

DESTINATION MATERNITY CORPORATION AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

13. INCOME TAXES (Continued)

made in accordance with the provisions of SFAS No. 109. Management determined that no state tax benefits associated with the temporary differences should be reflected for the remaining states in which it is operating, given the continued historical uncertainty related to realizing state tax benefits. Had the state tax benefits been reflected for the remaining states, the deferred tax assets as of September 30, 2008 would be approximately \$919,000 higher.

In June 2006, the FASB issued FIN No. 48, "Accounting for Uncertainty in Income Taxes." FIN No. 48 clarifies the accounting for income taxes by prescribing the minimum recognition threshold a tax position is required to meet before being recognized in the financial statements and also contains guidance on the measurement of uncertain tax positions. FIN No. 48 applies to all tax positions related to income taxes subject to SFAS No. 109, "Accounting for Income Taxes." The Company adopted the provisions of FIN No. 48 effective as of October 1, 2007. In accordance with FIN No. 48, during the first quarter of fiscal 2008, the Company recorded a cumulative effect adjustment of \$74,000, decreasing the liability for unrecognized tax benefits and increasing the September 30, 2007 balance of retained earnings.

A reconciliation of gross unrecognized tax benefits follows (in thousands):

	<u>2008</u>
Balance—October 1, 2007	\$2,315
Additions for current year tax positions	158
Additions for prior year tax positions	126
Reductions of prior year tax positions	(98)
Settlements	(222)
Balance—September 30, 2008	<u>\$2,279</u>

As of September 30, 2008, gross unrecognized tax benefits included accrued interest and penalties of \$1,026,000. During fiscal 2008, interest and penalties of \$145,000 related to unrecognized tax benefits were included in income tax provision (benefit). If recognized, the portion of the liability for unrecognized tax benefits that would impact the Company's effective tax rate was \$1,605,000, net of federal tax benefit.

During the twelve months subsequent to September 30, 2008, it is reasonably possible that the gross unrecognized tax benefits could potentially decrease by approximately \$221,000 (of which approximately \$152,000 would affect the effective tax rate, net of federal benefit) for federal and state tax positions related to the effect of expiring statutes of limitations and settlements.

The Company's U.S. Federal income tax returns for the years ended September 30, 2006 and beyond remain subject to examination by the U.S. Internal Revenue Service. The Company also files returns in numerous state jurisdictions, which have varying statutes of limitations. Generally, state tax returns for the years ended September 30, 2004 and beyond, depending upon the jurisdiction, remain subject to examination. However, the statutes of limitations on certain of the Company's state returns remain open for years prior to fiscal 2004.

DESTINATION MATERNITY CORPORATION AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

14. COMMITMENTS AND CONTINGENCIES

The Company leases its retail facilities and certain equipment under various non-cancelable operating leases. Certain of these leases have renewal options. Total rent expense (including related occupancy costs, such as insurance, maintenance and taxes, paid to landlords) under operating leases amounted to \$74,198,000, \$73,012,000 and \$74,682,000 in fiscal 2008, 2007 and 2006, respectively. Such amounts include contingent rentals based upon a percentage of sales totaling \$1,232,000, \$1,022,000 and \$622,000 in fiscal 2008, 2007 and 2006, respectively.

Store operating leases and warehouse leases generally provide for payment of direct operating costs in addition to rent. Future annual minimum operating lease payments, excluding such direct operating costs, as well as leases for equipment rental as of September 30, 2008 are as follows (in thousands):

<u>Fiscal Year</u>	
2009	\$ 54,301
2010	46,374
2011	42,000
2012	35,108
2013	28,124
2014 and thereafter	45,917
	<u>\$251,824</u>

From time to time, the Company is named as a defendant in legal actions arising from normal business activities. Litigation is inherently unpredictable and although the amount of any liability that could arise with respect to currently pending actions cannot be accurately predicted, the Company does not believe that the resolution of any pending action will have a material adverse effect on its financial position, results of operations or liquidity.

15. EMPLOYMENT AGREEMENTS

During fiscal 2008, 2007 and 2006, the Company had substantially identical employment agreements with Dan W. Matthias, the Company's Chairman of the Board and Chief Executive Officer ("CEO"), and Rebecca C. Matthias, the Company's President and Chief Creative Officer. Base compensation for each of Mr. and Ms. Matthias was \$548,000, \$532,000 and \$506,000, for fiscal 2008, 2007 and 2006, respectively. Effective September 30, 2008, Mr. Matthias retired as CEO. Base compensation for Ms. Matthias will increase annually in an amount to be determined by the Compensation Committee of the Board of Directors, which amount will at least be equal to the annual change in the consumer price index. Also, Ms. Matthias' agreement provides for salary continuation and severance payments should her employment be terminated under specified conditions, as defined in the agreement. Additionally, Ms. Matthias is eligible for an annual cash bonus and restricted stock grant based on performance, as specified by the Compensation Committee. Ms. Matthias' agreement continues in effect until terminated by either the Company or Ms. Matthias in accordance with the termination provisions of the agreement.

