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SHAKE SHACK INC.

FORM 10-K
(Annual Report)

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Table of Contents

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20548

FORM 10-K

(Mark One)

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

For the fiscal year ended December 31, 2014

OR

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

For the transition period from _____ to _____

Commission file number: **001-36823**

SHAKE SHACK INC.

(Exact name of registrant as specified in its charter)

Delaware	**47-1941186**
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)
24 Union Square East, 5th Floor, New York, New York	**10003**
(Address of principal executive offices)	(Zip Code)

(646) 747-7200

(Registrant's telephone number, including area code)

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

Title of each class	Name of exchange on which registered
Class A Common Stock, par value $0.001	**New York Stock Exchange**

Securities registered pursuant to Section 12(g) of the Act: **None**

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

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

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

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Website, if any, every Interactive Data File required to be submitted and posted pursuant to Rule-405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). ☑ Yes ☐ No

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

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

Large accelerated filer	☐	Accelerated filer	☐
Non-accelerated filer	☑ (Do not check if a smaller reporting company)	Smaller reporting company	☐

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

As of June 25, 2014, the last business day of the registrant's most recently completed second fiscal quarter, there was no public market for the registrant's common equity.

As of March 20, 2015, there were 12,058,147 shares of Class A common stock outstanding and 24,191,853 shares of Class B common stock outstanding.

DOCUMENTS INCORPORATED BY REFERENCE

None.

SHAKE SHACK INC.
TABLE OF CONTENTS

Part I		
Item 1.	Business	4
Item 1A.	Risk Factors	13
Item 1B.	Unresolved Staff Comments	30
Item 2.	Properties	30
Item 3.	Legal Proceedings	31
Item 4.	Mine Safety Disclosures	31
Part II		
Item 5.	Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities	32
Item 6.	Selected Financial Data	34
Item 7.	Management's Discussion and Analysis of Financial Condition and Results of Operations	36
Item 7A.	Quantitative and Qualitative Disclosures About Market Risk	46
Item 8.	Financial Statements and Supplementary Data	47
Item 9.	Changes in and Disagreements With Accountants on Accounting and Financial Disclosure	73
Item 9A.	Controls and Procedures	73
Item 9B.	Other Information	73
Part III		
Item 10.	Directors, Executive Officers and Corporate Governance	74
Item 11.	Executive Compensation	78
Item 12.	Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters	83
Item 13.	Certain Relationships and Related Transactions, and Director Independence	85
Item 14.	Principal Accounting Fees and Services	92
Part IV		
Item 15.	Exhibits and Financial Statement Schedules	93
SIGNATURES		94
EXHIBIT INDEX		95

Cautionary Note Regarding Forward-Looking Information

This Annual Report on Form 10-K (" Form 10-K ") contains forward-looking statements, within the meaning of the Private Securities Litigation Reform Act of 1995, which are subject to risks and uncertainties. All statements other than statements of historical fact are forward-looking statements. Many of the forward-looking statements are located in Part II, Item 7 of this Form 10-K under the headings "Management's Discussion and Analysis of Financial Condition and Results of Operations", including, but not limited to, expected financial outlook for fiscal year 2015, expected Shack openings, expected same-Shack sales growth and trends in the Company's operations. Forward-looking statements discuss our current expectations and projections relating to our financial position, results of operations, plans, objectives, future performance and business. You can identify forward-looking statements by the fact that they do not relate strictly to historical or current facts. These statements may include words such as "aim," "anticipate," "believe," "estimate," "expect," "forecast," "outlook," "potential," "project," "projection," "plan," "intend," "seek," "may," "could," "would," "will," "should," "can," "can have," "likely," the negatives thereof and other similar expressions. All forward-looking statements are subject to known and unknown risks, uncertainties and other important factors that may cause actual results to be materially different.

While we believe that our assumptions are reasonable, it is very difficult to predict the impact of known factors, and it is impossible to anticipate all factors that could affect our actual results. All forward-looking statements are expressly qualified in their entirety by these cautionary statements. You should evaluate all forward-looking statements made in this Form 10-K in the context of the risks and uncertainties disclosed in Part I, Item 1A of this Form 10-K under the heading "Risk Factors," which are incorporated herein by reference.

The forward-looking statements included in this Form 10-K are made only as of the date hereof. We undertake no obligation to publicly update or revise any forward-looking statement as a result of new information, future events or otherwise, except as otherwise required by law. If we do update one or more forward-looking statements, no inference should be made that we will make additional updates with respect to those or other forward-looking statements. We qualify all of our forward-looking statements by these cautionary statements.

Part I

Item 1. Business.

Shake Shack Inc. is a Delaware corporation formed on September 23, 2014. Shake Shack Inc. Class A common stock trades on the New York Stock Exchange under the symbol "SHAK." Unless the context otherwise requires, references to " we ," " us ," " our ," " Shake Shack ," the " Company " and other similar references refer to Shake Shack Inc. and, unless otherwise stated, all of its subsidiaries, including SSE Holdings, LLC, which we refer to as " SSE Holdings ."

INITIAL PUBLIC OFFERING AND ORGANIZATIONAL TRANSACTIONS

On February 4, 2015, we closed an initial public offering (" IPO ") of 5,750,000 shares of our Class A common stock at a public offering price of $21.00 per share, which includes 750,000 shares issued pursuant to the underwriters' over-allotment option. We received $112.3 million in proceeds, net of underwriting discounts and commissions, which we used to purchase newly-issued membership interests from SSE Holdings at a price per interest equal to the initial public offering price of our Class A common stock of $21.00.

Shake Shack is a holding company with no direct operations and our principal asset is the equity interest in SSE Holdings. In connection with the IPO, we completed a series of organizational transactions including the following:

- the limited liability company agreement of SSE Holdings was amended and restated (as amended, the " SSE Holdings LLC Agreement ") to, among other things, (i) provide for a new single class of common membership interests in SSE Holdings (" LLC Interests "), (ii) exchange all of the then existing membership interests of the holders of SSE Holdings' membership interests (" Original SSE Equity Owners ") for LLC Interests and (iii) appoint Shake Shack as the sole managing member of SSE Holdings;
- the Shake Shack certificate of incorporation was amended and restated to, among other things, (i) provide for Class B common stock with voting rights but no economic rights and (ii) issue shares of Class B common stock to the Original SSE Equity Owners on a one-to-one basis with the number of LLC Interests they own;
- the acquisition, by merger, of certain members of SSE Holdings (" Former SSE Equity Owners "), for which we issued 5,968,841 shares of Class A common stock as merger consideration (the " Merger ").

See Note 19 to the consolidated financial statements included in Part II, Item 8 for more information about the above-mentioned transactions as well as the other transactions completed in connection with the IPO, which we refer to collectively as the " Organizational Transactions ." Following the completion of the Organizational Transactions, Shake Shack owns 33.3% of SSE Holdings. The SSE Holdings members subsequent to the Merger (the " Continuing SSE Equity Owners ") own the remaining 66.7% of SSE Holdings. Although we have a minority economic interest in SSE Holdings, we have the sole voting interest in, and control the management of, SSE Holdings. As a result, we will consolidate the financial results of SSE Holdings and will report a non-controlling interest representing the LLC Interests held by the Continuing SSE Equity Owners.

OVERVIEW OF SHAKE SHACK

Shake Shack is a modern day "roadside" burger stand serving a classic American menu of premium burgers, hot dogs, crinkle-cut fries, shakes, frozen custard, beer and wine. Founded by Danny Meyer's Union Square Hospitality Group (" USHG "), Shake Shack was created leveraging USHG's expertise in community building, hospitality, fine dining, restaurant operations and the sourcing of premium ingredients. Danny's vision of Enlightened Hospitality™ guided the creation of the unique Shake Shack culture that, we believe, creates a differentiated experience for our guests across all demographics at each of our Shacks around the world. As the chairman of Shake Shack's Board of Directors and USHG's Chief Executive Officer, Danny has drawn from USHG's experience in creating and operating some of New York City's most acclaimed and popular restaurants—including Union Square Cafe, Gramercy Tavern, Blue Smoke, The Modern, Maialino and Marta—to build what we believe is a new *fine casual* restaurant category in Shake Shack.

Shake Shack originated from a hot dog cart that USHG established in 2001 to support the rejuvenation of New York City's Madison Square Park through its Conservancy's first art installation—"I ♥ Taxi." The hot dog cart was an instant hit, with lines forming daily throughout the summer months for the next three years. In response to this success, the city's Department of Parks and Recreation awarded Shake Shack a contract to create a kiosk to help fund the park's future. In 2004, Shake Shack officially opened and immediately became a community gathering place for New Yorkers and visitors from all over the world. Over the last decade, Shake Shack has become a beloved New York City institution that generates significant media attention, critical acclaim and a passionately-devoted following. We have since grown rapidly with 63 Shacks in nine countries and 34 cities, as of December 31, 2014.

Our vision is to *Stand For Something Good* ® in all aspects of our business, including the exceptional team we hire and train, the premium ingredients making up our menu, our community engagement and the design of our Shacks. *Stand For Something Good* is a call to action for all of our stakeholders—our team, guests, communities, suppliers and investors—and we actively invite them all to share in this philosophy with us. This commitment drives our integration into the local communities in which we operate and fosters a lasting connection with our guests. We continually invest in our "Shack Team," as we believe that team members who are treated and trained well will deliver Enlightened Hospitality and a superior guest experience. Through our leadership development program, *The Shacksperience*™ , we teach our team members the principles of Enlightened Hospitality and how to live and breathe our *Shack Pact*™ , the agreement that encompasses our value system and brand ethos. Our people make all the difference, as they embody the sense of community necessary to create the complete Shake Shack experience. This vision reflects our goal to be the best burger company in the world, for the world and for our team.

We believe Shake Shack has become a compelling lifestyle brand and has helped to pioneer the creation of a new *fine casual* category in restaurants. *Fine casual* couples the ease, value and convenience of fast casual concepts with the high standards of excellence in thoughtful ingredient sourcing, preparation, hospitality and quality grounded in fine dining. As a pioneer in this new category, we strive to maintain the culinary traditions of the classic American burger stand, while providing our guests a menu of chef-inspired food and drinks. Our signature items are our all-natural, hormone and antibiotic-free burgers, hot dogs, crinkle-cut fries, shakes and frozen custard. We cook our burgers and spin our shakes to order and strive to use the freshest premium ingredients available. This core menu is supplemented with seasonal and innovative culinary offerings such as those featured during our annual *Shacktoberfest* event.

MARKETS AND COMPETITION

Shake Shack is part of the burger market of the restaurant industry, which is the largest dine-out segment in the United States with more than $72 billion in 2013 sales, according to Technomic Inc. The burger industry is estimated to be twice the size of the pizza market, which is the next largest category. Given its role as the quintessential American meal, burgers have also proven to be the most portable concept internationally.

The restaurant industry is highly competitive and fragmented. We compete primarily with "better burger" restaurants and, to a lesser extent, fast casual restaurants, quick service restaurants and casual dining restaurants. Our competition in the broadest perspective includes fast casual and fine dining restaurants, convenience food stores, delicatessens, supermarkets and club stores. The number, size and strength of our competitors vary by region. Our competition includes a wide variety of locally owned restaurants and national and regional chains. Some of our competitors, including some of our "better burger" competitors, have greater financial, marketing, personnel and other resources than we do, and many of our competitors are well-established in markets in which we have existing Shacks or intend to locate new Shacks. In addition, many of our competitors have greater name recognition nationally or in some of the local markets in which we have or plan to have Shacks. However, we specifically target guests that appreciate our engaging and differentiated guest experience that includes great food, unique and thoughtful integration with local communities and high standards of excellence and hospitality. We believe that we compete primarily based on experience, product quality, restaurant concept, service, location and value perception. Our competition continues to intensify as competitors enter the burger segment and open new restaurants. Additionally, we compete with local and national restaurant concepts and other retail concepts for prime restaurant locations.

With the majority of the burger restaurant segment comprised of quick service restaurant competitors, we believe that Shake Shack is well positioned to take market share, as we believe consumers will continue to trade up to higher quality offerings given an increasing consumer focus on responsible sourcing, ingredients and preparation. Additionally, we believe that consumers will continue to move away from the added time commitment and cost of traditional casual dining. We believe that many consumers want to associate with brands whose ethos matches that of their own, and that Shake Shack's fine casual position, born and raised in Manhattan, creates a distinctly differentiated global lifestyle brand opportunity.

OUR COMPETITIVE STRENGTHS

Our Culture of Enlightened Hospitality: Taking Care of Each Other

We believe that the culture of our team is the single most important factor in our success. We aim to recruit people who are warm, friendly, motivated, caring, self-aware and intellectually curious—what we call "51%'ers." We use the term "51%" to describe the emotional skills needed to thrive at the job and "49%" to describe the technical skills needed for the job. Our 51%'ers are excited and committed to championship performance, remarkable and enriching hospitality, embodying our culture and actively growing themselves and the brand. Our team is trained to understand and practice the values of Enlightened Hospitality: caring for each other, caring for our guests, caring for our community, caring for our suppliers and caring for our investors. These principles have been championed by Danny Meyer throughout his career and are detailed in his *New York Times* best-selling book *Setting the Table* : *The Transforming Power of Hospitality in Business* ; they are fundamental to the way Shake Shack operates its business.

Culture

Our culture is rooted in the nearly 30-year history of USHG. Our commitment to *Stand For Something Good* permeates throughout every Shack and every team member we hire. Expounding on the principles of USHG's Enlightened Hospitality and *Stand For Something Good* is our *Shack Pact* , which is prominently displayed in the team member areas of every Shack, on the inside cover of the *Shackademics*™ book (our training manual) and on the

template for every pre-meal meeting agenda (daily Shack team meeting). It is the agreement we make with ourselves and with each other to uphold our principles and to hold each other accountable. Our *Shack Pact* is summarized below:

- **Hospitality** – We stand for the following 5 Tenets of Enlightened Hospitality (Taking Care of Each Other, Our Guests, Our Community, Our Suppliers and Our Investors) to create raves through every stakeholder interaction.
- **Team** – We stand to hire 51%'ers to create teams that are excited and committed to championship performance, remarkable and enriching hospitality, embodying our culture and actively growing themselves and the brand.
- **Food & Drink** – We stand to be a worldwide culinary leader in our interpretation of the classic American roadside burger stand.
- **The Shack** – We stand to design, build and maintain the most engaging, thoughtful, safe and clean environment for our teams to work in and our guests to gather in.
- **Communication** – We stand to be aligned with each other every day so that mutual understanding leads to progress.

The unity that we have built amongst our Shack teams and within the Company as a whole is a key driver of our ability to deliver a great guest experience and, therefore, continue to successfully grow our footprint. Each Shack has a "Caught Doing Right" board where team members are encouraged to post notes when they have witnessed other team members go above and beyond what is expected. At Shake Shack, we celebrate our successes, no matter how small, and this is practiced at every level of the Company. We also believe that team members will perform their best when they feel like the rest of the team is "on their side"—a belief ingrained in Shake Shack's DNA that began in the early stages of our fine dining history.

The Bigger We Get, the Smaller We Need to Act

This mantra, which was developed from our *Stand For Something Good* vision, is what guides our decision-making and keeps us connected to our roots. As we grow, it is our passion to continue the ethos that led to the creation of USHG and Shake Shack and to never veer too far from that original vision. We make decisions that focus on the core of who we are, staying true to the principles of Enlightened Hospitality. It is these decisions that drive us to seek out what we believe to be the finest team members, the tastiest ingredients, the best suppliers and the best community partners.

Fine Casual: Inspired Food and Drink

We embrace our fine-dining heritage and are committed to sourcing premium, sustainable ingredients, such as all-natural, hormone and antibiotic-free beef, while offering excellent value to our guests. Our core menu remains focused and is supplemented with targeted innovation inspired by the best versions of the classic American roadside burger stands. As a result of culinary creativity and excellence, we attract continued interest from partners such as award-winning chefs, talented bakers, farmers and artisanal purveyors who want to collaborate with us in different and engaging ways. We never stop looking for the best ingredients and the best culinary partners in order to exceed our guests' expectations in every aspect of their experience.

Menu

Our menu focuses on premium food and beverages, carefully crafted from a range of classic American foods at more accessible price points than full-service restaurants. Our domestic menu includes a variety of signature items, such as the ShackBurger ®, SmokeShack ®, Shack-cago Dog ®, 'Shroom Burger™, seasonal frozen custard, hand-spun shakes, concretes, ShackMeister ® Ale and Shack Red™ and Shack White™ wines. The Shake Shack concept and core menu items have not materially changed since 2004, which speaks to the timeless and universal appeal of our food offerings.

Burgers

Shake Shack uses a proprietary whole-muscle blend of all-natural, hormone and antibiotic-free beef in its hamburgers, which are ground fresh daily. Shake Shack's flagship item is the ShackBurger, which is a four-ounce cheeseburger topped with lettuce, tomato and ShackSauce™. We take great care in the preparation of our burgers, from sourcing to handling to cooking, to ensure that the quality of the burgers we serve drives new and repeat visits. The burger section of our menu also includes the SmokeShack, 'Shroom Burger™ (our vegetarian burger), Shack Stack ® and Hamburger.

Fries

Our classic and passionately loved crinkle-cut fries are made from premium golden potatoes and are prepared 100% free of artificial trans fat. Guests also have the option to order Cheese Fries, which are our crinkle-cut fries topped with a proprietary blend of cheddar and American cheese sauce. We believe the tactile pleasure and emotional attachment that our guests have to the crispiness and ridges of our crinkle-cut fries is a nostalgic ode to the roadside burger stand of yesteryear.

Hot Dogs

Shake Shack was born from a hot dog cart in 2001 and we believe that our hot dog options give our guests another premium category from which to choose. Both our beef hot dogs and our chicken dogs are made from 100% all-natural, hormone and antibiotic-free beef and chicken, respectively. Our signature Shack-cago Dog is "dragged through the garden" and topped with Shack relish, onion, cucumber, pickle, tomato, sport pepper, celery salt and mustard. The ShackMeister Dog™ is topped with cheese sauce and ShackMeister Ale–marinated shallots.

Frozen Custard

Our premium, dense, rich and creamy ice cream, spun daily on-site, is crafted from our proprietary vanilla and chocolate recipes using only real sugar—no corn syrup—and milk from dairy farmers who pledge not to use artificial growth hormones. Shakes remain our guests' favorite in this category and are scooped and spun to order. Our concretes are made by blending frozen custard at high speed with premium mix-ins. Since each Shake Shack intends to mirror its community, each Shack has signature concretes, distinct to its location, and uses locally-sourced mix-ins made by artisanal producers whenever possible. Also, each month Shake Shack unveils a specialized custard calendar with seasonally changing flavors. The flavors change every month, with favorites repeating throughout the year. Our culinary team also uses the custard menu to highlight local, seasonal and premium ingredients. Not only does the custard calendar keep the custard section of the menu varied and bolster guest frequency, but it also helps distinguish our menu relative to other burger chains.

Beer, Wine and Beverages

Our proprietary ShackMeister Ale, brewed by Brooklyn Brewery, was specifically crafted to complement the flavor profile of a ShackBurger, and our local beer selections are tailored to each Shack's geography. When it comes to wine, we believe that our Shack Red and Shack White, grown and bottled exclusively by Frog's Leap Vineyards in Napa Valley, accentuate our fine dining ethos and provide our guests with premium beverage options not commonly found at burger concepts. In addition, we serve draft Root Beer, seasonal freshly-squeezed lemonade, organic iced tea and Shack $_2$0 bottled water, 1% of sales from which support the cleanup of water sources around the world.

Dogs Are Welcome Too

We believe that many dog owners treat their four-legged friends as family members. From our first Shack at Madison Square Park, we wanted to invite dogs to be part of the community gathering experience and developed the "Woof" section on our menu. ShackBurger dog biscuits, peanut butter sauce and vanilla custard make up our signature Pooch-ini®, which is available at Shacks with an outdoor space. We also serve dog biscuits to-go, handcrafted exclusively for us by a New York-based bakery.

Culinary Innovation

Shake Shack continues to innovate around our core menu. We are constantly experimenting with seasonal and local products, to enhance our menu and drive revenue. Our fine dining heritage has afforded Shake Shack a unique opportunity to team up with some of the world's best chefs for short-term specials such as Daniel Boulud's "Piggie Shack" to celebrate our 10th birthday at Madison Square Park or Marc Vetri's "Carbonara Burger" that ran only in Philadelphia. We devote significant resources to menu innovation and are frequently invited to participate and compete in chef events such as the South Beach Wine and Food Festival's Burger Bash, which presents opportunities for us to test new creations that can often lead to the introduction of new items. For example, the SmokeShack, a cheeseburger topped with all-natural bacon, chopped cherry peppers and ShackSauce, which debuted in 2012, has become a popular menu item and has helped drive sales.

Beloved Lifestyle Brand

In Shake Shack's 10-year history, we have become a globally recognized brand with outsized consumer awareness relative to our current footprint. Shake Shack is a New York City institution, a vibrant and authentic community gathering place that delivers an unparalleled experience to loyal, passionate guests and a broad, global demographic. Born in 2004, Shake Shack grew up alongside the emergence of social media and has benefited from an ongoing love affair with passionate fans who share their real-time experiences with friends. We aim to establish genuine connections with our guests and the communities in which they live. Each Shack is localized with design and menu options that we believe drive a sense of appreciation and enthusiasm for the Shake Shack brand. Shake Shack has been recognized with numerous accolades, including Bon Appétit's "The 20 Most Important Restaurants in America" (ranked #16), TIME Magazine's "17 Most Influential Burgers of All Time" (ranked #7 for the ShackBurger) and winning "Best Burger" in 2007 and 2014 at the South Beach Wine and Food Festival's Burger Bash.

Marketing Strategy

We are today's roadside burger stand and this identity anchors our marketing efforts. The premium positioning and brand voice, derived from the spirit, integrity and humor of Shake Shack, are reinforced by our contemporary, responsible designs and hospitable team members who Stand For Something Good. We believe that our guests appreciate the experience of coming to Shake Shack as a community gathering place and, thus, the heart of our marketing strategy is to communicate and connect with our guests both at our Shacks and through social media.

Stand For Something Good

Stand For Something Good is an invitation for our guests to align with Shake Shack's commitment to all that is good in the world and a reflection of how Shake Shack embraces these values both internally and externally. We are dedicated to using sustainable materials and equipment, such as handmade tabletops constructed from reclaimed bowling alleys. We source all-natural, hormone and antibiotic-free beef to make our proprietary burger blend because we believe there are no shortcuts to quality. Recently, we have added a Stand For Something Good TV at each Shack to tell our story to our guests through photos, graphics and informative imagery containing information on our suppliers, community relationships and company initiatives.

The essential components of *Stand For Something Good* are displayed in each Shack and listed below:

- **Good Ingredients** – All natural proteins, vegetarian fed, humanely raised and source verified, with no hormones or antibiotics. We pride ourselves on sourcing premium ingredients from like-minded producers.
- **Good n' Green** – Sustainable sourcing and business practices throughout the supply chain.
- **Good Bones** – Caring enough to design the Shack experience so people want to stay and using reclaimed materials whenever possible.
- **Good Neighbors** – We are all about our hood! We strive to be the best employer and citizen of each community we call home.

Social Media

Much like we design our Shacks to be community gathering places, we execute a social media strategy that creates an online, on-brand community gathering place. Our guests and fans easily connect with us through Facebook, Instagram, Twitter, Tumblr and Pinterest. We recognize the impact of social media on today's consumers and we use these platforms to share information with our guests about new menu items, new Shack openings and other relevant Shake Shack information. As of December 31, 2014 , we had approximately 127,000 Facebook fans, 141,000 Instagram followers, and 33,000 Twitter followers. We communicate with our fans in creative and organic ways that both strengthen our connection with them and increase brand awareness. In June 2014, we ranked #10 on Restaurant Social Media Index's top 250 restaurant brands, which is measured on influence, sentiment and engagement.

Community and Charitable Partners

As a mirror of its community, each Shack focuses on conveying a consistent national brand message and on tailoring marketing efforts to each Shack. We always have menu items that feature local ingredients and beers that are specific to each Shack's community. We also aim marketing efforts at local events which help position Shake Shack as a premium brand that is connected to the community through participating in local celebrations and developing relationships with local chefs and restaurants. For instance, from June 9–13, 2014, our Madison Square Park Shack celebrated The Decade of Shack, its 10-year anniversary. We collaborated with five well-known chefs, each of whom crafted a special-edition burger for one day during the week. Outside of local events, each Shack has one regionally-themed concrete, which has the added benefit of driving semi-annual charitable contributions. The Shack in Miami Beach, for instance, features the "Vice Crispy Treat," and donates 5% of this item's sales to the Miami Children's Hospital.

Shack-wide Events

Shake Shack promotes annual events and limited-time offers to drive repeat visits and build intrigue among staff and guests. Shacktoberfest, for example, is Shake Shack's ode to traditional Oktoberfest in which special sausages, beers and desserts are added to the menu for a 10-day period in October. Throughout the year, we offer playful items that surprise and delight our guests such as When Irish Fries Are Smiling on St. Patrick's Day, as well as Corn Dogs during Memorial Day, the 4th of July and Labor Day weekends.

Since 2012, Shake Shack has held The Great American Shake Sale during the month of May to raise money and awareness for childhood hunger. During The Great American Shake Sale, we encourage guests to donate $2 in exchange for a free cake-themed shake (a $5 value) at their next visit. 100% of these donations go directly to Share Our Strength's No Kid Hungry campaign. In May 2014, we raised $338,000 across our domestic company-operated Shacks for this initiative.

Product Placement

Shake Shack has been fortunate to receive considerable product placement in movies, TV shows and other media without any cost to the Company. In fact, Shake Shack has been able to charge fees for these location shoots, which have included scenes from the motion pictures *Something Borrowed* and *Tower Heist* , as well as the acclaimed HBO series *The Newsroom* . We have also been featured in segments on *The Daily Show* , *Saturday Night Live* , *CBS Sunday Morning* and *Late Night with Jimmy Fallon* .

Versatile Real Estate Model Built for Growth

During fiscal 2014, we grew the number of our domestic company-operated Shacks by 47.6% with the opening of 10 new Shacks. We will continue to not only expand in existing markets such as New York, Boston, Philadelphia, Washington, D.C., Atlanta, Chicago and South Florida in order to leverage operational effectiveness as we cluster in high-density markets, but also enter new markets, such as Austin, where we have signed leases. With only 63 Shacks around the world, as of December 31, 2014 , we have identified many attractive and differentiated markets for the Shake Shack experience. In major metropolitan areas, we seek locations where communities gather, often with characteristics such as high foot traffic, substantial commercial density, reputable co-tenants and other traffic drivers such as proximity to parks, museums, schools, hospitals and tourist attractions. For every potential domestic company-operated Shack we consider, we apply rigorous financial metrics to ensure we maintain our targeted profitability. We measure much of our financial success by analyzing Shack-level operating profit margins, cash-on-cash returns and payback periods. Our flexible model allows us to design our Shacks so that we can pursue a variety of property types. We have successfully launched Shacks with different layouts and sizes in varied locations throughout urban high density areas, suburban in-line and pad sites, regional malls, lifestyle centers, ballparks, airports and train stations. Each design is critical to the Shake Shack experience and we blend our core brand identifiers with features specifically designed for each Shack to be of its place and connect directly with its neighborhood. With a disciplined approach to new Shack development and a successful track record in site selection, we believe we are positioned well for future growth.

Real Estate

A typical domestic company-operated Shack is between 3,000 and 3,500 square feet with interior seating for between 80 and 100 guests. Additionally, whenever possible, our domestic company-operated Shacks feature either outdoor seating or easy access to a park or green space. We believe that these attributes facilitate the community gathering experience that our guests love and associate with our brand. We lease all of our domestic company-operated Shacks. Our leases typically have initial terms ranging between 10 to 20 years with two five-year renewal options.

Site Selection

Shake Shack is ultimately about the guest experience and our site selection focuses on choosing great sites where people want to be together. Our site selection process is actively led by our Real Estate Committee, which meets regularly and follows a detailed approval process to ensure quality, fiduciary responsibility and overall adherence to the Company's strategic growth goals. We invest in analytical tools for extensive demographic analysis and data collection for both existing and new potential sites. In addition to our in-house team of experienced real estate professionals, we use a national real estate broker to manage a network of regional brokers in order to leverage external resources in pursuit of pipeline development and consistent deal flow.

Construction

A typical Shack takes between 14 and 16 weeks to build. We expect that the cost to build a new Shack will range from $1.5 to $2.5 million, with an average near-term build cost of approximately $1.9 million, excluding pre-opening costs. We use a number of general contractors on a regional basis and employ a mixed approach of bidding and strategic negotiation in order to ensure the best value and highest quality construction. Often during the construction of new Shacks, particularly those in new markets, we re-imagine the often uninspiring plywood walls that surround a construction site and use this space as a canvas to begin the process of integrating the Shake Shack brand into the community prior to it opening. For instance, during the third quarter of fiscal 2014, as we were constructing our first Shack in Chicago, we unveiled six interactive life-size sliding puzzles with illustrated pieces that celebrate Chicago landmarks, while revealing the burgers, hot dogs and frozen custards that Shake Shack guests have enjoyed over the past decade.

Design

The original Shake Shack in Madison Square Park was designed by SITE Architecture and Design, led by James Wines and Denise Lee, in collaboration with Pentagram, led by Paula Scher. This design set the tone for a dynamic dialogue inside the park and our surrounding neighborhood that continues to drive our designs today. The overall atmosphere and design of our new Shacks evoke the very best from the design of the original park kiosk, as well as the best of the fine dining experience in terms of the quality of design, material used, lighting and music. We are mindful that each new Shack should embody the experience of the Madison Square Park Shake Shack—the line, the kiosk style, the experience of ordering food made just for you and the energetic open kitchen.

While each Shack is specifically designed to be of its place and connect with its neighborhood, Shake Shack has developed a number of iconic brand identifiers common to every Shack, including wrap-around steel beams, open kitchens, magnetic menu boards and tables made from reclaimed bowling lanes. Although no two Shacks are alike, we believe that these brand identifiers are critical to the expression of the brand and the experience of Shake Shack.

Domestic Licensing

We have five domestic licensed Shacks: one in Citi Field where the New York Mets play; one in Nationals Park where the Washington Nationals play; one at the Saratoga Race track; and two in the Delta Airlines terminal at John F. Kennedy International Airport (" JFK "). The three licensed Shacks in sporting venues are operated by Hudson Yards Sports and Entertainment LLC (" HYSE ") doing business as Union Square Events, another subsidiary of USHG. The two Shacks in JFK are licensed to a third party, though they are managed by Shake Shack employees. All five licensed domestic Shacks provide regular license fees based on a percentage of sales and bolster brand equity. Additionally, the Shacks at JFK serve breakfast and a number of "grab-and-go" items such as freshly-made yogurt parfaits and all-natural chocolate fudge brownies.

Leaders Training Future Leaders

Our team is led by passionate and experienced senior leaders, balanced with professionals formerly from USHG's fine dining operations and industry veterans from larger restaurant companies. We have a talented executive leadership team that has deep experience in operations, culinary arts, supply chain, finance and accounting, training and leadership development, people resources, real estate and design, construction and facilities, information technology, legal, marketing and communications.

Leadership Development

We invest in our team through extensive leadership development programs to ensure that Shake Shack remains a great place to work and an exciting career choice for team members at every level. We have built a culture of active learning and we foster an environment of leadership development throughout the entire life cycle of employment. We seek to be the employer of choice by offering above industry average compensation in most markets, comprehensive benefits and a variety of incentive programs, including a monthly revenue-sharing program. We believe that our culture of Enlightened Hospitality enables us to develop future leaders from within and deliver a consistent Shack experience as we continue to grow.

The goal of our training programs is to develop leaders and to cross-utilize team members throughout our operations. We call our team member life cycle, *The Shacksperience* . This model clarifies and outlines growth opportunities at all levels of the organization and furthers our philosophy of hiring and developing 51%'ers, growing from within and "leaders training future leaders." We train our culture and guiding principles first, and then move to menu knowledge, followed by a focus on station training. We believe that everyone learns differently and our training uses various formats: online interactive, video, hands-on and paper-based. Every team member has access to *ShackSource* , our proprietary online training portal, which is used not only as a learning platform, but also as a communication tool for our team. As an example, *ShackSource* is a way for team members to send recognition messages, comments, praise and thanks to their fellow team members across the Company.

GROWTH STRATEGIES

We believe that we are well-positioned to achieve significant, sustainable financial growth. We plan to continue to expand our business, drive Shack sales and enhance our competitive positioning by executing on the following strategies:

Opening New Domestic Company-Operated Shacks

This is where our greatest immediate opportunity for growth lies. We waited nearly five years to open our second Shack, and we are still in the very nascent stage of our story, with only 31 domestic company-operated and five domestic licensed Shacks in 10 states and Washington, D.C. as of December 31, 2014. We believe there is tremendous whitespace opportunity to expand in both existing and new U.S. markets, and we have invested in the infrastructure that will enable us to continue to grow rapidly and with discipline. In fiscal 2014, we significantly expanded our domestic company-operated footprint by opening 10 new Shacks representing a 47.6% increase in our domestic company-operated Shack count. We plan to open at least 10 new domestic company-operated Shacks each year for the foreseeable future. Based on our experience, and analysis and research conducted for us by eSite, we believe that over the long-term we have the potential to grow our current domestic company-operated Shack footprint to at least 450 Shacks by opening domestic company-operated Shacks in new and existing markets. The rate of future Shack growth in any particular period is inherently uncertain and is subject to numerous factors that are outside of our control. As a result, we do not currently have an anticipated timeframe for such expansion. We believe we have a versatile real estate model built for growth. We have adopted a disciplined expansion strategy designed to leverage the strength of our business model and our significant brand awareness to successfully develop new Shacks in an array of markets that are primed for growth, including new and existing, as well as small and large markets. As we grow, we will continue to live by one principle to ensure the success of both our new and existing restaurants: "The Bigger We Get, The Smaller We Need To Act." This mantra is central to our Stand For Something Good vision and encompasses our commitment to continue to make decisions that focus on the core of who we are, staying true to the principles of Enlightened Hospitality.

Capitalizing on Our Outsized Brand Awareness

The Shake Shack experience has cultivated significant brand awareness relative to the small number of Shacks we operate. We have worked tirelessly to establish a genuine connection with our guests and integrate into their communities through investment in innovative marketing and programming. We utilize various social media outlets to actively engage with our growing online following. In June 2014, we ranked #10 on *Restaurant Social Media Index's* top 250 restaurant brands, which is measured on influence, sentiment and engagement. Furthermore, we believe that our press and media impressions and industry recognition are a testament to the strength of our brand. We were named one of "The 25 Most Innovative Consumer and Retail Brands" in 2014 by *Entrepreneur.com* , ranked #11 in *The Daily Meal's* "101 Best Restaurants in America" for 2013, and were the winner of the 2013 "Most Loved Brand of the Year" from the RIZMY Awards, "Best Burger" at the 2014 South Beach Wine and Food Festival's Burger Bash and more. Additionally, we give back to the communities in which we operate, and strengthen awareness for philanthropic causes such as *Share Our Strength's No Kid Hungry* campaign. Our marketing efforts focus on interacting with our guests in an authentic, innovative manner which creates memorable, meaningful experiences. The experience that we provide for our guests and local communities has generated a growing loyal following who promote our brand through word-of-mouth. We believe that this outsized brand awareness will continue to fuel our growth in existing and new markets.

Growing Same-Shack Sales

Given the significant awareness of our brand and the excitement we have been able to generate for our market launches, our Shacks have generally opened with higher volumes and operating profits relative to their second year, which have often shown a decline in sales and operating profit. In year three, our Shacks generally mature and continue to grow from the second year base and then retain these higher volumes over time. It is important to note that, while our goal is to grow same-Shack sales over time, this is not our greatest growth opportunity. We expect our Shacks to deliver low same-Shack sales growth for the foreseeable future as the number of new Shack openings relative to our comparable Shack base remains our primary driver of growth. We do, however, continually focus on improving our same-Shack sales performance by providing an engaging and differentiated guest experience that includes new seasonal and Shack-specific offerings, unique and thoughtful integration with local communities and high standards of excellence and hospitality. We will continue to innovate around our core menu to keep our offerings fresh, while remaining focused on our signature items.

Opportunistically Increasing Our Licensed Shacks Abroad

We will continue to grow our licensed portfolio by expanding further in the countries in which we currently have internationally licensed operations, as well as entering new international markets. This strategy historically has been a low-cost, high-return method of growing our brand awareness and providing an increasing source of cash flow. In December 2014, we entered into an exclusive licensing arrangement with a leading retail and food operator for the development of up to 10 new Shacks in Japan over the next five years. We believe there are additional international markets that will embrace the Shake Shack concept. Given our position in New York and the success of our current licensed Shacks at home and abroad, we continue to attract substantial interest from potential international licensees around the world and we believe we have significant opportunities to expand our licensing footprint in existing and new international markets.

OPERATIONS

Sourcing and Supply Chain

Shake Shack has always been committed to seeking out and working with best-in-class suppliers, artisanal purveyors and cattle ranchers. Our Stand For Something Good vision guides us in how we source and develop our ingredients, always looking for the best ways to provide top quality food at an excellent value and accessible to all. All of our proteins are raised without added hormones and we never use antibiotics.

We have a regional strategy for ground beef production to ensure that we are always serving freshly ground and never frozen beef. We have had the same butcher for the New York City metropolitan area, Mid-Atlantic and Northeast Shacks since opening our first Shack, which helped create our proprietary beef blend. We will continue to partner with and develop regional suppliers in new markets as we grow.

We have a limited number of suppliers for our major products, including beef patties, potato buns, custard, Portobello mushrooms and cheese sauce. In fiscal 2014 , we purchased all of our (i) ground beef patties from five suppliers, with approximately 88% of our ground beef patties supplied by one supplier, (ii) potato buns directly from one supplier, (iii) custard base from one supplier, (iv) 'Shroom Burgers from two suppliers, with approximately 50% of our 'Shroom Burgers supplied by each supplier and (v) ShackSauce from two suppliers, with approximately 89% of our ShackSauce supplied by one supplier. We have developed a reliable supply chain and continue to focus on identifying alternative sources to avoid any possible interruptions of service and product.

Distribution

We contract with one distributor, which we refer to as our "broadline" distributor, to provide virtually all of our food distribution services in the United States. As of December 31, 2014 , approximately 88% of our core food and beverage ingredients and 100% of our paper goods and chemicals, collectively representing approximately 45% of our purchases, were processed through our broadline distributor for distribution and delivery to each Shack. As of December 31, 2014, we were utilizing nine affiliated distribution centers to supply our domestic company-operated Shacks. We recognize that the safety and consistency of our products begins with our suppliers. Suppliers must meet certain criteria and strict quality control standards in the production and delivery of our food and other products. We regularly evaluate our broadline distributor to ensure that the products we purchase conform to our standards and that the prices they offer are competitive.

Food Safety and Quality Assurance

Our commitment to food safety is strengthened through the direct relationship between our Supply Chain, Culinary and Quality Assurance teams. All supplier and ingredient decisions go through a review of the supplier's internal and external quality audits, insurance coverage, track record and physical site inspection. We have a Food Safety Site Inspection process in place and a dedicated Quality Assurance team to ensure food safety across all domestic company-operated Shacks.

MANAGEMENT INFORMATION SYSTEMS

Our domestic company-operated Shacks use computerized point-of-sale and back-office systems created by NCR Corporation, which we believe are scalable to support our growth plans. These point-of-sale systems are designed specifically for the restaurant industry and we use many customized features to increase operational effectiveness, internal communication and data analysis. This system provides a touch screen interface, graphical order confirmation display, touch screen kitchen display and integrated, high-speed credit card and gift card processing. The point-of-sale system is used to collect daily transaction data, which generates information about daily sales, product mix and average transaction size.

Our back-office computer systems are designed to assist in the management of our domestic company-operated Shacks and provide real-time labor and food cost management tools. These tools provide the home office and operations management quick access to detailed business data and reduces the amount time spent by our Shack-level managers on administrative needs. The systems provide our Shack-level managers the ability to submit orders electronically with our distribution network. The system also supplies sales, bank deposit and variance data to our accounting department on a daily basis. We use this data to generate daily sales information and weekly consolidated reports regarding sales and other key measures, as well as preliminary weekly detailed profit and loss statements for each Shack with final reports following the end of each period.

INTELLECTUAL PROPERTY

Since our inception, we have undertaken to strategically and proactively develop our intellectual property portfolio by registering our trademarks and service marks worldwide. As of December 31, 2014 , we had 16 registered marks domestically, including registrations in our core marks ("Shake Shack," "Shack Burger," " SHAKE SHACK " and " ") and certain other marks, such as Stand for Something Good. Internationally, we have registered our core marks in over 80 countries spanning six continents. These marks are registered in multiple international trademark classes, including for restaurant services, food services, non-alcoholic beverages and apparel. We also own the domain www.shakeshack.com as well as over 60 other domain names for use in other markets.

In addition, we have agreements with the suppliers of our proprietary products stating that the recipes and production processes associated with those products are our property, confidential to us, and may not be provided to any other customer. Our proprietary products include the burger recipe for our whole muscle blend and the patty grinding procedure and the product formulations for our ShackSauce, 'Shroom Burger, cheese sauce, unflavored custard base, chocolate custard base, and certain toppings and custard mix-ins. We also have exclusive arrangements with our suppliers of ShackMeister Ale, Shack Red wine, Shack White wine, all-natural hot dog and all-natural chicken sausage.

GOVERNMENT REGULATIONS AND ENVIRONMENTAL MATTERS

We are subject to extensive federal, state and local government regulation, including those relating to, among others, public health and safety, zoning and fire codes, and franchising. Failure to obtain or retain food or other licenses and registrations or exemptions would adversely affect the operations of our Shacks. Although we have not experienced and do not anticipate any significant problems in obtaining required licenses, permits or approvals, any difficulties, delays or failures in obtaining such licenses, permits, registrations, exemptions or approvals could delay or prevent the opening of, or adversely impact the viability of, a Shack in a particular area. The development and construction of additional Shacks will be subject to compliance with applicable zoning, land use and environmental regulations. We believe federal and state environmental regulations have not had a material effect on operations, but more stringent and varied requirements of local government bodies with respect to zoning, land use and environmental factors could delay construction and increase development costs for new Shacks.

We are also subject to the Fair Labor Standards Act, the Immigration Reform and Control Act of 1986 and various federal and state laws governing such matters as minimum wages, overtime, unemployment tax rates, workers' compensation rates, citizenship requirements and other working conditions. We are also subject to the Americans With Disabilities Act (" ADA "), which prohibits discrimination on the basis of disability in public accommodations and employment, which may require us to design or modify our Shacks to make reasonable accommodations for disabled persons.

Approximately 3% of revenues from our domestic company-operated Shacks is attributable to the sale of alcoholic beverages, namely beer and wine. Alcoholic beverage control regulations require each of our Shacks to apply to a state authority and, in certain locations, county or municipal authorities for a license that must be renewed annually and may be revoked or suspended for cause at any time. Alcoholic beverage control regulations relate to numerous aspects of daily operations of our Shacks, including the minimum age of patrons and employees, hours of operation, advertising, trade practices, wholesale purchasing, other relationships with alcohol manufacturers, wholesalers and distributors, inventory control and handling, storage and dispensing of alcoholic beverages. We are also subject in certain states to "dram shop" statutes, which generally provide a person injured by an intoxicated person the right to recover damages from an establishment that wrongfully served alcoholic beverages to the intoxicated person. We carry liquor liability coverage as part of our existing comprehensive general liability insurance. Two of our domestic company-operated Shacks do not have liquor licenses because of the high cost of a liquor license in that jurisdiction, which has a liquor license quota. We may decide not to obtain liquor licenses in certain jurisdictions due to the high costs associated with obtaining liquor licenses in such jurisdictions.

Our licensing activities are subject to the rules and regulations of the Federal Trade Commission (" FTC ") and various state laws regulating the offer and sale of licenses. Substantive state laws that regulate the licensor-licensee relationship exist in a substantial number of states, and bills have been introduced in Congress from time to time that would provide for federal regulation of the licensor-licensee relationship. The state laws often limit, among other things, the duration and scope of non-competition provisions, the ability of a licensor to terminate or refuse to renew a license and the ability of a licensor to designate sources of supply. We believe that our licensing procedures comply in all material respects with both the FTC license rule and all applicable state laws regulating franchising in those states in which we have offered licenses.

SEASONALITY

Our business is subject to seasonal fluctuations in that our Shack sales are typically nominally higher during the summer months, affecting our second and third quarters in a fiscal year.

EMPLOYEES

As of December 31, 2014 , we had approximately 1,680 employees, of whom approximately 1,450 are hourly team members, 160 are Shack-level managers and 70 are home office personnel.

AVAILABLE INFORMATION

Our Annual Report on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K, and amendments to reports filed pursuant to Sections 13(a) and 15(d) of the Securities Exchange Act of 1934, as amended (the " Exchange Act "), are filed with the Securities and Exchange Commission (the " SEC "). We are subject to the informational requirements of the Exchange Act and file or furnish reports, proxy statements and other information with the SEC. Such reports and other information filed by us with the SEC are available free of charge on our website at investor.shakeshack.com when such reports are made available on the SEC's website. The public may read and copy any materials filed by us with the SEC at the SEC's Public Reference Room at 100 F Street, NE, Room 1580, Washington, DC 20549. The public may obtain information on the operation of the Public Reference Room by calling the SEC at 1-800-SEC-0330. The SEC maintains an Internet site that contains reports, proxy and information statements and other information regarding issuers that file electronically with the SEC at www.sec.gov. The contents of these websites are not incorporated into this filing. Further, our references to the URLs for these websites are intended to be inactive textual references only.

Item 1A. Risk Factors.

Described below are certain risks that we believe apply to our business and the industry in which we operate. You should carefully consider each of the following risk factors in conjunction with other information provided in this Annual Report on Form 10-K and in our other public disclosures. The risks described below highlight potential events, trends or other circumstances that could adversely affect our business, financial condition, results of operations, cash flows, liquidity or access to sources of financing, and consequently, the market value of our Class A common stock. These risks could cause our future results to differ materially from historical results and from guidance we may provide regarding our expectations of future financial performance. The risks described below are those that we have identified as material and is not an exhaustive list of all the risks we face. There may be others that we have not identified or that we have deemed to be immaterial. All forward-looking statements made by us or on our behalf are qualified by the risks described below.

Risks Related to Our Business

Our long-term success is highly dependent on our ability to successfully identify and secure appropriate sites and timely develop and expand our operations in existing and new markets.

One of the key means of achieving our growth strategies will be through opening and operating new Shacks on a profitable basis for the foreseeable future. We must identify target markets where we can enter or expand, taking into account numerous factors such as the location of our current Shacks, demographics, traffic patterns and information gathered from our various contacts. We may not be able to open our planned new Shacks within budget or on a timely basis, if at all, given the uncertainty of these factors, which could adversely affect our business, financial condition and results of operations. As we operate more Shacks, our rate of expansion relative to the size of our Shack base will eventually decline.

The number and timing of new Shacks opened during any given period may be negatively impacted by a number of factors including, without limitation:

- the identification and availability of attractive sites for new Shacks and the ability to negotiate suitable lease terms;
- the lack of development and overall decrease in commercial real estate due to a macroeconomic downturn;
- recruitment and training of qualified personnel in the local market;
- our ability to obtain all required governmental permits, including zonal approvals, on a timely basis;
- our ability to control construction and development costs of new Shacks;
- competition in new markets, including competition for appropriate sites;
- failure of the landlords to timely deliver real estate to us and other landlord delays;
- the proximity of potential sites to an existing Shack, and the impact of cannibalization on future growth;
- anticipated commercial, residential and infrastructure development near our new Shacks; and
- the cost and availability of capital to fund construction costs and pre-opening costs.

Accordingly, we cannot assure you that we will be able to successfully expand as we may not correctly analyze the suitability of a location or anticipate all of the challenges imposed by expanding our operations. Our growth strategy, and the substantial investment associated with the development of each new company-operated Shack, may cause our operating results to fluctuate and be unpredictable or adversely affect our profits. In addition, as has happened when other restaurant concepts have tried to expand, we may find that our concept has limited appeal in new markets or we may experience a decline in the popularity of our concept in the markets in which we operate. If we are unable to expand in existing markets or penetrate new markets, our ability to increase our revenues and profitability may be materially harmed or we may face losses.

Damage to our reputation could negatively impact our business, financial condition and results of operations.

Our reputation and the quality of our brand are critical to our business and success in existing markets, and will be critical to our success as we enter new markets. We believe that we have built our reputation on the high quality of our food and service, our commitment to our guests, our strong employee culture, and the atmosphere and design of our Shacks, and we must protect and grow the value of our brand in order for us to continue to be successful. Any incident that erodes consumer loyalty for our brand could significantly reduce its value and damage our business.

We may be adversely affected by any negative publicity, regardless of its accuracy, including with respect to:

- food safety concerns, including food tampering or contamination;
- food-borne illness incidents;
- the safety of the food commodities we use, particularly beef;
- guest injury;
- security breaches of confidential guest or employee information;
- employment-related claims relating to alleged employment discrimination, wage and hour violations, labor standards or health care and benefit issues; or
- government or industry findings concerning our Shacks, restaurants operated by other food service providers, or others across the food industry supply chain.

Also, there has been a marked increase in the use of social media platforms and similar devices, including weblogs (blogs), social media websites and other forms of internet-based communications that provide individuals with access to a broad audience of consumers and other interested persons. The availability of information on social media platforms is virtually immediate as is its impact. Many social media platforms immediately publish the content their subscribers and participants can post, often without filters or checks on accuracy of the content posted. The opportunity for dissemination of information, including inaccurate information, is seemingly limitless and readily available. Information concerning us may be posted on such platforms at any time. Information posted may be adverse to our interests or may be inaccurate, each of which may harm our performance, prospects or business. The harm may be immediate without affording us an opportunity for redress or correction.

Ultimately, the risks associated with any such negative publicity or incorrect information cannot be completely eliminated or mitigated and may materially harm our reputation, business, financial condition and results of operations.

Food safety and food-borne illness incidents may have an adverse effect on our business by not only reducing demand but also increasing operating costs.

Food safety is a top priority, and we dedicate substantial resources to help ensure that our guests enjoy safe, quality food products. However, food-borne illnesses and other food safety issues have occurred in the food industry in the past, and could occur in the future. In addition, consumer preferences could be affected by health concerns about the consumption of beef, our key ingredient. A negative report or negative publicity, whether related to one of our Shacks or to a competitor in the industry, may have an adverse impact on demand for our food and could result in decreased guest traffic to our Shacks. A decrease in guest traffic to our Shacks as a result of these health concerns or negative publicity could materially harm our brand, business, financial condition and results of operations.

Furthermore, our reliance on third-party food suppliers and distributors increases the risk that food-borne illness incidents could be caused by factors outside of our control and that multiple Shacks would be affected rather than a single Shack. We cannot ensure that all food items will be properly maintained during transport throughout the supply chain and that our employees will identify all products that may be spoiled and should not be used in our Shacks. If our guests become ill from food-borne illnesses, we could be forced to temporarily close some Shacks. Furthermore, any instances of food contamination, whether or not at our Shacks, could subject us or our suppliers to a food recall pursuant to the United States Food and Drug Administration's (" FDA ") recently enacted Food Safety Modernization Act (" FSMA ").

Shortages or interruptions in the supply or delivery of food products could adversely affect our operating results.

We are dependent on frequent deliveries of food products that meet our specifications. Shortages or interruptions in the supply of food products caused by problems in production or distribution, inclement weather, unanticipated demand or other conditions could adversely affect the availability, quality and cost of ingredients, which would adversely affect our operating results.

Our burgers depend on the availability of our proprietary ground beef blend. Availability of our blend depends on two different components; raw material supplied by the slaughterhouses and ground and formed beef patties supplied by regional grinders who further process and convert whole muscle purchased from the slaughterhouses. The primary risk we face is with our regional grinders. If there is an interruption of operation at any one of our regional grinder's facilities, we face an immediate risk because each Shack typically has less than three days of beef patty inventory on hand. However, we have agreements with our regional grinders to provide an alternate back-up supply in the event of a disruption in their operations. In addition, our largest supplier of raw material has agreed to an emergency plan to supply us in the event of a disruption of operations at one of our beef grinders through our broadline distributor's distribution network, but it would not be able to do so immediately.

We currently have five approved sources of raw material in the United States. If there is a supply issue with all U.S. raw material, we have seven approved suppliers in other countries. The risks to using international suppliers are shipping lead time, shipping costs, potential import duties and U.S. customs. It is unknown at this time how long it would take and at what cost the raw material would be to import from any such other country, but the delay and cost would likely be adverse to our business. However, it is our belief that only in the event of extreme disruptions would our operations be materially and adversely affected.

Our international licensed Shacks import most of our proprietary and other core ingredients from the United States and the European Union. If this international supply chain is interrupted, our international licensed operations could encounter supply shortages and incur higher costs.

Our international licensed Shacks import most of our proprietary ingredients from the United States and the European Union (" EU "). For example, our proprietary blend of beef patties and/or raw materials for beef patties originate from the United States and the EU as well as Australia. In addition, our potato buns are exclusively from the United States, and other key items such as crinkle-cut fries and American cheese originate within the United States or the EU. While we have established secondary supply solutions for some of these ingredients, we have not acquired secondary supplies for all of them.

Due to the long lead time and general volatility in the supply chain, the third-party logistic providers for our international licensed Shacks in the Middle East carry one to three months of inventory to allow for delays or interruptions in the supply chain. Specifically, we have had past and ongoing issues ensuring that timely and adequate supplies reach our Middle East Shacks. In the Middle East, our licensee, Alshaya Trading Company W.L.L. (" Alshaya "),

delegates the supply function to its own third-party logistics providers in each country in which Alshaya operates, with which we have limited and restricted communication, preventing us from exercising control or instruction over such entities. As a result, in the Middle East, Alshaya has a limited ability to achieve economies of scale and minimize production and freight costs.

The recent sanctions enacted by the Russian Federation on many imported ingredients from the United States, the EU and Australia have affected our Russian licensee's ability to import such ingredients to our Russian Shacks. As a result of the changing and uncertain nature of such sanctions, and although our Russian licensee has identified a back-up supplier, we are unable to guarantee that the licensee will be able to import our proprietary ingredients to supply these Shacks. We have given our licensee in Russia approval to utilize alternative ingredients not affected by the sanctions, but there is a risk that these substitute ingredients may be inferior in taste and quality or come from suppliers that have not been vetted for food safety and quality assurance.

Our U.K. Shack faces challenges in obtaining potato buns and custard, which originate from our U.S. suppliers. While these ingredients have no trade restrictions, they must be shipped from the United States, which poses an ongoing risk of delay in supply deliveries.

Our Turkish Shacks currently import many key ingredients from both the EU and the United States. As is common in many developing markets, regulations are always subject to change which could potentially give rise to import risks should current importation legislation change. We are currently working on local Turkish alternatives to alleviate these risks in the future.

If our international licensed Shacks are unable to obtain our proprietary ingredients in the necessary amounts in a timely fashion as a result of logistics issues, sanctions or other challenges, it could harm its business and adversely affect the licensing fees we receive from Alshaya, adversely impacting our business and results of operations.

We have a limited number of suppliers for our major products and rely on one distribution company for the majority of our domestic distribution needs. If our suppliers or distributor are unable to fulfill their obligations under our arrangements with them, we could encounter supply shortages and incur higher costs.

We have a limited number of suppliers for our major products, including beef patties, potato buns, custard, portobello mushrooms and cheese sauce. In fiscal 2014 , we purchased all of our (i) ground beef patties from five suppliers, with approximately 88% of our ground beef patties supplied by one supplier, (ii) potato buns directly from one supplier, (iii) custard base from one supplier, (iv) 'Shroom Burgers from two suppliers, with approximately 50% of our 'Shroom Burgers supplied by each supplier and (v) ShackSauce from two suppliers, with approximately 89% of our ShackSauce supplied by one supplier. Due to this concentration of suppliers, the cancellation of our supply arrangements with any one of these suppliers or the disruption, delay or inability of these suppliers to deliver these major products to our Shacks may materially and adversely affect our results of operations while we establish alternate distribution channels. In addition, if our suppliers fail to comply with food safety or other laws and regulations, or face allegations of non-compliance, their operations may be disrupted. We cannot assure you that we would be able to find replacement suppliers on commercially reasonable terms or a timely basis, if at all.

We contract with one distributor, which we refer to as our "broadline" distributor, to provide virtually all of our food distribution services in the United States. As of December 31, 2014 , approximately 88% of our core food and beverage ingredients and 100% of our paper goods and chemicals, collectively representing 45% of our purchases, were processed through our broadline distributor for distribution and delivery to each Shack. As of December 31, 2014, we were utilizing nine affiliated distribution centers and each distribution center carries two to three weeks of inventory for our core ingredients. In the event of a catastrophe, such as a fire, our broadline distributor can supply the Shacks affected by their respective distribution center from another affiliated distribution center. If a catastrophe, such as a fire, were to occur at the distribution center that services the New York and New Jersey Shacks, we would be at immediate risk of product shortages because that distribution center supplies approximately 42% of our domestic company-operated Shacks, which collectively represented approximately 60% of our Shack sales, as of December 31, 2014 . The other eight distribution centers collectively supply the other approximately 40% of our domestic company-operated Shacks which represent the remaining approximately 38% of our total Shack sales.

Accordingly, although we believe that alternative supply and distribution sources are available, there can be no assurance that we will continue to be able to identify or negotiate with such sources on terms that are commercially reasonable to us. If our suppliers or distributors are unable to fulfill their obligations under their contracts or we are unable to identify alternative sources, we could encounter supply shortages and incur higher costs, each of which could have a material adverse effect on our results of operations.

Security breaches of confidential guest information, in connection with our electronic processing of credit and debit card transactions, or confidential employee information may adversely affect our business.

Our business requires the collection, transmission and retention of large volumes of guest and employee data, including credit and debit card numbers and other personally identifiable information, in various information technology systems that we maintain and in those maintained by third parties with whom we contract to provide services. The integrity and protection of that guest and employee data is critical to us. Further, our guests and employees have a high expectation that we and our service providers will adequately protect their personal information.

The information, security and privacy requirements imposed by governmental regulation are increasingly demanding. Our systems may not be able to satisfy these changing requirements and guest and employee expectations, or may require significant additional investments or time in order to do so. Efforts to hack or breach security measures, failures of systems or software to operate as designed or intended, viruses, operator error or inadvertent releases of data all threaten our and our service providers' information systems and records. A breach in the security of our information technology systems or those of our service providers could lead to an interruption in the operation of our systems, resulting in operational inefficiencies and a loss of profits. Additionally, a significant theft, loss or misappropriation of, or access to, guests' or other proprietary data or other breach of our information technology systems could result in fines, legal claims or proceedings, including regulatory investigations and actions, or liability for failure to comply with privacy and information security laws, which could disrupt our operations, damage our reputation and expose us to claims from guests and employees, any of which could have a material adverse effect on our financial condition and results of operations.

We face significant competition for guests, and our inability to compete effectively may affect our traffic, Shack sales and Shack-level operating profit margins, which could adversely affect our business, financial condition and results of operations.

The restaurant industry is intensely competitive with many well-established companies that compete directly and indirectly with us with respect to food quality, service, price and value, design and location. We compete in the restaurant industry with national, regional and locally-owned and/or operated limited-service restaurants and full-service restaurants. We compete with (i) "better burger" restaurants, (ii) fast casual restaurants, (iii) quick service restaurants and (iv) casual dining restaurants. Some of our competitors have significantly greater financial, marketing, personnel and other resources than we do, and many of our competitors are well-established in markets in which we have existing Shacks or intend to locate new Shacks. In addition, many of our competitors have greater name recognition nationally or in some of the local markets in which we operate or plan to open Shacks. Any inability to successfully compete with the restaurants in our markets will place downward pressure on our guest traffic and may prevent us from increasing or sustaining our revenues and profitability.

Our continued success depends, in part, on the continued popularity of our menu and the experience we offer guests at our Shacks. Consumer tastes, nutritional and dietary trends, traffic patterns and the type, number, and location of competing restaurants often affect the restaurant business, and our competitors may react more efficiently and effectively to those conditions. In addition, some of our competitors in the past have implemented programs that provide price discounts on certain menu offerings, and they may continue to do so in the future. If we are unable to continue to compete effectively, our traffic, Shack sales and Shack-level operating profit margins could decline and our business, financial condition and results of operations would be adversely affected.

Our expansion into new domestic markets may present increased risks, which could affect our profitability.

We plan to open domestic company-operated Shacks in markets where we have little or no operating experience. Shacks we open in new markets may take longer to reach expected Shack sales and profit levels on a consistent basis, are likely to be less profitable on average than our Manhattan Shacks and may have higher construction, occupancy or operating costs than Shacks we open in existing markets. New markets may have competitive conditions, consumer tastes and discretionary spending patterns that are more difficult to predict or satisfy than our existing markets. We may need to make greater investments than we originally planned in advertising and promotional activity in new markets to build brand awareness. We may find it more difficult in new markets to hire, motivate and keep qualified employees who share our values. We may also incur higher costs from entering new markets if, for example, we assign area directors to manage comparatively fewer Shacks than we assign in more developed markets. Also, until we attain a critical mass in a market, the Shacks we do open will have reduced operating leverage. As a result, these new Shacks may be less successful or may achieve target Shack-level operating profit margins at a slower rate, if ever. If we do not successfully execute our plans to enter new markets, our business, financial condition or results of operations could be adversely affected. In addition, we plan to continue to expand into new international markets, which can pose similar and additional challenges in opening new Shacks.

New Shacks, once opened, may not be profitable, and the historical performance of our Shacks may not be indicative of future results.

Our results have been, and in the future may continue to be, significantly impacted by the timing of new Shack openings (often dictated by factors outside of our control), including landlord delays, associated Shack pre-opening costs and operating inefficiencies, as well as changes in our geographic concentration due to the opening of new Shacks. We typically incur the most significant portion of pre-opening costs associated with a given Shack within the three months preceding the opening of the Shack. Our experience has been that labor and operating costs associated with a newly opened Shack for the first several months of operation are materially greater than what can be expected after that time, both in aggregate dollars and as a percentage of Shack sales. Our new Shacks commonly take eight to 12 weeks to reach planned operating levels due to inefficiencies typically associated with new Shacks, including the training of new personnel, new market learning curves, inability to hire sufficient qualified staff and other factors. We may incur additional costs in new markets, particularly for transportation and distribution, which may impact the profitability of those Shacks. Accordingly, the volume and timing of new Shack openings may have a material adverse impact on our profitability.

In addition, many of our current domestic company-operated Shacks are located in Manhattan and other high revenue markets. As we expand, this percentage will decline and as a result we may not be able to maintain our current average unit volumes (" AUVs ") and Shack-level operating profit margins and our business, financial condition and results of operations may be adversely affected.

Although we have specific target operating and financial metrics, new Shacks may not meet these targets or may take longer than anticipated to do so. Any new Shacks we open may not be profitable or achieve operating results similar to those of our existing Shacks, which could adversely affect our business, financial condition or results of operations.

Our Shack sales and profit growth could be adversely affected if same-Shack sales growth is less than we expect.

The level of same-Shack sales growth, which represents the change in year-over-year revenues for domestic company-operated Shacks open for 24 months or longer, could affect our Shack sales growth. Our ability to increase same-Shack sales depends, in part, on our ability to successfully implement our initiatives to build Shack sales. It is possible such initiatives will not be successful, that we will not achieve our target same-Shack sales growth or that same-Shack sales growth could be negative, which may cause a decrease in Shack sales and profit growth that would adversely affect our business, financial condition or results of operations.

Opening new Shacks in existing markets may negatively affect Shack sales at our existing Shacks .

The target consumer base of our Shacks varies by location, depending on a number of factors, including population density, other local restaurants and attractions, area demographics and geography. As a result, the opening of a new Shack in or near markets in which we already have Shacks could adversely affect the Shack sales of those existing Shacks. Existing Shacks could also make it more difficult to build our consumer base for a new Shack in the same market. We will continue to cluster in select markets and open new Shacks in and around areas of existing Shacks that are operating at or near capacity to leverage operational efficiencies and effectively serve our guests. Cannibalization of Shack sales among our Shacks may become significant in the future as we continue to expand our operations and could adversely affect our Shack sales growth, which could, in turn, adversely affect our business, financial condition or results of operations.

Our failure to manage our growth effectively could harm our business and operating results.

Our growth plan includes opening a significant number of new Shacks. Our existing management systems, financial and management controls and information systems may not be adequate to support our planned expansion. Our ability to manage our growth effectively will require us to continue to enhance these systems, procedures and controls and to locate, hire, train and retain management and operating personnel, particularly in new markets. We may not be able to respond on a timely basis to all of the changing demands that our planned expansion will impose on management and on our existing infrastructure, or be able to hire or retain the necessary management and operating personnel, which could harm our business, financial condition or results of operations. These demands could cause us to operate our existing business less effectively, which in turn could cause a deterioration in the financial performance of our existing Shacks. If we experience a decline in financial performance, we may decrease the number of or discontinue Shack openings, or we may decide to close Shacks that we are unable to operate in a profitable manner.

Our plans to open new Shacks, and the ongoing need for capital expenditures at our existing Shacks, require us to spend capital.

Our growth strategy depends on opening new Shacks, which will require us to use cash flows from operations and a portion of the net proceeds from our initial public offering. We cannot assure you that cash flows from operations and the net proceeds from our initial public offering will be sufficient to allow us to implement our growth strategy. If these funds are not allocated efficiently among our various projects, or if any of these initiatives prove to be unsuccessful, we may experience reduced profitability and we could be required to delay, significantly curtail or eliminate planned Shack openings, which could have a material adverse effect on our business, financial condition and results of operations.

In addition, as our Shacks mature, our business will require capital expenditures for the maintenance, renovation and improvement of existing Shacks to remain competitive and maintain the value of our brand standard. This creates an ongoing need for cash, and, to the extent we cannot fund capital expenditures from cash flows from operations, funds will need to be borrowed or otherwise obtained.

If the costs of funding new Shacks or renovations or enhancements to existing Shacks exceed budgeted amounts, and/or the time for building or renovation is longer than anticipated, our profits could be reduced. Additionally, recent inflation of material and labor costs have resulted in higher construction costs. If we cannot access the capital we need, we may not be able to execute our growth strategy, take advantage of future opportunities or respond to competitive pressures.

We are subject to risks associated with leasing property subject to long-term non-cancelable leases.

We do not own any real property and all of our domestic company-operated Shacks are located on leased premises. The leases for our Shacks generally have initial terms ranging from 10 to 20 years and typically provide for two five-year renewal options as well as for rent escalations. However, the license agreement for our Madison Square Park Shack can be terminated by the New York City Commissioner of Parks for any reason on 25 days' written notice.

Generally, our leases are net leases that require us to pay our share of the costs of real estate taxes, utilities, building operating expenses, insurance and other charges in addition to rent. We generally cannot cancel these leases. Additional sites that we lease are likely to be subject to similar long-term non-cancelable leases. If we close a Shack, we may still be obligated to perform our monetary obligations under the applicable lease, including, among other things, payment of the base rent for the remaining lease term. In addition, as each of our leases expire, we may fail to negotiate renewals,

either on commercially acceptable terms or at all, which could cause us to close Shacks in desirable locations. We depend on cash flows from operations to pay our lease expenses and to fulfill our other cash needs. If our business does not generate sufficient cash flow from operating activities, and sufficient funds are not otherwise available to us from borrowings under the Revolving Credit Facility or other sources, we may not be able to service our lease expenses or fund our other liquidity and capital needs, which would materially affect our business.

We depend on key members of our executive management team.

We depend on the leadership and experience of our key executive management team. The loss of the services of any of our executive management team members could have a material adverse effect on our business and prospects, as we may not be able to find suitable individuals to replace such personnel on a timely basis or without incurring increased costs, or at all. We do not maintain key person life insurance policies on any of our executive officers. We believe that our future success will depend on our continued ability to attract and retain highly skilled and qualified personnel. There is a high level of competition for experienced, successful personnel in our industry. Our inability to meet our executive staffing requirements in the future could impair our growth and harm our business.

Our inability to identify qualified individuals for our workforce could slow our growth and adversely impact our ability to operate our Shacks.

We believe that the "Enlightened Hospitality" culture of our Shack team is the single most important factor to our success. Accordingly, our success depends in part upon our ability to attract, motivate and retain a sufficient number of qualified managers and associates to meet the needs of our existing Shacks and to staff new Shacks. We aim to hire warm, friendly, motivated, caring, self-aware and intellectually curious individuals, who are excited and committed to championship performance, remarkable and enriching hospitality, embodying our culture and actively growing themselves and our brand. A sufficient number of qualified individuals to fill these positions and qualifications may be in short supply in some communities. Competition in these communities for qualified staff could require us to pay higher wages and provide greater benefits, especially if there is significant improvement in regional or national economic conditions. We place a heavy emphasis on the qualification and training of our personnel and spend a significant amount of time and money on training our employees. Any inability to recruit and retain qualified individuals may result in higher turnover and increased labor costs, and could compromise the quality of our service, all of which could adversely affect our business. Any such inability could also delay the planned openings of new Shacks and could adversely impact our existing Shacks. Any such inability to retain or recruit qualified employees, increased costs of attracting qualified employees or delays in Shack openings could adversely affect our business and results of operations.

Unionization activities may disrupt our operations and affect our profitability.

Although none of our employees are currently covered under collective bargaining agreements, our employees may elect to be represented by labor unions in the future. If a significant number of our employees were to become unionized and collective bargaining agreement terms were significantly different from our current compensation arrangements, it could adversely affect our business, financial condition or results of operations. In addition, a labor dispute involving some or all of our employees may harm our reputation, disrupt our operations and reduce our revenues, and resolution of disputes may increase our costs. Further, if we enter into a new market with unionized construction companies, or the construction companies in our current markets become unionized, construction and build out costs for new Shacks in such markets could materially increase.

Increased food commodity and energy costs could decrease our Shack-level operating profit margins or cause us to limit or otherwise modify our menu, which could adversely affect our business.

Our profitability depends in part on our ability to anticipate and react to changes in the price and availability of food commodities, including among other things beef, poultry, grains, dairy and produce. Prices may be affected due to market changes, increased competition, the general risk of inflation, shortages or interruptions in supply due to weather, disease or other conditions beyond our control, or other reasons. For example, certain regions of the United States experienced a significant drought in 2014, which increased the price of certain food commodities, including beef, dairy and produce. Other events could increase commodity prices or cause shortages that could affect the cost and quality of the items we buy or require us to further raise prices or limit our menu options. These events, combined with other more general economic and demographic conditions, could impact our pricing and negatively affect our Shack sales and Shack-level operating profit margins. While we have been able to partially offset inflation and other changes in the costs of core operating resources by gradually increasing menu prices, coupled with more efficient purchasing practices, productivity improvements and greater economies of scale, there can be no assurance that we will be able to continue to do so in the future. From time to time, competitive conditions could limit our menu pricing flexibility. In addition, macroeconomic conditions could make additional menu price increases imprudent. There can be no assurance that future cost increases can be offset by increased menu prices or that increased menu prices will be fully absorbed by our guests without any resulting change to their visit frequencies or purchasing patterns. In addition, there can be no assurance that we will generate same-Shack sales growth in an amount sufficient to offset inflationary or other cost pressures.

We do not currently hedge our commodity risks. We may decide to enter into certain forward pricing arrangements with our suppliers, which could result in fixed or formula-based pricing with respect to certain food products. However, these arrangements generally are relatively short in duration and may provide only limited protection from price changes. In addition, the use of these arrangements may limit our ability to benefit from favorable price movements.

Our profitability also is adversely affected by increases in the price of utilities, such as natural gas, electric, and water, whether as a result of inflation, shortages or interruptions in supply, or otherwise. Our ability to respond to increased costs by increasing prices or by implementing alternative processes

or products will depend on our ability to anticipate and react to such increases and other more general economic and demographic conditions, as well as the responses of our competitors and guests. All of these things may be difficult to predict and beyond our control. In this manner, increased costs could adversely affect our results of operations.

Higher health care costs and labor costs could adversely affect our business.

With the passage in 2010 of the U.S. Patient Protection and Affordable Care Act (the " ACA "), we are required to provide affordable coverage, as defined in the ACA, to all employees, or otherwise be subject to a payment per employee based on the affordability criteria in the ACA. Many of these requirements will be phased in over a period of time, with the majority of the most impactful provisions affecting us presently anticipated to begin in the second quarter of fiscal 2015. Additionally, some states and localities have passed state and local laws mandating the provision of certain levels of health benefits by some employers. Increased health care and insurance costs could have a material adverse effect on our business, financial condition and results of operations. In addition, changes in federal or state workplace regulations could adversely affect our ability to meet our financial targets.

