

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

**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, 2019

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: 1-13011

**Comfort Systems USA, Inc.**

(Exact name of registrant as specified in its charter)

Delaware  
(State or Other Jurisdiction of  
Incorporation or Organization)

76-0526487  
(I.R.S. Employer  
Identification No.)

675 Bering Drive  
Suite 400  
Houston, Texas 77057  
(713) 830-9600

(Address and telephone number of Principal Executive Offices)

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

Title of Each Class	Trading Symbol(s)	Name of Each Exchange on which Registered
Common Stock, \$.01 par value	FIX	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 15(d) of the Act. Yes  No

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

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

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

Large accelerated filer  Accelerated filer  Non-accelerated filer  Smaller reporting company  Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

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

The aggregate market value of the voting stock held by non-affiliates of the registrant at June 28, 2019 was approximately \$1.83 billion, based on the \$50.99 last sale price of the registrant's common stock on the New York Stock Exchange on June 28, 2019.

As of February 21, 2020, 36,613,587 shares of the registrant's common stock were outstanding (excluding treasury shares of 4,509,778).

**DOCUMENTS INCORPORATED BY REFERENCE**

The information required by Part III (other than the required information regarding executive officers) is incorporated by reference from the registrant's definitive proxy statement, which will be filed with the Commission not later than 120 days following December 31, 2019.

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## **FORWARD-LOOKING STATEMENTS**

*Certain statements and information in this Annual Report on Form 10-K may constitute forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. The words “believe,” “expect,” “anticipate,” “plan,” “intend,” “foresee,” “should,” “would,” “could,” or other similar expressions are intended to identify forward-looking statements, which are generally not historic in nature. These forward-looking statements are based on the current expectations and beliefs of Comfort Systems USA, Inc. and its subsidiaries (collectively, the “Company”) concerning future developments and their effect on the Company. While the Company’s management believes that these forward-looking statements are reasonable as and when made, there can be no assurance that future developments affecting the Company will be those that it anticipates. All comments concerning the Company’s expectations for future revenue and operating results are based on the Company’s forecasts for its existing operations and do not include the potential impact of any future acquisitions. The Company’s forward-looking statements involve significant risks and uncertainties (some of which are beyond the Company’s control) and assumptions that could cause actual future results to differ materially from the Company’s historical experience and its present expectations or projections. Known material factors that could cause the Company’s actual results to differ from those in the forward-looking statements are those described in Part I, “Item 1A. Risk Factors.”*

***Readers are cautioned not to place undue reliance on forward-looking statements, which speak only as of the date hereof. The Company undertakes no obligation to publicly update or revise any forward-looking statements after the date they are made, whether as a result of new information, future events, or otherwise.***

## PART I

The terms “Comfort Systems,” “we,” “us,” or “the Company” refer to Comfort Systems USA, Inc. or Comfort Systems USA, Inc. and its consolidated subsidiaries, as appropriate in the context.

### ITEM 1. *Business*

Comfort Systems USA, Inc., a Delaware corporation, was established in 1997. We provide mechanical and electrical contracting services. Our mechanical segment principally includes heating, ventilation and air conditioning (“HVAC”), plumbing, piping and controls, as well as off-site construction, monitoring and fire protection. Our electrical segment includes installation and servicing of electrical systems. We build, install, maintain, repair and replace mechanical, electrical and plumbing (“MEP”) systems throughout our 35 operating units with 134 locations in 115 cities throughout the United States.

We operate primarily in the commercial, industrial and institutional MEP markets and perform most of our services in industrial, healthcare, education, office, technology, retail and government facilities. Substantially all of our consolidated 2019 revenue was derived from commercial, industrial and institutional customers and multi-family residential projects. Approximately 45.9% of our revenue was attributable to installation services in newly constructed facilities and 54.1% was attributable to renovation, expansion, maintenance, repair and replacement services in existing buildings. Our consolidated 2019 revenue was derived from the following service industries:

<u>Service Activity</u>	<u>Percentage of Revenue</u>
Mechanical Services	86.1 %
Electrical Services	13.9 %
<b>Total</b>	<b>100.0 %</b>

### Industry Overview

We believe that commercial, industrial, and institutional mechanical and electrical contracting generate annual revenue in the United States of approximately \$100 billion. Mechanical and electrical systems are necessary to virtually all commercial, industrial and institutional buildings. Because most buildings are sealed, HVAC systems provide the primary method of circulating fresh air in such buildings. Replacing an aging building’s existing systems with modern, energy-efficient systems significantly reduces a building’s energy consumption, carbon footprint, and operating costs while improving air quality and overall system effectiveness. Older commercial, industrial and institutional facilities frequently have poor air quality and provide less comfortable environments, and older HVAC systems result in significantly higher energy consumption than do modern systems. As electrical systems age they require service and replacement, and changing building configurations and technological power load requirements lead to the need to reconfigure and improve electrical systems in buildings on a regular basis.

Many factors affect mechanical and electrical services industry growth, including but, not limited to, (i) population growth, which increases the need for commercial, industrial and institutional space, (ii) an aging installed base of buildings and equipment, (iii) increasing sophistication, complexity and efficiency of mechanical and electrical systems, and (iv) growing emphasis on environmental and energy efficiency.

Our industry can be broadly divided into two categories:

- construction of and installation in new buildings, which provided approximately 45.9% of our revenue in 2019, and
- renovation, expansion, maintenance, repair and replacement in existing buildings, which provided the remaining 54.1% of our 2019 revenue.

*Construction, Installation, Expansion and Renovation Services*— Construction, installation, expansion and renovation services consist of “design and build” and “plan and spec” projects. In “design and build” projects, the commercial MEP company is responsible for designing, engineering and installing a cost-effective, energy-efficient system customized to the specific needs of the building owner. Costs and other project terms are normally negotiated

between the building owner or its representative and the contracting company. Companies that specialize in “design and build” projects use a consultative approach with customers and tend to develop long-term relationships with building owners and developers, general contractors, architects, consulting engineers and property managers. “Plan and spec” installation refers to projects in which a third-party architect or consulting engineer designs the MEP systems and the installation project is “put out for bid.” We believe that “plan and spec” projects usually take longer to complete and frequently results in less efficient outcomes than “design and build” projects because the system design and installation process are not integrated, thus resulting in more frequent adjustments to project specifications, work requirements and schedules. Our investments in design and building information modeling enable us to collaborate with our customers to achieve reliable and energy efficient construction outcomes and to eliminate unnecessary waste.

*Maintenance, Repair and Replacement Services*—These services include maintaining, repairing, replacing, reconfiguring and monitoring previously installed systems and building automation controls. The growth and aging of the installed base of MEP and related systems, changing requirements due to increasing technology deployment, and the demand for more efficient systems and more capable building automation controls have fueled growth in these services. The increasing complexity of these systems leads many commercial, industrial and institutional building owners and property managers to outsource maintenance and repair, often through service agreements with service providers. State-of-the-art control and monitoring systems feature electronic sensors and microprocessors that are crucial to energy efficient operations. These systems require specialized training to install, maintain and repair. We believe that the work that we perform to optimize and upgrade systems and to enable wise controls helps Comfort Systems USA to optimize energy use and fundamentally reduce our nation’s carbon footprint.

## **Strategy**

We focus on strengthening core operating competencies, leading in sustainability, efficiency and technological improvement, and on increasing profit margins. The key objectives of our strategy are to improve profitability and generate growth in our operations, to enable sustainable and efficient building environments, to improve the productivity of our workforce, and to acquire complementary businesses. In order to accomplish our objectives, we are currently focused on the following elements:

*Achieve Excellence in Core Competencies*—We have identified seven core competencies that we believe are critical to attracting and retaining customers, increasing operating income and cash flow and maximizing the productivity of our increasingly valuable skilled labor force. The seven core competencies are: (i) safety, (ii) customer service, (iii) design and build expertise, (iv) effective pre-construction processes, (v) job and cost tracking, (vi) leadership in energy efficient and sustainable design, and (vii) best-in-class servicing of existing building systems.

*Achieve Operating Efficiencies*—We think we can achieve operating efficiencies and cost savings through purchasing economies, adopting operational “best practices,” and focusing on job management to deliver services in a cost-effective and efficient manner. We are continually improving the “job loop” at our locations—qualifying, estimating, pricing and executing projects effectively and efficiently. We also use our combined spend to gain purchasing advantages on products and services such as MEP components, raw materials, services, vehicles, bonding, insurance and employee benefits.

*Attract, Retain and Invest in our Employees*—We seek to attract and retain quality employees by providing them an enhanced career path that offers a stable income, attractive benefits packages and excellent advancement opportunities. We continually invest in training, including programs for project managers, field superintendents, service managers, service technicians, sales managers, estimators, and leadership and development of key managers and leaders. We are also increasing our national and local focus on skills training for our hourly workers.

*Focus on Commercial, Industrial and Institutional Markets*—We focus on the commercial, industrial and institutional building markets, including construction, maintenance, repair and replacement services. We believe that these complex markets are attractive because of their growth opportunities, large and diverse customer base, attractive margins and potential for long-term relationships with building owners. Substantially all of our consolidated 2019 revenue was derived from commercial, industrial and institutional customers and large multi-family residential projects.

*Leverage Resources and Capabilities*—We believe significant operating efficiencies can be achieved by leveraging resources among our operating locations. For example, we have shifted certain fabrication activities to centralized locations in order to increase asset utilization. We opportunistically allocate our engineering, field and

supervisory labor from one operation to another to more fully use our employee base, meet our customers’ needs and share expertise. Our ability to share resources frequently allows us to pursue work that would otherwise not be available to us and allows us to provide a more diversified and steady deployment of our labor. We believe we have realized scale benefits from coordinated purchasing, technical innovation, insurance, benefits, bonding and financing activities across our operations.

*Maintain a Diverse Customer, Geographic and Project Base*—We have a distribution of revenue across end-use sectors that we believe reduces our exposure to negative developments in any given sector. We also have significant geographical diversification across all regions of the United States, again reducing our exposure to negative developments in any given region. Our distribution of revenue in 2019 by end-use sector was as follows:

Industrial	33.9 %
Education	15.8 %
Office Buildings	13.3 %
Healthcare	13.7 %
Government	6.2 %
Retail, Restaurants and Entertainment	9.5 %
Multi-Family and Residential	4.0 %
Other	3.6 %
<b>Total</b>	<b><u>100.0 %</u></b>

Approximately 85.1% of our revenue is earned on a project basis for installation of systems in newly constructed or existing facilities. As of December 31, 2019, we had 5,495 projects in process with an aggregate contract value of approximately \$4.52 billion. Our average project takes six to nine months to complete, with an average contract price of approximately \$822,000. This average project size, when taken together with the approximately 14.9% of our revenue derived from maintenance and service, provides us with a broad base of work in the construction services sector. A stratification of projects in progress as of December 31, 2019, by contract price, is as follows:

<b>Contract Price of Project</b>	<b>No. of Projects</b>	<b>Aggregate Contract Price Value (millions)</b>
Under \$1 million	4,734	\$ 674.3
\$1 million - \$5 million	580	1,266.5
\$5 million - \$10 million	95	691.0
\$10 million - \$15 million	38	472.5
Greater than \$15 million	48	1,413.0
<b>Total</b>	<b><u>5,495</u></b>	<b><u>\$ 4,517.3</u></b>

*Develop and Adopt Leading Technologies*—We are improving productivity by increasing use of innovative techniques in prefabrication, project design and planning, as well as in coordination and production methods. We have invested in the refinement and adoption of prefabrication practices. We work to identify, develop and implement new materials, products and methods that can achieve greater productivity and more efficient and sustainable outcomes. Above all, we have concluded that as technology develops in our industry the fundamental prerequisite for leadership in adopting such opportunities is the quality, accuracy and buildability of our designs. Accordingly, we have invested in the experts, training, and internal and external knowledge transfer to ensure that we are properly scaling, achieving true buildability and fundamentally and continuously improving our design capabilities to meet our customers’ evolving requirements. Our goal is to use our scale and strategic investments to maintain a leading position in design and modeling excellence, and we believe that will enable us to optimize productivity and quality today, and especially will position us to wisely capitalize from ongoing or future technological developments.

*Excel at Modular and Off-Site Construction*—We believe that modular and off-site construction – the ability to build superior quality plants and systems away from the construction site – will become increasingly important in complex construction projects. Accordingly, through our acquisitions, we have invested in that capability, and after acquisition we have further invested in improving and growing that service offering. This has led to meaningful growth in our ability to provide this expertise. Through recent and ongoing development and acquisitions, we plan to continue to improve on our unmatched capability in mechanical off-site or modular construction. With our recent acquisition of

Starr Electric Company, Incorporated in North Carolina, we significantly improved our electrical off-site construction capabilities and offerings and will continue to invest in the improvement of these offerings. Although complex modular construction is a small percentage of our current revenue, we believe that it is ripe for investment and growth and that it helps us to sell work and improve outcomes across our businesses.

*Service Growth Initiative*—Over the last several years we have made substantial investments to expand our service and maintenance revenue by increasing the value we can offer to service and maintenance customers. We are actively concentrating managerial and sales resources on training and hiring experienced employees to sell and profitably perform service work. In many locations we have added or upgraded our capability, and we believe our investments and efforts have provided customer value and stimulated growth in all aspects of our businesses.

*Seek Growth through Acquisitions*—We believe that we can further increase our cash flow and operating income by continuing to opportunistically enter new markets or service lines through acquisition. We have dedicated a significant portion of our cash flow on an ongoing basis to seeking opportunities to acquire businesses that have strong assembled workforces, excellent historical safety performance, leading design and energy efficiency capabilities, attractive market positions, a record of consistent positive cash flow, and desirable market locations.

### **Operations and Services Provided**

We provide a wide range of construction, renovation, expansion, maintenance, repair and replacement services for MEP and related systems in commercial, industrial and institutional properties. Our local management teams maintain responsibility for day-to-day operating decisions. Local management is augmented by regional leadership that focuses on core business competencies, regional financial performance, cooperation and coordination between locations, implementing best practices and corporate initiatives. In addition to senior management, local personnel generally include design engineers, energy efficiency and sustainability experts, sales personnel, customer service personnel, installation and service technicians, sheet metal and prefabrication technicians, estimators and administrative personnel. We have centralized certain administrative functions such as insurance, employee benefits, training, safety programs, marketing and cash management to enable our local operating management to focus on pursuing new business opportunities and improving operating efficiencies.

*Construction and Installation Services for New Buildings*—Our installation business related to newly constructed facilities, which comprised approximately 45.9% of our consolidated 2019 revenue, involves the design, engineering, integration, installation and start-up of MEP and related systems. We provide “design and build” and “plan and spec” installation services for office buildings, retail centers, manufacturing plants, healthcare, education and government facilities and other commercial, industrial and institutional facilities. In a “design and build” installation, we work with the customer to determine the needed capacity and to optimize energy efficiency of the MEP systems that best suit the proposed facility. The final design, terms, price and timing of the project are then negotiated with the customer or its representatives, after which any necessary modifications are made to the system plan. In “plan and spec” installation, we participate in a bid process to provide labor, equipment, materials and installation based on the end user’s plans and engineering specifications.

Once an agreement has been reached, we order the necessary materials and equipment for delivery to meet the project schedule. In many instances we fabricate ductwork, conduit and piping and assemble certain components for the system based on the mechanical drawing specifications. Finally, we install the systems at the project site, working closely with the owner or general contractor. Our average project takes six to nine months to complete, with an average contract price of approximately \$822,000. We also perform larger project work, with 761 contracts in progress at December 31, 2019 with contract prices in excess of \$1 million. Our largest project in progress at December 31, 2019 had a contract price of \$97.2 million. Project contracts typically provide for periodic billings to the customer as we meet progress milestones or incur cost on the project. Project contracts in our industry also frequently allow for a small portion of progress billings or contract price to be withheld by the customer until after we have completed the work. Amounts withheld under this practice are known as retention or retainage.

*Renovation, Expansion, Maintenance, Monitoring, Repair and Replacement Services for Existing Buildings*—Our renovation, expansion, maintenance, monitoring, repair and replacement services in existing buildings comprised approximately 54.1% of our consolidated 2019 revenue. Maintenance and repair services are provided either in response to service calls or under a service agreement. Service calls are coordinated by customer service representatives or dispatchers that use computer and communication technology to process orders, arrange service calls, dispatch

technicians and communicate with and invoice customers. Service technicians work from service vehicles equipped with commonly used parts, supplies and tools to complete a variety of jobs. Optimal maintenance is crucial to energy efficient operations. Commercial, industrial and institutional service agreements usually have terms of one or more years, with automatic annual renewals, and frequently include thirty- to sixty-day cancellation notice periods. We also provide remote monitoring of power usage, temperature, pressure, humidity and air flow for MEP and other building systems.

### **Sources of Supply**

The raw materials and components we use include MEP system components, ductwork, pipe, conduit, wire, electrical fixtures, steel, sheet metal and copper tubing and piping. These raw materials and components are generally available from a variety of domestic or foreign suppliers at competitive prices. Delivery times are typically short for most raw materials and standard components, but during periods of peak demand, may extend to one month or more. We estimate that direct purchase of commodities and finished products comprises between 10% and 15% of our average project cost. We have procedures to reduce commodity cost exposure such as purchasing commodities early for particular projects, as well as selectively using time or market-based escalation and escape provisions in bids and contracts.

Chillers for large applications typically have the longest delivery time and frequently have lead times of up to six months. The major components of commercial MEP systems are compressors and chillers that are manufactured primarily by Carrier, Lennox, McQuay, Trane and York. The major suppliers of building automation control systems are Automated Logic, Delta, Distech, Honeywell, Johnson Controls, Novar, Rockwell, Schneider, Siemens, Trane and York. We do not have any significant contracts guaranteeing us a supply of raw materials or components.

### **Cyclicality and Seasonality**

Historically, the construction industry has been highly cyclical. As a result, our volume of business, particularly in new construction projects and renovation, may be adversely affected by declines in new installation and replacement projects in various geographic regions of the United States during periods of economic weakness.

The mechanical and electrical contracting industries are subject to seasonal variations. The demand for new installation and replacement is generally lower during the winter months (the first quarter of the year) due to reduced construction activity during inclement weather and less use of air conditioning during the colder months. Demand for our services is generally higher in the second and third calendar quarters due to increased construction activity and increased use of air conditioning during the warmer months. Accordingly, we expect our revenue and operating results generally will be lower in the first calendar quarter.

### **Sales and Marketing**

We have a diverse customer base, with our top customer representing 5% of consolidated 2019 revenue, and our largest customer often changes from year to year. Management and a dedicated sales force are responsible for developing and maintaining successful long-term relationships with key customers. Customers generally include building owners and developers and property managers, as well as general contractors, architects and consulting engineers. We intend to continue our emphasis on developing and maintaining long-term relationships with our customers by providing superior, high-quality service in a professional manner. We believe we can continue to leverage the diverse technical and marketing strengths at individual locations to expand the services offered in other local markets. With respect to multi-location service opportunities, we maintain a national sales force in our national accounts group.

### **Employees**

As of December 31, 2019, we had approximately 12,000 employees. We have collective bargaining agreements covering less than ten employees. We have not experienced and do not expect any significant strikes or work stoppages and believe our relations with employees covered by collective bargaining agreements are good.

### **Recruiting, Training and Safety**

Our continued success depends, in part, on our ability to continue to attract, retain and motivate qualified engineers, service technicians, field supervisors and project managers. We believe our success in retaining qualified



employees will be based on the quality of our recruiting, training, compensation, employee benefits programs and opportunities for advancement. We provide numerous training programs for management, sales and leadership, as well as on-the-job training, technical training, apprenticeship programs, attractive benefit packages and career advancement opportunities within our company.

We have established comprehensive safety programs throughout our operations to ensure that all employees comply with safety standards we have established and that are established under federal, state and local laws and regulations. Safety leadership establishes safety programs and benchmarking to improve safety across the Company. Finally, our employment screening process seeks to determine that prospective employees have requisite skills, sufficient background references and acceptable driving records, if applicable. Our rate of incidents recordable under the standards of the Occupational Safety and Health Administration (“OSHA”) per one hundred employees per year, also known as the OSHA recordable rate, was 1.61 during 2019. This level was 20% better than the most recently published OSHA rate for our industry.

### **Insurance and Litigation**

The primary insured risks in our operations are bodily injury, property damage and workers’ compensation injuries. We retain the risk for workers’ compensation, employer’s liability, auto liability, general liability and employee group health claims resulting from uninsured deductibles per-incident or occurrence. Because we have very large per incident deductibles, the vast majority of our claims are paid by us, so as a practical matter we self-insure the great majority of these risks. Losses up to such per-incident deductible amounts are estimated and accrued based upon known facts, historical trends and industry averages using the assistance of an actuary to project the extent of these obligations.

We are subject to certain claims and lawsuits arising in the normal course of business. We maintain various insurance coverages to minimize financial risk associated with these claims. We have estimated and provided accruals for probable losses and related legal fees associated with certain litigation in our consolidated financial statements. While we cannot predict the outcome of these proceedings, in our opinion and based on reports of counsel, any liability arising from these matters individually and in the aggregate will not have a material effect on our operating results, cash flows or financial condition, after giving effect to provisions already recorded.

We typically warrant labor for the first year after installation on new MEP systems that we build and install, and we pass through to the customer manufacturers’ warranties on equipment. We generally warrant labor for thirty days after servicing existing MEP systems. We do not expect warranty claims to have a material adverse effect on our financial position or results of operations.

### **Competition**

The mechanical and electrical contracting industries are highly competitive and consist of thousands of local and regional companies. We believe that purchasing decisions in the commercial, industrial and institutional markets are based on (i) competitive price, (ii) relationships, (iii) quality, timeliness and reliability, (iv) tenure, financial strength and access to bonding, (v) range of capabilities, and (vi) scale of operation. To improve our competitive position, we focus on both the consultative “design and build” installation market and the maintenance, repair and replacement market in order to develop and strengthen customer relationships. In addition, we believe our ability to provide multi-location coverage and a broad range of services gives us a strategic advantage over smaller competitors who may have more limited resources and capabilities.

We believe that we are larger than most of our competitors, which are generally small, owner-operated companies in a specific area. However, there are divisions of larger contracting companies, utilities and MEP equipment manufacturers that provide MEP services in some of the same service lines and geographic areas we serve. Some of these competitors and potential competitors have greater financial resources than we do to finance development opportunities and support their operations. We believe our smaller competitors generally compete with us based on price and their long-term relationships with local customers. Our larger competitors compete with us on those factors but may also provide attractive financing and comprehensive service and product packages.

### **Vehicles**

We operate a fleet of various owned or leased service trucks, vans and support vehicles. We believe these vehicles generally are well maintained and sufficient for our current operations.

## **Governmental Regulation and Environmental Matters**

Our operations are subject to various federal, state and local laws and regulations, including: (i) licensing requirements applicable to engineering, construction and service technicians, (ii) building and MEP codes and zoning ordinances, (iii) regulations relating to consumer protection, including those governing residential service agreements, (iv) special bidding and procurement requirements on government projects, (v) wage and hour regulations, and (vi) regulations relating to worker safety and protection of the environment. For example, our operations are subject to the requirements of the Occupational Safety and Health Act, or OSHA, and comparable state laws directed towards protection of employees. We believe we have all required licenses to conduct our operations and are in substantial compliance with applicable regulatory requirements. If we fail to comply with applicable regulations, we could be subject to substantial fines or revocation of our operating licenses.

Many state and local regulations governing the MEP services trades require individuals to hold permits and licenses. In some cases, a required permit or license held by a single individual may be sufficient to authorize specified activities for all of our service technicians who work in the state or county that issued the permit or license. We seek to ensure that, where possible, we have two employees who hold any such permits or licenses that may be material to our operations in a particular geographic region.

Our operations are subject to the federal Clean Air Act, as amended, which governs air emissions and imposes specific requirements on the use and handling of ozone-depleting refrigerants generally classified as chlorofluorocarbons (CFCs) or hydrochlorofluorocarbons (HCFCs). Clean Air Act regulations promulgated by the United States Environmental Protection Agency (USEPA) require the certification of service technicians involved in the service or repair of equipment containing these refrigerants and also regulate the containment and recycling of these refrigerants. These requirements have increased our training expenses and expenditures for containment and recycling equipment. The Clean Air Act is intended ultimately to eliminate the use of ozone-depleting substances such as CFCs and HCFCs in the United States and to require alternative refrigerants to be used in replacement HVAC systems. Some replacement refrigerants, already in use, and classified as hydrofluorocarbons (HFCs) are not ozone-depleting substances. HFCs are considered by USEPA to have high global warming potential. USEPA may at some point require the phase-out of HFCs and expand existing technician certification requirements to cover the handling of HFCs. We do not believe the existing regulations governing technician certification requirements for the handling of ozone-depleting substances or possible future regulations applicable to HFCs will materially affect our business on the whole because, although they require us to incur modest ongoing training costs, our competitors also incur such costs, and such regulations may encourage or require our customers to update their MEP systems.

### **Additional Information**

Our Internet address is [www.comfortsystemsusa.com](http://www.comfortsystemsusa.com). We make available free of charge on or through our website our annual report on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K, and amendments to those reports filed or furnished pursuant to Section 13(a) or 15(d) of the Exchange Act as soon as reasonably practicable after we electronically file such material with, or furnish it to, the Securities and Exchange Commission. Our website also includes our code of ethics, titled the "Code of Conduct," together with other governance materials including our corporate governance standards and our Board committee charters for the audit committee, the compensation committee, and the governance and nominating committee; the executive committee, formed in 2019, operates under written grants of authority that may be amended from time to time by the Board. Printed versions of our code of ethics and our corporate governance standards may be obtained upon written request to our Corporate Compliance Officer at our headquarters address.

You may read and copy any materials filed with the Securities and Exchange Commission at the Securities and Exchange Commission's Public Reference Room at 100 F Street, NE, Washington, DC 20549. You may obtain information on the operation of the Public Reference Room by calling the Securities and Exchange Commission at 1-800-SEC-0330. This information is also available at [www.sec.gov](http://www.sec.gov). The reference to these website addresses does not constitute incorporation by reference of the information contained on the websites and should not be considered part of this document.

**ITEM 1A. Risk Factors**

**Our business is subject to a variety of risks and uncertainties, including, but not limited to, the risks and uncertainties described below. The risks and uncertainties described below are not the only ones facing us. Additional risks and uncertainties not known to us or which we have not determined to be material may also impair our business operations. You should carefully consider the risks described below, together with all other information included in this report, including information contained in the “Business,” “Management’s Discussion and Analysis of Financial Condition and Results of Operations” and “Quantitative and Qualitative Disclosures about Market Risk” sections. Our business, financial condition, results of operations or cash flows could be adversely affected by the occurrence of any of these events, which could cause actual results to differ materially from expected and historical results, and the trading price of our common stock could decline.**

***Economic downturns in the markets in which we operate may materially and adversely affect our business because our business is dependent on levels of construction activity.***

The demand for our services is dependent upon the existence of construction projects and service requirements within the markets in which we operate. Any period of economic recession affecting a market or industry in which we transact business is likely to adversely impact our business. Many of the projects we work on have long lifecycles from conception to completion, and the bulk of our performance generally occurs late in a construction project’s lifecycle. We experience the results of economic trends well after an economic cycle begins, and therefore have generally continued to experience the results of an economic recession well after conditions in the general economy have improved.

The industries and markets we operate in have always been and will continue to be vulnerable to macroeconomic downturns because they are cyclical in nature. When there is a reduction in demand, it often leads to greater price competition as well as decreased revenue and profit. The lasting effects of a recession can also increase economic instability with our vendors, subcontractors, developers, and general contractors, which can increase our liability exposure and result in us not being paid in full or at all on some projects, thus decreasing our revenue and profit. Further, to the extent some of our vendors, subcontractors, developers, or general contractors seek bankruptcy protection, such bankruptcy will likely force us to incur additional costs in attorneys’ fees, as well as other professional consultants, and will result in decreased revenue and profit. Additionally, because 6.2% of our revenue for the year ended December 31, 2019 was attributable to projects in the government sector, a reduction in federal, state, or local government spending in our industries and markets could result in decreased revenue and profit for us.

***Because we bear the risk of cost overruns in most of our contracts, we may experience reduced profits or, in some cases, losses under these contracts if costs increase above our estimates.***

Our contract prices are established largely based on estimates and assumptions of our projected costs, including assumptions about: future economic conditions; prices, including commodity prices; availability of labor, including the costs of providing labor, equipment, and materials; and other factors outside our control. If our estimates or assumptions prove to be inaccurate, circumstances change in a way that renders our assumptions and estimates inaccurate or we fail to successfully execute the work, cost overruns may occur, and we could experience reduced profits or a loss for affected projects. For instance, unanticipated technical problems may arise, we could have difficulty obtaining permits or approvals, local laws, labor costs or labor conditions could change, bad weather could delay construction, raw materials prices could increase, our suppliers or subcontractors may fail to perform as expected or site conditions may be different than we expected. We are also exposed to increases in energy prices, particularly as they relate to gasoline prices. Additionally, in certain circumstances, we guarantee project completion or the achievement of certain acceptance and performance testing levels by a scheduled date. Failure to meet schedule or performance requirements typically results in additional costs to us, and in some cases, we may also create liability for consequential and liquidated damages. Performance problems for existing and future projects could cause our actual results of operations to differ materially from those we anticipate and could damage our reputation within our industry and our customer base.

***Our backlog is subject to unexpected adjustments and cancellations, which means that amounts included in our backlog may not result in actual revenue or translate into profits.***

Backlog reflects revenue still to be recognized under contracted or committed installation and replacement project work. Our backlog as of December 31, 2019 was \$1.60 billion. The predictive value of backlog information is limited to indications of general revenue direction over the near term, and we cannot guarantee that the revenue projected from our backlog will be realized or, if realized, will be profitable. Projects may remain in our backlog for an extended period of time, or project cancellations or scope adjustments may occur with respect to contracts reflected in our backlog. Such changes may adversely affect the revenues and profit we ultimately realize on these projects.

***Intense competition in our industry could reduce our market share and our profit.***

The markets we serve are highly fragmented and competitive. Our industry is characterized by many small companies whose activities are geographically concentrated. We compete on the basis of our technical expertise and experience, financial and operational resources, nationwide presence, industry reputation and dependability. While we believe our customers consider a number of these factors in awarding available contracts, a large portion of our work is awarded through a bid process. Consequently, price is often the principal factor in determining which contractor is selected, especially on smaller, less complex projects. Smaller competitors are sometimes able to win bids for these projects based on price alone due to their lower cost and financial return requirements. We expect competition to intensify in our industry, presenting us with significant challenges in our ability to maintain strong growth rates and acceptable profit margins. We also expect increased competition from in-house service providers, because some of our customers have employees who perform service work similar to the services we provide. Vertical consolidation is also expected to intensify competition in our industry. If we are unable to meet these competitive challenges, we will lose market share to our competitors and experience an overall reduction in our profits. In addition, our profitability would be impaired if we have to reduce our prices to remain competitive.

***If we are unable to attract and retain qualified managers and employees, we will be unable to operate efficiently, which could reduce our profitability.***

Our business is labor intensive, and many of our operations experience a high rate of employee turnover. At times of low unemployment rates in the United States, it is typically more difficult for us to find qualified personnel at low cost in some geographic areas where we operate. Additionally, our business is managed by a small number of key executive and operational officers. We may be unable to hire and retain the sufficient skilled labor force necessary to operate efficiently and to support our growth strategy. Our labor expenses may increase as a result of a shortage in the supply of skilled personnel. Labor shortages, increased labor costs or the loss of key personnel could reduce our profitability and negatively impact our business. Further, our relationships with some customers could suffer if we are unable to retain the employees with whom those customers primarily work and have established relationships.

Future growth could also impose significant additional responsibilities on members of our senior management, including the need to recruit and integrate new senior level managers and executives. To the extent that we are unable to manage our growth effectively, or are unable to attract and retain additional qualified management, we may not be able to expand our operations or successfully execute our business plan.

***Our recent and future acquisitions may not be successful.***

We expect to continue pursuing selective acquisitions of businesses. We cannot guarantee that we will be able to identify acquisitions or that we will be able to consummate transactions on terms and conditions acceptable to us, or that acquired businesses will be profitable. Acquisitions may expose us to additional business risks different than those we have traditionally experienced. We also may encounter difficulties integrating acquired businesses and successfully managing the growth we expect to experience from these acquisitions.

We may choose to finance future acquisitions with debt, equity, cash or a combination of the three. Future acquisitions could dilute earnings or disrupt the payment of a stockholder dividend. To the extent we make acquisitions, a number of risks will result, including:

- the assumption of material liabilities (including for environmental-related costs);

- failure of due diligence to uncover situations that could result in legal exposure or to quantify the true liability exposure from known risks;
- the diversion of management's attention from the management of daily operations to the integration of operations;
- difficulties in the assimilation and retention of employees, in the assimilation of different cultures and practices, in the assimilation of broad and geographically dispersed personnel and operations, and the retention of employees generally;
- the risk of additional financial and accounting challenges and complexities in areas such as tax planning, treasury management, financial reporting and internal controls; and
- we may not be able to realize the cost savings or other financial benefits we anticipated prior to the acquisition.

The failure to successfully integrate acquisitions could have an adverse effect on our business, financial condition and results of operations.

***Information technology system failures, network disruptions or cybersecurity breaches could adversely affect our business.***

We use and rely significantly on sophisticated information technology systems, networks, and infrastructure in conducting our day to day operations, providing services to certain customers and protecting sensitive Company information. In addition, we also rely on third-party software and information technology for certain of our critical accounting, project management and financial information systems. We also collect and retain information about our customers, stockholders, vendors and employees, with the expectation by such third parties being that we will adequately protect such information.

Information technology system failures, including suppliers' or vendors' system failures, could disrupt our operations by causing transaction errors, processing inefficiencies, the loss of customers, other business disruptions or the loss of employee or other third-party personal information. We have in the past experienced system interruptions and delays and expect that such interruptions and delays may occur in the future, given the increasing diversity and sophistication of cybersecurity threats. In addition, our systems, networks and infrastructure could be damaged or interrupted by natural disasters, power loss, telecommunications failures, intentional or inadvertent user misuse or error, failures of information technology solutions, computer viruses, malicious code, ransomware attacks and acts of terrorism. We may also be subject to physical or electronic security breaches, including breaches by computer hackers or cyber-terrorists or unauthorized access to or disclosure of our or our customers' data. These events could impact our customers, employees and reputation and lead to financial losses from remediation actions, loss of business or access to our business data, potential liability or an increase in expenses, all of which may have a material adverse effect on our business. Similar risks could affect our customers and vendors, indirectly affecting us.

While we have security, internal control and technology measures in place to protect our systems and networks, these measures could fail as a result of a cyber-attack, other third-party action, employee error, malfeasance or other security failure. In the ordinary course of business, we have been targeted by malicious cyber-attacks. In April 2019, for example, our information technology infrastructure was impacted by a ransomware attack virus, which caused a substantial majority of our operating locations to experience loss of access to certain data and outages affecting systems including accounting, payroll, billing, job report and management and other software environments. These disruptions created challenges in key back office functions that required workarounds and alternative procedures. Because the techniques used to obtain unauthorized access or sabotage systems change frequently and generally are not identified until they are launched against a target, we may be unable to anticipate these techniques or to implement adequate preventative measures. As a result, we may be required to expend significant resources to protect against the threat of system disruptions and security breaches or to alleviate problems caused by these disruptions and breaches. Any of these events could damage our reputation and, while we do not believe that the April 2019 incident had such effects, have a material adverse effect on our business, results of operations, financial condition and cash flows.

In addition, current and future laws and regulations governing data privacy and the unauthorized disclosure of confidential information may pose complex compliance challenges and result in additional costs. A failure to comply with such laws and regulations could result in penalties or fines, legal liabilities or reputational harm. The continuing and evolving threat of cyber-attacks has also resulted in increased regulatory focus on risk management and prevention. New cyber-related regulations or other requirements could require significant additional resources and cause us to incur significant costs, which could have an adverse effect on our results of operations and cash flows.

We regularly evaluate the need to upgrade or replace our systems and network infrastructure to protect our information technology environment, to stay current on vendor supported products and to improve the efficiency and scope of our systems and information technology capabilities. The implementation of new systems and information technology could adversely impact our operations by requiring substantial capital expenditures, diverting management's attention, or causing delays or difficulties in transitioning to new systems. In addition, our systems implementations may not result in productivity improvements at the levels anticipated. Systems implementation disruption and any other information technology disruption, if not anticipated and appropriately mitigated, could have an adverse effect on our business.

***Third parties contribute significantly to our completion of many projects.***

We hire third-party subcontractors to perform work and depend on third-party suppliers to provide equipment and materials necessary to complete our projects. If we are unable to retain qualified subcontractors or suppliers, or if our subcontractors or suppliers do not perform as anticipated for any reason, our execution, reputation and profitability could be harmed.

***Earnings for future periods may be impacted by impairment charges for goodwill and intangible assets.***

We carry a significant amount of goodwill and identifiable intangible assets on our consolidated Balance Sheets. Goodwill is the excess of purchase price over the fair value of the net assets of acquired businesses. We assess goodwill for impairment each year, and more frequently if circumstances suggest an impairment may have occurred. We have determined in the past and may again determine in the future that a significant impairment has occurred in the value of our unamortized intangible assets or fixed assets, which could require us to write off a portion of our assets and could adversely affect our financial condition or our reported results of operations.

***Actual and potential claims, lawsuits and proceedings could ultimately reduce our profitability and liquidity and weaken our financial condition.***

We are likely to continue to be named as a defendant in legal proceedings claiming damages from us in connection with the operation of our business. These actions and proceedings may involve claims for, among other things, compensation for alleged personal injury, workers' compensation, employment discrimination, breach of contract or property damage. In addition, we may be subject to class action lawsuits involving allegations of violations of the Fair Labor Standards Act and state wage and hour laws. Due to the inherent uncertainties of litigation, we cannot accurately predict the ultimate outcome of any such actions or proceedings. We also are, and are likely to continue to be, from time to time a plaintiff in legal proceedings against customers, in which we seek to recover payment of contractual amounts we are owed as well as claims for increased costs we incur. When appropriate, we establish provisions against possible

exposures, and we adjust these provisions from time to time according to ongoing exposure. If our assumptions and estimates related to these exposures prove to be inadequate or inaccurate, we could experience a reduction in our profitability and liquidity and a weakening of our financial condition. In addition, claims, lawsuits and proceedings may harm our reputation or divert management resources away from operating our business.

We typically warrant the services we provide, guaranteeing the work performed against defects in workmanship and the material we supply. Historically, warranty claims have not been material as our customers evaluate much of the work we perform for defects shortly after work is completed. However, if warranty claims occur, we could be required to repair or replace warranted items at our cost. In addition, our customers may elect to repair or replace the warranted item by using the services of another provider and require us to pay for the cost of the repair or replacement. Costs incurred as a result of warranty claims could adversely affect our operating results and financial condition.

***Our use of the percentage-of-completion method of accounting could result in a reduction or reversal of previously recorded revenue or profits.***

A material portion of our revenue is recognized using the percentage-of-completion method of accounting, which results in our recognizing contract revenue and earnings ratably over the contract term in the proportion that our actual costs bear to our estimated contract costs. The earnings or losses recognized on individual contracts are based on estimates of contract revenue, costs and profitability. We review our estimates of contract revenue, costs and profitability on an ongoing basis. Prior to contract completion, we may adjust our estimates on one or more occasions as a result of change orders to the original contract, collection disputes with the customer on amounts invoiced or claims against the customer for increased costs incurred by us due to customer-induced delays and other factors. Contract losses are recognized in the fiscal period when the loss is determined. Contract profit estimates are also adjusted in the fiscal period in which it is determined that an adjustment is required. As a result of the requirements of the percentage-of-completion method of accounting, the possibility exists, for example, that we could have estimated and reported a profit on a contract over several periods and later determined, usually near contract completion, that all or a portion of such previously estimated and reported profits were overstated. If this occurs, the full aggregate amount of the overstatement will be reported for the period in which such determination is made, thereby eliminating all or a portion of any profits from other contracts that would have otherwise been reported in such period or even resulting in a loss being reported for such period. On a historical basis, we believe that we have made reasonably reliable estimates of the progress towards completion on our long-term contracts. However, given the uncertainties associated with these types of contracts, it is possible for actual costs to vary from estimates previously made, which may result in reductions or reversals of previously recorded revenue and profits.

***A significant portion of our business depends on our ability to provide surety bonds. Any difficulties in the financial and surety markets may adversely affect our bonding capacity and availability.***

In the past we have expanded, and it is possible we will continue to expand, the number and percentage of total contract dollars that require an underlying bond. Historically surety market conditions have experienced times of difficulty as a result of significant losses incurred by many surety companies and the results of macroeconomic trends outside of our control. Consequently, during times when less overall bonding capacity is available in the market, surety terms have become more expensive and more restrictive. As such, we cannot guarantee our ability to maintain a sufficient level of bonding capacity in the future, which could preclude our ability to bid for certain contracts or successfully contract with some customers. Additionally, even if we continue to be able to access bonding capacity to sufficiently bond future work, we may be required to post collateral to secure bonds, which would decrease the liquidity we would have available for other purposes. Our surety providers are under no commitment to guarantee our access to new bonds in the future; thus, our ability to access or increase bonding capacity is at the sole discretion of our surety providers. If our surety companies were to limit or eliminate our access to bonds, our alternatives would include seeking bonding capacity from other surety companies, increasing business with clients that do not require bonds and posting other forms of collateral for project performance, such as letters of credit or cash. We may be unable to secure these alternatives in a timely manner, on acceptable terms, or at all. As such, if we were to experience an interruption or reduction in the availability of bonding capacity, it is likely we would be unable to compete for or work on certain projects.

***We are a decentralized company and place significant decision making powers with our subsidiaries' management, which presents certain risks.***

We believe that our practice of placing significant decision making powers with local management is important to our successful growth and allows us to be responsive to opportunities and to our customers' needs. However, this practice presents certain risks, including the risk that we may be slower or less effective in our attempts to identify or react to problems affecting an important business than we would under a more centralized structure or that we would be slower to identify a misalignment between a subsidiary's and the Company's overall business strategy. Further, if a subsidiary location fails to follow the Company's compliance policies, we could be made party to a contract, arrangement or situation that requires the assumption of large liabilities or has less advantageous terms than is typically found in the market.

***Our insurance policies against many potential liabilities require high deductibles, and our risk management policies and procedures may leave us exposed to unidentified or unanticipated risks. Additionally, difficulties in the insurance markets may adversely affect our ability to obtain necessary insurance.***

We insure various general liability, workers' compensation, property and auto risks as well as other risks through a variety of direct insurance policies and a captive insurance company that are reinsured for risks above certain deductibles and retentions. All of our insurance policies and programs are subject to high deductibles and retentions; as such, we are, in effect, self-insured for substantially all of our typical claims. We hire an actuary to determine any liabilities for unpaid claims and associated expenses for the three major lines of coverage (workers' compensation, general liability and auto liability). The determination of these claims and expenses and the appropriateness of the estimated liability are reviewed and updated quarterly. However, insurance liabilities are difficult to assess and estimate due to the many relevant factors, the effects of which are often unknown, including the severity of an injury, the determination of our liability in proportion to other parties, the number of incidents that have occurred but are not reported and the effectiveness of our safety program. Our accruals are based on known facts, historical trends (both internal trends and industry averages) and our reasonable estimate of our future expenses. We believe our accruals are adequate. However, our risk management strategies and techniques may not be fully effective in mitigating our risk exposure in all market environments or against all types of risk. If any of the variety of instruments, processes or strategies we use to manage our exposure to various types of risk are not effective, we may incur losses that are not covered by our insurance policies or that exceed our accruals or coverage limits.

Additionally, we typically are contractually required to provide proof of insurance on projects we work on. Historically, insurance market conditions become more difficult for insurance consumers during periods when insurance companies suffer significant investment losses as well as casualty losses. Consequently, it is possible that insurance markets will become more expensive and restrictive. Also, our prior casualty loss history might adversely affect our ability to procure insurance within commercially reasonable ranges. As such, we may not be able to maintain commercially reasonable levels of insurance coverage in the future, which could preclude our ability to work on many projects and increase our overall risk exposure. Our insurance providers are under no commitment to renew our existing insurance policies in the future; therefore, our ability to obtain necessary levels or kinds of insurance coverage is subject to market forces outside our control. If we were unable to obtain necessary levels of insurance, it is likely we would be unable to compete for or work on most projects.

***Failure to remain in compliance with covenants under our credit agreement, service our indebtedness, or fund our other liquidity needs could adversely impact our business.***

Our credit agreement and related restrictive and financial covenants are more fully described in Note 8 of "Notes to the Consolidated Financial Statements." Our failure to comply with any of these covenants under the credit agreement, or to pay principal, interest or other amounts when due thereunder, would constitute an event of default under the credit agreement. Default under our credit agreement could result in (1) us no longer being entitled to borrow under the agreement; (2) termination of the agreement; (3) acceleration of the maturity of outstanding indebtedness under the agreement; and/or (4) foreclosure on any collateral securing the obligations under the agreement. If we are unable to service our debt obligations or fund our other liquidity needs, we could be forced to curtail our operations, reorganize our capital structure (including through bankruptcy proceedings) or liquidate some or all of our assets in a manner that could cause holders of our securities to experience a partial or total loss of their investment in us. In addition, in July 2017, the U.K. Financial Conduct Authority, which regulates LIBOR, announced that it intends to stop compelling banks to submit rates for calculation of LIBOR after 2021. At this time, it is not clear if LIBOR will continue to exist, and if



not, what alternative benchmark rate will replace LIBOR. Under the Eurodollar Rate Loan Option under the Facility (defined below), the interest rate is determined based on the one- to six-month Eurodollar Rate, which rate corresponds very closely to rates described in various general business media sources as LIBOR. Any new benchmark rate will likely not exactly replicate LIBOR, which could impact the determination of interest rates under the Eurodollar Rate Loan Option.

***If we experience delays and/or defaults in customer payments, we could be unable to recover all expenditures.***

Because of the nature of our contracts, at times we commit resources to projects prior to receiving payments from the customer in amounts sufficient to cover expenditures on projects as they are incurred. Delays in customer payments may require us to make a working capital investment. If a customer defaults in making their payments on a project to which we have devoted resources, it could have a material negative effect on our financial condition and results of operations.

***Our inability to properly utilize our workforce could have a negative impact on our profitability.***

The extent to which we utilize our workforce affects our profitability. Underutilizing our workforce could result in lower gross margins and, consequently, a decrease in short-term profitability. On the other hand, overutilization of our workforce could negatively impact safety, employee satisfaction and project execution, leading to a potential decline in future project awards. The utilization of our workforce is impacted by numerous factors, including:

- our estimate of headcount requirements and our ability to manage attrition;
- efficiency in scheduling projects and our ability to minimize downtime between project assignments; and
- productivity.

***Our business may be affected by the work environment.***

We may need to perform our work under a variety of conditions, including but not limited to, difficult terrain, difficult site conditions and busy urban centers where delivery of materials and availability of labor may be impacted, clean-room environments where strict procedures must be followed, and sites which may have been exposed to harsh and hazardous conditions. If we are unable to manage the conditions required for certain of our jobs, including the availability of sufficient labor, adherence to environmental or other standards, and adequately addressing harsh or hazardous conditions, our business and financial condition could be adversely affected.

***Misconduct by our employees, subcontractors or partners or our overall failure to comply with laws or regulations could harm our reputation, damage our relationships with customers, reduce our revenue and profits, and subject us to criminal and civil enforcement actions.***

Misconduct, fraud, non-compliance with applicable laws and regulations, or other improper activities by one or more of our employees, directors, executive officers, subcontractors or partners could have a significant negative impact on our business and reputation. Examples of such misconduct include employee or subcontractor theft, personal misconduct, failure to comply with safety standards, laws and regulations, customer requirements, environmental laws and any other applicable laws or regulations. While we take precautions to prevent and detect these activities, such precautions may not be effective and are subject to inherent limitations, including human error and fraud. Our failure to comply with applicable laws or regulations or acts of misconduct could subject us to fines and penalties, harm our reputation, lead to loss of the services of employees or members of management, damage our relationships with customers, reduce our revenue and profits and subject us to criminal and civil enforcement actions.

***Failure or circumvention of our disclosure controls and procedures or internal controls over financial reporting could seriously harm our financial condition, results of operations, and our business.***

We plan to continue to maintain and strengthen internal controls and procedures to enhance the effectiveness of our disclosure controls and internal controls over financial reporting. Any system of controls, however well designed and operated, is based in part on certain assumptions and can provide only reasonable, and not absolute, assurances that the

objectives of the system are met. Any failure of our disclosure controls and procedures or internal controls over financial reporting could harm our financial condition and results of operations.

***We have subsidiary operations through the United States and are exposed to multiple state and local regulations, as well as federal laws and requirements applicable to government contractors. Changes in law, regulations or requirements, or a material failure of any of our subsidiaries or us to comply with any of them, could increase our costs and have other negative impacts on our business.***

Our 134 locations are located in 28 states, which exposes us to a variety of different state and local laws and regulations, particularly those pertaining to contractor licensing requirements. These laws and regulations govern many aspects of our business, and there are often different standards and requirements in different locations. In addition, our subsidiaries that perform work for federal government entities are subject to additional federal laws and regulatory and contractual requirements. Changes in any of these laws, or any of our subsidiaries' material failure to comply with them, can adversely impact our operations by, among other things, increasing costs, distracting management's time and attention from other items, and harming our reputation.

***As government contractors, our subsidiaries are subject to a number of rules and regulations, and their contracts with government entities are subject to audit. Violations of the applicable rules and regulations could result in a subsidiary being barred from future government contracts.***

Government contractors must comply with many regulations and other requirements that relate to the award, administration and performance of government contracts. A violation of these laws and regulations could result in imposition of fines and penalties, the termination of a government contract or debarment from bidding on government contracts in the future. Further, despite our decentralized nature, a violation at one of our locations could impact other locations' ability to bid on and perform government contracts. Additionally, because of our decentralized nature, we face risks in maintaining compliance with all local, state and federal government contracting requirements. Because 6.2% of our revenue for the year ended December 31, 2019 was attributable to projects in the government sector, prohibitions against bidding on future government contracts could have an adverse effect on our financial condition and results of operations.

***Past and future environmental, safety and health regulations could impose significant additional costs on us that could reduce our profits.***

HVAC systems are subject to various environmental statutes and regulations, including the Clean Air Act and those regulating the production, servicing and disposal of certain ozone-depleting refrigerants used in HVAC systems. There can be no assurance that the regulatory environment in which we operate will not change significantly in the future. Various local, state and federal laws and regulations impose licensing standards on technicians who install and service HVAC systems. Additional laws, regulations and standards apply to contractors who perform work that is being funded by public money, particularly federal public funding. Our failure to comply with these laws and regulations could subject us to substantial fines, the loss of our licenses or potentially debarment from future publicly funded work. It is impossible to predict the full nature and effect of judicial, legislative or regulatory developments relating to health and safety regulations and environmental protection regulations applicable to our operations. Additionally, industries in which our customers or potential customers operate may be affected by new or changing environmental, safety, health or other regulatory requirements, leading to decreased demand for our services and potentially impacting our business, financial condition, results of operations, cash flows and ability to grow.

***Unsatisfactory safety performance may subject us to penalties, affect customer relationships, result in higher operating costs, negatively impact employee morale and result in higher employee turnover.***

Our projects are conducted at a variety of sites including construction sites and industrial facilities. Each location is subject to numerous safety risks, including electrocutions, fires, explosions, mechanical failures, weather-related incidents, transportation accidents and damage to equipment. These hazards can cause personal injury and loss of life, severe damage to or destruction of property and equipment and other consequential damages and could lead to suspension of operations, large damage claims and, in extreme cases, criminal liability. While we have taken what we believe are appropriate precautions to minimize safety risks, we have experienced serious accidents, including fatalities, in the past and may experience additional accidents in the future. Serious accidents may subject us to penalties, civil litigation or criminal prosecution. Claims for damages to property or persons, including claims for bodily injury or loss of life, could result in significant costs and liabilities, which could adversely affect our financial condition and

results of operations. Poor safety performance could also jeopardize our relationships with our customers, negatively impact employee morale and harm our reputation.

***If we do not effectively manage the size and cost of our operations, our existing infrastructure may become either strained or over-burdensome, and we may be unable to increase revenue growth.***

The growth that we have experienced in the past, and that we may experience in the future, may provide challenges to our organization, requiring us to expand our personnel and our operations. Future growth may strain our infrastructure, operations and other managerial and operating resources. We have also experienced in the past severe constriction in the markets in which we operate and, as a result, in our operating requirements. Failing to maintain the appropriate cost structure during a particular economic cycle may result in our incurring costs that affect our profitability. If our business resources become strained or over-burdensome, our earnings may be adversely affected, and we may be unable to increase revenue growth. Further, we may undertake contractual commitments that exceed our labor, managerial or other resources, which could also adversely affect our earnings and our ability to increase revenue growth.

***We are susceptible to adverse weather conditions, which may harm our business and financial results.***

Our business can be highly cyclical and subject to seasonal and other variations that can result in significant differences in operating results from quarter to quarter. Moreover, our business may be adversely affected by severe weather in areas where we have significant operations. Repercussions of severe weather conditions may include:

- curtailment of services;
- suspension of operations;
- inability to meet performance schedules in accordance with contracts and potential liability for liquidated damages;
- injuries or fatalities;
- weather-related damage to our facilities;
- disruption of information systems;
- inability to receive machinery, equipment and materials at jobsites; and
- loss of productivity.

***Future climate change could adversely affect us.***

Climate change may create physical and financial risk to our business. Physical risks from climate change could, among other things, include an increase in extreme weather events (such as floods or hurricanes), rising sea levels and limitations on water availability and quality. Such extreme weather conditions may limit the availability of resources, increasing the costs of our projects, or may cause projects to be delayed or cancelled.

Legislation, nationwide protocols, regulation or other restrictions related to climate change could negatively impact our operations or our customers' operations. Such legislation or restrictions could increase the costs of projects for our customers or, in some cases, prevent a project from going forward, which could in turn have an adverse effect on our financial condition and results of operations.

***Force majeure events, including natural disasters and terrorists' actions, could negatively impact our business, which may affect our financial condition, results of operations or cash flows.***

Force majeure or extraordinary events beyond the control of the contracting parties, such as natural and man-made disasters, as well as terrorist actions, could negatively impact us. We typically negotiate contract language

where we are granted certain relief from force majeure events in private client contracts and review and attempt to mitigate force majeure events in both public and private client contracts. We remain obligated to perform our services after most extraordinary events subject to relief that may be available to us pursuant to a force majeure clause. If we are not able to react quickly to force majeure events, our operations may be affected significantly, which would have a negative impact on our financial position, results of operations, cash flows and liquidity and could also negatively affect our reputation in the marketplace.

***Deliberate, malicious acts, including terrorism and sabotage, could damage our facilities, disrupt our operations or injure employees, contractors, customers or the public and result in liability to us.***

Intentional acts of destruction could damage or destroy our facilities, reducing our operational production capacity and potentially requiring us to repair or replace our facilities at substantial cost. Additionally, employees, contractors and the public could suffer substantial physical injury from acts of terrorism for which we could be liable. Governmental authorities may also impose security or other requirements that could make our operations more difficult or costly. The consequences of any such actions could adversely affect our financial condition and results of operations.

***Continuing worldwide political and economic uncertainties may adversely affect our revenue and profitability.***

The last several years have been periodically marked by political and economic concerns, including decreased consumer confidence, the lingering effects of international conflicts, tariffs, energy costs and inflation. This instability can make it extremely difficult for our customers, our vendors and us to accurately forecast and plan future business activities, and could cause constrained spending on our services, delays and a lengthening of our business development efforts, the demand for more favorable pricing or other terms, and/or difficulty in collection of our accounts receivable. Our government clients may face budget deficits that prohibit them from funding proposed and existing projects. Further, ongoing economic instability in the global markets could limit our ability to access the capital markets at a time when we would like, or need, to raise capital, which could have an impact on our ability to react to changing business conditions or new opportunities. If economic conditions remain uncertain or weaken, or government spending is reduced, our revenue and profitability could be adversely affected.

***Changes in United States trade policy, including the imposition of tariffs and the resulting consequences, may have a material adverse impact on our business and results of operations.***

As a result of policy changes of the U.S. presidential administration and current U.S. government proposals, there may be greater restrictions and economic disincentives on international trade. For example, the U.S. government is pursuing a new approach to trade policy, including renegotiating or terminating certain existing bilateral or multi-lateral trade agreements. It has also imposed tariffs on certain foreign goods and has raised the possibility of imposing significant, additional tariff increases or expanding the tariffs to capture other types of goods. These tariffs and other changes in U.S. trade policy have in the past and could continue to trigger retaliatory actions by affected countries, and certain foreign governments have instituted or are considering imposing retaliatory measures on certain U.S. goods. We, our suppliers and our customers import certain raw materials, components and other products from foreign suppliers. As such, the adoption and expansion of trade restrictions, the occurrence of a trade war, or other governmental action related to tariffs or trade agreements or policies has the potential to adversely impact demand for our products, our costs, our customers, our suppliers, and the United States economy, which in turn could have an adverse effect on our business, financial condition and results of operations.

***Our common stock, which is listed on the New York Stock Exchange, has from time to time experienced significant price and volume fluctuations. These fluctuations are likely to continue in the future, and our stockholders may suffer losses.***

The market price of our common stock may change significantly in response to various factors and events beyond our control. A variety of events may cause the market price of our common stock to fluctuate significantly, including the following: (i) the risk factors described in this Annual Report on Form 10-K; (ii) a shortfall in operating revenue or net income from that expected by securities analysts and investors; (iii) quarterly fluctuations in our operating results; (iv) changes in securities analysts' estimates of our financial performance or that of our competitors or companies in our industry generally; (v) general conditions in our customers' industries; (vi) general conditions in the securities markets; (vii) our announcements of significant contracts, milestones, acquisitions; (viii) our relationship with

other companies; (ix) our investors' view of the sectors and markets in which we operate; and (x) additions or departures of key personnel. Some companies that have volatile market prices for their securities have been subject to security class action suits filed against them. If a suit were to be filed against us, regardless of the outcome, it could result in substantial costs and a diversion of our management's attention and resources. This could have a material adverse effect on our business, results of operations and financial condition.

***We are required to assess and report on our internal controls each year. Findings of inadequate internal controls could reduce investor confidence in the reliability of our financial information.***

As directed by the Sarbanes-Oxley Act, the SEC adopted rules generally requiring public companies, including us, to include in their annual reports on Form 10-K a report of management that contains an assessment by management of the effectiveness of our internal control over financial reporting. In addition, the independent registered public accounting firm auditing our financial statements must report on the effectiveness of our internal control over financial reporting. A company's internal control over financial reporting is a process designed by, or under the supervision of, the company's principal executive and principal financial officers, or persons performing similar functions, and effected by the company's board of directors, management, and other personnel to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles and that receipts and expenditures of the company are being made only in accordance with authorizations of management and records of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

We may discover in the future that we have deficiencies in the design and operation of our internal controls. If any of the deficiencies in our internal control, either by itself or in combination with other deficiencies, becomes a "material weakness", such that there is a reasonable possibility that a material misstatement of the annual or interim financial statements will not be prevented or detected on a timely basis, we may be unable to conclude that we have effective internal control over financial reporting. In such event, investors could lose confidence in the reliability of our financial statements, which may significantly harm our business and cause our stock price to decline. In addition, the failure to maintain effective internal controls could also result in unauthorized transactions.

***Future sales of our common stock may depress our stock price.***

Sales of a substantial number of shares of our common stock in the public market or otherwise, either by us, a member of management or a major stockholder, or the perception that these sales could occur, could depress the market price of our common stock and impair our ability to raise capital through the sale of additional equity securities.

***Increases and uncertainty in our health insurance costs could adversely impact our results of operations and cash flows.***

The costs of employee health insurance have been increasing in recent years due to rising health care costs, legislative changes, and general economic conditions. Additionally, we may incur additional costs as a result of the Patient Protection and Affordable Care Act (the "Affordable Care Act") that was signed into law in March 2010. Future legislation could also have an impact on our business. The status of the Affordable Care Act, any amendment, repeal or replacement thereof, is currently uncertain. For example, in December 2019, the United States Court of Appeals for the Fifth Circuit struck down a central provision of the Affordable Care Act, ruling that the requirement that people have health insurance was unconstitutional, sending the case back to a federal district judge in Texas to determine which of the law's many parts could survive without the mandate. Because of the continued uncertainty about the implementation of the Affordable Care Act, including the potential for further legal challenges or repeal of that legislation, it is unclear what the impact of the Affordable Care Act, its amendment thereof, or its potential repeal or replacement will have on our financial position or results of operations.

***Rising inflation and/or interest rates could have an adverse effect on our business, financial condition and results of operations.***

Economic factors, including inflation and fluctuations in interest rates, could have a negative impact on our business. If our costs were to become subject to significant inflationary pressures or interest rate increases, we may not be able to fully offset such higher costs through price increases. Our inability or failure to do so could harm our financial position and results of operations.

***Changes in accounting rules and regulations could adversely affect our financial results.***

Accounting rules and regulations are subject to review and interpretation by the Financial Accounting Standards Board (the “FASB”), the SEC and various other governing bodies. A change in U.S. GAAP could have a significant effect on our reported financial results. Additionally, the adoption of new or revised accounting principles could require that we make significant changes to our systems, processes and controls. We cannot predict the effect of future changes to accounting principles, which could have a significant effect on our reported financial results and/or our results of operations, cash flows and liquidity.

***Tax matters, including changes in corporate tax laws and disagreements with taxing authorities, could impact our results of operations and financial condition.***

We conduct business across the United States and file income taxes in various tax jurisdictions. Our effective tax rates could be affected by many factors, some of which are outside of our control, including changes in tax laws and regulations in the various tax jurisdictions in which we file income taxes. For instance, the Tax Cuts and Jobs Act was enacted into law in December 2017. While certain portions of the Tax Cuts and Jobs Act seem to have had a positive impact on the Company’s results of operations, the overall impact of the Tax Cuts and Jobs Act is uncertain and our business and financial condition could be adversely affected. Furthermore, to the extent that certain of our customers are negatively affected by the Tax Cuts and Jobs Act and/or any uncertainty around its implementation or enforcement, they may reduce spending and defer, delay or cancel projects or contracts. Reduced government revenue resulting from changes to tax law may also lead to reduced government spending, which may negatively impact our government contracting business. It is also unknown if and to what extent various states will conform to the changes enacted by the Tax Cuts and Jobs Act.

Issues relating to tax audits or examinations and any related interest or penalties and uncertainty in obtaining deductions or credits claimed in various jurisdictions could also impact our effective tax rates. Our results of operations are reported based on our determination of the amount of taxes we owe in various tax jurisdictions. Significant judgment is required in determining our provision for income taxes and our determination of tax liability is always subject to review or examination by tax authorities in applicable tax jurisdictions. An adverse outcome of such a review or examination could adversely affect our operating results and financial condition. Further, the results of tax examinations and audits could have a negative impact on our financial results and cash flows where the results differ from the liabilities recorded in our financial statements.

***Our charter contains certain anti-takeover provisions that may inhibit or delay a change in control.***

Our certificate of incorporation authorizes our Board of Directors to issue, without stockholder approval, one or more series of preferred stock having such preferences, powers and relative, participating, optional and other rights (including preferences over the common stock respecting dividends and distributions and voting rights) as the Board of Directors may determine. The issuance of this “blank-check” preferred stock could render more difficult or discourage an attempt to obtain control by means of a tender offer, merger, proxy contest or otherwise. Additionally, certain provisions of the Delaware General Corporation Law or even certain provisions of our credit agreement may also discourage takeover attempts that have not been approved by the Board of Directors.

**ITEM 1B. Unresolved Staff Comments**

None.

## **ITEM 2. Properties**

As of December 31, 2019, we owned 15 properties. Other than these owned properties, we lease the real property and buildings from which we operate. Our facilities are located in 28 states and consist of offices, shops and fabrication, maintenance and warehouse facilities. Generally, leases range from three to ten years and are on terms we believe to be commercially reasonable. A majority of these premises are leased from individuals or entities with whom we have no other business relationship. In certain instances, these leases are with current or former employees. To the extent we renew, enter into leases or otherwise change leases with current or former employees, we enter into such agreements on terms that reflect a fair market valuation for the properties. Leased premises range in size from approximately 1,000 square feet to 110,000 square feet. To maximize available capital, we generally intend to continue to lease our properties, but may consider further purchases of property where we believe ownership would be more economical. We believe that our facilities are sufficient for our current needs.

We lease our executive and administrative offices in Houston, Texas.

## **ITEM 3. Legal Proceedings**

We are subject to certain claims and lawsuits arising in the normal course of business. We maintain various insurance coverages to minimize financial risk associated with these claims. We have estimated and provided accruals for probable losses and related legal fees associated with certain litigation in our Consolidated Financial Statements. While we cannot predict the outcome of these proceedings, in our opinion and based on reports of counsel, any liability arising from these matters individually and in the aggregate will not have a material effect on our operating results, cash flows or financial condition, after giving effect to provisions already recorded.

## **ITEM 4. Mine Safety Disclosures**

Not applicable.

## **ITEM 4A. Executive Officers of the Registrant**

Executive officers are appointed by our Board of Directors and hold office until their successors are elected and duly qualified. The following persons serve as executive officers of the Company.

*Brian Lane*, age 62, has served as our Chief Executive Officer and President since December 2011 and as a director since November 2010. Mr. Lane served as our President and Chief Operating Officer from March 2010 until December 2011. Mr. Lane joined the Company in October 2003 and served as Vice President and then Senior Vice President for Region One of the Company until he was named Executive Vice President and Chief Operating Officer in January 2009. Prior to joining the Company, Mr. Lane spent fifteen years at Halliburton, the global service and equipment company devoted to energy, industrial, and government customers. During his tenure at Halliburton, he held various positions in business development, strategy, and project initiatives. He departed as the Regional Director of Europe and Africa. Mr. Lane's additional experience included serving as a Regional Director of Capstone Turbine Corporation, a distributed power manufacturer. He also was a Vice President of Kvaerner, an international engineering and construction company where he focused on the chemical industry. Mr. Lane holds a Bachelor of Science in Chemistry from the University of Notre Dame and a Master of Business Administration from Boston College.

*William George*, age 55, has served as our Executive Vice President and Chief Financial Officer since May 2005, was our Senior Vice President, General Counsel and Secretary from May 1998 to May 2005, and was our Vice President, General Counsel and Secretary from March 1997 to April 1998. Since October 2011, Mr. George has also served as Regional Vice President for Region 5. Mr. George was a member of our founding management team in connection with our formation in 1997. From October 1995 to February 1997, Mr. George was Vice President and General Counsel of American Medical Response, Inc., a publicly-traded healthcare transportation company. From September 1992 to September 1995, Mr. George practiced corporate and antitrust law at Ropes & Gray, a Boston, Massachusetts law firm. Mr. George holds a Bachelor of Science in Economics from Brigham Young University and a Juris Doctorate from Harvard Law School.

*Julie S. Shaeff*, age 54, has served as our Senior Vice President and Chief Accounting Officer since May 2005, was our Vice President and Corporate Controller from March 2002 to May 2005, and was our Assistant Corporate

Controller from September 1999 to February 2002. From 1996 to August 1999, Ms. Shaeff was Financial Accounting Manager—Corporate Controllers Group for Browning-Ferris Industries, Inc., a publicly-traded waste services company. From 1987 to 1995, she held various positions with Arthur Andersen LLP. Ms. Shaeff is a Certified Public Accountant and holds a Bachelor of Business Administration in Accounting from Texas A&M University.

*Laura F. Howell*, age 32, has served as Vice President and General Counsel for the Company since January 2019. Prior to her current position, Ms. Howell served as the Associate General Counsel from January 2018 to December 2018 and as Senior Counsel, Corporate from November 2014 to December 2017. Prior to joining the Company, she was an associate in the corporate department of the Houston office of Latham & Watkins, LLP from November 2013 to October 2014. From September 2012 to October 2013, Ms. Howell was an associate in the corporate department of the Silicon Valley office of Fenwick & West, LLP. Ms. Howell holds a Bachelor of Arts in Economics from Wake Forest University and a Juris Doctorate from Stanford Law School.

*Terry A. Young*, age 57, has served as Senior Vice President of Service for the Company since January 2019. Prior to his current position, Mr. Young served as a Regional Vice President of Service for the Company from June 2013 to December 2018 and as Director of Business Development from May 2011 to June 2013. Mr. Young joined the Company after working in various Executive GM and VP positions in Asia Pacific and North American organizations, including Triple M Mechanical, Daikin (formerly McQuay International) and the Trane Company. He has spent more than 35 years in the commercial HVAC construction and services industry in various roles including technical, engineering, business development, project and strategic activities. Mr. Young has 6Sigma & PMI certifications and is a graduate of the TAFE College of New South Wales, Australia where he completed studies in F&M Engineering.

## PART II

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

The following table sets forth the reported high and low sales prices of our Common Stock for the quarters indicated as traded at the New York Stock Exchange. Our Common Stock is traded under the symbol FIX:

	<u>High</u>	<u>Low</u>	<u>Cash Dividends Declared</u>
Fourth Quarter, 2019	\$ 53.29	\$ 41.32	\$ 0.100
Third Quarter, 2019	\$ 53.66	\$ 36.27	\$ 0.100
Second Quarter, 2019	\$ 58.21	\$ 46.85	\$ 0.100
First Quarter, 2019	\$ 55.41	\$ 42.82	\$ 0.095
Fourth Quarter, 2018	\$ 59.20	\$ 41.30	\$ 0.090
Third Quarter, 2018	\$ 58.35	\$ 46.25	\$ 0.085
Second Quarter, 2018	\$ 48.60	\$ 40.15	\$ 0.080
First Quarter, 2018	\$ 44.45	\$ 39.85	\$ 0.075

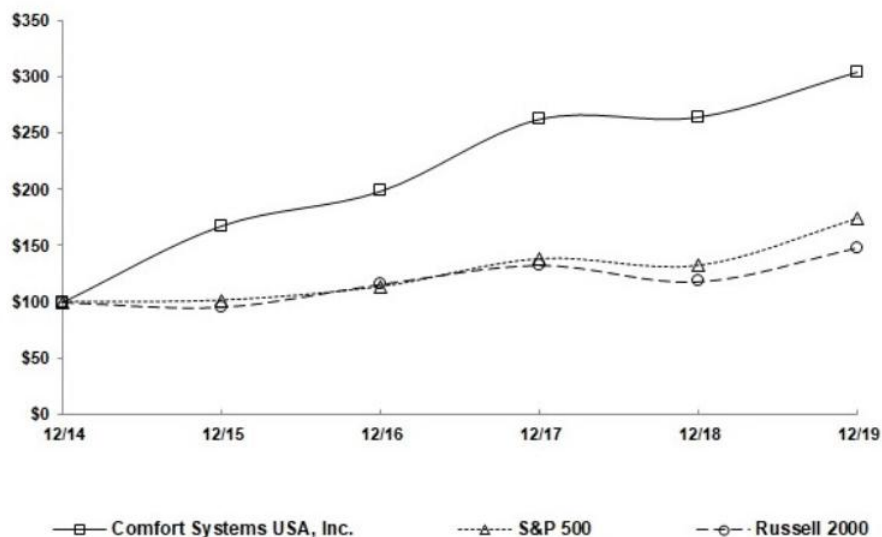
As of February 21, 2020, there were approximately 329 stockholders of record of our Common Stock, and the last reported sale price on that date was \$48.85 per share.

We expect to continue paying cash dividends quarterly, although there is no assurance as to future dividends because they depend on future earnings, capital requirements, and financial condition. In addition, our credit agreement may limit the amount of dividends we can pay at any time that our Total Leverage Ratio exceeds 2.00 to 1.00.



The following Corporate Performance Graph and related information shall not be deemed “soliciting material” or to be “filed” with the SEC, nor shall such information be incorporated by reference into any future filing under the Securities Act or the Exchange Act, except to the extent that we specifically incorporate it by reference into such filing.

**COMPARISON OF 5 YEAR CUMULATIVE TOTAL RETURN\***  
Among Comfort Systems USA, Inc., the S&P 500 Index  
and the Russell 2000 Index



\*\$100 invested on 12/31/14 in stock or index, including reinvestment of dividends. Fiscal year ending December 31.

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**Recent Sales of Unregistered Securities**

None.

**Issuer Purchases of Equity Securities**

On March 29, 2007, our Board of Directors (the “Board”) approved a stock repurchase program to acquire up to 1.0 million shares of our outstanding common stock. Subsequently, the Board has from time to time increased the number of shares that may be acquired under the program and approved extensions of the program. On November 19, 2019, the Board approved an extension to the program by increasing the shares authorized for repurchase by 0.8 million shares. Since the inception of the repurchase program, the Board has approved 9.5 million shares to be repurchased. As of December 31, 2019, we have repurchased a cumulative total of 8.6 million shares at an average price of \$17.70 per share under the repurchase program.

The share repurchases will be made from time to time at our discretion in the open market or privately negotiated transactions as permitted by securities laws and other legal requirements, and subject to market conditions and other factors. The Board may modify, suspend, extend or terminate the program at any time. During the twelve months ended December 31, 2019, we repurchased 0.4 million shares for approximately \$19.6 million at an average price of \$45.58 per share.

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During the year ended December 31, 2019, we purchased our common shares in the following amounts at the following average prices:

<b>Period</b>	<b>Total Number of Shares Purchased</b>	<b>Average Price Paid Per Share</b>	<b>Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs (1)</b>	<b>Maximum Number of Shares that May Yet Be Purchased Under the Plans or Programs</b>
January 1 - January 31	24,000	\$ 43.28	8,222,427	560,982
February 1 - February 28	—	\$ —	8,222,427	560,982
March 1 - March 31	43,394	\$ 52.58	8,265,821	517,588
April 1 - April 30	—	\$ —	8,265,821	517,588
May 1 - May 31	59,267	\$ 49.21	8,325,088	458,321
June 1 - June 30	34,201	\$ 48.54	8,359,289	424,120
July 1 - July 31	29,000	\$ 43.16	8,388,289	395,120
August 1 - August 31	141,957	\$ 39.97	8,530,246	253,163
September 1 - September 30	12,923	\$ 38.19	8,543,169	240,240
October 1 - October 31	—	\$ —	8,543,169	240,240
November 1 - November 30	23,250	\$ 50.98	8,566,419	981,750
December 1 - December 31	60,948	\$ 50.01	8,627,367	920,802
	<u>428,940</u>	<u>\$ 45.58</u>	<u>8,627,367</u>	<u>920,802</u>

- (1) Purchased as part of a program announced on March 29, 2007 under which, since the inception of this program, 9.5 million shares have been approved for repurchase.