In connection with Mr. Matthias' retirement as CEO, the Company entered into a Transition Agreement (the "Transition Agreement") with Mr. Matthias. The Transition Agreement, which has a term of four years expiring September 30, 2012, provides that Mr. Matthias will make himself available

DESTINATION MATERNITY CORPORATION AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

15. EMPLOYMENT AGREEMENTS (Continued)

to the Company for strategic planning, corporate development and other matters as requested by the Board or the Company's CEO. Mr. Matthias will continue to serve as the non-executive Chairman of the Board. In consideration of Mr. Matthias' advisory and board services (and in lieu of all other director compensation), the Company will pay Mr. Matthias an annual retainer of \$200,000 and continue certain insurance and fringe benefits during the term of the Transition Agreement. Payment of the retainer and continuation of the benefits is subject to certain specified conditions, as defined in the Transition Agreement. The Transition Agreement also provides for the restrictive covenants set forth in Mr. Matthias' employment agreement to continue in effect until two years after Mr. Matthias ceases to serve the Company in any capacity (including service as a Board member or advisor).

The Company previously entered into an employment agreement dated April 26, 2005 with Edward M. Krell, who at the time was the Company's Executive Vice President—Chief Financial Officer. On May 15, 2007, the Company entered into a new employment agreement with Mr. Krell in connection with Mr. Krell's promotion to Chief Operating Officer & Chief Financial Officer, which new agreement replaced the April 26, 2005 agreement. Base compensation for Mr. Krell was \$531,000, \$471,000 and \$425,000 for fiscal 2008, 2007 and 2006, respectively. On September 26, 2008, the Board of Directors appointed Mr. Krell to serve as CEO of the Company, effective as of October 1, 2008, replacing Mr. Matthias. In connection with Mr. Krell's promotion to CEO, the Company entered into an amendment to his employment agreement. The amendment provides for an increase in Mr. Krell's annual base salary from \$531,000 to \$650,000. Mr. Krell's base compensation is subject to potential increase in the future by the Company in an amount to be determined by the Compensation Committee of the Board of Directors at its discretion. The agreement also provides for salary continuation and severance payments should the employment of Mr. Krell be terminated under specified conditions, as defined therein. Additionally, Mr. Krell is eligible for an annual cash bonus based on performance, as specified by the Compensation Committee. The agreement continues in effect until terminated by either the Company or Mr. Krell in accordance with the termination provisions of the agreement. In connection with Mr. Krell's appointment as CEO, the Company granted to Mr. Krell two stock options, each to purchase 100,000 shares of common stock, under the Company's 2005 Equity Incentive Plan (see Note 12).

Effective January 24, 2008, the Company entered into a letter agreement and an employment agreement with Lisa Hendrickson in connection with Ms. Hendrickson's promotion to Chief Merchandising Officer. The letter agreement provides that Ms. Hendrickson's annual base salary will be \$425,000. Ms. Hendrickson's base compensation is subject to potential increase in the future by the Company in an amount to be determined by the Compensation Committee of the Board of Directors at its discretion. Additionally, Ms. Hendrickson is eligible for an annual cash bonus based on performance, as specified by the Compensation Committee. The agreements continue in effect until terminated by either the Company or Ms. Hendrickson.

Effective July 23, 2008, the Company entered into an employment agreement with Judd P. Tirnauer, in connection with Mr. Tirnauer's promotion to Senior Vice President & Chief Financial Officer. The agreement provides that Mr. Tirnauer's annual base salary will be \$325,000. Mr. Tirnauer's base compensation is subject to potential increase in the future by the Company in an amount to be determined by the Compensation Committee of the Board of Directors at its discretion. The agreement also provides for salary continuation and severance payments should employment of the executive be terminated under specified conditions, as defined therein. Additionally, Mr. Tirnauer is eligible for an annual cash bonus based on performance, as specified by the Compensation Committee. The

DESTINATION MATERNITY CORPORATION AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

15. EMPLOYMENT AGREEMENTS (Continued)

agreement continues in effect until terminated by either the Company or the executive in accordance with the termination provisions of the agreement.

16. RETIREMENT PLANS

On March 2, 2007, the Company entered into Supplemental Executive Retirement Agreements with Mr. and Ms. Matthias (the "SERP Agreement (s)"). The purpose of the SERP Agreements is to provide the executives with supplemental pension benefits following their cessation of employment.

The Company's Transition Agreement with Mr. Matthias in connection with his retirement as CEO amended his SERP Agreement to provide for full vesting of the benefits payable to Mr. Matthias and to increase the total of the amounts payable under the SERP Agreement to approximately 10% more than the amount that would have been payable on September 30, 2012 (the date the SERP Agreement had otherwise been expected to fully vest). The SERP Agreement benefits, totaling \$3,960,000, will be paid to Mr. Matthias in installments over a period of four years commencing in April 2009.

The amount of the benefit payable under Ms. Matthias' SERP Agreement is the actuarial present value of a single life annuity equal to 60% of Ms. Matthias' "deemed final pay," commencing upon cessation of employment. For this purpose, "deemed final pay" means Ms. Matthias' base salary on March 2, 2007, increased by 3% for each new fiscal year that begins before Ms. Matthias cessation of employment. This benefit vested 33¹/₃% on March 2, 2007. Starting on September 30, 2007 and on each September 30 thereafter until fully vested, the benefit vests either (i) 15%, if during that entire fiscal year Ms. Matthias provided continuous full-time service to the Company, or (ii) 7.5%, if during that entire fiscal year Ms. Matthias provided at least continuous 50% part-time service to the Company. Notwithstanding the foregoing, the benefit is subject to full acceleration if, following a change in control, Ms. Matthias' employment ceases due to a termination without cause or a resignation with good reason.

