,802	81.24%	20,031,483	71.31%
Return on Sales	3.98%	2.44%	1.83%	1.83%	3.86%	2.74%	2.55%			
Return on Total Revenue	3.94%	2.41%	1.80%	3.81%	2.70%	2.52%				
Blend Summary:										
Total Product Sales	220,292,692	162,332,212	35.70%	181,469,586	21.39%	888,658,633	692,167,369	28.39%	784,716,888	13.25%
Total Product COGS	207,065,895	153,777,112	34.65%	172,157,790	20.28%	838,913,670	658,886,422	27.32%	744,696,176	12.65%
Total Product Gross Profit	13,226,796	8,555,100	54.61%	9,311,796	42.04%	49,744,963	33,280,947	49.47%	40,020,712	24.30%
Total Product Gross Profit %	6.00%	5.27%	5.13%	5.60%	4.81%	5.10%				
DC Summary:										
Total DC Sales	97,261,070	79,611,808	22.17%	90,477,142	7.50%	370,959,766	326,332,494	13.68%	375,068,657	-1.10%
Total DC COGS	86,068,771	71,949,608	19.62%	81,984,278	4.98%	326,513,297	296,593,109	10.09%	338,734,779	-3.61%
Total DC Gross Profit	11,192,299	7,662,201	46.07%	8,492,864	31.78%	44,446,469	29,739,386	49.45%	36,333,878	22.33%
Total DC Gross Profit %	11.51%	9.62%	9.39%	11.98%	9.11%	9.69%				
DS Summary:										
Total DS Sales	123,031,621	82,720,404	48.73%	90,992,444	35.21%	517,698,866	365,834,875	41.51%	409,648,231	26.38%
Total DS COGS	120,997,124	81,827,504	47.87%	90,173,512	34.18%	512,400,372	362,293,313	41.43%	405,961,397	26.22%
Total DS Gross Profit	2,034,497	892,899	127.85%	818,932	148.43%	5,298,494	3,541,561	49.61%	3,686,834	43.71%
Total DS Gross Profit %	1.65%	1.08%	0.90%	1.02%	0.97%	0.90%				

EXHIBIT J
STATE-SPECIFIC ADDENDA

FOR THE STATE OF CALIFORNIA

Preliminary Comment: Each provision of this Appendix to the Franchise Disclosure Document shall be effective only to the extent, with respect to such provision, that the jurisdictional requirements of the California Franchise Investment Law, Cal. Corp. Code §§31000 - 31516, and the California Franchise Relations Act, Cal Bus. & Prof. Code §§2000 - 20043, are met independently without reference to this Addendum to the Franchise Disclosure Document.

1. Item 3 is amended to reflect that:

Neither we nor any person or broker identified in Item 2 of the Franchise Disclosure Document is subject to any current effective order of any national securities association or national securities exchange as defined in the Securities Exchange Act of 1934, U.S.C.A. 78a et seq., suspending or expelling such persons from membership in such association or exchange.

2. Item 17 is amended by the addition of the following statements:

California Business and Professions Code Sections 20000 through 20043 provide rights to you concerning termination, transfer or nonrenewal of a franchise. If the Distribution Agreement contains a provision that is inconsistent with the law, the law will control.

The Distribution Agreement provides for potential termination upon bankruptcy. This provision may not be enforceable under federal bankruptcy law (11 U.S.C.A. Sec. 101 et seq.).

The California Corporations Code, Section 31125, requires that we give you a disclosure document, approved by the Department of Corporations, before we solicit a proposed material modification of an existing franchise.

The Distribution Agreement requires the application of the laws and forum of Delaware. This provision may be unenforceable under California Law.

California Corporations Code Section 31512 provides that any condition, stipulation or provision purporting to bind any person acquiring a franchise to waive compliance with any provision of that law or any rule or order is void. Section 31512 voids a waiver of your rights under the Franchise Investment Law (California Corporations Code Sections 31000 through 31516). California Business and Professions Code Section 20010 voids a waiver of your rights under the Franchise Relations Act (Business and Professions Code Sections 20000 through 20043).

3. THE CALIFORNIA FRANCHISE INVESTMENT LAW REQUIRES THAT A COPY OF ALL PROPOSED AGREEMENTS RELATING TO THE SALE OF THE FRANCHISE BE DELIVERED TOGETHER WITH THE FRANCHISE DISCLOSURE DOCUMENT.
4. OUR WEB SITE HAS NOT BEEN REVIEWED OR APPROVED BY THE CALIFORNIA DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION. ANY COMPLAINTS CONCERNING THE CONTENT OF THIS WEB SITE MAY BE DIRECTED TO THE CALIFORNIA DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION AT www.dpfi.ca.gov.
5. Prospective franchisees are encouraged to consult private legal counsel to determine the applicability of California and federal laws (such as Business Professions Code Section 20040.5, Code of Civil Procedure Section 1281, and the Federal Arbitration Act) to any provisions of a Distribution Agreement restricting venue to a forum outside the State of California.

**ADDENDUM TO
DISTRIBUTION AGREEMENT
FOR THE STATE OF CALIFORNIA**

The Distribution Agreement between JOHNSTONE SUPPLY, LLC, a Delaware limited liability company (“Franchisor” or “Johnstone”) and _____ (“Franchisee” or “JS Business Owner”) dated _____ (the “Distribution Agreement”) shall be amended by the addition of the following language, which shall be considered an integral part of the Distribution Agreement (the “State Addendum”):

CALIFORNIA LAW MODIFICATIONS

1. The California Department of Financial Protection and Innovation requires that certain provisions contained in franchise documents be amended to be consistent with California law, including the California Franchise Investment Law, CAL. CORP. CODE Section 31000 et. seq., and the California Franchise Relations Act, CAL. BUS. & PROF. CODE Section 20000 et. seq. To the extent that the Distribution Agreement contains provisions that are inconsistent with the following, such provisions are hereby amended:

- a. California Business and Professions Code Sections 20000 through 20043 provide rights to the franchisee concerning termination, transfer or non-renewal of a franchise. If the Distribution Agreement contains a provision that is inconsistent with the law, the law will control.
- b. Franchisees shall not be required to remit any fees to Franchisor until such time as Franchisor has fulfilled all its initial obligations owed to Franchisee under the Distribution Agreement, or other documents, and the Franchisee has commenced doing business pursuant to the Distribution Agreement.
- c. The Distribution Agreement provides for potential termination upon bankruptcy. This provision may not be enforceable under federal bankruptcy law (11 U.S.C.A. Sec. 101 et seq.).
- d. The Distribution Agreement requires application of the laws of Delaware. This provision may not be enforceable under California law.
- e. The Distribution Agreement contains a covenant not to compete which extends beyond the termination of the franchise. This provision may not be enforceable under California law.