Various federal and state labor laws govern our relationships with our employees and affect operating costs. These laws include employee classifications as exempt or non-exempt, minimum wage requirements, unemployment tax rates, workers' compensation rates, overtime, family leave, safety standards, payroll taxes, citizenship requirements and other wage and benefit requirements for employees classified as non-exempt. As our team members are paid at rates set above, but related to, the applicable minimum wage, further increases in the minimum wage could increase our labor costs. Significant additional government regulations could materially affect our business, financial condition and results of operations.

We are subject to many federal, state and local laws with which compliance is both costly and complex.

The restaurant industry is subject to extensive federal, state and local laws and regulations, including the recently enacted comprehensive health care reform legislation discussed above, those relating to building and zoning requirements and those relating to the preparation and sale of food. Such laws and regulations are subject to change from time to time. The failure to comply with these laws and regulations could adversely affect our operating results. Typically, licenses, permits and approvals under such laws and regulations must be renewed annually and may be revoked, suspended or denied renewal for cause at any time if governmental authorities determine that our conduct violates applicable regulations. Difficulties or failure to maintain or obtain the required licenses, permits and approvals could adversely affect our existing Shacks and delay or result in our decision to cancel the opening of new Shacks, which would adversely affect our business.

The development and operation of Shacks depend, to a significant extent, on the selection of suitable sites, which are subject to zoning, land use, environmental, traffic and other regulations and requirements. We are also subject to licensing and regulation by state and local authorities relating to health, sanitation, safety and fire standards.

There is also a potential for increased regulation of certain food establishments in the United States, where compliance with a Hazard Analysis and Critical Control Points (" HACCP ") approach may now be required. HACCP refers to a management system in which food safety is addressed through the analysis and control of potential hazards from production, procurement and handling, to manufacturing, distribution and consumption of the finished product. Many states have required restaurants to develop and implement HACCP Systems, and the United States government continues to expand the sectors of the food industry that must adopt and implement HACCP programs. For example, FSMA signed into law in January 2011, granted the FDA new authority regarding the safety of the entire food system, including through increased inspections and mandatory food recalls. Although restaurants are specifically exempted from or not directly implicated by some of these new requirements, we anticipate that the new requirements may impact our industry. Additionally, our suppliers may initiate or otherwise be subject to food recalls that may impact the availability of certain products, result in adverse publicity or require us to take actions that could be costly for us or otherwise impact our business.

We are subject to the ADA, which, among other things, requires our Shacks to meet federally mandated requirements for the disabled. The ADA prohibits discrimination in employment and public accommodations on the basis of disability. Under the ADA, we could be required to expend funds to modify our Shacks to provide service to, or make reasonable accommodations for the employment of, disabled persons. In addition, our employment practices are subject to the requirements of the Immigration and Naturalization Service relating to citizenship and residency.

In addition, our licensing activities are subject to laws enacted by a number of states, rules and regulations promulgated by the U.S. Federal Trade Commission and certain rules and requirements regulating licensing activities in foreign countries. Failure to comply with new or existing licensing laws, rules and regulations in any jurisdiction or to obtain required government approvals could negatively affect our licensing sales and our relationships with our licensees.

The impact of current laws and regulations, the effect of future changes in laws or regulations that impose additional requirements and the consequences of litigation relating to current or future laws and regulations, or our inability to respond effectively to significant regulatory or public policy issues, could increase our compliance and other costs of doing business and, therefore, have an adverse effect on our results of operations. Failure to comply with the laws and regulatory requirements of federal, state and local authorities could result in, among other things, revocation of required licenses, administrative enforcement actions, fines and civil and criminal liability. In addition, certain laws, including the ADA, could require us to expend significant funds to make modifications to our Shacks if we failed to comply with applicable standards. Compliance with all of these laws and regulations can be costly and can increase our exposure to litigation or governmental investigations or proceedings.

Our marketing strategies and channels will evolve and our programs may or may not be successful.

Shake Shack is a small, but growing brand. We incur costs and expend other resources in our marketing efforts to attract and retain guests. The brand's promotion includes public relations, digital and social media, promotions, and in-store messaging, which require less marketing spend as compared to traditional marketing programs. Currently, the amount of discounted promotions and advertising we do is nominal. As the number of Shacks increases, and as we expand into new markets, we expect to increase our investment in advertising and consider additional promotional activities. Accordingly, in the future, we will incur greater marketing expenditures, resulting in greater financial risk and a greater impact on our Company.

Some of these initiatives may not be successful, resulting in expenses incurred without the benefit of higher revenues. Additionally, some of our competitors have greater financial resources, which enable them to spend significantly more on marketing and advertising than we are able to at this time. Should our competitors increase spending on marketing and advertising or our marketing funds decrease for any reason, or should our advertising and promotions be less effective than those of our competitors, there could be a material adverse effect on our results of operations and financial condition.

Changes in economic conditions, including continuing effects from the recent recession, could materially affect our business, financial condition and results of operations.

The restaurant industry depends on consumer discretionary spending. During the economic downturn starting in 2008, continuing disruptions in the overall economy, including the ongoing impacts of the housing crisis, high unemployment, and financial market volatility and unpredictability, caused a related reduction in consumer confidence, which negatively affected the restaurant industry. These factors, as well as national, regional and local regulatory and economic conditions, gasoline prices, energy and other utility costs, inclement weather, conditions in the residential real estate and mortgage markets, health care costs, access to credit, disposable consumer income and consumer confidence, affect discretionary consumer spending. If these economic conditions persist or worsen, guest traffic could be adversely impacted if our guests choose to dine out less frequently or reduce the amount they spend on meals while dining out. If such negative economic conditions persist for a long period of time or become more pervasive, consumer changes to their discretionary spending behavior, including the frequency with which they dine out, could be more permanent. If Shack sales decrease, our profitability could decline as we spread fixed costs across a lower level of Shack sales. Prolonged negative trends in Shack sales could cause us to, among other things, reduce the number and frequency of new Shack openings, close Shacks or delay remodeling of our existing Shacks or take asset impairment charges.

Changes to estimates related to our property, fixtures and equipment or operating results that are lower than our current estimates at certain Shacks may cause us to incur impairment charges on certain long-lived assets, which may adversely affect our results of operations.

In accordance with accounting guidance as it relates to the impairment of long-lived assets, we make certain estimates and projections with regard to individual Shack operations, as well as our overall performance, in connection with our impairment analyses for long-lived assets. If an impairment indicator was deemed to exist for a Shack, the estimated undiscounted future cash flows would be compared to its carrying value. If the carrying value exceeds the undiscounted cash flows, we would recognize an impairment charge equal to the difference between the carrying value and the fair value. The projections of future cash flows used in these analyses require the use of judgment and a number of estimates and projections of future operating results. If actual results differ from our estimates, additional charges for asset impairments may be required in the future.

We rely on a limited number of licensees for the operation of our licensed Shacks, and we have limited control with respect to the operations of our licensed Shacks, which could have a negative impact on our reputation and business.

We rely, in part, on our licensees and the manner in which they operate their Shacks to develop and promote our business. As of December 31, 2014 , two licensees operated all of our domestic licensed Shacks and Alshaya, through affiliated and unaffiliated third party sub-licensees, operated all of our international licensed Shacks. Our licensees are required to operate their Shacks according to the specific guidelines we set forth that are essential to maintaining brand integrity and reputation as well as in accordance with all laws and regulations applicable to Shake Shack and its subsidiaries, and all laws and regulations applicable in the countries in which we operate. We provide training to these licensees to integrate them into our operating strategy and culture. However, since we do not have day-to-day control over all of these Shacks, we cannot give assurance that there will not be differences in product and service quality, operations, marketing or profitably or that there will be adherence to all of our guidelines and applicable laws at these Shacks. In addition, if our licensees fail to make investments necessary to maintain or improve their Shacks, guest preference for the Shake Shack brand could suffer. Failure of these Shacks to operate effectively could adversely affect our cash flows from those operations or have a negative impact on our reputation or our business.

Although we have developed criteria to evaluate and screen prospective developers and licensees, we cannot be certain that the developers and licensees we select will have the business acumen necessary to open and operate successful licensed Shacks in their licensing areas. Our licensees compete for guests with other restaurants in their geographic markets, and the ability of our licensees to compete for guests directly impacts our results of operations, as well as the desirability of our brand to prospective licensees. Licensees may not have access to the financial or management resources that they need to open the Shacks contemplated by their agreements with us or to be able to find suitable sites on which to develop them, or they may elect to cease development for other reasons. Licensees may not be able to negotiate acceptable lease or purchase terms for the sites, obtain the necessary permits and governmental approvals or meet construction schedules. Additionally, financing from banks and other financial institutions may

not always be available to licensees to construct and open new Shacks. Any of these problems could slow our growth from licensing operations and reduce our licensing revenues.

A challenging economic environment may affect our licensees, with adverse consequences to us.

Our operating results are impacted by the ability of our licensees to generate revenues at their licensed Shacks. It is possible that, in a challenging economic environment, some licensees could file for bankruptcy or become delinquent in their payments to us, which could have significant adverse impacts on our business due to the loss or delay in payments of licensing and other fees. Bankruptcy or other adverse performance by our licensees could negatively impact our market share and operating results as we may have fewer well-performing Shacks, and adversely impact our ability to attract new licensees.

If we are unable to maintain good relationships with our licensees, revenues could decrease and we may be unable to expand our presence in certain markets.

Our licensees pay us a license fee and certain other fees pursuant to our license agreements. The viability of our licensing business depends on our ability to establish and maintain good relationships with our licensees. In particular, our relationship with our international licensee, who is our sole international licensee and has an exclusive right to open new Shacks in certain markets, is critical to our international operations.

The value of our brand and the rapport that we maintain with our licensees are important factors for potential licensees considering doing business with us. If we are unable to maintain good relationships with licensees, we may be unable to renew license agreements and opportunities for developing new relationships with additional licensees may be adversely affected. This, in turn, could have an adverse effect on our results of operations.

Our license agreements require us and our licensees to comply with operational and performance conditions that are subject to interpretation and could result in disagreements. At any given time, we may be in disputes with one or more of our licensees. An adverse result in any such dispute could adversely impact our results of operations and business.

We rely heavily on information technology, and any material failure, weakness, interruption or breach of security could prevent us from effectively operating our business .

We rely heavily on information systems, including point-of-sale processing in our Shacks, for management of our supply chain, accounting, payment of obligations, collection of cash, credit and debit card transactions and other processes and procedures. Our ability to efficiently and effectively manage our business depends significantly on the reliability and capacity of these systems. Our operations depend upon our ability to protect our computer equipment and systems against damage from physical theft, fire, power loss, telecommunications failure or other catastrophic events, as well as from internal and external security breaches, viruses and other disruptive problems. The failure of these systems to operate effectively, maintenance problems, upgrading or transitioning to new platforms, expanding our systems as we grow or a breach in security of these systems could result in interruptions to or delays in our business and guest service and reduce efficiency in our operations. If our information technology systems fail and our redundant systems or disaster recovery plans are not adequate to address such failures, or if our business interruption insurance does not sufficiently compensate us for any losses that we may incur, our revenues and profits could be reduced and the reputation of our brand and our business could be materially adversely affected. In addition, remediation of such problems could result in significant, unplanned capital investments.

Legislation and regulations requiring the display and provision of nutritional information for our menu offerings, and new information or attitudes regarding diet and health or adverse opinions about the health effects of consuming our menu offerings, could affect consumer preferences and negatively impact our business, financial condition and results of operations.

We serve burgers, hot dogs, crinkle-cut fries, shakes, frozen custard, beer and wine. Government regulation and consumer eating habits may impact our business as a result of changes in attitudes regarding diet and health or new information regarding the health effects of consuming our menu offerings. These changes have resulted in, and may continue to result in, the enactment of laws and regulations that impact the ingredients and nutritional content of our menu offerings, or laws and regulations requiring us to disclose the nutritional content of our food offerings.

For example, a number of states, counties and cities have enacted menu labeling laws requiring multi-unit restaurant operators to disclose certain nutritional information to customers, or have enacted legislation restricting the use of certain types of ingredients in restaurants. Furthermore, the Patient Protection and Affordable Care Act of 2010 (the " PPACA ") establishes a uniform, federal requirement for certain restaurants to post certain nutritional information on their menus. Specifically, the PPACA amended the Federal Food, Drug and Cosmetic Act to require certain chain restaurants to publish the total number of calories of standard menu items on menus and menu boards, along with a statement that puts this calorie information in the context of a total daily calorie intake. The PPACA also requires covered restaurants to provide to consumers, upon request, a written summary of detailed nutritional information for each standard menu item, and to provide a statement on menus and menu boards about the availability of this information. The PPACA further permits the FDA to require covered restaurants to make additional nutrient disclosures, such as disclosure of trans-fat content. An unfavorable report on, or reaction to, our menu ingredients, the size of our portions or the nutritional content of our menu items could negatively influence the demand for our offerings.

We cannot make any assurances regarding our ability to effectively respond to changes in consumer health perceptions or our ability to successfully implement the nutrient content disclosure requirements and to adapt our menu offerings to trends in eating habits. The imposition of menu-labeling laws could have an adverse effect on our results of operations and financial position, as well as the hospitality industry in general.

Our insurance may not provide adequate levels of coverage against claims.

We believe that we maintain insurance customary for businesses of our size and type. However, there are types of losses we may incur that cannot be insured against or that we believe are not economically reasonable to insure. Such losses could have a material adverse effect on our business and results of operations.

Because a component of our strategy is to continue to grow our licensed business internationally, the risks of doing business internationally could lower our revenues, increase our costs, reduce our profits or disrupt our business.

Twenty-seven of our 32 licensed Shacks as of December 31, 2014 are located outside the United States and we expect to continue to expand our licensed Shacks internationally. As a result, we are and will be, on an increasing basis, subject to the risks of doing business outside the United States, including:

- changes in foreign currency exchange rates or currency restructurings and hyperinflation or deflation in the countries in which we operate;
- the imposition of restrictions on currency conversion or the transfer of funds or limitations on our ability to repatriate non-U.S. earnings in a tax effective manner;
- the presence and acceptance of varying levels of business corruption in international markets;
- the ability to comply with, or impact of complying with, complex and changing laws, regulations and policies of foreign governments that may affect investments or operations, including foreign ownership restrictions, import and export controls, tariffs, embargoes, intellectual property, licensing requirements and regulations, increase in taxes paid and other changes in applicable tax laws;
- the difficulties involved in managing an organization doing business in many different countries;
- the ability to comply with, or impact of complying with, complex and changing laws, regulations and economic political policies of the U.S. government, including U.S. laws and regulations relating to economic sanctions, export controls and anti-boycott requirements;
- increase in an anti-American sentiment and the identification of the licensed brand as an American brand;
- the effect of disruptions caused by severe weather, natural disasters, outbreak of disease or other events that make travel to a particular region less attractive or more difficult; and
- political and economic stability.

Any or all of these factors may adversely affect the performance of and licensing fees we receive from our licensed Shacks located in international markets. Our international licensed Shacks operate in several volatile regions that are subject to geopolitical and socio-political factors that pose risk to our business operations. In particular, our licensee has been negatively impacted by currency devaluation in Russia and we have seen a reduction in licensing revenue from our two Russian Shacks. If conditions persist or worsen, it is possible that our licensee may choose to close one or both Shacks. In addition, the economy of any region in which our Shacks are located may be adversely affected to a greater degree than that of other areas of the country or the world by certain developments affecting industries concentrated in that region or country. While these factors and the impact of these factors are difficult to predict, any one or more of them could lower our revenues, increase our costs, reduce our profits or disrupt our business, and, as our international licensed operations increase, these risks will become more pronounced.

Because of our international licensed operations, we could be adversely affected by violations of the U.S. Foreign Corrupt Practices Act and similar worldwide anti-bribery and anti-kickback laws.

A significant portion of our licensed operations are located outside the United States. The U.S. Foreign Corrupt Practices Act, and other similar anti-bribery and anti-kickback laws and regulations, generally prohibit companies and their intermediaries from making improper payments to non-U.S. officials for the purpose of obtaining or retaining business. While our license agreements mandate compliance with applicable law, we cannot assure you that we will be successful in preventing our employees or other agents from taking actions in violation of these laws or regulations. Such violations, or allegations of such violations, could disrupt our business and result in a material adverse effect on our financial condition, results of operations and cash flows.

Changes in statutory, regulatory, accounting, and other legal requirements could potentially impact our operating and financial results.

We are subject to numerous statutory, regulatory and legal requirements, domestically and abroad. Our operating results could be negatively impacted by developments in these areas due to the costs of compliance in addition to possible government penalties and litigation in the event of deemed noncompliance. Changes in the regulatory environment in the area of food safety, privacy and information security, wage and hour laws, among others, could potentially impact our operations and financial results.

We lease all of our domestic company-operated Shacks, and each is classified as an operating lease. The Financial Accounting Standards Board has issued an exposure draft that will revise lease accounting and require many leases currently considered to be operating leases to instead be classified as capital leases. The primary impact to this exposure draft would be that such leases would be recorded on the balance sheet as debt, and they

currently have an off-balance sheet classification as operating leases. The timeline for effectiveness of this pronouncement, as well as the final guidelines and potential financial impact, are unclear at this point.

Fluctuations in our tax obligations and effective tax rate and realization of our deferred tax assets may result in volatility of our operating results.

We are subject to income taxes in various U.S. and foreign jurisdictions. We record tax expense based on our estimates of future payments, which may include reserves for uncertain tax positions in multiple tax jurisdictions, and valuation allowances related to certain net deferred tax assets. At any one time, many tax years may be subject to audit by various taxing jurisdictions. The results of these audits and negotiations with taxing authorities may affect the ultimate settlement of these issues. We expect that throughout the year there could be ongoing variability in our quarterly tax rates as events occur and exposures are evaluated.

In addition, our effective tax rate in a given financial statement period may be materially impacted by a variety of factors including but not limited to changes in the mix and level of earnings, varying tax rates in the different jurisdictions in which we operate, fluctuations in the valuation allowance or by changes to existing accounting rules or regulations. Further, tax legislation may be enacted in the future which could negatively impact our current or future tax structure and effective tax rates.

We may not be able to adequately protect our intellectual property, which, in turn, could harm the value of our brands and adversely affect our business.

Our ability to implement our business plan successfully depends in part on our ability to further build brand recognition using our trademarks, service marks, proprietary products and other intellectual property, including our name and logos and the unique character and atmosphere of our Shacks. We rely on U.S. and foreign trademark, copyright, and trade secret laws, as well as license agreements, nondisclosure agreements, and confidentiality and other contractual provisions to protect our intellectual property. Nevertheless, our competitors may develop similar menu items and concepts, and adequate remedies may not be available in the event of an unauthorized use or disclosure of our trade secrets and other intellectual property.

The success of our business depends on our continued ability to use our existing trademarks and service marks to increase brand awareness and further develop our brand in both domestic and international markets. We have registered and applied to register trademarks and service marks in the United States and foreign jurisdictions. We may not be able to adequately protect our trademarks and service marks, and our competitors and others may successfully challenge the validity and/or enforceability of our trademarks and service marks and other intellectual property. The steps we have taken to protect our intellectual property in the United States and in foreign countries may not be adequate. In addition, the laws of some foreign countries do not protect intellectual property to the same extent as the laws of the United States.

If our efforts to maintain and protect our intellectual property are inadequate, or if any third party misappropriates, dilutes or infringes on our intellectual property, the value of our brands may be harmed, which could have a material adverse effect on our business and might prevent our brands from achieving or maintaining market acceptance.

We may also from time to time be required to institute litigation to enforce our trademarks, service marks and other intellectual property. Such litigation could result in substantial costs and diversion of resources and could negatively affect our sales, profitability and prospects regardless of whether we are able to successfully enforce our rights.

Third parties may assert that we infringe, misappropriate or otherwise violate their intellectual property and may sue us for intellectual property infringement. Even if we are successful in these proceedings, we may incur substantial costs, and the time and attention of our management and other personnel may be diverted in pursuing these proceedings. If a court finds that we infringe a third party's intellectual property, we may be required to pay damages and/or be subject to an injunction. With respect to any third party intellectual property that we use or wish to use in our business (whether or not asserted against us in litigation), we may not be able to enter into licensing or other arrangements with the owner of such intellectual property at a reasonable cost or on reasonable terms.

Restaurant companies have been the target of class action lawsuits and other proceedings that are costly, divert management attention and, if successful, could result in our payment of substantial damages or settlement costs.

Our business is subject to the risk of litigation by employees, guests, suppliers, licensees, stockholders or others through private actions, class actions, administrative proceedings, regulatory actions or other litigation. The outcome of litigation, particularly class action and regulatory actions, is difficult to assess or quantify. In recent years, restaurant companies have been subject to lawsuits, including class action lawsuits, alleging violations of federal and state laws regarding workplace and employment matters, discrimination and similar matters. A number of these lawsuits have resulted in the payment of substantial damages by the defendants. Similar lawsuits have been instituted from time to time alleging violations of various federal and state wage and hour laws regarding, among other things, employee meal deductions, overtime eligibility of assistant managers and failure to pay for all hours worked. While we have not been a party to any of these types of lawsuits in the past, there can be no assurance that we will not be named in any such lawsuit in the future or that we would not be required to pay substantial expenses and/or damages.

Occasionally, our guests file complaints or lawsuits against us alleging that we are responsible for some illness or injury they suffered at or after a visit to one of our Shacks, including actions seeking damages resulting from food-borne illness or accidents in our Shacks. We are also subject to a variety of other claims from third parties arising in the ordinary course of our business, including contract claims. The restaurant industry has also been subject to a growing number of claims that the menus and actions of restaurant chains have led to the obesity of certain of their customers.

Regardless of whether any claims against us are valid or whether we are liable, claims may be expensive to defend and may divert time and money away from our operations. In addition, they may generate negative publicity, which could reduce guest traffic and Shack sales. Although we maintain what we believe to be adequate levels of insurance, insurance may not be available at all or in sufficient amounts to cover any liabilities with respect to these or other matters. A judgment or other liability in excess of our insurance coverage for any claims or any adverse publicity resulting from claims could adversely affect our business and results of operations.

Our business is subject to risks related to our sale of alcoholic beverages.

We serve beer and wine at most of our Shacks. Alcoholic beverage control regulations generally require our Shacks to apply to a state authority and, in certain locations, county or municipal authorities for a license that must be renewed annually and may be revoked or suspended for cause at any time. Alcoholic beverage control regulations relate to numerous aspects of daily operations of our Shacks, including minimum age of patrons and employees, hours of operation, advertising, trade practices, wholesale purchasing, other relationships with alcohol manufacturers, wholesalers and distributors, inventory control and handling, storage and dispensing of alcoholic beverages. Any future failure to comply with these regulations and obtain or retain licenses could adversely affect our business, financial condition and results of operations.

We are also subject in certain states to "dram shop" statutes, which generally provide a person injured by an intoxicated person the right to recover damages from an establishment that wrongfully served alcoholic beverages to the intoxicated person. We carry liquor liability coverage as part of our existing comprehensive general liability insurance. Recent litigation against restaurant chains has resulted in significant judgments and settlements under dram shop statutes. Because these cases often seek punitive damages, which may not be covered by insurance, such litigation could have an adverse impact on our business, results of operations or financial condition. Regardless of whether any claims against us are valid or whether we are liable, claims may be expensive to defend and may divert time and money away from operations and hurt our financial performance. A judgment significantly in excess of our insurance coverage or not covered by insurance could have a material adverse effect on our business, results of operations or financial condition.

Our business is subject to seasonal fluctuations.

Our business is subject to seasonal fluctuations in that our Shack sales are typically nominally higher during the summer months affecting the second and third quarters of the fiscal year. Our quarterly results have been and will continue to be affected by the timing of new Shack openings and their associated pre-opening costs. As a result of these factors, our financial results for any single quarter or for periods of less than a year are not necessarily indicative of the results that may be achieved for a full fiscal year.

Because many of our domestic company-operated Shacks are concentrated in local or regional areas, we are susceptible to economic and other trends and developments, including adverse weather conditions, in these areas.

Our financial performance is highly dependent on Shacks located in the Northeast and the New York City metropolitan area, which comprised approximately 55% (or 17 out of 31) of our total domestic company-operated Shacks as of December 31, 2014 . As a result, adverse economic conditions in any of these areas could have a material adverse effect on our overall results of operations. In addition, given our geographic concentrations, negative publicity regarding any of our Shacks in these areas could have a material adverse effect on our business and operations, as could other regional occurrences such as local strikes, terrorist attacks, increases in energy prices, inclement weather or natural or man-made disasters.

In particular, adverse weather conditions, such as regional winter storms, floods, severe thunderstorms and hurricanes, could negatively impact our results of operations. For example, we experienced temporary Shack closures on the east coast due to Superstorm Sandy, which resulted in the closing of 11 Shacks for at least one day. Temporary or prolonged Shack closures may occur and guest traffic may decline due to the actual or perceived effects of future weather related events.

Risks Related to Our Organizational Structure

We are a holding company and our principal asset is our interest in SSE Holdings, and, accordingly, we will depend on distributions from SSE Holdings to pay our taxes and expenses, including payments under the Tax Receivable Agreement. SSE Holdings' ability to make such distributions may be subject to various limitations and restrictions.

We are a holding company and have no material assets other than our ownership interest in SSE Holdings. As such, we will have no independent means of generating revenue or cash flow, and our ability to pay our taxes and operating expenses or declare and pay dividends in the future, if any, will be dependent upon the financial results and cash flows of SSE Holdings and its subsidiaries and distributions we receive from SSE Holdings. There

can be no assurance that SSE Holdings and its subsidiaries or affiliates will generate sufficient cash flow to distribute funds to us or that applicable state law and contractual restrictions, including negative covenants in our debt instruments, will permit such distributions.

SSE Holdings will continue to be treated as a partnership for U.S. federal income tax purposes and, as such, will not be subject to any entity-level U.S. federal income tax. Instead, taxable income will be allocated to its members, including us. Accordingly, we will incur income taxes on our allocable share of any net taxable income of SSE Holdings. Under the terms of the SSE Holdings LLC Agreement, SSE Holdings is obligated to make tax distributions to its members, including us. In addition to tax expenses, we will also incur expenses related to our operations, including payments under the Tax Receivable Agreement, which we expect could be significant. We intend, as its managing member, to cause SSE Holdings to make cash distributions to its members in an amount sufficient to (i) fund all or part of their tax obligations in respect of taxable income allocated to them and (ii) cover our operating expenses, including payments under the Tax Receivable Agreement. However, SSE Holdings' ability to make such distributions may be subject to various limitations and restrictions, such as restrictions on distributions that would either violate any contract or agreement to which SSE Holdings is then a party, including debt agreements, or any applicable law, or that would have the effect of rendering SSE Holdings insolvent. If we do not have sufficient funds to pay tax or other liabilities or to fund our operations, we may have to borrow funds, which could materially adversely affect our liquidity and financial condition and subject us to various restrictions imposed by any such lenders. To the extent that we are unable to make payments under the Tax Receivable Agreement for any reason, such payments generally will be deferred and will accrue interest until paid; provided, however, that nonpayment for a specified period may constitute a material breach of a material obligation under the Tax Receivable Agreement and therefore accelerate payments due under the Tax Receivable Agreement. In addition, if SSE Holdings does not have sufficient funds to make distributions, our ability to declare and pay cash dividends will also be restricted or impaired.

Our organizational structure, including the Tax Receivable Agreement, confers certain benefits upon the Continuing SSE Equity Owners that will not benefit Class A common stockholders to the same extent as it will benefit the Continuing SSE Equity Owners.

We are a party to the Tax Receivable Agreement with the Continuing SSE Equity Owners. Under the Tax Receivable Agreement, we are required to make cash payments to the Continuing SSE Equity Owners equal to 85% of the tax benefits, if any, that we actually realize, or in certain circumstances are deemed to realize, as a result of (1) the increases in the tax basis of assets of SSE Holdings resulting from any redemptions or exchanges of LLC Interests from the Continuing SSE Equity Owners or any prior sales of interests in SSE Holdings and (2) certain other tax benefits related to our making payments under the Tax Receivable Agreement.

We expect that the amount of the cash payments that we are required to make under the Tax Receivable Agreement will be significant. Any payments made by us to the Continuing SSE Equity Owners under the Tax Receivable Agreement will generally reduce the amount of overall cash flow that might have otherwise been available to us. Furthermore, our future obligation to make payments under the Tax Receivable Agreement could make us a less attractive target for an acquisition, particularly in the case of an acquirer that cannot use some or all of the tax benefits that are the subject of the Tax Receivable Agreement. Payments under the Tax Receivable Agreement are not conditioned on any Continuing SSE Equity Owner's continued ownership of LLC Interests or our Class A common stock after the IPO.

The actual amount and timing of any payments under the Tax Receivable Agreement, will vary depending upon a number of factors, including the timing of redemptions or exchanges by the holders of LLC Interests, the amount of gain recognized by such holders of LLC Interests, the amount and timing of the taxable income we generate in the future, and the federal tax rates then applicable.

In certain cases, payments under the Tax Receivable Agreement to the Continuing SSE Equity Owners may be accelerated or significantly exceed the actual benefits we realize in respect of the tax attributes subject to the Tax Receivable Agreement.

The Tax Receivable Agreement provides that, upon certain mergers, asset sales, other forms of business combinations or other changes of control or if, at any time, we elect an early termination of the Tax Receivable Agreement, then our obligations, or our successor's obligations, under the Tax Receivable Agreement to make payments thereunder would be based on certain assumptions, including an assumption that we would have sufficient taxable income to fully utilize all potential future tax benefits that are subject to the Tax Receivable Agreement.

As a result of the foregoing, (i) we could be required to make payments under the Tax Receivable Agreement that are greater than the specified percentage of the actual benefits we ultimately realize in respect of the tax benefits that are subject to the Tax Receivable Agreement and (ii) if we elect to terminate the Tax Receivable Agreement early, we would be required to make an immediate cash payment equal to the present value of the anticipated future tax benefits that are the subject of the Tax Receivable Agreement, which payment may be made significantly in advance of the actual realization, if any, of such future tax benefits. In these situations, our obligations under the Tax Receivable Agreement could have a substantial negative impact on our liquidity and could have the effect of delaying, deferring or preventing certain mergers, asset sales, other forms of business combinations or other changes of control. There can be no assurance that we will be able to fund or finance our obligations under the Tax Receivable Agreement.

We will not be reimbursed for any payments made to the Continuing SSE Equity Owners under the Tax Receivable Agreement in the event that any tax benefits are disallowed.

Payments under the Tax Receivable Agreement will be based on the tax reporting positions that we determine, and the Internal Revenue Service (the " IRS ") or another tax authority may challenge all or part of the tax basis increases, as well as other related tax positions we take, and a court could sustain such challenge. If the outcome of any such challenge would reasonably be expected to materially affect a recipient's payments under the Tax

Receivable Agreement, then we will not be permitted to settle or fail to contest such challenge without the consent (not to be unreasonably withheld or delayed) of each Continuing SSE Equity Owner that directly or indirectly owns at least 10% of the outstanding LLC Interests. We will not be reimbursed for any cash payments previously made to the Continuing SSE Equity Owners under the Tax Receivable Agreement in the event that any tax benefits initially claimed by us and for which payment has been made to a Continuing SSE Equity Owner are subsequently challenged by a taxing authority and are ultimately disallowed. Instead, any excess cash payments made by us to a Continuing SSE Equity Owner will be netted against any future cash payments that we might otherwise be required to make to such Continuing SSE Equity Owner under the terms of the Tax Receivable Agreement. However, we might not determine that we have effectively made an excess cash payment to a Continuing SSE Equity Owner for a number of years following the initial time of such payment and, if any of our tax reporting positions are challenged by a taxing authority, we will not be permitted to reduce any future cash payments under the Tax Receivable Agreement until any such challenge is finally settled or determined. As a result, payments could be made under the Tax Receivable Agreement in excess of the tax savings that we realize in respect of the tax attributes with respect to a Continuing SSE Equity Owner that are the subject of the Tax Receivable Agreement.

Unanticipated changes in effective tax rates or adverse outcomes resulting from examination of our income or other tax returns could adversely affect our results of operations and financial condition.

We are subject to taxes by the U.S. federal, state, local and foreign tax authorities, and our tax liabilities will be affected by the allocation of expenses to differing jurisdictions. Our future effective tax rates could be subject to volatility or adversely affected by a number of factors, including:

- changes in the valuation of our deferred tax assets and liabilities;
- expected timing and amount of the release of any tax valuation allowance;
- tax effects of stock-based compensation;
- changes in tax laws, regulations or interpretations thereof; or
- future earnings being lower than anticipated in jurisdictions where we have lower statutory tax rates and higher than anticipated earnings in jurisdictions where we have higher statutory tax rates.

In addition, we may be subject to audits of our income, sales and other transaction taxes by U.S. federal, state, local and foreign taxing authorities. Outcomes from these audits could have an adverse effect on our operating results and financial condition.

Shake Shack is controlled by the Continuing SSE Equity Owners, whose interests may differ from those of our public stockholders.

The Continuing SSE Equity Owners control approximately 83.2% of the combined voting power of our common stock through their ownership of both Class A common stock and Class B common stock. The Continuing SSE Equity Owners, for the foreseeable future, have significant influence over corporate management and affairs, and control virtually all matters requiring stockholder approval. The Continuing SSE Equity Owners are able to, subject to applicable law, and the voting arrangements allow the Continuing SSE Equity Owners to, elect a majority of the members of our Board of Directors and control actions to be taken by us and our Board of Directors, including amendments to our certificate of incorporation and bylaws and approval of significant corporate transactions, including mergers and sales of substantially all of our assets. The directors so elected will have the authority, subject to the terms of our indebtedness and applicable rules and regulations, to issue additional stock, implement stock repurchase programs, declare dividends and make other decisions. It is possible that the interests of the Continuing SSE Equity Owners may in some circumstances conflict with our interests and the interests of our other stockholders, including you. For example, the Continuing SSE Equity Owners may have different tax positions from us, especially in light of the Tax Receivable Agreement, that could influence their decisions regarding whether and when to dispose of assets, whether and when to incur new or refinance existing indebtedness, and whether and when Shake Shack should terminate the Tax Receivable Agreement and accelerate its obligations thereunder. In addition, the determination of future tax reporting positions, the structuring of future transactions and the handling of any future challenges by any taxing authority to our tax reporting positions may take into consideration these Continuing SSE Equity Owners' tax or other considerations, which may differ from the considerations of us or our other stockholders.

In addition, certain of the Continuing SSE Equity Owners are in the business of making or advising on investments in companies and may hold, and may from time to time in the future acquire interests in or provide advice to businesses that directly or indirectly compete with certain portions of our business or the business of our suppliers. Our amended and restated certificate of incorporation provides that, to the fullest extent permitted by law, none of the Continuing SSE Equity Owners or any director who is not employed by us or his or her affiliates has any duty to refrain from engaging in a corporate opportunity in the same or similar lines of business as us. The Continuing SSE Equity Owners may also pursue acquisitions that may be complementary to our business, and, as a result, those acquisition opportunities may not be available to us.

We are a "controlled company" within the meaning of the New York Stock Exchange listing standards and, as a result, will qualify for, and rely on, exemptions from certain corporate governance requirements. You will not have the same protections with respect to the requirements that we are exempt from as are afforded to stockholders of companies that do not qualify for or rely on such exemptions.

(i) Daniel Meyer (including a trust affiliate), (ii) Union Square Cafe Corp. and Gramercy Tavern Corp., each of which are controlled by Mr. Meyer, which we refer to collectively as the " S Corporations ," (iii) USHG, which, together with Mr. Meyer and the S Corporations, we refer to collectively as the " Meyer Group ," (iv) certain affiliates of Leonard Green & Partners, L.P., which we refer to as " LGP ," (v) certain affiliates of Select Equity Group, which we refer to as " SEG ," and (vi) certain other Original SSE Equity Owners (collectively, the " Voting Group "), which collectively hold Class A common stock and Class B common stock representing approximately 83.2% of the combined voting power of our common stock, entered into the Stockholders Agreement

with us. Pursuant to the terms of the Stockholders Agreement, until such time as no members of the Voting Group are entitled to designate individuals to be included in the slate of nominees recommended by our Board of Directors for election to our Board of Directors, or the Stockholders Agreement is otherwise terminated in accordance with its terms, the parties to the Stockholders Agreement agree to vote their shares of Class A common stock and Class B common stock in favor of the election of the nominees of certain members of the Voting Group to our Board of Directors upon their nomination by the nominating and corporate governance committee of our Board of Directors. As a result, the Voting Group has the ability to elect all of the members of our Board of Directors and, thereby, to control our management and affairs. The Stockholders Agreement further provides that, for so long as the Meyer Group collectively owns at least 10% of the total shares of our Class A and Class B common stock owned by it immediately following the consummation of the IPO, the approval of the Meyer Group is required for certain corporate actions, including change in control transactions, equity issuances and the hiring or termination of our Chief Executive Officer.

On account of the Stockholders Agreement and the aggregate voting power of the Voting Group, we are considered a "controlled company" for the purposes of the New York Stock Exchange. As such, we are exempt from certain corporate governance requirements of the New York Stock Exchange, including (i) the requirement that a majority of the Board of Directors consist of independent directors, (ii) the requirement that we have a nominating and corporate governance committee that is composed entirely of independent directors and (iii) the requirement that we have a compensation committee that is composed entirely of independent directors. We currently utilize, and intend to continue to utilize the exemptions set forth in clauses (i) and (ii) in the immediately preceding sentence. Accordingly, you will not have the same protections afforded to stockholders of companies that do not qualify for or rely on these exemptions.

Our anti-takeover provisions could prevent or delay a change in control of our Company, even if such change in control would be beneficial to our stockholders.

Provisions of our amended and restated certificate of incorporation and amended and restated bylaws, as well as provisions of Delaware law could discourage, delay or prevent a merger, acquisition or other change in control of our Company, even if such change in control would be beneficial to our stockholders. These provisions include:

- authorizing the issuance of "blank check" preferred stock that could be issued by our Board of Directors to increase the number of outstanding shares and thwart a takeover attempt;
- establishing a classified board of directors so that not all members of our Board of Directors are elected at one time;
- the removal of directors only for cause;
- prohibiting the use of cumulative voting for the election of directors;
- limiting the ability of stockholders to call special meetings or amend our bylaws;
- requiring all stockholder actions to be taken at a meeting of our stockholders; and
- establishing advance notice and duration of ownership requirements for nominations for election to the Board of Directors or for proposing matters that can be acted upon by stockholders at stockholder meetings.

These provisions could also discourage proxy contests and make it more difficult for you and other stockholders to elect directors of your choosing and cause us to take other corporate actions you desire. In addition, because our Board of Directors is responsible for appointing the members of our management team, these provisions could in turn affect any attempt by our stockholders to replace current members of our management team.

In addition, the Delaware General Corporation Law (the " DGCL "), to which we are subject, prohibits us, except under specified circumstances, from engaging in any mergers, significant sales of stock or assets or business combinations with any stockholder or group of stockholders who owns at least 15% of our common stock.

We may issue shares of preferred stock in the future, which could make it difficult for another company to acquire us or could otherwise adversely affect holders of our Class A common stock, which could depress the price of our Class A common stock.

Our amended and restated certificate of incorporation authorizes us to issue one or more series of preferred stock. Our Board of Directors has the authority to determine the preferences, limitations and relative rights of the shares of preferred stock and to fix the number of shares constituting any series and the designation of such series, without any further vote or action by our stockholders. Our preferred stock could be issued with voting, liquidation, dividend and other rights superior to the rights of our Class A common stock. The potential issuance of preferred stock may delay or prevent a change in control of us, discourage bids for our Class A common stock at a premium to the market price, and materially and adversely affect the market price and the voting and other rights of the holders of our Class A common stock.

The provision of our certificate of incorporation requiring exclusive venue in the Court of Chancery in the State of Delaware for certain types of lawsuits may have the effect of discouraging lawsuits against our directors and officers.

Our amended and restated certificate of incorporation requires, to the fullest extent permitted by law, that (i) any derivative action or proceeding brought on our behalf, (ii) any action asserting a claim of breach of a fiduciary duty owed by any of our directors, officers or other employees to us or our stockholders, (iii) any action asserting a claim against us arising pursuant to any provision of the DGCL or our amended and restated certificate of incorporation or the bylaws or (iv) any action asserting a claim against us governed by the internal affairs doctrine will have to be brought only in the

Court of Chancery in the State of Delaware. Although we believe this provision benefits us by providing increased consistency in the application of Delaware law in the types of lawsuits to which it applies, the provision may have the effect of discouraging lawsuits against our directors and officers.

Risks Related to Ownership of Our Class A Common Stock

The Continuing SSE Equity Owners have the right to have their LLC Interests redeemed pursuant to the terms of the SSE Holdings LLC Agreement.

We have an aggregate of more than 188,691,853 shares of Class A common stock authorized but unissued, including approximately 24,191,853 shares of Class A common stock issuable upon redemption of LLC Interests that are held by the Continuing SSE Equity Owners. Subject to certain restrictions set forth in the SSE Holdings LLC Agreement, the Continuing SSE Equity Owners are entitled to have their LLC Interests redeemed for shares of our Class A common stock. We also entered into a Registration Rights Agreement pursuant to which the shares of Class A common stock issued to the Continuing SSE Equity Owners upon redemption of LLC Interests and the shares of Class A common stock issued to the Former SSE Equity Owners in connection with the Organizational Transactions are eligible for resale, subject to certain limitations set forth therein.

We cannot predict the size of future issuances of our Class A common stock or the effect, if any, that future issuances and sales of shares of our Class A common stock may have on the market price of our Class A common stock. Sales or distributions of substantial amounts of our Class A common stock, including shares issued in connection with an acquisition, or the perception that such sales or distributions could occur, may cause the market price of our Class A common stock to decline.

Taking advantage of the reduced disclosure requirements applicable to "emerging growth companies" may make our Class A common stock less attractive to investors.

The JOBS Act provides that, so long as a company qualifies as an "emerging growth company," it will, among other things:

- be exempt from the provisions of Section 404(b) of the Sarbanes-Oxley Act of 2002 (the " Sarbanes-Oxley Act ") requiring that its independent registered public accounting firm provide an attestation report on the effectiveness of its internal control over financial reporting;
- be exempt from "say on pay" and "say on golden parachute" advisory vote requirements of the Dodd-Frank Wall Street Reform and Customer Protection Act (the " Dodd-Frank Act ");
- be exempt from certain disclosure requirements of the Dodd-Frank Act relating to compensation of its executive officers and be permitted to omit the detailed compensation discussion and analysis from proxy statements and reports filed under the Securities Exchange Act of 1934 (the " Exchange Act "); and
- be exempt from any rules that may be adopted by the Public Company Accounting Oversight Board requiring mandatory audit firm rotations or a supplement to the auditor's report on the financial statements.

We currently utilize and intend to continue to utilize the exemptions described above for so long as we are an emerging growth company. We have irrevocably elected not to take advantage of the extension of time to comply with new or revised financial accounting standards available under Section 107(b) of the JOBS Act. We could be an emerging growth company for up to five years after our initial public offering. We cannot predict if investors will find our Class A common stock less attractive if we elect to rely on these exemptions, or if taking advantage of these exemptions would result in less active trading or more volatility in the price of our Class A common stock.

We will incur increased costs as a result of becoming a public company and in the administration of our organizational structure.

As a public company, we will incur significant legal, accounting, insurance and other expenses that we have not incurred as a private company, including costs associated with public company reporting requirements. We also have incurred and will incur costs associated with the Sarbanes-Oxley Act and related rules implemented by the Securities and Exchange Commission (" SEC "). We will incur ongoing periodic expenses in connection with the administration of our organizational structure. The expenses incurred by public companies generally for reporting and corporate governance purposes have been increasing. We expect these rules and regulations to increase our legal and financial compliance costs and to make some activities more time-consuming and costly, although we are currently unable to estimate these costs with any degree of certainty. In estimating these costs, we took into account expenses related to insurance, legal, accounting, and compliance activities, as well as other expenses not currently incurred. These laws and regulations could also make it more difficult or costly for us to obtain certain types of insurance, including director and officer liability insurance, and we may be forced to accept reduced policy limits and coverage or incur substantially higher costs to obtain the same or similar coverage. These laws and regulations could also make it more difficult for us to attract and retain qualified persons to serve on our Board of Directors, our board committees or as our executive officers. Furthermore, if we are unable to satisfy our obligations as a public company, we could be subject to delisting of our common stock, fines, sanctions and other regulatory action and potentially civil litigation.

We do not currently expect to pay any cash dividends.

The continued operation and expansion of our business will require substantial funding. Accordingly, we do not currently expect to pay any cash dividends on shares of our Class A common stock. Any determination to pay dividends in the future will be at the discretion of our Board of Directors and will depend upon results of operations, financial condition, contractual restrictions, restrictions imposed by applicable law and other factors our Board of Directors deems relevant. We are a holding company, and substantially all of our operations are carried out by SSE Holdings and its subsidiaries. Under the Revolving Credit Facility, SSE Holdings is currently restricted from paying cash dividends, and we expect these restrictions to continue in the future. Our ability to pay dividends may also be restricted by the terms of any future credit agreement or any future debt or preferred equity securities of ours or of our subsidiaries. Accordingly, if you purchase shares in this offering, realization of a gain on your investment will depend on the appreciation of the price of our Class A common stock, which may never occur. Investors seeking cash dividends in the foreseeable future should not purchase our Class A common stock.

Item 1B. Unresolved Staff Comments.

None.

Item 2. Properties.

Our home office is located at 24 Union Square East, 5th Floor, New York, NY 10003. We lease our home office, which is approximately 10,500 square feet and all of our domestic company-operated Shacks. We do not own any real property, nor do we own or lease any property related to our licensed operations. The following table sets forth the number of company-owned and licensed Shacks by geographic location as of December 31, 2014 .

	Company-Operated	Licensed	Total
Connecticut	2	—	2
District of Columbia	3	1	4
Florida	4	—	4
Georgia	1	—	1
Illinois	1	—	1
Massachusetts	2	—	2
Nevada	1	—	1
New Jersey	2	—	2
New York	11	4	15
Pennsylvania	3	—	3
Virginia	1	—	1
DOMESTIC	31	5	36
Kuwait	—	6	6
Lebanon	—	2	2
Qatar	—	1	1
Russia	—	2	2
Saudi Arabia	—	1	1
Turkey	—	4	4
United Arab Emirates	—	10	10
United Kingdom	—	1	1
INTERNATIONAL	—	27	27
SYSTEM-WIDE	31	32	63

Item 3. Legal Proceedings

We are involved in various claims and legal proceedings arising from our normal business activities and have accruals for losses where appropriate. We believe that none of these legal proceedings will have a material adverse effect on our consolidated financial position, results of operations or liquidity.

Item 4. Mine Safety Disclosures.

Not applicable.

Part II

Item 5. Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities.

MARKET INFORMATION

On February 4, 2015, we closed an initial public offering of our Class A common stock at price of $21.00 per share. Prior to that time, there was no public market for our stock. Our Class A common stock is traded on the New York Stock Exchange under the symbol "SHAK."

Our Class B common stock is not listed nor traded on any stock exchange.

HOLDERS

As of March 20, 2015, there were 6 shareholders of record of our Class A common stock. The number of record holders does not include persons who held shares of our Class A common stock in nominee or "street name" accounts through brokers. As of March 20, 2015, there were 46 shareholders of record of our Class B common stock.

DIVIDENDS

We currently intend to retain all available funds and any future earnings for use in the operation of our business, and therefore we do not currently expect to pay any cash dividends on our Class A common stock. Holders of our Class B common stock are not entitled to participate in any dividends declared by our Board of Directors. Any future determination to pay dividends to holders of Class A common stock will be at the discretion of our Board of Directors and will depend upon many factors, including our results of operations, financial condition, capital requirements, restrictions in SSE Holdings' debt agreements and other factors that our Board of Directors deems relevant. We are a holding company, and substantially all of our operations are carried out by SSE Holdings and its subsidiaries. Additionally, under the Revolving Credit Facility, SSE Holdings is currently restricted from paying cash dividends, and we expect these restrictions to continue in the future, which may in turn limit our ability to pay dividends on our Class A common stock.

RECENT SALE OF UNREGISTERED SECURITIES AND USE OF PROCEEDS FROM REGISTERED SECURITIES

Recent Sale of Unregistered Securities

Simultaneously with the consummation of the IPO, we issued to the Original SSE Equity Owners 30,160,694 shares of Class B common stock (and a like amount of LLC Interests). Subsequent to the IPO, we acquired certain of the Original SSE Equity Owners, by merger, for which we issued 5,968,841 shares of our Class A common stock and canceled 5,968,841 shares of Class B common stock held by those entities. The issuances of the Class B common stock and the Class A common stock described in this paragraph were made in reliance on Section 4(a)(2) of the Securities Act of 1933, as amended, and Rule 506 promulgated thereunder.

The Continuing SSE Equity Owners, from time to time following the IPO, may require SSE Holdings to redeem or exchange all or a portion of their LLC Interests for newly-issued shares of Class A common stock on a one-for-one basis (and their shares of Class B common stock will be canceled on a one-for-one basis upon any such issuance). Our Board of Directors, which include directors who hold LLC Interests or are affiliated with holders of LLC Interests, may, at its option, instead direct Shake Shack to make a cash payment equal to the volume weighted average market price of one share of our Class A common stock for each LLC Interest redeemed (subject to customary adjustments, including for stock splits, stock dividends and reclassifications) in accordance with the terms of the SSE Holdings LLC Agreement.

Use of Proceeds

On January 29, 2015, our Registration Statement on Form S-1 (File No. 333-201271) was declared effective by the SEC for our IPO pursuant to which we registered and sold an aggregate of 5,750,000 shares of our Class A common stock (including 750,000 shares sold pursuant to the underwriters' over-allotment option) at a price of $21.00 per share. J.P. Morgan Securities LLC and Morgan Stanley & Co. LLC acted as joint lead book-running managers in the offering. Barclays Capital Inc., Goldman, Sachs & Co., and Jefferies LLC also acted as book-running managers in the offering. William Blair & Company, L.L.C. and Stifel acted as co-managers in the offering. The offering commenced on January 29, 2015 and did not terminate before all of the securities registered in the registration statement were sold. The offering closed on February 4, 2015, resulting in net proceeds of $106.1 million after deducting underwriters' discounts and commissions of $8.5 million and other offering expenses of $6.2 million. No payments were made by us to directors, officers or persons owning 10% or more of our common stock or to their associates, or to our affiliates.

We used the net proceeds to us from the IPO to purchase 5,750,000 newly-issued LLC Interests from SSE Holdings at a purchase price per interest equal to the initial public offering price per share of Class A common stock.

As sole managing member of SSE Holdings, we caused SSE Holdings to use the proceeds it received as follows: (i) to pay fees and expenses of approximately $6.2 million in connection with the IPO and the Organizational Transactions, (ii) to repay the outstanding borrowings under our Revolving Credit Facility of approximately $36.0 million, including approximately $21.9 million of borrowings used to pay a distribution to certain of the Original SSE Equity Owners prior to the offering; (iii) to pay an additional distribution in the amount of $11.1 million to certain of the Original SSE Equity Owners and (iii) approximately $59.0 million for general corporate purposes, including opening new Shacks and renovating existing Shacks.

The $11.1 million additional distribution paid by SSE Holdings to the certain of the Original SSE Equity Owners include direct payments to certain directors, executive officers and beneficial owners of 10% or more of our common stock.

There has been no material change in the use of proceeds as described in the final prospectus filed on January 30, 2015.

Item 6. Selected Financial Data.

The selected financial data set forth below was derived from the audited consolidated financial statements and should be read in conjunction with Item 1A, "Risk Factors," Item 7, "Management's Discussion and Analysis of Financial and Results of Operations" and our audited consolidated financial statements included in Item 8, "Financial Statements and Supplementary Data."

(dollar amounts in thousands, except per unit amounts)	2014[1]	2013	2012
Selected statement of income data:			
Shack sales	$ 112,042	$ 78,587	$ 55,591
Licensing revenue	6,488	3,869	1,447
Shack-level operating expenses	85,181	58,168	41,344
General and administrative expenses	18,187	12,453	6,988
Pre-opening costs	6,105	2,334	1,858
Operating income	3,143	5,935	4,686
Net income	2,118	5,423	4,133
Per share data[2]:			
Pro-forma earnings per unit—basic	$ 0.07	$ 0.18	$ 0.14
Pro-forma earnings per unit—diluted	$ 0.07	$ 0.18	$ 0.14
Selected balance sheet data:			
Cash and cash equivalents	$ 2,677	$ 13,076	$ 16,033
Total current assets	7,945	15,207	17,984
Total assets	82,962	55,219	44,068
Total current liabilities	48,177	7,205	5,567
Total debt	32,313	313	—
Total liabilities	70,362	17,832	12,197
Total members' equity	12,600	37,387	31,871
Selected cash flow data:			
Net cash provided by operating activities	$ 13,584	$ 12,924	$ 11,678
Net cash used in investing activities	(28,515)	(16,194)	(11,036)
Net cash provided by (used in) financing activities	4,532	313	(2,171)

(dollar amounts in thousands)	2014[1]	2013	2012
Selected operating data:			
System-wide sales [3]	$ 217,442	$ 139,903	$ 81,048
Same-Shack sales growth [4]	4.1%	5.9%	7.1%
Shacks in the comparable base	13	8	5
Average weekly sales [5]:			
Domestic company-operated	$ 89	$ 96	$ 102
Average unit volumes [6]:			
Domestic company-operated	$ 4,611	$ 5,017	$ 5,367
International licensed	$ 4,588	$ 6,077	$ 9,665
Shack-level operating profit [7]	$ 26,861	$ 20,419	$ 14,247
Shack-level operating profit margin [7]	24.0%	26.0%	25.6%
Adjusted EBITDA [8]	$ 18,886	$ 14,459	$ 9,998
Adjusted EBITDA margin [8]	16.9%	18.4%	18.0%
Shack counts (at end of period):			
System-wide	63	40	21
Domestic company-operated	31	21	13
Domestic licensed	5	4	3
International licensed	27	15	5

(1) We operate on a 52/53 week fiscal year that ends on the last Wednesday of the calendar year. Fiscal year 2014 was a 53-week year with the extra operating week (the " 53rd week ") falling in our fiscal fourth quarter. Fiscal 2013 and 2012 each contained 52 weeks.

(2) The pro forma earnings per unit amounts have been computed to give effect to the recapitalization transactions that occurred in connection with our initial public offering, including the amendment and restatement of the second amended and restated limited liability company agreement of SSE Holdings to, among other things, (i) provide for a new single class of common membership ownership interests and (ii) exchange all of our members' existing membership interests for the newly-created ownership interests. The computations of pro forma earnings per unit do not consider the 5,750,000 shares of Class A common stock issued to investors in the initial public offering or the 339,306 shares of Class A common stock issued to participants of our Unit Appreciation Rights Plan in settlement of their outstanding awards. See Note 13 to the consolidated financial statements included in Item 8 of this Annual Report on Form 10-K.

(3) System-wide sales consists of sales from our domestic company-operated Shacks, our domestic licensed Shacks and our international licensed Shacks. We do not recognize the sales from our licensed Shacks as revenue. Our total revenue is limited to Shack sales from domestic company-operated Shacks and licensing revenue based on a percentage of sales from domestic and international licensed Shacks.

(4) Same-Shack sales growth reflects the change in year-over-year Shack sales for domestic company-operated Shacks open for 24 months or longer. Same-Shack sales growth for fiscal 2014 excludes sales from the 53rd week.

(5) Average weekly sales is calculated by dividing total Shack sales by the number of operating weeks for all Shacks in operation during the period.

(6) Average unit volumes (" AUVs ") are calculated by dividing total sales by the number of Shacks open during the period. For Shacks that are not open for the entire period, fractional adjustments are made to the number of Shacks used in the denominator such that it corresponds to the period of associated sales.

(7) See Shack-Level Operating Profit (Non-GAAP Financial Measure) on page 41 for additional information and a reconciliation to the most directly comparable GAAP financial measure.

(8) See EBITDA and Adjusted EBITDAA (Non-GAAP Financial Measures) on page 42 for additional information and a reconciliation to the most directly comparable GAAP financial measure.

Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations.

This section and other parts of this Annual Report on Form 10-K (" Form 10-K ") contain forward-looking statements, within the meaning of the Private Securities Litigation Reform Act of 1995, which are subject to risks and uncertainties. Forward-looking statements provide current expectations of future events based on certain assumptions and include any statement that does not directly relate to any historical or current fact. Forward-looking statements can also be identified by words such as "aim," "anticipate," "believe," "estimate," "expect," "forecast," "future," "intend," "outlook," "plan," "potential," "predict," "project," "seek," "may," "can," "will," "would," "could," "should," the negatives thereof and other similar expressions. Forward-looking statements are not guarantees of future performance and actual results may differ significantly from the results discussed in the forward-looking statements. Factors that might cause such differences include, but are not limited to, those discussed in Part I, Item 1A of this Form 10-K under the heading "Risk Factors," which are incorporated herein by reference. The following discussion should be read in conjunction with the consolidated financial statements and notes thereto included in Part II, Item 8 of this Form 10-K. All information presented herein is based on our fiscal calendar. Unless otherwise stated, references to particular years, quarters, months or periods refer to our fiscal years and the associated quarters, months and periods of those fiscal years. We undertake no obligation to revise or update any forward-looking statements for any reason, except as required by law.

OVERVIEW

Shake Shack is a modern day "roadside" burger stand serving a classic American menu of premium burgers, hot dogs, crinkle-cut fries, shakes, frozen custard, beer and wine. As of December 31, 2014, there were 63 Shacks worldwide, comprised of 31 domestic company-operated Shacks, 5 domestic licensed Shacks and 27 international licensed Shacks.

During the three-year period ended December 31, 2014, we grew from 14 Shacks to 63 Shacks across 10 states, the District of Columbia and eight other countries, representing a 65% compound annual growth rate (" CAGR "). As a result, our total revenue grew from $38.6 million in fiscal 2011 to $118.5 million in fiscal 2014, a 45% CAGR. Compared to fiscal 2013, total revenue increased 43.7%. Net income for fiscal 2014 was $2.1 million, compared to net income of $5.4 million for fiscal 2013. Net income for fiscal 2014 included approximately $2.6 million of after-tax expenses incurred in connection with our IPO. Adjusted EBITDA, a non-GAAP measure, increased 30.6% to $18.9 million for fiscal 2014 from $14.5 million for fiscal 2013. For a reconciliation of Adjusted EBITDA, a non-GAAP measure, to net income, see "—EBITDA and Adjusted EBITDA (Non-GAAP Financial Measures)." Our brand power and thoughtful approach to growth have resulted in strong Shack performance across a variety of geographic areas and formats.

In fiscal 2014, we opened 10 domestic company-operated Shacks, including five Shacks in the fourth quarter. We executed our plan to enter a number of new markets, Orlando, Chicago, Atlanta and Las Vegas, while deepening our roots in our current markets of New York, New Jersey, and Washington, D.C. We opened our first Shack west of the Mississippi River on the Las Vegas Strip, outside the MGM New York - New York, where a brand new public park and Las Vegas' newest and largest arena will open in 2016. We also expanded our international footprint by opening 12 international licensed Shacks in several countries, including Kuwait, Turkey, the United Arab Emirates, Lebanon and Russia. In December 2014, we entered into an exclusive licensing agreement with a leading retail and food operator for the development of up to 10 new Shacks in Japan over the next five years. The first Shack in Japan is expected to open in 2016.

Fiscal 2014 Highlights

- Total revenue increased 43.7% to $118.5 million.
- Shack sales increased 42.6% to $112.0 million.
- Same-Shack sales increased 4.1%, excluding sales from the 53rd week.
- Shack-level operating profit*, a non-GAAP measure, increased 31.5% to $26.9 million.
- Adjusted EBITDA*, a non-GAAP measure, increased 30.6% to $18.9 million.
- Net income was $2.1 million, or $0.07 per pro forma diluted unit, which included approximately $2.6 million, or $0.09 per pro forma diluted unit, of after-tax expenses associated with the Company's IPO.
- 23 system-wide Shack openings, comprised of 10 domestic company-operated Shacks, one domestic licensed Shack and 12 international licensed Shacks, representing a 57.5% increase in system-wide Shack count.

** Shack-level operating profit and adjusted EBITDA are non-GAAP measures. Reconciliations of Shack-level operating profit to operating income (loss) and adjusted EBITDA to net income (loss), the most directly comparable financial measures presented in accordance with GAAP, are set forth on page 41 and 42.*

Growth Strategies

We plan to continue to expand our business, drive Shack sales and enhance our competitive positioning by executing on the following strategies:

- *Open new domestic company-operated Shacks.* Our domestic company-operated Shack growth strategy is focused on both existing and new markets. Given that we are still in a nascent stage of growth, a substantial portion of our growth will come from opening Shacks in markets where we currently have little to no presence. In fiscal 2014, we opened 10 domestic company-operated Shacks. Given that our primary growth driver will be the opening of new domestic company-operated Shacks, we are keenly focused on maintaining a rigorous site selection process. In addition to evaluating key new Shack criteria, our management team personally visits each potential Shack to determine if the prospective location is likely to meet certain Shack-level operating profit margin and cash-on-cash return targets.

- *Capitalize on our outsized brand awareness.* The Shake Shack experience has cultivated significant brand awareness relative to the small number of Shacks. We have worked tirelessly to establish a genuine connection with our guests and integrate into their communities through investment in innovative marketing and programming.

- Grow s *ame-Shack sales.* We continually focus on improving our same Shack sales performance by providing an engaging and differentiated guest experience that includes great food, unique and thoughtful integration with local communities and high standards of excellence and hospitality.

- *Opportunistically increase our licensed Shacks abroad.* We will continue to grow our licensed portfolio by expanding further in the eight countries abroad in which we currently have internationally licensed operations. This strategy historically has been a low-cost, high-return method of growing our brand awareness and providing an increasing source of cash flow. We believe there are additional international markets that will embrace the Shake Shack concept.

While we believe that there is still ample room to grow our Shack-base in Manhattan, the majority of our domestic company-operated Shack growth is expected to occur outside of Manhattan. Because our average unit volumes (" AUVs ") are higher in Manhattan, due in large part to population density and overall familiarity with the brand in Manhattan, historical domestic company-operated AUVs are not a good measure of expected sales at new Shacks. As we continue to expand outside of Manhattan, we expect new Shack revenue to be between $2.8 million and $3.2 million per new Shack (" target-volume Shacks "), which will reduce overall company-operated Shack AUVs and Shack-l evel operating profit margins. Longer-term, given the increased penetration of target-volume Shacks, we are targeting AUVs in the $2.8 to $3.2 million range and Shack-level operating profit margins in the 18 to 22% range. Taken together, we are targeting long-term revenue and Adjusted EBITDA growth of over 20% after 2015.

With only 63 Shacks around the world, as of December 31, 2014 , we have identified many attractive new markets for the Shake Shack experience. We have successfully launched different layouts and sizes of Shacks in varied locations throughout urban high density areas, suburban in-line and pad sites, regional malls, lifestyle centers, ballparks, airports and train stations. Each design is critical to the Shake Shack experience and we blend our core brand identifiers with features specifically designed for each Shack to be of its place and connect directly with its neighborhood. With a disciplined approach to new Shack development and a successful track record in site selection, we believe that we are positioned well for future growth.

2015 Outlook

For the fiscal year ending December 30, 2015, we currently expect the following:

- Total revenue to be between $159 million and $163 million.
- Same-Shack sales growth in the low single digits.
- At least 10 new domestic company-operated Shacks to be opened throughout the year.
- At least five international licensed Shacks to be opened under the Company’s current license agreements in the U.K. and Middle East, all of which are scheduled to open towards the end of fiscal 2015.

RESULTS OF OPERATIONS

The following table summarizes our results of operations for 2014, 2013 and 2012:

	2014[1]		2013		2012	
Shack sales	$ 112,042	94.5%	$ 78,587	95.3%	$ 55,591	97.5%
Licensing revenue	6,488	5.5%	3,869	4.7%	1,447	2.5%
TOTAL REVENUE	118,530	100.0%	82,456	100.0%	57,038	100.0%
Shack-level operating expenses [2]:						
Food and paper costs	34,925	31.2%	23,865	30.4%	16,774	30.2%
Labor and related expenses	29,312	26.2%	20,096	25.6%	14,436	26.0%
Other operating expenses	11,191	10.0%	7,315	9.3%	5,081	9.1%
Occupancy and related expenses	9,753	8.7%	6,892	8.8%	5,053	9.1%
General and administrative expenses	18,187	15.3%	12,453	15.1%	6,988	12.3%
Depreciation expense	5,809	4.9%	3,541	4.3%	2,162	3.8%
Pre-opening costs	6,105	5.2%	2,334	2.8%	1,858	3.3%
Loss on disposal of property and equipment	105	0.1%	25	—%	—	—%
TOTAL EXPENSES	115,387	97.3%	76,521	92.8%	52,352	91.8%
OPERATING INCOME	3,143	2.7%	5,935	7.2%	4,686	8.2%
Interest expense	363	0.3%	52	0.1%	156	0.3%
INCOME BEFORE INCOME TAXES	2,780	2.3%	5,883	7.1%	4,530	7.9%
Income tax expense	662	0.6%	460	0.6%	397	0.7%
NET INCOME	$ 2,118	1.8%	$ 5,423	6.6%	$ 4,133	7.2%

(1) We operate on a 52/53 week fiscal year that ends on the last Wednesday of the calendar year. Fiscal year 2014 was a 53-week year with the extra operating week (the " 53rd week ") falling in our fiscal fourth quarter. Fiscal 2013 and 2012 each contained 52 weeks.

(2) As a percentage of Shack sales.

Shack Sales

Shack sales represent the aggregate sales of food and beverages in domestic company-operated Shacks. Shack sales in any period are directly influenced by the number of operating weeks in such period, the number of open Shacks and same Shack sales.

Shack sales were $112.0 million for fiscal 2014 compared to $78.6 million for fiscal 2013, an increase of $33.4 million or 42.6%. The growth in Shack sales was primarily driven by the opening of 10 new domestic company-operated Shacks during fiscal 2014. Shacks in the comparable Shack base contributed $2.3 million of this increase while new domestic company-operated Shacks contributed $31.1 million. The results for fiscal 2014 include the impact of the 53rd week, which contributed $2.8 million in Shack sales. Same-Shack sales increased 4.1% during fiscal 2014, primarily driven by increased menu prices. For purposes of calculating same-Shack sales growth, Shack sales for 13 Shacks were included in the comparable Shack base and exclude the 53rd week. For fiscal 2014, AUVs for domestic company-operated Shacks decreased to $4.6 million as a result of opening more target-volume Shacks during the year.

Shack sales were $78.6 million for fiscal 2013 compared to $55.6 million for fiscal 2012, an increase of $23.0 million or 41.4%. The growth in Shack sales was primarily driven by the opening of eight new domestic company-operated Shacks during fiscal 2013. Shacks in the comparable Shack base contributed $2.3 million of this increase while new domestic company-operated Shacks contributed $20.7 million. Same Shack sales growth increased 5.9% during fiscal 2013. For purposes of calculating same Shack sales growth, Shack sales for eight Shacks were included in the comparable Shack base. For fiscal 2013, AUVs for domestic company-operated Shacks decreased to $5.0 million as a result of opening more target-volume Shacks during the year.

Licensing Revenue

Licensing revenue is comprised of license fees and territory fees. License fees are calculated as a percentage of sales and territory fees are payments for the exclusive right to develop Shacks in a specific geographic area.

Licensing revenue was $6.5 million for fiscal 2014 compared to $3.9 million for fiscal 2013, an increase of $2.6 million or 67.7%. This increase was primarily driven by the opening of 12 international licensed Shacks and one domestic licensed Shack during fiscal 2014. AUVs at international licensed Shacks declined over the same period due to the opening of lower-volume Shacks during fiscal 2014.

Licensing revenue was $3.9 million for fiscal 2013 compared to $1.4 million for fiscal 2012, an increase of $2.5 million or 167.4%. This increase was primarily driven by the opening of 10 international licensed Shacks and one domestic licensed Shack during fiscal 2013. AUVs at international licensed Shacks declined over the same period due to the opening of lower-volume Shacks during fiscal 2013.

Food and Paper Costs

Food and paper costs include the direct costs associated with food, beverage and packaging of our menu items. The components of food and paper costs are variable by nature, change with sales volume, are impacted by menu mix and are subject to increases or decreases in commodity costs.

Food and paper costs were $34.9 million for fiscal 2014 compared to $23.9 million for fiscal 2013, an increase of $11.0 million or 46.3%, primarily due to the opening of 10 new domestic company-operated Shacks during fiscal 2014. As a percentage of Shack sales, food and paper costs increased to 31.2% for fiscal 2014 compared to 30.4% for fiscal 2013. This increase was due to an increase in the cost of certain food items, primarily beef, which was partially offset by menu price increases and purchasing efficiencies of other items.

Food and paper costs were $23.9 million for fiscal 2013 compared to $16.8 million for fiscal 2012, an increase of $7.1 million or 42.3%, primarily due to the opening of eight new domestic company-operated Shacks during fiscal 2013. As a percentage of Shack sales, food and paper costs increased slightly to 30.4% for fiscal 2013 compared to 30.2% for fiscal 2012. This increase was due to an increase in the cost of certain food items, primarily beef, which was partially offset by menu price increases and purchasing efficiencies of other items.

Labor and Related Expenses

Labor and related expenses include domestic company-operated Shack-level hourly and management wages, bonuses, payroll taxes, workers' compensation expense and medical benefits. As we expect with other variable expense items, we expect labor costs to grow as our Shack sales grow. Factors that influence labor costs include minimum wage and payroll tax legislation, health care costs and the performance of our domestic company-operated Shacks.

Labor and related expenses were $29.3 million for fiscal 2014 compared to $20.1 million for fiscal 2013, an increase of $9.2 million or 45.9%. This increase was primarily due to the opening of 10 new domestic company-operated Shacks during fiscal 2014. As a percentage of Shack sales, labor and related expenses increased to 26.2% in fiscal 2014 compared to 25.6% in fiscal 2013. This increase was due to a decision by the Company to increase the starting wage for Shack team members at the start of fiscal 2014, as well as the impact of target-volume Shacks opening and the impact of fixed management labor at these Shacks.

Labor and related expenses were $20.1 million for fiscal 2013 compared to $14.4 million for fiscal 2012, an increase of $5.7 million or 39.2%. This increase was primarily due to the opening of eight new domestic company-operated Shacks during fiscal 2013. As a percentage of Shack sales, labor and related expenses decreased to 25.6% in fiscal 2013 compared to 26.0% in fiscal 2012. This decrease was due to certain operational efficiencies and strategies implemented at the Shacks in fiscal 2013, which more than offset the impact of opening more target-volume Shacks during the year.

Other Operating Expenses

Other operating expenses consist of marketing expenses, utilities and other operating expenses incidental to operating our domestic company-operated Shacks, such as non-perishable supplies, credit card fees, property insurance and repairs and maintenance.

Other operating expenses were $11.2 million for fiscal 2014 compared to $7.3 million for fiscal 2013, an increase of $3.9 million or 53.0%, primarily due to the opening of 10 new domestic company-operated Shacks in fiscal 2014. As a percentage of Shack sales, other operating expenses increased to 10.0% in fiscal 2014 compared to 9.3% in fiscal 2013. This increase was due to the opening of more target-volume Shacks and the impact of fixed operating expenses at these Shacks.

Other operating expenses were $7.3 million for fiscal 2013 compared to $5.1 million for fiscal 2012, an increase of $2.2 million or 44.0%, primarily due to the opening of eight new domestic company-operated Shacks in fiscal 2013. As a percentage of Shack sales, other operating expenses increased to 9.3% in fiscal 2013 compared to 9.1% in fiscal 2012. This increase was due to the opening of more target-volume Shacks and the impact of fixed operating expenses at these Shacks.

Occupancy and Related Expenses

Occupancy and related expenses consist of Shack-level occupancy expenses (including rent, common area expenses and certain local taxes), excluding pre-opening costs, which are recorded separately.

Occupancy and related expenses were $9.8 million for fiscal 2014 compared to $6.9 million for fiscal 2013, an increase of $2.9 million or 41.5%, primarily due to the opening of 10 new domestic company-operated Shacks in fiscal 2014. As a percentage of Shack sales, occupancy and related expenses

decreased to 8.7% in fiscal 2014 compared to 8.8% in fiscal 2013, primarily due to the opening of non-Manhattan Shacks, where occupancy and related expenses are typically lower.

Occupancy and related expenses were $6.9 million for fiscal 2013 compared to $5.1 million for fiscal 2012, an increase of $1.8 million or 36.4%, primarily due to the opening of eight new domestic company-operated Shacks in fiscal 2013. As a percentage of Shack sales, occupancy and related expenses decreased to 8.8% in fiscal 2013 compared to 9.1% in fiscal 2012, primarily due to the opening of non-Manhattan Shacks, where occupancy and related expenses are typically lower.