The Company is accounting for the SERP Agreements in accordance with SFAS 158, "Employers' Accounting for Defined Benefit Pension and Other Postretirement Plans—an amendment of FASB Statements No. 87, 88, 106, and 132(R)."

Changes in the benefit obligation under the SERP Agreements as of September 30 were as follows (in thousands):

	<u>2008</u>	<u>2007</u>
Benefit obligation at beginning of year	\$ 2,957	\$ —
Service cost	973	918
Interest cost	178	68
Prior service cost	—	1,971
Plan amendment and curtailment	1,775	—
Benefit obligation at end of year	5,883	2,957
Less: current portion included in accrued expenses and other current liabilities	(1,560)	—
Non-current benefit obligation at end of year	<u>\$ 4,323</u>	<u>\$2,957</u>

DESTINATION MATERNITY CORPORATION AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

16. RETIREMENT PLANS (Continued)

The non-current benefit obligation at end of year was included in deferred rent and other non-current liabilities in the accompanying Consolidated Balance Sheets. Estimated benefits expected to be paid during the next five fiscal years, including payments in fiscal 2009 through fiscal 2012 that are exclusively to Mr. Matthias under his amended SERP Agreement, are as follows (in thousands):

<u>Fiscal Year</u>		
2009	\$1,560	
2010	900	
2011	750	
2012	600	
2013	4,702	

The components of net periodic pension cost on a pre-tax basis were as follows for the year ended September 30, 2008 (in thousands):

	<u>2008</u>	<u>2007</u>
Service cost	\$ 973	\$ 918
Interest cost	178	68
Amortization of prior service cost	353	206
Plan amendment and curtailment	2,402	—
Total net periodic benefit cost	<u>\$3,906</u>	<u>\$1,192</u>

The following weighted-average assumptions were used to determine net periodic benefit cost for the years ended September 30, 2008 and 2007: discount rate—6.0%; compensation increase rate—3.0%.

Amounts recorded in accumulated other comprehensive loss as of September 30 were as follows (in thousands):

	<u>2008</u>	<u>2007</u>
Unrecognized prior service cost—beginning of year	\$(1,765)	\$ —
Initial prior service cost	—	(1,971)
Amortization of prior service cost	353	206
Prior service cost recognized for plan amendment and curtailment	627	—
Unrecognized prior service cost—end of year	(785)	(1,765)
Deferred income tax benefit	293	689
Unrecognized prior service cost, net of tax	<u>\$ (492)</u>	<u>\$(1,076)</u>

The Company expects to amortize \$196,000 of prior service cost on a pre-tax basis from accumulated other comprehensive loss into net periodic pension cost in fiscal 2009.

On April 30, 2007, the Company made an initial required contribution of \$2,662,000 to a Grantor Trust, which was established for the purpose of accumulating assets in anticipation of the Company's payment obligations under the SERP Agreements. On November 27, 2007, the Company made an additional required contribution to the Grantor Trust of \$1,160,000. In order to impact positively the

DESTINATION MATERNITY CORPORATION AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

16. RETIREMENT PLANS (Continued)

Company's ability to comply with the Consolidated Leverage Ratio covenant of its Term Loan Agreement at March 31, 2008, with the consent of the SERP executives, the Company withdrew \$1,000,000 from the Grantor Trust on March 28, 2008. The withdrawn funds were used to repay indebtedness under the Credit Facility.

On May 20, 2008, the Company entered into (i) a Letter Agreement with the SERP executives and the trustee for the Grantor Trust (the "Trustee"), and (ii) an amendment to the Grantor Trust agreement with the Trustee (collectively the "Agreements"). The Agreements amended the SERP Agreements and the Grantor Trust agreement to provide for the Company to deliver an irrevocable standby letter of credit to the Trustee in an amount equal to the Company's then current funding obligation under the SERP Agreements, which was \$3,885,000. As provided in the Agreements, in the third quarter of fiscal 2008 the Company received a distribution of the remaining assets held in the Grantor Trust, amounting to \$2,844,000.

The amendments affected by the Agreements also allow for, at the Company's option, the issuance from time to time of irrevocable standby letters of credit, or the increase of size of an irrevocable standby letter of credit already held by the Trustee, in lieu of any deposit to the Grantor Trust otherwise required in the future. In addition, the Agreements permit the Company, from time to time at its sole discretion, to reduce the size of any irrevocable standby letter of credit issued to the Trustee, so long as the Company simultaneously funds the Grantor Trust with an amount of cash equal to the amount of the reduction of the letter of credit. In October 2008, the Company increased the irrevocable standby letter of credit issued to the Trustee to a total of \$6,779,000, in lieu of deposits to the Grantor Trust, in connection with the full vesting of Mr. Matthias' benefits under the Transition Agreement and the annual increase in vesting of Ms. Matthias' benefits.

17. EMPLOYEE BENEFIT PLANS

The Company has a 401(k) savings plan for all employees who have at least six months of service and are at least 18 years of age. Employees can contribute up to 20% of their annual salary. Employees who meet certain criteria are eligible for a matching contribution from the Company based on a sliding scale. Company matches are made in the first quarter of the succeeding calendar year. Company matches vest over a period of approximately six years from each employee's commencement of employment with the Company. Company matching contributions totaling \$175,000, \$158,000 and \$130,000, were made in fiscal 2008, 2007 and 2006, respectively. In addition, the Company may make discretionary contributions to the plan, which vest over a period of approximately six years from each employee's commencement of employment with the Company. The Company has not made any discretionary contributions.