Under our 2012 Equity Incentive Plan and 2017 Omnibus Incentive Plan, employees may elect to have us withhold common shares to satisfy statutory federal, state and local tax withholding obligations arising on the vesting of restricted stock awards and exercise of options. When we withhold these shares, we are required to remit to the appropriate taxing authorities the market price of the shares withheld, which could be deemed a purchase of the common shares by us on the date of withholding.

**ITEM 6. Selected Financial Data**

The following selected historical financial data has been derived from our audited financial statements and should be read in conjunction with the historical Consolidated Financial Statements and related notes:

	Year Ended December 31,				
	2019	2018	2017	2016	2015
	(in thousands, except per share amounts)				
<b>STATEMENT OF OPERATIONS DATA:</b>					
Revenue	\$ 2,615,277	\$ 2,182,879	\$ 1,787,922	\$ 1,634,340	\$ 1,580,519
Operating income (1)	\$ 163,639	\$ 150,238	\$ 99,260	\$ 101,569	\$ 90,044
Income from continuing operations	\$ 114,324	\$ 112,903	\$ 55,272	\$ 64,896	\$ 57,440
Net income including noncontrolling interests	\$ 114,324	\$ 112,903	\$ 55,272	\$ 64,896	\$ 57,440
Net income attributable to Comfort Systems USA, Inc.	\$ 114,324	\$ 112,903	\$ 55,272	\$ 64,896	\$ 49,364
Income per share attributable to Comfort Systems USA, Inc.:					
Basic—					
Income from continuing operations	<u>\$ 3.10</u>	<u>\$ 3.03</u>	<u>\$ 1.48</u>	<u>\$ 1.74</u>	<u>\$ 1.32</u>
Diluted—					
Income from continuing operations	<u>\$ 3.08</u>	<u>\$ 3.00</u>	<u>\$ 1.47</u>	<u>\$ 1.72</u>	<u>\$ 1.30</u>
Cash dividends per share	<u>\$ 0.395</u>	<u>\$ 0.330</u>	<u>\$ 0.295</u>	<u>\$ 0.275</u>	<u>\$ 0.250</u>
<b>BALANCE SHEET DATA:</b>					
Working capital	\$ 182,187	\$ 142,642	\$ 115,629	\$ 98,276	\$ 118,882
Total assets (2)	\$ 1,505,012	\$ 1,062,564	\$ 881,120	\$ 708,903	\$ 691,594
Total debt, net	\$ 226,135	\$ 76,918	\$ 60,539	\$ 2,811	\$ 11,507
Total stockholders' equity	\$ 585,304	\$ 498,047	\$ 417,945	\$ 376,633	\$ 365,005
Total Comfort Systems USA, Inc. stockholders' equity	\$ 585,304	\$ 498,047	\$ 417,945	\$ 376,633	\$ 346,721

- (1) Included in operating income is a goodwill impairment charge of \$1.1 million for 2017. There were no goodwill impairment charges for 2019, 2018, 2016 or 2015.
- (2) The impact of adoption of the new lease accounting standard is reflected in total assets in 2019.

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

The following discussion and analysis should be read in conjunction with the Consolidated Financial Statements and related notes included elsewhere in this annual report on Form 10-K. Also see "Forward-Looking Statements" discussion.

**Introduction and Overview**

We are a national provider of comprehensive mechanical and electrical installation, renovation, maintenance, repair and replacement services within the mechanical and electrical services industries. We operate primarily in the commercial, industrial and institutional markets and perform most of our services within office buildings, retail centers, apartment complexes, manufacturing plants, and healthcare, education and government facilities. We operate our business in two business segments: mechanical and electrical.

**Nature and Economics of Our Business**

In our mechanical business segment, customers hire us to ensure HVAC systems deliver specified or generally expected heating, cooling, conditioning and circulation of air in a facility. This entails installing core system equipment such as packaged heating and air conditioning units, or in the case of larger facilities, separate core components such as chillers, boilers, air handlers, and cooling towers. We also typically install connecting and distribution elements such as piping and ducting.

In our electrical business segment, our principal business activity is electrical construction and engineering in the commercial and industrial field. We also perform electrical logistics services, electrical service work, and electrical construction and engineering services.

In both our mechanical and electrical business segments, our responsibilities usually require conforming the systems to pre-established engineering drawings and equipment and performance specifications, which we frequently

participate in establishing. Our project management responsibilities include staging equipment and materials to project sites, deploying labor to perform the work, and coordinating with other service providers on the project, including any subcontractors we might use to deliver our portion of the work.

Approximately 85.1% of our revenue is earned on a project basis for installation services in newly constructed facilities or for replacement of systems in existing facilities. When competing for project business, we usually estimate the costs we will incur on a project, and then propose a bid to the customer that includes a contract price and other performance and payment terms. Our bid price and terms are intended to cover our estimated costs on the project and provide a profit margin to us commensurate with the value of the installed system to the customer, the risk that project costs or duration will vary from estimate, the schedule on which we will be paid, the opportunities for other work that we might forego by committing capacity to this project, and other costs that we incur to support our operations but which are not specific to the project. Typically, customers will seek pricing from competitors for a given project. While the criteria on which customers select a service provider vary widely and include factors such as quality, technical expertise, on-time performance, post-project support and service, and company history and financial strength, we believe that price for value is the most influential factor for most customers in choosing a mechanical or electrical installation and service provider.

After a customer accepts our bid, we generally enter into a contract with the customer that specifies what we will deliver on the project, what our related responsibilities are, and how much and when we will be paid. Our overall price for the project is typically set at a fixed amount in the contract, although changes in project specifications or work conditions that result in unexpected additional work are usually subject to additional payment from the customer via what are commonly known as change orders. Project contracts typically provide for periodic billings to the customer as we meet progress milestones or incur cost on the project. Project contracts in our industry also frequently allow for a small portion of progress billings or contract price to be withheld by the customer until after we have completed the work. Amounts withheld under this practice are known as retention or retainage.

Labor and overhead costs account for the majority of our cost of service. Accordingly, labor management and utilization have the most impact on our project performance. Given the fixed price nature of much of our project work, if our initial estimate of project costs is wrong or we incur cost overruns that cannot be recovered in change orders, we can experience reduced profits or even significant losses on fixed price project work. We also perform some project work on a cost-plus or a time and materials basis, under which we are paid our costs incurred plus an agreed-upon profit margin, and such projects are sometimes subject to a guaranteed maximum cost. These margins are frequently less than fixed-price contract margins because there is less risk of unrecoverable cost overruns in cost-plus or time and materials work.

As of December 31, 2019, we had 5,495 projects in process. Our average project takes six to nine months to complete, with an average contract price of approximately \$822,000. Our projects generally require working capital funding of equipment and labor costs. Customer payments on periodic billings generally do not recover these costs until late in the job. Our average project duration together with typical retention terms as discussed above generally allow us to complete the realization of revenue and earnings in cash within one year. We have what we consider to be a well-diversified distribution of revenue across end-use sectors that we believe reduces our exposure to negative developments in any given sector. Because of the integral nature of our services to most buildings, we have the legal right in almost all cases to attach liens to buildings or related funding sources when we have not been fully paid for installing systems, except with respect to some government buildings. The service work that we do, which is discussed further below, usually does not give rise to lien rights.

We also perform larger projects. Taken together, projects with contract prices of \$1 million or more totaled \$3.84 billion of aggregate contract value as of December 31, 2019, or approximately 85%, out of a total contract value for all projects in progress of \$4.52 billion. Generally, projects closer in size to \$1 million will be completed in one year or less. It is unusual for us to work on a project that exceeds two years in length.

A stratification of projects in progress as of December 31, 2019, by contract price, is as follows:

<u>Contract Price of Project</u>	<u>No. of Projects</u>	<u>Aggregate Contract Price Value (millions)</u>
Under \$1 million	4,734	\$ 674.3
\$1 million - \$5 million	580	1,266.5
\$5 million - \$10 million	95	691.0
\$10 million - \$15 million	38	472.5
Greater than \$15 million	48	1,413.0
Total	<u>5,495</u>	<u>\$ 4,517.3</u>

In addition to project work, approximately 14.9% of our revenue represents maintenance and repair service on already installed HVAC, electrical, and controls systems. This kind of work usually takes from a few hours to a few days to perform. Prices to the customer are based on the equipment and materials used in the service as well as technician labor time. We usually bill the customer for service work when it is complete, typically with payment terms of up to thirty days. We also provide maintenance and repair service under ongoing contracts. Under these contracts, we are paid regular monthly or quarterly amounts and provide specified service based on customer requirements. These agreements typically are for one or more years and frequently contain thirty- to sixty-day cancellation notice periods.

A relatively small portion of our revenue comes from national and regional account customers. These customers typically have multiple sites and contract with us to perform maintenance and repair service. These contracts may also provide for us to perform new or replacement systems installation. We operate a national call center to dispatch technicians to sites requiring service. We perform the majority of this work with our own employees, with the balance being subcontracted to third parties that meet our performance qualifications.

#### ***Profile and Management of Our Operations***

We manage our 35 operating units based on a variety of factors. Financial measures we emphasize include profitability and use of capital as indicated by cash flow and by other measures of working capital principally involving project cost, billings and receivables. We also monitor selling, general, administrative and indirect project support expense, backlog, workforce size and mix, growth in revenue and profits, variation of actual project cost from original estimate, and overall financial performance in comparison to budget and updated forecasts. Operational factors we emphasize include project selection, estimating, pricing, management and execution practices, labor utilization, safety, training, and the make-up of both existing backlog as well as new business being pursued, in terms of project size, technical application, facility type, end-use customers and industries and location of the work.

Most of our operations compete on a local or regional basis. Attracting and retaining effective operating unit managers is an important factor in our business, particularly in view of the relative uniqueness of each market and operation, the importance of relationships with customers and other market participants, such as architects and consulting engineers, and the high degree of competition and low barriers to entry in most of our markets. Accordingly, we devote considerable attention to operating unit management quality, stability, and contingency planning, including related considerations of compensation and non-competition protection where applicable.

#### ***Economic and Industry Factors***

As a mechanical and electrical services provider, we operate in the broader nonresidential construction services industry and are affected by trends in this sector. While we do not have operations in all major cities of the United States, we believe our national presence is sufficiently large that we experience trends in demand for and pricing of our services that are consistent with trends in the national nonresidential construction sector. As a result, we monitor the views of major construction sector forecasters along with macroeconomic factors they believe drive the sector, including trends in gross domestic product, interest rates, business investment, employment, demographics and the fiscal condition of federal, state and local governments.

Spending decisions for building construction, renovation and system replacement are generally made on a project basis, usually with some degree of discretion as to when and if projects proceed. With larger amounts of capital, time, and discretion involved, spending decisions are affected to a significant degree by uncertainty, particularly

concerns about economic and financial conditions and trends. We have experienced periods of time when economic weakness caused a significant slowdown in decisions to proceed with installation and replacement project work.

#### ***Operating Environment and Management Emphasis***

Nonresidential building construction and renovation activity, as reported by the federal government, declined steeply over the four-year period from 2009 to 2012, and 2013 and 2014 activity levels were relatively stable at the low levels of the preceding years. During the five-year period from 2015 to 2019, there was an increase in overall activity levels, and we currently expect that activity will continue at strong levels in 2020.

We have a credit facility in place with terms we believe are favorable that does not expire until January 2025. We have strong surety relationships to support our bonding needs, and we believe our relationships with the surety markets are strong and benefit from our operating history and financial position. We have generated positive free cash flow in each of the last twenty-one calendar years and will continue our emphasis in this area. We believe that the relative size and strength of our Balance Sheet and surety relationships as compared to most companies in our industry represent competitive advantages for us.

As discussed at greater length in “Results of Operations” below, we expect price competition to continue as our customers and local and regional competitors respond cautiously to improved market conditions. We will continue to invest in our service business, to pursue the more active sectors in our markets, and to emphasize our regional and national account business. Our primary emphasis for 2020 will be on execution and cost control, but we are seeking growth based on our belief that industry conditions will continue to be strong in the near term. We believe that activity levels will permit us to continue to earn solid profits while preserving and developing our workforce. We continue to focus on project qualification, estimating, pricing and management, and we are investing in growth and improved performance.

#### ***Critical Accounting Policies***

Our critical accounting policies are based upon the significance of the accounting policy to our overall financial statement presentation, as well as the complexity of the accounting policy and our use of estimates and subjective assessments. Our most critical accounting policy is revenue recognition. We recognize revenue over time for all of our services as we perform them because (i) control continuously transfers to that customer as work progresses, and (ii) we have the right to bill the customer as costs are incurred. The customer typically controls the work in process as evidenced either by contractual termination clauses or by our rights to payment for work performed to date plus a reasonable profit to deliver products or services that do not have an alternative use to the Company.

For the reasons listed above, revenue is recognized based on the extent of progress towards completion of the performance obligation. The selection of the method to measure progress towards completion requires judgment and is based on the nature of the products or services to be provided. We generally use the cost to cost measure of progress for our contracts, as it best depicts the transfer of assets to the customer that occurs as we incur costs on our contracts. Under the cost to cost measure of progress, the extent of progress towards completion is measured based on the ratio of costs incurred to date to the total estimated costs at completion of the performance obligation. Revenue, including estimated fees or profits, is recorded proportionally as costs are incurred. Costs to fulfill include labor, materials and subcontractors’ costs, other direct costs and an allocation of indirect costs.

For a small portion of our business in which our services are delivered in the form of service maintenance agreements for existing systems to be repaired and maintained, as opposed to constructed, our performance obligation is to maintain the customer’s mechanical system for a specific period of time. Similar to jobs, we recognize revenue over time; however, for service maintenance agreements in which the full cost to provide services may not be known, we generally use an input method to recognize revenue, which is based on the amount of time we have provided our services out of the total time we have been contracted to perform those services.

As discussed elsewhere in this annual report on Form 10-K, our business has two service functions: (i) installation, which we account for under the percentage of completion method, and (ii) maintenance, repair and replacement, which we account for as the services are performed, or in the case of replacement, under the percentage of completion method. In addition, we identified other critical accounting policies related to our allowance for doubtful accounts receivable, accounting for leases, the recording of our self-insurance liabilities, valuation of deferred tax assets, accounting for acquisitions and the recoverability of goodwill and identifiable intangible assets. These accounting

policies, as well as others, are described in Note 2 to the Consolidated Financial Statements included elsewhere in this annual report on Form 10-K.

*Percentage of Completion Method of Accounting*

Approximately 85.1% of our revenue was earned on a project basis and recognized through the percentage of completion method of accounting during 2019. Under this method, contract revenue recognizable at any time during the life of a contract is determined by multiplying expected total contract revenue by the percentage of contract costs incurred at any time to total estimated contract costs. More specifically, as part of the negotiation and bidding process to obtain installation contracts, we estimate our contract costs, which include all direct materials, labor and subcontract costs and indirect costs related to contract performance, such as indirect labor, supplies, tools, repairs and depreciation costs. These contract costs are included in our results of operations under the caption "Cost of Services." Then, as we perform under those contracts, we measure costs incurred, compare them to total estimated costs to complete the contract and recognize a corresponding proportion of contract revenue. Labor costs are considered to be incurred as the work is performed. Subcontractor labor is recognized as the work is performed. Non-labor project costs consist of purchased equipment, prefabricated materials and other materials. Purchased equipment on our projects is substantially produced to job specifications and is a value-added element to our work. The costs are considered to be incurred when title is transferred to us, which typically is upon delivery to the work site. Prefabricated materials, such as ductwork and piping, are generally performed at our shops and recognized as contract costs when fabricated for the unique specifications of the job. Other materials costs are generally recorded when delivered to the work site. This measurement and comparison process requires updates to the estimate of total costs to complete the contract, and these updates may include subjective assessments and judgments.

We generally do not incur significant incremental costs related to obtaining or fulfilling a contract prior to the start of a project. On rare occasions, when significant pre-contract costs are incurred, they are capitalized and amortized on a percentage of completion basis over the life of the contract. We do not currently have any capitalized obtainment or fulfillment costs on our Balance Sheet and did not incur any impairment loss on such costs in the current year.

Project contracts typically provide for a schedule of billings or invoices to the customer based on our job-to-date percentage of completion of specific tasks inherent in the fulfillment of our performance obligation(s). The schedules for such billings usually do not precisely match the schedule on which costs are incurred. As a result, contract revenue recognized in our Statement of Operations can and usually does differ from amounts that can be billed or invoiced to the customer at any point during the contract. Amounts by which cumulative contract revenue recognized on a contract as of a given date exceed cumulative billings and unbilled receivables to the customer under the contract are reflected as a current asset in our Balance Sheet under the caption "Costs and estimated earnings in excess of billings." Amounts by which cumulative billings to the customer under a contract as of a given date exceed cumulative contract revenue recognized on the contract are reflected as a current liability in our Balance Sheet under the caption "Billings in excess of costs and estimated earnings."

The percentage of completion method of accounting is also affected by changes in job performance, job conditions, and final contract settlements. These factors may result in revisions to estimated costs and, therefore, revenue. Such revisions are frequently based on further estimates and subjective assessments. The effects of these revisions are recognized in the period in which revisions are determined. When such revisions lead to a conclusion that a loss will be recognized on a contract, the full amount of the estimated ultimate loss is recognized in the period such conclusion is reached, regardless of the percentage of completion of the contract.

Revisions to project costs and conditions can give rise to change orders under which there is an agreement between the customer and us that the customer pays an additional or reduced contract price. Revisions can also result in claims we might make against the customer to recover project variances that have not been satisfactorily addressed through change orders with the customer. Except in certain circumstances, we do not recognize revenue or margin based on change orders or claims until they have been agreed upon with the customer. The amount of revenue associated with unapproved change orders and claims was immaterial for the year ended December 31, 2019.

Variations from estimated project costs could have a significant impact on our operating results, depending on project size, and the recoverability of the variation via additional customer payments.

*Accounting for Allowance for Doubtful Accounts*

We are required to estimate the collectability of accounts receivable and provide an allowance for doubtful accounts for receivable amounts we believe we will not ultimately collect. This requires us to make certain judgments and estimates involving, among others, the creditworthiness of our customers, prior collection history with our

customers, ongoing relationships with our customers, the aging of past due balances, our lien rights, if any, in the property where we performed the work, and the availability, if any, of payment bonds applicable to the contract. These estimates are evaluated and adjusted as needed when additional information is received.

#### *Accounting for Leases*

Effective January 1, 2019, we adopted the requirements of Accounting Standards Update (ASU) 2016-02, Lease (Topic 842). For additional information on the new standard and the impact on our results of operations, refer to our Summary of Significant Accounting Policies in Note 2 to the Consolidated Financial Statements.

We lease certain facilities, vehicles and equipment under noncancelable operating leases. The most significant portion of these noncancelable operating leases are for the facilities occupied by our corporate office and our operating locations. Leases with an initial term of 12 months or less are not recorded on the Balance Sheet. We account for lease components separately from the non-lease components. We have certain leases with variable payments based on an index as well as some short-term leases on equipment and facilities. Lease right-of-use assets and liabilities are recognized at commencement date based on the present value of lease payments over the lease term. As most of our leases do not provide an implicit rate, we generally use our incremental borrowing rate based on the information available at commencement date in determining the present value of lease payments.

The lease terms generally range from three to ten years. Some leases include one or more options to renew, with renewal terms that can extend the lease term. We include the exercise of lease renewal options in the lease term when it is reasonably certain that we will exercise the option and such exercise is at our sole discretion. A majority of the Company's real property leases are with individuals or entities with whom we have no other business relationship. However, in certain instances the Company enters into real property leases with current or former employees.

If we decide to cancel or terminate a lease before the end of its term, we would typically owe the lessor the remaining lease payments under the term of the lease. Our lease agreements do not contain any material residual value guarantees or material restrictive covenants. On rare occasions, we rent or sublease certain real estate assets that we no longer use to third parties.

#### *Accounting for Self-Insurance Liabilities*

We are substantially self-insured for workers' compensation, employer's liability, auto liability, general liability and employee group health claims in view of the relatively high per-incident deductibles we absorb under our insurance arrangements for these risks. Losses are estimated and accrued based upon known facts, historical trends and industry averages. Estimated losses in excess of our deductible, which have not already been paid, are included in our accrual with a corresponding receivable from our insurance carrier. Loss estimates associated with the larger and longer-developing risks—workers' compensation, auto liability and general liability—are reviewed by a third-party actuary quarterly.

We believe these accruals are adequate. However, insurance liabilities are difficult to estimate due to unknown factors, including the severity of an injury, the determination of our liability in proportion to other parties, timely reporting of occurrences, ongoing treatment or loss mitigation, general trends in litigation recovery outcomes and the effectiveness of safety and risk management programs. Therefore, if actual experience differs from the assumptions and estimates used for recording the liabilities, adjustments may be required and would be recorded in the period that such experience becomes known.

#### *Accounting for Deferred Tax Assets*

We regularly evaluate valuation allowances established for deferred tax assets for which future realization is uncertain. We perform this evaluation quarterly. In assessing the realizability of deferred tax assets, we must consider whether it is more-likely-than-not some portion, or all, of the deferred tax assets will not be realized. We consider all available evidence, both positive and negative, in determining whether a valuation allowance is required. Such evidence includes the scheduled reversal of deferred tax liabilities, projected future taxable income, taxable income in prior carryback years and tax planning strategies in making this assessment, and judgment is required in considering the relative weight of negative and positive evidence.

#### *Acquisitions*

We recognize assets acquired and liabilities assumed in business combinations, including contingent assets and liabilities, based on fair value estimates as of the date of acquisition.



*Contingent Consideration*—In certain acquisitions, we agree to pay additional amounts to sellers contingent upon achievement by the acquired businesses of certain predetermined profitability targets. We have recognized liabilities for these contingent obligations based on their estimated fair value at the date of acquisition with any differences between the acquisition date fair value and the ultimate settlement of the obligations being recognized in income from operations.

*Contingent Assets and Liabilities*—Assets and liabilities arising from contingencies are recognized at their acquisition date fair value when their respective fair values can be determined. If the fair values of such contingencies cannot be determined, they are recognized at the acquisition date if the contingencies are probable and an amount can be reasonably estimated. Acquisition date fair value estimates are revised as necessary if, and when, additional information regarding these contingencies becomes available to further define and quantify assets acquired and liabilities assumed.

*Recoverability of Goodwill and Identifiable Intangible Assets*

Goodwill is the excess of purchase price over the fair value of the net assets of acquired businesses. We assess goodwill for impairment each year, and more frequently if circumstances suggest an impairment may have occurred.

When the carrying value of a given reporting unit exceeds its fair value, a goodwill impairment loss is recorded for this difference, not to exceed the carrying amount of goodwill. If other reporting units have had increases in fair value, such increases may not be recorded. Accordingly, such increases may not be netted against impairments at other reporting units. The requirements for assessing whether goodwill has been impaired involve market-based information. This information, and its use in assessing goodwill, entails some degree of subjective assessment.

We perform our annual impairment testing as of October 1 and any impairment charges resulting from this process are reported in the fourth quarter. We segregate our operations into reporting units based on the degree of operating and financial independence of each unit and our related management of them. We perform our annual goodwill impairment testing at the reporting unit level. We perform a goodwill impairment review for each of our operating units, as we have determined that each of our operating units are reporting units.

In the evaluation of goodwill for impairment, we have the option to first assess qualitative factors to determine whether the existence of events or circumstances lead to a determination that it is more likely than not that the fair value of one of our reporting units is greater than its carrying value. If, after completing such assessment, we determine it is more likely than not that the fair value of a reporting unit is greater than its carrying amount, then there is no need to perform any further testing. If we conclude otherwise, then we calculate the fair value of the reporting unit and compare the fair value with the carrying value of the reporting unit.

We estimate the fair value of the reporting unit based on a market approach and an income approach, which utilizes discounted future cash flows. Assumptions critical to the fair value estimates under the discounted cash flow model include discount rates, cash flow projections, projected long-term growth rates and the determination of terminal values. The market approach utilizes market multiples of invested capital from comparable publicly traded companies (“public company approach”). The market multiples from invested capital include revenue, book equity plus debt and earnings before interest, provision for income taxes, depreciation and amortization (“EBITDA”).

There are significant inherent uncertainties and management judgment involved in estimating the fair value of each reporting unit. While we believe we have made reasonable estimates and assumptions to estimate the fair value of our reporting units, it is possible that a material change could occur. If actual results are not consistent with our current estimates and assumptions, or the current economic outlook worsens, goodwill impairment charges may be recorded in future periods.

We amortize identifiable intangible assets with finite lives over their useful lives. Changes in strategy and/or market condition may result in adjustments to recorded intangible asset balances or their useful lives.

**Results of Operations (in thousands):**

	Year Ended December 31,					
	2019		2018		2017	
Revenue	\$ 2,615,277	100.0 %	\$ 2,182,879	100.0 %	\$ 1,787,922	100.0 %
Cost of services	2,113,334	80.8 %	1,736,600	79.6 %	1,421,641	79.5 %
Gross profit	501,943	19.2 %	446,279	20.4 %	366,281	20.5 %
Selling, general and administrative expenses	340,005	13.0 %	296,986	13.6 %	266,586	14.9 %
Goodwill impairment	—	—	—	—	1,105	0.1 %
Gain on sale of assets	(1,701)	(0.1)%	(945)	—	(670)	—
Operating income	163,639	6.3 %	150,238	6.9 %	99,260	5.6 %
Interest income	224	—	73	—	70	—
Interest expense	(9,317)	(0.4)%	(3,710)	(0.2)%	(3,156)	(0.2)%
Changes in the fair value of contingent earn-out obligations	(2,991)	(0.1)%	(2,066)	(0.1)%	3,715	0.2 %
Other income (expense)	187	—	4,141	0.2 %	1,049	0.1 %
Income before income taxes	151,742	5.8 %	148,676	6.8 %	100,938	5.6 %
Provision for income taxes	37,418		35,773		45,666	
Net income	<u>\$ 114,324</u>		<u>\$ 112,903</u>		<u>\$ 55,272</u>	

**2019 Compared to 2018**

We had 36 operating locations as of December 31, 2018. In the first quarter of 2019, we combined two operating locations into one. In the second quarter of 2019, we completed the acquisition of Walker TX Holding Company, LLC and each of its wholly owned subsidiaries (collectively “Walker”), which reports as a separate operating location. In the third quarter of 2019, we sold the majority of the assets and ongoing business of our California operation. As of December 31, 2019, we had 35 operating locations. Acquisitions are included in our results of operations from the respective acquisition date. The same-store comparison from 2019 to 2018, as described below, excludes six months of results for the Indiana acquisition, which was acquired in July 2018, as well as nine months of results for Walker, which was acquired April 1, 2019. An operating location is included in the same-store comparison on the first day it has comparable prior year operating data, except for immaterial acquisitions that were absorbed and integrated, or “tucked-in,” with existing operations.

*Revenue*—Revenue increased \$432.4 million, or 19.8% to \$2.62 billion in 2019 compared to 2018. The increase included a 18.2% increase related to the Indiana and Walker acquisitions and a 1.6% increase in revenue related to same-store activity.

The following table presents our operating segment revenue (in thousands, except percentages):

	Year Ended December 31,			
	2019		2018	
Revenue:				
Mechanical Services	\$ 2,251,560	86.1 %	\$ 2,176,223	99.7 %
Electrical Services	363,717	13.9 %	6,656	0.3 %
Total	<u>\$ 2,615,277</u>	<u>100.0 %</u>	<u>\$ 2,182,879</u>	<u>100.0 %</u>

Revenue for our mechanical services segment increased \$75.3 million, or 3.5%, to \$2.3 billion in 2019 compared to 2018. Of this increase, \$53.6 million was attributable to the Indiana acquisition. The same-store revenue increase included an increase in new construction projects in the education and healthcare sectors at one of our Texas operations (\$24.7 million) and one of our Virginia operations (\$21.2 million). This increase was offset by the sale of the majority of the assets and ongoing business of our California operation in the third quarter of 2019 (\$13.9 million).

Revenue for our electrical services segment increased \$357.1 million to \$363.7 million in 2019 compared to 2018. The increase related to the acquisition of Walker in April 2019 as well as a smaller acquisition completed in the third quarter of 2018.

Backlog reflects revenue still to be recognized under contracted or committed installation and replacement project work. Project work generally lasts less than one year. Service agreement revenue, service work and short duration projects, which are generally billed as performed, do not flow through backlog. Accordingly, backlog represents only a portion of our revenue for any given future period, and it represents revenue that is likely to be reflected in our operating results over the next six to twelve months. As a result, we believe the predictive value of backlog information is limited to indications of general revenue direction over the near term and should not be interpreted as indicative of ongoing revenue performance over several quarters.

Backlog as of December 31, 2019 was \$1.60 billion, a 0.4% decrease from September 30, 2019 backlog of \$1.61 billion and a 37.4% increase from December 31, 2018 backlog of \$1.17 billion. Sequential backlog decreased primarily due to completion of project work at Walker (\$38.9 million), our Wisconsin operation (\$11.1 million) and our New Hampshire operation (\$10.1 million), partially offset by increased project bookings at one of our Florida operations (\$30.2 million) and our Colorado operation (\$26.2 million). The year-over-year backlog increase included the Walker acquisition (\$240.3 million or 20.6%). Same-store backlog increased 16.8% primarily due to increased project bookings at two of our Florida operations (\$78.2 million), one of our Tennessee operations (\$34.4 million), our North Carolina operation (\$32.2 million) and our Colorado operation (\$30.0 million).

*Gross Profit*—Gross profit increased \$55.7 million, or 12.5%, to \$501.9 million in 2019 as compared to 2018. The increase included a \$37.2 million, or 8.3%, increase related to the Indiana and Walker acquisitions and an \$18.4 million, or 4.2%, increase on a same-store basis. The same-store increase in gross profit was primarily due to increased volumes at one of our Virginia operations (\$7.5 million) and one of our Florida operations (\$7.4 million), as well as improvement in project execution at our New Hampshire operation (\$5.4 million). Gross profit in 2019 also benefited from a \$3.2 million reduction of Cost of Services expense recorded in the fourth quarter of 2019 as a result of insurance proceeds received related to recoverable costs that were primarily incurred prior to the fourth quarter of 2019. The increase in gross profit was partially offset by decreased volumes at our Wisconsin operation (\$6.7 million). As a percentage of revenue, gross profit decreased from 20.4% in 2018 to 19.2% in 2019 primarily due to the factors discussed above and lower margins on the Walker acquisition, including backlog amortization of \$3.6 million in 2019.

*Selling, General and Administrative Expenses (“SG&A”)*—SG&A increased \$43.0 million, or 14.5%, to \$340.0 million for 2019 as compared to 2018. On a same-store basis, excluding amortization expense, SG&A increased \$10.5 million, or 3.7%. This increase is primarily due to the increase in revenue compared to the prior year period, investments made in personnel due to the growth we have experienced in recent years (\$6.2 million), and an increase in professional fees in 2019 (\$2.5 million, of which approximately \$1.3 million relates to tax planning costs). SG&A in 2019 also benefited from a \$1.6 million reduction of expense recorded in the fourth quarter of 2019 as a result of insurance proceeds received related to recoverable costs that were primarily incurred prior to the fourth quarter of 2019. Amortization expense increased \$5.3 million during the period primarily as a result of the Walker and Indiana acquisitions. As a percentage of revenue, SG&A decreased from 13.6% in 2018 to 13.0% in 2019 due to the factors discussed above as well as a lower SG&A percentage of revenue at Walker, which was acquired in April 2019.

We have included same-store SG&A, excluding amortization, because we believe it is an effective measure of comparative results of operations. However, same-store SG&A, excluding amortization, is not considered under generally accepted accounting principles to be a primary measure of an entity’s financial results, and accordingly, should not be considered an alternative to SG&A as shown in our consolidated statements of operations.

	Year Ended December 31,	
	2019	2018
	(in thousands)	
SG&A	\$ 340,005	\$ 296,986
Less: SG&A from companies acquired	(27,217)	—
Less: Amortization expense	(22,654)	(17,307)
Same-store SG&A, excluding amortization expense	<u>\$ 290,134</u>	<u>\$ 279,679</u>

*Interest Expense*—Interest expense increased \$5.6 million, or 151.1%, in 2019. The increase reflects the increased borrowings on the revolving credit facility and notes to former owners as a result of our recent acquisitions, including Walker.

*Changes in the Fair Value of Contingent Earn-out Obligations*—The contingent earn-out obligations are measured at fair value each reporting period and changes in estimates of fair value are recognized in earnings. Expense from changes in the fair value of contingent earn-out obligations increased \$0.9 million in 2019 compared to 2018. This increase in expense was primarily driven by higher than previously projected earnings from BCH, which increased the value of the earn-out.

*Other Income*—Other income decreased \$4.0 million, or 95.5% in 2019 as compared to 2018. In April 2018, we entered into settlement agreements with British Petroleum (“BP”) related to two claims from one of our subsidiaries regarding the April 2010 BP Deepwater Horizon oil spill. We recorded a gain of \$4.0 million in the second quarter of 2018 as a result of these settlements. We do not have any remaining subsidiaries with outstanding claims against BP related to this matter.

*Provision for Income Taxes*—We conduct business throughout the United States in virtually all fifty states. Our effective tax rate changes based upon our relative profitability, or lack thereof, in states with varying tax rates and rules. In addition, discrete items, such as tax law changes, judgments and legal structures can impact our effective tax rate. These items can also include the tax treatment for impairment of goodwill and other intangible assets, changes in fair value of acquisition-related assets and liabilities, tax reserves for uncertain tax positions, accounting for losses associated with underperforming operations and noncontrolling interests.

Our effective tax rate for 2019 was 24.7%, as compared to 24.1% in 2018. The effective rate for 2019 was higher than the 21% federal statutory rate primarily due to net state income taxes (4.4%) and nondeductible expenses (1.4%), partially offset by benefits from the filing, and expected filing, of amended returns to claim the energy efficient commercial buildings deduction (the “179D deduction”) allocated to us (1.5%) and deductions for stock-based compensation (0.5%). The effective rate for 2018 was higher than the 21% federal statutory rate primarily due to net state income taxes (5.0%) and nondeductible expenses (1.3%), partially offset by a decrease in unrecognized tax benefits from the filing of a federal income tax automatic accounting method change application (1.9%) and deductions for stock-based compensation (0.9%). Refer to Note 9 in the Consolidated Financial Statements for a reconciliation of the federal statutory rate to the effective tax rate reflected in our financial statements.

The increase in the effective tax rate from 2018 to 2019 was primarily due to the nonrecurring benefit from the decrease in unrecognized tax benefits from the filing of a federal income tax automatic accounting method change application and smaller deductions for stock-based compensation, partially offset by benefits from the filing, and expected filing, of amended returns to claim the 179D deduction allocated to us.

We currently estimate our future effective tax rates will be between 25% and 30%. However, our effective tax rate in 2020 could be on the low end of this range due to the recent extension of the 179D deduction through 2020 under the Taxpayer Certainty and Disaster Tax Relief Act of 2019.

### ***2018 Compared to 2017***

For a discussion of the period-to-period comparison of 2018 to 2017, please refer to “Item 7—Management’s Discussion and Analysis of Financial Condition and Results of Operations—Results of Operations—2018 Compared to 2017” in our Annual Report on Form 10-K for the year ended December 31, 2018.

### ***Outlook***

Industry conditions improved during the four-year period from 2015 to 2019 and we currently expect that strong activity will continue during 2020. Our emphasis for 2020 will be on productivity, efficient project performance, labor force development, and investing in growth, particularly in modular construction, service and small projects. Based on our backlog, and in light of economic conditions, we are optimistic that revenue and net earnings in 2020 will continue at the favorable levels that we have experienced since the start of 2018.

## Liquidity and Capital Resources

	Year Ended December 31,		
	2019	2018	2017
	(in thousands)		
Cash provided by (used in):			
Operating activities	\$ 142,028	\$ 147,190	\$ 114,090
Investing activities	(224,450)	(95,710)	(128,968)
Financing activities	87,590	(42,402)	19,346
Net increase (decrease) in cash and cash equivalents	<u>\$ 5,168</u>	<u>\$ 9,078</u>	<u>\$ 4,468</u>
Free cash flow:			
Cash provided by operating activities	\$ 142,028	\$ 147,190	\$ 114,090
Purchases of property and equipment	(31,750)	(27,268)	(35,467)
Proceeds from sales of property and equipment	2,159	1,698	1,359
Free cash flow	<u>\$ 112,437</u>	<u>\$ 121,620</u>	<u>\$ 79,982</u>

### Cash Flow

Our business does not require significant amounts of investment in long-term fixed assets. The substantial majority of the capital used in our business is working capital that funds our costs of labor and installed equipment deployed in project work until our customer pays us. Customary terms in our industry allow customers to withhold a small portion of the contract price until after we have completed the work, typically for six months. Amounts withheld under this practice are known as retention or retainage. Our average project duration, together with typical retention terms, generally allow us to complete the realization of revenue and earnings in cash within one year.

### 2019 Compared to 2018

*Cash Provided by Operating Activities*—Cash flow from operations is primarily influenced by demand for our services and operating margins but can also be influenced by working capital needs associated with the various types of services that we provide. In particular, working capital needs may increase when we commence large volumes of work under circumstances where project costs, primarily associated with labor, equipment and subcontractors, are required to be paid before the receivables resulting from the work performed are billed and collected. Working capital needs are generally higher during the late winter and spring months as we prepare and plan for the increased project demand when favorable weather conditions exist in the summer and fall months. Conversely, working capital assets are typically converted to cash during the late summer and fall months as project completion is underway. These seasonal trends are sometimes offset by changes in the timing of major projects, which can be impacted by the weather, project delays or accelerations and other economic factors that may affect customer spending.

We generated \$142.0 million of cash flow from operating activities during 2019 compared with \$147.2 million during 2018. The \$5.2 million decrease was primarily driven by a \$16.8 million change in accounts payable and accrued liabilities, a \$16.0 million change in prepaid expenses and other current assets, and a \$12.4 million change in costs in billings in excess of costs driven by timing of billings and various project work. These decreases were partially offset by a \$19.1 million change in accounts receivable, net and a \$10.1 million change in change in costs in excess of billings driven by timing of customer billings and payments.

*Cash Used in Investing Activities*—Cash used in investing activities was \$224.5 million for 2019 compared to \$95.7 million during 2018. The \$128.8 million increase in cash used primarily relates to cash paid (net of cash acquired) for acquisitions, including the Walker acquisition (\$193.7 million).

*Cash Provided by (Used in) Financing Activities*—Cash provided by financing activities was \$87.6 million for 2019 compared to cash used in financing activities of \$42.4 million during 2018. The \$130.0 million increase in cash provided is primarily due to \$123.0 million more in net proceeds from the senior credit facility compared to the prior year, primarily to fund the Walker acquisition.

## ***2018 Compared to 2017***

For a discussion of the period-to-period comparison of 2018 to 2017, please refer to “Item 7—Management’s Discussion and Analysis of Financial Condition and Results of Operations—Liquidity and Capital Resources—2018 Compared to 2017” in our Annual Report on Form 10-K for the year ended December 31, 2018.

### ***Free Cash Flow***

We define free cash flow as cash provided by operating activities, less customary capital expenditures, plus the proceeds from asset sales. We believe free cash flow, by encompassing both profit margins and the use of working capital over our approximately one year working capital cycle, is an effective measure of operating effectiveness and efficiency. We have included free cash flow information here for this reason, and because we are often asked about it by third parties evaluating us. However, free cash flow is not considered under generally accepted accounting principles to be a primary measure of an entity’s financial results, and accordingly free cash flow should not be considered an alternative to operating income, net income, or amounts shown in our consolidated statements of cash flows as determined under generally accepted accounting principles. Free cash flow may be defined differently by other companies.

### ***Share Repurchase Program***

On March 29, 2007, our Board of Directors approved a stock repurchase program to acquire up to 1.0 million shares of our outstanding common stock. Subsequently, the Board has from time to time increased the number of shares that may be acquired under the program and approved extensions of the program. On November 19, 2019, the Board approved an extension to the program by increasing the shares authorized for repurchase by 0.8 million shares. Since the inception of the repurchase program, the Board has approved 9.5 million shares to be repurchased. As of December 31, 2019, we have repurchased a cumulative total of 8.6 million shares at an average price of \$17.70 per share under the repurchase program.

The share repurchases will be made from time to time at our discretion in the open market or privately negotiated transactions as permitted by securities laws and other legal requirements, and subject to market conditions and other factors. The Board may modify, suspend, extend or terminate the program at any time. During the year ended December 31, 2019, we repurchased 0.4 million shares for approximately \$19.6 million at an average price of \$45.58 per share.

### ***Debt***

#### ***Revolving Credit Facility and Term Loan***

We have a \$600.0 million senior credit facility (the “Facility”) provided by a syndicate of banks. The Facility is composed of a revolving credit line in the amount of \$450.0 million and a \$150.0 million term loan, and the Facility also provides for a \$150.0 million accordion or increase option for the revolving portion of the Facility. The Facility also includes a sublimit of up to \$160.0 million issuable in the form of letters of credit. The Facility expires in January 2025 and is secured by a first lien on substantially all of our personal property except for assets related to projects subject to surety bonds and assets held by certain unrestricted subsidiaries and our wholly owned captive insurance company and a second lien on our assets related to projects subject to surety bonds. In 2019, we incurred approximately \$1.4 million in financing and professional costs in connection with an amendment to the Facility, which are being amortized over the remaining term of the Facility. Of this amount, \$0.4 million is attributable to the term loan and is being amortized using the effective interest method. The remaining \$1.0 million is attributable to the revolving credit line, which combined with the previous unamortized costs of \$1.3 million, is being amortized over the remaining term of the Facility on a straight-line basis as a non-cash charge to interest expense. For the term loan, we are required to make quarterly payments increasing over time from 1.25% to 3.75% of the original aggregate principal amount of the term loan, with the balance due in January 2025. As of December 31, 2019, we had \$150.0 million principal outstanding on the term loan, \$28.0 million of outstanding borrowings, \$40.9 million in letters of credit outstanding and \$381.1 million of credit available.

There are two interest rate options for borrowings under the Facility, the Base Rate Loan option and the Eurodollar Rate Loan option. These rates are floating rates determined by the broad financial markets, meaning they can

and do move up and down from time to time. Additional margins are then added to these two rates. The weighted average interest rate applicable to the borrowings under the revolving credit facility was approximately 3.2% as of December 31, 2019. The weighted average interest rate applicable to the term loan was approximately 3.3% as of December 31, 2019.

Certain of our vendors require letters of credit to ensure reimbursement for amounts they are disbursing on our behalf, such as to beneficiaries under our self-funded insurance programs. We have also occasionally used letters of credit to guarantee performance under our contracts and to ensure payment to our subcontractors and vendors under those contracts. Our lenders issue such letters of credit through the Facility for a fee. We have never had a claim made against a letter of credit that resulted in payments by a lender or by us and believe such claims are unlikely in the foreseeable future. The letter of credit fees range from 1.25% to 2.00% per annum, based on the ratio of Consolidated Total Indebtedness to “Credit Facility Adjusted EBITDA,” which shall mean Consolidated EBITDA as such term is defined in the credit agreement.

Commitment fees are payable on the portion of the revolving loan capacity not in use for borrowings or letters of credit at any given time. These fees range from 0.20%-0.35% per annum, based on the ratio of Consolidated Total Indebtedness to Credit Facility Adjusted EBITDA.

Interest expense included the following primary elements (in thousands):

	Year Ended December 31,		
	2019	2018	2017
Interest expense on notes to former owners	\$ 1,531	\$ 642	\$ 365
Interest expense on borrowings and unused commitment fees	6,887	2,211	1,862
Letter of credit fees	512	474	553
Amortization of debt financing costs	387	383	376
Total	<u>\$ 9,317</u>	<u>\$ 3,710</u>	<u>\$ 3,156</u>

The Facility contains financial covenants defining various financial measures and the levels of these measures with which we must comply. Covenant compliance is assessed as of each quarter end. Credit Facility Adjusted EBITDA is defined under the Facility for financial covenant purposes as net earnings for the four quarters ending as of any given quarterly covenant compliance measurement date, plus the corresponding amounts for (a) interest expense; (b) provision for income taxes; (c) depreciation and amortization; (d) stock compensation; (e) other non-cash charges; and (f) pre-acquisition results of acquired companies. The following is a reconciliation of Credit Facility Adjusted EBITDA to net income for 2019 (in thousands):

Net income	\$ 114,324
Provision for income taxes	37,418
Interest expense, net	9,093
Depreciation and amortization expense	51,572
Stock-based compensation	5,878
Pre-acquisition results of acquired companies, as defined under the Facility	1,404
Credit Facility Adjusted EBITDA	<u>\$ 219,689</u>

The Facility’s principal financial covenants include:

*Total Leverage Ratio*—The Facility requires that the ratio of our Consolidated Total Indebtedness to our Credit Facility Adjusted EBITDA not exceed 3.00 to 1.00 as of the end of each fiscal quarter. The total leverage ratio as of December 31, 2019 was 1.0.

*Fixed Charge Coverage Ratio*— The Facility requires that the ratio of (a) Credit Facility Adjusted EBITDA, less non-financed capital expenditures, provision for income taxes, dividends, and amounts used to repurchase stock when the Company’s Total Leverage Ratio exceeds 2.00 to 1.00, to (b) the sum of interest expense and scheduled principal payments of indebtedness be at least 1.50 to 1.00. Credit Facility Adjusted EBITDA, capital expenditures, provision for income taxes, dividends, stock repurchase payments, interest expense, and scheduled principal payments are defined under the Facility for purposes of this covenant to be

amounts for the four quarters ending as of any given quarterly covenant compliance measurement date. The fixed charge coverage ratio as of December 31, 2019 was 11.3.

*Other Restrictions*— The Facility permits acquisitions of up to \$5.0 million per transaction, provided that the aggregate purchase price of such an acquisition and of acquisitions in the same fiscal year does not exceed \$10.0 million. However, these limitations only apply when the Company's Total Leverage Ratio is greater than 2.50 to 1.00.

While the Facility's financial covenants do not specifically govern capacity under the Facility, if our debt level under the Facility at a quarter-end covenant compliance measurement date were to cause us to violate the Facility's leverage ratio covenant, our borrowing capacity under the Facility and the favorable terms that we currently have could be negatively impacted by the lenders.

We were in compliance with all of our financial covenants as of December 31, 2019.

#### *Notes to Former Owners*

As part of the consideration used to acquire six companies, we have outstanding notes to the former owners. These notes had an outstanding balance of \$48.5 million as of December 31, 2019. In conjunction with the Walker acquisition in the second quarter of 2019, we issued a promissory note to former owners with an outstanding balance of \$25.0 million as of December 31, 2019 that bears interest, payable quarterly, at a stated interest rate of 4.0%. The principal is due in equal installments in April 2022 and April 2023. In conjunction with the BCH acquisition in the second quarter of 2017, we issued a promissory note to former owners with an outstanding balance of \$14.3 million as of December 31, 2019 that bears interest, payable quarterly, at a stated interest rate of 3.0%. The principal is due in equal installments in April 2020 and 2021. In conjunction with four immaterial acquisitions in 2018 and 2019, we issued notes to former owners with an outstanding balance of \$9.2 million as of December 31, 2019 that bear interest, payable quarterly, at stated interest rates ranging from 2.9% - 3.5%. The principal amounts are due between May 2020 – July 2021.

#### **Outlook**

We have generated positive net free cash flow for the last twenty-one calendar years, much of which occurred during challenging economic and industry conditions. We also continue to have significant borrowing capacity under our credit facility, and we maintain what we feel are reasonable cash balances. We believe these factors will provide us with sufficient liquidity to fund our operations for the foreseeable future.

#### **Off-Balance Sheet Arrangements and Other Commitments**

As is common in our industry, we have entered into certain off-balance sheet arrangements in the ordinary course of business that result in risks not directly reflected in our Balance Sheets, such as obligations involving letters of credit and surety guarantees.

We enter into noncancelable operating leases for many of our facility, vehicle and equipment needs. These leases allow us to conserve cash by paying a monthly lease rental fee for use of facilities, vehicles and equipment rather than purchasing them. At the end of the lease, we have no further obligation to the lessor. If we decide to cancel or terminate a lease before the end of its term, we would typically owe the lessor the remaining lease payments under the term of the lease.

Certain of our vendors require letters of credit to ensure reimbursement for amounts they are disbursing on our behalf, such as to beneficiaries under our self-funded insurance programs. We have also occasionally used letters of credit to guarantee performance under our contracts and to ensure payment to our subcontractors and vendors under those contracts. The letters of credit we provide are actually issued by our lenders through the Facility as described above. A letter of credit commits the lenders to pay specified amounts to the holder of the letter of credit if the holder demonstrates that we have failed to perform specified actions. If this were to occur, we would be required to reimburse the lenders. Depending on the circumstances of such a reimbursement, we may also have to record a charge to earnings for the reimbursement. Absent a claim, there is no payment or reserving of funds by us in connection with a letter of credit. However, because a claim on a letter of credit would require immediate reimbursement by us to our lenders, letters of credit are treated as a use of the Facility's capacity just the same as actual borrowings. Claims against letters of credit are rare in our industry. To date, we have not had a claim made against a letter of credit that resulted in payments



by a lender or by us. We believe that it is unlikely that we will have to fund claims under a letter of credit in the foreseeable future.

Many customers, particularly in connection with new construction, require us to post performance and payment bonds issued by a financial institution known as a surety. If we fail to perform under the terms of a contract or to pay subcontractors and vendors who provided goods or services under a contract, the customer may demand that the surety make payments or provide services under the bond. We must reimburse the sureties for any expenses or outlays they incur. To date, we are not aware of any losses to our sureties in connection with bonds the sureties have posted on our behalf, and we do not expect such losses to be incurred in the foreseeable future.

Under standard terms in the surety market, sureties issue bonds on a project-by-project basis, and can decline to issue bonds at any time. Historically, approximately 15% to 25% of our business has required bonds. While we currently have strong surety relationships to support our bonding needs, future market conditions or changes in our sureties' assessment of our operating and financial risk could cause our sureties to decline to issue bonds for our work. If that were to occur, our alternatives include doing more business that does not require bonds, posting other forms of collateral for project performance, such as letters of credit or cash, and seeking bonding capacity from other sureties. We would likely also encounter concerns from customers, suppliers and other market participants as to our creditworthiness. While we believe our general operating and financial characteristics would enable us to ultimately respond effectively to an interruption in the availability of bonding capacity, such an interruption would likely cause our revenue and profits to decline in the near term.

### Contractual Obligations

The following recaps the future maturities of our contractual obligations as of December 31, 2019 (in thousands):

	Twelve Months Ended December 31,					Thereafter	Total
	2020	2021	2022	2023	2024		
Revolving credit facility	\$ —	\$ —	\$ —	\$ —	\$ —	\$ 28,000	\$ 28,000
Term loan	7,500	7,500	15,000	15,000	22,500	82,500	150,000
Notes to former owners	13,317	10,166	12,500	12,500	—	—	48,483
Interest payable	7,247	6,614	5,802	4,807	4,094	60	28,624
Operating lease obligations	17,124	15,096	12,873	10,797	9,222	36,954	102,066
Total	<u>\$ 45,188</u>	<u>\$ 39,376</u>	<u>\$ 46,175</u>	<u>\$ 43,104</u>	<u>\$ 35,816</u>	<u>\$ 147,514</u>	<u>\$ 357,173</u>

As discussed in Note 9 "Income Taxes," included in our Consolidated Balance Sheet at December 31, 2019 is \$10.2 million of unrecognized tax benefits. We believe it is reasonably possible that a decrease of up to \$10.2 million in unrecognized tax benefits could occur within the next twelve months. However, due to the uncertain and complex application of tax regulations, combined with the difficulty in predicting when tax audits may be concluded, we generally cannot make reliable estimates of the timing of cash outflows relating to these liabilities.

As of December 31, 2019, we also have \$40.9 million in letter of credit commitments, of which \$22.4 million will expire in 2020 and \$18.5 million will expire in 2021. The substantial majority of these letters of credit are posted with insurers who disburse funds on our behalf in connection with our workers' compensation, auto liability and general liability insurance program. These letters of credit provide additional security to the insurers that sufficient financial resources will be available to fund claims on our behalf, many of which develop over long periods of time, should we ever encounter financial duress. Posting of letters of credit for this purpose is a common practice for entities that manage their self-insurance programs through third-party insurers as we do. While many of these letter of credit commitments expire in 2020, we expect nearly all of them, particularly those supporting our insurance programs, will be renewed annually.

Other than the operating lease obligations noted above, we have no significant purchase or operating commitments outside of commitments to deliver equipment and provide labor in the ordinary course of performing project work.

**ITEM 7A. Quantitative and Qualitative Disclosures about Market Risk**

We are exposed to market risk primarily related to potential adverse changes in interest rates as discussed below. We are actively involved in monitoring exposure to market risk and continue to develop and utilize appropriate risk management techniques. We are not exposed to any other significant financial market risks including commodity price risk, foreign currency exchange risk or interest rate risks from the use of derivative financial instruments. We do not use derivative financial instruments.

We have exposure to changes in interest rates under our revolving credit facility and term loan. Our debt with fixed interest rates consists of notes to former owners of acquired companies.

The following table presents principal amounts (stated in thousands) and related average interest rates by year of maturity for our debt obligations and their indicated fair market value at December 31, 2019:

	Twelve Months Ended December 31,					Thereafter	Total
	2020	2021	2022	2023	2024		
Fixed Rate Debt	\$ 13,317	\$ 10,166	\$ 12,500	\$ 12,500	\$ —	\$ —	\$ 48,483
Average Interest Rate	3.6%	3.7%	4.0%	4.0%	—	—	3.8%
Variable Rate Debt	\$ 7,500	\$ 7,500	\$ 15,000	\$ 15,000	\$ 22,500	\$ 110,500	\$ 178,000

The weighted average interest rate applicable to the borrowings under the revolving credit facility was approximately 3.2% as of December 31, 2019. The weighted average interest rate applicable to the term loan was approximately 3.3% as of December 31, 2019.

We measure certain assets at fair value on a nonrecurring basis. These assets are recognized at fair value when they are deemed to be other-than-temporarily impaired. We did not recognize any impairments, in the current year, on those assets required to be measured at fair value on a nonrecurring basis.

The valuation of the Company's contingent earn-out payments is determined using a probability weighted discounted cash flow method. This analysis reflects the contractual terms of the purchase agreements (e.g., minimum and maximum payment, length of earn-out periods, manner of calculating any amounts due, etc.) and utilizes assumptions with regard to future cash flows, probabilities of achieving such future cash flows and a discount rate.

**ITEM 8. *Financial Statements and Supplementary Data***

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### **Management's Report on Internal Control over Financial Reporting**

Our management is responsible for establishing and maintaining adequate internal control over financial reporting, as such term is defined in Exchange Act Rules 13a-15(f) and 15d-15(f). Under the supervision and with the participation of our management, including our Chief Executive Officer and Chief Financial Officer, we conducted an evaluation of the effectiveness of our internal control over financial reporting as of December 31, 2019 based on the framework in Internal Control—Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO 2013 framework). Based on that evaluation, our management concluded that our internal control over financial reporting was effective as of December 31, 2019.

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

Ernst & Young LLP, an independent registered public accounting firm, as stated in their report which is included elsewhere herein, has issued an attestation report auditing the effectiveness of our internal control over financial reporting as of December 31, 2019.

## **Report of Independent Registered Public Accounting Firm**

To the Stockholders and the Board of Directors of Comfort Systems USA, Inc.

### **Opinion on the Financial Statements**

We have audited the accompanying consolidated balance sheets of Comfort Systems USA, Inc. (the Company) as of December 31, 2019 and 2018, the related consolidated statements of operations, stockholders' equity and cash flows for each of the three years in the period ended December 31, 2019, and the related notes (collectively referred to as the "consolidated financial statements"). In our opinion, the consolidated financial statements present fairly, in all material respects, the financial position of the Company at December 31, 2019 and 2018, and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2019, in conformity with U.S. generally accepted accounting principles.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the Company's internal control over financial reporting as of December 31, 2019, based on criteria established in *Internal Control-Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission (2013 framework), and our report dated February 26, 2020 expressed an unqualified opinion thereon.

### **Adoption of ASU No. 2016-02 Leases**

As discussed in Note 2 to the consolidated financial statements, the Company changed its method of accounting for leases in 2019 due to the adoption of ASU No. 2016-02, *Leases*.

### **Basis for Opinion**

These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the Company's financial statements based on our audits. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud. Our audits included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that our audits provide a reasonable basis for our opinion.

### **Critical Audit Matters**

The critical audit matters communicated below are matters arising from the current period audit of the consolidated financial statements that were communicated or required to be communicated to the audit committee and that: (1) relate to accounts or disclosures that are material to the consolidated financial statements and (2) involved our especially challenging, subjective or complex judgments. The communication of critical audit matters does not alter in any way our opinion on the consolidated financial statements, taken as a whole, and we are not, by communicating the critical audit matters below, providing separate opinions on the critical audit matters or on the accounts or disclosures to which they relate.

**Revenue recognition using percentage of completion method**

*Description of the Matter* As disclosed in Note 2 to the consolidated financial statements for fixed price agreements, the Company uses the percentage of completion (POC) method of accounting under which contract revenue recognizable at any time during the life of a contract is determined by multiplying expected total contract revenue by the percentage of contract costs incurred at any time to total estimated contract costs. These estimates are subject to considerable judgment and could be impacted by changes in labor, materials/equipment, and subcontractor costs.

Auditing management's estimates of total contract costs was challenging due to significant judgments made by management with respect to labor, materials/equipment and subcontractor costs as future results may vary significantly from past estimates due to changes in facts and circumstances as the project progresses to completion.

*How We Addressed the Matter in Our Audit* We obtained an understanding, evaluated the design, and tested the operating effectiveness of controls over the contract estimated cost at completion process. For example, we tested controls over management's review of cost estimates for significant inputs such as labor, materials/equipment and subcontractor costs.

To test the Company's contract cost estimates, our audit procedures included, among others, for a sample of contracts, reviewing the contracts, conducting interviews with and reviewing questionnaires completed by project personnel; assessing blended labor rates included in actual costs to date as compared to blended labor rates used in the estimate to complete the project, agreeing estimated labor, materials/equipment and subcontractor costs to supporting documentation, sending independent confirmations to customers; and performing lookback analyses comparing gross margin over the life of the project to assess management's ability to estimate.

**Accounting for acquisition of Walker TX Holding Company, LLC**

*Description of the Matter* As disclosed in Note 4 to the consolidated financial statements, on April 1, 2019, the Company completed its acquisition of Walker TX Holding Company, LLC and each of its wholly-owned subsidiaries (Walker) for consideration of \$235.4 million. The transaction was accounted for as a business combination.

Auditing the Company's accounting for its acquisition of Walker was complex due to the significant estimation uncertainty in determining the fair value of intangible assets and liabilities which principally consisted of contingent consideration, customer relationships and trademarks of \$19.5 million, \$53.0 million and \$32.6 million, respectively. The significant estimation uncertainty was primarily due to the sensitivity of the respective fair values to the underlying assumptions about the future performance of Walker. The significant assumptions used to estimate the fair value of the acquired intangible assets included discount rates and certain assumptions that form the basis of the forecasted results (e.g. revenue growth rates and operating margins). The significant assumptions used to estimate the fair value of contingent consideration included the discount rate, volatility and forecasted results (e.g. revenue growth rates and EBITDA margins). These significant assumptions are forward-looking and could be affected by future economic conditions.

*How We Addressed the Matter in Our Audit* We obtained an understanding, evaluated the design, and tested the operating effectiveness of controls over the purchase accounting process. For example, we tested the Company's controls over the recognition and measurement of consideration transferred (including contingent consideration) and intangible assets, including the valuation models and significant assumptions used to develop such estimates.

To test the fair value of contingent consideration and intangible assets, our audit procedures included, among others, evaluating the Company's valuation methodologies, involving our valuation specialists to assist in testing the significant assumptions described above used to develop the prospective financial information and assessing the application of the valuation methodologies, and testing the completeness and accuracy of the underlying data. For example, we compared the significant

assumptions to current economic trends, historical results of the Company's business and other relevant factors. We also performed a sensitivity analysis of the significant assumptions to evaluate the change in the fair value of the contingent consideration and intangible assets resulting from changes in the assumptions.

/s/ Ernst & Young LLP

We have served as the Company's auditor since 2002.

Houston, Texas

February 26, 2020

## **Report of Independent Registered Public Accounting Firm**

To the Stockholders and the Board of Directors of Comfort Systems USA, Inc.

### **Opinion on Internal Control over Financial Reporting**

We have audited Comfort Systems USA, Inc.'s internal control over financial reporting as of December 31, 2019, based on criteria established in *Internal Control—Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission (2013 framework) (the COSO criteria). In our opinion, Comfort Systems USA, Inc. (the Company) maintained, in all material respects, effective internal control over financial reporting as of December 31, 2019, based on the COSO criteria.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the consolidated balance sheets of the Company as of December 31, 2019 and 2018, the related consolidated statements of operations, stockholders' equity and cash flows for each of the three years in the period ended December 31, 2019, and the related notes and our report dated February 26, 2020 expressed an unqualified opinion thereon.

### **Basis for Opinion**

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

We conducted our audit in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects.

Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

### **Definition and Limitations of Internal Control Over Financial Reporting**

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

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

/s/ Ernst & Young LLP

Houston, Texas

February 26, 2020



**COMFORT SYSTEMS USA, INC.**  
**CONSOLIDATED BALANCE SHEETS**  
**(In Thousands, Except Share Amounts)**

	December 31,	
	2019	2018
<b>ASSETS</b>		
<b>CURRENT ASSETS:</b>		
Cash and cash equivalents	\$ 50,788	\$ 45,620
Billed accounts receivable, less allowance for doubtful accounts of \$6,907 and \$5,898, respectively	619,037	481,366
Unbilled accounts receivable	55,542	37,180
Other receivables	37,632	16,361
Inventories	10,053	12,416
Prepaid expenses and other	14,396	6,544
Costs and estimated earnings in excess of billings	2,736	10,213
Total current assets	790,184	609,700
PROPERTY AND EQUIPMENT, NET	109,796	99,618
LEASE RIGHT-OF-USE ASSET	84,073	—
GOODWILL	332,447	235,182
IDENTIFIABLE INTANGIBLE ASSETS, NET	159,974	95,275
DEFERRED TAX ASSETS	21,923	17,634
OTHER NONCURRENT ASSETS	6,615	5,155
Total assets	\$ 1,505,012	\$ 1,062,564
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>		
<b>CURRENT LIABILITIES:</b>		
Current maturities of long-term debt	\$ 20,817	\$ 3,279
Accounts payable	196,195	176,167
Accrued compensation and benefits	102,891	87,388
Billings in excess of costs and estimated earnings	166,918	130,986
Accrued self-insurance	39,546	36,386
Other current liabilities	81,630	32,852
Total current liabilities	607,997	467,058
LONG-TERM DEBT, NET	205,318	73,639
LEASE LIABILITIES	72,697	—
DEFERRED TAX LIABILITIES	1,425	1,387
OTHER LONG-TERM LIABILITIES	32,271	22,433
Total liabilities	919,708	564,517
<b>COMMITMENTS AND CONTINGENCIES</b>		
<b>STOCKHOLDERS' EQUITY:</b>		
Preferred stock, \$.01 par, 5,000,000 shares authorized, none issued and outstanding	—	—
Common stock, \$.01 par, 102,969,912 shares authorized, 41,123,365 and 41,123,365 shares issued, respectively	411	411
Treasury stock, at cost, 4,465,448 and 4,229,653 shares, respectively	(103,960)	(87,747)
Additional paid-in capital	320,168	316,479
Retained earnings	368,685	268,904
Total stockholders' equity	585,304	498,047
Total liabilities and stockholders' equity	\$ 1,505,012	\$ 1,062,564

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

**COMFORT SYSTEMS USA, INC.**  
**CONSOLIDATED STATEMENTS OF OPERATIONS**  
(In Thousands, Except Per Share Data)

	Year Ended December 31,		
	2019	2018	2017
REVENUE	\$ 2,615,277	\$ 2,182,879	\$ 1,787,922
COST OF SERVICES	2,113,334	1,736,600	1,421,641
Gross profit	501,943	446,279	366,281
SELLING, GENERAL AND ADMINISTRATIVE EXPENSES	340,005	296,986	266,586
GOODWILL IMPAIRMENT	—	—	1,105
GAIN ON SALE OF ASSETS	(1,701)	(945)	(670)
Operating income	163,639	150,238	99,260
OTHER INCOME (EXPENSE):			
Interest income	224	73	70
Interest expense	(9,317)	(3,710)	(3,156)
Changes in the fair value of contingent earn-out obligations	(2,991)	(2,066)	3,715
Other	187	4,141	1,049
Other income (expense)	(11,897)	(1,562)	1,678
INCOME BEFORE INCOME TAXES	151,742	148,676	100,938
PROVISION FOR INCOME TAXES	37,418	35,773	45,666
NET INCOME	<u>\$ 114,324</u>	<u>\$ 112,903</u>	<u>\$ 55,272</u>
INCOME PER SHARE:			
Basic	<u>\$ 3.10</u>	<u>\$ 3.03</u>	<u>\$ 1.48</u>
Diluted	<u>\$ 3.08</u>	<u>\$ 3.00</u>	<u>\$ 1.47</u>
SHARES USED IN COMPUTING INCOME PER SHARE:			
Basic	<u>36,854</u>	<u>37,202</u>	<u>37,239</u>
Diluted	<u>37,131</u>	<u>37,592</u>	<u>37,672</u>
DIVIDENDS PER SHARE	<u>\$ 0.395</u>	<u>\$ 0.330</u>	<u>\$ 0.295</u>

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

COMFORT SYSTEMS USA, INC.

CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY

(In Thousands, Except Share Amounts)

	Common Stock		Treasury Stock		Additional Paid-In Capital	Retained Earnings	Total Stockholders' Equity
	Shares	Amount	Shares	Amount			
BALANCE AT DECEMBER 31, 2016	41,123,365	\$ 411	(3,914,251)	\$ (57,387)	\$ 309,625	\$ 123,984	\$ 376,633
Net income	—	—	—	—	—	55,272	55,272
Issuance of Stock:							
Issuance of shares for options exercised	—	—	145,746	2,257	(205)	—	2,052
Issuance of restricted stock & performance stock	—	—	134,646	2,037	(421)	—	1,616
Shares received in lieu of tax withholding payment on vested restricted stock	—	—	(39,335)	(1,419)	—	—	(1,419)
Stock-based compensation	—	—	—	—	3,785	—	3,785
Dividends	—	—	—	—	—	(10,987)	(10,987)
Share repurchase	—	—	(263,097)	(9,007)	—	—	(9,007)
BALANCE AT DECEMBER 31, 2017	41,123,365	411	(3,936,291)	(63,519)	312,784	168,269	417,945
Net income	—	—	—	—	—	112,903	112,903
Issuance of Stock:							
Issuance of shares for options exercised	—	—	206,875	3,618	(513)	—	3,105
Issuance of restricted stock & performance stock	—	—	129,569	2,227	(4)	—	2,223
Shares received in lieu of tax withholding payment on vested restricted stock	—	—	(36,967)	(1,540)	—	—	(1,540)
Stock-based compensation	—	—	—	—	4,212	—	4,212
Dividends	—	—	—	—	—	(12,268)	(12,268)
Share repurchase	—	—	(592,839)	(28,533)	—	—	(28,533)
BALANCE AT DECEMBER 31, 2018	41,123,365	411	(4,229,653)	(87,747)	316,479	268,904	498,047
Net income	—	—	—	—	—	114,324	114,324
Issuance of Stock:							
Issuance of shares for options exercised	—	—	114,125	2,532	(182)	—	2,350
Issuance of restricted stock & performance stock	—	—	107,606	2,303	(297)	—	2,006
Shares received in lieu of tax withholding payment on vested restricted stock	—	—	(28,586)	(1,498)	—	—	(1,498)
Stock-based compensation	—	—	—	—	4,168	—	4,168
Dividends	—	—	—	—	—	(14,543)	(14,543)
Share repurchase	—	—	(428,940)	(19,550)	—	—	(19,550)
BALANCE AT DECEMBER 31, 2019	<u>41,123,365</u>	<u>\$ 411</u>	<u>(4,465,448)</u>	<u>\$ (103,960)</u>	<u>\$ 320,168</u>	<u>\$ 368,685</u>	<u>\$ 585,304</u>

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

**COMFORT SYSTEMS USA, INC.**  
**CONSOLIDATED STATEMENTS OF CASH FLOWS**

(In Thousands)

	Year Ended December 31,		
	2019	2018	2017
<b>CASH FLOWS FROM OPERATING ACTIVITIES:</b>			
Net income	\$ 114,324	\$ 112,903	\$ 55,272
Adjustments to reconcile net income to net cash provided by operating activities—			
Amortization of identifiable intangible assets	27,082	20,089	17,404
Depreciation expense	24,490	22,600	20,052
Change in right-of-use assets	16,887	—	—
Goodwill impairment	—	—	1,105
Bad debt expense	2,978	3,562	182
Deferred tax provision (benefit)	(4,251)	4,456	4,178
Amortization of debt financing costs	387	383	376
Gain on sale of assets	(1,701)	(945)	(670)
Changes in the fair value of contingent earn-out obligations	2,991	2,066	(3,715)
Stock-based compensation	5,878	7,161	6,377
Changes in operating assets and liabilities, net of effects of acquisitions and divestitures—			
(Increase) decrease in—			
Receivables, net	(49,508)	(68,621)	(37,799)
Inventories	2,366	(1,538)	(584)
Prepaid expenses and other current assets	(15,519)	519	2,467
Costs and estimated earnings in excess of billings and unbilled accounts receivable	(4,312)	(14,444)	1,869
Other noncurrent assets	(735)	(114)	1,005
Increase (decrease) in—			
Accounts payable and accrued liabilities	31,046	47,871	22,068
Billings in excess of costs and estimated earnings	4,376	16,786	13,265
Other long-term liabilities	(14,751)	(5,544)	11,238
Net cash provided by operating activities	<u>142,028</u>	<u>147,190</u>	<u>114,090</u>
<b>CASH FLOWS FROM INVESTING ACTIVITIES:</b>			
Purchases of property and equipment	(31,750)	(27,268)	(35,467)
Proceeds from sales of property and equipment	2,159	1,698	1,359
Proceeds from sale of business	1,611	—	—
Cash paid for acquisitions, net of cash acquired	(196,470)	(70,140)	(94,860)
Net cash used in investing activities	<u>(224,450)</u>	<u>(95,710)</u>	<u>(128,968)</u>
<b>CASH FLOWS FROM FINANCING ACTIVITIES:</b>			
Proceeds from revolving line of credit	356,000	124,000	177,000
Payments on revolving line of credit	(228,000)	(119,000)	(132,000)
Payments on other debt	(3,784)	(1,127)	(835)
Payments on capital lease obligations	—	—	(256)
Debt financing costs	(1,405)	(844)	—
Payments of dividends to stockholders	(14,543)	(12,268)	(10,987)
Share repurchase	(19,550)	(28,533)	(9,007)
Shares received in lieu of tax withholding	(1,498)	(1,540)	(1,419)
Proceeds from exercise of options	2,350	3,105	2,052
Deferred acquisition payments	(637)	(750)	(2,802)
Payments for contingent consideration arrangements	(1,343)	(5,445)	(2,400)
Net cash provided by (used in) financing activities	<u>87,590</u>	<u>(42,402)</u>	<u>19,346</u>
<b>NET INCREASE IN CASH AND CASH EQUIVALENTS</b>	<u>5,168</u>	<u>9,078</u>	<u>4,468</u>
CASH AND CASH EQUIVALENTS, beginning of period	45,620	36,542	32,074
CASH AND CASH EQUIVALENTS, end of period	<u>\$ 50,788</u>	<u>\$ 45,620</u>	<u>\$ 36,542</u>

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

**COMFORT SYSTEMS USA, INC.****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS****December 31, 2019****1. Business and Organization**

Comfort Systems USA, Inc., a Delaware corporation, provides comprehensive mechanical and electrical contracting services, which principally includes heating, ventilation and air conditioning (“HVAC”), plumbing, electrical, piping and controls, as well as off-site construction, monitoring and fire protection. We install, maintain, repair and replace products and systems throughout the United States. Approximately 45.9% of our consolidated 2019 revenue is attributable to installation of systems in newly constructed facilities, with the remaining 54.1% attributable to maintenance, repair and replacement services. The terms “Comfort Systems,” “we,” “us,” or “the Company,” refer to Comfort Systems USA, Inc. or Comfort Systems USA, Inc. and its consolidated subsidiaries, as appropriate in the context.

**2. Summary of Significant Accounting Policies*****Principles of Consolidation***

These financial statements are prepared in accordance with accounting principles generally accepted in the United States of America. The accompanying consolidated financial statements include our accounts and those of our subsidiaries in which we have a controlling interest. All significant intercompany accounts and transactions have been eliminated. Certain amounts in prior periods may have been reclassified to conform to the current period presentation. The effects of the reclassifications were not material to the consolidated financial statements.

***Use of Estimates***

The preparation of financial statements in conformity with generally accepted accounting principles requires the use of estimates and assumptions by management in determining the reported amounts of assets and liabilities, revenue and expenses and disclosures regarding contingent assets and liabilities. Actual results could differ from those estimates. The most significant estimates used in our financial statements affect revenue and cost recognition for construction contracts, the allowance for doubtful accounts, self-insurance accruals, deferred tax assets, warranty accruals, fair value accounting for acquisitions and the quantification of fair value for reporting units in connection with our goodwill impairment testing.

***Cash Flow Information***

We consider all highly liquid investments purchased with an original maturity of three months or less to be cash equivalents.

Cash paid (in thousands) for:

	<b>Year Ended December 31,</b>		
	<b>2019</b>	<b>2018</b>	<b>2017</b>
Interest	\$ 8,817	\$ 3,743	\$ 2,832
Income taxes	\$45,288	\$33,401	\$ 38,144

***Recent Accounting Pronouncements***

In February 2016, the Financial Accounting Standards Board (“FASB”) issued ASU No. 2016-02, “Leases (Topic 842).” The standard requires substantially all leases (with the exception of leases with a term of one year or less) to be recorded on the Balance Sheet using a method referred to as the right-of-use (“ROU”) asset approach. ASU 2016-02 is effective for fiscal years beginning after December 15, 2018 and interim periods within those years. Full retrospective application is prohibited. We adopted ASU No. 2016-02, “Leases (Topic 842)”, on January 1, 2019, using

the transition method allowed by ASU No. 2018-11, “Leases (Topic 842) Targeted Improvements” in which lessees apply the new lease standard on the adoption date and recognize a cumulative-effect adjustment to the opening balance of retained earnings in the period of adoption. We adopted the practical expedient allowing us to not include leases with an initial term of 12 months or less on the Balance Sheet. Furthermore, we elected to apply the practical expedient allowing an entity to forgo reassessing (1) whether expired or existing contracts contain a lease, (2) classification of expired or existing leases, and (3) whether capitalized costs associated with expired or existing leases should be classified as “initial direct costs” under Topic 842. The adoption of ASU 2016-02 did not have a significant impact to our Statement of Operations or Cash Flows. The adoption of ASU 2016-02 resulted in the recording of right-of-use asset and lease liabilities of \$75.9 million on our Balance Sheet as of January 1, 2019 but did not result in a cumulative-effect adjustment to retained earnings.