General and Administrative Expenses

General and administrative expenses consist of costs associated with corporate and administrative functions that support Shack development and operations, as well as equity-based compensation expense for certain executives.

General and administrative expenses were $18.2 million for fiscal 2014 compared to $12.5 million for fiscal 2013, an increase of $5.7 million or 46.0%. As a percentage of total revenue, general and administrative expenses increased to 15.3% in fiscal 2014 from 15.1% in fiscal 2013. This increase was primarily due to $2.7 million of incremental expenses incurred in connection with the Company's initial public offering, combined with increased payroll expense associated with new home office personnel hired to support future growth. Partially offsetting these increases, was a $2.1 million decrease in deferred bonus expense related to a one-time charge incurred in fiscal 2013 related a deferred bonus payable to a member of our executive team.

General and administrative expenses were $12.5 million for fiscal 2013 compared to $7.0 million for fiscal 2012, an increase of $5.5 million or 78.2%. As a percentage of total revenue, general and administrative expenses increased to 15.1% in fiscal 2013 from 12.3% in fiscal 2012. This increase was due primarily to an increase in payroll related to building our infrastructure through new hires at our home office to support our planned growth as well as a $2.1 million charge for a deferred bonus payable to a member of our executive team.

Depreciation Expense

Depreciation expense consists of the depreciation of fixed assets, including leasehold improvements and equipment.

Depreciation expense was $5.8 million for fiscal 2014 compared to $3.5 million for fiscal 2013, an increase of $2.3 million or 64.0%. This increase was due primarily to depreciation of capital expenditures related to the opening of 10 new domestic company-operated Shacks during fiscal 2014. As a percentage of total revenue, depreciation expense increased to 4.9% in fiscal 2014 compared to 4.3% in fiscal 2013 due to the introduction of more target-volume Shacks.

Depreciation expense was $3.5 million for fiscal 2013 compared to $2.2 million for fiscal 2012, an increase of $1.3 million or 63.8%. This increase was due primarily to depreciation of capital expenditures related to the opening of eight new domestic company-operated Shacks during fiscal 2013. As a percentage of total revenue, depreciation expense increased to 4.3% in fiscal 2013 compared to 3.8% in fiscal 2012 due to the introduction of more target-volume Shacks.

Pre-Opening Costs

Pre-opening costs consist primarily of legal fees, rent, managers' salaries, training costs, employee payroll and related expenses, all costs to relocate and compensate Shack management teams prior to an opening and wages, travel and lodging costs for our opening training team and other support team members. All such costs incurred prior to the opening of a domestic company-operated Shack are expensed in the period in which the expense was incurred. Pre-opening costs can fluctuate significantly from period to period, based on the number and timing of domestic company-operated Shack openings and the specific pre-opening costs incurred for each domestic company-operated Shack. Additionally, domestic company-operated Shack openings in new geographic market areas will initially experience higher pre-opening costs than our established geographic market areas, such as the New York City metropolitan area, where we have greater economies of scale and incur lower travel and lodging costs for our training team.

Pre-opening costs were $6.1 million in fiscal 2014, including $2.1 million of deferred rent expense, compared to $2.3 million in fiscal 2013, an increase of $3.8 million or 161.6% as a result of an increase in the total number of new domestic company-operated Shacks opened in fiscal 2014, as well as an increase in the number of new domestic company-operated Shacks opened in new geographic markets during fiscal 2014 and planned openings in the first quarter of fiscal 2015.

Pre-opening costs were $2.3 million in fiscal 2013 compared to $1.9 million in fiscal 2012, an increase of $0.4 million or 25.6% as a result of an increase in the number of new domestic company-operated Shacks opened in fiscal 2013.

Loss on Disposal of Property and Equipment

Loss on disposal of property and equipment represents the net book value of assets that have been retired and consists primarily of furniture and fixtures that were replaced in the normal course of business.

For all periods presented, the loss on disposal of property and equipment was not material.

Interest Expense

Interest expense primarily consists of interest on the Revolving Credit Facility (as defined below) as well as the amortization of deferred financing costs incurred in connection with the Revolving Credit Facility.

Interest expense was $0.4 million in fiscal 2014 compared to $0.1 million in fiscal 2013, an increase of $0.3 million or 598.1%. This increase was the result of additional borrowings under our revolving credit facility.

Interest expense was $0.1 million in fiscal 2013 compared to $0.2 million in fiscal 2012, an decrease of $0.1 million or 66.7%.

Income Tax Expense

Income tax expense consists of unincorporated business tax payable to the City of New York as well as other various state and local taxes. We are also subject to tax withholding in other foreign jurisdictions. SSE Holdings is currently taxed as a partnership. See ‘‘-Critical Accounting Policies- Income Taxes.’’

Income tax expense was $0.7 million in fiscal 2014 compared to $0.5 million in fiscal 2013. Our effective income tax rate increased to 23.8% in fiscal 2014 from 7.8% in fiscal 2013, primarily due to increased foreign withholding taxes resulting from increased licensing revenue.

Income tax expense was $0.5 million in fiscal 2013 compared to $0.4 million in fiscal 2012. Our effective income tax rate decreased to 7.8% in fiscal 2013 from 8.8% in fiscal 2012, primarily due to lower state and local income taxes.

Shack-Level Operating Profit (Non-GAAP Measure)

Shack-level operating profit and Shack-level operating profit margin are not required by, or presented in accordance with, GAAP. Shack-level operating profit is a supplemental measure of operating performance and our calculations thereof may not be comparable to similar measures reported by other companies. Shack-level operating profit margin has limitations as an analytical tool and should not be considered as a substitute for analysis of our results as reported under GAAP. We believe that Shack-level operating profit and Shack-level operating profit margin, when used in conjunction with GAAP financial measures, provide useful information about our operating results, enhance the overall understanding of past financial performance and future prospects, and allow for greater transparency with respect to key metrics used by us in our financial and operational decision making. Shack-level operating profit and Shack-level operating profit margin are important measures we use to evaluate the performance and profitability of each Shack, individually and in the aggregate. A reconciliation of Shack-level operating profit to operating income, the most directly comparable GAAP measure, is set forth below.

	2014[1]	2013	2012
Shack-level operating profit [A]	$ 26,861	$ 20,419	$ 14,247
Add:			
Licensing revenue	6,488	3,869	1,447
Less:			
General and administrative expenses	18,187	12,453	6,988
Depreciation expense	5,809	3,541	2,162
Pre-opening costs	6,105	2,334	1,858
Loss on disposal of property and equipment	105	25	—
Operating income	$ 3,143	$ 5,935	$ 4,686
Total revenue	$ 118,530	$ 82,456	$ 57,038
Less: Licensing revenue	6,488	3,869	1,447
Shack sales [B]	$ 112,042	$ 78,587	$ 55,591
Shack-level operating profit margin [A / B]	24.0%	26.0%	25.6%

(1) We operate on a 52/53 week fiscal year that ends on the last Wednesday of the calendar year. Fiscal 2014 was a 53-week year with the extra operating week (the " 53rd week ") falling in our fiscal fourth quarter. Fiscal 2013 and 2012 each contained 52 weeks.

EBITDA and Adjusted EBITDA (Non-GAAP Financial Measures)

EBITDA and Adjusted EBITDA are non-GAAP supplemental measures of operating performance that do not represent and should not be considered alternatives to net income (loss) or cash flow from operations, as determined by GAAP. EBITDA and Adjusted EBITDA are used by management to measure the operating performance of their business, excluding specifically identified items that management believes do not directly reflect their core operations. A reconciliation of EBITDA and Adjusted EBITDA to net income (loss), the most directly comparable GAAP measure, is set forth below.

	2014[1]	2013	2012
Net income	$ 2,118	$ 5,423	$ 4,133
Depreciation expense	5,809	3,541	2,162
Interest expense, net	363	52	156
Income tax expense	662	460	397
EBITDA	8,952	9,476	6,848
Equity-based compensation [2]	165	93	450
Deferred compensation [3]	—	2,054	—
Pre-opening costs [4]	4,024	1,737	1,623
Deferred rent [5]	2,830	975	839
Loss on disposal of property and equipment [6]	105	25	—
IPO-related expenses [7]	2,675	—	—
Other non-cash items [8]	135	99	238
ADJUSTED EBITDA	$ 18,886	$ 14,459	$ 9,998

(1) We operate on a 52/53 week fiscal year that ends on the last Wednesday of the calendar year. Fiscal 2014 was a 53-week year with the extra operating week (the " 53rd week ") falling in our fiscal fourth quarter. Fiscal 2013 and 2012 each contained 52 weeks.
(2) Non-cash charges related to equity-based compensation programs, which vary from period to period depending on the timing of awards.
(3) For the periods presented, represents amounts accrued under a bonus agreement we entered into with an employee pursuant to which we agreed to a pay a bonus in a future period.
(4) Non-capital expenditures associated with opening new Shacks exclusive of deferred rent incurred prior to opening.
(5) Reflects the extent to which our straight-line rent expense has been above or below our cash rent payments.
(6) Includes the loss on disposal of property and equipment in the ordinary course of business.
(7) Costs incurred in connection with our initial public offering, including legal, accounting and other related expenses.
(8) For the periods presented, represents non-cash charges related to certain employee benefits.

LIQUIDITY AND CAPITAL RESOURCES

We desire to maintain a strong balance sheet to support our growth initiatives and increase same Shack sales with financial flexibility; to provide the financial resources necessary to protect and enhance the competitiveness of our brand and guest experience at our Shacks; and to provide a prudent level of financial capacity to manage the risks and uncertainties of operating our business in the current volatile economic environment and through future economic and industry cycles.

We have continued to experience increases in Shack-level operating profit margin, Adjusted EBITDA, the number of domestic company-operated Shack openings, same-Shack sales growth and AUVs. However, the restaurant industry continues to be challenged, and uncertainty exists as to the sustainability of these favorable trends. We believe that cash provided by operating activities, cash on hand and the Revolving Credit Facility are adequate to fund our debt service requirements, operating lease obligations, capital expenditures and working capital obligations for at least the next 12 months and the foreseeable future.

Our ongoing capital expenditures are principally related to opening new Shacks, existing Shack capital investments (both for remodels and maintenance), as well as investment in our corporate infrastructure. In addition, we are obligated to make payments under the Tax Receivable Agreement. Although the actual timing and amount of any payments that may be made under the Tax Receivable Agreement will vary, we expect that the payments that we will be required to make to the Continuing SSE Equity Owners will be significant. Any payments made by us to Continuing SSE Equity Owners under the Tax Receivable Agreement will generally reduce the amount of overall cash flow that might have otherwise been available to us or to SSE Holdings and, to the extent that we are unable to make payments under the Tax Receivable Agreement for any reason, the unpaid amounts generally will be deferred and will accrue interest until paid by us.

We currently intend to retain all available funds and any future earnings for use in the operation of our business, and therefore we do not currently expect to pay any cash dividends on our Class A common stock. Any future determination to pay dividends to holders of Class A common stock will be at the discretion of our Board of Directors and will depend upon many factors, including our results of operations, financial condition, capital requirements, restrictions in SSE Holdings' debt agreements and other factors that our Board of Directors deems relevant.

We utilize operating lease arrangements for all of our domestic company-operated Shacks. We believe that our operating lease arrangements continue to provide the appropriate leverage for our capital structure in a financially efficient manner. Because we lease all of the properties related to our domestic company-operated Shacks, as well as our home office, we do not have any debt that is secured by real property.

Summary of Cash Flows

Our primary sources of liquidity and capital resources have been cash provided from operating activities, cash on hand and the Revolving Credit Facility. Aside from the capital expenditures noted above, our primary requirements for liquidity are for lease obligations, working capital and general corporate needs. Our requirement for working capital is not significant because our guests pay for their food and beverage purchases in cash or on debit or credit cards at the time of the sale and we are able to sell many of our inventory items before payment is due to the supplier of such items.

The following table and discussion presents, for the periods indicated, a summary of our key cash flows from operating, investing and financing activities.

	2014[1]	2013	2012
Net cash provided by operating activities	$ 13,584	$ 12,924	$ 11,678
Net cash used in investing activities	(28,515)	(16,194)	(11,036)
Net cash provided by (used in) financing activities	4,532	313	(2,171)
Decrease in cash and cash equivalents	(10,399)	(2,957)	(1,529)
Cash at beginning of period	13,076	16,033	17,562
Cash at end of period	$ 2,677	$ 13,076	$ 16,033

(1) We operate on a 52/53 week fiscal year that ends on the last Wednesday of the calendar year. Fiscal year 2014 was a 53-week year with the extra operating week (the " 53rd week ") falling in our fiscal fourth quarter. Fiscal 2013 and 2012 each contained 52 weeks.

Operating Activities

For fiscal 2014, net cash provided by operating activities was $13.6 million compared to $12.9 million for fiscal 2013, an increase of $0.7 million. This increase was primarily driven by the opening of 10 new domestic company-operated Shack during fiscal 2014.

For fiscal 2013, net cash provided by operating activities was $12.9 million compared to $11.7 million for fiscal 2012, an increase of $1.2 million, primarily driven by the opening of eight new domestic company-operated Shack during the fiscal year.

Investing Activities

For fiscal 2014, net cash used in investing activities was $28.5 million compared to $16.2 million for fiscal 2013, an increase of $12.3 million. This increase was due to an increase in capital expenditures to construct new domestic company-operated Shacks in such period compared to fiscal 2013.

For fiscal 2013, net cash used in investing activities was $16.2 million compared to $11.0 million for fiscal 2012, an increase of $5.2 million. The increase was due to an increase in capital expenditures to construct new domestic company-operated Shacks in the current year period.

Financing Activities

For fiscal 2014, net cash provided by financing activities was $4.5 million compared to $0.3 million for fiscal 2013, primarily due to increased borrowings under our Revolving Credit Facility of $32.0 million, offset by increased member distributions of $27.1 million and deferred financing fees of $0.4 million.

For fiscal 2013, net cash provided by financing activities was $0.3 million. For fiscal 2012, net cash used in financing activities was $2.2 million, an increase of $2.5 million, primarily due to the repayment of approximately $1.9 million of long-term debt as well as the payment of deferred financing charges.

Revolving Credit Facility

In December 2013, we entered into an amendment to our existing revolving credit agreement, which became effective in April 2014 (" Revolving Credit Facility "). The amendment provides for a revolving total commitment amount of $50.0 million, of which $30.0 million was available immediately. In December 2014, we entered into another amendment to the Revolving Credit Facility, which became effective immediately, and provided for, among other things, the acceleration of the delayed total commitment effective date, resulting in an immediate increase in the total commitment amount to $50.0 million. The amendment also provides for a mandatory prepayment of at least $15.0 million by April 30, 2015. The Revolving Credit Facility will mature and all amounts outstanding will be due and payable five years from the effective date. The Revolving Credit Facility permits the issuance of

letters of credit upon our request of up to $10.0 million. Borrowings under the Revolving Credit Facility bear interest at either: (i) LIBOR plus a percentage ranging from 3.0% to 4.0%, or (ii) the prime rate plus a percentage ranging from 0.0% to 1.0%, depending on the type of borrowing made under the Revolving Credit Facility. As of December 25, 2013 , there were no amounts outstanding under the Revolving Credit Facility. As of December 31, 2014 , there was $32.0 million of outstanding borrowings under the Revolving Credit Facility, classified as short-term debt on the Consolidated Balance Sheet, which carried interest at a weighted-average rate of 3.3%. We had $17.9 million of availability as of December 31, 2014 , after giving effect to $0.1 million in letters of credit.

The Revolving Credit Facility is secured by a first-priority security interest in substantially all of our assets and is guaranteed by Union Square Hospitality Group, LLC (" USHG ").

The Revolving Credit Facility contains a number of covenants that, among other things, restrict our ability to, subject to, specified exceptions, incur additional debt; incur additional liens and contingent liabilities; sell or dispose of assets; merge with or acquire other companies; liquidate or dissolve ourselves; pay dividends or make distributions; engage in businesses that are not in a related line of business; make loans, advances or guarantees; engage in transactions with affiliates; and make investments. In addition, the Revolving Credit Facility contains certain cross-default provisions. We are required to maintain a specified consolidated fixed-charge coverage ratio and a specified funded net debt to Adjusted EBITDA Ratio. As of December 31, 2014 , we were in compliance with all covenants.

On January 28, 2015, we executed a Third Amended and Restated Credit Agreement, which became effective on February 4, 2015 (the " New Revolving Credit Facility "). The New Revolving Credit Facility provides for, among other things, (i) a revolving total commitment amount of $50.0 million, of which $20.0 million is available immediately, with the remainder available at our request and the consent of the lenders under the New Revolving Credit Facility; (ii) the removal of USHG as guarantor of the facility; (iii) the elimination of the mandatory $15.0 million prepayment and (iv) a reduction in certain interest rates and fees. Borrowings under the New Revolving Credit Facility will bear interest at either: (x) LIBOR plus a percentage ranging from 2.5% to 3.5% or (y) the prime rate plus a percentage ranging from 0.0% to 1.0%, depending on the type of borrowing to be made under the New Revolving Credit Facility.

CONTRACTUAL OBLIGATIONS

The following table sets forth certain contractual obligations as of December 31, 2014 and the timing and effect that such commitments are expected to have on our liquidity and capital requirements in future periods.

	Total	Less than 1 Year	1-3 Years	3-5 Years	More Than 5 Years
Operating lease obligations	$ 166,037	$ 10,690	$ 27,211	$ 29,043	$ 99,093
Short-term borrowings	32,000	32,000	—	—	—
Purchase obligations	12,567	10,785	1,782	—	—
Deferred compensation	2,450	—	—	2,450	—
Long-term debt	313	—	—	—	313
TOTAL	$ 213,367	$ 53,475	$ 28,993	$ 31,493	$ 99,406

Purchase obligations include all legally binding contracts, including commitments for the purchase, construction or remodeling of real estate and facilities, firm minimum commitments for inventory purchases, equipment purchases, marketing-related contracts, software acquisition/license commitments and service contracts.

The above table excludes long-term, exclusive contracts we enter into with certain vendors to supply us with food, beverages and paper goods, obligating us to purchase specified quantities. These volume commitments are not subject to any time limit and there are no material financial penalties associated with these agreements in the event of early termination.

Other long-term liabilities excluded from the above table include non-cash obligations for deferred rent and deferred property incentives. In addition, other unrecorded obligations that have been excluded from the contractual obligations table include contingent rent payments, property taxes, insurance payments and common area maintenance costs.

OFF-BALANCE SHEET ARRANGEMENTS

Except for operating leases entered into in the normal course of business, certain letters of credit entered into as security under the terms of several of our leases and the unrecorded contractual obligations set forth above, we did not have any off-balance sheet arrangements as of December 31, 2014 .

CRITICAL ACCOUNTING POLICIES

The preparation of financial statements and related disclosures in conformity with U.S. generally accepted accounting principles (" GAAP ") requires that we make estimates and judgments that affect the reported amounts of assets, liabilities, revenues and expenses, and disclosure of contingent assets and liabilities. We base our estimates on past experience and other assumptions that we believe are reasonable under the circumstances, and we evaluate these estimates on an ongoing basis. Actual results may differ from those estimates.

Our critical accounting policies are those that materially affect our consolidated financial statements and involve difficult, subjective or complex judgments by management. The following discussion highlights the estimates we believe are critical and should be read in conjunction with the consolidated financial statements included in Part II, Item 8 of this Form 10-K.

Revenue Recognition

Revenue consists of Shack sales and licensing revenues. Revenue from Shacks are presented net of discounts and recognized when food and beverage products are sold. Sales taxes collected from customers are excluded from revenues and the obligation is included in sales tax payable until the taxes are remitted to the appropriate taxing authorities. Revenues from our gift cards are deferred and recognized upon redemption. Licensing revenues include exclusive territory fees and ongoing licensing fees from all licensed Shacks. Territory fees are recorded as deferred revenue when received and proportionate amounts are recognized as revenue when a Shack is opened as all material services and conditions related to the fee have been substantially performed. Ongoing licensing fees from these Shacks are recognized as revenue in the period the related Shacks' revenues are earned.

Property and Equipment

Property and equipment acquired is recorded at cost less accumulated depreciation. Property and equipment is depreciated based on the straight-line method over their estimated useful lives, generally ranging from five to seven years for equipment, furniture and fixtures and computer equipment and software. Leasehold improvements are depreciated over the shorter of their estimated useful lives or the related lease life.

We assess potential impairments to our long-lived assets, which includes property and equipment, whenever events or circumstances indicate that the carrying amount of an asset may not be recoverable. Recoverability of an asset is measured by a comparison of the carrying amount of an asset group to the estimated undiscounted future cash flows expected to be generated by the asset. If the carrying amount of the asset group exceeds its estimated undiscounted future cash flows, an impairment charge is recognized as the amount by which the carrying amount of the asset exceeds the fair value of the asset. Shack-level assets are grouped together for the purpose of the impairment assessment. There were no impairment charges recorded during fiscal 2014, 2013 or 2012.

Leases

We currently lease all of our domestic company-operated Shacks and the home office. At the inception of each lease, we determine its appropriate classification as an operating or capital lease. As of December 31, 2014 and December 25, 2013 there were no leases classified as capital leases. For operating leases that include rent escalations, we record the base rent expense on a straight-line basis over the term of the lease and the difference between the base cash rents paid and the straight-line rent expense is recorded as deferred rent. Certain leases contain contingent rent provisions that require additional rental payments based upon sales volume. When achievement of such sales volume target is probable, contingent rent is accrued in proportion to the sales recognized during the period that are attributable to the expected achievement of the sales volume target. It is our policy to record straight-line rent expense from possession date through the opening date as pre-opening expense. Once a domestic company-operated Shack opens, we record the straight-line rent plus contingent rent, if applicable, as occupancy and related expenses.

We expend cash for leasehold improvements and to build out and equip our leased premises. We may also expend cash for structural additions that we make to leased premises. Generally, a portion of the leasehold improvements and building costs are reimbursed to us by our landlords as construction contributions pursuant to agreed-upon terms in our leases. If obtained, landlord construction contributions usually take the form of up-front cash, full or partial credits against our future minimum or percentage rents otherwise payable by us, or a combination thereof. When contractually due to us, we classify tenant improvement allowances as deferred rent on the consolidated balance sheets and amortize the tenant improvement allowance on a straight-line basis over the lease term as a credit to occupancy and related expenses.

Income Taxes

SSE Holdings is treated as a partnership for U.S. federal and most applicable state and local income tax purposes. As a partnership, taxable income or loss is passed through to and included in the taxable income of its members, including us. Accordingly, our consolidated financial statements do not include a provision for federal income taxes. SSE Holdings is liable for various other state and local taxes and is subject to withholding taxes in foreign jurisdictions. Pursuant to the SSE Holdings LLC Agreement, SSE Holdings will generally make pro rata tax distributions to holders of LLC Interests in an amount sufficient to fund all or part of their tax obligations with respect to the taxable income of SSE Holdings that is allocated to them. See Item 13, "Certain Relationships and Related Party Transactions."

Shake Shack Inc. is subject to U.S. federal, state and local income taxes with respect to our allocable share of any taxable income of SSE Holdings and will be taxed at the prevailing corporate tax rates. In addition to tax expenses, we also will incur expenses related to our operations, plus payments

under the Tax Receivable Agreement, which will be significant. We intend to cause SSE Holdings to make distributions in an amount sufficient to allow us to pay our tax obligations and operating expenses, including distributions to fund any ordinary course payments due under the Tax Receivable Agreement. See Item 13, "Certain Relationships and Related Party Transactions."

Equity-Based Compensation

Equity-based compensation expense is measured based on fair value. We recognize compensation expense on a straight-line basis over the requisite service period. For awards with graded vesting features and service conditions only, compensation expense is recognized on a straight-line basis over the total requisite service period for the entire award.

Restricted Class B Units

Prior to the IPO, certain of our employees received grants of restricted Class B Units in SSE Holdings. The restricted Class B Units were eligible to vest annually over five years from the applicable grant date. If not fully vested, awards were eligible to become fully vested (i) upon the occurrence of a change in control or (ii) upon the occurrence of an initial public offering, each as defined in the grant agreements with respect to such awards. Upon consummation of the IPO, all outstanding awards vested and each restricted Class B Unit was exchanged for LLC Interests in SSE Holdings. The amount of unrecognized compensation expense related to non-vested awards as of December 31, 2014 was $0.6 million and such compensation expense was recognized in fiscal 2015 upon consummation of the IPO.

Unit Appreciation Rights

Prior to the IPO, SSE Holdings maintained a phantom equity plan, which we refer to as the Unit Appreciation Rights Plan (the " Plan "), whereby we had the authority to grant up to 31,303 unit appreciation rights (" UARs ") to employees. The UARs would have terminated on the tenth anniversary of the grant date or upon termination of employment, if earlier, and were only exercisable upon a qualifying transaction, which is defined in the Plan as either a change of control or an initial public offering. Upon the occurrence of a qualifying transaction, participants were entitled to receive a payment determined by multiplying (i) the excess, if any, of the qualifying transaction price over the base price per UAR, as specified in each participant's award agreement, by (ii) the stated number of Class B Units deemed covered by the UARs held by the participant. Our IPO constituted a qualifying transaction under the terms of the Plan and resulted in the recognition of approximately $11.8 million of compensation expense in the first quarter of fiscal 2015. All UARs outstanding under the Plan were settled in connection with IPO in the form of shares of our Class A common stock.

JUMPSTART OUR BUSINESS STARTUPS ACT OF 2012

The Jumpstart Our Business Startups Act of 2012 (the " JOBS Act ") permits us, as an "emerging growth company," to take advantage of an extended transition period to comply with new or revised accounting standards applicable to public companies. We are choosing to "opt out" of this provision and, as a result, we will comply with new or revised accounting standards as required when they are adopted. This decision to opt out of the extended transition period under the JOBS Act is irrevocable.

Item 7A. Quantitative and Qualitative Disclosures About Market Risk.

COMMODITY AND FOOD PRICE RISKS

Our profitability is dependent on, among other things, our ability to anticipate and react to changes in the costs of key operating resources, including food and beverage, energy and other commodities. We have been able to partially offset cost increases resulting from a number of factors, including market conditions, shortages or interruptions in supply due to weather or other conditions beyond our control, governmental regulations and inflation, by increasing our menu prices, as well as making other operational adjustments that increase productivity. However, substantial increases in costs and expenses could impact our operating results to the extent that such increases cannot be offset by menu price increases.

LABOR AND BENEFITS COSTS

At our domestic company-operated Shacks, we have historically provided a starting wage that is above the minimum wage in place for that particular state. For instance, in Manhattan Shacks, we start our new employees at $10.00 per hour even though the minimum wage in New York is $8.00 per hour. We believe that this enables us to attract a higher caliber employee and this translates directly to better guest service. Our desire is to continue to do so and, as such, there can be no assurance that we will generate same Shack sales growth in an amount sufficient to offset increases in minimum wage or other inflationary pressures.

INTEREST RATE RISK

We are exposed to interest rate risk through fluctuations in interest rates on our debt obligations. Our Revolving Credit Facility carries interest at a floating rate. We seek to manage exposure to adverse interest rate changes through our normal operating and financing activities. As of December 31, 2014, we had $32.0 million in outstanding borrowings under the Revolving Credit Facility.

FOREIGN CURRENCY EXCHANGE RISK

Although we conduct business outside of the United States, the revenue and expenses associated with our international business are transacted in U.S. dollars and none of our subsidiaries have functional currencies that are not the U.S. dollar. Accordingly, we do not have foreign currency translation risk. However, we are exposed to foreign exchange risk in that sales at our international licensed Shacks are denominated in their local currencies and the amount of licensing revenue we earn is directly affected by fluctuations in currency exchange rates.

IMPACT OF INFLATION

While we have been able to partially offset inflation and other changes in the costs of core operating resources by gradually increasing menu prices, coupled with more efficient purchasing practices, productivity improvements and greater economies of scale, there can be no assurance that we will be able to continue to do so in the future. From time to time, competitive conditions could limit our menu pricing flexibility. In addition, macroeconomic conditions could make additional menu price increases imprudent. There can be no assurance that future cost increases can be offset by increased menu prices or that increased menu prices will be fully absorbed by our guests without any resulting change to their visit frequencies or purchasing patterns. In addition, there can be no assurance that we will generate same Shack sales growth in an amount sufficient to offset inflationary or other cost pressures.

Substantially all of the leases for our domestic company-operated Shacks provide for contingent rent obligations based on a percentage of sales. As a result, an increase in occupancy and related expenses will offset a proportionate share of any menu price increases at our domestic company-operated Shacks.

Item 8. Financial Statements and Supplementary Data.

INDEX TO FINANCIAL STATEMENTS

Shake Shack Inc.	
Report of Independent Registered Public Accounting Firm	48
Balance Sheets	49
Notes to Balance Sheets	50
SSE Holdings, LLC	
Report of Independent Registered Public Accounting Firm	53
Consolidated Balance Sheets	54
Consolidated Statements of Income	55
Consolidated Statements of Members' Equity	56
Consolidated Statements of Cash Flows	57
Notes to Consolidated Financial Statements	58

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

The Board of Directors and Management of
Shake Shack Inc.

We have audited the accompanying balance sheets of Shake Shack Inc. (the "Company") as of December 31, 2014 and September 23, 2014. These balance sheets are the responsibility of the Company's management. Our responsibility is to express an opinion on these balance sheets based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States).Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. We were not engaged to perform an audit of the Company's internal control over financial reporting. Our audits included consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, and evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the balance sheets referred to above present fairly, in all material respects, the consolidated financial position of Shake Shack Inc. at December 31, 2014 and September 23, 2014, in conformity with U.S. generally accepted accounting principles.

/s/ Ernst & Young LLP

New York, New York
March 27, 2015

SHAKE SHACK INC.
BALANCE SHEETS
(dollar amounts in thousands, except share and per share amounts)

	December 31, 2014	September 23, 2014
ASSETS	$ —	$ —
Liabilities	—	—
Commitments and contingencies		
Stockholders' Equity		
Common stock, $0.01 par value - 100 shares authorized, none issued and outstanding	—	—
TOTAL LIABILITIES AND STOCKHOLDERS' EQUITY	$ —	$ —

See Notes to Balance Sheets.

SHAKE SHACK INC.
NOTES TO BALANCE SHEETS
(dollar amounts in thousands, except share and per share amounts)

NOTE 1: ORGANIZATION

Shake Shack Inc. (the " Corporation ", " we ," " us ," and " our ") was formed as a Delaware corporation on September 23, 2014 for the purpose of facilitating an initial public offering and other related transactions in order to carry on the business of SSE Holdings, LLC and its subsidiaries (" SSE Holdings "). As of December 31, 2014, the Corporation had not engaged in any business activities except in connection with its formation.

On February 4, 2015, the Corporation closed an initial public offering (" IPO ") of 5,750,000 shares of Class A common stock at a public offering price of $21.00 per share, which includes 750,000 shares issued pursuant to the underwriters' over-allotment option. The Corporation received $112,298 in proceeds, net of underwriting discounts and commissions, which was used to purchase newly-issued membership interests from SSE Holdings at a price per interest equal to the initial public offering price of $21.00. Subsequent to the IPO and related organizational transactions that occurred in connection with the IPO, the Corporation is the sole managing member of SSE Holdings and, although they have a minority economic interest in SSE Holdings, they have the sole voting power in, and control the management of, SSE Holdings. As a result, the Corporation will consolidate the financial results of SSE Holdings and report a non-controlling interest in the Corporation's consolidated financial statements.

NOTE 2: SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Basis of Accounting

The Balance Sheets are presented in accordance with accounting principles generally accepted in the United States of America. Separate statements of income, comprehensive income, changes in stockholder's equity, and cash flows have not been presented in the financial statements because there have been no activities in this entity.

NOTE 3: STOCKHOLDERS' EQUITY

As of December 31, 2014, the Corporation was authorized to issue 100 shares of Common Stock, par value $0.01 per share, none of which had been issued or were outstanding.

NOTE 4: SUBSEQUENT EVENTS

Initial Public Offering

As noted above, on February 4, 2015, we closed an IPO of 5,750,000 shares of our Class A common stock at a public offering price of $21.00 per share, which includes 750,000 shares issued pursuant to the underwriters' over-allotment option. We received $112,298 in proceeds, net of underwriting discounts and commissions, which we used to purchase newly-issued membership interests from SSE Holdings at a price per interest equal to the initial public offering price of our Class A common stock of $21.00.

Organizational Transactions

In connection with the IPO, the Corporation and SSE Holdings completed a series of transactions (the " Organizational Transactions ") including the following:

- the limited liability company agreement of SSE Holdings was amended and restated to, among other things, (i) provide for a new single class of common membership interests in SSE Holdings (" LLC Interests "), (ii) exchange all of the then existing membership interests of the holders of SSE Holdings' membership interests (" Original SSE Equity Owners ") for LLC Interests and (iii) appoint the Corporation as the sole managing member of SSE Holdings;
- the Corporation's certificate of incorporation was amended and restated to, among other things, (i) provide for Class B common stock with voting rights but no economic rights and (ii) issue shares of Class B common stock to the Original SSE Equity Owners on a one-to-one basis with the number of LLC Interests they own;

SHAKE SHACK INC.
NOTES TO BALANCE SHEETS
(dollar amounts in thousands, except share and per share amounts)

- the acquisition, by merger, of certain members of SSE Holdings (" Former SSE Equity Owners "), for which we issued 5,968,841 shares Class A common stock as merger consideration (the " Merger ").

Following the completion of the Organizational Transactions, the Corporation owns 33.3% of SSE Holdings. The SSE Holdings members subsequent to the Merger (the " Continuing SSE Equity Owners ") own the remaining 66.7% of SSE Holdings.

SSE Holdings Recapitalization

As noted above, in connection with the IPO, the limited liability company agreement of SSE Holdings was amended and restated to, among other things, (i) provide for a new single class of common membership interests in SSE Holdings, or the LLC Interests; (ii) exchange all of the then existing membership interests of the Original SSE Equity Owners for LLC Interests and (iii) appoint the Corporation as the sole managing member of SSE Holdings. Although the Corporation has a minority economic interest in SSE Holdings, as the sole managing member, they have the sole voting power in, and control the management of, SSE Holdings. As a result, the Corporation will consolidate the financial results of SSE Holdings and report a non-controlling interest.

The amendment also requires that SSE Holdings, at all times, maintain (i) a one-to-one ratio between the number of shares of Class A common stock issued by the Corporation and the number of LLC Interests owned by the Corporation and (ii) a one-to-one ratio between the number of shares of Class B common stock owned by the Continuing SSE Equity Owners and the number of LLC Interests owned by the Continuing SSE Equity Owners.

Amendment and Restatement of Certificate of Incorporation

As noted above, on February 4, 2015, the Corporation's certificate of incorporation was amended and restated to, among other things, provide for the (i) authorization of 200,000,000 shares of Class A common stock with a par value of $0.001 per share; (ii) authorization of 35,000,000 shares of Class B common stock with a par value of $0.001 per share; (iii) authorization of 10,000,000 shares of undesignated preferred stock that may be issued from time to time by the Corporation's Board of Directors in one or more series; and (iv) establishment of a classified board of directors, divided into three classes, each of whose members will serve for staggered three-year terms.

Holders of Class A and Class B common stock are entitled to one vote per share and, except as otherwise required, will vote together as a single class on all matters on which stockholders generally are entitled to vote. Holders of Class B common stock are not entitled to receive dividends and will not be entitled to receive any distributions upon the liquidation, dissolution or winding up of the Corporation. Shares of Class B common stock may only be issued to the extent necessary to maintain the one-to-one ratio between the number of LLC Interests held by the Continuing SSE Equity Owners and the number of shares of Class B common stock held by the Continuing SSE Equity Owners. Shares of Class B common stock are transferable only together with an equal number of LLC Interests. Shares of Class B common stock will be canceled on a one-for-one basis if we, at the election of a Continuing SSE Equity Owner, redeem or exchange LLC Interests.

The Corporation must, at all times, maintain a one-to-one ratio between the number of shares of Class A common stock issued by the Corporation and the number of LLC Interests owned by the Corporation (subject to certain exceptions for treasury shares and shares underlying certain convertible or exchangeable securities).

Acquisition of Former SSE Equity Owners

As noted above, on February 4, 2015, we acquired, by merger, two entities that were members of SSE Holdings, or the Former SSE Equity Owners, for which we issued 5,968,841 shares of Class A common stock as merger consideration. The only assets held by the Former SSE Equity Owners were 5,968,841 LLC Interests and a corresponding number of shares of Class B common stock. Upon consummation of the Merger, the Corporation canceled the 5,968,841 shares of Class B common stock and recognized the 5,968,841 of LLC Interests at carrying value, as the Merger is considered to be a transaction between entities under common control. Following the Merger, the Corporation now holds 12,058,147 LLC Interests, representing a 33.3% ownership interest in SSE Holdings.

Tax Receivable Agreement

We expect to obtain an increase in our share of the tax basis of the assets of SSE Holdings when LLC Interests are redeemed or exchanged by the Continuing SSE Equity Owners and other qualifying transactions. This increase in tax basis may have the effect of reducing the amounts that we would otherwise pay in the future to various tax authorities. The increase in tax basis may also decrease gains (or increase losses) on future dispositions of certain capital assets to the extent tax basis is allocated to those capital assets.

On February 4, 2015, the Corporation entered into a tax receivable agreement with the Continuing SSE Equity Owners (the " Tax Receivable Agreement ") that provides for the payment by the Corporation to the Continuing SSE Equity Owners of 85% of the amount of tax benefits, if any, that Shake Shack actually realizes as a result of (i) increases in the tax basis of assets of SSE Holdings resulting from any redemptions or exchanges of LLC Interests or any prior sales of interests in SSE Holdings and (ii) certain other tax benefits related to our making payments under the Tax Receivable Agreement.

SHAKE SHACK INC.
NOTES TO BALANCE SHEETS
(dollar amounts in thousands, except share and per share amounts)

On February 4, 2015, SSE Holdings paid a distribution in the amount of $11,125 to certain of the Original SSE Equity Owners. This distribution triggered a tax basis increase subject to the provisions of the Tax Receivable Agreement. We will recognize a deferred tax asset in the amount of $6,006 and a corresponding liability of $5,105, representing 85% of the tax benefits due to the Continuing SSE Equity Owners.

Equity-Based Compensation

On January 29, 2015, the Corporation granted 2,622,281 stock options to our directors and certain employees under the Shake Shack Inc. 2015 Incentive Award Plan. The stock options were granted with an exercise price of $21.00 per share and vest equally over five years. Additionally, we issued 339,306 shares of Class A common stock in settlement of outstanding unit appreciation rights under the SSE Holdings Unit Appreciation Rights Plan.

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

The Board of Directors and Members of
SSE Holdings, LLC and Subsidiaries

We have audited the accompanying consolidated balance sheets of SSE Holdings, LLC and Subsidiaries (the "Company") as of December 31, 2014 and December 25, 2013, and the related consolidated statements of income, members' equity, and cash flows for each of the three years in the period ended December 31, 2014. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States).Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. We were not engaged to perform an audit of the Company's internal control over financial reporting. Our audits included consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, and evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the consolidated financial position of SSE Holdings, LLC and Subsidiaries at December 31, 2014 and December 25, 2013, and the consolidated results of their operations and their cash flows for each of the three years in the period ended December 31, 2014, in conformity with U.S. generally accepted accounting principles.

/s/ Ernst & Young LLP

New York, New York
March 27, 2015

SSE HOLDINGS, LLC
CONSOLIDATED BALANCE SHEETS
(in thousands)

	December 31, 2014	December 25, 2013
ASSETS		
Current assets		
Cash	$ 2,677	$ 13,076
Accounts receivable	3,278	1,527
Inventories	529	331
Prepaid expenses and other current assets	1,441	273
Deferred income taxes	20	—
Total current assets	7,945	15,207
Property and equipment, net	70,124	37,938
Deferred income taxes, net	141	67
Other assets	4,752	2,007
TOTAL ASSETS	$ 82,962	$ 55,219
LIABILITIES AND MEMBERS' EQUITY		
Current liabilities		
Short-term borrowings	$ 32,000	$ —
Accounts payable	6,440	2,393
Accrued expenses	5,578	1,489
Accrued wages and related liabilities	2,410	1,994
Other current liabilities	1,749	1,329
Total current liabilities	48,177	7,205
Long-term debt	313	313
Deferred rent	17,853	6,647
Other long-term liabilities	4,019	3,667
Total liabilities	70,362	17,832
Commitments and contingencies		
Members' equity	12,600	37,387
TOTAL LIABILITIES AND MEMBERS' EQUITY	$ 82,962	$ 55,219

See Notes to Consolidated Financial Statements.

SSE HOLDINGS, LLC
CONSOLIDATED STATEMENTS OF INCOME
(in thousands, except per unit amounts)

	Fiscal Year Ended		
	December 31, 2014	December 25, 2013	December 26, 2012
Shack sales	$ 112,042	$ 78,587	$ 55,591
Licensing revenue	6,488	3,869	1,447
TOTAL REVENUE	118,530	82,456	57,038
Shack-level operating expenses:			
Food and paper costs	34,925	23,865	16,774
Labor and related expenses	29,312	20,096	14,436
Other operating expenses	11,191	7,315	5,081
Occupancy and related expenses	9,753	6,892	5,053
General and administrative expenses	18,187	12,453	6,988
Depreciation expense	5,809	3,541	2,162
Pre-opening costs	6,105	2,334	1,858
Loss on disposal of property and equipment	105	25	—
TOTAL EXPENSES	115,387	76,521	52,352
OPERATING INCOME	3,143	5,935	4,686
Interest expense, net	363	52	156
INCOME BEFORE INCOME TAXES	2,780	5,883	4,530
Income tax expense	662	460	397
NET INCOME	$ 2,118	$ 5,423	$ 4,133
Pro-forma earnings per unit:			
Basic	$ 0.07	$ 0.18	$ 0.14
Diluted	$ 0.07	$ 0.18	$ 0.14
Pro-forma weighted-average units outstanding:			
Basic	29,977	29,934	29,652
Diluted	30,122	30,018	29,918

See Notes to Consolidated Financial Statements.

SSE HOLDINGS, LLC
CONSOLIDATED STATEMENTS OF MEMBERS' EQUITY
(in thousands)

MEMBERS' EQUITY, DECEMBER 28, 2011	$ 27,288
Net income	4,133
Equity-based compensation	450
MEMBERS' EQUITY, DECEMBER 26, 2012	31,871
Net income	5,423
Equity-based compensation	93
MEMBERS' EQUITY, DECEMBER 25, 2013	37,387
Net income	2,118
Equity-based compensation	165
Member distributions	(27,070)
MEMBERS' EQUITY, DECEMBER 31, 2014	$ 12,600

See Notes to Consolidated Financial Statements.

SSE HOLDINGS, LLC
CONSOLIDATED STATEMENTS OF CASH FLOWS
(in thousands)

	Fiscal Year Ended		
	December 31, 2014	December 25, 2013	December 26, 2012
OPERATING ACTIVITIES			
Net income	$ 2,118	$ 5,423	$ 4,133
Adjustments to reconcile net income to net cash provided by operating activities			
Depreciation expense	5,809	3,541	2,162
Non-cash interest expense	192	37	96
Loss on disposal of property and equipment	105	25	—
Equity-based compensation	165	93	450
Deferred income taxes	(93)	7	(34)
Changes in operating assets and liabilities:			
Accounts receivable	(1,751)	26	(1,076)
Inventories	(198)	(88)	(35)
Prepaid expenses and other current assets	(1,168)	(118)	(93)
Other assets	(2,461)	(1,109)	(81)
Accounts payable	1,210	1,219	(210)
Accrued expenses	3,349	(713)	1,032
Accrued wages and related liabilities	416	866	557
Other current liabilities	420	31	643
Deferred rent	5,206	1,742	2,409
Other long-term liabilities	265	1,942	1,725
NET CASH PROVIDED BY OPERATING ACTIVITIES	13,584	12,924	11,678
INVESTING ACTIVITIES			
Purchases of property and equipment	(28,515)	(16,194)	(11,036)
NET CASH USED IN INVESTING ACTIVITIES	(28,515)	(16,194)	(11,036)
FINANCING ACTIVITIES			
Promissory note	—	313	—
Proceeds from revolving credit facility	32,000	—	—
Payments on revolving credit facility	—	—	(1,925)
Deferred financing costs	(398)	—	(246)
Member distributions	(27,070)	—	—
NET CASH PROVIDED BY (USED IN) FINANCING ACTIVITIES	4,532	313	(2,171)
DECREASE IN CASH	(10,399)	(2,957)	(1,529)
CASH AT BEGINNING OF PERIOD	13,076	16,033	17,562
CASH AT END OF PERIOD	$ 2,677	$ 13,076	$ 16,033

Supplemental cash flow information and non-cash investing and financing activities are further described in the accompanying notes.

See Notes to Consolidated Financial Statements.

SSE HOLDINGS, LLC
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(Dollar amounts in thousands, except unit, share, per unit and per share amounts)

NOTE 1 : NATURE OF OPERATIONS

SSE Holdings, LLC and its subsidiaries (collectively, " we ," " us ," " our ," " SSE Holdings " or the " Company ") operate and license restaurants in the global restaurant industry, serving hamburgers, hot dogs, crinkle-cut fries, shakes, frozen custard, beer and wine. We own and operate Shake Shack restaurants (" Shacks ") in 10 states and the District of Columbia. As of December 31, 2014 , we had 31 company-operated Shacks in operation in the United States. We also have license arrangements with affiliated and unaffiliated operators to develop and operate Shacks. As of December 31, 2014 , 32 licensed Shacks were in operation under license agreements in North America, Europe and Asia.

Shake Shack Inc. (the " Corporation ") was formed as a Delaware corporation on September 23, 2014 for the purpose of facilitating an initial public offering and other related transactions in order to carry on the business of SSE Holdings and its subsidiaries. On February 4, 2015, the Corporation closed an initial public offering (" IPO ") of 5,750,000 shares of Class A common stock at a public offering price of $21.00 per share. The Corporation received $112,298 in proceeds, net of underwriting discounts and commissions, which was used to purchase newly-issued membership interests from SSE Holdings at a price per interest equal to the initial public offering price of $21.00. Subsequent to the IPO and related organizational transactions that occurred in connection with the IPO, the Corporation is the sole managing member of SSE Holdings and, although they have a minority economic interest in SSE Holdings, they have the sole voting power in, and control the management of, SSE Holdings. As a result, the Corporation will consolidate the financial results of SSE Holdings and report a non-controlling interest in the Corporation's consolidated financial statements. See Note 19 , Subsequent Events.

NOTE 2 : SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Basis of Presentation

The accompanying consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America (“ U.S. GAAP ”) and include our accounts and the accounts of our subsidiaries. All intercompany accounts and transactions have been eliminated in consolidation. Certain reclassifications have been made to prior period amounts to conform to the current year presentation.

We do not have any components of other comprehensive income recorded within our consolidated financial statements, and, therefore, do not separately present a statement of comprehensive income in our consolidated financial statements.

Fiscal Year

We operate on a 52/53 week fiscal year ending on the last Wednesday in December. Fiscal year 2014 contained 53 weeks and ended on December 31, 2014. Fiscal years 2013 and 2012 each contained 52 weeks and ended on December 25, 2013 and December 26, 2012, respectively. Unless otherwise stated, references to years in this report relate to fiscal years.

Use of Estimates

The preparation of these consolidated financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements, and the reported amounts of sales and expenses during the reporting period. Actual results could differ from those estimates.

Segment Reporting

We own and operate Shacks in the United States. We also have domestic and international licensed operations. Our chief operating decision maker (the " CODM ") is our Chief Executive Officer. As the CODM reviews financial performance and allocates resources at a consolidated level on a recurring basis, we have one operating segment and one reportable segment.

Fair Value Measurements

We apply fair value accounting for all financial assets and liabilities and non-financial assets and liabilities that are recognized or disclosed at fair value in the financial statements on a recurring basis. Fair value is defined as the price that would be received from selling an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. When determining the fair value measurements for assets and

SSE HOLDINGS, LLC
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(Dollar amounts in thousands, except unit, share, per unit and per share amounts)

liabilities that are required to be recorded at fair value, we assume the highest and best use of the asset by market participants in which we would transact and the market-based risk measurements or assumptions that market participants would use in pricing the asset or liability, such as inherent risk, transfer restrictions, and credit risk.

Assets and liabilities are classified using a fair value hierarchy, which prioritizes the inputs used to measure fair value into three levels, and bases the categorization within the hierarchy upon the lowest level of input that is available and significant to the fair value measurement:

* Level 1 - Quoted prices in active markets for identical assets or liabilities
* Level 2 - Observable inputs other than quoted prices in active markets for identical assets or liabilities, quoted prices for identical assets or liabilities in inactive markets, or other inputs that are observable or can be corroborated by observable market data for substantially the full term of the assets or liabilities
* Level 3 - Inputs that are both unobservable and significant to the overall fair value measurements reflecting an entity's estimates of assumptions that market participants would use in pricing the asset or liability

Accounts Receivable

Accounts receivable consist primarily of receivables from landlords for tenant improvement allowances, receivables from our licensees for licensing revenue and related reimbursements, credit card receivables and vendor rebates. We evaluate the collectibility of our accounts receivable based on a variety of factors, including historical experience, current economic conditions and other factors.

Inventories

Inventories, which consist of food, beer, wine, other beverages and retail merchandise, are stated at the lower of cost or market with cost determined on a first-in, first-out basis.

Property and Equipment

Property and equipment is stated at historical cost less accumulated depreciation. Property and equipment is depreciated based on the straight-line method over the estimated useful lives of the assets, generally ranging from five to seven years for equipment, furniture and fixtures, and computer equipment and software. Leasehold improvements are depreciated over the shorter of their estimated useful life or the related lease life, generally ranging from 10 to 20 years. For leases with renewal periods at our option, we use the original lease term, excluding renewal option periods, to determine estimated useful lives.

Costs incurred when constructing Shacks are capitalized. The cost of repairs and maintenance are expensed when incurred. Costs for refurbishments and improvements that significantly increase the productive capacity or extend the useful life of the an asset are capitalized. When assets are disposed of, the resulting gain or loss is recognized in earnings.

The Company assesses potential impairments to its long-lived assets, which includes property and equipment, whenever events or circumstances indicate that the carrying amount of an asset may not be recoverable. Recoverability of an asset is measured by a comparison of the carrying amount of an asset group to its estimated undiscounted future cash flows expected to be generated by the asset. If the carrying amount of the asset group exceeds its estimated undiscounted future cash flows, an impairment charge is recognized as the amount by which the carrying amount of the asset exceeds the fair value of the asset. There were no impairment charges recorded in fiscal 2014, 2013 and 2012.

Deferred Financing Costs

Deferred financing costs incurred in connection with the issuance of long-term debt and establishing credit facilities are capitalized and amortized to interest expense based on the related debt agreements. Deferred financing costs are included in other assets on the Consolidated Balance Sheets.

Other Assets

Other assets consist primarily of deferred costs incurred in connection with the Corporation's IPO, security deposits, transferable liquor licenses and amounts expended for the design and build of future units, including fixed assets.

The costs of obtaining non-transferable liquor licenses that are directly issued by local government agencies for nominal fees are expensed as incurred. The costs of purchasing transferable liquor licenses through open markets in jurisdictions with a limited number of authorized liquor licenses are

capitalized as indefinite-lived intangible assets. Liquor licenses are tested annually and reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount may not be recoverable. Annual liquor license renewal fees are expensed over the renewal term.

Equity-based Compensation

Equity-based compensation expense is measured based on fair value. We recognize compensation expense on a straight-line basis over the requisite service period. For awards with graded-vesting features and service conditions only, compensation expense is recognized on a straight-line basis over the total requisite service period for the entire award. Equity-based compensation expense is included within general and administrative expenses on the Consolidated Statements of Income.

Leases

We lease all of our domestic company-operated Shacks, our home office and certain equipment under various non-cancelable lease agreements. Generally, our real estate leases have initial terms ranging from 10 to 20 years and typically include two five-year renewal options. At the inception of each lease, we determine its classification as an operating or capital lease. All of our leases are classified as operating leases and typically provide for fixed minimum rent payments and/or contingent rent payments based upon sales in excess of specified thresholds. When the achievement of such sales thresholds is deemed to be probable, contingent rent is accrued in proportion to the sales recognized during the period. For operating leases that include rent holidays and rent escalation clauses, we recognize rent expense on a straight-line basis over the lease term from the date we take possession of the leased property. The difference between the straight-line rent amounts and amounts payable under the lease agreements is recorded as deferred rent and is included as rent expense in occupancy and related expenses on the Consolidated Statements of Income. Rent expense incurred before a Shack opens is recorded in pre-opening costs. Once a domestic company-operated Shack opens, we record the straight-line rent expense and any contingent rent, if applicable, in occupancy and related expenses on the Consolidated Statements of Income.

Many of our leases also require us to pay real estate taxes, common area maintenance costs and other occupancy costs which are included in occupancy and related expenses on the Consolidated Statements of Income.

We expend cash for leasehold improvements and to build out and equip our leased premises. We may also expend cash for structural additions made to leased premises. Generally, a portion of the leasehold improvements and building costs are reimbursed by our landlords as construction contributions pursuant to agreed-upon terms in our lease agreements. If obtained, landlord construction contributions usually take the form of up-front cash, full or partial credits against our future minimum or contingent rents otherwise payable by us, or a combination thereof. When contractually due, we classify tenant improvement allowances as deferred rent on the Consolidated Balance Sheets and amortize the tenant improvement allowances on a straight-line basis over the lease term as a reduction of occupancy costs and related expenses or pre-opening costs .

Revenue Recognition

Revenue consists of Shack sales and licensing revenues. Revenue from Shack sales are presented net of discounts and recognized when food and beverage products are sold. Sales tax collected from customers is excluded from Shack sales and the obligation is included in sales tax payable until the taxes are remitted to the appropriate taxing authorities. Revenue from our gift cards are deferred and recognized upon redemption. Licensing revenues include initial territory fees and ongoing licensing fees from all licensed Shacks. Initial territory fees are recorded as deferred revenue when received and proportionate amounts are recognized as revenue when a licensed Shack is opened and all material services and conditions related to the fee have been substantially performed. Ongoing licensing fees from these Shacks are based on a percentage of sales and are recognized as revenue as the fees are earned and become receivable from the licensee.

Income Taxes

We are treated as a partnership for U.S. federal and most applicable state and local income tax purposes. As a partnership, our taxable income or loss is passed through to and included in the taxable income of our members. Accordingly, no income tax expense has been recorded for federal and most state and local jurisdictions. We are also subject to withholding taxes in other foreign jurisdictions but do not have additional filing requirements.

We account for income taxes pursuant to the asset and liability method which requires deferred income tax assets and liabilities to be computed for temporary differences between the consolidated financial statement and tax basis of assets and liabilities that will result in taxable or deductible amounts in the future based on enacted tax laws and rates applicable to the periods in which the temporary differences are expected to affect taxable income. A valuation allowance is recognized if we determine it is more likely than not that all or some portion of the deferred tax asset will not be recognized. No valuation allowance was recorded against deferred tax assets during fiscal 2014 and fiscal 2013.

SSE HOLDINGS, LLC
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(Dollar amounts in thousands, except unit, share, per unit and per share amounts)

We have no unrecognized tax benefits as of December 31, 2014. Our local income tax returns for fiscal 2010 and prior are closed and management continually evaluates expiring statutes of limitations, audits, proposed settlements, changes in tax law and new authoritative rulings.

Pre-Opening Costs

Pre-opening costs are expensed as incurred and consist primarily of legal fees, occupancy, manager and employee wages, travel and related training costs incurred prior to the opening of a Shack.

Advertising

The cost of advertising and promotions are expensed as incurred. Advertising and promotions costs amounted to $1,166, $794 and $564 in fiscal 2014, 2013 and 2012, respectively, and are included in other operating expenses on the Consolidated Statements of Income.

Recently Issued Accounting Pronouncements

In February 2015, the Financial Accounting Standards Board (" FASB ") issued Accounting Standards Update No. 2015-02, Consolidation (" ASU 2015-02 "). ASU 2015-02 amends the exiting guidance to: (i) modify the evaluation of whether limited partnerships and similar legal entities are variable interest entities (VIEs) or voting interest entities; (ii) eliminate the presumption that a general partner should consolidate a limited partnership; (iii) affect the consolidation analysis of reporting entities that are involved with VIEs, particularly those that have fee arrangements and related party relationships and (iv) provide a scope exception from consolidation guidance for reporting entities with interests in legal entities that are required to comply with or operate in accordance with requirements that are similar to those in Rule 2a-7 of the Investment Company Act of 1940 for registered money market funds. ASU 2015-02 is effective for reporting periods beginning after December 15, 2015. We are currently evaluating the impact ASU 2015-02 will have on our consolidated financial statements.

In January 2015, the FASB issued Accounting Standards Update No. 2015-01, Presentation of Financial Statements—Extraordinary and Unusual Items (" ASU 2015-01 "). ASU 2015-01 eliminates the concept of extraordinary items and related disclosures. ASU 2015-01 is effective for reporting periods beginning after December 15, 2015. Early adoption is permitted. The adoption of ASU 2015-01 is not expected to affect our consolidated financial position, results of operations or cash flows.

In August 2014, the FASB issued Accounting Standards Update No. 2014-15, Presentation of Financial Statements—Going Concern (" ASU 2014-15 "). ASU 2014-15 provides guidance in GAAP about management's responsibility to evaluate whether there is substantial doubt about an entity's ability to continue as a going concern and to provide related footnote disclosures. ASU 2014-15 is effective for reporting periods ending after December 15, 2016. Early adoption is permitted. The adoption of ASU 2014-15 is not expected to affect the Company's consolidated financial position, results of operations or cash flows.

In May 2014, the FASB issued Accounting Standards Update No. 2014-09, Revenue from Contracts with Customers (" ASU 2014-09 "). ASU 2014-09 supersedes the existing revenue recognition guidance and clarifies the principles for recognizing revenue. The core principle of ASU 2014-09 is that an entity should recognize revenue to depict the transfer of promised goods or services to customers in an amount that reflects the consideration to which the entity expects to be entitled in exchange for those goods and services. ASU 2014-09 is effective, on a retrospective basis, for reporting periods beginning after December 15, 2016. Early adoption is permitted, subject to certain conditions. We are currently evaluating the impact ASU 2014-09 will have on our consolidated financial position, results of operations and cash flows.

NOTE 3 : FAIR VALUE MEASUREMENTS

The carrying value of our financial instruments, including cash, accounts receivable, accounts payable, and accrued expenses as of December 31, 2014 and December 25, 2013 approximated their fair value due to the short-term nature of these financial instruments. Assets and liabilities that are measured at fair value on a non-recurring basis include our long-lived assets. There were no impairments recognized during fiscal 2014, 2013 and 2012.

SSE HOLDINGS, LLC
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(Dollar amounts in thousands, except unit, share, per unit and per share amounts)

NOTE 4 : ACCOUNTS RECEIVABLE

The components of accounts receivable as of December 31, 2014 and December 25, 2013 are as follows:

	December 31, 2014	December 25, 2013
Landlord receivables	$ 1,088	$ 295
Licensing receivables	822	713
Credit card receivables	660	394
Other receivables	708	125
Accounts receivable	$ 3,278	$ 1,527

As of December 31, 2014 and December 25, 2013 , no allowance for doubtful accounts was recorded based on our evaluation of collectibility.

NOTE 5 : INVENTORIES

Inventories consisted of the following:

	December 31, 2014	December 25, 2013
Food	$ 354	$ 181
Wine	28	23
Beer	33	21
Beverages	42	27
Retail merchandise	72	79
Inventories	$ 529	$ 331

NOTE 6 : PROPERTY AND EQUIPMENT

Property and equipment consisted of the following:

	December 31, 2014	December 25, 2013
Leasehold improvements	$ 58,272	$ 32,403
Equipment	12,108	7,781
Furniture and fixtures	3,249	1,859
Computer equipment and software	3,529	1,951
Construction in progress	6,309	2,277
	83,467	46,271
Less: accumulated depreciation	(13,343)	(8,333)
Property and equipment, net	$ 70,124	$ 37,938

Depreciation expense was $5,809 , $3,541 and $2,162 for fiscal 2014 , 2013 and 2012 , respectively.

SSE HOLDINGS, LLC
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(Dollar amounts in thousands, except unit, share, per unit and per share amounts)

NOTE 7 : DEBT

In December 2013, we entered into an amendment to our existing revolving credit agreement, which became effective in April 2014 (" Revolving Credit Facility "). The amendment provides for a revolving total commitment amount of $50,000, of which $30,000 was available immediately. In December 2014, we entered into another amendment to the Revolving Credit Facility, which became effective immediately and provided for, among other things, the acceleration of the delayed total commitment effective date, resulting in an immediate increase in the total commitment amount to $50,000. The amendment also provides for a mandatory prepayment of at least $15,000 by April 30, 2015. The Revolving Credit Facility will mature and all amounts outstanding will be due and payable five years from the effective date. The Revolving Credit Facility permits the issuance of letters of credit upon our request of up to $10,000. Borrowings under the Revolving Credit Facility bear interest at either: (i) LIBOR plus a percentage ranging from 3.0% to 4.0%, or (ii) the prime rate plus a percentage ranging from 0.0% to 1.0%, depending on the type of borrowing made under the Revolving Credit Facility. As of December 25, 2013 , there were no amounts outstanding under the Revolving Credit Facility. As of December 31, 2014 , there was $32,000 of outstanding borrowings under the Revolving Credit Facility, classified as short-term borrowings on the Consolidated Balance Sheet, which carried interest at a weighted-average rate of 3.3%. We had $17,920 of availability as of December 31, 2014 , after giving effect to $80 in letters of credit.

The Revolving Credit Facility is secured by a first-priority security interest in substantially all of our assets and is guaranteed by Union Square Hospitality Group, LLC (" USHG ").

The Revolving Credit Facility contains a number of covenants that, among other things, restrict our ability to, subject to, specified exceptions, incur additional debt; incur additional liens and contingent liabilities; sell or dispose of assets; merge with or acquire other companies; liquidate or dissolve ourselves; pay dividends or make distributions; engage in businesses that are not in a related line of business; make loans, advances or guarantees; engage in transactions with affiliates; and make investments. In addition, the Revolving Credit Facility contains certain cross-default provisions. We are required to maintain a specified consolidated fixed-charge coverage ratio and a specified funded net debt to Adjusted EBITDA Ratio. As of December 31, 2014 , we were in compliance with all covenants.

In March 2013, we entered into a promissory note in the amount of $313 in connection with the purchase of a liquor license. Interest on the outstanding principal balance of this note will be due and payable on a monthly basis from the effective date at a rate of 5.0% per year commencing in April 2013. The entire principal balance and interest is due and payable on the earlier of the maturity date, which is the expiration of the lease in June 2023, or the date of the sale of the license. As of December 31, 2014 and December 25, 2013 , the outstanding balance of the promissory note was $313.

On January 28, 2015, we executed a Third Amended and Restated Credit Agreement. On February 4, 2015, we repaid the entire outstanding principal under the amended Revolving Credit Facility, which includes an additional $4,000 borrowed on January 14, 2015. See Note 19 , *Subsequent Events* .

SSE HOLDINGS, LLC
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(Dollar amounts in thousands, except unit, share, per unit and per share amounts)

NOTE 8 : LEASES

We lease the commercial space for all of our domestic company-operated Shacks, our home office space and certain equipment under various non-cancelable lease agreements that expire on various dates through 2031. All of our real estate leases are classified as operating leases and typically provide for fixed minimum rent or contingent rent based upon sales in excess of specified thresholds. Many of our leases include rent escalation clauses and also require us to pay real estate taxes, common area maintenance costs and other occupancy costs. Generally, our leases have initial terms of ranging from 10 to 20 years and typically include two five-year renewal options.

A summary of rent expense under operating lease agreements is as follows:

	2014	2013	2012
Minimum rent	$ 6,497	$ 4,507	$ 2,736
Deferred rent	2,830	975	839
Contingent rent	1,883	1,626	1,299
Total rent expense	$ 11,210	$ 7,108	$ 4,874

The rent expense above does not include common area maintenance costs, real estate taxes and other occupancy costs, which were $1,111, $758 and $545 in fiscal 2014, 2013 and 2012, respectively.

As of December 31, 2014 , future minimum lease payments under non-cancelable operating leases consisted of the following:

2015	$ 10,690
2016	13,152
2017	14,059
2018	14,440
2019	14,603
Thereafter	99,093
Total minimum lease payments	$ 166,037

NOTE 9 : EMPLOYEE BENEFIT PLANS

Deferred Compensation

During fiscal 2013, we entered into an incentive bonus agreement with one of our executives, whereby the executive is entitled to receive a deferred compensation award in the amount of $2,450, payable by us in March 2018. In fiscal 2013, we recorded $2,054 of deferred compensation expense to recognize the present value of incentive bonus liability, which is included in other long-term liabilities on the Consolidated Balance Sheets. The deferred compensation expense is included within general and administrative expense on the Consolidated Statements of Income. There was no such expense in fiscal 2014. The difference between the present value of the bonus liability and the amount payable is accreted to interest expense over the remaining term until the incentive bonus becomes payable.

Defined Contribution Plan

We maintain a defined contribution profit-sharing plan covering all eligible employees in accordance with Section 401(k) of the Internal Revenue Code. The plan is funded by employee and employer contributions. Employer contributions to the plan are at our discretion. Effective January 2014, we began making contributions matching a portion of participants' contributions. We match 100% of participants' contributions for the first 3% of eligible compensation contributed and 50% of contributions made in excess of 3% of eligible compensation up to 5% of eligible compensation. In fiscal 2014, employer contributions totaled $132. There were no employer contributions in fiscal 2013 and fiscal 2012.

SSE HOLDINGS, LLC
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(Dollar amounts in thousands, except unit, share, per unit and per share amounts)

NOTE 10 : MEMBERS' EQUITY

On December 15, 2014, our Board of Directors approved a special distribution to our members in the amount of $21,851, which was paid on December 30, 2014. The Board of Directors also approved an additional distribution to our members, to the extent the gross proceeds of the Corporation's IPO exceed the anticipated gross proceeds (including as a result of the exercise by the underwriters of their option to purchase additional shares of Class A common stock), in an amount equal to the product of (i) the increased gross proceeds and (ii) 0.273, to be paid from the proceeds of the IPO (the " Additional Distribution "). See Note 19 , *Subsequent Events* .

NOTE 11 : EQUITY-BASED COMPENSATION

Unit Appreciation Rights

Prior to the IPO, we maintained a Unit Appreciation Rights Plan (the " Plan "), effective in fiscal year 2012, and as amended, whereby we had the authority to grant up to 31,303 unit appreciation rights (" UARs ") to employees. The UARs granted were subject to continued employment and were only exercisable upon a qualifying transaction, which was either a change of control or an initial public offering, each as defined in the Plan. Upon the occurrence of a qualifying transaction, each UAR entitled the holder to receive a payment from us with such payment, and related compensation expense, determined by multiplying (i) the excess, if any, of the qualifying transaction price over the base amount of the UAR, by (ii) the stated number of Class B units deemed covered by the UAR. Effective October 30, 2014, the Plan was amended to provide that the payment to which UAR holders were entitled upon the occurrence of a qualifying transaction would be in the form of securities of the Company or one of its affiliates or such other form of payment as we determined in our sole discretion. The UARs would have terminated on the tenth anniversary of the grant date or upon termination of employment, if earlier.

A summary of UAR activity for fiscal 2014 is as follows:

	2014	
	UARs	Weighted Average Base Price
Outstanding at beginning of period	13,379	$ 156.10
Granted	11,025	237.04
Forfeited	(1,850)	(179.86)
Outstanding at end of period	22,554	$ 193.51

No compensation expense was recorded in fiscal 2014 and fiscal 2013 related to the outstanding UARs as we determined that, as of the period end, it was not probable that a qualifying transaction would occur.

On February 4, 2015, we amended and restated our limited liability company agreement to, among other things, (i) provide for a new single class of common membership interests in SSE Holdings (" LLC Interests ") and (ii) exchange all of the then existing membership interests of our members for LLC Interests (together, the " Recapitalization Transaction "). The 22,554 outstanding UARs, as of December 31, 2014, equate to 767,947 LLC Interests with a weighted average base price of $5.68, after giving effect to the Recapitalization Transaction.

The Corporation's IPO constitutes a qualifying transaction under the terms of the Plan, resulting in a qualifying transaction price of $715.02. 339,306 shares of the Corporation's Class A common stock were issued in settlement of the outstanding UARs, net of employee withholding taxes. We recognized compensation expense of $11,762 in fiscal 2015 upon settlement of the outstanding UARs.

SSE HOLDINGS, LLC
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(Dollar amounts in thousands, except unit, share, per unit and per share amounts)

Restricted Class B Units

In December 2010, we granted one of our executives 31,303 restricted Class B units as profits interests, which represented a 3.5% interest in the Company. These units vested in equal installments on February 1, 2011, February 1, 2012 and February 1, 2013. In August 2013, we granted 9,034 restricted Class B units as profits interests to another executive of the Company, which represent a 1.0% interest in the Company. These units were to vest in equal installments on August 21, 2014, August 27, 2015, August 25, 2016, August 24, 2017 and August 23, 2018. If not already 100% vested, these units would have become fully vested (i) upon the occurrence of a change in control event, or (ii) upon the occurrence of an initial public offering, each as defined in the grant agreement, and any unrecognized compensation expense related to these non-vested units would be subject to acceleration.

A summary of restricted Class B unit activity for fiscal 2014 is as follows:

	2014	
	Units	Weighted Average Grant Date Fair Value
Outstanding at beginning of period	9,034	$ 92.31
Granted	—	—
Vested	(1,807)	(92.31)
Forfeited	—	—
Outstanding at end of period	7,227	$ 92.31

In fiscal 2014, 2013 and 2012, we recognized equity-based compensation expense of $ 165 , $ 93 and $450, respectively, related to the restricted Class B units. No tax benefits were realized related to the equity-based compensation expense recognized. The total fair value of restricted Class B units that vested during fiscal 2014, 2013 and 2012 was $167, $450 and $450, respectively. The weighted average grant date fair value of restricted Class B units granted in fiscal 2013 was $92.31. There were no restricted Class B units granted in fiscal 2014 or fiscal 2012. The grant-date fair value was determined based on a valuation prepared by a third-party and was based on contemporaneous information using the Black-Scholes formula. Significant assumptions used in the determination include: (i) expected term of 4.5 years, (ii) expected volatility of 40.1%, (iii) risk-free interest rate of 1.3% and (iv) dividend yield of 0.0%. Because we were unable to calculate specific stock price volatility as a private company, we used a blended volatility rate for comparable publicly traded companies. As of December 31, 2014, total unrecognized compensation expense related to non-vested restricted Class B units was $608, which was expected to be recognized over a weighted-average period of 3.6 years, or upon the occurrence of a change in control or an initial public offering.

The 7,227 outstanding restricted Class B units equate to 158,251 LLC Interests with a weighted-average grant date fair value of $4.22. The Corporation's IPO constituted a transaction under the terms of the restricted Class B units that resulted in the acceleration of the unrecognized compensation expense of $608, which we recognized in fiscal 2015.

SSE HOLDINGS, LLC
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(Dollar amounts in thousands, except unit, share, per unit and per share amounts)

NOTE 12 : INCOME TAXES

We are treated as a partnership for U.S. federal and most applicable state and local income tax purposes. As a partnership, taxable income or loss is passed through to and included in the taxable income of our members. Accordingly, our consolidated financial statements do not include a provision for federal income taxes. We are liable for various other state and local taxes and are subject to withholding taxes in foreign jurisdictions.

The components of income tax expense are as follows:

	2014	2013	2012
Current income taxes:			
State and local	$ 194	$ 266	$ 308
Foreign	561	187	123
Total current income taxes	755	453	431
Deferred income taxes:			
State and local	(93)	7	(34)
Total deferred income taxes	(93)	7	(34)
Income tax expense	$ 662	$ 460	$ 397

A reconciliation of the statutory income tax rate to the effective tax rate is as follows:

	2014	2013	2012
Statutory rate	35.0 %	35.0 %	35.0 %
State and local income taxes, net of federal benefit	3.6	3.0	3.9
Foreign withholding taxes	20.2	3.2	2.7
LLC flow-through structure	(36.1)	(33.4)	(32.8)
Other	1.1	—	—
Effective tax rate	23.8 %	7.8 %	8.8 %

The components of deferred tax assets and liabilities is as follows:

	December 31, 2014	December 25, 2013
Deferred tax assets:		
Deferred rent	$ 448	$ 100
Deferred revenue	66	33
Accrued expenses	—	14
Other assets	26	21
Total deferred tax assets	540	168
Deferred tax liabilities:		
Property and equipment	(379)	(100)
Other liabilities	—	(1)
Total deferred tax liabilities	(379)	(101)
Net deferred tax assets	$ 161	$ 67

SSE HOLDINGS, LLC
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(Dollar amounts in thousands, except unit, share, per unit and per share amounts)

NOTE 13 : EARNINGS PER UNIT

On February 4, 2015, our limited liability company agreement was amended and restated to, among other things, (i) provide for a new single class of common membership interests in SSE Holdings (" LLC Interests ") and (ii) exchange all of the existing membership interests of the Original SSE Equity Owners for LLC Interests. See Note 19 , Subsequent Events. For purposes of calculating pro forma earnings per unit, we have adjusted the number of outstanding membership units retroactively for all periods presented to give effect to the above-mentioned amendment and resulting recapitalization.