DESTINATION MATERNITY CORPORATION AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

18. QUARTERLY FINANCIAL INFORMATION (UNAUDITED)

Quarterly financial results for the years ended September 30, 2008 and 2007 were as follows (in thousands, except per share amounts):

Fiscal 2008	Quarter Ended			
	09/30/08	06/30/08	03/31/08	12/31/07
Net sales	\$130,497	\$152,224	\$139,005	\$142,876
Gross profit	63,191	78,202	69,686	71,962
Net income (loss)	(4,784)	4,137	(390)	(352)
Net income (loss) per share—Basic	(0.80)	0.69	(0.07)	(0.06)
Net income (loss) per share—Diluted	(0.80)	0.68	(0.07)	(0.06)

Fiscal 2007	Quarter Ended			
	09/30/07	06/30/07	03/31/07	12/31/06
Net sales	\$135,803	\$153,227	\$143,857	\$148,484
Gross profit	65,984	81,122	76,060	77,050
Net income (loss)	(5,380)	1,033	2,565	1,389
Net income (loss) per share—Basic	(0.92)	0.18	0.44	0.24
Net income (loss) per share—Diluted	(0.92)	0.17	0.41	0.23

The Company's business, like that of other retailers, is seasonal. The Company's quarterly net sales have historically been highest in its third fiscal quarter, corresponding to the Spring selling season, followed by its first fiscal quarter, corresponding to the Fall/holiday selling season. Given the typically higher gross margin experienced in the third fiscal quarter compared to other quarters, the relatively fixed nature of most of the Company's operating expenses and interest expense, and the historically higher sales level in the third quarter, the Company has typically generated a very significant percentage of its full year operating income and net income during the third quarter.

19. SEGMENT AND ENTERPRISE WIDE DISCLOSURES

Operating Segment. Under SFAS No. 131, "Disclosures about Segments of an Enterprise and Related Information," a company may be required to report segmented information about separately identifiable parts of its business, which both (i) meet the definition of an "operating segment" under SFAS No. 131, and (ii) exceed certain quantitative thresholds established in SFAS No. 131. The Company has determined that its business is comprised of one operating segment: the design, manufacture and sale of maternity apparel and related accessories. While the Company offers a wide range of products for sale, the substantial portion of its products are initially distributed through the same distribution facilities, many of the Company's products are manufactured at common contract manufacturer production facilities, the Company's products are marketed through a common marketing department, and these products are sold to a similar customer base, consisting of expectant mothers.

DESTINATION MATERNITY CORPORATION AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

19. SEGMENT AND ENTERPRISE WIDE DISCLOSURES (Continued)

Geographic Information. Information concerning the Company's operations by geographic area is as follows (in thousands):

	Year Ended September 30,		
	2008	2007	2006
Net Sales to Unaffiliated Customers			
United States	\$543,339	\$562,519	\$585,272
Canada	21,263	18,852	17,472

	September 30,	September 30,
	2008	2007
Long-Lived Assets		
United States	\$ 64,699	\$ 67,125
Canada	2,094	2,102
Costa Rica	207	207

Major Customers. For the periods presented, the Company did not have any one customer who represented more than 10% of its net sales.

20. INTEREST EXPENSE, NET

Interest expense, net for the years ended September 30 is comprised of the following (in thousands):

	2008	2007	2006
Interest expense	\$6,971	\$10,226	\$15,419
Interest income	(27)	(378)	(885)
Other investment loss, net	30	—	—
Interest expense, net	<u>\$6,974</u>	<u>\$ 9,848</u>	<u>\$14,534</u>

21. RELATED PARTY TRANSACTIONS

There is a husband and wife relationship between Mr. Matthias and Ms. Matthias. There are no family relationships among any of the Company's other executive officers.

A director of the Company currently provides consulting services to Pepper Hamilton LLP, which provides legal services to the Company. The Company paid legal fees to this law firm of \$728,000, \$1,061,000 and \$278,000, in fiscal 2008, 2007 and 2006, respectively. As of September 30, 2008 and 2007, the Company had accrued amounts outstanding to this law firm of \$191,000 and \$192,000, respectively.

DESTINATION MATERNITY CORPORATION AND SUBSIDIARIES

SCHEDULE II—VALUATION AND QUALIFYING ACCOUNTS

(in thousands)

	Balance at beginning of period	Additions charged to costs and expenses	Deductions	Balance at end of period
Year Ended September 30, 2008				
Product return reserve	\$ 181	\$ 21	\$ —	\$ 202
Year Ended September 30, 2007				
Product return reserve	\$ 206	\$ —	\$ (25)	\$ 181
Year Ended September 30, 2006				
Product return reserve	\$ 177	\$ 29	\$ —	\$ 206

F-33

INDEX OF EXHIBITS

Exhibit No.	Description
3.1	Amended and Restated Certificate of Incorporation of the Company (effective December 10, 2008).
21	Subsidiaries of the Company.
23	Consent of KPMG LLP.
31.1	Certification of the Chief Executive Officer Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
31.2	Certification of the Senior Vice President & Chief Financial Officer Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
32.1	Certification of the Chief Executive Officer Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
32.2	Certification of the Senior Vice President & Chief Financial Officer Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.