2. Each provision of this State Addendum shall be effective only to the extent that the jurisdictional requirements of the California Business and Professions Code, with respect to each such provision, are met independent of this State Addendum. This State Addendum shall have no force or effect if such jurisdictional requirements are not met.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Franchisee on behalf of itself and its owners, acknowledges that it has read and understands the contents of this State Addendum, that it has had the opportunity to obtain the advice of counsel, and that it intends to comply with this State Addendum and be bound thereby. The parties have duly executed and delivered this State Addendum to the Distribution Agreement on the date first set forth above.

JOHNSTONE SUPPLY, LLC, a Delaware limited liability company

JS BUSINESS OWNER/FRANCHISEE:

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Date: _____

Date: _____

**ADDENDUM TO
FRANCHISE DISCLOSURE DOCUMENT
FOR THE STATE OF ILLINOIS**

Illinois law governs the Distribution Agreement.

The following information applies to franchises and franchisees subject to the Illinois Disclosure Act of 1987. Item numbers correspond to those in the main body:

- a. Item 17 - Section 4 of the Illinois Franchise Disclosure Act provides that any provision in a franchise agreement that designates jurisdiction or venue outside the State of Illinois is void. However, a franchise agreement may provide for arbitration outside of Illinois.
- b. Section 41 of the Illinois Franchise Disclosure Act provides that any condition, stipulation or provision purporting to bind any person acquiring any franchise to waive compliance with the Illinois Franchise disclosure Act or any other law of Illinois is void.
- c. Item 17 - Your rights upon termination and non-renewal of a franchise agreement are set forth in sections 19 and 20 of the Illinois Franchise disclosure act.

**ADDENDUM TO
DISTRIBUTION AGREEMENT
FOR THE STATE OF ILLINOIS**

The Distribution Agreement between JOHNSTONE SUPPLY, LLC, a Delaware limited liability company (“Franchisor” or “Johnstone”) and _____ (“Franchisee” or “JS Business Owner”) dated _____ (the “Distribution Agreement”) shall be amended by the addition of the following language, which shall be considered an integral part of the Distribution Agreement (the “State Addendum”):

ILLINOIS LAW MODIFICATIONS

1. Illinois law governs the Distribution Agreement.
2. The Illinois Attorney General’s Office requires that certain provisions contained in franchise documents be amended to be consistent with Illinois law, including the Franchise Disclosure Act of 1987, 515 ILCS 705/1 et. seq. To the extent that this Distribution Agreement contains provisions that are inconsistent with the following, such provision are hereby amended:
 - a. Section 4 of the Illinois Franchise Disclosure Act provides that any provision in a franchise agreement that designates jurisdiction or venue outside the State of Illinois is void. However, a franchise agreement may provide for arbitration outside of Illinois.
 - b. Section 41 of the Illinois Franchise Disclosure Act provides that any condition, stipulation or provision purporting to bind any person acquiring any franchise to waive compliance with the Illinois Franchise disclosure Act or any other law of Illinois is void.
 - c. Your rights upon termination and non-renewal of a franchise agreement are set forth in sections 19 and 20 of the Illinois Franchise disclosure act.
3. Each provision of this State Addendum shall be effective only to the extent that the jurisdictional requirements of the Illinois Franchise Disclosure Act, with respect to each such provision, are met independent of this State Addendum. This State Addendum shall have no force or effect if such jurisdictional requirements are not met.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Franchisee on behalf of itself and its owners, acknowledges that it has read and understands the contents of this State Addendum, that it has had the opportunity to obtain the advice of counsel, and that it intends to comply with this State Addendum and be bound thereby. The parties have duly executed and delivered this State Addendum to the Distribution Agreement on the date first set forth above.

JOHNSTONE SUPPLY, LLC, a Delaware limited liability company

JS BUSINESS OWNER/FRANCHISEE:

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Date: _____

Date: _____

**ADDENDUM TO
FRANCHISE DISCLOSURE DOCUMENT
FOR THE STATE OF MARYLAND**

Item 17 of the Franchise Disclosure Document is amended to include the following paragraph:

Any general release required as a condition of renewal, sale, and/or assignment/transfer shall not apply to any liability under the Maryland Franchise Registration and Disclosure Law. Item 17 of the Franchise Disclosure Document is amended to include the following sentence:

A provision in the Distribution Agreement that provides for potential termination on your bankruptcy may not be enforceable under federal bankruptcy law (11 U.S.C. Section 101 et seq.).

Item 17 of the Franchise Disclosure Document is modified to include the words:

“A franchisee may bring a lawsuit in Maryland for claims arising under the Maryland Franchise Registration and Disclosure Law.”

Item 17 is amended to state that any claims arising under the Maryland Franchise Registration and Disclosure Law must be brought within 3 years after the grant of the franchise.

Item 17 of the Franchise Disclosure Document is amended to include the following:

The Distribution Agreement provides that disputes are resolved through arbitration. A Maryland franchise regulation states that it is an unfair or deceptive practice to require a franchisee to waive its right to file a lawsuit in Maryland claiming a violation of the Maryland Franchise Law. In light of the Federal Arbitration Act, there is some dispute as to whether this forum selection requirement is legally enforceable.

**ADDENDUM TO
DISTRIBUTION AGREEMENT
FOR THE STATE OF MARYLAND**

The Distribution Agreement between JOHNSTONE SUPPLY, LLC, a Delaware limited liability (“Franchisor” or “Johnstone”) and _____ (“Franchisee” or “JS Business Owner”) dated _____ (the “Distribution Agreement”) shall be amended by the addition of the following language, which shall be considered an integral part of the Distribution Agreement (the “State Addendum”):

MARYLAND LAW MODIFICATION

1. The Maryland Securities Division requires that certain provisions contained in franchise documents be amended to be consistent with Maryland law, including the Maryland Franchise Registration and Disclosure Law, MD CODE ANN., BUS. REG. Sections 14-201 to 14-233 (2010 Repl. Vol. and Supp. 2010) (the “Law”). To the extent that this Distribution Agreement contains provisions that are inconsistent with the following, such provisions are hereby amended:

- a. Any general release required as a condition of renewal, sale, and/or assignment/transfer shall not apply to any liability under the Law.
- b. All representations requiring prospective franchisees to assent to a release, estoppel or waiver of liability are not intended to nor shall they act as a release, estoppel or waiver of any liability incurred under the Maryland Franchise Registration and Disclosure Law.
- c. Franchisee may bring a lawsuit in Maryland for claims arising under the Law.
- d. Any claims arising under the Maryland Franchise Registration and Disclosure Law must be brought within 3 years after the grant of the franchise.