In June 2016, the FASB issued ASU No. 2016-13, “Financial Instruments – Credit Losses (Topic 326).” The standard requires companies to consider historical experiences, current market conditions and reasonable and supportable forecasts in the measurement of expected credit losses. The standard will require us to accrue higher credit losses on financial assets compared to the current guidance on various items, such as contract assets and current receivables. We are still completing our evaluation of the impact of this authoritative guidance on our consolidated financial statements, but expect that it will increase our allowances for credit losses upon adoption. ASU 2016-13 is effective for fiscal years beginning after December 15, 2019 and interim periods within those years. Early adoption is permitted.

In August 2018, the FASB issued ASU No. 2018-13, “Fair Value Measurement (Topic 820): Disclosure Framework — Changes to the Disclosure Requirements for Fair Value Measurement.” This standard removes certain disclosure requirements including the valuation processes for Level 3 fair value measurements, the policy for timing of transfers between levels and the amount of and reasons for transfers between Level 1 and Level 2 of the fair value hierarchy. The standard requires certain additional disclosures for public entities, including disclosure of the changes in unrealized gains and losses included in Other Comprehensive Income for Level 3 fair value measurements and the range and weighted average of significant unobservable inputs used to develop Level 3 fair value measurements. ASU 2018-13 is effective for fiscal years beginning after December 15, 2019 and interim periods within those years. Certain amendments, including the amendment on changes in unrealized gains and losses and the range and weighted average of significant unobservable inputs, should be applied prospectively while other amendments should be applied retrospectively to all periods presented upon their effective date. We are currently evaluating the potential impact of this authoritative guidance on our consolidated financial statements.

In December 2019, the FASB issued ASU No. 2019-12, “Income Taxes (Topic 740): Simplifying the Accounting for Income Taxes.” This standard simplifies the accounting for income taxes by eliminating certain exceptions to the guidance in Topic 740 related to the approach for intraperiod tax allocation, the methodology for calculating income taxes in an interim period and the recognition of deferred tax liabilities for outside basis differences. The standard also simplifies aspects of the accounting for franchise taxes and enacted changes in tax laws or rates and clarifies the accounting for transactions that result in a step-up in the tax basis of goodwill. ASU 2019-12 is effective for fiscal years beginning after December 15, 2020 and interim periods within that year. Early adoption is permitted. We are currently evaluating the potential impact of this authoritative guidance on our consolidated financial statements.

### ***Revenue Recognition***

Revenue is recognized when control of the promised goods or services is transferred to our customers in an amount that reflects the consideration to which we expect to be entitled in exchange for those goods or services. Sales-based taxes are excluded from revenue.

We provide mechanical and electrical contracting services. Our mechanical segment principally includes HVAC, plumbing, piping and controls, as well as off-site construction, monitoring and fire protection. Our electrical segment includes installation and servicing of electrical systems. We install, maintain, repair and replace products and systems throughout the United States. All of our revenue is recognized over time as we deliver goods and services to our customers. Revenue can be earned based on an agreed upon fixed price or based on actual costs incurred marked up at an agreed upon percentage.

For fixed price agreements, we use the percentage of completion method of accounting under which contract revenue recognizable at any time during the life of a contract is determined by multiplying expected total contract

revenue by the percentage of contract costs incurred at any time to total estimated contract costs. More specifically, as part of the negotiation and bidding process to obtain installation contracts, we estimate our contract costs, which include all direct materials, labor and subcontract costs and indirect costs related to contract performance, such as indirect labor, supplies, tools, repairs and depreciation costs. These contract costs are included in our results of operations under the caption “Cost of Services.” Then, as we perform under those contracts, we measure costs incurred, compare them to total estimated costs to complete the contract and recognize a corresponding proportion of contract revenue. Labor costs are considered to be incurred as the work is performed. Subcontractor labor is recognized as the work is performed. Non-labor project costs consist of purchased equipment, prefabricated materials and other materials. Purchased equipment on our projects is substantially produced to job specifications and is a value-added element to our work. The costs are considered to be incurred when title is transferred to us, which typically is upon delivery to the work site. Prefabricated materials, such as ductwork and piping, are generally performed at our shops and recognized as contract costs when fabricated for the unique specifications of the job. Other materials costs are generally recorded when delivered to the work site. This measurement and comparison process requires updates to the estimate of total costs to complete the contract, and these updates may include subjective assessments and judgments.

We account for a contract when: (i) it has approval and commitment from both parties, (ii) the rights of the parties are identified, (iii) payment terms are identified, (iv) the contract has commercial substance, and (v) collectability of consideration is probable. We consider the start of a project to be when the above criteria have been met and we either have written authorization from the customer to proceed or an executed contract.

Selling, marketing and estimation costs incurred in relation to selling contracts are expensed as incurred. On rare occasions, we may incur significant expenses related to selling a contract that we only incurred because we sold that contract. If this occurs, we capitalize that cost and amortize it on a percentage of completion basis over the life of the contract. We do not currently have any capitalized selling, marketing, or estimation costs on our Balance Sheet and did not incur any impairment loss in the current year.

We generally do not incur significant incremental costs related to obtaining or fulfilling a contract prior to the start of a project. On rare occasions, when significant pre-contract costs are incurred, they are capitalized and amortized on a percentage of completion basis over the life of the contract. We do not currently have any capitalized obtainment or fulfillment costs on our Balance Sheet and did not incur any impairment loss on such costs in the current year.

Project contracts typically provide for a schedule of billings or invoices to the customer based on our job-to-date percentage of completion of specific tasks inherent in the fulfillment of our performance obligation(s). The schedules for such billings usually do not precisely match the schedule on which costs are incurred. As a result, contract revenue recognized in our Statement of Operations can and usually does differ from amounts that can be billed or invoiced to the customer at any point during the contract. Amounts by which cumulative contract revenue recognized on a contract as of a given date exceed cumulative billings and unbilled receivables to the customer under the contract are reflected as a current asset in our Balance Sheet under the caption “Costs and estimated earnings in excess of billings.” Amounts by which cumulative billings to the customer under a contract as of a given date exceed cumulative contract revenue recognized on the contract are reflected as a current liability in our Balance Sheet under the caption “Billings in excess of costs and estimated earnings.”

Contracts in progress are as follows (in thousands):

	<u>December 31,</u>	
	<u>2019</u>	<u>2018</u>
Costs incurred on contracts in progress	\$ 2,518,581	\$ 1,574,460
Estimated earnings, net of losses	405,891	300,514
Less—Billings to date	(3,033,112)	(1,958,567)
Less—Unbilled accounts receivable	(55,542)	(37,180)
	<u>\$ (164,182)</u>	<u>\$ (120,773)</u>
Costs and estimated earnings in excess of billings	\$ 2,736	\$ 10,213
Billings in excess of costs and estimated earnings	(166,918)	(130,986)
	<u>\$ (164,182)</u>	<u>\$ (120,773)</u>

Accounts receivable include amounts billed to customers under retention or retainage provisions in construction contracts. Such provisions are standard in our industry and usually allow for a small portion of progress billings or the contract price to be withheld by the customer until after we have completed work on the project, typically for a period of six months. Based on our experience with similar contracts in recent years, the majority of our billings for such retention balances at each Balance Sheet date are finalized and collected within the subsequent year. Retention balances at December 31, 2019 and 2018 were \$111.7 million and \$80.8 million, respectively, and are included in accounts receivable.

Accounts payable at December 31, 2019 and 2018 included \$15.8 million and \$13.7 million of retainage under terms of contracts with subcontractors, respectively. The majority of the retention balances at each Balance Sheet date are finalized and paid within the subsequent year.

The percentage of completion method of accounting is also affected by changes in job performance, job conditions, and final contract settlements. These factors may result in revisions to estimated costs and, therefore, revenue. Such revisions are frequently based on further estimates and subjective assessments. The effects of these revisions are recognized in the period in which revisions are determined. When such revisions lead to a conclusion that a loss will be recognized on a contract, the full amount of the estimated ultimate loss is recognized in the period such conclusion is reached, regardless of the percentage of completion of the contract.

Revisions to project costs and conditions can give rise to change orders under which there is an agreement between the customer and us that the customer pays an additional or reduced contract price. Revisions can also result in claims we might make against the customer to recover project variances that have not been satisfactorily addressed through change orders with the customer. Except in certain circumstances, we do not recognize revenue or margin based on change orders or claims until they have been agreed upon with the customer. The amount of revenue associated with unapproved change orders and claims was immaterial for the year ended December 31, 2019.

Variations from estimated project costs could have a significant impact on our operating results, depending on project size, and the recoverability of the variation via additional customer payments.

We typically invoice our customers with payment terms of net due in 30 days. It is common in the construction industry for a contract to specify more lenient payment terms allowing the customer 45 to 60 days to make their payment. It is also common for the contract in the construction industry to specify that a general contractor is not required to submit payments to a subcontractor until it has received those funds from the owner or funding source. In most instances, we receive payment of our invoices between 30 to 90 days of the date of the invoice.

A performance obligation is a promise in a contract to transfer a distinct good or service to the customer and is the unit of account in ASC Topic 606. A contract's transaction price is allocated to each distinct performance obligation and recognized as revenue when, or as, the performance obligation is satisfied.

To determine the proper revenue recognition method for contracts, we evaluate whether two or more contracts should be combined and accounted for as one performance obligation and whether the combined or single contract should be accounted for as more than one performance obligation. This evaluation requires significant judgment and the decision to combine a group of contracts or separate the combined or single contract into multiple performance obligations could change the amount of revenue and profit recorded in a given period. For most of our contracts, the customer contracts with us to provide a significant service of integrating a complex set of tasks and components into a single project or capability (even if that single project results in the delivery of multiple units). Hence, the entire contract is accounted for as one performance obligation. Less commonly, however, we may promise to provide distinct goods or services within a contract, in which case we separate the contract into more than one performance obligation. If a contract is separated into more than one performance obligation, we allocate the total transaction price to each performance obligation in an amount based on the estimated relative standalone selling prices of the promised goods or services underlying each performance obligation. We infrequently sell standard products with observable standalone sales. In such cases, the observable standalone sales are used to determine the standalone selling price. More frequently, we sell a customized, customer-specific solution, and, in these cases, we typically use the expected cost plus a margin approach to estimate the standalone selling price of each performance obligation.



We recognize revenue over time for all of our services as we perform them because (i) control continuously transfers to that customer as work progresses, and (ii) we have the right to bill the customer as costs are incurred. The customer typically controls the work in process, as evidenced either by contractual termination clauses or by our rights to payment for work performed to date plus a reasonable profit to deliver products or services that do not have an alternative use to the Company.

For the reasons listed above, revenue is recognized based on the extent of progress towards completion of the performance obligation. The selection of the method to measure progress towards completion requires judgment and is based on the nature of the products or services to be provided. We generally use the cost to cost measure of progress for our contracts, as it best depicts the transfer of assets to the customer that occurs as we incur costs on our contracts. Under the cost to cost measure of progress, the extent of progress towards completion is measured based on the ratio of costs incurred to date to the total estimated costs at completion of the performance obligation. Revenue, including estimated fees or profits, is recorded proportionally as costs are incurred. Costs to fulfill include labor, materials and subcontractors' costs, other direct costs and an allocation of indirect costs.

In our mechanical segment, for a small portion of our business in which our services are delivered in the form of service maintenance agreements for existing systems to be repaired and maintained, as opposed to constructed, our performance obligation is to maintain the customer's mechanical system for a specific period of time. Similar to jobs, we recognize revenue over time; however, for service maintenance agreements in which the full cost to provide services may not be known, we generally use an input method to recognize revenue, which is based on the amount of time we have provided our services out of the total time we have been contracted to perform those services.

Due to the nature of the work required to be performed on many of our performance obligations, the estimation of total revenue and cost at completion (the process described below in more detail) is complex, subject to many variables and requires significant judgment. The consideration to which we are entitled on our long-term contracts may include both fixed and variable amounts. Variable amounts can either increase or decrease the transaction price. A common example of variable amounts that can either increase or decrease contract value are pending change orders that represent contract modifications for which a change in scope has been authorized or acknowledged by our customer, but the final adjustment to contract price is yet to be negotiated. Other examples of positive variable revenue include amounts awarded upon achievement of certain performance metrics, program milestones or cost of completion date targets and can be based upon customer discretion. Variable amounts can result in a deduction from contract revenue if we fail to meet stated performance requirements, such as complying with the construction schedule.

Contracts are often modified to account for changes in contract specifications and requirements. We consider contract modifications to exist when the modification either creates new or changes the existing enforceable rights and obligations. Most of our contract modifications are for goods or services that are not distinct from the existing performance obligation(s). The effect of a contract modification on the transaction price, and our measure of progress for the performance obligation to which it relates, is recognized as an adjustment to revenue (either as an increase or decrease) on a cumulative catchup basis.

We have a Company-wide policy requiring periodic review of the Estimate at Completion in which management reviews the progress and execution of our performance obligations and estimated remaining obligations. As part of this process, management reviews information including, but not limited to, any outstanding key contract matters, progress towards completion and the related program schedule, identified risks and opportunities and the related changes in estimates of revenue and costs. The risks and opportunities include management's judgment about the ability and cost to achieve the schedule (e.g., the number and type of milestone events), technical requirements (e.g., a newly developed product versus a mature product) and other contract requirements. Management must make assumptions and estimates regarding labor productivity and availability, the complexity of the work to be performed, the availability of materials, the length of time to complete the performance obligation (e.g., to estimate increases in wages and prices for materials and related support cost allocations), execution by our subcontractors, the availability and timing of funding from our customer, and overhead cost rates, among other variables.

Based on this analysis, any adjustments to revenue, cost of services, and the related impact to operating income are recognized as necessary in the quarter when they become known. These adjustments may result from positive program performance if we determine we will be successful in mitigating risks surrounding the technical, schedule and cost aspects of those performance obligations or realizing related opportunities and may result in an increase in operating income during the performance of individual performance obligations. Likewise, if we determine we will not be successful in mitigating these risks or realizing related opportunities, these adjustments may result in a decrease in

operating income. Changes in estimates of revenue, cost of services and the related impact to operating income are recognized quarterly on a cumulative catchup basis, meaning we recognize in the current period the cumulative effect of the changes on current and prior periods based on a performance obligation's percentage of completion. A significant change in one or more of these estimates could affect the profitability of one or more of our performance obligations. For projects in which estimates of total costs to be incurred on a performance obligation exceed total estimates of revenue to be earned, a provision for the entire loss on the performance obligation is recognized in the period the loss is determined.

The Company typically does not incur any returns, refunds, or similar obligations after the completion of the performance obligation since any deficiencies are corrected during the course of the work or are included as a modification to revenue. The Company does offer an industry standard warranty on our work, which is most commonly for a one-year period. The vendors providing the equipment and materials are responsible for any failures in their product unless installed incorrectly. We include an estimated amount to cover estimated warranty expense in our Cost of Services and record a liability on our Balance Sheet to cover our current estimated outstanding warranty obligations.

Prior to implementing ASC 606 on January 1, 2018, our methods for recognizing revenue were very similar to our current method under ASC 606. We used the actual cost as a percent of total expected cost at completion to estimate our percentage complete on fixed price jobs, a mark-up of costs for jobs in which revenue was based on time and materials incurred and elapsed time for those service maintenance contracts in which the full cost to provide the services cannot be reasonably estimated. Furthermore, our process for allocating transaction price to performance obligations is also substantially similar to prior years when, in most cases, a contract is one performance obligation. In those cases in which a contract is determined to have more than one performance obligation, the contract price is allocated to each performance obligation based on its standalone sales price.

During the years ended December 31, 2018 and December 31, 2019, net revenue recognized from our performance obligations satisfied in previous periods was not material.

#### ***Disaggregation of Revenue***

Our consolidated 2019 revenue was derived from contracts to provide service activities in the mechanical and electrical services segments we serve. Refer to Note 14 – Segment Information for additional information on our reportable segments. We disaggregate our revenue from contracts with customers by activity, customer type and contract type, as we believe it best depicts how the nature, amount, timing and uncertainty of our revenue and cash flows are affected by economic factors. See details in the following tables (dollars in thousands):

<b>Revenue by Service Provided</b>	<b>Year Ended December 31,</b>					
	<b>2019</b>		<b>2018</b>		<b>2017</b>	
Mechanical Services	\$2,251,560	86.1 %	\$2,176,223	99.7 %	\$1,787,922	100.0 %
Electrical Services	363,717	13.9 %	6,656	0.3 %	—	—
<b>Total</b>	<b>\$2,615,277</b>	<b>100.0 %</b>	<b>\$2,182,879</b>	<b>100.0 %</b>	<b>\$1,787,922</b>	<b>100.0 %</b>

<b>Revenue by Type of Customer</b>	<b>Year Ended December 31,</b>					
	<b>2019</b>		<b>2018</b>		<b>2017</b>	
Industrial	\$ 886,668	33.9 %	\$ 596,557	27.3 %	\$ 395,362	22.1 %
Education	412,318	15.8 %	391,937	18.0 %	351,808	19.7 %
Office Buildings	348,640	13.3 %	288,090	13.2 %	248,604	13.9 %
Healthcare	358,155	13.7 %	319,958	14.7 %	224,643	12.6 %
Government	162,507	6.2 %	143,958	6.6 %	140,843	7.9 %
Retail, Restaurants and Entertainment	248,083	9.5 %	225,348	10.3 %	223,593	12.5 %
Multi-Family and Residential	104,693	4.0 %	136,075	6.2 %	116,844	6.5 %
Other	94,213	3.6 %	80,956	3.7 %	86,225	4.8 %
<b>Total</b>	<b>\$2,615,277</b>	<b>100.0 %</b>	<b>\$2,182,879</b>	<b>100.0 %</b>	<b>\$1,787,922</b>	<b>100.0 %</b>

Revenue by Activity Type	Year Ended December 31,					
	2019		2018		2017	
New Construction	\$1,201,122	45.9 %	\$ 829,978	38.0 %	\$ 684,687	38.3 %
Existing Building Construction	793,159	30.3 %	796,946	36.5 %	580,737	32.4 %
Service Projects	231,228	8.9 %	206,506	9.5 %	197,703	11.1 %
Service Calls, Maintenance and Monitoring	389,768	14.9 %	349,449	16.0 %	324,795	18.2 %
Total	<u>\$2,615,277</u>	<u>100.0 %</u>	<u>\$2,182,879</u>	<u>100.0 %</u>	<u>\$ 1,787,922</u>	<u>100.0 %</u>

### **Accounts Receivable**

Accounts Receivable include amounts from work completed in which we have billed or have an unconditional right to bill our customers. The amounts due are stated at their net estimated realizable value. We maintain an allowance for doubtful accounts to provide for the estimated amount of receivables that will not be collected. The allowance is based upon an assessment of customer creditworthiness, historical payment experience, the age of outstanding receivables and collateral to the extent applicable.

### **Contract Assets and Liabilities**

Contract assets include unbilled amounts typically resulting from sales under long term contracts when the cost to cost method of revenue recognition is used, revenue recognized exceeds the amount billed to the customer and right to payment is conditional, subject to completing a milestone, such as a phase of the project. Contract assets are generally classified as current.

Contract liabilities consist of advance payments and billings in excess of revenue recognized. Our contract assets and liabilities are reported in a net position on a contract by contract basis at the end of each reporting period. We classify advance payments and billings in excess of revenue recognized as current. It is very unusual for us to have advanced payments with a term of greater than one year; therefore, our contract assets and liabilities are usually all current. If we have advanced payments with a term greater than one year, the noncurrent portion of advanced payments would be included in other long-term liabilities in our consolidated Balance Sheets.

The following table presents the changes in contract assets and contract liabilities (in thousands):

	Year Ended December 31,			
	2019		2018	
	Contract Assets	Contract Liabilities	Contract Assets	Contract Liabilities
Balance at beginning of period	\$ 10,213	\$130,986	\$ 30,116	\$106,005
Change due to acquisitions / disposals	6,573	31,556	2,833	8,195
Change due to conditional versus unconditional	(14,050)	—	6,244	—
Reclassified to unbilled accounts receivable	—	—	(28,980)	—
Change in timing for performance obligation to be satisfied	—	4,376	—	16,786
Balance at end of period	<u>\$ 2,736</u>	<u>\$166,918</u>	<u>\$ 10,213</u>	<u>\$130,986</u>

During the years ended December 31, 2019 and 2018, we recognized revenue of \$126.7 million and \$97.6 million related to our contract liabilities at January 1, 2019 and January 1, 2018, respectively.

We did not have any impairment losses recognized on our receivables or contract assets in 2019 and 2018.

### **Remaining Performance Obligations**

Remaining construction performance obligations represent the remaining transaction price of firm orders for which work has not been performed and excludes unexercised contract options. As of December 31, 2019, the aggregate amount of the transaction price allocated to remaining performance obligations was \$1.60 billion. The Company expects to recognize revenue on approximately 85% of the remaining performance obligations over the next 12 months, with the remaining recognized thereafter. Our service maintenance agreements are generally one-year renewable agreements.

We have adopted the practical expedient that allows us to not include service maintenance contracts less than one year, therefore we do not report unfulfilled performance obligations for service maintenance agreements.

**Leases**

We lease certain facilities, vehicles and equipment under noncancelable operating leases. The most significant portion of these noncancelable operating leases are for the facilities occupied by our corporate office and our operating locations. Leases with an initial term of 12 months or less are not recorded on the Balance Sheet. We account for lease components separately from the non-lease components. We have certain leases with variable payments based on an index as well as some short-term leases on equipment and facilities. Variable lease expense and short-term lease expense were not material to our financial statements and aggregated to \$8.4 million in 2019. Lease right-of-use assets and liabilities are recognized at commencement date based on the present value of lease payments over the lease term. As most of our leases do not provide an implicit rate, we generally use our incremental borrowing rate based on the information available at commencement date in determining the present value of lease payments. The weighted average discount rate as of December 31, 2019 was 3.9%. We recognize lease expense, including escalating lease payments and lease incentives, on a straight-line basis over the lease term. Lease expense for the years ended December 31, 2019, 2018 and 2017 was \$24.8 million, \$23.4 million and \$21.1 million respectively.

The lease terms generally range from three to ten years. Some leases include one or more options to renew, with renewal terms that can extend the lease term. We include the exercise of lease renewal options in the lease term when it is reasonably certain that we will exercise the option and such exercise is at our sole discretion. The weighted average remaining lease term was 8.1 years at December 31, 2019.

A majority of the Company’s real property leases are with individuals or entities with whom we have no other business relationship. However, in certain instances the Company enters into real property leases with current or former employees. Rent paid to related parties for the years ended December 31, 2019, 2018 and 2017 was approximately \$3.7 million, \$4.8 million and \$4.8 million, respectively.

If we decide to cancel or terminate a lease before the end of its term, we would typically owe the lessor the remaining lease payments under the term of the lease. Our lease agreements do not contain any material residual value guarantees or material restrictive covenants. On rare occasions, we rent or sublease certain real estate assets that we no longer use to third parties.

The following table summarizes the lease assets and liabilities included in the consolidated Balance Sheet as follows (in thousands):

	<b>December 31, 2019</b>
Lease right-of-use assets	\$ 84,073
Lease liabilities:	
Other current liabilities	14,016
Long-term lease liabilities	72,697
<b>Total lease liabilities</b>	<b>\$ 86,713</b>

The maturities of lease liabilities as of December 31, 2019 are as follows (in thousands):

Year ending December 31—	
2020	\$ 17,124
2021	15,096
2022	12,873
2023	10,797
2024	9,222
Thereafter	36,954
Total Lease Payments	102,066
Less—Present Value Discount	(15,353)
Present Value of Lease Liabilities	<b>\$ 86,713</b>

The following table represents future minimum rental payments under noncancelable operating leases under ASC 840 as of December 31, 2018 (in thousands):

Year ending December 31—	
2019	\$ 13,503
2020	10,768
2021	9,449
2022	7,707
2023	6,402
Thereafter	28,328
	<u>\$ 76,157</u>

Supplemental information related to leases was as follows (in thousands):

	Year Ended December 31, 2019	
Cash paid for amounts included in the measurement of lease liabilities	\$	16,895
Lease right-of-use assets obtained in exchange for lease liabilities	\$	26,811

### ***Inventories***

Inventories consist of parts and supplies that we purchase and hold for use in the ordinary course of business and are stated at the lower of cost or net realizable value using the average-cost method.

### ***Property and Equipment***

Property and equipment are stated at cost, and depreciation is computed using the straight-line method over the estimated useful lives of the assets. Leasehold improvements are capitalized and amortized over the lesser of the expected life of the lease or the estimated useful life of the asset.

Expenditures for repairs and maintenance are charged to expense when incurred. Expenditures for major renewals and betterments, which extend the useful lives of existing equipment, are capitalized and depreciated over the remaining useful life of the equipment. Upon retirement or disposition of property and equipment, the cost and related accumulated depreciation are removed from the accounts and any resulting gain or loss is recognized in “Gain on sale of assets” in the Statement of Operations.

### ***Recoverability of Goodwill and Identifiable Intangible Assets***

Goodwill is the excess of purchase price over the fair value of the net assets of acquired businesses. We assess goodwill for impairment each year, and more frequently if circumstances suggest an impairment may have occurred.

When the carrying value of a given reporting unit exceeds its fair value, a goodwill impairment loss is recorded for this difference, not to exceed the carrying amount of goodwill. If other reporting units have had increases in fair value, such increases may not be recorded. Accordingly, such increases may not be netted against impairments at other reporting units. The requirements for assessing whether goodwill has been impaired involve market-based information. This information, and its use in assessing goodwill, entails some degree of subjective assessment.

We perform our annual impairment testing as of October 1 and any impairment charges resulting from this process are reported in the fourth quarter. We segregate our operations into reporting units based on the degree of operating and financial independence of each unit and our related management of them. We perform our annual goodwill impairment testing at the reporting unit level. We perform a goodwill impairment review for each of our operating units, as we have determined that each of our operating units are reporting units.

In the evaluation of goodwill for impairment, we have the option to first assess qualitative factors to determine whether the existence of events or circumstances lead to a determination that it is more likely than not that the fair value of one of our reporting units is greater than its carrying value. If, after completing such assessment, we determine it is

more likely than not that the fair value of a reporting unit is greater than its carrying amount, then there is no need to perform any further testing. If we conclude otherwise, then we calculate the fair value of the reporting unit and compare the fair value with the carrying value of the reporting unit.

We estimate the fair value of the reporting unit based on a market approach and an income approach, which utilizes discounted future cash flows. Assumptions critical to the fair value estimates under the discounted cash flow model include discount rates, cash flow projections, projected long-term growth rates and the determination of terminal values. The market approach utilizes market multiples of invested capital from comparable publicly traded companies (“public company approach”). The market multiples from invested capital include revenue, book equity plus debt and earnings before interest, provision for income taxes, depreciation and amortization (“EBITDA”).

We amortize identifiable intangible assets with finite lives over their useful lives. Changes in strategy and/or market condition may result in adjustments to recorded intangible asset balances or their useful lives.

### ***Long-Lived Assets***

Long-lived assets are comprised principally of goodwill, identifiable intangible assets, property and equipment, and deferred tax assets. We periodically evaluate whether events and circumstances have occurred that indicate that the remaining balances of these assets may not be recoverable. We use estimates of future income from operations and cash flows, as well as other economic and business factors, to assess the recoverability of these assets.

### ***Acquisitions***

We recognize assets acquired and liabilities assumed in business combinations, including contingent assets and liabilities, based on fair value estimates as of the date of acquisition.

*Contingent Consideration*—In certain acquisitions, we agree to pay additional amounts to sellers contingent upon achievement by the acquired businesses of certain predetermined profitability targets. We have recognized liabilities for these contingent obligations based on their estimated fair value at the date of acquisition with any differences between the acquisition date fair value and the ultimate settlement of the obligations being recognized in income from operations.

*Contingent Assets and Liabilities*—Assets and liabilities arising from contingencies are recognized at their acquisition date fair value when their respective fair values are determinable. Acquisition date fair value estimates are revised as necessary if, and when, additional information regarding these contingencies becomes available to further define and quantify assets acquired and liabilities assumed.

### ***Self-Insurance Liabilities***

We are substantially self-insured for workers’ compensation, employer’s liability, auto liability, general liability and employee group health claims, in view of the relatively high per-incident deductibles we absorb under our insurance arrangements for these risks. Losses are estimated and accrued based upon known facts, historical trends and industry averages. Estimated losses in excess of our deductible, which have not already been paid, are included in our accrual with a corresponding receivable from our insurance carrier. Loss estimates associated with the larger and longer-developing risks—workers’ compensation, auto liability and general liability—are reviewed by a third-party actuary quarterly. Our self-insurance arrangements are further discussed in Note 11 “Commitments and Contingencies.”

### ***Warranty Costs***

We typically warrant labor for the first year after installation on new MEP systems that we build and install, and we pass through to the customer manufacturers’ warranties on equipment. We generally warrant labor for thirty days after servicing existing MEP systems. A reserve for warranty costs is estimated and recorded based upon the historical level of warranty claims and management’s estimate of future costs.

### ***Income Taxes***

We conduct business throughout the United States in virtually all fifty states. Our effective tax rate changes based upon our relative profitability, or lack thereof, in states with varying tax rates and rules. In addition, discrete items such as tax law changes, judgments and legal structures can impact our effective tax rate. These items can also include the tax treatment for impairment of goodwill and other intangible assets, changes in fair value of acquisition-related assets and liabilities, tax reserves for uncertain tax positions, accounting for losses associated with underperforming operations and noncontrolling interests.

Income taxes are provided for under the liability method, which takes into account differences between financial statement treatment and tax treatment of certain transactions. Deferred taxes are based on the difference between the financial reporting and tax basis of assets and liabilities. The deferred tax provision represents the change during the reporting period in the deferred tax assets and deferred tax liabilities, net of the effect of acquisitions and dispositions. Deferred tax assets include tax loss and credit carryforwards and are reduced by a valuation allowance if, based on available evidence, it is more-likely-than-not some portion or all of the deferred tax assets will not be realized.

We regularly evaluate valuation allowances established for deferred tax assets for which future realization is uncertain. We perform this evaluation quarterly. In assessing the realizability of deferred tax assets, we must consider whether it is more-likely-than-not some portion, or all, of the deferred tax assets will not be realized. We consider all available evidence, both positive and negative, in determining whether a valuation allowance is required. Such evidence includes the scheduled reversal of deferred tax liabilities, projected future taxable income, taxable income in prior carryback years and tax planning strategies in making this assessment, and judgment is required in considering the relative weight of negative and positive evidence.

Significant judgment is required in assessing the timing and amounts of deductible and taxable items. We establish reserves when, despite our belief that our tax return positions are supportable, we believe that certain positions may be disallowed. When facts and circumstances change, we adjust these reserves through our provision for income taxes.

To the extent interest and penalties may be assessed by taxing authorities on any underpayment of income tax, such amounts have been accrued and are classified as a component in provision for income taxes in our Consolidated Statements of Operations.

### ***Concentrations of Credit Risk***

We provide services in a broad range of geographic regions. Our credit risk primarily consists of receivables from a variety of customers including general contractors, property owners and developers and commercial and industrial companies. We are subject to potential credit risk related to changes in business and economic factors throughout the United States within the nonresidential construction industry. However, we are entitled to payment for work performed and have certain lien rights in that work. Further, we believe that our contract acceptance, billing and collection policies are adequate to manage potential credit risk. We regularly review our accounts receivable and estimate an allowance for uncollectible amounts. We have a diverse customer base, with our top customer representing 5% of consolidated 2019 revenue.

### ***Financial Instruments***

Our financial instruments consist of cash and cash equivalents, accounts receivable, other receivables, accounts payable, life insurance policies, notes to former owners, a revolving credit facility and a term loan. We believe that the carrying values of these instruments on the accompanying Balance Sheets approximate their fair values.

### ***Insurance Recovery***

We recorded a \$4.8 million gain in the fourth quarter of 2019 due to insurance proceeds we received in the fourth quarter related to the ransomware incident that occurred in April 2019. Approximately \$1.6 million of the gain was recorded as a reduction in SG&A, and the remainder was recorded as a reduction in Cost of Services expense. These proceeds related to recoverable costs that were primarily incurred prior to the fourth quarter in 2019. We do not expect any additional insurance proceeds or other recoveries related to the ransomware incident.

### 3. Fair Value Measurements

We classify and disclose assets and liabilities carried at fair value in one of the following three categories:

- Level 1—quoted prices in active markets for identical assets and liabilities;
- Level 2—observable market-based inputs or unobservable inputs that are corroborated by market data; and
- Level 3—significant unobservable inputs in which little or no market data exists, therefore requiring an entity to develop its own assumptions.

The following table summarizes the fair values, and levels within the fair value hierarchy in which the fair value measurements fall, for assets and liabilities measured on a recurring basis as of December 31, 2019 and 2018 (in thousands):

	Fair Value Measurements at December 31, 2019			
	Level 1	Level 2	Level 3	Total
Cash and cash equivalents	\$ 50,788	\$ —	\$ —	\$ 50,788
Life insurance—cash surrender value	\$ —	\$ 3,905	\$ —	\$ 3,905
Contingent earn-out obligations	\$ —	\$ —	\$ 28,497	\$ 28,497

	Fair Value Measurements at December 31, 2018			
	Level 1	Level 2	Level 3	Total
Cash and cash equivalents	\$ 45,620	\$ —	\$ —	\$ 45,620
Life insurance—cash surrender value	\$ —	\$ 3,252	\$ —	\$ 3,252
Contingent earn-out obligations	\$ —	\$ —	\$ 7,375	\$ 7,375

Cash and cash equivalents consist primarily of highly rated money market funds at a variety of well-known institutions with original maturities of three months or less. The original cost of these assets approximates fair value due to their short-term maturity. The Company's outstanding term loan held by third-party financial institutions is carried at cost, adjusted for debt issuance costs. The Company's term loan is not publicly traded and the carrying amount approximates fair value as the loan accrues interest at a variable rate. The carrying value of our borrowings associated with the Revolving Credit Facility approximate its fair value due to the variable rate on such debt.

We have life insurance policies covering 65 employees with a combined face value of \$50.6 million. The policies are invested in several investment vehicles, and the fair value measurement of the cash surrender balance associated with these policies is determined using Level 2 inputs within the fair value hierarchy and will vary with investment performance. The cash surrender value of these policies was \$3.9 million as of December 31, 2019 and \$3.3 million as of December 31, 2018. These assets are included in "Other Noncurrent Assets" in our consolidated Balance Sheets.

We value contingent earn-out obligations using a probability weighted discounted cash flow method. This fair value measurement is based on significant unobservable inputs in the market and thus represents a Level 3 measurement within the fair value hierarchy. This analysis reflects the contractual terms of the purchase agreements (e.g., minimum and maximum payments, length of earn-out periods, manner of calculating any amounts due, etc.) and utilizes assumptions with regard to future cash flows, probabilities of achieving such future cash flows and a discount rate. The contingent earn-out obligations are measured at fair value each reporting period and changes in estimates of fair value are recognized in earnings.



The table below presents a reconciliation of the fair value of our contingent earn-out obligations that use significant unobservable inputs (Level 3) (in thousands):

	<u>December 31,</u>	
	<u>2019</u>	<u>2018</u>
Balance at beginning of year	\$ 7,375	\$ 7,993
Issuances	19,500	4,366
Settlements	(1,369)	(7,050)
Adjustments to fair value	2,991	2,066
Balance at end of year	<u>\$28,497</u>	<u>\$ 7,375</u>

We measure certain assets at fair value on a nonrecurring basis. These assets are recognized at fair value when they are deemed to be other-than-temporarily impaired. No goodwill or other intangible asset impairments were recorded during the years ended December 31, 2019 and 2018. During the year ended December 31, 2017, we recorded a goodwill impairment charge of \$1.1 million based on Level 3 measurements. We did not recognize any other impairments on those assets required to be measured at fair value on a nonrecurring basis. See Note 5 “Goodwill and Identifiable Intangible Assets, Net” for further discussion.

#### 4. Acquisitions

##### *Walker Acquisition*

On April 1, 2019, we acquired all of the issued and outstanding equity interests of Walker TX Holding Company, LLC and each of its wholly owned subsidiaries (collectively “Walker”). Walker is a full-service electrical contracting and network infrastructure engineering business serving commercial and industrial clients with headquarters in Irving, Texas and operations throughout the state of Texas. As a result of the acquisition, Walker is a wholly owned subsidiary of the Company reported in our electrical services segment. Revenue attributable to Walker was \$343.2 million for the nine months from the acquisition date.

The following summarizes the acquisition date fair value of consideration transferred and the acquisition date fair value of the identifiable assets acquired and liabilities assumed, including an amount for goodwill (in thousands):

Consideration transferred:	
Cash paid at closing	\$ 178,000
Advance to former owners	20,500
Working capital adjustment	(7,809)
Notes issued to former owners	25,000
Tax equalization payment	202
Estimated fair value of contingent earn-out payments	19,500
	<u>\$ 235,393</u>
Recognized amounts of identifiable assets acquired and liabilities assumed:	
Cash and cash equivalents	\$ 4,850
Billed and unbilled accounts receivable	92,309
Other current assets	8,225
Other long-term assets	53
Property and equipment	4,970
Goodwill	96,686
Identifiable intangible assets	90,200
Lease right-of-use asset	9,195
Accounts payable	(20,220)
Accrued compensation and benefits	(974)
Billings in excess of costs and estimated earnings	(31,553)
Other current liabilities	(11,205)
Long-term lease liabilities	(7,143)
	<u>\$ 235,393</u>

The allocation of the purchase price to the assets acquired and liabilities assumed is preliminary and, therefore, subject to change pending the completion of the final valuation of intangible assets and accrued liabilities. Goodwill represents the future economic benefits arising from other assets acquired that could not be individually identified and separately recognized. All of the goodwill recognized as a result of this transaction is tax deductible.

In estimating the fair value of the acquired intangible assets, we utilized the valuation methodology determined to be the most appropriate for the individual intangible asset. In order to estimate the fair value of the backlog and customer relationships, we utilized an excess earnings methodology, which consisted of the projected cash flows attributable to these assets discounted to present value using a risk-adjusted discount rate that represented the required rate of return. The trade name value was determined based on the relief-from-royalty method, which applies a royalty rate to the revenue stream attributable to this asset, and the resulting royalty payment is tax effected and discounted to present value. Some of the more significant estimates and assumptions inherent in determining the fair value of the identifiable intangible assets are associated with forecasting cash flows and profitability, which represent Level 3 inputs. The primary assumptions used were generally based upon the present value of anticipated cash flows discounted at rates ranging from 8.5%-11.5%. Estimated years of projected earnings generally follow the range of estimated remaining useful lives for each intangible asset class.

The acquired intangible assets include the following (dollars in thousands):

	Valuation Method	Estimated Useful Life	Estimated Fair Value
Backlog	Excess earnings	2 years	\$ 4,600
Trade Names	Relief-from-royalty	25 years	32,600
Customer Relationships	Excess earnings	10 years	53,000
Total			<u>\$ 90,200</u>

The contingent earn-out obligation is associated with the achievement of specified earnings milestones over a five year period, and the range of estimated milestone payments is from \$1 million to \$11 million (undiscounted). We determined the initial fair value of the contingent earn-out obligation based on the Monte Carlo Simulation method, which represents a Level 3 measurement. Cash flows were discounted using a 10.2% discount rate, which we believe is appropriate and representative of a market participant assumption. Subsequent to the acquisition date, the contingent earn-out obligation is re-measured at fair value each reporting period. Changes in the estimated fair value of the contingent payments subsequent to the acquisition date are recognized immediately in earnings.

***Pro Forma Impact of the Acquisition***

The following unaudited pro forma information presents the consolidated results of the Company and Walker for the twelve months ended December 31, 2019 and 2018, with adjustments to give effect to pro forma events that are directly attributable to the acquisition and have a continuing impact. The unaudited pro forma information is presented for illustrative purposes only and is not necessarily indicative of the results of operations of future periods or the results of operations that actually would have been realized had the entities been a single company during the periods presented or the results that the company will experience after the acquisition. The unaudited pro forma information does not give effect to the potential impact of current financial conditions, regulatory matters or any operating efficiencies that may be associated with the acquisition.

The unaudited pro forma consolidated results of operations, assuming the acquisition had occurred on January 1, 2018, are as follows (in thousands):

	Year Ended December 31,	
	2019	2018
Revenue	\$ 2,703,638	\$ 2,574,206
Pre-tax income	\$ 152,136	\$ 143,473

Pro forma pre-tax income in 2018 includes compensation expenses of approximately \$9.6 million of Walker's former owners under terms that are not included in their post-transaction employment agreements.

### Other Acquisitions

In addition to the Walker acquisition, we completed one acquisition in the first quarter of 2019 and one acquisition in the second quarter of 2019 with a total preliminary purchase price of \$2.6 million for the year ended December 31, 2019. We completed two acquisitions in the third quarter of 2018, three acquisitions in the second quarter of 2018 and two acquisitions in the first quarter of 2018, with a total purchase price of \$96.4 million for the year ended December 31, 2018. One acquisition completed in the third quarter of 2018 reports as a separate operating location and the remainder were “tucked-in” with existing operations. Our consolidated Balance Sheet includes preliminary allocations of the purchase price to the assets acquired and liabilities assumed pending the completion of the final valuation of intangible assets and accrued liabilities.

In the second quarter of 2017, we acquired all of the issued and outstanding stock of BCH Holdings, Inc. and each of its wholly-owned subsidiaries (collectively “BCH”) for \$121.3 million of which \$97.0 million was allocated to goodwill and identifiable intangible assets. The total purchase price included \$95.4 million in cash, \$14.3 million in notes payable to former owners and an \$11.6 million contingent earn-out obligation. BCH is an integrated, single-source provider of mechanical service, maintenance and construction with headquarters in Tampa, Florida and operations throughout the southeastern region of the United States, which reports as a separate operating location. In addition to the BCH acquisition, we completed four additional acquisitions in 2017. The total purchase price for these additional acquisitions, including earn-outs, was \$9.4 million.

The results of operations of acquisitions are included in our consolidated financial statements from their respective acquisition dates. The acquisitions completed in the current and prior year were not material, individually or in the aggregate. Additional contingent purchase price (“earn-out”) has been or will be paid if certain acquisitions achieve predetermined profitability targets. Such earn-outs, when they are not subject to the continued employment of the sellers, are estimated as of the purchase date and included as part of the consideration paid for the acquisition. If we have an earn-out where continued employment is a condition to receive payment, then the earn-out is recorded as compensation expense over the period earned.

## 5. Goodwill and Identifiable Intangible Assets, Net

### Goodwill

The changes in the carrying amount of goodwill are as follows (in thousands):

	Mechanical Services Segment	Electrical Services Segment	Total
Balance at December 31, 2017	\$ 200,584	\$ —	\$ 200,584
Acquisitions and purchase price adjustments (See Note 4)	34,598	—	34,598
Impairment adjustment	—	—	—
Balance at December 31, 2018	235,182	—	235,182
Acquisitions and purchase price adjustments (See Note 4)	579	96,686	97,265
Impact of segment reorganization	(1,101)	1,101	—
Impairment adjustment	—	—	—
Balance at December 31, 2019	\$ 234,660	\$ 97,787	\$ 332,447

The aggregate goodwill balance as of December 31, 2019 and 2018 includes \$116.6 million of accumulated impairment charges, all of which relate to the mechanical services segment.

We perform our annual impairment testing on October 1, or more frequently, if events and circumstances indicate impairment may have occurred. As discussed in Note 2, “Summary of Significant Accounting Policies,” we have the option to first perform a qualitative assessment to determine whether it is more likely than not that the fair value of the reporting unit is less than the carrying value.

During our annual impairment testing on October 1, 2019, we performed a quantitative assessment where the fair value of each reporting unit was estimated using a discounted cash flow model combined with a market valuation approach. We assigned a weighting of 50% to the discounted cash flow analysis and 50% to the public company approach for the year ended December 31, 2019. Based on this assessment, we concluded that the fair value of each of the reporting units was greater than its carrying value.

During 2018, we performed a qualitative assessment for each reporting unit, which considered various factors, including changes in the carrying value of the reporting unit, forecasted operating results, long-term growth rates and discount rates. Additionally, we considered qualitative key events and circumstances (i.e. macroeconomic environment, industry and market specific conditions, cost factors and events specific to the reporting unit, etc.). Based on this assessment, we concluded that it was more likely than not that the fair value of each of the reporting units was greater than its carrying value. Accordingly, no further testing was required.

We recorded a goodwill impairment charge of \$1.1 million during the first quarter of 2017. Based on changes to our market strategy that occurred in March 2017 related to our California reporting unit (which was subsequently sold in the third quarter of 2019), we reevaluated our projected future earnings for this operating location and determined that we could no longer support the related goodwill balance and therefore the goodwill associated with this location was fully impaired. The fair value was estimated using a discounted cash flow model. The annual impairment test did not identify any additional impairment for 2017.

There are significant inherent uncertainties and management judgment involved in estimating the fair value of each reporting unit. While we believe we have made reasonable estimates and assumptions to estimate the fair value of our reporting units, it is possible that a material change could occur. If actual results are not consistent with our current estimates and assumptions, or the current economic outlook worsens, goodwill impairment charges may be recorded in future periods.

**Identifiable Intangible Assets, Net**

Identifiable intangible assets consist of the following (dollars in thousands):

	Estimated Useful Lives in Years	December 31,			
		2019		2018	
		Gross Book Value	Accumulated Amortization	Gross Book Value	Accumulated Amortization
Customer relationships	1 - 15	\$183,061	\$ (80,813)	\$128,480	\$ (60,731)
Backlog	1 - 2	7,400	(6,388)	9,100	(8,260)
Tradenames	2 - 25	71,995	(15,281)	39,395	(12,709)
Total		<u>\$262,456</u>	<u>\$ (102,482)</u>	<u>\$176,975</u>	<u>\$ (81,700)</u>

The amounts attributable to customer relationships and tradenames are amortized to “Selling, General and Administrative Expenses” based upon the estimated consumption of their economic benefits, or a straight-line method over periods from one to twenty-five years if the pattern of economic benefit cannot otherwise be reliably estimated. The amounts attributable to backlog are being amortized to “Cost of Services” on a proportionate method over the remaining backlog period. Amortization expense for the years ended December 31, 2019, 2018 and 2017 was \$27.1 million, \$20.1 million and \$17.4 million, respectively.

At December 31, 2019, future amortization expense of identifiable intangible assets is as follows (in thousands):

Year ended December 31—	
2020	\$ 23,246
2021	19,191
2022	16,545
2023	15,082
2024	13,732
Thereafter	72,178
Total	<u>\$ 159,974</u>

## 6. Property and Equipment

Property and equipment consist of the following (dollars in thousands):

	Estimated Useful Lives in Years	December 31,	
		2019	2018
Land	—	\$ 6,206	\$ 5,702
Transportation equipment	1 - 7	106,972	98,898
Machinery and equipment	1 - 20	35,575	33,907
Computer and telephone equipment	1 - 10	20,744	20,179
Buildings and leasehold improvements	1 - 40	62,301	53,559
Furniture and fixtures	1 - 17	5,244	4,879
Construction in progress	—	2,123	1,715
		239,165	218,839
Less—Accumulated depreciation		(129,369)	(119,221)
Property and equipment, net		<u>\$ 109,796</u>	<u>\$ 99,618</u>

Depreciation expense for the years ended December 31, 2019, 2018 and 2017 was \$24.5 million, \$22.6 million and \$20.1 million, respectively.

## 7. Detail of Certain Balance Sheet Accounts

Activity in our allowance for doubtful accounts consists of the following (in thousands):

	December 31,		
	2019	2018	2017
Balance at beginning of year	\$ 5,898	\$ 3,400	\$ 4,288
Bad debt expense (benefit)	2,978	3,562	182
Deductions for uncollectible receivables written off, net of recoveries	(3,924)	(1,304)	(1,829)
Allowance for doubtful accounts of acquired companies at date of acquisition	1,955	240	759
Balance at end of year	<u>\$ 6,907</u>	<u>\$ 5,898</u>	<u>\$ 3,400</u>

Other current liabilities consist of the following (in thousands):

	December 31,	
	2019	2018
Accrued warranty costs	\$ 7,452	\$ 6,453
Current lease liability	14,016	—
Accrued job losses	2,226	1,495
Accrued sales and use tax	2,938	2,685
Deferred revenue	5,506	5,233
Liabilities due to former owners	11,219	2,045
Other current liabilities	38,273	14,941
	<u>\$ 81,630</u>	<u>\$ 32,852</u>

## 8. Debt Obligations

Debt obligations consist of the following (in thousands):

	December 31,	
	2019	2018
Revolving credit facility	\$ 28,000	\$ 50,000
Term loan	150,000	—
Notes to former owners	48,483	26,813
Other debt	—	105
Total principal amount	226,483	76,918
Less—unamortized debt issuance costs	(348)	—
Total debt, net of unamortized debt issuance costs	226,135	76,918
Less—current portion	(20,817)	(3,279)
Total long-term portion of debt, net	<u>\$ 205,318</u>	<u>\$ 73,639</u>

At December 31, 2019, future principal payments of debt are as follows (in thousands):

Year ended December 31—	
2020	\$ 20,817
2021	17,666
2022	27,500
2023	27,500
2024	22,500
Thereafter	110,500
	<u>\$226,483</u>

Interest expense included the following primary elements (in thousands):

	Year Ended December 31,		
	2019	2018	2017
Interest expense on notes to former owners	\$ 1,531	\$ 642	\$ 365
Interest expense on borrowings and unused commitment fees	6,887	2,211	1,862
Letter of credit fees	512	474	553
Amortization of debt financing costs	387	383	376
Total	<u>\$ 9,317</u>	<u>\$3,710</u>	<u>\$3,156</u>

### ***Revolving Credit Facility and Term Loan***

On December 20, 2019, we amended our senior credit facility (the “Facility”) provided by a syndicate of banks, increasing our borrowing capacity from \$400.0 million to \$600.0 million. As amended, the Facility is composed of a revolving credit line in the amount of \$450.0 million and a \$150.0 million term loan, and the Facility also provides for a \$150.0 million accordion or increase option for the revolving portion of the Facility. The amended Facility also includes

a sublimit of up to \$160.0 million issuable in the form of letters of credit. The Facility expires in January 2025 and is secured by a first lien on substantially all of our personal property except for assets related to projects subject to surety bonds and assets held by certain unrestricted subsidiaries and our wholly owned captive insurance company, and a second lien on our assets related to projects subject to surety bonds. In 2019, we incurred approximately \$1.4 million in financing and professional costs in connection with an amendment to the Facility which are being amortized over the remaining term of the Facility. Of this amount, \$0.4 million is attributable to the term loan and is being amortized using the effective interest method. The remaining \$1.0 million is attributable to the revolving credit line, which combined with the previous unamortized costs of \$1.3 million, is being amortized over the remaining term of the Facility on a straight-line basis as a non-cash charge to interest expense. For the term loan, we are required to make quarterly payments increasing over time from 1.25% to 3.75% of the original aggregate principal amount of the term loan, with the balance due in January 2025. As of December 31, 2019, we had \$150.0 million principal outstanding on the term loan, \$28.0 million of outstanding borrowings on the revolving credit facility, \$40.9 million in letters of credit outstanding and \$381.1 million of credit available.

#### *Collateral*

A common practice in our industry is the posting of payment and performance bonds with customers. These bonds are offered by financial institutions known as sureties and provide assurance to the customer that in the event we encounter significant financial or operational difficulties, the surety will arrange for the completion of our contractual obligations and for the payment of our vendors on the projects subject to the bonds. In cooperation with our lenders, we granted our sureties a first lien on assets such as receivables, costs and estimated earnings in excess of billings, and equipment specifically identifiable to projects for which bonds are outstanding, as collateral for potential obligations under bonds. As of December 31, 2019, the book value of these assets was approximately \$58.2 million.

#### *Covenants and Restrictions*

The Facility contains financial covenants defining various financial measures and the levels of these measures with which we must comply. Covenant compliance is assessed as of each quarter end. Credit Facility Adjusted EBITDA is defined under the Facility for financial covenant purposes as net earnings for the four quarters ending as of any given quarterly covenant compliance measurement date, plus the corresponding amounts for (a) interest expense; (b) provision for income taxes; (c) depreciation and amortization; (d) stock compensation; (e) other non-cash charges; and (f) pre-acquisition results of acquired companies. The following is a reconciliation of Credit Facility Adjusted EBITDA to net income for 2019 (in thousands):

Net income	\$ 114,324
Provision for income taxes	37,418
Interest expense, net	9,093
Depreciation and amortization expense	51,572
Stock-based compensation	5,878
Pre-acquisition results of acquired companies, as defined under the Facility	1,404
Credit Facility Adjusted EBITDA	<u>\$219,689</u>

The Facility's principal financial covenants include:

*Total Leverage Ratio*—The Facility requires that the ratio of our Consolidated Total Indebtedness to our Credit Facility Adjusted EBITDA not exceed 3.00 to 1.00 as of the end of each fiscal quarter. The leverage ratio as of December 31, 2019 was 1.0.

*Fixed Charge Coverage Ratio*—The Facility requires that the ratio of (a) Credit Facility Adjusted EBITDA, less non-financed capital expenditures, provision for income taxes, dividends, and amounts used to repurchase stock when the Company's Total Leverage Ratio exceeds 2.00 to 1.00, to (b) the sum of interest expense and scheduled principal payments of indebtedness be at least 1.50 to 1.00. Credit Facility Adjusted EBITDA, capital expenditures, provision for income taxes, dividends, stock repurchase payments, interest expense, and scheduled principal payments are defined under the Facility for purposes of this covenant to be amounts for the four quarters ending as of any given quarterly covenant compliance measurement date. The fixed charge coverage ratio as of December 31, 2019 was 11.3.

*Other Restrictions*—The Facility permits acquisitions of up to \$5.0 million per transaction, provided that the aggregate purchase price of such an acquisition and of acquisitions in the same fiscal year does not exceed \$10.0 million. However, these limitations only apply when the Company’s Total Leverage Ratio is greater than 2.50 to 1.00.

While the Facility’s financial covenants do not specifically govern capacity under the Facility, if our debt level under the Facility at a quarter-end covenant compliance measurement date were to cause us to violate the Facility’s leverage ratio covenant, our borrowing capacity under the Facility and the favorable terms that we currently have could be negatively impacted by the lenders.

We were in compliance with all of our financial covenants as of December 31, 2019.

#### *Interest Rates and Fees*

There are two interest rate options for borrowings under the Facility, the Base Rate Loan Option and the Eurodollar Rate Loan Option. Additional margins are then added to these two rates. Under the Base Rate Loan Option, the interest rate is determined based on the highest of the Federal Funds Rate plus 0.5%, the prime lending rate offered by Wells Fargo Bank, N.A. or the one-month Eurodollar Rate plus 1.00%. Under the Eurodollar Rate Loan Option, the interest rate is determined based on the one- to six-month Eurodollar Rate. The Eurodollar Rate corresponds very closely to rates described in various general business media sources as the London Interbank Offered Rate or “LIBOR.” Additional margins are then added to these rates. The additional margins are determined based on the ratio of our Consolidated Total Indebtedness as of a given quarter end to our “Credit Facility Adjusted EBITDA” for the twelve months ending as of that quarter end, as defined in the credit agreement and shown below.

The interest rates under the Facility are floating rates determined by the broad financial markets, meaning they can and do move up and down from time to time. For illustrative purposes, the following are the respective market rates as of December 31, 2019 relating to interest options under the Facility:

<b>Base Rate Loan Option:</b>	
Federal Funds Rate plus 0.50%	2.05%
Wells Fargo Bank, N.A. Prime Rate	4.75%
One-month LIBOR plus 1.00%	2.76%
<b>Eurodollar Rate Loan Option:</b>	
One-month LIBOR	1.76%
Six-month LIBOR	1.91%

Certain of our vendors require letters of credit to ensure reimbursement for amounts they are disbursing on our behalf, such as to beneficiaries under our self-funded insurance programs. We have also occasionally used letters of credit to guarantee performance under our contracts and to ensure payment to our subcontractors and vendors under those contracts. Our lenders issue such letters of credit through the Facility. A letter of credit commits the lenders to pay specified amounts to the holder of the letter of credit if the holder demonstrates that we have failed to perform specified actions. If this were to occur, we would be required to reimburse the lenders for amounts they fund to honor the letter of credit holder’s claim. Absent a claim, there is no payment or reserving of funds by us in connection with a letter of credit. However, because a claim on a letter of credit would require immediate reimbursement by us to our lenders, letters of credit are treated as a use of facility capacity just the same as actual borrowings. We have never had a claim made against a letter of credit that resulted in payments by a lender or by us and believe such claim is unlikely in the foreseeable future.



Commitment fees are payable on the portion of the revolving loan capacity not in use for borrowings or letters of credit at any given time. Letter of credit fees and commitment fees are based on the ratio of Consolidated Total Indebtedness to Credit Facility Adjusted EBITDA.

	Consolidated Total Indebtedness to Credit Facility Adjusted EBITDA			
	Less than 1.00	1.00 to 1.75	1.75 to 2.50	2.50 or greater
Additional Per Annum Interest Margin Added Under:				
Base Rate Loan Option	0.25 %	0.50 %	0.75 %	1.00 %
Eurodollar Rate Loan Option	1.25 %	1.50 %	1.75 %	2.00 %
Letter of credit fees	1.25 %	1.50 %	1.75 %	2.00 %
Commitment fees on any portion of the Revolving Loan capacity not in use for borrowings or letters of credit at any given time	0.20 %	0.25 %	0.30 %	0.35 %

The weighted average interest rate applicable to the borrowings under the revolving credit facility was approximately 3.2% as of December 31, 2019. The weighted average interest rate applicable to the term loan was approximately 3.3% as of December 31, 2019.

#### **Notes to Former Owners**

As part of the consideration used to acquire six companies, we have outstanding notes to the former owners. These notes had an outstanding balance of \$48.5 million as of December 31, 2019. In conjunction with the Walker acquisition in the second quarter of 2019, we issued a promissory note to former owners with an outstanding balance of \$25.0 million as of December 31, 2019 that bears interest, payable quarterly, at a stated interest rate of 4.0%. The principal is due in equal installments in April 2022 and April 2023. In conjunction with the BCH acquisition in the second quarter of 2017, we issued a promissory note to former owners with an outstanding balance of \$14.3 million as of December 31, 2019 that bears interest, payable quarterly, at a stated interest rate of 3.0%. The principal is due in equal installments in April 2020 and 2021. In conjunction with four immaterial acquisitions in 2018 and 2019, we issued notes to former owners with an outstanding balance of \$9.2 million as of December 31, 2019 that bear interest, payable quarterly, at stated interest rates ranging from 2.9% - 3.5%. The principal amounts are due between May 2020 – July 2021.

## **9. Income Taxes**

#### **Provision for Income Taxes**

Our provision for income taxes relating to continuing operations consists of the following (in thousands):

	December 31,		
	2019	2018	2017
Current tax provision—			
Federal	\$33,281	\$22,728	\$35,434
State and Puerto Rico	8,388	8,589	6,054
Total current	41,669	31,317	41,488
Deferred tax provision (benefit)—			
Federal	(3,750)	4,347	5,391
State and Puerto Rico	(501)	109	(1,213)
Total deferred	(4,251)	4,456	4,178
Provision for income taxes	\$37,418	\$35,773	\$45,666

The provision for income taxes for the years ended December 31, 2019, 2018 and 2017 resulted in effective tax rates on continuing operations of 24.7%, 24.1% and 45.2%, respectively. The reasons for the differences between these effective tax rates and the federal statutory rates are as follows (in thousands):

	December 31,		
	2019	2018	2017
Federal statutory rate of—	21 %	21 %	35 %
Income taxes at the federal statutory rate	\$ 31,866	\$ 31,222	\$ 35,328
Increases (decreases) resulting from—			
Net state income taxes	6,644	7,470	2,838
Valuation allowances	(279)	(2,852)	91
Net unrecognized tax benefits	7,338	(15)	153
Nondeductible expenses	2,180	1,926	1,134
R&D tax credits	(4,569)	(2,726)	—
179D deduction	(5,126)	—	—
Net operating loss carryforwards	—	2,225	—
Stock-based compensation deductions	(714)	(1,293)	(1,320)
Domestic production activities deduction	—	—	(2,112)
Corporate tax rate reduction to 21%	—	—	9,478
Other	78	(184)	76
Provision for income taxes	<u>\$ 37,418</u>	<u>\$ 35,773</u>	<u>\$ 45,666</u>

As of December 31, 2017, we recorded provisional amounts for the impact of the Tax Cuts and Jobs Act. An expense of \$9.5 million was recorded in the fourth quarter of 2017 for the remeasurement of our net deferred tax assets based on the rates at which they are expected to reverse in the future (generally 21%). At December 31, 2018, we completed our accounting for the impact of the Tax Cuts and Jobs Act, and no further adjustments were made.

Our provision for income taxes was reduced by \$2.8 million in the first quarter of 2018 due to a decrease in unrecognized tax benefits from the filing of a federal income tax automatic accounting method change application.

In the third quarter of 2019, we filed an amended federal return for 2015 to claim the credit for increasing research activities (“R&D tax credits”) and recorded a \$4.6 million tax benefit that was fully offset by an increase in unrecognized tax benefits. We previously filed an amended federal return for 2014 to claim R&D tax credits during 2018 and recorded a \$2.7 million tax benefit that was also fully offset by an increase in unrecognized tax benefits. These tax benefits were fully offset by increases in unrecognized tax benefits due to the uncertainty of the outcome from examinations opened by the Internal Revenue Service (the “IRS”). As a result, the R&D tax credits claimed have had no impact on our effective tax rates.

During 2018, we dissolved our Puerto Rican subsidiary and thus wrote-off the remaining \$2.2 million of net operating loss (“NOL”) carryforwards and related valuation allowance. The dissolution of our Puerto Rican subsidiary did not have an impact on our 2018 effective tax rate.

For the year ended December 31, 2019, our provision for income taxes was reduced by \$2.2 million due to benefits from the filing, and expected filing, of amended returns to claim the energy efficient commercial buildings deduction (the “179D deduction”) allocated to us.

**Deferred Tax Assets (Liabilities)**

Significant components of the deferred tax assets and deferred tax liabilities as reflected on the balance sheets are as follows (in thousands):

	Year Ended December 31,	
	2019	2018
Deferred tax assets—		
Accounts receivable and allowance for doubtful accounts	\$ 1,660	\$ 1,445
Stock-based compensation	2,561	2,538
Accrued liabilities and expenses	25,569	19,449
Lease liabilities	20,873	—
Net operating loss carryforwards	2,750	3,242
Intangible assets	7,988	5,071
Other	525	550
Subtotal	61,926	32,295
Valuation allowances	(369)	(648)
Total deferred tax assets	61,557	31,647
Deferred tax liabilities—		
Property and equipment	(11,286)	(10,488)
Lease right-of-use asset	(20,873)	—
Long-term contracts	(876)	(688)
Goodwill	(6,020)	(3,864)
Other	(2,004)	(360)
Total deferred tax liabilities	(41,059)	(15,400)
Net deferred tax assets	\$ 20,498	\$ 16,247

The deferred tax assets and liabilities reflected above are included in the consolidated balance sheets as follows (in thousands):

	December 31,	
	2019	2018
Deferred tax assets	\$21,923	\$17,634
Deferred tax liabilities	\$ 1,425	\$ 1,387

As of December 31, 2019, we had \$2.8 million of future tax benefits related to \$47.0 million of available state NOL carryforwards, which expire in varying amounts between the years 2021 and 2039. Valuation allowances of \$0.4 million have been recorded against certain of the state NOL carryforwards. The \$2.4 million deferred tax asset for state NOL carryforwards, net of valuation allowances, reflects our conclusion that it is more-likely-than-not these assets will be realized based upon expected future earnings in certain subsidiaries.

We update our assessment of the realizability of deferred tax assets relating to state NOL carryforwards annually. A return to profitability in our subsidiaries with valuation allowances would result in a release of a portion of the valuation allowance relating to realizable deferred tax assets. A sustained period of profitability could cause a change in our judgment of any remaining deferred tax assets. If that were to occur, then it is likely that we would reverse some or all of the remaining valuation allowances.

### ***Liabilities for Uncertain Tax Positions***

A reconciliation of the beginning and ending amount of unrecognized tax benefits, excluding accrued interest and penalties, is as follows (in thousands):

	Year Ended December 31,		
	2019	2018	2017
Balance at beginning of year	\$ 2,966	\$ 8,929	\$ 240
Additions based on tax positions related to current year	—	—	8,689
Additions based on tax positions related to prior years	7,473	2,726	—
Reductions for tax positions related to prior years	(240)	(8,689)	—
Reductions for settlements with tax authorities	—	—	—
Balance at end of year	<u>\$10,199</u>	<u>\$ 2,966</u>	<u>\$8,929</u>

As of December 31, 2019, 2018 and 2017, we had \$10.2 million, \$3.0 million and \$8.9 million, respectively, of unrecognized tax benefits, which if recognized in future periods, would impact our effective tax rate. We also had accrued zero, \$0.6 million and \$0.7 million for potential interest and penalties related to the unrecognized tax benefits as of December 31, 2019, 2018 and 2017, respectively. We recognize potential interest and penalties related to unrecognized tax benefits in our provision for income taxes.

We believe it is reasonably possible that a decrease of up to \$10.2 million in unrecognized tax benefits could occur within the next twelve months. Any decrease in our unrecognized tax benefits, due to the future recognition of those tax benefits, would affect our effective tax rate.

We are subject to taxation in the United States and various state jurisdictions. In the fourth quarter of 2017, we received a 'no change letter' from the IRS upon completion of its examination of the 2015 tax year. During 2019, the IRS commenced an examination of our amended federal returns for 2014 and 2015. The completion of the IRS examination could impact our results of operations and financial condition.

State income tax returns are generally subject to examination for a period of three to five years after filing the returns. However, the state impact of any federal audit adjustments and amendments remains subject to examination by various states for up to one year after formal notification to the states. We generally remain open to examination by various state tax authorities for the 2011 tax year forward. As of December 31, 2019, we did not have any state audits underway that would have a material impact on our financial position or results of operations.

### **10. Employee Benefit Plans**

We and certain of our subsidiaries sponsor various retirement plans for most full-time and some part-time employees. These plans primarily consist of defined contribution plans. The defined contribution plans generally provide for contributions up to 2.5% of covered employees' salaries or wages. These contributions totaled \$14.2 million in 2019, \$10.8 million in 2018 and \$7.8 million in 2017. Of these amounts, approximately \$0.3 million and \$0.2 million were payable to the plans at December 31, 2019 and 2018, respectively.

Certain of our subsidiaries also participate or have participated in various multi-employer pension plans for the benefit of employees who are union members. As of December 31, 2019 and 2018, we had 7 and 6, respectively, who were union members. There were no contributions made to multi-employer pension plans in 2019, 2018 or 2017. The data available from administrators of other multi-employer pension plans is not sufficient to determine the accumulated benefit obligations, nor the net assets attributable to the multi-employer plans in which our employees participate or previously participated.

Certain individuals at one of our operating units are entitled to receive fixed annual payments that reach a maximum amount, as specified in the related agreements, for a 15 year period following retirement or, in some cases, the attainment of 65 years of age. We recognize the unfunded status of the plan as a non-current liability in our Consolidated Balance Sheet. Benefits vest 50% after ten years of service, 75% after fifteen years of service and are fully vested after 20 years of service. We had an unfunded benefit liability of \$4.1 million and \$4.3 million recorded as of December 31, 2019 and 2018.

## 11. Commitments and Contingencies

### *Claims and Lawsuits*

We are subject to certain legal and regulatory claims, including lawsuits arising in the normal course of business. We maintain various insurance coverages to minimize financial risk associated with these claims. We have estimated and provided accruals for probable losses and related legal fees associated with certain litigation in the accompanying consolidated financial statements. While we cannot predict the outcome of these proceedings, in management's opinion and based on reports of counsel, any liability arising from these matters individually and in the aggregate will not have a material effect on our operating results, cash flows or financial condition, after giving effect to provisions already recorded.

### *Surety*

Many customers, particularly in connection with new construction, require us to post performance and payment bonds issued by a financial institution known as a surety. If we fail to perform under the terms of a contract or to pay subcontractors and vendors who provided goods or services under a contract, the customer may demand that the surety make payments or provide services under the bond. We must reimburse the surety for any expenses or outlays it incurs. To date, we are not aware of any losses to our sureties in connection with bonds the sureties have posted on our behalf, and do not expect such losses to be incurred in the foreseeable future.

Current market conditions for surety markets and bonding capacity are adequate with acceptable terms and conditions. Historically, approximately 15% to 25% of our business has required bonds. While we currently have strong surety relationships to support our bonding needs, future market conditions or changes in the sureties' assessment of our operating and financial risk could cause the sureties to decline to issue bonds for our work. If that were to occur, the alternatives include doing more business that does not require bonds, posting other forms of collateral for project performance such as letters of credit or cash, and seeking bonding capacity from other sureties. We would likely also encounter concerns from customers, suppliers and other market participants as to our creditworthiness. While we believe our general operating and financial characteristics would enable us to ultimately respond effectively to an interruption in the availability of bonding capacity, such an interruption would likely cause our revenue and profits to decline in the near term.

### *Self-Insurance*

We are substantially self-insured for workers' compensation, employer's liability, auto liability, general liability and employee group health claims, in view of the relatively high per-incident deductibles we absorb under our insurance arrangements for these risks. Losses are estimated and accrued based upon known facts, historical trends and industry averages. Estimated losses in excess of our deductible, which have not already been paid, are included in our accrual with a corresponding receivable from our insurance carrier. Loss estimates associated with the larger and longer-developing risks, such as workers' compensation, auto liability and general liability, are reviewed by a third-party actuary quarterly.

Our self-insurance arrangements as of December 31, 2019 were as follows:

*Workers' Compensation*—The per-incident deductible for workers' compensation is \$250,000. Losses above \$250,000 are determined by statutory rules on a state-by-state basis and are fully covered by excess workers' compensation insurance.

*Employer's Liability*—For employer's liability, the per-incident deductible is \$250,000 and then we have several layers of excess loss insurance policies that cover losses up to \$125.0 million in aggregate across this risk area (as well as general liability and auto liability noted below).

*General Liability*—For general liability, the per-incident deductible is \$250,000. We are fully insured for the next \$7.5 million of each loss, and then have several layers of excess loss insurance policies that cover losses up to \$125.0 million in aggregate across this risk area (as well as employer's liability noted above and auto liability noted below).

*Auto Liability*—For auto liability, the per-incident deductible is \$250,000. We are fully insured for the next \$7.5 million of each loss, and then have several layers of excess loss insurance policies that cover losses up to \$125.0 million in aggregate across this risk area (as well as employer’s liability and general liability noted above).

*Employee Medical*—We have three medical plans. The deductible for employee group health claims is \$350,000 per person, per policy (calendar) year for each plan. Insurance then covers any responsibility for medical claims in excess of the deductible amount.

Our \$125.0 million of aggregate excess loss coverage above applicable per-incident deductibles represents one policy limit that applies to all lines of risk; we do not have a separate \$125.0 million of excess loss coverage for each of general liability, employer’s liability and auto liability.

## 12. Stockholders’ Equity

### ***2012 Equity Incentive Plan***

In May 2012, our stockholders approved our 2012 Equity Incentive Plan (the “2012 Plan”), which provides for the granting of incentive or non-qualified stock options, stock appreciation rights, restricted or deferred stock, dividend equivalents or other incentive awards to directors, employees, or consultants. The number of shares authorized and reserved for issuance under the 2012 Plan is 5.1 million shares. As of December 31, 2019, there were 2.9 million shares available for issuance under this plan; however, following adoption of the 2017 Plan (described below), no additional shares will be issued under the 2012 Plan. The 2012 Plan will expire in May 2022.

### ***2017 Omnibus Incentive Plan***

In May 2017, our stockholders approved our 2017 Omnibus Incentive Plan (the “2017 Plan”), which provides for the granting of incentive or non-qualified stock options, stock appreciation rights, restricted or deferred stock, dividend equivalents or other incentive awards to directors, employees, or consultants. The number of shares authorized and reserved for issuance under the 2017 Plan is 2.9 million shares. As of December 31, 2019, there were 2.4 million shares available for issuance under this plan. The 2017 Plan will expire in May 2027. Additionally, we have outstanding stock options, stock awards and stock units that were issued under other plans, and no further grants may be made under those plans.

### ***Share Repurchase Program***

On March 29, 2007, our Board of Directors approved a stock repurchase program to acquire up to 1.0 million shares of our outstanding common stock. Subsequently, the Board has from time to time increased the number of shares that may be acquired under the program and approved extensions of the program. On November 19, 2019, the Board approved an extension to the program by increasing the shares authorized for repurchase by 0.8 million shares. Since the inception of the repurchase program, the Board has approved 9.5 million shares to be repurchased. As of December 31, 2019, we have repurchased a cumulative total of 8.6 million shares at an average price of \$17.70 per share under the repurchase program.

The share repurchases will be made from time to time at our discretion in the open market or privately negotiated transactions as permitted by securities laws and other legal requirements, and subject to market conditions and other factors. The Board may modify, suspend, extend or terminate the program at any time. During the twelve months ended December 31, 2019, we repurchased 0.4 million shares for approximately \$19.6 million at an average price of \$45.58 per share.

### ***Earnings Per Share***

Basic earnings per share (“EPS”) is computed by dividing net income by the weighted average number of shares of common stock outstanding during the year. Diluted EPS is computed considering the dilutive effect of stock options, restricted stock, restricted stock units and performance stock units. The vesting of unvested contingently issuable performance stock units is based on the achievement of certain earnings per share targets and total shareholder return. These shares are considered contingently issuable shares for purposes of calculating diluted earnings per share.

These shares are not included in the diluted earnings per share denominator until the performance criteria are met, if it is assumed that the end of the reporting period was the end of the contingency period.

Unvested restricted stock, restricted stock units and performance stock units are included in diluted earnings per share, weighted outstanding until the shares and units vest. Upon vesting, the vested restricted stock, restricted stock units and performance stock units are included in basic earnings per share weighted outstanding from the vesting date.

There were less than 0.1 million anti-dilutive stock options excluded from the calculation of diluted EPS for the years ended December 31, 2019, 2018 and 2017, respectively.