QuickLinks

PART I.

Item 1. Business

Item 1A. Risk Factors

Item 1B. Unresolved Staff Comments

Item 2. Properties

Item 3. Legal Proceedings

Item 4. Submission of Matters to a Vote of Security Holders

PART II.

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

COMPARISON OF 5 YEAR CUMULATIVE TOTAL RETURN* Among Destination Maternity Corporation, The S&P 500 Index And The S&P Apparel Retail Index

Item 6. Selected Consolidated Financial and Operating Data

Reconciliation of Net Income (Loss) to Adjusted EBITDA (in thousands) (unaudited)

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

Item 7A. Quantitative and Qualitative Disclosures About Market Risk

Item 8. Financial Statements and Supplementary Data

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

Item 9A. Controls and Procedures

Item 9B. Other Information

PART III.

Item 10. Directors, Executive Officers and Corporate Governance

Item 11. Executive Compensation

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

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

Item 14. Principal Accounting Fees and Services

PART IV.

Item 15. Exhibits, Financial Statement Schedules

INDEX OF EXHIBITS

SIGNATURES

DESTINATION MATERNITY CORPORATION AND SUBSIDIARIES INDEX TO CONSOLIDATED FINANCIAL STATEMENTS AND FINANCIAL STATEMENT SCHEDULE

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

DESTINATION MATERNITY CORPORATION AND SUBSIDIARIES CONSOLIDATED BALANCE SHEETS (in thousands, except share and per share amounts)

DESTINATION MATERNITY CORPORATION AND SUBSIDIARIES CONSOLIDATED STATEMENTS OF OPERATIONS (in thousands, except per share amounts)

DESTINATION MATERNITY CORPORATION AND SUBSIDIARIES CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY AND COMPREHENSIVE INCOME (LOSS) (in thousands)

DESTINATION MATERNITY CORPORATION AND SUBSIDIARIES CONSOLIDATED STATEMENTS OF CASH FLOWS (in thousands)

DESTINATION MATERNITY CORPORATION AND SUBSIDIARIES NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DESTINATION MATERNITY CORPORATION AND SUBSIDIARIES SCHEDULE II—VALUATION AND QUALIFYING ACCOUNTS (in thousands)

INDEX OF EXHIBITS

**RESTATED CERTIFICATE OF INCORPORATION
OF DESTINATION MATERNITY CORPORATION**

FIRST: The name of the Corporation is DESTINATION MATERNITY CORPORATION.

SECOND: The address of its registered office in the State of Delaware, County of New Castle is 2711 Centerville Road, Suite 400, Wilmington, 19808. The name of its registered agent at such address is Corporation Service Company.

THIRD: The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of Delaware.

FOURTH: The total number of shares of all classes of stock which the Corporation shall have authority to issue is 20,000,000 shares of Common Stock, par value \$.01 per share (the "Common Stock"), and 1,656,381 shares of Preferred Stock, par value \$.01 per share (the "Preferred Stock").

The Board of Directors of the Corporation shall have full and complete authority, by resolution from time to time, to establish one or more series and to issue shares of Preferred Stock and to fix, determine and vary the voting rights, designations, preferences, qualifications, privileges, limitations, options, conversion rights and other special rights of each series of Preferred Stock, including but not limited to, dividend rates and manner of payment, preferential amounts payable upon voluntary or involuntary liquidation, voting rights, conversion rights, redemption prices, terms and conditions and sinking fund and stock purchase prices.

A. Series B Junior Participating Preferred Stock

Section 1. Designation and Amount. The shares of such series shall be designated as "Series B Junior Participating Preferred Stock" and the number of shares constituting each series shall be 300,000.

Section 2. Dividends and Distributions.

(A) Subject to the prior and superior rights of the holders of any shares of any other series of Preferred Stock or any other shares of preferred stock of the Corporation ranking prior and superior to the shares of series s Preferred Stock with respect to dividends, each holder of one one-thousandth (1/1000) of a share (a "Unit") of Series B Preferred Stock shall be entitled to receive, when, as and if declared by the Board of Directors out of funds legally available for that purpose, (i) dividends payable in cash when and if declared by the Board of Directors of the Corporation in respect of the common stock (each such date being a "Dividend Payment Date") commencing on the first Dividend Payment Date after the first issuance of such Unit of Series B Preferred Stock, in, an amount per unit (rounded to the nearest cent) equal to, subject to the provision for adjustment hereinafter set forth, the aggregate per share amount of all cash dividends declared on shares of the common stock since the immediately preceding Dividend Payment Date, or, with respect to the first Dividend Payment Date, since the first issuance of a

unit of Series B Preferred Stock, and (ii) subject to the provision for adjustment hereinafter set forth, distributions (payable in kind) on each Dividend Payment Date in an amount per Unit equal to the aggregate per share amount of all noncash dividends or other distributions (other than a dividend payable in shares of common stock or a subdivision of thy outstanding shares or common stock, by reclassifications or otherwise) declared on shares of common stock since the immediately preceding Dividend Payment Date, or with respect to the first Dividend Payment Date, since the first issuance of a Unit of Series B Preferred Stock, in the event that the Corporation shall at any time after October 5, 1995 (the "Rights Declaration Date"), (i) declare any dividend on outstanding shares of common stock payable in shares of common stock, (ii) subdivide outstanding shares of common stock or (iii) combine outstanding shares at common stock into a smaller number of shares, then in each such case the amount to which the holder of a Unit of Series B Preferred Stock was entitled immediately prior to such event pursuant to the next preceding sentence shall be adjusted by multiplying such amount by a fraction the numerator of which shall be the number of shares of common stock that are outstanding immediately after such event and the denominator of which shall be the number of shares of common stock that were outstanding immediately prior to such event.