2. The Distribution Agreement provides that disputes are resolved through arbitration. A Maryland franchise regulation states that it is an unfair or deceptive practice to require a franchisee to waive its right to file a lawsuit in Maryland claiming a violation of the Maryland Franchise Law. In light of the Federal Arbitration Act, there is some dispute as to whether this forum selection requirement is legally enforceable.

3. Each provision of this State Addendum shall be effective only to the extent that the jurisdictional requirements of the Maryland Franchise Registration and Disclosure Law, with respect to each such provision, are met independent of this State Addendum. This State Addendum shall have no force or effect if such jurisdictional requirements are not met.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Franchisee on behalf of itself and its owners, acknowledges that it has read and understands the contents of this State Addendum, that it has had the opportunity to obtain the advice of counsel, and that it intends to comply with this State Addendum and be bound thereby. The parties have duly executed and delivered this State Addendum to the Distribution Agreement on the date first set forth above.

JOHNSTONE SUPPLY, LLC, a limited liability company

JS BUSINESS OWNER/FRANCHISEE:

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Date: _____

Date: _____

**ADDENDUM TO
FRANCHISE DISCLOSURE DOCUMENT
FOR THE STATE OF MINNESOTA**

Item 13 of the Franchise Disclosure Document is amended to state that we will protect your right to use the trademarks, service marks, trade names, logotypes of other commercial symbols (“Marks”) or indemnify you from any loss, costs or expenses arising out of any claim, suit or demand regarding the use of the Marks.

The following is added to Item 17 of the Franchise Disclosure Document:

Under Minnesota law and except in certain specified cases, we must give you 90 days’ notice of termination with 60 days to cure. We also must give you at least 180 days’ notice of its intention not to renew a franchise, and sufficient opportunity to recover the fair market value of the franchise as a going concern. To the extent that the Distribution Agreement is inconsistent with the Minnesota law, the Minnesota law will control.

To the extent that any condition, stipulation or provision contained in the Distribution Agreement (including any choice of law provision) purports to bind any person who, at the time of acquiring a franchise is a resident of Minnesota, or, in the case of a partnership or corporation, organized or incorporated under the laws of Minnesota, or purporting to bind a person acquiring any franchise to be operated in Minnesota to waive compliance with the Minnesota Franchises law, such condition, stipulation or provision may be void and unenforceable under the nonwaiver provision of the Minnesota Franchises Law.

Minn. Stat. §80C.21 and Minn. Rule 2860.4400J. prohibit us from requiring litigation to be conducted outside Minnesota. In addition, nothing in the Franchise Disclosure Document or Distribution Agreement can abrogate or reduce any of your rights as provided for in Minnesota Statutes, Chapter 80C, or your rights to any procedure, forum or remedies provided for by the laws of the jurisdiction.

Minn. Rule 2860.4400J. prohibits us from requiring you to consent to liquidated damages and prohibits waiver of a jury trial. If the Distribution Agreement contains a provision that is inconsistent with the Minn. Rule, the provisions of the Distribution Agreement will be superseded by the Minn. Rule’s requirements and will have no force or effect.

Minn. Rule 2860.4400J. prohibits us from requiring you to assent to a general release. To the extent that the Distribution Agreement requires you to sign a general release as a condition of renewal or transfer, the Distribution Agreement will be considered amended to the extent necessary to comply with Minnesota law.

Minn. Rule 2860.4400J. prohibits us from requiring you to pay a termination fee. To the extent that the Distribution Agreement requires you to pay a termination fee, the provisions of the Distribution Agreement will be superseded by the Minn. Rule’s requirements and will have no force or effect.

**ADDENDUM TO
DISTRIBUTION AGREEMENT
FOR THE STATE OF MINNESOTA**

The Distribution Agreement between JOHNSTONE SUPPLY, LLC, a Delaware limited liability company (“Franchisor” or “Johnstone”) and _____ (“Franchisee” or “JS Business Owner”) dated _____ (the “Distribution Agreement”) shall be amended by the addition of the following language, which shall be considered an integral part of the Distribution Agreement (the “State Addendum”):

MINNESOTA LAW MODIFICATION

1. The Commissioner of Commerce for the State of Minnesota requires that certain provisions contained in franchise documents be amended to be consistent with Minnesota Franchise Act, Minn. Stat. Section 80C.01 et. seq., and the Rules and Regulations promulgated under the Act (collectively the “Franchise Act”). To the extent that the Distribution Agreement and/or Franchise Disclosure Document contains provisions that are inconsistent with the following, such provisions are hereby amended:

a. The Minnesota Department of Commerce requires that franchisors indemnify Minnesota franchisees against liability to third parties resulting from claims by third parties that the franchisee’s use of the franchisor’s proprietary marks infringes trademark rights of the third party.

b. If the Franchisee is required in the Distribution Agreement to execute a release of claims or to acknowledge facts that would negate or remove from judicial review any statement, misrepresentation or action that would violate the Franchise Act, such release shall exclude claims arising under the Franchise Act, and such acknowledgments shall be void with respect to claims under the Franchise Act.

c. If the Distribution Agreement requires that it be governed by the law of a State other than the State of Minnesota or arbitration or mediation, those provisions shall not in any way abrogate or reduce any rights of the Franchisee as provided for in the Franchise Act, including the right to submit matters to the jurisdiction of the courts of Minnesota.

d. Any provision that requires the Franchisee to consent to a claims period that differs from the applicable statute of limitations period under Minn. Stat. 80C.1, Subd. 5, may not be enforceable under Minnesota law.