The following table reconciles the number of shares outstanding with the number of shares used in computing basic and diluted earnings per share for each of the periods presented (in thousands):

	Year Ended December 31,		
	2019	2018	2017
Common shares outstanding, end of period	36,658	36,894	37,187
Effect of using weighted average common shares outstanding	196	308	52
Shares used in computing earnings per share—basic	36,854	37,202	37,239
Effect of shares issuable under stock option plans based on the treasury stock method	204	283	316
Effect of restricted and contingently issuable shares	73	107	117
Shares used in computing earnings per share—diluted	<u>37,131</u>	<u>37,592</u>	<u>37,672</u>

### 13. Stock-Based Compensation

Grants of stock options, restricted stock and restricted stock units, and performance share units have been, under the 2012 Plan and under the 2017 Plan, determined and administered by the compensation committee of the Board of Directors. In 2019, the Board of Directors approved a change to the structure of long-term incentive grants to remove stock options, commencing with the March 2019 equity grant. Total stock-based compensation expense was \$5.9 million, \$7.2 million and \$6.4 million for the years ended December 31, 2019, 2018 and 2017, respectively. Stock-based compensation expense is recognized using the straight-line method over the vesting period and generally vests over a three-year vesting period. Certain awards provide for accelerated vesting when the sum of an employee's age and years of service is at least 75. We recognize forfeitures as they occur. Total income tax benefit recognized for stock-based compensation arrangements was \$1.3 million, \$1.5 million and \$2.4 million for each of the years ended December 31, 2019, 2018 and 2017.

We generally issue treasury shares for stock options and restricted stock, unless treasury shares are not available. Upon the vesting of restricted shares, we have allowed the holder to elect to surrender an amount of shares to meet their statutory tax withholding requirements. These shares are accounted for as treasury stock based upon the value of the stock on the date of vesting.

#### Stock Options

The following table summarizes activity under our stock option plans (shares in thousands):

Stock Options	Year Ended December 31, 2019	
	Shares	Weighted- Average Exercise Price
Outstanding at beginning of year	499	\$ 25.65
Granted	—	\$ —
Exercised	(114)	\$ 20.57
Forfeited	—	\$ —
Expired	(3)	\$ 42.50
Outstanding at end of year	<u>382</u>	\$ 27.06
Options exercisable at end of year	301	

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The total intrinsic value of options exercised during the years ended December 31, 2019, 2018 and 2017 was \$3.5 million, \$6.7 million and \$3.6 million, respectively. Stock options exercisable as of December 31, 2019 have a weighted-average remaining contractual term of 5.3 years and an aggregate intrinsic value of \$8.0 million. As of December 31, 2019, we have 0.4 million options that are vested or expected to vest; these options have a weighted average exercise price of \$27.06 per share, have a weighted-average remaining contractual term of 5.8 years and an aggregate intrinsic value of \$8.7 million.

The following table summarizes information about stock options outstanding at December 31, 2019 (shares in thousands):

Range of Exercise Prices	Options Outstanding			Options Exercisable	
	Number Outstanding at 12/31/2019	Weighted-Average Remaining Contractual Life	Weighted-Average Exercise Price	Number Exercisable at 12/31/2019	Weighted-Average Exercise Price
\$11.21 - \$15.00	45	2.9	\$ 13.60	45	\$ 13.60
\$15.01 - \$35.00	200	5.1	\$ 21.47	200	\$ 21.47
\$35.01 - \$42.50	137	7.7	\$ 39.67	56	\$ 38.51
\$11.21 - \$42.50	<u>382</u>	5.8	\$ 27.06	<u>301</u>	\$ 23.45

The fair value of each option award is estimated, based on several assumptions, on the date of grant using the Black-Scholes option valuation model. We did not grant any options in 2019. The fair values and the assumptions used for the 2018 and 2017 grants are shown in the table below:

	Year Ended December 31,	
	2018	2017
Weighted-average fair value per share of options granted	\$ 13.06	\$ 11.43
Fair value assumptions:		
Expected dividend yield	0.79%	0.89%
Expected stock price volatility	31.7%	34.5%
Risk-free interest rate	2.66%	2.11%
Expected term	5.3 years	5.3 years

Stock options are accounted for as equity instruments. As of December 31, 2019, the unrecognized compensation cost related to stock options was \$0.1 million, which is expected to be recognized over a weighted-average period of 1.0 year. The total fair value of options vested during the year ended December 31, 2019 was \$0.9 million.

The following table summarizes information about nonvested stock option awards as of December 31, 2019 and changes for the year ended December 31, 2019 (shares in thousands):

Stock Options	Shares	Weighted-Average Grant Date Fair Value
Nonvested at December 31, 2018	163	\$ 11.99
Granted	—	\$ —
Vested	(82)	\$ 11.46
Forfeited	—	\$ —
Nonvested at December 31, 2019	<u>81</u>	\$ 12.53



### **Restricted Stock and Restricted Stock Units**

The following table summarizes activity under our restricted stock plans (shares in thousands):

<b>Restricted Stock and Restricted Stock Units</b>	<b>Year Ended December 31, 2019</b>	
	<b>Shares</b>	<b>Weighted Average Grant Date Fair Value</b>
Unvested at beginning of year	78	\$ 38.17
Granted	87	\$ 51.02
Vested	(69)	\$ 41.58
Forfeited	(5)	\$ 44.01
Unvested at end of year	<u>91</u>	<u>\$ 47.58</u>

Approximately \$0.9 million of compensation expense related to restricted stock and restricted stock units will be recognized over a weighted-average period of 1.9 years. The total fair value of shares vested during the year ended December 31, 2019 was \$2.9 million. The weighted-average fair value per share of restricted stock shares and units awarded during 2019, 2018 and 2017 was \$51.02, \$44.02 and \$35.69, respectively. The aggregate intrinsic value of restricted stock vested during the years ended December 31, 2019, 2018 and 2017 was \$3.5 million, \$3.3 million and \$3.2 million, respectively.

### **Performance Stock Units**

Under the 2012 Plan, we granted dollar-denominated performance vesting restricted stock units (“PSUs”), which cliff vest at the end of a three-year performance period. The PSUs are subject to two performance measures; 50% of the PSUs are based on the annual performance of our stock price relative to a group of our peers (total shareholder return) and 50% of the PSUs are measured based on meeting or exceeding a pre-determined annual earnings per share target as set by our Board of Directors (EPS). Depending on the Company’s performance in relation to the established performance measures, the awards may vest at zero to a maximum of 2.0 times the dollar-denominated award granted at target. Upon achievement of the necessary performance metrics, the award will be determined in dollars and may be settled in cash or stock based on the market price of the Company’s common stock at the end of the performance period, at our discretion.

Compensation expense for dollar-denominated performance units will ultimately be equal to the final dollar value awarded to the grantee upon vesting, settled either in cash or stock. However, throughout the performance period we must record and accrue expense based on an estimate of that future payout. For units determined by EPS performance, the awards are evaluated quarterly against established targets in order to estimate the liability throughout the vesting period. For units determined by total shareholder return performance, a Monte Carlo simulation model was used to estimate accruals throughout the vesting period. The model simulates our total shareholder return and compares it against our peer group over the three-year performance period to produce a predicted distribution of relative share performance. This is applied to the reward criteria to give an expected value of the total shareholder return element. The calculated fair market value as of December 31, 2019 was \$5.0 million. Of this amount, \$1.9 million relates to the PSUs granted in 2017 whose performance period ended December 31, 2019. These awards will be settled within the upcoming year either in cash or stock. The expense related to performance stock units for the years ended December 31, 2019, 2018 and 2017 was \$1.9 million, \$2.9 million and \$2.6 million, respectively. At the December 31, 2019 calculated fair market value, approximately \$0.4 million of compensation expense related to performance stock units will be recognized over a weighted-average period of 1.4 years.

#### 14. Segment Information

We have two reportable segments: (a) our mechanical segment, which includes HVAC, plumbing, piping, and controls, as well as off-site construction, monitoring and fire protection; and (b) our electrical segment, which includes installation and servicing of electrical systems. We consider these two lines of business to be separate segments because they require different skill sets, and the business models for providing services have some differences, as a mechanical system requires ongoing maintenance and monitoring and an electrical system generally does not. However, the business model for installation of new systems or retrofitting existing systems is very similar between the two segments.

Our activities are within the mechanical services industry and the electrical services industry, which represent our two reportable segments. We aggregate our operating segments into two reportable segments, as the operating segments meet all of the aggregation criteria. Substantially all of our revenue is generated, and all of our assets are located, in the United States, our country of domicile. The following table presents information about our reportable segments (in thousands):

	Mechanical Services	Electrical Services	Corporate	Consolidated
Total Assets at December 31, 2019	\$ 1,056,609	\$ 372,254	\$ 76,149	\$ 1,505,012
Total Assets at December 31, 2018	\$ 970,995	\$ 23,078	\$ 68,491	\$ 1,062,564

	Year Ended December 31, 2019			
	Mechanical Services	Electrical Services	Corporate	Consolidated
Revenue	\$ 2,251,560	\$ 363,717	\$ —	\$ 2,615,277
Gross Profit	\$ 465,144	\$ 36,799	\$ —	\$ 501,943
Capital Expenditures	\$ 27,933	\$ 1,504	\$ 2,314	\$ 31,750

	Year Ended December 31, 2018			
	Mechanical Services	Electrical Services	Corporate	Consolidated
Revenue	\$ 2,176,223	\$ 6,656	\$ —	\$ 2,182,879
Gross Profit	\$ 444,960	\$ 1,319	\$ —	\$ 446,279
Capital Expenditures	\$ 25,945	\$ 57	\$ 1,266	\$ 27,268

	Year Ended December 31, 2017			
	Mechanical Services	Electrical Services	Corporate	Consolidated
Revenue	\$ 1,787,922	\$ —	\$ —	\$ 1,787,922
Gross Profit	\$ 366,281	\$ —	\$ —	\$ 366,281
Capital Expenditures	\$ 34,587	\$ —	\$ 880	\$ 35,467

#### 15. Selected Quarterly Financial Data (Unaudited)

Quarterly financial information for the years ended December 31, 2019 and 2018 is summarized as follows (in thousands, except per share data):

	2019			
	Q1	Q2	Q3	Q4
Revenue	\$ 538,473	\$ 650,302	\$ 706,918	\$ 719,584
Gross profit (1)	106,665	120,016	142,702	132,560
Net income	19,866	24,173	36,233	34,052
INCOME PER SHARE:				
Basic	\$ 0.54	\$ 0.65	\$ 0.98	\$ 0.93
Diluted	\$ 0.53	\$ 0.65	\$ 0.98	\$ 0.92

	2018			
	Q1	Q2	Q3	Q4
Revenue	\$464,941	\$535,043	\$ 594,536	\$ 588,359
Gross profit	89,053	111,183	127,868	118,175
Net income	16,659	32,547	38,541	25,156
INCOME PER SHARE:				
Basic	\$ 0.45	\$ 0.87	\$ 1.03	\$ 0.68
Diluted	\$ 0.44	\$ 0.87	\$ 1.02	\$ 0.67

(1) In the fourth quarter of 2019, we recorded a \$4.8 million gain due to insurance proceeds we received in the fourth quarter related to the ransomware incident that occurred in April 2019.

The sums of the individual quarterly earnings per share amounts do not necessarily agree with year-to-date earnings per share as each quarter's computation is based on the weighted average number of shares outstanding during the quarter, the weighted average stock price during the quarter and the dilutive effects of options and contingently issuable restricted stock in each quarter.

## 16. Subsequent Events

Effective as of February 1, 2020, we acquired all of the issued and outstanding common stock of Starr Electric Company, Incorporated and each of its wholly-owned subsidiaries (collectively, "Starr"). Starr is headquartered in Greensboro, North Carolina, and is a leader in commercial and industrial electrical work. We expect Starr to initially contribute annualized revenues of approximately \$90 million to \$100 million.

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

None.

## ITEM 9A. Controls and Procedures

### Evaluation of Disclosure Controls and Procedures

Our executive management is responsible for ensuring the effectiveness of the design and operation of our disclosure controls and procedures. We carried out an evaluation under the supervision and with the participation of our management, including our Chief Executive Officer and Chief Financial Officer, of the effectiveness of the design and operation of our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934) as of the end of the period covered by this report. Based upon that evaluation, our Chief Executive Officer and Chief Financial Officer have concluded that our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) of the Securities Exchange Act of 1934) are effective as of the end of the period covered by this report.

### Internal Controls over Financial Reporting

Management's report on our internal controls over financial reporting can be found in Item 8 of this report. The Independent Registered Public Accounting Firm's Attestation Report on the effectiveness of our internal controls over financial reporting can also be found in Item 8 of this report.

### Changes in Internal Control over Financial Reporting

There have not been any changes in our internal control over financial reporting (as such term is defined in Rules 13a-15(f) and 15d-15(f) under the Securities Exchange Act of 1934) during the three months ended December 31, 2019 that has materially affected, or are reasonably likely to materially affect, internal control over financial reporting.

## ITEM 9B. Other Information

None.

### **PART III**

#### **ITEM 10. *Directors, Executive Officers and Corporate Governance***

We have adopted a code of ethics that applies to our principal executive officer, our principal financial officer, and our principal accounting officer, as well as to our other employees. This code of ethics consists of our Code of Conduct. The Company has made this code of ethics available on our website, as described in Item 1 of this annual report on Form 10-K. If we make substantive amendments to this code of ethics or grant any waiver, including any implicit waiver, we will disclose the nature of such amendment or waiver on our website or in a report on Form 8-K within four business days of such amendment or waiver.

The other information called for by this item has been omitted in accordance with the instructions to Form 10-K. The Company will file with the Commission a definitive proxy statement including the other information to be disclosed under this item in the 120 days following December 31, 2019 and such information is hereby incorporated by reference.

#### **ITEMS 11, 12, 13 AND 14.**

These items have been omitted in accordance with the instructions to Form 10-K. The Company will file with the Commission a definitive proxy statement including the information to be disclosed under the items in the 120 days following December 31, 2019 and such information is hereby incorporated by reference.

### **PART IV**

#### **ITEM 15. *Exhibits and Financial Statement Schedules***

(a) *The following documents are filed as part of this annual report on Form 10-K:*

- (1) Consolidated Financial Statements: The Index to the Consolidated Financial Statements is included under Part II, Item 8 of this annual report on Form 10-K and is incorporated herein by reference.
- (2) Financial Statement Schedules:  
None.

(b) *Exhibits*

Reference is made to the Index of Exhibits immediately following the signature page thereof, which is incorporated herein by reference.

(c) *Excluded financial statements:*

None.

#### **ITEM 16. *Form 10-K Summary***

None.

INDEX OF EXHIBITS

Exhibit Number	Description of Exhibits	Incorporated by Reference to the Exhibit Indicated Below and to the Filing with the Commission Indicated Below	
		Exhibit Number	Filing or File Number
2.1	<a href="#">Purchase Agreement, dated February 21, 2019, by and among the Company, Walker, the Shareholder Sellers and Scott Walker, in his capacity as representative of the Shareholder Sellers</a>	2.1	February 26, 2019 Form 8-K
3.1	<a href="#">Second Amended and Restated Certificate of Incorporation of the Registrant</a>	3.1	333-24021
3.2	<a href="#">Certificate of Amendment dated May 21, 1998</a>	3.2	1998 Form 10-K
3.3	<a href="#">Certificate of Amendment dated July 9, 2003</a>	3.3	2003 Form 10-K
3.4	<a href="#">Certificate of Amendment dated May 20, 2016</a>	3.1	May 20, 2016 Form 8-K
3.5	<a href="#">Amended and Restated Bylaws of Comfort Systems USA, Inc.</a>	3.1	March 25, 2016 Form 8-K
4.1	<a href="#">Form of certificate evidencing ownership of Common Stock of the Registrant</a>	4.1	333-24021
4.2	<a href="#">Description of Registrant's Securities</a>		Filed Herewith
*10.1	<a href="#">Comfort Systems USA, Inc. 1997 Long-Term Incentive Plan</a>	10.1	333-24021
*10.2	<a href="#">Comfort Systems USA, Inc. 1997 Non-Employee Directors' Stock Plan</a>	10.2	333-24021
*10.3	<a href="#">Amendment to the 1997 Non-Employee Directors' Stock Plan dated May 23, 2002</a>	10.3	Second Quarter 2002 Form 10-Q/A
*10.4	<a href="#">Comfort Systems USA, Inc. 2006 Equity Incentive Plan</a>	4.5	333-138377
*10.5	<a href="#">Form of Option Award under the Comfort Systems USA, Inc. 2006 Equity Incentive Plan</a>	10.6	2006 Form 10-K
*10.6	<a href="#">Form of Option Award under the Comfort Systems USA, Inc. 2006 Stock Options/SAR Plan for Non-Employee Directors</a>	10.7	2006 Form 10-K
*10.7	<a href="#">Employment Agreement between the Company, Eastern Heating &amp; Cooling, Inc. and Alfred J. Giardinelli, Jr.</a>	10.1	Second Quarter 2003 Form 10-Q
*10.8	<a href="#">Amended and Restated 2006 Equity Compensation Plan for Non-Employee Directors</a>	A	Proxy Statement April 10, 2008
*10.9	<a href="#">2008 Senior Management Annual Performance Plan</a>	B	Proxy Statement April 10, 2008
*10.10	<a href="#">Form of Change in Control Agreement</a>	10.2	First Quarter 2008 Form 10-Q
*10.11	<a href="#">Form of Comfort Systems USA, Inc. Executive Severance Policy</a>	10.3	First Quarter 2008 Form 10-Q
*10.12	<a href="#">Form of Directors and Officers Indemnification Agreement</a>	10.1	May 19, 2009 Form 8-K
10.13	<a href="#">Second Amended and Restated Credit Agreement by and among Comfort Systems USA, Inc., as Borrower and Wells Fargo Bank, National Association, as Administrative Agent/Wells Fargo Securities LLC, as Sole Lead Arranger and Sole Lead Book Runner/Bank of Texas, N.A., Capital One, N.A., and Regions Bank as Co-Syndication Agent/and Certain Financial Institutions as Lenders</a>	10.1	July 22, 2010 Form 8-K/A
10.14	<a href="#">Stock Purchase Agreement, dated July 28, 2010</a>	10.1	July 30, 2010 Form 8-K

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Exhibit Number	Description of Exhibits	Incorporated by Reference to the Exhibit Indicated Below and to the Filing with the Commission Indicated Below	
		Exhibit Number	Filing or File Number
*10.15	<a href="#">Summary of 2011 Incentive Compensation Plan</a>	10.1	First Quarter 2011 Form 10-Q
*10.16	<a href="#">Form of Performance Restricted Stock Award Agreement dated March 24, 2011</a>	10.1	March 28, 2011 Form 8-K
*10.17	<a href="#">First Amendment to Comfort Systems USA, Inc. Amended and Restated 2006 Equity Compensation Plan for Non-Employee Directors</a>	10.1	Second Quarter 2011 Form 10-Q
10.18	<a href="#">Amendment No. 1 to Second Amended and Restated Credit Agreement, Second Amended and Restated Security Agreement, and Second Amended and Restated Pledge Agreement</a>	10.1	Third Quarter 2011 Form 10-Q
*10.19	<a href="#">Summary of 2012 Incentive Compensation Plan</a>	10.1	First Quarter 2012 Form 10-Q
*10.20	<a href="#">Form of 2012 Restricted Stock Unit Agreement</a>	10.1	March 30, 2012 Form 8-K
*10.21	<a href="#">Form of 2012 Dollar-denominated Performance Vesting Restricted Stock Unit Agreement</a>	10.2	March 30, 2012 Form 8-K
*10.22	<a href="#">2012 Equity Incentive Plan</a>	A	April 9, 2012 Proxy Statement
*10.23	<a href="#">2012 Senior Management Annual Performance Plan</a>	B	April 9, 2012 Proxy Statement
*10.24	<a href="#">Summary of 2013 Incentive Compensation Plan</a>	10.1	First Quarter 2013 Form 10-Q
*10.25	<a href="#">Form of 2013 Restricted Stock Unit Agreement</a>	10.1	March 22, 2013 Form 8-K
*10.26	<a href="#">Form of 2013 Dollar-denominated Performance Vesting Restricted Stock Unit Agreement</a>	10.2	March 22, 2013 Form 8-K
10.27	<a href="#">Amendment No. 2 to Second Amended and Restated Credit Agreement and Amendment to Other Loan Documents</a>	10.1	Second Quarter 2013 Form 10-Q
*10.28	<a href="#">Letter Agreement between the Company and James Mylett</a>	10.28	2013 Form 10-K
*10.29	<a href="#">Form of Change in Control Agreement (2013)</a>	10.29	2013 Form 10-K
*10.30	<a href="#">Summary of 2014 Incentive Compensation Plan</a>	10.1	First Quarter 2014 Form 10-Q
*10.31	<a href="#">Form of 2014 Restricted Stock Unit Agreement</a>	10.1	March 21, 2014 Form 8-K
*10.32	<a href="#">Form of 2014 Dollar-denominated Performance Vesting Restricted Stock Unit Agreement</a>	10.2	March 21, 2014 Form 8-K
*10.33	<a href="#">Form of Option Award under the Comfort Systems USA, Inc. 2012 Equity Incentive Plan</a>	10.33	2014 Form 10-K
10.34	<a href="#">Amendment No. 3 to Second Amended and Restated Credit Agreement and Amendment to Other Loan Documents</a>	10.1	Third Quarter 2014 Form 10-Q
10.35	<a href="#">Agreement and Plan of Merger between the Company and Dyna Ten Corporation, dated April 9, 2014</a>	10.1	April 9, 2014 Form 8-K
*10.36	<a href="#">Form of 2015 Restricted Stock Unit Agreement</a>	10.1	April 1, 2015 Form 8-K

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Exhibit Number	Description of Exhibits	Incorporated by Reference to the Exhibit Indicated Below and to the Filing with the Commission Indicated Below	
		Exhibit Number	Filing or File Number
*10.37	<a href="#">Form of 2015 Dollar-denominated Performance Vesting Restricted Stock Unit Agreement</a>	10.2	April 1, 2015 Form 8-K
*10.38	<a href="#">Summary of 2015 Incentive Compensation Plan</a>	10.1	First Quarter 2015 Form 10-Q
*10.39	<a href="#">Form of Amended Change in Control Agreement</a>	10.1	Third Quarter 2015 Form 10-Q
10.40	<a href="#">Amendment No. 4 to Second Amended and Restated Credit Agreement and Amendment to Other Loan Documents</a>	10.40	2015 Form 10-K
*10.41	<a href="#">Form of 2016 Restricted Stock Unit Agreement</a>	10.1	March 25, 2016 Form 8-K
*10.42	<a href="#">Form of 2016 Dollar-denominated Performance Restricted Stock Unit Agreement</a>	10.2	March 25, 2016 Form 8-K
*10.43	<a href="#">Form of 2016 Stock Option Notice</a>	10.3	March 25, 2016 Form 8-K
*10.44	<a href="#">Resignation and General Release Agreement between the Company and James Mylett, dated as of January 10, 2017</a>	10.1	January 11, 2017 Form 8-K
10.45	<a href="#">Stock Purchase Agreement, dated February 21, 2017, by and among the Company, BCH, the Selling Shareholders and Daryl Blume, in his capacity as representative of the Selling Shareholders</a>	2.1	February 23, 2017 Form 8-K
10.46	<a href="#">Form of Promissory Note, dated April 1, 2017, issued by the Company in favor of each of the Selling Shareholders</a>	10.1	April 3, 2017 Form 8-K
*10.47	<a href="#">2017 Omnibus Incentive Plan</a>	A	April 10, 2017 Proxy Statement
*10.48	<a href="#">2017 Senior Management Annual Performance Plan</a>	B	April 10, 2017 Proxy Statement
*10.49	<a href="#">Form of Restricted Stock Unit Agreement under the Company's 2012 Equity Incentive Plan</a>	10.2	First Quarter 2017 Form 10-Q
*10.50	<a href="#">Form of Stock Option Notice under the Company's 2012 Equity Incentive Plan</a>	10.3	First Quarter 2017 Form 10-Q
*10.51	<a href="#">Form of Dollar-denominated Performance Restricted Stock Unit Agreement under the Company's 2012 Equity Incentive Plan</a>	10.4	First Quarter 2017 Form 10-Q
*10.52	<a href="#">Form of Restricted Stock Unit Agreement under the Company's 2017 Omnibus Incentive Plan</a>	10.1	First Quarter 2018 Form 10-Q
*10.53	<a href="#">Form of Stock Option Notice under the Company's 2017 Omnibus Incentive Plan</a>	10.2	First Quarter 2018 Form 10-Q
*10.54	<a href="#">Form of Dollar-denominated Performance Restricted Stock Unit Agreement under the Company's 2017 Omnibus Incentive Plan</a>	10.3	First Quarter 2018 Form 10-Q
10.55	<a href="#">Amendment No. 5 to Second Amended and Restated Credit Agreement and Amendment to Other Loan Documents</a>	10.1	Second Quarter 2018 Form 10-Q
10.56	<a href="#">Amendment No. 6 to Second Amended and Restated Credit Agreement and Amendment to Other Loan Documents</a>		Filed Herewith
21.1	<a href="#">List of subsidiaries of Comfort Systems USA, Inc.</a>		Filed Herewith
23.1	<a href="#">Consent of Ernst &amp; Young LLP</a>		Filed Herewith
31.1	<a href="#">Certification of Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002</a>		Filed Herewith
31.2	<a href="#">Certification of Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002</a>		Filed Herewith
32.1	<a href="#">Certification of Chief Executive Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002</a>		Furnished Herewith
32.2	<a href="#">Certification of Chief Financial Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002</a>		Furnished Herewith

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		<b>Incorporated by Reference to the Exhibit Indicated Below and to the Filing with the Commission Indicated Below</b>	
<b>Exhibit Number</b>	<b>Description of Exhibits</b>	<b>Exhibit Number</b>	<b>Filing or File Number</b>
	Inline XBRL Instance Document		
101.INS	Inline XBRL Taxonomy Extension Schema Document		Filed Herewith
101.SCH	Inline XBRL Taxonomy Extension Calculation Linkbase Document		Filed Herewith
101.CAL	Inline XBRL Taxonomy Extension Definition Linkbase Document		Filed Herewith
101.DEF	Inline XBRL Taxonomy Extension Label Linkbase Document		Filed Herewith
101.LAB	Inline XBRL Taxonomy Extension Presentation Linkbase Document		Filed Herewith
101.PRE	Cover Page Interactive Data File (the cover page XBRL tags are embedded in the Inline XBRL document)		Filed Herewith
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\* Management contract or compensatory plan.





**DESCRIPTION OF COMMON STOCK**

As of February 26, 2020, Comfort Systems USA, Inc. (“Comfort Systems,” “we,” “us,” and “our”) had one class of securities registered under Section 12 of the Securities Exchange Act of 1934, as amended: our common stock. Our Certificate of Incorporation, as amended, authorizes us to issue a total of 107,969,912 shares of stock, of which 100,000,000 are designated as common stock, \$0.01 par value per share, 2,969,912 are designated as restricted voting common stock, \$0.01 par value per share, and 5,000,000 are designated as preferred stock, \$0.01 par value per share. As of February 26, 2020, there were 41,123,365 shares of common stock outstanding (including treasury shares) and no shares of restricted voting common stock or preferred stock outstanding.

Subject to the rights of the holders of our outstanding preferred stock and restricted voting common stock, holders of common stock:

- are entitled to any dividends validly declared by the Board of Directors (the “Board”);
- will share ratably in our net assets in the event of a liquidation; and
- are entitled to one vote per share.

The common stock has no conversion rights. Holders of common stock have no preemption, subscription, redemption, or call rights related to those shares.

American Stock Transfer & Trust Company is the transfer agent and registrar for our common stock. Our common stock is listed on the New York Stock Exchange under the trading symbol “FIX.”

Comfort Systems’ Certificate of Incorporation authorizes the Board to issue, without stockholder approval, one or more series of preferred stock having preferences, powers and relative, participating, optional and other rights (including preferences over the common stock respecting dividends and distributions and voting rights) as the Board may determine. The existence of this “blank-check” preferred stock could render more difficult or discourage an attempt to obtain control of Comfort Systems by means of a tender offer, merger, proxy contest or otherwise.

Holders of restricted voting common stock, voting as a class, were entitled to elect one member of the Board but were not otherwise entitled to vote in the election of our directors. As of November 2006, all shares of restricted voting common stock had been converted into shares of common stock in accordance with the terms of our Certificate of Incorporation.

Certain additional provisions in our Certificate of Incorporation and Bylaws may have the effect of delaying, deferring or preventing a change in control, including:

*Special Meetings of Stockholders.* Our Bylaws provide that stockholder action can be taken only at an annual or special meeting of stockholders. Our Bylaws vest the power to call special meetings of stockholders in the Chief Executive Officer, a majority of the Board, or a majority of the executive committee (if any).

*Removal of Directors and Vacancies.* Our Bylaws provide that, subject to the terms of our Certificate of Incorporation, our directors may be removed with or without cause; provided that whenever any director elected by the holders of any class of stock voting separately as a class is removed without cause, such vacancy may be filled only by the holders of that class of stock voting separately as a class. This could prevent holders of common stock from effecting a change in the composition of our Board to the extent any director is elected separately by a vote of holders of preferred stock or restricted voting common stock, if any is issued. Subject to the right of the stockholders to remove, with or without cause, any director and fill the vacancy so created and except as otherwise provided in the Certificate of Incorporation and Bylaws, any vacancy may be filled by the affirmative vote of a majority of the directors then in office, even if less than a quorum.

*Advance Notice Procedures.* Our Bylaws establish an advance notice procedure for stockholder proposals to be brought before an annual meeting of our stockholders, including proposed nominations of persons for election to

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the Board. Stockholders at an annual meeting may only consider proposals or nominations specified in the notice of meeting or brought before the meeting by or at the direction of the Board or by a stockholder who was a stockholder of record on the record date for the meeting, who is entitled to vote at the meeting and who has given our Secretary timely written notice, in proper form, of the stockholder's intention to bring that business before the meeting. In addition, our Bylaws provide that only such business shall be conducted at a special meeting of stockholders as shall have been brought before the meeting pursuant to our notice of meeting. Nominations of persons for election to the Board may be made at a special meeting of stockholders at which directors are to be elected pursuant to our notice of meeting by or at the direction of the Board or, provided that the Board has determined that directors shall be elected at such meeting, by a stockholder who was a stockholder of record on the record date for the meeting, who is entitled to vote at the meeting and who has given our Secretary timely written notice, in proper form, of the stockholder's intention to nominate a person for election to the Board at such meeting. Although the Bylaws do not give the Board the power to approve or disapprove stockholder nominations of candidates or proposals regarding other business to be conducted at a special or annual meeting, the Bylaws may have the effect of precluding the conduct of certain business at a meeting if the proper procedures are not followed or may discourage or deter a potential acquiror from conducting a solicitation of proxies to elect its own slate of directors or otherwise attempting to obtain control of Comfort Systems.

*Amendments.* Our Certificate of Incorporation provides that, unless such action has been approved by a majority vote of our full Board, the affirmative vote of 66 $\frac{2}{3}$ % of the votes which all stockholders of our then outstanding capital stock would be entitled to cast thereon, voting together as a single class, is required to amend or repeal any provisions of Article Five of our Certificate of Incorporation or to adopt any provision inconsistent therewith. In addition, our Bylaws provide that, unless a different percentage is called for in a particular provision thereof, any amendment or repeal of the Bylaws by the stockholders shall require a vote of the holders of 66 $\frac{2}{3}$ % of the total votes eligible to be cast by holders of voting stock with respect to such amendment or repeal.

#### **Certain Anti-Takeover Effects of Delaware Law**

We are subject to Section 203 of the DGCL ("Section 203"). In general, Section 203 prohibits a publicly held Delaware corporation from engaging in any business combination with any interested stockholder for a period of 3 years following the time that such stockholder became an interested stockholder, unless:

- Prior to such time the Board of the corporation approved either the business combination or the transaction which resulted in the stockholder becoming an interested stockholder;
- Upon consummation of the transaction which resulted in the stockholder becoming an interested stockholder, the interested stockholder owned at least 85% of the voting stock of the corporation outstanding at the time the transaction commenced, excluding for purposes of determining the voting stock outstanding (but not the outstanding voting stock owned by the interested stockholder) those shares owned (i) by persons who are directors and also officers and (ii) employee stock plans in which employee participants do not have the right to determine confidentially whether shares held subject to the plan will be tendered in a tender or exchange offer; or
- At or subsequent to such time the business combination is approved by the Board and authorized at an annual or special meeting of stockholders, and not by written consent, by the affirmative vote of at least 66 $\frac{2}{3}$ % of the outstanding voting stock which is not owned by the interested stockholder.

**AMENDMENT NO. 6 TO  
SECOND AMENDED AND RESTATED CREDIT AGREEMENT  
AND  
AMENDMENT TO OTHER LOAN DOCUMENTS**

THIS AMENDMENT NO. 6 TO SECOND AMENDED AND RESTATED CREDIT AGREEMENT AND AMENDMENT TO OTHER LOAN DOCUMENTS (this "Amendment") dated as of December 20, 2019 (the "Amendment Effective Date"), is among COMFORT SYSTEMS USA, INC., a Delaware corporation (the "Borrower"), the other entities identified as Guarantors on the signature pages hereto (the "Guarantors"), the several banks and other financial institutions signatories hereto (the "Lenders") and WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association, as Agent for the Lenders (the "Agent").

**RECITALS**

A. The Borrower, the Lenders and the Agent are parties to a Second Amended and Restated Credit Agreement dated as of July 16, 2010 (as amended, modified and supplemented prior to the date hereof, the "Credit Agreement").

B. The Borrower, the Guarantors, and the Agent are parties to a Second Amended and Restated Security Agreement dated as of July 16, 2010 (as amended, modified and supplemented prior to the date hereof, the "Security Agreement").

C. The Borrower, the Guarantors and the Agent are parties to a Second Amended and Restated Pledge Agreement dated as of July 16, 2010 (as amended, modified and supplemented prior to the date hereof, the "Pledge Agreement").

D. The Borrower, the Guarantors and the Agent are parties to a Second Amended and Restated Subsidiary Guaranty dated as of July 16, 2010 (as amended, modified and supplemented prior to the date hereof, the "Guaranty").

E. The Borrower and the Guarantors have requested that the Lenders approve this Amendment to amend certain terms and provisions of the Credit Agreement, Security Agreement and Pledge Agreement, as set forth herein.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants set forth in this Amendment, the Borrower, the Guarantors, the Agent and the Lenders agree as follows:

1. **Defined Terms.** Unless otherwise defined in this Amendment, capitalized terms used in this Amendment have the meanings assigned to those terms in the Credit Agreement.

2. **Amendments to Credit Agreement.**

(a) The Credit Agreement is hereby amended to read in its entirety as set forth on Annex I attached to this Amendment.

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(b) The Pricing Schedule to the Credit Agreement is hereby replaced in its entirety with the Pricing Schedule attached to this Amendment.

(c) The Credit Agreement is hereby amended to redesignate Exhibit 2.1 thereto as Exhibit 2.1(a) and add Exhibit 2.1(b) thereto with Exhibit 2.1(b) attached to this Amendment.

(d) Schedule 3.1 to the Credit Agreement and Sections 5.13 and 5.14 of Schedule 5 to the Credit Agreement are hereby replaced in their entirety with Schedule 3.1 and Sections 5.13 and 5.14 of Schedule 5 attached to this Amendment.

3. **Amendment to Security Agreement.** Schedules I and III to the Security Agreement are hereby replaced in their entirety with Schedules I and III to the Second Amended and Restated Security Agreement attached to this Amendment.

4. **Amendment to Pledge Agreement.** Schedule I to the Pledge Agreement is hereby replaced in its entirety with Schedule I to the Second Amended and Restated Pledge Agreement attached to this Amendment.

5. **Amendment to Guaranty.** The Guaranty is hereby amended to add the following new Section 11 in numerical order:

“11. **SUBORDINATION.**

Each Guarantor hereby subordinates the payment of all obligations and indebtedness of Borrower or any other Guarantor owing to such Guarantor, whether now existing or hereafter arising, including but not limited to any obligation of Borrower or any other Guarantor to such Guarantor as subrogee of any Secured Party or resulting from such Guarantor’s performance under this Guaranty, to the indefeasible payment in full in cash of all Guaranteed Obligations. With respect to each Guarantor, if Agent so requests, any such obligation or indebtedness of Borrower or any other Guarantor to such Guarantor shall be enforced and performance received by such Guarantor as trustee for the Secured Parties and the proceeds thereof shall be paid over to Agent on account of the Guaranteed Obligations, but without reducing or affecting in any manner the liability of such Guarantor under this Guaranty.”

6. **Conditions to Effectiveness.** This Amendment will become effective on the Amendment Effective Date upon satisfaction of the following conditions:

(a) the Agent shall have received counterparts of this Amendment, executed and delivered by the Borrower, the Guarantors, the Agent and the Lenders;

(b) the Agent shall have received a Revolving Note for each Lender that requests a Revolving Note substantially in the form of Exhibit 2.1(a) attached to

the Credit Agreement in the principal amount of such Lender's Revolving Loan Commitment as set forth on Schedule 3.1 attached hereto;

(c) the Agent shall have received a Swingline Note for the Swingline Lender substantially in the form of Exhibit 2.16 attached to the Credit Agreement in the principal amount of \$50,000,000;

(d) the Agent shall have received a Term Note (as defined in Annex I hereto) for each Lender that requests a Term Note substantially in the form of Exhibit 2.1(b) attached hereto in the principal amount of each such Lender's Term Loan Commitment (as defined in Annex I hereto) as set forth on Schedule 3.1 attached hereto;

(e) the representations and warranties of the Borrower and the Guarantors in Section 7 of this Amendment shall be true and correct;

(f) the Agent shall have received, or shall concurrently receive, payment of all fees payable in connection with this Amendment including, without limitation, the fees payable to pursuant to that certain Fee Letter dated November 19, 2019;

(g) the Agent shall have received the following certificates of Borrower and, as appropriate, the Guarantors:

(i) an "Omnibus Certificate" of the Secretary or Assistant Secretary of the Borrower and each Guarantor, which shall (i) contain the names and signatures of the officers of the Borrower and each Guarantor authorized to execute Loan Documents, (ii) certify that there have been no changes to the charter documents or bylaws of the Borrower and each Guarantor previously delivered to the Agent (or, to the extent any such documents have changed, attach and certify to the truth, correctness and completeness of such documents) and (iii) attach and certify to the truth, correctness and completeness of a copy of resolutions duly adopted by the Board of Directors of the Borrower and each Guarantor and in full force and effect at the time this Amendment is entered into, authorizing the execution of this Amendment and the other Loan Documents delivered or to be delivered in connection herewith and the consummation of the transactions contemplated herein and therein; and

(ii) a "Closing Certificate" of the chief financial officer of the Borrower, as of the date of this Amendment, certifying that (A) the conditions set out in subsections (a) and (b) of Section 4.2 of the Credit Agreement have been satisfied and (B) the financial information of the Borrower most recently delivered to the Agent pursuant to Section 6.2(b) of the Credit Agreement fairly present the Consolidated financial position of the Borrower for the periods covered thereby;

(h) the Agent shall have received a certificate of existence and good standing for the Borrower issued by the Secretary of State of Delaware, a certificate of due qualification to do business for the Borrower issued by the Secretary of State of Texas

and evidence that the Borrower's authority to transact business in the State of Texas is active;

(i) the Agent shall have received a favorable opinion of (i) Bracewell LLP, counsel for Restricted Persons, in form and substance reasonably satisfactory to the Agent; and (ii) Laura Howell, in-house counsel for Restricted Persons, in form and substance reasonably satisfactory to the Agent;

(j) the Agent shall have received, in form and substance reasonably satisfactory to the Agent, projections prepared by management of balance sheets, income statements and cashflow statements of the Borrower and its Subsidiaries for the Fiscal Years ending December 31, 2019 through December 31, 2024; and

(k) the Borrower shall have delivered to the Agent, and directly to any Lender requesting the same, a Beneficial Ownership Certification (as defined in Annex I hereto) in relation to it (or a certification that the Borrower qualifies for an express exclusion from the "legal entity customer" definition under the Beneficial Ownership Regulation (as defined in Annex I hereto)).

7. **Representations and Warranties.** The Borrower and the Guarantors hereby represent and warrant to the Agent and each of the Lenders as follows:

(a) This Amendment has been duly authorized by all necessary corporate or other action and constitutes the binding obligation of the Borrower and the Guarantors.

(b) Each of the representations and warranties made by the Borrower and the Guarantors in or pursuant to the Credit Agreement and the other Loan Documents is true and correct in all material respects as of the date hereof, as if made (after giving effect to this Amendment) on and as of such date, except for any representations and warranties made as of a specified date, which were true and correct in all material respects as of such specified date.

(c) After giving effect to this Amendment, no Default or Event of Default has occurred and is continuing as of the date hereof.

(d) Since December 31, 2018, there has occurred no Material Adverse Change.

8. **New Lenders; Master Assignment.**

(a) By its execution of this Amendment, each of Bank of the West and Frost Bank (each, a "New Lender") agrees to become a Lender for all purposes and to the same extent as if originally a party to the Credit Agreement (as amended by this Amendment) and agrees to be bound by and entitled to the benefits of the Credit Agreement (as amended by this Amendment).

(b) Each New Lender hereby (i) represents and warrants that it is legally authorized to enter into this Amendment and become a "Lender" under the Credit Agreement (as

amended by this Amendment) and the other Loan Documents; (ii) confirms that it has received a copy of the Credit Agreement, together with the copies of the most recent financial statements delivered pursuant to Section 6.2 thereof and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Amendment and become a “Lender” under the Credit Agreement (as amended by this Amendment) and the other Loan Documents; (iii) agrees that it will, independently and without reliance upon the Agent 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 Credit Agreement (as amended by this Amendment) and the other Loan Documents; (iv) appoints and authorizes the Agent to take any action as agent on its behalf and to exercise any powers under the Loan Documents that are delegated to the Agent by the terms of the Loan Documents, together with all powers that are reasonably incidental thereto; and (v) agrees that it shall perform in accordance with their terms all of the obligations which by the terms of the Credit Agreement (as amended by this Amendment) are required to be performed by it as a Lender.

(c) On the Amendment Effective Date, each of the Lenders that was a Lender prior to the Amendment Effective Date (each, an “Existing Lender”) hereby sells, assigns, transfers and conveys to each New Lender, and each New Lender hereby purchases and accepts, so much of the aggregate Revolving Loan Commitments under, and Revolving Loans and participations in Letters of Credit and Swingline Loans outstanding under, the Credit Agreement such that, immediately after giving effect to this Amendment, the Percentage Share of each Lender to the Credit Agreement and the Revolving Loan Commitment of each Lender, shall be as set forth on Schedule 3.1 attached to this Amendment (it being understood that if any Letters of Credit or Swingline Loans are outstanding under the Credit Agreement as of the Amendment Effective Date, then each New Lender shall have purchased and accepted from the Existing Lenders, a participation in such outstanding Letters of Credit or Swingline Loans based on its respective Percentage Share). The foregoing assignments, transfers and conveyances are without recourse to any Existing Lender and without any warranties whatsoever by the Agent, the LC Issuer, the Swingline Lender or any Existing Lender as to title, enforceability, collectability, documentation or freedom from liens or encumbrances, in whole or in part, other than that the warranty of any such Existing Lender that it has not previously sold, transferred, conveyed or encumbered such interests. The Existing Lenders and the Lenders shall, if appropriate, make all appropriate adjustments in payments under the Credit Agreement and the other Loan Documents thereunder for periods prior to the adjustment date among themselves, but in no event shall any such adjustment of Eurodollar Loans (i) constitute a payment or prepayment of all or a portion of any Eurodollar Loans or (ii) entitle any Lender to any reimbursement under Section 3.5 of the Credit Agreement.

9. **Continuing Effect of the Credit Agreement and Other Loan Documents.** This Amendment does not constitute a waiver of any provision of the Credit Agreement or any other Loan Document and, except as expressly provided herein, is not to be construed as a consent to any action on the part of the Borrower or the Guarantors that would require a waiver or consent of the Lenders or an amendment or modification to any term of the Loan Documents. The Borrower and the Guarantors hereby confirm and ratify the Credit Agreement as amended hereby and each of the other Loan Documents to which it is a party and acknowledges and agrees that the same continue in full force and effect as amended hereby (as applicable).



10. **Reference to the Credit Agreement, Security Agreement or Pledge Agreement.** Upon the effectiveness of this Amendment, each reference in the Credit Agreement, Security Agreement or Pledge Agreement to “this Agreement”, “this Security Agreement”, “this Pledge Agreement”, “hereunder”, “herein” or words of like import refer to the Credit Agreement, Security Agreement or Pledge Agreement, as applicable, as amended and affected hereby.

11. **Designation as Loan Document.** This Amendment is a Loan Document.

12. **Counterparts.** This Amendment may be executed by all parties hereto in any number of separate counterparts each of which may be delivered in original, facsimile or other electronic (e.g., “.pdf”) form and all of such counterparts taken together constitute one instrument.

13. **References.** The words “hereby,” “herein,” “hereinabove,” “hereinafter,” “hereinbelow,” “hereof,” “hereunder” and words of similar import when used in this Amendment refer to this Amendment as a whole and not to any particular article, section or provision of this Amendment. References in this Amendment to a section number are to such sections of the Credit Agreement unless otherwise specified.

14. **Headings Descriptive.** The headings of the several sections of this Amendment are inserted for convenience only and do not in any way affect the meaning or construction of any provision of this Amendment.

15. **Governing Law.** This Amendment is governed by and will be construed in accordance with the law of the State of Texas.

16. **Payment of Expenses.** The Borrower shall pay or reimburse the Agent for all of its reasonable out-of-pocket costs and reasonable expenses incurred in connection with this Amendment, any other documents prepared in connection herewith and the transactions contemplated hereby, including, without limitation, the reasonable fees and disbursements of counsel to the Agent.

17. **Final Agreement of the Parties.** THIS AMENDMENT, THE CREDIT AGREEMENT AND THE OTHER LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT AMONG THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS AMONG THE PARTIES.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties are signing this Amendment as of the Amendment Effective Date.

**COMFORT SYSTEMS USA, INC.,**  
Borrower

By: /s/ William George III  
\_\_\_\_\_  
William George III  
Executive Vice President,  
Chief Financial Officer  
and Assistant Secretary

Address:

Comfort Systems USA, Inc.  
675 Bering, Suite 400  
Houston, Texas 77057  
Attention: William George III  
Telephone: (713) 830-9650  
Fax: (713) 830-9659

Signature Page to Amendment No. 6

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## ACKNOWLEDGMENT OF GUARANTORS

Each of the undersigned Guarantors hereby executes this Amendment to evidence its agreement to the modification of the Loan Documents to which it is a party and to confirm that each Loan Document (as the same may be amended or amended and restated, as the case may be, pursuant to and in connection with this Amendment) to which it is a party or otherwise bound remains in full force and effect and that all Collateral encumbered thereby will continue to secure, to the fullest extent possible, the payment and performance of all "Obligations", "Secured Obligations" and "Guaranteed Obligations" (in each case as such term is defined in the applicable Loan Document), including without limitation the payment and performance of all such "Obligations", "Secured Obligations" and "Guaranteed Obligations" in respect of the Obligations now or hereafter existing under or in respect of the Credit Agreement and the other Loan Documents. The Guarantors specifically reaffirm and extend their obligations under each of their applicable Guaranties to cover all indebtedness evidenced by the Credit Agreement as same has been created, amended and/or restated by or in connection with this Amendment. The Guaranties and all the terms thereof shall remain in full force and effect and the Guarantors hereby acknowledge and agree that same are valid and existing and that each of the Guarantors' obligations thereunder shall not be impaired or limited by the execution or effectiveness of this Amendment, except as expressly provided herein. Each Guarantor hereby represents and warrants that all representations and warranties contained in this Amendment and the other Loan Documents to which it is a party or otherwise bound are true, correct and complete in all material respects on and as of the date of this Amendment, except to the extent such representations and warranties specifically relate to an earlier date, in which case they were true, correct and complete in all material respects on and as of such earlier date. The Agent on behalf of the Lenders hereby preserves all its rights against each Guarantor under its applicable Guaranty and the other Loan Documents to which each applicable Guarantor is a party.

Each Guarantor acknowledges and agrees that (i) notwithstanding the conditions to the effectiveness set forth in this Amendment, such Guarantor is not required by the terms of the Credit Agreement, this Amendment or any other Loan Document to consent to the amendments of the Credit Agreement effected pursuant to this Amendment; and (ii) nothing in the Credit Agreement, this Amendment or any other Loan Document shall be deemed to require the consent of such Guarantor to any future amendments to the Credit Agreement.

ACCU-TEMP GP, INC.  
ACCU-TEMP LP, INC.  
ACI MECHANICAL, INC.  
ACORN INDUSTRIAL, LLC, by Comfort Systems USA  
(MidAtlantic), LLC, as Sole Managing Member  
ADVANCE TECHNOLOGY, INC.  
AIR SYSTEMS ENGINEERING, INC.  
AIRTEMP, INC.  
ARC COMFORT SYSTEMS USA, INC.

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ARSTECTUM, INC.  
BCH HOLDINGS, INC.  
BCH LEASING, LLC, by BCH Holdings, Inc., as Sole  
Managing Member  
BCH MECHANICAL, L.L.C., by BCH Holdings, Inc., as Sole  
Managing Member  
BCM CONTROLS CORPORATION  
BUILDING TEMPERATURE SOLUTIONS, LLC  
CALIFORNIA COMFORT SYSTEMS USA, INC.  
COLONIALWEBB CONTRACTORS COMPANY  
COMFORT SYSTEMS USA (ARKANSAS), INC.  
COMFORT SYSTEMS USA (BALTIMORE), LLC, by Hess  
Mechanical, LLC as Sole Managing Member  
COMFORT SYSTEMS USA G.P., INC.  
COMFORT SYSTEMS USA (INDIANA), LLC, by Comfort  
Systems USA Strategic Accounts, LLC, as Sole Managing  
Member  
COMFORT SYSTEMS USA (INTERMOUNTAIN), INC.  
COMFORT SYSTEMS USA (KENTUCKY), INC.  
COMFORT SYSTEMS USA (MIDATLANTIC), LLC, by  
Riddleberger Brothers, Inc., as Sole Managing Member  
COMFORT SYSTEMS USA (MID SOUTH), INC.  
COMFORT SYSTEMS USA (NORTHWEST), INC.  
COMFORT SYSTEMS USA (OHIO), INC.  
COMFORT SYSTEMS USA (SOUTH CENTRAL), INC.  
COMFORT SYSTEMS USA (SOUTHEAST), INC.  
COMFORT SYSTEMS USA (SOUTHWEST), INC.  
COMFORT SYSTEMS USA STRATEGIC ACCOUNTS,  
LLC, by Accu-Temp LP, Inc., as Managing Member  
COMFORT SYSTEMS USA (SYRACUSE), INC.  
COMFORT SYSTEMS USA (TEXAS), L.P., by Comfort  
Systems USA G.P., Inc., as general partner  
CONSERV BUILDING SERVICES, LLC, by BCH Holdings,  
Inc., as Sole Managing Member  
CONSERV BUILDING SERVICES OF ALABAMA, LLC, by  
BCH Holdings, Inc., as Sole Managing Member  
CONSERV BUILDING SERVICES OF GEORGIA, LLC, by  
BCH Holdings, Inc., as Sole Managing Member  
CONSERV BUILDING SERVICES OF NORTH  
CAROLINA, LLC, by BCH Holdings, Inc., as Sole Managing  
Member  
CONSERV BUILDING SERVICES OF TENNESSEE, LLC,  
by BCH Holdings, Inc., as Sole Managing Member  
CONSERV BUILDING SERVICES OF TEXAS, LLC, by  
BCH Holdings, Inc., as Sole Managing Member

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CONTROL CONCEPTS, LLC, by Comfort Systems USA  
(Southeast), Inc., as Sole Managing Member  
CONTROL CONCEPTS MECHANICAL SERVICES, LLC,  
by Comfort Systems USA (Southeast), Inc., as Sole  
Managing Member  
CSUSA (10), LLC, by Comfort Systems USA, Inc., as Sole  
Managing Member  
DELCARD ASSOCIATES, LLC, by Seasonair, Inc., as Sole  
Managing Member  
DESIGN MECHANICAL INCORPORATED  
DILLING, LLC  
DILLING GROUP, INC.  
DILLING GROUP LEASING CO., LLC D/B/A GRP  
LEASING CO., LLC  
DYNA TEN CORPORATION  
DYNA TEN MAINTENANCE SERVICES, LLC  
EASTERN HEATING & COOLING, INC.  
ENVIRONMENTAL AIR SYSTEMS, LLC, by CSUSA (10),  
LLC, as Sole Managing Member  
ENVIROTROL, LLC, by Environmental Air Systems, LLC, as  
Sole Managing Member  
F.W. DILLING, LLC  
GENEREX, LLC  
GRANITE STATE HOLDINGS COMPANY, INC.  
GRANITE STATE PLUMBING & HEATING, LLC, by  
Granite State Holdings Company, Inc., as Sole Managing  
Member  
HESS MECHANICAL, LLC, by Seasonair, Inc., as Sole  
Managing Member  
MECHANICAL TECHNICAL SERVICES, INC.  
MJ MECHANICAL SERVICES, INC.  
NORTH AMERICAN MECHANICAL, INC.  
OFF, LLC  
PREMIER PREFABRICATION SOLUTIONS, LLC  
QUALITY AIR HEATING & COOLING, INC.  
RIDDLEBERGER BROTHERS, INC.  
ROYALAIRE HOLDINGS, LLC, by BCH Holdings, Inc., as  
Sole Managing Member  
ROYALAIRE MECHANICAL SERVICES, LLC, by BCH  
Holdings, Inc., as Sole Managing Member  
ROYALAIRE MECHANICAL SERVICES II, LLC, by BCH  
Holdings, Inc., as Sole Managing Member  
S.I. GOLDMAN COMPANY, INC.  
S.M. LAWRENCE COMPANY, INC.  
SEASONAIR, INC.  
SHOFFNERKALTHOFF MES, INC.

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TEMP RIGHT SERVICE, INC.  
TRUMBO ELECTRIC, INCORPORATED  
WALKER TX HOLDING COMPANY, LLC  
WALKER ENGINEERING, INC.  
WALKER ELECTRICAL CONTRACTORS, INC.  
WALKER LOGISTICS, LLC  
WALKER SERVICE GROUP, LLC  
WALKER INDUSTRIAL, LLC D/B/A WALKER  
CONTROLS

By: /s/ William George III

\_\_\_\_\_  
William George III

Vice President and Assistant Secretary

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**WELLS FARGO BANK, NATIONAL ASSOCIATION,**  
Agent and a Lender

By: /s/ Benita V. Reyes  
Benita V. Reyes  
Senior Vice President

Address:

Wells Fargo Bank, National Association  
1000 Louisiana, 9th Floor  
Houston, Texas 77002  
Attention: Benita V. Reyes  
Telephone: 713-319-1332  
Fax: 713-739-1087

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**CAPITAL ONE, N.A.,**  
Lender

By: /s/ Yasmin Huebinger  
Name: Yasmin Huebinger  
Title: Senior Vice President

Address:

Capital One, N.A.  
5444 Westheimer, Suite 700  
Houston, Texas 77056  
Attention: Yasmin Huebinger  
Telephone: 713-212-5285  
Fax: 855-735-8388

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**TRUIST BANK,**  
Lender

By: /s/ Jim C. Wright  
Name: Jim C. Wright  
Title: Vice President

Address:

Truist Bank  
333 Clay Street, Suite 4495  
Houston, Texas 77002-4107  
Attention: Matt McCain  
Telephone: 713-797-2147  
Fax: 713-932-6285

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**U.S. BANK NATIONAL ASSOCIATION,  
Lender**

By: /s/ Sean P. Walters

Name: Sean P. Walters

Title: Vice President

Address:

U.S. Bank National Association

214 N. Tryon Street

CN-NC-H30N

Charlotte, North Carolina 28202-1078

Attention: Sean Walters

Telephone: 704-335-2788

Fax: 704-335-2815

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**BOKE, NA dba Bank of Texas,  
Lender**

By: /s/ Marian Livingston  
Name: Marian Livingston  
Title: Senior Vice President

Address:

BOKE, NA dba Bank of Texas  
5 Houston Center  
1401 McKinney, Suite 1000  
Houston, Texas 77010  
Attention: Marian Livingston  
Telephone: 713-289-5843  
Fax: 713-289-5825

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**BANK OF THE WEST,**  
Lender

By: /s/ R. Blake Beavers  
Name: R. Blake Beavers  
Title: Director

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Address:

Bank of the West  
13355 Noel Road, Suite 225  
Dallas, Texas 75240  
Attention: R. Blake Beavers  
Telephone:972-457-9236

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**REGIONS BANK,**

Lender

By: /s/ Claudia Biedenharn

Name: Claudia Biedenharn

Title: Vice President

Address:

Regions Bank

1717 McKinney Ave., Suite 1100

Dallas, Texas 75202

Attention: Claudia Biedenharn

Telephone:469-608-2739

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**FROST BANK,**  
Lender

By:       /s/ Ty Mayo        
Name: Ty Mayo  
Title: Senior Vice President

Address:

Frost Bank  
640 Taylor Street  
Fort Worth, TX 76102  
Attention: Ty Mayo  
Telephone:817-420-5552  
Fax: 817-420-5550

Signature Page to Amendment No. 6

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**CADENCE BANK, N.A.,**  
Lender

By: /s/ Katherine Buckwalter  
Name: Katherine Buckwalter  
Title: Assistant Vice President

Address:

Cadence Bank, N.A.  
2800 Post Oak Boulevard, Suite 3800  
Houston, Texas 77056  
Attention: Katherine Buckwalter  
Telephone: 713-871-5401  
Fax: 713-634-4963

Signature Page to Amendment No. 6

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**\$600,000,000  
SECOND AMENDED AND RESTATED CREDIT AGREEMENT**

**by and among**

**COMFORT SYSTEMS USA, INC.,  
as Borrower**

**and**

**WELLS FARGO BANK, NATIONAL ASSOCIATION,  
as Administrative Agent**

**WELLS FARGO SECURITIES, LLC,  
as Sole Lead Arranger and Sole Lead Bookrunner**

**CAPITAL ONE, N.A.,  
TRUIST BANK**

**and**

**U.S. BANK NATIONAL ASSOCIATION,  
as Co-Syndication Agents**

**and**

**CERTAIN FINANCIAL INSTITUTIONS  
as Lenders**

**July 16, 2010**

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## SECOND AMENDED AND RESTATED CREDIT AGREEMENT

THIS SECOND AMENDED AND RESTATED CREDIT AGREEMENT is made as of July 16, 2010, by and among **Comfort Systems USA, Inc.**, a Delaware corporation, **Wells Fargo Bank, National Association** (successor by merger to Wachovia Bank, N.A.), a national banking association, as Agent, and the Lenders referred to below, and amends and restates that certain Amended and Restated Credit Agreement dated February 20, 2007 entered into by Borrower, the Lenders therein and Wachovia Bank, N.A., as administrative agent (the "Existing Credit Agreement").

### WITNESSETH:

In consideration of the mutual covenants and agreements contained herein, in consideration of the loans which may hereafter be made by Lenders and the Letters of Credit which may be made available by LC Issuer to Borrower, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto do hereby agree as follows:

### ARTICLE I DEFINITIONS AND REFERENCES

Section 1.1 Defined Terms. As used in this Agreement, each of the following terms has the meaning given to such term in this Section 1.1 or in the sections and subsections referred to below:

"Account Debtor" means the Person which is obligated on any Receivable.

"Acquisition" means the direct or indirect purchase or acquisition, whether in one or more related transactions, of all or substantially all of the capital stock of any Person or group of Persons or all or substantially all of the assets, liabilities, and business of any Person or group of Persons.

"Adjusted Base Rate" means, on any day, the Base Rate for such day plus the Base Rate Margin for such day; provided that the Adjusted Base Rate charged by any Person shall never exceed the Highest Lawful Rate.

"Adjusted LIBOR Rate" means, for any Eurodollar Loan for any day during any Interest Period therefor, the rate per annum equal to the sum of (a) the Eurodollar Margin for such day plus (b) the rate per annum (rounded upwards, if necessary, to the nearest 1/100 of 1%) determined by Agent to be equal to the quotient obtained by dividing (i) LIBOR for such Eurodollar Loan for such Interest Period by (ii) 1 minus the Reserve Requirement for such Eurodollar Loan for such Interest Period; provided that no Adjusted LIBOR Rate charged by any Person shall ever exceed the Highest Lawful Rate. The Adjusted LIBOR Rate for any Eurodollar Loan shall change whenever the Eurodollar Margin or the Reserve Requirement changes.

“Affiliate” means, as to any Person, each other Person that directly or indirectly (through one or more intermediaries or otherwise) controls, is controlled by, or is under common control with, such Person. A Person shall be deemed to be “controlled by” any other Person if such other Person possesses, directly or indirectly, power to vote 20% or more of the securities or other equity interests (on a fully diluted basis) having ordinary voting power for the election of directors, the managing general partner or partners or the managing member or members; or to direct or cause the direction of the management and policies of such Person whether by contract or otherwise.

“Agent” means Wells Fargo Bank, National Association, as administrative agent hereunder, and its successors in such capacity.

“Aggregate Revolving Loan Commitment” means the aggregate of all Lenders’ Revolving Loan Commitments, as such may be reduced or increased from time to time in accordance with this Agreement. As of the Amendment No. 6 Effective Date, the Aggregate Revolving Loan Commitment is equal to \$450,000,000.

“Agreement” means this Credit Agreement.

“Amendment No. 1 Effective Date” means September 23, 2011.

“Amendment No. 3 Effective Date” means July 22, 2014.

“Amendment No. 4 Effective Date” means February 22, 2016.

“Amendment No. 5 Effective Date” means April 18, 2018.

“Amendment No. 6 Effective Date” means December \_\_\_, 2019.

“Anti-Corruption Laws” means all laws, rules and regulations of any jurisdiction applicable to Borrower or its Subsidiaries from time to time concerning or relating to bribery or anti-corruption, including, without limitation, the United States Foreign Corrupt Practices Act of 1977, as amended, and the rules and regulations thereunder.

“Applicable Lending Office” means, with respect to each Lender, such Lender’s Domestic Lending Office in the case of Base Rate Loans and such Lender’s Eurodollar Lending Office in the case of Eurodollar Loans.

“Approved Fund” means (a) a CLO and (b) with respect to any Lender that is a fund which invests in bank loans and similar extensions of credit, any other fund that invests in bank loans and similar extensions of credit and is managed by the same investment advisor as such Lender or by an affiliate of such investment advisor. As used herein, “CLO” shall mean any entity (whether a corporation, partnership, trust or otherwise) that is engaged in making, purchasing, holding or otherwise investing in bank loans and similar extensions of credit in the ordinary course of its business and is administered or managed by a Lender or an affiliate of a Lender.

“Asset Disposition” means any disposition of assets by Borrower or any other Restricted Person that is permitted by Section 7.5(e) or occurs as a result of any loss, damage, destruction or casualty of any or all of the assets of Borrower or any other Restricted Person.

“Assignment and Acceptance” means the agreement contemplated by Section 10.5.

“Attributable Indebtedness” means, when used with respect to any Sale Leaseback Transaction, as at the time of determination, the capitalized amount of the remaining lease payments under the relevant lease or other applicable agreement that would appear on a balance sheet of Borrower prepared as of such date in accordance with GAAP (as in effect on the Closing Date) if such lease or other agreement were accounted for as a Capital Lease.

“Bail-In Action” means the exercise of any Write-Down and Conversion Powers by the applicable EEA Resolution Authority in respect of any liability of an EEA Financial Institution.

“Bail-In Legislation” means, with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule.

“Base Rate” means, for any day, the rate per annum equal to the highest of (a) the Federal Funds Rate for such day plus one-half of one percent (.5%), (b) the Prime Rate for such day, and (c) LIBOR for a one-month Interest Period beginning on that day plus 1.00%. Any change in the Base Rate due to a change in the Prime Rate, the Federal Funds Rate or LIBOR shall be effective on the effective date of such change in the Prime Rate, the Federal Funds Rate or LIBOR (provided that clause (c) shall not be applicable during any period in which LIBOR is unavailable or unascertainable). As used in this definition, “Prime Rate” means the per annum rate of interest established from time to time by Wells Fargo Bank, National Association, as its Prime Rate, which rate may not be the lowest rate of interest charged by Wells Fargo Bank, National Association to its customers.

“Base Rate Loan” means a Loan that bears interest at the Adjusted Base Rate.

“Base Rate Margin” means on any date, with respect to each Base Rate Loan, the rate per annum set forth as such on the Pricing Schedule.

“Benchmark Replacement” means the sum of: (a) the alternate benchmark rate (which may include Term SOFR) that has been selected by Agent and Borrower giving due consideration to (i) any selection or recommendation of a replacement rate or the mechanism for determining such a rate by the Relevant Governmental Body or (ii) any evolving or then-prevailing market convention for determining a rate of interest as a replacement to LIBOR for U.S. dollar-denominated syndicated credit facilities and (b) the Benchmark Replacement Adjustment; provided that, if the Benchmark Replacement as so determined would be less than zero, the Benchmark Replacement will be deemed to be zero for the purposes of this Agreement.

“Benchmark Replacement Adjustment” means, with respect to any replacement of LIBOR with an Unadjusted Benchmark Replacement for each applicable Interest Period, the spread adjustment, or method for calculating or determining such spread adjustment, (which may



be a positive or negative value or zero) that has been selected by Agent and Borrower giving due consideration to (a) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of LIBOR with the applicable Unadjusted Benchmark Replacement by the Relevant Governmental Body or (b) any evolving or then-prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of LIBOR with the applicable Unadjusted Benchmark Replacement for U.S. dollar-denominated syndicated credit facilities at such time.

“Benchmark Replacement Conforming Changes” means, with respect to any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of “Base Rate,” the definition of “Interest Period,” timing and frequency of determining rates and making payments of interest and other administrative matters) that Agent decides may be appropriate to reflect the adoption and implementation of such Benchmark Replacement and to permit the administration thereof by Agent in a manner substantially consistent with market practice (or, if Agent decides that adoption of any portion of such market practice is not administratively feasible or if Agent determines that no market practice for the administration of the Benchmark Replacement exists, in such other manner of administration as Agent decides is reasonably necessary in connection with the administration of this Agreement).

“Benchmark Replacement Date” means the earlier to occur of the following events with respect to LIBOR:

(a) in the case of clause (a) or (b) of the definition of “Benchmark Transition Event,” the later of (i) the date of the public statement or publication of information referenced therein and (ii) the date on which the administrator of LIBOR permanently or indefinitely ceases to provide LIBOR; and

(b) in the case of clause (c) of the definition of “Benchmark Transition Event,” the date of the public statement or publication of information referenced therein.

“Benchmark Transition Event” means the occurrence of one or more of the following events with respect to LIBOR:

(a) a public statement or publication of information by or on behalf of the administrator of LIBOR announcing that such administrator has ceased or will cease to provide LIBOR, permanently or indefinitely; provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide LIBOR;

(b) a public statement or publication of information by the regulatory supervisor for the administrator of LIBOR, the U.S. Federal Reserve System, an insolvency official with jurisdiction over the administrator for LIBOR, a resolution authority with jurisdiction over the administrator for LIBOR or a court or an entity with similar insolvency or resolution authority over the administrator for LIBOR, which states that the administrator of LIBOR has ceased or will cease to provide LIBOR permanently or indefinitely; provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide LIBOR; or

(c) a public statement or publication of information by the regulatory supervisor for the administrator of LIBOR announcing that LIBOR is no longer representative.

“Benchmark Transition Start Date” means (a) in the case of a Benchmark Transition Event, the earlier of (i) the applicable Benchmark Replacement Date and (ii) if such Benchmark Transition Event is a public statement or publication of information of a prospective event, the 90th day prior to the expected date of such event as of such public statement or publication of information (or if the expected date of such prospective event is fewer than 90 days after such statement or publication, the date of such statement or publication) and (b) in the case of an Early Opt-in Election, the date specified by Agent or the Required Lenders, as applicable, by notice to Borrower, Agent (in the case of such notice by the Required Lenders) and the Lenders.

“Benchmark Unavailability Period” means, if a Benchmark Transition Event and its related Benchmark Replacement Date have occurred with respect to LIBOR and solely to the extent that LIBOR has not been replaced with a Benchmark Replacement, the period (a) beginning at the time that such Benchmark Replacement Date has occurred if, at such time, no Benchmark Replacement has replaced LIBOR for all purposes hereunder in accordance with Section 3.7(b) and (b) ending at the time that a Benchmark Replacement has replaced LIBOR for all purposes hereunder pursuant to Section 3.7(b).

“Beneficial Ownership Certification” means a certification regarding beneficial ownership as required by the Beneficial Ownership Regulation.

“Beneficial Ownership Regulation” means 31 CFR § 1010.230.

“Bonded Receivables” means any Receivable resulting from goods or services provided to an Account Debtor under a job which is covered by a surety bond provided by Borrower or its agent, that is secured by assets of any Restricted Person.

“Borrower” means Comfort Systems USA, Inc., a Delaware corporation.

“Borrowing” means a borrowing of (i) new Loans of the same Class and Type (and, in the case of Eurodollar Loans, with the same Interest Period) pursuant to Section 2.2, (ii) a Continuation or Conversion of existing Loans of the same Class into a single Type (and, in the case of Eurodollar Loans, with the same Interest Period) pursuant to Section 2.3, or (iii) a Swingline Loan pursuant to Section 2.16.

“Borrowing Notice” means a written or telephonic request, or a written confirmation, made by Borrower which meets the requirements of Section 2.2.

“Business Day” means a day, other than a Saturday or Sunday, on which commercial banks are open for business with the public in Houston, Harris County, Texas. Any Business Day in any way relating to Eurodollar Loans (such as the day on which an Interest Period begins or ends) must also be a day on which, in the judgment of Agent, significant transactions in dollars are carried out in the interbank eurocurrency market.

“Capital Asset” means any asset which would be classified as a fixed or capital asset on a Consolidated balance sheet of any Person prepared in accordance with GAAP.

“Capital Expenditures” means, without duplication, any expenditures for any purchase or other acquisition of any Capital Asset, excluding (a) the cost of assets acquired with Capital Lease Obligations, other purchase money financing, or the proceeds of Loans under this Agreement, (b) expenditures of insurance proceeds to rebuild or replace any asset after a casualty loss, and (c) leasehold improvement expenditures for which such Person is reimbursed promptly by the lessor.

“Capital Lease” means a lease with respect to which the lessee would be required concurrently to recognize the acquisition of an asset and the incurrence of a liability in accordance with GAAP as in effect on the Closing Date.

“Capital Lease Obligation” means, with respect to any Person and a Capital Lease, the amount of the obligation of such Person as the lessee under such Capital Lease which would, in accordance with GAAP as in effect on the Closing Date, appear as a liability on a balance sheet of such Person.

“Captive Insurance Company” means any of Post Oak Insurance Co. Ltd., a sponsored captive insurance company, or any other single parent, protected cell, group captive, risk retention group or similar dedicated insurance vehicle utilized by Borrower or its Subsidiaries in its insurance operations.

“Captive Insurance Entity” means any Captive Insurance Company, any Subsidiary of a Captive Insurance Company and any direct parent of a Captive Insurance Company, the primary purpose of which is to own the Equity in such Captive Insurance Company.

“Cash Equivalents” means Investments in:

(a) marketable obligations, maturing within twelve months after acquisition thereof, issued or unconditionally guaranteed by the United States of America or an instrumentality or agency thereof and entitled to the full faith and credit of the United States of America;

(b) demand deposits, and time deposits (including certificates of deposit) maturing within twelve months from the date of deposit thereof, with any office of any Lender or with a domestic office of any national or state bank or trust company which is organized under the Laws of the United States of America or any state therein, which has capital, surplus and undivided profits of at least \$500,000,000, and whose long term certificates of deposit are rated at least Aa3 by Moody’s or AA- by S&P;

(c) repurchase obligations with a term of not more than seven days for underlying securities of the types described in subsection (a) above entered into with any commercial bank meeting the specifications of subsection (b) above;

(d) open market commercial paper, maturing within 270 days after acquisition thereof, which are rated at least P-1 by Moody’s or A-1 by S&P; and

(e) money market or other mutual funds substantially all of whose assets comprise securities of the types described in subsections (a) through (d) above.

“Change in Law” means the occurrence, after the date of this Agreement, of any of the following: (a) the adoption or taking into effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority; provided, that notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (y) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a “Change in Law”, regardless of the date enacted, adopted or issued.

“Change of Control” means the occurrence of any of the following events: (a) any Person or two or more Persons acting as a group shall acquire beneficial ownership (within the meaning of Rule 13d-3 of the Securities and Exchange Commission under the Securities Act of 1934, as amended, and including holding proxies to vote for the election of directors other than proxies held by Borrower’s management or their designees to be voted in favor of Persons nominated by Borrower’s Board of Directors) of 35% or more of the outstanding voting securities of Borrower, measured by voting power (including both common stock and any preferred stock or other equity securities entitling the holders thereof to vote with the holders of common stock in elections for directors of Borrower) or (b) a majority of the directors of Borrower shall consist of Persons not approved by Borrower’s Board of Directors (not including as Board approved directors any directors which the Board is obligated to approve pursuant to shareholders agreements, voting trust arrangements or similar arrangements).

“Class”, when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are Revolving Loans, Term Loans or Swingline Loans.

“Closing Date” means the date on which all of the conditions precedent set forth in Section 4.1 and Section 4.2 shall have been satisfied or waived.

“Collateral” means all property of any Restricted Person of any kind which, under the terms of any Security Document, is subject to or is purported to be subject to a Lien in favor of Secured Parties (or in favor of Agent for the benefit of Secured Parties).

“Commitment Fee” shall have the meaning set forth in Section 2.5(c).

“Commitment Fee Rate” means, on any date, the rate per annum designated as such and set forth on the Pricing Schedule.

“Commitment Period” means the period from and including the Closing Date until the Maturity Date (or, if earlier, the day on which the obligations of Lenders to make Loans hereunder or the obligations of LC Issuer to issue Letters of Credit have been terminated or the Notes become due and payable in full).

“Commodity Exchange Act” means the Commodity Exchange Act (7 U.S.C. § 1 et. seq.), as amended from time to time, and any successor statute.

“Consolidated” refers to the consolidation of any Person, in accordance with GAAP, with its properly consolidated subsidiaries. References herein to a Person’s Consolidated financial statements, financial position, financial condition, liabilities, etc. refer to the consolidated financial statements, financial position, financial condition, liabilities, etc. of such Person and its properly consolidated subsidiaries.

“Consolidated Capital Expenditures” means, for any Person for any period, the Capital Expenditures of such Person calculated on a Consolidated basis for such period. With respect to Non-Wholly Owned Subsidiaries, only that amount attributable to Borrower’s direct and indirect proportionate share shall be included for purposes of this calculation.

