

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

**FORM 10-Q**

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934  
For the quarterly period ended December 31, 2018

OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934  
For the transition period from to

Commission file number 001-14757

EVI Industries, Inc.  
(Exact name of registrant as specified in its charter)

Delaware  
(State or other jurisdiction of  
incorporation or organization)

11-2014231  
(I.R.S. Employer  
Identification No.)

290 N.E. 68 Street, Miami, Florida 33138  
(Address of principal executive offices)

(305) 754-4551  
(Registrant's telephone number, including area code)

EnviroStar, Inc.  
(Former name, former address and former fiscal year, if changed since last report)

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 and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes  No

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

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

Emerging growth company

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

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).

Yes  No

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Indicate the number of shares outstanding of each of the issuer's classes of common stock, as of the latest practicable date: Common Stock, \$.025 par value per share – 11,556,421 shares outstanding as of February 1, 2019.

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**PART I—FINANCIAL INFORMATION****Item 1. Financial Statements.**

EVI Industries, Inc. and Subsidiaries  
Condensed Consolidated Statements of Operations  
(In thousands, except per share data) (Unaudited)

	For the six months ended December 31,		For the three months ended December 31,	
	2018	2017	2018	2017
Revenues	\$ 104,216	\$ 62,408	\$ 60,841	\$ 36,135
Cost of sales	80,817	48,190	47,164	27,904
Gross profit	23,399	14,218	13,677	8,231
Selling, general and administrative expenses	19,865	11,027	11,575	6,023
Operating income	3,534	3,191	2,102	2,208
Interest expense, net	539	183	374	117
Income before provision for income taxes	2,995	3,008	1,728	2,091
Provision for income taxes	934	935	463	581
Net income	\$ 2,061	\$ 2,073	\$ 1,265	\$ 1,510
Net earnings per share – basic	\$ 0.17	\$ 0.18	\$ 0.10	\$ 0.13
Net earnings per share - diluted	\$ 0.16	\$ 0.18	\$ 0.10	\$ 0.13

See Notes to Condensed Consolidated Financial Statements

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EVI Industries, Inc. and Subsidiaries  
Condensed Consolidated Balance Sheets  
(In thousands)

ASSETS

	December 31, 2018 (Unaudited)	June 30, 2018
Current assets		
Cash and cash equivalents	\$ 10,173	\$ 1,330
Accounts receivable, net of allowance for doubtful accounts of \$308 and \$233, respectively	30,556	16,026
Inventories, net	23,316	15,350
Vendor deposits	843	606
Contract assets	49	1,012
Other current assets	3,156	2,050
Total current assets	68,093	36,374
Equipment and improvements, net	4,394	2,983
Intangible assets, net	20,157	15,775
Goodwill	47,977	37,061
Other assets	3,919	3,281
Total assets	\$ 144,540	\$ 95,474

See Notes to Condensed Consolidated Financial Statements

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EVI Industries, Inc. and Subsidiaries  
Condensed Consolidated Balance Sheets  
(In thousands, except share data)

LIABILITIES AND  
SHAREHOLDERS' EQUITY

	December 31, 2018 (Unaudited)	June 30, 2018
<b>Current liabilities</b>		
Accounts payable and accrued expenses	\$ 17,617	\$ 11,742
Accrued employee expenses	3,711	4,248
Customer deposits	9,305	11,624
Contract liabilities	2,816	259
Current portion of long-term debt	—	1,195
<b>Total current liabilities</b>	<b>33,449</b>	<b>29,068</b>
Deferred tax liabilities, net	933	558
Long-term debt, net	37,545	8,817
<b>Total liabilities</b>	<b>71,927</b>	<b>38,443</b>
<b>Commitments and contingencies (Note 11)</b>		
<b>Shareholders' equity</b>		
Preferred stock, \$1.00 par value; authorized shares – 200,000; none issued and outstanding	—	—
Common stock, \$.025 par value; authorized shares - 20,000,000; 11,556,421 shares issued at December 31, 2018 and 11,239,656 shares issued at June 30, 2018, including shares held in treasury	290	281
Additional paid-in capital	65,440	49,950
Retained earnings	7,953	7,511
Treasury stock, 62,809 shares at December 31, 2018 and 52,686 June 30, 2018, at cost	(1,070)	(711)
<b>Total shareholders' equity</b>	<b>72,613</b>	<b>57,031</b>
<b>Total liabilities and shareholders' equity</b>	<b>\$ 144,540</b>	<b>\$ 95,474</b>

See Notes to Condensed Consolidated Financial Statements

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EVI Industries, Inc. and Subsidiaries  
Condensed Consolidated Statements of Cash Flows  
(In thousands) (Unaudited)

	For the six months ended	
	December 31,	December 31,
	2018	2017
Operating activities:		
Net income	\$ 2,061	\$ 2,073
Adjustments to reconcile net income to net cash (used ) provided by operating activities:		
Depreciation and amortization	1,255	547
Amortization of debt discount	68	9
Provision for bad debt expense	104	18
Share-based compensation	838	773
Inventory reserve	91	67
Provision (benefit) for deferred income taxes	131	(12)
(Increase) decrease in operating assets:		
Accounts receivable	(10,985)	491
Inventories	(3,347)	(804)
Vendor deposits	(237)	781
Contract assets	963	(2,181)
Other assets	(1,492)	(430)
Increase (decrease) in operating liabilities:		
Accounts payable and accrued expenses	2,402	(4,140)
Accrued employee expenses	(907)	385
Customer deposits	(3,357)	3,505
Contract liabilities	2,557	(674)
Net cash (used) provided by operating activities	(9,855)	408
Investing activities:		
Capital expenditures	(1,200)	(116)
Cash paid for acquisitions, net of cash acquired	(7,231)	(6,177)
Net cash used by investing activities	(8,431)	(6,293)
Financing activities:		
Proceeds from borrowings	99,963	33,434
Debt repayments	(72,235)	(26,788)
Payment of debt issuance costs	(263)	—
Repurchases of common stock in satisfaction of employee tax withholding obligations	(359)	(303)
Issuances of common stock	23	—
Net cash provided by financing activities	27,129	6,343
Net increase in cash and cash equivalents	8,843	458
Cash and cash equivalents at beginning of period	1,330	727
Cash and cash equivalents at end of period	\$ 10,173	\$ 1,185

See Notes to Condensed Consolidated Financial Statements

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EVI Industries, Inc. and Subsidiaries  
Condensed Consolidated Statements of Cash Flows  
(In thousands) (Unaudited)

	For the six months ended	
	December 31,	December 31,
	2018	2017
<b>Supplemental disclosures of cash flow information:</b>		
Cash paid during the period for interest	\$ 387	\$ 143
Cash paid during the period for income taxes	\$ 1,117	\$ 855
Supplemental disclosure of non-cash financing activities		
Common stock issued for acquisitions	\$ 14,633	\$ 9,028
Dividends payable	\$ 1,619	\$ 1,403

See Notes to Condensed Consolidated Financial Statements



EVI Industries, Inc. and Subsidiaries  
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS  
December 31, 2018  
(Unaudited)

**Note (1) - General:** The accompanying unaudited condensed consolidated financial statements include the accounts of EVI Industries, Inc. (formerly EnviroStar, Inc.) and its subsidiaries (the “Company”). All material intercompany balances and transactions have been eliminated in consolidation.

The accompanying unaudited condensed consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America (“GAAP”) for interim financial statements and the instructions to Form 10-Q and Article 10 of Regulation S-X related to interim period financial statements. Accordingly, the accompanying unaudited condensed consolidated financial statements do not include certain information and footnotes required by GAAP for complete financial statements. However, in management’s opinion, the accompanying unaudited condensed consolidated financial statements contain all adjustments (consisting only of normal recurring accruals and adjustments) which are necessary in order to state fairly the Company’s results of operations, financial position and cash flows as of and for the periods presented. The results of operations for interim periods are not necessarily indicative of the results to be expected for the full year or any other future period. The unaudited condensed consolidated financial statements should be read in conjunction with the audited consolidated financial statements and related notes, including the Summary of Significant Accounting Policies, included in the Company’s Annual Report on Form 10-K for the fiscal year ended June 30, 2018. The June 30, 2018 balance sheet information contained herein was derived from the audited consolidated financial statements as of that date included in the Company’s Annual Report on Form 10-K for the fiscal year ended June 30, 2018.

The preparation of the unaudited condensed consolidated financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the amounts reported in the financial statements and accompanying notes. The estimates and assumptions made may not prove to be correct, and actual results could differ from the estimates.

Certain prior period amounts in the accompanying unaudited condensed consolidated financial statements have been reclassified in order to be comparable to the current period’s classifications. These reclassifications had no effect on previously reported net income.

The Company, through its wholly-owned subsidiaries, is a distributor that generates revenues by selling, leasing or renting, through its extensive sales organization, commercial, industrial and vended laundry, dry-cleaning, and material handling equipment, steam and hot water boilers, water reuse and filtration systems, and related replacement parts and accessories. Additionally, the Company designs, plans, and installs turn-key laundry, dry cleaning, boiler, and water filtration systems and provides maintenance services through its robust technical service organization.

The Company’s customers include retail, commercial, industrial, institutional, and government customers. Purchases and orders by customers range from parts, accessories and maintenance services, to single or multiple units of equipment, to large complex systems.

Prior to the completion of the Company’s first acquisition pursuant to its “buy-and-build” growth strategy, the Company’s operations consisted solely of the business and operations of Steiner-Atlantic Corp. (“Steiner-Atlantic”), a wholly-owned subsidiary of the Company. Beginning in 2015, the Company implemented a “buy-and-build” growth strategy and has since completed ten acquisitions under such growth strategy, including, five acquisitions consummated during the six months ended December 31, 2018 (as described in further detail in Note 3) and one acquisition consummated during February 2019 (as described in further detail in Note 13). The financial position, including assets and liabilities, and results of operations of the acquired businesses following the respective closing dates are included in the Company’s consolidated financial statements.

EVI Industries, Inc. and Subsidiaries  
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(Unaudited)

In addition to the activities described above, the Company, through an indirect wholly-owned subsidiary, also owns the worldwide rights to the name DRYCLEAN USA® and licenses the right to use such name for a fee to retail dry cleaners in the United States, the Caribbean and Latin America.

**Note (2) – Summary of Significant Accounting Policies:**

**Adoption of New Revenue Standard**

In May 2014, the Financial Accounting Standards Board (“FASB”) issued Accounting Standards Update (“ASU”) No. 2014-09, “Revenue from Contracts with Customers (Topic 606)” (“Topic 606”). Topic 606 supersedes the revenue requirements in ASU Topic 605, “Revenue Recognition” (“Topic 605”), and requires the recognition of revenues when promised goods or services are transferred to customers in an amount that reflects the consideration that is expected to be received for those goods or services. The new standard also includes Subtopic 340-40, “Other Assets and Deferred Costs - Contracts with Customers” (“Subtopic 340-40”), which discusses the deferral of incremental costs of obtaining a contract with a customer, including the period of amortization of such costs. In addition, the standard requires disclosure of the nature, amount, timing, and uncertainty of revenues and cash flows arising from contracts with customers. Collectively, the Company refers to Topic 606 and Subtopic 340-40 as the “New Revenue Standard.”

The Company adopted the New Revenue Standard on July 1, 2018 using the modified retrospective approach. The New Revenue Standard did not have an impact on the amount and timing of the Company’s revenue recognition through July 1, 2018. Results for reporting periods beginning on and after July 1, 2018 are presented under the New Revenue Standard, while prior period amounts are not adjusted and continue to be reported under the accounting standards in effect for those periods.

**Revenue Recognition**

*Performance Obligations*

Revenue primarily consists of revenues from the sale or leasing of commercial and industrial laundry and dry cleaning equipment and steam and hot water boilers manufactured by others; the sale of related replacement parts and accessories; and, to a lesser extent, the provision of installation and maintenance services. The Company generates revenue primarily from the sale of finished products to customers. Therefore, the majority of the Company’s contracts are short-term in nature and have a single performance obligation (to deliver products), and the Company’s performance obligation is satisfied when control of the product is transferred to the customer. Other contracts contain a combination of equipment sales and services expected to be performed in the near-term, which services are distinct and accounted for as separate performance obligations. Revenue is recognized on these contracts when control transfers to the Company’s customers via shipment of products or provision of services and the Company has the right to receive consideration for these products and services. Additionally, from time to time, the Company enters into longer-termed contracts which provide for the sale of the equipment by the Company and the provision by the Company of related installation and construction services. The installation on these types of contracts is usually completed within six to twelve months. These longer-term contracts have a single performance obligation where revenue is recognized over time.

EVI Industries, Inc. and Subsidiaries  
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The Company measures revenue as the amount of consideration it expects to be entitled to receive in exchange for its goods or services, net of any taxes collected from customers and subsequently remitted to governmental authorities. Costs associated with shipping and handling activities performed after the customer obtains control are accounted for as fulfillment costs.

Revenue from products transferred to customers at a point in time include commercial and vended laundry parts and equipment sales and accounted for approximately 80% and 81% of the Company's revenue for the three and six months ended December 31, 2018, respectively. Revenue from products transferred to customers at a point in time is recognized when obligations under the terms of the contract with the Company's customer are satisfied, which generally occurs with the transfer of control upon shipment.

Revenues that are recognized over time include (i) longer-termed contracts that include equipment purchase with installation and construction services, (ii) maintenance contracts, and (iii) ad hoc maintenance and installation service contracts. Revenue from products and services that are recognized over time accounted for approximately 20% and 19% of the Company's revenue for the three and six months ended December 31, 2018, respectively.

*Contract Assets and Liabilities*

Contract assets and liabilities are presented in the Company's Condensed Consolidated Balance Sheets. Contract assets consist of unbilled amounts resulting from sales under longer-term contracts when the cost-to-cost method of revenue recognition is utilized and revenue recognized exceeds the amount billed to the customer. The Company typically receives progress payments on sales under longer-term contracts as work progresses, although for some contracts, the Company may be entitled to receive an advance payment. Contract liabilities consist of advanced payments, billings in excess of costs incurred and deferred revenue.

**Significant Accounting Policies**

Except for the New Revenue Standard adopted on July 1, 2018, there have been no changes to the Company's significant accounting policies from those described in Note 1 to the Company's audited consolidated financial statements included in the Company's Annual Report on Form 10-K for the fiscal year ended June 30, 2018.

**Note (3) – Acquisitions:**

*SEI Acquisition*

On September 12, 2018, the Company completed the acquisition (the "SEI Acquisition") of Scott Equipment Inc. ("SEI"), a Texas-based distributor of commercial, industrial, and vended laundry products and provider of installation and maintenance services to the new and replacement segments of the commercial, industrial and vended laundry industry, pursuant to which the Company, indirectly through its newly-formed wholly-owned subsidiary, Scott Equipment Inc. ("Scott Equipment"), purchased substantially all of the assets of SEI for a purchase price consisting of approximately \$6,500,000 in cash and 209,678 shares of the Company's common stock. The Company funded the cash consideration with borrowings under its credit facility at the time of the SEI Acquisition. Fees and expenses related to the SEI Acquisition, consisting primarily of legal and other professional fees, totaled approximately \$65,000 and are classified as selling, general and administrative expenses in the Company's condensed consolidated statement of operations for the three and six months ended December 31, 2018. The Company, indirectly through Scott Equipment, also assumed certain of the liabilities of SEI. The total purchase price for accounting purposes was \$15.9 million, which included cash acquired of \$2.8 million.

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The SEI Acquisition was treated for accounting purposes as a purchase of SEI using the acquisition method of accounting in accordance with ASC 805, *Business Combinations*. Under the acquisition method of accounting, the aggregate consideration in the SEI Acquisition is allocated to the acquired assets and assumed liabilities, in each case, based on their respective fair values as of the closing date, with the excess of the consideration transferred over the fair value of the net assets acquired being allocated to intangible assets and goodwill. The computation of the purchase price consideration and the preliminary allocation of the consideration to the net assets acquired are presented in the following tables (in thousands):

Purchase price consideration:

Cash consideration, net of cash acquired <sup>(a)</sup>	\$ 3,709
Stock consideration <sup>(b)</sup>	9,436
Total purchase price consideration, net of cash acquired	<u>\$ 13,145</u>

(a)Includes \$6,500,000 paid net of \$2.8 million of cash acquired.

(b)Calculated as 209,678 shares of the Company's common stock, multiplied by \$45.00, the closing price of the Company's common stock on the closing date.

Allocation of purchase price consideration:

Accounts receivable	\$ 2,658
Inventory	1,595
Other assets	99
Property, plant and equipment	376
Intangible assets	3,100
Accounts payable and accrued expenses	(734)
Customer deposits	(398)
Total identifiable net assets	6,696
Goodwill	6,449
Total	<u>\$ 13,145</u>

The Company is continuing its valuation of the net assets acquired, which are subject to adjustment in accordance with the Asset Purchase Agreement. Accordingly, the purchase price allocation set forth above reflects preliminary fair value estimates based on preliminary work and analyses performed by management and is subject to change as additional information to assist in determining the fair value of the net assets acquired at the closing date is obtained during the post-closing measurement period of up to one year. The Company is also still assessing certain working capital items.

Intangible assets consist of \$1.3 million allocated to the Scott Equipment trade name and \$1.8 million allocated to customer-related intangible assets. The Scott Equipment trade name is indefinite-lived and therefore not subject to amortization. The Scott Equipment trade name will be evaluated for impairment annually or more frequently if an event occurs or circumstances change that indicate it may be impaired, by comparing its fair value to its carrying amount to determine if a write-down to fair value is required. Customer-related intangible assets will be amortized over 10 years.

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Goodwill is expected to be amortized and deductible for tax purposes over 15 years. Goodwill is attributable primarily to the assembled workforce acquired, as well as benefits from the increased scale of the Company as a result of the SEI Acquisition.

#### *Other Acquisitions*

In addition to the SEI Acquisition, during the six months ended December 31, 2018, the Company completed the acquisition of four other companies (Industrial Laundry Services, Inc. on September 4, 2018, Washington Automated, Inc. on November 6, 2018, Skyline Equipment, Inc. on November 14, 2018 and Worldwide Laundry, Inc. on November 16, 2018), each of which is a distributor of commercial, industrial, and vended laundry products and a provider of installation and maintenance services to the new and replacement segments of the commercial, industrial and vended laundry industry. Three of these acquisitions were completed by the Company, indirectly through a newly-formed wholly-owned subsidiary, which purchased substantially all of the assets and assumed certain of the liabilities of the acquired entity. The other acquisition was effected by a merger of the acquired entity with and into a newly-formed wholly-owned subsidiary of the Company. The total consideration for these four transactions consisted of \$3.5 million in cash, net of \$738,000 of cash acquired, and 141,000 shares of the Company's common stock. The Company funded the cash consideration of each acquisition with credit facility borrowings. Each acquisition was treated for accounting purposes as a purchase of the acquired business using the acquisition method of accounting in accordance with ASC 805, *Business Combinations*, pursuant to which the consideration paid by the Company was allocated to the acquired assets and assumed liabilities, in each case, based on their respective fair values as of the closing date, with the excess of the consideration transferred over the fair value of the net assets acquired being allocated to intangible assets and goodwill. The Company preliminarily allocated a total of \$4.4 million to goodwill, \$1.3 million to customer-related intangibles, and \$690,000 to the respective trade names. The purchase price allocations are considered preliminary, as the Company is still assessing certain working capital and valuation related items.

#### *Supplemental Pro Forma Results of Operations*

The following unaudited supplemental pro forma information presents the results of operations of the Company, after giving effect to the SEI Acquisition and the four other acquisitions noted above, as if the Company had completed each such acquisition on July 1, 2017, but using the preliminary estimates of the fair values of the assets acquired and liabilities assumed as of the respective closing dates of the acquisitions. These unaudited pro forma results are presented for informational purposes only and are not necessarily indicative of what the actual results of operations of the Company would have been if the acquisitions had occurred on the date assumed, nor are they indicative of future results of operations.

(in thousands)	For the six months ended December 31,	
	2018 (Unaudited)	2017 (Unaudited)
Revenues	\$ 115,599	\$ 83,744
Net income	2,532	2,937

EVI Industries, Inc. and Subsidiaries  
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December 31, 2018  
(Unaudited)

See also Note 13 for information regarding the Company's acquisition of PAC Industries, Inc., which was completed on February 5, 2019.

**Note (4) - Earnings Per Share:** The Company computes earnings per share using the two-class method. The two-class method of computing earnings per share is an earnings allocation formula that determines earnings per share for common stock and any participating securities according to dividends declared (whether paid or unpaid) and participation rights in undistributed earnings. Shares of the Company's common stock subject to unvested restricted stock awards and restricted stock units are considered participating securities because they contain a non-forfeitable right to cash dividends or dividend equivalents paid prior to vesting or forfeiture, if any, irrespective of whether the awards ultimately vest. Basic and diluted earnings per share for the six and three months ended December 31, 2018 and 2017 are computed as follows (in thousands, except per share data):

	For the six months ended December 31,		For the three months ended December 31,	
	2018	2017	2018	2017
	(Unaudited)	(Unaudited)	(Unaudited)	(Unaudited)
Net income	\$ 2,061	\$ 2,073	\$ 1,265	\$ 1,510
Less: distributed and undistributed income allocated to unvested restricted common stock	148	154	91	112
Net income allocated to EVI Industries, Inc. shareholders	\$ 1,913	\$ 1,919	\$ 1,174	\$ 1,398
Weighted average shares outstanding used in basic earnings per share	11,364	10,585	11,492	10,702
Dilutive common share equivalents	506	377	474	372
Weighted average shares outstanding used in diluted earnings per share	11,870	10,962	11,966	11,074
Basic earnings per share	\$ 0.17	\$ 0.18	\$ 0.10	\$ 0.13
Diluted earnings per share	\$ 0.16	\$ 0.18	\$ 0.10	\$ 0.13

At December 31, 2018 and 2017, other than 896,777 shares and 873,636 shares, respectively, of unvested common stock subject to restricted stock awards or restricted stock units, there were no potentially dilutive securities outstanding.

EVI Industries, Inc. and Subsidiaries  
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS  
December 31, 2018  
(Unaudited)

**Note (5) - Debt:** Long-term debt as of December 31, 2018 and June 30, 2018 are as follows (in thousands):

	December 31, 2018	June 30, 2018
Term Loan	\$ —	\$ 6,375
Revolving Credit Facility/Line of Credit	37,800	3,697
Less: unamortized discount and deferred financing costs	(255)	(60)
Total debt, net	37,545	10,012
Less: current maturities of long-term debt	—	(1,195)
Total long-term debt	\$ 37,545	\$ 8,817

On November 2, 2018, the Company entered into a Credit Agreement (the “2018 Credit Agreement”) for a five-year revolving credit facility in the maximum aggregate principal amount of up to \$100 million, with an accordion feature to increase the revolving credit facility by up to \$40 million for a total of \$140 million. A portion of the revolving credit facility is available for swingline loans of up to a sublimit of \$5 million and for the issuance of standby letters of credit of up to a sublimit of \$10 million.

Borrowings (other than swingline loans) under the 2018 Credit Agreement bear interest at a rate, at the Company’s election at the time of borrowing, equal to (a) LIBOR plus a margin that ranges between 1.25% and 1.75% depending on the Company’s consolidated leverage ratio, which is a ratio of consolidated funded indebtedness to consolidated earnings before interest, taxes, depreciation and amortization (EBITDA) (the “Consolidated Leverage Ratio”) or (b) the highest of (i) prime, (ii) the federal funds rate plus 50 basis points, and (iii) the one month LIBOR rate plus 100 basis points (such highest rate, the “Base Rate”), plus a margin that ranges between 0.25% and 0.75% depending on the Consolidated Leverage Ratio. Swingline loans bear interest calculated at the Base Rate plus a margin that ranges between 0.25% and 0.75% depending on the Consolidated Leverage Ratio. The 2018 Credit Agreement has a term of five-years and matures on November 2, 2023.

The 2018 Credit Agreement contains certain covenants, including financial covenants requiring the Company to comply with maximum leverage ratios and minimum interest coverage ratios. The 2018 Credit Agreement also contains other provisions which may restrict the Company’s ability to, among other things, dispose of or acquire assets or businesses, incur additional indebtedness, make certain investments and capital expenditures, pay dividends, repurchase shares and enter into transactions with affiliates. At December 31, 2018, the Company was in compliance with its covenants under the 2018 Credit Agreement and \$12.8 million was available to borrow under the revolving credit facility.

The obligations of the Company under the 2018 Credit Agreement are secured by substantially all of the assets of the Company and certain of its subsidiaries, and are guaranteed, jointly and severally, by certain of the Company’s subsidiaries.

Prior to entering into the 2018 Credit Agreement, the Company had a credit facility (the “Prior Credit Facility”) with another lender, which included a revolving line of credit of up to \$20.0 million (subject to a cap determined using an asset-based formula), and a term loan. In connection with its entry into the 2018 Credit Agreement on November 2, 2018, the Company repaid all outstanding amounts under, and terminated, the Prior Credit Facility.

EVI Industries, Inc. and Subsidiaries  
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS  
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**Note (6) - Income Taxes:** On December 22, 2017, the U.S. government enacted comprehensive tax legislation commonly referred to as the Tax Cuts and Jobs Act (the "Tax Act"). The Tax Act represents significant U.S. federal tax reform legislation that includes a permanent reduction to the U.S. federal corporate income tax rate. Pursuant to Staff Accounting Bulletin ("SAB") No. 118 ("SAB 118"), the Company's measurement period for implementing the accounting changes required by the Tax Act closed on December 22, 2018 and the Company completed the accounting under ASC Topic 740, Income Taxes ("ASC 740"), in the second quarter of fiscal 2019.

Income taxes are recorded in the Company's quarterly financial statements based on the Company's estimated annual effective income tax rate, subject to adjustment for discrete events, should they occur.

As of December 31, 2018 and June 30, 2018, the Company had net deferred tax liabilities of approximately \$933,000 and \$558,000, respectively. Consistent with the guidance of the FASB regarding accounting for income taxes, the Company regularly estimates its ability to recover deferred tax assets and establishes a valuation allowance against deferred tax assets to reduce the balance to amounts expected to be recoverable. This evaluation includes the consideration of several factors, including an estimate of the likelihood of generating sufficient taxable income in future periods over which temporary differences reverse, the expected reversal of deferred tax liabilities, past and projected taxable income and available tax planning strategies. As of December 31, 2018, management believed that it was more-likely-than-not that the results of future operations will generate sufficient taxable income to realize the net amount of the Company's deferred tax assets over the periods during which temporary differences reverse.

The Company follows ASC Topic 740-10-25, "Accounting for Uncertainty in Income Taxes" ("ASC 740"). ASC 740 prescribes a recognition threshold and measurement attribute for the financial statement recognition and measurement of a tax position taken or expected to be taken in a tax return. During the three and six months ended December 31, 2018 and 2017, the Company's accounting for income taxes in accordance with this standard did not result in any adjustment to the Company's provision for income taxes.

As of December 31, 2018, the Company was subject to potential federal and state tax examinations for the tax years 2015 through 2018.

**Note (7) – Shareholders' Equity:** On December 11, 2018, the Company's Board of Directors declared a cash dividend on the Company's common stock of \$0.13 per share (an aggregate of \$1.6 million), which was paid on January 8, 2019 to stockholders of record at the close of business on December 26, 2018. This amount is included in Accounts Payable and Accrued Expenses in the Condensed Consolidated Balance Sheet as of December 31, 2018.

On December 12, 2017, the Company's Board of Directors declared a cash dividend on the Company's common stock of \$0.12 per share (an aggregate of \$1.4 million), which was paid on January 9, 2018 to stockholders of record at the close of business on December 26, 2017.

**Note (8) – Equity Incentive Plan:** In November 2015, the Company's stockholders approved the Company's 2015 Equity Incentive Plan (the "Plan"). The Plan authorizes the issuance of up to 1,500,000 shares of the Company's common stock pursuant to awards granted under the Plan. The fair value of awards granted under the Plan is expensed on straight-line basis over the vesting period of the awards. Share-based compensation expense is included in selling, general and administrative expenses in the Company's condensed consolidated statements of operations. During the three and six months ended December 31, 2018, restricted stock awards and restricted stock units of a total of 6,845 shares and 15,000 shares, respectively, were granted under the Plan. During the three and six months ended December 31, 2017, restricted stock awards of 8,982 shares were granted under the Plan. As of December 31, 2018, the Company had \$15.0 million and \$527,000 of total unrecognized compensation expense related to restricted stock awards and restricted stock units granted under the Plan, respectively.



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The following is a summary of non-vested restricted stock activity as of and for the six months ended December 31, 2018:

	Restricted Stock Awards		Restricted Stock Units	
	Shares	Weighted-Average Grant Date Fair Value	Shares	Weighted-Average Grant Date Fair Value
Non-vested awards or units outstanding at June 30, 2018	903,102	\$ 18.41	—	\$ —
Granted	6,845	36.53	15,000	35.40
Vested	(28,170)	15.38	—	—
Forfeited	—	—	—	—
Non-vested awards or units outstanding at December 31, 2018	881,777	\$ 18.65	15,000	\$ 35.40

#### *Employee Stock Purchase Plan*

The Company's employee stock purchase plan commenced on July 1, 2018 and provides for six-month offering periods, the first of which expired on December 31, 2018. During the three and six months ended December 31, 2018, 726 shares of common stock were issued under the Company's employee stock purchase plan for which the Company received net proceeds of \$23,000.