(B) The Corporation shall declare a dividend or distribution on Units of Series B Preferred Stock as provided in paragraph (A) above immediately after it declares a dividend or distribution on the shares of common stock (other than a dividend payable in shares of common stock).

Section 3. Voting Rights. The holders of Units of Series B Preferred Stock shall have the following voting rights:

(A) Subject to the provision for adjustment hereinafter set forth, each Unit of Series B Preferred Stock shall entitle the holder thereof to one vote on all matters submitted to a vote of the holders of Common Stock of the Corporation. In the event the Corporation shall at any time after the Rights Declaration Date (i) declare any dividend on outstanding shares of Common Stock payable in shares of Common Stock, (ii) subdivide outstanding shares of Common Stock or (iii) combine the outstanding shares of Common Stock into a smaller number of shares, then in each such case the number of votes per Unit to which holders of Units of Series B Preferred Stock were entitled immediately prior to such event shall be adjusted by multiplying such number by a fraction the numerator of which shall be the number of shares of Common Stock outstanding immediately after such event and the denominator of which shall be the number of shares of Common Stock that were outstanding immediately prior to such event.

(B) Except as otherwise provided herein or by law, the holders of Units of Series a Preferred Stock and the holders of shares of Common Stock shall vote together as one class on all matters submitted to a vote of holders of Common Stock of the Corporation.

(C) Except as set forth herein, holders of Units of Series B Preferred Stock shall have no special voting rights and their consents shall not be required (except to the extent they are entitled to vote with holders of shares of Common Stock as set forth herein) for taking any corporate action.

Section 4. Certain Restrictions.

(A) Whenever any dividends or distributions payable, on Units of Series B Preferred Stock as provided in Section 2 have not been paid in full, thereafter and until all such accrued and unpaid dividends and distributions, whether or not declared, on outstanding Units of Series B Preferred Stock shall have been paid in full, the Corporation shall not:

(i) declare or pay dividends on, make any other distributions on, or redeem or repurchase or otherwise acquire for consideration, any shares of junior stock;

(ii) declare or pay dividends on or make any other distributions on any shares of parity stock, except dividends paid ratably on Units of Series B Preferred Stock and shares of all such parity stock on which dividends are payable or in arrears in proportion to the total amounts to which the holders of such Units and all such shares are then entitled;

(iii) redeem or repurchase or otherwise acquire for consideration shares of any parity stock; provided, however, that the Corporation may at any time redeem, repurchase or otherwise acquire shares of any such parity stock in exchange for shares of any junior stock;

(iv) repurchase or otherwise acquire for consideration (other than shares of junior stock) any Units of Series B Preferred Stock, except in accordance with a repurchase offer made in writing or by publication (as determined by the Board of Directors) to all holders of such Units on the same terms.

(B) The Corporation shall not permit any subsidiary of the Corporation to purchase or otherwise acquire for Corporation could, under paragraph (A) of this Section 4, repurchase or otherwise acquire such shares at such time and in such manner.

Section 5. Reacquired Shares. Any Units of Series B Preferred Stock purchased or otherwise acquired by the Corporation in any manner whatsoever shall be retired and cancelled promptly after the acquisition thereof. All such Units shall, upon their cancellation, become authorized but unissued Units of Preferred Stock and may be reissued as part of a new series of Preferred Stock to be created by resolution or resolutions of the Board of Directors, subject to the conditions and restrictions on issuance set forth herein.

Section 6. Liquidation, Dissolution or Winding Up.

(A) Upon any voluntary or involuntary liquidation, dissolution or winding up of the Corporation, no distribution shall be made (i) to the holders of shares of junior stock unless the holders of Units of Series B Preferred Stock shall have received, subject to adjustment as hereinafter provided in paragraph (B), the amount, per Unit, equal to the aggregate per share amount to be distributed to holders of shares of common stock, or (ii) to the holders of shares of parity stock, unless simultaneously therewith distributions are made ratably on Units of Series B Preferred Stock and all other shares of such parity stock in proportion to the total amounts to which the holders of Units of Series B Preferred Stock are entitled under clause (i) of this

sentence and to which the holders of shares of such parity stock are entitled, in each case upon such liquidation, dissolution or winding up.

(B) In the event the corporation shall at any time after the Rights Declaration Date (i) declare any dividend on outstanding shares of common stock payable in shares of common stock, (ii) subdivide outstanding shares of common stock, or (iii) combine outstanding shares of common stock into a smaller number of shares, then in each such case the aggregate amount to which holders of Units of Series B Preferred Stock were entitled immediately prior to such event pursuant to clause (i)(b) of paragraph (A) of this Section 6 shall be adjusted by multiplying such amount by a fraction the numerator of which shall be the number of shares of common stock that are outstanding immediately after such event and the denominator of which shall be the number of shares of common stock that were outstanding immediately prior to such event.