Pro forma basic earnings per unit is computed by dividing net income by the pro forma weighted-average number of units outstanding during the period. Pro forma diluted earnings per unit is computed by dividing net income by the pro forma weighted-average number of units outstanding adjusted to give effect to potentially dilutive securities. Potentially dilutive securities include unvested restricted Class B units.

The following table sets forth a reconciliation of the numerators and denominators used to compute pro forma basic and diluted earnings per unit for fiscal 2014, 2013 and 2012.

(in thousands, except per share amounts)	**2014**	**2013**	**2012**
Numerator:			
Net income	$ 2,118	$ 5,423	$ 4,133
Denominator:			
Pro forma weighted average units outstanding—basic	29,977	29,934	29,652
Dilutive effect of restricted Class B units	145	84	266
Pro forma weighted average units outstanding—diluted	30,122	30,018	29,918
Pro forma earnings per unit—basic	$ 0.07	$ 0.18	$ 0.14
Pro forma earnings per unit—diluted	$ 0.07	$ 0.18	$ 0.14

NOTE 14 : SUPPLEMENTAL CASH FLOW INFORMATION

The following table sets forth supplemental cash flow information for fiscal 2014, 2013 and 2012:

	2014	**2013**	**2012**
Cash paid for:			
Income taxes, net of refunds	$ 836	$ 639	$ 198
Interest	123	19	59
Non-cash investing activities:			
Accrued purchases of property and equipment	3,577	234	—
Property and equipment acquired through landlord incentives	6,000	—	—

SSE HOLDINGS, LLC
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(Dollar amounts in thousands, except unit, share, per unit and per share amounts)

NOTE 15 : COMMITMENTS AND CONTINGENCIES

Lease Commitments

We are obligated under various operating leases for Shacks and our home office space, expiring in various years through 2031. Under certain of these leases, we are liable for contingent rent based on a percentage of sales in excess of a specified threshold and are responsible for our proportionate share of real estate taxes and utilities. See Note 8 , Leases.

As security under the terms of several of our leases, we are obligated under letters of credit totaling $160 as of December 31, 2014. The letters of credit expire on April 23, 2015 and February 28, 2026. In addition, in December 2013, we entered into an irrevocable standby letter of credit in conjunction with our home office lease in the amount of $80. The letter of credit expires in September 2015 and renews automatically for one-year periods through September 30, 2019.

Purchase Commitments

Purchase obligations include legally binding contracts, including commitments for the purchase, construction or remodeling of real estate and facilities, firm minimum commitments for inventory purchases, equipment purchases, marketing-related contracts, software acquisition/license commitments and service contracts. These obligations are generally short-term in nature and are recorded as liabilities when the related goods are received or services rendered. We also enter into long-term, exclusive contracts with certain vendors to supply us with food, beverages and paper goods, obligating us to purchase specified quantities. These volume commitments are not subject to any time limit and there are no material financial penalties associated with these agreements in the event of early termination.

Legal Contingencies

We are subject to various legal proceedings, claims and liabilities, such as employment-related claims and slip and fall cases, which arise in the ordinary course of business and are generally covered by insurance. As of December 31, 2014, the amount of ultimate liability with respect to these matters was not material.

NOTE 16 : RELATED PARTY TRANSACTIONS

Amounts due to affiliates include management fees, health costs and amounts advanced for other general operating expenses by USHG, LLC, another subsidiary of USHG and a related party under common control (the " Management Company "). The amounts are temporary and non-interest bearing in nature.

Under the terms of the management agreement with the Management Company, as amended, in fiscal 2012 and 2013, we paid a 3.0% management fee to the Management Company based on sales. Commencing in fiscal 2014, management fees were reduced to 2.5%. In addition, in fiscal 2013, there was an additional $5 management fee per month between April-August, for a total of $25 in additional management fee expense. Management fees on Shack sales, which are included in general and administrative expenses, amounted to $2,801, $2,383 and $1,670 for fiscal 2014, 2013 and 2012, respectively. We also paid a management fee to the Management Company based on licensing net income generated from the license agreements with unaffiliated entities. Management fees on licensing net income, included in general and administrative expenses, amounted to $126, $72 and $22 in fiscal 2014, 2013 and 2012, respectively. Amounts payable to the Management Company as of December 31, 2014 and December 25, 2013 were $238 and $300, respectively.

Previously, we sub-leased office space from the Management Company on a month-to-month basis. Amounts paid to the Management Company totaled $38, $236 and $60 for fiscal 2014, 2013 and 2012, respectively. These amounts are included in general and administrative expense on the Consolidated Statements of Income.

We are included in the Management Company's self-insurance health plan and pay our portion of the plan costs on a monthly basis. In fiscal 2014, 2013 and 2012, the amounts paid to the Management Company for these health costs were $1,306, $865 and $546, respectively. These amounts are included in labor and related expenses and general and administrative expenses on the Consolidated Statements of Income.

In fiscal 2009, we began leasing space from Hudson Yards Catering LLC (" HYC "), a related party, on a month-to-month basis, which terminated on October 31, 2012. Included in occupancy and related expenses is rent paid to HYC that amounted to $49 in fiscal 2012.

SSE HOLDINGS, LLC
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(Dollar amounts in thousands, except unit, share, per unit and per share amounts)

In fiscal 2011, we entered into a Master License Agreement (an " MLA ") with Hudson Yards Sports and Entertainment LLC (" HYSE "), a related party, to operate Shake Shack branded limited menu concession stands in certain sports and entertainment venues within the United States. The agreement is through December 31, 2027, with five consecutive 5-year renewal options at HYSE's option. In consideration of the rights, HYSE pays us an annual license fee based on a percentage of net food sales, as defined in the MLA. HYSE also pays us a percentage of profits on sales of branded beverages, as defined in the MLA. Included in licensing revenue is concession income from HYSE in the amount of $218, $215 and $213 for fiscal 2014, 2013 and 2012, respectively.

NOTE 17 : GEOGRAPHIC INFORMATION

Revenue by geographic area for fiscal 2014 , 2013 and 2012 is as follows:

	2014	2013	2012
United States	$ 112,743	$ 78,937	$ 55,804
Other countries	5,787	3,519	1,234
Total revenue	$ 118,530	$ 82,456	$ 57,038

Revenues are shown based on the geographic location of our customers and licensees. All of our assets are located in the United States.

NOTE 18 : SELECTED QUARTERLY FINANCIAL DATA (UNAUDITED)

The following table sets forth certain unaudited financial and operating information for each quarter of fiscal 2014 and fiscal 2013 . The unaudited quarterly information includes all adjustments (consisting of normal recurring adjustments) that, in the opinion of management, are necessary for the fair presentation of the information presented. Operating results for interim periods are not necessarily indicative of the results that may be expected for a full fiscal year.

	2014			
	First Quarter	Second Quarter	Third Quarter	Fourth Quarter [2]
Selected financial data:				
Total revenue	$ 24,196	$ 27,737	$ 31,825	$ 34,772
Operating income (loss)	1,229	2,142	759	(987)
Net income (loss)	1,092	1,949	504	(1,427)
Pro forma earnings (loss) per unit [1]:				
Basic	$ 0.04	$ 0.07	$ 0.02	$ (0.05)
Diluted	$ 0.04	$ 0.07	$ 0.02	$ (0.05)
Selected operating data:				
Same-Shack sales growth	3.9%	4.5%	1.2%	7.2%
Number of Shacks at end of period	44	48	53	63
Domestic company-operated	21	23	26	31
Domestic licensed	4	4	5	5
International licensed	19	21	22	27

SSE HOLDINGS, LLC
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(Dollar amounts in thousands, except unit, share, per unit and per share amounts)

	2013			
	First Quarter	Second Quarter	Third Quarter	Fourth Quarter
Selected financial data:				
Total revenue	$ 15,749	$ 20,952	$ 22,803	$ 22,952
Operating income	1,283	2,936	612	1,104
Net income	1,158	2,824	444	997
Pro forma earnings per unit [(1)]:				
Basic	$ 0.04	$ 0.09	$ 0.01	$ 0.03
Diluted	$ 0.04	$ 0.09	$ 0.01	$ 0.03
Selected operating data:				
Same-Shack sales growth	0.8%	5.9%	8.2%	6.8%
Number of Shacks at end of period	24	28	33	40
Domestic company-operated	14	16	16	21
Domestic licensed	3	4	4	4
International licensed	7	8	13	15

(1) Basic and diluted pro forma earnings per unit are computed independently for each of the quarters presented. Therefore, the sum of quarterly basic and diluted pro forma earnings per unit amounts may not equal annual pro forma basic and diluted earnings per unit amounts.

(2) We operate on a 52/53 week fiscal year that ends on the last Wednesday of the calendar year. Fiscal 2014 was a 53-week year with the extra operating week falling in our fiscal fourth quarter. Fiscal 2013 and 2012 each contained 52 weeks.

(3) Same-Shack sales growth reflects the change in year-over-year Shack sales for domestic company-operated Shacks open for 24 months or longer. Same-Shack sales growth for fiscal 2014 excludes sales from the 53rd week.

NOTE 19 : SUBSEQUENT EVENTS

Amendment of Limited Liability Company Agreement

On February 4, 2015, our limited liability company agreement was amended and restated to, among other things, (i) provide for a new single class of common membership interests in SSE Holdings (" LLC Interests "); (ii) exchange all of the then existing membership interests of the original SSE Holdings members (" Original SSE Equity Owners ") for LLC Interests and (ii) appoint the Corporation as the sole managing member of SSE Holdings. Subsequent to the amendment of our limited liability company agreement, 36,250,000 LLC Interests were outstanding. Although the Corporation has a minority economic interest in SSE Holdings, as the sole managing member, they have the sole voting power in, and control the management of, SSE Holdings. As a result, the Corporation will consolidate the financial results of SSE Holdings and report a non-controlling interest in their consolidated financial statements.

The amendment also requires that SSE Holdings, at all times, maintain (i) a one-to-one ratio between the number of shares of Class A common stock issued by the Corporation. and the number of LLC Interests owned by the Corporation and (ii) a one-to-one ratio between the number of shares of Class B common stock owned by the Continuing SSE Equity Owners and the number of LLC Interests owned by the Continuing SSE Equity Owners.

Capital Contribution

On February 4, 2015 the Corporation closed an initial public offering of 5,750,000 shares of its Class A common stock at a public offering price of $21.00 per share and received $112,298 in proceeds, net of underwriting discounts and commissions.

On February 4, 2015, the Corporation made a capital contribution to the Company in the amount of $112,298 in exchange for 5,750,000 LLC Interests. Additionally, pursuant to the third amended and restated limited liability company agreement, we issued an additional 339,306 LLC Interests to the Corporation in order to maintain the one-to-one ratio between shares of Class A common stock and LLC Interests with regard to the settlement of outstanding UARs. Following the IPO and related organizational transactions, including the acquisition by the Corporation of the Former SSE Equity Owners, the Corporation holds 12,058,147 LLC Interests, representing a 33.3% ownership interest in us.

SSE HOLDINGS, LLC
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(Dollar amounts in thousands, except unit, share, per unit and per share amounts)

Member Distributions

On February 4, 2015, we paid the Additional Distribution to certain of the Original SSE Equity Owners in the amount of $11,125, which was payable in the event the gross proceeds of the Corporation's IPO exceeded the anticipated gross proceeds and was calculated by multiplying (i) the excess gross proceeds by (ii) 0.273. The distribution was paid using proceeds received from the Corporation's IPO, which was subsequently used to purchase LLC Interests.

Revolving Credit Facility

On January 14, 2015, we borrowed $4,000 in principal amount under the Revolving Credit Facility. The proceeds will be used for general corporate purposes and new Shack openings. Subsequent to the borrowing, the remaining credit available under the Revolving Credit Facility was $13,920.

On January 28, 2015, we executed a Third Amended and Restated Credit Agreement, which became effective on February 4, 2015 (the " New Revolving Credit Facility "). The amendment provides for, among other things, (i) a revolving total commitment amount of $50,000, of which $20,000 is available immediately, with the remainder available at our request and the consent of the lenders under the New Revolving Credit Facility; (ii) the removal of USHG as guarantor of the facility; (iii) the elimination of the mandatory $15,000 prepayment and (iv) a reduction in certain interest rates and fees. Borrowings under the New Revolving Credit Facility will bear interest at either: (x) LIBOR plus a percentage ranging from 2.5% to 3.5% or (y) the prime rate plus a percentage ranging from 0.0% to 1.0%, depending on the type of borrowing to be made under the New Revolving Credit Facility.

The New Revolving Credit Facility is secured by a first-priority security interest in substantially all of the assets of SSE Holdings and the guarantors (excluding stock in foreign subsidiaries in excess of 65% and assets of non-guarantors and subject to certain other exceptions). The obligations under the New Revolving Credit Facility are guaranteed by each of SSE Holdings' wholly-owned domestic subsidiaries (with certain exceptions).

The New Revolving Credit Facility contains a number of covenants that, among other things, restrict our ability to, subject to specified exceptions, incur additional debt; incur additional liens and contingent liabilities; sell or dispose of assets; merge with or acquire other companies; liquidate or dissolve itself, engage in businesses that are not in a related line of business; make loans, advances or guarantees; pay dividends or make other distributions (with certain exceptions, including tax distributions and repurchases of management equity); engage in transactions with affiliates; and make investments. In addition, the New Revolving Credit Facility contains certain cross-default provisions. We are required to maintain a specified consolidated fixed charge coverage ratio and a specified funded net debt to Adjusted EBITDA ratio.

On February 4, 2015, we repaid the entire outstanding principal under the Revolving Credit Facility of $36,000 using a portion of the proceeds we received from the capital contribution made by the Corporation. Subsequent to this repayment, no amounts were outstanding under the New Revolving Credit Facility.

Item 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosure.

None.

Item 9A. Controls and Procedures.

DISCLOSURE CONTROLS AND PROCEDURES

Under the supervision and with the participation of our management, including the Chief Executive Officer and Chief Financial Officer, we conducted an evaluation of the effectiveness of our disclosure controls and procedures (as such term is defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act) as of the end of the period covered by this report. Based on this evaluation, our Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures were effective as of such date. Our disclosure controls and procedures are designed to ensure that information required to be disclosed in the reports we file or submit under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms and that such information is accumulated and communicated to management, including the Chief Executive Officer and Chief Financial Officer, to allow timely decisions regarding required disclosure.

MANAGEMENT'S REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING

This Annual Report on Form 10-K does not include a report of management's assessment regarding internal control over financial reporting due to a transition period established by the SEC for newly public companies.

In addition, because we are an "emerging growth company" under the JOBS Act, our independent registered public accounting firm will not be required to attest to the effectiveness of our internal control over financial reporting for so long as we are an emerging growth company.

CHANGES IN INTERNAL CONTROL OVER FINANCIAL REPORTING

There were no changes to our internal control over financial reporting that occurred during the quarter ended December 31, 2014 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

Item 9B. Other Information.

Not applicable.

PART III

Item 10. Directors, Executive Officers and Corporate Governance.

DIRECTORS AND EXECUTIVE OFFICERS

Below is a list of the names and ages as of January 20, 2015 of our directors and executive officers and a description of the business experience of each of them.

Name	Age	Position
Daniel Meyer	56	Chairman of the Board of Directors
Randy Garutti	39	Chief Executive Officer and Director
Jeff Uttz	45	Chief Financial Officer
Peggy Rubenzer	51	Vice President, People Resources
Jeff Flug	52	Director
Evan Guillemin	49	Director
Jenna Lyons	46	Director
Jonathan D. Sokoloff	57	Director
Robert Vivian	56	Director

Daniel Meyer has served as the Chairman of the Board of Directors of Shake Shack since its formation and as the Chairman of the board of directors of SSE Holdings since January 2010. Mr. Meyer is the founder and Chief Executive Officer of USHG, which owns and operates the following restaurants: Union Square Cafe, Gramercy Tavern, Blue Smoke, Jazz Standard, The Modern, Maialino, Untitled, North End Grill and Marta; its event services business, Union Square Events; and its learning and consulting business, Hospitality Quotient. The restaurants have earned 25 James Beard Awards among them. Mr. Meyer previously served as a member of the board of directors of OpenTable.com from 2000 through 2014. Mr. Meyer co-authored the best-selling *Union Square Cafe Cookbook* and authored the New York Times bestseller *Setting the Table: The Transforming Power of Hospitality in Business* . Mr. Meyer is currently a member of the board of directors of The Container Store Group, Inc. and Sotheby's, as well as the following not-for-profit organizations: Share Our Strength, Madison Square Park Conservancy and the Irving Harris Foundation. Mr. Meyer has also served as a board member of City Harvest, New Yorkers for Parks, Union Square Partnership and NYC & Co. Mr. Meyer was selected to our board of directors because of his role in our founding and long career in hospitality and because he possesses particular knowledge and experience in strategic planning and leadership of complex organizations, hospitality businesses and board practices of other major corporations.

Randy Garutti has served as Shake Shack's Chief Executive Officer and on the Board of Directors since its formation and as the Chief Executive Officer and on the board of directors of SSE Holdings since April 2012. Prior to becoming Chief Executive Officer, Mr. Garutti served as Chief Operating Officer of SSE Holdings since January 2010. Mr. Garutti has worked with USHG and Mr. Meyer for 15 years. Prior to leading Shake Shack, Mr. Garutti was the Director of Operations, overseeing the operations for all USHG restaurants. In addition, Mr. Garutti served as General Manager of Union Square Cafe and Tabla, both of which won numerous accolades in the hospitality industry. Mr. Garutti graduated from Cornell University's School of Hotel Administration in 1997. Mr. Garutti was selected to our board of directors because of his leadership role in our development and growth and because he possesses particular knowledge and experience in strategic planning and leadership in the hospitality business.

Jeff Uttz has served as Shake Shack's Chief Financial Officer since its formation and as Chief Financial Officer of SSE Holdings since September 2013. Mr. Uttz has over 22 years of restaurant finance experience. Prior to joining Shake Shack, Mr. Uttz was the Chief Financial Officer of Yard House, where he led the expansion of Yard House from three units when he began to over 40 units when Yard House was acquired by Darden Restaurants, Inc. Prior to Yard House, Mr. Uttz held a number of positions at CKE Restaurants, Inc., working his way up from Manager of Corporate Banking to Vice President of Finance. During his tenure, Mr. Uttz participated in two major acquisitions, when CKE purchased the Hardee's chain as well as the units owned by Hardee's largest franchisee. Mr. Uttz began his career at KPMG where he served a number of clients within the restaurant and hospitality sector and attained his C.P.A. Mr. Uttz attended California State University, Fullerton, where he earned a Bachelor of Arts in Business Administration, Accounting Concentration.

Peggy Rubenzer has served as our Vice President, People Resources since our formation and as Vice President, People Resources of SSE Holdings since November 2013. Ms. Rubenzer has over 23 years of human resources and training expertise. As Vice President, People Resources at Shake Shack, Ms. Rubenzer leads the company's training, leadership development and human resources functions and supports the success of the teams through training, tools and resources. Prior to joining us in December 2011, Ms. Rubenzer spent 10 years at P.F. Chang's China Bistro in VP roles in both HR and Training. During her tenure at P.F. Chang's, Ms. Rubenzer was instrumental in growing the full and quick service concepts unit count from

82 to 360, supporting a head count of 30,000 employees. Prior to that, Ms. Rubenzer spent 10 years at Southwest Airlines, during which time she oversaw the recruiting and human resources functions for the Mid West region supporting the operation in 15 cities, as well as the company's growth and expansion to the North East.

Jeff Flug has served on the board of directors of Shake Shack since its formation and on the Board of Directors of SSE Holdings since January 2010. Mr. Flug has served as the President of USHG since January 2011 and, prior to that, as USHG's Chief Financial Officer and Chief Operating Officer since December 2009. Mr. Flug has over 25 years of leadership and management experience primarily in the financial industry, as well as in the non-profit sector. After graduating from the University of Massachusetts/Amherst in 1984, with a B.B.A. in Accounting, summa cum laude, Mr. Flug began his career as an accountant at PricewaterhouseCoopers where he attained his C.P.A. in 1986. Mr. Flug attended Columbia Business School, where he received his M.B.A. in Finance in 1988. In 1988, Mr. Flug joined Goldman, Sachs & Co., and ultimately served as a Managing Director and Head of Fixed Income Financial Futures and Options Sales. In 2000, Mr. Flug became the Head of North America Fixed Income Institutional Sales for JPMorgan Chase & Co. In 2006, Mr. Flug served as CEO and Executive Director for Millennium Promise, a nonprofit organization whose mission is to end extreme poverty and Malaria in Africa. Mr. Flug currently serves as a board director of Pennant Park Investment Corporation, Sears Hometown & Outlet Stores and The Mountain School of Milton Academy. Mr. Flug was selected to our Board of Directors because he brings financial experience and possesses particular knowledge and experience in strategic planning and leadership of complex organizations.

Evan Guillemin has served on the Board of Directors of Shake Shack since its formation and on the board of directors of SSE Holdings since April 2013. Mr. Guillemin joined Select Equity Group in April 2004 as the firm's Chief Financial Officer and has managed the firm's finance and operations groups. He is now a Senior Analyst/Associate Portfolio Manager with the firm, focusing on private company investments, as well as public company analysis. Mr. Guillemin is a member of the firm's Management Committee. Prior to joining the firm, he was Chief Financial Officer and then Chief Operating Officer of Delia*s Inc., a publicly-traded retailing company. He also served as Director of Acquisitions at Primedia, and he was a founding editor of SDC Publishing, a financial publishing division of the Thomson Corp. Mr. Guillemin currently serves on the board of directors of Mesa Labs Inc., where he chairs the audit committee and sits on the compensation committee. He also serves on the advisory board of several start-up and non-profit organizations. Mr. Guillemin received a B.A. from Yale University and an M.B.A. with distinction from Harvard Business School. Mr. Guillemin was selected to our board of directors because he brings financial experience and possesses particular knowledge and experience in strategic planning and leadership of complex organizations.

Jenna Lyons has served on the Board of Directors of Shake Shack since December 2014. Ms. Lyons has been the President, Executive Creative Director of J.Crew Group, Inc. since July 2010, and before that served as Executive Creative Director since April 2010. Prior to that, she was Creative Director since 2007 and, before that, was Senior Vice President of Women's Design since 2005. Ms. Lyons joined J.Crew Group, Inc. in 1990 as an Assistant Designer and has held a variety of positions within J.Crew Group, Inc., including Designer from 1994 to 1995, Design Director from 1996 to 1998, Senior Design Director in 1999, and Vice President of Women's Design from 1999 to 2005. Ms. Lyons was selected to our Board of Directors because she possesses particular knowledge and experience in strategic planning and leadership of complex organizations and retail businesses.

Jonathan D. Sokoloff has served on the Board of Directors of Shake Shack since its formation and on the board of directors of SSE Holdings since December 2012. Mr. Sokoloff is currently a Managing Partner with LGP, one of our significant stockholders, and joined in 1990. Before joining LGP, he was a Managing Director in Investment Banking at Drexel Burnham Lambert. Mr. Sokoloff serves on the board of the parent holding companies of BJ's Wholesale Club, Advantage Sales & Marketing and Jetro Cash & Carry and serves on the board of The Container Store Group Inc., USHG, Whole Foods Market, Inc., J.Crew Group, Inc., The Sports Authority, Inc., Jo-Ann Stores, Inc., The Tire Rack, Inc. and Top Shop/Top Man Limited. He co-chairs the Endowment Committee for Private Equity at his alma mater, Williams College. Mr. Sokoloff was selected to our board of directors because he possesses particular knowledge and experience in accounting, finance and capital structure, strategic planning and leadership of complex organizations, retail businesses and board practices of other major corporations.

Robert Vivian has served on the Board of Directors of Shake Shack since its formation and on the board of directors of SSE Holdings since June 2010. Mr. Vivian served as the Co-Chief Executive Officer of P.F. Chang's China Bistro from January 2009 through December 2011. Prior to that time, he served as P.F. Chang's President from December 2000 through January 2009 and as its Chief Financial Officer from 1996 through December 2000. He also served as a director of P.F. Chang's China Bistro from January 2009 through April 2011 when he retired. Before joining P.F. Chang's, Mr. Vivian served in a variety of positions with Brinker International, Inc. Mr. Vivian was selected to our Board of Directors because he possesses particular knowledge and experience in strategic planning and leadership of complex organizations, hospitality businesses and board practices of other major corporations.

SECTION 16(a) BENEFICIAL OWNERSHIP REPORTING COMPLIANCE

Following our IPO, the United States securities laws require our directors, executive officers and greater than 10% shareholders to file reports of ownership and changes in ownership of our common stock on Forms 3, 4 and 5 with the SEC, with us and with the New York Stock Exchange.

However, for the year ended December 31, 2014, our directors, executive officers and greater than 10% shareholders were not required to file such reports, because we were, prior to the IPO, not subject to the requirements of the Securities Exchange Act of 1934.

CODE OF BUSINESS CONDUCT AND ETHICS

We have adopted a written code of business conduct and ethics (" Code of Business Conduct and Ethics ") that applies to our directors, officers and other employees, including our principal executive officer, principal financial officer, principal accounting officer or controller, or persons performing similar functions. In addition, our senior financial officers, including our principal executive officer and principal financial officer, are subject to a written code of ethics for senior financial officers. We have made a current copy of both codes available on our website, *www.shakeshack.com* and both are available in print and without charge to any person who sends a written request to our Corporate Secretary at 24 Union Square East, 5th Floor, New York, NY 10003. In addition, we intend to post on our website all disclosures that are required by law or the New York Stock Exchange listing standards concerning any amendments to, or waivers from, any provision of either code.

SHAREHOLDER RECOMMENDATION OF DIRECTOR NOMINEES

We do not have formal procedures in place by which shareholders may recommend nominees to our Board of Directors.

AUDIT COMMITTEE REPORT

The following Report of the Audit Committee of the Board of Directors (the " Audit Committee ") does not constitute soliciting material and should not be deemed filed or incorporated by reference into any future filings under the Securities Act of 1933 (the " Securities Act ") or the Securities Exchange Act of 1934 (the " Exchange Act "), except to the extent we specifically incorporate this Report by reference.

Function of Audit Committee

The Audit Committee operates under a written charter adopted by the Board of Directors. The Charter contains a detailed description of the scope of the Audit Committee's responsibilities and how they will be carried out. The Audit Committee's charter is available on our website at investor.shakeshack.com, under "Governance Documents." The primary duties of the Audit Committee are to (i) assist the Board of Directors in fulfilling its oversight and monitoring responsibility of reviewing the financial information that will be provided to shareholders; (ii) appointing, compensating, retaining, evaluating, terminating and overseeing our independent registered public accounting firm; (iii) discussing with our independent registered public accounting firm their independence from management; (iv) reviewing with our independent registered public accounting firm the scope and results of their audit; (v) approving all audit and permissible non-audit services to be performed by our independent registered public accounting firm; (vi)overseeing the financial reporting process and discussing with management and our independent registered public accounting firm the interim and annual financial statements that we file with the SEC; (vii) reviewing and monitoring our accounting principles, accounting policies, financial and accounting controls and compliance with legal and regulatory requirements; and (viii) establishing procedures for the confidential anonymous submission of concerns regarding questionable accounting, internal controls or auditing matters.

Independence of Audit Committee Members

Our Audit Committee consists of Messrs. Vivian, Flug and Guillemin with Mr. Vivian serving as chair. Rule 10A-3 of the Exchange Act and the New York Stock Exchange rules require us to have one independent audit committee member upon the listing of our common stock, a majority of independent directors on our audit committee within 90 days of the date of the prospectus dated January 29, 2015 and an audit committee composed entirely of independent directors within one year of the date of the prospectus dated January 29, 2015. Our Board of Directors has affirmatively determined that Messrs. Vivian and Guillemin meet the definition of "independent director" for purposes of serving on an audit committee under Rule 10A-3 under the Exchange Act and the New York Stock Exchange rules, and we intend to comply with the other independence requirements within the time periods specified.

Audit Committee Financial Expert

The Board of Directors has determined that Mr. Vivian qualifies as an "audit committee financial expert," as such term is defined in Item 407(d)(5) of Regulation S-K.

Audited Financial Statements Included in Annual Report

Management has the primary responsibility for establishing and maintaining adequate internal financial controls, for preparing the financial statements and for the public reporting process. Ernst & Young LLP (" EY "), the Company's independent registered public accounting firm, is responsible for expressing opinions on the conformity of the Company's audited financial statements with generally accepted accounting principles.

The Audit Committee has reviewed and discussed with management and EY the Company's audited consolidated financial statements for the fiscal year ended December 31, 2014 and Management's Discussion and Analysis of Financial Condition and Results of Operation.

The Audit Committee also has discussed with EY the matters required to be discussed by the Public Company Accounting Oversight Board (" PCAOB ") AU Section 380, "Communication with Audit Committees."

The Audit Committee also received the written disclosures and the letter from EY that are required by PCAOB Rule 3526, "Communication with Audit Committees Concerning Independence," and has discussed with EY its independence. The Audit Committee also considered whether EY's provision of non-audit services to the Company is compatible with maintaining EY's independence. This discussion and disclosure informed the Audit Committee of EY's independence and assisted the Audit Committee in evaluating that independence. On the basis of the foregoing, the Audit Committee concluded that EY is independent from the Company, its affiliates and management.

Based upon its review of the Company's audited financial statements and the discussions noted above, the Audit Committee recommended to the Board of Directors that our audited consolidated financial statements for the fiscal year ended December 31, 2014 be included in the Company's Annual Report on Form 10-K for such fiscal year for filing with the SEC.

This report has been furnished by the members of the Audit Committee.

Robert Vivian, Chair
Jeff Flug
Evan Guillemin

Item 11. Executive Compensation.

This section discusses the material components of the executive compensation program for our executive officers who are named in the "2014 Summary Compensation Table" below. In fiscal 2014, our "named executive officers" and their positions were as follows:

- Randy Garutti, Chief Executive Officer
- Jeff Uttz, Chief Financial Officer
- Peggy Rubenzer, Vice President, People Resources

This discussion may contain forward-looking statements that are based on our current plans, considerations, expectations and determinations regarding future compensation programs. Actual compensation programs that we adopt may differ materially from the currently planned programs summarized in this discussion. See "Cautionary Note Regarding Forward-Looking Statements."

SUMMARY COMPENSATION TABLE

The following table sets forth information concerning the compensation of our named executive officers for the years ended December 31, 2014 and December 25, 2013.

Name and Principal Position	Year	Salary ($)	Stock Awards ($)	Option Awards ($)	Non-Equity Incentive Plan Compensation ($)	All Other Compensation ($)	Total ($)
Randy Garutti	2014	330,095	—	—	42,919	—	373,014
Chief Executive Officer	2013	312,450	—	—	70,545	—	382,995
Jeff Uttz	2014	305,769	—	—	79,512	—	385,281
Chief Financial Officer	2013	93,462 (1)	825,635 (2)	—	42,997	—	962,094
Peggy Rubenzer	2014	197,022	—	— (3)	34,156	6,812 (4)	237,990
Vice President, People Resources	2013	188,062	—	— (3)	56,617	—	244,679

(1) Mr. Uttz commenced employment with the Company on September 3, 2013. The amount reflected in the "Salary" column represents the pro-rated amount of his annual base salary earned following commencement of employment.

(2) Amount reflects the full grant date fair value of the restricted Class B units in SSE Holdings granted during 2013 computed in accordance with ASC Topic 718, rather than the amounts paid to or realized by the named individual. The assumptions used in the valuation of the restricted Class B unit awards are set forth in Note 11 to the audited consolidated financial statements included in Item 8 of this Annual Report on Form 10-K.

(3) Ms. Rubenzer was granted 525 unit appreciation rights in 2014 and 350 unit appreciation rights in 2013. Such awards were not accounted for under ASC Topic 718 and no compensation expense was recorded with respect to these awards.

(4) Amount reflects reimbursements for airfare in connection with commuting to and from the Company's office.

Narrative to Summary Compensation Table

Employment Agreements

During 2014, the employment of our named executive officers was not subject to the terms and conditions of any employment agreements. However, in 2014 in connection with the IPO, we entered into employment agreements with Mr. Garutti and Mr. Uttz effective as of the date of the consummation of the IPO. For a description of the terms and conditions of such employment agreements, please see the section entitled "—New Employment Agreements" below.

2014 Salaries

The named executive officers receive a base salary to compensate them for services rendered to our Company. The base salary payable to each named executive officer is intended to provide a fixed component of compensation reflecting the executive's skill set, experience, role and responsibilities.

2014 Bonuses

In fiscal 2014, each of our named executive officers was eligible to earn an annual performance-based cash bonus from the Company. This 2014 bonus for each of our named executive officers consisted of three components: 40% was based upon the achievement of Company adjusted EBITDA, 40% was based upon the achievement of Company revenue targets and 20% was based upon the achievement of individual performance goals. Mr. Garutti was eligible to receive a target bonus in the amount of 15% of his annual base salary, Mr. Uttz was eligible to receive a target bonus in the amount of 30% of his annual base salary, and Ms. Rubenzer was eligible to receive a target bonus in the amount of 20% of her annual base salary upon the

achievement of the applicable objectives. In fiscal 2014, our Company adjusted EBITDA was 103% of the target amount and our total revenue was 97% of the target amount, resulting in a payment to Mr. Garutti of 87% of his target bonus, to Mr. Uttz of 87% of his target bonus and to Ms. Rubenzer of 87% of her target bonus. The actual amounts of the performance-based cash bonuses paid to each named executive officer for fiscal 2014 performance are set forth above in the Summary Compensation Table in the column entitled "Non-Equity Incentive Plan Compensation."

Equity-Based Compensation

Restricted Class B Units

Prior to the IPO, certain of our named executive officers held restricted Class B Units in SSE Holdings. The restricted Class B Units generally were eligible to vest annually over five years from the applicable grant date, subject to acceleration upon the occurrence of a change in control or an initial public offering. None of our named executive officers were granted restricted Class B Units in 2014. In connection with the IPO, each restricted Class B Unit was exchanged for LLC Interests.

Unit Appreciation Rights

Prior to the IPO, SSE Holdings maintained a phantom equity plan, which we call the Unit Appreciation Rights Plan, or " UAR Plan ." The UAR Plan was adopted in order to foster and promote our long-term success by helping attract and maintain a superior management team and to motivate superior performance by employees selected to participate in the UAR Plan. Ms. Rubenzer is our only named executive officer who participates in the UAR Plan and, in 2014, Ms. Rubenzer was granted 525 unit appreciation rights. Under the UAR Plan, participants had the right to receive a payment in the form of securities of SSE Holdings or one of its affiliates upon a change in control or an initial public offering, subject to the participant's continued employment through the date of the change in control or initial public offering. The amount of the payment is equal to the number of unit appreciation rights held by the participant multiplied by the excess of the transaction price of a Class B Unit over a "base price" per unit specified in each participant's award agreement. Individual participants in the UAR Plan are selected by, and the UAR Plan is administered by, the SSE Holdings board of directors or the compensation committee of the board.

The following table sets forth the unit appreciation rights granted to our named executive officers in the 2014 fiscal year.

Named Executive Officer	2014 Unit Appreciation Rights Granted	
Randy Garutti	—	
Jeff Uttz	—	
Peggy Rubenzer	525	(1)

(1) As of December 31, 2014, all unit appreciation rights held by Ms. Rubenzer were unvested. Subject to Ms. Rubenzer's continued employment, she was entitled to payment in respect of her unit appreciation rights upon a change in control or an initial public offering. In connection with the IPO, Ms. Rubenzer received shares of Class A common stock in settlement of her outstanding unit appreciation rights.

All obligations of SSE Holdings under the UAR Plan and awards thereunder were assigned from SSE Holdings to Shake Shack, effective on the effective date of the IPO. All unit appreciation rights outstanding under the UAR Plan were settled in connection with the IPO in the form of shares of our Class A common stock. We do not expect to make any further grants under the UAR Plan.

New Equity-Based Compensation

We have adopted the 2015 Incentive Award Plan in order to facilitate the grant of cash and equity incentives to directors, employees (including our named executive officers) and consultants of our Company and certain of its affiliates and to enable our Company and certain of its affiliates to obtain and retain services of these individuals, which is essential to our long-term success. In connection with the IPO, we granted options to purchase 2,622,281 shares of Class A common stock under the 2015 Incentive Award Plan to certain of our employees, including the named executive officers. Such grants will vest in substantially equal installments over time, subject to continued employment.

In addition, in connection with this offering, we adopted an executive stock ownership policy encouraging Mr. Garutti and Mr. Uttz to hold shares of our common stock with a value equal to two and one times each of their annual base salaries, respectively.

Retirement Plans

USHG currently maintains a 401(k) retirement savings plan, the "401(k) plan," in which our employees, including our named executive officers, who satisfy certain eligibility requirements may participate. The Internal Revenue Code allows eligible employees to defer a portion of their compensation, within prescribed limits, on a pre-tax basis through contributions to the 401(k) plan. USHG does not currently match contributions made under the 401(k) plan by our named executive officers and other highly compensated employees. We believe that providing a vehicle for tax-deferred retirement savings though the 401(k) plan adds to the overall desirability of our executive compensation package and further incentivizes our employees, including our named executive officers, in accordance with our compensation policies.

Employee Benefits and Perquisites

All of our full-time employees, including our named executive officers, are eligible to participate in health and welfare plans maintained by USHG, including:

- medical, dental and vision benefits;
- medical and dependent care flexible spending accounts; and
- short-term and long-term disability insurance

Our named executive officers participate in these plans on the same basis as other eligible employees. We do not maintain any supplemental health and welfare plans for our named executive officers. We believe the benefits described above are necessary and appropriate to provide a competitive compensation package to our named executive officers.

In addition, in 2014, Ms. Rubenzer was entitled to reimbursement in an aggregate amount equal to $6,812 for airfare in connection with commuting to and from our Company's office.

No Tax Gross-Ups

We do not make gross-up payments to cover our named executive officers' personal income taxes that may pertain to any of the compensation or perquisites paid or provided by our Company.

Special Bonus Agreements

In March 2011, Mr. Garutti entered into a Special Bonus Agreement (as amended, the " Special Bonus Agreement ") with USHG with respect to Mr. Garutti's services to SSE Holdings. This Special Bonus Agreement provides for the payment of a special bonus in the amount of $2.45 million by USHG to Mr. Garutti in the event of a change in control or an initial public offering of SSE Holdings prior to March 11, 2018, which will be payable to him in March 2018. On October 30, 2014, USHG, Mr. Garutti and SSE Holdings entered into an Assignment and Assumption Agreement, pursuant to which USHG assigned this obligation to SSE Holdings. The Special Bonus Agreement contains restrictive covenants prohibiting Mr. Garutti from competing with us and from soliciting any of our or of USHG's employees or contractors for one year following his termination of employment. The restrictive covenants also prohibit the unauthorized use of confidential information.

In addition to the Special Bonus Agreement, Mr. Garutti entered into two other bonus arrangements in July 2013 with SSE Holdings (the " Incentive Bonus Agreemen t") and USHG (the " Supplemental Bonus Agreement "), respectively. Such agreements provide for a bonus payment equal to the value of the special bonus under the Special Bonus Agreement and may become payable in the event a change in control or an initial public offering does not occur on or before March 11, 2018, subject to and conditioned upon certain other conditions specified in the Supplemental Bonus Agreement and Incentive Bonus Agreement, as applicable.

Mr. Garutti will only be entitled to receive payment under one of the Special Bonus Agreement, the Incentive Bonus Agreement or the Supplemental Bonus Agreement. As a result of the IPO, such payment with a value of $2.45 million will be made in March 2018 under the Special Bonus Agreement (as described above).

New Employment Agreements

In connection with the IPO, we entered into employment agreements with Messrs. Garutti and Uttz, which became effective as of the date of the consummation of the IPO. The material terms of such agreements are summarized below.

Employment Term and Position

The term of employment of each of Messrs. Garutti and Uttz is three years from the date of the IPO, subject to automatic one-year extensions provided that neither party provides written notice of non-extension within ninety days of the expiration of the then-current term. During their respective terms of employment, Mr. Garutti will serve as Chief Executive Officer of the Company and SSE Holdings and Mr. Uttz will serve as Chief Financial Officer of the Company and SSE Holdings. Further, Mr. Garutti will be appointed to our Board of Directors and will be proposed for re-election during his term of employment.

Base Salary, Annual Bonus and Equity Compensation

Pursuant to their employment agreements, Messrs. Garutti and Uttz are entitled to initial base salaries of $400,000 and $330,000, respectively.

In addition, Messrs. Garutti and Uttz are eligible to receive annual performance-based cash bonuses upon the attainment of individual and Company performance goals established by our Board of Directors or the compensation committee. The amount of the annual performance-based cash bonus that may be received by Messrs. Garutti and Uttz upon attainment of target performance for any fiscal year will be 50% of base salary and 35% of base salary, respectively, and the maximum amount of the annual performance-based cash bonus that may be received by Messrs. Garutti and Uttz for any fiscal year will be 100% of base salary and 70% of base salary, respectively.

Under the employment agreements, Messrs. Garutti and Uttz will also be eligible for annual equity awards, the form and terms of which will be determined by our Board of Directors or the compensation committee in its discretion.

Severance

Each employment agreement provides for severance upon a termination by us without cause or by Messrs. Garutti or Uttz for good reason, in each case, subject to the execution and non-revocation of a waiver and release of claims by Messrs. Garutti or Uttz, as applicable.

Upon a termination of employment by us without cause or by Messrs. Garutti or Uttz for good reason, Messrs. Garutti or Uttz, as applicable, will be entitled to severance consisting of (a) continued base salary through the first anniversary of the termination of his employment, (b) a prorated annual cash bonus for the year of termination based on actual individual and Company performance, (c) accelerated vesting of a prorated portion of the annual equity awards that would have vested at the end of the year of termination absent such termination, such portion to be based on the number of full fiscal months elapsed during such fiscal year, and (d) reimbursement of COBRA premiums such that the cost of coverage is equal to the cost for then current employees for a period of up to 12 months.

For purposes of the employment agreements, the Company will have "cause" to terminate Messrs. Garutti or Uttz's employment upon (a) his willful misconduct, gross negligence or act of dishonesty with regard to the Company or any of its affiliates, which in either case, results in or could reasonably be expected to result in material harm to the Company or such affiliate, (b) his willful and continued failure to attempt to perform his duties with the Company or any of its affiliates (other than any such failure resulting from disability), which failure is not remedied within 30 days after receiving written notice thereof, (c) his conviction of (or his plea of guilty or nolo contendere to) any felony involving moral turpitude (other than traffic related offenses or as a result of vicarious liability), or (d) his material breach of any material provision of the employment agreement, which breach is not remedied within 10 days after receiving written notice thereof.

For purposes of the employment agreements, each of Messrs. Garutti and Uttz will have "good reason" to terminate his employment after the occurrence, without his consent, of (a) any material adverse change in base salary, position, duties, responsibilities, authority, title or reporting obligations, or the assignment of duties that are materially inconsistent with his position, (b) a relocation of principal business location by more than 50 miles from its then current location, or (c) any other material breach by the Company of the employment agreement or any other agreement with him. However, no termination for good reason will be effective unless (i) Messrs. Garutti or Uttz, as applicable, provides the Company with at least thirty (30) days prior written notice of his intent to resign for good reason (which notice must be provided within sixty (60) days following the occurrence of the event(s) purported to constitute good reason); (ii) the Company has not remedied the alleged violation(s) within the thirty (30) day period; and (iii) Messrs. Garutti or Uttz's resignation, as applicable, becomes effective no later than thirty (30) days after the Company has either failed to cure such event or indicated that it will not cure such event.

Restrictive Covenants

Pursuant to their respective employment agreements, Messrs. Garutti and Uttz will be subject to certain non-competition and non-solicitation restrictions for a twelve-month period after termination of employment. During the restricted period, Messrs. Garutti and Uttz may not compete, directly or indirectly, with the Company in the business of developing, managing, and/or operating of (a) "better burger" restaurants, (b) "quick service" or "fast food" restaurants with an emphasis on hamburgers, or (c) "fast casual" restaurants. No severance payments or benefits described above shall be paid following the first date that Messrs. Garutti or Uttz, as applicable, violates his restrictive covenants; provided that, if employment is terminated by the Company without cause or by Messrs. Garutti or Uttz for good reason, Messrs. Garutti or Uttz, as applicable, may compete in the "fast casual" restaurant business during the restricted period without violating his employment agreement but he will not receive any severance after the date that he began to compete in the "fast casual" restaurant business.

OUTSTANDING EQUITY AWARDS AT FISCAL YEAR-END

The following table summarizes the number of Class B Units and unit appreciation rights underlying outstanding equity incentive plan awards for our named executive officers as of December 31, 2014.

	Unit Appreciation Rights				Class B Unit Awards	
Name	Number of Class B Units Underlying Unit Appreciation Rights (#) Vested	Number of Class B Units Underlying Unit Appreciation Rights (#) Unvested	Unit Appreciation Right Base Amount ($)	Unit Appreciation Right Expiration Date	Number of Class B Units That Have Not Vested (#)	Market Value of Class B Units That Have Not Vested ($)
Randy Garutti	—	—	—	—	— (1)	—
Jeff Uttz	—	—	—	—	7,227 (2)	$ 3,179,200 (3)
Peggy Rubenzer	—	525 (4)	$ 237.04	3/3/2024	—	—
	—	626 (4)	$ 122.99	2/1/2022	—	—
	—	350 (4)	$ 183.00	2/11/2023	—	—

(1) As of December 31, 2014, Mr. Garutti held 31,303 Class B units and 4,277 membership interests in SSE Holdings, all of which were vested.

(2) Mr. Uttz was granted 9,034 restricted Class B units on August 22, 2013. As of December 31, 2014, 80% of the restricted Class B units held by Mr. Uttz were unvested. Subject to Mr. Uttz's continued employment, all of his unvested restricted Class B units were eligible, as of December 31, 2014, to vest ratably over the next four years, subject to acceleration upon a change in control or an initial public offering (including the IPO). In connection with IPO, the restricted Class B units became fully vested and were exchanged for LLC Interests.

(3) There is no public market for our Class B units. Third-party financial institutions valued the Class B units in connection with this offering. The amount reported above under the heading "Market Value of Class B Units That Have Not Vested" reflects the intrinsic value of the Class B units according to such valuation. In connection with the IPO, the Class B units became fully vested and were exchanged for LLC Interests.

(4) Ms. Rubenzer was granted 626 unit appreciation rights on February 1, 2012, 350 unit appreciation rights on February 11, 2013 and 525 unit appreciation rights on March 3, 2014. As of December 31, 2014, all unit appreciation rights held by Ms. Rubenzer were unvested. Subject to Ms. Rubenzer's continued employment, Ms. Rubenzer was, as of December 31, 2014, eligible to receive payment in respect of her unit appreciation rights upon a change in control or an initial public offering (including the IPO). In connection with the IPO, Ms. Rubenzer received shares of Class A common stock in settlement of her outstanding unit appreciation rights.

DIRECTOR COMPENSATION

Members of the SSE Holdings board of directors have not historically received compensation for their services as board members. None of our directors received compensation as a director during fiscal 2014.

In connection with the IPO, we approved and implemented a compensation policy that, effective upon the closing of the IPO, became applicable to all of our non-employee directors. Under the compensation policy, no non-employee director is entitled to a cash retainer or other cash compensation inconsideration for his service on our Board of Directors or a committee thereof. Each non-employee director is, however, be entitled to certain equity-based compensation as described below.

On the date the shares subject to the IPO were priced, each non-employee director who, as of such date, was serving on our Board of Directors and was expected to continue his or her service following the IPO was granted (a) an option to purchase shares of our Class A common stock with a grant date fair value of $50,000 (or, if such director is unaffiliated with any significant stockholder of the Company, $75,000) and (b) to the extent such director is (i) unaffiliated with any significant stockholder of the Company and (ii) the chairman of any committee of our Board of Directors, an additional option to purchase shares of our Class A common stock with a fair value of $10,000 with respect to each such chairmanship.

Commencing with fiscal 2016, each non-employee director will be entitled to an annual option grant which shall consist of the following: (a) an option to purchase shares of our Class A common stock with a grant date fair value of $50,000 (or, if such director is unaffiliated with any significant stockholder of the Company, $75,000) and (b) to the extent such director is (i) unaffiliated with any significant stockholder of the Company and (ii) the chairman of any committee of our Board of Directors, an additional option to purchase shares of our Class A common stock with a fair value of $10,000 with respect to each such chairmanship.

The terms of each award described above will be set forth in a written award agreement between the applicable non-employee director and us, which will generally provide for vesting after one year of continued service as a director subject to acceleration upon a change of control.

The non-employee director compensation policy (including the compensation described above) may be amended, modified or terminated by our Board of Directors at any time in its sole discretion.

In addition to the non-employee director compensation policy, in connection with this offering, we adopted a director stock ownership policy encouraging non-employee directors to hold shares of our Class A common stock with a value equal to at least one times the fair value of the director's annual equity award.

COMPENSATION COMMITTEE INTERLOCKS AND INSIDER PARTICIPATION

During fiscal 2014, the members of SSE Holdings' compensation committee were Mr. Flug, Mr. Vivian and Mr. Guillemin. No member of our compensation committee is or has been a current or former officer or employee of Shake Shack or had any related person transaction involving Shake Shack. None of our executive officers served as a director or a member of a compensation committee (or other committee serving an equivalent function) of any other entity, one of whose executive officers served as a director or member of SSE Holdings' compensation committee during fiscal 2014.

COMPENSATION COMMITTEE REPORT

The JOBS Act provides that, so long as a company qualifies as an "emerging growth company," it will be exempt from certain disclosure requirements of the Dodd-Frank Act relating to compensation of its executive officers and be permitted to omit the detailed compensation discussion and analysis from proxy statements and reports filed under the Exchange Act. Accordingly, we have not included such analyses or a report from our Compensation Committee.

Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters.

SECURITIES AUTHORIZED FOR ISSUANCE UNDER EQUITY COMPENSATION PLANS

As of December 31, 2014, there was no public market for our common stock and there were no equity compensation plans approved by security holders under which our equity securities were authorized for issuance.

The following table provides, as of March 20, 2015, equity compensation plan information for all plans under which equity securities are authorized for issuance.

	Number of securities to be issued upon exercise of outstanding options, warrants and rights (#)	Weighted-average exercise price of outstanding options, warrants and rights ($)	Number of securities remaining available for future issuance under equity compensation plans (#)
Equity compensation plans approved by security holders	2,622,281	$ 21.00	3,243,241
Equity compensation plans not approved by security holders	—	—	—
TOTAL	2,622,281	$ 21.00	3,243,241

Prior to the IPO, SSE Holdings maintained a phantom equity plan, which we call the Unit Appreciation Rights Plan (the " Plan "). The UAR Plan was adopted in order to foster and promote our long-term success by helping attract and maintain a superior management team and to motivate superior performance by employees selected to participate in the UAR Plan. Under the Plan, the Company may grant up to 31,303 unit appreciation rights (" UARs ") to employees. The UARs granted are subject to continued employment and are only exercisable upon a qualifying transaction, which is either a change of control or an initial public offering, each as defined under the Plan. Upon the occurrence of a qualifying transaction, each UAR entitles the holder to receive a payment from the Company with such payment determined by multiplying (i) the excess, if any, of the qualifying transaction price over the base amount of the UAR, by (ii) the stated number of Class B units deemed covered by the UAR. Effective October 30, 2014, the Plan was amended to provide that the payment to which UAR holders are entitled upon the occurrence of a qualifying transaction will be in the form of securities of the Company or one of its affiliates or such other form of payment as we may determine in our sole discretion. As of December 31, 2014, there were 22,554 UARs outstanding. The Company's initial public offering constitutes a qualified transaction under the Plan and 339,306 shares of Class A common stock were issued upon consummation of the IPO in settlement of the outstanding UARs.

SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT

The following table sets forth information with respect to the beneficial ownership of our Class A common stock and Class B common stock, as of March 20, 2015:

- each person known by us to beneficially own more than 5% of our Class A common stock or our Class B common stock;
- each of our directors;
- each of our named executive officers; and
- all of our executive officers and directors as a group.

Each Continuing SSE Equity Owner is entitled to have their LLC Interests redeemed for Class A common stock on a one-for-one basis, or, at the option of Shake Shack, cash equal to the market value of the applicable number of shares of our Class A common stock. In addition, at Shake Shack's election, Shake Shack may effect a direct exchange of such shares of Class A common stock or such cash for such LLC Interests. In connection with the IPO, we issued to each Continuing SSE Equity Owner for nominal consideration one share of Class B common stock for each LLC Interest it owned. As a result, the number of shares of Class B common stock listed in the table below correlates to the number of LLC Interests each such Continuing SSE Equity Owner owns.

The number of shares beneficially owned by each stockholder is determined under rules issued by the SEC and includes voting or investment power with respect to securities. Under these rules, beneficial ownership includes any shares as to which the individual or entity has sole or shared voting power or investment power. In computing the number of shares beneficially owned by an individual or entity and the percentage ownership of that person, shares of common stock subject to options, or other rights, including the redemption right described above, held by such person that are currently exercisable or will become exercisable within 60 days, are considered outstanding, although these shares are not considered outstanding for purposes of computing the percentage ownership of any other person. Unless otherwise indicated, the address of all listed stockholders is c/o Shake Shack Inc.; 24 Union Square East, 5th Floor; New York, NY 10003. Each of the stockholders listed has sole voting and investment power with respect to the shares beneficially owned by the stockholder unless noted otherwise, subject to community property laws where applicable.

	Shares of Class A Common Stock Beneficially Owned		Shares of Class B Common Stock Beneficially Owned		Total Common Stock Beneficially Owned	
	(#)	(%)	(#)	(%)	(#)	(%)
5% Stockholders						
Green Equity Investors VI, L.P., Green Equity Investors Side VI, L.P., and LGP Malted Coinvest LLC [(1)(2)(3)]	3,420,325	28.5%	5,773,997	23.9%	9,194,322	25.4%
Daniel Meyer [(1)(4)]	30,100	*	7,352,908	30.4%	7,383,008	20.4%
SEG Partners, L.P., SEG Partners II, L.P. and SEG Partners Offshore Master Fund, Ltd. [(1)(5)]	2,548,516	21.1%	1,809,854	7.5%	4,358,370	12.0%
ACG Shack LLC [(1)(6)]	—	*	2,159,793	8.9%	2,159,793	6.0%
Jeff Flug [(1)(7)]	30,000	*	1,834,778	7.6%	1,864,778	5.1%
Named Executive Officers and Directors						
Randy Garutti [(8)]	3,100	*	1,043,751	4.3%	1,046,851	2.9%
Jeff Uttz [(9)]	10,000	*	197,814	*	207,814	*
Peggy Rubenzer [(10)]	32,476	*	—	*	32,476	*
Evan Guillemin	—	*	—	*	—	*
Jenna Lyons [(11)]	10,000	*	—	*	10,000	*
Jonathan D. Sokoloff [(1)(2)(3)(12)]	3,440,325	28.5%	5,773,997	23.9%	9,214,322	25.4%
Robert Vivian [(13)]	20,000	*	67,444	*	87,444	*
All Directors and Executive Offers as a group (nine persons)	3,576,001	29.7%	16,270,692	67.3%	19,846,693	54.7%

* Represents beneficial ownership of less than 1%

(1) As discussed in "Certain Relationships and Related Party Transactions—Stockholders Agreement," the members of the Voting Group entered into a Stockholders Agreement with us, pursuant to which the Voting Group has agreed to vote their shares of Class A common stock and Class B common stock in favor of the election of the nominees of certain members of the Voting Group to our Board of Directors upon their nomination by the nominating and corporate governance committee of our Board of Directors.

(2) As of February 4, 2015 from the Schedule 13D filed on February 9, 2015 by Green Equity Investors VI, L.P. (" GEI VI "), Green Equity Investors Side VI, L.P. (" GEI Side VI ") (collectively, the " Green Funds "), LGP Malted Coinvest LLC (" Malted "), GEI Capital VI, LLC (" Capital "), Green VI Holdings, LLC (" Holdings "), Leonard Green & Partners, L.P. (" LGP "), LGP Management, Inc. (" LGPM "), Peridot Coinvest Manager LLC (" Peridot "), J. Kristofer Galashan, and Jonathan D. Sokoloff (the foregoing entities and persons collectively, the " LGP

Owners "). The LGP Owners beneficially own 9,194,322 shares of common stock, have shared voting power over 9,223,322 shares and shared dispositive power over 9,223,322 shares.

(3) Voting and investment power with respect to the shares of our common stock held by GEI VI, GEI Side VI and Malted, may be deemed to be shared by certain affiliated entities. Capital is the general partner of the Green Funds. Holdings is a limited partner of the Green Funds. LGP is the management company of the Green Funds and Holdings. Peridot, an affiliate of LGP, is the manager of Malted. Each of the Green Funds, Holdings, Malted, LGP, and Peridot disclaims such shared beneficial ownership of our common stock. Jonathan D. Sokoloff may also be deemed to share voting and investment power with respect to such shares due to his position with LGP and Peridot, and he disclaims beneficial ownership of such shares. Each of Messrs. John G. Danhakl, Peter J. Nolan, Jonathan D. Sokoloff, Jonathan A. Seiffer, John M. Baumer, Timothy J. Flynn, James D. Halper, Todd M. Purdy, Michael S. Solomon, and W. Christian McCollum either directly (whether through ownership interest or position) or indirectly, through one or more intermediaries, may be deemed to control Capital, LGP and Peridot. As such, these individuals may be deemed to have shared voting and investment power with respect to all shares beneficially owned by Green Funds, Holdings, Malted, LGP, and Peridot. These individuals each disclaim beneficial ownership of the securities held by Green Funds, Holdings, Malted, LGP, and Peridot. Each of the foregoing individual's address is c/o Leonard Green & Partners, L.P., 11111 Santa Monica Boulevard, Suite 2000, Los Angeles, California 90025.

(4) Includes (i) 30,000 shares of Class A common stock acquired under the Company's Directed Share Program using personal funds; (ii) 100 shares of Class A common stock directly held; (iii) 1,869,064 shares of Class B common stock acquired pursuant to a subscription agreement entered into with the Company in connection with the Company's IPO on February 4, 2015; (iv) 590,921 shares of Class B common stock held by the Daniel H. Meyer 2012 Gift Trust U/A/D 10/31/12, of which Mr. Meyer's spouse is a trustee and beneficiary, acquired pursuant to a subscription agreement entered into with the Company in connection with the Company's IPO on February 4, 2015; (v) 95,238 shares of Class B common stock held by Union Square Hospitality Group, LLC, acquired in connection with the Company's IPO on February 4, 2015; and (vi) 1,727,804 shares of Class B common stock held by Union Square Cafe Corp, acquired pursuant to a subscription agreement entered into with the Company in connection with the Company's IPO on February 4, 2015 and (vii) 3,069,881 shares of Class B common stock held by Gramercy Tavern Corp, acquired pursuant to a subscription agreement entered into with the Company in connection with the Company's IPO on February 4, 2015.

(5) Select Equity Group, L.P. (" Select Equity "), a limited partnership controlled by George S. Loening, has the power to vote or direct the vote of, and dispose or direct the disposition of, the shares beneficially owned by SEG Partners L.P., SEG Partners II, L.P. and SEG Partners Offshore Master Fund, Ltd. Select Equity is an investment adviser and possesses sole power to vote or direct the vote of, and dispose or direct the disposition of, 4,358,370 shares. George S. Loening is a control person and possesses sole power to vote or direct the vote of, and dispose or direct the disposition of, 4,358,370 shares. The address for Select Equity is Select Equity Group, L.P., 380 Lafayette Street New York, New York 10003.

(6) ACG Shack LLC is managed by Alliance Consumer Growth LLC, the investment manager for Alliance Consumer Growth Fund, LP. Each of Josh Goldin, Julian Steinberg and Trevor Nelson may be deemed to control Alliance Consumer Growth LLC. As such, these individuals may be deemed to have shared voting and investment power with respect to 2,159,793 shares beneficially owned by ACG Shack LLC. The address for each of ACG Shake Shack LLC, Alliance Consumer Growth LLC and Alliance Consumer Growth Fund, LP. is c/o Alliance Consumer Growth LLC 655 Madison Avenue, 20th Floor New York, New York 10065.

(7) Includes (i) 30,000 shares of Class A common stock acquired under the Company's Directed Share Program using personal funds; (ii) 226,978 shares of Class B common stock acquired pursuant to a subscription agreement entered into with the Company in connection with the Company's IPO on February 4, 2015; (iii) 922,574 shares of Class B common stock held by the Flug 2012 GS Trust U/A/D 9/4/12, of which Mr. Flug's spouse is the trustee and beneficiary, acquired pursuant to a subscription agreement entered into with the Company in connection with the Company's IPO on February 4, 2015; and (iv) 685,226 shares of Class B common stock held by Gulf Five LLC, of which Mr. Flug is the sole manager of the management company, acquired pursuant to a subscription agreement entered into with the Company in connection with the Company's IPO on February 4, 2015.

(8) Includes (i) 3,000 shares of Class A common stock acquired under the Company's Directed Share Program using personal funds, (ii) 100 shares of Class A common stock directly held, (iii) 987,779 shares of Class B common stock acquired pursuant to a subscription agreement entered into with the Company in connection with the Company's IPO on February 4, 2015 and (iv) 55,972 shares of Class B common stock held by the The Randall J. Garutti 2014 GST Trust, of which Mr. Garutti's spouse is a trustee and beneficiary acquired pursuant to a subscription agreement entered into with the Company in connection with the Company's IPO on February 4, 2015.

(9) Includes (i) 10,000 shares of Class A common stock acquired under the Company's Directed Share Program using personal funds and (ii) 197,814 shares of Class B common stock acquired pursuant to a subscription agreement entered into with the Company in connection with the Company's IPO on February 4, 2015.

(10) Includes (i) 10,000 shares of Class A common stock acquired under the Company's Directed Share Program using personal funds and (ii) 22,476 shares of Class A common stock received in settlement of 1,501 unit appreciation rights.

(11) Includes 10,000 shares of Class A common stock acquired under the Company's Directed Share Program using personal funds.

(12) Includes (i) 20,000 shares of Class A common stock acquired under the Company's Directed Share Program using personal funds, (ii) 3,420,325 shares of Class A common stock held by the LGP Owners and (iii) 5,773,997 shares of Class B common stock held by the LGP Owners.

(13) Includes (i) 20,000 shares of Class A common stock acquired under the Company's Directed Share Program using personal funds and (ii) 67,444 shares of Class B common stock acquired pursuant to a subscription agreement entered into with the Company in connection with the Company's IPO on February 4, 2015.

Item 13. Certain Relationships and Related Transactions, and Director Independence.

Since December 25, 2013, we or SSE Holdings have engaged in certain transactions with our directors and executive officers and holders of more than 5% of our voting securities and affiliates of our directors, executive officers and holders of more than 5% of our voting securities.

The following are summaries of certain provisions of our related party agreements and are qualified in their entirety by reference to all of the provisions of such agreements. Because these descriptions are only summaries of the applicable agreements, they do not necessarily contain all of the information that you may find useful. We therefore urge you to review the agreements in their entirety. Copies of the agreements (or forms of the agreements) are included as exhibits to this Annual Report on Form 10-K, and are available electronically on the website of the SEC at *www.sec.gov* .

REVOLVING CREDIT FACILITY

SSE Holdings is a party to the Revolving Credit Facility, which provides for a revolving total commitment of $50.0 million. The Revolving Credit Facility is secured by a first-priority security interest in substantially all of the assets of SSE Holdings and the guarantors (excluding stock in foreign subsidiaries in excess of 65% and assets of non-guarantors and subject to certain other exceptions). Obligations under the Revolving Credit Facility are guaranteed by USHG and each of SSE Holdings' wholly-owned subsidiaries.

On January 28, 2015, we executed a Third Amended and Restated Credit Agreement (the " New Revolving Credit Facility "), which became effective on February 4, 2015. The New Revolving Credit Facility provides for, among other things, the removal of USHG as guarantor of the facility. Subsequent to February 4, 2015, the New Revolving Credit Facility no longer constitutes a related party agreement.

SPECIAL BONUS AGREEMENTS

In March 2011, Mr. Garutti entered into a Special Bonus Agreement, with USHG with respect to Mr. Garutti's services to SSE Holdings (as amended, the " Special Bonus Agreement "). This Special Bonus Agreement provides for the payment of a special bonus in the amount of $2.45 million by USHG to Mr. Garutti in the event of a change in control or an initial public offering of SSE Holdings prior to March 11, 2018, which will be payable to him in March 2018. On October 30, 2014, USHG, Mr. Garutti and SSE Holdings entered into an Assignment and Assumption Agreement, pursuant to which USHG assigned this obligation to SSE Holdings. The Special Bonus Agreement contains restrictive covenants prohibiting Mr. Garutti from competing with us and from soliciting any of our or of USHG's employees or contractors for one year following his termination of employment. The restrictive covenants also prohibit the unauthorized use of confidential information.

In addition to the Special Bonus Agreement, Mr. Garutti entered into two other bonus arrangements in July 2013 with SSE Holdings (the " Incentive Bonus Agreemen t") and USHG (the " Supplemental Bonus Agreement "), respectively. Such agreements provide for a bonus payment equal to the value of the special bonus under the Special Bonus Agreement and may become payable in the event a change in control or an initial public offering does not occur on or before March 11, 2018, subject to and conditioned upon certain other conditions specified in the Supplemental Bonus Agreement and Incentive Bonus Agreement, as applicable.

Mr. Garutti will only be entitled to receive payment under one of the Special Bonus Agreement, the Incentive Bonus Agreement or the Supplemental Bonus Agreement. As a result of the IPO, such payment in an amount equal to $2.45 million will be made in March 2018 under the Special Bonus Agreement (as described above).

MANAGEMENT SERVICES AGREEMENT

On October 16, 2009, we entered into a Management Services Agreement with USHG, LLC, another subsidiary of USHG (the " Management Company "), pursuant to which the Management Company has provided management services to SSE Holdings, including executive leadership, strategic development, real estate, financial, legal, administrative, operations and human resources services. In exchange for those services, we have paid the Management Company a monthly fee based on our sales for such period. In fiscal 2014, 2013 and 2012, we paid $2.9 million, $2.5 million and $1.7 million, respectively, in management services under the Management Services Agreement. In addition, we indemnified the Management Company to the fullest extent permitted by law from and against all losses arising from its performance under the Management Services Agreement.

We entered into the Amended and Restated Management Services Agreement with the Management Company, effective January 2015, pursuant to which the Management Company provides reduced management services to SSE Holdings comprised of executive leadership from USHG's Chief Executive Officer, Daniel Meyer, and other members of USHG's senior management; menu innovation advisory services by Mr. Meyer; strategic development advisory services by Mr. Meyer; leadership development services; and limited human resources services. There will be no fees payable by us to the Management Company in connection with these services. The initial term of the Amended and Restated Management Services Agreement will be through December 31, 2019, with renewal periods. We will also indemnify the Management Company to the fullest extent permitted by law from and against all losses arising from its performance under the Amended and Restated Management Services Agreement.

MASTER LICENSE AGREEMENT WITH UNION SQUARE EVENTS

HYSE doing business as Union Square Events, another subsidiary of USHG, operates our three domestic licensed Shacks located in sporting venues pursuant to a Master License Agreement (the " Master License Agreement "), which grants Union Square Events the exclusive right to open Shake Shack-branded limited menu concession stands in sports and entertainment venues in the United States. In each of fiscal 2014, 2013 and 2012, Union Square Events paid $0.2 million in license fees pursuant to the Master License Agreement.

THE IPO AND ORGANIZATIONAL TRANSACTIONS

In connection with the IPO and Organizational Transactions, we engaged in certain transactions with certain of our directors, executive officers and other persons and entities which are or became holders of 5% or more of our voting securities upon the consummation of the IPO and Organizational Transactions, including the exchange of their indirect ownership interest in LLC Interests by Former SSE Equity Owners for shares of our Class A common stock in connection with this offering and entering into the Tax Receivable Agreement, the SSE Holdings LLC Agreement, the Stockholders Agreement and the Registration Rights Agreement. These transactions are described in "Initial Public Offering and Organizational Transactions" in Item 1 of this Annual Report on Form 10-K.

The exchange of their indirect ownership interest in LLC Interests by Former SSE Equity Owners occurred as a result of two mergers, whereby, in each case, a newly formed subsidiary of Shake Shack merged into an entity that holds LLC Interests (and of which the Former SSE Equity Owners are owners) with each entity becoming a wholly owned subsidiary of Shake Shack and the Former SSE Equity Owners receiving Class A common stock. Each Former SSE Equity Owner and/or one or more its affiliates has agreed, pursuant to their respective merger agreement, to indemnify us against all historic liabilities of the entity transferred in the applicable merger. Subsequent to these mergers, each such entity merged into Shake Shack resulting in Shake Shack owning directly the LLC Interests exchanged by the Former SSE Equity Owners pursuant to the initial mergers.

TAX RECEIVABLE AGREEMENT

We expect to obtain an increase in our share of the tax basis of the assets of SSE Holdings when a Continuing SSE Equity Owner receives shares of our Class A common stock or cash at our election in connection with an exercise of such Continuing SSE Equity Owner's right to have LLC Interests held by such Continuing SSE Equity Owner redeemed by SSE Holdings or, at the election of Shake Shack, exchanged (such basis increase, the " Basis Adjustments "). We intend to treat such acquisition of LLC Interests as our direct purchase of LLC Interests from a Continuing SSE Equity Owner for U.S. federal income and other applicable tax purposes, regardless of whether such LLC Interests are surrendered by a Continuing SSE Equity Owner to SSE Holdings for redemption or sold to us upon the exercise of our election to acquire such LLC Interests directly. A Basis Adjustment may have the effect of reducing the amounts that we would otherwise pay in the future to various tax authorities. The Basis Adjustments may also decrease gains (or increase losses) on future dispositions of certain capital assets to the extent tax basis is allocated to those capital assets.

In connection with the Transactions described above, we entered into the Tax Receivable Agreement (the " TRA ") with the Continuing SSE Equity Owners. The TRA provides for the payment by us to such persons of 85% of the amount of tax benefits, if any, that we actually realize, or in some circumstances are deemed to realize, as a result of the Transactions, including increases in the tax basis of the assets of SSE Holdings arising from such transactions or any prior sales of interests in SSE Holdings and tax basis increases attributable to payments made under the TRA and deductions attributable to imputed interest and other payments of interest pursuant to the TRA. SSE Holdings has in effect an election under Section 754 of the Code effective for each taxable year in which a redemption or exchange of LLC Interests for shares of our Class A common stock or cash occurs. These TRA payments are not conditioned upon any continued ownership interest in either SSE Holdings or us by any Continuing SSE Equity Owner. The rights of each Continuing SSE Equity Owner under the TRA are assignable to transferees of its LLC Interests (other than Shake Shack as transferee pursuant to subsequent redemptions (or exchanges) of the transferred LLC Interests). We expect to benefit from the remaining 15% of tax benefits, if any, that we may actually realize.

The actual Basis Adjustments, as well as any amounts paid to the Continuing SSE Equity Owners under the TRA, will vary depending on a number of factors, including:

- the timing of any *subsequent redemptions or exchanges*— for instance, the increase in any tax deductions will vary depending on the fair value, which may fluctuate over time, of the depreciable or amortizable assets of SSE Holdings at the time of each redemption or exchange;
- *the price of shares of our Class A common stock at the time of redemptions or exchanges*— the Basis Adjustments, as well as any related increase in any tax deductions, is directly related to the price of shares of our Class A common stock at the time of each redemption or exchange;
- *the extent to which such redemptions or exchanges are taxable*— if a redemption or exchange is not taxable for any reason, increased tax deductions will not be available; and
- *the amount and timing of our income*— the TRA generally will require Shake Shack to pay 85% of the tax benefits as and when those benefits are treated as realized under the terms of the TRA. If Shake Shack does not have taxable income, it generally will not be required (absent a change of control or other circumstances requiring an early termination payment) to make payments under the TRA for that taxable year because no tax benefits will have been actually realized. However, any tax benefits that do not result in realized tax benefits in a given taxable year will likely generate tax attributes that may be utilized to generate tax benefits in previous or future taxable years. The utilization of any such tax attributes will result in payments under the TRA.