**Note (9) – Transactions with Related Parties:** Certain of the Company's subsidiaries lease warehouse and office space from one or more of the principals of those subsidiaries. These leases include the following:

On October 10, 2016, the Company's wholly-owned subsidiary, Western State Design, Inc. ("Western State Design"), entered into a lease agreement pursuant to which it leases 17,600 square feet of warehouse and office space from an affiliate of Dennis Mack, a director and Executive Vice President, Corporate Strategy of the Company, and Tom Marks, Executive Vice President, Business Development of the Company. Monthly base rental payments are \$12,000 during the initial term of the lease. In addition to base rent, Western State Design is responsible under the lease for costs related to real estate taxes, utilities, maintenance, repairs and insurance. The lease has an initial term of five years and provides for two successive three-year renewal terms at the option of the Company. Payments under this lease totaled approximately \$72,000 during each of the six months ended December 31, 2018 and 2017.

On October 31, 2017, the Company's wholly-owned subsidiary, Tri-State Technical Services, Inc. ("Tri-State"), entered into lease agreements pursuant to which it leases a total of 81,000 square feet of warehouse and office space from an affiliate of Matt Stephenson, President of Tri-State. Monthly base rental payments total \$21,000 during the initial terms of the leases. In addition to base rent, Tri-State is responsible under the leases for costs related to real estate taxes, utilities, maintenance, repairs and insurance. Each lease has an initial term of five years and provides for two successive three-year renewal terms at the option of the Company. Payments under these leases totaled approximately \$126,000 during the six months ended December 31, 2018 and \$41,000 during the period from October 31, 2017 through December 31, 2017.

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On February 9, 2018, the Company's wholly-owned subsidiary, AAdvantage Laundry Systems, Inc. ("AAdvantage"), entered into a lease agreement pursuant to which it leases a total of 5,000 square feet of warehouse and office space from an affiliate of Mike Zuffinetti, Chief Executive Officer of AAdvantage. Monthly base rental payments are \$3,950 during the initial term of the lease. In addition to base rent, AAdvantage is responsible under the lease for costs related to real estate taxes, utilities, maintenance, repairs and insurance. The lease has an initial term of five years and provides for two successive three-year renewal terms at the option of the Company. In addition, during February 2018, AAdvantage entered into a month-to-month lease agreement with an affiliate of Mike Zuffinetti for a total of 17,000 square feet of warehouse and office space. Monthly base rental payments under this lease were \$13,500. This month-to-month lease was terminated on October 31, 2018. In addition, on November 1, 2018, AAdvantage entered into a lease agreement pursuant to which it leases warehouse and office space from an affiliate of Mike Zuffinetti. Monthly base rental payments were \$26,000 initially. Pursuant to the lease agreement, on January 1, 2019, the lease expanded to cover an additional 15,000 square feet of warehouse space (for a total of 47,500 square feet of warehouse and office space), and monthly base rental payments increased to \$36,000. In addition to base rent, AAdvantage is responsible under the lease for costs related to real estate taxes, utilities, maintenance, repairs and insurance. The lease has an initial term of five years and provides for two successive three-year renewal terms at the option of the Company. Payments under all of the leases described in this paragraph totaled approximately \$130,000 during the six months ended December 31, 2018.

On September 12, 2018, the Company's wholly-owned subsidiary, Scott Equipment, entered into lease agreements pursuant to which it leases a total of 18,000 square feet of warehouse and office space from an affiliate of Scott Martin, President of Scott Equipment. Monthly base rental payments total \$11,000 during the initial terms of the leases. In addition to base rent, Scott Equipment is responsible under the leases for costs related to real estate taxes, utilities, maintenance, repairs and insurance. Each lease has an initial term of five years and provides for two successive three-year renewal terms at the option of the Company. Payments under these leases totaled approximately \$44,000 during the six months ended December 31, 2018.

**Note (10) – Recently Issued Accounting Guidance :** In February 2016, the FASB issued ASU No. 2016-02, "Leases (Topic 842)" ("ASU 2016-02"), which is designed to increase transparency and comparability by requiring the recognition of lease assets and lease liabilities on the balance sheet and the disclosure of certain additional information about leasing arrangements. The new standard will require an entity to recognize the following for all leases (with the exception of short-term leases) at the commencement date: (i) a lease liability, which is a lessee's obligation to make lease payments arising from a lease, measured on a discounted basis; and (ii) a right-of-use asset, which is an asset that represents the lessee's right to use, or control the use of, a specified asset for the lease term. ASU 2016-02 is effective for fiscal years beginning after December 15, 2018 (the fiscal year ending June 30, 2020 for the Company), with early adoption permitted. The Company is currently evaluating the impact, if any, that adopting this standard may have on its consolidated financial statements.

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In January 2017, the FASB issued ASU No. 2017-04, “Intangibles – Goodwill and Other (Topic 350): Simplifying the Test for Goodwill Impairment,” which is designed to simplify the subsequent measurement of goodwill. The new guidance will eliminate the second step from the goodwill impairment test required in computing the implied fair value of goodwill. Instead, under the new guidance, an entity will be required to perform its annual or interim goodwill impairment test by comparing the fair value of a reporting unit with its carrying amount and, if applicable, the entity should recognize an impairment charge for the amount by which the carrying amount exceeds the reporting unit’s fair value; however, the charge recognized should not exceed the total amount of goodwill allocated to that reporting unit. If applicable, an entity should consider income tax effects from any tax deductible goodwill on the carrying amount of the reporting unit when performing the goodwill impairment test. The amendments in this guidance are effective for public business entities for annual and interim goodwill impairment tests performed in fiscal years beginning after December 15, 2019 (the fiscal year ending June 30, 2021 for the Company), with early adoption permitted. The Company is currently evaluating the impact that adopting this guidance may have on its consolidated financial statements.

Other than as described above, management does not believe that accounting standards and updates which have been issued but are not yet effective will have a material impact on the Company’s consolidated financial position, results of operations or cash flows upon adoption.

**Note (11) – Commitments and Contingencies:** In the ordinary course of business, certain of the Company’s contracts require the Company to provide performance and payment bonds related to projects in process. These bonds are intended to provide a guarantee to the customer that the Company will perform under the terms of the contract and that the Company will pay subcontractors and vendors. If the Company fails to perform under the contract or pay subcontractors and vendors, the customer may demand that the surety make payments or provide services under the bond. The Company must reimburse the surety for expenses or outlays it incurs. As of December 31, 2018 and June 30, 2018, outstanding performance and payment bonds totaled \$9.4 million and \$8.3 million, respectively, and estimated costs to complete projects secured by these bonds totaled \$1.6 million and \$4.4 million, respectively.

**Note (12) – Goodwill:** The changes in the carrying amount of goodwill are as follows (in thousands):

Balance at June 30, 2018	\$	37,061
Goodwill from the SEI Acquisition		6,449
Goodwill from the other acquisitions (as described in Note 3)		4,467
Balance at December 31, 2018	\$	47,977

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**Note (13) – Subsequent Events:**

On February 5, 2019, the Company acquired PAC Industries, Inc. (“PAC Industries”), pursuant to a merger whereby PAC Industries merged with and into, and became, a wholly-owned subsidiary of the Company. PAC Industries is a Pennsylvania-based distributor of commercial, industrial, and vended laundry products and provider of installation and maintenance services to the new and replacement segments of the commercial, industrial and vended laundry industry. The consideration paid by the Company in connection with the merger consisted of cash and stock totaling \$13.1 million.

**Item 2. Management’s Discussion and Analysis of Financial Conditions and Results of Operations.**

**Forward Looking Statements**

Certain statements in this Report are “forward looking statements” within the meaning of the Private Securities Litigation Reform Act of 1995. When used in this Report, words such as “may,” “should,” “seek,” “believe,” “expect,” “anticipate,” “estimate,” “project,” “intend,” “strategy” and similar expressions are intended to identify forward looking statements. Forward looking statements may relate to, among other things, events, conditions and financial trends that may affect the future plans, operations, business, strategies, operating results, financial position and prospects of the Company. Forward looking statements are subject to a number of known and unknown risks and uncertainties that may cause actual results, trends, performance or achievements of the Company, or industry trends and results, to differ materially from the future results, trends, performance or achievements expressed or implied by such forward looking statements. These risks and uncertainties include, among others, those associated with: general economic and business conditions in the United States and other countries where the Company operates or where the Company’s customers and suppliers are located; industry conditions and trends; technology changes; competition, including the Company’s ability to compete effectively and the impact that competition may have on the Company and its results, including the prices which the Company may charge for its products and services and on the Company’s profit margins, and competition for qualified employees; the Company’s ability to implement its business and growth strategies and plans, including changes thereto; risks and uncertainties associated with the Company’s pursuit of acquisitions and other strategic opportunities, including, without limitation, that the Company may not be successful in identifying or consummating acquisitions or other strategic opportunities, integration risks, risks related to indebtedness incurred by the Company in connection with financing acquisitions, dilution experienced by the Company’s existing stockholders as a result of the issuance of shares of the Company’s common stock in connection with acquisitions, risks related to the business, operations and prospects of acquired businesses, risks that suppliers of the acquired business may not consent to the transaction or otherwise continue its relationship with the acquired business following the transaction and the impact that the loss of such supplier may have on the results of the Company and the acquired business, and risks that the Company’s goals or expectations with respect to acquisitions and other strategic transactions may not be met; risks relating to the Company’s ability to enter into and compete effectively in new industries, as well as risks and trends related to these industries and the costs and timing of the Company’s efforts with respect thereto; risks relating to the Company’s relationships with its principal suppliers and customers, including the impact of the loss of any such relationship; risks related to the Company’s indebtedness; the availability, terms and deployment of debt and equity capital if needed for expansion or otherwise; changes in, or the failure to comply with, government regulation, including environmental regulations; the impact of the Tax Act and the Company’s estimates related thereto; litigation risks, including the costs of defending litigation and the impact of any adverse ruling; the availability and cost of inventory purchased by the Company; the relative value of the United States dollar to currencies in the countries in which the Company’s customers, suppliers and competitors are located; risks relating to the recognition of revenue, including the amount and timing of revenue expected to be recognized in future periods; risks related to the adoption of new accounting standards and the impact it may have on the Company’s financial statements and results; and other economic, competitive, governmental, technological and other risks and factors discussed in the Company’s filings with the SEC, including, without limitation, those described in the “Risk Factors” section of the Company’s Annual Report on Form 10-K for the fiscal year ended June 30, 2018. Many of these risks and factors are beyond the Company’s control. In addition, dividends are subject to declaration by the Company’s Board of Directors based on factors deemed relevant by it from time to time, may be restricted by the terms of the Company’s indebtedness, and may not be paid in the future, whether with the frequency or in the amounts previously paid or at all. Further, past performance and perceived trends may not be indicative of future results. The Company cautions that the foregoing factors are not exclusive.

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The reader should not place undue reliance on any forward looking statement, which speaks only as of the date made. The Company does not undertake to, and specifically disclaims any obligation to, update or supplement any forward looking statement, whether as a result of changes in circumstances, new information, subsequent events or otherwise, except as may be required by law.

## **Company Overview**

EVI Industries, Inc., through its wholly-owned subsidiaries (collectively “EVI” or the “Company”), is a distributor that generates revenues by selling, leasing or renting, through its extensive sales organization, commercial, industrial and vended laundry, dry-cleaning, and material handling equipment, steam and hot water boilers, water reuse and filtration systems, and related replacement parts and accessories. Additionally, the Company designs, plans, and installs turn-key laundry, dry cleaning, boiler, and water filtration systems and provides maintenance services through its robust technical service organization.

The Company’s customers include retail, commercial, industrial, institutional, and government customers. Purchases and orders by customers range from parts, accessories and maintenance services, to single or multiple units of equipment, to large complex systems.

Selling, general and administrative expenses primarily consist of selling expenses, the largest components of which are salaries, commissions, and marketing expenses that are variable and correlate to changes in sales. Other significant selling, general and administrative expenses relate to the operation of warehouse facilities, including a fleet of installation and service vehicles, and facility rent, which are payable mostly under non-cancelable operating leases.

## **Acquisition History**

Prior to the completion of the Company’s first acquisition, the WSD Acquisition (as defined below), pursuant to its “buy-and-build” growth strategy, the Company’s operations related to these activities consisted solely of the business and operations of Steiner-Atlantic Corp. (“Steiner-Atlantic”), a wholly-owned subsidiary of the Company. Beginning in 2015, the Company implemented a “buy-and-build” growth strategy and has since acquired the following businesses under such growth strategy:

1. On October 10, 2016, the Company acquired substantially all the assets of California-based Western State Design, LLC (the “WSD Acquisition”);
2. On June 19, 2017, the Company acquired substantially all of the assets of Colorado-based Martin-Ray Laundry Systems, Inc. (the “MRLS Acquisition”);
3. On October 31, 2017, the Company acquired substantially all of the assets of Georgia-based Tri-State Technical Services, Inc. (the “TRS Acquisition”);
4. On February 9, 2018, the Company acquired substantially all of the assets of Texas-based companies, Zuf Acquisitions I LLC (d/b/a AAdvantage Laundry Systems) and Sky-Rent LP (collectively the “AA Acquisition”);
5. On September 4, 2018, the Company acquired substantially all of the assets of Florida-based Industrial Laundry Services, Inc. (the “ILS Acquisition”);
6. On September 12, 2018, the Company acquired substantially all of the assets of Texas-based Scott Equipment, Inc. (the “SEI Acquisition”);
7. On November 6, 2018, the Company acquired Washington-based Washington Automated, Inc. (“WAI”) via a merger of WAI with and into a wholly-owned subsidiary of the Company (the “WAI Acquisition”);
8. On November 14, 2018, the Company acquired substantially all of the assets of Texas-based Skyline Equipment, Inc. (the “SKY Acquisition”);
9. On November 16, 2018, the Company acquired substantially all of the assets of Florida-based Worldwide Laundry, Inc. (the “WWL Acquisition”); and
10. On February 5, 2019, the Company acquired all of the outstanding stock of Pennsylvania-based PAC Industries, Inc. (the “PAC Acquisition”).

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Each acquisition described above was effected by the Company, indirectly through a separate wholly-owned subsidiary formed by the Company for the purpose of effecting the transaction and operating the related business following the acquisition, and included both cash consideration and stock consideration in the form of shares of the Company's common stock. In connection with each asset acquisition, the Company, indirectly through its applicable wholly-owned subsidiary, also assumed certain of the liabilities of the acquired business. The financial position, including assets and liabilities, and results of operations of the acquired businesses following the respective closing dates are included in the Company's consolidated financial statements. The financial position and results of PAC Industries, Inc. following February 5, 2019 will be included in the Company's consolidated financial statements beginning with the quarter ending March 31, 2019.

See Note 3 to the unaudited condensed consolidated financial statements included in Item 1 of this Quarterly Report on Form 10-Q for additional information regarding the SEI Acquisition and the other acquisitions completed during the six months ended December 31, 2018. See also Note 13 to the unaudited consolidated financial statements included in Item 1 of this Quarterly Report on Form 10-Q for information regarding the Company's acquisition of PAC Industries, which was completed on February 5, 2019.

### **Recent Accounting Pronouncements**

Refer to Note 2 to the unaudited condensed consolidated financial statements included in Item 1 of this Quarterly Report on Form 10-Q for a discussion of recently adopted significant accounting policies.

### **Results of Operations**

#### **Six and Three-Month Periods Ended December 31, 2018 Compared to the Six and Three-Month Periods Ended December 31, 2017**

##### *Revenues*

Revenues for the six and three-month periods ended December 31, 2018 increased \$41.8 million, or 67%, and \$24.7 million, or 68%, respectively, compared to the same periods of the prior fiscal year. The increases in revenues were primarily due to the results of operations of acquired businesses, including, primarily TRS, AA, SEI, and WAI.



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### Gross Profit

Gross profit for the six and three-month periods ended December 31, 2018 increased \$9.2 million, or 65%, and \$5.4 million, or 66%, respectively, compared to the same periods of the prior fiscal year, primarily as a result of increased revenues. For both the six and three-month periods ended December 31, 2018, gross margins decreased to 22.5% from 22.8%. The decrease in gross margin for the six and three-month periods is primarily due to product and customer mix.

### Selling, General and Administrative Expenses

Selling, general and administrative expenses increased \$8.8 million, or 80.1%, and \$5.6 million, or 92.2%, for the six and three-month periods ended December 31, 2018, respectively, compared to the same periods of the prior fiscal year. As a percentage of revenues, selling, general, and administrative expenses for the six and three-month periods ended December 31, 2018 were 19.1% and 19.0%, respectively, compared to 17.7% and 16.7% during the six and three-month periods ended December 31, 2017, respectively. These increases are primarily due to the consolidation of selling, general and administrative expenses of acquired businesses, including, primarily, TRS, AA, SEI, and WAI. Increases in selling, general and administrative expenses also reflect increases in expenses in connection with the growth of the Company's market capitalization, which include but are not limited to greater accounting fees, legal fees, and insurance expenses. Further, in support of the Company's buy and build growth strategy, the Company added key personnel, which contributed to increases in compensation expenses. Finally, the increase in selling, general and administrative expenses includes an increase in non-cash amortization expense related to the intangible assets the Company acquired in connection with its acquisitions and an increase in non-cash share-based compensation.

### Interest Expense

Net interest expense for the six-month period ended December 31, 2018 was \$539,000 compared to \$183,000 during the same period of the prior fiscal year. The increase in net interest expense is primarily due to an increase in average outstanding borrowings.

### Income Taxes

The Company's effective tax rate was 31.2% and 26.8% for the six and three-month periods ended December 31, 2018, respectively, compared to 31.1% and 27.8% for the six and three-month periods ended December 31, 2017, respectively. The increase in the effective tax rate for the six-month period ended December 31, 2018 is attributable to permanent book-tax differences resulting from nondeductible compensation. The decrease in the effective tax rate for the three-month period ended December 31, 2018 is attributable to lower taxes as a result of the Tax Cuts and Job Act of 2017 and a lower effective state tax rate from increased apportionment to states with lower tax rates partially offset by permanent book-tax differences resulting from nondeductible compensation.

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### Net Income

As described above, the Company's results of operations for the six and three months ended December 31, 2018 compared to the same periods of the prior fiscal year were impacted by the incurrence of expenses related to the Company's continued investment in its buy and build growth strategy, the increase in its market capitalization, and the increase in non-cash charges related to the amortization of intangible assets and share-based compensation.

### **Consolidated Financial Condition**

The Company's total assets increased to \$144.5 million at December 31, 2018 from \$95.5 million at June 30, 2018. The increase in total assets was primarily attributable to the assets the Company acquired in connection with the ILS Acquisition, the SEI Acquisition, the WAI Acquisition, the SKY Acquisition, and the WWL Acquisition. The Company's total liabilities increased to \$71.9 million at December 31, 2018 from \$38.4 million at June 30, 2018, which was primarily due to the liabilities of the acquired businesses assumed in connection with the acquisitions and an increase in long-term debt of \$28.7 million.

### **Liquidity and Capital Resources**

For the six-month period ended December 31, 2018, cash increased by approximately \$8.8 million compared to an increase of approximately \$458,000 during the six-month period ended December 31, 2017.

### Working Capital

Working capital, defined as current assets less current liabilities, increased to \$34.6 million at December 31, 2018 from \$7.3 million at December 31, 2017, primarily reflecting higher levels of cash, accounts receivable and inventory. The increase in cash was primarily due to anticipated cash needs of the Company. The increase in accounts receivable was primarily due to increased sales volumes and the timing of certain significant billings close to period end related to longer-term contracts that included the purchase of equipment and subsequent installation, including construction services. The increase in inventory was primarily due to the timing of the Company's placement of equipment orders and availability of products from certain vendors at favorable prices during the period.

### Cash Flows

The following table summarizes the Company's cash flow activity for the six-months ended December 31, 2018 and 2017 (in thousands):

	Six Months Ended	
	December 31,	
	2018	2017
Net cash (used) provided by:		
Operating activities	\$ (9,855)	\$ 408
Investing activities	\$ (8,431)	\$ (6,293)
Financing activities	\$ 27,129	\$ 6,343

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The individual items contributing to cash flow changes for the periods presented are detailed in the unaudited condensed consolidated statements of cash flows included in Item 1 of this Quarterly Report on Form 10-Q.

### Operating Activities

For the six months ended December 31, 2018, operating activities used cash of \$9.9 million compared to \$408,000 of cash provided by operating activities during the six months ended December 31, 2017. This \$10.3 million increase in cash used by operating activities was primarily attributable to changes in working capital described above. Subsequent to quarter end, the full current balance of approximately \$5.8 million of the accounts receivable from the significant billings close to period end related to the Company's above-described longer-term contracts was collected.

### Investing Activities

Net cash used in investing activities increased \$2.1 million to \$8.4 million during the six months ended December 31, 2018 compared to \$6.3 million during the six months ended December 31, 2017. This \$2.1 million increase was primarily attributable to cash used for the ILS Acquisition, the SEI Acquisition, the WAI Acquisition, the SKY Acquisition, and the WWL Acquisition. Additionally, certain of the Company's subsidiaries are engaged in the laundry route and rental business. In connection with growth initiatives related to the laundry route and rental business, the Company experienced an increase of \$519,000 in capital expenditures during the six months ended December 31, 2018 as compared to the same period of the prior fiscal year.

### Financing Activities

Financing activities provided cash of \$27.1 million in the six months ended December 31, 2018 compared to \$6.3 million of cash provided by financing activities during the six months ended December 31, 2017. This increase was primarily attributable to a greater amount of net borrowings under the Company's revolving credit agreement during the six months ended December 31, 2018 to fund consideration paid in connection with the ILS Acquisition, the SEI Acquisition, the WAI Acquisition, the SKY Acquisition, and the WWL Acquisition. The increased net borrowings were also used to fund operating activities and other activities in support of the Company's long-term buy and build growth strategy.

### Revolving Credit Agreement

On November 2, 2018, the Company entered into a syndicated credit agreement (the "2018 Credit Agreement") with a new lender, with a five-year term including a maximum aggregate principal amount of up to \$100 million, with an accordion feature to increase the revolving credit facility by up to \$40 million for a total of \$140 million. The Company uses the revolving credit facility to fund its working capital needs, acquisitions, dividends (if and to the extent declared by the Company's Board of Directors), capital expenditures, stock repurchases, issuances of letters of credit, and for other general corporate purposes. The obligations of the Company under the 2018 Credit Agreement are secured by substantially all of the assets of the Company and certain of its subsidiaries, and are guaranteed, jointly and severally, by certain of the Company's subsidiaries. The 2018 Credit Agreement replaced the Company's previous credit facility, which was repaid in full with borrowings of \$20.8 million under the 2018 Credit Agreement.

Borrowings (other than swingline loans) under the 2018 Credit Agreement bear interest at a rate, at the Company's election at the time of borrowing, equal to (a) LIBOR plus a margin that ranges between 1.25% and 1.75% depending on the Company's consolidated leverage ratio, which is a ratio of consolidated funded indebtedness to consolidated earnings before interest, taxes, depreciation and amortization (EBITDA) (the "Consolidated Leverage Ratio") or (b) the highest of (i) prime, (ii) the federal funds rate plus 50 basis points, and (iii) the one month LIBOR rate plus 100 basis points (such highest rate, the "Base Rate"), plus a margin that ranges between 0.25% and 0.75% depending on the Consolidated Leverage Ratio. Swingline loans bear interest calculated at the Base Rate plus a margin that ranges between 0.25% and 0.75% depending on the Consolidated Leverage Ratio. The 2018 Credit Agreement has a term of five-years and matures on November 2, 2023.

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The 2018 Credit Agreement contains certain covenants, including financial covenants requiring the Company to comply with maximum leverage ratios and minimum interest coverage ratios. The 2018 Credit Agreement also contains other provisions which may restrict the Company's ability to, among other things, dispose of or acquire assets or businesses, incur additional indebtedness, make certain investments and capital expenditures, pay dividends, repurchase shares and enter into transactions with affiliates. At December 31, 2018, the Company was in compliance with its covenants under the 2018 Credit Agreement and \$12.8 million was available to borrow under the revolving credit facility.

The Company believes that its existing cash and cash equivalents, anticipated cash from operations and funds available under the 2018 Credit Agreement will be sufficient to fund its operations and anticipated capital expenditures for at least the next twelve months. The Company may also seek to raise funds through the issuance of equity and/or debt securities or the incurrence of additional secured or unsecured indebtedness, including in connection with acquisitions or other transactions pursued or consummated by the Company as part of its buy-and-build growth strategy.

As previously described, the Company has in place an equity incentive plan, the EVI Industries, Inc. 2015 Equity Incentive Plan (the "Plan"), pursuant to which restricted stock and other equity-based awards and cash awards may be granted to participants in the Plan. Upon request by a holder of restricted stock granted under the Plan, the Company may issue shares upon vesting net of the statutory withholding requirements that the Company pays on behalf of its employees. For financial statement purposes, the shares withheld are treated as being repurchased by the Company and reduce additional paid-in capital within shareholders' equity and are reflected as repurchases in the Company's condensed consolidated statements of cash flows as they reduce the number of shares that would have been issued upon vesting. During the six months ended December 31, 2018 and 2017, share repurchases related to shares withheld upon the vesting of previously granted restricted stock awards were approximately \$359,000 and \$303,000, respectively.

### [Off-Balance Sheet Financing](#)

The Company had no off-balance sheet financing arrangements within the meaning of Item 303(a)(4) of Regulation S-K at December 31, 2018.

### [Inflation](#)

Inflation did not have a significant effect on the Company's results during any of the reported periods.

### [Transactions with Related Parties](#)

Certain of the Company's subsidiaries lease warehouse and office space from one or more of the principals of those subsidiaries. These leases include the following:

The Company's wholly-owned subsidiary, Steiner-Atlantic, leases 28,000 square feet of warehouse and office space from an affiliate of Michael S. Steiner, a director and Executive Vice President and Secretary of the Company, pursuant to a lease agreement dated November 1, 2014, as amended. The lease term was extended during December 2018 to run through December 31, 2019. Monthly base rental payments under the lease are \$12,000. In addition to base rent, Steiner-Atlantic is responsible under the lease for costs related to real estate taxes, utilities, maintenance, repairs and insurance. Payments under this lease totaled approximately \$72,000 and \$65,000 during the six months ended December 31, 2018 and 2017, respectively.

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On October 10, 2016, the Company's wholly-owned subsidiary, Western State Design, entered into a lease agreement pursuant to which it leases 17,600 square feet of warehouse and office space from an affiliate of Dennis Mack, a director and Executive Vice President, Corporate Strategy of the Company, and Tom Marks, Executive Vice President, Business Development of the Company. Monthly base rental payments are \$12,000 during the initial term of the lease. In addition to base rent, Western State Design is responsible under the lease for costs related to real estate taxes, utilities, maintenance, repairs and insurance. The lease has an initial term of five years and provides for two successive three-year renewal terms at the option of the Company. Payments under this lease totaled approximately \$72,000 during each of the six months ended December 31, 2018 and 2017.

On October 31, 2017, the Company's wholly-owned subsidiary, Tri-State, entered into lease agreements pursuant to which it leases a total of 81,000 square feet of warehouse and office space from an affiliate of Matt Stephenson, President of Tri-State. Monthly base rental payments total \$21,000 during the initial terms of the leases. In addition to base rent, Tri-State is responsible under the leases for costs related to real estate taxes, utilities, maintenance, repairs and insurance. Each lease has an initial term of five years and provides for two successive three-year renewal terms at the option of the Company. Payments under these leases totaled approximately \$126,000 during the six months ended December 31, 2018 and \$41,000 during the period from October 31, 2017 through December 31, 2017.

On February 9, 2018, the Company's wholly-owned subsidiary, AAdvantage, entered into a lease agreement pursuant to which it leases a total of 5,000 square feet of warehouse and office space from an affiliate of Mike Zuffinetti, Chief Executive Officer of AAdvantage. Monthly base rental payments are \$3,950 during the initial term of the lease. In addition to base rent, AAdvantage is responsible under the lease for costs related to real estate taxes, utilities, maintenance, repairs and insurance. The lease has an initial term of five years and provides for two successive three-year renewal terms at the option of the Company. In addition, during February 2018, AAdvantage entered into a month-to-month lease agreement with an affiliate of Mike Zuffinetti for a total of 17,000 square feet of warehouse and office space. Monthly base rental payments under this lease were \$13,500. This month-to-month lease was terminated on October 31, 2018. In addition, on November 1, 2018, AAdvantage entered into a lease agreement pursuant to which it leases warehouse and office space from an affiliate of Mike Zuffinetti. Monthly base rental payments were \$26,000 initially. Pursuant to the lease agreement, on January 1, 2019, the lease expanded to cover an additional 15,000 square feet of warehouse space (for a total of 47,500 square feet of warehouse and office space), and monthly base rental payments increased to \$36,000. In addition to base rent, AAdvantage is responsible under the lease for costs related to real estate taxes, utilities, maintenance, repairs and insurance. The lease has an initial term of five years and provides for two successive three-year renewal terms at the option of the Company. Payments under all of the leases described in this paragraph totaled approximately \$130,000 during the six months ended December 31, 2018.