“Consolidated EBITDA” means, for any Person for any period, the sum of (a) such Person’s Consolidated Net Income during such period, plus (b) all interest expense which was deducted in determining such Person’s Consolidated Net Income; plus (c) all income Taxes which were deducted in determining such Person’s Consolidated Net Income; plus (d) all depreciation and amortization which were deducted in determining such Person’s Consolidated Net Income; plus (e) any expense relating to stock options or other equity compensation provided to employees of Borrower or any of its Subsidiaries during such period that was deducted in determining such Person’s Consolidated Net Income; plus (f) other non-cash charges, including non-cash amortization of debt incurrence costs and net mark-to-market losses; provided that if such Person or any of its Subsidiaries has acquired or sold (or otherwise disposed of) a Subsidiary or assets during such period, Consolidated EBITDA of such Person shall be adjusted by the amount of the Consolidated EBITDA attributable to such Subsidiary or assets as if such acquisition or sale (or other disposition) had occurred on the first day of such period. With respect to Non-Wholly Owned Subsidiaries, only that amount attributable to Borrower’s direct and indirect proportionate share shall be included for purposes of this calculation.

“Consolidated Interest Expense” means, for any Person, for any period without duplication, all interest paid or accrued during such period on Indebtedness (including Capital Lease Obligations) excluding amortization of debt incurrence expenses, original issue discount, and mark-to-market interest expense.

“Consolidated Net Income” means, for any Person, for any period, such Person’s Consolidated net income for such period after eliminating earnings or losses attributable to outstanding minority interests and excluding the net income of any Person other than a Subsidiary in which such Person has an ownership interest *plus* any Goodwill Impairment Charges. With respect to Non-Wholly Owned Subsidiaries, only that amount attributable to Borrower’s direct and indirect proportionate share shall be included for purposes of this calculation.

“Consolidated Total Indebtedness” means, for any Person, as of any date, the sum of all Indebtedness of that Person and its Consolidated Subsidiaries, *minus* LC Exclusions, *minus* Attributable Indebtedness of such Person and its Consolidated Subsidiaries in an amount not to exceed \$50,000,000 under Sale Leaseback Transactions relating solely to vehicles and real property. With respect to Non-Wholly Owned Subsidiaries, only that amount attributable to Borrower’s direct and indirect proportionate share shall be included for purposes of this calculation.

“Continuation” refers to the continuation pursuant to Section 2.3 hereof of a Eurodollar Loan as a Eurodollar Loan from one Interest Period to the next Interest Period.

“Continuation/Conversion Notice” means a written or telephonic request, or a written confirmation, made by Borrower which meets the requirements of Section 2.3.

“Conversion” refers to a conversion pursuant to Section 2.3 or Article III of one Type of Loan into another Type of Loan.

“Default” means any Event of Default and any default, event or condition which would, with the giving of any requisite notices and the passage of any requisite periods of time, constitute an Event of Default.

“Default Rate” means, at the time in question (a) with respect to any Base Rate Loan or any other Obligation except as described in the immediately following clause (b), the rate per annum equal to two percent (2%) above the Adjusted Base Rate then in effect for such Loan or other Obligation and (b) with respect to any Eurodollar Loan, the rate per annum equal to two percent (2%) above the Adjusted LIBOR Rate then in effect for such Loan or other Obligation; provided in each case that no Default Rate charged by any Person shall ever exceed the Highest Lawful Rate.

“Defaulting Lender” means any Lender, as determined by Agent, that has (a) failed to fund any portion of its Loans or participations in Letters of Credit or Swingline Loans within three Business Days of the date required to be funded by it hereunder (provided that, if such Lender has failed for at least five Business Days to comply with any such funding obligation, Borrower may declare such Lender to be a Defaulting Lender in a written notice to Agent), (b) notified Borrower, Agent, the LC Issuer, the Swingline Lender or any Lender in writing that it does not intend to comply with any of its funding obligations under this Agreement or any other agreement in which it commits to extend credit or has made a public statement to the effect that it does not intend to comply with its funding obligations under this Agreement or under other agreements in which it commits to extend credit, (c) failed, within three Business Days after request by Agent or Borrower, to confirm that it will comply with the terms of this Agreement relating to its obligations to fund prospective Loans and participations in then outstanding Letters of Credit and Swingline Loans, (d) otherwise failed to pay over to Agent or any other Lender any other amount required to be paid by it hereunder within three Business Days of the date when due, unless the subject of a good faith dispute (provided that, if such Lender has failed for at least five Business Days to pay any such other amount, unless the subject of a good faith dispute, Borrower may declare such Lender to be a Defaulting Lender in a written notice to Agent), or (e)(i) become or is or has a parent company that has become or is insolvent or generally unable to pay its debts as they become due, or such Lender or its parent company admits in writing its inability to pay its debts as they become due or makes a general assignment for the benefit of its creditors or (ii) become the subject of a bankruptcy or insolvency proceeding, or has had a receiver, conservator, trustee or custodian appointed for it, or has taken any action in furtherance of, or indicating its consent to, approval of or acquiescence in any such proceeding or appointment or has a parent company that has become the subject of a bankruptcy or insolvency proceeding, or has had a receiver, conservator, trustee or custodian appointed for it, or has taken any action in furtherance of, or indicating its consent to, approval of or

acquiescence in any such proceeding or appointment or (iii) become the subject of a Bail-In Action.

“Disclosure Schedule” means Schedule 5 hereto.

“Distribution” means (a) any dividend or other distribution made by a Restricted Person on or in respect of any stock, partnership interest, or other equity interest in such Restricted Person or any other Restricted Person (including any option or warrant to buy such an equity interest), or (b) any payment made by a Restricted Person to purchase, redeem, acquire or retire any stock, partnership interest, or other equity interest in such Restricted Person or any other Restricted Person (including any such option or warrant).

“Domestic Lending Office” means, with respect to any Lender, the office of such Lender specified as its “Domestic Lending Office” below its name on the Lenders Schedule, or such other office as such Lender may from time to time specify to Borrower and Agent; with respect to LC Issuer, the office, branch, or agency through which it issues Letters of Credit; and, with respect to Agent, the office, branch, or agency through which it administers this Agreement.

“Early Opt-in Election” means the occurrence of:

(d) (i) a determination by Agent or (ii) a notification by the Required Lenders to Agent (with a copy to Borrower) that the Required Lenders have determined in good faith that U.S. dollar-denominated syndicated credit facilities being executed at such time, or that include language similar to that contained in Section 3.7(b) are being executed or amended, as applicable, to incorporate or adopt a new benchmark interest rate to replace LIBOR, and

(e) (i) the election by Agent or (ii) the election by the Required Lenders to declare that an Early Opt-in Election has occurred and the provision, as applicable, by Agent of written notice of such election to Borrower and the Lenders or by the Required Lenders of written notice of such election to Agent.

“EEA Financial Institution” means (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition, or (c) any financial institution established in an EEA Member Country which is a subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent.

“EEA Member Country” means any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

“EEA Resolution Authority” means any public administrative authority or any person entrusted with public administrative authority of any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution.

“Eligible Transferee” means any Person (subject to such consents as may be required under Section 10.5(c) (iv)) other than (a) any Person organized outside the United States if Borrower would be required to pay withholding Taxes on interest or principal owed to such

Person, (b) Borrower or any of its Subsidiaries or Affiliates, (c) any natural Person (or a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of, a natural Person) or (d) any Defaulting Lender or any of its Subsidiaries, or any Person who, upon becoming a Lender hereunder, would constitute any of the foregoing Persons described in this definition.

“Environmental Laws” means any and all Laws relating to the environment or to emissions, discharges, releases or threatened releases of pollutants, contaminants, chemicals, or industrial, toxic or hazardous substances or wastes into the environment including ambient air, surface water, ground water, or land, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport, or handling of pollutants, contaminants, chemicals, or industrial, toxic or hazardous substances or wastes.

“Equity” means shares of capital stock or a partnership, profits, capital, member or other equity interest, or options, warrants or any other rights to substitute for or otherwise acquire the capital stock or a partnership, profits, capital, member or other equity interest of any Person.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended from time to time, and any successor statutes or statute, together with all rules and regulations promulgated with respect thereto.

“ERISA Affiliate” means each Restricted Person and all members of a controlled group of corporations and all trades or businesses (whether or not incorporated) under common control that, together with such Restricted Person, are treated as a single employer under Section 414(b), Section 414(c), Section 414(m) or Section 414(o) of the Internal Revenue Code.

“ERISA Plan” means any employee pension benefit plan subject to Section 412 of the Internal Revenue Code or Title IV of ERISA with respect to which any Restricted Person has a fixed or contingent liability.

“EU Bail-In Legislation Schedule” means the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor person), as in effect from time to time.

“Eurodollar Lending Office” means, with respect to any Lender, the office of such Lender specified as its “Eurodollar Lending Office” below its name on the Lenders Schedule (or, if no such office is specified, its Domestic Lending Office), or such other office of such Lender as such Lender may from time to time specify to Borrower and Agent.

“Eurodollar Loan” means a Loan that bears interest at the Adjusted LIBOR Rate.

“Eurodollar Margin” means, on any date, with respect to each Eurodollar Loan, the rate per annum set forth on the Pricing Schedule.

“Event of Default” has the meaning given to such term in Section 8.1.

“Excluded Assets” means, collectively, (a) equity interests in any Unrestricted Subsidiary, so long as a pledge or transfer of such equity interests would be prohibited or restricted under, or would require consent of a third party that is not an Affiliate pursuant to, the



governing documents of such Unrestricted Subsidiary or any other agreement binding on the Restricted Persons or their assets; provided that in the event such pledge or transfer is not prohibited but is so restricted or would require such consent of a third party that is not an Affiliate, Borrower shall have used commercially reasonable efforts to satisfy such restriction or obtain such consent, (b) assets, a security interest in which would be prohibited by contract or applicable Law unless such prohibition is not effective under applicable Law, (c) assets as to which Agent has determined in its sole discretion that the costs of obtaining a lien or security interest therein are excessive in relation to the value of the security to be afforded thereby, (d) equity interests in excess of 65% of the voting stock of any Foreign Subsidiary, (e) amounts escrowed or otherwise set aside as a Permitted Lien described in clause (q) of the definition of “Permitted Lien” (solely so long as such cash remains subject to such Permitted Lien) and (f) equity interests in any Captive Insurance Entity, for so long as any such Captive Insurance Entity is subject to regulatory restrictions that prohibit or limit (or create an adverse tax effect on Borrower and the Restricted Persons as a result of) the creation of a security interest in such equity interests.

“Excluded Subsidiaries” means, collectively, (a) the Immaterial Subsidiaries, (b) the Unrestricted Subsidiaries, (c) the Foreign Subsidiaries and (d) any Captive Insurance Entity, for so long as such Captive Insurance Entity is subject to regulatory restrictions that prohibit or limit (or create an adverse tax effect on Borrower and the Restricted Persons as a result of) the execution of a Guaranty or the grant of a Lien pursuant to the Security Documents.

“Excluded Swap Obligations” 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 of official interpretation of any thereof) 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 effective with respect to such 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 excluded in accordance with the first sentence of this definition.

“Existing Letters of Credit” means the letters of credit listed on Schedule 1.1(b).

“FATCA” means Sections 1471 through 1474 of the Internal Revenue Code, as of the Amendment No. 6 Effective Date (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations thereunder or official interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the Internal Revenue Code, any intergovernmental agreements entered into in connection with the implementation of such Sections of the Internal Revenue Code and any Laws, fiscal or regulatory legislation, rules or practices adopted pursuant to any such intergovernmental agreement.

“Federal Funds Rate” means, for any day, the rate per annum calculated by the FRBNY based on such day’s federal funds transactions by depository institutions (as determined in such manner as the FRBNY shall set forth on the FRBNY’s Website from time to time) and published on the next succeeding Business Day by the FRBNY as the federal funds effective rate; provided that if such rate is not so published for any day that is a Business Day, the Federal Funds Rate for such day shall be the average rate quoted to Agent on such day on such transactions as determined by Agent. Notwithstanding the foregoing, if the Federal Funds Rate shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

“Fiscal Quarter” means a three-month period ending on March 31, June 30, September 30 or December 31 of any year.

“Fiscal Year” means a twelve-month period ending on December 31 of any year.

“Foreign Lender” means a Lender that is not a U.S. Person.

“Foreign Subsidiary” means (a) any Subsidiary that is a “controlled foreign corporation” under Section 957 of the Internal Revenue Code, (b) any Subsidiary that is held directly or indirectly by such a “controlled foreign corporation” or (c) any Subsidiary all or substantially all of the assets of which are equity interests in or Indebtedness of one or more such “controlled foreign corporations”.

“FRBNY” means the Federal Reserve Bank of New York.

“FRBNY’s Website” means the website of the FRBNY at <http://www.newyorkfed.org>, or any successor source.

“GAAP” means those generally accepted accounting principles and practices which are recognized as such by the Financial Accounting Standards Board (or any generally recognized successor) and which, in the case of Restricted Persons and their Consolidated Subsidiaries, are applied for all periods on a consistent basis, as in effect from time to time and in a manner consistent with that used in preparing the audited financial statements required by Section 6.2(a), except as otherwise specifically provided herein. If at any time any change in GAAP would affect the computation of any financial ratio or requirement set forth in any Loan Document, and either Borrower or Required Lenders shall so request, Agent, Lenders and Borrower shall negotiate in good faith to amend such ratio or requirement to preserve the original intent thereof in light of such change in GAAP (subject to the approval of Required Lenders); provided that, until so amended, (i) such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein and (ii) Borrower shall provide to Agent and Lenders financial statements and other documents required under this Agreement or otherwise reasonably requested hereunder setting forth a reconciliation between such calculations of such ratio or requirement made before and after giving effect to such change in GAAP.

“Goodwill Impairment Charges” means accounting charges resulting from the write-up or write-down of acquired goodwill and other intangible assets in accordance with FAS 142.

“Governmental Authority” means any nation, state, county, city or other political subdivision and any other governmental department, court, commission, board, bureau, agency, regulatory authority, instrumentality, judicial or administrative body, domestic or foreign.

“Guarantors” means, collectively, (a) each Subsidiary of Borrower existing on the Amendment No. 6 Effective Date, other than the Excluded Subsidiaries, and (b) any Subsidiary of Borrower that executes and delivers a Guaranty to Agent after the Amendment No. 6 Effective Date, pursuant to Section 6.15.

“Guaranty” means (a) that certain Second Amended and Restated Subsidiary Guaranty dated as of the date hereof, executed by each Guarantor existing on the Closing Date, in favor of Agent for the ratable benefit of the Secured Parties, and (b) any Guaranty or joinder to a Guaranty executed by a Guarantor after the Closing Date, in favor of Agent for the ratable benefit of the Secured Parties, in each case as such Guaranties may be amended, supplemented, or modified and in effect from time to time.

“Hazardous Materials” means any substances regulated under any Environmental Law, whether as pollutants, contaminants, or chemicals, or as industrial, toxic or hazardous substances or wastes, or otherwise.

“Hedging Contract” means (a) any agreement providing for options, swaps, floors, caps, collars, forward sales or forward purchases involving interest rates, commodities or commodity prices, equities, currencies, bonds, or indexes based on any of the foregoing, (b) any option, futures or forward contract traded on an exchange, and (c) any other derivative agreement or other similar agreement or arrangement.

“Highest Lawful Rate” means, with respect to each Lender Party to whom Obligations are owed, the maximum nonusurious rate of interest that such Lender Party is permitted under applicable Law to contract for, take, charge, or receive with respect to such Obligations. All determinations herein of the Highest Lawful Rate, or of any interest rate determined by reference to the Highest Lawful Rate, shall be made separately for each Lender Party as appropriate to assure that the Loan Documents are not construed to obligate any Person to pay interest to any Lender Party at a rate in excess of the Highest Lawful Rate applicable to such Lender Party.

“Immaterial Subsidiary” means one or more Subsidiaries with aggregate gross assets of less than \$2,000,000.

“Incremental Commitment Agreement” means an agreement in substantially the form attached as Exhibit 2.17 or such other form as Agent approves in its reasonable discretion.

“Incremental Lender” has the meaning assigned to that term in Section 2.17.

“Indebtedness” of any Person means, without duplication, obligations in any of the following categories:

- (a) debt for borrowed money;

(b) an obligation to pay the deferred purchase price of property or services (other than trade payables incurred in the ordinary course of business);

(c) obligations evidenced by a bond, debenture, note or similar instrument;

(d) Off-Balance Sheet Liabilities;

(e) obligations arising under Hedging Contracts (on a net basis to the extent netting is provided for in the applicable Hedging Contract);

(f) Capital Lease Obligations;

(g) obligations to pay money arising under conditional sales or other title retention agreements;

(h) obligations owing under direct or indirect guaranties of Indebtedness of any other Person or otherwise constituting obligations to purchase or acquire or to otherwise protect or insure a creditor against loss in respect of Indebtedness of any other Person (such as obligations under working capital maintenance agreements, agreements to keep-well, or agreements to purchase Indebtedness, assets, goods, securities or services), but excluding endorsements in the ordinary course of business of negotiable instruments in the course of collection;

(i) obligations to purchase or redeem securities or other property, if such obligations arise out of or in connection with the sale or issuance of the same or similar securities or property (for example, repurchase agreements, mandatorily redeemable preferred stock and sale/leaseback agreements), except to the extent such purchase or redemption is to be made with the proceeds of a substantially concurrent issuance of Equity of such Person;

(j) obligations with respect to letters of credit or applications or reimbursement agreements therefor (but, for the avoidance of doubt, excluding any obligations with respect to (i) letters of credit to the extent they support other obligations constituting Indebtedness of a Restricted Person under this definition, and (ii) letters of credit that support performance obligations); or

(k) obligations with respect to banker's acceptances (but, for the avoidance of doubt, excluding any obligations with respect to (i) banker's acceptances to the extent they support other obligations constituting Indebtedness of a Restricted Person under this definition, and (ii) banker's acceptances that support performance obligations);

provided, however, that the "Indebtedness" of any Person shall not include (i) obligations incurred by such Person in the ordinary course of its business under purchasing cards or similar arrangements, or (ii) any obligations under Operating Leases.

"Initial Financial Statements" means (a) the audited annual Consolidated financial statements of Borrower dated as of December 31, 2009, and (b) the unaudited quarterly Consolidated financial statements of Borrower dated as of March 31, 2010.

“Intercreditor Agreement” means (i) that certain Intercreditor Agreement dated as of June 24, 2009 among Zurich American Insurance Company, a New York corporation, and Wachovia Bank, N.A., a national banking association, as predecessor to Lender Agent (as therein defined), as amended from time to time, and (ii) any other agreement to which Borrower, Agent, and any surety are parties that establishes the priorities of the parties with respect to Bonded Receivables.

“Interest Payment Date” means (a) with respect to each Base Rate Loan, the first Business Day of each Fiscal Quarter; and (b) with respect to each Eurodollar Loan, the last day of the Interest Period that is applicable thereto; provided that, and, if such Interest Period is greater than three months in length, then respective dates that fall every three months after the beginning of such Interest Period shall also be Interest Payment Dates for such Eurodollar Loan.

“Interest Period” means, with respect to each Eurodollar Loan, the period specified in the Borrowing Notice or Continuation/Conversion Notice applicable to such Eurodollar Loan, beginning on and including the date specified in such Borrowing Notice or Continuation/Conversion Notice (which must be a Business Day), and ending one, two, three, or six months thereafter, as Borrower may elect in such notice; provided that (a) any Interest Period which would otherwise end on a day which is not a Business Day shall be extended to the next succeeding Business Day unless such Business Day falls in another calendar month, in which case such Interest Period shall end on the next preceding Business Day; (b) any Interest Period which begins on the last Business Day in a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day in a calendar month; and (c) notwithstanding the foregoing, any Interest Period which would otherwise end after the last day of the Commitment Period shall end on the last day of the Commitment Period (or, if the last day of the Commitment Period is not a Business Day, on the next preceding Business Day).

“Internal Revenue Code” means the United States Internal Revenue Code of 1986, as amended from time to time and any successor statute or statutes, together with all rules and regulations promulgated with respect thereto.

“Investment” means any investment, made directly or indirectly, in any Person, whether by purchase, acquisition of equity interests, indebtedness or other obligations or securities or by extension of credit, loan, advance, capital contribution or otherwise and whether made in cash, by the transfer of property, or by any other means.

“Law” means any statute, law, regulation, ordinance, rule, treaty, judgment, order, decree, permit, concession, franchise, license, agreement or other governmental restriction of the United States or any state or political subdivision thereof or of any foreign country or any department, province or other political subdivision thereof. Any reference to a Law includes any amendment or modification to such Law, and all regulations, rulings, and other Laws promulgated under such Law.

“LC Application” means any application for a Letter of Credit hereafter made by Borrower to LC Issuer.

“LC Collateral” has the meaning given to such term in Section 2.14(a).

“LC Conditions” means the conditions for issuance of a Letter of Credit set forth in Sections 2.9 and 2.10.

“LC Exclusions” means the sum of (a) LC Obligations for Letters of Credit issued in the ordinary course of Borrower’s business for insurance, state qualification and routine licensing purposes and (b) LC Obligations, up to \$2,000,000, for Letters of Credit issued for purposes other than those set forth in subsection (a) above.

“LC Issuer” means Wells Fargo Bank, National Association in its capacity as the issuer of Letters of Credit hereunder, and its successors in such capacity, and any issuer of an Existing Letter of Credit. Agent may, with the consent of Borrower and the Lender in question, appoint any Lender hereunder as an LC Issuer in place of or in addition to Wells Fargo Bank, National Association.

“LC Obligations” means, at the time in question, the sum of all Matured LC Obligations plus the maximum amounts which LC Issuer might then or thereafter be called upon to advance under all Letters of Credit then outstanding.

“Lead Arranger” means Wells Fargo Securities, LLC.

“Lender Bank Services Obligations” means obligations to a Lender or an Affiliate of a Lender arising out of any of the following bank services provided by such Lender or Affiliate to a Restricted Person: commercial credit cards, commercial checking accounts, stored value cards, and treasury management services (including, without limitation, controlled disbursements, automated clearinghouse transactions, return items, overdraft and interstate depository network services).

“Lender Hedging Obligations” means Indebtedness to a Lender or an Affiliate of a Lender arising out of any Hedging Contract permitted under Section 7.3.

“Lender Party” means Agent, LC Issuer, Swingline Lender and all Lenders.

“Lenders” means each signatory hereto (other than Borrower and any Restricted Person that is a party hereto), and the successors of each such party as Lender hereunder pursuant to Section 10.5.

“Lenders Schedule” means Schedule 3.1 hereto.

“Letter of Credit” means any letter of credit issued by LC Issuer hereunder at the application of Borrower, and shall include the Existing Letters of Credit, in each case as extended or otherwise modified by the LC Issuer from time to time.

“Liabilities” means, as to any Person, all liabilities that would appear as such on a balance sheet of such Person under GAAP.

“LIBOR” means, subject to the implementation of a Benchmark Replacement in accordance with Section 3.7(b),

(f) for any interest rate calculation with respect to a Eurodollar Loan, the rate of interest per annum determined on the basis of the rate for deposits in U.S. dollars for a period equal to the applicable Interest Period as published by ICE Benchmark Administration Limited, a United Kingdom company, or a comparable or successor quoting service approved by Agent, at approximately 11:00 a.m. (London time) two Business Days prior to the first day of the applicable Interest Period. If, for any reason, such rate is not so published then “LIBOR” shall be determined by Agent to be the arithmetic average of the rate per annum at which deposits in U.S. dollars would be offered by first class banks in the London interbank market to Agent at approximately 11:00 a.m. (London time) two Business Days prior to the first day of the applicable Interest Period for a period equal to such Interest Period; and

(g) for any interest rate calculation with respect to a Base Rate Loan, the rate of interest per annum determined on the basis of the rate for deposits in U.S. dollars for an Interest Period equal to one month (commencing on the date of determination of such interest rate) as published by ICE Benchmark Administration Limited, a United Kingdom company, or a comparable or successor quoting service approved by Agent, at approximately 11:00 a.m. (London time) on such date of determination, or, if such date is not a Business Day, then the immediately preceding Business Day. If, for any reason, such rate is not so published then “LIBOR” for such Base Rate Loan shall be determined by Agent to be the arithmetic average of the rate at which deposits in U.S. dollars would be offered by first class banks in the London interbank market to Agent at approximately 11:00 a.m. (London time) on such date of determination for a period equal to one month commencing on such date of determination.

Notwithstanding the foregoing, (x) in no event shall LIBOR (including any Benchmark Replacement with respect thereto) be less than 0% and (y) unless otherwise specified in any amendment to this Agreement entered into in accordance with Section 3.7(b), in the event that a Benchmark Replacement with respect to LIBOR is implemented then all references herein to LIBOR shall be deemed references to such Benchmark Replacement.

“Lien” means, with respect to any property or assets, any right or interest therein of a creditor to secure Liabilities owed to it or any other arrangement with such creditor which provides for the payment of such Liabilities out of such property or assets or which allows such creditor to have such Liabilities satisfied out of such property or assets prior to the general creditors of any owner thereof, including any lien, mortgage, security interest, pledge, rights of a vendor under any title retention or conditional sale agreement or lease substantially equivalent thereto, Tax lien, mechanic’s or materialmen’s lien, or any other charge or encumbrance for security purposes, whether arising by Law or agreement or otherwise, but excluding any right of offset which arises without agreement in the ordinary course of business.

“Loan Documents” means this Agreement, the Notes, the Security Documents, the Guaranties, the LC Applications and the Intercreditor Agreements, and all other agreements, certificates, documents, instruments and writings at any time executed and delivered in connection herewith or therewith (exclusive of term sheets, commitment letters, any Hedging Contracts, and any agreements or arrangements pursuant to which Lender Bank Services Obligations are provided).

“Loans” means the (a) Revolving Loans as otherwise described in Section 2.1(a), (b) Term Loans as otherwise described in Section 2.1(b) and (c) the Swingline Loans as otherwise described in Section 2.16.

“Margin Stock” means margin stock, as such term is defined in Regulation U promulgated by the Board of Governors of the Federal Reserve System.

“Material Adverse Change” means a material and adverse change, from the state of affairs presented in the Initial Financial Statements or as represented or warranted in any Loan Document, to (a) Borrower’s Consolidated financial condition, (b) Borrower’s Consolidated business, assets, operations or properties, considered as a whole, (c) Borrower’s ability to timely pay the Obligations, or (d) the enforceability of the material terms of any Loan Documents.

“Matured LC Obligations” means all amounts paid by LC Issuer on drafts or demands for payment drawn or made under or purported to be made under any Letter of Credit and all other amounts due and owing to LC Issuer under any LC Application for any Letter of Credit, to the extent the same have not been repaid to LC Issuer (with the proceeds of Loans or otherwise).

“Maturity Date” means January 6, 2025.

“Maximum Drawing Amount” means at the time in question the sum of the maximum amounts which LC Issuer might then or thereafter be called upon to advance under all Letters of Credit which are then outstanding.

“Moody’s” means Moody’s Investors Service, Inc., or its successor.

“Net Cash Proceeds” means (a) with respect to any Asset Disposition, all cash and Cash Equivalents received by Borrower or any other Restricted Person therefrom minus the sum of (i) all Taxes owing or estimated to be payable to a Governmental Authority as a result of such transaction, (ii) all reasonable and customary out-of-pocket costs, fees and expenses incurred in connection with such transaction or event and (iii) the principal amount of, premium, if any, and interest on any Indebtedness secured by a Lien on the asset (or a portion thereof) disposed of, which Indebtedness is required to be repaid in connection with such transaction or event; and (b) with respect to any issuance or incurrence of Indebtedness, the gross cash proceeds received by Borrower or any other Restricted Person therefrom minus all reasonable and customary out-of-pocket legal, underwriting and other fees and expenses incurred in connection therewith.

“Non-Wholly Owned Subsidiary” means, with respect to any Person, any entity in which such Person directly or indirectly owns equity interests which represent less than 100% of the total equity interests (other than qualifying shares required to be owned by directors) of such entity.

“Note(s)” means the Revolving Notes, the Term Notes and the Swingline Note.

“Obligations” means all indebtedness, liabilities and obligations, whether matured or unmatured, liquidated or unliquidated, primary or secondary, direct or indirect, absolute, fixed or contingent, from time to time owing by any Restricted Person to any Lender Party under or



pursuant to any of the Loan Documents, including all LC Obligations. “Obligation” means any part of the Obligations.

“OFAC” means the U.S. Department of the Treasury’s Office of Foreign Assets Control.

“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) Synthetic Lease Obligations, or (c) any 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 (but, for the avoidance of doubt, excluding any operating leases (as determined consistent with GAAP as in effect on the Closing Date) other than a Synthetic Lease).

“Operating Lease” means (i) an operating lease under GAAP, (ii) any lease that was treated as an operating lease under GAAP at the time it was entered into that later becomes a capital lease as a result of a change in GAAP during the life of such lease, including any renewals, and (iii) any lease entered into after the date of this Agreement that would have been considered an operating lease under the provisions of GAAP in effect as of December 31, 2017.

“Other Connection Taxes” means, with respect to any Lender Party, Taxes imposed by reason of any present or former connection between such Lender Party and the jurisdiction imposing such Taxes (other than connections arising from such Lender Party having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Loan Document, or sold or assigned an interest in any Loan or Loan Document).

“PATRIOT Act” means the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)).

“Percentage Share” means, with respect to any Lender (a) when used in Section 2.1, 2.2 or 2.5, in any Borrowing Notice or when no Loans are outstanding hereunder, the percentage set forth opposite such Lender’s name on the Lenders Schedule or in the most recent Assignment and Acceptance, or Incremental Commitment Agreement, if any, executed by such Lender, as such amount may be adjusted, if at all, from time to time in accordance with this Agreement (including in connection with the reduction or termination of a Defaulting Lender’s Revolving Loan Commitment pursuant to Section 2.18), and (b) when used otherwise, the percentage obtained by dividing (i) the sum of the unpaid principal balance of such Lender’s Loans at the time in question plus the Matured LC Obligations which such Lender has funded pursuant to Section 2.11(c) plus the portion of the Maximum Drawing Amount which such Lender might be obligated to fund under Section 2.11(c), by (ii) the sum of the aggregate unpaid principal balance of all Loans at such time plus the aggregate amount of LC Obligations outstanding at such time.

“Permitted Acquisition” means an Acquisition that is permitted by Section 7.7(c).

“Permitted Investments” means:

- (a) Cash Equivalents;

- (b) existing Investments described in the Disclosure Schedule;
- (c) extensions of credit by Restricted Persons to their customers for buying goods and services in the ordinary course of business or to another Restricted Person in the ordinary course of business;
- (d) extensions of credit among Restricted Persons which are subordinated to the Obligations pursuant to the terms of the Guaranty or upon other terms and conditions reasonably satisfactory to Agent;
- (e) Investments by Restricted Persons in the Equity of Subsidiaries of Borrower (other than Unrestricted Subsidiaries and the Captive Insurance Entities, Investments in which shall be governed by Section 7.7(a));
- (f) Investments by Restricted Persons in the Equity of another Person made in connection with a Permitted Acquisition;
- (g) repurchases by Restricted Persons of their Equity that are permitted pursuant to Section 7.6; and
- (h) any Investment made as a result of the receipt of non-cash consideration from a sale, transfer, lease, exchange, alienation, or disposition of assets that is permitted pursuant to Section 7.5.

“Permitted Liens” means:

- (a) statutory Liens for Taxes, assessments or other governmental charges or levies which are not yet delinquent or which are being contested in good faith by appropriate action and for which adequate reserves have been maintained in accordance with GAAP;
- (b) landlords’, operators’, carriers’, warehousemen’s, repairmen’s, mechanics’, materialmen’s, worker’s, suppliers or other like Liens, in each case only to the extent arising in the ordinary course of business and only to the extent securing obligations (i) which are not delinquent or which are being contested in good faith by appropriate proceedings; and (ii) for which adequate reserves have been maintained in accordance with GAAP;
- (c) zoning restrictions, easements, licenses, and minor defects and irregularities in title to any real property, so long as such defects and irregularities do not materially impair the value of such property or the use of such property for the purposes for which such property is held;
- (d) pledges or deposits of cash or securities to secure (i) the performance of bids, trade contracts, leases, statutory obligations and other obligations of a like nature (excluding appeal bonds) incurred in the ordinary course of business; (ii) obligations under worker’s compensation, unemployment insurance, social security, or public Laws or similar legislation (excluding Liens arising under ERISA); or (iii) letters of credit that support obligations described in clause (i) or (ii) above;

- (e) Liens under the Security Documents;
- (f) with respect only to property subject to any particular Security Document, Liens burdening such property which are expressly allowed by such Security Document;
- (g) any Lien in favor of a surety that is subject to the provisions of an Intercreditor Agreement;
- (h) deposits securing, or in lieu of, surety, appeal or customs bonds in proceedings to which Borrower or any of its Subsidiaries is a party;
- (i) any attachment or judgment Lien not constituting an Event of Default under Section 8.1;
- (j) Liens existing on the date hereof and renewals and extensions thereof, which Liens are set forth on Schedule 1.1(a);
- (k) Liens securing Indebtedness permitted by Section 7.1(c); provided that such Liens attach only to the assets financed by such Indebtedness and any proceeds thereof;
- (l) common law security interests of a surety in the actual proceeds of a project subject to the underlying surety bond provided by such surety;
- (m) inchoate Liens arising under ERISA to secure contingent Liabilities of Borrower or any of its Subsidiaries;
- (n) Liens securing Indebtedness permitted by Section 7.1(h); provided that (i) such Liens existed at the time such Person became a Subsidiary of Borrower or at the time such assets were acquired, as the case may be, and were not created in anticipation thereof, (ii) such Liens do not apply to any property or assets of Borrower or its Subsidiaries, as the case may be, other than (A) the assets of such Person that has become a Subsidiary of Borrower and such Person's Subsidiaries or (B) such acquired assets and their proceeds, and (iii) such Liens secure only those obligations that they secured on the date such Person became a Subsidiary of Borrower or at the time such assets were acquired, as the case may be;
- (o) Liens securing Indebtedness permitted by Section 7.1(j);
- (p) Liens in respect of Operating Leases; and
- (q) Liens on amounts escrowed or otherwise set aside in connection with a proposed Permitted Acquisition, Permitted Investment or other disposition permitted hereunder.

“Person” means an individual, corporation, general partnership, limited partnership, limited liability company, association, joint stock company, trust or trustee thereof, estate or executor thereof, Tribunal, or any other legally recognizable entity.

“Prescribed Forms” means (i) in the case of a Foreign Lender claiming the benefits of an income tax treaty to which the United States is a party (x) with respect to payments of interest

under any Loan Document, executed copies of IRS Form W-8BEN, or W-8BEN-E, as applicable (or successor form), establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the “interest” article of such tax treaty and (y) with respect to any other applicable payments under any Loan Document, IRS Form W-8BEN or W-8BEN-E, as applicable, establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the “business profits” or “other income” article of such tax treaty; (ii) executed copies 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 Internal Revenue Code, (x) a certificate substantially in the form of Exhibit 1.1-1 to the effect that such Foreign Lender is not a “bank” within the meaning of Section 881(c)(3)(A) of the Internal Revenue Code, a “10 percent shareholder” of Borrower within the meaning of Section 881(c)(3)(B) of the Internal Revenue Code, or a “controlled foreign corporation” described in Section 881(c)(3)(C) of the Internal Revenue Code (a “U.S. Tax Compliance Certificate”) and (y) executed copies of IRS Form W-8BEN or W-8BEN-E, as applicable; (iv) to the extent a Foreign Lender is not the beneficial owner, executed copies of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN or W-8BEN-E, as applicable (or successor form), a U.S. Tax Compliance Certificate substantially in the form of Exhibit 1.1-2 or Exhibit 1.1-3, IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable; provided that if the Foreign Lender is a partnership 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 1.1-4 on behalf of each such direct and indirect partner; and/or (v) executed copies of any other form prescribed by applicable law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by applicable law.

“Pricing Schedule” means the Schedule attached hereto identified as such.

“Prior Agent” means Capital One, N.A., a national banking association formerly known as Hibernia National Bank, in its capacity as agent under the Prior Credit Documents.

“Prior Credit Agreement” means that certain Credit Agreement dated as of June 30, 2005, as amended from time to time heretofore, among Borrower, the Prior Agent, as agent and a lender thereunder, and the other financial institutions party thereto, as lenders.

“Prior Credit Documents” means the Prior Credit Agreement, together with the promissory notes made by Borrower thereunder and any and all other documents and instruments executed in connection therewith.

“PTE” means a prohibited transaction class exemption issued by the U.S. Department of Labor, as any such exemption may be amended from time to time.

“Receivables” means all present and future rights of Borrower or any Subsidiary of Borrower to payment for goods sold or leased or for services rendered (except those evidenced by instruments or chattel paper), whether now existing or hereafter arising and wherever arising and whether or not earned by performance.

“Regulation D” means Regulation D of the Board of Governors of the Federal Reserve System as from time to time in effect.

“Relevant Governmental Body” means the Federal Reserve Board and/or the FRBNY, or a committee officially endorsed or convened by the Federal Reserve Board and/or the FRBNY or any successor thereto.

“Required Lenders” means Lenders having aggregate Revolving Loan Commitments and outstanding Term Loans representing more than fifty percent (50%) of the aggregate Revolving Loan Commitments and Term Loans then outstanding or, if the Revolving Loan Commitments have been terminated, Lenders holding Loans representing more than fifty percent (50%) of the aggregate principal amount of the Loans then outstanding.

“Reserve Requirement” means, at any time, the maximum rate at which reserves (including any marginal, special, supplemental, or emergency reserves) are required to be maintained under regulations issued from time to time by the Board of Governors of the Federal Reserve System (or any successor) by member banks of the Federal Reserve System against “Eurocurrency liabilities” (as such term is used in Regulation D). Without limiting the effect of the foregoing, the Reserve Requirement shall reflect any other reserves required to be maintained by such member banks with respect to (a) any category of liabilities which includes deposits by reference to which the Adjusted LIBOR Rate is to be determined, or (b) any category of extensions of credit or other assets which include Eurodollar Loans.

“Restricted Person” means any of Borrower and each Guarantor.

“Revolving Facility Usage” means, at the time in question, without duplication, the aggregate principal amount of outstanding Revolving Loans, Swingline Loans, and LC Obligations at such time.

“Revolving Lenders” means those Lenders having a Revolving Loan Commitment.

“Revolving Loan” means a loan made to Borrower pursuant to Section 2.1(a).

“Revolving Loan Commitment” means as to any Lender, the commitment of such Lender to make its Percentage Share of Revolving Loans or incur its Percentage Share of Swingline Loans or LC Obligations as set forth on the Lenders Schedule or in the most recent Assignment and Acceptance or Incremental Commitment Agreement, if any, executed by such Lender, as such amount may be adjusted, if at all, from time to time in accordance with this Agreement.

“Revolving Notes” has the meaning ascribed to it in Section 2.1(a).

“S&P” means Standard & Poor’s Rating Service, a division of S&P Global Inc. and any successor thereto.

“Sale Leaseback Transaction” means any transaction or series of related transactions under which Borrower or any of its Subsidiaries (a) sells, transfers or otherwise disposes of any property, real or personal, whether now owned or hereafter acquired, and (b) as part of that

transaction, thereafter rents or leases that property or other property that it intends to use for substantially the same purpose or purposes as the property being sold, transferred or disposed of.

“Sanctioned Country” means at any time, a country or territory which is itself the subject or target of any Sanctions.

“Sanctioned Person” means, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by OFAC, the U.S. Department of State, the United Nations Security Council, the European Union or Her Majesty’s Treasury, (b) any Person operating, organized or resident in a Sanctioned Country, (c) any Person owned in the aggregate, directly or indirectly, 50% or more by any such Person or Persons described in clauses (a) and (b) or (d) any Person controlled by any such Person or Persons described in clauses (a) and (b).

“Sanctions” means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by the U.S. government (including those administered by OFAC), the United Nations Security Council, the European Union or Her Majesty’s Treasury.

“Secured Obligations” means all Obligations, Lender Hedging Obligations, and Lender Bank Services Obligations; provided, however, that the “Secured Obligations” shall exclude any Excluded Swap Obligations.

“Secured Party” means each Lender Party and each Affiliate of a Lender that holds Lender Hedging Obligations or Lender Bank Services Obligations.

“Security Documents” means the instruments listed on Schedule 4.1 and all other security agreements, deeds of trust, mortgages, chattel mortgages, pledges, financing statements, continuation statements, extension agreements and other agreements or instruments now, heretofore, or hereafter delivered by any Restricted Person to Agent in connection with this Agreement or any transaction contemplated hereby to secure the payment of any part of the Secured Obligations or the performance of any Restricted Person’s other duties and obligations under the Loan Documents.

“SOFR” with respect to any day means the secured overnight financing rate published for such day by the FRBNY, as the administrator of such benchmark (or a successor administrator) on the FRBNY’s Website.

“Solvent” means, with respect to any Person on a particular date, that on such date (a) the fair value of the property of such Person is greater than the total amount of liabilities, including subordinated and contingent liabilities, of such Person; (b) the present fair saleable value of the assets of such Person is not less than the amount that will be required to pay the probable liability of such Person on its debts and liabilities, including subordinated and contingent liabilities as they become absolute and matured; (c) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person’s ability to pay as such debts and liabilities mature; and (d) such Person is not engaged in a business or transaction, and is not about to engage in a business or transaction, for which such Person’s property would constitute an unreasonably small capital. The amount of contingent liabilities (such as litigation, guaranties and pension plan liabilities) at any time shall be computed as the amount that, in light of all the

facts and circumstances existing at the time, represents the amount that can be reasonably be expected to become an actual or matured liability.

“Subordinated Debt” means unsecured Indebtedness that is subordinated to the Obligations in a manner and form reasonably satisfactory to Agent, as to the right and time of payment and as to any and all other rights and remedies thereunder.

“Subsidiary” means, with respect to any Person, any corporation, association, partnership, limited liability company, joint venture, or other business or corporate entity, enterprise or organization which is directly or indirectly (through one or more intermediaries) controlled by or owned fifty percent or more by such Person.

“Swap Obligations” means, with respect to any Guarantor, any obligation to pay or perform under any Lender Hedging Contract that constitutes a “swap” within the meaning of Section 1a(47) of the Commodity Exchange Act.

“Swingline Lender” means Wells Fargo Bank, National Association, in its capacity as lender of Swingline Loans hereunder.

“Swingline Loan” means a loan made pursuant to Section 2.16.

“Swingline Note” has the meaning specified in Section 2.16(d).

“Synthetic Lease Obligations” means an arrangement treated as an operating lease for financial accounting purposes and a financing lease for Tax purposes.

“Taxes” means any and all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, fines, additions to tax or penalties applicable thereto.

“Term Lenders” means those Lenders having a Term Loan Commitment or outstanding Term Loans.

“Term Loan” means a loan made to Borrower pursuant to Section 2.1(b).

“Term Loan Commitment” means, as to any Lender, the commitment of such Lender to make a Term Loan, expressed as an amount representing the maximum principal amount of the Term Loan to be made by such Lender, as set forth on the Lenders Schedule. As of the Amendment No. 6 Effective Date, the aggregate amount of the Lenders’ Term Loan Commitments is equal to \$150,000,000.

“Term Notes” has the meaning ascribed to it in Section 2.1(b).

“Term SOFR” means the forward-looking term rate based on SOFR that has been selected or recommended by the Relevant Governmental Body.

“Termination Event” means (a) the occurrence with respect to any ERISA Plan of (i) an event described in Section 4041A of ERISA, or (ii) the withdrawal of any ERISA Affiliate from an ERISA Plan if such withdrawal is described in Section 4201(a) of ERISA, or (iii) a reportable event described in Section 4043(c)(5) or (6) of ERISA or (iv) any other reportable event described in Section 4043(c) of ERISA other than a reportable event not subject to the provision for 30-day notice to the Pension Benefit Guaranty Corporation pursuant to a waiver by such corporation (determined under final regulations promulgated by the Pension Benefit Guaranty Corporation regarding such waivers as in effect on the date of this Credit Agreement) under Section 4043(a) or 4043(b)(4) of ERISA, or (b) the withdrawal of any ERISA Affiliate from an ERISA Plan during a plan year in which it was a “substantial employer” as defined in Section 4001(a)(2) of ERISA, or (c) the filing of a notice of intent to terminate any ERISA Plan or the treatment of any ERISA Plan amendment as a termination under Section 4041(c) of ERISA, or (d) the institution of proceedings to terminate any ERISA Plan by the Pension Benefit Guaranty Corporation under Section 4042 of ERISA, or (e) any other event or condition which might constitute grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any ERISA Plan.

“Total Leverage Ratio” means the ratio, determined as of the end of each of Borrower’s Fiscal Quarters for the then most-recently ended four consecutive Fiscal Quarters, of (a) its Consolidated Total Indebtedness on such day to (b) its Consolidated EBITDA for such period.

“Tribunal” means any government, any arbitration panel, any court or any governmental department, commission, board, bureau, agency or instrumentality of the United States of America or any state, province, commonwealth, nation, territory, possession, county, parish, town, township, village or municipality, whether now or hereafter constituted or existing.

“Type” means, with respect to any Loans, the characterization of such Loans as either Base Rate Loans or Eurodollar Loans.

“U.S. Person” means any Person that is a “United States Person” as defined in Section 7701(a)(30) of the Internal Revenue Code.

“Unadjusted Benchmark Replacement” means the Benchmark Replacement excluding the Benchmark Replacement Adjustment.

“Unrestricted Subsidiary” means a direct or indirect Non-Wholly Owned Subsidiary of Borrower that has been designated as an Unrestricted Subsidiary in a written notice by Borrower to Agent.

“Write-Down and Conversion Powers” means, with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule.



Section 1.2 Exhibits and Schedules; Additional Definitions. All Exhibits and Schedules attached to this Agreement are a part hereof for all purposes. Reference is hereby made to Schedule 4.1 for the meaning of certain terms defined therein and used but not defined herein, which definitions are incorporated herein by reference.

Section 1.3 Amendment of Defined Instruments. Unless the context otherwise requires or unless otherwise provided herein the terms defined in this Agreement which refer to a particular agreement, instrument or document also refer to and include all renewals, extensions, modifications, amendments and restatements of such agreement, instrument or document, provided that nothing contained in this Section shall be construed to authorize any such renewal, extension, modification, amendment or restatement.

Section 1.4 References and Titles. All references in this Agreement to Exhibits, Schedules, articles, sections, subsections and other subdivisions refer to the Exhibits, Schedules, articles, sections, subsections and other subdivisions of this Agreement unless expressly provided otherwise. Exhibits and Schedules to any Loan Document shall be deemed incorporated by reference in such Loan Document. References to any document, instrument, or agreement (a) shall include all exhibits, schedules, and other attachments thereto, and (b) shall include all documents, instruments, or agreements issued or executed in replacement thereof. Titles appearing at the beginning of any subdivisions are for convenience only and do not constitute any part of such subdivisions and shall be disregarded in construing the language contained in such subdivisions. The words “this Agreement”, “this instrument”, “herein”, “hereof”, “hereby”, “hereunder” and words of similar import refer to this Agreement as a whole and not to any particular subdivision unless expressly so limited. The phrases “this section” and “this subsection” and similar phrases refer only to the sections or subsections hereof in which such phrases occur. The word “or” is not exclusive, and the word “including” (in its various forms) means “including without limitation”. Pronouns in masculine, feminine and neuter genders shall be construed to include any other gender, and words in the singular form shall be construed to include the plural and vice versa, unless the context otherwise requires. Accounting terms have the meanings assigned to them by GAAP, as applied by the accounting entity to which they refer. References to “days” shall mean calendar days, unless the term “Business Day” is used. Unless otherwise specified, references herein to any particular Person also refer to its successors and permitted assigns.

Section 1.5 Calculations and Determinations. All calculations under the Loan Documents of interest chargeable with respect to Eurodollar Loans and of fees shall be made on the basis of actual days elapsed (including the first day but excluding the last) and a year of 360 days. All other calculations of interest made under the Loan Documents shall be made on the basis of actual days elapsed (including the first day but excluding the last) and a year of 365 or 366 days, as appropriate. Each determination by a Lender Party of amounts to be paid under Article III or any other matters which are to be determined hereunder by a Lender Party (such as any LIBOR, Adjusted LIBOR Rate, Business Day, Interest Period, or Reserve Requirement) shall, in the absence of manifest error, be conclusive and binding. Unless otherwise expressly provided herein or unless Required Lenders otherwise consent all financial statements and reports furnished to any Lender Party hereunder shall be prepared and all financial computations and determinations pursuant hereto shall be made in accordance with GAAP.

Section 1.6 Joint Preparation; Construction of Indemnities and Releases. This Agreement and the other Loan Documents have been reviewed and negotiated by sophisticated parties with access to legal counsel and no rule of construction shall apply hereto or thereto which would require or allow any Loan Document to be construed against any party because of its role in drafting such Loan Document. All indemnification and release provisions of this Agreement shall be construed broadly (and not narrowly) in favor of the Persons receiving indemnification or being released.

Section 1.7 Rates. Agent does not warrant or accept responsibility for, and shall not have any liability with respect to, the administration, submission or any other matter related to the rates in the definition of “LIBOR” or with respect to any rate that is an alternative or replacement for or successor to any such rate (including, without limitation, any Benchmark Replacement) or the effect of any of the foregoing, or of any Benchmark Replacement Conforming Changes.

Section 1.8 Divisions. For all purposes under the Loan Documents, in connection with any division or plan of division under Delaware law (or any comparable event under a different jurisdiction’s laws): (a) if any asset, right, obligation or liability of any Person becomes the asset, right, obligation or liability of a different Person, then it shall be deemed to have been transferred from the original Person to the subsequent Person, and (b) if any new Person comes into existence, such new Person shall be deemed to have been organized on the first date of its existence by the holders of its Equity at such time.

## **ARTICLE II**

### **THE LOANS AND LETTERS OF CREDIT**

Section 2.1 Commitments to Lend; Notes.

(a) Subject to the terms and conditions hereof, each Revolving Lender agrees, severally and not jointly, to make Revolving Loans to Borrower upon the request of Borrower from time to time during the Commitment Period; provided that (a) subject to Sections 3.3, 3.4 and 3.6, Revolving Loans of the same Type made on the same day shall be made by Revolving Lenders in accordance with their respective Percentage Shares and as part of the same Borrowing; and (b) after giving effect to such Revolving Loans, the Revolving Facility Usage shall not exceed the Aggregate Revolving Loan Commitment then in effect. The amount of all Revolving Loans in any Borrowing must be greater than or equal to \$100,000, or must equal the remaining availability under the Aggregate Revolving Loan Commitment. The obligation of Borrower to repay to each Revolving Lender the aggregate amount of all Revolving Loans made by such Revolving Lender, together with interest accruing in connection therewith, may, at the request of such Revolving Lender, be evidenced by a promissory note made by Borrower payable to the order of such Revolving Lender in the principal amount of the Revolving Loan Commitment of the applicable Revolving Lender, substantially in the form of Exhibit 2.1(a) (each a “Revolving Note” and, collectively, the “Revolving Notes”). The amount of principal owing on any Revolving Note at any given time shall be the aggregate amount of all Revolving Loans theretofore made by such Revolving Lender minus all payments of principal theretofore received by such Revolving Lender on such Revolving Note. Interest on each Revolving Loan

shall accrue and be due and payable as provided herein. Each Revolving Loan shall be due and payable as provided herein, and shall be due and payable in full on the Maturity Date. Subject to the terms and conditions hereof, Borrower may borrow, repay, and reborrow Revolving Loans hereunder.

(b) Subject to the terms and conditions hereof, each Term Lender agrees, severally and not jointly, to make a single Term Loan to Borrower on the Amendment No. 6 Effective Date in a principal amount equal to such Lender's Term Loan Commitment. The obligation of Borrower to repay to each Term Lender the aggregate amount of the Term Loan made by such Term Lender, together with interest accruing in connection therewith, may, at the request of such Term Lender, be evidenced by a promissory note made by Borrower payable to the order of such Term Lender in the principal amount of the Term Loan Commitment of the applicable Term Lender, substantially in the form of Exhibit 2.1(b) (each a "Term Note" and, collectively, the "Term Notes"). The amount of principal owing on any Term Note at any given time shall be the amount of the Term Loan made by such Term Lender minus all payments of principal theretofore received by such Term Lender on such Term Note. Interest on each Term Loan shall accrue and be due and payable as provided herein. Each Term Loan shall be due and payable as provided herein, and shall be due and payable in full on the Maturity Date. Amounts repaid or prepaid in respect of the Term Loans may not be reborrowed.

Section 2.2 Requests for Loans. Borrower must give to Agent written or electronic notice (or telephonic notice promptly confirmed in writing) of any requested Borrowing of new Loans to be advanced by the applicable Lenders. Each such notice constitutes a "Borrowing Notice" hereunder and must:

(a) specify (i) the aggregate amount of any such Borrowing of new Base Rate Loans and the date on which such Base Rate Loans are to be advanced, or (ii) the aggregate amount of any such Borrowing of new Eurodollar Loans, the date on which such Eurodollar Loans are to be advanced (which shall be the first day of the Interest Period which is to apply thereto), and the length of the applicable Interest Period; and

(b) be received by Agent not later than 11:00 a.m., Houston, Texas time, on (i) the day on which any such Base Rate Loans are to be made, or (ii) the third Business Day preceding the day on which any such Eurodollar Loans are to be made.

Each such written request or confirmation must be made in the form and substance of the "Borrowing Notice" attached hereto as Exhibit 2.2(b), duly completed. Each such telephonic request shall be deemed a representation, warranty, acknowledgment and agreement by Borrower as to the matters which are required to be set out in such written confirmation. Upon receipt of any such Borrowing Notice, Agent shall give each applicable Lender prompt notice of the terms thereof. If all conditions precedent to such new Loans have been met, each applicable Lender will on the date requested promptly remit to Agent at Agent's office in Houston, Texas the amount of such Lender's new Loan in immediately available funds, and upon receipt of such funds, unless to its actual knowledge any conditions precedent to such Loans have been neither met nor waived as provided herein, Agent shall promptly make such Loans available to Borrower. Unless Agent shall have received prompt notice from a Lender that such Lender will not make available to Agent such Lender's new Loan, Agent may in its discretion assume that

such Lender has made such Loan available to Agent in accordance with this Section and Agent may if it chooses, in reliance upon such assumption, make such Loan available to Borrower. If and to the extent such Lender shall not so make its new Loan available to Agent, such Lender and Borrower severally agree to pay or repay to Agent within three days after demand the amount of such Loan together with interest thereon, for each day from the date such amount was made available to Borrower until the date such amount is paid or repaid to Agent, with interest at (i) the Federal Funds Rate, if such Lender is making such payment and (ii) the interest rate applicable at the time to the other new Loans made on such date, if Borrower is making such repayment. If neither such Lender nor Borrower pays or repays to Agent such amount within such three-day period, Agent shall in addition to such amount be entitled to recover from such Lender and from Borrower, on demand, interest thereon at the Default Rate, calculated from the date such amount was made available to Borrower. The failure of any Lender to make any new Loan to be made by it hereunder shall not relieve any other Lender of its obligation hereunder, if any, to make its new Loan, but no Lender shall be responsible for the failure of any other Lender to make any new Loan to be made by such other Lender.

Section 2.3 Continuations and Conversions of Existing Loans. Borrower may make the following elections with respect to Loans already outstanding: to convert Base Rate Loans to Eurodollar Loans, to convert Eurodollar Loans to Base Rate Loans on the last day of the Interest Period applicable thereto, and to continue Eurodollar Loans beyond the expiration of such Interest Period by designating a new Interest Period to take effect at the time of such expiration. In making such elections, Borrower may combine existing Loans of the same Class made pursuant to separate Borrowings into one new Borrowing or divide existing Loans made pursuant to one Borrowing into separate new Borrowings; provided that Borrower may have no more than five Borrowings of Eurodollar Loans outstanding at any time. To make any such election, Borrower must give to Agent written notice (or telephonic notice promptly confirmed in writing) of any such Conversion or Continuation of existing Loans, with a separate notice given for each new Borrowing. Each such notice constitutes a “Continuation/Conversion Notice” hereunder and must:

(a) specify the existing Loans which are to be Continued or Converted;

(b) specify (i) the aggregate amount of any Borrowing of Base Rate Loans into which such existing Loans are to be converted and the date on which such Continuation or Conversion is to occur, or (ii) the aggregate amount of any Borrowing of Eurodollar Loans into which such existing Loans are to be continued or converted, the date on which such Continuation or Conversion is to occur (which shall be the first day of the Interest Period which is to apply to such Eurodollar Loans), and the length of the applicable Interest Period; and

(c) be received by Agent not later than 11:00 a.m., Houston, Texas time, on (i) the day on which any such conversion to Base Rate Loans is to occur, or (ii) the third Business Day preceding the day on which any such Continuation or Conversion to Eurodollar Loans is to occur.

Each such written request or confirmation must be made in the form and substance of the “Continuation/Conversion Notice” attached hereto as Exhibit 2.3(c), duly completed. Each such telephonic request shall be deemed a representation, warranty, acknowledgment and agreement

by Borrower as to the matters which are required to be set out in such written confirmation. Upon receipt of any such Continuation/Conversion Notice, Agent shall give each applicable Lender prompt notice of the terms thereof. Each Continuation/Conversion Notice shall be irrevocable and binding on Borrower. During the continuance of any Default, Borrower may not make any election to convert existing Loans into Eurodollar Loans or continue existing Loans as Eurodollar Loans. If (due to the existence of a Default or for any other reason) Borrower fails to timely and properly give any Continuation/Conversion Notice with respect to a Borrowing of existing Eurodollar Loans at least three days prior to the end of the Interest Period applicable thereto, such Eurodollar Loans shall automatically be converted into Base Rate Loans at the end of such Interest Period. No new funds shall be repaid by Borrower or advanced by any Lender in connection with any Continuation or Conversion of existing Loans pursuant to this Section, and no such Continuation or Conversion shall be deemed to be a new advance of funds for any purpose; such Continuations and Conversions merely constitute a change in the interest rate applicable to already outstanding Loans.

Section 2.4 Use of Proceeds. Borrower shall use the Loans to provide working capital for its operations and for other general corporate purposes. Borrower shall use all Letters of Credit for its general corporate purposes. In no event shall the funds from any Loan or any Letter of Credit be used directly or indirectly by any Person for personal, family, household or agricultural purposes or for the purpose, whether immediate, incidental or ultimate, of purchasing, acquiring or carrying any Margin Stock (except in connection with an acquisition or Investment permitted under Section 7.7 which does not violate Regulation U of the Board of Governors of the Federal Reserve System) or to extend credit to others directly or indirectly for the purpose of purchasing or carrying any such Margin Stock. Borrower represents and warrants that Borrower is not engaged principally, or as one of Borrower's important activities, in the business of extending credit to others for the purpose of purchasing or carrying such Margin Stock. No Loan or Letter of Credit will be requested and no proceeds of any Loan or Letter of Credit will be used (i) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of any Anti-Corruption Laws, (ii) to fund any activities or business (A) of or with any Person, that, at the time of such funding, is the subject of Sanctions or (B) in any country or territory that, at the time of such funding, is, or whose government is, the subject of Sanctions, or (iii) in any manner that would result in the violation of any Sanctions applicable to any party hereto.

Section 2.5 Interest Rates and Fees; Payment Dates.

(a) Interest. Subject to subsection (b) below, (i) each Base Rate Loan shall bear interest on each day it is outstanding at the Adjusted Base Rate in effect on such day, (ii) each Eurodollar Loan shall bear interest on each day during the related Interest Period at the related Adjusted LIBOR Rate in effect on such day, and (iii) if an Event of Default has occurred and is continuing, the Loans shall bear interest as set forth in Section 2.5(b) below. Notwithstanding the foregoing, Borrower may request from time to time that Borrower and the Lender enter into a Hedging Contract providing for interest rate protection (A) for a term expiring no earlier than one year after the Closing Date; and (B) with other terms and conditions reasonably satisfactory to Agent.

(b) Default Rate. If an Event of Default shall have occurred and be continuing under Section 8.1(a), (b), (j)(i), (j)(ii) or (j)(iii), all outstanding Loans shall bear interest at the applicable Default Rate. In addition, if an Event of Default shall have occurred and be continuing (other than under Section 8.1(a), (b), (j)(i), (j)(ii) or (j)(iii)), Required Lenders may, by notice to Borrower, elect to have the outstanding Loans bear interest at the applicable Default Rate, whereupon such Loans shall bear interest at the applicable Default Rate until the earlier of (i) the first date thereafter upon which there shall be no Event of Default continuing and (ii) the date upon which Required Lenders shall have rescinded such notice.

(c) Commitment Fees. In consideration of each Revolving Loan Commitment of each Revolving Lender to make Revolving Loans, Borrower will pay to Agent for the account of each Revolving Lender a fee (the "Commitment Fee") determined on a daily basis by multiplying the applicable Commitment Fee Rate by the Percentage Share of such Revolving Lender of the unused portion of the aggregate Revolving Loan Commitments on each day during the Commitment Period, determined for each such day by deducting from the amount of the aggregate Revolving Loan Commitments at the end of such day the Revolving Facility Usage at the end of such day (calculated as if no Swingline Loans were outstanding). This Commitment Fee shall be due and payable in arrears on the first day of each Fiscal Quarter and at the end of the Commitment Period.

(d) Additional Fees. In addition to all other amounts due to Agent under the Loan Documents, Borrower will pay fees to the Lead Arranger as described in a letter dated November 19, 2019, among Lead Arranger, Wells Fargo Bank, National Association and Borrower.

(e) Payment Dates. On each Interest Payment Date relating to Base Rate Loans, Borrower shall pay to the Lenders all unpaid interest which has accrued on the Base Rate Loans to but not including such Interest Payment Date. On each Interest Payment Date relating to a Eurodollar Loan, Borrower shall pay to Lenders all unpaid interest which has accrued on such Eurodollar Loan to but not including such Interest Payment Date.

#### Section 2.6 Repayment of Loans.

(a) Borrower hereby unconditionally promises to pay to Agent for the ratable account of each Revolving Lender the then unpaid principal amount of each Revolving Loan on the Maturity Date.

(b) Borrower hereby unconditionally promises to pay to Agent for the ratable account of each Term Lender (i) the principal amount of the Term Loans in installments payable on the last day of each calendar quarter during the term of this Agreement, commencing on March 31, 2020, with such installments being in the aggregate principal amount for all Term Lenders of (A) one and one-quarter percent (1.25%) of the original aggregate principal amount of the Term Loans, for the quarters ending March 31, 2020 through and including December 31, 2021, (B) two and one-half percent (2.50%) of the original aggregate principal amount of the Term Loans, for the quarters ending March 31, 2022 through and including December 31, 2023 and (C) three and three-quarters percent (3.75%) of the original aggregate principal amount of the Term Loans, for the quarters ending March 31, 2024 and thereafter, and (ii) the then-unpaid principal amount of the Term Loans on the Maturity Date.

(a) Optional Prepayments. Borrower may, without penalty, (i) upon notice to Agent to be received no later than 11:00 a.m., Houston, Texas time, with respect to any Base Rate Loan and (ii) upon three Business Days' notice to each Lender with respect to any Eurodollar Loan, from time to time and without premium or penalty prepay the Loans, in whole or in part, provided (A) that the aggregate amounts of all partial prepayments of principal on the Notes equals \$100,000 or any higher integral multiple of \$100,000; and (B) that if Borrower prepays any Eurodollar Loan on any day other than the last day of the Interest Period applicable thereto, it shall pay to Lenders any amounts due under Section 3.5.

(b) Mandatory Prepayments.

(i) If at any time the Revolving Facility Usage exceeds the Aggregate Revolving Loan Commitment (whether due to a reduction in the Revolving Loan Commitments in accordance with this Agreement, or otherwise), Borrower shall immediately upon demand prepay the principal of the Revolving Loans (and after the Revolving Loans are repaid in full, provide LC Collateral in accordance with Section 2.14(a)) in an amount at least equal to such excess.

(ii) If Borrower or any other Restricted Person receives Net Cash Proceeds from any Asset Disposition and the aggregate amount of such Net Cash Proceeds exceeds \$30,000,000 in any Fiscal Year, then, within ten Business Days of receipt thereof, Borrower shall apply such Net Cash Proceeds to prepay the Term Loans; provided that, so long as no Event of Default exists, Borrower shall be permitted to reinvest such Net Cash Proceeds in productive assets or properties or otherwise in the business of Borrower and its Subsidiaries within 365 days after receipt thereof, in which case, Borrower shall give Agent written notice thereof within ten Business Days of the receipt of such Net Cash Proceeds. If Borrower elects to use Net Cash Proceeds for reinvestment as set forth in the immediately preceding sentence, within 365 days of the date of written notice to Agent of such election, Borrower shall provide evidence reasonably satisfactory to Agent that such reinvestment has been completed on or before such 365-day period and, to the extent such reinvestment has not been completed, Borrower shall prepay the Term Loans in an amount equal to the amount of such Net Cash Proceeds not used for such reinvestment.

(iii) If Borrower or any other Restricted Person issues or incurs any Indebtedness (other than Indebtedness permitted by Section 7.1), Borrower shall promptly (but in any event within three Business Days of receipt thereof) apply the Net Cash Proceeds thereof to prepay the Term Loans.

(c) Prepayments Generally. Each prepayment of principal under this Section shall be accompanied by all interest then accrued and unpaid on the principal so prepaid. Any principal or interest prepaid pursuant to this Section shall be in addition to, and not in lieu of, all payments otherwise required to be paid under the Loan Documents at the time of such prepayment. All prepayments of Term Loans shall be applied to prepay the Term Loans on a pro rata basis to

reduce the subsequent scheduled repayments of the Term Loans to be made pursuant to Section 2.6(b) in the order of maturity of such scheduled payments.

Section 2.8 Termination of Commitments; Reduction of Revolving Loan Commitments.

(a) Unless previously terminated, the Revolving Loan Commitments will terminate on the Maturity Date. The Term Loan Commitments will terminate upon the funding of the Term Loans on the Amendment No. 6 Effective Date.

(b) Borrower may at any time terminate, or from time to time reduce, without premium or penalty, the Revolving Loan Commitments, but (i) each reduction of the Revolving Loan Commitments must be in an amount that is an integral multiple of \$100,000 (unless such reduction would reduce the unused Revolving Loan Commitments to zero) and (ii) Borrower shall not terminate or reduce the Revolving Loan Commitments if, after giving effect to any concurrent prepayment of the Revolving Loans in accordance with Section 2.7, the sum of the aggregate Revolving Facility Usage would exceed the Aggregate Revolving Loan Commitment then in effect.

(c) Borrower shall notify Agent of any election to terminate or reduce the Revolving Loan Commitments under Section 2.8(b) at least three Business Days prior to the effective date of that termination or reduction, specifying that election and the effective date thereof. Promptly following receipt of any notice, Agent shall advise the Revolving Lenders of the contents thereof. Each notice delivered by Borrower pursuant to this Section will be irrevocable, except that a notice of termination of the Revolving Loan Commitments delivered by Borrower may state that such notice is conditioned upon the effectiveness of other credit facilities, in which case such notice may be revoked by Borrower (by notice to Agent on or prior to the specified effective date) if such condition is not satisfied. Except as provided in the immediately preceding sentence, any termination or reduction of the Revolving Loan Commitments will be permanent and such Revolving Loan Commitments will not be reinstated except pursuant to, and in accordance with, Section 2.17. Except as provided in Section 2.18, each reduction of the Revolving Loan Commitments must be made ratably among the Revolving Lenders in accordance with their respective Revolving Loan Commitments.

Section 2.9 Letters of Credit. Subject to the terms and conditions hereof, Borrower may during the Commitment Period request LC Issuer to, and LC Issuer shall, issue one or more Letters of Credit; provided that, after taking such Letter of Credit into account:

- (a) the Revolving Facility Usage does not exceed the Aggregate Revolving Loan Commitment (whether due to a reduction in the Revolving Loan Commitments in accordance with this Agreement, or otherwise) at such time;
- (b) the aggregate LC Obligations at such time do not exceed \$160,000,000; and
- (c) the expiration date of such Letter of Credit is prior to the end of the Commitment Period.



All Existing Letters of Credit shall be deemed to have been issued pursuant hereto, and from and after the Closing Date, shall be subject to and governed by the terms and conditions hereof.

Section 2.10 Requesting Letters of Credit. Borrower must make written application for any Letter of Credit at least two (2) Business Days (or such shorter period as LC Issuer may in its discretion from time to time agree) before the date on which Borrower desires for LC Issuer to issue such Letter of Credit. By making any such written application, Borrower shall be deemed to have represented and warranted that the LC Conditions described in Section 2.11 will be met as of the date of issuance of such Letter of Credit. Each such written application for a Letter of Credit must be made in writing in the form and substance of Exhibit 2.10, the terms and provisions of which are hereby incorporated herein by reference (or in such other form as may mutually be agreed upon by LC Issuer and Borrower). Two (2) Business Days after the LC Conditions for a Letter of Credit have been met (or if LC Issuer otherwise desires to issue such Letter of Credit), LC Issuer will issue such Letter of Credit at LC Issuer's office in Houston, Texas. If any provisions of any LC Application conflict with any provisions of this Agreement, the provisions of this Agreement shall govern and control. Borrower shall promptly examine a copy of each Letter of Credit and each amendment thereto that is delivered to it and, in the event of any claim of noncompliance with Borrower's instructions or other irregularity, Borrower will promptly notify LC Issuer.

Section 2.11 Reimbursement and Participations.

(a) Reimbursement by Borrower. Each Matured LC Obligation shall constitute a Revolving Loan by LC Issuer to Borrower if not paid by Borrower in accordance with the following sentence. Borrower promises to pay to LC Issuer, or to LC Issuer's order, on the Business Day immediately following the day on which a demand is made, the full amount of each Matured LC Obligation, together with interest thereon at the Default Rate applicable to Base Rate Loans. The obligation of Borrower to reimburse LC Issuer for each Matured LC Obligation shall be absolute, unconditional and irrevocable, and shall be paid strictly in accordance with the terms of this Agreement (including any LC Application) under all circumstances, including the following: (i) any lack of validity or enforceability of such Letter of Credit or any other agreement or instrument relating thereto; (ii) the existence of any claim, counterclaim, set-off, defense or other right that Borrower may have at any time against any beneficiary or any transferee of such Letter of Credit (or any Person for whom any such beneficiary or any such transferee may be acting), LC Issuer or any other Person, whether in connection with this Agreement, the transactions contemplated hereby or by such Letter of Credit or any agreement or instrument relating thereto, or any unrelated transaction; (iii) any draft, demand, certificate or other document presented under such Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect; or any loss or delay in the transmission or otherwise of any document required in order to make a drawing under such Letter of Credit; (iv) any payment by LC Issuer under such Letter of Credit against presentation of a draft or certificate that does not strictly comply with the terms of such Letter of Credit; or (v) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing. Without limiting the generality of the foregoing, it is expressly agreed that the absolute and unconditional nature of Borrower's obligations under this Section to reimburse LC Issuer for each drawing under a Letter of Credit will not be excused by the gross negligence or willful misconduct of LC Issuer. However, the

foregoing shall not be construed to excuse LC Issuer from liability to Borrower to the extent of any direct damages (as opposed to consequential damages, claims in respect of which are hereby waived by Borrower to the extent permitted by applicable Law) suffered by Borrower that are caused by LC Issuer's gross negligence or willful misconduct in determining whether drafts and other documents presented under a Letter of Credit comply with the terms thereof.

(b) Letter of Credit Advances. If the beneficiary of any Letter of Credit makes a draft or other demand for payment thereunder then Borrower may, during the interval between the making thereof and the honoring thereof by LC Issuer, request Revolving Lenders to make Revolving Loans to Borrower in the amount of such draft or demand, which such Loans shall be made concurrently with LC Issuer's payment of such draft or demand and shall be immediately used by LC Issuer to repay the amount of the resulting Matured LC Obligation. Such a request by Borrower shall be made in compliance with all of the provisions hereof; provided that for the purposes of the first sentence of Section 2.1(a), the amount of such Loans shall be considered, but the amount of the Matured LC Obligation to be concurrently paid by such Loans shall not be considered.

(c) Participation by Lenders. LC Issuer irrevocably agrees to grant and hereby grants to each Revolving Lender, and to induce LC Issuer to issue Letters of Credit hereunder each Revolving Lender irrevocably agrees to accept and purchase and hereby accepts and purchases from LC Issuer, on the terms and conditions hereinafter stated and for such Lender's own account and risk, an undivided interest equal to such Lender's Percentage Share of LC Issuer's obligations and rights under each Letter of Credit issued hereunder and the amount of each Matured LC Obligation paid by LC Issuer thereunder. Each Revolving Lender unconditionally and irrevocably agrees with LC Issuer that, if a Matured LC Obligation is paid under any Letter of Credit for which LC Issuer is not reimbursed in full by Borrower in accordance with the terms of this Agreement and the related LC Application (including any reimbursement by means of concurrent Loans or by the application of LC Collateral), such Lender shall (in all circumstances and without set-off or counterclaim) pay to LC Issuer on demand, in immediately available funds at LC Issuer's address for notices hereunder, such Lender's Percentage Share of such Matured LC Obligation (or any portion thereof which has not been reimbursed by Borrower). Each Revolving Lender's obligation to pay LC Issuer pursuant to the terms of this subsection is irrevocable and unconditional. If any amount required to be paid by any Revolving Lender to LC Issuer pursuant to this subsection is paid by such Lender to LC Issuer within three Business Days after the date such payment is due, LC Issuer shall in addition to such amount be entitled to recover from such Lender, on demand, interest thereon calculated from such due date at the Federal Funds Rate. If any amount required to be paid by any Revolving Lender to LC Issuer pursuant to this subsection is not paid by such Lender to LC Issuer within three Business Days after the date such payment is due, LC Issuer shall in addition to such amount be entitled to recover from such Lender, on demand, interest thereon calculated from such due date at the Default Rate.

(d) Distributions to Participants. Whenever LC Issuer has in accordance with this Section received from any Revolving Lender payment of such Lender's Percentage Share of any Matured LC Obligation, if LC Issuer thereafter receives any payment of such Matured LC Obligation or any payment of interest thereon (whether directly from Borrower or by application of LC Collateral or otherwise, and excluding only interest for any period prior to LC Issuer's

demand that such Lender make such payment of its Percentage Share), LC Issuer will distribute to such Lender its Percentage Share of the amounts so received by LC Issuer; provided, however, that if any such payment received by LC Issuer must thereafter be returned by LC Issuer, such Lender shall return to LC Issuer the portion thereof which LC Issuer has previously distributed to it.

(e) Calculations. A written advice setting forth in reasonable detail the amounts owing under this Section, submitted by LC Issuer to Borrower or any Lender from time to time, shall be conclusive, absent manifest error, as to the amounts thereof.