For purposes of the TRA, cash savings in income and franchise tax will be computed by comparing our actual income and franchise tax liability to the amount of such taxes that we would have been required to pay (with an assumed tax rate for state tax purposes) had there been no Basis Adjustments and had the TRA not been entered into. The TRA will generally apply to each of our taxable years, beginning with the first taxable year ending after the consummation of the offering. There is no maximum term for the TRA; however, the TRA may be terminated by us pursuant to an early termination procedure that requires us to pay the Continuing SSE Equity Owners an agreed upon amount equal to the estimated present value of the remaining payments to be made under the agreement (calculated based on certain assumptions, including regarding tax rates and utilization of the Basis Adjustments).

The payment obligations under the TRA are obligations of Shake Shack and not of SSE Holdings. Although the actual timing and amount of any payments that may be made under the TRA will vary, we expect that the payments that we may be required to make to the Continuing SSE Equity Owners could be substantial. Any payments made by us to Continuing SSE Equity Owners under the TRA will generally reduce the amount of overall cash flow that might have otherwise been available to us or to SSE Holdings and, to the extent that we are unable to make payments under the TRA for any reason, the unpaid amounts generally will be deferred and will accrue interest until paid by us.

Decisions made by us in the course of running our business, such as with respect to mergers, asset sales, other forms of business combinations or other changes in control, may influence the timing and amount of payments that are received by a Continuing SSE Equity Owner under the TRA. For example, the earlier disposition of assets following a transaction that results in a Basis Adjustment will generally accelerate payments under the TRA and increase the present value of such payments.

The TRA provides that if (i) we materially breach any of our material obligations under the TRA, (ii) certain mergers, asset sales, other forms of business combination, or other changes of control were to occur, or (iii) we elect an early termination of the TRA, then our obligations, or our successor's obligations,

under the TRA would accelerate and become due and payable, based on certain assumptions, including an assumption that we would have sufficient taxable income to fully utilize all potential future tax benefits that are subject to the TRA.

As a result, (i) we could be required to make cash payments to the Continuing SSE Equity Owners that are greater than the specified percentage of the actual benefits we ultimately realize in respect of the tax benefits that are subject to the TRA, and (ii) if we elect to terminate the TRA early, we would be required to make an immediate cash payment equal to the present value of the anticipated future tax benefits that are the subject of the TRA, which payment may be made significantly in advance of the actual realization, if any, of such future tax benefits. In these situations, our obligations under the TRA could have a material adverse effect on our liquidity and could have the effect of delaying, deferring or preventing certain mergers, asset sales, other forms of business combination, or other changes of control. There can be no assurance that we will be able to finance our obligations under the TRA.

Payments under the TRA will be based on the tax reporting positions that we determine. If any such position is subject to a challenge by a taxing authority the outcome of which would reasonably be expected to materially affect a recipient's payments under the TRA, then we will not be permitted to settle or fail to contest such challenge without the consent (not to be unreasonably withheld or delayed) of each Continuing SSE Equity Owner that directly or indirectly owns at least 10% of the outstanding LLC Interests. We will not be reimbursed for any cash payments previously made to any Continuing SSE Equity Owner pursuant to the TRA if any tax benefits initially claimed by us are subsequently challenged by a taxing authority and ultimately disallowed. Instead, in such circumstances, any excess cash payments made by us to a Continuing SSE Equity Owner will be netted against any future cash payments that we might otherwise be required to make under the terms of the TRA. However, we might not determine that we have effectively made an excess cash payment to the Continuing SSE Equity Owners for a number of years following the initial time of such payment and, if our tax reporting positions are challenged by a taxing authority, we will not be permitted to reduce any future cash payments under the TRA until any such challenge is finally settled or determined. As a result, it is possible that we could make cash payments under the TRA that are substantially greater than our actual cash tax savings.

Payments are generally due under the TRA within a specified period of time following the filing of our tax return for the taxable year with respect to which the payment obligation arises, although interest on such payments will begin to accrue at a rate of LIBOR plus 100 basis points from the due date (without extensions) of such tax return. Any late payments that may be made under the TRA will continue to accrue interest at LIBOR plus 500 basis points until such payments are made, including any late payments that we may subsequently make because we did not have enough available cash to satisfy our payment obligations at the time at which they originally arose.

SSE HOLDINGS LLC AGREEMENT

Subsequent to the IPO, we operate our business through SSE Holdings and its subsidiaries. We and the Original SSE Equity Owners entered into SSE Holdings' third amended and restated limited liability company agreement, which we refer to as the " SSE Holdings LLC Agreement ." The operations of SSE Holdings, and the rights and obligations of the holders of LLC Interests, are set forth in the SSE Holdings LLC Agreement.

Appointment as Manager. Under the SSE Holdings LLC Agreement, we are the sole manager of SSE Holdings. As the sole manager, we are able to control all of the day-to-day business affairs and decision-making of SSE Holdings without the approval of any other member, unless otherwise stated in the SSE Holdings LLC Agreement. As such, we, through our officers and directors, are responsible for all operational and administrative decisions of SSE Holdings and the day-to-day management of SSE Holdings' business. Pursuant to the terms of the SSE Holdings LLC Agreement, we cannot, under any circumstances, be removed as the sole manager of SSE Holdings except by our election.

Compensation. We are entitled to compensation for our services as manager. We are entitled to reimbursement by SSE Holdings for fees and expenses incurred on behalf of SSE Holdings, including all expenses associated with this offering and maintaining our corporate existence.

Recapitalization. The SSE Holdings LLC Agreement recapitalizes the units currently held by the existing members of SSE Holdings into a new single class of common membership units, which we refer to as the " LLC Interests ." Each LLC Interest will entitle the holder to a pro rata share of the net profits and net losses and distributions of SSE Holdings.

Distributions. The SSE Holdings LLC Agreement requires "tax distributions," as that term is defined in the SSE Holdings LLC Agreement, to be made by SSE Holdings to its "Members," as that term is defined in the SSE Holdings LLC Agreement. Tax distributions will be made to each Member of SSE Holdings, including us, based on such Member's allocable share of the taxable income of SSE Holdings and at a tax rate that will be determined by us. For this purpose, the taxable income of SSE Holdings, and Shake Shack's allocable share of such taxable income, shall be determined without regard to any tax basis adjustments that result from our deemed or actual purchase of LLC Interests from the Continuing SSE Equity Owners (as described above under "—Tax Receivable Agreement"). For tax distributions made in the 2015 fiscal year, the tax rate that we expect to use for purposes of determining tax distributions from SSE Holdings to its members will equal the combined federal, state, and local statutory tax rate applicable to us for the 2015 fiscal year (taking into account the deductibility of state and local taxes for federal purposes). For each subsequent fiscal year, the tax rate applicable to us for the 2015 fiscal year will apply with respect to tax distributions made during such fiscal year unless we determine (through our Board of Directors) otherwise. The tax rate used to determine tax distributions will apply regardless of the actual final tax liability of any such member. Tax distributions will also be made only to the extent all distributions from SSE Holdings for the relevant period were otherwise insufficient to enable each member to cover its tax liabilities as calculated in the manner described above. The SSE Holdings LLC Agreement will also allow for distributions to be made by SSE Holdings to its members on a pro rata basis out of "distributable cash," as that term is defined in the SSE Holdings LLC Agreement. We

expect SSE Holdings may make distributions out of distributable cash periodically to the extent permitted by our agreements governing our indebtedness and necessary to enable us to cover our operating expenses and other obligations, including our tax liability and obligations under the Tax Receivable Agreement, as well as to make dividend payments, if any, to the holders of our Class A common stock.

LLC Interest Redemption Right. The SSE Holdings LLC Agreement provides a redemption right to the Continuing SSE Equity Owners, which entitles them to have their LLC Interests redeemed, at the election of each such person, for, at our option, as determined by or at the direction of our Board of Directors, which will include directors who hold LLC Interests or are affiliated with holders of LLC Interests and may include such directors in the future, newly-issued shares of our Class A common stock on a one-for-one basis or a cash payment equal to a volume weighted average market price of one share of Class A common stock for each LLC Interest redeemed (subject to customary adjustments, including for stock splits, stock dividends and reclassifications). If we decide to make a cash payment, the Continuing SSE Equity Owner has the option to rescind its redemption request within a specified time period. Upon the exercise of the redemption right, the redeeming member will surrender its LLC Interests to SSE Holdings for cancellation. The SSE Holdings LLC Agreement requires that we contribute cash or shares of our Class A common stock to SSE Holdings in exchange for an amount of newly-issued LLC Interests in SSE Holdings that will be issued to us equal to the number of LLC Interests redeemed from the Continuing SSE Equity Owner. SSE Holdings will then distribute the cash or shares of our Class A common stock to such Continuing SSE Equity Owner to complete the redemption. In the event of such election by a Continuing SSE Equity Owner, we may, at our option, effect a direct exchange of cash or our Class A common stock for such LLC Interests in lieu of such a redemption. Whether by redemption or exchange, we are obligated to ensure that at all times the number of LLC Interests that we own equals the number of shares of Class A common stock issued by us (subject to certain exceptions for treasury shares and shares underlying certain convertible or exchangeable securities).

Issuance of LLC Interests Upon Exercise of Options or Issuance of Other Equity Compensation. Upon the exercise of options issued by us, or the issuance of other types of equity compensation by us (such as the issuance of restricted or non-restricted stock, payment of bonuses in stock or settlement of stock appreciation rights in stock), we are required to acquire from SSE Holdings a number of LLC Interests equal to the number of shares of Class A common stock being issued in connection with the exercise of such options or issuance of other types of equity compensation. When we issue shares of Class A common stock in settlement of stock options granted to persons that are not officers or employees of SSE Holdings or its subsidiaries, we will make, or be deemed to make, a capital contribution to SSE Holdings equal to the aggregate value of such shares of Class A common stock, and SSE Holdings will issue to us a number of LLC Interests equal to the number of shares of Class A common stock we issued. When we issue shares of Class A common stock in settlement of stock options granted to persons that are officers or employees of SSE Holdings or its subsidiaries, we will be deemed to have sold directly to the person exercising such award a portion of the value of each share of Class A common stock equal to the exercise price per share, and we will be deemed to have sold directly to SSE Holdings (or the applicable subsidiary of SSE Holdings) the difference between the exercise price and market price per share for each such share of Class A common stock. In cases where we grant other types of equity compensation to employees of SSE Holdings or its subsidiaries, on each applicable vesting date we will be deemed to have sold to SSE Holdings (or such subsidiary) the number of vested shares at a price equal to the market price per share, SSE Holdings (or such subsidiary) will deliver the shares to the applicable person, and we will be deemed to have made a capital contribution in SSE Holdings equal to the purchase price for such shares in exchange for an equal number of LLC Interests.

Maintenance of one-to-one ratio of shares of Class A common stock and LLC Interests owned by Shake Shack. Our amended and restated certificate of incorporation and the SSE Holdings LLC Agreement requires that (i) we at all times maintain a ratio of one LLC Interest owned by us for each share of Class A common stock issued by us (subject to certain exceptions for treasury shares and shares underlying certain convertible or exchangeable securities), and (ii) SSE Holdings at all times maintain (x) a one-to-one ratio between the number of shares of Class A common stock issued by us and the number of LLC Interests owned by us and (y) a one-to-one ratio between the number of shares of Class B common stock owned by the Continuing SSE Equity Owners and the number of LLC Interests owned by the Continuing SSE Equity Owners. This construct is intended to result in the Continuing SSE Equity Owners having a voting interest in Shake Shack that is identical to the Continuing SSE Equity Owners' percentage economic interest in SSE Holdings.

Transfer Restrictions. The SSE Holdings LLC Agreement generally does not permit transfers of LLC Interests by members, subject to limited exceptions. Any transferee of LLC Interests must assume, by operation of law or written agreement, all of the obligations of a transferring member with respect to the transferred units, even if the transferee is not admitted as a member of SSE Holdings.

Dissolution. The SSE Holdings LLC Agreement provides that the unanimous consent of all Members holding voting units will be required to voluntarily dissolve SSE Holdings. In addition to a voluntary dissolution, SSE Holdings will be dissolved upon a change of control transaction under certain circumstances, as well as upon the entry of a decree of judicial dissolution or other circumstances in accordance with Delaware law. Upon a dissolution event, the proceeds of a liquidation will be distributed in the following order: (i) first, to pay the expenses of winding up SSE Holdings; (ii) second, to pay debts and liabilities owed to creditors of SSE Holdings, other than members; (iii) third, to pay debts and liabilities owed to members; and (iv) fourth, to the members pro-rata in accordance with their respective percentage ownership interests in SSE Holdings (as determined based on the number of LLC Interests held by a member relative to the aggregate number of all outstanding LLC Interests).

Confidentiality. Each Member agrees to maintain the confidentiality of SSE Holdings' confidential information. This obligation excludes information independently obtained or developed by the Members, information that is in the public domain or otherwise disclosed to a Member, in either such case not in violation of a confidentiality obligation or disclosures required by law or judicial process or approved by our chief executive officer.

Indemnification and Exculpation. The SSE Holdings LLC Agreement provides for indemnification of the manager, Members and officers of SSE Holdings and their respective subsidiaries or affiliates. To the extent permitted by applicable law, SSE Holdings will indemnify us, as its managing member, its authorized officers, its other employees and agents from and against any losses, liabilities, damages, costs, expenses, fees or penalties incurred by any acts or omissions of these persons, provided that the acts or omissions of these indemnified persons are not the result of fraud, intentional misconduct or a violation of the implied contractual duty of good faith and fair dealing, or any lesser standard of conduct permitted under applicable law.

We, as the managing member, and the authorized officers and other employees and agents of SSE Holdings are not liable to SSE Holdings, its Members or their affiliates for damages incurred by any acts or omissions of these persons, provided that the acts or omissions of these exculpated persons are not the result of fraud, or intentional misconduct.

Amendments. The SSE Holdings LLC Agreement may be amended with the consent of the holders of a majority in voting power of the outstanding LLC Interests; provided that if the managing member holds greater than 33% of the LLC Interests, then it may be amended with the consent of the managing member together with holders of at least 50% of the outstanding LLC Interests, excluding LLC Interests held by the managing member. Notwithstanding the foregoing, no amendment to any of the provisions that expressly require the approval or action of certain members may be made without the consent of such members and no amendment to the provisions governing the authority and actions of the managing member or the dissolution of SSE Holdings may be amended without the consent of the managing member.

STOCKHOLDERS AGREEMENT

We entered into a Stockholders Agreement with each member of the Voting Group. The Stockholders Agreement, as further described below, contains specific rights, obligations and agreements of these parties as owners of our Class A common stock and Class B common stock.

Voting Agreement. Under the Stockholders Agreement, the members of the Voting Group agree to take all necessary action, including casting all votes to which such members are entitled to cast at any annual or special meeting of stockholders, so as to ensure that the composition of our Board of Directors and its committees complies with the provisions of the Stockholders Agreement related to the composition of our Board of Directors and its committees.

Meyer Group Approvals. Under the Stockholders Agreement the actions listed below by us or any of our subsidiaries require the approval of the Meyer Group for so long as the Meyer Group collectively owns at least 10% of the total shares of Class A and Class B common stock owned by it immediately following the consummation of our initial public offering. The actions include:

- change in control transactions;
- the sale, lease or exchange of all or a substantial amount of the property and assets of Shake Shack, SSE Holdings or any of SSE Holdings' subsidiaries, taken as a whole;
- initiating any liquidation, dissolution, bankruptcy or other insolvency proceeding involving Shake Shack, SSE Holdings or any of their respective subsidiaries;
- terminating the employment of our Chief Executive Officer or hiring a new Chief Executive Officer;
- any authorization or issuance of equity securities of Shake Shack or its subsidiaries other than (i) pursuant to any equity incentive plans or arrangements approved by our Board of Directors or (ii) upon an exchange of shares of Class B Common Stock together with SSE Holdings Units for Shares of Class A Common Stock;
- increasing or decreasing the size of our Board of Directors; and
- any amendment or amendments to the organizational documents of Shake Shack or SSE Holdings.

REGISTRATION RIGHTS AGREEMENT

We entered into a Registration Rights Agreement with the Original SSE Equity Owners in connection with our IPO. The Registration Rights Agreement provides the Original SSE Equity Owners certain registration rights whereby, at any time following our initial public offering and the expiration of any related lock-up period, the Continuing SSE Equity Owners can require us to register under the Securities Act shares of Class A common stock issuable to them, at our election, upon redemption or exchange of their LLC Interests and the Former SSE Equity Owners can require us to register under the Securities Act the shares of Class A common stock issued to them in connection with the Organizational Transactions. The Registration Rights Agreement also provides for piggyback registration rights for the Original SSE Equity Owners.

INDEMNIFICATION AGREEMENTS

Our bylaws provide that we will indemnify our directors and officers to the fullest extent permitted by the DGCL, subject to certain exceptions contained in our bylaws. In addition, our certificate of incorporation, provides that our directors will not be liable for monetary damages for breach of fiduciary duty.

We entered into indemnification agreements with each of our executive officers and directors. The indemnification agreements provide the executive officers and directors with contractual rights to indemnification, and expense advancement and reimbursement, to the fullest extent permitted under the DGCL, subject to certain exceptions contained in those agreements.

There is no pending litigation or proceeding naming any of our directors or officers to which indemnification is being sought, and we are not aware of any pending litigation that may result in claims for indemnification by any director or officer.

POLICIES AND PROCEDURES FOR RELATED PERSON TRANSACTIONS

Our Board of Directors recognizes the fact that transactions with related persons present a heightened risk of conflicts of interests and/or improper valuation (or the perception thereof). Our Board of Directors adopted a written policy on transactions with related persons that is in conformity with the requirements for issuers having publicly-held common stock that is listed on the New York Stock Exchange. Under the new policy:

- any Related Person Transaction (as defined below), and any material amendment or modification to a related person transaction, must be reviewed and approved or ratified by a committee of the Board of Directors composed solely of independent directors who are disinterested or by the disinterested members of the Board of Directors; and
- any employment relationship or transaction involving an executive officer and any related compensation must be approved by the compensation committee of the Board of Directors or recommended by the compensation committee to the Board of Directors for its approval.
- a Related Person Transaction is a transaction, arrangement or relationship (or any series of similar transactions, arrangements or relationships) in which we were, are or will be a participant and the amount involved exceeds $120,000 in any one fiscal year, and in which any related person had, has or will have a direct or indirect material interest. Further, if a related person enters into transactions, arrangements or relationships in which we were, are or will be a participant and the aggregate amount involved in such transactions, arrangements or relationships exceeds $120,000 in any one fiscal year, and in which any related person had, has or will have a direct or indirect material interest, each of such transactions, arrangements or relationships shall be deemed to be a Related Person Transactions for purposes of this policy.

Identification of Related Party Transactions

Our legal staff, in consultation with our finance team, is primarily responsible for developing and implementing processes and procedures to obtain information regarding related persons with respect to potential Related Person Transactions and then determining, based on the facts and circumstances, whether the potential Related Person Transactions do, in fact, constitute a Related Person Transaction. In addition, any potential Related Person Transaction that is proposed to be entered into by us must be reported to our General Counsel by both the related person and the person at the Company responsible for such potential Related Person Transaction.

Audit Committee Pre-Approval

If the Company's legal staff determines that a transaction or relationship is a Related Person Transaction, then each such transaction will be presented to the Audit Com mittee of the Board of Directors. The Audit Committee will review the relevant facts and circumstances of each Related Person Transaction, including if the transaction is on terms comparable to those that could be obtained in arm's length dealings with an unrelated third party and the extent of the related person's interest in the transaction, take into account the conflicts of interest and corporate opportunity provisions of our Code of Business Conduct and Ethics, and either approve, ratify or disapprove the Related Person Transaction. If advance committee approval of a Related Person Transaction requiring the Audit Committee’s approval is not feasible, then the transaction may be preliminarily entered into by management upon prior approval of the transaction by the chairperson of the Audit Committee, subject to ratification of the transaction by the Audit Committee at the Audit Committee’s next regularly scheduled meeting.

Management will update the Audit Committee as to any material changes to any approved or ratified Related Person Transaction and shall provide a status report at least annually at a regularly scheduled meeting of the Audit Committee of all then current Related Person Transactions.

No director may participate in approval of a Related Person Transaction for which he or she is a related person.

Disclosure

All Related Person Transactions are to be disclosed in the Company’s applicable filings as required by the Securities Act and the Exchange Act, and related rules. Furthermore, any Related Person Transaction must be disclosed to the full Board of Directors.

Other Agreements

Management must assure that all Related Person Transactions are not in violation of and are approved in accordance with any requirements of the Company’s financing or other material agreements.

Item 14. Principal Accounting Fees and Services.

AUDIT FEES

The following table summarizes fees paid or accrued to our independent registered public accounting firm, Ernst & Young LLP ("EY"), in connection with various services for fiscal 2014.

	2014
Audit Fees [1]	$ 730,000
Audit-Related fees [2]	576,455
Tax Fees	—
All Other Fees [3]	2,172
TOTAL	$ 1,308,627

(1) Consists of fees for professional services rendered for the audits of our consolidated financial statements for fiscal years 2014, 2013 and 2012 included our Registration Statement on Form S-1 and Annual Report on Form 10-K.

(2) Consists of fees billed for assurance and related services, primarily related to our initial public offering.

(3) Consists of a software licensing fee for a technical accounting research tool.

PRE-APPROVAL POLICY

The Audit Committee's policy is to pre-approve all audit and permissible non-audit services provided by EY. These services may include audit services, audit-related services, tax services and all other services. Proposed services may either be pre-approved without consideration of specific case-by-case services by the Audit Committee or require the specific pre-approval of the Audit Committee. Unless a type of service has received general pre-approval, it will require specific pre-approval if it is to be provided by EY. Any proposed services exceeding pre-approved cost levels or budgeted amounts will also require specific pre-approval.

Pre-approval fee levels or budgeted amounts for all services to be provided by EY are established annually by the Audit Committee. Any proposed services exceeding these levels or amounts require specific pre-approval by the Audit Committee. For each fiscal year, the Audit Committee may determine the appropriate ratio between the total amount of fees for audit, audit-related and tax services, and the total amount of fees for services classified as all other services.

The Audit Committee may delegate either type of approval authority to one or more of its members. The member to whom such authority is delegated must report, for informational purposes only, any pre-approval decisions to the Audit Committee at its next scheduled meeting.

The Audit Committee has designated the Chief Financial Officer to monitor the performance of all services provided by EY and to determine whether such services are in compliance with this policy. The Chief Financial Officer will report to the Audit Committee on a periodic basis the results of its monitoring. Both the Chief Financial Officer and management will immediately report to the chairperson of the Audit Committee any breach of this policy that comes to the attention of the Chief Financial Officer or any member of management.

All of the services listed in the above table were approved by the Audit Committee.

Part IV

Item 15. Exhibits and Financial Statement Schedules.

(a) The following documents are filed as part of this report:

(1) ***Financial Statements***

Shake Shack Inc.	
Report of Independent Registered Public Accounting Firm	48
Balance Sheets	49
Notes to Balance Sheets	50
SSE Holdings, LLC	
Report of Independent Registered Public Accounting Firm	53
Consolidated Balance Sheets	54
Consolidated Statements of Income	55
Consolidated Statements of Members' Equity	56
Consolidated Statements of Cash Flows	57
Notes to Consolidated Financial Statements	58

(2) ***Financial Statement Schedules***

All financial statement schedules are omitted since they are not required or are not applicable, or the required information is included in the consolidated financial statements or notes thereto.

(1) ***Exhibits***

The exhibits listed on the accompanying Exhibit Index are filed or incorporated by reference as part of this report and such Exhibit Index is incorporated herein by reference.

SIGNATURES

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

Shake Shack Inc.
(Registrant)

By: /s/ Jeff Uttz
Jeff Uttz
Chief Financial Officer

Date: March 27, 2015

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

Signature	**Title**	**Date**
		March 27, 2015
/s/ Randy Garutti Randy Garutti	Chief Executive Officer and Director *(Principal Executive Officer)*	
/s/ Jeff Uttz Jeff Uttz	Chief Financial Officer *(Principal Financial and Accounting Officer)*	March 27, 2015
/s/ Daniel Meyer Daniel Meyer	Chairman of the Board of Directors	March 27, 2015
/s/ Jeff Flug Jeff Flug	Director	March 27, 2015
/s/ Evan Guillemin Evan Guillemin	Director	March 27, 2015
/s/ Jenna Lyons Jenna Lyons	Director	March 27, 2015
/s/ Jonathan D. Sokoloff Jonathan D. Sokoloff	Director	March 27, 2015
/s/ Robert Vivian Robert Vivian	Director	March 27, 2015

EXHIBIT INDEX

Exhibit Number		Exhibit Description	Incorporated by Reference			Filed Herewith
			Form	Exhibit	Filing Date	
3.1		Amended and Restated Certificate of Incorporation of Shake Shack Inc., effective February 4, 2015	8-K	3.1	2/10/2015	
3.2		Amended and Restated Bylaws of Shack Shake Inc., dated February 4, 2015	8-K	3.2	2/10/2015	
4.1		Form of Class A Common Stock Certificate	S-1/A	4.1	1/28/2015	
10.1		Third Amended and Restated Limited Liability Company Agreement of SSE Holdings, LLC, dated February 4, 2015 by and among SSE Holdings, LLC and its Members	8-K	10.3	2/10/2015	
10.2		Amended and Restated Management Services Agreement, to be effective as of January 15, 2015, by and between SSE Holdings, LLC and USHG, LLC.	S-1	10.1	12/29/2014	
10.3		Tax Receivable Agreement, dated February 4, 2015, by and among Shake Shack Inc., SSE Holdings, LLC and each of the Members from time to time party thereto	8-K	10.1	2/10/2015	
10.4		Registration Rights Agreement, dated February 4, 2015, by and among Shake Shack Inc. and each other person identified on the schedule of investors attached thereto	8-K	10.2	2/10/2015	
10.5		Stockholders Agreement, dated February 4, 2015, by and among Shake Shack Inc., SSE Holdings, LLC, and the persons and entities listed on the schedules attached thereto	8-K	10.4	2/10/2015	
10.6		Third Amended and Restated Credit Agreement, dated January 28, 2015, among SSE Holdings, LLC, each other loan party signatory thereto and JPMorgan Chase Bank, N.A., as administrative agent				*
10.7		Second Amended and Restated Security Agreement, entered into as of February 18, 2014 by and among SSE Holdings, LLC, each other loan party signatory thereto and JPMorgan Chase Bank, N.A., as administrative agent	S-1/A	10.6	1/20/2015	
10.8		Form of Indemnification Agreement entered into between Shake Shack Inc. and each of its directors and officers, effective February 4, 2015	S-1/A	10.21	1/20/2015	
10.9	†	SSE Holdings, LLC Unit Appreciation Rights Plan	S-1	10.7	12/29/2014	
10.9.1	†	Amendment No. 1 to the SSE Holdings, LLC Unit Appreciation Rights Plan	S-1	10.8	12/29/2014	
10.9.2	†	Amendment No. 2 to the SSE Holdings, LLC Unit Appreciation Rights Plan	S-1	10.9	12/29/2014	
10.9.3	†	Form of Unit Appreciation Right Agreement	S-1	10.10	12/29/2014	
10.10	†	Shake Shack Inc. 2015 Incentive Award Plan	S-8	4.4	1/30/2015	
10.10.1	†	Form of employee option agreement under the Shake Shack Inc. 2015 Incentive Award Plan	S-1/A	10.19	1/20/2015	
10.10.2	†	Form of director option agreement under the Shake Shack Inc. 2015 Incentive Award Plan	S-1/A	10.20	1/20/2015	
10.11	†	2015 Senior Executive Bonus Plan	S-1	10.12	12/29/2014	
10.12	†	Employment Agreement, dated as of November 25, 2014, by and between Shake Shack Inc., SSE Holdings, LLC and Randall Garutti	S-1	10.17	12/29/2014	
10.13	†	Employment Agreement, dated as of December 1, 2014, by and between Shake Shack Inc., SSE Holdings, LLC and Jeff Uttz.	S-1	10.18	12/29/2014	
10.14	†	Special Bonus Agreement by and between Union Square Hospitality Group, LLC and Randall Garutti, entered into on March 11, 2011.	S-1	10.14	12/29/2014	
10.14.1	†	Amendment to Special Bonus Agreement by and between Union Square Hospitality Group, LLC and Randall Garutti, entered into on March 11, 2011, effective as of July 25, 2013	S-1	10.15	12/29/2014	
10.14.2	†	Assignment and Assumption Agreement, effective as of October 30, 2014, among Union Square Hospitality Group, LLC, Randall Garutti and SSE Holdings, LLC	S-1	10.16	12/29/2014	
10.14.3	†	Assignment and Assumption Agreement, dated as of January 15, 2015, by and among SSE Holdings, LLC and Shake Shack Inc.	S-1/A	10.22	1/20/2015	
21		Subsidiaries of Shake Shack Inc.				*
23.1		Consent of Independent Registered Public Accounting Firm as to Shake Shack Inc.				*
23.2		Consent of Independent Registered Public Accounting Firm as to SSE Holdings, LLC				*
31.1		Certification of the Principal Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002				*
31.2		Certification of the Principal Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002				*
32	#	Certifications of Principal Executive Officer and Principal Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002				*

† Indicates a management contract or compensatory plan or arrangement.

Furnished herewith.

THIRD AMENDED AND RESTATED CREDIT AGREEMENT

dated as of

January 28, 2015

among

SSE HOLDINGS, LLC

The Other Loan Parties Party Hereto

The Lenders Party Hereto

and

JPMORGAN CHASE BANK, N.A.,
as Administrative Agent

TABLE OF CONTENTS

		Page
ARTICLE I	DEFINITIONS	1
SECTION 1.01.	Defined Terms	1
SECTION 1.02.	Classification of Loans and Borrowings	25
SECTION 1.03.	Terms Generally	25
SECTION 1.04.	Accounting Terms; GAAP	25
ARTICLE II	THE CREDITS	26
SECTION 2.01.	Commitments and Loans	26
SECTION 2.02.	Loans and Borrowings	26
SECTION 2.03.	Requests for Borrowings	27
SECTION 2.04.	Letters of Credit	28
SECTION 2.05.	Funding of Borrowings	31
SECTION 2.06.	Interest Elections	32
SECTION 2.07.	Termination and Reduction of Revolving Commitments and LC Sublimit	33
SECTION 2.08.	Repayment and Amortization of Loans; Evidence of Debt	34
SECTION 2.09.	Prepayment of Loans	35
SECTION 2.10.	Fees	36
SECTION 2.11.	Interest	37
SECTION 2.12.	Alternate Rate of Interest	38
SECTION 2.13.	Increased Costs	38
SECTION 2.14.	Break Funding Payments	40
SECTION 2.15.	Taxes	40
SECTION 2.16.	Payments Generally; Allocation of Proceeds; Sharing of Set-offs	44
SECTION 2.17.	Mitigation Obligations; Replacement of Lenders	46
SECTION 2.18.	Defaulting Lenders	47
ARTICLE III	REPRESENTATIONS AND WARRANTIES	48
SECTION 3.01.	Organization; Powers	48
SECTION 3.02.	Authorization; Enforceability	49
SECTION 3.03.	Governmental Approvals; No Conflicts	49
SECTION 3.04.	No Material Adverse Change	49
SECTION 3.05.	Properties	49
SECTION 3.06.	Litigation and Environmental Matters	50

SECTION 3.07.	Compliance with Laws and Agreements	50
SECTION 3.08.	Taxes	50
SECTION 3.09.	ERISA	50

		Page
SECTION 3.10.	Disclosure	50
SECTION 3.11.	Material Agreements	51
SECTION 3.12.	Solvency	51
SECTION 3.13.	Insurance	51
SECTION 3.14.	Capitalization and Subsidiaries	52
SECTION 3.15.	Security Interest in Collateral	52
SECTION 3.16.	Employment Matters	52
SECTION 3.17.	Affiliate Transactions	52
SECTION 3.18.	Common Enterprise	53
ARTICLE IV	CONDITIONS	53
SECTION 4.01.	Effective Date	53
SECTION 4.02.	Delayed Commitment Effective Date	54
SECTION 4.03.	Each Credit Event	54
ARTICLE V	AFFIRMATIVE COVENANTS	55
SECTION 5.01.	Financial Statements and Other Information	55
SECTION 5.02.	Notices of Material Events	57
SECTION 5.03.	Existence; Conduct of Business	58
SECTION 5.04.	Payment of Obligations	58
SECTION 5.05.	Maintenance of Properties	58
SECTION 5.06.	Books and Records; Inspection Rights	58
SECTION 5.07.	Compliance with Laws	59
SECTION 5.08.	Use of Proceeds	59
SECTION 5.09.	Insurance	59
SECTION 5.10.	Casualty and Condemnation	59
SECTION 5.11.	Depository Banks	59
SECTION 5.12.	Additional Collateral; Further Assurances	60
ARTICLE VI	NEGATIVE COVENANTS	61
SECTION 6.01.	Indebtedness	61
SECTION 6.02.	Liens	63
SECTION 6.03.	Fundamental Changes	63
SECTION 6.04.	Investments, Loans, Advances, Guarantees and Acquisitions	64

SECTION 6.05.	Asset Sales	65
SECTION 6.06.	Sale and Leaseback Transactions	66
SECTION 6.07.	Swap Agreements	67

		Page
SECTION 6.08.	Restricted Payments; Certain Payments of Indebtedness	67
SECTION 6.09.	Transactions with Affiliates	68
SECTION 6.10.	Restrictive Agreements	69
SECTION 6.11.	Amendment of Material Documents	69
SECTION 6.12.	Fixed Charge Coverage Ratio	70
SECTION 6.13.	Funded Net Debt to EBITDA Ratio	70
ARTICLE VII	EVENTS OF DEFAULT	70
SECTION 7.01.	Events of Default	70
SECTION 7.02.	Cure Right	73
ARTICLE VIII	THE ADMINISTRATIVE AGENT	74
ARTICLE IX	MISCELLANEOUS	76
SECTION 9.01.	Notices	76
SECTION 9.02.	Waivers; Amendments	78
SECTION 9.03.	Expenses; Indemnity; Damage Waiver	79
SECTION 9.04.	Successors and Assigns	81
SECTION 9.05.	Survival	85
SECTION 9.06.	Counterparts; Integration; Effectiveness	85
SECTION 9.07.	Severability	86
SECTION 9.08.	Right of Setoff	86
SECTION 9.09.	Governing Law; Jurisdiction; Consent to Service of Process	86
SECTION 9.10.	WAIVER OF JURY TRIAL	87
SECTION 9.11.	Headings	87
SECTION 9.12.	Confidentiality	87
SECTION 9.13.	Several Obligations; Nonreliance; Violation of Law	88
SECTION 9.14.	USA PATRIOT Act	88
SECTION 9.15.	Disclosure	88
SECTION 9.16.	Appointment for Perfection	88
SECTION 9.17.	Interest Rate Limitation	88
ARTICLE X	LOAN GUARANTY	89
SECTION 10.01.	Guaranty	89
SECTION 10.02.	Guaranty	89

SECTION 10.03.	No Discharge or Diminishment of Loan Guaranty	89
SECTION 10.04.	Defenses Waived	90
SECTION 10.05.	Rights of Subrogation	90

		Page
SECTION 10.06.	Reinstatement; Stay of Acceleration	90
SECTION 10.07.	Information	91
SECTION 10.08.	Termination	91
SECTION 10.09.	Taxes	91
SECTION 10.10.	Maximum Liability	91
SECTION 10.11.	Contribution	92
SECTION 10.12.	Liability Cumulative	92
SECTION 10.13.	Keepwell	0

SCHEDULES :

Schedule 2.01 Revolving Commitment Schedule
Schedule 3.05 Properties
Schedule 3.06 Disclosed Matters
Schedule 3.13 Insurance
Schedule 3.14 Capitalization and Subsidiaries
Schedule 3.17 Affiliate Transactions
Schedule 6.01 Existing Indebtedness
Schedule 6.02 Existing Liens
Schedule 6.04 Existing Investments
Schedule 6.10 Existing Restrictions

EXHIBITS :

Exhibit A Form of Assignment and Assumption
Exhibit B Form of Compliance Certificate
Exhibit C Form of Joinder Agreement
Exhibit D Form of Opinion
Exhibit E-1 Form of U.S. Tax Compliance Certificate
Exhibit E-2 Form of U.S. Tax Compliance Certificate
Exhibit E-3 Form of U.S. Tax Compliance Certificate
Exhibit E-4 Form of U.S. Tax Compliance Certificate

THIRD AMENDED AND RESTATED CREDIT AGREEMENT dated as of January 28, 2015 (this " Agreement "), among SSE HOLDINGS, LLC, the other Loan Parties party hereto, the Lenders party hereto, and JPMORGAN CHASE BANK, N.A., as Administrative Agent.

PRELIMINARY STATEMENTS:

The Borrower, certain Subsidiaries of the Borrower party thereto, the lenders party thereto (the " Existing Lenders ") and the Administrative Agent are parties to that certain Second Amended and Restated Credit Agreement dated as of April 30, 2014, as amended (as in effect immediately before giving effect to the amendment and restatement contemplated hereby, the " Existing Credit Agreement ").

Pursuant to the Existing Credit Agreement, the Existing Lenders agreed to make extensions of credit to the Borrower on the terms and conditions set forth therein, including making loans (the " Existing Loans ") to the Borrower.

Whereas, the Borrower has requested that on the Effective Date the Existing Credit Agreement be amended and restated in its entirety to read as provided herein, and the Lenders (including certain of the Existing Lenders) have agreed (subject to the terms of this Agreement) to amend and restate the Existing Credit Agreement on the Effective Date in its entirety to read as set forth in this Agreement, and it has been agreed by the parties to the Existing Credit Agreement that (a) the commitments which the Existing Lenders have agreed to extend to the Borrower under the Existing Credit Agreement shall be extended or advanced upon the amended and restated terms and conditions contained in this Agreement and (b) the Existing Loans and other Secured Obligations (as defined in the Existing Credit Agreement) outstanding under the Existing Credit Agreement shall be governed by and deemed to be outstanding under the amended and restated terms and conditions contained in this Agreement, with the intent that the terms of this Agreement shall supersede the terms of the Existing Credit Agreement (each of which shall hereafter have no further effect upon the parties thereto, other than for accrued fees and expenses, and indemnification provisions accrued and owing, under the terms of the Existing Credit Agreement on or prior to the Effective Date or arising (in the case of indemnification) under the terms of the Existing Credit Agreement).

In consideration of the mutual covenants and agreements herein contained, the parties hereto covenant and agree as follows:

ARTICLE I
DEFINITIONS

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

" Act " has the meaning assigned to such term in Section 9.14.

" Adjusted LIBO Rate " means, with respect to any Eurodollar Borrowing for any Interest Period or for any CBFR Borrowing, an interest rate per annum (rounded upwards, if necessary, to

the next 1/16 of 1%) equal to (a) the LIBO Rate for such Interest Period multiplied by (b) the Statutory Reserve Rate.

" Adjusted One Month LIBOR Rate " means, an interest rate per annum equal to the sum of (a) 2.50% per annum *plus* (b) the Adjusted LIBO Rate for a one month Interest Period on such day (or if such day is not a Business Day, the immediately preceding Business Day); provided that, for the avoidance of doubt, the Adjusted LIBO Rate for any day shall be based on the rate appearing on the Reuters Screen LIBOR01 Page (or on any successor or substitute page) at approximately 11:00 a.m. London time on such day (without any rounding).

" Administrative Agent " means JPMorgan Chase Bank, N.A., in its capacity as administrative agent for the Lenders hereunder.

" Administrative Questionnaire " means an Administrative Questionnaire in a form supplied by the Administrative Agent.

" Affiliate " means, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified.

" Aggregate Credit Exposure " means, at any time, the aggregate Revolving Credit Exposure of all the Lenders.

" Agreement " has the meaning assigned to such term in the Preamble.

" Anti-Terrorism Laws " shall mean any Laws relating to terrorism or money laundering, including Executive Order No. 13224, the Act, the Laws comprising or implementing the Bank Secrecy Act, and the Laws administered by the United States Treasury Department's Office of Foreign Asset Control (as any of the foregoing Laws may from time to time be amended, renewed, extended, or replaced).

" Applicable Percentage " means, with respect to any Lender, (a) with respect to Revolving Loans and LC Exposure, (i) prior to the Delayed Commitment Effective Date, if any, a percentage equal to a fraction the numerator of which is such Lender's Initial Revolving Commitment and the denominator of which is the aggregate Initial Revolving Commitments of all Revolving Lenders (if the Initial Revolving Commitments have terminated or expired, the Applicable Percentages shall be determined based upon such Lender's share of the aggregate Revolving Credit Exposures at that time and (ii) on and after the Delayed Commitment Effective Date, if any, a percentage equal to a fraction the numerator of which is such Lender's Total Revolving Commitment and the denominator of which is the aggregate Total Revolving Commitment of all Revolving Lenders (if the Total Revolving Commitments have terminated or expired, the Applicable Percentages shall be determined based upon such Lender's share of the aggregate Revolving Credit Exposures at that time) and (b) with respect to the Aggregate Credit Exposure, a percentage based upon its share of the Aggregate Credit Exposure and the unused Revolving Commitments; provided that in the case of Section 2.18 when a Defaulting Lender shall exist, any such Defaulting Lender's Revolving Commitment shall be disregarded in the calculation of the percentages set forth in clauses (a) and (b) above.

" Applicable Rate " means, for any day, with respect to any Revolving Loan or any LC Exposure, as the case may be, the applicable margin as of each immediately prior quarter-end based on the Funded Net Debt to EBITDA Ratio as set forth in the table below:

Funded Net Debt to EBITDA Ratio	≤ 1.00:1.00	≤ 1.50:1.00 but > 1:00:1.00	≤ 2.00:1.00 but > 1:50:1.00	≤ 2.50:1.00 but > 2.00:1.00	> 2.50:1.00
CB Floating Rate	0.00%	0.25%	0.50%	0.75%	1.00%
Adjusted LIBO Rate	2.50%	2.75%	3.00%	3.25%	3.50%

" Approved Fund " means any Person (other than a natural person) that is engaged in making, purchasing, holding or investing in bank loans and similar extensions of credit in the ordinary course of its business and that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

" Assignment and Assumption " means an assignment and assumption entered into by a Lender and an assignee (with the consent of any party whose consent is required by Section 9.04), and accepted by the Administrative Agent, in the form of Exhibit A or any other form approved by the Administrative Agent.

" Availability Period " means the period from and including the Effective Date to but excluding the applicable Maturity Date.

" Available Revolving Commitment " means, at any time, (a)(i) prior to the Delayed Commitment Effective Date, if any, the Initial Revolving Commitment then in effect and (ii) on and after the Delayed Commitment Effective Date, if any, the Total Revolving Commitment then in effect; ***minus*** (b) the Revolving Credit Exposure of all Revolving Lenders at such time.

" Banking Services " means each and any of the following bank services provided to any Loan Party by Chase or any of its Affiliates: (a) credit cards for commercial customers (including, without limitation, "commercial credit cards" and purchasing cards), (b) stored value cards and (c) treasury management services (including, without limitation, controlled disbursement, automated clearinghouse transactions, return items, overdrafts and interstate depository network services).

" Banking Services Obligations " of the Loan Parties means any and all obligations of the Loan Parties, whether absolute or contingent and howsoever and whensoever created, arising, evidenced or acquired (including all renewals, extensions and modifications thereof and substitutions therefor) in connection with Banking Services.

" Bankruptcy Event " means, with respect to any Person, such Person or such Person's direct or indirect parent company becomes the subject of a bankruptcy or insolvency proceeding, or has had a receiver, conservator, trustee, administrator, custodian, assignee for the benefit of creditors or similar Person charged with the reorganization or liquidation of its business appointed for it, or, in the good faith determination of the Administrative Agent, has taken any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any such proceeding or appointment; provided that a Bankruptcy Event shall not result solely by virtue of any ownership interest, or the acquisition of any ownership interest, in such Person or such Person's direct or indirect parent company by a Governmental Authority or instrumentality thereof if, and only if, such ownership interest does not result in or provide such Person with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Person (or such Governmental Authority or instrumentality) to reject, repudiate, disavow or disaffirm this Agreement or any other contract or agreement made by such Person.

" Board " means the Board of Governors of the Federal Reserve System of the United States of America.

" Board of Directors " means, relative to any Person, (a) in the case of any corporation, its board of directors, (b) in the case of any limited liability company, its board of managers or managing member, (c) in the case of any partnership, the Board of Directors of the general partner of such partnership and (d) in any other case, the functional equivalent of the foregoing.

" Borrower " means SSE Holdings, LLC, a Delaware limited liability company.

" Borrowing " means Revolving Loans of the same Type, made, converted or continued on the same date and, in the case of Eurodollar Loans, as to which a single Interest Period is in effect.

" Borrowing Request " means a request by the Borrower for a Revolving Borrowing in accordance with Section 2.03.

" Business Day " means any day that is not a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required by law to remain closed; provided that, when used in connection with a Eurodollar Loan, the term " Business Day " shall also exclude any day on which banks are not open for dealings in dollar deposits in the London interbank market.

" Capital Expenditures " of any Consolidated Party means, without duplication, any expenditure or commitment to expend money for any purchase or other acquisition of any asset which would be classified as a fixed or capital asset on the balance sheet of such Consolidated Party prepared in accordance with GAAP. For purposes of this definition the purchase price of equipment that is purchased simultaneously with the trade-in of existing equipment or with insurance proceeds shall be included in Capital Expenditures only to the extent of the gross amount of such purchase price less the credit granted by the seller of such equipment for the equipment being traded in at such time or the amount of such proceeds, as the case may be.

" Capital Lease Obligations " of any Person means the obligations of such Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted

for as capital leases on a balance sheet of such Person under GAAP, and the amount of such obligations shall be the capitalized amount thereof determined in accordance with GAAP.

" CB Floating Rate " means the Prime Rate; provided that the CB Floating Rate shall never be less than the Adjusted One Month LIBOR Rate for a one month Interest Period on such day (or if such day is not a Business Day, the immediately preceding Business Day). Any change in the CB Floating Rate due to a change in the Prime Rate or the Adjusted One Month LIBOR Rate shall be effective from and including the effective date of such change in the Prime Rate or the Adjusted One Month LIBOR Rate, respectively.

" CBFR ", when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are bearing interest at a rate determined by reference to the CB Floating Rate.

" Change in Control " means the occurrence of any of the following at any time:

(a) any:

(1) Person or Persons (other than a Permitted Holder), or

(2) Persons (other than one or more Permitted Holders) constituting a "group" (as such term is used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, as amended, but excluding any employee benefit plan of such person and its Subsidiaries, and any person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan)

shall become the "beneficial owner" (as defined in Rules 13(d)-3 and 13(d)-5 under such Act), directly or indirectly, of Equity Interests representing more than 35% of the aggregate ordinary voting power represented by the issued and outstanding Equity Interests of Shake Shack and the percentage of aggregate ordinary voting power so held is greater than the percentage of the aggregate ordinary voting power represented by the Equity Interests of Shake Shack beneficially owned, directly or indirectly, in the aggregate by one or more of the Permitted Holders; or

(b) Shake Shack shall cease to own beneficially and of record at least 14% of the Equity Interests of the Borrower; or

(c) Shake Shack shall cease to operate and control all of the business and affairs of the Borrower.

" Change in Law " means, (a) the adoption of any law, rule, regulation or treaty (including any rules or regulations issued under or implementing any existing law) after the date of this Agreement, (b) any change in any law, rule, regulation or treaty or in the interpretation or application thereof by any Governmental Authority after the date of this Agreement or (c) compliance by any Lender or the Issuing Bank (or, for purposes of Section 2.15(b), by any lending office of such Lender or by such Lender's or the Issuing Bank's holding company, if any) with any request, guideline or directive (whether or not having the force of law) of any Governmental Authority made or issued

after the date of this Agreement; provided that notwithstanding anything herein to the contrary, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder, issued in connection therewith or in implementation thereof, and (ii) all requests, rules, guidelines and directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case solely with respect to Basel III, shall be deemed to be a "Change in Law", regardless of the date enacted, adopted, issued or implemented.

" Chase " means JPMorgan Chase Bank, N.A., a national banking association, in its individual capacity, and its successors.

" Code " means the Internal Revenue Code of 1986, as amended from time to time.

" Collateral " has the meaning assigned to such term in the Security Agreement.

" Collateral Documents " means, collectively, the Security Agreement and any other documents granting a Lien upon the Collateral as security for payment of the Secured Obligations.

" Competitor " means any Person (and any Controlling Affiliate of such Person) that is an owner, operator or manager of a restaurant, catering service or food service.

" Consolidated Parties " means collectively, the Loan Parties and their respective subsidiaries.

" Control " means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. " Controlling " and " Controlled " have meanings correlative thereto.

" Cure Payments " means amounts received by and contributed to the Borrower and used to prepay the Loans and to increase EBITDA in connection with Sections 2.09(e), 2.09(f) and 7.02.

" Default " means any event or condition which constitutes an Event of Default or which upon notice, lapse of time or both would, unless cured or waived, become an Event of Default.

" Defaulting Lender " means any Lender that (a) has failed, within two Business Days of the date required to be funded or paid, to (i) fund any portion of its Loans, (ii) fund any portion of its participations in Letters of Credit or (iii) pay over to any Credit Party any other amount required to be paid by it hereunder, unless, in the case of clause (i) above, such Lender notifies the Administrative Agent in writing that such failure is the result of such Lender's good faith determination that a condition precedent to funding (specifically identified and including the particular default, if any) has not been satisfied, (b) has notified the Borrower or any Credit Party in writing, or has made a public statement to the effect, that it does not intend or expect to comply with any of its funding obligations under this Agreement (unless such writing or public statement indicates that such position is based on such Lender's good faith determination that a condition precedent (specifically identified and including the particular default, if any) to funding a loan under this Agreement cannot be satisfied) or generally under other agreements in which it commits to extend credit, (c) has failed, within two (2) Business Days after request by a Credit Party, acting in good faith, to provide a certification in writing from an authorized officer of such Lender that it

will comply with its obligations (and is financially able to meet such obligations) to fund prospective Loans and participations in then outstanding Letters of Credit under this Agreement; provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon such Credit Party's receipt of such certification in form and substance satisfactory to it and the Administrative Agent, or (d) has become the subject of a Bankruptcy Event.

" Delayed Commitment Amount " means an amount of up to $30,000,000.

" Delayed Commitment Effective Date " means the date after the Effective Date on which (a) the Administrative Agent receives (i) a request to increase the Initial Revolving Commitments by the amount of the Delayed Commitment Amount and (ii) a certificate delivered pursuant to Section 4.02 certifying that the conditions specified in Section 4.02 have been satisfied (or waived in accordance with Section 9.02), (b) each Lender (in its sole discretion) and the Administrative Agent (in its sole discretion) shall have agreed to such increase, (c) any conditions to such agreements by the Lenders and the Administrative Agent (including the payment of any agreed fees) shall have been satisfied, and (d) the conditions set forth in Sections 4.02 and 4.03 shall have been satisfied as of such date.

" Disclosed Matters " means the actions, suits and proceedings and the environmental matters disclosed in Schedule 3.06.

" Dollars " or " $ " refers to lawful money of the United States of America.

" Domestic Subsidiary " means any Subsidiary that is incorporated under the laws of the United States or its territories or possessions.

" EBITDA " means, for any period, the sum of

(a) Net Income for such period, ***plus***

(a) without duplication and (except with respect to clause (ix) below) to the extent deducted in determining Net Income for such period, the sum of:

(i) interest expense for such period and, to the extent not reflected in such interest expense, (A) fees, expenses and charges incurred in respect of financing activities (including commissions, discounts and closing fees) during such period and (B) payments made in respect of hedging obligations or other derivative instruments entered into for the purpose of hedging interest rate risk during such period;

(ii) provision for taxes based on income or profits or capital for such period;

(iii) all amounts attributable to depreciation and amortization expense for such period;

(iv) extraordinary, unusual or non-recurring expenses or charges for such period;

(v) non-cash expenses or charges for such period including non-cash rent expense and non-cash compensation expense;

(vi) fees, costs and expenses incurred in connection with (A) the Transactions consummated on the Effective Date to the extent incurred on or prior to the Effective Date or (B) issuances of equity interests, making Investments, or the incurrence, repayment, amendment or restructuring of Indebtedness, in each case, to the extent permitted to be incurred or made under the Loan Documents;

(vii) restructuring charges or reserves, whether or not classified as such under GAAP, including severance, relocation costs, and integration and other similar expenses;

(viii) the amount of any minority interest expense consisting of subsidiary income attributable to minority equity interests of third parties in any non-wholly owned Subsidiary deducted (and not added back) in such period to consolidated net income;

(ix) the proceeds of any business interruption insurance;

(x) the amount of costs relating to pre-opening and opening costs for stores;

(xi) any Cure Payments and capital contributions and dividends that the Borrower and Loan Parties receive directly or indirectly from (A) a Person that is not a Loan Party or (B) third party holders of Equity Interests of the Loan Parties during such period; and

(xii) the aggregate amount of costs and expenses actually incurred during such period by the Loan Parties in connection with the Shake Shack IPO, up to an aggregate amount not to exceed $10,000,000, ***minus***

(b) without duplication and to the extent included in Net Income, any extraordinary gains and any non-cash items of income for such period, all calculated for the Consolidated Parties after eliminations for intercompany transactions.

For the avoidance of doubt, EBITDA for any period, (x) shall include, without duplication, the EBITDA of any Person, property, business or asset acquired or formed by the Borrower or any Loan Party during such period, to the extent (A) such Person becomes a Loan Party, (B) such property, business or asset is owned by a Loan Party and (C) such Person, property or asset is not subsequently sold, transferred, abandoned or otherwise disposed by the Borrower or such Loan Party, and (y) shall exclude the EBITDA of any Person, property, business or asset sold, transferred, abandoned or otherwise disposed by the Borrower or such Loan Party during such period to the extent (A) that such Person sold, transferred, abandoned or otherwise disposed was a Loan Party

and (B) such property, business or asset that was sold, transferred, abandoned or otherwise disposed was owned by a Loan Party.

" EBITDAR " means, for any period, (a) EBITDA *plus* (b) Rentals actually made in cash.

" Effective Date " means the date specified by the Borrower in a notice to the Administrative Agent, provided that such specified date shall be the Effective Date only if:

(a) such notice is received by the Administrative Agent at least two Business Days prior to such date,

(b) such date is on or prior to March 16, 2015,

(c) on such date, the aggregate outstanding principal amount of the Existing Loans shall be equal to or less than the aggregate amount of the Initial Revolving Commitments, and,

(d) as of such date, each of the conditions precedent set forth in Sections 4.01 and 4.03 shall have been satisfied.

" Environmental Laws " means all applicable laws, rules, regulations, codes, ordinances, orders, decrees, judgments, injunctions, notices of violation or binding agreements issued, promulgated or entered into by any Governmental Authority, relating in any way to the environment, preservation or reclamation of natural resources, the management, release or threatened release of any Hazardous Material or to health and safety matters.

" Environmental Liability " means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities), of the Borrower or any Subsidiary directly or indirectly resulting from or based upon (a) violation of any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the release or threatened release of any Hazardous Materials into the environment or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

" Equity Interests " means shares of capital stock, partnership interests, membership interests in a limited liability company, beneficial interests in a trust or other equity ownership interests in a Person, and any warrants, options or other rights entitling the holder thereof to purchase or acquire any such equity interest.

" ERISA " means the Employee Retirement Income Security Act of 1974, as amended from time to time.

" ERISA Affiliate " means any trade or business (whether or not incorporated) that, together with any Loan Party, is treated as a single employer under Section 414(b) or (c) of the Code or, solely for purposes of Section 302 of ERISA and Section 412 of the Code, is treated as a single employer under Section 414 of the Code.

" ERISA Event " means (a) any "reportable event", as defined in Section 4043 of ERISA or the regulations issued thereunder with respect to a Plan (other than an event for which the 30 day notice period is waived); (b) the failure with respect to any Plan or Multiemployer Plan to satisfy the minimum finding requirements of Section 412 of the Code or Section 302 of ERISA or, in the case of a Multiemployer Plan, Section 432 of the Code, whether or not waived; (c) the filing pursuant to Section 412(c) of the Code or Section 302(c) of ERISA of an application for a waiver of the minimum funding standard with respect to any Plan or Multiemployer Plan; (d) the incurrence by any Loan Party or any of its ERISA Affiliates of any liability under Title IV of ERISA with respect to the termination of any Plan; (e) the receipt by any Loan Party or any ERISA Affiliate from the PBGC or a plan administrator of any notice relating to an intention to terminate any Plan or Multiemployer Plan or to appoint a trustee to administer any Plan or Multiemployer Plan; (f) the incurrence by any Loan Party or any of its ERISA Affiliates of any liability with respect to the withdrawal or partial withdrawal from any Plan or Multiemployer Plan; or (g) the receipt by any Loan Party or any ERISA Affiliate of any notice, or the receipt by any Multiemployer Plan from any Loan Party or any ERISA Affiliate of any notice, concerning the imposition of Withdrawal Liability or a determination that a Multiemployer Plan is, or is expected to be, insolvent or in reorganization, within the meaning of Title IV of ERISA.

" Eurodollar ", when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are bearing interest at a rate determined by reference to the Adjusted LIBO Rate.

" Event of Default " has the meaning assigned to such term in Article VII.

" Excluded Subsidiary " means (a) any Subsidiary that is not directly or indirectly, a wholly owned Domestic Subsidiary of the Borrower, (b) any Foreign Subsidiary and (c) any Immaterial Subsidiary.

" Excluded Swap Obligation " means, with respect to any Guarantor, any Swap Obligation if, and to the extent that, all or a portion of the Guarantee of such Guarantor of, or the grant by such Guarantor of a security interest to secure, such Swap Obligation (or any Guarantee thereof) is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof) (a) by virtue of such Guarantor's failure for any reason to constitute an "eligible contract participant" as defined in the Commodity Exchange Act and the regulations thereunder at the time the Guarantee of such Guarantor or the grant of such security interest becomes or would become effective with respect to such Swap Obligation or (b) in the case of a Swap Obligation that is required to be cleared pursuant to Section 2(h) of the Commodity Exchange Act (or any successor provision thereto), because such Guarantor is a "financial entity," as defined in Section 2(h)(7)(C)(i) the Commodity Exchange Act (or any successor provision thereto), at the time the Guarantee of such Guarantor becomes or would become effective with respect to such related Swap Obligation. If a Swap Obligation arises under a master agreement governing more than one swap, such exclusion shall apply only to the portion of such Swap Obligation that is attributable to swaps for which such Guarantee or security interest is or becomes illegal.

" Excluded Taxes " means, with respect to the Administrative Agent, any Lender, the applicable Issuing Bank or any other recipient of any payment to be made by or on account of any obligation of the Borrower or any other Loan Party hereunder or any other Loan Document, (a) taxes imposed on or measured by its net income (however denominated), or franchise taxes imposed in lieu of net income taxes, imposed on it, by the jurisdiction (or any political subdivision thereof) under the Laws of which such recipient is organized or in which its principal office is located or with which it has any other connection for tax purposes (other than a present or former connection that would not have arisen but for entering into the Loan Documents, receiving any payments under or with respect to the Loan Documents, or enforcing any rights and remedies under the Loan Documents) or, in the case of any Lender, in which its applicable lending office is located, (b) any branch profits taxes imposed by the United States of America or any similar tax imposed by any other jurisdiction in which the Borrower is located, (c) in the case of a Lender, any U.S. federal withholding tax that is imposed on amounts payable to such Lender at the time such Lender becomes a party hereto (or designates a new lending office) or is attributable to such Lender's failure or inability (other than as a result of a Change in Law) to comply with Section 2.15(f), except to the extent that such Lender (or its assignor, if any) was entitled, at the time of designation of a new lending office (or assignment), to receive additional amounts from the Borrower with respect to such withholding tax pursuant to Section 2.15(a) (other than pursuant to an assignment request by the Borrower under Section 2.17 hereof), (d) any backup withholding taxes imposed on the Administrative Agent, any Lender, the applicable Issuing Bank or any other recipient of any payment hereunder and (e) any Taxes which are imposed under FATCA.

" Existing Credit Agreement " has the meaning assigned to such term in the Preliminary Statements.

" Existing Lenders " has the meaning assigned to such term in the Preliminary Statements.

" Existing Loans " has the meaning assigned to such term in the Preliminary Statements.

" FATCA " means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantially comparable and not materially more onerous to comply with) and any current or future regulations or official interpretations thereof and any agreement entered into pursuant to Section 1471(b)(1) of the Code and any intergovernmental agreements (together with any Law implementing such agreements).

" Federal Funds Effective Rate " means, for any day, the weighted average (rounded upwards, if necessary, to the next 1/100 of 1%) of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers, as published on the next succeeding Business Day by the Federal Reserve Bank of New York, or, if such rate is not so published for any day that is a Business Day, the average (rounded upwards, if necessary, to the next 1/100 of 1%) of the quotations for such day for such transactions received by the Administrative Agent from three Federal funds brokers of recognized standing selected by it.

" Financial Officer " means the chief financial officer, principal accounting officer, treasurer or controller of the Borrower, in each case, in his or her capacity as such.

" Fixed Charge Coverage Ratio " means, for any period, the ratio of (a) EBITDAR *minus* the unfinanced (other than with proceeds of the Loans) portion of Maintenance Capital Expenditures *to* (b) (i) the sum, without duplication, of cash Interest Expense, *plus* Rentals, *plus* all principal (excluding (x) any payments on account of any Revolving Loan and (y) prepayments, mandatory or otherwise, under this Agreement or the Existing Credit Agreement) and amortization payments on Funded Debt made during such period, *plus* Restricted Payments (other than (1) Restricted Payments made for the purpose of paying taxes attributable to the Consolidated Parties, and (2) Restricted Payments made on or about December 31, 2014, in an aggregate amount not in excess of $22,0000,000) paid in cash to any Person that is not a Loan Party, *plus* Capital Lease Obligation payments, all calculated for the Consolidated Parties after eliminations for intercompany transactions.

" Foreign Lender " means any Lender that is organized under the laws of a jurisdiction other than that in which the Borrower is located. For purposes of this definition, the United States of America, each State thereof and the District of Columbia shall be deemed to constitute a single jurisdiction.

" Foreign Subsidiary " means (a) any direct or indirect subsidiary of the Borrower or any other Loan Party, as applicable, that is organized under the laws of any jurisdiction other than the United States or its territories or possessions and that is treated as a corporation for United States federal income tax purposes and (b) any subsidiary of the Borrower or any other Loan Party, as applicable, that (i) is disregarded as an entity that is separate from its owner for United States federal income tax purposes and (ii) wholly-owns the stock of one or more Foreign Subsidiaries, but only so long as such subsidiary has no assets other than the stock of one or more Foreign Subsidiaries and de minimis other assets.

" Funded Debt " means, as of any date of determination, the aggregate principal amount of Indebtedness of the Consolidated Parties outstanding on such date, consisting of (a) Indebtedness for borrowed money (after eliminating intercompany Indebtedness among Loan Parties permitted by this Agreement), (b) Capital Lease Obligations of the Consolidated Parties and (c) debt obligations evidenced by bonds, debentures, promissory notes or similar instruments.

" Funded Net Debt to EBITDA Ratio " means, for any date of determination, the ratio of (a) Funded Debt less up to $5,000,000 of the Loan Parties' cash and Permitted Investments on such date to (b) EBITDA for the period of four consecutive fiscal quarters of the Borrower most recently ended, all calculated for the Consolidated Parties.

" Funding Account " means the deposit account of the Borrower that the Borrower shall have notified the Administrative Agent is the account to which the Administrative Agent is authorized by the Borrower to transfer the proceeds of any Borrowings requested or authorized pursuant to this Agreement.

" GAAP " means generally accepted accounting principles in the United States of America as are in effect from time to time, subject to the provisions of Section 1.04.

" Governmental Authority " means the government of the United States of America, any other nation or any political subdivision thereof, whether state or local, and any agency, authority,

instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

" Guarantee " of or by any Person (the " guarantor ") means any obligation, contingent or otherwise, of the guarantor guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation of any other Person (the " primary obligor ") in any manner, whether directly or indirectly, and including any obligation of the guarantor, direct or indirect, (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation or to purchase (or to advance or supply funds for the purchase of) any security for the payment thereof, (b) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness or other obligation of the payment thereof, (c) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation or (d) as an account party in respect of any letter of credit or letter of guaranty issued to support such Indebtedness or obligation; provided , that the term Guarantee shall not include endorsements for collection or deposit in the ordinary course of business, or customary and reasonable indemnity obligations in effect on the date hereof or entered into in connection with any acquisition or disposition of assets permitted under this Agreement (other than such obligations with respect to Indebtedness). The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the Indebtedness in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof (assuming such Person is required to perform thereunder) as determined by such Person in good faith.

" Guaranteed Obligations " has the meaning assigned to such term in Section 10.01.

" Guarantor " means each direct and indirect Domestic Subsidiary (excluding any Excluded Subsidiary) of the Borrower and any other Person who becomes a party to a Loan Guaranty pursuant to a Joinder Agreement or otherwise and its successors and assigns.

" Hazardous Materials " means all explosive or radioactive substances or wastes and all hazardous or toxic substances, wastes or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes and all other chemicals, materials or substances or wastes of any nature regulated pursuant to any Environmental Law.

" Immaterial Subsidiary " means any Subsidiary that (a) did not, as of the last day of the fiscal quarter of the Borrower most recently ended for which financial statements are required to be delivered (whether or not such financial statements are actually delivered), have assets with a value in excess of $50,000, and (b) taken together with all Immaterial Subsidiaries as of the last day of the fiscal quarter of the Borrower most recently ended for which financial statements are required to be delivered (whether or not such financial statements are actually delivered), did not have assets with a value in excess of $100,000.

" Indebtedness " of any Person means, without duplication, (a) all obligations of such Person for borrowed money or with respect to deposits or advances of any kind, (b) all obligations of such Person evidenced by bonds, debentures, notes or similar instruments, (c) all obligations of such

Person under conditional sale or other title retention agreements relating to property acquired by such Person, (d) all obligations of such Person in respect of the deferred purchase price of property or services (excluding accounts payable, trade payables and accrued expenses in respect of each such payable, in each case incurred in the ordinary course of business and paid within 120 days of such incurrence), (e) all Indebtedness of others secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on property owned or acquired by such Person, whether or not the Indebtedness secured thereby has been assumed (and that the amount of such Indebtedness shall be deemed equal to the lesser of (x) the fair market value of such property or (y) the outstanding principal amount of such Indebtedness), (f) all Guarantees by such Person of Indebtedness of others, (g) all Capital Lease Obligations of such Person, (h) all obligations, contingent or otherwise, of such Person as an account party in respect of letters of credit and letters of guaranty (other than to the extent cash collateralized), (i) all obligations, contingent or otherwise, of such Person in respect of bankers' acceptances, (j) obligations under any liquidated earn-out and (k) any other Off-Balance Sheet Liability. The Indebtedness of any Person shall include the Indebtedness of any other entity (including any partnership in which such Person is a general partner) to the extent such Person is liable therefor as a result of such Person's ownership interest in or other relationship with such entity, except to the extent the terms of such Indebtedness provide that such Person is not liable therefor.

" Indemnified Taxes " means Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of any Loan Party under any Loan Document.

" Ineligible Assignee " has the meaning assigned to it in Section 9.04(b).

" Initial Revolving Commitment " means, with respect to each Lender and prior to the Delayed Commitment Effective Date, the commitment, if any, of such Lender to make Revolving Loans and to acquire participations in Letters of Credit hereunder, expressed as an amount representing the maximum possible aggregate amount of such Lender's Revolving Credit Exposure hereunder, as such commitment may be reduced from time to time pursuant to Section 2.07. The initial amount of each Lender's Initial Revolving Commitment is set forth on Schedule 2.01 , or in the Assignment and Assumption pursuant to which such Lender shall have assumed its Initial Revolving Commitment, as applicable. The initial aggregate amount of the Lenders' Initial Revolving Commitments is twenty million dollars ($20,000,000).

" Interest Election Request " means a request by the Borrower to convert or continue a Revolving Borrowing in accordance with Section 2.06.

" Interest Expense " means, with reference to any period, total interest expense (including that attributable to Capital Lease Obligations) of the Consolidated Parties for such period with respect to all outstanding Indebtedness of the Consolidated Parties (including all commissions, discounts and other fees and charges owed with respect to letters of credit and bankers' acceptance financing and net costs under Swap Agreements in respect of interest rates to the extent such net costs are allocable to such period in accordance with GAAP), calculated after eliminations for intercompany transactions.

" Interest Payment Date " means (a) with respect to any CBFR Loan, the first Business Day of each calendar month and the Maturity Date and (b) with respect to any Eurodollar Loan, the last day of the Interest Period and the Maturity Date.

" Interest Period " means with respect to any Eurodollar Borrowing, the period commencing on the date of such Borrowing and ending on the numerically corresponding day in the calendar month that is one month thereafter; provided , that (i) if any Interest Period would end on a day other than a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless, in the case of a Eurodollar Borrowing only, such next succeeding Business Day would fall in the next calendar month, in which case such Interest Period shall end on the next preceding Business Day and (ii) any Interest Period pertaining to a Eurodollar Borrowing that commences on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the last calendar month of such Interest Period) shall end on the last Business Day of the last calendar month of such Interest Period. For purposes hereof, the date of a Borrowing initially shall be the date on which such Borrowing is made and, in the case of a Revolving Borrowing, thereafter shall be the effective date of the most recent conversion or continuation of such Borrowing.

" IRS " means the United States Internal Revenue Service.

" Issuing Bank " means Chase, in its capacity as the issuer of Letters of Credit hereunder, and its successors in such capacity as provided in Section 2.04. The Issuing Bank may, in its discretion, arrange for one or more Letters of Credit to be issued by Affiliates of the Issuing Bank, in which case the term "Issuing Bank" shall include any such Affiliate with respect to Letters of Credit issued by such Affiliate.

" Joinder Agreement " has the meaning assigned to such term in Section 5.12.

" Law " means any law, rule, regulations, code, ordinance, order or decree issued or promulgated by any Governmental Authority

" LC Collateral Account " has the meaning assigned to such term in Section 2.04(j).

" LC Disbursement " means a payment made by the Issuing Bank pursuant to a Letter of Credit.

" LC Exposure " means, at any time, the sum of (a) the aggregate undrawn amount of all outstanding Letters of Credit at such time plus (b) the aggregate amount of all LC Disbursements that have not yet been reimbursed by or on behalf of the Borrower at such time. The LC Exposure of any Revolving Lender at any time shall be its Applicable Percentage of the total LC Exposure at such time.

" LC Sublimit " means $10,000,000.

" Lender Party " means the Administrative Agent, each Issuing Bank or any other Lender.

" Lenders " means the Persons listed on the Schedule 2.01 , and any other Person that shall have become a party hereto pursuant to an Assignment and Assumption, other than any such Person that ceases to be a party hereto pursuant to an Assignment and Assumption.

" Letter of Credit " means any standby letter of credit issued pursuant to this Agreement.

" LIBO Rate " means, with respect to any Eurodollar Borrowing for any Interest Period, a rate per annum equal to (a) the BBA Interest Settlement Rate per annum at which deposits in Dollars are offered in London, England to prime banks in the London Interbank Market for such Interest Period as displayed on the Reuters LIBOR01 Page as of 11:00 a.m. (London time) two (2) Business Days before the first day of such Interest Period or (b) if the rate described in clause (a) does not appear on Reuters LIBOR01 Page on any relevant date of determination, the average of the rates at which Dollar deposits with a maturity equal to the applicable Interest Period are offered to the lending office of the Administrative Agent in immediately available funds in the London Interbank Market for Eurodollars at approximately 11:00 a.m., London time, two (2) Business Days prior to the commencement of such Interest Period.

" Lien " means, with respect to any asset, (a) any mortgage, deed of trust, lien, pledge, hypothecation, encumbrance, charge or security interest in, on or of such asset, (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease or title retention agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to such asset and (c) in the case of securities, any purchase option, call or similar right of a third party with respect to such securities.

" LLC Agreement " means the Third Amended and Restated Limited Liability Company Agreement of the Borrower, dated as of the Effective Date.

" Loan Documents " means this Agreement, any promissory notes issued pursuant to the Agreement, any Letter of Credit applications, the Collateral Documents, the Loan Guaranty and all other agreements, instruments, documents and certificates identified in Sections 4.01, 4.02 and 4.03 executed and delivered to, or in favor of, the Administrative Agent or any Lender and including all other pledges, powers of attorney, consents, assignments, contracts, notices, letter of credit agreements and all other written matter whether heretofore, now or hereafter executed by or on behalf of any Loan Party, or any employee of any Loan Party, and delivered to the Administrative Agent or any Lender in connection with the Agreement or the transactions contemplated thereby. Any reference in the Agreement or any other Loan Document to a Loan Document shall include all appendices, exhibits or schedules thereto, and all amendments, restatements, supplements or other modifications thereto, and shall refer to the Agreement or such Loan Document as the same may be in effect at any and all times such reference becomes operative.