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On September 12, 2018, the Company's wholly-owned subsidiary, Scott Equipment, entered into lease agreements pursuant to which it leases a total of 18,000 square feet of warehouse and office space from an affiliate of Scott Martin, President of Scott Equipment. Monthly base rental payments total \$11,000 during the initial terms of the leases. In addition to base rent, Scott Equipment is responsible under the leases for costs related to real estate taxes, utilities, maintenance, repairs and insurance. Each lease has an initial term of five years and provides for two successive three-year renewal terms at the option of the Company. Payments under these leases totaled approximately \$44,000 during the six months ended December 31, 2018.

### **Critical Accounting Policies**

In connection with the preparation of its financial statements, the Company makes estimates and assumptions, including those that affect the reported amounts of assets and liabilities, contingent assets and liabilities, and revenues and expenses during the reported periods. Estimates and assumptions made may not prove to be correct, and actual results may differ from the estimates. The accounting policies that the Company has identified as critical to its business operations and to an understanding of the Company's financial statements remain unchanged from those described in the Management's Discussion and Analysis of Financial Condition and Results of Operations section of the Company's Annual Report on Form 10-K for the fiscal year ended June 30, 2018, except with respect to the adoption of the New Revenue Standard as described in Note 2 to the unaudited condensed consolidated financial statements included in Item 1 of this Report.

### **Recently Issued Accounting Guidance**

See Note 10 to the unaudited condensed consolidated financial statements included in Item 1 of this Report for a description of *Recently Issued Accounting Guidance*.

### **Item 3. Quantitative and Qualitative Disclosures about Market Risk.**

The Company's indebtedness subjects the Company to interest rate risk. Interest rates are subject to the influence of economic conditions generally, both domestic and foreign, and also to the monetary and fiscal policies of the United States and its agencies, particularly the Federal Reserve. The nature and timing of any changes in such policies or general economic conditions and the effect they may have on the Company are unpredictable. The Company's indebtedness may also have other important impacts on the Company, including that the Company will be required to utilize cash flow to service the debt, indebtedness may make the Company more vulnerable to economic downturns, and the Company's indebtedness subjects the Company to covenants and restrictions on its operations and activities, including its ability to pay dividends and take certain other actions. Interest on borrowings under the Company's 2018 Credit Agreement accrue at a rate, at the Company's election at the time of borrowing, equal to (a) LIBOR plus a margin that ranges between 1.25% and 1.75% depending on the Company's consolidated leverage ratio, which is a ratio of consolidated funded indebtedness to consolidated earnings before interest, taxes, depreciation and amortization (EBITDA) (the "Consolidated Leverage Ratio") or (b) the highest of (i) prime, (ii) the federal funds rate plus 50 basis points, and (iii) the one-month LIBOR rate plus 100 basis points (such highest rate, the "Base Rate"), plus a margin that ranges between 0.25% and 0.75% depending on the Consolidated Leverage Ratio. As of December 31, 2018, the Company had approximately \$37.8 million of outstanding borrowings. Interest on such borrowings accrued at a weighted average rate of 3.66%. Based on the amounts outstanding at December 31, 2018, a hypothetical 1% increase in daily interest rates would increase the Company's annual interest expense by approximately \$378,000.

All of the Company's export sales require the customer to make payment in United States dollars. Accordingly, foreign sales may be affected by the strength of the United States dollar relative to the currencies of the countries in which the Company's customers are located, as well as the strength of the economies of the countries in which the Company's customers are located. The Company has, at times in the past, paid certain suppliers in Euros. The Company had no foreign exchange contracts outstanding at December 31, 2018 or June 30, 2018.

The Company's cash and cash equivalents are maintained in bank accounts which bear interest at prevailing interest rates. At December 31, 2018, bank deposits exceeded Federal Deposit Insurance Corporation limits.

**Item 4. Controls and Procedures.**

**Evaluation of Disclosure Controls and Procedures**

As of the end of the period covered by this Report, management of the Company, with the participation of the Company's principal executive officer and principal financial officer, evaluated the effectiveness of the Company's "disclosure controls and procedures" (as defined in Rule 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended (the "Exchange Act")). Based on that evaluation, the Company's principal executive officer and principal financial officer concluded that, as of December 31, 2018, the Company's disclosure controls and procedures were effective to ensure that information required to be disclosed by the Company in the reports that it files or submits under the Exchange Act (a) is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms and (b) is accumulated and communicated to the Company's management, including the Company's principal executive officer and principal financial officer, as appropriate to allow timely decisions regarding required disclosure. It should be noted that a control system, no matter how well designed and operated, can provide only reasonable, not absolute, assurance that it will detect or uncover failures within the Company to disclose material information otherwise required to be set forth in the Company's periodic reports.

**Changes in Internal Control over Financial Reporting**

During the quarter ended December 31, 2018, other than the completion of the WAI Acquisition during November 2018, there were no changes in the Company's internal control over financial reporting that have materially affected, or are reasonably likely to materially affect, the Company's internal control over financial reporting.



## PART II—OTHER INFORMATION

### **Item 1. Legal Proceedings**

From time to time, the Company is involved in, or subject to, legal and regulatory claims, proceedings, demands or actions arising in the ordinary course of business. There have been no material changes with respect to such matters from the disclosure included in the “Legal Proceedings” section of the Company’s Annual Report on Form 10-K for the fiscal year ended June 30, 2018.

### **Item 1A. Risk Factors**

There have been no material changes in the risks and uncertainties that the Company faces from those disclosed in the “Risk Factors” section of the Company’s Annual Report on Form 10-K for the fiscal year ended June 30, 2018.

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**Item 6. Exhibits.**

<u>Exhibit Number</u>	<u>Description</u>
*3.01(a)	<u>Certificate of Incorporation of the Company, as filed with the Secretary of State of the State of Delaware on June 13, 1963 (Incorporated by reference to Exhibit 3.1(a) to the Company's Current Report on Form 8-K filed with the SEC on November 13, 2009)</u>
*3.01(b)	<u>Certificate of Amendment to the Certificate of Incorporation of the Company, as filed with the Secretary of State of the State of Delaware on March 27, 1968 (Incorporated by reference to Exhibit 3.1(b) to the Company's Current Report on Form 8-K filed with the SEC on November 13, 2009)</u>
*3.01(c)	<u>Certificate of Amendment to the Certificate of Incorporation of the Company, as filed with the Secretary of State of the State of Delaware on November 4, 1983 (Incorporated by reference to Exhibit 3.1(c) to the Company's Current Report on Form 8-K filed with the SEC on November 13, 2009)</u>
*3.01(d)	<u>Certificate of Amendment to the Certificate of Incorporation of the Company, as filed with the Secretary of State of the State of Delaware on November 5, 1986 (Incorporated by reference to Exhibit 3.1(d) to the Company's Current Report on Form 8-K filed with the SEC on November 13, 2009)</u>
*3.01(e)	<u>Certificate of Change of Location of Registered Office and of Agent, as filed with the Secretary of State of the State of Delaware on December 31, 1986 (Incorporated by reference to Exhibit 3.1(e) to the Company's Current Report on Form 8-K filed with the SEC on November 13, 2009)</u>
*3.01(f)	<u>Certificate of Amendment to the Company's Certificate of Incorporation, as filed with the Secretary of State of the State of Delaware on October 30, 1998 (Incorporated by reference to Exhibit 3.1(f) to the Company's Current Report on Form 8-K filed with the SEC on November 13, 2009)</u>
*3.01(g)	<u>Certificate of Amendment to the Company's Certificate of Incorporation, as filed with the Secretary of State of the State of Delaware on November 5, 1999 (Incorporated by reference to Exhibit 3.1(g) to the Company's Current Report on Form 8-K filed with the SEC on November 13, 2009)</u>
*3.01(h)	<u>Certificate of Amendment to the Company's Certificate of Incorporation, as filed with the Secretary of State of the State of Delaware on November 13, 2009 (Incorporated by reference to Exhibit 3.1(h) to the Company's Current Report on Form 8-K filed with the SEC on November 13, 2009)</u>
*3.01(i)	<u>Certificate of Amendment to the Company's Certificate of Incorporation, as filed with the Secretary of State of the State of Delaware on November 30, 2016 (Incorporated by reference to Appendix A of the Company's Definitive Proxy Statement on Schedule 14A filed with the SEC on October 28, 2016)</u>
*3.01(j)	<u>Certificate of Amendment to the Company's Certificate of Incorporation, as filed with the Secretary of State of the State of Delaware on December 21, 2018 (Incorporated by reference to Exhibit 3.1 to the Company's Current Report on Form 8-K filed with the SEC on December 21, 2018)</u>
*10.01	<u>Credit Agreement, dated as of November 2, 2018, by and among the Company, as Borrower, certain subsidiaries of the Company party thereto, as Guarantors, Bank of America, N.A, as Administrative Agent, Swingline Lender and L/C Issuer, Merrill Lynch, Pierce, Fenner &amp; Smith Incorporated and U.S. Bank National Association, as Joint Lead Arrangers, Merrill Lynch Pierce, Fenner &amp; Smith Incorporated, as Sole Bookrunner, and other lender parties thereto (Incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the SEC on November 7, 2018)</u>
*10.02	<u>Stock Purchase Agreement, dated as of January 18, 2019, by and among the Company, PAC Industries, Inc., PAC Industries, Inc. Employee Stock Ownership Trust, First Bankers Trust Services, Inc. as trustee for PAC Industries, Inc. Employee Stock Ownership Plan, Kaitlyn A. Costabile, Philip A. Costabile II, Christina Marie Costabile, Emily M. Bradbury, Karrah D. Devlin, Sommer Costabile, Rocco J. Costabile, and Frank Costabile.</u>
*31.01	<u>Certification of Principal Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002</u>
*31.02	<u>Certification of Principal Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002</u>
+32.01	<u>Certification of Principal Executive Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002</u>
+32.02	<u>Certification of Principal Financial Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002</u>
101.INS	XBRL Instance Document
101.SCH	XBRL Taxonomy Extension Schema Document
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document

101.DEF XBRL Taxonomy Extension Definition Linkbase Document

101.LAB XBRL Taxonomy Extension Label Linkbase Document

101.PRE XBRL Taxonomy Extension Presentation Linkbase Document

\* Filed with this Report.

+ Furnished with this Report.

**SIGNATURES**

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

Date: February 11, 2019

EVI Industries, Inc.

By: /s/ Robert H. Lazar  
Robert H. Lazar  
Chief Financial Officer

**STOCK PURCHASE AGREEMENT**

among

**PAC INDUSTRIES, INC.,**

**FIRST BANKERS TRUST SERVICES, INC.,**

as the Trustee of the

**PAC INDUSTRIES, INC. EMPLOYEE STOCK OWNERSHIP TRUST**

**KAITLYN A. COSTABILE, PHILIP A. COSTABILE II, CHRISTINA MARIE COSTABILE, EMILY M. BRADBURY,  
KARRAH D. DEVLIN, SOMMER COSTABILE AND ROCCO J. COSTABILE,**

**FRANK COSTABILE,**

as Representative of the Warrant Holders

and

**EVI INDUSTRIES, INC.**

dated as of

January 18, 2019

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## STOCK PURCHASE AGREEMENT

This Stock Purchase Agreement (this “**Agreement**”), dated as of January 18, 2019, is entered into by and among PAC INDUSTRIES, INC., a Pennsylvania corporation (the “**Company**”), the PAC INDUSTRIES, INC. EMPLOYEE STOCK OWNERSHIP TRUST (“**Trust**”) acting herein through FIRST BANKERS TRUST SERVICES, INC. (“**FBTS**” or “**Trustee**”), not in an individual or corporate capacity but solely as Trustee of the Trust established in connection with the PAC INDUSTRIES, INC. EMPLOYEE STOCK OWNERSHIP PLAN (the “**Plan**”) (the Plan and the Trust referred to herein collectively as the “**ESOP**” or “**Seller**”), KAITLYN A. COSTABILE, PHILIP A. COSTABILE II, CHRISTINA MARIE COSTABILE, EMILY M. BRADBURY, KARRAH D. DEVLIN, SOMMER COSTABILE AND ROCCO J. COSTABILE (each, a “**Warrant Holder**,” and collectively, “**Warrant Holders**”), Frank Costabile, not in an individual capacity but in his capacity as the representative of the Warrant Holders (the “**Warrant Holder Representative**”), and EVI INDUSTRIES, INC., a Delaware corporation (“**Buyer**”). The Company, Buyer, Seller and the Warrant Holders are referred to collectively in this Agreement as the “**Parties**.”

### RECITALS

**WHEREAS**, the Company established the Plan, a qualified tax-exempt retirement plan, and its related Trust, effective as of January 1, 2008 (as amended from time to time, the ESOP);

**WHEREAS**, the Company (a) sells, distributes, brokers, and supplies new, used and rebuilt equipment, parts, accessories and supplies and provides installation, maintenance, service and repairs of commercial, industrial, and vended laundry equipment, rail and conveyor equipment, steam and hot water boilers and heaters, and water reuse and recycling systems, (b) designs and plans commercial, industrial and vended laundry, rail, boiler and water systems, and (c) installs industrial, commercial and vended laundries, (collectively the “**Business**”);

**WHEREAS**, Seller owns three hundred thousand (300,000) shares (the “**Shares**”) of common stock, par value \$0.01 per share (the “**Company Common Stock**”), of the Company;

**WHEREAS**, Warrant Holders own warrants to purchase an aggregate of 116,965 shares of Company Common Stock (each a “**Warrant**” and collectively, the “**Warrants**”), each with any exercise price of \$3.65 per share;

**WHEREAS**, Seller wishes to sell to Buyer, and Buyer wishes to purchase from Seller, the Shares (the “**Stock Purchase**”), subject to the terms and conditions set forth herein;

**WHEREAS**, prior to the Closing, each Warrant Holder shall, in accordance with Section 2(f) of each Warrant, put such Warrant Holder’s Warrant to the Company and the Company shall pay the put price for each Warrant by delivering to each Warrant Holder a promissory note pursuant to Section 2(f)(ii) of each Warrant;

**WHEREAS**, the Parties (as defined herein) intend that the sale of the Shares by Seller to Buyer hereunder shall qualify as a “qualified stock purchase” within the meaning of Section 338(d) of the Internal Revenue Code of 1986, as amended (the “**Code**”), and the Parties intend to make a joint election pursuant to Section 338(h)(10) of the Code with respect to such qualified stock purchase;

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**WHEREAS**, the Board of Directors of the Company has reviewed the terms and conditions of the Stock Purchase and has approved the same and has recommended the Stock Purchase as in the best interests of the sole stockholder of the Company;

**WHEREAS**, the Trustee has determined that the Stock Purchase is in the best interests of the ESOP and the Plan participants and their beneficiaries and that the Stock Purchase is consistent with the Trustee's fiduciary duties under Title I of ERISA (the "**ERISA Fiduciary Standards**") to sell the Shares to Buyer;

**WHEREAS**, the Trustee has relied upon the Fairness Opinion from the Advisor dated and effective as of the date hereof for the Trustee's execution of this Agreement;

**WHEREAS**, the terms and conditions of the Stock Purchase have been reviewed by and taken into account by the Advisor in rendering the Fairness Opinion dated as of the date hereof;

**WHEREAS**, it is in the best interests of all Parties hereto to execute and deliver this Agreement.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

## **ARTICLE I DEFINITIONS**

The following terms have the meanings specified or referred to in this **ARTICLE I**:

"**338(h)(10) Election**" means an election under Section 338(h)(10) of the Code (and any corresponding election under state, local, and foreign Tax Law) with respect to the purchase and sale of the Shares hereunder.

"**338(h)(10) Election Forms**" has the meaning set forth in Section 7.08(a).

"**2017 Balance Sheet**" has the meaning set forth in Section 3.05(a).

"**2017 Balance Sheet Date**" has the meaning set forth in Section 3.05(a).

"**2018 Audited Financial Statements**" has the meaning set forth in Section 7.21

"**Accounting Principles**" means the same accounting practices, procedures, policies and methods used and applied by the Company in preparation of the Financial Statements, all of which are in accordance with GAAP.

"**Advisor**" means SC&H Tax & Advisory Services, LLC, the independent financial advisor to the Trustee.

“**Affiliate**” of a Person means any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. The term “control” (including the terms “controlled by” and “under common control with”) means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

“**Agreement**” has the meaning set forth in the preamble.

“**Allocation Schedule**” has the meaning set forth in Section 7.09.

“**Anti-Terrorism Laws**” has the meaning set forth in Section 3.20(b).

“**Audited Financial Statements**” has the meaning set forth in Section 3.05(a).

“**Bank Accounts**” has the meaning set forth in Section 3.19.

“**Benefit Plan**” has the meaning set forth in Section 3.15(a).

“**Business**” has the meaning set forth in the recitals.

“**Business Combination**” means, with respect to any Person, any merger, consolidation or combination to which such Person is a party, any sale, dividend, split or other disposition of capital stock or other equity interests of such Person or any sale, dividend or other disposition of a material portion of the assets of such Person.

“**Business Day**” means any day except Saturday, Sunday or any other day on which commercial banks located in Miami, Florida are authorized or required by Law to be closed for business.

“**Buyer**” has the meaning set forth in the preamble.

“**Buyer Benefit Plans**” has the meaning set forth in Section 7.01(a).

“**Buyer Common Stock**” means shares of common stock, par value \$0.025 per share, of Buyer.

“**Buyer Indemnified Party**” has the meaning set forth in Section 9.02.

“**Cap**” has the meaning set forth in Section 9.05(b).

“**Cash**” means cash and cash equivalents of the Company.

“**Cash Consideration**” means Six Million Four Hundred Thousand Dollars (\$6,400,000).

“**Closing**” has the meaning set forth in Section 2.04.

“**Closing Balance Sheet**” has the meaning set forth in Section 3.05(a).

“**Closing Cash**” means Cash of the Company as of the Effective Time.

“**Closing Cash Payment**” has the meaning set forth in Section 2.02(a).

“**Closing Date**” has the meaning set forth in Section 2.04.

“**Closing Indebtedness**” means the Indebtedness of the Company as of the Effective Time, other than Permitted Indebtedness.

“**Closing Transaction Expenses**” means the Transaction Expenses of the Company, without giving effect to the Closing.

“**Closing Working Capital**” has the meaning provided in **Schedule 1.01** of the Disclosure Schedules.

“**Code**” has the meaning set forth in the recitals.

“**Company**” has the meaning set forth in the preamble.

“**Company Common Stock**” has the meaning set forth in the recitals.

“**Company Continuing Employee**” has the meaning set forth in Section 7.04(a).

“**Company’s 2018 Contribution**” has the meaning set forth in Section 7.07(f).

“**Contract**” means any contract, lease, evidence of Indebtedness, mortgage, indenture, security agreement or other agreement (whether written or oral).

“**Customer Deposits**” means customer deposits of the Company as of the Closing Date calculated in accordance with GAAP.

“**Decrease Amount**” has the meaning set forth in Section 2.05(c)(i).

“**Deductible**” has the meaning set forth in Section 9.05(a).

“**Direct Claim**” has the meaning set forth in Section 9.05(c).

“**Disclosure Schedules**” means the Disclosure Schedules delivered by the Company, Seller, Warrant Holders and Buyer concurrently with the execution and delivery of this Agreement.

“**Disputed Amounts**” has the meaning set forth in Section 2.05(b)(iii).

“**Dollars or \$**” means the lawful currency of the United States.

“**Effective Time**” has the meaning set forth in Section 2.04.

“**Election Date**” has the meaning set forth in Section 3.17(a)(iii).

“**Employees**” means those Persons employed by the Company immediately prior to the Closing, including those on vacation, taking approved time off or on any other leave of absence or on a disability with the legal or contractual right to return to employment, as set forth in **Section 3.16(c)** of the Disclosure Schedules.

“**Environment**” or “**Environmental**” means all air, surface water, groundwater, or land, including land surface or subsurface, including all fish, wildlife, biota and all other natural resources.

“**Environmental Claim**” means any and all administrative or judicial proceedings pursuant to or relating to any applicable Environmental Law by any Person relating to any actual or potential (x) violation of or liability under any Environmental Law, (y) violation of any Environmental Permit, or (z) liability for any costs or damages related to the presence, Environmental Release, or threatened Environmental Release into the Environment, of any Hazardous Substances at any location, including, but not limited to, any off-Site location to which Hazardous Substances or materials containing Hazardous Substances were sent for handling.

“**Environmental Law**” means any and all Laws relating to the Environment.

“**Environmental Permit**” means any Permit under or in connection with any Environmental Law.

“**Environmental Release**” means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of a Hazardous Substance into the Environment, except those permitted under Environmental Law.

“**ERISA**” means the Employee Retirement Income Security Act of 1974, as amended, and the regulations promulgated thereunder.

“**ERISA Affiliate**” means any trade or business (whether or not incorporated) that would be treated at the relevant time together with the Company as a “single employer” within the meaning of Section 414 of the Code.

“**ERISA Fiduciary Standards**” has the meaning given to it in the Recitals.

“**Escrow**” means the escrow fund established pursuant to the Escrow Agreement

“**Escrow Agent**” means Fifth Third Bank, an Ohio banking corporation.

“**Escrow Agreement**” means the Escrow Agreement in substantially the form attached hereto as Exhibit A, and as modified by the Parties prior to Closing.

“**Escrow Amount**” means an amount equal to the ESOP Escrow Amount plus the Warrant Holders Escrow Amount.

“**ESOP**” has the meaning set forth in the recitals.

**“ESOP Equity Consideration”** means a number of shares of Buyer Common Stock equal to the quotient of (i) Three Million Nine Hundred Eighty Three Thousand Seven Hundred Twenty One Dollars (\$3,983,721) divided by (ii) the average closing price per share of Buyer Common Stock on the NYSE American for the thirty (30) trading days immediately prior to the Closing Date as reported by the NYSE American.

**“ESOP Escrow Amount”** means Seven Hundred Nineteen Thousand Four Hundred Eighty Five Dollars (\$719,485).

**“ESOP Loan”** has the meaning set forth in Section 7.07(f).

**“Estimated Closing Cash Payment”** has the meaning set forth in Section 2.02(b).

**“Estimated Closing Date Statement”** has the meaning set forth in Section 2.02(b).

**“Excess Adjustment Amount”** has the meaning set forth in Section 2.05(c)(i).

**“Exchange Act”** means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

**“Existing Leases”** means any lease between the Company and an affiliate of the Company.

**“Facility Leases”** means the Facility leases in substantially the form attached hereto as Exhibits B-1 and B-2, between the Company and PAC LLC.

**“Fairness Opinions”** means the opinions, in form and substance in accordance with Section 3(18) of ERISA, prepared by the Advisor, an “independent appraiser” (within the meaning of Section 401(a)(28)(C) of the Code), and issued to the Trustee that: (a) the consideration to be received by the ESOP hereunder is not less than adequate consideration as that term is defined in Section 3(18) of ERISA and (b) that terms of the Stock Purchase and related transactions, taken as a whole, are fair to the ESOP from a financial point of view.

**“FBTS”** has the meaning set forth in the preamble.

**“Final Closing Cash Payment”** means the Closing Cash Payment, as finally determined in accordance with Section 2.05.

**“Final Closing Date Statement”** has the meaning set forth in Section 2.05(a).

**“Financial Statements”** has the meaning set forth in Section 3.05(a).

**“Fundamental Representations”** means the representations and warranties contained in Section 3.01 (Organization, Authority and Qualification of the Company); Section 3.02 (Capitalization); Section 3.03 (Subsidiaries); Section 3.04 (No Conflicts; Consents); Section 3.14 (Environmental Matters); Section 3.15 (Employee Benefit Matters); Section 3.17 (Tax Matters); Section 3.23 (Brokers); Section 4.01 (Authorization), Section 4.02 (No Conflicts; Consents), 4.03 (Warrants), Section 5.01 (Authorization); Section 5.02 (No Conflicts; Consents); Section

5.03 (Ownership); Section 6.01 (Organization and Authority of Buyer); Section 6.02 (No Conflicts; Consents); Section 6.03 (Brokers); and Section 6.05 (Buyer Common Stock).

“**GAAP**” means United States generally accepted accounting principles in effect from time to time, consistently applied.

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

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

“**Hazardous Substance**” means perchloroethylene, petroleum, petroleum hydrocarbons or petroleum products, petroleum by-products, radioactive materials, asbestos or asbestos-containing materials, gasoline, diesel fuel, pesticides, radon, urea formaldehyde, lead or lead-containing materials, polychlorinated biphenyls; and any other chemicals, materials, substances or wastes in any amount or concentration which are now included in the definition of “hazardous substances,” “hazardous materials,” “hazardous wastes,” “extremely hazardous wastes,” “restricted hazardous wastes,” “toxic substances,” “toxic pollutants,” “pollutants,” “regulated substances,” “solid wastes,” or “contaminants” or words of similar import, under any Environmental Law, in each case to the extent in excess of amounts or concentrations permitted by applicable Environmental Law.

“**Immediate Family Member**” of any Person, means, any child, stepchild, parent, stepparent, spouse, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law of such security holder, and any person (other than a tenant or employee) sharing the household of such Person.

“**Income Tax Returns**” means any Tax Return with respect to any Income Tax. “Increase Amount” has the meaning set forth in Section 2.05(c)(ii).

“**Income Taxes**” means any United States federal, state, local or non-U.S. Tax that, in whole or in part, is based on, measured by or calculated by reference to income, profits, receipts or gains.

“**Increase Amount**” has the meaning set forth in Section 2.05(c)(i).

“**Indebtedness**” of any Person means, without duplication, all obligations of such Person (i) means as of any date: either (a) any Liability of such Person (i) for borrowed money, (ii) under any reimbursement obligation relating to a letter of credit, bankers’ acceptance, note purchase facility or similar instruments, (iii) evidenced by a bond, note, debenture or similar instrument (including a purchase money obligation), (iv) for the payment of money relating to any lease that is required to be classified as a capitalized lease obligation in accordance with GAAP, (v) for all or any part of the deferred purchase price of property or services, including



any “earnout” or similar payments or any non-compete payments, (b) any Liability of others described in the preceding clause (a) that such Person has guaranteed, that is recourse to such Person or any of its assets or that is otherwise its legal Liability or that is secured in whole or in part by the assets of such Person. For purposes of this Agreement, “Indebtedness” includes (A) any and all accrued interest, success fees, prepayment premiums, make whole premiums or penalties and fees or expenses actually incurred (including attorneys’ fees) with respect to the prepayment of any Indebtedness, (B) all “cut” but uncashed checks issued by the Company that are outstanding as of the Closing Date, (C) cash, book or bank account overdrafts, including negative balance cash accounts and (D) any and all amounts owed by the Company to any of its respective Affiliates, including Seller or any of its Affiliates.

“**Indemnified Party**” has the meaning set forth in Section 9.05.

“**Indemnifying Party**” has the meaning set forth in Section 9.05.

“**Independent Accountant**” has the meaning set forth in Section 2.05(c)(iii).

“**Intellectual Property**” means (a) all trademarks, service marks, trade names, trade dress, product names and slogans both registered and unregistered, and any common law rights and good will appurtenant thereto, and all applications and registrations thereof; (b) all copyrights in copyrightable works and all other ownership rights in any works of authorship, any derivations thereof and all moral rights appurtenant thereto and all applications and registrations thereof; (c) all registered, reserved and unregistered domain names, uniform resource locators and keywords; (d) all computer and electronic data, documentation and software, including both source and object code, computer and database applications and operating programs; (e) all rights relating to the use of any name, image or likeness of any Person or the portrayal of a Person, either individually or together with others; (f) all trade secrets and confidential business, technical and proprietary information, including ideas, research notes, development notes, know-how, residuals, formulas, business methods and techniques, supplier lists, and marketing, financial and pricing data; (g) the right to sue both in equity and for past, present and future damages of any or all of the foregoing; (h) all existing copies and tangible embodiments of any or all of the foregoing, in whatever form or medium; (i) all right, title and interest (free and clear) in and to the Company’s website(s), including without limitation, the framework and infrastructure of such website(s), the layout design and the “look and feel” thereof, all related software, source code and object code, all CGI, HTML, XML or other coding, all scripts and applets, all web graphics and data, all navigational buttons, all server configurations, and any and all attendant intellectual property rights therein; and (j) all other intellectual property rights relating to any or all of the foregoing including any renewals, continuations or extensions thereof.

“**Interim Balance Sheet**” has the meaning set forth in Section 3.05(a).

“**Interim Balance Sheet Date**” has the meaning set forth in Section 3.05(a).

“**Interim Financial Statements**” has the meaning set forth in Section 3.05(a).

“**Key Employee**” means each of Frank Costabile, Rocco Costabile, Joseph Leo and Curt Smith.

“**Knowledge of the Company or Company’s Knowledge**” or any other similar knowledge qualification, means the actual knowledge of Key Employees, and such knowledge that such individuals would reasonably be expected to have in the normal course of exercising his duties based on applicable title or position.

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

“**Liability**” and “**Liabilities**” means any and all debts, liabilities, commitments and obligations, whether direct or indirect, fixed, contingent or absolute, matured or unmatured, liquidated or unliquidated, accrued or not accrued, due or to become due, known or unknown, asserted or not asserted, ascertained or ascertainable.

“**Lien**” means any claim, lien, charge, mortgage, pledge, hypothecation, assessment, security interest, lease, lien (statutory or other), option, levy, charge, economic interest, right of use, conditional sale Contract, title retention Contract, or other encumbrance of any kind whatsoever, or other Contract to give any of the foregoing.