Section 2.12 Letter of Credit Fees. In consideration of LC Issuer's issuance of any Letters of Credit, Borrower agrees to pay (a) to Agent, for the account of all Revolving Lenders in accordance with their respective Percentage Shares, (i) with respect to each Letter of Credit supporting non-financial contractual obligations, a per annum letter of credit fee on the undrawn face amount of such Letter of Credit at a rate equal to 50% of the rate specified as the LC Rate on the Pricing Schedule and (ii) with respect to each other Letter of Credit, a per annum letter of credit fee on the undrawn face amount of such Letter of Credit at a rate equal to the rate specified as the LC Rate on the Pricing Schedule and (b) to such LC Issuer for its own account, a letter of credit fronting fee at a rate equal to 0.125% per annum. The letter of credit fee and the letter of credit fronting fee will be calculated on the undrawn face amount of each Letter of Credit outstanding on each day at the above-applicable rates and will be due and payable in arrears on the first day of each Fiscal Quarter and at the end of the Commitment Period.

Section 2.13 No Duty to Inquire.

(a) Drafts and Demands. LC Issuer is authorized and instructed to accept and pay drafts and demands for payment under any Letter of Credit without requiring, and without responsibility for, any determination as to the existence of any event giving rise to said draft, either at the time of acceptance or payment or thereafter. LC Issuer is under no duty to determine the proper identity of anyone presenting such a draft or making such a demand (whether by tested telex or otherwise) as the officer, representative or Agent of any beneficiary under any Letter of Credit, and payment by LC Issuer to any such beneficiary when requested by any such purported officer, representative or Agent is hereby authorized and approved. Borrower releases each Lender Party from, and agrees to hold each Lender Party harmless and indemnified against, any liability or claim in connection with or arising out of the subject matter of this Section, **which indemnity shall apply whether or not any such liability or claim is in any way or to any extent caused, in whole or in part, by any negligent act or omission of any kind by any Lender Party**; provided only that no Lender Party shall be entitled to indemnification for that portion, if any, of any liability or claim which is proximately caused by its own individual gross negligence or willful misconduct, as determined in a final judgment by a court of competent jurisdiction.

(b) Extension of Maturity. If the maturity of any Letter of Credit is extended by its terms or by Law or governmental action, if any extension of the maturity or time for presentation of drafts or any other modification of the terms of any Letter of Credit is made at the request of any Restricted Person, or if the amount of any Letter of Credit is increased at the request of any Restricted Person, this Agreement shall be binding upon all Restricted Persons with respect to

such Letter of Credit as so extended, increased or otherwise modified, with respect to drafts and property covered thereby, and with respect to any action taken by LC Issuer, LC Issuer's correspondents, or any Lender Party in accordance with such extension, increase or other modification.

(c) Transferees of Letters of Credit. If any Letter of Credit provides that it is transferable, LC Issuer shall have no duty to determine the proper identity of anyone appearing as transferee of such Letter of Credit, nor shall LC Issuer be charged with responsibility of any nature or character for the validity or correctness of any transfer or successive transfers, and payment by LC Issuer to any purported transferee or transferees as determined by LC Issuer is hereby authorized and approved, and Borrower releases each Lender Party from, and agrees to hold each Lender Party harmless and indemnified against, any liability or claim in connection with or arising out of the foregoing, **which indemnity shall apply whether or not any such liability or claim is in any way or to any extent caused, in whole or in part, by any negligent act or omission of any kind by any Lender Party;** provided only that no Lender Party shall be entitled to indemnification for that portion, if any, of any liability or claim which is proximately caused by its own individual gross negligence or willful misconduct, as determined in a final judgment by a court of competent jurisdiction.

#### Section 2.14 LC Collateral.

(a) Acceleration of LC Obligations. If the Obligations or any part thereof become immediately due and payable pursuant to Section 8.1 then, unless Required Lenders otherwise specifically elect to the contrary (which election may thereafter be retracted by Required Lenders at any time), all LC Obligations shall be deemed to become immediately due and payable without regard to whether or not actual drawings or payments on the Letters of Credit have occurred, and Borrower shall be obligated to pay to LC Issuer immediately an amount equal to the aggregate LC Obligations which are then outstanding, which amount shall be held by LC Issuer as security for LC Obligations (the "LC Collateral") and the other Obligations, and such LC Collateral may be applied from time to time to any Matured LC Obligations or any other Obligations which are due and payable.

(b) Investment of LC Collateral. Pending application thereof, all LC Collateral shall be invested by Agent in such Investments as Agent may choose in its sole discretion. All interest on (and other proceeds of) such Investments shall be reinvested or applied to Matured LC Obligations or other Obligations which are due and payable. When all Obligations have been satisfied in full, including all LC Obligations, all Letters of Credit have expired or been terminated, and all of Borrower's reimbursement obligations in connection therewith have been satisfied in full or when the condition pursuant to which the LC Collateral was required no longer exists, Agent shall release any remaining LC Collateral. Borrower hereby assigns and grants to Agent a continuing security interest in all LC Collateral paid by it to Agent, all Investments purchased with such LC Collateral, and all proceeds thereof to secure its Matured LC Obligations and its Obligations under this Agreement, each Note, and the other Loan Documents, and Borrower agrees that such LC Collateral, Investments and proceeds shall be subject to all of the terms and conditions of the Security Documents. Borrower further agrees that Agent shall have all of the rights and remedies of a secured party under the Uniform Commercial Code as adopted in the State of Texas with respect to such security interest and that

an Event of Default under this Agreement shall constitute a default for purposes of such security interest.

(c) Payment of LC Collateral. When Borrower is required to provide LC Collateral for any reason and fails to do so on the day when required, Agent or LC Issuer may without notice to Borrower or any other Restricted Person provide such LC Collateral (whether by application of proceeds of other Collateral, by transfers from other accounts maintained with Agent or LC Issuer, or otherwise) using any available funds of Borrower or any other Person also liable to make such payments. Any such amounts which are required to be provided as LC Collateral and which are not provided on the date required shall, for purposes of each Security Document, be considered past due Obligations owing hereunder, and LC Issuer is hereby authorized to exercise its respective rights under each Security Document to obtain such amounts.

Section 2.15 Existing Letters of Credit. On the effective date of this Agreement, without further action by any party hereto, the LC Issuer shall be deemed to have granted to each Revolving Lender, and each Revolving Lender shall be deemed to have acquired from the LC Issuer, a participation in each of the Existing Letters of Credit equal to such Lender's Percentage Share of (a) the aggregate amount available to be drawn under such Existing Letters of Credit and (b) the aggregate amount of any outstanding reimbursement obligations in respect thereof. With respect to each of the Existing Letters of Credit, (i) if the LC Issuer has heretofore sold a participation therein to a Revolving Lender, the LC Issuer and such Lender agree that such participation shall be automatically canceled on the effective date of this Agreement and (ii) if the LC Issuer has heretofore sold a participation therein to any bank or financial institution that is not a Lender, then the LC Issuer shall procure the termination of such participation on or prior to the effective date of this Agreement. On and after the effective date of this Agreement, each of the Existing Letters of Credit shall be a Letter of Credit issued hereunder.

Section 2.16 Swingline Loans.

(a) Subject to the terms and conditions hereof, upon the request of Borrower from time to time during the Commitment Period, the Swingline Lender may, but will not be obligated to, make swingline loans (the "Swingline Loans") to Borrower, notwithstanding the fact that such Swingline Loans, when aggregated with the Percentage Share of the Revolving Loans and LC Obligations of the Lender acting as Swingline Lender, may exceed such Lender's Revolving Loan Commitment; provided, however that the (i) aggregate principal amount of outstanding Swingline Loans at any time outstanding shall not exceed \$50,000,000, and (ii) Swingline Lender shall not be required to make a Swingline Loan to refinance an outstanding Swingline Loan. Notwithstanding the foregoing, the aggregate principal balance of the Revolving Loans and Swingline Loans outstanding at any time together with all LC Obligations shall not exceed the Aggregate Revolving Loan Commitment. Each Swingline Loan (i) shall be a Base Rate Loan, (ii) shall be made in the minimum amount of \$100,000.00 and integral multiples thereof or in the amount of any unused portion of the Aggregate Revolving Loan Commitment, and (iii) may be repaid and, so long as no Default or Event of Default exists hereunder, reborrowed, at the option of Borrower in accordance with the provisions hereof. There shall be no further Borrowings under Swingline Loans after the Maturity Date.

(b) The Swingline Lender may by written notice given to Agent not later than 9:00 a.m. Houston, Texas time on any Business Day require the Revolving Lenders to acquire participations on such Business Day in all or a portion of the Swingline Loans outstanding. Such notice shall specify the aggregate amount of Swingline Loans in which the Revolving Lenders will participate. Promptly upon receipt of such notice, Agent will give notice thereof to each Revolving Lender, specifying in such notice such Lender's Percentage Share of such Swingline Loan or Loans. Each Revolving Lender hereby absolutely and unconditionally agrees, upon receipt of notice as provided above, to pay to Agent, for the account of the Swingline Lender, such Lender's Percentage Share of such Swingline Loan or Loans. Each Revolving Lender acknowledges and agrees that its obligation to acquire participations in Swingline Loans pursuant to this paragraph is absolute and unconditional and shall not be affected by any circumstance whatsoever, including the occurrence and continuance of a Default, Event of Default or reduction or termination of the Revolving Loan Commitments, and that each such payment shall be made without any offset, abatement, withholding or reduction whatsoever. Each Revolving Lender shall comply with its obligation under this paragraph by wire transfer of immediately available funds, in the same manner as provided in Section 2.2 with respect to Loans made by such Lender (and Section 2.2 shall apply, *mutatis mutandis*, to the payment obligations of the Revolving Lenders), and Agent shall promptly pay to the Swingline Lender the amounts so received by it from the Revolving Lenders. Agent shall notify Borrower of any participations in any Swingline Loan acquired pursuant to this paragraph, and thereafter payments in respect of such Swingline Loan shall be made to Agent and not to the Swingline Lender. Any amounts received by the Swingline Lender from Borrower (or other party on behalf of Borrower) in respect of a Swingline Loan after receipt by the Swingline Lender of the proceeds of a sale of participations therein shall be promptly remitted to Agent; any such amounts received by Agent shall be promptly remitted by Agent to the Revolving Lenders that shall have made their payments pursuant to this paragraph and to the Swingline Lender, as their interests may appear; provided that any such payment so remitted shall be repaid to the Swingline Lender or to Agent, as applicable, if and to the extent such payment is required to be refunded to Borrower for any reason. The purchase of participations in a Swingline Loan pursuant to this paragraph shall not relieve Borrower of any default in the payment thereof.

(c) Whenever Borrower requests a Swingline Loan, it must deliver to Agent a Borrowing Notice as described in Section 2.2.

(d) Borrower's obligation to repay the Swingline Loans made by the Swingline Lender shall be evidenced by a revolving credit promissory note duly executed and delivered by Borrower to the Swingline Lender substantially in the form of Exhibit 2.16 hereto (the "Swingline Note"), and the Swingline Note shall (i) be payable to the order of the Swingline Lender and be dated as of the Amendment No. 6 Effective Date, (ii) be in a stated principal amount equal to \$50,000,000, (iii) prior to the Maturity Date, be payable as provided herein and mature on the Maturity Date, (iv) bear interest as provided in this Section 2.16 and (v) be entitled to the benefits of this Agreement and the other Loan Documents.

(e) Borrower hereby promises to pay all outstanding principal (and any accrued, unpaid interest) of any Swingline Loan on the earliest of (i) the Maturity Date, (ii) the first date after such Swingline Loan is made that is the last day of a calendar month and is at least two

Business Days after such Swingline Loan is made, and (iii) the first date that a Revolving Loan is made after the date of such Swingline Loan.

(f) The unpaid principal amount of each Swingline Loan shall bear interest at an annual rate equal to the Adjusted Base Rate in effect from time to time.

(g) The obligation of the Swingline Lender to make Swingline Loans to Borrower is subject to the same conditions precedent for the making of Loans under Section 4.2.

Section 2.17 Increase of Revolving Loan Commitments.

(a) Subject to Section 2.17(b), Borrower may increase the Aggregate Revolving Loan Commitment then in effect by entering into an Incremental Commitment Agreement with one or more banks or financial institutions (each an "Incremental Lender"), pursuant to which each such Incremental Lender's Revolving Loan Commitment shall be increased or, if such Incremental Lender was not a Revolving Lender prior to entering such Incremental Commitment Agreement, pursuant to which such Incremental Lender makes and is allocated a Revolving Loan Commitment.

(b) Any increase in the Aggregate Revolving Loan Commitment pursuant to this Section 2.17 will be subject to the satisfaction of the following conditions:

(i) no Event of Default has occurred and is continuing;

(ii) Borrower and each Incremental Lender shall have executed and delivered an Incremental Commitment Agreement and each Incremental Lender, if not already a Lender, shall have delivered to Agent a completed administrative questionnaire;

(iii) Agent shall have delivered its prior written consent, which consent shall not be unreasonably withheld, to each such Incremental Lender, unless such Incremental Lender is already a Revolving Lender or an Affiliate of a Revolving Lender;

(iv) each such increase shall be at least \$5,000,000;

(v) the cumulative increase in Revolving Loan Commitments pursuant to this Section 2.17 shall not exceed \$150,000,000;

(vi) no event shall have occurred since the date of the audited financial statements most recently delivered pursuant to Section 6.2(a), with respect to Borrower and its Subsidiaries, taken as a whole, that has resulted, or could reasonably be expected to result, in a Material Adverse Change;

(vii) on the effective date of such increase, no Eurodollar Loan shall be outstanding or if any Eurodollar Loans are outstanding, then the effective date of such increase will be the last day of the Interest Period in respect of such Eurodollar Loans unless Borrower pays compensation pursuant to Section 3.5;

(viii) the aggregate amount of the Lenders' Revolving Loan Commitments shall not exceed \$600,000,000 without the approval of all Lenders; and

(ix) Agent shall have received such corporate resolutions of Borrower and legal opinions of counsel to Borrower as Agent may reasonably request with respect thereto, in each case in form and substance reasonably satisfactory to Agent.

(c) Upon the effectiveness of each Incremental Commitment Agreement executed by an Incremental Lender, (i) such Incremental Lender will become a Revolving Lender for all purposes and to the same extent as if originally a party hereto and will be bound by and entitled to the benefits of this Agreement, (ii) the Revolving Loan Commitments and Aggregate Revolving Loan Commitment will be deemed to include the new or increased Revolving Loan Commitment of such Incremental Lender, and (iii) such Incremental Lender shall purchase a pro rata portion of the outstanding Revolving Loans (and participation interests in Letters of Credit) from each of the other Revolving Lenders (and such Lenders hereby agree to sell and to take all such further action to effectuate such sale) so that each Revolving Lender (including each Incremental Lender) holds its Percentage Share of the Revolving Facility Usage.

(d) Upon its receipt of a duly completed Incremental Commitment Agreement, executed by Borrower and each Incremental Lender party thereto, and the administrative questionnaire referred to in Section 2.17(b)(ii), and subject to the satisfaction of the other conditions of this Section 2.17, Agent shall accept such Incremental Commitment Agreement and record the information contained therein in the Register. No increase in the aggregate Revolving Loan Commitments will be effective for purposes of this Agreement unless the relevant Incremental Commitment Agreement shall have been delivered to Agent.

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 will apply for so long as that Lender is a Defaulting Lender:

(a) Such Defaulting Lender shall not be entitled to fees that would otherwise have accrued during such period under Section 2.5(c), and such fees shall cease to accrue during such period with respect to such Defaulting Lender's unused Revolving Loan Commitment;

(b) the Revolving Loan Commitment and Percentage Share of Revolving Facility Usage and outstanding Term Loans of the Defaulting Lender will 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 or waiver pursuant to Section 10.1), and the definition of "Required Lenders" will automatically be deemed modified accordingly for the duration of such period; provided, that any such amendment, waiver, determination, consent, or notification that would increase or extend the term of the Revolving Loan Commitment of such Defaulting Lender, extend the date fixed for the payment of principal or interest owing to such Defaulting Lender hereunder, reduce the principal amount of any Obligation owing to such Defaulting Lender, reduce the amount of or the rate or amount of interest on any amount owing to such Defaulting Lender or of any fee payable to such Defaulting Lender hereunder, or alter the terms of this proviso, will require the consent of the Defaulting Lender. If a Defaulting Lender's consent to an amendment, waiver, determination, consent, or notification is required pursuant to



this Section 2.18 or any other provision in the Loan Documents, and such Defaulting Lender has failed to respond to a written request from Agent to approve such waiver, amendment, determination, consent, or notification for 10 Business Days after such Defaulting Lender's receipt of such request, such Defaulting Lender will be deemed to have approved such amendment, waiver, determination, consent, or notification;

(c) if any Swingline Loan or LC Obligation exists at the time a Lender becomes a Defaulting Lender then:

(i) all or any part of such Swingline Loan or LC Obligation will be reallocated among the non-Defaulting Lenders that are Revolving Lenders in accordance with their respective Percentage Shares but only to the extent (x) the sum of all non-Defaulting Lenders' Percentage Shares of the Revolving Facility Usage plus the portion of such Defaulting Lender's Percentage Share of such Swingline Loan or LC Obligation to be reallocated does not exceed the total of all non-Defaulting Lenders' Revolving Loan Commitments and (y) the conditions set forth in Section 4.2 are satisfied at that time; provided that, subject to Section 10.12, no reallocation hereunder shall constitute a waiver or release of any claim of any party hereunder against a Defaulting Lender arising from that Lender having become a Defaulting Lender, including any claim of a non-Defaulting Lender as a result of such non-Defaulting Lender's increased exposure following such reallocation; and

(ii) if the reallocation described in clause (i) above cannot, or can only partially, be effected, Borrower shall within one Business Day following notice by Agent (x) first, prepay such Swingline Loans and (y) second, cash collateralize such Defaulting Lender's Percentage Share of the LC Obligations (after giving effect to any partial reallocation pursuant to clause (i) above) in accordance with the procedures set forth in Section 2.14 for so long as such LC Obligation is outstanding;

(iii) if Borrower cash collateralizes any portion of such Defaulting Lender's Percentage Share of the LC Obligations pursuant to this Section 2.18(c), Borrower shall not be required to pay any fees to such Defaulting Lender or any other Person pursuant to Section 2.12 with respect to such cash collateralized portion of such Defaulting Lender's Percentage Share of the LC Obligations during the period those LC Obligations are cash collateralized;

(iv) if LC Obligations are allocated to non-Defaulting Lenders pursuant to Section 2.18(c)(i), then the fees payable to the Revolving Lenders pursuant to Section 2.12 will be adjusted to reflect the non-Defaulting Lenders' post-allocation Percentage Shares; or

(v) if any portion of any Defaulting Lender's Percentage Share of the LC Obligations is neither cash collateralized pursuant to Section 2.18(c)(ii) nor reallocated pursuant to Section 2.18(c)(i), then, without prejudice to any rights or remedies of the LC Issuer or any Lender hereunder, any letter of credit fees payable under Section 2.12(a) with respect to such non-cash collateralized, unallocated portion of such Defaulting Lender's Percentage Share of the LC Obligations will be payable to the LC Issuer until

such portion of such Defaulting Lender's Percentage Share of the LC Obligations is cash collateralized and/or reallocated or such Defaulting Lender ceases to be a Defaulting Lender;

(d) so long as any Lender is a Defaulting Lender, the Swingline Lender will not be required to fund any Swingline Loan and the LC Issuer will not be required to issue, amend or increase any Letter of Credit, unless it is satisfied that the related exposure will be 100% covered by the Revolving Loan Commitments of the non-Defaulting Lenders and/or cash collateral will be provided by Borrower in accordance with Section 2.18(c)(ii), and participating interests in any such newly issued or increased Letter of Credit or newly made Swingline Loan will be allocated among non-Defaulting Lenders in a manner consistent with Section 2.18(c)(i) (and Defaulting Lenders will not participate therein);

(e) any amount payable to such Defaulting Lender hereunder (whether on account of principal, interest, fees or otherwise and including any amount that would otherwise be payable to such Defaulting Lender pursuant to Section 9.6 but excluding Section 3.8) shall, in lieu of being distributed to such Defaulting Lender, be retained by Agent in a segregated account and, subject to any applicable requirements of law, be applied at such time or times as may be determined by Agent (i) first, to the payment of any amounts owing by such Defaulting Lender to Agent hereunder, (ii) second, *pro rata*, to the payment of any amounts owing by such Defaulting Lender to the LC Issuer or Swingline Lender hereunder, (iii) third, to the funding of any Loan or the funding or cash collateralization of any participating interest in any Swingline Loan or Letter of Credit in respect of which such Defaulting Lender has failed to fund its portion as required by this Agreement, as determined by Agent, (iv) fourth, if so determined by Agent and Borrower, held in such account as cash collateral for future funding obligations of the Defaulting Lender under this Agreement, (v) fifth, *pro rata*, to the payment of any amounts owing to Borrower or the Lenders as a result of any judgment of a court of competent jurisdiction obtained by Borrower or any Lender against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement and (vi) sixth, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; and

(f) If there is not in existence a Default or Event of Default, Borrower may terminate the unused amount of the Revolving Loan Commitment of a Defaulting Lender upon not less than three Business Days' prior notice to Agent (which will promptly notify the Lenders thereof); provided that such termination shall not be deemed to be a waiver or release of any claim Borrower, Agent, the LC Issuer, the Swingline Lender, or any Lender may have against such Defaulting Lender.

### **ARTICLE III** **PAYMENTS TO LENDERS**

Section 3.1 General Procedures. Borrower will make each payment which it owes under the Loan Documents to Agent for the account of the Lender Party to whom such payment is owed, in lawful money of the United States of America, without set-off, deduction or counterclaim, and in immediately available funds. Each such payment must be received by Agent not later than 11:00 a.m., Houston, Texas time, on the date such payment becomes due

and payable. Any payment received by Agent after such time will be deemed to have been made on the next following Business Day. Should any such payment become due and payable on a day other than a Business Day, the maturity of such payment shall be extended to the next succeeding Business Day, and, in the case of a payment of principal or past due interest, interest shall accrue and be payable thereon for the period of such extension as provided in the Loan Document under which such payment is due. Each payment under a Loan Document shall be due and payable at the place set forth for Agent on the Lenders Schedule. When Agent collects or receives money on account of the Obligations, Agent shall distribute all money so collected or received, and each Lender Party shall apply all such money so distributed, as follows (except as otherwise provided in Section 2.18(e) and Section 8.3):

(a) first, for the payment of all Obligations which are then due (and if such money is insufficient to pay all such Obligations, first to any reimbursements due Agent under Section 6.9 or 10.4 and then to the partial payment of all other Obligations then due in proportion to the amounts thereof, or as Lender Parties shall otherwise agree);

(b) then for the prepayment of amounts owing under the Loan Documents (other than principal of the Loans) if so specified by Borrower;

(c) then for the prepayment of principal of the Loans, together with accrued and unpaid interest on the principal so prepaid; and

(d) last, for the payment or prepayment of any other Obligations.

All payments applied to principal or interest on any Note shall be applied first to any interest then due and payable, then to principal then due and payable, and last to any prepayment of principal and interest in compliance with Sections 2.6 and 2.7. Subject to Section 2.18(e), all distributions of amounts described in any of subsections (b), (c) or (d) above shall be made by Agent pro rata to each Lender Party then owed Obligations described in such subsection in proportion to all amounts owed to all Lender Parties which are described in such subsection; provided that if any Lender then owes payments to LC Issuer for the purchase of a participation under Section 2.11(c) or to Agent under Section 9.4, any amounts otherwise distributable under this Section to such Lender shall be deemed to belong to LC Issuer, or Agent, respectively, to the extent of such unpaid payments, and Agent shall apply such amounts to make such unpaid payments rather than distribute such amounts to such Lender.

**Section 3.2 Capital Reimbursement.** If any Change in Law regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on any Lender Party's capital, or on the capital of any corporation controlling such Lender Party, as a consequence of the Loans made, or Letters of Credit issued, by such Lender Party, to a level below that which such Lender Party or such corporation could have achieved but for such change (taking into consideration such Lender Party's policies and the policies of any such corporation with respect to capital adequacy), then from time to time Borrower will pay to Agent for the benefit of such Lender Party, within five (5) Business Days of demand therefore by such Lender Party, such additional amount or amounts which such Lender Party shall determine to be appropriate to compensate such Lender Party for such reduction.

Section 3.3 Increased Cost of Eurodollar Loans or Letters of Credit.

(a) If any Change in Law:

(i) shall change the basis of taxation of payments to any Lender Party of any principal, interest, or other amounts attributable to any Eurodollar Loan or Letter of Credit or otherwise due under this Agreement in respect of any Eurodollar Loan or Letter of Credit (other than (x) Reimbursable Taxes, (y) Taxes described in clauses (ii) through (iv) of the definition of Excluded Taxes and (z) Other Connection Taxes that are imposed on or measured by net income (however denominated) or that are franchise Taxes or branch profits Taxes); or

(ii) shall change, impose, modify, apply or deem applicable any reserve, special deposit or similar requirements in respect of any Eurodollar Loan made by any Lender Party or any Letter of Credit (excluding any reserve requirement included in the computation of the Adjusted LIBOR Rate) or against assets of, deposits with or for the account of, or credit extended by, such Lender Party; or

(iii) shall impose on any Lender Party or the interbank eurocurrency deposit market any condition affecting any Eurodollar Loan or Letter of Credit,

the result of which is to increase the cost to any Lender Party of agreeing to make or making, funding or maintaining Eurodollar Loans or (as the case may be) issuing or participating in Letters of Credit, or a reduction in the amount received or receivable by such Lender in connection with any of the foregoing, then such Lender Party shall promptly notify Agent and Borrower in writing of the happening of such event and of the amount required to compensate such Lender Party for such additional costs or reduced return, whereupon (i) Borrower shall pay such additional amount or amounts as will compensate such Lender Party for such additional costs incurred or reduction suffered to Agent for the account of such Lender Party and (ii) Borrower may elect, by giving to Agent and such Lender Party not less than three Business Days' notice, to convert all (but not less than all) of any such Eurodollar Loans of such Lender Party into Base Rate Loans.

(b) A certificate of a Lender Party setting forth the amount or amounts necessary to compensate such Lender Party or the corporation controlling such Lender Party, as the case may be, as specified in Section 3.2 or this Section 3.3 shall be delivered to Borrower and shall be conclusive absent manifest error. Borrower shall pay the applicable Lender Party the amount shown as due on any such certificate within 3 Business Days after receipt thereof.

(c) Failure or delay on the part of any Lender Party to demand compensation pursuant to Section 3.2 or this Section 3.3 shall not constitute a waiver of such Lender Party's right to demand such compensation.

Section 3.4 Illegality. If any Change in Law shall make it unlawful for any Lender Party to fund or maintain Eurodollar Loans, then, upon notice by such Lender Party to Borrower and Agent, (a) Borrower's right to elect Eurodollar Loans from such Lender Party shall be suspended to the extent and for the duration of such illegality, (b) all Eurodollar Loans of such Lender Party which are then the subject of any Borrowing Notice and which cannot be lawfully

funded shall be funded as Base Rate Loans of such Lender Party, and (c) all Eurodollar Loans of such Lender Party shall be converted automatically to Base Rate Loans on the respective last days of the then current Interest Periods with respect to such Loans or within such earlier period as required by Law. If any such conversion of a Eurodollar Loan occurs on a day which is not the last day of the then current Interest Period with respect thereto, Borrower shall pay to such Lender Party such amounts, if any, as may be required pursuant to Section 3.5.

Section 3.5 Funding Losses. In addition to its other obligations hereunder, Borrower will indemnify each Lender Party against, and reimburse each Lender Party on demand for, any loss or expense incurred or sustained by such Lender Party (including any loss or expense incurred by reason of the liquidation or reemployment of deposits or other funds acquired by a Lender Party to fund or maintain Eurodollar Loans but excluding any loss of Base Rate Margin or Eurodollar Margin), as a result of (a) any payment or prepayment (whether authorized or required hereunder or otherwise) of all or a portion of a Eurodollar Loan on a day other than the day on which the applicable Interest Period ends, (b) any payment or prepayment, whether required hereunder or otherwise, of a Loan made after the delivery, but before the effective date, of a Continuation/Conversion Notice requesting the continuation of outstanding Eurodollar Loans as, or the conversion of outstanding Base Rate Loans to, Eurodollar Loans, if such payment or prepayment prevents such Continuation/Conversion Notice from becoming fully effective, (c) the failure of any Loan to be made or of any Continuation/Conversion Notice requesting the continuation of outstanding Eurodollar Loans as, or the conversion of outstanding Base Rate Loans to, Eurodollar Loans to become effective due to any condition precedent not being satisfied or due to any other action or inaction of any Restricted Person, (d) any Conversion (whether authorized or required hereunder or otherwise) of all or any portion of any Eurodollar Loan into a Base Rate Loan or into a different Eurodollar Loan on a day other than the day on which the applicable Interest Period ends, or (e) any assignment of a Eurodollar Loan on a day other than the last day of the Interest Period therefor as a result of a request by Borrower pursuant to Section 3.8(b).

Section 3.6 Reimbursable Taxes.

(a) For purposes of this Section, the term “Lender” includes any Issuing Bank and the term “applicable Law” shall include FATCA.

(b) Borrower will indemnify each Lender Party against and reimburse each Lender Party for all present and future Taxes imposed, assessed, levied or collected on or in respect of any obligation of any Restricted Person under any Loan Document (whether or not correctly or legally imposed), excluding, however, any of the following Taxes (i) Taxes imposed on or measured by net income (however denominated), franchise Taxes and branch profits Taxes, in each case, (A) imposed as a result of such Lender Party being organized under the Laws of, or having its principal office or, in the case of any Lender, its Applicable Lending Office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (B) that are Other Connection Taxes, (ii) in the case of any Lender, any United States withholding Tax imposed on any amounts payable to or for the account of such Lender with respect to an applicable interest in a Loan or Commitment pursuant to a law in effect on the date on which (A) such Lender acquires such interest in any Loan or Revolving Loan Commitment (other than pursuant to an assignment request by Borrower under Section 3.8(b)) or (B) such Lender Party changes its Applicable

Lending Office, except in each case to the extent that, pursuant to this Section, amounts with respect to such Taxes were payable either to such Lender's assignor immediately before such Lender became a party hereto or to such Lender immediately before it changed its Applicable Lending Office, (iii) Taxes attributable to such recipient's failure to comply with requirements to deliver the Prescribed Forms as set forth Section 3.6(e) and (iv) any withholding Taxes imposed under FATCA (all such Taxes "Excluded Taxes", and all other Taxes imposed on or with respect to any payment made by or on account of any obligation of Borrower under any Loan Document being collectively called "Reimbursable Taxes"). Such indemnification shall be on an after-Tax basis and, except as otherwise provided in this Section 3.6(b), such indemnification shall be paid within 10 Business Days after a Lender Party delivers a certificate demonstrating the amount of such payment or liability.

(c) All payments on account of the principal of, and interest on, each Lender Party's Loans and Note, and all other amounts payable by Borrower to any Lender Party hereunder, shall be made without deductions or withholdings for any Taxes (except to the extent required by applicable Law). In the event of Borrower or Agent being compelled by applicable Law to make any such deduction or withholding of any Tax from any payment to any Lender Party pursuant to this Agreement, and if the Tax is a Reimbursable Tax, Borrower shall pay on the due date of such payment such additional amounts as are needed to cause the amount receivable by such Lender Party after such deduction or withholding to equal the amount which would have been receivable in the absence of such deduction or withholding. If Borrower should make any deduction or withholding as aforesaid, Borrower shall within 60 days thereafter forward to Agent an official receipt or other official document evidencing payment of such deduction or withholding.

(d) If Borrower is ever required to pay any Reimbursable Tax with respect to any Eurodollar Loan, Borrower may elect, by giving to Agent and such Lender Party not less than three Business Days' notice, to convert all (but not less than all) of any such Eurodollar Loan into a Base Rate Loan, but such election shall not diminish Borrower's obligation to pay all Reimbursable Taxes.

(e) Notwithstanding the foregoing provisions of this Section, Borrower and Agent shall be entitled, to the extent such party is required to do so by applicable Law, to deduct or withhold (and not to make any indemnification or reimbursement for) Taxes imposed by the United States of America from interest, fees or other amounts payable hereunder for the account of any Lender Party, other than a Lender Party (i) who is a U.S. Person for Federal income Tax purposes that delivered to Agent executed originals of IRS Form W-9 certifying that such Lender Party is exempt from United States federal backup withholding Tax or (ii) who is a Foreign Lender and has the Prescribed Forms on file with Agent (with copies provided to Borrower) for the applicable year to the extent deduction or withholding of such Taxes is not required as a result of the filing of such Prescribed Forms; provided that if Borrower or Agent shall so deduct or withhold any such Taxes, Borrower or Agent, as applicable, shall provide a statement to Agent (if applicable) and such Lender Party, setting forth the amount of such Taxes so deducted or withheld, the applicable rate and any other information or documentation which such Lender Party may reasonably request for assisting such Lender Party to obtain any allowable credits or deductions for the Taxes so deducted or withheld in the jurisdiction or jurisdictions in which such Lender Party is subject to tax. Borrower or Agent may from time to time reasonably request that any Lender Party that is a Foreign Lender deliver executed copies of any Prescribed Form to

permit Borrower or Agent to determine the withholding or deduction required to be made. If a payment made to a Lender Party under any Loan Document would be subject to United States federal withholding Tax imposed by FATCA if such Lender Party were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Internal Revenue Code, as applicable), such Lender Party shall deliver to Borrower and Agent at the time or times prescribed by applicable Law and at such time or times reasonably requested by Borrower or Agent such documentation prescribed by applicable Law (including as prescribed by Section 1471(b)(3)(C)(i) of the Internal Revenue Code) and such additional documentation reasonably requested by Borrower or Agent as may be necessary for Borrower and Agent to comply with their obligations under FATCA and to determine that such Lender Party has complied with such Lender Party's obligations under FATCA or to determine the amount to deduct and withhold from such payment. For the avoidance of doubt, for purposes of determining withholding Taxes imposed under FATCA, Borrower, its Guarantors, and Agent shall treat (and the Lenders hereby authorize Agent to treat) this Agreement as not qualifying as a "grandfathered obligation" within the meaning of Treasury Regulation Section 1.1471-2(b)(2)(i). Solely for purposes of this clause (e), "FATCA" shall include any amendments made to FATCA after the Amendment No. 6 Effective Date.

Each Lender Party 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 Borrower and Agent in writing of its legal inability to do so.

(f) If any party determines, in its sole discretion exercised in good faith, that it has received a refund (or credit in lieu of cash refund) of any Taxes as to which it has been indemnified pursuant to this Section 3.6 (including by the payment of additional amounts pursuant to this Section 3.6), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such indemnified party and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon the request of such indemnified party, shall repay to such indemnified party the amount paid over pursuant to this paragraph (e) (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that such indemnified party is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this paragraph (e), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this paragraph (e) the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This paragraph shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

Section 3.7 Changed Circumstances.

(a) Circumstances Affecting LIBOR Availability. Subject to clause (b) below, in connection with any request for a Eurodollar Loan or a conversion to or continuation thereof or otherwise, if for any reason:

(i) Agent determines that Dollar deposits are not being offered to banks in the London interbank eurodollar market for the applicable amount and Interest Period of such Loan (any such determination shall be conclusive absent manifest error);

(ii) Agent determines that adequate and reasonable means do not exist for ascertaining LIBOR for such Interest Period (any such determination shall be conclusive absent manifest error); or

(iii) Agent is advised by Required Lenders that LIBOR for such Interest Period will not adequately and fairly reflect the cost to such Lenders of making or maintaining their Loans included in such Borrowing for such Interest Period;

then Agent shall give notice thereof to Borrower and Lenders by telephone or teletype as promptly as practicable thereafter and, until Agent notifies Borrower and Lenders that the circumstances giving rise to such notice no longer exist, (A) any Continuation/Conversion Notice that requests the conversion of any Borrowing to, or continuation of any Borrowing as, a Borrowing of Eurodollar Loans shall be ineffective and shall be deemed a request to continue such Borrowing as a Borrowing of Base Rate Loans and (B) if any Borrowing Notice requests a Borrowing of Eurodollar Loans, such Borrowing shall be made as a Borrowing of Base Rate Loans. Upon receipt of such notice, Borrower may revoke any pending request for a Borrowing of, conversion to or continuation of Eurodollar Loans.

(b) Effect of Benchmark Transition Event.

(i) Benchmark Replacement. Notwithstanding anything to the contrary herein or in any other Loan Document, upon the occurrence of a Benchmark Transition Event or an Early Opt-in Election, as applicable, Agent and Borrower may amend this Agreement to replace LIBOR with a Benchmark Replacement. Any such amendment with respect to a Benchmark Transition Event will become effective at 5:00 p.m. on the fifth (5th) Business Day after Agent has posted such proposed amendment to all Lenders and Borrower so long as Agent has not received, by such time, written notice of objection to such amendment from Lenders comprising the Required Lenders. Any such amendment with respect to an Early Opt-in Election will become effective on the date that Lenders comprising the Required Lenders have delivered to Agent written notice that such Required Lenders accept such amendment. No replacement of LIBOR with a Benchmark Replacement pursuant to this Section 3.7(b) will occur prior to the applicable Benchmark Transition Start Date.

(ii) Benchmark Replacement Conforming Changes. In connection with the implementation of a Benchmark Replacement, Agent will have the right to make Benchmark Replacement Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments



implementing such Benchmark Replacement Conforming Changes will become effective without any further action or consent of any other party to this Agreement.

(iii) Notices; Standards for Decisions and Determinations. Agent will promptly notify Borrower and the Lenders of (A) any occurrence of a Benchmark Transition Event or an Early Opt-in Election, as applicable, and its related Benchmark Replacement Date and Benchmark Transition Start Date, (B) the implementation of any Benchmark Replacement, (C) the effectiveness of any Benchmark Replacement Conforming Changes and (D) the commencement or conclusion of any Benchmark Unavailability Period. Any determination, decision or election that may be made by Agent or Lenders pursuant to this Section 3.7(b), including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action, will be conclusive and binding absent manifest error and may be made in its or their sole discretion and without consent from any other party hereto, except, in each case, as expressly required pursuant to this Section 3.7(b).

(iv) Benchmark Unavailability Period. Upon Borrower's receipt of notice of the commencement of a Benchmark Unavailability Period, Borrower may revoke any request for a Eurodollar Loan or conversion to or continuation of Eurodollar Loans to be made, converted or continued during any Benchmark Unavailability Period and, failing that, Borrower will be deemed to have converted any such request into a request for a borrowing of or conversion to Base Rate Loans. During any Benchmark Unavailability Period, the component of the Base Rate based upon LIBOR will not be used in any determination of the Base Rate.

### Section 3.8 Change of Applicable Lending Office; Replacement of Lenders.

(a) Each Lender Party agrees that, upon the occurrence of any event giving rise to the operation of Sections 3.2, 3.3, 3.4 or 3.6 with respect to such Lender Party, it will, if requested by Borrower, use reasonable efforts (subject to overall policy considerations of such Lender Party) to designate another Applicable Lending Office, provided that such designation is made on such terms that such Lender Party and its Applicable Lending Office suffer no economic, legal or regulatory disadvantage, with the object of avoiding the consequence of the event giving rise to the operation of any such Section. Nothing in this Section shall affect or postpone any of the obligations of Borrower or the rights of any Lender Party provided in Sections 3.2, 3.3, 3.4 or 3.6.

(b) If any Lender requests compensation under Section 3.2 or 3.3, or if Borrower is required to pay any additional amount to any Lender Party or any governmental authority for the account of any Lender Party pursuant to Section 3.6, or if the obligation of any Lender Party to make or maintain Loans as, or convert Loans to, Eurodollar Loans is suspended pursuant to Section 3.4, or if any Lender Party is a Defaulting Lender, then Borrower may, at its sole expense and effort (such expense to include any transfer fee payable to Agent under Section 10.5(c) and any expense pursuant to Article III), upon notice to such Lender Party and Agent, require such Lender Party to assign and delegate in whole (but not in part), without recourse (in accordance with and subject to the restrictions contained in Section 10.5), all its interests, rights and

obligations under this Agreement to an Eligible Transferee that shall assume such obligations (which Eligible Transferee may be another Lender Party, if a Lender Party accepts such assignment); provided that (i) Borrower shall have received the prior written consent of Agent, which consent shall not unreasonably be withheld, (ii) such Lender Party shall have received payment of an amount equal to the outstanding principal of its Loans, accrued interest thereon, accrued fees and all other amounts payable to it hereunder from Borrower or such Eligible Transferee (including any amounts payable pursuant to Section 3.5), (iii) in the case of any such assignment resulting from a claim for compensation under Section 3.2 or 3.3 or payments required to be made pursuant to Section 3.6, such assignment will result in a reduction in such compensation or payments, and (iv) if Borrower elects to exercise such right with respect to any Lender Party, that has made such a request under Section 3.2, 3.3, 3.4 or 3.6, it shall be obligated to replace all Lender Parties that have made similar requests. A Lender Party shall not be required to make any such assignment and delegation if, prior thereto, as a result of a waiver by such Lender Party or otherwise, the circumstances entitling Borrower to require such assignment and delegation cease to apply. Any Lender Party being replaced shall execute and deliver an Assignment and Acceptance with respect to such Lender Party's outstanding Loans and participations in LC Obligations.

#### **ARTICLE IV**

#### **CONDITIONS PRECEDENT TO LENDING**

Section 4.1 Documents to be Delivered. No Lender has any obligation to make its first Loan, and LC Issuer has no obligation to issue the first Letter of Credit, unless Agent shall have received all of the following, at Agent's office in Houston, Texas, duly executed and delivered and in form, substance and date reasonably satisfactory to Agent, the Lenders and their counsel:

- (a) This Agreement.
- (b) Each Revolving Note and the Swingline Note.
- (c) A Guaranty executed by each Guarantor existing on the date hereof.
- (d) Each Security Document listed on Schedule 4.1.
- (e) The following certificates of Borrower and, as appropriate, the Subsidiaries:

(i) An "Omnibus Certificate" of the Secretary or Assistant Secretary of Borrower and each Guarantor, which shall contain the names and signatures of the officers of Borrower and each Guarantor authorized to execute Loan Documents and which shall certify to the truth, correctness and completeness of the following exhibits attached thereto: (1) a copy of resolutions duly adopted by the Board of Directors of Borrower and each Guarantor and in full force and effect at the time this Agreement is entered into, authorizing the execution of this Agreement and the other Loan Documents delivered or to be delivered in connection herewith and the consummation of the transactions contemplated herein and therein, (2) a copy of the charter documents of Borrower and each Guarantor and all amendments thereto, certified by the appropriate

official of such party's state of organization, and (3) a copy of the bylaws of Borrower and each Guarantor; and

(ii) A "Closing Certificate" of the chief financial officer of Borrower, as of the Closing Date, certifying that (A) the conditions set out in subsections (a), (b) and (c) of Section 4.2 have been satisfied and (B) the Initial Financial Statements of Borrower delivered to Agent fairly present the Consolidated financial position for the periods covered thereby, as of the date of such Initial Financial Statements.

(f) A certificate of existence and good standing for Borrower issued by the Secretary of State of Delaware, a certificate of due qualification to do business for Borrower issued by the Secretary of State of Texas, and a certificate of account status for Borrower issued by the Texas Comptroller of Public Accounts.

(g) A favorable opinion of (i) Bracewell LLP, counsel for Restricted Persons, in form and substance reasonably satisfactory to Agent; and (ii) Trent McKenna, in-house counsel for Restricted Persons, in form and substance reasonably satisfactory to Agent.

(h) The Initial Financial Statements.

(i) The certificate or certificates of insurance required by Section 6.8.

(j) Payment of all fees including all Commitment Fees, upfront, Agent, and Lead Arranger fees required to be paid to any Lender or any other Party pursuant to any Loan Documents.

(k) Such other documents and instruments as Agent and its counsel may reasonably require.

Section 4.2 Additional Conditions Precedent. No Lender has any obligation to make any Loan (including its first), and LC Issuer has no obligation to issue any Letter of Credit (including its first), unless the following conditions precedent have been satisfied:

(a) All representations and warranties made by any Restricted Person in any Loan Document shall be true in all material respects (or in all respects to the extent any such representation is qualified by a materiality standard) on and as of the date of such Loan or the date of issuance of such Letter of Credit as if such representations and warranties had been made as of the date of such Loan or the date of issuance of such Letter of Credit, except to the extent that such representation or warranty was made as of a specific date or updated, modified or supplemented as of a subsequent date with the consent of Required Lenders in which case that representation and warranty will have been true and correct in all material respects (or in all respects to the extent any such representation or warranty is qualified by a materiality standard) as of that earlier date.

(b) No Default shall exist at the date of such Loan or the date of issuance of such Letter of Credit.

**ARTICLE V**  
**REPRESENTATIONS AND WARRANTIES**

To confirm each Lender's understanding concerning Restricted Persons and Restricted Persons' businesses, properties and obligations and to induce each Lender to enter into this Agreement and to extend credit hereunder, Borrower represents and warrants to each Lender that:

Section 5.1 No Default. No event has occurred and is continuing which constitutes a Default or an Event of Default.

Section 5.2 Organization and Good Standing. Each Restricted Person is duly organized, validly existing and in good standing under the Laws of its jurisdiction of organization, having all powers required to carry on its business and enter into and carry out the transactions contemplated hereby. Each Restricted Person is duly qualified, in good standing, and authorized to do business in all other jurisdictions within the United States wherein the character of the properties owned or held by it or the nature of the business transacted by it makes such qualification necessary, except where the failure to so qualify or be authorized could not reasonably be expected to result in a Material Adverse Change. Each Restricted Person has taken all actions and procedures customarily taken in order to enter, for the purpose of conducting business or owning property, each jurisdiction outside the United States wherein the character of the properties owned or held by it or the nature of the business transacted by it makes such actions and procedures desirable except where the failure to take such actions and procedures could not reasonably be expected to result in a Material Adverse Change.

Section 5.3 Authorization. Each Restricted Person has the power and authority to execute, deliver, and perform its respective obligations under this Agreement and the other Loan Documents. Each Restricted Person has taken all action necessary to authorize the execution and delivery by it of the Loan Documents to which it is a party and to authorize the consummation of the transactions contemplated thereby and the performance of its obligations thereunder. This Agreement and the other Loan Documents have been duly executed and delivered by Borrower and each other Restricted Person a party thereto. Borrower is duly authorized to borrow funds hereunder.

Section 5.4 No Conflicts or Consents. The execution and delivery by the various Restricted Persons of the Loan Documents to which each is a party, the performance by each of its obligations under such Loan Documents, and the consummation of the transactions contemplated by the various Loan Documents, do not and will not (a) conflict with any provision of (i) any Law, (ii) the organizational documents of any Restricted Person, or (iii) any material agreement, judgment, license, order or permit applicable to or binding upon any Restricted Person; (b) result in the acceleration of any Indebtedness owed by any Restricted Person; or (c) result in or require the creation of any Lien upon any assets or properties of any Restricted Person except as expressly contemplated or permitted in the Loan Documents. Except as expressly contemplated in the Loan Documents, no permit, consent, approval, authorization or order of, and no notice to or filing with, any Tribunal or third party is required in connection with the execution, delivery or performance by any Restricted Person of any Loan Document or to consummate any transactions contemplated by the Loan Documents.

Section 5.5 Enforceable Obligations. This Agreement is, and the other Loan Documents when duly executed and delivered will be, legal, valid and binding obligations of each Restricted Person which is a party hereto or thereto, enforceable in accordance with their respective terms except as such enforcement may be limited by bankruptcy, insolvency or similar Laws of general application relating to the enforcement of creditors' rights.

Section 5.6 Initial Financial Statements. Restricted Persons have heretofore delivered to each Lender true, correct and complete copies of the Initial Financial Statements. The Initial Financial Statements fairly present Borrower's Consolidated financial position at the respective dates thereof and the Consolidated results of Borrower's operations and Borrower's Consolidated cash flows for the respective periods thereof. Since December 31, 2018, no Material Adverse Change has occurred.

Section 5.7 [Reserved].

Section 5.8 Full Disclosure. The Restricted Persons have disclosed to Agent and the Lenders all agreements, instruments and corporate or other restrictions to which any Restricted Person are subject, and all other matters known to them, that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Change. No financial statement, material report, material certificate or other material information furnished (whether in writing or orally) by or on behalf of any Restricted Person to Agent or any Lender in connection with the transactions contemplated hereby and the negotiation of this Agreement or delivered hereunder (as modified or supplemented by other information so furnished), taken together as a whole, contains any untrue statement of a material fact or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that, with respect to projected financial information, pro forma financial information, estimated financial information and other projected or estimated information, such information was prepared in good faith based upon assumptions believed to be reasonable at the time (it being recognized by the Lenders that projections are not to be viewed as facts and that the actual results during the period or periods covered by such projections may vary from such projections). As of the Amendment No. 6 Effective Date, the information included in each Beneficial Ownership Certification (if any) provided to Agent or any Lender in connection with this Agreement is true and correct.

Section 5.9 Litigation. Except as disclosed in the Initial Financial Statements or in Section 5.9 of the Disclosure Schedule, (a) there are no actions, suits or legal, equitable, arbitral or administrative proceedings pending, or to the knowledge of any Restricted Person threatened, against any Restricted Person or affecting any Collateral (including any which challenge or otherwise pertain to any Restricted Person's title to any Collateral) before any Tribunal which could reasonably be expected to cause a Material Adverse Change, and (b) there are no outstanding judgments, injunctions, writs, rulings or orders by any such Tribunal against any Restricted Person or, to the knowledge of Borrower, any Restricted Person's stockholders, partners, directors or officers, or affecting any Collateral or any of its material assets or property which could reasonably be expected to cause a Material Adverse Change.

Section 5.10 Labor Disputes and Acts of God. Except as disclosed in Section 5.10 of the Disclosure Schedule, neither the business nor the properties of any Restricted Person has

been affected by any fire, explosion, accident, strike, lockout or other labor dispute, drought, storm, hail, earthquake, embargo, act of God or of the public enemy or other casualty (whether or not covered by insurance), which could reasonably be expected to cause a Material Adverse Change.

Section 5.11 ERISA Plans and Liabilities. Except as disclosed in the Initial Financial Statements or in Section 5.11 of the Disclosure Schedule, no Termination Event has occurred with respect to any ERISA Plan and all ERISA Plans are in compliance with ERISA unless the aggregate effect of all Termination Events and failures to comply with ERISA could not reasonably be expected to cause a Material Adverse Change. Except as permitted under Section 7.10 hereof, no ERISA Affiliate is required to contribute to, or has any other absolute or contingent liability in respect of, any “multiemployer plan” as defined in Section 4001 of ERISA. The payment by a Restricted Person of the sum of the contributions to each ERISA Plan that would be necessary for the “adjusted funding target attainment percentage” (within the meaning of Section 436 of the Internal Revenue Code) of each such ERISA Plan to equal 100 percent could not reasonably be expected to cause a Material Adverse Change. Each representation with respect to a “multiemployer plan” is made to Borrower’s knowledge.

Section 5.12 Environmental and Other Laws. Except as disclosed in Section 5.12 of the Disclosure Schedule: (a) Restricted Persons are conducting their businesses in compliance with all applicable Laws, including Environmental Laws, where the failure to so comply could reasonably be expected to cause a Material Adverse Change, and have and are in compliance with all licenses and permits required under any such Laws where the failure to so comply could reasonably be expected to cause a Material Adverse Change; (b) none of the operations or properties of any Restricted Person is the subject of federal, state or local investigation evaluating whether any material remedial action is needed to respond to a release of any Hazardous Materials into the environment or to the improper storage or disposal (including storage or disposal at offsite locations) of any Hazardous Materials which could reasonably be expected to cause a Material Adverse Change; (c) no Restricted Person (and to the best knowledge of Borrower, no other Person) has filed any notice under any Law indicating that any Restricted Person is responsible for the improper release into the environment, or the improper storage or disposal, of any material amount of any Hazardous Materials or that any Hazardous Materials have been improperly released, or are improperly stored or disposed of, upon any property of any Restricted Person which could reasonably be expected to cause a Material Adverse Change; (d) to the knowledge of Borrower, no Restricted Person has transported or arranged for the transportation of any Hazardous Material to any location which is (i) listed on the National Priorities List under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, listed for possible inclusion on such National Priorities List by the Environmental Protection Agency in its Comprehensive Environmental Response, Compensation and Liability Information System List, or listed on any similar state list or (ii) the subject of federal, state or local enforcement actions or other investigations, in the case of either of the forgoing clauses (i) and (ii), which may lead to claims against any Restricted Person for clean-up costs, remedial work, damages to natural resources or for personal injury claims (whether under Environmental Laws or otherwise) which could reasonably be expected to cause a Material Adverse Change; and (e) no Restricted Person otherwise has any known material contingent liability under any Environmental Laws or in connection with the release into the environment, or the storage or disposal, of any Hazardous Materials which could reasonably be

expected to cause a Material Adverse Change. Each Restricted Person undertook, at the time of its acquisition of each of its material properties, all appropriate inquiry into the previous ownership and uses of the property and any potential environmental liabilities associated therewith.

Section 5.13 Names and Places of Business. As of the Amendment No. 6 Effective Date, no Restricted Person has, during the preceding two (2) years, been known by, or used any other trade or fictitious name, except as disclosed in Section 5.13 of the Disclosure Schedule. Except as otherwise indicated in Section 5.13 of the Disclosure Schedule, as of the Amendment No. 5 Effective Date, the chief executive office and principal place of business of each Restricted Person are (and for the preceding two (2) years have been) located at the address of Borrower set out on Schedule 5.13. Except as indicated in Section 5.13 of the Disclosure Schedule or otherwise disclosed in writing to Agent, no Restricted Person has any other office or place of business.

Section 5.14 Subsidiaries. As of the Amendment No. 6 Effective Date, Borrower does not presently have any Subsidiary except those listed in Section 5.14 of the Disclosure Schedule or disclosed to Agent in writing. No Restricted Person has any equity investments in any other Person except those listed in Section 5.14 of the Disclosure Schedule or otherwise permitted under this Agreement. Borrower owns, directly or indirectly, the equity interests in each of its Subsidiaries indicated in Section 5.14 of the Disclosure Schedule or as disclosed to Agent in writing.

Section 5.15 Government Regulation. Neither Borrower nor any other Restricted Person owing Obligations is an “investment company” or a company “controlled” by an “investment company” within the meaning of the Investment Company Act of 1940, as amended. The pledge of the Equity of each Subsidiary of Borrower does not violate Regulation T, U, or X of the Board of Governors of the Federal Reserve System.

Section 5.16 Insider. No Restricted Person, nor, to the knowledge of Borrower as of the Closing Date, any Person having “control” (as that term is defined in 12 U.S.C. § 375b(9) or in regulations promulgated pursuant thereto) of any Restricted Person, is a “director” or an “executive officer” or “principal shareholder” (as those terms are defined in 12 U.S.C. § 375b(8) or (9) or in regulations promulgated pursuant thereto) of any Lender, of a bank holding company of which any Lender is a Subsidiary or of any Subsidiary of a bank holding company of which any Lender is a Subsidiary.

Section 5.17 Solvency. Upon giving effect to the issuance of the Notes, the execution of the Loan Documents by Borrower and each Guarantor and the consummation of the transactions contemplated hereby, Borrower and the Guarantors, on a Consolidated basis, will be Solvent. Neither Borrower nor any Restricted Person has incurred (whether under the Loan Documents or otherwise), nor does any Restricted Person intend to incur or believe that it will incur Liabilities which will be beyond its ability to pay as such debts mature.

Section 5.18 [Reserved].

Section 5.19 Title to Properties; Licenses. Each Restricted Person has good and defensible title to all of the Collateral and to all of its material properties and assets, free and clear of all Liens, encumbrances, or adverse claims other than Permitted Liens and free and clear of all impediments to the use of such properties and assets in such Restricted Person's business. Each Restricted Person possesses all licenses, permits, franchises, patents, copyrights, trademarks and trade names, and other intellectual property (or otherwise possesses the right to use such intellectual property without violation of the rights of any other Person) which are necessary to carry out its business as presently conducted and as presently proposed to be conducted hereafter, except to the extent failure to possess such licenses, permits, franchises, patents, copyrights, trademarks and trade names, and other intellectual property could reasonably be expected to cause a Material Adverse Change and no Restricted Person is in violation of the terms under which it possesses such intellectual property or the right to use such intellectual property, the violation of which could reasonably be expected to cause a Material Adverse Change.

Section 5.20 Regulation U. None of Borrower and its Subsidiaries are engaged in the business of extending credit for the purpose of purchasing or carrying Margin Stock, and no proceeds of any Loans will be used for a purpose which violates Regulation U.

Section 5.21 Taxes. Each Restricted Person has timely filed or caused to be filed all material Tax returns and reports required to have been filed and has paid or caused to be paid all Taxes required to have been paid by it, except (a) Taxes that are being contested in good faith by appropriate proceedings and for which such Restricted Person, as applicable, has set aside on its books adequate reserves in accordance with GAAP and (b) Taxes which individually or in the aggregate do not exceed \$3,000,000.

Section 5.22 Anti-Corruption Laws and Sanctions. None of (a) Borrower, any Subsidiary or, to the knowledge of Borrower, any of their respective directors, officers, employees or affiliates or (b) to the knowledge of Borrower, any agent or representative of Borrower or any Subsidiary that will act in any capacity in connection with or benefit from the credit facility established hereby, (i) is a Sanctioned Person or currently the subject or target of any Sanctions or (ii) has taken any action, directly or indirectly, that would result in a material violation by Borrower or any Guarantor of any Anti-Corruption Laws.

## **ARTICLE VI**

### **AFFIRMATIVE COVENANTS OF BORROWER.**

Borrower covenants and agrees that until the full and final payment of the Obligations and the termination of this Agreement, unless Required Lenders have previously agreed otherwise:

Section 6.1 Payment and Performance. Borrower will cause each other Restricted Person to observe, perform and comply with every term, covenant and condition in any Loan Document.

Section 6.2 Books, Financial Statements and Reports. Each Restricted Person will at all times maintain full and accurate books of account and records. Borrower will maintain and



will cause its Subsidiaries to maintain a standard system of accounting, will maintain its Fiscal Year, and will furnish the following statements and reports to each Lender Party at Borrower's expense:

(a) As soon as available, and in any event within one hundred twenty (120) days after the end of each Fiscal Year, complete Consolidated financial statements of Borrower together with all notes thereto, prepared in reasonable detail in accordance with GAAP, together with an unqualified opinion on the Consolidated Statements, based on an audit using GAAP, by independent certified public accountants selected by Borrower of nationally recognized standing, stating that such Consolidated financial statements have been so prepared. These financial statements shall contain a Consolidated and consolidating balance sheet as of the end of such Fiscal Year and Consolidated and consolidating statements of income for such Fiscal Year and Consolidated statements of cash flows and stockholders' equity for such Fiscal Year, each setting forth in comparative form the corresponding figures for the preceding Fiscal Year.

(b) As soon as available, and in any event within forty-five (45) days after the end of the first three Fiscal Quarters in each Fiscal Year, Borrower's unaudited Consolidated and consolidating balance sheet and income statements as of the end of such Fiscal Quarter and Consolidated statements of Borrower's cash flows and stockholders' equity for the period from the beginning of the then current Fiscal Year to the end of such Fiscal Quarter, all in reasonable detail and prepared in accordance with GAAP, subject to changes resulting from normal year-end adjustments. In addition Borrower will, together with each such set of financial statements and each set of financial statements furnished under subsection (a) of this section, furnish a certificate in the form of Exhibit 6.2(b), signed by the chief financial officer of Borrower stating that such financial statements are fair and complete in all material respects and fairly present the Consolidated financial position of Borrower for the periods covered thereby (subject to normal year-end adjustments), stating that he has reviewed the Loan Documents, containing calculations showing compliance (or non-compliance) at the end of such Fiscal Quarter with the requirements of Section 7.11, showing Borrower's compliance (or non-compliance) as of the end of such Fiscal Quarter with the negative covenants set forth in Sections 7.1 through 7.10 and Section 7.12 and stating that no Default exists at the end of such Fiscal Quarter or at the time of such certificate or specifying the nature and period of existence of any such Default.

(c) Promptly upon their becoming available, copies of all financial statements, reports, notices and proxy statements sent by any Restricted Person to its stockholders and all registration statements, periodic reports and other statements and schedules filed by any Restricted Person with any securities exchange, the Securities and Exchange Commission or any similar governmental authority.

(d) Promptly upon the request thereof, such information and documentation required under applicable "know your customer" rules and regulations, the PATRIOT Act or any applicable Anti-Corruption Laws or required for purposes of complying with the Beneficial Ownership Regulation (including, without limitation, updated Beneficial Ownership Certifications for any Restricted Person that qualifies as a "legal entity customer" thereunder as so requested, or written confirmation that the information provided in any Beneficial Ownership Certification delivered to Agent or any Lender on or about the Amendment No. 6 Effective Date

in connection with this Agreement remains true and correct), in each case, as from time to time reasonably requested by Agent or any Lender.

(e) Each Restricted Person will cooperate with Agent in connection with the publication of certain materials and/or information provided by or on behalf of each such Restricted Person to Agent and Lenders (collectively, the “Information Materials”) pursuant to this Article VI and will, at the reasonable request of Agent, designate Information Materials (i) that are either available to the public or not material with respect to any Restricted Person or any of their respective securities for purposes of United States federal and state securities laws, as “Public Information” and (ii) that are not Public Information as “Private Information.” If any Information Materials are not labeled “Public Information,” they shall be deemed to be labeled “Private Information”.

Section 6.3 Other Information and Inspections. Each Restricted Person will furnish to each Lender any information which Agent may from time to time reasonably request concerning any provision of the Loan Documents, any Collateral, or any matter in connection with Restricted Persons’ businesses, properties, prospects, financial condition and operations, including all evidence which Agent from time to time reasonably requests in writing as to the accuracy and validity of or compliance with all representations, warranties and covenants made by any Restricted Person in the Loan Documents, the satisfaction of all conditions contained therein, and all other matters pertaining thereto. Each Restricted Person will permit representatives appointed by Agent (including independent accountants, auditors, Agents, attorneys, appraisers and any other Persons) to visit and inspect during normal business hours any of such Restricted Person’s property, including its books of account, other books and records, and any facilities or other business assets, and to make extra copies therefrom and photocopies and photographs thereof, and to write down and record any information such representatives obtain, and each Restricted Person shall permit Agent or its representatives to investigate and verify the accuracy of the information furnished to Agent or any Lender in connection with the Loan Documents and to discuss all such matters with its officers, employees and representatives.

Section 6.4 Notice of Material Events and Change of Address. Borrower will, after it has knowledge thereof, promptly notify each Lender in writing, stating that such notice is being given pursuant to this Agreement, of:

(a) the occurrence of any Material Adverse Change,

(b) the occurrence of any Default or Event of Default,

(c) the acceleration of the maturity of any Indebtedness owed by any Restricted Person or of any default by any Restricted Person under any indenture, mortgage, agreement, contract or other instrument to which any of them is a party or by which any of them or any of their properties is bound, if such acceleration or default could reasonably be expected to cause a Material Adverse Change,

(d) the occurrence of any Termination Event that could reasonably be expected to cause a Material Adverse Change,

(e) any claim that is reasonably likely to result in liability to Borrower and its Subsidiaries of \$5,000,000 or more, any notice of potential liability under any Environmental Laws that is reasonably likely to result in liability to Borrower and its Subsidiaries of \$5,000,000 or more, or any other material adverse claim asserted against any Restricted Person or with respect to any Restricted Person's properties,

(f) the filing of any suit or proceeding against any Restricted Person in which an adverse decision could reasonably be expected to cause a Material Adverse Change, and

(g) the filing of any material financing statement, registration of a pledge (such as with an issuer of uncertificated securities), or other arrangement or action which would serve to perfect a Lien, in each case other than in connection with a Permitted Lien, regardless of whether such financing statement is filed, such registration is made, or such arrangement or action is undertaken before or after such Lien exists.

Upon the occurrence of any of the foregoing, the Restricted Persons will take all necessary or appropriate steps to promptly remedy any such Material Adverse Change, Default, Event of Default, acceleration, default or Termination Event (to the extent such Termination Event can be remedied), to protect against any such adverse claim, to defend any such suit or proceeding, and to resolve all controversies on account of any of the foregoing. Borrower will also notify Agent and Agent's counsel in writing at least ten (10) Business Days prior to the date that any Restricted Person changes its name or the location of its chief executive office or its location under the Uniform Commercial Code.

Section 6.5 Maintenance of Properties. Each Restricted Person will maintain, preserve, protect, and keep all Collateral and all other material property used or useful in the conduct of its business in good condition (ordinary wear and tear excepted) in accordance with reasonably prudent industry standards, and in compliance with all applicable Laws which could reasonably be expected to cause a Material Adverse Change, in conformity with all applicable contracts, servitudes, leases and agreements which could reasonably be expected to cause a Material Adverse Change, and will from time to time make all commercially reasonable repairs, renewals and replacements needed to enable the business and operations carried on in connection therewith to be promptly and advantageously conducted at all times.

Section 6.6 Maintenance of Existence and Qualifications. Except as permitted under Section 7.4, each Restricted Person will maintain and preserve its existence and its rights and franchises in full force and effect and will qualify to do business in all states or jurisdictions where required by applicable Law, except where the failure to maintain, preserve and qualify could reasonably be expected to cause a Material Adverse Change.

Section 6.7 Payment of Taxes. Each Restricted Person will (a) timely file all material required tax returns including any material extensions; (b) timely pay all material Taxes, assessments, and other governmental charges or levies imposed upon it or upon its income, profits or property before the same become delinquent, except to the extent such Taxes, assessments, or other charges or levies are being contested in good faith and reserves are maintained therefor to the extent required by GAAP; and (c) maintain appropriate accruals and reserves for all of the foregoing in accordance with GAAP. Each Restricted Person may,

however, delay paying or discharging any of the foregoing so long as it is in good faith contesting the validity thereof by appropriate proceedings, if necessary, and has set aside on its books adequate reserves therefore which are required by GAAP.

Section 6.8 Insurance.

(a) Each Restricted Person shall at all times maintain (at its own expense) insurance for its property and insurance with respect to all Collateral and liability insurance, with financially sound and reputable insurance companies (including the Captive Insurance Entities), in such amounts and against such risks as is customary in the industry for similarly situated businesses and properties. All insurance policies covering Collateral shall be endorsed (i) to provide for payment of losses to Agent as its interests may appear and Borrower shall deliver a certificate to that effect, (ii) to provide that such policies may not be canceled or reduced or affected in any material manner for any reason without ten (10) days prior notice to Agent from the insurer, (iii) to provide for any other matters specified in any applicable Security Document or which Agent may reasonably require; and (iv) to provide for insurance against fire, casualty and any other hazards normally insured against, (less a reasonable deductible not to exceed amounts customary in the industry for similarly situated businesses and properties) of the property insured.

(b) Each such policy shall (i) if such policy is for liability insurance, name the appropriate Restricted Person and Agent, as agent for the Lenders, as insured parties thereunder (without any representation or warranty by or obligation upon Agent or Lenders) as their interests may appear, (ii) if such policy is for property insurance, contain the agreement by the insurer that any loss thereunder shall be payable to Agent notwithstanding any action, inaction or breach of representation or warranty by any Restricted Person, and (iii) provide that there shall be no recourse against Agent or Lenders for payment of premiums or other amounts with respect thereto. Each Restricted Person will, if so requested by Agent, deliver to Agent original or duplicate policies of such insurance. Agent is hereby authorized to enforce payment under all such insurance policies and to compromise and settle any claims thereunder, in its own name or in the name of the Restricted Persons.

(c) Any proceeds paid under any liability insurance policy maintained by Restricted Persons pursuant to this Section 6.8 may be paid directly to the Person who has incurred the liability covered by such insurance.

(d) Any proceeds paid under a property or casualty insurance policy maintained by a Restricted Person pursuant to this Section 6.8 will be paid as follows:

- (i) if an Event of Default exists, then such proceeds shall be paid to Agent; and
- (ii) if an Event of Default does not exist, then such proceeds shall be paid to Borrower.

Agent shall release to Borrower any funds delivered to it under clause (i) promptly upon request by Borrower after the cure or waiver of such Event of Default and a certificate of Borrower's chief financial officer stating that no Event of Default then exists. If (x) such request and

certificate are not received by Agent within 30 days of the cure or waiver of such Event of Default or (y) such Event of Default is not cured or waived within 365 days of Agent's receipt of such funds, then Agent shall apply such funds to the prepayment of the Term Loans.

(e) If Agent receives proceeds of property or casualty insurance required to be paid to Borrower under clause (d)(ii) above, Agent shall promptly deliver to Borrower such proceeds. If Borrower receives proceeds of property or casualty insurance required to be paid to Agent under clause (d)(i) above, Borrower shall promptly deliver to Agent such proceeds.

Section 6.9 Performance on Borrower's Behalf. If any Restricted Person fails to pay any Taxes, insurance premiums, expenses, attorneys' fees or other amounts it is required to pay under any Loan Document, Agent may pay the same. Borrower shall immediately reimburse Agent for any such payments and each amount paid by Agent shall constitute an Obligation owed hereunder which is due and payable on the date such amount is paid by Agent.

Section 6.10 Default Interest. Borrower hereby promises to each Lender Party to pay interest at the Default Rate on all Obligations (including Obligations to pay fees or to reimburse or indemnify any Lender) which Borrower has in this Agreement promised to pay to such Lender Party and which are not paid when due, after the expiration of any grace period for such payment set forth in Section 8.1. Such interest shall accrue from the expiration of any such grace period until such Obligations are paid.

Section 6.11 Compliance with Law. Each Restricted Person will conduct its business and affairs in compliance with all Laws applicable thereto, except as could not reasonably be expected to cause a Material Adverse Change. Each Restricted Person will cause all licenses and permits necessary or appropriate for the conduct of its business and the ownership and operation of its property used and useful in the conduct of its business to be at all times maintained in good standing and in full force and effect, except as could not reasonably be expected to cause a Material Adverse Change.

Section 6.12 Environmental Matters; Environmental Reviews.

(a) Each Restricted Person will comply with all Environmental Laws now or hereafter applicable to such Restricted Person, as well as all contractual obligations and agreements with respect to environmental remediation or other environmental matters (except as could not reasonably be expected to result in a Material Adverse Change), and shall obtain, at or prior to the time required by applicable Environmental Laws, all environmental, health and safety permits, licenses and other authorizations necessary for its operations (except as could not reasonably be expected to result in a Material Adverse Change) and will maintain such authorizations in full force and effect (except as could not reasonably be expected to result in a Material Adverse Change). No Restricted Person will do anything or permit anything to be done which will subject any of its properties to any remedial obligations under, or result in noncompliance with applicable permits and licenses issued under, any applicable Environmental Laws, assuming disclosure to the applicable governmental authorities of all relevant facts, conditions and circumstances (except as could not reasonably be expected to result in a Material Adverse Change).

(b) Borrower will promptly furnish to Agent copies of all written notices of violation, orders, claims, citations, complaints, penalty assessments, suits or other proceedings received by any Restricted Person, or of which Borrower otherwise has notice, pending or threatened against any Restricted Person by any governmental authority with respect to any alleged violation of or non-compliance with any Environmental Laws or with respect to any permits, licenses or authorizations in connection with any Restricted Person's ownership or use of its properties or the operation of its business, in each case, that could reasonably be expected to result in a Material Adverse Change.

(c) Borrower will promptly furnish to Agent all written requests for information, notices of claim, demand letters, and other written notifications, received by Borrower in connection with any Restricted Person's ownership or use of its properties or the conduct of its business, relating to potential responsibility with respect to any investigation or clean-up of Hazardous Material at any location that could reasonably be expected to have a Material Adverse Change.

Section 6.13 Further Assurances. Borrower shall, and shall cause each other Restricted Person to, (a) promptly upon the reasonable request by Agent, correct any material defect or error that may be discovered in any Loan Document or in the execution, acknowledgment, filing or recordation thereof, and (b) promptly upon request by Agent, take such action as Agent may reasonably require from time to time in order to carry out more effectively the purposes of the Loan Documents.

Section 6.14 Bank Accounts; Offset. To secure the repayment of the Obligations Borrower hereby grants to each Lender a security interest, a lien, and a right of offset, each of which shall be in addition to all other interests, liens, and rights of any Lender at common law, under the Loan Documents, or otherwise, and each of which shall be upon and against (a) any and all moneys, securities or other property (and the proceeds therefrom) of Borrower now or hereafter held or received by or in transit to any Lender from or for the account of Borrower, whether for safekeeping, custody, pledge, transmission, collection or otherwise, (b) any and all deposits (general or special, time or demand, provisional or final) of Borrower with any Lender, and (c) any other credits and claims of Borrower at any time existing against any Lender, including claims under certificates of deposit. At any time and from time to time after the occurrence of any Event of Default, each Lender is hereby authorized to foreclose upon, or to offset against the Obligations then due and payable (in either case without notice to Borrower), any and all items hereinabove referred to. The remedies of foreclosure and offset are separate and cumulative, and either may be exercised independently of the other without regard to procedures or restrictions applicable to the other.

Section 6.15 Guaranties of Borrower's Subsidiaries. Each Subsidiary (other than an Excluded Subsidiary) created, acquired or coming into existence after the date hereof (including any Subsidiary that ceases to be an Excluded Subsidiary) shall, within sixty (60) days thereof (or such longer period as may be approved by Agent in its reasonable discretion), execute and deliver to Agent an absolute and unconditional guaranty of the timely repayment of the Secured Obligations and the due and punctual performance of the Secured Obligations, which guaranty shall be in substantially the same form as the Guaranty entered into as of the Closing Date or otherwise reasonably satisfactory to Agent in form and substance. Borrower will cause each

such Subsidiary to deliver to Agent, simultaneously with its delivery of such a guaranty, written evidence reasonably satisfactory to Agent and its counsel that such Subsidiary has taken all corporate or partnership action necessary to duly approve and authorize its execution, delivery and performance of such guaranty and any other documents which it is reasonably required to execute.

Section 6.16 Agreement to Deliver Security Documents. Borrower agrees to deliver and to cause each Guarantor to deliver, to further secure the Secured Obligations whenever requested by Agent in its sole and absolute discretion, deeds of trust, mortgages, chattel mortgages, security agreements, financing statements continuation statements, extension agreements, acknowledgments, and other Security Documents in form and substance satisfactory to Agent for the purpose of granting, confirming, protecting and perfecting Liens or security interests in any personal property (other than Excluded Assets) now owned or hereafter acquired by Borrower or any Guarantor.