" Loan Guaranty " means Article X of this Agreement and any other guaranty of the Secured Obligations now or hereafter delivered to the Administrative Agent.

" Loan Parties " means the Borrower, each Guarantor and any other Person who becomes a party to this Agreement pursuant to a Joinder Agreement and their successors and assigns.

" Loans " means the loans and advances made by the Lenders pursuant to this Agreement.

" Maintenance Capital Expenditures " means, with respect to any Consolidated Party, Capital Expenditures made in the ordinary course of business to repair, replace or otherwise maintain fixed or capital assets of such Person (and, for the avoidance of doubt, shall not include any Capital Expenditure in connection with the initial build-out of any restaurant or unit).

" Material Adverse Effect " means a material adverse effect on (a) the business, assets, operations or condition, financial or otherwise, of the Borrower and the other Loan Parties taken as a whole, (b) the ability of the Loan Parties to perform any of their respective obligations under the Loan Documents to which it is a party, (c) the Collateral, or the Administrative Agent's Liens (on behalf of itself and the Lenders) on the Collateral or the priority of such Liens, or (d) the rights of or benefits available to the Lender Parties under the Loan Documents.

" Material Indebtedness " means any item of Indebtedness (other than the Loans and Letters of Credit), or obligations in respect of one or more Swap Agreements, of any one or more of the Loan Parties in an aggregate principal amount exceeding $3,500,000. For purposes of determining Material Indebtedness, the "obligations" of any Loan Party in respect of any Swap Agreement at any time shall be the maximum aggregate amount (giving effect to any netting agreements) that such Loan Party would be required to pay if such Swap Agreement were terminated at such time.

" Maturity Date " means, with respect to (a) Revolving Loans, (i) five (5) years after the Effective Date or (ii) any earlier date on which the Commitments are reduced to zero or otherwise terminated pursuant to the terms hereof and (b) Letters of Credit (i) five (5) years after the Effective Date or (ii) any earlier date on which the LC Sublimit is to zero or otherwise terminated pursuant to the terms hereof.

" Maximum Liability " has the meaning assigned to such term in Section 10.10.

" Moody's " means Moody's Investors Service, Inc.

" Multiemployer Plan " means a multiemployer plan as defined in Section 4001(a)(3) of ERISA.

" Net Income " means, for any period, the net income (or loss) of the Consolidated Parties calculated after eliminations for intercompany transactions; provided that there shall be excluded (a) the income (or deficit) of any Person accrued prior to the date it becomes a Loan Party or a Subsidiary of a Loan Party or is merged into or consolidated with a Loan Party or a Subsidiary of a Loan Party, (b) the income (or deficit) of any Person (other than a Subsidiary of a Loan Party) in which a Loan Party has an ownership interest, except to the extent that any such income is actually received by such Loan Party in the form of dividends or similar distributions and (c) the undistributed earnings of any Subsidiary of a Loan Party to the extent that the declaration or payment of dividends or similar distributions by such Subsidiary is not at the time permitted by the terms of any contractual obligation (other than under any Loan Document) or Requirement of Law applicable to such Subsidiary.

" Net Proceeds " means, with respect to any event, (a) the cash proceeds received in respect of such event including (i) any cash received in respect of any non-cash proceeds (including any cash payments received by way of deferred payment of principal pursuant to a note or installment

receivable or purchase price adjustment receivable or otherwise, but excluding any interest payments), but only as and when received, (ii) in the case of a casualty, insurance proceeds and (iii) in the case of a condemnation or similar event, condemnation awards and similar payments, net of (b) the sum of (i) all reasonable fees and out-of-pocket expenses paid to third parties (other than Affiliates) in connection with such event, and the costs, commissions, premiums, and to the extent applicable, underwriting discounts, (ii) in the case of a sale, transfer or other disposition of an asset (including pursuant to a sale and leaseback transaction or a casualty or a condemnation or similar proceeding), the amount of all payments required to be made as a result of such event to repay Indebtedness (other than Loans) secured by such asset or otherwise subject to mandatory prepayment as a result of such event and (iii) the amount of all taxes paid (or reasonably estimated to be payable) and the amount of any reserves established to fund contingent liabilities reasonably estimated to be payable, in each case during the year that such event occurred or the next succeeding year (or years, as the case may be) and that are directly attributable to such event (as determined reasonably and in good faith by a Financial Officer).

" Non-Consenting Lender " has the meaning assigned to such term in Section 9.02(d).

" Non-Paying Guarantor " has the meaning assigned to such term in Section 10.11.

" Obligated Party " has the meaning assigned to such term in Section 10.02.

" Obligations " means all unpaid principal of and accrued and unpaid interest on the Loans, all LC Exposure, all accrued and unpaid fees and all expenses, reimbursements, indemnities and other obligations of the Loan Parties to the Lenders or to any Lender, the Administrative Agent, the Issuing Bank or any indemnified party arising under the Loan Documents; provided that the definition of "Obligations" shall not create any guarantee by any Guarantor of (or grant of security interest by any Guarantor to support, as applicable) any Excluded Swap Obligations of such Guarantor for purposes of determining any obligations of any Guarantor.

" Off-Balance Sheet Liability " of a Person means (a) any repurchase obligation or liability of such Person with respect to accounts or notes receivable sold by such Person, (b) any indebtedness, liability or obligation under any so-called "synthetic lease" transaction entered into by such Person, or (c) any indebtedness, liability or obligation arising with respect to any other transaction which is the functional equivalent of or takes the place of borrowing but which does not constitute a liability on the balance sheets of such Person (other than operating leases).

" Organizational Documents " means in respect of any Person (a) that is a corporation, its articles of incorporation, by-laws and any shareholder's agreement (or similar constituent document) governing the Equity Interests (voting or otherwise) of such Person, (b) that is a limited liability company, its certificate of formation and operating agreement (or similar constituent document) and (c) that is a partnership, its certificate of formation and partnership agreement (or similar constituent document).

" Other Taxes " means any and all present or future stamp or documentary taxes or any other excise or property taxes, charges or similar levies arising from any payment made hereunder or from the execution, delivery or enforcement of, or otherwise with respect to, this Agreement,

excluding any such taxes resulting from an assignment by any Lender pursuant to Section 9.04 hereof.

" Participant " has the meaning set forth in Section 9.04(c)(i).

" Participant Register " has the meaning set forth in Section 9.04(c)(i).

" PBGC " means the Pension Benefit Guaranty Corporation referred to and defined in ERISA and any successor entity performing similar functions.

" Permitted Encumbrances " means:

(a) Liens imposed by law for taxes that are not yet due or are being contested in compliance with Section 5.04;

(b) carriers', warehousemen's, mechanics', materialmen's, repairmen's and other like Liens imposed by law, arising in the ordinary course of business and securing obligations that are not overdue by more than 30 days or are being contested in compliance with Section 5.04;

(c) pledges and deposits made in the ordinary course of business in compliance with workers' compensation, unemployment insurance and other social security laws or regulations;

(d) deposits to secure the performance of bids, trade contracts, leases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature, in each case in the ordinary course of business;

(e) judgment Liens in respect of judgments that do not constitute an Event of Default under Section 7.01(k);

(f) easements, zoning restrictions, rights-of-way and similar encumbrances on real property imposed by law or arising in the ordinary course of business that do not secure any monetary obligations and do not materially detract from the value of the affected property or interfere with the ordinary conduct of business of the Borrower or any Subsidiary;

(g) pledges and deposits in the ordinary course of business securing the financing of the insurance premiums under insurance policies, payable to insurance carriers that provide insurance to the Loan Parties;

(h) Liens encumbering customary initial deposits in respect of brokerage accounts incurred in the ordinary course of business;

(i) ground leases in respect of real property on which facilities owned or leased by the Borrower or any of its Subsidiaries are located;

(j) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods;

(k) rights of set-off of a customary nature or bankers' Liens on amounts on deposit, whether arising by contract or law, incurred in the ordinary course of business; and

(l) Liens arising from precautionary Uniform Commercial Code financing statement or similar filings made in respect of operating leases.

" Permitted Equity Issuance " means (a) with respect to any Loan Party or any Subsidiary, any issuance of Equity Interests by such Loan Party or Subsidiary, the proceeds of which are used by such Loan Party to (i) open and operate additional restaurants that are substantially similar to existing restaurants owned by such Loan Party or Subsidiary, (ii) invest in (A) joint ventures or other Persons, or (B) acquire assets that are used or are useful in the business of the Borrower, any Loan Party or any Subsidiary, (b) any issuance of Equity Interests pursuant to any management, director and/or employee stock ownership or benefit plan, key employee stock ownership plan or stock subscription agreement, (c) any issuance of Equity Interests of any Loan Party to new members or shareholders of such Loan Party in connection with the replacement of members or shareholders in compliance with the Organizational Documents of such Loan Party and (d) any issuance of Equity Interests by any Loan Party to any other Loan Party.

" Permitted Investments " means:

(a) direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America (or by any agency thereof to the extent such obligations are backed by the full faith and credit of the United States of America), in each case maturing within one year from the date of acquisition thereof;

(b) investments in commercial paper maturing within 270 days from the date of acquisition thereof and having, at such date of acquisition, the highest credit rating obtainable from S&P or from Moody's;

(c) investments in certificates of deposit, banker's acceptances and time deposits maturing within 180 days from the date of acquisition thereof issued or guaranteed by or placed with, and money market deposit accounts issued or offered by, any domestic office of any commercial bank organized under the laws of the United States of America or any State thereof which has a combined capital and surplus and undivided profits of not less than $500,000,000;

(d) fully collateralized repurchase agreements with a term of not more than 30 days for securities described in clause (a) above and entered into with a financial institution satisfying the criteria described in clause (c) above; and

(e) money market funds that (i) comply with the criteria set forth in Securities and Exchange Commission Rule 2a-7 under the Investment Company Act of 1940, (ii) are rated AAA by S&P and Aaa by Moody's and (iii) have portfolio assets of at least $5,000,000,000.

" Permitted Holder " means USHG, Green Equity Investors VI, L.P., Green Equity Investors Side VI, L.P., LGP Malted Coinvest LLC, SEG Partners, L.P., SEG Partners II, L.P, SEG Partners

Offshore Master Fund, Ltd., ACG Shack LLC, Daniel Meyer, Jeff Flug and any Affiliate of the foregoing.

" Person " means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

" Plan " means any employee pension benefit plan (other than a Multiemployer Plan) subject to the provisions of Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA, and in respect of which the Borrower or any ERISA Affiliate is (or, if such plan were terminated, would under Section 4069 of ERISA be deemed to be) an "employer" as defined in Section 3(5) of ERISA.

" Prepayment Event " means:

(a) any casualty or other insured damage to, or any taking under power of eminent domain or by condemnation or similar proceeding of, any property or asset of any Loan Party with a fair value immediately prior to such event equal to or greater than $2,000,000; or

(b) the incurrence by any Loan Party of any Indebtedness, other than Indebtedness permitted under Section 6.01 or permitted by the Required Lenders pursuant to Section 9.02.

" Prime Rate " means the rate of interest per annum publicly announced from time to time by Chase as its prime rate in effect at its offices located at 270 Park Avenue, New York, New York; each change in the Prime Rate shall be effective from and including the date such change is publicly announced as being effective.

" Qualified ECP Guarantor " means, in respect of any Swap Obligation, each Loan Party that has total assets exceeding $10,000,000 at the time the relevant Guarantee or grant of the relevant security interest becomes or would become effective with respect to such Swap Obligation or such other person as constitutes an "eligible contract participant" under the Commodity Exchange Act or any regulations promulgated thereunder and can cause another person to qualify as an "eligible contract participant" at such time by entering into a keepwell under Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

" Register " has the meaning assigned to such term in Section 9.04.

" Related Parties " means, with respect to any specified Person, such Person's Affiliates and the respective directors, officers, employees, agents and advisors of such Person and such Person's Affiliates.

" Rentals " means, with reference to any period, the aggregate fixed amounts payable by the Consolidated Parties under any operating lease, calculated after eliminations for intercompany transactions.

" Required Lenders " means, at any time, Lenders having Revolving Credit Exposure and unused Commitments representing more than 50.0% of the sum of the Aggregate Credit Exposure and unused Revolving Commitments at such time.

" Requirement of Law " means, as to any Person, the Certificate of Incorporation and By-Laws or other equivalent organizational or governing documents of such Person, and any law, treaty, rule or regulation or determination of an arbitrator or a court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

" Restricted Payment " means any dividend or other distribution (whether in cash, securities or other property) with respect to any Equity Interests in the Borrower or any Subsidiary, or any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any such Equity Interests in the Borrower or any option, warrant or other right to acquire any such Equity Interests in the Borrower.

" Revolving Commitment " means, with respect to each Lender, (a) prior to the Delayed Commitment Effective Date, if any, such Lender's Initial Revolving Commitment then in effect and (b) on and after the Delayed Commitment Effective Date, if any, such Lender's Total Revolving Commitment then in effect. The initial amount of each Lender's applicable Revolving Commitment is set forth on the Schedule 2.01 , or in the Assignment and Assumption pursuant to which such Lender shall have assumed its Revolving Commitment, as applicable.

" Revolving Credit Exposure " means, with respect to any Lender at any time, the sum of the outstanding principal amount of such Lender's Revolving Loans and its LC Exposure at such time.

" Revolving Lender " means, as of any date of determination, a Lender with a Revolving Commitment or, if the Revolving Commitments have terminated or expired, a Lender with Revolving Credit Exposure.

" Revolving Loan " means, collectively, (a) the loans deemed to be extended by the Revolving Lenders to the Borrower on the Effective Date pursuant to Section 2.01(a)(i) and (b) any loan made pursuant to Section 2.01(a)(ii).

" S&P " means Standard & Poor's Ratings Services, a division of The McGraw Hill Companies, Inc.

" Secured Obligations " means all Obligations, together with all (a) Banking Services Obligations and (b) Swap Obligations owing to one or more Lenders or their respective Affiliates; provided that at or prior to the time that any transaction relating to such Swap Obligation is executed, the Lender party thereto (other than Chase) shall have delivered written notice to the Administrative Agent that such a transaction has been entered into and that it constitutes a Secured Obligation entitled to the benefits of the Collateral Documents.

" Security Agreement " means (a) that certain Second Amended and Restated Security Agreement, dated as of February 18, 2014, between the Loan Parties and the Administrative Agent,

for the benefit of the Administrative Agent and the Lenders, and (b) any other pledge or security agreement entered into, after the date of this Agreement, by any other Loan Party (as required by this Agreement or any other Loan Document) or any other Person, as the same may be amended, restated or otherwise modified from time to time.

" Shake Shack " means Shake Shack Inc., a Delaware corporation.

" Shake Shack Financials Test " means, as of the date of any particular financial statement, (a) Shake Shack does not have any material assets or liabilities other than Equity Interests in the Borrower, and (b) for purposes of preparing financial statements of Shake Shack, the entire financial condition and all of the financial operations of the Borrower and its Subsidiaries will, in accordance with GAAP, be consolidated into the financial condition and financial operations of Shake Shack.

" Shake Shack IPO " means an initial public offering of the class A common stock of Shake Shack.

" Statutory Reserve Rate " means a fraction (expressed as a decimal), the numerator of which is the number one and the denominator of which is the number one minus the aggregate of the maximum reserve percentage (including any marginal, special, emergency or supplemental reserves) expressed as a decimal established by the Board to which the Administrative Agent is subject with respect to the Adjusted LIBO Rate, for eurocurrency funding (currently referred to as "Eurocurrency Liabilities" in Regulation D of the Board). Such reserve percentage shall include those imposed pursuant to such Regulation D. Eurodollar Loans shall be deemed to constitute eurocurrency funding and to be subject to such reserve requirements without benefit of or credit for proration, exemptions or offsets that may be available from time to time to any Lender under such Regulation D or any comparable regulation. The Statutory Reserve Rate shall be adjusted automatically on and as of the effective date of any change in any reserve percentage.

" Subordinated Indebtedness " of a Person means any Indebtedness of such Person the payment of which is subordinated to payment of the Secured Obligations to the written satisfaction of the Administrative Agent.

" subsidiary " means, with respect to any Person (the " parent ") at any date, any corporation, limited liability company, partnership, association or other entity the accounts of which would be consolidated with those of the parent in the parent's consolidated financial statements if such financial statements were prepared in accordance with GAAP as of such date, as well as any other corporation, limited liability company, partnership, association or other entity (a) of which securities or other ownership interests representing more than 50% of the equity or more than 50% of the ordinary voting power or, in the case of a partnership, more than 50% of the general partnership interests are, as of such date, owned, controlled or held, or (b) that is, as of such date, otherwise Controlled, by the parent or one or more subsidiaries of the parent or by the parent and one or more subsidiaries of the parent.

" Subsidiary " means any direct or indirect subsidiary of the Borrower or any other Loan Party, as applicable.

" Swap Agreement " means any agreement with respect to any swap, forward, future or derivative transaction or option or similar agreement involving, or settled by reference to, one or more rates, currencies, commodities, equity or debt instruments or securities, or economic, financial or pricing indices or measures of economic, financial or pricing risk or value or any similar transaction or any combination of these transactions; provided that no phantom stock or similar plan providing for payments only on account of services provided by current or former directors, officers, employees or consultants of the Borrower or the Subsidiaries shall be a Swap Agreement.

" Swap Obligations " of a Person means any and all obligations of such Person, whether absolute or contingent and howsoever and whensoever created, arising, evidenced or acquired (including all renewals, extensions and modifications thereof and substitutions therefor), under (a) any and all Swap Agreements, and (b) any and all cancellations, buy backs, reversals, terminations or assignments of any Swap Agreement transaction.

" Tax Receivable Agreement " means the Tax Receivable Agreement, dated the Effective Date, among Shake Shack and other members of the Borrower.

" Taxes " means any and all present or future taxes, levies, imposts, duties, deductions, withholdings, assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

" Total Revolving Commitment " means, with respect to each Lender and on and after the Delayed Commitment Effective Date, the commitment, if any, of such Lender to make Revolving Loans and to acquire participations in Letters of Credit hereunder, expressed as an amount representing the maximum possible aggregate amount of such Lender's Revolving Credit Exposure hereunder, as such commitment may be reduced from time to time pursuant to (a) Section 2.07 and (b) assignments by or to such Lender pursuant to Section 9.04. The initial amount of each Lender's Total Revolving Commitment is set forth on Schedule 2.01 , or in the Assignment and Assumption pursuant to which such Lender shall have assumed its Total Revolving Commitment, as applicable. The initial aggregate amount of the Lenders' Total Revolving Commitments is the Initial Revolving Commitment *plus* the Delayed Commitment Amount; provided that such amount shall be reduced Dollar for Dollar to the extent of any reduction of the Initial Revolving Commitment pursuant to Section 2.07.

" Transactions " means the execution, delivery and performance by the Borrower of this Agreement, the borrowing and conversion of Loans and other credit extensions, the use of the proceeds thereof and the issuance of Letters of Credit hereunder.

" Type ", when used in reference to any Loan or Borrowing, refers to whether the rate of interest on such Loan, or on the Loans comprising such Borrowing, is determined by reference to the Adjusted LIBO Rate or the CB Floating Rate.

" UCC " means the Uniform Commercial Code as in effect from time to time in the State of New York or any other state the laws of which are required to be applied in connection with the issue of perfection of security interests.

" Unliquidated Obligations " means, at any time, any Secured Obligations (or portion thereof) that are contingent in nature or unliquidated at such time, including any Secured Obligation that is an obligation in connection with the Secured Obligations: (a) to reimburse a bank for drawings not yet made under a letter of credit issued by it; (b) (including any guarantee) that is contingent in nature at such time; or (c) to provide collateral to secure any of the foregoing types of obligations.

" U.S. Tax Compliance Certificate " has the meaning assigned to such term in Section 2.15(f)(ii)(A)(iii).

" USHG " means Union Square Hospitality Group, LLC, a New York limited liability company.

" Withdrawal Liability " means liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Part I of Subtitle E of Title IV of ERISA.

" Withholding Agent " means the Borrower and the Administrative Agent.

SECTION 1.02. Classification of Loans and Borrowings . For purposes of this Agreement, Loans may be classified and referred to by Type (e.g. , a "Eurodollar Loan"). Borrowings also may be classified and referred to by Type (e.g. , a "Eurodollar Borrowing").

SSECTION 1.03. Terms Generally . The definitions of terms herein and in each other Loan Document shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation". The word "will" shall be construed to have the same meaning and effect as the word "shall". Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein or therein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein or therein), (b) any reference herein or therein to any Person shall be construed to include such Person's successors and assigns, (c) the words "herein", "hereof" and "hereunder", and words of similar import, shall be construed to refer to this Agreement or such other Loan Document in its entirety and not to any particular provision hereof or thereof, (d) all references herein or therein to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement or such other Loan Document and (e) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

SECTION 1.04. Accounting Terms; GAAP . Except as otherwise expressly provided herein, all terms of an accounting or financial nature shall be construed in accordance with GAAP, as in effect from time to time; provided that, if the Borrower notifies the Administrative Agent that the Borrower requests an amendment to any provision hereof to eliminate the effect of any change occurring after the date hereof in GAAP or in the application thereof on the operation of such provision (or if the Administrative Agent notifies the Borrower that the Required Lenders request

an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in GAAP or in the application thereof, then such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in accordance herewith. Solely for the purposes of the calculation of, and compliance with, the financial covenants contained herein, "GAAP" shall exclude the effects of Accounting Standards Codification 825-10-25. Notwithstanding anything in this Agreement to the contrary, any change in GAAP occurring after the date hereof that would require operating leases to be treated similarly to capital leases shall not be given effect in the definition of EBITDA or Indebtedness or any related definitions or in the computation of, and compliance with the financial covenants contained herein or in any other Loan Document.

ARTICLE II

THE CREDITS

SECTION 2.01. Commitments and Loans .

(a) As of the Effective Date, each of the parties hereto acknowledges and agrees that the Revolving Loans (as defined in the Existing Credit Agreement) outstanding as of the Effective Date shall be deemed to be Revolving Loans for all purposes under this Agreement and the other Loan Documents.

(b) Subject to the terms and conditions set forth herein, each Lender agrees to make Revolving Loans to the Borrower from time to time during the Availability Period with respect to Revolving Loans in an aggregate principal amount that will not result in (i) prior to the Delayed Commitment Effective Date, if any, (A) such Lender's Revolving Credit Exposure exceeding such Lender's Initial Revolving Commitment or (B) the total Revolving Credit Exposures exceeding the sum of the aggregate Initial Revolving Commitments of all Revolving Lenders or (ii) on and after the Delayed Commitment Effective Date, if any, (A) such Lender's Revolving Credit Exposure exceeding such Lender's Total Revolving Commitment or (B) the total Revolving Credit Exposures exceeding the sum of the Total Revolving Commitments of all Revolving Lenders. Within the foregoing limits and subject to the terms and conditions set forth herein, the Borrower may borrow, prepay and reborrow Revolving Loans.

SSECTION 2.02. Loans and Borrowings . (1) Each Loan shall be made as part of a Borrowing consisting of Loans of the same Type made by the Lenders ratably in accordance with their respective Revolving Commitments.

(a) Subject to Section 2.12, each Borrowing shall be comprised entirely of CBFR Loans or Eurodollar Loans as the Borrower may request in accordance herewith; provided that all Borrowings made on the Effective Date must be made as CBFR Borrowings, but, in each case, may be converted into Eurodollar Borrowings in accordance with Section 2.06. Each Lender at its option may make any Eurodollar Loan by causing any domestic or foreign branch or Affiliate of such

Lender to make such Loan; provided that any exercise of such option shall not affect the obligation of the Borrower to repay such Loan in accordance with the terms of this Agreement.

(b) At the commencement of each Interest Period for any Eurodollar Revolving Borrowing, such Borrowing shall be in an aggregate amount that is an integral multiple of $100,000 and not less than $500,000. At the time that each CBFR Revolving Borrowing is made, such Borrowing shall be in an aggregate amount that is an integral multiple of $100,000 and not less than $500,000; provided that a CBFR Revolving Borrowing may be in an aggregate amount that is equal to the entire unused balance of the aggregate Initial Revolving Commitments or, if applicable, the aggregate Total Revolving Commitments then in effect or that is required to finance the reimbursement of an LC Disbursement as contemplated by Section 2.04(e). Borrowings of more than one Type may be outstanding at the same time; provided that there shall not at any time be more than a total of 3 Eurodollar Borrowings outstanding with respect to Revolving Loans.

(c) Notwithstanding any other provision of this Agreement, the Borrower shall not be entitled to request, or to elect to convert or continue, any Borrowing if the Interest Period requested with respect thereto would end after the Maturity Date.

SECTION 2.03. Requests for Borrowings . To request a Borrowing, the Borrower shall notify the Administrative Agent of such request either in writing (delivered by hand or facsimile or by electronic mail in .pdf format) in a form approved by the Administrative Agent and signed by the Borrower or by telephone (a) in the case of a Eurodollar Borrowing, not later than 10:00 a.m., New York time, three Business Days before the date of the proposed Borrowing or (b) in the case of a CBFR Borrowing, not later than noon, New York time, on the date of the proposed Borrowing; provided that any such notice of a CBFR Revolving Borrowing to finance the reimbursement of an LC Disbursement as contemplated by Section 2.04(e) may be given not later than 9:00 a.m., New York time, on the date of the proposed Borrowing. Each such telephonic Borrowing Request shall be irrevocable and shall be confirmed promptly by hand delivery or facsimile to the Administrative Agent of a written Borrowing Request in a form approved by the Administrative Agent and signed by the Borrower. Each such telephonic and written Borrowing Request shall specify the following information in compliance with Section 2.01:

(i) the aggregate amount of the requested Borrowing and a breakdown of the separate wires comprising such Borrowing;

(ii) the date of such Borrowing, which shall be a Business Day;

(iii) whether such Borrowing is to be a CBFR Borrowing or a Eurodollar Borrowing; and

(iv) in the case of a Eurodollar Borrowing, the initial Interest Period to be applicable thereto, which shall be a period contemplated by the definition of the term “Interest Period.”

If no election as to the Type of Revolving Borrowing is specified, then the requested Revolving Borrowing shall be a CBFR Borrowing. If no Interest Period is specified with respect to any requested Eurodollar Revolving Borrowing, then the Borrower shall be deemed to have selected

an Interest Period of one month's duration. Promptly following receipt of a Borrowing Request in accordance with this Section, the Administrative Agent shall advise each Lender of the details thereof and of the amount of such Lender's Loan to be made as part of the requested Borrowing.

SECTION 2.04. Letters of Credit . (1) General . Subject to the terms and conditions set forth herein, the Borrower may request the issuance of Letters of Credit for its own account, in a form reasonably acceptable to the Administrative Agent and the Issuing Bank, at any time and from time to time during the Availability Period with respect to Letters of Credit. In the event of any inconsistency between the terms and conditions of this Agreement and the terms and conditions of any form of letter of credit application or other agreement submitted by the Borrower to, or entered into by the Borrower with, the Issuing Bank relating to any Letter of Credit, the terms and conditions of this Agreement shall control.

(a) Notice of Issuance, Amendment, Renewal, Extension; Certain Conditions . To request the issuance of a Letter of Credit (or the amendment, renewal or extension of an outstanding Letter of Credit), the Borrower shall hand deliver or facsimile (or transmit by electronic communication, if arrangements for doing so have been approved by the Issuing Bank) to the Issuing Bank and the Administrative Agent (prior to 9:00 am, New York time, at least three Business Days prior to the requested date of issuance, amendment, renewal or extension) a notice requesting the issuance of a Letter of Credit, or identifying the Letter of Credit to be amended, renewed or extended, and specifying the date of issuance, amendment, renewal or extension (which shall be a Business Day), the date on which such Letter of Credit is to expire (which shall comply with paragraph (c) of this Section), the amount of such Letter of Credit, the name and address of the beneficiary thereof and such other information as shall be necessary to prepare, amend, renew or extend such Letter of Credit. If requested by the Issuing Bank, the Borrower also shall submit a letter of credit application on the Issuing Bank's standard form in connection with any request for a Letter of Credit. A Letter of Credit shall be issued, amended, renewed or extended only if (and upon issuance, amendment, renewal or extension of each Letter of Credit the Borrower shall be deemed to represent and warrant that), after giving effect to such issuance, amendment, renewal or extension the LC Exposure shall not exceed the LC Sublimit and the total Revolving Credit Exposures shall not exceed the aggregate Initial Revolving Commitments or, if applicable, the aggregate Total Revolving Commitments then in effect.

(b) Expiration Date . Each Letter of Credit shall expire (or be subject to termination by notice from the Issuing Bank to the beneficiary thereof) at or prior to the close of business on the earlier of (i) the date one year after the date of the issuance of such Letter of Credit (or, in the case of any renewal or extension thereof, one year after such renewal or extension) and (ii) the date that is five Business Days prior to the Maturity Date with respect to Letters of Credit.

(c) Participations . By the issuance of a Letter of Credit (or an amendment to a Letter of Credit increasing the amount thereof) and without any further action on the part of the Issuing Bank or the Revolving Lenders, the Issuing Bank hereby grants to each Revolving Lender, and each Revolving Lender hereby acquires from the Issuing Bank, a participation in such Letter of Credit equal to such Lender's Applicable Percentage of the aggregate amount available to be drawn under such Letter of Credit. In consideration and in furtherance of the foregoing, each Revolving Lender hereby absolutely and unconditionally agrees to pay to the Administrative Agent, for the account

of the Issuing Bank, such Lender's Applicable Percentage of each LC Disbursement made by the Issuing Bank and not reimbursed by the Borrower on the date due as provided in paragraph (e) of this Section, or of any reimbursement payment required to be refunded to the Borrower for any reason. Each Revolving Lender acknowledges and agrees that its obligation to acquire participations pursuant to this paragraph in respect of Letters of Credit is absolute and unconditional and shall not be affected by any circumstance whatsoever, including any amendment, renewal or extension of any Letter of Credit or the occurrence and continuance of a Default or reduction or termination of the Revolving Commitments, and that each such payment shall be made without any offset, abatement, withholding or reduction whatsoever.

(d) Reimbursement . If the Issuing Bank shall make any LC Disbursement in respect of a Letter of Credit, the Borrower shall reimburse such LC Disbursement by paying to the Administrative Agent an amount equal to such LC Disbursement not later than 11:00 a.m., New York time, on the date that such LC Disbursement is made, if the Borrower shall have received notice of such LC Disbursement prior to 9:00 a.m., New York time, on such date, or, if such notice has not been received by the Borrower prior to such time on such date, then not later than 11:00 a.m., New York time, on (i) the Business Day that the Borrower receives such notice, if such notice is received prior to 9:00 a.m., New York time, on the day of receipt, or (ii) the Business Day immediately following the day that the Borrower receives such notice, if such notice is not received prior to such time on the day of receipt; provided that the Borrower may, subject to the conditions to borrowing set forth herein, request in accordance with Section 2.03 that such payment be financed with a CBFR Revolving Borrowing in an equivalent amount and, to the extent so financed, the Borrower's obligation to make such payment shall be discharged and replaced by the resulting CBFR Revolving Borrowing. If the Borrower fails to make such payment when due, the Administrative Agent shall notify each Revolving Lender of the applicable LC Disbursement, the payment then due from the Borrower in respect thereof and such Lender's Applicable Percentage thereof. Promptly following receipt of such notice, each Revolving Lender shall pay to the Administrative Agent its Applicable Percentage of the payment then due from the Borrower, in the same manner as provided in Section 2.05 with respect to Loans made by such Lender (and Section 2.05 shall apply, mutatis mutandis , to the payment obligations of the Revolving Lenders), and the Administrative Agent shall promptly pay to the Issuing Bank the amounts so received by it from the Revolving Lenders. Promptly following receipt by the Administrative Agent of any payment from the Borrower pursuant to this paragraph, the Administrative Agent shall distribute such payment to the Issuing Bank or, to the extent that Revolving Lenders have made payments pursuant to this paragraph to reimburse the Issuing Bank, then to such Lenders and the Issuing Bank as their interests may appear. Any payment made by a Revolving Lender pursuant to this paragraph to reimburse the Issuing Bank for any LC Disbursement (other than the funding of CBFR Revolving Loans as contemplated above) shall not constitute a Loan and shall not relieve the Borrower of its obligation to reimburse such LC Disbursement.

(e) Obligations Absolute . The Borrower's obligation to reimburse LC Disbursements as provided in paragraph (e) of this Section shall be absolute, unconditional and irrevocable, and shall be performed strictly in accordance with the terms of this Agreement under any and all circumstances whatsoever and irrespective of (i) any lack of validity or enforceability of any Letter of Credit or this Agreement, or any term or provision therein, (ii) any draft or other document presented under a Letter of Credit proving to be forged, fraudulent or invalid in any respect or any

statement therein being untrue or inaccurate in any respect, (iii) payment by the Issuing Bank under a Letter of Credit against presentation of a draft or other document that does not comply with the terms of such Letter of Credit, or (iv) any other event or circumstance whatsoever, whether or not similar to any of the foregoing, that might, but for the provisions of this Section, constitute a legal or equitable discharge of, or provide a right of setoff against, the Borrower's obligations hereunder. Neither the Administrative Agent, the Revolving Lenders nor the Issuing Bank, nor any of their Related Parties, shall have any liability or responsibility by reason of or in connection with the issuance or transfer of any Letter of Credit or any payment or failure to make any payment thereunder (irrespective of any of the circumstances referred to in the preceding sentence), or any error, omission, interruption, loss or delay in transmission or delivery of any draft, notice or other communication under or relating to any Letter of Credit (including any document required to make a drawing thereunder), any error in interpretation of technical terms or any consequence arising from causes beyond the control of the Issuing Bank; provided that the foregoing shall not be construed to excuse the Issuing Bank from liability to the Borrower to the extent of any direct damages (as opposed to special, indirect, consequential or punitive damages, claims in respect of which are hereby waived by the Borrower to the extent permitted by applicable law) suffered by the Borrower that are caused by the Issuing Bank's failure to exercise care when determining whether drafts and other documents presented under a Letter of Credit comply with the terms thereof. The parties hereto expressly agree that, in the absence of gross negligence or willful misconduct on the part of the Issuing Bank (as finally determined by a court of competent jurisdiction), the Issuing Bank shall be deemed to have exercised care in each such determination. In furtherance of the foregoing and without limiting the generality thereof, the parties agree that, with respect to documents presented which appear on their face to be in substantial compliance with the terms of a Letter of Credit, the Issuing Bank may, in its sole discretion, either accept and make payment upon such documents without responsibility for further investigation, regardless of any notice or information to the contrary, or refuse to accept and make payment upon such documents if such documents are not in strict compliance with the terms of such Letter of Credit.

(f) Disbursement Procedures . The Issuing Bank shall, promptly following its receipt thereof, examine all documents purporting to represent a demand for payment under a Letter of Credit. The Issuing Bank shall promptly notify the Administrative Agent and the Borrower by telephone (confirmed by facsimile) of such demand for payment and whether the Issuing Bank has made or will make an LC Disbursement thereunder; provided that any failure to give or delay in giving such notice shall not relieve the Borrower of its obligation to reimburse the Issuing Bank and the Revolving Lenders with respect to any such LC Disbursement.

(g) Interim Interest . If the Issuing Bank shall make any LC Disbursement, then, unless the Borrower shall reimburse such LC Disbursement in full on the date such LC Disbursement is made, the unpaid amount thereof shall bear interest, for each day from and including the date such LC Disbursement is made to but excluding the date that the Borrower reimburses such LC Disbursement, at the rate per annum then applicable to CBFR Revolving Loans; provided that, if the Borrower fails to reimburse such LC Disbursement when due pursuant to paragraph (e) of this Section, then Section 2.11(d) shall apply. Interest accrued pursuant to this paragraph shall be for the account of the Issuing Bank, except that interest accrued on and after the date of payment by any Revolving Lender pursuant to paragraph (e) of this Section to reimburse the Issuing Bank shall be for the account of such Lender to the extent of such payment.

(h) Replacement of the Issuing Bank . The Issuing Bank may be replaced at any time by written agreement among the Borrower, the Administrative Agent, the replaced Issuing Bank and the successor Issuing Bank. The Administrative Agent shall notify the Revolving Lenders of any such replacement of the Issuing Bank. At the time any such replacement shall become effective, the Borrower shall pay all unpaid fees accrued for the account of the replaced Issuing Bank pursuant to Section 2.10(b). From and after the effective date of any such replacement, (i) the successor Issuing Bank shall have all the rights and obligations of the Issuing Bank under this Agreement with respect to Letters of Credit to be issued thereafter and (ii) references herein to the term "Issuing Bank" shall be deemed to refer to such successor or to any previous Issuing Bank, or to such successor and all previous Issuing Banks, as the context shall require. After the replacement of an Issuing Bank hereunder, the replaced Issuing Bank shall remain a party hereto and shall continue to have all the rights and obligations of an Issuing Bank under this Agreement with respect to Letters of Credit issued by it prior to such replacement, but shall not be required to issue additional Letters of Credit.

(i) Cash Collateralization . If any Default shall occur and be continuing, on the Business Day that the Borrower receives notice from the Administrative Agent or the Required Lenders (or, if the maturity of the Loans has been accelerated, Revolving Lenders with LC Exposure representing greater than 50% of the total LC Exposure) demanding the deposit of cash collateral pursuant to this paragraph, the Borrower shall deposit in an account with the Administrative Agent, in the name of the Administrative Agent and for the benefit of the Revolving Lenders (the " LC Collateral Account "), an amount in cash equal to 105% of the LC Exposure as of such date plus accrued and unpaid interest thereon; provided that the obligation to deposit such cash collateral shall become effective immediately, and such deposit shall become immediately due and payable, without demand or other notice of any kind, upon the occurrence of any Event of Default with respect to the Borrower described in clause (h) or (i) of Article VII. Such deposit shall be held by the Administrative Agent as collateral for the payment and performance of the Secured Obligations. The Administrative Agent shall have exclusive dominion and control, including the exclusive right of withdrawal, over such account and the Borrower hereby grants the Administrative Agent a security interest in the LC Collateral Account. Other than any interest earned on the investment of such deposits, which investments shall be made at the option and sole discretion of the Administrative Agent and at the Borrower's risk and expense, such deposits shall not bear interest. Interest or profits, if any, on such investments shall accumulate in such account. Moneys in such account shall be applied by the Administrative Agent to reimburse the Issuing Bank for LC Disbursements for which it has not been reimbursed and, to the extent not so applied, shall be held for the satisfaction of the reimbursement obligations of the Borrower for the LC Exposure at such time or, if the maturity of the Loans has been accelerated (but subject to the consent of Revolving Lenders with LC Exposure representing greater than 50% of the total LC Exposure), be applied to satisfy other Secured Obligations. If the Borrower is required to provide an amount of cash collateral hereunder as a result of the occurrence of a Default, such amount (to the extent not applied as aforesaid) shall be returned to the Borrower within three Business Days after all such Defaults have been cured or waived.

SECTION 2.05. Funding of Borrowings . (1) Each Lender shall make each Loan to be made by it hereunder on the proposed date thereof by wire transfer of immediately available funds by 1:00 p.m., New York time, to the account of the Administrative Agent most recently

designated by it for such purpose by notice to the Lenders in an amount equal to such Lender's Applicable Percentage. The Administrative Agent will make such Loans available to the Borrower by promptly crediting the amounts so received, in like funds, to the Funding Account; provided that CBFR Revolving Loans made to finance the reimbursement of an LC Disbursement as provided in Section 2.04(e) shall be remitted by the Administrative Agent to the Issuing Bank.

(a) Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Borrowing that such Lender will not make available to the Administrative Agent such Lender's share of such Borrowing, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with paragraph (a) of this Section and may, in reliance upon such assumption, make available to the Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable Borrowing available to the Administrative Agent, then the applicable Lender and the Borrower severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount with interest thereon, for each day from and including the date such amount is made available to the Borrower to but excluding the date of payment to the Administrative Agent, at (i) in the case of such Lender, the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation or (ii) in the case of the Borrower, the interest rate applicable to CBFR Loans. If such Lender pays such amount to the Administrative Agent, then such amount shall constitute such Lender's Loan included in such Borrowing.

SECTION 2.06. Interest Elections . (1) Each Revolving Borrowing initially shall be of the Type specified in the applicable Borrowing Request and, in the case of a Eurodollar Revolving Borrowing, shall have an initial Interest Period as specified in such Borrowing Request (it being understood that the only Interest Period available to the Borrower is a period of one month's duration). Thereafter, the Borrower may elect to convert such Borrowing to a different Type or to continue such Borrowing and, in the case of a Eurodollar Revolving Borrowing, may elect Interest Periods therefor, all as provided in this Section. The Borrower may elect different options with respect to different portions of the affected Borrowing, in which case each such portion shall be allocated ratably among the Lenders holding the Loans comprising such Borrowing, and the Loans comprising each such portion shall be considered a separate Borrowing.

(a) To make an election pursuant to this Section, the Borrower shall notify the Administrative Agent of such election by telephone by the time that a Borrowing Request would be required under Section 2.03 if the Borrower were requesting a Revolving Borrowing of the Type resulting from such election to be made on the effective date of such election. Each such telephonic Interest Election Request shall be irrevocable and shall be confirmed promptly by hand delivery or facsimile to the Administrative Agent of a written Interest Election Request in a form approved by the Administrative Agent and signed by the Borrower.

(b) Each telephonic and written Interest Election Request shall specify the following information in compliance with Section 2.02:

(i) the Borrowing to which such Interest Election Request applies and, if different options are being elected with respect to different portions thereof, the portions thereof to be allocated to each resulting Borrowing (in which case the information to be

specified pursuant to clauses (iii) and (iv) below shall be specified for each resulting Borrowing);

(ii) the effective date of the election made pursuant to such Interest Election Request, which shall be a Business Day;

(iii) whether the resulting Borrowing is to be a CBFR Borrowing or a Eurodollar Borrowing; and

(iv) if the resulting Borrowing is a Eurodollar Borrowing, the Interest Period to be applicable thereto after giving effect to such election, which shall be a period contemplated by the definition of the term "Interest Period" (it being understood that the only Interest Period available to the Borrower a period of one month's duration).

If any such Interest Election Request requests a Eurodollar Borrowing but does not specify an Interest Period, then the Borrower shall be deemed to have selected an Interest Period of one month's duration.

(c) Promptly following receipt of an Interest Election Request, the Administrative Agent shall advise each Lender of the details thereof and of such Lender's portion of each resulting Borrowing.

(d) If the Borrower fails to deliver a timely Interest Election Request with respect to a Eurodollar Revolving Borrowing prior to the end of the Interest Period applicable thereto, then, unless such Borrowing is repaid as provided herein, at the end of such Interest Period such Borrowing shall be converted to a CBFR Borrowing. Notwithstanding any contrary provision hereof, if a Default has occurred and is continuing and the Administrative Agent, at the request of the Required Lenders, so notifies the Borrower, then, so long as a Default is continuing (i) no outstanding Revolving Borrowing may be converted to or continued as a Eurodollar Borrowing and (ii) unless repaid, each Eurodollar Revolving Borrowing shall be converted to a CBFR Borrowing at the end of the Interest Period applicable thereto.

SECTION 2.07. Termination and Reduction of Revolving Commitments and LC Sublimit .

(a) Unless previously terminated, the LC Sublimit and all other Revolving Commitments shall terminate on the Maturity Date.

(b) The Borrower may at any time terminate the Revolving Commitments upon (i) the payment in full of all outstanding Loans, together with accrued and unpaid interest thereon and on any Letters of Credit, (ii) the cancellation and return of all outstanding Letters of Credit (or alternatively, with respect to each such Letter of Credit, the furnishing to the Administrative Agent of a cash deposit (or at the discretion of the Administrative Agent a back up standby letter of credit satisfactory to the Administrative Agent) equal to 105% of the LC Exposure as of such date), (iii) the payment in full of the accrued and unpaid fees, and (iv) the payment in full of all reimbursable expenses and other Obligations together with accrued and unpaid interest thereon.

(c) The Borrower may from time to time reduce the Initial Revolving Commitments or, if applicable, the Total Revolving Commitments, in each case, without premium or penalty; provided that (i) each reduction of any Revolving Commitment shall be in an amount that is an integral multiple of $1,000,000 and (ii) the Borrower shall not reduce any such Revolving Commitment if, after giving effect to any concurrent prepayment of the Revolving Loans in accordance with Section 2.09, the sum of the Revolving Credit Exposures would exceed aggregate Initial Revolving Commitments or, if applicable, the Total Revolving Commitments.

(d) The Borrower shall notify the Administrative Agent of any election to terminate or reduce any Revolving Commitment under clause (b) or (c) of this Section at least three Business Days prior to the effective date of such termination or reduction, specifying such election and the effective date thereof. Promptly following receipt of any notice, the Administrative Agent shall advise the Lenders of the contents thereof. Each notice delivered by the Borrower pursuant to this Section shall be irrevocable; provided that a notice of termination of any Revolving Commitment delivered by the Borrower may state that such notice is conditioned upon the effectiveness of other credit facilities, in which case such notice may be revoked by the Borrower (by notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. Any termination or reduction of any Revolving Commitment shall be permanent. Each reduction of any Revolving Commitment shall be made ratably among the Lenders in accordance with their respective Revolving Commitments. Any reduction of the Initial Revolving Commitments shall automatically reduce the Total Revolving Commitments in the amount of such reduction notwithstanding that such reduction to the Initial Revolving Commitments may occur prior to the Delayed Commitment Effective Date.

SECTION 2.08. Repayment and Amortization of Loans; Evidence of Debt . **(1)** The Borrower hereby unconditionally promises to pay to the Administrative Agent for the account of each Lender the then unpaid principal amount of each Revolving Loan on the Maturity Date with respect to Revolving Loans.

(a) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of the Borrower to such Lender resulting from each Loan made by such Lender, including the amounts of principal and interest payable and paid to such Lender from time to time hereunder.

(b) Pursuant to Section 9.04(b)(iii), the Administrative Agent shall maintain the Register in which it shall record (i) the amount of each Loan made hereunder, the Type thereof and the Interest Period applicable thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrower to each Lender hereunder and (iii) the amount of any sum received by the Administrative Agent hereunder for the account of the Lenders and each Lender’s share thereof.

(c) The entries made in the accounts and the Register maintained pursuant to paragraph (b) or (c) of this Section shall be prima facie evidence of the existence and amounts of the obligations recorded therein; provided that the failure of any Lender or the Administrative Agent to maintain such accounts or any error therein shall not in any manner affect the obligation of the Borrower to repay the Loans in accordance with the terms of this Agreement.

(d) Any Lender may request that Loans made by it be evidenced by a promissory note. In such event, the Borrower shall prepare, execute and deliver to such Lender a promissory note payable to the order of such Lender (or, if requested by such Lender, to such Lender and its registered assigns) and in a form approved by the Administrative Agent. Thereafter, the Loans evidenced by such promissory note and interest thereon shall at all times (including after assignment pursuant to Section 9.04) be represented by one or more promissory notes in such form payable to the order of the payee named therein (or, if such promissory note is a registered note, to such payee and its registered assigns).

SECTION 2.09. Prepayment of Loans . (1) The Borrower shall have the right at any time and from time to time to prepay any Borrowing in whole or in part, subject to prior notice in accordance with paragraph (g) of this Section.

(a) In the event and on such occasion that the total Revolving Credit Exposure exceeds the aggregate Revolving Commitments then in effect, the Borrower shall prepay the Revolving Loans and/or LC Exposure in an aggregate amount equal to such excess.

(b) In the event and on each occasion that any Net Proceeds are received by or on behalf of any Loan Party in respect of any Prepayment Event, such Loan Party shall, within one (1) Business Day after such Net Proceeds are received by such Loan Party, prepay the Obligations as set forth in Section 2.09(d) below in an aggregate amount equal to in the case of all Prepayment Events, 100% of such Net Proceeds; provided that, in the case of any event described in clause (a) of the definition of the term "Prepayment Event", if the Borrower shall deliver to the Administrative Agent a certificate of a Financial Officer stating that the Loan Parties intend to commit the Net Proceeds from such event (or the portion thereof specified in such certificate), within 180 days after receipt of such Net Proceeds, towards the acquisition (or replacement or reconstruction) of real property, equipment or other tangible assets (excluding inventory) to be used (or be useful) in the business of the Loan Parties, then no prepayment shall be required pursuant to this paragraph in respect of the Net Proceeds specified in such certificate; provided further that to the extent any such Net Proceeds (or portion thereof) therefrom have not been so committed by the end of such 180-day period, a prepayment shall be required at such time in an amount equal to such Net Proceeds that have not been so committed.

(c) All amounts paid or to be paid pursuant to Section 2.09(c) shall be applied, *first* to prepay the Revolving Loans and *second* to cash collateralize each Letter of Credit then outstanding; provided that the portion of the Net Proceeds described in Section 2.09(c) shall be limited to the percentage of the ownership interest in such Loan Party held by the Borrower and any other Loan Party in the aggregate immediately prior to such Prepayment Event without giving any effect to any changes of such ownership interest in connection with such Prepayment Event.

(d) In the event, and on each occasion, that the Borrower is not in compliance with the Fixed Charge Coverage Ratio covenant set forth in Section 6.12 as of the last day of any fiscal quarter, the Borrower may, at its option, prepay the Loans in accordance with this Section 2.09(e) and Section 7.02 with the proceeds of a Cure Payment in an amount sufficient to cause the Borrower to be in compliance with the Fixed Charge Coverage Ratio when the amount of such Cure Payment is added to the EBITDA of the Borrower; provided that the Borrower shall be permitted to delay

such prepayment until the Borrower receives (or has been deemed to receive) proceeds of any Cure Payment. Any proceeds received or deemed to be received pursuant to this Section 2.09(e) and Section 7.02 shall be used to repay the Revolving Loans and shall be added to the Borrower's EBITDA in accordance with Section 7.02.

(e) In the event, and on each occasion, that the Borrower is not in compliance with the Funded Net Debt to EBITDA Ratio covenant set forth in Section 6.13 as of the last day of any fiscal quarter, the Borrower may, at its option, prepay the Loans in accordance with this Section 2.09(f) and Section 7.02 with the proceeds of a Cure Payment in an amount sufficient to cause the Borrower to be in compliance with the Funded Net Debt to EBITDA Ratio, when the amount of such Cure Payment is added to the EBITDA of the Borrower and applied to reduce Indebtedness; provided that the Borrower shall be permitted to delay such prepayment until the Borrower receives (or has been deemed to receive) proceeds of any Cure Payment. Any proceeds received or deemed to be received pursuant to this Section 2.09(f) and Section 7.02 shall be used to repay the Revolving Loans and shall be added to the Borrower's EBITDA in accordance with Section 7.02.

(f) The Borrower shall notify the Administrative Agent by telephone (confirmed by facsimile) of any prepayment hereunder (i) in the case of prepayment of a Eurodollar Revolving Borrowing, not later than 10:00 a.m., New York time, three Business Days before the date of prepayment or (ii) in the case of prepayment of an Revolving Borrowing, not later than 10:00 a.m., New York time, one Business Day before the date of prepayment. Each such notice shall be irrevocable and shall specify the prepayment date and the principal amount of each Borrowing or portion thereof to be prepaid; provided that, if a notice of prepayment is given in connection with a conditional notice of termination of the Revolving Commitments as contemplated by Section 2.07, then such notice of prepayment may be revoked if such notice of termination is revoked in accordance with Section 2.07. Promptly following receipt of any such notice relating to a Revolving Borrowing, the Administrative Agent shall advise the Lenders of the contents thereof. Each partial prepayment of any Revolving Borrowing shall be in an amount that would be permitted in the case of an advance of a Revolving Borrowing of the same Type as provided in Section 2.02. Each prepayment of a Revolving Borrowing shall be applied ratably to the Revolving Loans included in the prepaid Borrowing. Prepayments shall be accompanied by accrued interest to the extent required by Section 2.11.

SECTION 2.10. Fees .

(a) The Borrower agrees to pay to the Administrative Agent for the account of each Lender a commitment fee, which, during all times that

(i) the Revolving Commitment is $10,000,000 or less, shall accrue at an annual rate of ten (10) basis points,

(ii) the Revolving Commitment is greater than $10,000,000 but less than $30,000,000, shall accrue at a rate of twenty (20) basis points, and

(iii) the Revolving Commitment is $30,000,000 or greater, shall accrue at a rate of thirty (30) basis points,

in each case, on the average daily amount of the Available Revolving Commitment of such Lender during the period from and including the Effective Date to but excluding the Maturity Date. Accrued commitment fees shall be payable in arrears on (a) the first Business Day of each calendar month commencing on the first such date to occur after the Effective Date and (b) the Maturity Date. All commitment fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed.

(b) The Borrower agrees to pay (i) to the Administrative Agent for the account of each Revolving Lender a participation fee with respect to its participations in Letters of Credit, which shall accrue at the Applicable Rate on the average daily amount of such Lender's LC Exposure (excluding any portion thereof attributable to unreimbursed LC Disbursements) during the period from and including the Effective Date to but excluding the later of the Maturity Date and the date on which such Revolving Lender ceases to have any LC Exposure, and (ii) to the Issuing Bank a fronting fee, which shall accrue at the rate of 0.25% per annum on the average daily amount of the LC Exposure (excluding any portion thereof attributable to unreimbursed LC Disbursements) during the period from and including the Effective Date to but excluding the later of the Maturity Date and the date on which there ceases to be any LC Exposure, as well as the Issuing Bank's standard fees with respect to the issuance, amendment, renewal or extension of any Letter of Credit or processing of drawings thereunder. Participation fees and fronting fees accrued through and including the last day of each calendar month shall be payable on the first Business Day of each calendar month following such last day, commencing on the first such date to occur after the Effective Date; provided that all such fees shall be payable on the Maturity Date and any such fees accruing after the Maturity Date shall be payable on demand. Any other fees payable to the Issuing Bank pursuant to this paragraph shall be payable within 10 days after demand. All participation fees and fronting fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed.

(c) The Borrower agrees to pay to the Administrative Agent, for its own account, fees payable in the amounts and at the times separately agreed upon between the Borrower and the Administrative Agent.

(d) All fees payable hereunder shall be paid on the dates due, in immediately available funds, to the Administrative Agent (or to the Issuing Bank, in the case of fees payable to it) for distribution, in the case of commitment fees and participation fees, to the Lenders. Fees paid shall not be refundable under any circumstances.

SECTION 2.11. Interest . (1) The Loans comprising each CBFR Borrowing shall bear interest at the CB Floating Rate plus the Applicable Rate.

(a) The Loans comprising each Eurodollar Borrowing shall bear interest at the Adjusted LIBO Rate for the Interest Period in effect for such Borrowing plus the Applicable Rate.

(b) Notwithstanding the foregoing, during the occurrence and continuance of an Event of Default, the Administrative Agent or the Required Lenders may, at their option, by notice to the Borrower (which notice may be revoked at the option of the Required Lenders notwithstanding any provision of Section 9.02 requiring the consent of "each Lender affected thereby" for reductions in

interest rates), declare that (i) all Loans shall bear interest at 2% plus the rate otherwise applicable to such Loans as provided in the preceding paragraphs of this Section or (ii) in the case of any other amount outstanding hereunder, such amount shall accrue at 2% plus the rate applicable to such fee or other obligation as provided hereunder.

(c) Accrued interest on each Loan (for CBFR Loans, accrued through the last day of the prior calendar month) shall be payable in arrears on each Interest Payment Date for such Loan and upon termination of the Revolving Commitments; provided that (i) interest accrued pursuant to paragraph (d) of this Section shall be payable on demand, (ii) in the event of any repayment or prepayment of any Loan (other than a prepayment of a CBFR Revolving Loan prior to the end of the Availability Period with respect to Revolving Loans), accrued interest on the principal amount repaid or prepaid shall be payable on the date of such repayment or prepayment and (iii) in the event of any conversion of any Eurodollar Loan prior to the end of the current Interest Period therefor, accrued interest on such Loan shall be payable on the effective date of such conversion.

(d) All interest hereunder shall be computed on the basis of a year of 360 days, except that interest computed by reference to the CB Floating Rate shall be computed on the basis of a year of 365 days (or 366 days in a leap year), and in each case shall be payable for the actual number of days elapsed. The applicable CB Floating Rate, Adjusted LIBO Rate or LIBO Rate shall be determined by the Administrative Agent, and such determination shall be conclusive absent manifest error.

SECTION 2.12. Alternate Rate of Interest . If prior to the commencement of any Interest Period for a Eurodollar Borrowing:

(a) the Administrative Agent determines (which determination shall be conclusive absent manifest error) that adequate and reasonable means do not exist for ascertaining the Adjusted LIBO Rate or the LIBO Rate, as applicable, for such Interest Period; or

(b) the Administrative Agent is advised by the Required Lenders that the Adjusted LIBO Rate or the LIBO Rate, as applicable, for such Interest Period will not adequately and fairly reflect the cost to such Lenders (or Lender) of making or maintaining their Loans (or its Loan) included in such Borrowing for such Interest Period;

then the Administrative Agent shall give notice thereof to the Borrower and the Lenders by telephone or facsimile as promptly as practicable thereafter and, until the Administrative Agent notifies the Borrower and the Lenders that the circumstances giving rise to such notice no longer exist, (i) any Interest Election Request that requests the conversion of any Borrowing to, or continuation of any Borrowing as, a Eurodollar Borrowing shall be ineffective, and (ii) if any Borrowing Request requests a Eurodollar Revolving Borrowing, such Borrowing shall be made as a CBFR Borrowing.

SECTION 2.13. Increased Costs . (a) If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit or similar requirement (including any compulsory loan requirement, insurance charge or other assessment) against assets of, deposits with or for the account of, or credit extended by, any

Lender (except any such reserve requirement reflected in the Adjusted LIBO Rate) or the Issuing Bank; or

(ii) impose on any Lender or the Issuing Bank or the London interbank market any other condition, cost or expense (other than Indemnified Taxes or Excluded Taxes) affecting this Agreement or Eurodollar Loans made by such Lender or any Letter of Credit or participation therein;

and the result of any of the foregoing shall be to increase the cost to such Lender of making or maintaining any Eurodollar Loan (or of maintaining its obligation to make any such Loan) or to increase the cost to such Lender or the Issuing Bank of participating in, issuing or maintaining any Letter of Credit or to reduce the amount of any sum received or receivable by such Lender or the Issuing Bank hereunder (whether of principal, interest or otherwise), then the Borrower will pay to such Lender or the Issuing Bank, as the case may be, such additional amount or amounts as will compensate such Lender or the Issuing Bank, as the case may be, for such additional costs incurred or reduction suffered.

(b) If any Lender or the Issuing Bank determines (which determination shall be made in good faith (and not on an arbitrary or capricious basis) and consistent with similarly situated customers of the applicable Lender or the Issuing Bank under agreements having provisions similar to this Section 2.13 after consideration of such factors as such Lender or the Issuing Bank then reasonably determines to be relevant) that any Change in Law regarding capital requirements has or would have the effect of reducing the rate of return on such Lender's or the Issuing Bank's capital or on the capital of such Lender's or the Issuing Bank's holding company, if any, as a consequence of this Agreement or the Loans made by, or participations in Letters of Credit held by, such Lender, or the Letters of Credit issued by the Issuing Bank, to a level below that which such Lender or the Issuing Bank or such Lender's or the Issuing Bank's holding company could have achieved but for such Change in Law (taking into consideration such Lender's or the Issuing Bank's policies and the policies of such Lender's or the Issuing Bank's holding company with respect to capital adequacy), then from time to time the Borrower will pay to such Lender or the Issuing Bank, as the case may be, such additional amount or amounts as will compensate such Lender or the Issuing Bank or such Lender's or the Issuing Bank's holding company for any such reduction suffered.

(c) A certificate of a Lender or the Issuing Bank setting forth the amount or amounts necessary to compensate such Lender or the Issuing Bank or its holding company, as the case may be, as specified in paragraph (a) or (b) of this Section shall be delivered to the Borrower and shall be conclusive absent manifest error. The Borrower shall pay such Lender or the Issuing Bank, as the case may be, the amount shown as due on any such certificate within 10 days after receipt thereof.

(d) Failure or delay on the part of any Lender or the Issuing Bank to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's or the Issuing Bank's right to demand such compensation; provided that the Borrower shall not be required to compensate a Lender or the Issuing Bank pursuant to this Section for any increased costs or reductions incurred more than 270 days prior to the date that such Lender or the Issuing Bank, as the case may be, notifies the Borrower of the Change in Law giving rise to such increased costs or

reductions and of such Lender's or the Issuing Bank's intention to claim compensation therefor; provided further that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the 270-day period referred to above shall be extended to include the period of retroactive effect thereof.

SECTION 2.14. Break Funding Payments. In the event of (a) the payment of any principal of any Eurodollar Loan other than on the last day of an Interest Period applicable thereto (including as a result of an Event of Default), (b) the conversion of any Eurodollar Loan other than on the last day of the Interest Period applicable thereto, (c) the failure to borrow, convert, continue or prepay any Eurodollar Loan on the date specified in any notice delivered pursuant hereto (regardless of whether such notice may be revoked under Section 2.07 and is revoked in accordance therewith), or (d) the assignment of any Eurodollar Loan other than on the last day of the Interest Period applicable thereto as a result of a request by the Borrower pursuant to Section 2.17, then, in any such event, the Borrower shall compensate each Lender for the loss, cost and expense attributable to such event. In the case of a Eurodollar Loan, such loss, cost or expense to any Lender shall be deemed to include an amount determined by such Lender to be the excess, if any, of (i) the amount of interest which would have accrued on the principal amount of such Loan had such event not occurred, at the Adjusted LIBO Rate that would have been applicable to such Loan, for the period from the date of such event to the last day of the then current Interest Period therefor (or, in the case of a failure to borrow, convert or continue, for the period that would have been the Interest Period for such Loan), over (ii) the amount of interest which would accrue on such principal amount for such period at the interest rate which such Lender would bid were it to bid, at the commencement of such period, for dollar deposits of a comparable amount and period from other banks in the eurodollar market. A certificate of any Lender setting forth any amount or amounts that such Lender is entitled to receive pursuant to this Section shall be delivered to the Borrower and shall be conclusive absent manifest error. The Borrower shall pay such Lender the amount shown as due on any such certificate within 10 days after receipt thereof.

SECTION 2.15. Taxes.

(a) Payments Free of Taxes. Any and all payments by or on account of any obligation of the Borrower hereunder or under any other Loan Document shall be made free and clear of and without reduction or withholding for any Indemnified Taxes or Other Taxes; provided that if a Withholding Agent shall be required by applicable Law to withhold or deduct any Indemnified Taxes and any Other Taxes from such payments, then (i) the sum payable shall be increased as necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section) the Administrative Agent, Lender or Issuing Bank, as the case may be, receives an amount equal to the sum it would have received had no such deductions been made, (ii) such Withholding Agent shall make such deductions and (iii) such Withholding Agent shall timely pay the full amount deducted to the relevant Governmental Authority in accordance with applicable Law.

(b) Payment of Other Taxes by the Borrower. Without limiting the provisions of Section 2.15(a) above, the Borrower shall timely pay any Other Taxes to the relevant Governmental Authority in accordance with applicable Law.

(c) Indemnification by the Borrower . The Borrower shall indemnify the Administrative Agent, each Lender and the applicable Issuing Bank, within ten (10) days after demand therefor, for the full amount of any Indemnified Taxes or Other Taxes (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section 2.15) paid by the Administrative Agent, such Lender or the applicable Issuing Bank, as the case may be, and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority, except to the extent any such Taxes arise as a result of the gross negligence or willful misconduct of the Administrative Agent or any Lender. A certificate as to the amount of such payment or liability delivered to the Borrower by a Lender or the applicable Issuing Bank (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender or the applicable Issuing Bank, shall be conclusive as to amount absent manifest error.

(d) Indemnification by the Lenders . Each Lender shall severally indemnify the Administrative Agent for any Taxes (but, in the case of any Indemnified Taxes, only to the extent that the Borrower has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Borrower to do so) attributable to such Lender that are paid or payable by the Administrative Agent in connection with any Loan Document and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. The indemnity under this Section 2.15(d) shall be paid within ten (10) days after the Administrative Agent delivers to the applicable Lender a certificate stating the amount of Taxes so paid or payable by the Administrative Agent. Such certificate shall be conclusive of the amount so paid or payable absent manifest error.

(e) Evidence of Payments . As soon as practicable after any payment of Indemnified Taxes or Other Taxes by the Borrower to a Governmental Authority, the Borrower shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(f) Status of Lenders . (i) Any Lender that is entitled to an exemption from or reduction of withholding tax under the Law of the jurisdiction in which the Borrower is resident for tax purposes, or any treaty to which such jurisdiction is a party, with respect to payments hereunder or under any other Loan Document shall deliver to the Borrower (with a copy to the Administrative Agent), at the time or times prescribed by applicable Law or reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation prescribed by applicable Law as will permit such payments to be made without withholding or at a reduced rate of withholding. Notwithstanding the submission of such documentation claiming a reduced rate of or exemption from U.S. withholding tax, the Administrative Agent shall be entitled to withhold United States federal income taxes at the full statutory withholding rate if in its reasonable judgment it is required to do so under the due diligence requirements imposed upon a withholding agent under § 1.1441-7T(b) of the United States Income Tax Regulations. Further, the Administrative Agent is indemnified under § 1.1461-1(e) of the United States Income Tax Regulations against any claims and demands of any Lender or assignee or participant of a Lender for the amount of any tax it

deducts and withholds in accordance with regulations under § 1441 of the Code. In addition, any Lender, if requested by the Borrower or the Administrative Agent, shall deliver such other documentation prescribed by applicable Law or reasonably requested by the Borrower or the Administrative Agent as will enable the Borrower or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements.

(i) Without limiting the generality of the foregoing, in the event that the Borrower is resident for tax purposes in the United States of America:

(A) any Foreign Lender shall deliver to the Borrower and the Administrative Agent on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the request of the Borrower or the Administrative Agent, but only if such Foreign Lender is legally entitled to do so), whichever of the following is applicable:

(i) two (2) duly completed and executed valid originals of IRS Form W-8BEN or W-8BEN-E, as applicable, claiming eligibility for benefits of an income tax treaty to which the United States of America is a party,

(ii) two (2) duly completed and executed valid originals of IRS Form W-8ECI,

(iii) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under section 881(c) of the Code, (x) an original certificate substantially in the form of Exhibit E-1 to the effect that such Foreign Lender is not (A) a "bank" within the meaning of section 881(c)(3)(A) of the Code, (B) a "10 percent shareholder" of the Borrower within the meaning of section 881(c)(3)(B) of the Code, or (C) a "controlled foreign corporation" described in section 881(c)(3)(C) of the Code (a " U.S. Tax Compliance Certificate ") and (y) two (2) duly completed and executed originals of IRS Form W-8BEN or W-8BEN-E, as applicable,

(iv) in the case of a Foreign Lender that is not the beneficial owner, executed copies of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8 BEN or W-8BEN-E, a U.S. Tax Compliance Certificate substantially in the form of Exhibit E-2 or Exhibit E-3, IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable; provided that if the Foreign Lender is classified as a partnership for U.S. federal income tax purposes and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a U.S. Tax Compliance Certificate substantially in the form of Exhibit E-4 on behalf of each such direct and indirect partner.

(v) any other form prescribed by applicable Law and reasonably requested by the Borrower as a basis for claiming exemption from or a reduction in U.S. federal withholding tax duly completed and executed together with such supplementary documentation as may be prescribed by applicable Law to permit the Borrower to determine the withholding or deduction required to be made; or

(B) To the extent that any Lender is not a Foreign Lender, such Lender shall submit to the Administrative Agent two (2) duly completed and executed originals of an IRS Form W-9 or any other form prescribed by applicable Law demonstrating that such Lender is not a Foreign Lender.

(ii) Without limiting the generality of the first paragraph of this Section 2.15(f) and in addition to any requirements described in the second paragraph of this Section 2.15(f), if a payment made to a Foreign Lender hereunder or under any other Loan Document would be subject to U.S. federal withholding tax imposed by FATCA if such Foreign Lender, as the case may be, were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable, or in any agreement or request entered into or issued pursuant to such sections), such Foreign Lender shall deliver to the Borrower and to the Administrative Agent, at the time or times prescribed by Law and at such time or times reasonably requested by the Borrower or the Administrative Agent, such documentation, certifications or other information prescribed by applicable Law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation, certifications or other information reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower or the Administrative Agent to comply with its obligations under FATCA, to determine that such Foreign Lender has complied with its obligations under FATCA or to determine the amount to deduct and withhold from such payment.

Each Lender agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrower and the Administrative Agent if such Lender is legally unable to update such form or certification.

(g) Treatment of Certain Refunds . If the Administrative Agent, a Lender or the applicable Issuing Bank determines, in its sole discretion, that it has received a refund (or credit in lieu of a refund) of any Taxes or Other Taxes as to which it has been indemnified by the Borrower or with respect to which the Borrower has paid additional amounts pursuant to this Section, it shall pay to the Borrower an amount equal to such refund or credit (but only to the extent of indemnity payments made, or additional amounts paid, by the Borrower under this Section with respect to the Taxes or Other Taxes giving rise to such refund or credit); net of all out-of-pocket expenses of the Administrative Agent, such Lender or the applicable Issuing Bank, as the case may be, and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund or credit), provided that the Borrower, upon the request of the Administrative Agent, such Lender or the applicable Issuing Bank, agrees to repay the amount paid over to the Borrower (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Administrative Agent, such Lender or the applicable Issuing Bank in the event the Administrative Agent, such Lender or the applicable Issuing Bank is required to repay such refund to such Governmental Authority. This Section shall not be construed to require the Administrative Agent, any Lender or the applicable Issuing Bank to make available its tax returns (or any other information relating to its taxes that it deems confidential) to the Borrower or any other Person.

SECTION 2.16. Payments Generally; Allocation of Proceeds; Sharing of Set-offs . (1) The Borrower shall make each payment required to be made by it hereunder (whether of principal, interest, fees or reimbursement of LC Disbursements, or of amounts payable under Section 2.13, 2.14 or 2.15, or otherwise) prior to 2:00 p.m., New York time, on the date when due, in immediately available funds, without set−off or counterclaim. Any amounts received after such time on any date may, in the discretion of the Administrative Agent, be deemed to have been received on the next succeeding Business Day for purposes of calculating interest thereon. All such payments shall be made to the Administrative Agent at its offices at 270 Park Avenue, New York, New York, except payments to be made directly to the Issuing Bank as expressly provided herein and except that payments pursuant to Sections 2.13, 2.14, 2.15 and 9.03 shall be made directly to the Persons entitled thereto. The Administrative Agent shall distribute any such payments received by it for the account of any other Person to the appropriate recipient promptly following receipt thereof. If any payment hereunder shall be due on a day that is not a Business Day, the date for payment shall be extended to the next succeeding Business Day, and, in the case of any payment accruing interest, interest thereon shall be payable for the period of such extension. All payments hereunder shall be made in Dollars.

(a) Any proceeds of Collateral received by the Administrative Agent (i) not constituting either (A) a specific payment of principal, interest, fees or other sum payable under the Loan Documents (which shall be applied as specified by the Borrower) or (B) a mandatory prepayment (which shall be applied in accordance with Section 2.09) or (ii) after an Event of Default has occurred and is continuing and the Administrative Agent so elects or the Required Lenders so direct, such funds shall be applied ratably first , to pay any fees, indemnities, or expense reimbursements including amounts then due to the Administrative Agent and the Issuing Bank from the Borrower (other than in connection with Banking Services or Swap Obligations), second , to pay any fees or expense reimbursements then due to the Lenders from the Borrower (other than in connection with Banking Services or Swap Obligations, third , to pay interest then due and payable on the Loans ratably, fourth , ratably to prepay principal on the Loans and unreimbursed LC Disbursements ratably (and to payment of any amounts owing with respect to Banking Services and Swap Obligations), fifth , to pay an amount to the Administrative Agent equal to one hundred five percent (105%) of the aggregate undrawn face amount of all outstanding Letters of Credit and the aggregate amount of any unpaid LC Disbursements, to be held as cash collateral for such Obligations, and sixth , to the payment of any other Secured Obligation due to the Administrative Agent or any Lender by the Borrower . Notwithstanding anything to the contrary contained in this Agreement, unless so directed by the Borrower, or unless a Default is in existence, neither the Administrative Agent nor any Lender shall apply any payment which it receives to any Eurodollar Loan, except (a) on the expiration date of the Interest Period applicable to any such Eurodollar Loan or (b) in the event, and only to the extent, that there are no outstanding CBFR Loans and, in any such event, the Borrower shall pay the break funding payment required in accordance with Section 2.14. The Administrative Agent and the Lenders shall have the continuing and exclusive right to apply and reverse and reapply any and all such proceeds and payments to any portion of the Secured Obligations.