“**Losses**” means losses, damages, liabilities, claims, awards, judgments, costs or expenses, including reasonable attorneys’ fees.

“**Material Adverse Effect**” means (a) with respect to the Company, the assets of the Company, or liabilities (including contingent liabilities), (i) a change in (or effect on) the condition (financial or otherwise), properties, assets of the Company or liabilities (including contingent liabilities), rights, obligations, system of internal controls, operations, operating results, business or prospects (including, without limitation, the Company’s equipment sales pipeline and equipment sales backlog), which change (or effect) is materially adverse to the financial condition, properties, assets or liabilities, rights, obligations, system of internal controls, operations, operating results, business or prospects (including, without limitation, the Company’s equipment sales pipeline and equipment sales backlog) of the Company; or (ii) a material adverse effect on the ability of the Company or Seller to consummate the transactions contemplated hereby, and (b) with respect to Buyer, a material adverse effect on its ability to consummate the transactions contemplated hereby; provided, however, that with respect to the Company, “Material Adverse Effect” shall not include any event, occurrence, fact, condition or change, directly or indirectly, arising out of or attributable to: (i) general economic or political conditions; (ii) conditions generally affecting the industries in which the Company operates; (iii) any changes in financial or securities markets in general; (iv) acts of war (whether or not declared), armed hostilities or terrorism, or the escalation or worsening thereof; (v) any action required or permitted by this Agreement; (vi) any changes in applicable Laws or accounting rules, including GAAP; or (vii) the public announcement, pendency or completion of the transactions contemplated by this Agreement; provided further, however, that any event, occurrence, fact, condition or change referred to in clauses (i) through (iv) immediately above shall be taken into account in determining whether a Material Adverse Effect has occurred or

could reasonably be expected to occur to the extent that such event, occurrence, fact, condition or change has a disproportionate effect on the Company compared to other participants in the industries in which the Company conducts its Business.

“**Material Contracts**” has the meaning set forth in Section 3.08(a).

“**Material Customer**” has the meaning set forth in Section 3.21(a).

“**Material Supplier**” has the meaning set forth in Section 3.21(b).

“**Minimum Cash Amount**” means cash in an amount equal to Customer Deposits.

“**Non-Competition Agreements**” means the Non-Competition Agreements in substantially the form attached hereto as Exhibit C, between the Company and each of the Key Employees, and Warrant Holders.

“**Nondisclosure Agreement**” has the meaning set forth in Section 7.10.

“**Organizational Documents**” means, with respect to any Person that is not a natural person, the organizational documents of such Person, as amended to the date in question. The term Organizational Documents includes articles or certificates of incorporation, by-laws, stockholders agreements, certificates or articles of formation, operating agreements, limited partnership agreements, joint venture agreements, and other similar documents pertaining to the governance and organization of the Person in question (including those pertaining to any trust).

“**Owned Intellectual Property**” has the meaning set forth in Section 3.1(b).

“**Parties**” shall mean collectively, Buyer, Seller and the Company.

“**Party**” shall mean any of Buyer, Seller or the Company.

“**Patriot Act**” has the meaning set forth in Section 3.20(b).

“**Permits**” means all permits, licenses, franchises, approvals, authorizations, and consents required to be obtained from Governmental Authorities.

“**Permitted Indebtedness**” means that certain Promissory Note, dated February 1, 2017, issued by the Company to East Coast Equipment Service, provided that the outstanding principal amount of such Promissory Note at the Effective Time does not exceed \$200,000.

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

“**Plan**” has the meaning set forth in the recitals.

“**PPCA**” has the meaning set forth in Section 3.15(k).

“**Pre-Closing Period**” has the meaning set forth in Section 7.08.

**“Pre-Closing Taxes”** means (i) any Taxes of the Company for all taxable periods ending on or before the Closing Date and the portion through the end of the Closing Date for any taxable period that includes (but does not end on) the Closing Date, (ii) any Taxes of Seller with respect to matters contemplated in clause (i), (iii) Taxes arising out of the transactions contemplated by this Agreement, (iv) any Tax imposed under Section 1374 of the Code, (v) any Taxes arising out of any failure of the Company to be a valid S corporation within the meaning of Section 1361 of the Code at any time since the Election Date for federal, state or local income Tax purposes in all jurisdictions in which the Company has been obligated to file income Tax Returns, (vi) any Taxes arising out of an invalid or ineffective 338(h)(10) Election or an inability to make a 338(h)(10) Election (in each case, other than those Taxes directly resulting from an action or inaction by Buyer), (vii) any amount required to be paid by the Company under an indemnification agreement (other than this Agreement) or on a transferee or successor liability theory, in respect of any Taxes of any Person, which indemnification agreement or application of transferee or successor liability theory relates to an acquisition, disposition or similar transaction occurring on or prior to the Closing Date, and (viii) any Taxes of any Person under Treasury Regulations section 1.1502-6 (or any similar provision of state, local, or foreign law) with respect to any Tax period or portion thereof ending on or prior to the Closing Date.

**“Purchase Price”** has the meaning set forth in Section 2.02(a).

**“Put Notice”** has the meaning set forth in Section 7.20.

**“Qualified Benefit Plan”** has the meaning set forth in Section 3.15(b).

**“Recovery”** has the meaning set forth in Section 9.09.

**“Release”** means any actual or threatened release, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, abandonment, disposing or allowing to escape or migrate into or through the environment (including, without limitation, ambient air (indoor or outdoor), surface water, groundwater, land surface or subsurface strata or within any building, structure, facility or fixture).

**“Representative”** means, with respect to any Person, any and all directors, officers, employees, consultants, financial advisors, counsel, accountants and other agents of such Person.

**“Resolution Period”** has the meaning set forth in Section 2.05(b)(ii).

**“Review Period”** has the meaning set forth in Section 2.05(b)(i).

**“Sale Notice”** has the meaning set forth in Section 7.20

**“SEC”** means the United States Securities and Exchange Commission.

**“SEC Documents”** means all forms, proxy statements, registration statements, reports, schedules, and other documents filed, or required to be filed, by Buyer or any of its subsidiaries with the SEC pursuant to the federal Securities Laws.

“**Securities Act**” means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder and any successor Laws.

“**Securities Laws**” means the Securities Act and the Exchange Act and the rules and regulations promulgated thereunder.

“**Seller**” has the meaning set forth in the preamble.

“**Seller Indemnified Party**” has the meaning set forth in Section 9.04.

“**Shares**” has the meaning set forth in the recitals.

“**Site**” means any of the real properties currently or previously owned, leased, used or operated by the Company, including, without limitation, all soil, subsoil, surface waters, and ground water thereat.

“**Statement of Objections**” has the meaning set forth in Section 2.05(b)(ii).

“**Stock Purchase**” has the meaning set forth in the recitals.

“**Stockholders Agreement**” means the Stockholder Agreement in substantially the form attached hereto as Exhibit D, between the Company and each of the Key Employees, and Warrant Holders.

“**Target Working Capital**” means a range between Three Million One Hundred Thousand Dollars (\$3,100,000) (the “**Minimum Target Working Capital**”) and Four Million Two Hundred Fifty Thousand Dollars (\$4,250,000) (the “**Maximum Target Working Capital**”).

“**Taxes**” means all federal, state, local, foreign and other income, gross receipts, sales, use, production, ad valorem, transfer, franchise, registration, profits, capital, license, lease, service, service use, withholding, payroll, employment, unemployment, social security, disability, estimated, value-added, excise, severance, environmental, stamp, occupation, premium, property (real or personal), escheat, unclaimed property, real property gains, windfall profits, stamp, customs, duties or other taxes, fees, assessments or charges of any kind whatsoever, together with any interest, additions or penalties with respect thereto and any interest in respect of such additions or penalties.

“**Tax Return**” means any return, declaration, report, claim for refund, information return or statement or other document filed or required to be filed with respect to Taxes, including any schedule or attachment thereto, and including any amendment thereof.

“**Third-Party Claim**” has the meaning set forth in Section 9.06(a).

“**Transaction Documents**” means this Agreement, the Escrow Agreement, the Non-Competition Agreements, the Stockholders Agreement, and the Facility Leases.

**“Transaction Expenses”** means (i) all of the fees, expenses and other payments incurred by the Company, Warrant Holders, Warrant Holder Representative, or Trustee on behalf of the ESOP or Seller in connection with the transactions contemplated by this Agreement (on their own behalf and/or on behalf of Trustee or Seller), (ii) all fees and expenses of legal, accounting and financial advisors, the Trustee, the Advisor, data room providers, and other advisors of Seller, Trustee, the Company or the Warrant Holders, (iii) one-half of the fees and expenses of the Escrow Agent under the Escrow Agreement, and (iv) all fees, expenses and other payments of the Company, Warrant Holders, Trustee on behalf of the ESOP or Seller including, without limitation, change of control sale bonuses or payments, phantom equity, deferred compensation, severance payments to any current or former employee, director or independent contractor of the Company, but not including ordinary and usual expenses in connection with maintenance of the ESOP as an employee benefit plan, that the Company, Trustee on behalf of the ESOP, or Seller are obligated to pay at or after Closing (plus the employer portion of any employment, payroll, and/or any other Taxes thereon), in each case to the extent payable from the general assets of the Company and not paid in full prior to the Closing.

**“Trust”** has the meaning set forth in the preamble.

**“Trustee”** has the meaning set forth in the preamble.

**“Uncollected Accounts Receivable”** has the meaning set forth in Section 2.05(d).

**“Volume Submitter Plan”** has the meaning set forth in Revenue Procedure 2015–36, Internal Revenue Bulletin, 2015-27.

**“WARN Act”** means the federal Worker Adjustment and Retraining Notification Act of 1988, and similar state, local and foreign Laws related to plant closings, relocations, mass layoffs and employment losses.

**“Warrant”** or **“Warrants”** means has the meaning set forth in the preamble.

**“Warrant Holders”** has the meaning set forth in the preamble.

**“Warrant Holders Equity Consideration”** means a number of shares of Buyer Common Stock equal to the quotient of (i) Two Million Two Hundred Sixty Six Thousand Two Hundred Seventy Nine Dollars (\$2,266,279) divided by (ii) the average closing price per share of Buyer Common Stock on the NYSE American for the thirty (30) trading days immediately prior to the Closing Date as reported by the NYSE American.

**“Warrant Holders Escrow Amount”** means Two Hundred Eighty Thousand Five Hundred Fifteen Dollars (\$280,515).

**“Warrant Holders Notes”** means the notes to be issued by the Company to the Warrant Holders upon exercise by the Warrant Holders of the of the Put Option under the Warrants.

**“Warrant Holders Payment”** has the meaning set forth in Section 2.03(e).

**“Warrant Holder Representative”** has the meaning set forth in the preamble.

**ARTICLE II  
PURCHASE AND SALE**

**Section 2.01 Purchase and Sale.** Subject to the terms and conditions set forth herein, at the Closing, Seller shall sell to Buyer, and Buyer shall purchase from Seller, the Shares, free and clear of all Liens for the consideration specified in **Section 2.02**.

**Section 2.02 Purchase Price; Estimated Closing Cash Payment.**

(a) **Purchase Price.** The aggregate purchase price for the Shares shall be an amount equal to TWELVE MILLION EIGHT HUNDRED FIFTY THOUSAND DOLLARS (\$12,850,000) (the "**Purchase Price**"). Buyer shall (1) at the Closing, deliver to Seller the ESOP Equity Consideration, and (2) at the times and in the manner and amounts set forth in **Section 2.03** and **Section 2.05** hereof, pay to Seller an amount equal to the following (the "**Closing Cash Payment**"):

(1) the Cash Consideration:

(2) plus the amount, if any, by which the Closing Working Capital exceeds the Maximum Target Working Capital (for the avoidance of doubt, if the Closing Working Capital is within the range of Target Working Capital, the adjustment provided pursuant to this **Section 2.02(a)(2)** shall be zero);

(3) minus the amount, if any, by which the Minimum Target Working Capital exceeds the Closing Working Capital (for the avoidance of doubt, if the Closing Working Capital is within the range of Target Working Capital, the adjustment provided pursuant to this **Section 2.02(a)(3)** shall be zero);

(4) minus, the amount, if any, by which the Minimum Cash Amount exceeds the Closing Cash;

(5) minus the amount of Closing Indebtedness, including with limitation, the cash portion of the Warrant Holders Payment; and

(6) minus the amount of Closing Transaction Expenses (not otherwise accounted for in the calculation of the Target Working Capital).

Notwithstanding the foregoing, any amounts in excess of the Cash Consideration shall be allocated and paid 71.95% to the ESOP and 28.05% to the Warrant Holders.

(b) **Estimated Closing Cash Payment.** No later than ten (10) Business Days prior to the Closing Date, Buyer shall prepare and deliver to the Company and Seller a statement in accordance with the Accounting Principles and in the form attached hereto as Exhibit E (the "**Estimated Closing Date Statement**") setting forth Buyer's good faith estimates of the Closing Cash (together with evidence thereof satisfactory to Buyer and Seller), the Closing Indebtedness, the Closing Transaction Expenses, the Closing Working Capital, and the calculation of the

estimated Closing Cash Payment, as determined in accordance with **Section 2.02(a)** (the “**Estimated Closing Cash Payment**”). The Company shall permit Buyer, Seller, Warrant Holder Representative and their respective Representatives to have access to the books, personnel, records and other documents (including work papers) pertaining to or used in connection with the preparation of the Estimated Closing Date Statement.

**Section 2.03 Payment of the Estimated Closing Cash Payment.** At the Closing, Buyer shall deliver the Estimated Closing Cash Payment as follows:

(a) **Consideration.** The Estimated Closing Cash Payment, less the ESOP Escrow Amount, by wire transfer of immediately available funds to an account of Seller designated in writing by Seller to Buyer no later than three (3) Business Days prior to the Closing Date.

(b) **Escrow Amount.** An amount equal to the ESOP Escrow Amount and the Warrant Holders Escrow Amount (which amount will be deducted from the Warrant Holders Payment) by wire transfer of immediately available funds to an account of the Escrow Agent designated in writing by Escrow Agent to Buyer no later than three (3) Business Days prior to the Closing Date. The Escrow Amount will be held and disbursed by the Escrow Agent in accordance with the terms of this Agreement and the Escrow Agreement. Pursuant to the Escrow Agreement, on the date that is twelve (12) months following the Closing Date, the Escrow Agent shall distribute, in immediately available funds to accounts designated by Seller and Warrant Holder Representative, the then remaining balance of the Escrow Amount less the aggregate amount of any then-pending claims for indemnification by Buyer under **ARTICLE IX**, plus accrued interest (if any) on such amount to be distributed. Upon resolution of any such then-pending claim for indemnification by Buyer under **ARTICLE IX**, all amounts relating to any such then-pending claim for indemnification, together with any accrued interest thereon, shall be released to Seller and Warrant Holder Representative, on the one hand, or Buyer, on the other hand, by the Escrow Agent in accordance with the resolution of such claim.

(c) **Indebtedness.** No later than five (5) Business Days prior to the Closing Date, the Company shall deliver to Buyer and Seller, from each holder of Closing Indebtedness (other than the holders of the Warrant Holders Notes which payoff letter shall be delivered in accordance with **Section 2.03(e)**), a payoff letter, in form and substance satisfactory to Buyer, and wire instructions indicating the amount required to discharge in full such Closing Indebtedness (other than the Warrant Holders Notes which indebtedness shall be discharged in accordance with **Section 2.03(e)**) as of such estimated Closing Date for the transactions contemplated by this Agreement plus a per diem amount for any days that the Closing Date occurs after such estimated Closing Date. On behalf of the Company Buyer will cause payment to be delivered to such holder in respect of such Closing Indebtedness (other than the Warrant Holders Notes which shall be paid in accordance with **Section 2.03(e)**) on the Closing Date.

(d) **Transaction Expenses.** No later than two (2) Business Days prior to the Closing Date, the Company shall deliver to Buyer and Seller, for each Person owed Closing Transaction Expenses, a payoff letter or invoice, in form and substance satisfactory to Buyer, and wire instructions indicating the amount required to discharge in full the Closing Transaction Expenses owed to that Person as of the mutually agreed estimated Closing Date. On behalf of the Company Buyer will cause payment to be delivered to such Persons in respect of such Closing Transaction Expenses on the Closing Date in the amount reflected in the applicable payoff letter or invoice for each such Person. The Parties acknowledge that the Closing



Transaction Expenses are obligations of the Company and nothing in this Agreement shall be deemed to make them obligations of Buyer. Payment of such Closing Transaction Expenses by Buyer on behalf of the Company on the Closing Date is being made for convenience only.

(e) Warrant Holders Notes. No later than ten (10) Business Days prior to the Closing Date, the Company shall deliver to Buyer, from the holders of Warrant Holders Notes, a payoff letter, in form and substance satisfactory to Buyer indicating the amount required to discharge in full the Warrant Holders Notes held by the Warrant Holders (collectively the “**Warrant Holders Payment**”) as of such estimated Closing Date. On behalf of the Company, Buyer will cause payment to be delivered to the Warrant Holder Representative in respect of all Warrant Holders Notes an amount equal to the Warrant Holders Payment, which Warrant Holders Payment shall consist of (i) Six Hundred Twenty Two Thousand Fifty Seven Dollars and Thirty Four Cents (\$622,057.34), less the Warrant Holders Escrow Amount, by wire transfer of immediately available funds to an account of Seller designated in writing by Warrant Holder Representative no later than three (3) Business Days prior to the Closing Date, and (ii) the Warrant Holders Equity Consideration.

**Section 2.04 Closing**. The purchase and sale of the Shares contemplated hereby shall take place at a closing (the “**Closing**”) to be held at the offices of Troutman Sanders LLP, 875 Third Avenue, New York, New York 10022, counsel to Buyer, at 10:00 a.m., local time, within three (3) Business Days after the satisfaction or waiver, in writing, of all conditions to Closing set forth in this Agreement, or at such other date, time or place as may be agreed to in writing by the Parties hereto (the “**Closing Date**”). At the joint written election of the Parties, the Closing may also take place by either electronic or physical delivery of documents in escrow to Troutman Sanders LLP rather than meeting in one place to accomplish the same. The Closing shall be deemed to take place at 12:01 a.m. on the Closing Date (the “**Effective Time**”).

**Section 2.05 Adjustment of Closing Cash Payment.**

(a) Final Closing Date Statement. Within one hundred and twenty days (120) days after the Closing Date, Buyer shall prepare and deliver to Seller a statement (the “**Final Closing Date Statement**”) setting forth its calculations of the (i) Closing Cash, (ii) Closing Indebtedness, (iii) Closing Transaction Expenses, (iv) Closing Working Capital, and (v) Final Closing Cash Payment. The Final Closing Date Statement will be prepared consistent with the Accounting Principles and shall be in the form attached hereto as Exhibit F.

(b) Examination and Review.

(i) Examination. After receipt of the Final Closing Date Statement, Seller and Warrant Holder Representative shall have thirty (30) days (the “**Review Period**”) to review the Final Closing Date Statement. During the Review Period, Buyer shall grant Seller, Warrant Holder Representative, and their respective Representatives reasonable access to the books, records and work papers of the Company for the purpose of reviewing the Final Closing Date Statement and to prepare a Statement of Objections (defined below), provided, that such access shall be in a manner that does not interfere in any material respect with the normal business

operations of Buyer or the Company and shall be requested by Seller and the Warrant Holder Representative at reasonable times and upon reasonable notice.

(ii) Objection. On or prior to the last day of the Review Period, Seller and Warrant Holder Representative may object to the Final Closing Date Statement by delivering to Buyer a written statement setting forth Seller's and Warrant Holder Representative's objections in reasonable detail, indicating each disputed item or amount and the basis for and Seller's and Warrant Holder Representative's disagreement therewith (the "**Statement of Objections**"). If Seller and Warrant Holder Representative fail to deliver the Statement of Objections before the expiration of the Review Period, the Final Closing Date Statement and the calculations contained therein shall be deemed to have been accepted by Seller and Warrant Holder Representative and shall be final and binding. In addition, all items not expressly disputed in a timely Statement of Objections shall be deemed to have been accepted by Seller and Warrant Holder Representative and shall be final and binding. If Seller and Warrant Holder Representative deliver the Statement of Objections before the expiration of the Review Period, Buyer, on the one hand, and Seller and Warrant Holder Representative, on the other hand, shall negotiate in good faith to resolve such objections within thirty (30) days after the delivery of the Statement of Objections (the "**Resolution Period**"), and, if the same are so resolved within the Resolution Period, the Final Closing Date Statement and the calculations contained therein, in each case with such changes as may have been previously agreed in writing by Buyer, on the one hand, and Seller and Warrant Holder Representative, on the other hand, shall be final and binding and shall not be subject to judicial review.

(iii) Resolution of Disputes. If Seller and Warrant Holder Representative, on the one hand, and Buyer, on the other hand, fail to reach an agreement with respect to all of the matters set forth in the Statement of Objections before expiration of the Resolution Period, then any amounts remaining in dispute ("**Disputed Amounts**") shall be submitted for resolution to an independent, nationally recognized accounting firm (the "**Independent Accountant**") who, acting as experts and not arbitrators, shall resolve the Disputed Amounts only and make any adjustments to the Final Closing Date Statement and the calculations contained therein. The Independent Accountant shall be a firm with no business ties to any of Warrant Holder Representative, Warrant Holders, Seller, Company or Buyer, or any of their respective Affiliates, within the past three (3) years, and shall be mutually agreed to and selected by Seller and Warrant Holder Representative, on the one hand, and Buyer, on the other hand. The Parties hereto agree that all adjustments shall be made without regard to materiality and that the items set forth on the Final Closing Date Statement shall be determined in accordance with the definitions and provisions of this Agreement. The Independent Accountant shall only decide the specific items under dispute by the Parties and their decision for each Disputed Amount must be within the range of values assigned to each such item in the Final Closing Date Statement and the Statement of Objections, respectively. Each of Buyer, on the one hand, and Seller and Warrant Holder Representative, on the other hand, shall be afforded the opportunity to present to the Independent Accountant any materials related to the determination and to discuss the determination with the Independent Accountant; provided, however, that each such party will provide the other with copies of any materials provided to the Independent Accountant.

(iv) Fees of the Independent Accountant. The fees and expenses of the Independent Accountant shall be paid based upon the percentage that the amount actually

contested but not awarded to Warrant Holder Representative and Seller, on the one hand, or Buyer on the other hand, respectively, bears to the aggregate amount actually contested by Seller and Warrant Holder Representative, on the one hand, and Buyer, on the other hand, as determined by the Independent Accountant. For example, if Buyer claims that the Closing Working Capital is \$1,000,000, and Seller and Warrant Holder Representative claim that the Closing Working Capital is \$1,500,000, and the Independent Accountant determines that the Closing Working Capital is \$1,200,000, then the costs and expenses of the Independent Accountant will be allocated 60% (i.e.,  $300,000 \div 500,000$ ) to Seller and Warrant Holder Representative and 40% (i.e.,  $200,000 \div 500,000$ ) to Buyer. If Seller and Warrant Holder Representative are obligated to pay the Independent Accountant any fee pursuant to this **Section 2.05(b)**, then such fee shall only be payable on behalf of Seller and Warrant Holder Representative from the Escrow Amount.

(v) Determination by Independent Accountant. Buyer, on the one hand, and Seller and Warrant Holder Representative, on the other hand, shall use their commercially reasonable efforts to cause the Independent Accountant to make its determination as soon as practicable within thirty (30) days (or such other time as the Parties hereto shall agree in writing) after their engagement, and their resolution of the Disputed Amounts; provided, however, that any delay on the part of the Independent Accountant in its determination shall not invalidate such determination or deprive the Independent Accountant of jurisdiction to resolve disputes submitted to it. The Independent Accountant's adjustments to the Final Closing Date Statement and the calculations contained therein shall be conclusive and binding upon the Parties hereto and shall not be subject to judicial review.

(c) Adjustment Payment. Upon final determination of the Final Closing Cash Payment, whether by Seller's and Warrant Holder Representative's failure to object to the Final Closing Date Statement within the thirty (30) day period provided above, by mutual agreement of Seller and Warrant Holder Representative, on the one hand, and Buyer, on the other hand or by determination of the Independent Accountant, the Purchase Price will be adjusted as follows:

(i) If the Final Closing Cash Payment is less than the Estimated Closing Cash Payment (the amount by which the Final Closing Cash Payment is less than the Estimated Closing Cash Payment will be referred to herein as the "**Decrease Amount**"), but such Decrease Amount is less than the Escrow Amount, then, within five (5) Business Days of the final determination of the Final Closing Cash Payment pursuant to this **Section 2.05**, Buyer, Warrant Holder Representative and Seller will jointly instruct the Escrow Agent to pay the Decrease Amount (less any amounts to be paid to the Independent Accountant and allocable to Seller pursuant to Section 2.05(b), if any) to Buyer, by wire transfer of immediately available funds to the account designated in writing by Buyer. If the Decrease Amount exceeds the Escrow Amount, then Buyer, Warrant Holder Representative and Seller shall jointly instruct the Escrow Agent to pay Buyer the entire Escrow Amount (less any amounts to be paid to the Independent Accountant and allocable to Seller pursuant to **Section 2.05(b)**, if any), by wire transfer of immediately available funds to the account designated in writing by Buyer, Seller and Warrant Holder Representative. For the avoidance of doubt, Seller and Warrant Holders shall have no liability under the preceding sentence beyond the portion of the Escrow Amount then-remaining in the Escrow, and Buyer's sole and exclusive remedy for any adjustment to the Purchase Price

made pursuant to **Section 2.05** shall be the portion of the Escrow Amount then-remaining in the Escrow.

(ii) If the Final Closing Cash Payment is greater than the Estimated Closing Cash Payment (the amount by which the Final Closing Cash Payment is greater than the Estimated Closing Cash Payment will be referred to herein as the “**Increase Amount**”), then, within five (5) Business Days of the final determination of the Final Closing Cash Payment pursuant to this **Section 2.05**, Buyer will pay (or cause the Company to pay) to Seller 71.95% of the Increase Amount and to Warrant Holders Representative 28.05% of the Increase Amount (but less any amounts to be paid to the Independent Accountant and allocable to Seller and Warrant Holders Representative pursuant to **Section 2.05(b)**, if any), in each case by wire transfer of immediately available funds to the accounts designated in writing by Seller and Warrant Holder Representative.

(iii) If the Final Closing Cash Payment is equal to the Estimated Closing Cash Payment, then, within five (5) Business Days of the final determination of the Final Closing Cash Payment pursuant to this **Section 2.05**, Buyer, Warrant Holder Representative and Seller shall jointly instruct the Escrow Agent to pay to the Independent Accountant any amounts to be paid to the Independent Accountant and allocable to Seller and Warrant Holder Representative pursuant to **Section 2.05(b)**, if any, by wire transfer of immediately available funds to the account designated in writing by the Independent Account.

**Section 2.06 Adjustments for Tax Purposes.** Any payments made pursuant to **Section 2.05** shall be treated as an adjustment to the Purchase Price by the Parties for Tax purposes, unless otherwise required by Law.

**Section 2.07 Withholding Taxes.** The Company, Buyer, its Affiliates, and Escrow Agent shall be entitled to deduct and withhold from the amounts otherwise payable by it pursuant to this Agreement to any Person such amounts as it reasonably determines it is required to deduct and withhold with respect to the making of such payment for Taxes, and to collect any necessary forms relating to Taxes, including Forms W-8 or W-9, as applicable, or any similar information, from Seller and other recipients of payments hereunder. The party seeking to withhold under this **Section 2.07** shall provide written notice of any such required withholding no later than five (5) Business Days prior to the Closing Date and shall use commercially reasonable efforts to reduce or eliminate any such withholding. To the extent such amounts are so withheld and/or paid over to or deposited with the relevant Governmental Authority by the Company, Buyer, its Affiliates, or Escrow Agent, such withheld amounts shall be treated for all purposes of this Agreement as having been paid to such Person in respect to which such deduction and withholding was made.

### **ARTICLE III REPRESENTATIONS AND WARRANTIES REGARDING THE COMPANY**

The Company represents and warrants to Buyer that, except as provided in a schedule to this Agreement, the statements contained in this **ARTICLE III** are true, correct and complete as of the date hereof.

**Section 3.01 Organization, Authority and Qualification of the Company.**

(a) The Company is a corporation, duly organized, validly existing and in good standing under the Laws of the Commonwealth of Pennsylvania and has all necessary corporate power and authority to own, operate or lease the properties and assets now owned, operated or leased by it and to carry on its business as it is currently conducted. The Company is duly qualified, licensed or admitted to do business and is in good standing in the States of Pennsylvania, Maryland, Delaware, New Jersey, Virginia, and West Virginia, which are the only jurisdictions in which the Company is required to be qualified, licensed or admitted to do business.

(b) The execution and delivery by the Company of this Agreement and the Transaction Documents, the performance by the Company of its obligations hereunder and thereunder, and the consummation by the Company of the transactions contemplated hereby and thereby have been duly authorized by all requisite corporate action on the part of the Company. This Agreement and each other Transaction Document have been duly executed and delivered by the Company, and (assuming due authorization, execution and delivery by Seller and Buyer) this Agreement and the other Transaction Documents constitute legal, valid and binding obligations of the Company, enforceable against the Company in accordance with their terms, except as such enforceability may be limited by ERISA or bankruptcy, insolvency, reorganization, moratorium or similar Laws affecting creditors' rights generally and by general principles of equity (regardless of whether enforcement is sought in a proceeding at law or in equity).