## **ARTICLE VII**

### **NEGATIVE COVENANTS OF BORROWER**

To conform with the terms and conditions under which each Lender is willing to have credit outstanding to Borrower, and to induce each Lender to enter into this Agreement and make the Loans, Borrower warrants, covenants and agrees that until the full and final payment of the Obligations and the termination of this Agreement, unless Required Lenders have previously agreed otherwise:

Section 7.1 Indebtedness. No Restricted Person will in any manner owe or be liable for Indebtedness except:

- (a) the Secured Obligations;
- (b) unsecured Indebtedness among Borrower and the Guarantors;

(c) purchase money Indebtedness, Capital Lease Obligations and Indebtedness incurred to finance the construction, renovation or improvement of assets of any Restricted Person and any refinancing or replacement of such Indebtedness in an aggregate principal amount for all such Indebtedness not to exceed \$30,000,000 at any time; provided that the original principal amount of any such Indebtedness shall not be in excess of the purchase price of the assets acquired with the proceeds thereof or subject to such Capital Lease, or the fair market value of the assets constructed, renovated, or improved with the proceeds thereof, as applicable, and such Indebtedness shall be secured only by such assets;

(d) Indebtedness existing on the Amendment No. 3 Effective Date and listed on Schedule 7.1, and renewals and extensions thereof;

(e) Subordinated Debt incurred in connection with Permitted Acquisitions having a maturity date beyond the term of this Agreement;

(f) Indebtedness in respect of deferred software licensing fees in connection with Borrower or any of its Subsidiaries licensing software in the ordinary course of business consistent with past practices in a total amount not to exceed \$5,000,000 in the aggregate at any time outstanding;

(g) unsecured Indebtedness incurred in connection with Permitted Acquisitions (i) in an unlimited amount if the Total Leverage Ratio is less than or equal to 2.50 to 1.00 or (ii) in an aggregate amount not to exceed \$10,000,000 if the Total Leverage Ratio is greater than 2.50 to 1.00, in each case, measured as of the last day of the most recently ended Fiscal Quarter for which financial statements have been delivered pursuant to Section 6.2(a) or (b) and after giving effect to such Indebtedness;

(h) Indebtedness of a Person that becomes a Subsidiary of Borrower (or is a Subsidiary of Borrower that survives a merger with that Person or any of its Subsidiaries) and Indebtedness secured by assets that are acquired by Borrower or any of its Subsidiaries, in each case after the Closing Date as the result of a Permitted Acquisition if (i) that Indebtedness existed at the time such Person became a Subsidiary of Borrower or at the time such assets were acquired, as the case may be, and was not created in anticipation thereof, (ii) that Indebtedness is not guaranteed in any respect by Borrower or any other Subsidiary of Borrower (other than a Subsidiary acquired as part of such Permitted Acquisition that had guaranteed such Indebtedness prior to such Permitted Acquisition), and (iii) the aggregate principal amount of Indebtedness outstanding under this Section 7.1(h) does not exceed \$30,000,000 at any time;

(i) Attributable Indebtedness in connection with Sale Leaseback Transactions solely related to vehicles and real property, in an aggregate amount not to exceed \$50,000,000; and

(j) any other Indebtedness not to exceed \$35,000,000 in the aggregate at any time outstanding.

Section 7.2 Limitation on Liens. Except for Permitted Liens, no Restricted Person will create, assume or permit to exist any Lien upon any of the properties or assets which it now owns or hereafter acquires.

Section 7.3 Hedging Contracts. No Restricted Person will be a party to or in any manner be liable on any Hedging Contract except Hedging Contracts entered into by a Restricted Person and Agent or any other Lender or an Affiliate of Agent or any Lender with the purpose and effect of fixing interest rates on a principal amount of indebtedness of such Restricted Person that is accruing interest at a variable rate; provided that (a) the aggregate notional amount of such contracts never exceeds seventy-five percent (75%) of the anticipated outstanding principal balance of the indebtedness to be hedged by such contracts or an average of such principal balances calculated using a generally accepted method of matching interest swap contracts to declining principal balances, and (b) the floating rate index of each such contract generally matches the index used to determine the floating rates of interest on the corresponding indebtedness to be hedged by such contract.

Section 7.4 Limitation on Mergers, Issuances of Securities. No Restricted Person will merge or consolidate with or into any other Person, except that any Subsidiary of Borrower may



be merged into or consolidated with (a) another Subsidiary of Borrower so long as, if a Guarantor is one of the merged entities, a Guarantor is the surviving business entity, (b) Borrower, so long as Borrower is the surviving business entity, and (c) any other Person in connection with a sale of such Restricted Person's Equity that is permitted by Section 7.5. Borrower will not issue any equity securities other than shares of its common or preferred stock and any options or warrants giving the holders thereof only the right to acquire such shares. No Subsidiary of Borrower will issue any additional shares of its capital stock or other equity securities or any options, warrants or other rights to acquire such additional shares or other equity securities except to Borrower or another Subsidiary of Borrower and only to the extent not otherwise forbidden under the terms hereof. No Subsidiary of Borrower which is a partnership will allow any diminution of Borrower's interest (direct or indirect) therein.

Section 7.5 Limitation on Sales of Property and Discounting of Receivables. No Restricted Person will sell, transfer, lease, exchange, alienate or dispose of any of its material assets or properties or any material interest therein, or discount, adjust, settle, compromise, release, allow any credit against, sell, pledge or assign any notes payable to it, accounts receivable or future income, except:

- (a) equipment which is worthless, obsolete, no longer used by or useful to a Restricted Person or which is replaced by equipment of equal suitability and value;
- (b) inventory which is sold in the ordinary course of business;
- (c) customary credits and discounts of accounts receivable (not including factoring or securitizations) in the ordinary course of business;
- (d) sales of accounts receivable in an aggregate amount not to exceed \$5,000,000 in any Fiscal Year;
- (e) other property which is sold for fair consideration not in the aggregate in excess of \$40,000,000 in any Fiscal Year, the sale of which will not materially impair or diminish the value of the Collateral or the Consolidated financial condition, business or operations of Borrower; and
- (f) Sale Leaseback Transactions relating to solely to vehicles or real property if the Attributable Indebtedness of all Sale Leaseback Transactions then in effect is less than \$50,000,000.

Section 7.6 Limitation on Distributions and Subordinated Debt.

- (a) No Restricted Person will declare or make any Distribution (other than Distributions to Restricted Persons) except, in each case, so long as no Default or Event of Default exists at the time thereof or would result therefrom:
  - (i) at any time when the Total Leverage Ratio is less than or equal to 2.00 to 1.00, Distributions in any amount;

(ii) at any time when the Total Leverage Ratio is greater than 2.00 to 1.00, regularly scheduled dividends in an amount per share paid in any Fiscal Quarter not to exceed 130% of the amount per share paid during the immediately preceding Fiscal Quarter; and

(iii) at any time when the Total Leverage Ratio is greater than 2.00 to 1.00, repurchases of Borrower's common stock made after the Amendment No. 6 Effective Date in an aggregate amount not to exceed \$30,000,000.

For purposes of this Section 7.6(a), the Total Leverage Ratio shall be measured as of the last day of the most recently ended Fiscal Quarter for which financial statements have been delivered pursuant to Section 6.2(a) or (b) and after giving effect to the making of such Distribution and any Indebtedness incurred in connection therewith.

(b) No Restricted Person will make any payments on Subordinated Debt (other than Subordinated Debt among Restricted Persons), unless no Default or Event of Default exists at such time or would occur as a result thereof.

Section 7.7 Limitation on Investments, Acquisitions and Lines of Business. No Restricted Person will

(a) make any Investments except for (i) Permitted Investments, (ii) Investments in any amount if the Total Leverage Ratio is less than or equal to 2.00 to 1.00, (iii) Investments in Unrestricted Subsidiaries in an aggregate amount not to exceed \$5,000,000 in any Fiscal Year if the Total Leverage Ratio is greater than 2.00 to 1.00; and (iv) Investments in the Captive Insurance Entities (A) for reserves and capital to the extent required by applicable Governmental Authorities or applicable Law, as determined in good faith by Borrower, and (B) for the payment of claims made pursuant to the terms of the insurance policies maintained by such Captive Insurance Entities.

(b) make any Acquisition unless the following conditions are satisfied:

(i) the Acquisition is not hostile in nature;

(ii) each line of business to be acquired in the Acquisition is similar to a line of business engaged in by Borrower at the time of the Acquisition; and

(iii) either (A) the Total Leverage Ratio is less than or equal to 2.50 to 1.00 or (B) the Total Leverage Ratio is greater than 2.50 to 1.00 and the purchase price for such Acquisition is less than or equal to \$5,000,000 and the aggregate purchase price for such Acquisition and all prior Acquisitions made during the Fiscal Year when such Acquisition is consummated is less than or equal to \$10,000,000; or

(c) engage directly or indirectly in any business or conduct any operations except in connection with or incidental to its present businesses and operations.

For purposes of subsections (a) and (b) of this Section 7.7, the Total Leverage Ratio shall be measured as of the last day of the most recently ended Fiscal Quarter for which financial

statements have been delivered pursuant to Section 6.2(a) or (b) and after giving effect to the making of such Investment or Acquisition and any Indebtedness incurred in connection therewith.

Section 7.8 Intentionally Omitted.

Section 7.9 Transactions with Affiliates. Neither Borrower nor any of its Subsidiaries will engage in any material transaction with any of its Affiliates on terms which are less favorable to it than those which would have been obtainable at the time in arm's-length dealing with Persons other than such Affiliates, provided that such restriction shall not apply to transactions among Borrower and its Subsidiaries.

Section 7.10 Prohibited Contracts; Multiemployer Plans.

(a) Except as expressly provided for in the Loan Documents, no Restricted Person will, directly or indirectly, enter into, create, or otherwise allow to exist any contract that restricts, or other consensual restriction on, the ability of any Subsidiary of Borrower to: (i) pay dividends or make other Distributions to Borrower, (ii) repay loans and other Indebtedness owing by it to Borrower or (iii) transfer any of its assets to Borrower (except for such restrictions existing under or by reason of (A) any document or instrument governing Indebtedness permitted by Section 7.1 or (B) any Permitted Lien or any document or instrument governing any Permitted Lien).

(b) No ERISA Affiliate will incur any obligation with respect to any "multiemployer plan" as defined in Section 4001 of ERISA, except (i) an obligation pursuant to collective bargaining agreements to make contributions in the ordinary course of business for employees subject to such collective bargaining agreements, or (ii) as would not reasonably be expected to cause a Material Adverse Change.

Section 7.11 Financial Covenants.

(a) Minimum Fixed Charge Coverage Ratio. Borrower will not permit the ratio, determined as of the end of each of its Fiscal Quarters, for the then most-recently ended four Fiscal Quarters, of (i) its Consolidated EBITDA, minus (A) Consolidated Capital Expenditures, (B) the provision for income Taxes (excluding one-time Tax charges arising solely from changes to GAAP), (C) dividends made during such four-Fiscal Quarter period and (D) share repurchases made under Section 7.6(a)(iii) during such four-Fiscal Quarter period, in each case, calculated for Borrower on a Consolidated basis, to (ii) its Consolidated Interest Expense for such four-Fiscal Quarter period, *plus* scheduled principal payments of Indebtedness made during such four-Fiscal Quarter period, to be less than 1.50 to 1.00.

(b) Total Leverage Ratio. Borrower will not permit its Total Leverage Ratio, determined as of the end of each of its Fiscal Quarters, for the then most-recently ended four Fiscal Quarters, to be greater than 3.00 to 1.00 as of the end of each Fiscal Quarter.

Section 7.12 Limitation on Further Negative Pledges. Borrower shall not, and shall cause each other Restricted Person not to, enter into any agreement limiting its ability to create,

incur, assume or suffer to exist any Lien upon any of its property, assets or revenues, whether now owned or hereafter acquired, except:

- (a) pursuant to the Loan Documents;
- (b) pursuant to any agreement with any counterparty that has entered into an Intercreditor Agreement;
- (c) pursuant to any other agreement that does not restrict in any manner (directly or indirectly) Liens created pursuant to the Loan Documents on property or assets of Borrower or any other Restricted Person (whether now owned or hereafter acquired) securing the Secured Obligations and does not require the direct or indirect granting of any Lien securing any Indebtedness or other obligation by virtue of the granting of Liens on or pledge of property of Borrower or any other Restricted Person to secure the Secured Obligations;
- (d) prohibitions or limitations contained in any industrial revenue or development bonds, acquisition agreements, licenses, and leases of real property and equipment entered into in the ordinary course of business that apply only to the property that is the subject of those bonds, agreements, licenses or leases;
- (e) prohibitions or limitations against other encumbrances on specific property encumbered to secure payment of particular Indebtedness permitted under this Agreement;
- (f) prohibitions or limitations against encumbrances on specific property subject to a proposed asset sale permitted hereunder contained in any document relating to that asset sale;
- (g) prohibitions or limitations in favor of any holder of Indebtedness permitted under Section 7.1(h), solely to the extent any such negative pledge relates to property acquired as part of the Permitted Acquisition pursuant to which Borrower acquired the obligor of such Indebtedness; and
- (h) prohibitions or limitations against encumbrances on property (including equipment, but excluding real property) (i) to be delivered by a Restricted Person to a job site in the ordinary course of business, (ii) transferred in the ordinary course of business to a Restricted Person as part of a transaction pursuant to which such property will be transferred to the owner of such project at or prior to the end of such job, or (iii) that otherwise temporarily enters a Restricted Person's custody in the ordinary course of business.

**ARTICLE VIII**  
**EVENTS OF DEFAULT AND REMEDIES**

Section 8.1 Events of Default. Each of the following events constitutes an Event of Default under this Agreement:

- (a) Any Restricted Person fails to pay any principal component of any Obligation when due and payable;

(b) Any Restricted Person fails to pay any payment of interest or fees on the date which such payment is due and such failure continues for a period of three (3) days;

(c) Any Restricted Person fails to pay any Obligation (other than the Obligations in subsections (a) and (b) above) within three Business Days after the same becomes due and payable, whether at a date for the payment of a fixed installment or as a contingent or other payment becomes due and payable or as a result of acceleration or otherwise;

(d) Any “default” or “event of default” occurs under any Loan Document which defines either such term, and the same is not remedied within the applicable period of grace (if any) provided in such Loan Document;

(e) Any Restricted Person fails to duly observe, perform or comply with any covenant, agreement or provision of Article VII;

(f) Any Restricted Person fails (other than as referred to in subsections (a), (b), (c), (d) or (e) above) to duly observe, perform or comply with any covenant, agreement, condition or provision of any Loan Document, and such failure remains unremedied for a period of thirty (30) days after notice of such failure is given by Agent to Borrower;

(g) Any representation or warranty previously, presently or hereafter made in writing by or on behalf of any Restricted Person in connection with any Loan Document shall prove to have been false or incorrect in any material respect on any date on or as of which made, or any Loan Document at any time ceases to be valid, binding and enforceable as warranted in Section 5.5 for any reason other than its release or subordination by Agent;

(h) Any Restricted Person (i) fails to pay any portion, when such portion is due, of any of its Indebtedness in excess of \$10,000,000, or (ii) breaches or defaults in the performance of any agreement or instrument by which any such Indebtedness is issued, evidenced, governed, or secured, and any such failure, breach or default continues beyond any applicable period of grace provided therefor;

(i) Any of (i) any ERISA Affiliate fails to satisfy the “minimum funding standard” (as defined in Section 412(a) of the Internal Revenue Code), without taking into account any waiver by the Secretary of the Treasury or his or her delegate, with respect to any ERISA Plan, and the aggregate amount necessary to cure all such failures exceeds \$10,000,000, (ii) the occurrence of a Termination Event with respect to any ERISA Plan, that, when taken together with all other Termination Events that have occurred and are continuing, could reasonably be expected to subject to any Restricted Person to liability individually or in the aggregate in excess of \$10,000,000 or (iii) the payment by a Restricted Person of the sum of the contributions to each ERISA Plan that would be necessary for the “adjusted funding target attainment percentage” (within the meaning of Section 436 of the Internal Revenue Code) of each such ERISA Plan to equal 100 percent could reasonably be expected to cause a Material Adverse Change;

(j) Any Restricted Person:

(i) suffers the entry against it of a judgment, decree or order for relief by a Tribunal of competent jurisdiction in an involuntary proceeding commenced under any

applicable bankruptcy, insolvency or other similar Law of any jurisdiction now or hereafter in effect, including the federal Bankruptcy Code, as from time to time amended, or has any such proceeding commenced against it which remains undismissed for a period of sixty (60) days; or

(ii) commences a voluntary case under any applicable bankruptcy, insolvency or similar Law now or hereafter in effect, including the federal Bankruptcy Code, as from time to time amended; or applies for or consents to the entry of an order for relief in an involuntary case under any such Law; or makes a general assignment for the benefit of creditors; or fails generally to pay (or admits in writing its inability to pay) its debts as such debts become due; or takes corporate or other action to authorize any of the foregoing; or

(iii) suffers the appointment of or taking possession by a receiver, liquidator, assignee, custodian, trustee, sequestrator or similar official of all or a substantial part of its assets or of any part of the Collateral in a proceeding brought against or initiated by it, and such appointment or taking possession is neither made ineffective nor discharged within sixty (60) days after the making thereof, or such appointment or taking possession is at any time consented to, requested by, or acquiesced to by it; or

(iv) suffers the entry against it of a final judgment for the payment of money in excess of \$10,000,000 (not covered by insurance satisfactory to Agent in its reasonable discretion), unless the same is discharged within forty-five (45) days after the date of entry thereof or an appeal or appropriate proceeding for review thereof is taken within such period and a stay of execution pending such appeal is obtained; or

(v) suffers a writ or warrant of attachment or any similar process to be issued by any Tribunal against all or any substantial part of its assets or any part of the Collateral, and such writ or warrant of attachment or any similar process is not stayed or released within forty-five (45) days after the entry or levy thereof or after any stay is vacated or set aside;

(k) Any Change of Control occurs;

(l) The occurrence of an event of default under any document to which any Restricted Person and any surety are both parties that, with the passage of time, would permit foreclosure by such surety on a material portion of the Collateral.

Upon the occurrence of an Event of Default described in subsection (j)(i), (j)(ii) or (j)(iii) of this Section with respect to Borrower, all of the Obligations shall thereupon be immediately due and payable, without demand, presentment, notice of demand or of dishonor and nonpayment, protest, notice of protest, notice of intention to accelerate, declaration or notice of acceleration, or any other notice or declaration of any kind, all of which are hereby expressly waived by Borrower and each Restricted Person who at any time ratifies or approves this Agreement. Upon any such acceleration, any obligation of any Lender and any obligation of LC Issuer to issue Letters of Credit hereunder to make any further Loans shall be permanently terminated. During the continuance of any other Event of Default, Agent at any time and from time to time may (and

upon written instructions from Required Lenders, Agent shall), without notice to Borrower or any other Restricted Person, do either or both of the following: (1) terminate any obligation of Lenders to make Loans hereunder, and any obligation of LC Issuer to issue Letters of Credit hereunder, and (2) declare any or all of the Obligations immediately due and payable, and all such Obligations shall thereupon be immediately due and payable, without demand, presentment, notice of demand or of dishonor and nonpayment, protest, notice of protest, notice of intention to accelerate, declaration or notice of acceleration, or any other notice or declaration of any kind, all of which are hereby expressly waived by Borrower and each Restricted Person who at any time ratifies or approves this Agreement.

Section 8.2 Remedies. If any Event of Default shall occur and be continuing, each Lender Party may terminate its Revolving Loan Commitment and protect and enforce its rights under the Loan Documents by any appropriate proceedings, including proceedings for specific performance of any covenant or agreement contained in any Loan Document, and each Lender Party may enforce the payment of any Obligations due it or enforce any other legal or equitable right which it may have. All rights, remedies and powers conferred upon Lender Parties under the Loan Documents shall be deemed cumulative and not exclusive of any other rights, remedies or powers available under the Loan Documents or at Law or in equity. Notwithstanding the foregoing, the right to credit bid the Obligations in connection with any foreclosure sale or sale in a bankruptcy proceeding may only be exercised by Agent acting at the direction of the Required Lenders unless the Required Lenders agree that a Lender may credit bid its Obligations in connection with such a sale.

Section 8.3 Application of Proceeds after Acceleration. Except as otherwise provided in the Security Documents with respect to application of proceeds to any reimbursements due Agent thereunder and to the Lender Hedging Obligations, if Agent collects or receives money on account of the Secured Obligations after the acceleration of the Secured Obligations as provided in Section 8.1, Agent shall distribute all money so collected or received:

(a) First, to payment of that portion of the Secured Obligations constituting fees, indemnities, expenses and other amounts, including attorney fees, payable to Agent in its capacity as such;

(b) Second, to payment of that portion of the Secured Obligations constituting fees (other than Commitment Fees and Letter of Credit fees payable to the Lenders), indemnities and other amounts (other than principal and interest) payable to the Lenders, the LC Issuer and the Swingline Lender under the Loan Documents, including attorney fees, ratably among the Lenders, the LC Issuer and the Swingline Lender in proportion to the respective amounts described in this clause Second payable to them;

(c) Third, to payment of that portion of the Secured Obligations constituting accrued and unpaid Commitment Fees, Letter of Credit fees payable to the Lenders and interest on the Loans and Matured LC Obligations, ratably among the Lenders, the LC Issuer and the Swingline Lender in proportion to the respective amounts described in this clause Third payable to them;

(d) Fourth, to payment of that portion of the Secured Obligations constituting unpaid principal of the Loans, Matured LC Obligations and payment obligations then owing under

Lender Hedging Obligations, ratably among the Lenders, the LC Issuer and the Secured Parties to whom such Lender Hedging Obligations are owed in proportion to the respective amounts described in this clause Fourth payable to them; provided that Agent shall have no independent responsibility to determine the existence or amount of Lender Hedging Obligations and may reserve from the application of amounts under this Section amounts distributable in respect of Lender Hedging Obligations until it has received evidence satisfactory to it of the existence and amount of such Lender Hedging Obligations; provided further, however, that Agent may rely on statements of the Secured Parties as to the existence and amounts of Lender Hedging Obligations owing to them;

(e) Fifth, to the payment of that portion of the Secured Obligations constituting Lender Bank Services Obligations, ratably among the Secured Parties to whom such Secured Obligations are owed; provided that Agent shall have no independent responsibility to determine the existence or amount of Lender Bank Services Obligations and may reserve from the application of amounts under this Section amounts distributable in respect of Lender Bank Services Obligations until it has received evidence satisfactory to it of the existence and amount of such Lender Bank Services Obligations; provided, further, however, that Agent may rely on statements of the Secured Parties as to the existence and amounts of Lender Bank Services Obligations owing to them;

(f) Sixth, to Agent for the account of the LC Issuer to cash collateralize any LC Obligations then outstanding; and

(g) Last, the balance, if any, after all of the Secured Obligations have been indefeasibly paid in full, to Borrower or as otherwise required by Law.

Notwithstanding the above, Excluded Swap Obligations with respect to any Guarantor that is not an “eligible contract participant” as defined in the Commodity Exchange Act and the regulations thereunder shall not be paid with amounts received from such Guarantor or its assets, but appropriate adjustments shall be made with respect to payments from other Restricted Persons to preserve the allocation to Lender Hedging Obligations otherwise set forth above in this Section.

## **ARTICLE IX**

### **AGENT**

Section 9.1 Appointment and Authority. Each Lender Party hereby irrevocably authorizes Agent, and Agent hereby undertakes, to receive payments of principal, interest and other amounts due hereunder as specified herein and to take all other actions and to exercise such powers under the Loan Documents as are specifically delegated to Agent by the terms hereof or thereof, together with all other powers reasonably incidental thereto. The relationship of Agent to the other Lender Parties is only that of one commercial lender acting as Agent for others, and nothing in the Loan Documents shall be construed to constitute Agent a trustee or other fiduciary for any Lender Party or any holder of any participation in a Note nor to impose on Agent duties and obligations other than those expressly provided for in the Loan Documents. With respect to any matters not expressly provided for in the Loan Documents and any matters which the Loan Documents place within the discretion of Agent, Agent shall not be required to exercise any discretion or take any action, and it may request instructions from Lenders with respect to any



such matter, in which case it shall be required to act or to refrain from acting (and shall be fully protected and free from liability to all Lender Parties in so acting or refraining from acting) upon the instructions of Required Lenders (including itself), provided, however, that Agent shall not be required to take any action which exposes it to a risk of personal liability that it considers unreasonable or which is contrary to the Loan Documents or to applicable Law.

Section 9.2 Exculpation, Agent's Reliance, Etc. Neither Agent nor any of its directors, officers, Agents, attorneys, or employees shall be liable for any action taken or omitted to be taken by any of them under or in connection with the Loan Documents, including their negligence of any kind, except that each shall be liable for its own gross negligence or willful misconduct. Without limiting the generality of the foregoing, Agent (a) shall treat the Person whose name is set forth on the Register as the holder of any Obligation as the holder thereof until Agent receives written notice of the assignment or transfer thereof in accordance with this Agreement, signed by such Person and in the form required under Section 10.5(c) and in form satisfactory to Agent; (b) may consult with legal counsel (including counsel for Borrower), independent public accountants and other experts selected by it and shall not be liable for any action taken or omitted to be taken in good faith by it in accordance with the advice of such counsel, accountants or experts; (c) makes no warranty or representation to any other Lender and shall not be responsible to any other Lender Party for any statements, warranties or representations made in or in connection with the Loan Documents; (d) shall not have any duty to ascertain or to inquire as to the performance or observance of any of the terms, covenants or conditions of the Loan Documents on the part of any Restricted Person or to inspect the property (including the books and records) of any Restricted Person; (e) shall not be responsible to any other Lender for the due execution, legality, validity, enforceability, genuineness, sufficiency or value of any Loan Document or any instrument or document furnished in connection therewith; (f) may rely upon the representations and warranties of each Restricted Person or Lender Party in exercising its powers hereunder; and (g) shall incur no liability under or in respect of the Loan Documents by acting upon any notice, consent, certificate or other instrument or writing (including any facsimile, telegram, cable or telex) believed by it to be genuine and signed or sent by the proper Person or Persons.

Section 9.3 Credit Decisions. Each Lender Party acknowledges that it has, independently and without reliance upon any other Lender Party, made its own analysis of Borrower and the transactions contemplated hereby and its own independent decision to enter into this Agreement and the other Loan Documents. Each Lender Party also acknowledges that it will, independently and without reliance upon any other Lender Party 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.

Section 9.4 Indemnification. Each Lender agrees to indemnify Agent (to the extent not reimbursed by Borrower within ten (10) days after demand) from and against such Lender's Percentage Share of any and all liabilities, obligations, claims, losses, damages, penalties, fines, actions, judgments, suits, settlements, costs, expenses or disbursements (including reasonable fees of attorneys, accountants, experts and advisors) of any kind or nature whatsoever (in this Section collectively called "liabilities and costs") which to any extent (in whole or in part) may be imposed on, incurred by, or asserted against Agent growing out of, resulting from or in any other way associated with any of the Collateral, the Loan Documents and the transactions and

events (including the enforcement thereof) at any time associated therewith or contemplated therein (whether arising in contract or in tort and otherwise and including any violation or noncompliance with any Environmental Laws by any Person or any liabilities or duties of any Person with respect to Hazardous Materials found in or released into the environment).

**THE FOREGOING INDEMNIFICATION SHALL APPLY WHETHER OR NOT SUCH LIABILITIES AND COSTS ARE IN ANY WAY OR TO ANY EXTENT OWED, IN WHOLE OR IN PART, UNDER ANY CLAIM OR THEORY OF STRICT LIABILITY, OR ARE CAUSED, IN WHOLE OR IN PART, BY ANY NEGLIGENT ACT OR OMISSION OF ANY KIND BY AGENT,**

provided only that no Lender shall be obligated under this Section to indemnify Agent for that portion, if any, of any liabilities and costs which is proximately caused by Agent's own individual gross negligence or willful misconduct, as determined by a court of competent jurisdiction in a final and nonappealable judgment. Cumulative of the foregoing, each Lender agrees to reimburse Agent promptly upon demand for such Lender's Percentage Share of any costs and expenses to be paid to Agent by Borrower under Section 10.4(a) to the extent that Agent is not timely reimbursed for such expenses by Borrower as provided in such Section. As used in this Section the term "Agent" shall refer not only to the Person designated as such in Section 1.1 but also to each director, officer, Agent, attorney, employee, representative and Affiliate of such Person.

Section 9.5 Rights as Lender. In its capacity as a Lender, Agent shall have the same rights and obligations as any Lender and may exercise such rights as though it were not Agent. Agent may accept deposits from, lend money to, act as trustee under indentures of, and generally engage in any kind of business with any Restricted Person or their Affiliates, all as if it were not Agent hereunder and without any duty to account therefor to any other Lender.

Section 9.6 Sharing of Set-Offs and Other Payments. Each Lender Party agrees that if it shall, whether through the exercise of rights under Security Documents or rights of banker's lien, set off, or counterclaim against Borrower or otherwise, obtain payment of a portion of the aggregate Obligations owed to it which, taking into account all distributions made by Agent under Section 3.1, causes such Lender Party to have received more than it would have received had such payment been received by Agent and distributed pursuant to Section 3.1, then (a) it shall be deemed to have simultaneously purchased and shall be obligated to purchase interests in the Obligations as necessary to cause all Lender Parties to share all payments as provided for in Section 3.1, and (b) such other adjustments shall be made from time to time as shall be equitable to ensure that Agent and all Lender Parties share all payments of Obligations as provided in Section 3.1; provided, however, that nothing herein contained shall in any way affect the right of any Lender Party to obtain payment (whether by exercise of rights of banker's lien, set-off or counterclaim or otherwise) of indebtedness other than the Obligations. Borrower expressly consents to the foregoing arrangements and agrees that any holder of any such interest or other participation in the Obligations, whether or not acquired pursuant to the foregoing arrangements, may to the fullest extent permitted by Law exercise any and all rights of banker's lien, set-off, or counterclaim as fully as if such holder were a holder of the Obligations in the amount of such interest or other participation. If all or any part of any funds transferred pursuant to this Section is thereafter recovered from the seller under this Section which received the same, the purchase

provided for in this Section shall be deemed to have been rescinded to the extent of such recovery, together with interest, if any, if interest is required pursuant to the order of a Tribunal order to be paid on account of the possession of such funds prior to such recovery.

Section 9.7 Investments. Whenever Agent in good faith determines that it is uncertain about how to distribute to Lender Parties any funds which it has received, or whenever Agent in good faith determines that there is any dispute among Lender Parties about how such funds should be distributed, Agent may choose to defer distribution of the funds which are the subject of such uncertainty or dispute. If Agent in good faith believes that the uncertainty or dispute will not be promptly resolved, or if Agent is otherwise required to invest funds pending distribution to Lender Parties, Agent shall invest such funds pending distribution; all interest on any such Investment shall be distributed upon the distribution of such Investment and in the same proportion and to the same Persons as such Investment. All monies received by Agent for distribution to Lender Parties (other than to the Person who is Agent in its separate capacity as a Lender Party) shall be held by Agent pending such distribution solely as Agent for such Lender Parties, and Agent shall have no equitable title to any portion thereof.

Section 9.8 Benefit of Article IX. The provisions of this Article (other than the following Section 9.9) are intended solely for the benefit of Lender Parties, and no Restricted Person shall be entitled to rely on any such provision or assert any such provision in a claim or defense against any Lender. Lender Parties may waive or amend such provisions as they desire without any notice to or consent of Borrower or any Restricted Person.

Section 9.9 Resignation. Agent may resign at any time by giving written notice thereof to Lenders and Borrower. Each such notice shall set forth the date of such resignation. Upon any such resignation, Required Lenders shall have the right to appoint (with, unless an Event of Default shall have occurred and be continuing, the consent of Borrower, such consent not to be unreasonably withheld or delayed) a successor Agent. A successor must be appointed for any retiring Agent, and such Agent's resignation shall become effective when such successor accepts such appointment. If, within thirty days after the date of the retiring Agent's resignation, no successor Agent has been appointed and has accepted such appointment, then the retiring Agent may appoint (with, unless an Event of Default shall have occurred and be continuing, the consent of Borrower, such consent not to be unreasonably withheld or delayed) a successor Agent, which shall be a commercial bank organized or licensed to conduct a banking or trust business under the Laws of the United States of America or of any state thereof. Upon the acceptance of any appointment as Agent hereunder by a successor Agent, the retiring Agent shall be discharged from its duties and obligations under this Agreement and the other Loan Documents. After any retiring Agent's resignation hereunder the provisions of this Article IX shall continue to inure to its benefit as to any actions taken or omitted to be taken by it while it was Agent under the Loan Documents.

Section 9.10 Notice of Default. Agent shall not be deemed to have knowledge or notice of the occurrence of any Default, except with respect to defaults in the payment of principal, interest and fees required to be paid to Agent for the account of Lenders, unless Agent shall have received written notice from a Lender or Borrower referring to this Agreement, describing such Default and stating that such notice is a "notice of default." Agent will notify Lenders of its receipt of any such notice. Agent shall take such action with respect to such Default as may be

directed by Required Lenders in accordance with Article VIII; provided, however, that unless and until Agent has received any such direction, Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default as it shall deem advisable or in the best interest of Lenders.

Section 9.11 Co-Agents. The Parties identified on the facing page of this Agreement as “Lead Arranger,” “Syndication Agent” or “Documentation Agent” have no right, power, obligation, liability, responsibility, or duty under the Loan Documents in such capacity. Without limiting the foregoing, each Party so identified as “Lead Arranger,” “Syndication Agent” or “Documentation Agent” shall not have and shall not be deemed to have any fiduciary relationship with any other Lender. Each Lender acknowledges that it has not relied, and will not rely, on taking or not taking action hereunder.

## **ARTICLE X** **MISCELLANEOUS**

### Section 10.1 Waivers and Amendments; Acknowledgments.

(a) Waivers and Amendments. No failure or delay (whether by course of conduct or otherwise) by any Lender in exercising any right, power or remedy which such Lender Party may have under any of the Loan Documents shall operate as a waiver thereof or of any other right, power or remedy, nor shall any single or partial exercise by any Lender Party of any such right, power or remedy preclude any other or further exercise thereof or of any other right, power or remedy. No waiver of any provision of any Loan Document and no consent to any departure therefrom shall ever be effective unless it is in writing and signed as provided below in this Section, and then such waiver or consent shall be effective only in the specific instances and for the purposes for which given and to the extent specified in such writing. No notice to or demand on any Restricted Person shall in any case of itself entitle any Restricted Person to any other or further notice or demand in similar or other circumstances. No waiver, consent, or amendment of this Agreement or the other Loan Documents shall be valid or effective unless the same is in writing and signed by Borrower and the Required Lenders; provided, however, subject to Section 2.18 to the extent applicable, no such waiver, consent, or amendment shall (i) increase the maximum amount which any Lender is committed hereunder to lend without the written consent of such Lender, (ii) reduce any fees payable to any Lender hereunder, or the principal of, or interest on, such Lender’s Notes without the written consent of such Lender (provided that Agent and Borrower may, without the consent of any Lender, enter into amendments or modifications to this Agreement or any of the other Loan Documents or enter into additional Loan Documents as Agent reasonably deems appropriate in order to implement any Benchmark Replacement or any Benchmark Replacement Conforming Changes or otherwise effectuate the terms of Section 3.7(b) in accordance with the terms of Section 3.7(b)), (iii) extend the Maturity Date, or postpone any date fixed for any payment of any such fees, principal or interest (other than the date of any prepayment required pursuant to Section 2.7(b)), without the written consent of each Lender affected thereby, (iv) amend the definition herein of “Required Lenders” or otherwise change the aggregate amount of Percentage Shares which is required for Agent, Lenders or any of them to take any particular action under the Loan Documents without the written consent of each Lender, (v) release any Guarantor from any Guaranty (other than a Guarantor which ceases to be a

Subsidiary pursuant to a sale or other disposition permitted by the Loan Documents or that is designated as an Unrestricted Subsidiary in accordance with the definition of such term) without the written consent of each Lender, (vi) release all or substantially all of the Collateral (except for such releases relating to sales or dispositions of property permitted by the Loan Documents and releases of the property of and equity in any Subsidiary designated as an Unrestricted Subsidiary in accordance with the definition of such term) without the written consent of each Lender, or (vii) amend this Section 10.1(a) without the written consent of each Lender. Notwithstanding the foregoing or anything to the contrary herein (except Section 2.18, to the extent applicable), Agent shall not, without the prior consent of each individual Lender affected thereby (or, as applicable, an Affiliate of such Lender), execute and deliver any waiver or amendment to any Loan Document which would (i) cause an obligation under any outstanding Hedging Contract owing to such Lender (or its Affiliate) that, prior to such waiver or amendment, constituted a “Lender Hedging Obligation” to cease to be a “Lender Hedging Obligation” or (ii) cause the priority of the Lien securing such obligation or the priority of payment with respect to such obligation in connection with the exercise of remedies under such Loan Document to be subordinate in any manner to the other Secured Obligations (other than expense reimbursements, expenses of enforcement, and other similar obligations owing under the Loan Documents).

(b) Acknowledgments and Admissions. Borrower hereby represents, warrants, acknowledges and admits that (i) it has been advised by counsel in the negotiation, execution and delivery of the Loan Documents to which it is a party, (ii) it has made an independent decision to enter into this Agreement and the other Loan Documents to which it is a party, without reliance on any representation, warranty, covenant or undertaking by Agent or any Lender, whether written, oral or implicit, other than as expressly set out in this Agreement or in another Loan Document delivered on or after the date hereof, (iii) there are no representations, warranties, covenants, undertakings or agreements by any Lender as to the Loan Documents except as expressly set out in this Agreement or in another Loan Document delivered on or after the date hereof, (iv) no Lender has any fiduciary obligation toward Borrower with respect to any Loan Document or the transactions contemplated thereby, (v) the relationship pursuant to the Loan Documents between Borrower and the other Restricted Persons, on one hand, and each Lender, on the other hand, is and shall be solely that of debtor and creditor, respectively; provided that, solely for purposes of Section 10.5(f), Agent shall act as Agent of Borrower in maintaining the Register as set forth therein, (vi) no partnership or joint venture exists with respect to the Loan Documents between any Restricted Person and any Lender, (vii) Agent is not Borrower’s Agent, but Agent for Lenders, provided that, solely for purposes of Section 10.5(f), Agent shall act as Agent of Borrower in maintaining the Register as set forth therein, (viii) should an Event of Default or Default occur or exist, each Lender will determine in its sole discretion and for its own reasons what remedies and actions it will or will not exercise or take at that time subject to the terms of this Agreement, (ix) without limiting any of the foregoing, Borrower is not relying upon any representation or covenant by any Lender, or any representative thereof, and no such representation or covenant has been made, that any Lender will, at the time of an Event of Default or Default, or at any other time, waive, negotiate, discuss, or take or refrain from taking any action permitted under the Loan Documents with respect to any such Event of Default or Default or any other provision of the Loan Documents, and (x) all Lender Parties have relied upon the truthfulness of the acknowledgments in this Section in deciding to execute and deliver this Agreement and to become obligated hereunder.

(c) Joint Acknowledgment. **THIS WRITTEN AGREEMENT AND THE OTHER LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES.**

**THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.**

Section 10.2 Survival of Agreements; Cumulative Nature. Except for representations and warranties given as of a specified date, all of Restricted Persons' various representations, warranties, covenants and agreements in the Loan Documents shall survive the execution and delivery of this Agreement and the other Loan Documents and the performance hereof and thereof, including the making or granting of the Loans and the delivery of the Notes and the other Loan Documents, and shall further survive until all of the Obligations are paid in full to each Lender Party and all of Lender Parties' obligations to Borrower are terminated. All statements and agreements contained in any certificate or other instrument delivered by any Restricted Person to any Lender Party under any Loan Document shall be deemed representations and warranties by Borrower or agreements and covenants of Borrower under this Agreement. The representations, warranties, indemnities, and covenants made by Restricted Persons in the Loan Documents, and the rights, powers, and privileges granted to Lender Parties in the Loan Documents, are cumulative, and, except for expressly specified waivers and consents, no Loan Document shall be construed in the context of another to diminish, nullify, or otherwise reduce the benefit to any Lender Party of any such representation, warranty, indemnity, covenant, right, power or privilege. In particular and without limitation, no exception set out in this Agreement to any representation, warranty, indemnity, or covenant herein contained shall apply to any similar representation, warranty, indemnity, or covenant contained in any other Loan Document, unless the Loan Documents shall expressly provide that such exception shall apply to such similar representation, warranty, indemnity, or covenant.

Section 10.3 Notices. All notices, requests, consents, demands and other communications required or permitted under any Loan Document shall be in writing, unless otherwise specifically provided in such Loan Document (provided that Agent may give telephonic notices to the other Lender Parties), and shall be deemed sufficiently given or furnished if delivered by personal delivery, by facsimile or other electronic transmission, by delivery service with proof of delivery, or by registered or certified United States mail, postage prepaid, to Borrower and Restricted Persons at the address of Borrower specified on the signature pages hereto and to each Lender Party at its address specified on the Lenders Schedule (unless changed by similar notice in writing given by the particular Person whose address is to be changed). Any such notice or communication shall be deemed to have been given (a) in the case of personal delivery or delivery service, as of the date of first attempted delivery during normal business hours at the address provided herein, (b) in the case of facsimile or other electronic transmission, upon receipt, or (c) in the case of registered or certified United States mail, three days after deposit in the mail; provided, however, that no Borrowing Notice shall become effective until actually received by Agent.

(a) Payment of Expenses. Whether or not the transactions contemplated by this Agreement are consummated, Borrower will promptly (and in any event, within thirty (30) days after any invoice or other statement or notice) pay: (i) all transfer, stamp, mortgage, documentary or other similar Taxes, assessments or charges levied by any governmental or revenue authority in respect of this Agreement or any of the other Loan Documents or any other document or transaction referred to herein or therein, (ii) all reasonable costs and expenses incurred by or on behalf of Agent (including without limitation reasonable attorneys' fees, travel costs and miscellaneous expenses), but excluding consultants fees other than in connection with an annual field audit permitted below, in connection with (1) the negotiation, preparation, execution and delivery of the Loan Documents, and any and all consents, waivers or other documents or instruments relating thereto, (2) the filing, recording, re-filing and re-recording of any Loan Documents and any other documents or instruments or further assurances required to be filed or recorded or refiled or re-recorded by the terms of any Loan Document, (3) the borrowings hereunder and other action reasonably required in the course of administration hereof, (4) monitoring or confirming (or preparation or negotiation of any document related to) any Restricted Person's compliance with any covenants or conditions contained in this Agreement or in any Loan Document, (iii) all reasonable costs and expenses incurred by Agent on behalf of any Lender Party (including without limitation reasonable attorneys' fees, reasonable consultants' fees and reasonable accounting fees) in connection with the conduct of an annual field audit and (iv) all reasonable costs and expenses incurred by Agent and any Lender Party in connection with the enforcement of its rights (A) in connection with this Agreement (including its rights under this Section) or any of the Loan Documents, or (B) in connection with the Loans made or Letters of Credit issued hereunder, including all such reasonable out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect such Loans or Letters of Credit. In addition to the foregoing, until all Obligations have been paid in full, Borrower will also pay or reimburse Agent for all reasonable out-of-pocket costs and expenses of Agent or its agents or employees in connection with the continuing administration of the Loans and the related due diligence of Agent, including travel and miscellaneous expenses and reasonable fees and expenses of Agent's outside counsel and consultants engaged in connection with the Loan Documents.

(b) Indemnity. Borrower agrees to indemnify each Lender Party, upon demand, from and against any and all liabilities, obligations, broker's fees, claims, losses, damages, penalties, fines, actions, judgments, suits, settlements, costs, expenses or disbursements (including reasonable fees of attorneys, accountants, experts and advisors) of any kind or nature whatsoever (in this Section collectively called "liabilities and costs") which to any extent (in whole or in part) may be imposed on, incurred by, or asserted against such Lender Party growing out of, resulting from or in any other way associated with any of the Collateral, the Loan Documents and the transactions and events (including the enforcement or defense thereof) at any time associated therewith or contemplated therein (whether arising in contract or in tort or otherwise). Among other things, the foregoing indemnification covers all liabilities and costs incurred by any Lender Party related to any breach of a Loan Document by a Restricted Person, any bodily injury to any Person or damage to any Person's property, or any violation or noncompliance with any Environmental Laws by any Lender Party or any other Person or any liabilities or duties of any

Lender Party or any other Person with respect to Hazardous Materials found in or released into the environment.

**THE FOREGOING INDEMNIFICATION SHALL APPLY WHETHER OR NOT SUCH LIABILITIES AND COSTS ARE IN ANY WAY OR TO ANY EXTENT OWED, IN WHOLE OR IN PART, UNDER ANY CLAIM OR THEORY OF STRICT LIABILITY OR CAUSED, IN WHOLE OR IN PART BY ANY NEGLIGENT ACT OR OMISSION OF ANY KIND BY ANY LENDER PARTY,**

provided only that no Lender Party shall be entitled under this Section to receive indemnification for that portion, if any, of any liabilities and costs which is proximately caused by its own individual gross negligence or willful misconduct, as determined by a court of competent jurisdiction in a final and nonappealable judgment. If any Person (including Borrower or any of its Affiliates) ever alleges such gross negligence or willful misconduct by any Lender Party, the indemnification provided for in this Section shall nonetheless be paid upon demand, subject to later adjustment or reimbursement, until such time as a court of competent jurisdiction enters a final and nonappealable judgment as to the extent and effect of the alleged gross negligence or willful misconduct. As used in this Section the term "Lender Party" shall refer not only to each Person designated as such in Section 1.1 but also to each director, officer, Agent, trustee, attorney, employee, representative and Affiliate of or for such Person. Notwithstanding anything to the contrary in this Agreement, this Section 10.4 shall not apply with respect to any Taxes aside from those attributable to a non-Tax claim.

Section 10.5 Joint and Several Liability; Parties in Interest; Assignments.

(a) All Obligations which are incurred by two or more Restricted Persons shall be their joint and several obligations and liabilities. All grants, covenants and agreements contained in the Loan Documents shall bind and inure to the benefit of the parties thereto and their respective successors and assigns; provided, however, that no Restricted Person may assign or transfer any of its rights or delegate any of its duties or obligations under any Loan Document without the prior consent of the Required Lenders. Neither Borrower nor any Affiliates of Borrower shall directly or indirectly purchase or otherwise retire any Obligations owed to any Lender nor will any Lender accept any offer to do so, unless each Lender shall have received substantially the same offer with respect to the same Percentage Share of the Obligations owed to it. If Borrower or any Affiliate of Borrower at any time purchases some but less than all of the Obligations owed to all Lender Parties, such purchaser shall not be entitled to any rights of any Lender under the Loan Documents unless and until Borrower or its Affiliates have purchased all of the Obligations.

(b) No Lender shall sell any participation interest in its commitment hereunder or any of its rights under its Loans or under the Loan Documents to any Person unless the agreement between such Lender and such participant at all times provides: (i) that such participation exists only as a result of the agreement between such participant and such Lender and that such transfer does not give such participant any right to vote as a Lender or any other direct claims or rights against any Person other than such Lender, (ii) that such participant is not entitled to payment from any Restricted Person under Sections 3.2 through 3.8 of amounts in excess of those payable to such Lender under such Sections (determined without regard to the sale of such participation),



and (iii) unless such participant is an Affiliate of such Lender, that such participant shall not be entitled to require such Lender to take any action under any Loan Document or to obtain the consent of such participant prior to taking any action under any Loan Document, except for actions which would require the consent of all Lenders under subsection (a) of Section 10.1. No Lender selling such a participation shall, as between the other parties hereto and such Lender, be relieved of any of its obligations hereunder as a result of the sale of such participation. Each Lender which sells any such participation to any Person (other than an Affiliate of such Lender) shall give prompt notice thereof to Agent and Borrower. Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of Borrower, maintain a register on which it enters the name and address of each participant and the principal amounts of (and stated interest on) each participant's interest in the Loan Documents or other obligations under the Loan Documents (the "Participant Register"); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any participant or any information relating to a participant's interest in any commitments, loans, letters of credit or its other obligations under any Loan Document) to any Person except to the extent that such disclosure is necessary to establish that such 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.

(c) Except for sales of participations under the immediately preceding subsection, no Lender shall make any assignment or transfer of any kind of its commitments or any of its rights under its Loans or under the Loan Documents, except for assignments to an Eligible Transferee, and then only if such assignment is made in accordance with the following requirements:

(i) Each such assignment shall apply to all Obligations owing to the assignor Lender hereunder and to the unused portion of the assignor Lender's Revolving Loan Commitment, so that after such assignment is made the assignor Lender shall have a fixed (and not a varying) Percentage Share in its Loans and Notes and be committed to make that Percentage Share of all future Loans, the assignee shall have a fixed Percentage Share in the aggregate Loans and Notes and be committed to make that Percentage Share of all future Loans, and, except in the case of an assignment of the entire remaining amount of the assignor's Percentage Share of the Revolving Loan Commitment, the Revolving Loan Commitment to be assigned shall equal or exceed \$5,000,000.

(ii) The parties to each such assignment shall execute and deliver to Agent, for its acceptance and recording in the "Register" (as defined below in subsection (f)), an Assignment and Acceptance in the form of Exhibit 10.5, appropriately completed, together with the Note subject to such assignment and a processing fee payable to Agent of \$3,500. Upon such execution, delivery, and payment and upon the satisfaction of the conditions set out in such Assignment and Acceptance, then (1) Borrower shall issue new Notes to such assignor and assignee upon return of the old Notes to Borrower, and (2) as of the "Settlement Date" specified in such Assignment and Acceptance the assignee thereunder shall be a party hereto and a Lender hereunder and Agent shall thereupon

deliver to Borrower and each Lender a schedule showing the revised Percentage Shares of such assignor Lender and such assignee Lender and the Percentage Shares of all other Lenders.

(iii) Each assignee Lender which is not a United States person (as such term is defined in Section 7701(a)(30) of the Internal Revenue Code) for Federal income Tax purposes, shall (to the extent it has not already done so) provide Agent and Borrower with the "Prescribed Forms" referred to in Section 3.6(d).

(iv) Each such assignment shall require the prior written consent (such consent not to be unreasonably withheld or delayed) of:

(A) Borrower; provided that no consent of Borrower shall be required for an assignment to a Lender, an Affiliate of a Lender or an Approved Fund or, if an Event of Default shall have occurred and be continuing, to any other assignee;

(B) Agent; provided that no consent of Agent shall be required for an assignment to a Lender, an Affiliate of a Lender or an Approved Fund; and

(C) the LC Issuer and the Swingline Lender.

(d) Nothing contained in this Section shall prevent or prohibit any Lender from assigning or pledging all or any portion of its Loans and Notes to any Federal Reserve Bank as collateral security pursuant to Regulation A of the Board of Governors of the Federal Reserve System and any Operating Circular issued by such Federal Reserve Bank; provided that no such assignment or pledge shall relieve such Lender from its obligations hereunder.

(e) By executing and delivering an Assignment and Acceptance, each assignee Lender thereunder will be confirming to and agreeing with Borrower, Agent and each other Lender Party that such assignee understands and agrees to the terms hereof, including Article IX hereof.

(f) Agent acting solely for this purpose as a non-fiduciary agent of Borrower, shall maintain a copy of each Assignment and Acceptance and a register for the recordation of the names and addresses of Lenders and the Percentage Shares of, and principal amount of (and stated interest on) the Loans owing to, each Lender from time to time (in this Section called the "Register"). The entries in the Register shall be conclusive, in the absence of manifest error, and Borrower and each Lender Party shall treat each Person whose name is recorded in the Register as a Lender hereunder for all purposes. The Register shall be available for inspection by Borrower or any Lender Party at any reasonable time and from time to time upon reasonable prior notice. Agent shall act as Agent of Borrower solely for purposes of maintaining the Register as set forth in this Section 10.5(f).

(g) Borrower shall not assign or otherwise transfer any of its rights or obligations under this Agreement without the prior written consent of each Lender (and any attempted assignment or transfer by Borrower without such consent shall be null and void).

Section 10.6 Confidentiality. Each Lender Party agrees to keep confidential any information furnished or made available to it by any Restricted Person pursuant to this Agreement that is financial information, information in connection with a proposed transaction, or information marked confidential; provided that nothing herein shall prevent any Lender Party from disclosing such information (a) to any other Lender Party or any Affiliate of any Lender Party, or any officer, director, employee, agent, attorney, auditor, or advisor of any Lender Party or Affiliate of any Lender Party, (b) to any other Person if reasonably incidental to the administration of the credit facility provided herein, (c) as required by any Law, (d) upon the order of any court or administrative agency, (e) upon the request or demand of any Tribunal, (f) that is or becomes available to the public or that is or becomes available to any Lender Party other than as a result of a disclosure by any Lender Party prohibited by this Agreement, (g) to the extent necessary in connection with the exercise of any right or remedy under this Agreement or any other Loan Document, (h) subject to provisions substantially similar to those contained in this Section, to any actual or proposed participant or assignee or any actual or proposed contractual counterparty (or its advisors) to any securitization, hedge, or other derivative transaction relating to the parties' obligations hereunder, and (i) if it is otherwise available in the public domain. Any Person required to maintain the confidentiality of information described 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 10.7 Governing Law; Submission to Process. Except to the extent that the Law of another jurisdiction is expressly elected in a Loan Document, the Loan Documents shall be deemed contracts and instruments made under the Laws of the State of Texas and shall be construed and enforced in accordance with and governed by the Laws of the State of Texas and the Laws of the United States of America, without regard to principles of conflicts of law. Chapter 346 of the Texas Finance Code (which regulates certain revolving credit loan accounts and revolving tri-party accounts) does not apply to this Agreement or to the Notes. Borrower hereby irrevocably submits itself and each other Restricted Person to the exclusive jurisdiction of the state and federal courts sitting in the State of Texas and agrees and consents that service of process may be made upon it or any Restricted Person in any legal proceeding relating to the Loan Documents or the Obligations by any means allowed under Texas or federal law. Any legal proceeding arising out of or in any way related to any of the Loan Documents shall be brought and litigated exclusively in the United States District Court for the Southern District of Texas, Houston Division, to the extent it has subject matter jurisdiction, and otherwise in the Texas District Courts sitting in Harris County, Texas. The parties hereto hereby waive and agree not to assert, by way of motion, as a defense or otherwise, that any such proceeding is brought in an inconvenient forum or that the venue thereof is improper, and further agree to a transfer of any such proceeding to a federal court sitting in the State of Texas to the extent that it has subject matter jurisdiction, and otherwise to a state court in Houston, Texas. In furtherance thereof, Borrower and Lender Parties each hereby acknowledge and agree that it was not inconvenient for them to negotiate and receive funding of the transactions contemplated by this Agreement in such county and that it will be neither inconvenient nor unfair to litigate or otherwise resolve any disputes or claims in a court sitting in such county.

Section 10.8 Limitation on Interest. Lender Parties, Restricted Persons and any other parties to the Loan Documents intend to contract in strict compliance with applicable usury Law

from time to time in effect. In furtherance thereof such Persons stipulate and agree that none of the terms and provisions contained in the Loan Documents shall ever be construed to create a contract to pay, for the use, forbearance or detention of money, interest in excess of the maximum amount of interest permitted to be charged by applicable Law from time to time in effect. Neither any Restricted Person nor any present or future guarantors, endorsers, or other Persons hereafter becoming liable for payment of any Obligation shall ever be liable for unearned interest thereon or shall ever be required to pay interest thereon in excess of the maximum amount that may be lawfully contracted for, charged, or received under applicable Law from time to time in effect, and the provisions of this Section shall control over all other provisions of the Loan Documents which may be in conflict or apparent conflict herewith. Lender Parties expressly disavow any intention to contract for, charge, or collect excessive unearned interest or finance charges in the event the maturity of any Obligation is accelerated. If (a) the maturity of any Obligation is accelerated for any reason, (b) any Obligation is prepaid and as a result any amounts held to constitute interest are determined to be in excess of the legal maximum, or (c) any Lender or any other holder of any or all of the Obligations shall otherwise collect moneys which are determined to constitute interest which would otherwise increase the interest on any or all of the Obligations to an amount in excess of that permitted to be charged by applicable Law then in effect, then all sums determined to constitute interest in excess of such legal limit shall, without penalty, be promptly applied to reduce the then outstanding principal of the related Obligations or, at such Lender's or holder's option, promptly returned to Borrower or the other payor thereof upon such determination. In determining whether or not the interest paid or payable, under any specific circumstance, exceeds the maximum amount permitted under applicable Law, Lender Parties and Restricted Persons (and any other payors thereof) shall to the greatest extent permitted under applicable Law, (i) characterize any non-principal payment as an expense, fee or premium rather than as interest, (ii) exclude voluntary prepayments and the effects thereof, and (iii) amortize, prorate, allocate, and spread the total amount of interest throughout the entire contemplated term of the instruments evidencing the Obligations in accordance with the amounts outstanding from time to time thereunder and the maximum legal rate of interest from time to time in effect under applicable Law in order to lawfully contract for, charge, or receive the maximum amount of interest permitted under applicable Law. In the event applicable Law provides for an interest ceiling under Chapter 303 of the Texas Finance Code (the "Texas Finance Code") as amended, for that day, the ceiling shall be the "weekly ceiling" as defined in the Texas Finance Code, provided that if any applicable Law permits greater interest, the Law permitting the greatest interest shall apply. As used in this Section the term "applicable Law" means the Laws of the State of Texas or the Laws of the United States of America, whichever Laws allow the greater interest, as such Laws now exist or may be changed or amended or come into effect in the future.

Section 10.9 Termination; Limited Survival; Releases of Liens and Guaranties.

(a) In its sole and absolute discretion Borrower may at any time that no Obligations are owing (other than indemnity obligations and similar obligations that survive the termination of this Agreement for which no notice of a claim has been received by Borrower) elect in a written notice delivered to Agent to terminate this Agreement. Upon receipt by Agent of such a notice, if no Obligations are then owing, this Agreement and all other Loan Documents shall thereupon be terminated and the parties thereto released from all prospective obligations thereunder. Notwithstanding the foregoing or anything herein to the contrary, any waivers or

admissions made by any Restricted Person in any Loan Document, any Obligations under Sections 3.2 through Section 3.6, and any obligations which any Person may have to indemnify or reimburse any Lender Party shall survive any termination of this Agreement or any other Loan Document. The foregoing consent shall constitute the written consent of Required Lenders required under Section 10.1(a)(iii). At the request and expense of Borrower, Agent shall prepare and execute all necessary instruments to reflect and effect such termination of the Loan Documents. Agent is hereby authorized to execute all such instruments on behalf of all Lenders, without the joinder of or further action by any Lender.

(b) Agent and the Lenders hereby consent to (i) the automatic release of any Liens securing the Obligations in Collateral that is sold or otherwise disposed of by a Restricted Person in compliance with this Agreement and (ii) the automatic release from the relevant Guaranty of any Guarantor that ceases to be a Subsidiary pursuant to a sale or disposal of property that is permitted by this Agreement, in each case without need for further approval of Agent or any Lender. The foregoing consent shall constitute the written consent of Required Lenders required under the fourth sentence of Section 10.1(a), with respect to such releases of Liens and Guarantors. At the request and expense of Borrower, Agent shall prepare and execute all necessary or reasonably requested instruments and documents to reflect and effect such releases of Liens and Guarantors. Agent is hereby authorized to execute all such instruments and documents on behalf of all Lenders, without the joinder of or further action by any Lender.

Section 10.10 Severability. If any term or provision of any Loan Document shall be determined to be illegal or unenforceable all other terms and provisions of the Loan Documents shall nevertheless remain effective and shall be enforced to the fullest extent permitted by applicable Law.

Section 10.11 Counterparts; Fax. This Agreement may be separately executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to constitute one and the same Agreement. This Agreement and the Loan Documents may be validly executed and delivered by facsimile or other electronic transmission.

Section 10.12 Intentionally Omitted.

Section 10.13 Waiver of Jury Trial, Punitive Damages, etc. Each of Borrower and each Lender Party hereby knowingly, voluntarily, intentionally, and irrevocably (a) waives, to the maximum extent not prohibited by Law, any right it may have to a trial by jury in respect of any litigation based hereon, or directly or indirectly at any time arising out of, under or in connection with the Loan Documents or any transaction contemplated thereby or associated therewith, before or after maturity; (b) waives, to the maximum extent not prohibited by Law, any right they may have to claim or recover in any such litigation any "Special Damages", as defined below, (c) certifies that no party hereto nor any representative or Agent or counsel for any party hereto has represented, expressly or otherwise, or implied that such party would not, in the event of litigation, seek to enforce the foregoing waivers, and (d) acknowledges that it has been induced to enter into this Agreement, the other Loan Documents and the transactions contemplated hereby and thereby by, among other things, the mutual waivers and certifications contained in this Section. As used in this Section, "Special Damages" includes all special,

consequential, exemplary, or punitive damages (regardless of how named), but does not include any payments or funds which any party hereto has expressly promised to pay or deliver to any other party hereto.

Section 10.14 USA PATRIOT Act. Agent hereby notifies Borrower that pursuant to the requirements of the PATRIOT Act, and Agent's policies and practices, each Lender is required to obtain, verify and record certain information and documentation that identifies each Restricted Person, which information includes the name and address of each Restricted Person and such other information that will allow each Lender to identify each Restricted Person in accordance with the PATRIOT Act.

Section 10.15 Renewal and Extension. The Indebtedness arising under this Agreement is a renewal, extension and restatement on revised terms of (but not an extinguishment or novation of) the Existing Credit Agreement and, from and after the date hereof, the terms and provisions of the Existing Credit Agreement shall be superseded by the terms and provisions of this Agreement. Borrower hereby agrees that (a) the Indebtedness evidenced by the Existing Credit Agreement, all accrued and unpaid interest thereon, and all accrued and unpaid fees under the Existing Credit Agreement shall be deemed to be Indebtedness of Borrower outstanding under and governed by this Agreement and (b) all Liens securing the Indebtedness evidenced by the Existing Credit Agreement shall continue in full force and effect to secure the Secured Obligations.

Section 10.16 Acknowledgement and Consent to Bail-In of EEA Financial Institutions. Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any EEA Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the Write-Down and Conversion Powers of an EEA Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by an EEA Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an EEA Financial Institution; and

(b) the effects of any Bail-in Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such EEA Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or

(iii) the variation of the terms of such liability in connection with the exercise of the Write-Down and Conversion Powers of any EEA Resolution Authority.

Section 10.17 Certain ERISA Matters.

(a) Each Lender (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, Agent, the Arranger and their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of Borrower or any other Restricted Person, that at least one of the following is and will be true:

(i) such Lender is not using “plan assets” (within the meaning of Section 3(42) of ERISA or otherwise) of one or more Benefit Plans (as defined below) with respect to such Lender’s entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Revolving Loan Commitments or the Term Loan Commitments;

(ii) the transaction exemption set forth in one or more PTEs, such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers), is applicable with respect to such Lender’s entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Revolving Loan Commitments, the Term Loan Commitments and this Agreement;

(iii) (A) such Lender is an investment fund managed by a “Qualified Professional Asset Manager” (within the meaning of Part VI of PTE 84-14), (B) such Qualified Professional Asset Manager made the investment decision on behalf of such Lender to enter into, participate in, administer and perform the Loans, the Letters of Credit, the Revolving Loan Commitments, the Term Loan Commitments and this Agreement, (C) the entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Revolving Loan Commitments, the Term Loan Commitments and this Agreement satisfies the requirements of sub-sections (b) through (g) of Part I of PTE 84-14 and (D) to the best knowledge of such Lender, the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Lender’s entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Revolving Loan Commitments, the Term Loan Commitments and this Agreement; or

(iv) such other representation, warranty and covenant as may be agreed in writing between Agent, in its sole discretion, and such Lender.

As used in this Section 10.17, the term “Benefit Plans” means any of (A) an “employee benefit plan” (as defined in ERISA) that is subject to Title I of ERISA, (B) a “plan” as defined in and subject to Section 4975 of the Internal Revenue Code or (C) any Person whose assets include (for purposes of ERISA Section 3(42) or otherwise for purposes of Title I of ERISA or Section 4975 of the Internal Revenue Code) the assets of any such “employee benefit plan” or “plan”.

(b) In addition, unless either (1) sub-clause (i) in the immediately preceding clause (a) is true with respect to a Lender or (2) a Lender has provided another representation, warranty and covenant in accordance with sub-clause (iv) in the immediately preceding clause (a), such Lender further (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, Agent, the Arranger and their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of Borrower or any other Restricted Person, that none of Agent, the Arranger and their respective Affiliates is a fiduciary with respect to the assets of such Lender involved in such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Revolving Loan Commitments, the Term Loan Commitments and this Agreement (including in connection with the reservation or exercise of any rights by Agent under this Agreement, any Loan Document or any documents related hereto or thereto).

Section 10.18 Acknowledgement Regarding Any Supported QFCs. To the extent that the Loan Documents provide support, through a guarantee or otherwise, for Hedging Contracts or any other agreement or instrument that is a QFC (such support, "QFC Credit Support" and, each such QFC, a "Supported QFC"), the parties acknowledge and agree as follows with respect to the resolution power of the FDIC under the Federal Deposit Insurance Act and Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (together with the regulations promulgated thereunder, the "U.S. Special Resolution Regimes") in respect of such Supported QFC and QFC Credit Support (with the provisions below applicable notwithstanding that the Loan Documents and any Supported QFC may in fact be stated to be governed by the laws of the State of New York and/or of the United States or any other state of the United States):

(a) In the event a Covered Entity that is party to a Supported QFC (each, a "Covered Party") becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of such Supported QFC and the benefit of such QFC Credit Support (and any interest and obligation in or under such Supported QFC and such QFC Credit Support, and any rights in property securing such Supported QFC or such QFC Credit Support) from such Covered Party will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if the Supported QFC and such QFC Credit Support (and any such interest, obligation and rights in property) were governed by the laws of the United States or a state of the United States. In the event a Covered Party or a BHC Act Affiliate of a Covered Party becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under the Loan Documents that might otherwise apply to such Supported QFC or any QFC Credit Support that may be exercised against such Covered Party are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if the Supported QFC and the Loan Documents were governed by the laws of the United States or a state of the United States. Without limitation of the foregoing, it is understood and agreed that rights and remedies of the parties with respect to a Defaulting Lender shall in no event affect the rights of any Covered Party with respect to a Supported QFC or any QFC Credit Support.

(b) As used in this Section 10.18, the following terms have the following meanings:

"BHC Act Affiliate" of a party means an "affiliate" (as such term is defined under, and interpreted in accordance with, 12 U.S.C. 1841(k)) of such party.



“Covered Entity” means any of the following:

- (i) a “covered entity” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b);
- (ii) a “covered bank” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or
- (iii) a “covered FSI” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

“Default Right” has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable.

“QFC” has the meaning assigned to the term “qualified financial contract” in, and shall be interpreted in accordance with, 12 U.S.C. 5390(c)(8)(D).

**[SIGNATURE PAGES FOLLOW]**

## PRICING SCHEDULE

The applicable Eurodollar Margin, Base Rate Margin, Commitment Fee Rate and LC Rate shall be determined by the Agent in accordance with the following tables:

<b>APPLICABLE MARGIN FOR REVOLVING LOAN ADVANCES</b>	<b>LEVEL I STATUS</b>	<b>LEVEL II STATUS</b>	<b>LEVEL III STATUS</b>	<b>LEVEL IV STATUS</b>
Eurodollar Rate Margin	1.25%	1.50%	1.75%	2.00%
Base Rate Margin	0.25%	0.50%	0.75%	1.00%

<b>APPLICABLE COMMITMENT FEE RATE</b>	<b>LEVEL I STATUS</b>	<b>LEVEL II STATUS</b>	<b>LEVEL III STATUS</b>	<b>LEVEL IV STATUS</b>
Commitment Fee Rate	0.20%	0.25%	0.30%	0.35%

<b>LETTER OF CREDIT FEE RATE</b>	<b>LEVEL I STATUS</b>	<b>LEVEL II STATUS</b>	<b>LEVEL III STATUS</b>	<b>LEVEL IV STATUS</b>
LC Rate	1.25%	1.50%	1.75%	2.00%

For the period beginning on the Amendment No. 6 Effective Date and continuing to the date on which the financial statements and certificates are delivered by the Borrower for the first full fiscal quarter thereafter pursuant to Section 6.2(a) and Section 6.2(b), as applicable, Level II Status shall apply. Notwithstanding the foregoing if the Borrower has failed to deliver the financial statements and certificates required by Section 6.2(a) and Section 6.2(b), then Level IV Status will be deemed to exist after two Business Days' notice from the Agent to the Borrower.

For the purposes of this Pricing Schedule, the following terms have the following meanings, subject to the final paragraph of this Pricing Schedule:

“Level I Status” exists for any day that the Total Leverage Ratio is less than 1.00 to 1.00.

“Level II Status” exists for any day that the Total Leverage Ratio is greater than or equal to 1.00 to 1.00 but is less than 1.75 to 1.00.

“Level III Status” exists for any day that the Total Leverage Ratio is greater than or equal to 1.75 to 1.00 but is less than 2.50 to 1.00.

“Level IV Status” exists for any day that the Total Leverage Ratio is greater than or equal to 2.50 to 1.00.

“Status” means either Level I Status, Level II Status, Level III Status or Level IV Status.

In the event that any financial statement delivered pursuant to this Agreement is shown to be inaccurate (regardless of whether this Agreement or the Commitments are in effect when such inaccuracy is discovered), and such inaccuracy, if corrected, would have led to the application of a higher Eurodollar Rate Margin or Base Rate Margin, as applicable, for any period (an “Applicable Period”) than the Eurodollar Rate Margin or Base Rate Margin, as applicable, applied for such Applicable Period, and only in such case, then the Borrower shall immediately (i) deliver to the Agent a corrected financial statement for such Applicable Period, (ii) determine the Eurodollar Rate Margin or Base Rate Margin, as applicable, for such Applicable Period based upon the corrected financial statement, and (iii) immediately pay to the Agent the accrued additional interest owing as a result of such increased Eurodollar Rate Margin or Base Rate Margin, as applicable for such Applicable Period, which payment shall be promptly applied by the Agent in accordance with the terms of this Agreement. This provision is in addition to rights of the Agent and Lenders with respect to Sections 2.5, 2.11, 6.10 and 8.1 and other of their respective rights under this Agreement.