2. Minn. Stat. 80C.21 and Minn. Rule 2860.4400J prohibit us from requiring litigation to be conducted outside Minnesota. In addition, nothing in the Franchise Disclosure Document or Distribution Agreement can abrogate or reduce any of your rights as provided for in Minnesota Statutes Ch. 80C, including your rights to any procedure, forum, or remedies provided for in that law.

3. The Distribution Agreement and/or Franchise Disclosure Document is hereby amended to delete all references to liquidated damages (if any) in violation of Minnesota law; provided, that no such deletion shall excuse Franchisee from liability for actual or other damages and the formula for Liquidated Damages in the Distribution Agreement and/or Franchise Disclosure Document shall be admissible as evidence of actual damages.

4. To the extent required by Minnesota Law, the Distribution Agreement and/or Franchise Disclosure Document is amended to delete all references to a waiver of jury trial.

5. All sections of the Distribution Agreement and/or Franchise Disclosure Document referencing Franchisor's right to obtain injunctive relief are hereby amended to refer to Franchisor's right to seek to obtain such relief.

6. Each provision of this State Addendum shall be effective only to the extent that the jurisdictional requirements of Minnesota Law applicable to the provision are met independent of this State Addendum. This State Addendum shall have no force or effect if such jurisdictional requirements are not met.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Franchisee on behalf of itself and its owners, acknowledges that it has read and understands the contents of this State Addendum, that it has had the opportunity to obtain the advice of counsel, and that it intends to comply with this State Addendum and be bound thereby. The parties have duly executed and delivered this State Addendum to the Distribution Agreement on the date first set forth above.

JOHNSTONE SUPPLY, LLC, a Delaware limited liability company

JS BUSINESS OWNER/FRANCHISEE:

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Date: _____

Date: _____

**ADDENDUM TO
FRANCHISE DISCLOSURE DOCUMENT
FOR THE STATE OF NEW YORK**

1. The following information is added to the cover page of the Franchise Disclosure Document:

INFORMATION COMPARING FRANCHISORS IS AVAILABLE. CALL THE STATE ADMINISTRATORS LISTED IN EXHIBIT E OR YOUR PUBLIC LIBRARY FOR SOURCES OF INFORMATION. REGISTRATION OF THIS FRANCHISE BY NEW YORK STATE DOES NOT MEAN THAT NEW YORK STATE RECOMMENDS IT OR HAS VERIFIED THE INFORMATION IN THIS FRANCHISE DISCLOSURE DOCUMENT. IF YOU LEARN THAT ANYTHING IN THE FRANCHISE DISCLOSURE DOCUMENT IS UNTRUE, CONTACT THE FEDERAL TRADE COMMISSION AND NEW YORK STATE DEPARTMENT OF LAW, BUREAU OF INVESTOR PROTECTION AND SECURITIES, 120 BROADWAY, 23RD FLOOR, NEW YORK, NEW YORK 10271. THE FRANCHISOR MAY, IF IT CHOOSES, NEGOTIATE WITH YOU ABOUT ITEMS COVERED IN THE FRANCHISE DISCLOSURE DOCUMENT. HOWEVER, THE FRANCHISOR CANNOT USE THE NEGOTIATING PROCESS TO PREVAIL UPON A PROSPECTIVE FRANCHISEE TO ACCEPT TERMS WHICH ARE LESS FAVORABLE THAN THOSE SET FORTH IN THIS FRANCHISE DISCLOSURE DOCUMENT.

2. The following is added at the end of Item 3:

Except as provided above, with regard to the franchisor, its predecessor, a person identified in Item 2, or an affiliate offering franchises under the franchisor's principal trademark:

A. No such party has an administrative, criminal or civil action pending against that person alleging: a felony, a violation of a franchise, antitrust, or securities law, fraud, embezzlement, fraudulent conversion, misappropriation of property, unfair or deceptive practices, or comparable civil or misdemeanor allegations.

B. No such party has pending actions, other than routine litigation incidental to the business, which are significant in the context of the number of franchisees and the size, nature or financial condition of the franchise system or its business operations.

C. No such party has been convicted of a felony or pleaded nolo contendere to a felony charge or, within the 10 year period immediately preceding the application for registration, has been convicted of or pleaded nolo contendere to a misdemeanor charge or has been the subject of a civil action alleging: violation of a franchise, antifraud, or securities law; fraud; embezzlement; fraudulent conversion or misappropriation of property; or unfair or deceptive practices or comparable allegations.

D. No such party is subject to a currently effective injunctive or restrictive order or decree relating to the franchise, or under a Federal, State, or Canadian franchise, securities, antitrust, trade regulation or trade practice law, resulting from a concluded or pending action or proceeding brought by a public agency; or is subject to any currently effective order of any national securities association or national securities exchange, as defined in the Securities and Exchange Act of 1934, suspending or expelling such person from membership in such association or exchange; or is subject to a currently effective injunctive or restrictive order relating to any other business activity as a result of an action brought by a public agency or department, including, without limitation, actions affecting a license as a real estate broker or sales agent.

3. The following is added to the end of Item 4:

Neither the franchisor, its affiliate, its predecessor, officers, or general partner during the 10-year period immediately before the date of the offering circular: (a) filed as debtor (or had filed against it) a petition to start an action under the U.S. Bankruptcy Code; (b) obtained a discharge of its debts under the bankruptcy code; or (c) was a principal officer of a company or a general partner in a partnership that either filed as a debtor (or had filed against it) a petition to start an action under the U.S. Bankruptcy Code or that obtained a discharge of its debts under the U.S. Bankruptcy Code during or within 1 year after that officer or general partner of the franchisor held this position in the company or partnership.

4. The following is added to the end of the “Summary” sections of Item 17(c), titled “**Requirements for franchisee to renew or extend,**” and Item 17(m), entitled “**Conditions for franchisor approval of transfer**”:

However, to the extent required by applicable law, all rights you enjoy and any causes of action arising in your favor from the provisions of Article 33 of the General Business Law of the State of New York and the regulations issued thereunder shall remain in force; it being the intent of this provision that the non-waiver provisions of General Business Law Sections 687.4 and 687.5 be satisfied.

5. The following language replaces the “Summary” section of Item 17(d), titled “**Termination by franchisee**”:

You may terminate the agreement on any grounds available by law.

6. The following is added to the end of the “Summary” section of Item 17(j), titled “**Assignment of contract by franchisor**”:

However, no assignment will be made except to an assignee who in good faith and judgment of the franchisor, is willing and financially able to assume the franchisor’s obligations under the Distribution Agreement.