**Section 3.02 Capitalization.**

(a) **Section 3.02(a)** of the Disclosure Schedules sets forth a complete and correct list of the authorized and issued capital stock of the Company. Such capital stock includes all of the issued and outstanding capital stock of the Company. Such capital stock has been duly authorized and validly issued, is fully paid and non-assessable and was not issued in violation of, and is not subject to, any preemptive rights or other similar rights of any Person. Except as set forth on **Section 3.02(b)** of the Disclosure Schedules, there are no outstanding or authorized options, warrants, convertible securities or other rights, agreements, arrangements or commitments of any character relating to the capital stock of the Company or obligating Seller or the Company to issue or sell any shares of capital stock of, or any other interest in, the Company. Except as set forth on **Section 3.02(c)** of the Disclosure Schedules, the Company does not have outstanding or authorized any stock appreciation, phantom stock, profit participation or similar rights. There are no voting trusts, stockholder agreements, proxies or other agreements or understandings in effect with respect to the voting or transfer of any of the Shares.

**Section 3.03 Subsidiaries.** The Company does not own, directly or indirectly (or possesses any options or other rights to acquire), any direct or indirect ownership interests in any business, corporation, partnership, limited liability company, association, joint venture, trust, or other entity.

**Section 3.04 No Conflicts; Consents.** The execution, delivery and performance by Seller and the Company of this Agreement and the other Transaction Documents, and the consummation of the transactions contemplated hereby, do not and will not: (a) result in a

violation or breach of any provision of the Organizational Documents of the Company; (b) result in a material violation or breach of any provision of any Law or Governmental Order applicable to the Company or any of its respective assets; or (c) except as set forth in **Section 3.04** of the Disclosure Schedules, require the consent, notice or other action by any Person under, conflict with, result in a violation or breach of, constitute a default under or result in the acceleration of any supplier agreement, distributor agreement, note, bond, mortgage, indenture, deed of trust, lease, agreement or contract to which the Company is party or by which any of its properties or assets are bound. No consent, approval, Permit, Governmental Order, declaration or filing with, or notice to, any Governmental Authority is required by or with respect to the Company in connection with the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby.

**Section 3.05 Financial Statements.**

(a) **Section 3.05(a)** of the Disclosure Schedules contains copies of the Company's (i) audited consolidated financial statements consisting of the consolidated balance sheet of the Company as at December 31, 2017 and the related consolidated statements of income, stockholders' equity and cash flows for the year then ended (the "**Audited Financial Statements**"), (ii) unaudited consolidated financial statements consisting of the balance sheet of the Company as at September 30, 2018, and the related consolidated statements of income and cash flow for the three and nine month period then ended, and (iii) unaudited consolidated financial statements consisting of the balance sheet of the Company as at November 30, 2018, and the related consolidated statements of income for the eleven month period then ended (collectively (ii) and (iii), the "**Interim Financial Statements**"). No later than ten (10) Business Days prior to the Closing Date, the Company shall deliver to Buyer a balance sheet of the Company as of the Closing Date (the "**Closing Balance Sheet**") (all of the documents identified under this **Section 3.05(a)** collectively, the "**Financial Statements**").

(b) The Financial Statements have been prepared in accordance with the Accounting Principles applied on a consistent basis throughout the period involved, subject, in the case of the Interim Financial Statements, to normal and recurring year-end adjustments (the effect of which will not be material) and the absence of notes (that, if presented, would not differ materially from those presented in the Audited Financial Statements). The Financial Statements fairly present in all material respects the financial condition of the Company as of the respective dates they were prepared and the results of the operations of the Company for the periods indicated. The consolidated balance sheet of the Company as of December 31, 2017, is referred to herein as the "**2017 Balance Sheet**" and the date thereof as the "**2017 Balance Sheet Date**" and the consolidated balance sheet of the Company as of November 30, 2018, is referred to herein as the "**Interim Balance Sheet**" and the date thereof as the "**Interim Balance Sheet Date**".

**Section 3.06 Undisclosed Liabilities.** Except as set forth on **Section 3.06** of the Disclosure Schedules, the Company does not have any obligations or liabilities which are material individually or in the aggregate (whether accrued, absolute, contingent, unliquidated or otherwise, whether due or to become due and regardless of when and by whom asserted) at or as of the Closing Date, except (i) liabilities reflected on the Interim Balance Sheet and (ii) liabilities and obligations which have arisen after the Interim Balance Sheet Date in the ordinary course of business and which are not material individually or in the aggregate.

**Section 3.07 Absence of Certain Changes, Events and Conditions.** Except as set forth on **Section 3.07** of the Disclosure Schedules, since the 2017 Balance Sheet Date.

(a) the Company has been operated in the ordinary course consistent with past practice and there has not been any Material Adverse Effect with respect to the Company or any event or development that, individually or together with any or all other such events, could reasonably be expected to result in a Material Adverse Effect with respect to the Company;

(b) there has not been any material loss, damage or destruction to, or any material interruption in the use of, any of the assets of the Company used in, or held for use in, the operation of the business of the Company (whether or not covered by insurance);

(c) the Company has have not taken any action that would be prohibited by the terms of **Sections 7.08 and 7.09** if proposed to be taken after the date of this Agreement.

(d) the Company has not (i) granted bonuses, whether monetary or otherwise, or increased wages, salary, bonus opportunities, severance, pension or other compensation or benefits in respect of any current or former employees, officers, directors, independent contractors or consultants of the Company or their spouses, dependents or beneficiaries other than as required by Law or as provided for in any existing written agreements as of the date hereof; (ii) changed terms of employment or service for any such person or (iii) taken any action to increase the amount of or accelerate the vesting, funding or payment of any compensation or benefits to any such Person;

(e) the Company has not adopted, modified or terminated any (i) employment, severance, retention, change in control or other compensation or benefit agreement, plan or arrangement with any current or former employees, officers, directors, independent contractors or consultants of the Company or their spouses, dependents or beneficiaries, or (ii) other than as required by Law, Benefit Plan or any plan or arrangement that would constitute a Benefit Plan if in existence on the date hereof; and

(f) the Company has not issued, sold or otherwise disposed of any of its capital stock, or granted any options, warrants, or other rights to purchase or acquire (including upon conversion, exchange or exercise) any of its capital stock, or granted any stock appreciation rights, phantom stock, profit participation or similar rights.

**Section 3.08 Material Contracts.**

(a) **Section 3.08(a)** of the Disclosure Schedules lists each agreement of the Company involving the payment of estimated aggregate consideration in excess of \$50,000 in the 12 months ended December 31, 2018 or requiring performance by any party more than one year from the date hereof, which cannot be cancelled by the Company without penalty or without more than ninety (90) days' notice.

(b) Each Material Contract is in full force and effect and constitutes a legal, valid and binding agreement of, enforceable in accordance with its terms against, the Company as a party thereto and, to the Knowledge of the Company, the other party thereto. Neither the Company nor, to the Knowledge of the Company, any other party to any Material Contract, is in violation

or breach of or default under any such Material Contract (or, with notice or lapse of time or both, would be in violation or breach of or default under any such Material Contract). The Company has not received any notice (whether written or oral) from any other party to any Material Contract to the termination or non-renewal of such Material Contract, whether as a result of the consummation of the transactions contemplated hereunder.

**Section 3.09 Real Property; Title to Assets.**

(a) The Company will not own any real property at Closing. All real property leased for a period greater than one (1) month by the Company is listed on **Section 3.09(a)** of the Disclosure Schedules (collectively, the “**Leased Real Property**”). The Company (i) has a valid and enforceable leasehold interest with respect to each item of Leased Real Property leased by it, subject to no Liens, and (ii) is in possession of and has quiet enjoyment of each item of Leased Real Property leased by it. None of the Leased Real Property is subject to any sublease of all or any portion thereof and no Person other than the Company has any right to occupy any of the Leased Real Property. The Company is not required to and does not pay any real estate taxes on the Leased Real Property except as additional rent under the terms of the lease. The Leased Real Property is adequate for the current needs of the Company and the anticipated needs of the Company. All of the leasehold improvements at the Leased Real Property are adequate for the current needs of the Company and are in good condition. There is no pending or, to the Knowledge of the Company, proposed, anticipated or contemplated, annexation, condemnation, eminent domain or similar proceeding, or any zoning or tax or assessment proceeding affecting, or that may affect, all or any portion of the Leased Real Property.

(b) All tangible personal property owned by the Company is free and clear of all Liens, other than Liens disclosed on **Section 3.09(b)** of the Disclosure Schedules. is in, in all material respects, good working order and condition, ordinary wear and tear excepted. The tangible personal property has been maintained in accordance with reasonably prudent standards. The Company is in possession of and has good title to, or has valid leasehold interests in or valid rights under a Contract to use, all tangible personal property used in the conduct of the Business including, but not limited to, all tangible personal property reflected on the 2017 Balance Sheet and tangible personal property acquired since the 2017 Balance Sheet Date, in each case other than tangible personal property disposed of since such date in the ordinary course of the Company’s business consistent with past practice.

**Section 3.10 Intellectual Property.**

(a) Other than commercially available off-the-shelf software, **Section 3.10(a)** of the Disclosure Schedules sets forth all Intellectual Property that is licensed by the Company and used in the conduct of the Company’s Business (the “**Licensed Intellectual Property**”) and the names of the licensors of such Licensed Intellectual Property. Except as set forth in **Section 3.10(a)** of the Disclosure Schedules, the Company has no obligation to compensate any Person for the license of any Licensed Intellectual Property. The Company has not granted to any Person any license, option or other rights to use any of the Licensed Intellectual Property, whether or not requiring the payment of royalties. No license for any Licensed Intellectual Property will terminate by reason of the execution, delivery and performance of this Agreement or any Transaction Document or the consummation of the transactions contemplated hereby and



thereby. The Company has such rights to use the Licensed Intellectual Property, free and clear of all Liens, as are necessary in connection with the conduct of the business of the Company in the ordinary course consistent with past practice.

(b) **Section 3.10(b)** of the Disclosure Schedules sets forth (i) all material Intellectual Property owned by the Company and used in the conduct of the business of the Company (the “**Owned Intellectual Property**”) and (ii) the Company’s existing registrations, and applications for registration, for or with respect to any of the Owned Intellectual Property. The Company has taken reasonable steps to maintain its confidential information. To the Knowledge of the Company, the use by the Company of its Owned Intellectual Property does not infringe upon or otherwise violate the rights of any other Person in or to such Owned Intellectual Property. The Company has not granted to any Person any license, option or other rights to use any Owned Intellectual Property, whether or not requiring the payment of royalties.

(c) Except as set forth on **Section 3.10(c)** of the Disclosure Schedules, there are no pending or, to the Knowledge of the Company, threatened actions, suits, claims, investigations or other legal proceedings pending (i) relating to the Company’s use of any Licensed Intellectual Property or Owned Intellectual Property or (ii) claiming that such Person has any ownership of, right to use or other rights with respect to any Licensed Intellectual Property or Owned Intellectual Property. The Licensed Intellectual Property and the Owned Intellectual Property constitute all of the Intellectual Property necessary for the conduct of the business of the Company in the ordinary course consistent with past practice.

**Section 3.11 Insurance.** **Section 3.11** of the Disclosure Schedules contains a true and complete list of all liability, property, workers’ compensation, automobile, directors’ and officers’ liability and other insurance policies currently in effect that insure the business of the Company or the operations or employees of the Company, or affect or relate to the ownership, use or operation of any of the assets of the Company (including the names and addresses of the insured party thereunder and the insurers, the expiration dates thereof, the annual premiums and payment terms thereof, the amounts of coverage and deductibles thereunder, a brief description of the interests insured thereby and a copy of a detail loss history report issued by the insurer with respect to the prior six (6) year period). The insurance policies listed on **Section 3.11** of the Disclosure Schedules are sufficient for compliance in all material respects with all applicable Laws and Contracts to which the Company is a party or by which it is bound. The Company has not has received notice (whether written or oral) that any insurer under any policy referred to in this **Section 3.11** is denying liability with respect to a claim thereunder or defending under a reservation of rights clause. **Section 3.11** of the Disclosure Schedules lists each claim filed by the Company under any of the foregoing policies during the period covered by the loss runs referred to above and the results of each of such claims.

**Section 3.12 Legal Proceedings; Governmental Orders.**

(a) Except as set forth in **Section 3.12(a)** of the Disclosure Schedules, (i) there are no actions, suits, claims, investigations or other legal proceedings pending or, to the Company’s Knowledge, threatened against or by the Company affecting any of its properties or assets, and (ii) to the Company’s Knowledge, no event has occurred or circumstances exist that may give

rise to, or serve as a basis for, any such action, suit, claim, investigation or other legal proceeding.

(b) Except as set forth in **Section 3.12(b)** of the Disclosure Schedules, there are no outstanding Governmental Orders and no unsatisfied judgments, penalties or awards against or affecting the Company or any of its properties or assets. To the Company's Knowledge, no officer, director, or key employee of the Company is subject to any Governmental Order that prohibits such Person from engaging in or continuing any conduct, activity or practice related to the business of the Company.

**Section 3.13 Compliance With Laws; Permits.**

(a) Except as set forth in **Section 3.13(a)** of the Disclosure Schedules, the Company is, and has been during the prior four (4) years, in compliance with all Laws applicable to the Company, its Business, properties or assets. The Company has not received during the prior four (4) years any written notice or other communication from any Governmental Authority regarding any actual, alleged, possible or potential violation of, or failure to comply with, any applicable Laws. The Company is not subject to any audits, examinations or, to the Company's Knowledge, investigations by any Governmental Authority.

(b) All material Permits required for the Company to conduct its business have been obtained by the Company and are valid and in full force and effect.

**Section 3.14 Environmental Matters.** Except as would not have a Material Adverse Effect with respect to the Company, (i) the Company is in compliance with all Environmental Laws, has all required Environmental Permits and is in compliance with the terms thereof; (ii) no Site is a treatment, storage or disposal facility, as defined in and regulated under the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq., is on or ever was listed or is proposed for listing on the National Priorities List pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq., or on any similar state list of sites requiring investigation or cleanup; (iii) there are no pending or outstanding corrective actions by any Governmental Authority for the investigation, remediation or cleanup of any Site for which the Company will be liable; (iv) prior to or during the Company's operations on of the Site, there has been no Environmental Release of a Hazardous Substance at, from, in, to, on or under any Site and no Hazardous Substances are present in, on, about or migrating to or from any Site for which the Company will be liable; (v) there are no past, pending, or, to the Knowledge of the Company, threatened Environmental Claims against the Company; (vi) neither the Company nor any predecessor thereof has transported or arranged for the treatment of any Hazardous Substance to any Site location; (vii) there are no (A) underground storage tanks, (B) polychlorinated biphenyl containing equipment, or (C) asbestos containing material, on any Site for which the Company will be liable; and (viii) there have been no environmental investigations conducted by or on behalf of, the Company with respect to any Site or any treatment of any Hazardous Substance on any Site.

### Section 3.15 Employee Benefit Matters.

(a) **Section 3.15(a)** of the Disclosure Schedules contains a correct and complete list of each benefit, retirement, employee stock ownership, employment, consulting, compensation, incentive, bonus, stock option, restricted stock, stock appreciation right, phantom equity, change in control, severance, vacation, paid time off, group health, life insurance, disability, welfare, fringe-benefit and other material benefit agreement, plan, policy and program, whether or not reduced to writing, funded or otherwise, including without limitation any “employee benefit plan” within the meaning of Section 3(3) of ERISA, whether or not subject to ERISA, that is maintained, sponsored, contributed to, or required to be contributed to by the Company, for the benefit of any current or former director, officer, employee or independent contractor of the Company or any spouse, dependent or beneficiary of any such Person, or under which the Company has any liability, contingent or otherwise, including as the result of any ERISA Affiliate, by reason of partnership, guaranty or indemnity or with respect to any previously-terminated benefit agreement, plan, policy or program (as listed on **Section 3.15(a)** of the Disclosure Schedules, each, a “**Benefit Plan**”).

(b) Except as set forth in **Section 3.15(b)** of the Disclosure Schedules, each Benefit Plan and related trust has been established, maintained and administered in accordance with, and complies with, in all material respects, all applicable Laws (including ERISA, the Code and applicable local Laws) and has been administered consistent with its terms and all written representations made by officers and human resources personnel of the Company to the current and former employees, directors, officers, consultants and independent contractors of the Company and their spouses, dependents and beneficiaries. Each Benefit Plan that is intended to be qualified under Section 401(a) of the Code (a “**Qualified Benefit Plan**”) is so qualified and has received a favorable determination letter from the Internal Revenue Service, or with respect to a Volume Submitter Plan, can rely on an advisory letter from the Internal Revenue Service to the Volume Submitter Plan sponsor, to the effect that the current form of such Qualified Benefit Plan is so qualified and that the plan and the trust related thereto are exempt from federal income Taxes under Sections 401(a) and 501(a), respectively, of the Code, and nothing has occurred that could reasonably be expected to cause the revocation of such determination letter from the Internal Revenue Service or the unavailability of reliance on such determination or advisory letter from the Internal Revenue Service. Except as set forth in **Section 3.15(b)** of the Disclosure Schedules, all benefits, contributions and premiums required by and due under the terms of each Benefit Plan or applicable Law have been timely paid in accordance with the terms of such Benefit Plan and the terms of all applicable Laws, and all benefits, contributions and premiums required by but not yet due under the terms of each Benefit Plan or applicable Law are properly accrued on the Financial Statements and Interim Balance Sheet as required by GAAP or applicable Law. There are no outstanding defaults or violations by any party to any Benefit Plan. Neither the Company nor any other party has been in breach of any fiduciary obligation with respect to any Benefit Plan or the trusts or other funding media relating thereto. With respect to each Benefit Plan, no events have occurred or are reasonably expected to occur that have resulted in or would subject the Company to a Tax under Sections 4971 or 4975 of the Code or Section 406 of ERISA or the assets of the Company to a lien under Section 430(k) of the Code or Section 303(k) of ERISA.

(c) No Benefit Plan: (i) is subject to the minimum funding standards of Section 302 of ERISA or Section 412 of the Code or subject to Title IV of ERISA; (ii) is a “multiemployer plan” (as defined in Section 3(37) of ERISA); (iii) is a multiple employer plan within the meaning of Sections 4063 or 4064 of ERISA; or (iv) is a multiple employer welfare arrangement within the meaning of Section 3(40) of ERISA, and neither the Company nor any ERISA Affiliate has or has ever had any liability with respect to any such type of Benefit Plan. The Company: (i) has not withdrawn from, or previously terminated, any pension plan or multiemployer plan under circumstances resulting (or expected to result) in a liability to the Pension Benefit Guaranty Corporation or such pension plan or multiemployer plan; or (ii) has not engaged in any transaction which would give rise to a liability of the Company or Buyer or any of its Affiliates under Section 4069 or Section 4212(c) of ERISA.

(d) Other than as required under Section 4980B of the Code or other applicable Law, with respect to which the recipient pays the full premium for such continuation coverage, no Benefit Plan provides benefits or coverage in the nature of health, life, disability or other welfare insurance or benefits following retirement or other termination of employment or service. Nothing has occurred with respect to any Benefit Plan that has subjected or could reasonably be expected to subject the Company or any of its ERISA Affiliates or, with respect to any period on or after the Closing Date, Buyer or any of its Affiliates, to a penalty under Section 502 of ERISA or to Tax or penalty under Section 4975, 4980B or 4980H of the Code.

(e) Except as set forth in **Section 3.15(e)** of the Disclosure Schedules: (i) there is no pending or, to the Company’s Knowledge, threatened action relating to a Benefit Plan (other than for benefit claims in the ordinary course pursuant to the express terms of the applicable Benefit Plan); and (ii) no Benefit Plan is currently or has within the six years prior to the date hereof been the subject of an examination or audit by a Governmental Authority or an application or filing under any correction or similar program of any Governmental Authority. The Company has not incurred, and no facts exist which reasonably could be expected to result in, any liability, tax, fee or penalty to the Company with respect to any Benefit Plan under any applicable Law including without limitation the Code or ERISA (other than to pay premiums, contributions or benefits in the ordinary course consistent with the terms of such plans).

(f) Except as set forth in **Section 3.15(f)** of the Disclosure Schedules, no Benefit Plan exists that could: (i) result in the payment to any current or former director, officer, employee or independent contractor of the Company or any spouse, dependent or beneficiary of any such Person of any money or other property, except as a result of any plan termination of any Benefit Plan specifically provided for in this Agreement; (ii) accelerate the vesting or time of payment of or provide any additional rights or benefits (including an increase in or funding of compensation or benefits through a trust or otherwise) to any current or former director, officer, employee or independent contractor of the Company or any spouse, dependent or beneficiary of any such Person, except as a result of any plan termination of any Benefit Plan specifically provided for in this Agreement; or (iii) limit or restrict the ability of Buyer or its Affiliates to merge, amend or terminate any Benefit Plan, in each case, as a result of the execution of this Agreement and/or the consummation of the transactions that are the subject of this Agreement (either alone or in connection with any concurrent or subsequent event). Neither the execution of this Agreement nor the consummation of the transactions contemplated hereby (either alone or in connection

with any concurrent or subsequent event) will result in “excess parachute payments” within the meaning of Section 280G(b) of the Code.

(g) Each Person who is classified by the Company as an employee or independent contractor has been properly classified as such for all purposes, including for Taxes and for purposes of participation in and accrual of benefits under any Benefit Plan. There exists no condition or set of circumstances that could subject the Company or any Benefit Plan to any liability, tax, penalty or fee under ERISA, the Code or any applicable Law relating to the failure to properly classify any service provider of the Company as an “employee” or “independent contractor” for any purpose whatsoever.

(h) Each Benefit Plan that is subject to Section 409A of the Code has been maintained in form and operated in compliance with the operational and documentary requirements of Section 409A of the Code and has been administered in compliance with its terms. The Company has no obligation to gross up, reimburse or otherwise indemnify any Person for any Taxes that might be incurred as the result of Sections 280G, 409A or 4999 of the Code.

(i) Without limiting the foregoing, the ESOP has been administered according to its terms and has been established, maintained and administered in accordance in all material respects with the Code, ERISA and other applicable Laws, including, but not limited to, the requirements of Sections 401(a), 409 and 4975 of the Code and the regulations promulgated thereunder. The ESOP constitutes an “employee stock ownership plan” (as such term is defined in Section 4975(e)(7) of the Code and Section 407(d)(6) of ERISA). Except as disclosed in **Section 3.15(i)** of the Disclosure Schedules, no corrections to the administration of the ESOP have been made or are required, and there are no voluntary correction requests in process with the U.S. Department of Labor, the IRS or any other Governmental Authority. All allocations of the Shares and payments to participants of amounts in exchange for the Shares, if any, have been made in accordance with the terms of the ESOP, including the requirement that any allocation or sale or exchange of the Shares be made at a fair market value determined by an independent appraiser. No sale (or purchase) of the Shares by the ESOP to the Company or to any other disqualified person (within the meaning of Section 4975 of the Code) or party-in-interest (within the meaning of ERISA) has constituted a non-exempt prohibited transaction under Section 4975 of the Code or under ERISA; and each sale (or purchase) of the Shares by or to the ESOP has been made, with respect to any sale, for no less than (or, with respect to any purchase, no more than) adequate consideration (as that term is defined in Section 3(18) of ERISA). No sale (or purchase) of the Shares has, or will, result in an imposition of penalties upon the Company or the ESOP under Section 4978 of the Code or Section 4979A of the Code. There is not currently in effect any “verified written statement” signed by the Company or any predecessor in connection with any sale of the Shares to the ESOP under a Section 1042 transaction (within the meaning of Section 1042 of the Code). With respect to the ESOP, (i) allocations to participants were made in accordance with Section 409(b) of the Code, to the extent applicable under Section 409(a) of the Code; (ii) all the Company contributions to the ESOP were deductible under Section 404 of the Code for the year made; (iii) the voting requirements of the ESOP and Section 409(e) of the Code and the valuation requirements of Section 408(e) of ERISA have always been complied with and (iv) no allocations were ever made in violation of Sections 409(n) or 409(p) of the Code. Neither the Trustee nor any participant or beneficiary had or has any right to vote on the transactions contemplated by this Agreement, or any portion thereof, under the terms of the

ESOP or applicable Law. Except as set forth in Section 3.15(i) of the Disclosure Schedules, there are no current legal proceedings or, to the Knowledge of the Company, any threatened legal proceedings against the ESOP, any fiduciaries (within the meaning of ERISA) of the ESOP (with respect to their fiduciary duties to the ESOP), or the Company or Seller in connection with its administration of the ESOP by current or former participants or beneficiaries, the U.S. Department of Labor or the IRS, and neither the U.S. Department of Labor nor the IRS is auditing or investigating the ESOP or has made inquiries about the form, establishment or administration of the ESOP or any transaction in which the ESOP engaged during the last five (5) full calendar years. Except as disclosed in **Section 3.15(i)** of the Disclosure Schedules, no fiduciary (within the meaning of ERISA) of the ESOP is indemnified by, or has any rights to indemnity from, the Company or the ESOP for any fiduciary liability he, she or it may incur or may have incurred as a fiduciary of the ESOP. The Company has fully complied with all of its obligations under the ESOP and under ERISA and the Code with respect to the ESOP.

(j) Each Benefit Plan that is an “employee pension benefit plan” within the meaning of Section 3(2) of ERISA and not a Qualified Benefit Plan is exempt from Parts 2, 3 and 4 of Title I of ERISA as an unfunded plan that is maintained primarily for the purpose of providing deferred compensation for a select group of management or highly compensated employees pursuant to Sections 201(2), 301(a)(3) and 401(a)(1) of ERISA. Except as set forth in Schedule 3.15(j), no assets of the Company are allocated to or held by a “rabbi trust” or similar funding vehicle.

(k) All Benefit Plans that are group health plans have been operated and administered in compliance with the Patient Protection and Affordable Care Act (“**PPACA**”), the Health Care and Education Reconciliation Act of 2010 and all applicable regulations and guidance thereunder. To the extent any Benefit Plan is intended to be grandfathered under the terms of PPACA, the Company has complied with the applicable provisions of PPACA, the Code, ERISA and applicable Laws in all material respects, and the Company has not taken, or failed to take, any action which would cause such Benefit Plan to lose such grandfathered status.

(l) The Company has delivered to Buyer accurate and complete copies of all documents setting forth the terms of each Benefit Plan, including, if applicable, (i) any amendments thereto and all related trust documents; (ii) the three most recent annual reports thereto (Forms 5500 and all schedules and financial statements attached thereto); (iii) the most recent summary plan description together with any summaries of material modifications; (iv) all material contracts relating to each Benefit Plan, including administrative and service agreements and insurance contracts; (v) the most recent IRS determination letter or opinion letter issued with respect to any Qualified Benefit Plan, (vi) all material written materials provided to employees regarding benefits under any Benefit Plans that could result in liability to the Company, (vii) all correspondence related to any audit, investigation, review or request for information from any Governmental Authority relating to any Benefit Plan in the prior five (5) years; (viii) all coverage, discrimination and related testing with respect to each Benefit Plan within the last three years, and (ix) the most recent appraisal of the Company prepared by the Company’s financial advisor in connection with the transactions contemplated by this Agreement.

(m) The Company has the right under the terms of each Benefit Plan and under applicable Law to amend, revise, merge or terminate such plan (or its participation in such plan)

at any time exclusively and unilaterally by action of the Company, and no additional expenses, costs, contributions or funding would be required to properly effect such termination.

(n) Neither the Company nor any of its directors, officers or executives has made any commitment (written or oral, binding or otherwise) to adopt or establish any new Benefit Plan or to modify or amend any Benefit Plan.

(o) The ESOP constitutes an “employee stock ownership plan” (as such term is defined in Section 4975(e)(7) of the Code and Section 407(d)(6) of ERISA. Assuming (i) the consideration to be received by the ESOP hereunder will be no less than adequate consideration (within the meaning of ERISA Section 3(18)), (ii) the delivery of the Fairness Opinions to the Trustee and (iii) the Buyer was a “disqualified person” and a “party in interest” under the Code and ERISA, respectively, the execution, delivery and performance by the Trustee on behalf of Seller of this Agreement and the other Transaction Documents to which Seller is a party, and the consummation of the transactions contemplated hereby and thereby, do not and will not (assuming the passage of time or the giving of notice or both) constitute a non-exempt “prohibited transaction” as defined in Code Section 4975 or ERISA Section 406 (and after the application of the exemptions under Code Section 4975(d)(13) and ERISA Section 408(e), respectively).

### **Section 3.16 Employment Matters.**

(a) Except as set forth in **Section 3.16(a)** of the Disclosure Schedules, the Company is not a party to, or bound by (and for the prior two (2) years have not been a party to or bound by), any collective bargaining or other agreement with a labor organization representing any of their Employees. To the Knowledge of the Company, no union organizing campaign or activity is in progress with respect to any Employees and no question concerning representation exists respecting such Employees. Except as set forth in **Section 3.16(a)** of the Disclosure Schedules, during the prior two (2) years there has not been, nor, to the Company’s Knowledge, has there been any threat of, any strike, slowdown, work stoppage, lockout, concerted refusal to work overtime or other similar labor activity or dispute affecting the Company.