(b) At the election of the Administrative Agent, all payments of principal, interest, LC Disbursements, fees, premiums, reimbursable expenses (including, without limitation, all reimbursement for fees and expenses pursuant to Section 9.03), and other sums payable under the Loan Documents, may be paid from the proceeds of Borrowings made hereunder whether made

following a request by the Borrower pursuant to Section 2.03 or a deemed request as provided in this Section or may be deducted from any deposit account of the Borrower maintained with the Administrative Agent. The Borrower hereby irrevocably authorizes (i) the Administrative Agent to make a Borrowing for the purpose of paying each payment of principal, interest and fees as it becomes due hereunder or any other amount due under the Loan Documents and agrees that all such amounts charged shall constitute Loans and that all such Borrowings shall be deemed to have been requested pursuant to Section 2.03 and (ii) the Administrative Agent to charge any deposit account of the Borrower maintained with the Administrative Agent for each payment of principal, interest and fees as it becomes due hereunder or any other amount due under the Loan Documents.

(c) If at any time insufficient funds are received by and available to the Administrative Agent to pay fully all amounts of principal, unreimbursed LC Disbursements, interest and fees then due hereunder, such funds shall be applied (i) *first* , towards payment of interest and fees then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of interest and fees then due to such parties, and (ii) *second* , towards payment of principal and unreimbursed LC Disbursements then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of principal and unreimbursed LC Disbursements then due to such parties.

(d) If any Lender shall, by exercising any right of set-off or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of its Loans or participations in LC Disbursements resulting in such Lender receiving payment of a greater proportion of the aggregate amount of its Loans and participations in LC Disbursements and accrued interest thereon than the proportion received by any other Lender, then the Lender receiving such greater proportion shall purchase (for cash at face value) participations in the Loans and participations in LC Disbursements of other Lenders to the extent necessary so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Loans and participations in LC Disbursements; provided that (i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest, and (ii) the provisions of this paragraph shall not be construed to apply to any payment made by the Borrower pursuant to and in accordance with the express terms of this Agreement or any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans or participations in LC Disbursements to any assignee or participant, other than to the Borrower or any Subsidiary or Affiliate thereof (as to which the provisions of this paragraph shall apply). The Borrower consents to the foregoing and agrees, to the extent it may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against the Borrower rights of set-off and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of the Borrower in the amount of such participation.

(e) Unless the Administrative Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders or the Issuing Bank hereunder that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders or the Issuing Bank, as the case may be, the amount due. In such event, if the Borrower has not in fact made such payment,

then each of the Lenders or the Issuing Bank, as the case may be, severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender or Issuing Bank with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

(f) If any Lender shall fail to make any payment required to be made by it hereunder, then the Administrative Agent may, in its discretion (notwithstanding any contrary provision hereof), (i) apply any amounts thereafter received by the Administrative Agent for the account of such Lender to satisfy such Lender's obligations hereunder until all such unsatisfied obligations are fully paid and/or (ii) hold any such amounts in a segregated account as cash collateral for, and apply any such amounts to, any future funding obligations of such Lender hereunder; application of amounts pursuant to (i) and (ii) above shall be made in such order as may be determined by the Administrative Agent in its discretion."

SECTION 2.17. Mitigation Obligations; Replacement of Lenders .

(a) If any Lender requests compensation under Section 2.13, or if the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.15, then such Lender shall use reasonable efforts to designate a different lending office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 2.13 or 2.15, as the case may be, in the future and (ii) would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

(b) If any Lender requests compensation under Section 2.13, or if the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.15, or if any Lender becomes a Defaulting Lender, then the Borrower may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in Section 9.04), all its interests, rights and obligations under this Agreement to an assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment); provided that (i) the Borrower shall have received the prior written consent of the Administrative Agent and the Issuing Bank, which consent shall not unreasonably be withheld, (ii) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and participations in LC Disbursements, accrued interest thereon, accrued fees and all other amounts payable to it hereunder, from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts) and (iii) in the case of any such assignment resulting from a claim for compensation under Section 2.13 or payments required to be made pursuant to Section 2.15, such assignment will result in a reduction in such compensation or payments. A Lender shall not be required to make any such

assignment and delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrower to require such assignment and delegation cease to apply.

SECTION 2.18. Defaulting Lenders . Notwithstanding any provision of this Agreement to the contrary, if any Lender becomes a Defaulting Lender, then the following provisions shall apply for so long as such Lender is a Defaulting Lender:

(a) fees shall cease to accrue on the unfunded portion of any Revolving Commitment of such Defaulting Lender pursuant to Section 2.10(a);

(b) the Revolving Commitment and Revolving Credit Exposure of such Defaulting Lender shall not be included in determining whether all Lenders or the Required Lenders have taken or may take any action hereunder (including any consent to any amendment, waiver or other modification pursuant to Section 9.02); provided that any amendment, waiver or other modification requiring the consent of all Lenders or each affected Lender which affects such Defaulting Lender disproportionately when compared to the other affected Lenders, or increases or extends the Revolving Commitment of such Defaulting Lender, shall require the consent of such Defaulting Lender;

(c) if any LC Exposure exists at the time such Lender becomes a Defaulting Lender then:

(iii) all or any part of the LC Exposure of such Defaulting Lender shall be reallocated among the non-Defaulting Lenders in accordance with their respective Applicable Percentages but only to the extent that (A) the sum of all non-Defaulting Lenders' Revolving Credit Exposures plus such Defaulting Lender's LC Exposure does not exceed the total of all non-Defaulting Lenders' then applicable Revolving Commitments and (B) the conditions set forth in Section 4.03 are satisfied at such time; and

(iv) if the reallocation described in clause (i) above cannot, or can only partially, be effected, the Borrower shall within one Business Day following notice by the Administrative Agent cash collateralize for the benefit of the Issuing Bank only the Borrower's obligations corresponding to such Defaulting Lender's LC Exposure (after giving effect to any partial reallocation pursuant to clause (i) above) in accordance with the procedures set forth in Section 2.04(j) for so long as such LC Exposure is outstanding;

(v) if the Borrower cash collateralizes any portion of such Defaulting Lender's LC Exposure pursuant to clause (ii) above, the Borrower shall not be required to pay any fees to such Defaulting Lender pursuant to Section 2.10(b) with respect to such Defaulting Lender's LC Exposure during the period such Defaulting Lender's LC Exposure is cash collateralized;

(vi) if the LC Exposure of the non-Defaulting Lenders is reallocated pursuant to clause (i) above, then the fees payable to the Lenders pursuant to Section 2.10(a) and Section 2.10(b) shall be adjusted in accordance with such non-Defaulting Lenders' Applicable Percentages; and

(vii) if all or any portion of such Defaulting Lender's LC Exposure is neither reallocated nor cash collateralized pursuant to clause (i) or (ii) above, then, without prejudice to any rights or remedies of the Issuing Bank or any Lender hereunder, commitment fees that otherwise would have been payable to such Defaulting Lender (solely with respect to the portion of such Defaulting Lender's Revolving Commitment that was utilized by such LC Exposure) and all letter of credit fees payable under Section 2.10(b) with respect to such Defaulting Lender's LC Exposure shall be payable to the Issuing Bank until and to the extent that such LC Exposure is reallocated and/or cash collateralized; and

(d) so long as such Lender is a Defaulting Lender, the Issuing Bank shall not be required to issue, amend or increase any Letter of Credit, unless it is satisfied that the related exposure and the Defaulting Lender's then outstanding LC Exposure will be 100% covered by the Revolving Commitments of the non-Defaulting Lenders and/or cash collateral will be provided by the Borrower in accordance with Section 2.18(c), and participating interests in any newly issued or increased Letter of Credit shall be allocated among non-Defaulting Lenders in a manner consistent with Section 2.18(c)(i) (and such Defaulting Lender shall not participate therein). No reallocation hereunder shall constitute a waiver or release of any claim of any party hereunder against a Defaulting Lender.

If (a) a Bankruptcy Event with respect to a parent of any Lender shall occur following the date hereof and for so long as such event shall continue or (b) the Issuing Bank has a good faith belief that any Lender has defaulted in fulfilling its obligations under one or more other agreements in which such Lender commits to extend credit, the Issuing Bank shall not be required to issue, amend or increase any Letter of Credit, unless the Issuing Bank shall have entered into arrangements with the Borrower or such Lender, satisfactory to the Issuing Bank to defease any risk to it in respect of such Lender hereunder.

In the event that the Administrative Agent, the Borrower and the Issuing Bank each agrees that a Defaulting Lender has adequately remedied all matters that caused such Lender to be a Defaulting Lender, then the LC Exposure of the other Lenders shall be readjusted to reflect the inclusion of such Lender's then applicable Revolving Commitment and on such date such Lender shall purchase at par such of the Loans of the other Lenders as the Administrative Agent shall determine may be necessary in order for such Lender to hold such Loans in accordance with its Applicable Percentage.

ARTICLE III

REPRESENTATIONS AND WARRANTIES

Each Loan Party represents and warrants to the Lenders that:

SECTION 3.01. Organization; Powers . Each of the Loan Parties and each of its Subsidiaries is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, has all requisite power and authority to carry on its business as now conducted and is qualified to do business in, and is in good standing in, every jurisdiction where such

qualification is required, except where the failure to qualify or be in good standing in such jurisdiction could not reasonably be expected to have a Material Adverse Effect.

SECTION 3.02. Authorization; Enforceability . (1) The Transactions are within each Loan Party's organizational powers and have been duly authorized by all necessary organizational actions and, if required, actions by equity holders.

(b) The Loan Documents to which each Loan Party is a party have been duly executed and delivered by such Loan Party and constitute a legal, valid and binding obligation of such Loan Party, enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

SECTION 3.03. Governmental Approvals; No Conflicts . The Transactions (a) do not require any consent or approval of, registration or filing with, or any other action by, any Governmental Authority, except such as have been obtained or made and are in full force and effect and except for filings necessary to perfect Liens created pursuant to the Loan Documents, (b) will not violate any Requirement of Law applicable to any Loan Party or any of its Subsidiaries, (c) will not violate or result in a default under any indenture, agreement or other instrument binding upon any Loan Party or any of its Subsidiaries or any of their respective assets, or give rise to a right thereunder to require any payment to be made by any Loan Party or any of its Subsidiaries, except for such violations or defaults that could not reasonably be expected to have a Material Adverse Effect and (d) will not result in the creation or imposition of any Lien on any asset of any Loan Party or any of its Subsidiaries, except Liens permitted under Section 6.02.

SECTION 3.04. No Material Adverse Change . No event, change or condition has occurred that has had, or could reasonably be expected to have, a Material Adverse Effect, since December 31, 2012.

SECTION 3.05. Properties . (1) As of the date of this Agreement, Schedule 3.05 sets forth the address of each parcel of real property that is owned or leased by each Loan Party. Each of such leases and subleases is valid and enforceable in accordance with its terms and is in full force and effect, and no default by any party to any such lease or sublease exists, other than such defaults that would not result in a termination of such lease or sublease or could not reasonably be expected to have a Material Adverse Effect. Each of the Loan Parties and its Subsidiaries has good and indefeasible title to, or valid leasehold interests in, all its real and material personal property, free of all Liens other than those permitted by Section 6.02.

(e) Each Loan Party and its Subsidiaries owns, or is licensed to use, all trademarks, tradenames, copyrights, patents and other intellectual property necessary and material to the conduct of the business of the relevant Loan Parties as currently conducted, a correct and complete list of which, as of the date of this Agreement, is set forth on Schedule 3.05 , and to the knowledge of each Loan Party and its Subsidiaries, the use thereof by the Loan Parties and its Subsidiaries does not infringe in any material respect upon the rights of any other Person, and except as set forth in Schedule 3.05 , the Loan Parties' rights thereto are not subject to any licensing agreement or similar arrangement.

SECTION 3.06. Litigation and Environmental Matters . (1) There are no actions, suits or proceedings by or before any arbitrator or Governmental Authority pending against or, to the knowledge of any Loan Party, threatened against or affecting the Loan Parties or any of their Subsidiaries (i) as to which there is a reasonable possibility of an adverse determination and that, if adversely determined, could reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect (other than the Disclosed Matters) or (ii) that involve this Agreement or the Transactions.

(e) Except for the Disclosed Matters (i) no Loan Party nor any of its Subsidiaries has received written notice of any material claim with respect to any Environmental Liability which is pending and unresolved or that has been resolved within the past six months or has actual knowledge of any basis for any material Environmental Liability and (ii) except with respect to any other matters that, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect, no Loan Party nor any of its Subsidiaries (1) has failed to comply with any Environmental Law or to obtain, maintain or comply with any permit, license or other approval required under any Environmental Law or (2) has become subject to any Environmental Liability which is pending and unresolved or that has been resolved within the past six months.

SECTION 3.07. Compliance with Laws and Agreements . Each Loan Party and its Subsidiaries, is in compliance with all Requirements of Law applicable to it or its property and all indentures, agreements and other instruments binding upon it or its property, except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect. No Default has occurred and is continuing.

SECTION 3.08. Taxes . Each Loan Party and its Subsidiaries, has timely filed or caused to be filed all federal and state income tax returns and all other material tax returns and reports required to have been filed and has paid or caused to be paid all federal and state income Taxes and, in the case of each Loan Party and its Subsidiaries, all other material Taxes required to have been paid by it, except, in each case, Taxes that are being contested in good faith by appropriate proceedings and for which such Loan Party or such Subsidiary, as applicable, has set aside on its books adequate reserves. No tax Liens have been filed and no claims are being asserted with respect to any such taxes.

SECTION 3.09. ERISA . No ERISA Event has occurred or is reasonably expected to occur that, when taken together with all other such ERISA Events for which liability is reasonably expected to occur, could reasonably be expected to result in a Material Adverse Effect. Except to the extent that the following could not reasonably be expected to materially and adversely affect the Loan Parties, taken as a whole, the present value of all accumulated benefit obligations under each Plan (based on the assumptions used for purposes of Statement of Financial Accounting Standards No. 87) did not, as of the date of the most recent financial statements reflecting such amounts, exceed the fair market value of the assets of such Plan.

SECTION 3.10. Disclosure . The Loan Parties have disclosed to the Lenders all agreements, instruments and corporate or other restrictions to which it or any Subsidiary is subject, and all other matters known to it, that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect. All information (other than financial information and

projections (the " Projections ") and information of a general economic nature and general information about the Borrower's or it's subsidiaries' industry) that has been or will be made available to the Administrative Agent or the Lenders by any Loan Party or any representative thereof is or will be, when furnished, when taken as a whole, complete and correct in all material respects and does not or will not, when furnished, contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements contained therein not materially misleading in light of the circumstances under which such statements are made after giving effect to all updates from time to time. The Projections that have been or will be made available to the Administrative Agent or the Lenders by any Loan Party or any representative thereof have been or will be prepared in good faith and based upon assumptions that are believed by the Loan Parties to be reasonable at the time such Projections were prepared (it being the understanding that the projections, by their nature, are inherently uncertain and no assurances are being given that the results reflected in the Projections will be achieved).

SECTION 3.11. Material Agreements . No Loan Party is in default in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in (i) any material agreement to which it is a party or (ii) any agreement or instrument evidencing or governing Indebtedness that could reasonably be expected to have a Material Adverse Effect.

SECTION 3.12. Solvency . (a) Immediately after the consummation of the Transactions to occur on the Effective Date and the Delayed Commitment Effective Date, as applicable, (i) the fair value of the assets of each Loan Party will exceed its debts and liabilities, subordinated, contingent or otherwise; (ii) the present fair saleable value of the property of each Loan Party will be greater than the amount that will be required to pay the probable liability of its debts and other liabilities, subordinated, contingent or otherwise, as such debts and other liabilities become absolute and matured; (iii) each Loan Party will be able to pay its debts and liabilities, subordinated, contingent or otherwise, as such debts and liabilities become absolute and matured; and (iv) each Loan Party will not have unreasonably small capital with which to conduct the business in which it is engaged as such business is now conducted and is proposed to be conducted after the Effective Date and the Delayed Commitment Effective Date, as applicable. The amount of contingent liabilities at any time shall be computed as the amount that, in the light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

(b) No Loan Party intends to, or will permit any of its Subsidiaries to, and no Loan Party believes that it or any of its Subsidiaries will, incur debts beyond its ability to pay such debts as they mature, taking into account the timing of and amounts of cash to be received by it or any such Subsidiary and the timing of the amounts of cash to be payable on or in respect of its Indebtedness or the Indebtedness of any such Subsidiary.

SECTION 3.13. Insurance . Schedule 3.13 sets forth a description of all insurance maintained by or on behalf of the Loan Parties and the Subsidiaries as of the Effective Date. As of the Effective Date and the Delayed Commitment Effective Date, as applicable, all premiums due and owing in respect of such insurance have been paid. The Borrower believes that the insurance maintained by or on behalf of the Borrower and each Loan Party is adequate. Each other Loan Party believes that the insurance maintained by or on behalf of such Loan Party is adequate.

SECTION 3.14. Capitalization and Subsidiaries . Schedule 3.14 sets forth as of the Effective Date (a) a correct and complete list of the name and relationship to the Borrower of each and all of the Loan Parties and their respective Subsidiaries, (b) a true and complete listing of each class of each of each Loan Party's authorized Equity Interests, of which all of such issued Equity Interests are validly issued, outstanding, fully paid and non-assessable (to the extent such concepts are applicable to such Equity Interests), and owned beneficially and of record by the Persons identified on Schedule 3.14 , and (c) the type of entity of each Loan Party and each of its Subsidiaries. All of the issued and outstanding Equity Interests owned by any Loan Party has been (to the extent such concepts are relevant with respect to such ownership interests) duly authorized and issued and is fully paid and non-assessable.

SECTION 3.15. Security Interest in Collateral . The provisions of this Agreement and the other Loan Documents create legal and valid Liens on all the Collateral in favor of the Administrative Agent, for the benefit of the Administrative Agent and the Lenders, and such Liens constitute perfected and continuing Liens on the Collateral, securing the Secured Obligations, enforceable against the applicable Loan Party and all third parties, and having priority over all other Liens on the Collateral except in the case of (a) Permitted Encumbrances, to the extent any such Permitted Encumbrances would have priority over the Liens in favor of the Administrative Agent pursuant to any applicable law and (b) Liens perfected only by possession (including possession of any certificate of title) to the extent the Administrative Agent has not obtained or does not maintain possession of such Collateral.

SECTION 3.16. Employment Matters . As of the Effective Date and the Delayed Commitment Effective Date, as applicable, there are no strikes, lockouts or slowdowns against any Loan Party or any Subsidiary thereof pending or, to the knowledge of any Loan Party, threatened that could reasonably be expected to result in a Material Adverse Effect. The hours worked by and payments made to employees of the Loan Parties and the Subsidiaries thereof have not been in violation of the Fair Labor Standards Act or any other applicable Federal, state, local or foreign law dealing with such matters that could reasonably be expected to have a Material Adverse Effect. All material payments due from any Loan Party or any Subsidiary, or for which any claim may be made against any Loan Party or any Subsidiary thereof, on account of wages and employee health and welfare insurance and other benefits, have been paid or accrued as a liability on the books of the Loan Party or such Subsidiary thereof (in accordance with GAAP).

SECTION 3.17. Affiliate Transactions . Except as set forth on Schedule 3.17 , as of the date of this Agreement, there are no existing agreements, arrangements, understandings, or transactions between any Loan Party, and any of the officers, members, managers, directors, stockholders, other interest holders or Affiliates (other than Subsidiaries and other Loan Parties) of any Loan Party or any members of their respective immediate families, other than (i) agreements, arrangements, understandings or transactions with such parties that are entered into on fair and reasonable terms substantially as favorable to such Loan Party as would be obtainable by such Loan Party in an arm's length transaction with a Person (other than any of the foregoing) and (ii) the payment of any management, monitoring, consulting and advisory fees and related expenses to the Borrower by any Loan Party permitted under this Agreement.

SECTION 3.18. Common Enterprise . Each Loan Party expects to derive benefit (and its board of directors or other governing body has determined that it may reasonably be expected to derive benefit), directly and indirectly, from (i) successful operations of each of the Loan Parties and (ii) the credit extended by the Lenders to the Borrower hereunder, both in their separate capacities and, as applicable, as members of the group of companies. Each Loan Party has determined that execution, delivery, and performance of this Agreement and any other Loan Documents to be executed by such Loan Party is within its purpose, will be of direct and indirect benefit to such Loan Party, and is in its best interest.

ARTICLE IV

CONDITIONS

SECTION 4.01. Effective Date . This Agreement shall become effective on the Effective Date, subject to the satisfaction (or waiver in accordance with Section 9.02) of the following conditions:

(c) Credit Agreement and Loan Documents . The Administrative Agent (or its counsel) shall have received (i) from each party hereto either (A) a counterpart of this Agreement signed on behalf of such party or (B) written evidence satisfactory to the Administrative Agent (which may include facsimile transmission of a signed signature page of this Agreement) that such party has signed a counterpart of this Agreement and (ii) duly executed copies of the Loan Documents and such other certificates, documents, instruments and agreements as the Administrative Agent shall reasonably request in connection with the transactions contemplated by this Agreement and the other Loan Documents, including any promissory notes requested by a Lender pursuant to Section 2.08(e) payable to the order of each such requesting Lender.

(d) Closing Certificates; Certified Certificate of Incorporation; Good Standing Certificates . The Administrative Agent shall have received (i) each Loan Party, dated the Effective Date and executed by its Secretary, Assistant Secretary or other officer of such Loan Party sufficiently familiar with the books and records of such Loan Party, which shall (A) certify the resolutions of its Board of Directors, members or other body authorizing the execution, delivery and performance of the Loan Documents to which it is a party, (B) identify by name and title and bear the signatures of the Financial Officers and any other officers of such Loan Party, as applicable, authorized to sign the Loan Documents to which it is a party, and (C) contain appropriate attachments, including the certificate or articles of incorporation or organization of each Loan Party certified by the relevant authority of the jurisdiction of organization of such Loan Party, as applicable, a true and correct copy of its by−laws or operating, management or partnership agreement (including the LLC Agreement), and a true and correct copy of the Tax Receivable Agreement, and (ii) a good standing certificate for each Loan Party from its jurisdiction of organization.

(e) Opinion . The Administrative Agent shall have received an opinion of Ronald Palmese, Jr., Esq., General Counsel of the Borrower, in form and substance satisfactory to the Administrative Agent.

(f) No Default Certificate . The Administrative Agent shall have received a certificate, signed by the chief financial officer of the Borrower and each other Loan Party, on the initial Borrowing date (i) stating that no Default has occurred and is continuing and (ii) stating that the representations and warranties contained in Article III are true and correct in all material respects as of such date (or if any representation or warranty is expressly stated to have been made as of a specific date, as of such specific date).

(g) Expenses . The Lenders and the Administrative Agent shall have received all expenses for which invoices have been presented (including the reasonable fees and expenses of legal counsel), on or before the Effective Date. All such amounts will be paid with proceeds of Loans made on the Effective Date and will be reflected in the funding instructions given by the Borrower to the Administrative Agent on or before the Effective Date.

(h) Solvency . The Administrative Agent shall have received a solvency certificate from a Financial Officer.

(i) Shake Shack IPO . The Shake Shack IPO shall have been consummated.

(j) Schedules . The Administrative Agent shall have received Schedules to this Agreement in form and substance satisfactory to the Administrative Agent.

(k) Other Documents . The Administrative Agent shall have received such other documents as the Administrative Agent, the Issuing Bank, any Lender or their respective counsel may have reasonably requested.

The Administrative Agent shall notify the Borrower and the Lenders of the Effective Date, and such notice shall be conclusive and binding.

SECTION 4.02. Delayed Commitment Effective Date . The obligations of the Lenders to increase the Initial Revolving Commitment by the Delayed Commitment Amount shall be subject to the conditions that (a) the Delayed Commitment Effective Date shall have occurred, and (a) no Default shall have occurred and be continuing.

SECTION 4.03. Each Credit Event . The obligation of each Lender to make a Loan on the occasion of any Borrowing or increase the Initial Revolving Commitment by the Delayed Commitment Amount on the Delayed Commitment Effective Date, and of the Issuing Bank to issue, amend, renew or extend any Letter of Credit, is subject to the satisfaction of the following conditions:

(b) The representations and warranties of each Loan Party set forth in Article III of this Agreement shall be true and correct in all material respects on and as of the date of such Borrowing or the date of issuance, amendment, renewal or extension of such Letter of Credit, as applicable (except, in each case, for a representation or warranty expressly stated to have been made as of a specific date, which representation or warranty shall be true and correct in all material respects as of such specific date).

(c) At the time of and immediately after giving effect to such Borrowing or the issuance, amendment, renewal or extension of such Letter of Credit, as applicable, no Default shall have occurred and be continuing.

(d) After giving effect to any Borrowing or the issuance of any Letter of Credit, the Revolving Credit Exposure of all Revolving Lenders does not exceed the lesser of (i) the Revolving Available Amount and (ii) the Revolving Commitment then in effect.

Each Borrowing and each issuance, amendment, renewal or extension of a Letter of Credit shall be deemed to constitute a representation and warranty by the Borrower on the date thereof as to the matters specified in paragraphs (a), (b) and (c) of this Section.

ARTICLE V

AFFIRMATIVE COVENANTS

Until the Revolving Commitments have expired or been terminated and the principal of and interest on each Loan and all fees payable hereunder shall have been paid in full (other than Unliquidated Obligations) and all Letters of Credit shall have expired or terminated (or have been cash collateralized in accordance with the provisions hereof) and all LC Disbursements shall have been reimbursed, each Loan Party executing this Agreement covenants and agrees, jointly and severally with all of the Loan Parties, with the Lenders that:

SECTION 5.01. Financial Statements and Other Information . The Borrower will furnish to the Administrative Agent and each Lender:

(j) Annual Financial Statements – within 120 days after the end of each fiscal year of the Borrower:

(i) Borrower Audited Statements – the audited consolidated and unaudited consolidating balance sheet and related statements of operations, stockholders' equity and cash flows of the Borrower and its Subsidiaries as of the end of and for such year, setting forth in each case in comparative form the figures for the previous fiscal year, all reported on by independent public accountants of national standing or otherwise reasonably acceptable to the Administrative Agent and certified by a Financial Officer of the Borrower to the effect that such consolidated and consolidating financial statements present fairly in all material respects the financial condition and results of operations of the Borrower and its Subsidiaries on a consolidated and consolidating basis in accordance with GAAP consistently applied, or

(ii) Shake Shack Audited Statements – if the Shake Shack Financials Test is satisfied, each of the following:

(A) the audited consolidated and unaudited consolidating balance sheet and related statements of operations, stockholders' equity and cash flows of Shake Shack and its Subsidiaries as of the end of and for such year,

setting forth in each case in comparative form the figures for the previous fiscal year, all reported on by independent public accountants of national standing or otherwise reasonably acceptable to the Administrative Agent and certified by a Financial Officer of the Borrower to the effect that such consolidated and consolidating financial statements present fairly in all material respects the financial condition and results of operations of Shake Shack and its Subsidiaries on a consolidated and consolidating basis in accordance with GAAP consistently applied,

(B) the unaudited consolidated balance sheet and related statements of operations, stockholders' equity and cash flows of the Borrower and its Subsidiaries as of the end of and for such year, setting forth in each case in comparative form the figures for the previous fiscal year, all certified by one of its Financial Officers as presenting fairly in all material respects the financial condition and results of operations of the Borrower and its Subsidiaries on a consolidated basis in accordance with GAAP, and

(C) an explanation, in reasonable detail, of any differences between the financial statements of Shake Shack and its Subsidiaries described in the foregoing clause (A), on the one hand, and the information relating to the Borrower and its Subsidiaries described in the foregoing clause (B), on the other hand;

(k) Quarterly Statements – within 45 days after the end of each of the first three fiscal quarters of each fiscal year of the Borrower, the following:

(a) the consolidated (and, if such fiscal quarter is the second fiscal quarter of such fiscal year, the consolidating) balance sheet and related statements of operations, stockholders' equity and cash flows of Shake Shack and its Subsidiaries as of the end of and for such fiscal quarter and the then elapsed portion of the fiscal year, setting forth in each case in comparative form the figures for the corresponding period or periods of (or, in the case of the balance sheet, as of the end of) the previous fiscal year, all certified by one of its Financial Officers as presenting fairly in all material respects the financial condition and results of operations of Shake Shack and its Subsidiaries on a consolidated (and consolidating, if applicable) basis in accordance with GAAP consistently applied, and

(b) the consolidated balance sheet and related statements of operations, stockholders' equity and cash flows of the Borrower and its Subsidiaries as of the end of and for such fiscal quarter and the then elapsed portion of the fiscal year, setting forth in each case in comparative form the figures for the corresponding period or periods of (or, in the case of the balance sheet, as of the end of) the previous fiscal year, all certified by one of its Financial Officers as presenting fairly in all material respects the financial condition and results of operations of Borrower and its Subsidiaries on a consolidated (and consolidating, if applicable) basis in accordance with GAAP consistently applied;

(l) Compliance Certificate – concurrently with any delivery of financial statements under clause (a) above, a certificate of a Financial Officer of the Borrower in substantially the form of Exhibit B (i) certifying that such financial statements present fairly in all material respects the financial condition and results of operations of the Borrower and its Subsidiaries on a consolidated and consolidating basis in accordance with GAAP consistently applied, (ii) certifying as to whether a Default has occurred and is continuing and, if a Default has occurred and is continuing, specifying the details thereof and any action taken or proposed to be taken with respect thereto, (iii) setting forth reasonably detailed calculations demonstrating compliance with Section 6.12 and (iv) stating whether any change in GAAP or in the application thereof has occurred since the date of the audited financial statements referred to in Section 3.04 and, if any such change has occurred, specifying the effect of such change on the financial statements accompanying such certificate;

(m) Annual Budget – within 90 days after the end of each fiscal year of the Borrower, a detailed annual budget for each of the twelve fiscal months of the fiscal year following such fiscal year then ended of the Borrower and its Subsidiaries on a consolidated basis, including forecasts prepared by management of the Borrower, in form and substance consistent with past and practice, of consolidated financial statements of the Borrower and its Subsidiaries on a monthly basis for such fiscal year (including the fiscal year in which the Maturity Date occurs); and

(n) Other Information – promptly following any request therefor, such other information regarding the operations, business affairs and financial condition of the Borrower or any Subsidiary, or compliance with the terms of this Agreement, as the Administrative Agent or any Lender may reasonably request (and the disclosure of which would not violate applicable Law or breach any obligation binding on the Borrower or such Subsidiary to keep such information confidential, would not require the disclosure of information subject to a legal privilege or would disclose a trade secret (not related to financial matters)).

SECTION 5.02. Notices of Material Events . The Borrower will furnish to the Administrative Agent reasonably prompt, and in any event within five (5) Business Days (or in the case of clause (c) below, ten (10) Business Days) of a Responsible Officer having knowledge thereof, written notice of the following:

(e) the occurrence of any Default that is continuing;

(f) receipt of any notice of any governmental investigation or any litigation or proceeding commenced or threatened against any Loan Party that (i) seeks damages in excess of $3,000,000, (ii) seeks injunctive relief, (iii) is asserted or instituted against any Plan, its fiduciaries or its assets, (iv) alleges criminal misconduct by any Loan Party, (v) alleges the violation of any law regarding, or seeks remedies in connection with, any Environmental Laws, (vi) contests any tax, fee, assessment, or other governmental charge in excess of $3,000,000, or (vii) involves any product recall;

(g) the opening of any new store or restaurant by any Loan Party or Material Subsidiary thereof; and

(h) the occurrence of any ERISA Event that, alone or together with any other ERISA Events that have occurred, could reasonably be expected to result in liability of the Loan Parties in an aggregate amount exceeding $3,000,000; and

(i) any other development that results in, or could reasonably be expected to result in, a Material Adverse Effect.

Each notice delivered under this Section shall be accompanied by a statement of a Financial Officer or other executive officer of the Borrower setting forth the details of the event or development requiring such notice and any action taken or proposed to be taken with respect thereto (provided that, in the case of clause (e), the disclosure of which would not violate applicable Law or breach any obligation binding on the Borrower or such Subsidiary to keep such information confidential, would not require the disclosure of information subject to a legal privilege or would disclose a trade secret (not related to financial matters)).

SECTION 5.03. Existence; Conduct of Business . Each Loan Party will, and will cause each of its Subsidiaries to, (a) do or cause to be done all things necessary to preserve, renew and keep in full force and effect its legal existence and the rights, qualifications, licenses, permits, franchises, governmental authorizations, intellectual property rights, licenses and permits material to the conduct of its business, and maintain all requisite authority to conduct its business in each jurisdiction in which its business is conducted; provided that the foregoing shall not prohibit any merger, consolidation, liquidation or dissolution permitted under Section 6.03 and (b) carry on and conduct its business in substantially the same fields of enterprise as it is presently conducted.

SECTION 5.04. Payment of Taxes . Each Loan Party will, and will cause each of its Subsidiaries to, pay or discharge all Taxes before the same shall become delinquent or in default, except where (a) the validity or amount thereof is being contested in good faith by appropriate proceedings, (b) such Loan Party or such Subsidiary has set aside on its books adequate reserves with respect thereto in accordance with GAAP and (c) such liabilities would not result in aggregate liabilities in excess of $3,000,000.

SECTION 5.05. Maintenance of Properties . Each Loan Party will, and will cause each of its Subsidiaries to, keep and maintain all property material to the conduct of its business in good working order and condition, ordinary wear and tear excepted.

SECTION 5.06. Books and Records; Inspection Rights . Each Loan Party will, and will cause each of its Subsidiaries to, (i) keep proper books of record and account in which full, true and correct entries in all material respects are made of all material dealings and transactions in relation to its business and activities and (ii) permit any representatives designated by the Administrative Agent or any Lender (including employees of the Administrative Agent, any Lender or any consultants, accountants, lawyers and appraisers retained by the Administrative Agent), upon reasonable prior notice, to visit and inspect its properties, to examine and make extracts from its books and records, and to discuss its affairs, finances and condition with its officers and independent accountants, all at such reasonable times and as often as reasonably requested; provided that if no

Event of Default has occurred and is continuing, the Borrower and the Loan Parties shall only be required to reimburse the Administrative Agent for the costs of one such inspection per calendar year. The Loan Parties acknowledge that the Administrative Agent, after exercising its rights of inspection, may prepare and distribute to the Lenders certain Reports pertaining to the Loan Parties' assets for internal use by the Administrative Agent and the Lenders. Notwithstanding the foregoing, nothing in this Section 5.06 shall require any disclosure (i) which would violate applicable Law or breach any obligation binding on the Borrower or such Subsidiary to keep such information confidential, (ii) would require the disclosure of information subject to a legal privilege or (ii) would disclose a trade secret (not related to financial matters)).

SECTION 5.07. Compliance with Laws . Each Loan Party will, and will cause each of its Subsidiaries to, comply with all Requirements of Law applicable to it or its property, except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

SECTION 5.08. Use of Proceeds . The proceeds of the Loans will be used only to pay fees and expenses related to the Transactions consummated on the Effective Date and the Delayed Commitment Effective Date, as applicable, and to be consummated under this Agreement and for working capital and general corporate purposes of the Loan Parties, including to finance new store openings and other transactions permitted by the Loan Documents. No part of the proceeds of any Loan and no Letter of Credit will be used, whether directly or indirectly, for any purpose that entails a violation of any of the Regulations of the Board, including Regulations T, U and X.

SECTION 5.09. Insurance . Each Loan Party will, and will cause each of its Subsidiaries to, maintain with financially sound and reputable carriers having a financial strength rating of at least A- by A.M. Best Company (a) insurance in such amounts (with no greater risk retention) and against such risks and such other hazards, as is customarily maintained by companies of established repute engaged in the same or similar businesses operating in the same or similar locations, and (b) all insurance required pursuant to the Collateral Documents.

SECTION 5.10. Casualty and Condemnation . The Borrower (a) will furnish to the Administrative Agent and the Lenders prompt written notice of any casualty or other insured damage to any material portion of the Collateral or the commencement of any action or proceeding for the taking of any material portion of the Collateral or interest therein under power of eminent domain or by condemnation or similar proceeding and (b) will ensure that the Net Proceeds of any such event (whether in the form of insurance proceeds, condemnation awards or otherwise) are collected and applied in accordance with the applicable provisions of this Agreement and the Collateral Documents

SECTION 5.11. Depository Banks . Each Loan Party will maintain its material deposit accounts for the conduct of its business with the Administrative Agent or another commercial bank which has entered into a deposit account control agreement or securities account control agreement (other than with respect to payroll accounts, benefit accounts, withholding tax accounts or fiduciary accounts), in each case, in form and substance reasonably satisfactory to the Administrative Agent.

SECTION 5.12. Additional Collateral; Further Assurances . (1) Subject to applicable law, each Loan Party shall, within 30 days of such formation or acquisition or the date such Immaterial Subsidiary becomes a Material Subsidiary, cause each of its Subsidiaries (other than an Excluded Subsidiary) formed or acquired after the date of this Agreement and each Immaterial Subsidiary that subsequently becomes a Material Subsidiary and is not otherwise an Excluded Subsidiary, in each case, in accordance with the terms of this Agreement to become a Loan Party by executing the Joinder Agreement set forth as Exhibit C hereto (the " Joinder Agreement "). Upon execution and delivery thereof, each such Subsidiary (i) shall automatically become a Guarantor hereunder and thereupon shall have all of the rights, benefits, duties, and obligations in such capacity under the Loan Documents and (ii) will grant Liens to the Administrative Agent, for the benefit of the Administrative Agent and the Lenders, in any property of such Loan Party which constitutes Collateral, including any parcel of real property located in the U.S. owned by any Loan Party.

(h) Each Loan Party will cause to be subject at all times to a perfected Lien in favor of the Administrative Agent in accordance with the terms and conditions of the Collateral Documents: (i) 100% of the issued and outstanding Equity Interests of each of its Domestic Subsidiaries that is not a Foreign Subsidiary and (ii) 65% of the issued and outstanding Equity Interests entitled to vote (within the meaning of Treas. Reg. Section 1.956-2(c)(2)) and 100% of the issued and outstanding Equity Interests not entitled to vote (within the meaning of Treas. Reg. Section 1.956-2(c)(2)) in each Foreign Subsidiary.

(i) The Borrower agrees that if (i) the Administrative Agent notifies the Borrower that as a result of a Change in Law there is a reason to believe that more than 65% of the Equity Interests of any Foreign Subsidiary directly owned by the Borrower or any Domestic Subsidiary would be permitted to be pledged and subject to a perfected Lien in favor of the Administrative Agent in accordance with the terms and conditions of the Collateral Documents with no resulting "deemed dividend" under Section 956 of the Code and (ii) subsequent to the receipt of such notice, the Borrower reasonably determines (in consultation with its counsel and other tax advisors) that more than 65% of the Equity Interests of such a Foreign Subsidiary would be permitted to be pledged and subject to a perfected Lien in favor of the Administrative Agent in accordance with the terms and conditions of the Collateral Documents without such a "deemed dividend" under Section 956 of the Code or other possible tax consequences that are adverse to it, then the Borrower shall and shall cause each such Subsidiary to pledge such greater percentage of Equity Interests entitled to vote to be subject to a perfected Lien in favor of the Administrative Agent in accordance with the terms and conditions of the Collateral Documents.

(j) Without limiting the foregoing, each Loan Party will, and will cause each Subsidiary to, execute and deliver, or cause to be executed and delivered, to the Administrative Agent such documents, agreements and instruments, and will take or cause to be taken such further actions (including the filing and recording of financing statements, fixture filings, mortgages, deeds of trust and other documents and such other actions or deliveries of the type required by Section 4.01, as applicable), which may be required by law or which the Administrative Agent may, from time to time, reasonably request to carry out the terms and conditions of this Agreement and the other Loan Documents and to ensure perfection and priority of the Liens created or intended to be created by the Collateral Documents, all at the expense of the Loan Parties.

ARTICLE VI

NEGATIVE COVENANTS

Until the Revolving Commitments have expired or terminated and the principal of and interest on each Loan and all fees, expenses and other amounts payable under any Loan Document have been paid in full (other than Unliquidated Obligations) and all Letters of Credit have expired or terminated (or have been cash collateralized in accordance with the provisions hereof) and all LC Disbursements shall have been reimbursed, the Loan Parties covenant and agree, jointly and severally, with the Lenders that:

SECTION 6.01. Indebtedness . No Loan Party will, nor will it permit any of its Subsidiaries to, create, incur or suffer to exist any Indebtedness, except:

(j) the Secured Obligations;

(k) Indebtedness existing on the date hereof and set forth in Schedule 6.01 and extensions, renewals, refinancings and replacements of any such Indebtedness in accordance with clause (f) hereof;

(l) Indebtedness of any Loan Party to any other Loan Party, provided that Indebtedness of the Borrower to any Loan Party shall be subordinated to the Secured Obligations on terms reasonably satisfactory to the Administrative Agent;

(m) Guarantees by any Loan Party of Indebtedness of any other Loan Party, provided that (i) the Indebtedness so Guaranteed is permitted by this Section 6.01 and (ii) Guarantees permitted under this clause (d) shall be subordinated to the Secured Obligations of the applicable Subsidiary on the same terms as the Indebtedness so Guaranteed is subordinated to the Secured Obligations;

(n) Indebtedness of any Loan Party incurred to finance the acquisition, construction or improvement of any fixed or capital assets (whether or not constituting purchase money Indebtedness), including Capital Lease Obligations and any Indebtedness assumed in connection with the acquisition of any such assets or secured by a Lien on any such assets prior to the acquisition thereof, and extensions, renewals and replacements of any such Indebtedness in accordance with clause (f) hereof; provided that (i) such Indebtedness is incurred prior to or within 90 days after such acquisition or the completion of such construction or improvement and (ii) the aggregate principal amount of Indebtedness permitted by this clause (e) shall not exceed $6,000,000 at any time outstanding;

(o) Indebtedness which represents an extension, refinancing, or renewal of any of the Indebtedness described in clauses (b) and (e) hereof; provided that, with respect to clause (b) hereof (i) the principal amount or interest rate of such Indebtedness is not increased, and (ii) the terms of any such extension, refinancing, or renewal are not less favorable to the obligor thereunder than the original terms of such Indebtedness; and provided further that with respect to clauses (b) and

(e) hereof (iii) any Liens securing such Indebtedness are not extended to any additional property of any Loan Party, (iv) no Loan Party that is not originally obligated with respect to repayment of such Indebtedness is required to become obligated with respect thereto, (iv) such extension, refinancing or renewal does not result in a shortening of the average weighted maturity of the Indebtedness so extended, refinanced or renewed, and (v) if the Indebtedness that is refinanced, renewed, or extended was subordinated in right of payment to the Secured Obligations, then the terms and conditions of the refinancing, renewal, or extension Indebtedness must include subordination terms and conditions that are at least as favorable to the Administrative Agent and the Lenders as those that were applicable to the refinanced, renewed, or extended Indebtedness;

(p) Indebtedness owed to any Person providing workers' compensation, health, disability or other employee benefits or property, casualty or liability insurance, pursuant to reimbursement or indemnification obligations to such Person, in each case incurred in the ordinary course of business;

(q) Indebtedness of any Loan Party in respect of performance bonds, bid bonds, appeal bonds, surety bonds and similar obligations, in each case provided in the ordinary course of business;

(r) Indebtedness of any Loan Party in respect of netting services, overdraft protections and otherwise in connection with deposit accounts in the ordinary course of business;

(s) unsecured Indebtedness of any Loan Party in respect of obligations of any Loan Party to pay the deferred purchase price of goods or services or progress payments in connection with such goods and services; provided that such obligations are incurred in the ordinary course of business;

(t) Indebtedness of any Loan Party consisting of (i) obligations to pay insurance premiums or (ii) take or pay obligations contained in supply agreements, in each case arising in the ordinary course of business;

(u) Indebtedness arising from agreements of any Loan Party or any Subsidiary providing for indemnification, adjustment of purchase price or similar obligations in each case entered into in connection with any Acquisition, other investment or Asset Sale permitted under Sections 6.03, 6.04 and 6.05, as applicable;

(v) Swap Agreements and commodity hedging agreements, in each case, entered into to protect against fluctuations in interest rates, foreign currency exchange rates or commodity prices and not for speculative purposes;

(w) Indebtedness representing deferred compensation to officers, directors or employees of any Loan Party (or any of its Subsidiaries) incurred in the ordinary course of business;

(x) Indebtedness in respect of import indemnities or similar instruments in each case provided in the ordinary course of business;

(y) Indebtedness permitted as investments under Section 6.04; and

(z) other unsecured Indebtedness in an aggregate principal amount not exceeding $6,250,000 at any time outstanding.

SECTION 6.02. Liens . No Loan Party will, nor will it permit any of its Subsidiaries to, create, incur, assume or permit to exist any Lien on any property or asset now owned or hereafter acquired by it, or assign or sell any income or revenues (including accounts receivable) or rights in respect of any thereof, except:

(f) Liens created pursuant to any Loan Document;

(g) Permitted Encumbrances;

(h) any Lien on any property or asset of any Loan Party existing on the date hereof and set forth in Schedule 6.02; provided that (i) such Lien shall not apply to any other property or asset of the Borrower or Subsidiary and (ii) such Lien shall secure only those obligations which it secures on the date hereof (or any extension, refinancing or renewal of such obligations permitted in accordance with Section 6.01(f));

(i) Liens on fixed or capital assets acquired, constructed or improved by the any Loan Party; provided that (i) such security interests secure Indebtedness permitted by clause (e) of Section 6.01, (ii) such security interests and the Indebtedness secured thereby are incurred prior to or within 90 days after such acquisition or the completion of such construction or improvement, (iii) the Indebtedness secured thereby does not exceed the cost of acquiring, constructing or improving such fixed or capital assets and (iv) such security interests shall not apply to any other property or assets of any Loan Party;

(j) any Lien existing on any property or asset prior to the acquisition thereof by any Loan Party or existing on any property or asset of any Person that becomes a Loan Party after the date hereof prior to the time such Person becomes a Loan Party; provided that (i) such Lien is not created in contemplation of or in connection with such acquisition or such Person becoming a Loan Party, as the case may be, (ii) such Lien shall not apply to any other property or assets of the Loan Party and (iii) such Lien shall secure only those obligations (as such obligations may be extended, refinanced or renewed in accordance with Section 6.01(f)) which it secures on the date of such acquisition or the date such Person becomes a Loan Party, as the case may be;

(k) Liens of a collecting bank arising in the ordinary course of business under Section 4−208 of the Uniform Commercial Code in effect in the relevant jurisdiction covering only the items being collected upon;

(l) Liens arising out of sale and leaseback transactions permitted by Section 6.06; and

(m) other Liens securing obligations of the Borrower and its Subsidiaries not exceeding $5,000,000 in the aggregate outstanding at any time.

SECTION 6.03. Fundamental Changes . (1) No Loan Party will, nor will it permit any Subsidiary to, merge into or consolidate with any other Person, or permit any other Person to merge into or consolidate with it, or liquidate or dissolve, except that, if at the time thereof and immediately

after giving effect thereto no Event of Default shall have occurred and be continuing (i) any Loan Party (or any of its Subsidiaries) may merge into the Borrower in a transaction in which the Borrower is the surviving corporation, (ii) any Loan Party (other than the Borrower) or any of its Subsidiaries may merge into any Loan Party in a transaction in which the surviving entity is a Loan Party, (iii) any Subsidiary of a Loan Party may merge into any other Subsidiary of a Loan Party, so long as if any such Subsidiary is a Loan Party such Loan Party shall be the surviving entity and (iv) any Loan Party may liquidate or dissolve any unprofitable and immaterial Subsidiary in the ordinary course of business.

(f) No Loan Party will, nor will it permit any of its Subsidiaries to, engage in any business other than businesses of the type conducted by the Loan Parties and such Subsidiaries on the date of execution of this Agreement and businesses reasonably related thereto.

SECTION 6.04. Investments, Loans, Advances, Guarantees and Acquisitions . No Loan Party will, nor will it permit any Subsidiary to, purchase, hold or acquire (including pursuant to any merger with any Person that was not a Loan Party and a wholly owned Subsidiary prior to such merger) any capital stock, evidences of indebtedness or other securities (including any option, warrant or other right to acquire any of the foregoing) of, make or permit to exist any loans or advances to, Guarantee any obligations of, or make or permit to exist any investment or any other interest in, any other Person, or purchase or otherwise acquire (in one transaction or a series of transactions) any assets of any other Person constituting a business unit (whether through purchase of assets, merger or otherwise), except:

(e) Permitted Investments;

(f) investments in existence on the date of this Agreement and described in Schedule 6.04 (or any extension, refinancing or renewal of such investments, so long as the aggregate amount of all investments pursuant to this clause (b) is not increased at any time above the amount of such investments existing on the date hereof;

(g) investments by each Loan Party or any Subsidiary in Equity Interests in other Loan Parties, provided that any such Equity Interests held by a Loan Party, shall be pledged pursuant to, and only to the extent required under, the Security Agreement;

(h) loans or advances made by any Loan Party (or any of its Subsidiaries) to any other Loan Party permitted by Section 6.01(c);

(i) Indebtedness permitted by Section 6.01;

(j) loans or advances made by a Loan Party to its officers and employees on an arms-length basis in the ordinary course of business consistent with past practices for travel and entertainment expenses, relocation costs and similar purposes up to a maximum of $312,500 to any officer or employee and up to a maximum of $1,250,000 in the aggregate at any one time outstanding;

(k) investments in the form of Swap Agreements permitted by Section 6.07;

(l) investments in connection with any Permitted Equity Issuance;

(m) investments received in connection with the dispositions of assets permitted by Section 6.05;

(n) investments in joint ventures and unconsolidated subsidiaries useful in the business of the Loan Parties; provided that such investments are made (i) with the proceeds of equity investments in the Loan Parties by Persons who are not Loan Parties or (ii) in cash in amounts not to exceed $9,375,000 in the aggregate (calculated based on the date such investment was made);

(o) investments constituting deposits described in clauses (c) and (d) of the definition of the term "Permitted Encumbrances";

(p) loans to employees or officers of any Loan Party (or any of its Subsidiaries) in connection with such Person's purchase of Equity Interests or options to purchase Equity Interests in any Loan Party up to a maximum of $187,500 to any employee or officer and up to a maximum of $937,500 in the aggregate at any one time outstanding;

(q) investments made to repurchase or retire Equity Interests of any Loan Party permitted under Section 6.08;

(r) advances of payroll to employees of any Loan Party in the ordinary course of business;

(s) investments to the extent that payment for such investments is made with Equity Interests;

(t) investments received in connection with the bankruptcy or reorganization of suppliers or customers and in settlement of delinquent obligations of, and other disputes with, customers arising in the ordinary course of business or upon foreclosure with respect to any secured investment or other transfer of title with respect to any secured investment;

(u) loans and advances to any direct or indirect parent of the Borrower in lieu of, and not in excess of the amount of, dividends to the extent permitted to be made to such parent in accordance with Section 6.08;

(v) Guarantees by a Loan Party entered into in connection with real property leases or subleases entered into by any other Loan Party; and

(w) investments by any Loan Party in Persons not to exceed $4,687,500 at any time outstanding *plus* capital contributions and dividends that the Borrower and Loan Parties receive directly or indirectly from (i) a Person that is not a Loan Party or (ii) third party holders of Equity Interests of the Loan Parties.

SECTION 6.05. Asset Sales . No Loan Party will, nor will it permit any Subsidiary to (x) sell, transfer, lease or otherwise dispose of any asset, including any Equity Interest owned by it, except:

(g) sales, transfers and dispositions of (i) inventory in the ordinary course of business and (ii) used, obsolete, worn out or surplus equipment or property in the ordinary course of business;

(h) sales, transfers and dispositions among the Loan Parties (including dispositions permitted by Section 6.03);

(i) sales, transfers and dispositions of Permitted Investments and other investments permitted by clause (h) of Section 6.04;

(j) sale and leaseback transactions permitted by Section 6.06;

(k) sales by domestic subsidiaries of intellectual property rights and licenses to foreign subsidiaries;

(l) leases, subleases, licenses or sublicenses of real or personal property (including intellectual property) in the ordinary course of business and consistent with past practice;

(m) dispositions or use of cash and Permitted Investments in the ordinary course of business and consistent with past practice;

(n) dispositions resulting from any casualty or other insured damage to, or any taking under power of eminent domain or by condemnation or similar proceeding of, any property or asset of the Borrower (or any of its Subsidiaries);

(o) sales, transfers and other dispositions of assets (other than Equity Interests in a Subsidiary unless all Equity Interests in such Subsidiary are sold) that are not permitted by any other paragraph of this Section, provided that the aggregate fair market value of all assets sold, transferred or otherwise disposed of in reliance upon this paragraph (i) shall not exceed $5,000,000 during any fiscal year of the Borrower;

(p) sales, transfers and other dispositions of property to the extent that (i) such property is exchanged for credit against the purchase price of similar replacement property, or (ii) the proceeds of such disposition are promptly applied to the purchase price of such replacement property; and

(q) sales, transfers and other dispositions of investments in joint ventures to the extent required by, or made pursuant to, customary buy/sell arrangements between the joint venture arrangements and similar binding arrangements.

SECTION 6.06. Sale and Leaseback Transactions . No Loan Party will, nor will it permit any Subsidiary to, enter into any arrangement, directly or indirectly, whereby it shall sell or transfer any property, real or personal, used or useful in its business, whether now owned or hereafter acquired, and thereafter rent or lease such property or other property that it intends to use for substantially the same purpose or purposes as the property sold or transferred, except for any such sale of any fixed or capital assets by the Borrower (or any of its Subsidiaries) that is made for cash consideration in an amount not less than the fair value of such fixed or capital asset and is consummated within 90 days after the Borrower or such Subsidiary acquires or completes the construction of such fixed or capital asset.

SECTION 6.07. Swap Agreements . No Loan Party will, nor will it permit any Subsidiary to, enter into any Swap Agreement, except (a) Swap Agreements entered into to hedge or mitigate risks to which the Borrower (or any of its Subsidiaries) has actual exposure (other than those in respect of Equity Interests of the Borrower or any of its Subsidiaries), and (b) Swap Agreements entered into in order to effectively cap, collar or exchange interest rates (from fixed to floating rates, from one floating rate to another floating rate or otherwise) with respect to any interest-bearing liability or investment of the Borrower (or any of its Subsidiaries).

SECTION 6.08. Restricted Payments; Certain Payments of Indebtedness . (1) No Loan Party will, nor will it permit any Subsidiary to, declare or make, or agree to pay or make, directly or indirectly, any Restricted Payment, or incur any obligation (contingent or otherwise) to do so, except

(iii) each Loan Party and each of their respective Subsidiaries may declare and pay dividends with respect to its common stock payable solely in additional shares of its common stock, and, with respect to its preferred stock, payable solely in additional shares of such preferred stock or in shares of its common stock,

(iv) each Loan Party may pay dividends or make distributions to its direct or indirect shareholders/members to pay their assumed state, local and United States federal income tax liabilities attributable to such Loan Party's (or, without duplication, such Loan Party's Subsidiaries) income and gain, with such taxes being calculated for all such shareholders/members at a rate not to exceed the highest combined federal, state, and local tax rate applicable to any such shareholder/member, whether to a corporation or individual, whichever is higher and, in the case of distributions to Shake Shack, without regard to any adjustments under Section 743(b) of the Code,

(v) each Loan Party (other than the Borrower) may (x) pay management, consulting and advisory fees to the Borrower and (y) pay dividends or make distributions to its shareholders or members,

(vi) any Loan Party (or any of its Subsidiaries) may redeem in whole or in party any of its Equity Interests for another class of its Equity Interests or with proceeds from substantially concurrent equity contributions or issuances of new Equity Interests,

(vii) any Loan Party (or any of its Subsidiaries) may (or may make dividends to permit any direct or indirect parent thereof to) repurchase or retire shares of its (or such parent's) Equity Interests held by officers, directors, employees and members of any Loan Party (or any of its Subsidiaries) (or any spouse, former spouse, successor, executor, administrator, heir, legatee or distributee of any of the foregoing), so long as such repurchase or retirement is pursuant to, and in accordance with the terms of, any management, director and/or employee equity or stock option or benefit plans, stock subscription agreements, the Organizational Document of any Loan Party, or any agreement between any employee, officer or director of any Loan Party and any Loan Party,

(viii) each Loan Party may redeem in whole or in part any of its Equity Interests,

(ix) the Borrower may (x) reimburse Shake Shack for its expenses incurred on behalf of the Borrower to the extent provided in Section 6.06 of the LLC Agreement, and (y) make indemnification payments pursuant to Section 7.04 of the LLC Agreement, and

(x) the Borrower may make distributions to Shake Shack to the extent necessary to enable Shake Shack to (x) pay "Cash Settlements" pursuant to Article XI of the LLC Agreement, and (y), without duplication as to clause (ii) of this Section 6.08(a), make "Tax Benefit Payments" pursuant to Article III of the Tax Receivable Agreement;

provided that (1) any dividend or distribution permitted by clause (v) to a Person that is not a Loan Party and (2) any transaction contemplated by clause (v) or (vi) above are subject to the following conditions (subject to Section 7.02) (x) no Event of Default then exists or would result therefrom and (y) the Borrower has delivered to the Administrative Agent, at least 10 Business Days prior to such Restricted Payment, a certificate of a Responsible Financial Officer of the Borrower demonstrating pro forma compliance with Section 6.12, both before and after giving effect to such Restricted Payment.

(c) No Loan Party will, nor will it permit any Subsidiary to, make or agree to pay or make, directly or indirectly, any payment or other distribution (whether in cash, securities or other property) of or in respect of principal of or interest on any funded Indebtedness, or any payment or other distribution (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any funded Indebtedness, except:

(i) payment of Indebtedness created under the Loan Documents;

(ii) payment of regularly scheduled interest and principal payments as and when due in respect of any Indebtedness, other than payments in respect of the Subordinated Indebtedness prohibited by the subordination provisions thereof;

(iii) refinancings of Indebtedness to the extent permitted by Section 6.01;

(iv) payment of secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness; and

(v) payments of Indebtedness not to exceed $2,000,000 in the aggregate per fiscal year.

SECTION 6.09. Transactions with Affiliates . No Loan Party will, nor will it permit any Subsidiary to, sell, lease or otherwise transfer any property or assets to, or purchase, lease or otherwise acquire any property or assets from, or otherwise engage in any other transactions with, any of its Affiliates, except (a) transactions that (i) are in the ordinary course of business and (ii) are at prices and on terms and conditions not less favorable to the Borrower or such Subsidiary than could be obtained on an arm's-length basis from unrelated third parties, (b) transactions between or among the Borrower and any Subsidiary that is a Loan Party not involving any other Affiliate, (c) any investment permitted by Sections 6.04(c) or 6.04(d), (d) any Indebtedness permitted under Section 6.01(c), (e) any Restricted Payment permitted by Section 6.08, (f) loans or advances to

employees permitted under Section 6.04, (g) any transaction permitted under Section 6.05(e), (h) the payment of reasonable fees to directors of the Borrower, the Loan Parties or any of their respective Subsidiaries who are not employees of the Borrower, the Loan Parties, or any of their respective Subsidiaries, and compensation and employee benefit arrangements paid to, and indemnities provided for the benefit of, directors, officers or employees of the Borrower or its Subsidiaries in the ordinary course of business, (i) any issuances of securities or other payments, compensation awards or grants in cash, securities or otherwise pursuant to, or the funding of, employment agreements, stock options and stock ownership plans approved by the Borrower's Board of Directors, and (j) the payment of management, consulting and advisory fees to the Borrower.

SECTION 6.10. Restrictive Agreements . No Loan Party will, nor will it permit any Subsidiary to, directly or indirectly, enter into, incur or permit to exist any agreement or other arrangement that prohibits, restricts or imposes any condition upon (a) the ability of such Loan Party or any of its Subsidiaries to create, incur or permit to exist any Lien upon any of its property or assets, or (b) the ability of any Loan Party to make or repay loans or advances to the Borrower or any other Loan Party or to Guarantee Indebtedness of the Borrower or any other Loan Party or to pay management, consulting or advisory fees to the Borrower; provided that (i) the foregoing shall not apply to restrictions and conditions:

(vi) imposed by law, any Loan Document or any Organizational Document of any Loan Party;

(vii) existing on the date hereof and identified on Schedule 6.10 (but shall not apply to any extension or renewal of, or any amendment or modification expanding the scope of, any such restriction or condition);

(viii) arise in connection with any disposition permitted under Section 6.05;

(ix) clause (a) of the foregoing shall not apply to customary provisions restricting subletting or assignment of any lease governing a leasehold interest of a Loan Party or Subsidiary;

(x) clause (a) of the foregoing shall not apply to restrictions or conditions imposed by any agreement relating to secured Indebtedness permitted by Sections 6.01(d), (e) or (f) or 6.02(d) or (e) if such restrictions or conditions apply only to the property or assets securing such Indebtedness; and

(xi) clause (a) of the foregoing shall not apply to customary provisions in leases, joint venture agreements or other agreement entered into in the ordinary course of business and consistent with past practice restricting the assignment thereof.

SECTION 6.11. Amendment of Material Documents . No Loan Party will, nor will it permit any of its Subsidiaries to, amend, modify or waive any of its rights under (a) agreement relating to any Subordinated Indebtedness, (b) its Organizational Documents (including the LLC Agreement), or (c) the Tax Receivable Agreement, in each case, to the extent any such amendment, modification or waiver would be materially adverse to the Lenders.

SECTION 6.12. Fixed Charge Coverage Ratio . The Borrower will not permit the Fixed Charge Coverage Ratio determined for any period of four consecutive fiscal quarters ending on the last day of each fiscal quarter (after giving effect to any Cure Payments pursuant to Section 7.02) to be less than 1.20:1.

SECTION 6.13. Funded Net Debt to EBITDA Ratio . The Borrower will not permit the Funded Net Debt to EBITDA Ratio determined for any period of four consecutive fiscal quarters ending on the last day of each fiscal quarter (after giving effect to any Cure Payments pursuant to Section 7.02) to exceed 3.00:1.

ARTICLE VII

EVENTS OF DEFAULT

SECTION 7.01. Events of Default . If any of the following events (" Events of Default ") shall occur:

(n) the Borrower shall fail to pay (i) any principal of any Loan, (ii) any reimbursement obligation in respect of any LC Disbursement or (iii) any interest on any Loan when and as the same shall become due and payable, whether at the due date thereof or at a date fixed for prepayment thereof or otherwise;

(o) the Borrower shall fail to pay any fee or any other amount (other than an amount referred to in clause (a) of this Article) payable under this Agreement, when and within 5 Business Days of the date that the same shall become due and payable;

(p) any representation or warranty made or deemed made by or on behalf of any Loan Party or any Subsidiary in or in connection with this Agreement or any Loan Document or any amendment or modification hereof or thereof or waiver hereunder or thereunder, or in any report, certificate, financial statement or other document furnished to the Administrative Agent pursuant to or in connection with this Agreement or any Loan Document or any amendment or modification hereof or thereof or waiver hereunder or thereunder, shall prove to have been materially incorrect when made or deemed made;

(q) any Loan Party shall fail to observe or perform any covenant, condition or agreement contained in Section 5.02(a), 5.03 (with respect to a Loan Party's existence), 5.08 or 5.12 or in Article VI;

(r) any Loan Party shall fail to observe or perform any covenant, condition or agreement contained in this Agreement (other than those which constitute a default under another Section of this Article), and such failure shall continue unremedied for a period of (i) 5 days after the earlier of knowledge of such breach or notice thereof from the Administrative Agent (which notice will be given at the request of any Lender) if such breach relates to terms or provisions of Section 5.01, 5.02 (other than Section 5.02(a)), 5.03 through 5.07, 5.09, 5.10 or 5.11 of this Agreement or (ii) 15 days after the earlier of knowledge of such breach or notice thereof from the Administrative Agent (which notice will be given at the request of any Lender) if such breach relates to terms or provisions of any other Section of this Agreement;

(s) any Loan Party or any Subsidiary shall fail to make any payment (whether of principal or interest and regardless of amount) in respect of any Material Indebtedness, when and as the same shall become due and payable (subject to any grace or cure periods set forth in the terms of such Material Indebtedness);

(t) any event or condition occurs and continues that results in any Material Indebtedness becoming due prior to its scheduled maturity or that enables or permits (with or without the giving of notice, the lapse of time or both) the holder or holders of any Material Indebtedness or any trustee or agent on its or their behalf to cause any Material Indebtedness to become due, or to require the prepayment, repurchase, redemption or defeasance thereof, prior to its scheduled maturity; provided that this clause (g) shall not apply to secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness;

(u) an involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking (i) liquidation, reorganization or other relief in respect of a Loan Party or any Subsidiary of any Loan Party or its debts, or of a substantial part of its assets, under any Federal, state or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect or (ii) the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for any Loan Party or any Subsidiary of any Loan Party or for a substantial part of its assets, and, in any such case, such proceeding or petition shall continue undismissed for 60 days or an order or decree approving or ordering any of the foregoing shall be entered;

(v) any Loan Party or any Subsidiary of any Loan Party shall (i) voluntarily commence any proceeding or file any petition seeking liquidation, reorganization or other relief under any Federal, state or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect, (ii) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or petition described in clause (h) of this Article, (iii) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for such Loan Party or Subsidiary of any Loan Party or for a substantial part of its assets, (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (v) make a general assignment for the benefit of creditors or (vi) take any action for the purpose of effecting any of the foregoing;

(w) any Loan Party or any Subsidiary of any Loan Party shall become unable, admit in writing its inability or fail generally to pay its debts as they become due;

(x) one or more judgments for the payment of money in an aggregate amount in excess of $3,500,000 (to the extent not covered by independent third-party insurance as to which the insurer does not dispute coverage) shall be rendered against any Loan Party, any Subsidiary of any Loan Party or any combination thereof and the same shall remain undischarged for a period of 30 consecutive days during which execution shall not be effectively stayed, or any action shall be legally taken by a judgment creditor to attach or levy upon any assets of any Loan Party or any Subsidiary of any Loan Party to enforce any such judgment or any Loan Party or any Subsidiary of any Loan Party shall fail within 30 days to discharge one or more non-monetary judgments or orders which, individually or in the aggregate, could reasonably be expected to have a Material

Adverse Effect, which judgments or orders, in any such case, are not stayed on appeal or otherwise being appropriately contested in good faith by proper proceedings diligently pursued;

(y) an ERISA Event shall have occurred that, in the opinion of the Required Lenders, when taken together with all other ERISA Events that have occurred, could reasonably be expected to result in a Material Adverse Effect;

(z) a Change in Control shall occur;

(aa) the occurrence of any "default", as defined in any Loan Document (other than this Agreement) or the breach of any of the terms or provisions of any Loan Document (other than this Agreement), which default or breach continues beyond any period of grace therein provided;

(bb) other than pursuant to the terms of the Loan Documents, any Loan Guaranty shall fail to remain in full force or effect or any action shall be taken to discontinue or to assert the invalidity or unenforceability of any Loan Guaranty, or any Guarantor shall fail to comply with any of the terms or provisions of the Loan Guaranty, to which it is a party, or any Guarantor shall deny that it has any further liability under the Loan Guaranty, to which it is a party, or shall give notice to such effect;

(cc) other than as a result of any action by the Administrative Agent, any Collateral Document shall for any reason fail to create a valid and perfected first priority security interest in any Collateral purported to be covered thereby, except as permitted by the terms of any Collateral Document, or any Collateral Document shall fail to remain in full force or effect or any action shall be taken to discontinue or to assert the invalidity or unenforceability of any Collateral Document; or

(dd) any material provision of any Loan Document for any reason ceases to be valid, binding and enforceable in accordance with its terms (or any Loan Party shall challenge the enforceability of any Loan Document or shall assert in writing that any provision of any of the Loan Documents has ceased to be or otherwise is not valid, binding and enforceable in accordance with its terms);

then, and in every such event (other than an event with respect to the Borrower described in clause (h) or (i) of this Article), and at any time thereafter during the continuance of such event, the Administrative Agent may, and at the request of the Required Lenders shall, by notice to the Borrower, take either or both of the following actions, at the same or different times: (i) terminate the Revolving Commitments, and thereupon the Revolving Commitments shall terminate immediately, and (ii) declare the Loans then outstanding to be due and payable in whole (or in part, in which case any principal not so declared to be due and payable may thereafter be declared to be due and payable), and thereupon the principal of the Loans so declared to be due and payable, together with accrued interest thereon and all fees and other obligations of the Borrower accrued hereunder, shall become due and payable immediately, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower; and in case of any event with respect to the Borrower described in clause (h) or (i) of this Article, the Revolving Commitments shall automatically terminate and the principal of the Loans then outstanding, together with accrued interest thereon and all fees and other obligations of the Borrower accrued hereunder, shall

automatically become due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower. Upon the occurrence and the continuance of an Event of Default, the Administrative Agent may, and at the request of the Required Lenders shall, exercise any rights and remedies provided to the Administrative Agent under the Loan Documents or at law or equity, including all remedies provided under the UCC.

SECTION 7.02. Cure Right .

(g) Notwithstanding anything to the contrary contained in Sections 5.09, 5.12, 6.12 and 6.13 (and the definitions related thereto) or Section 7.01 (with respect to such Section and definitions), in the event of any Event of Default arising from the breach of the Fixed Charge Coverage Ratio covenant set forth in Section 6.12 and/or the Funded Net Debt to EBITDA Ratio covenant set forth in Section 6.13 as of the last day of any fiscal quarter (prior to giving effect to any Cure Payment), and until the expiration of the eighth (8 th) day after the date of the delivery of (i) in the case of any fiscal quarter ending in June, the quarterly report in Section 5.01(b) and (ii) in the case of the fiscal quarter ending in December, the annual report in Section 5.01(a), cash contributions may be made to the Borrower, within one (1) Business Day after the expiration of such period, in an amount which, when added to the Borrower's EBITDA (and, in the case of the Funded Net Debt to EBITDA Ratio, applied to reduce Indebtedness) for the four quarter period ending on the last day of the fiscal quarter in which such breach occurred, will result in the Borrower being in compliance with the Fixed Charge Coverage Ratio and/or the Funded Net Debt to EBITDA Ratio, as applicable, for such period.

(h) The Borrower shall not be permitted to exercise the right to cure set forth in clause (a) of this Section 7.02 more than six (6) times over the term of this Agreement.

(i) The Administrative Agent and the Lenders agree that until the expiration of the periods set forth in Section 7.02(a), neither the Administrative Agent nor the Lenders shall exercise any rights or remedies with respect to any Event of Default arising from the breach of the Fixed Charge Coverage Ratio covenant set forth in Section 6.12 and/or the Funded Net Debt to EBITDA Ratio covenant set forth in Section 6.13, as applicable, as of the last day of any fiscal quarter (prior to giving effect to any Cure Payment), but the Administrative Agent and the Lenders reserve the right to exercise any such rights or remedies if such Event of Default continues to exist following the expiration of such period.

(j) The parties hereby acknowledge that this Section 7.02 or any Cure Payment received (or deemed to be received) by the Borrower pursuant to this Section 7.02 shall not:

(i) be relied on for purposes of calculating any financial ratios other than as applicable to Sections 5.09, 5.12, 6.12 and 6.13, including any calculation for the purpose of determining any basket or threshold in this Agreement;

(ii) result in any adjustment to the Fixed Charge Coverage Ratio for the purpose of determining the Borrower's compliance with the Fixed Charge Coverage Ratio for the purposes set forth in Sections 6.08(a)(iv) and (vi), other than the adjustment to the Fixed Charge Coverage Ratio referred to in the immediately preceding clause (i); or

(iii) be used to determine the permissibility of a transaction or other action under the Loan Documents where such permissibility was (or may have been) contingent on pro forma compliance with the Fixed Charge Coverage Ratio.

(k) If, after giving effect to the foregoing recalculations, the Borrower shall then be in compliance with the requirements of the Fixed Charge Coverage Ratio and/or the Funded Net Debt to EBITDA Ratio, as applicable, the Borrower shall be deemed to have satisfied the requirements of such financial covenant as of the relevant date of determination with the same effect as though there had been no failure to comply therewith at such date, and the applicable breach or default of such financial covenant that had occurred shall be deemed cured for the purposes of this Agreement (and, for the avoidance of doubt, no default interest shall be paid in connection with any such cure).

(l) To the extent that a Cure Payment is received and included in the calculation of EBITDA for any applicable fiscal quarter pursuant to this Section, such Cure Payment shall be deemed to be EBITDA for purposes of determining compliance with any covenant contained herein for subsequent periods that include such fiscal quarter.