7. The following is added to the end of the “Summary” sections of Item 17(v), titled “**Choice of forum**”, and Item 17(w), titled “**Choice of law**”:

The foregoing choice of law should not be considered a waiver of any right conferred upon the franchisor or upon the franchisee by Article 33 of the General Business Law of the State of New York.

**ADDENDUM TO
DISTRIBUTION AGREEMENT
FOR THE STATE OF NEW YORK**

The Distribution Agreement between JOHNSTONE SUPPLY, LLC, a Delaware limited liability company (“Franchisor” or “Johnstone”) and _____ (“Franchisee” or “JS Business Owner”) dated _____ (the “Distribution Agreement”) shall be amended by the addition of the following language, which shall be considered an integral part of the Distribution Agreement (the “State Addendum”):

NEW YORK LAW MODIFICATION

1. The New York Department of Law requires that certain provisions contained in franchise documents be amended to be consistent with New York law, including the General Business Law, Article 33, Sections 680 to 695 (1989). To the extent that the Distribution Agreement contains provisions that are inconsistent with the following, such provisions are hereby amended:

- a. Release. If Franchisee is required to execute a release of claims, or to acknowledge facts that would negate or remove from judicial review any statement, misrepresentation or action that would violate the General Business Law, regulation, rule or order under the Law, such release shall exclude claims arising under the New York General Business Law, Article 33, Sections 680 to 695 and the regulations promulgated thereunder, and such acknowledgments shall be void. It is the intent of this provision that non-waiver provisions of Sections 687.4 and 687.5 of the General Business Law be satisfied.
- b. Governing Law. Section 19.13 of the Distribution Agreement is amended by adding the following sentence at the end of such Section: “The foregoing choice of law should not be considered a waiver of any right conferred upon the franchisor or upon the franchisee by Article 33 of the General Business Law of the State of New York.”
- c. Termination by Franchisee. Section 3.01 of the Distribution Agreement is hereby amended to add the following sentence at the end of the Article: “Notwithstanding anything contained in this Article 3.01 to the contrary, JS Business Owners may terminate the Distribution Agreement on any grounds available by law.”
- d. Renewal, Extension, Approval of Transfer. Section 2.05 is amended by adding the following: “However, to the extent required by applicable law, all rights you enjoy and any causes of action arising in your favor from the provisions of Article 33 of the general Business Law of the State of New York and the regulations issued thereunder shall remain in force; it being the intent of this provision that the non-waiver provisions of the General business Law sections 687.4 and 687.5 be satisfied.”
- e. Assignment. Section 19.10 is amended by adding the following sentence at the end of the Article: “However, no assignment will be made except to an assignee who in good faith and judgment of Johnstone, is willing and financially able to assume Johnstone’s obligations under the Distribution Agreement.”

2. Each provision of this State Addendum shall be effective only to the extent that the jurisdictional requirements of New York General Business Law, with respect to each such provision are met independent of this State Addendum. This State Addendum shall have no force or effect if such jurisdictional requirements are not met.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Franchisee on behalf of itself and its owners, acknowledges that it has read and understands the contents of this State Addendum, that it has had the opportunity to obtain the advice of counsel, and that it intends to comply with this State Addendum and be bound thereby. The parties have duly executed and delivered this State Addendum to the Distribution Agreement on the date first set forth above.

JOHNSTONE SUPPLY, LLC, a Delaware limited liability company

JS BUSINESS OWNER/FRANCHISEE:

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

Date: _____

Date: _____

**ADDENDUM TO
FRANCHISE DISCLOSURE DOCUMENT
FOR THE STATE OF NORTH DAKOTA**

The North Dakota Securities Commissioner has held the following to be unfair, unjust, or inequitable to North Dakota franchisees (Section 51-19-09, N.D.C.C.):

- A. Restrictive Covenants: Franchise Disclosure Documents which disclose the existence of covenants restricting competition contrary to Section 9-08-06, N.D.C.C., without further disclosing that such covenants will be subject to this statute.
- B. Situs of Arbitration Proceedings: Franchise agreements providing that the parties must agree to arbitrate disputes at a location that is remote from the site of the franchisee's business.
- C. Restriction on Forum: Requiring North Dakota franchisees to consent to the jurisdiction of courts outside of North Dakota.
- D. Liquidated Damages and Termination Penalties: Requiring North Dakota franchisees to consent to liquidated damages or termination penalties.
- E. Applicable Laws: Franchise agreements which specify that any claims arising under the North Dakota franchise law will be governed by the laws of a state other than North Dakota.
- F. Waiver of Trial by Jury: Requiring North Dakota franchisees to consent to the waiver of a trial by jury.
- G. Waiver of Exemplary and Punitive Damages: Requiring North Dakota franchisees to consent to a waiver of exemplary and punitive damages.
- H. General Release: Requiring North Dakota franchisees to execute a general release of claims as a condition of renewal or transfer of a franchise.

**ADDENDUM TO
DISTRIBUTION AGREEMENT
FOR THE STATE OF NORTH DAKOTA**

The Distribution Agreement between JOHNSTONE SUPPLY, LLC, a Delaware limited liability company (“Franchisor” or “Johnstone”) and _____ (“Franchisee” or “JS Business Owner”) dated _____ (the “Distribution Agreement”) shall be amended by the addition of the following language, which shall be considered an integral part of the Distribution Agreement (the “State Addendum”):

NORTH DAKOTA LAW MODIFICATION

1. The North Dakota Securities Commissioner requires that certain provisions contained in franchise documents be amended to be consistent with North Dakota law, including the North Dakota Franchise Investment Law, North Dakota Century Code Annotated Chapter 51-19, Sections 51-19-01 to 51-19-17 (1995). To the extent that the Distribution Agreement contains provisions that are inconsistent with the following, such provisions are hereby amended:

- a. If the Franchisee is required in the Distribution Agreement to execute a release of claims or to acknowledge facts that would negate or remove from judicial review any statement, misrepresentation or action that would violate the Law, or a rule or order under the Law, such release shall exclude claims arising under the North Dakota Franchise Investment Law, and such acknowledgments shall be void with respect to claims under the Law.
- b. Covenants not to compete during the term of and upon termination or expiration of the Distribution Agreement are enforceable only under certain conditions according to North Dakota Law. If the Distribution Agreement contains a covenant not to compete which is inconsistent with North Dakota Law, the covenant may be unenforceable.
- c. If the Distribution Agreement requires litigation to be conducted in a forum other than the State of North Dakota, the requirement is void with respect to claims under the North Dakota Franchise Investment Law.
- d. If the Distribution Agreement requires that it be governed by the law of a state other than the State of North Dakota, to the extent that such law conflicts with North Dakota Law, North Dakota Law will control.
- e. If the Distribution Agreement requires mediation or arbitration to be conducted in a forum other than the State of North Dakota, the requirement may be unenforceable under the North Dakota Franchise Investment Law. Arbitration involving a franchise purchased in the State of North Dakota must be held either in a location mutually agreed upon prior to the arbitration or if the parties cannot agree on a location, the location will be determined by the arbitrator.
- f. If the Distribution Agreement requires payment of a termination penalty, the requirement may be unenforceable under the North Dakota Franchise Investment Law.
- g. Any provision that provides that the parties waive their right to a jury trial may not be enforceable under North Dakota law.
- h. Any provision that provides that Franchisee consent to a waiver of punitive and exemplary damages may not be enforceable under North Dakota law.

i. Any provision that requires Franchisee to consent to a claims period that differs from the applicable statute of limitations period under North Dakota law may not be enforceable under North Dakota law.

2. Each provision of this State Addendum shall be effective only to the extent that the jurisdictional requirements of North Dakota Franchise Investment Law, with respect to each such provision are met independent of this State Addendum. This State Addendum shall have no force or effect if such jurisdictional requirements are not met.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Franchisee on behalf of itself and its owners, acknowledges that it has read and understands the contents of this State Addendum, that it has had the opportunity to obtain the advice of counsel, and that it intends to comply with this State Addendum and be bound thereby. The parties have duly executed and delivered this State Addendum to the Distribution Agreement on the date first set forth above.

JOHNSTONE SUPPLY, INC., an Oregon
cooperative corporation

JS BUSINESS OWNER/FRANCHISEE:

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Date: _____

Date: _____

**ADDENDUM TO
DISTRIBUTION AGREEMENT
FOR THE STATE OF RHODE ISLAND**

The Distribution Agreement between JOHNSTONE SUPPLY, LLC, a Delaware limited liability company (“Franchisor” or “Johnstone”) and _____ (“Franchisee” or “JS BUSINESS OWNER”) dated _____ (the “Distribution Agreement”) shall be amended by the addition of the following language, which shall be considered an integral part of the Distribution Agreement (the “State Addendum”):

RHODE ISLAND LAW MODIFICATIONS

1. The Rhode Island Securities Division requires that certain provisions contained in franchise documents be amended to be consistent with Rhode Island law, including the Franchise Investment Act, R.I. Gen. Law Tit. 19 Ch. 28.1 Sections 19-28.1-1 to 19-28.1-34. To the extent that this Distribution Agreement contains provisions that re inconsistent with the following, such provisions are hereby amended:

a. If this Distribution Agreement requires litigation to be conducted in a forum other than the State of Rhode Island, the requirement is void with respect to any claims brought under Rhode Island Franchise Investment Act Sec. 19-21.1-14.

b. If this Distribution Agreement requires that it be governed by a state’s law, other than the State of Rhode Island, to the extent that such law conflicts with Rhode Island Franchise Investment Act it is void under Section 19-28.1-14.

c. If Franchisee is required in this Distribution Agreement to execute a release of claims or to acknowledge facts that would negate or remove from judicial review any statement, misrepresentation or action that would violate the Act, or a rule or order under the Act, such release shall exclude claims arising under the Rhode Island Franchise Investment Act, and such acknowledgments shall be void with respect to claims under the Act.

2. Each provision of this State Addendum shall be effective only to the extent that the jurisdictional requirements of Rhode Island Franchise Investment Act, with respect to each such provision are met independent of this State Addendum. This State Addendum shall have no force or effect if such jurisdictional requirements are not met.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Franchisee on behalf of itself and its owners, acknowledges that it has read and understands the contents of this State Addendum, that it has had the opportunity to obtain the advice of counsel, and that it intends to comply with this State Addendum and be bound thereby. The parties have duly executed and delivered this State Addendum to the Distribution Agreement on the date first set forth above.

JOHNSTONE SUPPLY, LLC, a Delaware limited liability company

JS BUSINESS OWNER/FRANCHISEE:

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

Date: _____

Date: _____

**ADDENDUM TO
FRANCHISE DISCLOSURE DOCUMENT
FOR THE COMMONWEALTH OF VIRGINIA**

1. In recognition of the restrictions contained in Section 13.1-564 of the Virginia Retail Franchising Act, Item 17.h. of the Franchise Disclosure Document for JOHNSTONE SUPPLY, INC., an Oregon cooperative corporation, is supplemented by the following:

“Under Section 13.1-564 of the Virginia Retail Franchising Act, it is unlawful for a franchisor to cancel a franchise without reasonable cause. If any ground for default or termination stated in the franchise agreement does not constitute “reasonable cause,” as that term may be defined in the Virginia Retail Franchising Act or the laws of Virginia, that provision may not be enforceable.”

“Any securities offered or sold by the Investor Franchisee as part of the **JOHNSTONE SUPPLY, INC.** Franchise must either be registered or exempt from registration under Section 13.1-514 of the Virginia Securities Act.”

**ADDENDUM TO
FRANCHISE DISCLOSURE DOCUMENT
FOR THE STATE OF WASHINGTON**

In the event of a conflict of laws, the provisions of the Washington Franchise Investment Protection Act, Chapter 19.100 RCW will prevail.

RCW 19.100.180 may supersede the franchise agreement in your relationship with the franchisor including the areas of termination and renewal of your franchise. There may also be court decisions which may supersede the franchise agreement in your relationship with the franchisor including the areas of termination and renewal of your franchise.

In any arbitration or mediation involving a franchise purchased in Washington, the arbitration or mediation site will be either in the state of Washington, or in a place mutually agreed upon at the time of the arbitration or mediation, or as determined by the arbitrator or mediator at the time of arbitration or mediation. In addition, if litigation is not precluded by the franchise agreement, a franchisee may bring an action or proceeding arising out of or in connection with the sale of franchises, or a violation of the Washington Franchise Investment Protection Act, in Washington.