(b) The Company is now and for the prior four (4) years have been in compliance in all material respects with all applicable Laws pertaining to employment and employment practices to the extent they relate to Employees of (or applicants for employment with) the Company, including but not limited to Laws relating to labor relations, employment discrimination, harassment and retaliation, reasonable accommodations, immigration, wages and hours, safety and health, workers’ compensation and leaves of absence. Every U.S.-based employee of the Company is authorized to work in the United States. Except as set forth in **Section 3.16(b)** of the Disclosure Schedules, there are no actions, suits, claims, investigations or other legal proceedings against the Company pending, or to the Company’s Knowledge, threatened to be brought or filed, by or with any Governmental Authority or arbitrator in connection with the employment of any current or former employee of the Company, including, without limitation, any claim relating to unfair labor practices, employment discrimination, harassment, retaliation, equal pay, wage and hour, immigration or any other employment related matter arising under applicable Laws.

(c) **Section 3.16(c)** of the Disclosure Schedules contains a list of each Employee of the Company, as well as such Employee's (i) name, (ii) job title, (iii) location of employment, (iv) annual base compensation or regular hourly rate of pay, (v) commission structure or bonus opportunity, (vi) status as exempt or non-exempt under the Fair Labor Standards Act, (vii) status as full-time, part-time, and/or temporary, (viii) hire date, (ix) current or anticipated leave status (if applicable, and excluding any scheduled vacation or paid time off to be taken in the ordinary course of business), (x) total compensation paid for the prior calendar year, (xi) accrued and unused vacation or other paid time off, and (xii) a description of any other accrued and unpaid compensation. Except as set forth in **Section 3.16(c)** of the Disclosure Schedules, no offer of employment has been made by the Company that remains outstanding and has not yet been accepted, or which has been accepted but where the employment has not yet started. To the Knowledge of the Company, none of the Employees has indicated to the Company that he or she intends to resign, retire or terminate his or her employment with the Company. The Company have the right to terminate the employment of each of their Employees at will and to terminate the engagement of any of their independent contractors without incurring any penalty or liability.

(d) The Company has correctly classified each Employee as exempt or nonexempt under the Fair Labor Standards Act and similar state Laws. All independent contractors providing services to the Company have been properly classified as independent contractors for purposes of federal and applicable state Laws, including but not limited to Laws concerning Taxes and the Company has not received any notice from any Governmental Authority disputing such classification.

(e) Except as set forth in **Section 3.16(e)** of the Disclosure Schedules, all compensation, including wages, commissions and bonuses payable to current or former employees, independent contractors or consultants for services performed on or prior to the date hereof and the Closing Date, has been paid in full or is included in the Closing Working Capital as a current liability and there are no outstanding agreements, understandings or commitments of the Company with respect to any compensation, commissions or bonuses.

### **Section 3.17 Taxes.**

(a) Except as set forth in **Section 3.17** of the Disclosure Schedules:

(i) All Tax Returns required to be filed by or on behalf of Seller and the Company have been properly prepared and duly and timely filed (taking into account any valid extensions). All such Tax Returns are true, complete and correct in all respects. All Taxes due and owing (whether or not shown or required to be shown on any Tax Return) by the Company have been fully and timely paid. No claim has ever been made by a Governmental Authority in a jurisdiction where the Company does not file Tax Returns that it is or may be subject to taxation by that jurisdiction which has not been resolved.

(ii) There are no Liens for unpaid Taxes on any assets of any of the Company (except for statutory liens for Taxes not yet due and payable). The Company has withheld and paid all Taxes required by applicable Law to have been withheld in connection with amounts paid or owing to any Person and has complied with all information reporting and recordkeeping requirements with respect thereto. The unpaid Taxes of the Company did not, as of the dates of



the Financial Statements, exceed the reserve for Tax liability (excluding any reserve for deferred Taxes established to reflect timing differences between book and Tax income) set forth on the face of the balance sheets (rather than in any notes thereto) contained in the Financial Statements. Since the Interim Balance Sheet Date, the Company as not has incurred any liability for Taxes outside the ordinary course of business.

(iii) The Company has made an election under Section 1362(a) of the Code to be an "S corporation," as defined in Section 1361(a)(1) (and any comparable provision of state and local Tax Law in jurisdictions in which such election was available), and all persons who were shareholders of the Company on the day on which such election was made validly consented to such election. Such election became effective as of the effective date of the election, January 1, 1992 ("**Election Date**") and has remained in effect properly and continuously from the Election Date to and including the Closing Date. No actions have been taken and no omissions have occurred which would cause such election to terminate or to be revoked at any time prior to the Closing Date. Since the Election Date, (A) all the shareholders of the Company have been eligible shareholders under Section 1361 of the Code and the Treasury Regulations thereunder, and (B) the Company has had only a single class of stock within the meaning of Section 1361 of the Code and the Treasury Regulations thereunder.

(iv) Reserved.

(v) The Company shall not be liable for any Tax under Section 1374 of the Code in connection with the deemed sale of the Company's assets caused by the Section 338(h)(10) Election. The Company has not, in the past five (5) years: (A) acquired assets from another corporation in a transaction in which the Company's Tax basis for the acquired assets was determined, in whole or in part, by reference to the Tax basis of the acquired assets (or any other property) in the hands of the transferor or (B) acquired the stock of any corporation that is a qualified subchapter S subsidiary within the meaning of Section 1361(b)(3)(B) of the Code.

(vi) The Company has never been a party to or a partner in any joint venture, partnership or other arrangement or contract that is treated as a partnership for Tax purposes. The Company does not own equity of any other entity.

(vii) There are no ongoing actions, suits, claims, investigations or other legal proceedings by any taxing authority against the Company. No notice of deficiency, proposed assessment or adjustment with respect to any Tax or Tax Return of the Company has been received by the Company. There are no Tax audits, claims, inquiries or other administrative proceedings, discussions or court proceedings presently pending or threatened with regard to any Tax or Tax Return against the Company. The Company has not agreed to any extension or waiver of the statute of limitation applicable to any Tax or Tax Return, or agreed to any extension of time with respect to a Tax assessment or deficiency.

(viii) The Company has delivered or made available to Buyer (A) complete and correct copies of all federal income Tax Returns relating to the Company for the last three (3) years, and (B) complete and correct copies of all private letter rulings, revenue agent reports, information document requests, notices of proposed deficiencies, deficiency notices, protests, petitions, closing agreements, settlement agreements, pending ruling requests and any similar

documents submitted by, received by, or agreed to by or on behalf of the Company, or shareholder to the extent related to the Company's qualification as an S corporation, relating to Taxes for the prior three (3) years

(ix) The Company is not a party to any Tax allocation, Tax sharing, Tax indemnification or similar agreement under which the Company could be liable for the Taxes of any other Person. The Company does not have any liability for the Taxes of any Person (other than the Company) under Treasury Regulation Section 1.1502-6 (or any substantially similar provision of state, local or non-U.S. Tax Law), or as a transferee or successor, or by contract, or otherwise. The Company has not been (A) a member of an Affiliated group filing a consolidated federal income Tax Return or (B) included in any "consolidated", "unitary" or "combined" Tax Return provided for under the Laws of the United States, any state thereof, or any non-U.S. jurisdiction.

(x) The Company will not be required to include any item of income in, or exclude any item or deduction from, taxable income for any Tax period or portion thereof ending after the Closing Date as a result of: (A) any change in a method of accounting under Section 481 of the Code (or any comparable provision of state, local or foreign Tax Laws), or use of an improper method of accounting, for a Tax period ending on or prior to the Closing Date; (B) an installment sale or open transaction occurring on or prior to the Closing Date; (C) deferred revenue or any prepaid amount received on or before the Closing Date; (D) any closing agreement under Section 7121 of the Code, or similar provision of state, local or foreign Law; or (E) any election under Section 108(i) of the Code.

(xi) The Company is not a party to any contract, arrangement or plan that has resulted or could result, separately or in the aggregate, in the payment of (A) any "excess parachute payment" within the meaning of Section 280G of the Code (or any corresponding provision of state, local, or non-U.S. Tax Law) or (B) any amount that will not be fully deductible as a result of Section 162(m) of the Code (or any corresponding provision of state, local, or non-U.S. Tax Law).

(xii) The Company is not a "United States real property holding corporation" within the meaning of Section 897(c) (2) of the Code. The Company has not had a permanent establishment (within the meaning of an applicable Tax treaty) or otherwise had an office or fixed place of business in a country other than the United States.

(xiii) None of the assets of the Company is (i) "tax-exempt use property" within the meaning of Section 168(h) of the Code or (ii) directly or indirectly secures any debt the interest of which is exempt from Tax under Section 103(a) of the Code.

(xiv) The Company has not constituted a "distributing corporation" or a "controlled corporation" under Section 355 (or any similar provision of applicable state, local or non-U.S. Law) in any distribution in the last two years or pursuant to a plan or series of related transactions (within the meaning of Section 355(e) or similar Law) with any transaction contemplated by this Agreement.

(xv) The Company has not “participated” in or has any filing obligation with respect to a “reportable transaction” within the meaning of Section 6707A(c)(1) and Treasury Regulation Section 1.6011-4(b) and all positions taken with respect to the Company that could give rise to a “substantial understatement of income tax” within the meaning of Section 6662 of the Code have been disclosed on the Tax Returns of the Company.

(b) The Company has not requested or is the subject of or bound by any private letter ruling, technical advice memorandum, closing agreement or similar ruling, memorandum or agreement with any Governmental Authority with respect to Taxes, nor is any such request outstanding. There is no outstanding power of attorney authorizing anyone to act on behalf of the Company in connection with any Tax, Return or proceeding relating to any Tax.

**Section 3.18 Affiliate Transactions.**

(a) Except as set forth in **Section 3.18(a)** of the Disclosure Schedules, neither the Company nor any of its Affiliates or Immediate Family Members, and no manager, member, officer, director or employee of the Company nor any Affiliate of any such Person is presently, or has been, in the past three (3) years, a party to any transaction or contract with the Company (other than compensation for services as managers, officers, directors or employees of the Company, reimbursement for reasonable business expenses or payment of dividends or distributions in the ordinary course consistent with past practice), including, without limitation, any written or oral Contract (i) providing for the furnishing of services or assets by, (ii) providing for the rental of real or personal property from, or (iii) otherwise requiring payments to, or on behalf of, any such Person or Affiliate thereof. Since the Interim Balance Sheet Date, there has been no dividend, distribution or payment of any kind whatsoever by the Company to Seller or any of their Affiliates.

(b) Except as set forth on **Section 3.18(b)** of the Disclosure Schedules, none of the or any of their Immediate Family Members: (i) has any direct or indirect financial interest in any Person with whom the Company has consummated or entered into any Material Contract; (ii) owns, directly or indirectly, in whole or in part, or has any other interest in, any tangible or intangible property that is necessary for the conduct of the business of the Company; or (iii) has any contractual or financial relationship or arrangement with, or otherwise receives or has the right to receive any payments from, any Person with whom the Company has consummated or entered into any Material Contract.

**Section 3.19 Bank Accounts.** **Section 3.19** of the Disclosure Schedules sets forth a complete and correct list showing all banks in which the Company maintains a bank account or safe deposit box (collectively, the “**Bank Accounts**”), together with, as to each Bank Account, the account number, and the names of all signatories thereon.

**Section 3.20 Corruption and Anti-Terrorism.**

(a) None of the Company or any of its Affiliates, officers, directors, employees, agents or any other person authorized to act on behalf of the Company, has (i) used any of the funds of the Company for unlawful contributions, payments, gifts or entertainment, or made any unlawful expenditures relating to political activity, to governmental officials or others, or

established or maintained any unlawful or unrecorded funds, in each case, in violation of Section 30A of the Securities Exchange Act of 1934 (Foreign Corrupt Practices Act of 1977 (15 USC §78dd-1)), or any other foreign, provincial, federal or state Laws or (ii) accepted or received for or on behalf of the Company any unlawful contributions, payments, expenditures or gifts.

(b) The Company is and has been in compliance with all Laws relating to anti-money laundering or anti-terrorism, including the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, H.R. 3162, Public Law 107-56 (commonly known as the “Patriot Act”) and Executive Order Number 13224 on Terrorism Financing, effective September 24, 2001 and regulations promulgated pursuant thereto (collectively with the Patriot Act and any other antiterrorism Laws, “Anti-Terrorism Laws”). The Company is not a Person with whom Buyer is restricted from doing business under any of the Anti-Terrorism Laws, including Persons named on the Office of Foreign Asset Control Specially Designated Nationals and Blocked Persons List.

### **Section 3.21 Material Customers and Material Suppliers.**

(a) **Section 3.21(b)** of the Disclosure Schedules sets forth the names and dollar amounts of the ten (10) largest customers (based on revenue) of the Company for the twelve (12) month period ended December 31, 2018. The Company has not received any written notice, and does not otherwise have any Knowledge that any such customer intends to cancel, modify or otherwise change its relationship with the Company in any material manner.

(b) **Section 3.21(a)** of the Disclosure Schedules sets forth the names and dollar amounts of each of the ten (10) largest suppliers (based on expenditures) of the Company for the twelve (12) month period ended December 31, 2018. The Company has not received any written notice, and does not otherwise have any Knowledge that any such supplier intends to cancel, modify or otherwise change its relationship with the Company in any material manner.

**Section 3.22 Accounts Receivable.** Each Account Receivable: (i) arose from *bona fide* transactions in the ordinary course of the Company’s business and are payable on ordinary trade terms, (ii) are legal, valid and binding obligations of the respective debtors enforceable in accordance with their terms except to the extent that enforcement may be limited by applicable bankruptcy, insolvency or similar laws, (iii) are not subject to any valid set-off or counterclaim, and (iv) to the Knowledge of the Company, it has the right to collect the accounts receivable in the ordinary course of the Business consistent with past practices in the aggregate recorded amounts thereof.

**Section 3.23 Brokers.** No broker, finder or investment banker is entitled to any brokerage, finder’s or other fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of Seller and no brokerage, finder’s or other fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of Seller shall be paid by the Trust.

## **ARTICLE IV REPRESENTATIONS AND WARRANTIES REGARDING WARRANT HOLDERS**

Each Warrant Holder, as to himself or herself and for no other Warrant Holders, represents and warrants to Buyer that the statements contained in this **ARTICLE IV** are true, correct and complete as of the date hereof.

**Section 4.01 Capacity.** Such Warrant Holder has requisite legal capacity to enter into this Agreement and the other Transaction Documents to which such Warrant Holder is a Party. This Agreement and each other Transaction Document to which such Warrant Holder is a Party have been duly executed and delivered by such Warrant Holder, and (assuming due authorization, execution and delivery by the Company, Seller and Buyer) this Agreement and the other Transaction Documents to which such Warrant Holder is a party constitute legal, valid and binding obligations of such Warrant Holder, enforceable against such Warrant Holder in accordance with their terms, except as such enforceability may be limited by ERISA or bankruptcy, insolvency, reorganization, moratorium or similar Laws affecting creditors' rights generally and by general principles of equity (regardless of whether enforcement is sought in a proceeding at law or in equity).

**Section 4.02 No Conflicts; Consents.** The execution, delivery and performance by such Warrant Holder of this Agreement and the other Transaction Documents to which such Warrant Holder is a party, and the consummation of the transactions contemplated hereby and thereby, do not and will not (assuming the passage of time or the giving of notice or both): (a) result in a material violation or breach of any provision of any Law or Governmental Order applicable to such Warrant Holder or any of his or her assets; (b) result in the imposition or creation of a Lien upon or with respect to such Warrant Holder's Warrant, or (c) except as set forth in **Section 4.02** of the Disclosure Schedules, require the consent, notice or other action by any Person under, conflict with, result in a violation or breach of, constitute a default under or result in the acceleration of any supplier agreement, distributor agreement, note, bond, mortgage, indenture, deed of trust, lease, agreement or contract to which such Warrant Holder is party or by which any of his or her properties or assets are bound. No consent, approval, Permit, Governmental Order, declaration or filing with, or notice to, any Governmental Authority is required by or with respect to such Warrant Holder in connection with the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby.

**Section 4.03 Warrants.** Such Warrant Holder holds of record and owns beneficially the Warrants set forth on **Section 4.03** of the Disclosure Schedules listed opposite such Warrant Holder's name, free and clear of any restrictions on transfer (other than any restrictions under the Securities Act and state securities laws), Taxes, Liens, options, warrants, purchase rights, contracts, commitments, equities, claims, and demands. Such Warrant Holder is not a party to any option, warrant, purchase right, or other contract or commitment (other than this Agreement) that could require such Warrant Holder to sell, transfer, or otherwise dispose of any capital stock of the Company. Such Warrant Holder is not a party to any voting trust, proxy, or other agreement or understanding with respect to the voting of any capital stock of the Company.

**Section 4.04 Legal Proceedings.** Except as set forth in **Section 4.04** of the Disclosure Schedules, there are no actions, suits, claims, investigations or other legal proceedings pending or to such Warrant Holder's knowledge, threatened against or by such Warrant Holder that challenge or seek to prevent, enjoin or otherwise delay the transactions contemplated by this

Agreement or the other Transaction Documents to which such Warrant Holder is party and the consummation of the transactions contemplated hereby or thereby.

**ARTICLE V**  
**REPRESENTATIONS AND WARRANTIES REGARDING SELLER AND TRUSTEE**

Trustee, not in an individual or corporate capacity but solely as Trustee of the Trust represents and warrants to Buyer that the statements contained in this **ARTICLE V** are true, correct and complete as of the date hereof.

**Section 5.01 Authorization.** The Trustee is qualified to serve as Trustee, has been duly appointed as Trustee of the ESOP and has all requisite power and authority, for itself and on behalf of the Trust, to execute, deliver and perform the obligations of Seller under this Agreement and the other Transaction Documents to which Seller is a party. This Agreement and the other Transaction Documents to which Seller is a party and all transactions contemplated hereby and thereby have been duly and validly authorized and approved by all necessary actions on the part of Seller. This Agreement and the other Transaction Documents to which Seller is a party have been duly executed and delivered by the Trustee, on behalf of the ESOP, and constitute the legal, valid and binding obligation of the ESOP enforceable in accordance with their respective terms, subject to ERISA and bankruptcy, insolvency, reorganization and other similar Laws affecting creditors' rights generally and subject, as to enforceability, to general equitable principles (regardless of whether enforcement is sought in a proceeding in equity or at law).

**Section 5.02 No Conflicts; Consents.** The execution, delivery and performance by the ESOP, Seller and Trustee of this Agreement and the other Transaction Documents to which Seller is a party, and the consummation of the transactions contemplated hereby and thereby, do not and will not (assuming the passage of time or the giving of notice or both): (a) result in a violation or breach of any provision of the ESOP or the organizational documents of the ESOP; (b) result in a violation or breach of any provision of any Law or Governmental Order applicable to the ESOP or any agreement to which the ESOP is a party; (c) result in a violation or breach of any judgment, decree, ruling or court order applicable to the ESOP; (d) except as set forth in **Section 5.02** of the Disclosure Schedules, require the consent, notice or other action by any Person under, conflict with, result in a violation or breach of, constitute a default under or result in the acceleration or termination of any right under any agreement to which the ESOP is a party. No consent, approval, Permit, Governmental Order, declaration or filing with, or notice to, any Governmental Authority is required by or with respect to the ESOP or the Trust, in connection with the execution and delivery of this Agreement or the Transaction Documents to which they are party and the consummation of the transactions contemplated hereby or thereby.

**Section 5.03 Ownership.** Except as set forth in **Section 5.03** of the Disclosure Schedules, all of the Shares are owned of record by Seller free and clear of all Liens. Immediately upon consummation of the transactions contemplated by this Agreement, Buyer shall own all of the Shares, free and clear of all Liens.

**Section 5.04 Legal Proceedings.** Except as set forth in **Section 5.04** of the Disclosure Schedules, there are no actions, suits, claims, investigations or other legal proceedings pending

or to Trustee's knowledge (which shall include such knowledge that Trustee would reasonably be expected to have in the normal course of exercising his/her/its duties as Trustee), threatened against or by Seller or the Trustee that challenge or seek to prevent, enjoin or otherwise delay the transactions contemplated by this Agreement or the other Transaction Documents to which they are party and the consummation of the transactions contemplated hereby or thereby.

**Section 5.05 Investigation.** The Trustee acknowledges that the Trustee and the Advisor, acting on behalf of Seller, have had access to the business records and documents of the Company and have made such investigations and due diligence of the Company as each such Person has requested.

## **ARTICLE VI REPRESENTATIONS AND WARRANTIES REGARDING BUYER**

Buyer represents and warrants to Seller that, except as provided in a schedule to this Agreement, the statements contained in this **ARTICLE VI** are true and correct as of the date hereof.

**Section 6.01 Organization and Authority of Buyer.** Buyer is a corporation duly organized, validly existing and in good standing under the Laws of the state of Delaware. Buyer has all necessary corporate power and authority to enter into this Agreement and the other Transaction Documents to which it is a party, to carry out its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution and delivery by Buyer of this Agreement and the other Transaction Documents to which it is a party, the performance by Buyer of its obligations hereunder and thereunder and the consummation by Buyer of the transactions contemplated hereby and thereby have been duly authorized by all requisite corporate action on the part of Buyer. This Agreement and the other Transaction Documents to which Buyer is a party have been duly executed and delivered by Buyer, and assuming due authorization, execution and delivery by Seller, the Company and the Warrant Holders of this Agreement and the other Transaction Documents to which Buyer is a party, constitute a legal, valid and binding obligation of Buyer, enforceable against Buyer in accordance with their terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar Laws affecting creditors' rights generally and by general principles of equity (regardless of whether enforcement is sought in a proceeding at law or in equity).

**Section 6.02 No Conflicts; Consents.** Except as set forth in **Section 6.02** of the Disclosure Schedules, the execution, delivery and performance by Buyer of this Agreement, and the consummation of the transactions contemplated hereby, do not and will not: (a) result in a violation or breach of any provision of the certificate of incorporation and bylaws of Buyer; (b) result in a violation or breach of any provision of any Law or Governmental Order applicable to Buyer; or (c) require the consent, notice or other action by any Person under, conflict with, result in a violation or breach of, constitute a default under or result in the acceleration of any agreement to which Buyer is a party, except in the cases of clauses (b) and (c), where the violation, breach, conflict, default, acceleration or failure to give notice would not have a Material Adverse Effect on Buyer. No consent, approval, Permit, Governmental Order, declaration or filing with, or notice to, any Governmental Authority is required by or with

respect to Buyer in connection with the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby, except for such consents, approvals, Permits, Governmental Orders, declarations, filings or notices which would not have a Material Adverse Effect on Buyer.

**Section 6.03 Brokers.** No broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of Buyer and no brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of Buyer is payable by Buyer.

**Section 6.04 Legal Proceedings.** There are no actions, suits, claims, investigations or other legal proceedings pending or, to Buyer's knowledge, threatened against Buyer or any Affiliate of Buyer that challenge or seek to prevent, enjoin or otherwise delay the transactions contemplated by this Agreement.

**Section 6.05 Buyer Common Stock.** The ESOP Equity Consideration and the Warrant Holders Equity Consideration has been duly authorized, and upon consummation of the transactions contemplated by this Agreement, will be validly issued, fully paid and nonassessable.

**Section 6.06 SEC Documents.** Buyer has filed all required SEC Documents required to be filed by it with the SEC since July 1, 2017. As of their respective dates, the SEC Documents (a) were prepared in accordance and complied in all material respects with the requirements of the Securities Laws applicable to such SEC Documents, and (b) did not at the time they were filed (or if amended or superseded by a filing prior to the date of this Agreement then on the date of such filing) contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. None of the Company's subsidiaries is required to file any forms, reports or other documents with the SEC. There have been no material adverse developments in the business of Buyer and its subsidiaries since the respective dates of such SEC Documents that are required to be disclosed pursuant to the Exchange Act that have not been disclosed. Any audited or unaudited financial statements and any notes thereto or schedules included in the SEC Documents (i) complied as to form in all material respects with applicable accounting requirements and with the published rules and regulations of the SEC with respect thereto, (ii) were prepared in accordance with GAAP applied on a consistent basis during the periods involved (except as may be indicated in the notes thereto or, in the case of unaudited statements, as permitted by applicable Securities Laws) and (iii) fairly present (subject in the case of unaudited statements to normal, recurring and year-end audit adjustments) in all material respects the consolidated financial position of Buyer and its subsidiaries as of the dates thereof and the consolidated results of their operations and cash flows for the periods then ended.

**Section 6.07 Investment Intention.** Buyer is purchasing the Shares for its own account with the present intention of holding such securities for investment purposes and not with a view to or for sale in connection with any public distribution of such securities in



violation of any applicable Laws, including any Securities Laws. Buyer is an “accredited investor” as defined in Regulation D promulgated under the Securities Act.

**Section 6.08 Independent Investigation.** Buyer has conducted its own independent investigation, review and analysis of the business, results of operations, prospects, condition (financial or otherwise) and assets of the Company, and acknowledges that it has been provided adequate access to the personnel, properties, assets, premises, books and records, and other documents and data of the Company for such purpose. Buyer acknowledges and agrees that: (a) in making its decision to enter into this Agreement and to consummate the transactions contemplated hereby, Buyer has relied solely upon its own investigation and the express representations and warranties of the Company set forth in **Article III** (including the related portions of the Disclosure Schedules) and Seller and the Trustee set forth in **Article IV** (including the related portions of the Disclosure Schedules); and (b) none of the Company, Seller, the Trustee or any other Person makes or has made any representation or warranty as to the Company, Seller or the Trustee or this Agreement, except as expressly set forth in **Article III** or **Article IV** (including the related portions of the Disclosure Schedules).

## **ARTICLE VII COVENANTS**

### **Section 7.01 Employees; Benefit Plans.**

(a) With respect to any employee benefit plan maintained by Buyer or its Affiliates (collectively, “**Buyer Benefit Plans**”) in which any Employee who remains employed immediately after the Closing (“**Company Continuing Employee**”) will participate effective as of or after the Closing, Buyer shall recognize all service of the Company Continuing Employees with the Company, as the case may be, as if such service were with Buyer and its Affiliates, for vesting and eligibility purposes in any Buyer Benefit Plan in which such Company Continuing Employees may be eligible to participate after the Closing Date; provided, however, such service shall not be recognized to the extent that (x) such recognition would result in a duplication of benefits, (y) such service was not recognized under the corresponding Benefit Plan, or (z) such recognition applies to any Buyer Benefit Plan that is a defined benefit plan (qualified or otherwise).

(b) This **Section 7.01** shall be binding upon and inure solely to the benefit of each of the Parties to this Agreement, and nothing in this **Section 7.01**, express or implied, shall confer upon any other Person any rights or remedies of any nature whatsoever under or by reason of this **Section 7.01**. Nothing contained herein, express or implied, shall be construed to establish, amend or modify any benefit plan, program, agreement or arrangement. The Parties hereto acknowledge and agree that the terms set forth in this **Section 7.01** shall not create any right in any Employee or any other Person to any continued employment with the Company, Buyer or any of their respective Affiliates or compensation or benefits of any nature or kind whatsoever.

**Section 7.02 Public Announcements.** Unless otherwise required by applicable Law or stock exchange requirements (based upon the reasonable advice of counsel), no Party to this Agreement shall make any public announcements in respect of this Agreement or the transactions contemplated hereby or otherwise communicate with any news media without the

prior written consent of the other party (which consent shall not be unreasonably withheld or delayed), and the Parties shall cooperate as to the timing and contents of any such announcement.

**Section 7.03 Further Assurances.** Following the Closing, each of the Parties hereto shall, and shall cause their respective Affiliates to, execute and deliver such additional documents, instruments, conveyances and assurances, and take such further actions as may be reasonably required to carry out the provisions hereof and give effect to the transactions contemplated by this Agreement and the other Transaction Documents.

**Section 7.04 Transfer Taxes; Tax Refunds.**

(a) All transfer, documentary, sales, use, stamp, registration, value added and other such Taxes and fees (including any penalties and interest) incurred in connection with this Agreement (including any real property transfer Tax and any other similar Tax) shall be borne by Seller. Seller shall, at its own expense, timely file any Tax Return or other document with respect to such Taxes or fees (and Buyer shall cooperate with respect thereto as necessary).

(b) All refunds of Taxes relating to the Company with respect to any Pre-Closing Period will be for the account of Seller. To the extent the Company receives any such refund after the Closing Date, Buyer shall, or shall cause the Company to, pay the amount of such refund to Seller within five (5) Business Days of receipt.

**Section 7.05 338(h)(10) Election.**

(a) Trustee, on behalf of Seller and Buyer shall join in timely making (or causing to be timely made) the Section 338(h)(10) Election. Buyer shall prepare and file, or cause to be prepared and filed, all forms or documents as are required by applicable Law for an effective 338(h)(10) Election, including, but not limited to IRS Form 8023, which forms and documents shall be prepared substantially in compliance with the Allocation Schedule as defined below and in accordance with the rules set forth therein (the “**338(h)(10) Election Forms**”). In this regard, Seller will provide to Buyer at or prior to the Closing two (2) originally executed IRS Forms 8023 (together with any schedules or attachments thereto) consenting to the making of the 338(h)(10) Election, to be held in escrow by Buyer’s counsel pending the Closing. Trustee, on behalf of Seller shall at all times cooperate with Buyer in the making of the 338(h)(10) Election and executing such 338(h)(10) Election Forms.