ARTICLE VIII

THE ADMINISTRATIVE AGENT

Each of the Lenders and the Issuing Bank hereby irrevocably appoints the Administrative Agent as its agent and authorizes the Administrative Agent to take such actions on its behalf, including execution of the other Loan Documents, and to exercise such powers as are delegated to the Administrative Agent by the terms of the Loan Documents, together with such actions and powers as are reasonably incidental thereto.

The bank serving as the Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Administrative Agent, and such bank and its Affiliates may accept deposits from, lend money to and generally engage in any kind of business with the Loan Parties or any Subsidiary of a Loan Party or other Affiliate thereof as if it were not the Administrative Agent hereunder.

The Administrative Agent shall not have any duties or obligations except those expressly set forth in the Loan Documents. Without limiting the generality of the foregoing, (a) the Administrative Agent shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing, (b) the Administrative Agent shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated by the Loan Documents that the Administrative Agent is required to exercise in writing as directed by the Required Lenders (or such other number or percentage of the Lenders as shall be necessary under the circumstances as provided in Section 9.02), and (c) except as expressly set forth in the Loan Documents, the Administrative Agent shall not have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to any Loan Party or any of its Subsidiaries that is communicated to or obtained by the bank serving as Administrative Agent or any of its Affiliates in any capacity. The Administrative Agent shall not be liable for any action taken or not taken by it with the consent or at the request

of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary under the circumstances as provided in Section 9.02) or in the absence of its own gross negligence or willful misconduct. The Administrative Agent shall be deemed not to have knowledge of any Default unless and until written notice thereof is given to the Administrative Agent by the Borrower or a Lender, and the Administrative Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with any Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or in connection with any Loan Document, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth in any Loan Document, (iv) the validity, enforceability, effectiveness or genuineness of any Loan Document or any other agreement, instrument or document, (v) the creation, perfection or priority of Liens on the Collateral or the existence of the Collateral, or (vi) the satisfaction of any condition set forth in Article IV or elsewhere in any Loan Document, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent.

The Administrative Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing believed by it to be genuine and to have been signed or sent by the proper Person. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to be made by the proper Person, and shall not incur any liability for relying thereon. The Administrative Agent may consult with legal counsel (who may be counsel for the Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

The Administrative Agent may perform any and all its duties and exercise its rights and powers by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any and all its duties and exercise its rights and powers through their respective Related Parties. The exculpatory provisions of the preceding paragraphs shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Administrative Agent.

Subject to the appointment and acceptance of a successor Administrative Agent as provided in this paragraph, the Administrative Agent may resign at any time by notifying the Lenders, the Issuing Bank and the Borrower. Upon any such resignation, the Required Lenders shall have the right, in consultation with the Borrower, to appoint a successor. If no successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days after the retiring Administrative Agent gives notice of its resignation, then the retiring Administrative Agent may, on behalf of the Lenders and the Issuing Bank, appoint a successor Administrative Agent which shall be a commercial bank or an Affiliate of any such commercial bank. Upon the acceptance of its appointment as Administrative Agent hereunder by a successor, such successor shall succeed to and become vested with all the rights, powers, privileges and duties of the retiring Administrative Agent, and the retiring Administrative Agent shall be discharged from its duties and obligations hereunder. The fees payable by the Borrower to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and

such successor. After the Administrative Agent's resignation hereunder, the provisions of this Article, Section 2.16(d) and Section 9.03 shall continue in effect for the benefit of such retiring Administrative Agent, its sub−agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while it was acting as Administrative Agent.

Each Lender acknowledges that it has, independently and without reliance upon the Administrative Agent or any other Lender and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender also acknowledges that it will, independently and without reliance upon the Administrative Agent or any other Lender and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or related agreement or any document furnished hereunder or thereunder.

Each Lender hereby agrees that (a) it has requested a copy of each Report prepared by or on behalf of the Administrative Agent; (b) the Administrative Agent (i) makes no representation or warranty, express or implied, as to the completeness or accuracy of any Report or any of the information contained therein or any inaccuracy or omission contained in or relating to a Report and (ii) shall not be liable for any information contained in any Report; (c) the Reports are not comprehensive audits or examinations, and that any Person performing any field examination will inspect only specific information regarding the Loan Parties and will rely significantly upon the Loan Parties' books and records, as well as on representations of the Loan Parties' personnel and that the Administrative Agent undertakes no obligation to update, correct or supplement the Reports; (d) it will keep all Reports confidential and strictly for its internal use, not share the Report with any Loan Party or any other Person except as otherwise permitted pursuant to this Agreement; and (e) without limiting the generality of any other indemnification provision contained in this Agreement, it will pay and protect, and indemnify, defend, and hold the Administrative Agent and any such other Person preparing a Report harmless from and against, the claims, actions, proceedings, damages, costs, expenses, and other amounts (including reasonable attorney fees) incurred by as the direct or indirect result of any third parties who might obtain all or part of any Report through the indemnifying Lender.

ARTICLE IX

MISCELLANEOUS

SECTION 9.01. Notices . (a) Except in the case of notices and other communications expressly permitted to be given by telephone (and subject to paragraph (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile, as follows:

(i) if to any Loan Party, to the Borrower at:

SSE Holdings, LLC
24 Union Square East, 6 th Floor
New York, New York 10003
Attention: Ron Palmese (rpalmese@shakeshack.com);
Jeff Uttz (juttz@shakeshack.com)
Facsimile No: (212) 228-3622

(ii) if to the Administrative Agent or the Issuing Bank, to JPMorgan Chase Bank, N.A. at:

JPMorgan Chase Bank, N.A.
270 Park Avenue
42st Floor
New York, New York 10017
Attention: James McDonnell
Telephone No: (212) 270-0810

(iii) if to any other Lender, to it at its address or facsimile number set forth in its Administrative Questionnaire.

All such notices and other communications (i) sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received or (ii) sent by facsimile shall be deemed to have been given when sent, provided that if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next Business Day for the recipient.

(x) Notices and other communications to the Lenders hereunder may be delivered or furnished by electronic communications (including e-mail and internet or intranet websites) pursuant to procedures approved by the Administrative Agent; provided that the foregoing shall not apply to notices pursuant to Article II or to compliance and no Event of Default certificates delivered pursuant to Section 5.01(c) unless otherwise agreed by the Administrative Agent and the applicable Lender. The Administrative Agent or the Borrower (on behalf of the Loan Parties) may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; provided that approval of such procedures may be limited to particular notices or communications. All such notices and other communications (i) sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), provided that if not given during the normal business hours of the recipient, such notice or communication shall be deemed to have been given at the opening of business on the next Business Day for the recipient, and (ii) posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (b)(i) of notification that such notice or communication is available and identifying the website address therefor.

(y) Any party hereto may change its address or facsimile number for notices and other communications hereunder by notice to the other parties hereto.

SECTION 9.02. Waivers; Amendments . (1) No failure or delay by the Administrative Agent, the Issuing Bank or any Lender in exercising any right or power hereunder or under any other Loan Document shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the Administrative Agent, the Issuing Bank and the Lenders hereunder and under any other Loan Document are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of any Loan Document or consent to any departure by any Loan Party therefrom shall in any event be effective unless the same shall be permitted by paragraph (b) of this Section, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. Without limiting the generality of the foregoing, the making of a Loan or issuance of a Letter of Credit shall not be construed as a waiver of any Default, regardless of whether the Administrative Agent, any Lender or the Issuing Bank may have had notice or knowledge of such Default at the time.

(r) Neither this Agreement nor any other Loan Document nor any provision hereof or thereof may be waived, amended or modified except (i) in the case of this Agreement, pursuant to an agreement or agreements in writing entered into by the Borrower and the Required Lenders or, (ii) in the case of any other Loan Document, pursuant to an agreement or agreements in writing entered into by the Administrative Agent and the Loan Party or Loan Parties that are parties thereto, with the consent of the Required Lenders; provided that no such agreement shall (i) increase the Revolving Commitment of any Lender without the written consent of such Lender, (ii) reduce or forgive the principal amount of any Loan or LC Disbursement or reduce the rate of interest thereon, or reduce or forgive any interest or fees payable hereunder, without the written consent of each Lender affected thereby, (iii) postpone any scheduled date of payment of the principal amount of any Loan or LC Disbursement, or any date for the payment of any interest, fees or other Obligations payable hereunder, or reduce the amount of, waive or excuse any such payment, or postpone the scheduled date of expiration of any Revolving Commitment, without the written consent of each Lender affected thereby, (iv) change Section 2.16(b) or (d) in a manner that would alter the manner in which payments are shared, without the written consent of each Lender, (v) change any of the provisions of this Section or the definition of “Required Lenders” or any other provision of any Loan Document specifying the number or percentage of Lenders (or Lenders of any Class) required to waive, amend or modify any rights thereunder or make any determination or grant any consent thereunder, without the written consent of each Lender, (vi) change Section 2.18, without the consent of each Lender (other than any Defaulting Lender), (vii) release any Guarantor from its obligation under its Loan Guaranty (except as otherwise permitted herein or in the other Loan Documents), without the written consent of each Lender, or (viii) except as provided in clauses (d) and (e) of this Section or in any Collateral Document, release all or substantially all of the Collateral, without the written consent of each Lender; provided further that no such agreement shall amend, modify or otherwise affect the rights or duties of the Administrative Agent or the Issuing Bank hereunder without the prior written consent of the Administrative Agent or the Issuing Bank, as the case may be (it being understood that any change to Section 2.17 shall require the consent of the Administrative

Agent and the Issuing Bank). The Administrative Agent may also amend Schedule 2.01 to reflect assignments entered into pursuant to Section 9.04

(s) The Lenders hereby irrevocably authorize the Administrative Agent, at its option and in its sole discretion, to release any Liens granted to the Administrative Agent by the Loan Parties on any Collateral (i) upon the termination of all Revolving Commitments, payment and satisfaction in full in cash of all Secured Obligations (other than Unliquidated Obligations), and the cash collateralization of all Unliquidated Obligations in a manner satisfactory to each affected Lender, (ii) constituting property being sold or disposed of if the Loan Party disposing of such property certifies to the Administrative Agent that the sale or disposition is made in compliance with the terms of this Agreement (and the Administrative Agent may rely conclusively on any such certificate, without further inquiry), and to the extent that the property being sold or disposed of constitutes 100% of the Equity Interest of a Subsidiary, the Administrative Agent is authorized to release any Loan Guaranty provided by such Subsidiary, (iii) constituting property leased to a Loan Party under a lease which has expired or been terminated in a transaction permitted under this Agreement, or (iv) as required to effect any sale or other disposition of such Collateral in connection with any exercise of remedies of the Administrative Agent and the Lenders pursuant to Article VII. Except as provided in the preceding sentence, the Administrative Agent will not release any Liens on Collateral without the prior written authorization of the Required Lenders. Any such release shall not in any manner discharge, affect, or impair the Obligations or any Liens (other than those expressly being released) upon (or obligations of the Loan Parties in respect of) all interests retained by the Loan Parties, including the proceeds of any sale, all of which shall continue to constitute part of the Collateral.

(t) If, in connection with any proposed amendment, waiver or consent requiring the consent of "each Lender" or "each Lender affected thereby," the consent of the Required Lenders is obtained, but the consent of other necessary Lenders is not obtained (any such Lender whose consent is necessary but not obtained being referred to herein as a " Non-Consenting Lender "), then the Borrower may elect to replace a Non-Consenting Lender as a Lender party to this Agreement, provided that, concurrently with such replacement, (i) another bank or other entity which is reasonably satisfactory to the Borrower and the Administrative Agent shall agree, as of such date, to purchase for cash the Loans and other Obligations due to the Non-Consenting Lender pursuant to an Assignment and Assumption and to become a Lender for all purposes under this Agreement and to assume all obligations of the Non-Consenting Lender to be terminated as of such date and to comply with the requirements of clause (b) of Section 9.04, and (ii) the Borrower shall pay to such Non-Consenting Lender in same day funds on the day of such replacement (1) all interest, fees and other amounts then accrued but unpaid to such Non-Consenting Lender by the Borrower hereunder to and including the date of termination, including without limitation payments due to such Non-Consenting Lender under Sections 2.13 and 2.15, and (2) an amount, if any, equal to the payment which would have been due to such Lender on the day of such replacement under Section 2.14 had the Loans of such Non-Consenting Lender been prepaid on such date rather than sold to the replacement Lender.

SECTION 9.03. Expenses; Indemnity; Damage Waiver . (1) The Borrower shall pay (i) all reasonable documented out-of-pocket expenses incurred by the Administrative Agent and its Affiliates, including the reasonable fees, charges and disbursements of one counsel (other than the

allocated costs of internal counsel) for the Administrative Agent, in connection with the syndication and distribution (including, without limitation, via the internet or through a service such as Intralinks) of the credit facilities provided for herein, the preparation and administration of the Loan Documents or any amendments, modifications or waivers of the provisions of the Loan Documents (whether or not the transactions contemplated hereby or thereby shall be consummated), (ii) all reasonable, documented out-of-pocket expenses incurred by the Issuing Bank in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder and (iii) all out-of-pocket expenses incurred by the Administrative Agent, the Issuing Bank or any Lender, including the fees, charges and disbursements of any counsel for the Administrative Agent, the Issuing Bank or any Lender, in connection with the enforcement, collection or protection of its rights in connection with the Loan Documents, including its rights under this Section, or in connection with the Loans made or Letters of Credit issued hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans or Letters of Credit. Expenses being reimbursed by the Borrower under this Section include, without limiting the generality of the foregoing, costs and expenses incurred in connection with:

(xi) background checks regarding senior management and/or key investors, as deemed necessary or appropriate in the sole discretion of the Administrative Agent;

(xii) taxes, fees and other charges for (A) Lien and title searches and title insurance and (B) recording any mortgages, filing financing statements and continuations, and other actions to perfect, protect, and continue the Administrative Agent's Liens;

(xiii) sums paid or incurred to take any action required of any Loan Party under the Loan Documents that such Loan Party fails to pay or take; and

(xiv) forwarding loan proceeds, collecting checks and other items of payment, and establishing and maintaining the accounts and lock boxes, and costs and expenses of preserving and protecting the Collateral.

All of the foregoing costs and expenses may be charged to the Borrower as Revolving Loans or to another deposit account at any time prior to the Maturity Date, all as described in Section 2.17(c).

(e) The Borrower shall indemnify the Administrative Agent, the Issuing Bank and each Lender, and each Related Party of any of the foregoing Persons (each such Person being called an " Indemnitee ") against, and hold each Indemnitee harmless from, any and all losses, claims, damages, penalties, liabilities and related expenses, including the fees, charges and disbursements of any counsel (other than the allocated costs of internal counsel) for any Indemnitee, incurred by or asserted against any Indemnitee arising out of, in connection with, or as a result of (i) the execution or delivery of the Loan Documents or any agreement or instrument contemplated thereby, the performance by the parties hereto of their respective obligations thereunder or the consummation of the Transactions or any other transactions contemplated hereby, (ii) any Loan or Letter of Credit or the use of the proceeds therefrom (including any refusal by the Issuing Bank to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit), (iii) any actual or alleged presence or release of Hazardous Materials on or from any property owned or operated by the Borrower or

any of its Subsidiaries, or any Environmental Liability related in any way to the Borrower or any of its Subsidiaries, (iv) the failure of the Borrower to deliver to the Administrative Agent the required receipts or other required documentary evidence with respect to a payment made by the Borrower for Taxes pursuant to Section 2.15, or (v) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory and regardless of whether any Indemnitee is a party thereto; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, penalties, liabilities or related expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee; provided further that this Section 9.03(b) shall not apply with respect to Taxes other than Taxes that represent losses, claims , damages, etc. arising from any non-Tax claim.

(f) To the extent that the Borrower fails to pay any amount required to be paid by it to the Administrative Agent or the Issuing Bank under paragraph (a) or (b) of this Section, each Lender severally agrees to pay to the Administrative Agent or the Issuing Bank, as the case may be, such Lender's Applicable Percentage (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount; provided that the unreimbursed expense or indemnified loss, claim, damage, penalty, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent or the Issuing Bank in its capacity as such.

(g) To the extent permitted by applicable law, no Loan Party shall assert, and each hereby waives, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement or any agreement or instrument contemplated hereby, the Transactions, any Loan or Letter of Credit or the use of the proceeds thereof.

(h) All amounts due under this Section shall be payable promptly after written demand therefor.

SECTION 9.04. Successors and Assigns . (1) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby (including any Affiliate of the Issuing Bank that issues any Letter of Credit), except that (i) the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each Lender (and any attempted assignment or transfer by the Borrower without such consent shall be null and void) and (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby (including any Affiliate of the Issuing Bank that issues any Letter of Credit), Participants (to the extent provided in paragraph (c) of this Section) and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent, the Issuing Bank and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(e) (i) Subject to the conditions set forth in paragraph (b)(ii) below, any Lender may assign to one or more Persons (other than an Ineligible Assignee) all or a portion of its rights and obligations under this Agreement (including all or a portion of its Revolving Commitment and the

Loans at the time owing to it) with the prior written consent (such consent not to be unreasonably withheld; provided that failure to consent to the assignment to a Competitor shall not be deemed to be unreasonably withheld) of:

(A) the Borrower, provided that, the Borrower shall be deemed to have consented to an assignment unless it shall have objected thereto by written notice to the Administrative Agent within seven (7) Business Days after having received notice thereof; provided further that no consent of the Borrower shall be required for an assignment to a Lender, an Affiliate of a Lender, an Approved Fund or, if an Event of Default has occurred and is continuing, any other assignee;

(B) the Administrative Agent; and

(C) the Issuing Bank.

(xii) Assignments shall be subject to the following additional conditions:

(A) except in the case of an assignment to a Lender or an Affiliate of a Lender or an assignment of the entire remaining amount of the assigning Lender's Revolving Commitment or Loans of any Class, the amount of the Revolving Commitment or Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent) shall not be less than $500,000 unless each of the Borrower and the Administrative Agent otherwise consent, provided that no such consent of the Borrower shall be required if an Event of Default has occurred and is continuing;

(B) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement, provided that this clause shall not be construed to prohibit the assignment of a proportionate part of all the assigning Lender's rights and obligations in respect of one Class of Revolving Commitments or Loans;

(C) the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee of $3,500; and

(D) the assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire in which the assignee designates one or more credit contacts to whom all syndicate-level information (which may contain material non-public information about the Borrower, the Loan Parties and their Related Parties or their respective securities) will be made available and who may receive such information in accordance with the assignee's compliance procedures and applicable laws, including Federal and state securities laws.

For the purposes of this Section 9.04(b), the term " Ineligible Assignee " has the following meaning:

" Ineligible Assignee " means (a) a natural person, (b) company, investment vehicle or trust for, or owned and operated for the primary benefit of, a natural person or relative(s) thereof; provided that, such company, investment vehicle or trust shall not constitute an Ineligible Assignee if it (x) has not been established for the primary purpose of acquiring any Loans or Revolving Commitments, (y) is managed by a professional advisor, who is not such natural person or a relative thereof, having significant experience in the business of making or purchasing commercial loans, and (z) has assets greater than $25,000,000 and a significant part of its activities consist of making or purchasing commercial loans and similar extensions of credit in the ordinary course of its business; provided that upon the occurrence of an Event of Default, any Person (other than a Lender) shall be an Ineligible Assignees if after giving effect any proposed assignment to such Person, such Person would hold more than 25% of the then outstanding Revolving Credit Exposure or Revolving Commitments, as the case may be, (c) any Defaulting Lender or (d) a Competitor; provided that (i) a Competitor shall only be an Ineligible Assignee so long as no Event of Default pursuant to Section 7.01(h), (i) or (j) has occurred and (ii) in the case of any other Event of Default not specified in clause (i) that has occurred and is continuing, a Competitor shall not be deemed an Ineligible Assignee if (x) a Lender desiring to sell, assign or participate all or any portion of its Revolving Commitments and then outstanding Loans to a Competitor, notifies the Borrower (after the occurrence and during the continuance of such Event of Default) in writing of its intent to sell, assign or participate such Revolving Commitments and Loans to a Competitor and the terms pursuant to which such Competitor is willing to participate in such sale, assignment or participation and (y) within 60 days of receiving such notice, the Borrower has not identified a Person willing to acquire all such Revolving Commitments and Loans specified in the notice on the terms specified in the notice.

(xiii) Subject to acceptance and recording thereof pursuant to paragraph (b)(iv) of this Section, from and after the effective date specified in each Assignment and Assumption the assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 2.13, 2.14, 2.15 and 9.03). Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section 9.04 shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with paragraph (c) of this Section.

(xiv) The Administrative Agent, acting for this purpose as an agent of the Borrower, shall maintain at one of its offices a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Revolving Commitment of, and principal amount and stated interest of the Loans and LC Disbursements owing to, each Lender pursuant to the terms hereof from time to time (the " Register "). The entries in the Register shall be conclusive, and the Borrower, the Administrative Agent, the Issuing Bank and the Lenders may treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes

of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrower, the Issuing Bank and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(xv) Upon its receipt of a duly completed Assignment and Assumption executed by an assigning Lender and an assignee, the assignee's completed Administrative Questionnaire (unless the assignee shall already be a Lender hereunder), the processing and recordation fee referred to in paragraph (b) of this Section and any written consent to such assignment required by paragraph (b) of this Section, the Administrative Agent shall accept such Assignment and Assumption and record the information contained therein in the Register; provided that if either the assigning Lender or the assignee shall have failed to make any payment required to be made by it pursuant to Section 2.04, 2.05, 2.16 or 9.03(c), the Administrative Agent shall have no obligation to accept such Assignment and Assumption and record the information therein in the Register unless and until such payment shall have been made in full, together with all accrued interest thereon. No assignment shall be effective for purposes of this Agreement unless it has been recorded in the Register as provided in this paragraph.

(f) (1) Any Lender may, without the consent of the Borrower, the Administrative Agent or the Issuing Bank, sell participations to one or more banks or other entities (other than a Competitor that is an Ineligible Assignee) (a " Participant ") in all or a portion of such Lender's rights and obligations under this Agreement (including all or a portion of its Revolving Commitment and the Loans owing to it); provided that (A) such Lender's obligations under this Agreement shall remain unchanged, (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (C) the Borrower, the Administrative Agent, the Issuing Bank and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver described in the first proviso to Section 9.02(b) that affects such Participant. The Borrower agrees that each Participant shall be entitled to the benefits of Sections 2.13, 2.14 and 2.15 (subject to the requirements and limitations therein, including the requirements under Section 2.15(f) (it being understood that the documentation required under Section 2.15(f) shall be delivered to the participating Lender)) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section; provided that such Participant (A) agrees to be subject to the provisions of Sections 2.15(f), 2.16 and 2.17 as if it were an assignee under paragraph (b) of this Section; and (B) shall not be entitled to receive any greater payment under Sections 2.13 or 2.15, with respect to any participation, than its participating Lender would have been entitled to receive, except to the extent such entitlement to receive a greater payment results from a Change in Law that occurs after the Participant acquired the applicable participation. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 9.08 as though it were a Lender, provided such Participant agrees to be subject to Section 2.16(c) as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as an agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal

amounts (and stated interest) of each Participant's interest in the Loans or other obligations under this Agreement (the " Participant Register "); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register to any Person (including the identity of any Participant or any information relating to a Participant's interest in any Revolving Commitments, Loans, Letters of Credit or its other obligations under any Loan Document) except to the extent that such disclosure is necessary to establish that such Revolving Commitment, Loan, Letter of Credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary.

(g) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including without limitation any pledge or assignment to secure obligations to a Federal Reserve Bank, and this Section shall not apply to any such pledge or assignment of a security interest; provided that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

SECTION 9.05. Survival . All covenants, agreements, representations and warranties made by the Loan Parties in the Loan Documents and in the certificates or other instruments delivered in connection with or pursuant to this Agreement or any other Loan Document shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of the Loan Documents and the making of any Loans and issuance of any Letters of Credit, regardless of any investigation made by any such other party or on its behalf and notwithstanding that the Administrative Agent, the Issuing Bank or any Lender may have had notice or knowledge of any Default or incorrect representation or warranty at the time any credit is extended hereunder, and shall continue in full force and effect as long as the principal of or any accrued interest on any Loan or any fee or any other amount payable under this Agreement is outstanding and unpaid or any Letter of Credit is outstanding and so long as the Revolving Commitments have not expired or terminated. The provisions of Sections 2.13, 2.14, 2.15 and 9.03 and Article VIII shall survive and remain in full force and effect regardless of the consummation of the transactions contemplated hereby, the repayment of the Loans, the expiration or termination of the Letters of Credit and the Revolving Commitments or the termination of this Agreement or any provision hereof.

SECTION 9.06. Counterparts; Integration; Effectiveness . This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement, the other Loan Documents and any separate letter agreements with respect to fees payable to the Administrative Agent constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 4.01, this Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof which, when taken together, bear the signatures of each of the other parties hereto, and thereafter shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Delivery of an executed

counterpart of a signature page of this Agreement by facsimile shall be effective as delivery of a manually executed counterpart of this Agreement.

SECTION 9.07. Severability . Any provision of any Loan Document held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions thereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

SECTION 9.08. Right of Setoff . If an Event of Default shall have occurred and be continuing, each Lender and each of its Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by law, to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held and other obligations at any time owing by such Lender or Affiliate to or for the credit or the account of the Borrower or any Guarantor against any of and all the Secured Obligations held by such Lender, irrespective of whether or not such Lender shall have made any demand under the Loan Documents and although such obligations may be unmatured. The applicable Lender shall notify the Borrower and the Administrative Agent of such set-off or application, provided that any failure to give or any delay in giving such notice shall not affect the validity of any such set-off or application under this Section. The rights of each Lender under this Section are in addition to other rights and remedies (including other rights of setoff) which such Lender may have.

SECTION 9.09. Governing Law; Jurisdiction; Consent to Service of Process . (1) The Loan Documents (other than those containing a contrary express choice of law provision) shall be governed by and construed in accordance with laws of the State of New York, but giving effect to federal laws applicable to national banks.

(g) Each Loan Party hereby irrevocably and unconditionally submits, for itself and its property, to the nonexclusive jurisdiction of any U.S. Federal or New York State court sitting in New York, New York in any action or proceeding arising out of or relating to any Loan Documents, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such New York State or, to the extent permitted by law, in such Federal court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement or any other Loan Document shall affect any right that the Administrative Agent, the Issuing Bank or any Lender may otherwise have to bring any action or proceeding relating to this Agreement or any other Loan Document against any Loan Party or its properties in the courts of any jurisdiction.

(h) Each Loan Party hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement or any other Loan Document in any court referred to in paragraph (b) of this Section. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(i) Each party to this Agreement irrevocably consents to service of process in the manner provided for notices in Section 9.01. Nothing in this Agreement or any other Loan Document will affect the right of any party to this Agreement to serve process in any other manner permitted by law.

SECTION 9.10. WAIVER OF JURY TRIAL . EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT, ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT 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 AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

SECTION 9.11. Headings . Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement.

SECTION 9.12. Confidentiality . Each of the Administrative Agent, the Issuing Bank and the Lenders agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its and its Affiliates' directors, officers, employees and agents, including accountants, legal counsel and other advisors (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (b) to the extent requested by any regulatory authority, (c) to the extent required by Requirement of Law or by any subpoena or similar legal process, (d) to any other party to this Agreement, (e) in connection with the exercise of any remedies hereunder or any suit, action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement or (ii) any actual or prospective counterparty (or its advisors) to any swap or derivative transaction relating to the Loan Parties and their obligations, (g) with the consent of any Loan Party, (h) to holders of Equity Interests in any Loan Party, or (i) to the extent such Information (i) becomes publicly available other than as a result of a breach of this Section or (ii) becomes available to the Administrative Agent, the Issuing Bank or any Lender on a non-confidential basis from a source other than any Loan Party. For the purposes of this Section, " Information " means all information received from the any Loan Party relating to any Loan party or its business, other than any such information that is available to the Administrative Agent, the Issuing Bank or any Lender on a non-confidential basis prior to disclosure by such Loan Party; provided that, in the case of information received from any Loan Party after the date hereof, such information is clearly identified at the time of delivery as confidential. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such

Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

SECTION 9.13. Several Obligations; Nonreliance; Violation of Law . The respective obligations of the Lenders hereunder are several and not joint and the failure of any Lender to make any Loan or perform any of its obligations hereunder shall not relieve any other Lender from any of its obligations hereunder. Each Lender hereby represents that it is not relying on or looking to any margin stock for the repayment of the Borrowings provided for herein. Anything contained in this Agreement to the contrary notwithstanding, neither the Issuing Bank nor any Lender shall be obligated to extend credit to the Borrower in violation of any Requirement of Law.

SECTION 9.14. USA PATRIOT Act . Each Lender that is subject to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "Act") hereby notifies the Borrower that pursuant to the requirements of the Act, it is required to obtain, verify and record information that identifies the Borrower, which information includes the name and address of the Borrower and other information that will allow such Lender to identify the Borrower in accordance with the Act.

SECTION 9.15. Disclosure . Each Loan Party and each Lender hereby acknowledges and agrees that the Administrative Agent and/or its Affiliates from time to time may hold investments in, make other loans to or have other relationships with any of the Loan Parties and their respective Affiliates.

SECTION 9.16. Appointment for Perfection . Each Lender hereby appoints each other Lender as its agent for the purpose of perfecting Liens, for the benefit of the Administrative Agent and the Lenders, in assets which, in accordance with Article 9 of the UCC or any other applicable law can be perfected only by possession. Should any Lender (other than the Administrative Agent) obtain possession of any such Collateral, such Lender shall notify the Administrative Agent thereof, and, promptly upon the Administrative Agent's request therefor shall deliver such Collateral to the Administrative Agent or otherwise deal with such Collateral in accordance with the Administrative Agent's instructions.

SECTION 9.17. Interest Rate Limitation . Notwithstanding anything herein to the contrary, if at any time the interest rate applicable to any Loan, together with all fees, charges and other amounts which are treated as interest on such Loan under applicable law (collectively the " Charges "), shall exceed the maximum lawful rate (the " Maximum Rate ") which may be contracted for, charged, taken, received or reserved by the Lender holding such Loan in accordance with applicable law, the rate of interest payable in respect of such Loan hereunder, together with all Charges payable in respect thereof, shall be limited to the Maximum Rate and, to the extent lawful, the interest and Charges that would have been payable in respect of such Loan but were not payable as a result of the operation of this Section shall be cumulated and the interest and Charges payable to such Lender in respect of other Loans or periods shall be increased (but not above the Maximum Rate therefor) until such cumulated amount, together with interest thereon at the Federal Funds Effective Rate to the date of repayment, shall have been received by such Lender.

ARTICLE X

LOAN GUARANTY

SECTION 10.01. Guaranty . Each Guarantor hereby agrees that it is jointly and severally liable for, and absolutely and unconditionally guarantees to the Lenders, the prompt payment when due, whether at stated maturity, upon acceleration or otherwise, and at all times thereafter, of the Secured Obligations plus all costs and expenses including, without limitation, all court costs and attorneys' and paralegals' fees (including allocated costs of in-house counsel and paralegals) and expenses paid or incurred by the Administrative Agent, the Issuing Bank and the Lenders in endeavoring to collect all or any part of the Secured Obligations from, or in prosecuting any action against, the Borrower, any Guarantor or any other guarantor of all or any part of the Secured Obligations (such costs and expenses, together with the Secured Obligations, collectively the " Guaranteed Obligations "). To the extent permitted by applicable law, each Guarantor further agrees that the Guaranteed Obligations may be extended or renewed in whole or in part without notice to or further assent from it, and that it remains bound upon its guarantee notwithstanding any such extension or renewal. All terms of this Loan Guaranty apply to and may be enforced by or on behalf of any domestic or foreign branch or Affiliate of any Lender that extended any portion of the Guaranteed Obligations.

SECTION 10.02. Guaranty of Payment . This Loan Guaranty is a guaranty of payment and not of collection. Each Guarantor waives any right to require the Administrative Agent, the Issuing Bank or any Lender to sue the Borrower, any Guarantor, any other guarantor, or any other Person obligated for all or any part of the Guaranteed Obligations (each, an " Obligated Party "), or otherwise to enforce its payment against any collateral securing all or any part of the Guaranteed Obligations.

SECTION 10.03. No Discharge or Diminishment of Loan Guaranty . (1) Except as otherwise provided for herein or in any other Loan Document, the obligations of each Guarantor hereunder are unconditional and absolute and not subject to any reduction, limitation, impairment or termination for any reason (other than the indefeasible payment in full in cash of the Guaranteed Obligations), including: (i) any claim of waiver, release, extension, renewal, settlement, surrender, alteration, or compromise of any of the Guaranteed Obligations, by operation of law or otherwise; (ii) any change in the corporate existence, structure or ownership of the Borrower or any other guarantor of or other Person liable for any of the Guaranteed Obligations; (iii) any insolvency, bankruptcy, reorganization or other similar proceeding affecting any Obligated Party, or their assets or any resulting release or discharge of any obligation of any Obligated Party; or (iv) the existence of any claim, setoff or other rights which any other Guarantor may have at any time against any Obligated Party, the Administrative Agent, the Issuing Bank, any Lender, or any other Person, whether in connection herewith or in any unrelated transactions.

(h) The obligations of each Guarantor hereunder are not subject to any defense or setoff, counterclaim, recoupment, or termination whatsoever by reason of the invalidity, illegality, or unenforceability of any of the Guaranteed Obligations or otherwise, or any provision of applicable law or regulation purporting to prohibit payment by any Obligated Party, of the Guaranteed Obligations or any part thereof.

(i) Further, the obligations of any Guarantor hereunder are not discharged or impaired or otherwise affected by: (i) the failure of the Administrative Agent, the Issuing Bank or any Lender to assert any claim or demand or to enforce any remedy with respect to all or any part of the Guaranteed Obligations; (ii) any waiver or modification of or supplement to any provision of any agreement relating to the Guaranteed Obligations; (iii) any release, non-perfection, or invalidity of any indirect or direct security for the obligations of the Borrower for all or any part of the Guaranteed Obligations or any obligations of any other guarantor of or other Person liable for any of the Guaranteed Obligations; (iv) any action or failure to act by the Administrative Agent, the Issuing Bank or any Lender with respect to any collateral securing any part of the Guaranteed Obligations; or (v) any default, failure or delay, willful or otherwise, in the payment or performance of any of the Guaranteed Obligations, or any other circumstance, act, omission or delay that might in any manner or to any extent vary the risk of such Guarantor or that would otherwise operate as a discharge of any other Guarantor as a matter of law or equity (other than the indefeasible payment in full in cash of the Guaranteed Obligations).

SECTION 10.04. Defenses Waived . To the fullest extent permitted by applicable law, each Guarantor hereby waives any defense based on or arising out of any defense of the Borrower or any other Guarantor or the unenforceability of all or any part of the Guaranteed Obligations from any cause, or the cessation from any cause of the liability of the Borrower or any other Guarantor, other than the indefeasible payment in full in cash of the Guaranteed Obligations. Without limiting the generality of the foregoing, each Guarantor irrevocably waives acceptance hereof, presentment, demand, protest and, to the fullest extent permitted by law, any notice not provided for herein, as well as any requirement that at any time any action be taken by any Person against any Obligated Party, or any other Person. Each Guarantor confirms that it is not a surety under any state law and shall not raise any such law as a defense to its obligations hereunder. The Administrative Agent may, at its election, foreclose on any Collateral held by it by one or more judicial or nonjudicial sales, accept an assignment of any such Collateral in lieu of foreclosure or otherwise act or fail to act with respect to any collateral securing all or a part of the Guaranteed Obligations, compromise or adjust any part of the Guaranteed Obligations, make any other accommodation with any Obligated Party or exercise any other right or remedy available to it against any Obligated Party, without affecting or impairing in any way the liability of such Guarantor under this Loan Guaranty except to the extent the Guaranteed Obligations have been fully and indefeasibly paid in cash. To the fullest extent permitted by applicable law, each Guarantor waives any defense arising out of any such election even though that election may operate, pursuant to applicable law, to impair or extinguish any right of reimbursement or subrogation or other right or remedy of any other Guarantor against any Obligated Party or any security.

SECTION 10.05. Rights of Subrogation . No Guarantor will assert any right, claim or cause of action, including, without limitation, a claim of subrogation, contribution or indemnification that it has against any Obligated Party, or any collateral, until the Loan Parties and the other Guarantors have fully performed all their obligations to the Administrative Agent, the Issuing Bank and the Lenders.

SECTION 10.06. Reinstatement; Stay of Acceleration . If at any time any payment of any portion of the Guaranteed Obligations is rescinded or must otherwise be restored or returned upon the insolvency, bankruptcy, or reorganization of the Borrower or otherwise, each Guarantor's

obligations under this Loan Guaranty with respect to that payment shall be reinstated at such time as though the payment had not been made and whether or not the Administrative Agent, the Issuing Bank and the Lenders are in possession of this Loan Guaranty. If acceleration of the time for payment of any of the Guaranteed Obligations is stayed upon the insolvency, bankruptcy or reorganization of the Borrower, all such amounts otherwise subject to acceleration under the terms of any agreement relating to the Guaranteed Obligations shall nonetheless be payable by the Guarantors forthwith on demand by the Lender.

SECTION 10.07. Information . Each Guarantor assumes all responsibility for being and keeping itself informed of the Borrower's financial condition and assets, and of all other circumstances bearing upon the risk of nonpayment of the Guaranteed Obligations and the nature, scope and extent of the risks that each Guarantor assumes and incurs under this Loan Guaranty, and agrees that neither the Administrative Agent, the Issuing Bank nor any Lender shall have any duty to advise any Guarantor of information known to it regarding those circumstances or risks.

SECTION 10.08. Termination . The Lenders may continue to make loans or extend credit to the Borrower based on this Loan Guaranty until five days after it receives written notice of termination from any Guarantor. Notwithstanding receipt of any such notice, each Guarantor will continue to be liable to the Lenders for any Guaranteed Obligations created, assumed or committed to prior to the fifth day after receipt of the notice, and all subsequent renewals, extensions, modifications and amendments with respect to, or substitutions for, all or any part of that Guaranteed Obligations.

SECTION 10.09. Taxes . All payments of the Guaranteed Obligations will be made by each Guarantor free and clear of and without deduction for any Indemnified Taxes or Other Taxes; provided that if any Guarantor shall be required to deduct any Indemnified Taxes or Other Taxes from such payments, then (i) the sum payable shall be increased as necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section) the Administrative Agent, Lender or Issuing Bank (as the case may be) receives an amount equal to the sum it would have received had no such deductions been made, (ii) such Guarantor shall make such deductions and (iii) such Guarantor shall pay the full amount deducted to the relevant Governmental Authority in accordance with applicable law.

SECTION 10.10. Maximum Liability . The provisions of this Loan Guaranty are severable, and in any action or proceeding involving any state corporate law, or any state, federal or foreign bankruptcy, insolvency, reorganization or other law affecting the rights of creditors generally, if the obligations of any Guarantor under this Loan Guaranty would otherwise be held or determined to be avoidable, invalid or unenforceable on account of the amount of such Guarantor's liability under this Loan Guaranty, then, notwithstanding any other provision of this Loan Guaranty to the contrary, the amount of such liability shall, without any further action by any Guarantor or the Lenders, be automatically limited and reduced to the highest amount that is valid and enforceable as determined in such action or proceeding (such highest amount determined hereunder being the relevant Guarantor's " Maximum Liability ". This Section with respect to the Maximum Liability of each Guarantor is intended solely to preserve the rights of the Lenders to the maximum extent not subject to avoidance under applicable law, and no Guarantor nor any other Person or entity shall have any right or claim under this Section with respect to such Maximum Liability, except to the

extent necessary so that the obligations of any Guarantor hereunder shall not be rendered voidable under applicable law. Each Guarantor agrees that the Guaranteed Obligations may at any time and from time to time exceed the Maximum Liability of each Guarantor without impairing this Loan Guaranty or affecting the rights and remedies of the Lenders hereunder, provided that, nothing in this sentence shall be construed to increase any Guarantor's obligations hereunder beyond its Maximum Liability.

SECTION 10.11. Contribution . In the event any Guarantor (a " Paying Guarantor ") shall make any payment or payments under this Loan Guaranty or shall suffer any loss as a result of any realization upon any collateral granted by it to secure its obligations under this Loan Guaranty, each other Guarantor (each a " Non-Paying Guarantor ") shall contribute to such Paying Guarantor an amount equal to such Non-Paying Guarantor's "Applicable Percentage" of such payment or payments made, or losses suffered, by such Paying Guarantor. For purposes of this Article X, each Non-Paying Guarantor's " Applicable Percentage " with respect to any such payment or loss by a Paying Guarantor shall be determined as of the date on which such payment or loss was made by reference to the ratio of (i) such Non-Paying Guarantor's Maximum Liability as of such date (without giving effect to any right to receive, or obligation to make, any contribution hereunder) or, if such Non-Paying Guarantor's Maximum Liability has not been determined, the aggregate amount of all monies received by such Non-Paying Guarantor from the Borrower after the date hereof (whether by loan, capital infusion or by other means) to (ii) the aggregate Maximum Liability of all Guarantors hereunder (including such Paying Guarantor) as of such date (without giving effect to any right to receive, or obligation to make, any contribution hereunder), or to the extent that a Maximum Liability has not been determined for any Guarantor, the aggregate amount of all monies received by such Guarantors from the Borrower after the date hereof (whether by loan, capital infusion or by other means). Nothing in this provision shall affect any Guarantor's several liability for the entire amount of the Guaranteed Obligations (up to such Guarantor's Maximum Liability). Each of the Guarantors covenants and agrees that its right to receive any contribution under this Loan Guaranty from a Non-Paying Guarantor shall be subordinate and junior in right of payment to the payment in full in cash of the Guaranteed Obligations. This provision is for the benefit of both the Administrative Agent, the Issuing Bank, the Lenders and the Guarantors and may be enforced by any one, or more, or all of them in accordance with the terms hereof.

SECTION 10.12. Liability Cumulative . The liability of each Guarantor as a Guarantor under this Article X is in addition to and shall be cumulative with all liabilities of each Loan Party to the Administrative Agent, the Issuing Bank and the Lenders under this Agreement and the other Loan Documents to which such Loan Party is a party or in respect of any obligations or liabilities of the other Loan Parties, without any limitation as to amount, unless the instrument or agreement evidencing or creating such other liability specifically provides to the contrary.

SECTION 10.13. Keepwell . Each Qualified ECP Guarantor hereby jointly and severally absolutely, unconditionally and irrevocably undertakes to provide such funds or other support as may be needed from time to time by each other Loan Party to honor all of its obligations under this Guarantee in respect of Swap Obligations; provided that each Qualified ECP Guarantor shall only be liable under this Section 10.13 for the maximum amount of such liability that can be hereby incurred without rendering its obligations under this Section 8.5 or otherwise under this Guarantee voidable under applicable law relating to fraudulent conveyance or fraudulent transfer,

and not for any greater amount). The obligations of each Qualified ECP Guarantor under this Section 10.13 shall remain in full force and effect until a discharge of its Guarantee hereunder. Each Qualified ECP Guarantor intends that this Section 10.13 constitute, and this Section 10.13 shall be deemed to constitute, a "keepwell, support, or other agreement" for the benefit of each other Loan Party for all purposes of Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Agreement as of the date first above written.

SSE HOLDINGS, LLC

By: /s/ Jeff Uttz
Name: Jeff Uttz
Title: Chief Financial Officer

CUSTARD'S FIRST STAND, LLC

By: /s/ Jeff Uttz
Name: Jeff Uttz
Title: Chief Financial Officer

SHAKE SHACK 18TH STREET NW WASHINGTON D.C. LLC

By: /s/ Jeff Uttz
Name: Jeff Uttz
Title: Chief Financial Officer

SHAKE SHACK 102 NORTH END AVE LLC

By: /s/ Jeff Uttz
Name: Jeff Uttz
Title: Chief Financial Officer

SHAKE SHACK 152 E 86 LLC

By: /s/ Jeff Uttz
Name: Jeff Uttz
Title: Chief Financial Officer

SHAKE SHACK 300 WEST 44TH STREET LLC

By: /s/ Jeff Uttz
Name: Jeff Uttz
Title: Chief Financial Officer

SHAKE SHACK 366 COLUMBUS LLC

By: /s/ Jeff Uttz
Name: Jeff Uttz
Title: Chief Financial Officer

SHAKE SHACK 1111 LINCOLN ROAD LLC

By: /s/ Jeff Uttz
Name: Jeff Uttz
Title: Chief Financial Officer

SHAKE SHACK CORAL GABLES, LLC

By: /s/ Jeff Uttz
Name: Jeff Uttz
Title: Chief Financial Officer

SHAKE SHACK ENTERPRISES, LLC

By: /s/ Jeff Uttz
Name: Jeff Uttz
Title: Chief Financial Officer

SHAKE SHACK ENTERPRISES INTERNATIONAL, LLC

By: /s/ Jeff Uttz
Name: Jeff Uttz
Title: Chief Financial Officer

SHAKE SHACK FULTON STREET BROOKLYN LLC

By: /s/ Jeff Uttz
Name: Jeff Uttz
Title: Chief Financial Officer

SHAKE SHACK GRAND CENTRAL LLC

By: /s/ Jeff Uttz
Name: Jeff Uttz
Title: Chief Financial Officer

SHAKE SHACK NEW HAVEN LLC

By: /s/ Jeff Uttz
Name: Jeff Uttz
Title: Chief Financial Officer

SHAKE SHACK SANSOM STREET PHILADELPHIA LLC

By: /s/ Jeff Uttz
Name: Jeff Uttz
Title: Chief Financial Officer

SHAKE SHACK WESTBURY LLC

By: /s/ Jeff Uttz
Name: Jeff Uttz
Title: Chief Financial Officer

SSE IP, LLC

By: /s/ Jeff Uttz
Name: Jeff Uttz
Title: Chief Financial Officer

SHAKE SHACK DOMESTIC LICENSING LLC

By: /s/ Jeff Uttz
Name: Jeff Uttz
Title: Chief Financial Officer

SHAKE SHACK WESTPORT LLC

By: /s/ Jeff Uttz
Name: Jeff Uttz
Title: Chief Financial Officer

SHAKE SHACK BOSTON CHESTNUT HILL LLC

By: /s/ Jeff Uttz
Name: Jeff Uttz
Title: Chief Financial Officer

SHAKE SHACK BOCA RATON LLC

By: /s/ Jeff Uttz
Name: Jeff Uttz
Title: Chief Financial Officer

SHAKE SHACK 800 F STREET LLC

By: /s/ Jeff Uttz
Name: Jeff Uttz
Title: Chief Financial Officer

SHAKE SHACK KING OF PRUSSIA LLC

By: /s/ Jeff Uttz
Name: Jeff Uttz
Title: Chief Financial Officer

SHAKE SHACK PARAMUS LLC

By: /s/ Jeff Uttz
Name: Jeff Uttz
Title: Chief Financial Officer

SHAKE SHACK UNIVERSITY CITY PHILADELPHIA LLC

By: /s/ Jeff Uttz
Name: Jeff Uttz
Title: Chief Financial Officer

SHAKE SHACK HARVARD SQUARE BOSTON LLC

By: /s/ Jeff Uttz
Name: Jeff Uttz
Title: Chief Financial Officer

SHAKE SHACK MIDDLE EAST LLC

By: /s/ Jeff Uttz
Name: Jeff Uttz
Title: Chief Financial Officer

SHAKE SHACK RUSSIA LLC

By: /s/ Jeff Uttz
Name: Jeff Uttz
Title: Chief Financial Officer

SHAKE SHACK TURKEY LLC

By: /s/ Jeff Uttz
Name: Jeff Uttz
Title: Chief Financial Officer

SHAKE SHACK UNITED KINGDOM LLC

By: /s/ Jeff Uttz
Name: Jeff Uttz
Title: Chief Financial Officer

JPMORGAN CHASE BANK, N.A. , individually as a Lender and as Administrative Agent and Issuing Bank

By: /s/ James J. McDonnell
Name: James J. McDonnell
Title: Authorized Signer

SCHEDULE 2.01

Revolving Commitment Schedule

Lender	Initial Revolving Commitment	Total Revolving Commitment
JPMorgan Chase Bank, N.A.	$20,000,000	$50,000,000
Total	**$20,000,000**	**$50,000,000**

ASSIGNMENT AND ASSUMPTION

This Assignment and Assumption (the " Assignment and Assumption ") is dated as of the Effective Date set forth below and is entered into by and between [*Insert name of Assignor*] (the " Assignor ") and [*Insert name of Assignee*] (the " Assignee "). Capitalized terms used but not defined herein shall have the meanings given to them in the Credit Agreement identified below (as amended, the " Credit Agreement "), receipt of a copy of which is hereby acknowledged by the Assignee. The Standard Terms and Conditions set forth in Annex 1 attached hereto are hereby agreed to and incorporated herein by reference and made a part of this Assignment and Assumption as if set forth herein in full.

For an agreed consideration, the Assignor hereby irrevocably sells and assigns to the Assignee, and the Assignee hereby irrevocably purchases and assumes from the Assignor, subject to and in accordance with the Standard Terms and Conditions and the Credit Agreement, as of the Effective Date inserted by the Administrative Agent as contemplated below (i) all of the Assignor's rights and obligations in its capacity as a Lender under the Credit Agreement and any other documents or instruments delivered pursuant thereto to the extent related to the amount and percentage interest identified below of all of such outstanding rights and obligations of the Assignor under the respective facilities identified below (including any letters of credit, guarantees, and swingline loans included in such facilities) and (ii) to the extent permitted to be assigned under applicable law, all claims, suits, causes of action and any other right of the Assignor (in its capacity as a Lender) against any Person, whether known or unknown, arising under or in connection with the Credit Agreement, any other documents or instruments delivered pursuant thereto or the loan transactions governed thereby or in any way based on or related to any of the foregoing, including contract claims, tort claims, malpractice claims, statutory claims and all other claims at law or in equity related to the rights and obligations sold and assigned pursuant to clause (i) above (the rights and obligations sold and assigned pursuant to clauses (i) and (ii) above being referred to herein collectively as the " Assigned Interest "). Such sale and assignment is without recourse to the Assignor and, except as expressly provided in this Assignment and Assumption, without representation or warranty by the Assignor.

1. Assignor: _____

2. Assignee: _____
   [and is an Affiliate/Approved Fund of [*identify Lender*][a Competitor or Controlling Affiliate of a Competitor of a Loan Party] [1]]

3. Borrower(s): _____

4. Administrative Agent: JPMorgan Chase Bank, N.A., as the administrative agent under the Credit Agreement

[1] Select as applicable.

5. Credit Agreement: The Third Amended and Restated Credit Agreement dated as of the Effective Date (as defined therein) among SSE HOLDINGS, LLC, the other Loan Parties party thereto, the Lenders parties thereto and JPMORGAN CHASE BANK, N.A., as Administrative Agent

6. Assigned Interest:

Facility Assigned [2]	Aggregate Amount of Revolving Commitment/Loans for all Lenders	Amount of Revolving Commitment/Loans Assigned	Percentage Assigned of Revolving Commitment/Loans [3]
	$	$	%
	$	$	%
	$	$	%

Effective Date: _____ ___, 20___ [TO BE INSERTED BY ADMINISTRATIVE AGENT AND WHICH SHALL BE THE EFFECTIVE DATE OF RECORDATION OF TRANSFER IN THE REGISTER THEREFOR.]

The Assignee agrees to deliver to the Administrative Agent a completed Administrative Questionnaire in which the Assignee designates one or more Credit Contacts to whom all syndicate-level information (which may contain material non-public information about the Borrower, the Loan Parties and their Related Parties or their respective securities) will be made available and who may receive such information in accordance with the Assignee's compliance procedures and applicable laws, including Federal and state securities laws.

The terms set forth in this Assignment and Assumption are hereby agreed to:

ASSIGNOR

[NAME OF ASSIGNOR]

By:
Title:

ASSIGNEE

[NAME OF ASSIGNEE]

[2] Fill in the appropriate terminology for the types of facilities under the Credit Agreement that are being assigned under this Agreement (e.g. "Revolving Commitment," or "Term Loan Commitment," etc.)

[3] Set forth, to at least 9 decimals, as a percentage of the Commitment/Loans of all Lenders thereunder.

By:

Title:

Exhibit A

[Consented to and] [4] Accepted:

JPMORGAN CHASE BANK, N.A., as
Administrative Agent

By
Title:

[Consented to:] [5]

SSE HOLDINGS, LLC

By
Title:

[4] To be added only if the consent of the Administrative Agent is required by the terms of the Credit Agreement.
[5] To be added only if the consent of the Borrower and/or other parties (e.g. Issuing Bank) is required by the terms of the Credit Agreement.

[_____] [6]

STANDARD TERMS AND CONDITIONS FOR
ASSIGNMENT AND ASSUMPTION

1. Representations and Warranties.

1.1 Assignor. The Assignor (a) represents and warrants that (i) it is the legal and beneficial owner of the Assigned Interest, (ii) the Assigned Interest is free and clear of any Lien, encumbrance or other adverse claim and (iii) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby; and (b) assumes no responsibility with respect to (i) any statements, warranties or representations made in or in connection with the Credit Agreement or any other Loan Document, (ii) the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Loan Documents or any collateral thereunder, (iii) the financial condition of the Borrower, any of its Subsidiaries or Affiliates or any other Person obligated in respect of any Loan Document or (iv) the performance or observance by the Borrower, any of its Subsidiaries or Affiliates or any other Person of any of their respective obligations under any Loan Document.

1.2. Assignee. The Assignee (a) represents and warrants that (i) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby and to become a Lender under the Credit Agreement, (ii) it satisfies the requirements, if any, specified in the Credit Agreement that are required to be satisfied by it in order to acquire the Assigned Interest and become a Lender, (iii) from and after the Effective Date, it shall be bound by the provisions of the Credit Agreement as a Lender thereunder and, to the extent of the Assigned Interest, shall have the obligations of a Lender thereunder, (iv) it has received a copy of the Credit Agreement, together with copies of the most recent financial statements delivered pursuant to Section 5.01 thereof, as applicable, and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Assignment and Assumption and to purchase the Assigned Interest on the basis of which it has made such analysis and decision independently and without reliance on the Administrative Agent or any other Lender, (v) it [is][is not] a Competitor or a Controlling Affiliate of a Competitor of a Loan Party and (vi) if it is a Foreign Lender, attached to the Assignment and Assumption is any documentation required to be delivered by it pursuant to the terms of the Credit Agreement, duly completed and executed by the Assignee; and (b) agrees that (i) it will, independently and without reliance on the Administrative Agent, the Assignor or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Loan Documents, and (ii) it will perform in accordance with their terms all of the obligations which by the terms of the Loan Documents are required to be performed by it as a Lender.

[6] Describe Credit Agreement at option of Administrative Agent.

[3] The concept of "Foreign Lender" should be conformed to the section in the Credit Agreement governing withholding taxes and gross-up.

2. Payments. From and after the Effective Date, the Administrative Agent shall make all payments in respect of the Assigned Interest (including payments of principal, interest, fees and other amounts) to the Assignor for amounts which have accrued to but excluding the Effective Date and to the Assignee for amounts which have accrued from and after the Effective Date.

3. General Provisions. This Assignment and Assumption shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns. This Assignment and Assumption may be executed in any number of counterparts, which together shall constitute one instrument.

Delivery of an executed counterpart of a signature page of this Assignment and Assumption by facsimile shall be effective as delivery of a manually executed counterpart of this Assignment and Assumption. This Assignment and Assumption shall be governed by, and construed in accordance with, the law of the State of New York.

Exhibit A

EXHIBIT B

COMPLIANCE CERTIFICATE

To: The Lenders parties to the
Credit Agreement Described Below

This Compliance Certificate is furnished pursuant to that certain Third Amended and Restated Credit Agreement dated as of the Effective Date (as amended, modified, renewed or extended from time to time, the " Agreement ") among SSE Holdings, LLC (the " Borrower "), the other Loan Parties, the Lenders party thereto and JPMorgan Chase Bank, N.A., as Administrative Agent for the Lenders and as the Issuing Bank. Unless otherwise defined herein, capitalized terms used in this Compliance Certificate have the meanings ascribed thereto in the Agreement.

THE UNDERSIGNED HEREBY CERTIFIES THAT:

1. I am the duly elected [●] of the Borrower;

2. I have reviewed the terms of the Agreement and I have made, or have caused to be made under my supervision, a detailed review of the transactions and conditions of the Loan Parties during the accounting period covered by the attached financial statements and such financial statements present fairly in all material respects the financial condition and results of operations of the Loan Parties on a consolidated basis in accordance with GAAP consistently applied;

3. The examinations described in paragraph 2 did not disclose, except as set forth below, and I have no knowledge of (i) the existence of any condition or event which constitutes a Default during or at the end of the accounting period covered by the attached financial statements or as of the date of this Certificate or (ii) any change in GAAP or in the application thereof that has occurred since the date of the audited financial statements referred to in Section 5.01 of the Agreement;

4. I hereby certify that no Loan Party has changed (i) its name, (ii) its chief executive office, (iii) principal place of business, (iv) the type of entity it is or (v) its state of incorporation or organization without having given the Agent the notice required by Section 4.15 of the Security Agreement; and

5. Schedule I attached hereto sets forth financial data and computations evidencing the Borrower's compliance with certain covenants of the Agreement, all of which data and computations are true, complete and correct.

Described below are the exceptions, if any, to paragraph 3 by listing, in detail, the (i) nature of the condition or event, the period during which it has existed and the action which the Borrower has taken, is taking, or proposes to take with respect to each such condition or event or (i) the change in GAAP or the application thereof and the effect of such change on the attached financial statements:

The foregoing certifications, together with the computations set forth in Schedule I and Schedule II hereto and the financial statements delivered with this Certificate in support hereof, are made and delivered this day of _____.

By

Name: __

Title: __

Exhibit B

SCHEDULE I

Compliance as of _____, ____ with
Provisions of and of
the Agreement

Exhibit B

JOINDER AGREEMENT

THIS JOINDER AGREEMENT (this " Agreement "), dated as of _____, ____, 20__, is entered into between _____, a _____ (the " New Subsidiary ") and JPMORGAN CHASE BANK, N.A., in its capacity as administrative agent (the " Administrative Agent ") under that certain Third Amended and Restated Credit Agreement, dated as of the Effective Date among SSE HOLDINGS, LLC (the " Borrower "), the Loan Parties party thereto, the Lenders party thereto and the Administrative Agent (as the same may be amended, modified, extended or restated from time to time, the " Credit Agreement "). All capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Credit Agreement.

The New Subsidiary and the Administrative Agent, for the benefit of the Lenders, hereby agree as follows:

1. The New Subsidiary hereby acknowledges, agrees and confirms that, by its execution of this Agreement, the New Subsidiary will be deemed to be a Loan Party under the Credit Agreement and a "Guarantor" for all purposes of the Credit Agreement and shall have all of the obligations of a Loan Party and a Guarantor thereunder as if it had executed the Credit Agreement. The New Subsidiary hereby ratifies, as of the date hereof, and agrees to be bound by, all of the terms, provisions and conditions contained in the Credit Agreement, including without limitation (a) all of the representations and warranties of the Loan Parties set forth in Article III of the Credit Agreement, ***[** and **]*** (b) all of the covenants set forth in Articles V and VI of the Credit Agreement ***[** and (c) all of the guaranty obligations set forth in Article X of the Credit Agreement. Without limiting the generality of the foregoing terms of this paragraph 1, the New Subsidiary, subject to the limitations set forth in Section 10.10 of the Credit Agreement, hereby guarantees, jointly and severally with the other Guarantors, to the Administrative Agent and the Lenders, as provided in Article X of the Credit Agreement, the prompt payment and performance of the Guaranteed Obligations in full when due (whether at stated maturity, as a mandatory prepayment, by acceleration or otherwise) strictly in accordance with the terms thereof and agrees that if any of the Guaranteed Obligations are not paid or performed in full when due (whether at stated maturity, as a mandatory prepayment, by acceleration or otherwise), the New Subsidiary will, jointly and severally together with the other Guarantors, promptly pay and perform the same, without any demand or notice whatsoever, and that in the case of any extension of time of payment or renewal of any of the Guaranteed Obligations, the same will be promptly paid in full when due (whether at extended maturity, as a mandatory prepayment, by acceleration or otherwise) in accordance with the terms of such extension or renewal. **]* *[** The New Subsidiary has delivered to the Administrative Agent an executed Loan Guaranty. **]***

2. If required, the New Subsidiary is, simultaneously with the execution of this Agreement, executing and delivering such Collateral Documents (and such other documents and instruments) as requested by the Administrative Agent in accordance with the Credit Agreement.

3. The address of the New Subsidiary for purposes of Section 9.01 of the Credit Agreement is as follows:

_____

_____

_____

4. The New Subsidiary hereby waives acceptance by the Administrative Agent and the Lenders of the guaranty by the New Subsidiary upon the execution of this Agreement by the New Subsidiary.

5. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be an original, but all of which shall constitute one and the same instrument.

6. THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

IN WITNESS WHEREOF, the New Subsidiary has caused this Agreement to be duly executed by its authorized officer, and the Administrative Agent, for the benefit of the Lenders, has caused the same to be accepted by its authorized officer, as of the day and year first above written.

[NEW SUBSIDIARY]

By: __
Name: __
Title: __

Acknowledged and accepted:

JPMORGAN CHASE BANK, N.A., as Administrative Agent

By: __
Name: __
Title: __

FORM OF OPINION

[To be provided]

FORM OF U.S. TAX COMPLIANCE CERTIFICATE
(For Foreign Lenders That Are Not Partnerships or Pass-Thru Entities For U.S. Federal Income Tax Purposes)

Reference is made to that certain Third Amended and Restated Credit Agreement, dated as of January 28, 2015 (as amended, restated, modified or supplemented from time to time, the " **Credit Agreement** "), among SSE Holdings (the " **Borrower** "), JPMorgan Chase Bank, N.A., as administrative agent (in such capacity, including any successor thereto, the " **Administrative Agent** "), each other Loan Party from time to time party thereto and each Lender from time to time party thereto. Capitalized terms used but not otherwise defined herein shall have the meanings assigned to them in the Credit Agreement. _____ (the " **Foreign Lender** ") is providing this certificate pursuant to Section 2.15(f) of the Credit Agreement.

The Foreign Lender hereby represents and warrants that:

2. The Foreign Lender is the sole record and beneficial owner of the Loans (as well as any Note(s) evidencing such Loan(s)) in respect of which it is providing this certificate.

3. The Foreign Lender is not a "bank" for purposes of Section 881(c)(3)(A) of the Code.

4. The Foreign Lender is not a 10-percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code.

5. The Foreign Lender is not a controlled foreign corporation (as defined in Section 957(a) of the Code) related to the Borrower within the meaning of Section 864(d) of the Code.

6. The interest payments on the Loan(s) are not effectively connected with the Foreign Lender's conduct of a U.S. trade or business.

The undersigned has furnished the Borrower and the Administrative Agent with a duly executed certificate of its non-U.S. person status on IRS Form W-8BEN or IRS Form W−8BEN-E, as applicable. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform each of the Borrower and the Administrative Agent, and (2) the undersigned shall have at all times furnished each of the Borrower and the Administrative Agent with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

[*Signature Page Follows*]

IN WITNESS WHEREOF, the undersigned has duly executed this certificate on the _____ day of _____, 20__.

[**NAME OF FOREIGN LENDER**]

By: _____

Name:
Title:

FORM OF U.S. TAX COMPLIANCE CERTIFICATE
(For Foreign Lenders That Are Partnerships or Pass-Thru Entities For U.S. Federal Income Tax Purposes)

Reference is made to that certain Third Amended and Restated Credit Agreement, dated as of January 28, 2015 (as amended, restated, modified or supplemented from time to time, the " **Credit Agreement** "), among SSE Holdings (the " **Borrower** "), JPMorgan Chase Bank, N.A., as administrative agent (in such capacity, including any successor thereto, the " **Administrative Agent** "), each other Loan Party from time to time party thereto and each Lender from time to time party thereto. Capitalized terms used but not otherwise defined herein shall have the meanings assigned to them in the Credit Agreement. _____ (the " **Foreign Lender** ") is providing this certificate pursuant to Section 2.15(f) of the Credit Agreement.

The Foreign Lender hereby represents and warrants that:

1. The Foreign Lender is the sole record owner of the Loans (as well as any Note(s) evidencing such Loan(s)) in respect of which it is providing this certificate.

2. The Foreign Lender's direct or indirect partners/members are the sole beneficial owners of the Loan(s) (as well as any Note(s) evidencing such Loan(s)).

3. With respect to the extension of credit pursuant to the Credit Agreement or any other Loan Document, neither the Foreign Lender nor any of its direct or indirect partners/members is a "bank" extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business within the meaning of Section 881(c)(3)(A) of the Code.

4. None of the Foreign Lender's direct or indirect partners/members is a 10−percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code.

5. None of the Foreign Lender's direct or indirect partners/members is a controlled foreign corporation (as defined in Section 957(a) of the Code) related to the Borrower within the meaning of Section 864(d) of the Code.

6. The interest payments on the Loan(s) are not effectively connected with the Foreign Lender's or any of its partner's/member's conduct of a U.S. trade or business.

The undersigned has furnished the Borrower and the Administrative Agent with a duly executed IRS Form W-8IMY accompanied by one of the following forms from each of its partners/members that is claiming the portfolio interest exemption: (i) an IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable, or (ii) an IRS Form W-8IMY accompanied by an IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable, from each of such partner's/member's beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform the Borrower and the Administrative Agent, and (2) the undersigned shall have at all times furnished the Borrower and the Administrative Agent with a properly completed

and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

[*Signature Page Follows*]

IN WITNESS WHEREOF, the undersigned has duly executed this certificate on the _____ day of _____, 20__.

[**NAME OF FOREIGN LENDER**]

By: _____

Name:
Title:

FORM OF U.S. TAX COMPLIANCE CERTIFICATE
(For Foreign Participants That Are Not Partnerships or Pass-Thru Entities For U.S. Federal Income Tax Purposes)

Reference is made to that certain Third Amended and Restated Credit Agreement, dated as of January 28, 2015 (as amended, restated, modified or supplemented from time to time, the " **Credit Agreement** "), among SSE Holdings (the " **Borrower** "), JPMorgan Chase Bank, N.A., as administrative agent (in such capacity, including any successor thereto, the " **Administrative Agent** "), each other Loan Party from time to time party thereto and each Lender from time to time party thereto. Capitalized terms used but not otherwise defined herein shall have the meanings assigned to them in the Credit Agreement. _____ (the " **Foreign Lender** ") is providing this certificate pursuant to Section 2.15(f) of the Credit Agreement.

The Foreign Participant hereby represents and warrants that:

1. The Foreign Participant is the sole record and beneficial owner of the participation in respect of which it is providing this certificate.

2. The Foreign Participant is not a "bank" for purposes of Section 881(c)(3)(A) of the Code.

3. The Foreign Participant is not a 10-percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code.

4. The Foreign Participant is not a controlled foreign corporation (as defined in Section 957(a) of the Code) related to the Borrower within the meaning of Section 864(d) of the Code.

5. The interest payments with respect to such participation are not effectively connected with the Foreign Participant's conduct of a U.S. trade or business.

The undersigned has furnished its participating Lender with a duly executed certificate of its non-U.S. person status on IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform such Lender in writing, and (2) the undersigned shall have at all times furnished such Lender with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

[*Signature Page Follows*]

IN WITNESS WHEREOF, the undersigned has duly executed this certificate on the _____ day of _____, 20__.

[**NAME OF FOREIGN PARTICIPANT**]

By: _____

Name :
Title:

FORM OF U.S. TAX COMPLIANCE CERTIFICATE
(For Foreign Participants That Are Partnerships or Pass-Thru Entities For U.S. Federal Income Tax Purposes)

Reference is made to that certain Third Amended and Restated Credit Agreement, dated as of January 28, 2015 (as amended, restated, modified or supplemented from time to time, the " **Credit Agreement** "), among SSE Holdings (the " **Borrower** "), JPMorgan Chase Bank, N.A., as administrative agent (in such capacity, including any successor thereto, the " **Administrative Agent** "), each other Loan Party from time to time party thereto and each Lender from time to time party thereto. Capitalized terms used but not otherwise defined herein shall have the meanings assigned to them in the Credit Agreement. _____ (the " **Foreign Lender** ") is providing this certificate pursuant to Section 2.15(f) of the Credit Agreement.

The Foreign Participant hereby represents and warrants that:

1. The Foreign Participant is the sole record owner of the participation in respect of which it is providing this certificate.

2. The Foreign Participant's direct or indirect partners/members are the sole beneficial owners of the participation.

3. With respect to such participation, neither the Foreign Participant nor any of its direct or indirect partners/members is a "bank" extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business within the meaning of Section 881(c)(3)(A) of the Code.

4. None of the Foreign Participant's direct or indirect partners/members is a 10-percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code.

5. None of the Foreign Participant's direct or indirect partners/members is a controlled foreign corporation (as defined in Section 957(a) of the Code) related to the Borrower within the meaning of Section 864(d) of the Code.

6. The interest payments with respect to such participation are not effectively connected with the Foreign Participant's or any of its partner's/member's conduct of a U.S. trade or business.

7. The undersigned has furnished its participating Lender with a duly executed IRS Form W-8IMY accompanied by one of the following forms from each of its partners/members that is claiming the portfolio interest exemption: (i) an IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable, or (ii) an IRS Form W-8IMY accompanied by an IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable, from each of such partner's/member's beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall

promptly so inform such Lender and (2) the undersigned shall have at all times furnished such Lender with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

[*Signature Page Follows*]

IN WITNESS WHEREOF, the undersigned has duly executed this certificate on the _____ day of _____, 20__.

[**NAME OF FOREIGN PARTICIPANT**]

By: _____

Name:
Title:

Exhibit E-4-3

Exhibit 21

Subsidiaries of the Registrant [(1)(2)]

Legal Name	State of Incorporation
SSE Holdings, LLC	Delaware
Shake Shack Enterprises, LLC	New York
Shake Shack Enterprises International, LLC	New York
SSE IP, LLC	Delaware
Shake Shack Domestic Licensing LLC	Delaware
Shake Shack Texas Management Company LLC	Texas
Shake Shack Texas Holding Company LLC	Texas
Shake Shack Texas Beverage Company LLC	Texas

(1) As of December 31, 2014, the registrant had no subsidiaries. The subsidiaries listed above represent the registrant's subsidiaries as of February 4, 2015.

(2) Pursuant to Item 601(b)(21)(ii) of Regulation S-K, the names of consolidated wholly-owned subsidiaries carrying on the same line of business have been omitted. In total, the names of 52 subsidiaries have been omitted, none of which operated outside the United States.

Exhibit 23.1

Consent of Independent Registered Public Accounting Firm

We consent to the incorporation by reference in the Registration Statement (Form S-8 No. 333-201798) pertaining to the 2015 Incentive Award Plan and Unit Appreciation Plan of Shake Shack Inc. of our report dated March 27, 2015, with respect to the balance sheet of Shake Shack Inc., included in this Annual Report (Form 10-K) for the period ended December 31, 2014.

/s/ Ernst & Young LLP

New York, New York
March 27, 2015

Exhibit 23.2

Consent of Independent Registered Public Accounting Firm

We consent to the incorporation by reference in the Registration Statement (Form S-8 No. 333-201798) pertaining to the 2015 Incentive Award Plan and Unit Appreciation Plan of SSE Holdings, LLC and Subsidiaries of our report dated March 27, 2015, with respect to the consolidated financial statements of SSE Holdings, LLC and Subsidiaries, included in this Annual Report (Form 10-K) for the year ended December 31, 2014.

/s/ Ernst & Young LLP

New York, New York
March 27, 2015

Exhibit 31.1

Certification Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002

I, Randy Garutti, certify that:

1. I have reviewed this Annual Report on Form 10-K of Shake Shack Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15 (e) and 15d-15(e)) for the registrant and have:

   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   (b) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (c) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: March 27, 2015

/s/ Randy Garutti

Randy Garutti

Chief Executive Officer

Exhibit 31.2

Certification Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002

I, Jeff Uttz, certify that:

1. I have reviewed this Annual Report on Form 10-K of Shake Shack Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15 (e) and 15d-15(e)) for the registrant and have:

    (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

    (b) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

    (c) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

    (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

    (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: March 27, 2015

/s/ Jeff Uttz

Jeff Uttz

Chief Financial Officer

Exhibit 32

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

In connection with the Annual Report on Form 10-K of Shake Shack Inc. (the "Company"), for the fiscal year ended December 31, 2014, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), each of the undersigned officers of the Company certifies pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

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

Date: March 27, 2015

/s/ Randy Garutti
Randy Garutti
Chief Executive Officer and Director

Date: March 27, 2015

/s/ Jeff Uttz
Jeff Uttz
Chief Financial Officer