A release or waiver of rights executed by a franchisee may not include rights under the Washington Franchise Investment Protection Act or any rule or order thereunder except when executed pursuant to a negotiated settlement after the agreement is in effect and where the parties are represented by independent counsel. Provisions such as those which unreasonably restrict or limit the statute of limitations period for claims under the Act, or rights or remedies under the Act such as a right to a jury trial, may not be enforceable.

Transfer fees are collectable to the extent that they reflect the franchisor's reasonable estimated or actual costs in effecting a transfer.

Pursuant to RCW 49.62.020, a noncompetition covenant is void and unenforceable against an employee, including an employee of a franchisee, unless the employee's earnings from the party seeking enforcement, when annualized, exceed \$100,000 per year (an amount that will be adjusted annually for inflation). In addition, a noncompetition covenant is void and unenforceable against an independent contractor of a franchisee under RCW 49.62.030 unless the independent contractor's earnings from the party seeking enforcement, when annualized, exceed \$250,000 per year (an amount that will be adjusted annually for inflation). As a result, any provisions contained in the franchise agreement or elsewhere that conflict with these limitations are void and unenforceable in Washington.

RCW 49.62.060 prohibits a franchisor from restricting, restraining, or prohibiting a franchisee from (i) soliciting or hiring any employee of a franchisee of the same franchisor or (ii) soliciting or hiring any employee of the franchisor. As a result, any such provisions contained in the franchise agreement or elsewhere are void and unenforceable in Washington.

**ADDENDUM TO
DISTRIBUTION AGREEMENT
FOR THE STATE OF WASHINGTON**

The Distribution Agreement between JOHNSTONE SUPPLY, LLC, a Delaware limited liability company (“Franchisor” or “Johnstone”) and _____ (“Franchisee” or “JS Business Owner”) dated _____ (the “Distribution Agreement”) shall be amended by the addition of the following language, which shall be considered an integral part of the Distribution Agreement (the “State Addendum”):

WASHINGTON LAW MODIFICATIONS

In the event of a conflict of laws, the provisions of the Washington Franchise Investment Protection Act, Chapter 19.100 RCW will prevail.

RCW 19.100.180 may supersede the Distribution Agreement in your relationship with the Franchisor including the areas of termination and renewal of your franchise. There may also be court decisions which may supersede the Distribution Agreement in your relationship with the Franchisor including the areas of termination and renewal of your franchise.

In any arbitration or mediation involving a franchise purchased in Washington, the arbitration or mediation site will be either in the state of Washington, or in a place mutually agreed upon at the time of the arbitration or mediation, or as determined by the arbitrator or mediator at the time of arbitration or mediation. In addition, if litigation is not precluded by the Distribution Agreement, a franchisee may bring an action or proceeding arising out of or in connection with the sale of franchises, or a violation of the Washington Franchise Investment Protection Act, in Washington.

A release or waiver of rights executed by a franchisee may not include rights under the Washington Franchise Investment Protection Act or any rule or order thereunder except when executed pursuant to a negotiated settlement after the agreement is in effect and where the parties are represented by independent counsel. Provisions such as those which unreasonably restrict or limit the statute of limitations period for claims under the Act, or rights or remedies under the Act such as a right to a jury trial, may not be enforceable.

Transfer fees are collectable to the extent that they reflect the franchisor’s reasonable estimated or actual costs in effecting a transfer.

Pursuant to RCW 49.62.020, a noncompetition covenant is void and unenforceable against an employee, including an employee of a franchisee, unless the employee’s earnings from the party seeking enforcement, when annualized, exceed \$100,000 per year (an amount that will be adjusted annually for inflation). In addition, a noncompetition covenant is void and unenforceable against an independent contractor of a franchisee under RCW 49.62.030 unless the independent contractor’s earnings from the party seeking enforcement, when annualized, exceed \$250,000 per year (an amount that will be adjusted annually for inflation). As a result, any provisions contained in the Distribution Agreement or elsewhere that conflict with these limitations are void and unenforceable in Washington.

RCW 49.62.060 prohibits a franchisor from restricting, restraining, or prohibiting a franchisee from (i) soliciting or hiring any employee of a franchisee of the same franchisor or (ii) soliciting or hiring any employee of the franchisor. As a result, any such provisions contained in the Distribution Agreement or elsewhere are void and unenforceable in Washington.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Franchisee on behalf of itself and its owners, acknowledges that it has read and understands the contents of this State Addendum, that it has had the opportunity to obtain the advice of counsel, and that it intends to comply with this State Addendum and be bound thereby. The parties have duly executed and delivered this State Addendum to the Distribution Agreement on the date first set forth above.

JOHNSTONE SUPPLY, LLC, a Delaware limited liability company

JS BUSINESS OWNER/FRANCHISEE:

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Date: _____

Date: _____

**ADDENDUM TO
DISTRIBUTION AGREEMENT
FOR THE STATE OF WISCONSIN**

The Distribution Agreement between JOHNSTONE SUPPLY, LLC, a Delaware limited liability company (“Franchisor” or “Johnstone”) and _____ (“Franchisee” or “JS BUSINESS OWNER”) dated _____ (the “Distribution Agreement”) shall be amended by the addition of the following language, which shall be considered an integral part of the Distribution Agreement (the “State Addendum”):

WISCONSIN LAW MODIFICATIONS

1. Notwithstanding anything that may be contained in the body of the Distribution Agreement to the contrary, the Distribution Agreement is hereby amended to add the following provision:

For all franchises sold in the State of Wisconsin, the Franchisor will provide Franchisee at least 90 days’ prior written notice of termination, cancellation, nonrenewal or substantial change in competitive circumstances. The notice will state all the reasons for termination, cancellation, nonrenewal or substantial change in competitive circumstances and will provide that Franchisee have 60 days in which to rectify any claimed deficiency. If the deficiency is rectified within 60 days, the notice will be void. These notice requirements shall not apply if the reason for termination, cancellation or nonrenewal is insolvency, the occurrence of an assignment for the benefit of creditors or bankruptcy. If the reason for termination, cancellation, nonrenewal or substantial change in competitive circumstances is nonpayment of sums due under the franchise, Franchisee will be entitled to written notice of such default, and will have not less than 10 days in which to remedy such default from the date of delivery or posting of such notice.

2. Ch. 135, Stats., the Wisconsin Fair Dealership Law, supersedes any provisions of this Distribution Agreement or a related document between the Franchisor and Franchisee inconsistent with the Law.