(b) The Company and Buyer shall file all Tax Returns in a manner consistent with the 338(h)(10) Election and will not take any position contrary thereto unless required to do so by applicable Laws.

(c) Seller shall not revoke the Company’s election to be taxed as, or take or allow any action (other than the transactions contemplated by this Agreement) that would result in the termination of the Company’s status as, a validly existing S corporation with the meanings of Code Section 1361, the Treasury Regulations promulgated thereunder or any analogous or similar provision of state or local Law.

**Section 7.06 Purchase Price Allocation.** Buyer and the Company shall file all Income Tax Returns for their respective tax years in which the Closing occurs in a manner that reflects an allocation of the Purchase Price and other items of consideration under the Code and Treasury Regulations promulgated thereunder in accordance with the schedule prepared by Buyer (the “**Allocation Schedule**”). Buyer and the Company agree (i) that the Allocation Schedule shall be prepared in accordance with Code Sections 338 and 1060, as applicable, and the Treasury Regulations promulgated thereunder, (ii) to prepare and timely file all Tax Returns, including, but not limited to Internal Revenue Service Form Forms 8594 and, if applicable, 8883, (and all supplements thereto) in a manner consistent with the Allocation Schedule, and (iii) in the course of any examination, audit or other proceeding with respect to any Tax Return or Tax, will take no position, and cause its Affiliates to take no position, inconsistent with the Allocation Schedule for Tax purposes, unless required by applicable Law. The Parties will revise the Allocation Schedule in accordance with the principles set forth herein to the extent necessary to reflect any post-Closing payment or adjustment made pursuant to or in connection with this Agreement. The Parties will not otherwise revise the Allocation Schedule for Tax purposes, unless required by applicable Law.

**Section 7.07 Amendments to Plans; Post-Closing Administration.**

(a) The Company shall adopt board resolutions and Benefit Plan amendments, to the extent necessary, effective as of and subject to the consummation of the Closing, providing for the termination of any Benefit Plan (other than the ESOP) that Buyer directs the Company to so terminate prior to the Closing. The form and substance of any resolutions, plan amendments, documents or notices required to effect any such termination shall be subject to review and approval of Buyer in advance of execution and performance. The termination and payout of any such plan that is subject to Section 409A of the Code shall be consummated consistent with the rules under Section 409A of the Code.

(b) The Company shall adopt board resolutions and Plan amendments effective as of or prior to the Closing, subject to the consummation of the Closing, providing for (i) freeze and suspension of eligibility, entry and further benefit accruals under the ESOP effective as of the Closing, such that no further employees will become eligible under the ESOP and no further contributions shall be made to the ESOP, in each case after the Closing; (ii) 100% vesting of all participants and all eligible beneficiaries in all benefits under the ESOP; and (iii) such other amendments as Buyer may direct and as agreed to by the Company, such agreement not to be unreasonably withheld or delayed. The form and substance of any resolutions, plan amendments, documents or notices required to effect any of the foregoing shall be subject to review and approval of Buyer in advance of execution and performance. All costs and expenses of the foregoing with respect to actions to be taken shall be a Transaction Expense of the Company.

(c) The Company then shall adopt board resolutions and a Plan amendment, no later than six (6) months after the Closing, providing for (i) termination of the ESOP as of the six (6) month anniversary of the Closing, (ii) submission to the Internal Revenue Service of an application for an IRS determination letter that the ESOP is qualified as of the termination of the ESOP, as soon as administratively practicable thereafter, and (iii) distribution of ESOP accounts consistent with the terms of the Plan as follows: (i) one-third (1/3) of each ESOP participant’s account in the form of one-third (1/3) of the cash and cash equivalents and one-third (1/3) of the

number of shares of Buyer Common Stock then held in the ESOP account, as soon as administratively practicable after the six (6)-month anniversary of the Closing; and (ii) the remainder of each ESOP participant's account, as soon as administratively practicable after receipt from the Internal Revenue Service of a favorable IRS determination letter on the tax-qualified status of the ESOP; provided, however, if a favorable IRS determination letter on the tax-qualified status of the ESOP is not received by the nine (9)-month anniversary of the Closing, the Company shall cause the distribution of one-half (1/2) of each ESOP participant's remaining ESOP account in the form of one-half (1/2) of the cash and cash equivalents and one-half (1/2) of the number of shares of Buyer Common Stock then held in the ESOP account, as soon as administratively practicable after the nine (9)-month anniversary of the Closing, and, if a favorable IRS determination letter on the tax-qualified status of the ESOP is not received by the twelve (12)-month anniversary of the Closing, the Company shall cause the distribution of the remaining shares of Buyer Common Stock then held in the ESOP account, as soon as administratively practicable after the twelve (12)-month anniversary of the Closing, with the remainder of the ESOP participant's ESOP account to be held and distributed as soon as administratively practicable after receipt from the Internal Revenue Service of a favorable IRS determination letter on the tax-qualified status of the ESOP. After distribution of the shares of Buyer Common Stock, the ESOP participants or the accounts to which the shares of the ESOP participant's Buyer Common Stock were distributed may elect to sell any shares of Buyer Common Stock received to the extent permitted by law and any legal lock-up restrictions and securities requirements. Nothing herein however shall prohibit the ESOP from adjusting ESOP accounts or making such corrections, or recouping or requiring the repayment of any amounts previously distributed from the ESOP, as required to maintain the tax-qualified status of the ESOP and/or obtain from the Internal Revenue Service a favorable IRS determination letter on the tax-qualified status of the ESOP at the time of termination. All costs and expenses of the foregoing with respect to the actions to be taken shall be at the sole cost and expense of Buyer (and not considered a Transaction Expense of the Company). Buyer agrees to cause the Company to make, in a timely manner, all amendments to the ESOP as may be reasonably required by the IRS as a condition of a favorable determination letter in connection with the IRS determination letter submission on the tax-qualified status of the ESOP as of termination. Buyer shall cause the Company to keep the Trustee apprised of the status of the IRS determination letter submission and to provide notice to the Trustee within ten (10) Business Days of receipt any communications with, and inquiries or requests for information from, the IRS in connection with the matters described in this section or otherwise with respect to the ESOP, the Department of Labor, any participant or any other person, including a copy of the IRS favorable determination letter.

(d) The Company shall take such actions and adopt such amendments as may reasonably be necessary to maintain the tax-qualified status of the ESOP and the tax exempt status of the related trust under the Code until the termination of the ESOP, distribution of plan assets and related administration are completed.

(e) Should First Bankers Trust Services, Inc. cease to serve as the trustee of the ESOP, Buyer agrees to cause the Company to appoint as the successor trustee an institutional fiduciary to serve in the capacity as trustee of the ESOP, to the extent an institutional fiduciary is reasonably available and willing to serve, and to cause the Company to promptly notify First

Bankers Trust Services, Inc. of any proposed termination of First Bankers Trust Services, Inc. as trustee of the ESOP.

(f) Prior to the Closing, the Company will make a contribution to the ESOP (the “**Company’s 2018 Contribution**”) for the plan year ending December 31, 2018 in an amount equal to the maximum amount allowable under Code Section 404 to be used to pay accrued interest and principal on the outstanding loan balance under that certain ESOP Loan Agreement, dated as of July 16, 2009, by and between the Trust and the Company (the “**ESOP Loan**”). Shares released from the ESOP’s unallocated company stock suspense account by reason of the Company’s 2018 Contribution will be allocated to the accounts of eligible participants in accordance with the terms of the Plan. Effective as of the Closing, the Company and the ESOP will settle the ESOP Loan as follows: (i) the ESOP will return shares held in its unallocated company stock suspense account having a fair market value equal to the outstanding principal due on the ESOP Loan (after the Company’s 2018 Contribution and payment of all accrued interest), and (ii) the remaining shares, if any, held in the ESOP’s unallocated company stock suspense account will be allocated to participants and beneficiaries as of the loan settlement date proportionately based on their Company stock account balances under the ESOP at such time (determined after the allocation of shares triggered by the Company’s 2018 Contribution), and (iii) there will be no ESOP Loan outstanding as of the Closing.

**Section 7.08 Conduct of Business.** Except as expressly contemplated by this Agreement, as set forth in **Section 7.08** of the Disclosure Schedules, or as Buyer may otherwise consent in writing, at all times from the date of this Agreement until the earlier to occur of the Closing or the valid termination of this Agreement in accordance with the terms hereof, the Company shall (the “**Pre-Closing Period**”):

- (a) operate the Company’s Business in the usual, regular, and ordinary course consistent with past practice;
- (b) take all reasonable steps to preserve and protect the assets of the Company in good working order and condition, ordinary wear and tear excepted;
- (c) comply with all requirements of Law, Permits, and material contractual obligations applicable to the operation of the Company’s business;
- (d) use commercially reasonable efforts to preserve intact the Business of the Company, keep available the services of the Company’s officers, employees, and agents and maintain the Company’s current relations and good will with suppliers, customers, licensors, landlords, creditors, employees, agents, and others having business relationships with the Company, including by promptly paying all amounts owing to such Persons as and when such amounts are due (other than amounts being disputed in good faith);
- (e) continue in full force and effect all insurance coverage pertaining to the business of the Company or its assets that are in effect as of the date of this Agreement or obtain substantially equivalent policies;

(f) confer with Buyer prior to implementing business operational decisions that materially impact the business of the Company, and report periodically to Buyer concerning the status of the business of the Company; and

(g) maintain the books and records of the Company in the ordinary course of business consistent with past practice.

**Section 7.09 Restrictions on Business.** Except as expressly contemplated by this Agreement, **Sections 7.08 or 7.09** of the Disclosure Schedules, or as Buyer may otherwise consent in writing, such consent not to be unreasonably withheld, at all times during the Pre-Closing Period, the Company shall not:

(a) amend any of its Organizational Documents;

(b) authorize for issuance, issue, sell, deliver or agree or commit to issue, sell or deliver (whether through the issuance or granting of options, warrants, commitments, subscriptions, rights to purchase or otherwise) any shares of capital stock, or any other securities or other ownership interests of the Company;

(c) split, combine or reclassify any shares of capital stock or other ownership interests, or declare, set aside or pay any dividend or other distribution to any member, or otherwise in respect of its capital stock or other ownership interests or redeem or otherwise acquire any of its securities or other ownership interests;

(d) (A) incur or assume any Indebtedness, other than (i) trade payables incurred in the ordinary course of the business of the Company consistent with past practice (but in any event not any Indebtedness to Seller or any of their Affiliates) and (ii) the Warrant Holders Notes; (B) assume, guarantee, endorse (except for checks or other negotiable instruments in the ordinary course of business) or otherwise become liable or responsible (whether directly, contingently or otherwise) for any obligations of any other Person; or (C) make any loans, advances or capital contributions to, or investments in, any other Person;

(e) adopt, modify or terminate any (i) employment, severance, retention, change in control or other compensation or benefit agreement, plan or arrangement with any current or former employees, officers, directors, independent contractors or consultants of the Company, or (ii) other than as required by Law, any Benefit Plan or any plan or arrangement that would constitute a Benefit Plan if in existence on the date hereof;

(f) except in the ordinary course of business consistent with past practices of the Company and not in excess of \$35,000 (individually or cumulative), acquire, sell, lease, transfer or dispose of any properties or assets of the Company or enter into any other commitment or transaction that is material to the Company;

(g) modify, other than in an immaterial manner, any policy or procedure with respect to the collection of receivables;

- (h) pay, discharge or satisfy before it is due any material claim or liability of the Company or fail to pay any such item in a timely manner, in each case except in accordance with the Company's prior practices;
- (i) cancel any debts or waive any claims or rights of material value;
- (j) except to the extent required by Law, change any accounting principle or method or make any election for purposes of foreign, federal, state or local income Taxes;
- (k) take or suffer any action that would result in (A) the creation, or consent to the imposition, of any Lien on any of the properties or assets of the Company or (B) the cancellation, termination, lapse or non-renewal of any insurance policy (unless such policy is replaced with comparable insurance);
- (l) except in the ordinary course of business consistent with past practices of the Company and not in excess of \$35,000 (individually or cumulative), make or incur any expenditure, lease or commitment for additions to property or equipment or other tangible assets;
- (m) enter into any contract restricting in any material respect the operation of the Business;
- (n) make or change any material Tax election, adopt or change any Tax accounting method, enter into any closing agreement, settle or compromise any Tax claim or assessment, file any amended Tax Return, any material Tax Return, or any claim for Tax refund, or extend or waive the limitation period applicable to any Tax claim or assessment, in each case to the extent that it would affect the assets or business of the Company after the Closing;
- (o) (i) grant any bonuses, whether monetary or otherwise, or increase wages, salary, severance, pension or other compensation or benefits in respect of any current or former employees, officers, directors, independent contractors or consultants of the Company or their spouses, dependents or beneficiaries except (1) in the ordinary course of business consistent with past practices of the Companies and so long as not in excess of \$35,000 (individually or cumulative), (2) as required by Law or (3) as provided for in any existing written agreements as of the date hereof; (ii) change the terms of employment or service for any such person; or (iii) take any action to increase the amount of or accelerate the vesting, funding or payment of any compensation or benefits to any such person;
- (p) grant any severance, change-in-control, or similar pay benefits (in cash or otherwise) to any current or former employee, officer, director, independent contractor or consultant of the Company or their spouses, dependents, or beneficiaries;
- (q) establish, amend or terminate any Benefit Plan, except as required by applicable Law or as specifically provided in this Agreement;
- (r) adopt a plan of complete or partial liquidation, dissolution, restructuring, recapitalization, or other reorganization;

(s) except in the ordinary course of business consistent with past practice, take or omit to take any action that has or would reasonably be expected to have the effect of accelerating sales to customers or revenues of the business of the Company to pre-Closing periods that would otherwise be expected to take place or be incurred in post-Closing periods;

(t) fail to make any capital expenditures or commitment therefore as set forth in **Section 7.09(s)** of the Disclosure Schedules or make any capital expenditures or commitments not otherwise set forth in **Section 7.09(s)** of the Disclosure Schedules;

(u) commence any actions, suits, claims, investigations or other legal proceedings relating to the Company other than (i) for the routine collection of amounts owed, or (ii) in such cases where the failure to commence litigation could have a Material Adverse Effect, *provided* that the Company shall consult with Buyer prior to filing such litigation;

(v) except in the ordinary course of business consistent with past practices of the Company and so long as not in excess of \$35,000 (individually or cumulative), enter into any contract of any kind with any third party, which contract continues after the Closing Date and cannot be terminated by the Company on not more than 30 days' notice without any liability on the part of the Company;

(w) except in the ordinary course of business consistent with past practice of the Company, amend, waive, surrender or terminate or agree to the amendment, waiver, surrender or termination of any contract or any Permit;

(x) except in the ordinary course of Business consistent with past practice, exercise any right or option under or extend or renew any contract;

(y) enter into or engage in any transaction with the officer, directors, or employee of the Company, any of any of their family members or any Affiliate thereof other than any transaction that is described on **Section 3.18(a)** and **Section 3.18(b)** of the Disclosure Schedules or is a Facility Lease;

(z) except in the ordinary course of business consistent with past practices of the Company and so long as not in excess of \$35,000 (individually or cumulative), sell, lease, license, transfer, or otherwise dispose of any assets of the Company;

(aa) except in the ordinary course of business consistent with past practices of the Company, sell any inventory of the Company; or

(bb) enter into any contract to do, or take, or agree in writing or otherwise to take or consent to, any of the foregoing actions.

**Section 7.10 Access, Information and Nondisclosure.** During the Pre-Closing Period, during normal business hours, Company shall, upon reasonable advanced notice, afford to Buyer and its representatives (which shall include Buyer's Affiliates, lenders, counsel, accountants, and other representatives), reasonable access to the offices, properties, books, contracts, commitments, records, vendor information, and customer information of Company, insofar as the same relate to the Company's business and does not unreasonably interfere with the conduct



of business of the Company, and shall make available to such persons such information (including financial and operating data) concerning the Company as they reasonably may request. Requests for such information shall be discreetly coordinated with Company's designated representatives, and Company shall use its commercially reasonable efforts to assist Buyer and its representatives in their examination; the Company shall not be obligated to respond to any requests herein that are disruptive in any material respect to the Company's business (for the avoidance of any doubt, requests included on the due diligence checklist provided to the Company prior to the execution of this Agreement shall not be considered disruptive). The Parties acknowledge that Company and Buyer have entered into a Mutual Nondisclosure Agreement, dated September 11, 2015 (the "**Nondisclosure Agreement**"), the terms of which are hereby incorporated by this reference, and Buyer confirms that Buyer will comply with their respective obligations thereunder and Buyer shall cause its representatives to comply with such obligations as if such representatives were a party to such Nondisclosure Agreement.

**Section 7.11 Regulatory and Other Approvals.** Each of Buyer, Seller and the Company shall take all commercially reasonable steps necessary or desirable, and proceed diligently and in good faith and use all commercially reasonable efforts, as promptly as practicable to: (i) obtain all consents and approvals of, make all filings with and give all notices to each Governmental Authority or any other Person that are required to be obtained, made or given by Buyer, Seller or the Company, as the case may be, including but not limited to all of the consents and approvals listed in **Sections 3.02, 4.02, 5.02 and 6.02** of the Disclosure Schedules in order to consummate the transactions contemplated by this Agreement and the Transaction Documents, including but not limited to in compliance with all applicable Laws and all contracts, and (ii) satisfy each other condition to the obligations of the Parties contained in this Agreement.

**Section 7.12 Investigations.** During the Pre-Closing Period, the Company shall, and shall cause all of the officers, directors, employees, agents, accountants and counsel or other agents and Representatives of the Company to, (i) promptly afford the Representatives of Buyer, during normal business hours, access to (A) the offices, books, Contracts and records of the Company and any records concerning the Company maintained and accumulated by it and its Representatives, and (B) those Representatives of the Company who have knowledge relating to the Business, and (ii) promptly furnish to Buyer and Representatives of Buyer such additional financial and operating data and other information regarding the Company or the Business (including, without limitation, any contracts or Permits in effect as of the date hereof and any contracts or Permits being negotiated or entered into between the date hereof and the Closing Date), properties and goodwill as Buyer from time to time reasonably request. All such investigations by Buyer and its Representatives shall be performed at such times and locations as are reasonably mutually agreed to by the Parties and shall be performed upon reasonable prior written notice to the Company and in a manner that shall not be disruptive to the operations of the Business.

**Section 7.13 No Shop.** During the Pre-Closing Period, Seller and the Company shall not, and Company shall not permit any of their respective directors, officers, brokers, employees or Affiliates (or authorize or permit any investment banker, financial advisor, attorney, accountant or other Person retained by or acting for or on behalf of Seller, the Company or any such Affiliate) to, take, directly or indirectly, any action to initiate, assist, solicit, receive,

participate, negotiate, encourage (including, without limitation, by way of furnishing non-public information) or accept any offer or inquiry from any Person (a) to engage in any Business Combination with Seller or the Company, (b) to reach any agreement or understanding (whether or not such agreement or understanding is absolute, revocable, contingent or conditional) for, or to engage in any discussions or negotiations with respect to, or otherwise attempt to consummate, any Business Combination with Seller or the Company or (c) to furnish or cause to be furnished any information with respect to the Company to any Person (other than as contemplated by **Section 7.10**) which Seller, the Company or any such Affiliate knows or has reason to believe is in the process of considering any Business Combination with regard to the Company. Seller and the Company shall immediately terminate (in writing, with a copy to Buyer) any and all discussions or negotiations of any type described in the first sentence of this **Section 7.13**. If, during the Pre-Closing Period, Seller or the Company receives or becomes aware that any of Seller, the Company or any Affiliate thereof (or any such Person acting for or on their behalf) has received from any Person (other than Buyer) any offer, inquiry or informational request referred to in the first sentence of this **Section 7.13**, the Company shall promptly advise such Person, by written notice, of the terms of this **Section 7.13** and shall promptly, orally and in writing, advise Buyer of such offer, inquiry or request and deliver a copy of such notice to Buyer. The restrictions on the activities provided in this **Section 7.13** shall terminate upon any termination of this Agreement.

**Section 7.14 Release of Liens.** At the Closing, the Company shall cause all Liens on any Contract to which the Company is a party or on the assets of the Company to be released.

**Section 7.15 Business Relationships.** Until the Closing, the Company shall cooperate with the reasonable requests of Buyer in Buyer's efforts to continue and maintain for the benefit of Buyer and the Company those business relationships of the Business existing prior to the Closing, including relationships with customers, suppliers and others.

**Section 7.16 Financing.** Buyer shall use its commercially reasonable efforts to obtain debt to fund the transactions contemplated hereby and other transactions expected to be consummated on the Closing Date. Upon request of Buyer, the Company shall provide reasonable cooperation and assistance to Buyer in connection with any debt financing contemplated by Buyer for the funding of the transactions contemplated by this Agreement.

**Section 7.17 Termination.** This Agreement may be terminated:

- (a) by the mutual consent of Buyer and Seller;
- (b) by Buyer if any condition in **Section 8.05** has not been satisfied or if the required items therein have not been delivered as of the Closing Date or if satisfaction of such a condition or delivery of an item by such date is or becomes impossible (in either case, other than as a result of a breach or default by Buyer in the performance of its obligations hereunder) and Buyer has not waived such condition in writing at or prior to the Closing Date;
- (c) by Trustee acting on behalf of Seller, if any condition in **Section 8.03** or the condition in **Section 8.04** has not been satisfied or if the required items therein have not been delivered as of the Closing Date or if satisfaction of such a condition or delivery of an item by

such date is or becomes impossible (in either case other than as a result of a breach or default by any of the Company or Seller in the performance of their obligations hereunder) and Trustee acting on behalf of Seller has not waived such condition in writing at or prior to the Closing Date;

(d) by any Party (other than a Party that is in material default of its obligations under this Agreement) if the Closing has not occurred on or before February 28, 2018; or

(e) by any Party if the other Party materially breaches any of the covenants or agreements in this **ARTICLE VII** or elsewhere in the Agreement provided that such breach is not capable of being cured or has not been cured within thirty (30) days after the giving of notice thereof by the nonbreaching Party.

**Section 7.18 Effect of Termination.**

If this Agreement is terminated, all obligations of the Parties under this Agreement will terminate; provided, however, that if this Agreement is terminated because of fraud or an uncured willful or intentional breach of this Agreement by the non-terminating party, or because one or more of the conditions to the terminating party's obligations to close is not satisfied as a result of the non-terminating party's uncured willful or intentional breach of its obligations under this Agreement, the terminating party's right to pursue all legal remedies will survive such termination unimpaired.

**Section 7.19 Sale of Buyer Common Stock.** Each of Seller and the Company acknowledge and agree that the shares of Buyer Common Stock issuable to Seller pursuant to Section 2.02(a) shall constitute "restricted securities" within the meaning of Rule 144 of the Securities Act and will be issued in a private placement transaction in reliance upon the exemption from the registration and prospectus delivery requirements of Section 5 of the Securities Act afforded by Section 4(a)(2) of the Securities Act and Regulation D promulgated thereunder. The certificates evidencing the shares of Buyer Common Stock to be issued to Seller pursuant to Section 2.02(a) shall bear appropriate legends to identify such privately placed shares as being "restricted securities" under the Securities Act to comply with state and federal securities laws and, if applicable, to notice the restrictions on transfer of such shares. For so long as the ESOP is a holder of Buyer Common Stock, Buyer agrees to use commercially reasonable efforts to timely (or within the periods permitted under Rule 12b-25 of the Exchange Act) file with the SEC all reports required to be so filed under the Exchange Act, and the Buyer will not terminate its status as an issuer required to file reports under the Exchange Act even if the Exchange Act or the rules and regulations thereunder would permit such termination.

**Section 7.20 Warrants.** No later than one (1) Business day following the date hereof, the Company shall deliver to the Warrant Holders written notice (the "**Sale Notice**") of the proposed Stock Purchase. Within ten (10) Business Days of the Closing Date, each Warrant Holder shall, in accordance with Section 2(f) of each Warrant, put such Warrant Holder's Warrant to the Company by delivering to the Company written notice (the "**Put Notice**") of such Warrant Holder's election to put such Warrant Holder's warrant to the Company. Upon receipt of the Put Notice, the Company shall pay the put price for each Warrant by delivering to each Warrant Holder a promissory note pursuant to Section 2(f)(ii) of each Warrant.

**Section 7.21 2018 Audited Financial Statements.** The Company will prepare, or cause to be prepared, at its expense audited consolidated financial statements consisting of the consolidated balance sheet of the Company as at December 31, 2018 and the related consolidated statements of income, stockholders' equity and cash flows for the year then ended (the "**2018 Audited Financial Statements**"), and such 2018 Audited Financial Statements will be prepared in accordance with the Accounting Principles applied on a consistent basis throughout the period involved and will fairly present in all material respects the financial condition of the Company as of the date they were prepared and the results of the operations of the Company for the period indicated. The cost and expense of the Company's outside auditor in preparing the 2018 Audited Financial Statements shall be a Transaction Expense if incurred prior to the Closing or deducted from the Escrow if incurred after the Closing.

## **ARTICLE VIII CLOSING CONDITIONS AND DELIVERABLES**

**Section 8.01 Company Deliveries.** At or prior to the Closing, Company shall deliver, or cause to be delivered to Buyer, the following (which shall be in addition to the deliveries required to be delivered pursuant to **ARTICLE II**):

(a) A certificate of the Secretary or an Assistant Secretary (or equivalent officer) of the Company certifying that attached thereto are (i) the certificate of incorporation for the Company, certified by the Secretary of State of the Commonwealth of Pennsylvania; (ii) the bylaws of the Company; and (iii) true and complete copies of all resolutions adopted by the board of directors of the Company authorizing the execution, delivery and performance of this Agreement and the other Transaction Documents and the consummation of the transactions contemplated hereby and thereby, and that all such resolutions are in full force and effect and are all the resolutions adopted in connection with the transactions contemplated hereby;

(b) A certificate of the Secretary or an Assistant Secretary (or equivalent officer) of the Company certifying the names and signatures of the officers of the Company authorized to sign this Agreement and the other documents to be delivered hereunder;

(c) Good standing certificates of the Company issued by the Secretary of State of the States of Pennsylvania, Maryland, Delaware, New Jersey, Virginia, and West Virginia;

(d) Each of the other Transaction Documents to which Company, Warrant Holders or Warrant Holder Representative is a party;

(e) All consents, authorizations, orders and approvals from all third parties referred to on **Sections 3.04, 4.02 and 5.02** of the Disclosure Schedules in form and substance reasonably satisfactory to Buyer, and no such consent, authorization, order and approval shall have been revoked;

(f) Written resignations, effective as of the Closing Date, of the officers and directors of the Company set forth on **Section 8.01(g)** of the Disclosure Schedules;

(g) Evidence in form and substance reasonably satisfactory to Buyer that all Benefit Plans, including but not those limited to those set forth in Section 7.10, have been terminated as

of the Closing Date and/or amended and all other related actions have been taken, as requested by Buyer;

(h) Payoff letters (with wire instructions) with respect to the termination of all documents and agreements evidencing Indebtedness and signed copies of Form UCC 3s or other applicable form releasing or authorizing the release of all Liens with respect thereto;

(i) Payoff letters (with wire instructions) with respect to all Transaction Expenses, including payments of any transaction bonuses, change in control payments or phantom equity awards, with corresponding executed written releases from the counterparties thereto with respect to full payment thereof by the Company;

(j) A certificate, dated the Closing Date and signed by the President and Chief Executive Officer of the Company, and the Warrant Holder Representative, certifying as to the matters set forth in **Sections 8.05(a), (b) and (c)**.

(k) The Stockholders Agreement, duly signed by each of the Key Employees, and Warrant Holders;

(l) The Non-Competition Agreements, duly signed by each of the Key Employees, and Warrant Holders;

(m) The Facility Leases, duly signed by the lessor and the termination of the Existing Leases, duly signed by the lessor thereunder;

(n) Evidence of the backlog of the Company as of the Closing Date, to be delivered one (1) business day prior to the Closing; and

(o) Evidence of the satisfactory resolution, in the sole discretion of Buyer, of any and all pending litigation between the Company and any of its officers, directors, stockholders, or any of their respective Affiliates.

**Section 8.02 Trustee Deliveries.** At or prior to the Closing, Trustee, on behalf of Seller shall deliver, or cause to be delivered, to Buyer, the following:

(a) Stock certificates evidencing the Shares (reduced by that number of Shares applied in repayment of the ESOP Loan in Section 7.07(f)), which shall constitute all of the then-issued and outstanding capital stock of the Company, free and clear of Liens, duly endorsed in blank or accompanied by stock powers or other instruments of transfer duly executed in blank;

(b) A copy of the Fairness Opinion, dated as of the Closing Date, that (i) the consideration to be received by the ESOP hereunder is not less than adequate consideration as that term is defined in Section 3(18) of ERISA and (ii) that the terms of the Stock Purchase and related transactions, taken as a whole, are fair to the ESOP from a financial point of view;

(c) A copy of a certificate from the Trustee, duly executed by an authorized Person on behalf of the Trustee, substantially the form attached hereto as Exhibit G;

(d) All consents, authorizations, orders and approvals from all third parties referred to on **Section 5.02** of the Disclosure Schedules in form and substance reasonably satisfactory to Buyer, and no such consent, authorization, order or approval shall have been revoked;

(e) Each of the other Transaction Documents to which Seller is a party;

(f) Two (2) IRS Forms 8023; and

(g) A certificate, in form satisfactory to Buyer, pursuant to Treasury Regulations Section 1.445-2(b) that such Seller is not a foreign person within the meaning of Section 1445 of the Code.