Section 7. Consolidation, Merger, etc. In case the Corporation shall enter into any consolidation, merger, combination or other transaction in which the shares of common stock are exchanged for or converted into other stock or securities, cash and/or any other property, then in any such case Units of Series B Preferred Stock shall at the same time be similarly exchanged for or converted into an amount per Unit (subject to the provision for adjustment hereinafter set forth) equal to the aggregate amount of stock, securities, cash and/or any other property (payable in kind), as the case may be, into which or for which each share of common stock is converted or exchanged. In the event the Corporation shall at any time after the Rights Declaration Date (i) declare any dividend on outstanding shares of common stock payable in shares of common stock, (ii) subdivide outstanding shares of common stock, or (iii) combine outstanding common stock into a smaller number of shares, then in each such case the amount set forth in the immediately preceding sentence with respect to the exchange or conversion of Units of Series B Preferred Stock shall be adjusted by multiplying such amount by a fraction the numerator of which shall be the number of shares of common stock that are outstanding immediately after such event and the denominator of which shall be the number of shares of common stock that were outstanding immediately prior to such event.

Section 8. Redemption. The Units of Series B Preferred Stock shall not be redeemable.

Section 9. Ranking. The Units of Series B Preferred Stock shall rank junior to all other series of the Preferred Stock and to any other class of preferred stock that hereafter may be issued by the Corporation as to the payment of dividends and the distribution of assets, unless the terms of any such series or class shall provide otherwise.

Section 10. Amendment. The Certificate, including, without limitation, this resolution, shall not hereafter be amended, either directly or indirectly, or through merger or consolidated with another corporation in any manner that would alter or change the powers, preferences or special rights of the Series B Preferred Stock so as to affect them adversely without the affirmative vote of the holders of a majority or more of the outstanding Units of Series B Preferred Stock, voting separately as a Class.

Section 11. Fractional Shares. The Series B Preferred Stock may be issued in Units or other fractions of a share, which Units or fraction shall entitle the holder, in proportion to such holder's fractional, shares, to exercise voting rights, receive dividends, participate in distributions and to have the benefit of all other rights of holders of Series B Preferred Stock.

Section 12. Certain Definitions. As used herein with respect stock to the Series A Preferred Stock, the following terms shall have the following meanings:

(A) The term "Common Stock" means the class of common stock designated as the Common Stock, par value \$.01 per share, of the Corporation at the date hereof or any other class of stock resulting from successive changes or reclassification of the common stock.

(B) The term "junior stock" (i) as used in Section 4 means the common stock and any other class or series of capital stock of the Corporation hereafter authorized or issued over which the Series B Preferred Stock has preference or priority as to the payment of dividends and (ii) as used in Section 6, shall mean the common stock and any other class or series of capital stock of the Corporation over which the Series A Preferred Stock has preference or priority in the distribution of assets on any liquidation, dissolution or winding up of the Corporation.

(C) The term "parity stock" (i) as used in Section 4, means any class or series of stock of the Corporation hereafter authorized or issued ranking pari passu with the Series B Preferred Stock as to dividends and (ii) as used in Section 6, shall mean any class or series of capital stock ranking pari passu with the Series B Preferred Stock in the distribution of assets on any liquidation, dissolution or winding up.

FIFTH: No stockholder of the Corporation shall have any preemptive rights with respect to the capital stock of the Corporation, and any preemptive rights which previously may have attached to the capital stock of the Corporation are hereby extinguished.

SIXTH: There shall not be cumulative voting with respect to the shares of capital stock of the Corporation.

SEVENTH: Election of directors need not be by ballot, unless the By-laws of the Corporation shall so provide. In furtherance and not in limitation of the powers conferred by the laws of the State of Delaware, the Board of Directors is expressly authorized and empowered, without the assent or vote of the stockholders, to make, alter, amend and repeal the By-laws of the Corporation, in any manner not inconsistent with the laws of the State of Delaware or the Certificate of Incorporation of the Corporation.

EIGHTH: The Corporation is to have perpetual existence.

NINTH: The By-Laws of the Corporation may be altered, amended or repealed by the vote of a majority of all of the directors or by the vote of holders of a majority of the outstanding stock entitled to vote thereon.

TENTH: Whenever a compromise or arrangement is proposed between this Corporation and its creditors or any class of them and/or between this Corporation and its stockholders or any class of them, any court of equitable jurisdiction within the State of Delaware may, on the application in a summary way of this Corporation or of any creditor or stockholder thereof or in the application of any receiver or receivers appointed for this Corporation under the provisions of Section 291 of Title 8 of the Delaware Code or on the application of trustees in dissolution or of any receiver or receivers appointed for this Corporation under the provisions of Section 279 of Title 8 of the Delaware Code order a meeting of the creditors or class of creditors, and/or of the stockholders or class of stockholders of this Corporation, as the case may be, to be summoned in such manner as the said court directs. If a majority in number representing three-fourths in value of the creditors or class of creditors, and/or of the stockholders or class of stockholders of this Corporation, as the case may be, agree to any compromise or arrangement and to any reorganization of this Corporation as a consequence of such compromise or arrangement, the said compromise or arrangement and the said reorganization shall, if sanctioned by the court to which the said application has been made, be binding on all the creditors or claims of creditors, and/or on all the stockholders or class of stockholders of this Corporation, as the case may be, and also on this Corporation.