3. Each provision of this State Addendum shall be effective only to the extent that the jurisdictional requirements of Washington law, with respect to each such provision are met independent of this State Addendum. This State Addendum shall have no force or effect if such jurisdictional requirements are not met.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Franchisee on behalf of itself and its owners, acknowledges that it has read and understands the contents of this State Addendum, that it has had the opportunity to obtain the advice of counsel, and that it intends to comply with this State Addendum and be bound thereby. The parties have duly executed and delivered this State Addendum to the Distribution Agreement on the date first set forth above.

JOHNSTONE SUPPLY, LLC, a Delaware limited liability company

JS BUSINESS OWNER/FRANCHISEE:

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Date: _____

Date: _____

EXHIBIT K

STATE EFFECTIVE DATES

The following states require that the Franchise Disclosure Document be registered or filed with the state, or be exempt from registration: California, Hawaii, Illinois, Indiana, Maryland, Michigan, Minnesota, New York, North Dakota, Rhode Island, South Dakota, Virginia, Washington and Wisconsin.

This Franchise Disclosure Document is registered, on file or exempt from registration in the following states having franchise registration and disclosure laws, with the following effective dates:

State	Registration Date
California	Exempt
Hawaii	Pending
Illinois	Exempt
Indiana	Pending
Maryland	Pending Exemption Approval
Michigan	Pending
Minnesota	Pending
New York	Exempt
North Dakota	Pending
Rhode Island	Exempt
South Dakota	Exempt
Virginia	Pending
Washington	Exempt
Wisconsin	Pending

EXHIBIT L

RECEIPT

This disclosure document summarizes certain provisions of the Distribution Agreement (franchise agreement) and other information in plain language. Read this disclosure document and all agreements carefully.

If Johnstone Supply offers you a franchise, it must provide this disclosure document to you 14 calendar days before you sign a binding agreement with, or make a payment to, the franchisor or an affiliate in connection with the proposed franchise sale. Iowa requires that Johnstone Supply provide you with this disclosure document at the earlier of the first personal meeting or 14 calendar days before you sign a binding agreement with, or make payment to, us or one of our affiliates in connection with the proposed sale. Michigan requires that Johnstone Supply provide you with this disclosure document ten business days before you sign a binding agreement with, or make payment to, Johnstone Supply or one of its affiliates in connection with the proposed sale. New York requires that Johnstone Supply provide you with this Disclosure Document at the earlier of the first personal meeting or ten business days before you sign a binding agreement with, or make payment to, Johnstone Supply or one of its affiliates in connection with the proposed sale.

If Johnstone Supply does not deliver this disclosure document on time or if it contains a false or misleading statement, or a material omission, a violation of federal law and state law may have occurred and should be reported to the Federal Trade Commission, Washington, D.C. 20580 and the appropriate state administrator identified in Exhibit E. We authorize the respective state agencies identified on Exhibit E to receive service of process for us if we are registered in the particular state.

Franchise Seller Information: Johnstone Supply, Inc., Attn: Mark Askew, VP of Membership, Johnstone Supply, at 11632 NE Ainsworth Circle, Portland, Oregon 97220, (503) 419-9079, and Mark.Askew@johnstonesupply.com.

I HAVE RECEIVED A DISCLOSURE DOCUMENT ISSUED ON SEPTEMBER 30, 2021.

This disclosure document included the following exhibits:

- | | |
|---|---------------------------------------|
| Exhibit A: Distribution Agreement | Exhibit G: Personal Guaranty |
| Exhibit B: Contribution Election Form | Exhibit H: Cross-Corporate Guaranty |
| Exhibit C: Owner’s Certificate and Indemnity | Exhibit I: Financial Statements |
| Exhibit D: Equity Holders’ Agreement | Exhibit J: State-Specific Addenda |
| Exhibit E: State Administrators and Agents for Service of Process | Exhibit K: State Effective Dates Page |
| Exhibit F: Security Agreement | Exhibit L: Receipt |

Date: _____

Signature

Print Name

Company Name

Street Address

Telephone Number

City, State

Zip

TO BE RETAINED BY YOU

RECEIPT

This disclosure document summarizes certain provisions of the Distribution Agreement (franchise agreement) and other information in plain language. Read this disclosure document and all agreements carefully.

If Johnstone Supply offers you a franchise, it must provide this disclosure document to you 14 calendar days before you sign a binding agreement with, or make a payment to, the franchisor or an affiliate in connection with the proposed franchise sale. Iowa requires that Johnstone Supply provide you with this disclosure document at the earlier of the first personal meeting or 14 calendar days before you sign a binding agreement with, or make payment to, us or one of our affiliates in connection with the proposed sale. Michigan requires that Johnstone Supply provide you with this disclosure document ten business days before you sign a binding agreement with, or make payment to, Johnstone Supply or one of its affiliates in connection with the proposed sale. New York requires that Johnstone Supply provide you with this Disclosure Document at the earlier of the first personal meeting or ten business days before you sign a binding agreement with, or make payment to, Johnstone Supply or one of its affiliates in connection with the proposed sale.

If Johnstone Supply does not deliver this disclosure document on time or if it contains a false or misleading statement, or a material omission, a violation of federal law and state law may have occurred and should be reported to the Federal Trade Commission, Washington, D.C. 20580 and the appropriate state administrator identified in Exhibit E. We authorize the respective state agencies identified on Exhibit E to receive service of process for us if we are registered in the particular state.

Franchise Seller Information: Johnstone Supply, Inc., Attn: Mark Askew, VP of Membership, Johnstone Supply, 11632 NE Ainsworth Circle, Portland, Oregon 97220, (503) 419-9079, Mark.Askew@johnstonesupply.com.

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- Exhibit H: Cross-Corporate Guaranty
- Exhibit I: Financial Statements
- Exhibit J: State-Specific Addenda
- Exhibit K: State Effective Dates Page
- Exhibit L: Receipt

Date: _____

Signature of Authorized Signatory

Print Name of Authorized Signatory

Company Name

Street Address

Telephone Number

City, State Zip

This receipt will be delivered electronically when submitted. If you have any questions, please contact Mark Askew, VP of Membership, Johnstone Supply, at 11632 NE Ainsworth Circle, Portland, Oregon 97220 or Mark.Askew@johnstonesupply.com.