**SCHEDULE 3.1****LENDERS SCHEDULE**

<b>Domestic Lending Office</b>	<b>Eurodollar Lending Office</b>	<b>Percentage Share</b>	<b>Revolving Loan Commitment</b>	<b>Term Loan Commitment</b>
Wells Fargo Bank, N.A. 1000 Louisiana, 10th Floor Houston, TX 77002 Telephone: (713) 319-1332 Fax: (713) 739-1086	Same	19.17%	\$86,250,000	\$28,750,000
Capital One, N.A. 5444 Westheimer, Suite 700 Houston, Texas 77056 Telephone: (713) 212-5285 Fax: (855) 735-8388	Same	12.50%	\$56,250,000	\$18,750,000
Truist Bank 200 W. 2 <sup>nd</sup> St., 16 <sup>th</sup> Floor Winston-Salem, North Carolina 27101 Telephone: (336) 733-2741 Fax: (336) 733-2740	Same	12.50%	\$56,250,000	\$18,750,000
U.S. Bank National Association 425 Walnut St. CN-OH-W8 Cincinnati, Ohio 45202 Telephone: (513) 632-4133 Fax: (513) 632-4894	Same	12.50%	\$56,250,000	\$18,750,000
BOKF, NA dba Bank of Texas 5 Houston Center 1401 McKinney, Suite 1000 Houston, Texas 77010 Telephone: (713) 289-5875 Fax: (713) 289-5825	Same	10.83%	\$48,750,000	\$16,250,000

<b>Domestic Lending Office</b>	<b>Eurodollar Lending Office</b>	<b>Percentage Share</b>	<b>Revolving Loan Commitment</b>	<b>Term Loan Commitment</b>
Bank of the West 13300 Crossroads Parkway North City of Industry, CA 91746 Telephone: 323-727-3065 Fax: 402-918-6907	Same	10.00%	\$45,000,000	\$15,000,000
Regions Bank 250 Riverchase Parkway East, 1 <sup>st</sup> Floor Hoover, Alabama 35244 Telephone: (205) 820-2405 Fax: (205) 261-7069	Same	10.00%	\$45,000,000	\$15,000,000
Frost Bank 3838 Rogers Road One Frost 3 <sup>rd</sup> Floor San Antonio, Texas 78231 Telephone: (210) 220-4235 Fax: (210) 220-4389	Same	8.33%	\$37,500,000	\$12,500,000
Cadence Bank, N.A. 3500 Colonnade Pkwy., Suite 600 Birmingham, AL 35243 Telephone: (205) 488-3367 Fax: (205) 488-3320	Same	4.17%	\$18,750,000	\$6,250,000
<b>Total :</b>		<b>100%</b>	<b>\$450,000,000</b>	<b>\$150,000,000</b>

**SECTION 5.13 to SCHEDULE 5**

**NAMES AND PLACES OF BUSINESS**

<b>ENTITY NAME</b>	<b>ADDRESS TYPE</b>	<b>ADDRESS</b>	<b>PRIOR ADDRESSES</b>	<b>PRIOR NAMES &amp; TRADE NAMES</b>
Comfort Systems USA, Inc.	Principal Place of Business	675 Bering Drive, Suite 400, Houston, Texas 77057		
ACI Mechanical, Inc.	Principal Place of Business	2182 231 <sup>st</sup> Lane Ames, Iowa 50014		
	Satellite	212 Industrial Park Road Story City, Iowa 50248		
ARC Comfort Systems USA, Inc.	Principal Place of Business	675 Bering Drive, Suite 400, Houston, Texas 77057		
Accu-Temp GP, Inc.	Principal Place of Business	675 Bering Drive, Suite 400, Houston, Texas 77057		
Accu-Temp LP, Inc.	Principal Place of Business	675 Bering Drive, Suite 400, Houston, Texas 77057		
Acorn Industrial, LLC	Principal Place of Business	7311 ACC Boulevard, Raleigh, North Carolina 27617		
Advance Technology, Inc.	Principal Place of Business	4 Washington Avenue, Scarborough, Maine 04074	51 Pearl Street, Scarborough, ME 04074	
Air Systems Engineering, Inc.	Principal Place of Business	3602 South Pine Street, Tacoma, Washington 98409		

ENTITY NAME	ADDRESS TYPE	ADDRESS	PRIOR ADDRESSES	PRIOR NAMES & TRADE NAMES
AirTemp, Inc.	Principal Place of Business	20 Thomas Drive Westbrook, Maine 04092	11 Wallace Avenue, South Portland, Maine 04106	
Arstectum, Inc.	Principal Place of Business	4 Washington Avenue, Scarborough, Maine 04074	51 Pearl Street, Scarborough, ME 04074	
BCH Holdings, Inc.	Principal Place of Business	6350/6354/6360 118th Ave N., Largo, Florida 33773		
BCH Leasing, LLC	Principal Place of Business	6350/6354/6360 118th Ave N., Largo, Florida 33773		BCH Leasing, Corp.
BCH Mechanical, L.L.C.	Principal Place of Business	6350/6354/6360 118th Ave N., Largo, Florida 33773		BCH Mechanical, Inc.
	Satellite	11711 66 <sup>th</sup> St, Unit 109 Largo, FL 33773		
BCM Controls Corporation	Principal Place of Business	30 Commerce Way, Woburn, Massachusetts 01801		
Building Temperature Solutions, LLC	Principal Place of Business	9326 Yeager Drive Fort Wayne, IN 46809		
California Comfort Systems USA, Inc.	Principal Place of Business	7740 Kenamar Court, San Diego, California 92121		TCP Company
	Satellite	3612 Madison Avenue, Suite 32 North Highlands, California 95660		

<b>ENTITY NAME</b>	<b>ADDRESS TYPE</b>	<b>ADDRESS</b>	<b>PRIOR ADDRESSES</b>	<b>PRIOR NAMES &amp; TRADE NAMES</b>
	Satellite	3521 Investment Blvd, Ste 2 Hayward, California 94545	981 Bing Street San Carlos, California 94070	
ColonialWebb Contractors Company	Principal Place of Business	2820 Ackley Avenue, Richmond, Virginia 23228		Comfort Systems USA (Carolinas), LLC
	Satellite	1600 Crossbeam Drive, Charlotte, North Carolina 28217		
	Satellite	1 Marcus Drive, Greenville, South Carolina 29615		
	Satellite	811 Pleasant Valley Road, Harrisonburg, Virginia 22801		
	Satellite	14221-B Willard Road, Suite 100, Chantilly, Virginia 20110	8509 Phoenix Drive, Manassas, Virginia 20110	
	Satellite	740C Bluecrab Road, Newport News, Virginia 23606		
	Satellite	3719 E. Virginia Beach Blvd., Norfolk, Virginia 23502		
	Satellite	1977 Snow Pointe Lane Bldg 7B Charlottesville, Virginia 22902		



<b>ENTITY NAME</b>	<b>ADDRESS TYPE</b>	<b>ADDRESS</b>	<b>PRIOR ADDRESSES</b>	<b>PRIOR NAMES &amp; TRADE NAMES</b>
	Satellite	711-23 Hospital St Unit 23 Richmond, Virginia 23219	8851 B. Park Central Drive Richmond, Virginia 23227	
	Satellite	152 Blades Lane, Ste J Glen Burnie, Maryland 21060		
Comfort Systems USA (Arkansas), Inc.	Principal Place of Business	4806 Rixey Road, North Little Rock, Arkansas 72117		
	Satellite	116 Commercial Drive, Lowell, Arkansas 72745		
	Satellite	3900 Terra Glen Lane North Little Rock, Arkansas 72117		
Comfort Systems USA (Baltimore), LLC	Principal Place of Business	675 Bering Drive, Suite 400 Houston, Texas 77057		
Comfort Systems USA G.P., Inc.	Principal Place of Business	675 Bering Drive, Suite 400, Houston, Texas 77057		
Comfort Systems USA (Indiana), LLC	Principal Place of Business	2701 Fortune Circle East, Suites F & G, Indianapolis, Indiana 46241		

<b>ENTITY NAME</b>	<b>ADDRESS TYPE</b>	<b>ADDRESS</b>	<b>PRIOR ADDRESSES</b>	<b>PRIOR NAMES &amp; TRADE NAMES</b>
Comfort Systems USA (Intermountain), Inc.	Principal Place of Business	2035 S. Milestone Drive, Salt Lake City, Utah 84104		Contract Services Martin Heating & Cooling Cox Precision Air
	Satellite	1107 East 770 North Ste 7 Saint George, Utah 84770		
Comfort Systems USA (Kentucky), Inc.	Principal Place of Business	3405 Robards Court, Louisville, Kentucky 40218		MELCO Industries, Inc. Young's Mechanical, Inc.
	Satellite	6284 KY-185, Bowling Green, Kentucky 42101		
	Satellite	2025 Leestown Road, Suite D, Lexington, Kentucky 40511		
Comfort Systems USA (MidAtlantic), LLC	Principal Place of Business	1057 Bill Tuck Highway, So Boston, Virginia 24592		

<b>ENTITY NAME</b>	<b>ADDRESS TYPE</b>	<b>ADDRESS</b>	<b>PRIOR ADDRESSES</b>	<b>PRIOR NAMES &amp; TRADE NAMES</b>
Comfort Systems USA (Mid South), Inc.	Principal Place of Business	3100 Richard Arrington Jr. Blvd. North Birmingham, Alabama 35203		The Capital Refrigeration Company MidSouth Controls LLC Huntsville Refrigeration Service H & M Mechanical, Inc.
	Satellite	619 E. Jefferson Street Montgomery, Alabama 36104		
	Satellite	480 North Dean Road, Unit G-3 Auburn, Alabama 36830		
	Satellite	144 Hall Bryant Circle Huntsville, Alabama 35806	Southblunt Parkway Trafford, Alabama	
Comfort Systems USA (Northwest), Inc.	Principal Place of Business	18702 North Creek Parkway, Suite 110, Bothell, Washington 98011		Merit Mechanical, Inc.
Comfort Systems USA (Ohio), Inc.	Principal Place of Business	7401 First Place, Oakwood Village, Ohio 44146		Innovative Energy Solutions, LLC

<b>ENTITY NAME</b>	<b>ADDRESS TYPE</b>	<b>ADDRESS</b>	<b>PRIOR ADDRESSES</b>	<b>PRIOR NAMES &amp; TRADE NAMES</b>
	Satellite	419 Elliott Avenue, Cincinnati, Ohio 45215		
	Satellite	690 Lakeview Plaza Blvd., Suites D-F, Worthington, Oh 43085	690 A Lakeview Plaza Blvd., Worthington, Oh 43085	
	Satellite	3680 Symmes Road Hamilton, Ohio 45015		
Comfort Systems USA (South Central), Inc.	Principal Place of Business	9745 Bent Oak Drive, Houston, Texas 77040		Atlas Comfort Systems USA
Comfort Systems USA (Southeast), Inc.	Principal Place of Business	7281 Plantation Rd, Suite 100 & 101, Pensacola, Florida 32504	435 Corday Street, Pensacola, Florida 32503	Batchelor's Mechanical Contractors Control Concepts, Inc.
	Satellite	250 Commercial Drive, Thomasville, Georgia 31757		
	Satellite	13040 W. US Hwy 84, Newton, Alabama 36352		
	Satellite	3779 Abigail Drive Theodore, Alabama 36582	3835 Gordon John Drive, Mobile, Alabama 36693	
	Satellite	4518 Val North Drive, Valdosta, Georgia 31602		

ENTITY NAME	ADDRESS TYPE	ADDRESS	PRIOR ADDRESSES	PRIOR NAMES & TRADE NAMES
	Satellite	1965 Vaughn Road, Suite B Kennesaw, Georgia 30144		
	Satellite	7826 McElvey Road, Panama City Beach, Florida 32408		
	Satellite	4801 Milegen Road, Ste. D, Columbus, Georgia 31907	6074 Business Park Drive, Suite G, Columbus, Georgia 31909	
	Satellite	177 Woodfield Dr. Macon, Georgia 31210	309 James E. Williams Dr., #1, Byron, Georgia 31008	
	Satellite	8038 North Palafox Street, Pensacola, Florida 32534	5616 Joe Elliot Way Pensacola, Florida 32503	
	Satellite	507 CDP Industrial Blvd. No. 10 Grovetown, Georgia 30813		
	Satellite	402 US-HWY 80 East, Bloomington, GA 31302	1018 W Highway 80 Pooler, Georgia 31322  2305 Rowland Ave Savannah, Georgia 31404	
	Satellite	1903 Ledo Rd, Ste C Albany, Georgia 31707		

ENTITY NAME	ADDRESS TYPE	ADDRESS	PRIOR ADDRESSES	PRIOR NAMES & TRADE NAMES
	Satellite	3550 North Parkway, Suite 100, Cumming, Georgia 30040		
	Satellite	1060 Gaines School Road, Suite C-3, Athens, Georgia 30605		
Comfort Systems USA (Southwest), Inc.	Principal Place of Business	6875 W. Galveston, Chandler, Arizona 85226		Tri-City Mechanical, Inc. Air Management Services, Inc. Commercial Mechanical Service, Inc.
	Satellite	2010 N. Forbes Blvd, Ste 103 Tucson, Arizona 85745	1830 W. Copper St., Tucson, Arizona 85745	
	Satellite	8920 Adams NE, Ste A Albuquerque, New Mexico 87113	4516 Anaheim NE Albuquerque, New Mexico 85226	
Comfort Systems USA Strategic Accounts, LLC	Principal Place of Business	2655 Fortune Circle West, Suite E, Indianapolis, Indiana 46241		Comfort Systems USA National Accounts, LLC

<b>ENTITY NAME</b>	<b>ADDRESS TYPE</b>	<b>ADDRESS</b>	<b>PRIOR ADDRESSES</b>	<b>PRIOR NAMES &amp; TRADE NAMES</b>
Comfort Systems USA (Syracuse), Inc.	Principal Place of Business	6500 New Venture Gear Drive, East Syracuse, New York 13057		Armani Plumbing & Mechanical ABJ Fire Protection Company Woodcock & Armani Billone Mechanical Contractors
	Satellite	370 Summit Point Dr, Ste 2 Henrietta, New York 14467	3543 Winton Place, Suite 6 Rochester, New York 14623	
Comfort Systems USA (Texas), L.P.	Principal Place of Business	675 Bering Drive, Suite 400, Houston, Texas 77057		
Conserv Building Services, LLC	Principal Place of Business	206 Reece Way Ste 1542 Casselberry, Florida 32707		Conserv Building Services, Inc.
	Satellite	5030 NW 109 <sup>th</sup> Ave, Ste A Sunrise, Florida 33751		
	Satellite	5353 Ramona Blvd Jacksonville, Florida 32205		

<b>ENTITY NAME</b>	<b>ADDRESS TYPE</b>	<b>ADDRESS</b>	<b>PRIOR ADDRESSES</b>	<b>PRIOR NAMES &amp; TRADE NAMES</b>
	Satellite	5910 Breckenridge Pkwy Ste C Tampa, Florida 33610		
Conserv Building Services of Alabama, LLC	Principal Place of Business	1025 County Road 6, Piedmont, Alabama 36272		Conserv Building Services of Alabama, Inc.
Conserv Building Services of Georgia, LLC	Principal Place of Business	456 Ethan Drive, Fayetteville, Georgia 30214		Conserv Building Services of Georgia, Inc.
Conserv Building Services of North Carolina, LLC	Principal Place of Business	2803 Gray Fox Road, Indian Trail, North Carolina 28079		Conserv Building Services of North Carolina, Inc.
	Satellite	400 Dominion Dr. Ste #108, Morrisville, North Carolina 27560		
	Satellite	1628 Ownby Lane Richmond, Virginia 23230		
Conserv Building Services of Tennessee, LLC	Principal Place of Business	1330 Murfreesboro Pike Nashville, Tennessee 37217	2845 Logan Street, Nashville, Tennessee 37211	Conserv Building Services of Tennessee, Inc.



ENTITY NAME	ADDRESS TYPE	ADDRESS	PRIOR ADDRESSES	PRIOR NAMES & TRADE NAMES
Conserv Building Services of Texas, LLC	Principal Place of Business	5301 Big Six Street, Alvarado, Texas 76009		Conserv Building Services of Texas, Inc.
	Satellite	1918 Antoine Dr Houston, Texas 77055		
Control Concepts, LLC	Principal Place of Business	3550 North Parkway, Suite 100 Cumming, Georgia 30040		Control Concepts, Inc.
Control Concepts Mechanical Services, LLC	Principal Place of Business	3550 North Parkway, Suite 100 Cumming, Georgia 30040		Control Concepts Mechanical Services, Inc.
CSUSA (10), LLC	Principal Place of Business	675 Bering Drive, Suite 400, Houston, Texas 77057		
Delcard Associates, LLC	Principal Place of Business	675 Bering Drive, Suite 400, Houston, Texas 77057		
Design Mechanical Incorporated	Principal Place of Business	312 CTC Blvd. Suite D, Louisville, Colorado 80027	168 CTC Blvd. Suite D, Louisville, Colorado 80027	Rocky Mountain Mechanical Systems, Inc. Breckenridge Mechanical, Inc.

ENTITY NAME	ADDRESS TYPE	ADDRESS	PRIOR ADDRESSES	PRIOR NAMES & TRADE NAMES
	Satellite	0068 Continental Court Spaces B-7 and B-8 Breckenridge, Colorado 80424		
	Satellite	951 Vallejo Street Denver, Colorado 80204		
Dilling, LLC	Principal Place of Business	111 East Mildred Street Logansport, Indiana 46947		
Dilling Group, Inc.	Principal Place of Business	111 East Mildred Street Logansport, Indiana 46947		
	Satellite	349 Haney Road NW Charleston, Tennessee 37310		
	Satellite	1155 Executive Drive Warsaw, Indiana 46580		
	Satellite	132 Chester Court, Suite 700 Bowling Green, Kentucky 42102		
Dilling Group Leasing Co., LLC d/b/a GRP Leasing Co., LLC	Principal Place of Business	111 East Mildred Street Logansport, Indiana 46947		
Dyna Ten Corporation	Principal Place of Business	4375 Diplomacy Road, Fort Worth, Texas 76155		
	Satellite	3575 Lone Star Circle Fort Worth, Texas 76177	3935 Tarrant Main Street Fort Worth, Texas 76040	
Dyna Ten Maintenance Services, LLC	Principal Place of Business	4375 Diplomacy Road, Fort Worth, Texas 76155		

ENTITY NAME	ADDRESS TYPE	ADDRESS	PRIOR ADDRESSES	PRIOR NAMES & TRADE NAMES
Eastern Heating & Cooling, Inc.	Principal Place of Business	880 Broadway, Albany, New York 12207-1316		
Environmental Air Systems, LLC	Principal Place of Business	250 Swathmore Ave High Point, North Carolina, 27263	521 Banner Avenue Greensboro, North Carolina 27401	EAS Holdings, LLC
	Satellite	8307 Triad Drive Greensboro, North Carolina 27409		
	Satellite	623 McWay Drive West High Point, North Carolina 27409		
	Satellite	3501 Jamac Road High Point, North Carolina 27260		
	Satellite	525 Pylon Dr Raleigh, North Carolina 25606	525-B Uwharrie Court Raleigh, North Carolina	
	Satellite	7311 ACC Blvd Raleigh, North Carolina 27617		
Envirotrol, LLC	Principal Place of Business	114 Landmark Drive Greensboro, North Carolina 27409		Envirotrol Holdings, LLC

ENTITY NAME	ADDRESS TYPE	ADDRESS	PRIOR ADDRESSES	PRIOR NAMES & TRADE NAMES
	Satellite	1 Marcus Dr Ste 303 Greenville, South Carolina 29615	7148 Cross County Road North Charleston, South Carolina 29418	
	Satellite	1600 Crossbeam Dr Charlotte, North Carolina 28217		
	Satellite	2108 Capital Dr # 105 Wilmington, North Carolina 28405		
F.W. Dilling, LLC	Principal Place of Business	111 East Mildred Street Logansport, Indiana 46947		
Generex, LLC	Principal Place of Business	3403 East Washington Boulevard Fort Wayne, IN 46803		
Granite State Holdings Company, Inc.	Principal Place of Business	17 Oil Mill Road Weare, New Hampshire 03281	10 N. Riverdale Road, Weare, New Hampshire 03281	
Granite State Plumbing & Heating LLC	Principal Place of Business	17 Oil Mill Road Weare, New Hampshire 03281	10 N. Riverdale Road, Weare, New Hampshire 03281	Delta Mechanical
	Satellite	10 Technology Dr West Lebanon, New Hampshire 03784		
Hess Mechanical, LLC	Principal Place of Business	9600 Fallard Court, Upper Marlboro, Maryland 20772- 6703		Hess Mechanical Corporation

<b>ENTITY NAME</b>	<b>ADDRESS TYPE</b>	<b>ADDRESS</b>	<b>PRIOR ADDRESSES</b>	<b>PRIOR NAMES &amp; TRADE NAMES</b>
Mechanical Technical Services, Inc.	Principal Place of Business	1720 Royston Lane, Round Rock, Texas 78664		MTECH ICON Plumbing, Heating & Air Mtech-Icon ICON Mechanical
	Satellite	4903 Commercial Park Dr Austin, Texas 78724		
	Satellite	10604 Sentinel S San Antonio, Texas 78217		
MJ Mechanical Services, Inc.	Principal Place of Business	95 Pirson Parkway Tonawanda, New York 14150	300 Fire Tower Drive, Tonawanda, New York 14150 2040 Military Road, Tonawanda, New York 14150	JM State Refrigeration Vastola Heating & Air Conditioning Northeast Mechanical
	Satellite	139 Sawyer Ave Depew, New York 14043	188 Creekside Drive Amherst, NY 14228	
North American Mechanical, Inc.	Principal Place of Business	4401 State Road 19 Windsor, Wisconsin 53598	6135 North American Lane, De Forest, Wisconsin 53532	Masterson Plumbing
	Satellite	2600 W. College Avenue, Ste 4, Appleton, Wisconsin 54914		

ENTITY NAME	ADDRESS TYPE	ADDRESS	PRIOR ADDRESSES	PRIOR NAMES & TRADE NAMES
OFF, LLC	Principal Place of Business	111 East Mildred Street Logansport, IN 46947		
Premier Prefabrication Solutions, LLC	Principal Place of Business	1505 W. Walnut Hill Lane Irving, Texas 75038	4375 Diplomacy Road Fort Worth, Texas 76155	
Quality Air Heating and Cooling, Inc.	Principal Place of Business	3395 Kraft Avenue, SE, Grand Rapids, Michigan 49512		Control Logic
	Satellite	2306 Winters Drive, Portage, Michigan 49002		
	Satellite	2501 Coolidge Road, Suite 501 East Lansing, Michigan 49002		
	Satellite	135 North State St Zeeland, Michigan 49464		
Riddleberger Brothers, Inc.	Principal Place of Business	6127 S. Valley Pike, Mount Crawford, Virginia 22841		
	Satellite	210 Prosperity Dr, Ste F Winchester, Virginia 22602		
Royalaire Holdings, LLC	Principal Place of Business	101 Dunbar Ave, Suite D, Oldsmar, Florida 34677		Royalaire Holdings, Inc.
Royalaire Mechanical Services, LLC	Principal Place of Business	101 Dunbar Ave, Suite D, Oldsmar, Florida 34677		Royalaire Mechanical Services, Inc.
Royalaire Mechanical Services II, LLC	Principal Place of Business	101 Dunbar Ave, Suite D, Oldsmar, Florida 34677		Royalaire Mechanical Services II, Inc.

ENTITY NAME	ADDRESS TYPE	ADDRESS	PRIOR ADDRESSES	PRIOR NAMES & TRADE NAMES
S.I. Goldman Company, Inc.	Principal Place of Business	799 Bennett Drive, Longwood, Florida 32750		
	Satellite	320 Melody Lane, Casselberry, Florida 32707		
	Satellite	4111 NW 6 <sup>th</sup> Street, Suite A Gainesville, Florida 32609		
	Satellite	150 Venetian Way, Stes 109 & 111 Merritt Island, Florida 32953		
S.M. Lawrence Company, Inc.	Principal Place of Business	1330 Murfreesboro Pike Nashville, Tennessee 37217	2311, 2312, 2319 Kline Avenue Nashville, Tennessee 37211	Comfort Systems USA (Tennessee), Inc. Dillingham & Smith Mechanical and Sheet Metal Contractors, Inc.
	Satellite	156 Main St., Collierville, Tennessee 38017		
	Satellite	245 Preston Street Jackson, Tennessee 38301		
Seasonair, Inc.	Principal Place of Business	16001-A Industrial Drive, Gaithersburg, Maryland 20877		

ENTITY NAME	ADDRESS TYPE	ADDRESS	PRIOR ADDRESSES	PRIOR NAMES & TRADE NAMES
ShoffnerKalthoff MES, Inc.	Principal Place of Business	3538, 3600 and 3626 Papermill Drive, Knoxville, Tennessee 37909		Shoffner Acquisition Corp. Shoffner Mechanical, Industrial & Service Company, Inc. ShoffnerKalthoff Mechanical Electrical Service, Inc. Shoffner Mechanical Services, Inc. SKMES, Inc. Mechanical Services of Knoxville, Inc. Kalthoff Fabricators, Inc.; Kalthoff, Inc.; Comfort Systems USA (Bristol), Inc.



ENTITY NAME	ADDRESS TYPE	ADDRESS	PRIOR ADDRESSES	PRIOR NAMES & TRADE NAMES
	Satellite	158 Lynn Road, Johnson City, Tennessee 37604		
	Satellite	1010 Wilder Place, Knoxville Tennessee 37915		
	Satellite	150 Glenn Bridge Road, Arden, North Carolina 28704		
	Satellite	811 Pocahontas Ave NW Roanoke, Virginia 24012		
	Satellite	294 Blevins Blvd. Bristol, Virginia 24202		
Temp Right Service, Inc.	Principal Place of Business	5818 Sandpiper Dr. Missoula, Montana 59808	101 North Catlin, Missoula, Montana 59801	Carson Brothers KTU of Spokane
	Satellite	1639 MT Highway 35, Kalispell, Montana 59901		
	Satellite	88 E. Westview Spokane, Washington 59901		
Trumbo Electric, Incorporated	Principal Place of Business	258 North Timber Way Broadway, Virginia 22815		
Walker Electrical Contractors, Inc.	Principal Place of Business	1505 W. Walnut Hill Lane Irving, Texas 75038	4375 Diplomacy Road Fort Worth, Texas 76155	
Walker Engineering, Inc.	Principal Place of Business	1505 W. Walnut Hill Lane Irving, Texas 75038	4375 Diplomacy Road Fort Worth, Texas 76155	

ENTITY NAME	ADDRESS TYPE	ADDRESS	PRIOR ADDRESSES	PRIOR NAMES & TRADE NAMES
	Satellite	7761 W. Little York Rd. Houston, Texas 77040		
	Satellite	8200 Cameron Rd., Suite 172A Austin, Texas 78754		
	Satellite	408 W Nakoma Dr. San Antonio, Texas 78258		
Walker Industrial, LLC d/b/a Walker Controls	Principal Place of Business	1505 W. Walnut Hill Lane Irving, Texas 75038	675 Bering, Suite 400 Houston, Texas 77057	
Walker Logistics, LLC	Principal Place of Business	1505 W. Walnut Hill Lane Irving, Texas 75038	4375 Diplomacy Road Fort Worth, Texas 76155	
Walker Service Group, LLC	Principal Place of Business	1505 W. Walnut Hill Lane Irving, Texas 75038	4375 Diplomacy Road Fort Worth, Texas 76155	
Walker TX Holding Company, LLC	Principal Place of Business	1505 W. Walnut Hill Lane Irving, Texas 75038	4375 Diplomacy Road Fort Worth, Texas 76155	

## SECTION 5.14 to SCHEDULE 5

**SUBSIDIARIES**

	<b>ENTITY NAME</b>	<b>JURISDICTION OF ORGANIZATION</b>	<b>FORMATION DATE</b>
1.	ACI Mechanical, Inc.	Delaware	06/26/1998
2.	ARC Comfort Systems USA, Inc.	Delaware	03/17/1998
3.	Armani East, LLC	New York	12/03/2018
4.	Accu-Temp GP, Inc.	Delaware	05/21/1998
5.	Accu-Temp LP, Inc.	Delaware	05/20/1998
6.	Acorn Industrial, LLC	North Carolina	01/03/1997
7.	Advance Technology, Inc.	Maine	08/09/1994
8.	Air Systems Engineering, Inc.	Washington	05/18/1973
9.	AirTemp, Inc.	Maine	10/15/1998
10.	Arstectum, Inc.	New Hampshire	02/17/2005
11.	BCH Holdings, Inc.	Florida	12/28/2004
12.	BCH Leasing, LLC	Florida	10/25/1990
13.	BCH Mechanical, L.L.C.	Florida	10/19/1976
14.	BCM Controls Corporation	Massachusetts	10/03/1984
15.	Billone West, LLC	New York	12/03/2018
16.	Blue C, LLC	Montana	01/01/2007
17.	Building Temperature Solutions, LLC	Indiana	10/27/2009
18.	California Comfort Systems USA, Inc.	California	05/18/1983
19.	ColonialWebb Contractors Company	Virginia	03/30/1972
20.	Comfort Systems USA (Arkansas), Inc.	Arkansas	03/17/1998
21.	Comfort Systems USA (Baltimore), LLC	Delaware	10/15/1998
22.	Comfort Systems USA G.P., Inc.	Delaware	08/12/1998
23.	Comfort Systems USA (Indiana), LLC	Indiana	06/08/2015
24.	Comfort Systems USA (Intermountain), Inc.	Utah	05/06/1969
25.	Comfort Systems USA (Kentucky), Inc.	Kentucky	02/10/1981
26.	Comfort Systems USA (MidAtlantic), LLC	Virginia	01/01/2010
27.	Comfort Systems USA (Mid South), Inc.	Alabama	08/06/1998
28.	Comfort Systems USA (Northwest), Inc.	Washington	02/14/1984
29.	Comfort Systems USA (Ohio), Inc.	Ohio	10/10/1979

	<b>ENTITY NAME</b>	<b>JURISDICTION OF ORGANIZATION</b>	<b>FORMATION DATE</b>
30.	Comfort Systems USA (South Central), Inc.	Texas	5/24/2007
31.	Comfort Systems USA (Southeast), Inc.	Delaware	03/24/1998
32.	Comfort Systems USA (Southwest), Inc.	Arizona	12/23/1997
33.	Comfort Systems USA Strategic Accounts, LLC	Indiana	07/28/1998
34.	Comfort Systems USA (Syracuse), Inc.	New York	03/08/1965
35.	Comfort Systems USA (Texas), L.P.	Texas	08/14/1998
36.	Conserv Building Services, LLC	Florida	01/05/2005
37.	Conserv Building Services of Alabama, LLC	Alabama	12/28/2012
38.	Conserv Building Services of Georgia, LLC	Georgia	11/04/2008
39.	Conserv Building Services of North Carolina, LLC	North Carolina	03/22/2010
40.	Conserv Building Services of Tennessee, LLC	Tennessee	01/07/2010
41.	Conserv Building Services of Texas, LLC	Texas	12/22/2010
42.	Control Concepts, LLC	Georgia	12/16/1996
43.	Control Concepts Mechanical Services, LLC	Georgia	01/17/2008
44.	CSUSA (10), LLC	North Carolina	10/21/2011
45.	Delcard Associates, LLC	Delaware	06/23/2000
46.	Design Mechanical Incorporated	Colorado	10/30/1997
47.	Dilling, LLC	Indiana	12/29/1998
48.	Dilling Group, Inc.	Indiana	12/14/1984
49.	Dilling Group Leasing Co., LLC d/b/a GRP Leasing Co., LLC	Indiana	07/28/2016
50.	Dyna Ten Corporation	Texas	06/26/1980
51.	Dyna Ten Maintenance Services, LLC	Texas	08/07/2006
52.	Eastern Heating & Cooling, Inc.	New York	12/19/1988
53.	Environmental Air Systems, LLC	North Carolina	10/07/2011
54.	Envirotrol, LLC	North Carolina	10/07/2011
55.	F.W. Dilling, LLC	Indiana	12/06/1999
56.	Genorex, LLC	Indiana	12/20/2017
57.	Granite State Holdings Company, Inc.	Delaware	11/02/2005
58.	Granite State Plumbing & Heating, LLC	New Hampshire	07/31/2001
59.	Hess Mechanical, LLC	Maryland	01/07/2016
60.	Mechanical Technical Services, Inc.	Texas	05/24/2007
61.	MJ Comfort Plumbing, LLC	New York	09/16/2014
62.	MJ Mechanical Services, Inc.	Virginia	12/12/1997

	<b>ENTITY NAME</b>	<b>JURISDICTION OF ORGANIZATION</b>	<b>FORMATION DATE</b>
63.	North American Mechanical, Inc.	Delaware	03/17/1998
64.	OFF, LLC	Indiana	11/22/2002
65.	Premier Prefabrication Solutions, LLC	Texas	01/16/2018
66.	Quality Air Heating and Cooling, Inc.	Michigan	09/10/1980
67.	Riddleberger Brothers, Inc.	Virginia	12/22/1958
68.	Royalair Holdings, LLC	Florida	10/04/2006
69.	Royalair Mechanical Services, LLC	Florida	09/12/2006
70.	Royalair Mechanical Services II, LLC	Florida	09/27/2010
71.	S.I. Goldman Company, Inc.	Florida	10/04/1976
72.	S.M. Lawrence Company, Inc.	Tennessee	03/08/1973
73.	Seasonair, Inc.	Maryland	10/28/1966
74.	ShoffnerKalthoff MES, Inc.	Tennessee	08/15/2005
75.	Temp Right Service, Inc.	Delaware	09/25/1997
76.	Trumbo Electric, Incorporated	Virginia	06/02/1996
77.	Walker Electrical Contractors, Inc.	Texas	03/23/2010
78.	Walker Engineering Contractors, Inc.	Texas	01/29/2002
79.	Walker Industrial LLC d/b/a Walker Controls	Texas	12/12/2014
80.	Walker Logistics, LLC	Texas	01/10/2013
81.	Walker Service Group, LLC	Texas	03/14/2013
82.	Walker TX Holding Company, LLC	Texas	05/13/2013

**SCHEDULE I**  
**to**  
**SECOND AMENDED AND RESTATED SECURITY AGREEMENT**

**Filing Jurisdictions**

**COMFORT SYSTEMS USA, INC. – GRANTORS**

	<b>ENTITY NAME</b>	<b>DOMESTIC JURISDICTION</b>	<b>FORMATION DATE</b>
1.	Comfort Systems USA, Inc. 675 Bering Drive, Suite 400 Houston, Texas 77057	Delaware	12/12/1996
2.	Accu-Temp GP, Inc. 675 Bering, Suite 400 Houston, TX 77057	Delaware	05/21/1998
3.	Accu-Temp LP, Inc. 675 Bering, Suite 400 Houston, TX 77057	Delaware	05/20//1998
4.	ACI Mechanical, Inc. 2182 231st Lane Ames, IA 50014	Delaware	06/26/1998
5.	Acorn Industrial, LLC 7311 ACC Boulevard Raleigh, NC 27617	North Carolina	01/03/1997
6.	Advance Technology, Inc. 4 Washington Avenue Scarborough, ME 04074	Maine	08/09/1994
7.	Air Systems Engineering, Inc. 3602 South Pine Street Tacoma, WA 98409	Washington	05/18/1973
8.	Airtemp, Inc. 20 Thomas Drive Westbook, ME 04092	Maine	10/15/1998
9.	ARC Comfort Systems USA, Inc. 675 Bering, Suite 400 Houston, TX 77057	Delaware	03/17/1998
10.	Arstectum, Inc. 4 Washington Avenue Scarborough, ME 04074	New Hampshire	02/17/2005
11.	BCH Holdings, Inc. 6350/6354/6360 118th Ave N. Largo, FL 33773	Florida	12/28/2004
12.	BCH Leasing, LLC 6350/6354/6360 118th Ave N. Largo, FL 33773	Florida	10/25/1990

	ENTITY NAME	DOMESTIC JURISDICTION	FORMATION DATE
13.	BCH Mechanical, L.L.C. 6350/6354/6360 118th Ave N. Largo, FL 33773	Florida	10/19/1976
14.	BCM Controls Corporation 30 Commerce Way Woburn, MA 01801	Massachusetts	10/03/1984
15.	Building Temperature Solutions, LLC 9326 Yeager Drive Fort Wayne, IN 46809	Indiana	10/27/2009
16.	California Comfort Systems USA, Inc. 7740 Kenamar Court San Diego, CA 92121	California	05/18/1983
17.	ColonialWebb Contractors Company 2820 Ackley Avenue Richmond, VA 23228	Virginia	03/30/1972
18.	Comfort Systems USA (Arkansas), Inc. 4806 Rixey Road North Little Rock, AR 72117	Arkansas	03/17/1998
19.	Comfort Systems USA (Baltimore), LLC 675 Bering Drive, Suite 400 Houston, TX 77057	Delaware	10/15/1998
20.	Comfort Systems USA G.P., Inc. 675 Bering, Suite 400 Houston, TX 77057	Delaware	08/12/1998
21.	Comfort Systems USA (Indiana), LLC 2701 Fortune Circle East, Suites F & G Indianapolis, Indiana 46241	Indiana	06/08/2015
22.	Comfort Systems USA (Intermountain), Inc. 2035 S. Milestone Drive Salt Lake City, UT 84104	Utah	05/06/1969
23.	Comfort Systems USA (Kentucky), Inc. 3405 Robards Court Louisville, KY 40218	Kentucky	02/10/1981
24.	Comfort Systems USA (MidAtlantic), LLC 1057 Bill Tuck Highway South Boston, VA 24592	Virginia	01/01/2010

	ENTITY NAME	DOMESTIC JURISDICTION	FORMATION DATE
25.	Comfort Systems USA (Mid South), Inc. 3100 Richard Arrington Jr. Blvd. North Birmingham, AL 35203	Alabama	08/06/1998
26.	Comfort Systems USA (Northwest), Inc. 18702 North Creek Parkway, Suite 110 Bothell, WA 98011	Washington	02/14/1984
27.	Comfort Systems USA (Ohio), Inc. 7401 First Place Oakwood Village, OH 44146	Ohio	10/10/1979
28.	Comfort Systems USA (South Central), Inc. 9745 Bent Oak Drive Houston, TX 77040	Texas	05/24/2007
29.	Comfort Systems USA (Southeast), Inc. 7281 Plantation Rd, Suite 100 & 101, Pensacola, Florida 32504	Delaware	03/24/1998
30.	Comfort Systems USA (Southwest), Inc. 6875 W. Galveston Chandler, AZ 85226	Arizona	12/23/1977
31.	Comfort Systems USA Strategic Accounts, LLC 2655 Fortune Circle West, Suite E Indianapolis, IN 46241	Indiana	07/28/1998
32.	Comfort Systems USA (Syracuse), Inc. 6500 New Venture Gear Drive East Syracuse, NY 13057	New York	03/08/1965
33.	Comfort Systems USA (Texas), L.P. 675 Bering, Suite 400 Houston, TX 77057	Texas	08/14/1998
34.	ConServ Building Services, LLC 206 Reece Way Ste 1542 Casselberry, Florida 32707	Florida	01/05/2005
35.	ConServ Building Services of Alabama, LLC 1025 County Road 6 Piedmont, AL 36272	Alabama	12/28/2012



	ENTITY NAME	DOMESTIC JURISDICTION	FORMATION DATE
36.	ConServ Building Services of Georgia, LLC 456 Ethan Drive Fayetteville, GA 30214	Georgia	11/04/2008
37.	ConServ Building Services of North Carolina, LLC 2803 Gray Fox Road Indian Trail, NC 28079	North Carolina	03/22/2010
38.	ConServ Building Services of Tennessee, LLC 1330 Murfreesboro Pike Nashville, TN 37217	Tennessee	01/07/2010
39.	ConServ Building Services of Texas, LLC 5301 Big Six Street Alvarado, TX 76009	Texas	12/22/2010
40.	Control Concepts, LLC 3550 North Parkway, Suite 100 Cumming, GA 30040	Georgia	12/16/1996
41.	Control Concepts Mechanical Services, LLC 3550 North Parkway, Suite 100 Cumming, GA 30040	Georgia	01/17/2008
42.	CSUSA (10), LLC 675 Bering Drive, Suite 400 Houston, Texas 77057	North Carolina	10/21/2011
43.	Delcard Associates, LLC 675 Bering, Suite 400 Houston, TX 77057	Delaware	06/23/2000
44.	Design Mechanical Incorporated 168 CTC Blvd., Suite #D Louisville, CO 80027	Colorado	10/30/1997
45.	Dilling, LLC 111 East Mildred Street Logansport, IN 46947	Indiana	12/29/1998
46.	Dilling Group, Inc. 111 East Mildred Street Logansport, IN 46947	Indiana	12/14/1984
47.	Dilling Group Leasing Co., LLC d/b/a GRP Leasing Co., LLC 111 East Mildred Street Logansport, IN 46947	Indiana	07/28/2016
48.	Dyna Ten Corporation 4375 Diplomacy Road Fort Worth, TX 76155	Texas	06/26/1980

	ENTITY NAME	DOMESTIC JURISDICTION	FORMATION DATE
49.	Dyna Ten Maintenance Services, LLC 4375 Diplomacy Road Fort Worth, TX 76155	Texas	08/07/2006
50.	Eastern Heating & Cooling, Inc. 880 Broadway Albany, NY 12207-1316	New York	12/19/1988
51.	Environmental Air Systems, LLC 250 Swathmore Ave High Point, North Carolina, 27263	North Carolina	10/07/2011
52.	Envirotrol, LLC 114 Landmark Drive Greensboro, North Carolina 27409	North Carolina	10/27/2011
53.	F.W. Dilling, LLC 111 East Mildred Street Logansport, IN 46947	Indiana	12/06/1999
54.	Generex, LLC 3403 East Washington Boulevard Fort Wayne, IN 46803	Indiana	12/20/2017
55.	Granite State Holdings Company, Inc. 17 Oil Mill Rd Weare, New Hampshire 03281	Delaware	11/02/2005
56.	Granite State Plumbing & Heating, LLC 17 Oil Mill Rd Weare, New Hampshire 03281	New Hampshire	07/31/2001
57.	Hess Mechanical, LLC 9600 Fallard Court Upper Marlboro, MD 20772-6703	Maryland	01/07/2016
58.	Mechanical Technical Services, Inc. 1720 Royston Lane Round Rock, TX 78664	Texas	05/24/2007
59.	MJ Mechanical Services, Inc. 95 Pirson Parkway Tonawanda, New York 14150	Virginia	12/12/1997
60.	North American Mechanical, Inc. 4401 State Road 19 Windsor, WI 53598	Delaware	03/17/1998

	ENTITY NAME	DOMESTIC JURISDICTION	FORMATION DATE
61.	OFF, LLC 111 East Mildred Street Logansport, IN 46947	Indiana	11/22/2002
62.	Premier Prefabrication Solutions, LLC 1505 W. Walnut Hill Lane Irving, Texas 75038	Texas	01/16/2018
63.	Quality Air Heating & Cooling, Inc. 3395 Kraft Avenue, SE Grand Rapids, MI 49512	Michigan	09/10/1980
64.	Riddleberger Brothers, Inc. 6127 S. Valley Pike Mount Crawford, VA 22841	Virginia	12/22/1958
65.	Royalair Holdings, LLC 101 Dunbar Ave, Suite D Oldsmar, FL 34677	Florida	10/04/2006
66.	Royalair Mechanical Services, LLC 101 Dunbar Ave, Suite D Oldsmar, FL 34677	Florida	09/12/2006
67.	Royalair Mechanical Services II, LLC 101 Dunbar Ave, Suite D Oldsmar, FL 34677	Florida	09/27/2010
68.	S.I. Goldman Company, Inc. 799 Bennett Drive Longwood, FL 32750	Florida	10/04/1976
69.	S.M. Lawrence Company, Inc. 1330 Murfreesboro Pike Nashville, Tennessee 37217	Tennessee	03/08/1973
70.	Seasonair, Inc. 16001-A Industrial Drive Gaithersburg, MD 20877	Maryland	10/28/1966
71.	ShoffnerKalthoff MES, Inc. 3538, 3600 and 3626 Papermill Drive Knoxville, Tennessee 37909	Tennessee	08/18/2005
72.	Temp Right Service, Inc. 5818 Sandpiper Dr. Missoula, Montana 59808	Delaware	09/25/1997
73.	Trumbo Electric, Incorporated 258 North Timber Way Broadway, Virginia 22815	Virginia	06/02/1996
74.	Walker Electrical Contractors, Inc. 1505 W. Walnut Hill Lane Irving, Texas 75038	Texas	03/23/2010

	<b>ENTITY NAME</b>	<b>DOMESTIC JURISDICTION</b>	<b>FORMATION DATE</b>
75.	Walker Engineering, Inc. 1505 W. Walnut Hill Lane Irving, Texas 75038	Texas	01/29/2002
76.	Walker Industrial, LLC d/b/a Walker Controls 1505 W. Walnut Hill Lane Irving, Texas 75038	Texas	12/12/2014
77.	Walker Logistics, LLC 1505 W. Walnut Hill Lane Irving, Texas 75038	Texas	01/10/2013
78.	Walker Service Group, LLC 1505 W. Walnut Hill Lane Irving, Texas 75038	Texas	03/14/2013
79.	Walker TX Holding Company, LLC 1505 W. Walnut Hill Lane Irving, Texas 75038	Texas	05/13/2013

**SCHEDULE III**  
**to**  
**SECOND AMENDED AND RESTATED SECURITY AGREEMENT**

**Schedule of Organizational Identification, Offices, Locations of Collateral and Records Concerning Collateral**

	<b>Grantor Official Name, Address of Principal Place of Business and Location of Records of Collateral</b>	<b>State of Organization</b>	<b>Entity Type</b>	<b>Charter/ID Number</b>	<b>Prior Names &amp; Trade Names</b>
1.	Comfort Systems USA, Inc. 675 Bering Drive, Suite 400, Houston, Texas 77057	Delaware	Corporation	2693796	
2.	Accu-Temp GP, Inc. 675 Bering, Suite 400 Houston, TX 77057	Delaware	Corporation	2898499	
3.	Accu-Temp LP, Inc. 675 Bering, Suite 400 Houston, TX 77057	Delaware	Corporation	2898748	
4.	ACI Mechanical, Inc. 2182 231 <sup>st</sup> Lane Ames, IA 50014	Delaware	Corporation	2913899	
5.	Acorn Industrial, LLC 7311 ACC Boulevard Raleigh, NC 27617	North Carolina	Limited Liability Company	0414387	
6.	Advance Technology, Inc. 4 Washington Avenue Scarborough, ME 04074	Maine	Corporation	19950235 D	
7.	Air Systems Engineering, Inc. 3602 South Pine Street Tacoma, WA 98409	Washington	Corporation	600099211	
8.	AIRTEMP, INC. 20 Thomas Drive Westbook, Main 04092	Maine	Corporation	20130432D	
9.	ARC Comfort Systems USA, Inc. 675 Bering, Suite 400 Houston, TX 77057	Delaware	Corporation	2872674	

	<b>Grantor Official Name, Address of Principal Place of Business and Location of Records of Collateral</b>	<b>State of Organization</b>	<b>Entity Type</b>	<b>Charter/ID Number</b>	<b>Prior Names &amp; Trade Names</b>
10.	Arstectum, Inc. 4 Washington Avenue Scarborough, ME 04074	New Hampshire	Corporation	531921	
11.	BCH Holdings, Inc. 6350/6354/6360 118th Ave N. Largo, FL 33773	Florida	Corporation	P04000172299	
12.	BCH Leasing, LLC 6350/6354/6360 118th Ave N. Largo, FL 33773	Florida	Limited Liability Company	L17000066187	BCH Leasing, Corp.
13.	BCH Mechanical, L.L.C. 6350/6354/6360 118th Ave N. Largo, FL 33773	Florida	Limited Liability Company	L17000066199	BCH Mechanical, Inc.
14.	BCM Controls Corporation 30 Commerce Way Woburn, MA 01801	Massachusetts	Corporation	042842193	
15.	Building Temperature Solutions, LLC 9326 Yeager Drive Fort Wayne, IN 46809	Indiana	Limited Liability Company	2009102800156	
16.	California Comfort Systems USA, Inc. 7740 Kenamar Court San Diego, CA 92121	California	Corporation	1201196	TCP Company
17.	ColonialWebb Contractors Company 2820 Ackley Avenue Richmond, VA 23228	Virginia	Corporation	0137512-0	Comfort Systems USA (Carolinas), LLC
18.	Comfort Systems USA (Arkansas), Inc. 4806 Rixey Road North Little Rock, AR 72117	Arkansas	Corporation	811120406	
19.	Comfort Systems USA (Baltimore), LLC 675 Bering Drive, Suite 400 Houston, TX 77057	Delaware	Limited Liability Company	2955787	

	<b>Grantor Official Name, Address of Principal Place of Business and Location of Records of Collateral</b>	<b>State of Organization</b>	<b>Entity Type</b>	<b>Charter/ID Number</b>	<b>Prior Names &amp; Trade Names</b>
20.	Comfort Systems USA G.P., Inc. 675 Bering, Suite 400 Houston, TX 77057	Delaware	Corporation	2932812	
21.	Comfort Systems USA (Indiana), LLC 2701 Fortune Circle East, Suites F & G Indianapolis, Indiana 46241	Indiana	Limited Liability Company	2015060800753	
22.	Comfort Systems USA (Intermountain), Inc. 2035 S. Milestone Drive Salt Lake City, UT 84104	Utah	Corporation	04982	Contract Services; Martin Heating & Cooling; Cox Precision Air
23.	Comfort Systems USA (Kentucky), Inc. 3405 Robards Court Louisville, KY 40218	Kentucky	Corporation	0153687	MELCO Industries, Inc.
24.	Comfort Systems USA (MidAtlantic), LLC 1057 Bill Tuck Highway South Boston, VA 24592	Virginia	Limited Liability Company	S313150-7	
25.	Comfort Systems USA (Mid South), Inc. 3100 Richard Arrington Jr. Blvd. North Birmingham, AL 35203	Alabama	Corporation	912-998	The Capital Refrigeration Company; MidSouth Controls LLC; Huntsville Refrigeration Service; H & M Mechanical, Inc.
26.	Comfort Systems USA (Northwest), Inc. 18702 North Creek Parkway, Suite 110 Bothell, WA 98011	Washington	Corporation	600517946	Merit Mechanical, Inc.
27.	Comfort Systems USA (Ohio), Inc. 7401 First Place Oakwood Village, OH 44146	Ohio	Corporation	543269	Innovative Energy Solutions, LLC
28.	Comfort Systems USA (South Central), Inc. 9745 Bent Oak Drive Houston, TX 77040	Texas	Corporation	801702880	Atlas Comfort Systems USA

	<b>Grantor Official Name, Address of Principal Place of Business and Location of Records of Collateral</b>	<b>State of Organization</b>	<b>Entity Type</b>	<b>Charter/ID Number</b>	<b>Prior Names &amp; Trade Names</b>
29.	Comfort Systems USA (Southeast), Inc. 7281 Plantation Rd, Suite 100 & 101, Pensacola, Florida 32504	Delaware	Corporation	2875705	Batchelor's Mechanical Contractors; Control Concepts, Inc.
30.	Comfort Systems USA (Southwest), Inc. 6875 W. Galveston Chandler, AZ 85226	Arizona	Corporation	113419	Tri-City Mechanical, Inc.; Air Management Services, Inc.; Commercial Mechanical Service, Inc.
31.	Comfort Systems USA Strategic Accounts, LLC 2655 Fortune Circle West, Suite E Indianapolis, IN 46241	Indiana	Limited Liability Company	1998071673	Comfort Systems USA National Accounts, LLC
32.	Comfort Systems USA (Syracuse), Inc. 6500 New Venture Gear Drive East Syracuse, NY 13057	New York	Corporation	N/A	Armani Plumbing & Mechanical; ABJ Fire Protection Company; Woodcock & Armani; Billone Mechanical Contractors
33.	Comfort Systems USA (Texas), L.P. 675 Bering, Suite 400 Houston, TX 77057	Texas	Limited Partnership	00111578-10	
34.	ConServ Building Services, LLC 206 Reece Way Ste 1542 Casselberry, Florida 32707	Florida	Limited Liability Company	L17000066222	ConServ Building Services, Inc.
35.	ConServ Building Services of Alabama, LLC 1025 County Road 6 Piedmont, AL 36272	Alabama	Limited Liability Company	271-625	ConServ Building Services of Alabama, Inc.
36.	ConServ Building Services of Georgia, LLC 456 Ethan Drive Fayetteville, GA 30214	Georgia	Limited Liability Company	08083393	ConServ Building Services of Georgia, Inc.



	<b>Grantor Official Name, Address of Principal Place of Business and Location of Records of Collateral</b>	<b>State of Organization</b>	<b>Entity Type</b>	<b>Charter/ID Number</b>	<b>Prior Names &amp; Trade Names</b>
37.	ConServ Building Services of North Carolina, LLC 2803 Gray Fox Road Indian Trail, NC 28079	North Carolina	Limited Liability Company	1141416	ConServ Building Services of North Carolina, Inc.
38.	ConServ Building Services of Tennessee, LLC 1330 Murfreesboro Pike Nashville, TN 37217	Tennessee	Limited Liability Company	000621466	ConServ Building Services of Tennessee, Inc.
39.	ConServ Building Services of Texas, LLC 5301 Big Six Street Alvarado, TX 76009	Texas	Limited Liability Company	801221549	ConServ Building Services of Texas, Inc.
40.	Control Concepts, LLC 3550 North Parkway, Suite 100 Cumming, GA 30040	Georgia	Limited Liability Company	12058032	Control Concepts, Inc.
41.	Control Concepts Mechanical Services, LLC 3550 North Parkway, Suite 100 Cumming, GA 30040	Georgia	Limited Liability Company	12058034	Control Concepts Mechanical Services, Inc.
42.	CSUSA (10), LLC 675 Bering Drive, Suite 400 Houston, Texas 77057	North Carolina	Limited Liability Company	1226798	
43.	Delcard Associates, LLC 675 Bering, Suite 400 Houston, TX 77057	Delaware	Limited Liability Company	3250401	
44.	Design Mechanical Incorporated 168 CTC Blvd., Suite #D Louisville, CO 80027	Colorado	Corporation	20031376007	Rocky Mountain Mechanical Systems, Inc.; Breckenridge Mechanical, Inc.
45.	Dilling, LLC 111 East Mildred Street Logansport, IN 46947	Indiana	Limited Liability Company	1998122135	

	<b>Grantor Official Name, Address of Principal Place of Business and Location of Records of Collateral</b>	<b>State of Organization</b>	<b>Entity Type</b>	<b>Charter/ID Number</b>	<b>Prior Names &amp; Trade Names</b>
46.	Dilling Group, Inc. 111 East Mildred Street Logansport, IN 46947	Indiana	Corporation	198412-480	
47.	Dilling Group Leasing Co., LLC d/b/a GRP Leasing Co., LLC 111 East Mildred Street Logansport, IN 46947	Indiana	Limited Liability Company	201607281151889	GRP Leasing Co., LLC
48.	Dyna Ten Corporation 4375 Diplomacy Road Fort Worth, TX 76155	Texas	Corporation	00523341-00	
49.	Dyna Ten Maintenance Systems, LLC 4375 Diplomacy Road Fort Worth, TX 76155	Texas	Limited Liability Company	800690724	
50.	Eastern Heating & Cooling, Inc. 880 Broadway Albany, NY 12207-1316	New York	Corporation	N/A	
51.	Environmental Air Systems, LLC 250 Swathmore Ave High Point, North Carolina, 27263	North Carolina	Limited Liability Company	1224823	EAS Holdings, LLC
52.	Envirotrol, LLC 114 Landmark Drive Greensboro, North Carolina 27409	North Carolina	Limited Liability Company	1227732	Envirotrol Holdings, LLC
53.	F.W. Dilling, LLC 111 East Mildred Street Logansport, IN 46947	Indiana	Limited Liability Company	1999121400186	
54.	Generex, LLC 3403 East Washington Boulevard Fort Wayne, IN 46803	Indiana	Limited Liability Company	201712201229533	Generex, Inc.
55.	Granite State Holdings Company, Inc. 17 Oil Mill Rd Weare, New Hampshire 03281	Delaware	Corporation	4054936	

	<b>Grantor Official Name, Address of Principal Place of Business and Location of Records of Collateral</b>	<b>State of Organization</b>	<b>Entity Type</b>	<b>Charter/ID Number</b>	<b>Prior Names &amp; Trade Names</b>
56.	Granite State Plumbing & Heating, LLC 17 Oil Mill Rd Weare, New Hampshire 03281	New Hampshire	Limited Liability Company	382434	Delta Mechanical
57.	Hess Mechanical, LLC 9600 Fallard Court Upper Marlboro, MD 20772-6703	Maryland	Limited Liability Company	2872661	Hess Mechanical Corporation
58.	Mechanical Technical Services, Inc. 1720 Royston Lane Round Rock, TX 78664	Texas	Corporation	801702874	MTECH; ICON Plumbing, Heating & Air; Mtech-Icon; ICON Mechanical
59.	MJ Mechanical Services, Inc. 95 Pirson Parkway Tonawanda, New York 14150	Virginia	Corporation	08122939	JM State Refrigeration; Vastola Heating & Air Conditioning; Northeast Mechanical
60.	North American Mechanical, Inc. 4401 State Road 19 Windsor, WI 53598	Delaware	Corporation	2872663	Masterson Plumbing
61.	OFF, LLC 111 East Mildred Street Logansport, IN 46947	Indiana	Limited Liability Company	2002120600674	
62.	Premier Prefabrication Solutions, LLC 1505 W. Walnut Hill Lane Irving, Texas 75038	Texas	Limited Liability Company	802907697	
63.	Quality Air Heating & Cooling, Inc. 3395 Kraft Avenue, SE Grand Rapids, MI 49512	Michigan	Corporation	233-444	Control Logic
64.	Riddleberger Brothers, Inc. 6127 S. Valley Pike Mount Crawford, VA 22841	Virginia	Corporation	0081890	
65.	Royalair Holdings, LLC 101 Dunbar Ave, Suite D Oldsmar, FL 34677	Florida	Limited Liability Company	L17000064530	Royalair Holdings, Inc.

	<b>Grantor Official Name, Address of Principal Place of Business and Location of Records of Collateral</b>	<b>State of Organization</b>	<b>Entity Type</b>	<b>Charter/ID Number</b>	<b>Prior Names &amp; Trade Names</b>
66.	Royalaire Mechanical Services, LLC 101 Dunbar Ave, Suite D Oldsmar, FL 34677	Florida	Limited Liability Company	L17000064523	Royalaire Mechanical Services, Inc.
67.	Royalaire Mechanical Services II, LLC 101 Dunbar Ave, Suite D Oldsmar, FL 34677	Florida	Limited Liability Company	L1000064517	Royalaire Mechanical Services II, Inc.
68.	S.I. Goldman Company, Inc. 799 Bennett Drive Longwood, FL 32750	Florida	Corporation	515751	
69.	S.M. Lawrence Company, Inc. 1330 Murfreesboro Pike Nashville, Tennessee 37217	Tennessee	Corporation	000018143	Comfort Systems USA (Tennessee), Inc.; Dillingham & Smith Mechanical and Sheet Metal Contractors, Inc.
70.	Seasonair, Inc. 16001-A Industrial Drive Gaithersburg, MD 20877	Maryland	Corporation	D0193599	
71.	ShoffnerKalthoff MES, Inc.3538, 3600 and 3626 Papermill Drive Knoxville, Tennessee 37909	Tennessee	Corporation	000500444	Shoffner Acquisition Corp.; Shoffner Mechanical, Industrial & Service Company, Inc.; ShoffnerKalthoff Mechanical Electrical Service, Inc.; Shoffner Mechanical Services, Inc.; SKMES, Inc.; Mechanical Services of Knoxville, Inc.; Kalthoff Fabricators, Inc.; Kalthoff, Inc.
72.	Temp Right Service, Inc. 5818 Sandpiper Dr Missoula, Montana 59808	Delaware	Corporation	2800213	Carson Brothers; KTU of Spokane

	<b>Grantor Official Name, Address of Principal Place of Business and Location of Records of Collateral</b>	<b>State of Organization</b>	<b>Entity Type</b>	<b>Charter/ID Number</b>	<b>Prior Names &amp; Trade Names</b>
73.	Trumbo Electric, Incorporated 258 North Timber Way Broadway, Virginia 22815	Virginia	Corporation	SCC11- 3M02023066	
74.	Walker Electrical Contractors, Inc. 1505 W. Walnut Hill Lane Irving, Texas 75038	Texas	Corporation	801247127	
75.	Walker Engineering, Inc. 1505 W. Walnut Hill Lane Irving, Texas 75038	Texas	Corporation	800050289	
76.	Walker Industrial, LLC 1505 W. Walnut Hill Lane Irving, Texas 75038	Texas	Limited Liability Company	802117447	Walker Controls
77.	Walker Logistics, LLC 1505 W. Walnut Hill Lane Irving, Texas 75038	Texas	Limited Liability Company	801715098	
78.	Walker Service Group, LLC 1505 W. Walnut Hill Lane Irving, Texas 75038	Texas	Limited Liability Company	801749867	
79.	Walker TX Holding Company, LLC 1505 W. Walnut Hill Lane Irving, Texas 75038	Texas	Limited Liability Company	801782898	Walker Tx Holding Company, Inc.

**SCHEDULE I**  
to  
**SECOND AMENDED AND RESTATED PLEDGE AGREEMENT**

Part A  
Pledged Shares

	<b>Pledged Entity</b>	<b>Class of Common Stock</b>	<b>Stock Certificate Number(s)</b>	<b>Number of Shares</b>	<b>Pledgor(s)/Percentage of Outstanding Shares</b>
1.	Accu-Temp GP, Inc.	Common	CS1	100	100% of shares owned by Borrower
2.	Accu-Temp LP, Inc.	Common	CS1	100	100% of shares owned by Borrower
3.	ACI Mechanical, Inc.	Common	CS1	100	100% of shares owned by Borrower
4.	Acorn Industrial, LLC	Common	N/A	N/A	100% of member interest – Comfort Systems USA (MidAtlantic), LLC
5.	Advance Technology, Inc.	Common	1	4,669	100% of shares owned by BCM Controls Corporation
6.	Air Systems Engineering, Inc.	Common	CS1	100	100% of shares owned by Borrower
7.	AIRTEMP, INC.	Common	CS1	100	100% of shares owned by Borrower
8.	ARC Comfort Systems USA, Inc.	Common	CS1	100	100% of shares owned by Borrower
9.	Arstectum, Inc.	Common	1	300	100% of shares owned by Advance Technology, Inc.
10.	BCH Holdings, Inc.	Common	41	10,000,000	100% of shares owned by Borrower
11.	BCH Leasing, LLC	N/A	N/A	N/A	100% member interest – BCH Holdings, Inc.
12.	BCH Mechanical, L.L.C.	N/A	N/A	N/A	100% member interest – BCH Holdings, Inc.
13.	BCM Controls Corporation	Common	CS1	100	100% of shares owned by Borrower
14.	Building Temperature Solutions, LLC	N/A	N/A	N/A	100% of member interest – Dilling Group, Inc.
15.	California Comfort Systems USA, Inc.	Common	CS1	100	100% of shares owned by Borrower
16.	ColonialWebb Contractors Company	Common	CS1	100	100% of shares owned by Borrower

	<b>Pledged Entity</b>	<b>Class of Common Stock</b>	<b>Stock Certificate Number(s)</b>	<b>Number of Shares</b>	<b>Pledgor(s)/Percentage of Outstanding Shares</b>
17.	Comfort Systems USA (Arkansas), Inc.	Common	CS1	100	100% of shares owned by Borrower
18.	Comfort Systems USA (Baltimore), LLC	N/A	N/A	N/A	100% member interest – Hess Mechanical, LLC
19.	Comfort Systems USA G.P., Inc.	Common	CS1	100	100% of shares owned by Borrower
20.	Comfort Systems USA (Indiana), LLC	Common	N/A	N/A	100% of membership interest – Comfort Systems USA Strategic Accounts, LLC
21.	Comfort Systems USA (Intermountain), Inc.	Common	CS1	100	100% of shares owned by Borrower
22.	Comfort Systems USA (Kentucky), Inc.	Common	CS1	100	100% of shares owned by Borrower
23.	Comfort Systems USA (MidAtlantic), LLC	N/A	N/A	N/A	100% member interest – Riddleberger Brothers, Inc.
24.	Comfort Systems USA (Mid South), Inc.	Common	CS1	100	100% of shares owned by Borrower
25.	Comfort Systems USA (Northwest), Inc. (formerly known as Merit Mechanical, Inc.)	Common	CS1	100	100% of shares owned by Borrower
26.	Comfort Systems USA (Ohio), Inc.	Common	CS1	100	100% of shares owned by Borrower
27.	Comfort Systems USA (South Central), Inc.	Common	CS1	100	100% of shares owned by Borrower
28.	Comfort Systems USA (Southeast), Inc.	Common	CS1	100	100% of shares owned by Borrower
29.	Comfort Systems USA (Southwest), Inc.	Common	CS1	100	100% of shares owned by Borrower
30.	Comfort Systems USA Strategic Accounts, LLC	Common	N/A	N/A	1% membership interest of Accu-Temp GP, Inc. 99% membership interest of Accu-Temp LP, Inc.

	<b>Pledged Entity</b>	<b>Class of Common Stock</b>	<b>Stock Certificate Number(s)</b>	<b>Number of Shares</b>	<b>Pledgor(s)/Percentage of Outstanding Shares</b>
31.	Comfort Systems USA (Syracuse), Inc.	Common	CS1	100	100% of shares owned by Borrower
32.	Comfort Systems USA (Texas), L.P.	N/A	N/A	N/A	1% general partner interest – Comfort Systems USA GP, Inc. 99% limited partner interest – Tri-City Mechanical, Inc.
33.	Control Concepts, LLC	Common	N/A	N/A	100% of member interest – Comfort Systems USA (Southeast), Inc.
34.	ConServ Building Services, LLC	N/A	N/A	N/A	100% member interest – BCH Holdings, Inc.
35.	ConServ Building Services of Alabama, LLC	N/A	N/A	N/A	100% member interest – BCH Holdings, Inc.
36.	ConServ Building Services of Georgia, LLC	N/A	N/A	N/A	100% member interest – BCH Holdings, Inc.
37.	ConServ Building Services of North Carolina, LLC	N/A	N/A	N/A	100% member interest – BCH Holdings, Inc.
38.	ConServ Building Services of Tennessee, LLC	N/A	N/A	N/A	100% member interest – BCH Holdings, Inc.
39.	ConServ Building Services of Texas, LLC	N/A	N/A	N/A	100% member interest – BCH Holdings, Inc.
40.	Control Concepts Mechanical Services, LLC	Common	N/A	N/A	100% of member interest – Comfort Systems USA (Southeast), Inc.
41.	CSUSA (10), LLC	Common	N/A	N/A	100% of membership interest – Comfort Systems USA, Inc.
42.	Delcard Associates, LLC	N/A	N/A	N/A	100% of member interest – Seasonair, Inc.
43.	Design Mechanical Incorporated	Common	CS1	100	100% of shares owned by Borrower
44.	Dilling, LLC	N/A	N/A	N/A	100% of member interest – Dilling Group, Inc.
45.	Dilling Group, Inc.	Common	4	120.7174	100% of shares owned by Borrower
46.	Dilling Group Leasing Co., LLC d/b/a GRP Leasing Co., LLC	N/A	N/A	N/A	100% of member interest – Dilling Group, Inc.



	<b>Pledged Entity</b>	<b>Class of Common Stock</b>	<b>Stock Certificate Number(s)</b>	<b>Number of Shares</b>	<b>Pledgor(s)/Percentage of Outstanding Shares</b>
47.	Dyna Ten Corporation	Common	CS1	100	100% of shares owned by Borrower
48.	Dyna Ten Maintenance Services, LLC	N/A	N/A	N/A	100% member interest – Dyna Ten Corporation
49.	Eastern Heating & Cooling, Inc.	Common	CS1	100	100% of shares owned by Borrower
50.	Environmental Air Systems, LLC	Common	N/A	N/A	100% of membership interest – CSUSA (10), LLC
51.	Envirotrol, LLC	Common	N/A	N/A	100% of membership interest – Environmental Air Systems, LLC
52.	F.W. Dilling, LLC	N/A	N/A	N/A	100% of member interest – Dilling Group, Inc.
53.	Generex, LLC	N/A	N/A	N/A	100% of member interest – Dilling Group, Inc.
54.	Granite State Holdings Company, Inc.	Common	CS1	100	100% of shares owned by Borrower
55.	Granite State Plumbing & Heating, LLC	N/A	N/A	N/A	100% membership interest – Granite State Holdings Company, Inc.
56.	Hess Mechanical, LLC	Common	CS1	100	100% of shares owned by Borrower
57.	Mechanical Technical Services, Inc.	Common	CS1	100	100% of shares owned by Borrower
58.	MJ Mechanical Services, Inc.	Common	CS1	100	100% of shares owned by Borrower
59.	North American Mechanical, Inc.	Common	CS1	100	100% of shares owned by Borrower
60.	OFF, LLC	N/A	N/A	N/A	100% of member interest – Dilling Group, Inc.
61.	Premier Prefabrication Solutions, LLC	Common	CS1	100,000	100% owned by Walker TX Holding Company, LLC
62.	Quality Air Heating & Cooling, Inc.	Common	CS1	100	100% of shares owned by Borrower
63.	Riddleberger Brothers, Inc.	Common	CS1	100	100% of shares owned by Borrower
64.	Royalair Holdings, LLC	N/A	N/A	N/A	100% member interest – BCH Holdings, Inc.
65.	Royalair Mechanical Services, LLC	N/A	N/A	N/A	100% member interest – BCH Holdings, Inc.

	<b>Pledged Entity</b>	<b>Class of Common Stock</b>	<b>Stock Certificate Number(s)</b>	<b>Number of Shares</b>	<b>Pledgor(s)/Percentage of Outstanding Shares</b>
66.	Royalair Mechanical Services II, LLC	N/A	N/A	N/A	100% member interest – BCH Holdings, Inc.
67.	S.I. Goldman Company, Inc.	Common	CS1	750	100% of shares owned by Borrower
68.	S.M. Lawrence Company, Inc.	Common	CS1	100	100% of shares owned by Borrower
69.	Seasonair, Inc.	Common	CS1	1,544,000	100% of shares owned by Borrower
70.	ShoffnerKalthoff MES, Inc.	Common	1 3 4 5 6 7	600 300 484 110 81.20 18.80	100% of shares owned by Borrower
71.	Temp Right Service, Inc.	Common	CS1	100	100% of shares owned by Borrower
72.	Trumbo Electric, Incorporated	Common	74	272	100% owned by Riddleberger Brothers, Inc.
73.	Walker Electrical Contractors, Inc.	Common	CS2	100,000	100% owned by Walker TX Holding Company, LLC
74.	Walker Engineering, Inc.	Common	N/A	1,000,000	100% owned by Walker TX Holding Company, LLC
75.	Walker Industrial, LLC	Common	2	75,000	100% owned by Walker TX Holding Company, LLC
76.	Walker Logistics, LLC	Common	CS2	1,000	100% owned by Walker TX Holding Company, LLC
77.	Walker Service Group, LLC	Common	CS2	1,000	100% owned by Walker TX Holding Company, LLC
78.	Walker TX Holding Company, LLC	Common	2	100% of the membership interest units	100% owned by Comfort Systems USA, Inc.

**SUBSIDIARIES OF COMFORT SYSTEMS USA, INC.**  
as of December 31, 2019

<b>ENTITY NAME</b>	<b>DOMESTIC JURISDICTION</b>	<b>FORMATION DATE</b>
ACI Mechanical, Inc.	Delaware	06/26/1998
Acorn Industrial, LLC	North Carolina	01/03/1997
Air Systems Engineering, Inc.	Washington	05/18/1973
AirTemp, Inc.	Maine	10/15/1998
ARC Comfort Systems USA, Inc.	Delaware	03/17/1998
Armani East LLC	New York	12/03/2018
BCH Holdings, Inc.	Florida	12/28/2004
BCH Leasing, LLC	Florida	10/25/1990
BCH Mechanical, L.L.C.	Florida	10/19/1976
BCM Controls Corporation	Massachusetts	10/03/1984
Billone West LLC	New York	12/03/2018
Blue C, LLC dba HVACRedu.net	Montana	01/01/2007
Building Temperature Solutions, LLC	Indiana	10/27/2009
California Comfort Systems USA, Inc.	California	05/18/1983
ColonialWebb Contractors Company	Virginia	03/30/1972
Comfort Systems USA (Arkansas), Inc.	Arkansas	03/17/1998
Comfort Systems USA (Baltimore), LLC	Delaware	10/15/1998
Comfort Systems USA (Indiana), LLC	Indiana	06/08/2015
Comfort Systems USA (Intermountain), Inc.	Utah	05/06/1969
Comfort Systems USA (Kentucky), Inc.	Kentucky	02/10/1981
Comfort Systems USA (Mid South), Inc.	Alabama	08/06/1998
Comfort Systems USA (MidAtlantic), LLC	Virginia	01/01/2010
Comfort Systems USA (Northwest), Inc.	Washington	02/14/1984
Comfort Systems USA (Ohio), Inc.	Ohio	10/10/1979
Comfort Systems USA (South Central), Inc.	Texas	05/24/2007
Comfort Systems USA (Southeast), Inc.	Delaware	03/24/1998
Comfort Systems USA (Southwest), Inc.	Arizona	12/23/1977
Comfort Systems USA (Syracuse), Inc.	New York	03/08/1965
Comfort Systems USA (Texas), L.P.	Texas	08/14/1998
Comfort Systems USA G.P., Inc.	Delaware	08/12/1998
Comfort Systems USA Strategic Accounts, LLC	Indiana	07/28/1998
ConServ Building Services of Alabama, LLC	Alabama	12/28/2012
ConServ Building Services of Georgia, LLC	Georgia	11/04/2008
ConServ Building Services of Tennessee, LLC	Tennessee	01/07/2010
ConServ Building Services of Texas, LLC	Texas	01/22/2010
ConServ Building Services, LLC	Florida	01/05/2005
ConServ Building Services of North Carolina, LLC	North Carolina	03/22/2010
Control Concepts Mechanical Services, LLC	Georgia	01/17/2008
Control Concepts, LLC	Georgia	12/16/1996
CSUSA (10), LLC	North Carolina	10/21/2011
Delcard Associates, LLC	Delaware	06/23/2000
Design Mechanical Incorporated	Colorado	11/25/2003
Dilling Group Leasing Co., LLC	Indiana	07/29/2016
Dilling Group, Inc.	Indiana	12/14/1984
Dilling, LLC	Indiana	12/29/1998
Dyna Ten Corporation	Texas	06/26/1980
Dyna Ten Maintenance Services, LLC	Texas	08/07/2006
Eastern Heating & Cooling, Inc.	New York	12/19/1988

<b>ENTITY NAME</b>	<b>DOMESTIC JURISDICTION</b>	<b>FORMATION DATE</b>
Environmental Air Systems, LLC	North Carolina	10/07/2011
Envirotrol, LLC	North Carolina	10/28/2011
F. W. Dilling, LLC	Indiana	12/06/1999
Generex, LLC	Indiana	12/22/2017
Granite State Holdings Company, Inc.	Delaware	11/03/2005
Granite State Plumbing & Heating, LLC	New Hampshire	07/31/2001
Hess Mechanical, LLC	Maryland	12/31/2015
Mechanical Technical Services, Inc.	Texas	05/24/2007
MJ Comfort Plumbing, LLC	New York	09/16/2014
MJ Mechanical Services, Inc.	Virginia	12/12/1997
North American Mechanical, Inc.	Delaware	03/17/1998
OFF, LLC	Indiana	11/22/2002
Post Oak Insurance Co. Ltd.	Cayman Islands	10/04/2019
Premier Prefabrication Solutions, LLC	Texas	01/16/2018
Quality Air Heating & Cooling, Inc.	Michigan	09/10/1980
Riddleberger Brothers, Inc.	Virginia	12/22/1958
Royalair Holdings, LLC	Florida	03/22/2006
Royalair Mechanical Services II, LLC	Florida	09/27/2010
Royalair Mechanical Services, LLC	Florida	09/12/2006
S.I. Goldman Company, Inc.	Florida	10/04/1976
S.M. Lawrence Company, Inc.	Tennessee	03/08/1973
Seasonair, Inc.	Maryland	10/28/1966
ShoffnerKalthoff MES, Inc.	Tennessee	05/18/2005
Temp Right Service, Inc.	Delaware	09/25/1997
Trumbo Electric, Incorporated	Virginia	06/02/1966
Walker Electrical Contractors, Inc.	Texas	03/23/2010
Walker Engineering, Inc.	Texas	01/29/2002
Walker Industrial, LLC	Texas	12/12/2014
Walker Logistics, LLC	Texas	01/10/2013
Walker Service Group, LLC	Texas	03/14/2013
Walker TX Holding Company, LLC	Texas	05/13/2013

**Consent of Independent Registered Public Accounting Firm**

We consent to the incorporation by reference in the following Registration Statements:

- (1) Registration Statement (Form S-8 No. 333-38011) pertaining to the 1997 Long-Term Incentive Plan, 1997 Non-Employee Director's Stock Plan, and 1998 Employee Stock Purchase Plan of Comfort Systems USA, Inc.
- (2) Registration Statement (Form S-8 No. 333-44354) pertaining to the 2000 Incentive Plan of Comfort Systems USA, Inc.
- (3) Registration Statement (Form S-8 No. 333-138377) pertaining to the 2006 Equity Incentive Plan and 2006 Stock Options/SAR Plan for Non-Employee Directors of Comfort Systems USA, Inc.
- (4) Registration Statement (Form S-8 No. 333-188302) pertaining to the Comfort Systems USA, Inc. 2012 Equity Incentive Plan.
- (5) Registration Statement (Form S-8 No. 333-221142) pertaining to the Comfort Systems USA, Inc. 2017 Omnibus Incentive Plan.

of our reports dated February 26, 2020, with respect to the consolidated financial statements of Comfort Systems USA, Inc. and the effectiveness of internal control over financial reporting of Comfort Systems USA, Inc., included in this Annual Report (Form 10-K) of Comfort Systems USA, Inc. for the year ended December 31, 2019.

/s/ Ernst & Young, LLP

Houston, Texas  
February 26, 2020

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**CERTIFICATION OF CHIEF EXECUTIVE OFFICER**  
Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002

I, Brian E. Lane, certify that:

1. I have reviewed this annual report on Form 10-K of Comfort Systems USA, 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)) 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(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: February 26, 2020

/s/ BRIAN E. LANE

Brian E. Lane  
*President and Chief Executive Officer*

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**CERTIFICATION OF CHIEF FINANCIAL OFFICER**  
Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002

I, William George, certify that:

1. I have reviewed this annual report on Form 10-K of Comfort Systems USA, 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)) 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(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: February 26, 2020

/s/ WILLIAM GEORGE

William George  
*Executive Vice President and Chief Financial Officer*

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**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 Comfort Systems USA, Inc. (the "Company") on Form 10-K for the fiscal year ended December 31, 2019, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Brian E. Lane, President and Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. §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), as applicable, 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: February 26, 2020

/s/ BRIAN E. LANE

Brian E. Lane

*President and Chief Executive Officer*

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\* A signed original of this written statement required by Section 906 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.

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**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 Comfort Systems USA, Inc. (the "Company") on Form 10-K for the fiscal year ended December 31, 2019, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, William George, Executive Vice President and Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. §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), as applicable, 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: February 26, 2020

/s/ WILLIAM GEORGE

William George  
*Executive Vice President and Chief Financial Officer*

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\* A signed original of this written statement required by Section 906 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.

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