ELEVENTH: Except as otherwise provided by statute, any action which might have been taken at a duly convened meeting of the holders of stock of the Corporation may be taken with the written consent of such of the holders of stock who would have been entitled to vote upon the action if a meeting were held as have not less than the minimum percentage of the total vote required for the proposed corporate action by statute, the Certificate of Incorporation or the By-laws of the Corporation, as may be applicable, but in the case of the election of a director or directors, not less than a majority of the stock of the Corporation entitled to vote thereon; provided that prompt notice shall be given to all stockholders of the taking of such corporate action without a meeting if less than unanimous consent is obtained.

TWELFTH: The Corporation shall, to the full extent permitted by the General Corporation Law of the State of Delaware, as amended from time to time, indemnify all persons which it has the power to indemnify pursuant thereto.

THIRTEENTH: A Director of the Corporation shall not be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a Director, except for liability (i) for any breach of the Director's duty of loyalty to the Corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the Delaware General Corporation Law, or (iv) for any transaction from which the Director derived any improper personal benefit. If the Delaware General Corporation Law is hereafter amended to authorize the further elimination or limitation of the liability of a Director, then the liability of a Director of the Corporation shall be eliminated or limited to the fullest extent permitted by the amended Delaware General Corporation Law.

Any repeal or modification of the foregoing paragraph by the stockholders of the Corporation shall not adversely affect any right or protection of a Director of the Corporation existing at the time of such repeal or modification.

[QuickLinks](#) -- Click here to rapidly navigate through this document

Exhibit 21

SUBSIDIARIES OF THE COMPANY

<u>NAME OF SUBSIDIARY</u>	<u>STATE OR OTHER JURISDICTION OF INCORPORATION OR ORGANIZATION</u>	<u>OTHER NAMES UNDER WHICH SUBSIDIARY DOES BUSINESS</u>
Cave Springs, Inc.	Delaware	N/A
Confecciones Acona S.A.	Costa Rica	N/A
Maternity Factory Warehouse Centre, Inc.	Canada	N/A
Mothers Work Canada, Inc.	Delaware	N/A
Mothers Work Services, Inc.	Delaware	N/A

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QuickLinks

[Exhibit 21](#)

[SUBSIDIARIES OF THE COMPANY](#)

[QuickLinks](#) -- Click here to rapidly navigate through this document

Exhibit 23

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

The Board of Directors and Shareholders
Destination Maternity Corporation:

We consent to the incorporation by reference in the registration statements on Form S-3 (Nos. 333-59309, 333-12321, 333-27611 and 333-90110) and registration statements on Form S-8 (Nos. 33-64580, 33-89726, 333-2404, 333-3480, 333-59529, 333-57766, 333-112158 and 333-137136) of Destination Maternity Corporation (formerly Mothers Work, Inc.) of our reports dated December 15, 2008, with respect to the consolidated balance sheets of Destination Maternity Corporation and subsidiaries as of September 30, 2008 and 2007, and the related consolidated statements of operations, stockholders' equity and comprehensive income (loss) and cash flows for each of the years in the three-year period ended September 30, 2008, and the related financial statement schedule and the effectiveness of internal control over financial reporting as of September 30, 2008, which reports appear in the September 30, 2008 annual report on Form 10-K of Destination Maternity Corporation.

/s/ KPMG LLP

Philadelphia, Pennsylvania
December 15, 2008

QuickLinks

[Exhibit 23](#)

[CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM](#)

SARBANES-OXLEY
SECTION 302 CERTIFICATION

I, Edward M. Krell, certify that:

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

Date: December 15, 2008

/s/ EDWARD M. KRELL

Edward M. Krell
Chief Executive Officer

QuickLinks

[Exhibit 31.1](#)

[SARBANES-OXLEY SECTION 302 CERTIFICATION](#)

SARBANES-OXLEY
SECTION 302 CERTIFICATION

I, Judd P. Timauer, certify that:

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

Date: December 15, 2008

/s/ JUDD P. TIRNAUER

Judd P. Timauer
Senior Vice President & Chief Financial Officer

QuickLinks

[Exhibit 31.2](#)

[SARBANES-OXLEY SECTION 302 CERTIFICATION](#)

[QuickLinks](#) -- Click here to rapidly navigate through this document

Exhibit 32.1

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

In connection with the Annual Report of Destination Maternity Corporation (the "Company") on Form 10-K for the year ended September 30, 2008 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Edward M. Krell, Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

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

/s/ EDWARD M. KRELL

Edward M. Krell
Chief Executive Officer
December 15, 2008

QuickLinks

[Exhibit 32.1](#)

[CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350, AS ADOPTED PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002](#)

[QuickLinks](#) -- Click here to rapidly navigate through this document

Exhibit 32.2

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

In connection with the Annual Report of Destination Maternity Corporation (the "Company") on Form 10-K for the year ended September 30, 2008 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Judd P. Tirnauer, Senior Vice President & Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

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

/s/ JUDD P. TIRNAUER

Judd P. Tirnauer
Senior Vice President & Chief Financial Officer
December 15, 2008

QuickLinks

[Exhibit 32.2](#)

[CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350, AS ADOPTED PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002](#)