**Section 8.03 Buyer Deliveries.** At or prior to the Closing, Buyer shall deliver, or cause to be delivered, to Seller and Warrant Holder Representative, the following:

(a) A certificate of the Secretary or an Assistant Secretary (or equivalent officer) of Buyer certifying the names and signatures of the officers of Buyer authorized to sign this Agreement and the other documents to be delivered hereunder;

(b) Cash in an amount equal to Estimated Closing Cash Payment (less the Escrow Amount) by wire transfer in immediately available funds, to an account or accounts designated at least two Business Days prior to the Closing Date by Seller in a written notice to Buyer;

(c) Certificates representing the ESOP Equity Consideration and the Warrant Holders Equity Consideration;

(d) The other Transaction Documents to which Buyer is a party;

(e) A certificate, dated the Closing Date and signed by a duly authorized officer of Buyer, certifying as to the matters set forth in **Sections 8.04(a)** and **(b)**; and

(f) All consents, authorizations, orders and approvals from the Governmental Authorities referred to in **Section 6.02** of the Disclosure Schedules in form and substance reasonably satisfactory to Seller, and no such consent, authorization, order and approval shall have been revoked.

**Section 8.04 Conditions to Obligations of Seller.** The obligations of Seller and Warrant Holders to consummate the Closing and the other contemplated transactions shall be subject to the satisfaction or waiver, at or prior to the Closing, of each of the following conditions:

(a) All covenants contained in this Agreement to be complied with by Buyer on or before the Closing shall have been complied with in all material respects.

(b) Each of the representations and warranties of Buyer contained in **ARTICLE VI** shall be true and correct as of the Closing Date as though made on and as of the Closing Date; except as (i) would not, materially delay, hinder or prevent the consummation of the

contemplated transactions by Buyer, or (ii) would not have in the aggregate a Material Adverse Effect on Buyer or its ability to perform its obligations under this Agreement.

(c) No Governmental Authority or court of competent jurisdiction shall have enacted, issued, promulgated, enforced or entered any statute, rule, regulation, injunction or other order (whether temporary, preliminary or permanent) that is in effect and has the effect of making the contemplated transactions or the Closing illegal or otherwise restraining or prohibiting consummation thereof.

(d) The Company shall have adopted the ESOP amendment described in Section 7.07(b) relating to the freeze of the ESOP.

(e) The Company shall have made the Company's 2018 Contribution to the ESOP in accordance with **Section 7.07(f)**.

(f) The Trustee shall: (i) have received the Fairness Opinion dated as of the Closing Date in form and substance reasonably satisfactory to the Trustee, (ii) have concluded that Seller's agreement to enter into and consummate Seller's obligations in connection with the transactions that are the subject of this Agreement and the other Transaction Documents do not violate the ERISA Fiduciary Standards, and (iii) be satisfied in its sole discretion as of the Closing Date that the transactions that are the subject of this Agreement and the other Transaction Documents are prudent and in the best interests of the Plan participants and their beneficiaries.

(g) The Trustee shall have received the Closing Balance Sheet prior to the Closing Date.

(h) Buyer shall have executed and delivered, or be prepared to execute and deliver, the documents and other items set forth in **Section 8.03**.

**Section 8.05 Conditions to Obligations of Buyer.** The obligations of Buyer to consummate the Closing and the other contemplated transactions shall be subject to the satisfaction or waiver, at or prior to the Closing, of each of the following conditions:

(a) All covenants contained in this Agreement to be complied with by Seller, the Company and Warrant Holders on or before the Closing shall have been complied with in all material respects.

(b) Other than the Fundamental Representations, each of the representations and warranties concerning the Company contained in **ARTICLE III**, concerning the Warrant Holders contained in **ARTICLE IV**, and concerning Seller in **ARTICLE V** hereof shall be true and correct in all respects (in the case of any representation or warranty qualified by materiality or the absence of a Material Adverse Effect) or in all material respects (in the case of any representation or warranty not qualified by materiality or the absence of a Material Adverse Effect) on and as of the date hereof and on and as of the Closing Date as though made on and as of the Closing Date (except for those representations and warranties that address matters only as of a particular date, the accuracy of which shall be determined as of that specified date in all respects). The Fundamental Representations shall be true and correct in all respects on and as of

the date hereof and on as of the Closing Date as though made on and as of the Closing Date, except for those representations and warranties that address matters only as of a particular date (the accuracy of which shall be determined as of that specified date in all respects).

(c) Since the date of this Agreement, there shall not have occurred a Material Adverse Effect with respect to the Company, or any change, fact, circumstance, condition, event or effect, or combination of changes, facts, circumstances, conditions, events or effects, that individually or in the aggregate would reasonably be expected to have a Material Adverse Effect with respect to the Company;

(d) There shall not exist any material Liens on any of the assets of the Company.

(e) Buyer shall have obtained debt financing sufficient to fund the transactions contemplated hereby on the Closing Date, on terms and conditions reasonably acceptable to Buyer.

(f) No Governmental Authority or court of competent jurisdiction shall have enacted, issued, promulgated, enforced or entered any statute, rule, regulation, injunction or other order (whether temporary, preliminary or permanent) which is in effect and has the effect of making the contemplated transactions or the Closing illegal or otherwise restraining or prohibiting consummation of such transactions.

(g) Seller, Warrant Holders, Warrant Holder Representative and the Company shall have executed and delivered, or be prepared to execute and deliver, the documents and other items set forth in **Sections 8.01 and 8.02**.

## **ARTICLE IX INDEMNIFICATION**

**Section 9.01 Survival.** Subject to the limitations and other provisions of this Agreement, the representations and warranties contained herein shall survive the Closing and shall remain in full force and effect until the date that is one (1) year following the Closing Date; provided, however, that the Fundamental Representations shall survive the Closing and remain in effect until sixty (60) days following the expiration of the applicable statute of limitations. None of the covenants or other agreements contained in this Agreement shall survive the Closing Date other than those which by their terms contemplate performance after the Closing Date, and each such surviving covenant and agreement shall survive the Closing for the period contemplated by its terms. Notwithstanding the foregoing, any claims asserted in good faith with reasonable specificity (to the extent known at such time) and in writing by notice from the non-breaching party to the breaching party prior to the expiration date of the applicable survival period shall not thereafter be barred by the expiration of such survival period and such claims shall survive until finally resolved.

**Section 9.02 Escrow.** Subject to the other terms and conditions of this **ARTICLE IX**, Buyer, its Affiliates (including the Company after the Closing Date) and their respective officers, directors, employees and representatives (each, a “**Buyer Indemnified Party**”) shall be indemnified and held harmless by the Escrow from and against, any and all Losses resulting



from, incurred or sustained by, or imposed upon, any Buyer Indemnified Party, based upon, arising out of, with respect to or by reason of:

- (a) any inaccuracy in or breach of any of the representations or warranties of the Company contained in **ARTICLE III** of this Agreement;
- (b) any inaccuracy in or breach of any of the representations or warranties of Warrant Holders contained in **ARTICLE IV** of this Agreement;
- (c) any inaccuracy in or breach of any of the representations or warranties of Seller or Trustee contained in **ARTICLE V** of this Agreement;
- (d) any breach or non-fulfillment of any covenant, agreement or obligation to be performed by Seller, the Company, Trustee or Warrant Holders pursuant to this Agreement;
- (e) any unpaid Indebtedness or unpaid Transaction Expenses of the Company; and
- (f) any Pre-Closing Taxes.

**Section 9.03 Indemnification By Buyer.** Subject to the other terms and conditions of this **ARTICLE IX**, Buyer shall indemnify Warrant Holders, Seller, their Affiliates and their respective officers, directors, employees and representatives (each, a “**Seller Indemnified Party**”), and shall hold Seller Indemnified Parties harmless from and against, any and all Losses resulting from, incurred or sustained by, or imposed upon, any Seller Indemnified Party based upon, arising out of, with respect to or by reason of:

- (a) any inaccuracy in or breach of any of the representations or warranties of Buyer contained in **ARTICLE VI** of this Agreement; or
- (b) any breach or non-fulfillment of any covenant, agreement or obligation to be performed by Buyer pursuant to this Agreement.

**Section 9.04 Certain Limitations.** The party making a claim under this **ARTICLE IX** is referred to as the “**Indemnified Party**”, and the party against whom such claims are asserted under this **ARTICLE IX** (including, for the avoidance of doubt, the Escrow for a claim made by a Buyer Indemnified Party) is referred to as the “**Indemnifying Party**”. The indemnification provided for in **Section 9.02** and **Section 9.03** shall be subject to the following limitations:

- (a) The Indemnifying Party shall not be liable to the Indemnified Party for indemnification under **Section 9.02(a)**, **Section 9.02(b)** and **Section 9.02(c)**, on the one hand, or **Section 9.03(a)** on the other hand, until the aggregate amount of all Losses in respect of indemnification under **Section 9.02(a)**, **Section 9.02(b)** and **Section 9.02(c)**, on the one hand, or **Section 9.03(a)**, on the other hand, exceeds \$25,000 (the “**Deductible**”), in which event the Indemnifying Party shall only be required to pay or be liable for Losses in excess of the Deductible; provided, however, that the Deductible shall not be applicable with respect to breaches of the Fundamental Representations.

(b) The aggregate amount of all Losses for which an Indemnifying Party shall be liable pursuant to this Agreement, including **Section 9.02(a)**, **Section 9.02(b)** and **Section 9.02(c)**, on the one hand, or **Section 9.03(a)**, on the other hand, shall not exceed an amount equal to the Escrow Amount (the “**Cap**”). Without limiting the foregoing, Seller’s, Warrant Holders’ and the Trustee’s liability in all cases following the Closing is limited to amounts remaining available under the Escrow Amount then remaining in the Escrow, and the sole source of payment for any indemnification obligation of Seller and Warrant Holders shall be the escrow fund pursuant to the Escrow Agreement.

(c) Notwithstanding anything to the contrary set forth in this **Section 9.04** or otherwise set forth in this **ARTICLE IX**, the Deductible shall not be applicable to fraud or any willful or intentional breach of a representation or warranty made by Seller.

(d) Payments by, or on behalf of, an Indemnifying Party pursuant to **Section 9.02** or **Section 9.03** in respect of any Loss shall be limited to the amount of any liability or damage that remains after deducting therefrom any insurance proceeds and any indemnity, contribution or other similar payment actually received by the Indemnified Party (or the Company) in respect of any such claim.

(e) In no event shall any Indemnifying Party be liable to any Indemnified Party for any punitive, incidental, consequential, special or indirect damages, including loss of future revenue or income, loss of business reputation or opportunity relating to the breach or alleged breach of this Agreement, or diminution of value or any damages based on any type of multiple, except to the extent any Indemnified Party may become obligated for such damages as a result of a Third-Party Claim.

(f) The Parties agree that for purposes of determining Losses pursuant to this **ARTICLE IX**, all qualifiers with respect to materiality, Material Adverse Effect or other similar qualification contained in or otherwise applicable to such representation or warranty shall be disregarded.

(g) No Indemnified Party shall be entitled to recover more than once from an Indemnifying Party for matters based on the same inaccuracy or breach.

#### **Section 9.05 Indemnification Procedures.**

(a) Third-Party Claims. If any Indemnified Party receives notice of the assertion or commencement of any action, suit, claim or other legal proceeding made or brought by any Person who is not a party to this Agreement or an Affiliate of a party to this Agreement or a Representative of the foregoing (a “**Third-Party Claim**”) against such Indemnified Party with respect to which the Indemnifying Party is obligated to provide indemnification under this Agreement, the Indemnified Party shall give the Indemnifying Party prompt written notice thereof. For claims made against the Escrow by a Buyer Indemnified Party, notice shall also be provided to Seller and the Trustee, who shall be deemed to be an Indemnifying Party under this **Section 9.05** solely for the limited purposes of the indemnification claims procedures and resolving claims made by Buyer Indemnified Parties hereunder while any amount in the Escrow remains outstanding. The failure to give such prompt written notice shall not, however, relieve

the Indemnifying Party of its indemnification obligations, except and only to the extent that the Indemnifying Party is materially prejudiced thereby. Such notice by the Indemnified Party shall describe the Third-Party Claim in reasonable detail, shall include copies of all material written evidence thereof and shall indicate the estimated amount of the Loss that has been or may be sustained by the Indemnified Party. The Indemnifying Party shall have the right to participate in, or by giving written notice to the Indemnified Party, to assume the defense of any Third-Party Claim at the Indemnifying Party's expense and by the Indemnifying Party's own counsel, and the Indemnified Party shall cooperate in good faith in such defense; *provided, that* if the Indemnifying Party is Seller or the Trustee, such Indemnifying Party shall not have the right to defend or direct the defense of any such Third Party Claim that (x) is asserted directly by or on behalf of a Person that is a supplier or customer of the Company, (y) seeks an injunction or other equitable relief against the Indemnified Party, or (z) involves a conflict of interest between the Indemnifying Party and the Indemnified Party that cannot be waived. In the event that the Indemnifying Party assumes the defense of any Third-Party Claim, subject to **Section 9.05(b)**, it shall have the right to take such action as it deems necessary to avoid, dispute, defend, appeal or make counterclaims pertaining to any such Third-Party Claim in the name and on behalf of the Indemnified Party. The Indemnified Party shall have the right, at its own cost and expense, to participate in the defense of any Third-Party Claim with counsel selected by it subject to the Indemnifying Party's right to control the defense thereof. If the Indemnifying Party elects not to compromise or defend such Third-Party Claim or fails to promptly notify the Indemnified Party in writing of its election to defend as provided in this Agreement, the Indemnified Party may, subject to **Section 9.05(b)**, pay, compromise, defend such Third-Party Claim and seek indemnification, subject to the limitations set forth herein, for any and all Losses based upon, arising from or relating to such Third-Party Claim. Seller and Buyer shall cooperate with each other in all reasonable respects in connection with the defense of any Third-Party Claim, including making available (subject to the provisions of **Section 7.06**) records relating to such Third-Party Claim and furnishing, without expense (other than reimbursement of actual out-of-pocket expenses) to the defending party, employees of the non-defending party as may be reasonably necessary for the preparation of the defense of such Third-Party Claim.

(b) Settlement of Third-Party Claims. Notwithstanding any other provision of this Agreement, the Indemnifying Party shall not enter into settlement of any Third-Party Claim without the prior written consent of the Indemnified Party (which consent shall not be unreasonably withheld or delayed), except as provided in this **Section 9.05(b)**. If a firm offer is made to settle a Third-Party Claim without leading to liability or the creation of a financial or other obligation on the part of the Indemnified Party and provides, in customary form, for the unconditional release of each Indemnified Party from all liabilities and obligations in connection with such Third-Party Claim and the Indemnifying Party desires to accept and agree to such offer, the Indemnifying Party shall give written notice to that effect to the Indemnified Party. If the Indemnified Party fails to consent to such firm offer within ten days after its receipt of such notice, the Indemnified Party may continue to contest or defend such Third-Party Claim and in such event, the maximum liability of the Indemnifying Party as to such Third-Party Claim shall not exceed the amount of such settlement offer. If the Indemnified Party fails to consent to such firm offer and also fails to assume defense of such Third-Party Claim, the Indemnifying Party may settle the Third-Party Claim upon the terms set forth in such firm offer to settle such Third-Party Claim. If the Indemnified Party has assumed the defense pursuant to **Section 9.05(a)**, it

shall not agree to any settlement without the written consent of the Indemnifying Party (which consent shall not be unreasonably withheld or delayed).

(c) **Direct Claims.** Any claim by an Indemnified Party on account of a Loss which does not result from a Third-Party Claim (a “**Direct Claim**”) shall be asserted by the Indemnified Party giving the Indemnifying Party prompt written notice thereof. The failure to give such prompt written notice shall not, however, relieve the Indemnifying Party of its indemnification obligations, except and only to the extent that the Indemnifying Party is materially prejudiced thereby. Such notice by the Indemnified Party shall describe the Direct Claim in reasonable detail, shall include copies of all material written evidence thereof and shall indicate the estimated amount of the Loss that has been or may be sustained by the Indemnified Party. The Indemnifying Party shall have 30 days after its receipt of such notice to respond in writing to such Direct Claim. During such 30-day period, the Indemnified Party shall allow the Indemnifying Party and its professional advisors to investigate the matter or circumstance alleged to give rise to the Direct Claim, and whether and to what extent any amount is payable in respect of the Direct Claim and the Indemnified Party shall assist the Indemnifying Party’s investigation by giving such information and assistance (including reasonable access to the Company’s premises and personnel and the right to examine and copy any accounts, documents or records) as the Indemnifying Party or any of its professional advisors may reasonably request. If the Indemnifying Party does not so respond within such 30-day period, the Indemnifying Party shall be deemed to have rejected such claim, in which case the Indemnified Party shall be free to pursue such remedies as may be available to the Indemnified Party on the terms and subject to the provisions of this Agreement.

**Section 9.06 Tax Treatment of Indemnification Payments.** All indemnification payments made under this Agreement shall be treated by the Parties as an adjustment to the Purchase Price for Tax purposes, unless otherwise required by Law.

**Section 9.07 Exclusive Remedies.** Subject to **Section 2.05** (which shall govern any Closing Working Capital disputes in accordance with the dispute mechanism set forth therein) and **Section 8.11**, the Parties acknowledge and agree that their sole and exclusive remedy with respect to any and all claims whether based on tort, contract or otherwise (other than claims arising from fraud on the part of a party hereto) in connection with the transactions contemplated by this Agreement for any breach of any representation, warranty, covenant, agreement or obligation set forth herein or otherwise relating to the subject matter of this Agreement, shall be pursuant to the indemnification provisions set forth in this **ARTICLE IX**. In furtherance of the foregoing, each party hereby waives, to the fullest extent permitted under Law, any and all rights, claims and causes of action for any breach of any representation, warranty, covenant, agreement or obligation set forth herein or otherwise relating to the subject matter of this Agreement it may have against the other parties hereto and their Affiliates and each of their respective Representatives arising under or based upon any Law, except pursuant to the indemnification provisions set forth in this **ARTICLE IX**. Nothing in this shall limit any Person’s right to seek and obtain any equitable relief to which any Person shall be entitled pursuant to **Section 10.11** or to seek any remedy on account of intentional fraud by any party hereto.



If to the Company: PAC Industries, Inc.  
5341 Jaycee Avenue,  
Harrisburg, PA 17112  
Fax No.: 717-657-8678  
Email: Frank@pacindustries.com  
Attn: Frank Costabile, President

with a copy to: Steiker, Greenapple & Fusco, P.C.  
555 City Avenue, Suite 910  
Bala Cynwyd, PA 19004  
Fax No.: 215-508-2500  
Email: jsteiker@esolegal.com  
Attn.: James G. Steiker

If to Warrant Holder  
Representative, on behalf  
of Warrant Holders: PAC Industries, Inc.  
5341 Jaycee Avenue,  
Harrisburg, PA 17112  
Fax No.: 717-657-8678  
Email: Frank@pacindustries.com  
Attn: Frank Costabile, President

If to Buyer: EVI Industries, Inc.  
290 Northeast 68<sup>th</sup> Street  
Miami, Florida 33138  
Tel. No.: (305) 754-4551  
Fax No.: (305) 751-4903  
Email: hnahmad@envirostarinc.com  
Attn.: Mr. Henry M. Nahmad

with a copy to: Troutman Sanders LLP  
875 Third Avenue  
New York, New York 10022  
Tel. No.: (212) 704-6030  
Fax No.: (212) 704-5919  
E-mail: joseph.walsh@troutman.com  
Attention: Joseph Walsh, Esq.

**Section 10.03 Interpretation.** For purposes of this Agreement: (a) the words “include,” “includes” and “including” shall be deemed to be followed by the words “without limitation”; (b) the word “or” is not exclusive; and (c) the words “herein,” “hereof,” “hereby,” “hereto” and “hereunder” refer to this Agreement as a whole. Unless the context otherwise requires, references herein: (x) to Articles, Sections, Disclosure Schedules and Exhibits mean the Articles

and Sections of, and Disclosure Schedules and Exhibits attached to, this Agreement; (y) to an agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof; and (z) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. The Disclosure Schedules and Exhibits referred to herein shall be construed with, and as an integral part of, this Agreement to the same extent as if they were set forth verbatim herein.

**Section 10.04 Headings.** The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

**Section 10.05 Severability.** If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal or unenforceable, the Parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

**Section 10.06 Entire Agreement.** This Agreement constitutes the sole and entire agreement of the Parties to this Agreement with respect to the subject matter contained herein, and supersedes all prior and contemporaneous representations, warranties, understandings and agreements, both written and oral, with respect to such subject matter. In the event of any inconsistency between the statements in the body of this Agreement, the Exhibits and Disclosure Schedules (other than an exception expressly set forth as such in the Disclosure Schedules), the statements in the body of this Agreement will control.

**Section 10.07 Successors and Assigns.** This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and permitted assigns. Neither party may assign its rights or obligations hereunder without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed. No assignment shall relieve the assigning party of any of its obligations hereunder.

**Section 10.08 No Third-Party Beneficiaries.** Except as provided in **ARTICLE IX**, this Agreement is for the sole benefit of the Parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other Person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

**Section 10.09 Amendment and Modification; Waiver.** This Agreement may only be amended, modified or supplemented by an agreement in writing signed by each party hereto. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving. No waiver by any party shall operate or be construed as a waiver in respect of any failure, breach or default not expressly identified by such written

waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

**Section 10.10 Governing Law; Submission to Jurisdiction; Waiver of Jury Trial.**

(a) This Agreement shall be governed by and construed in accordance with the internal Laws of the State of Delaware without giving effect to any choice or conflict of Law provision or rule (whether of the State of Delaware or any other jurisdiction).

(b) ANY LEGAL SUIT, ACTION OR PROCEEDING ARISING OUT OF OR BASED UPON THIS AGREEMENT, THE OTHER TRANSACTION DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY MAY BE INSTITUTED IN THE FEDERAL COURTS OF THE UNITED STATES OF AMERICA FOR THE DISTRICT OF DELAWARE OR THE COURTS OF THE STATE OF DELAWARE, AND EACH PARTY IRREVOCABLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF SUCH COURTS IN ANY SUCH SUIT, ACTION OR PROCEEDING. SERVICE OF PROCESS, SUMMONS, NOTICE OR OTHER DOCUMENT BY MAIL TO SUCH PARTY'S ADDRESS SET FORTH HEREIN SHALL BE EFFECTIVE SERVICE OF PROCESS FOR ANY SUIT, ACTION OR OTHER PROCEEDING BROUGHT IN ANY SUCH COURT. THE PARTIES IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY OBJECTION TO THE LAYING OF VENUE OF ANY SUIT, ACTION OR ANY PROCEEDING IN SUCH COURTS AND IRREVOCABLY WAIVE AND AGREE NOT TO PLEAD OR CLAIM IN ANY SUCH COURT THAT ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

(c) EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT OR THE OTHER TRANSACTION DOCUMENTS IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND, THEREFORE, EACH SUCH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE OTHER TRANSACTION DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY. EACH PARTY TO THIS AGREEMENT CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT SEEK TO ENFORCE THE FOREGOING WAIVER IN THE EVENT OF A LEGAL ACTION, (B) SUCH PARTY HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (C) SUCH PARTY MAKES THIS WAIVER VOLUNTARILY, AND (D) SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS **SECTION 10.10(c)**.

**Section 10.11 Specific Performance.** The Parties agree that irreparable damage would occur if any provision of this Agreement were not performed in accordance with the terms hereof



and that the Parties shall be entitled to seek specific performance of the terms hereof, in addition to any other remedy to which they are entitled at law or in equity.

**Section 10.12 Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

**Section 10.13 Disclosure Schedules.** Any information disclosed in any Schedule shall be deemed fully disclosed for the purposes of all of the Schedules and shall be deemed to qualify all representations and warranties in **ARTICLES III, IV and V** to the extent such qualification is reasonably apparent from the face of such Schedule. Neither the specification (directly or indirectly by reference to a defined term hereof) of any dollar amount in the representations and warranties set forth in **ARTICLES III, IV, V or VI** or the indemnification provisions of **ARTICLE IX** nor the inclusion of any items in the Schedules shall be deemed to constitute an admission by the Company, Seller or Buyer, or otherwise imply, that any such amount or such items so included are material for the purposes of this Agreement. The inclusion of, or reference to, any item within any particular Schedule does not constitute an admission by the Company, Seller or Buyer that such item meets any or all of the criteria set forth in this Agreement for inclusion on such Schedule.

**Section 10.14 Non-recourse.** This Agreement may only be enforced against, and any claim, action, suit or other legal proceeding based upon, arising out of, or related to this Agreement, or the negotiation, execution or performance of this Agreement, may only be brought against the entities that are expressly named as Parties hereto and then only with respect to the specific obligations set forth herein with respect to such party. No past, present or future director, officer, employee, incorporator, manager, member, partner, stockholder, Affiliate, agent, attorney or other Representative of any party hereto or of any Affiliate of any party hereto, or any of their successors or permitted assigns, shall have any liability for any obligations or liabilities of any party hereto under this Agreement or for any claim or action based on, in respect of or by reason of the transactions contemplated hereby. Without limiting the foregoing, FBTS has executed and delivered this Agreement and related documents, not in its individual or corporate capacity, but solely as Trustee of the Trust. Accordingly, the performance of this Agreement and the related documents by FBTS and any and all duties, obligations and liabilities of the Trustee hereunder will be effected by FBTS only as Trustee and not by FBTS in its individual or corporate capacity. Further, any employee, officer or agent of FBTS shall be acting only on behalf of FBTS and shall not be considered to be acting in his or her individual capacity. Neither FBTS nor its officers, employees, directors, agents or shareholders shall have any personal liability or obligation of any nature whatsoever by virtue of the execution and delivery of this Agreement and the related documents or the representations, covenants or warranties contained therein.

**Section 10.15 Warrant Holder Representative.** Each Warrant Holder hereby irrevocably appoints Warrant Holder Representative as agent and attorney-in-fact for such Warrant Holder, with full power and authority to represent Warrant Holders and Warrant Holders' successors and assigns with respect to all matters arising under this Agreement and the

other Transaction Documents and all actions taken by Warrant Holder Representative under this Agreement or such other Transaction Documents will be binding upon Warrant Holders and Warrant Holders' successors and assigns as if expressly ratified and confirmed in writing by them. Without limiting the generality of the foregoing, Warrant Holder Representative has full power and authority, on behalf of Warrant Holders and Warrant Holders' successors and assigns, (i) to accept on behalf of Warrant Holders any and all payments of Purchase Price or other amounts payable hereunder and to distribute such payments to Warrant Holders in proportion to their respective ownership of such Warrants; (ii) to interpret the terms and provisions of this Agreement, to dispute or fail to dispute any claim under this Agreement or such other Transaction Documents, (iii) to negotiate and compromise any dispute that may arise under this Agreement or such other Transaction Document, and (iv) to sign any releases or other documents with respect to any such dispute. Each Warrant Holder will be deemed a party or a signatory to any agreement, document, instrument or certificate for which Warrant Holder Representative signs on behalf of such Warrant Holders. All decisions, actions and instructions by Warrant Holder Representative, including the defense or settlement of any claims for which any Warrant Holder may be required to indemnify any Buyer Indemnified Party pursuant to **ARTICLE IX** hereof, will be conclusive and binding on Warrant Holders and Warrant Holders have no right to object, dissent, protest or otherwise contest the same. The Warrant Holder will also pay and indemnify and hold harmless Seller and any Buyer Indemnified Party from and against any Losses that they may suffer or sustain as the result of any claim by any Person that an action taken by Warrant Holder Representative on behalf of Warrant Holders is not binding on, or enforceable against, Warrant Holder Representative. Seller and the Buyer each has the right to rely conclusively on the instructions and decisions of the Warrant Holder Representative as to the settlement of any claims for indemnification by the Buyer pursuant to **ARTICLE IX** hereof, or any other actions required to be taken by the Warrant Holder Representative hereunder, and no Party hereunder will have any cause of action against Seller or the Buyer for any action taken by Seller or the Buyer in reliance upon the instructions or decisions of the Warrant Holder Representative. The appointment of Warrant Holder Representative is an agency coupled with an interest and is irrevocable and any action taken by Warrant Holder Representative pursuant to the authority granted in this **Section 10.15** is effective and absolutely binding on Warrant Holders notwithstanding any contrary action of or direction from Warrant Holders. The death or incapacity, or dissolution or other termination of existence, of any Warrant Holder does not terminate the authority and agency of the Warrant Holder Representative (or successor thereto). The provisions of this **Section 10.15** are binding upon the executors, heirs, legal representatives and successors of Warrant Holders, and any references in this Agreement to Warrant Holders means and includes the successors to Warrant Holders' rights hereunder, whether pursuant to testamentary disposition, the laws of descent and distribution or otherwise.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the date first written above by their respective officers thereunto duly authorized.

**COMPANY:**

**PAC INDUSTRIES, INC.**

By: /s/ Frank Costabile  
Name: Frank Costabile  
Title: President

**TRUSTEE:**

**PAC INDUSTRIES, INC. EMPLOYEE STOCK OWNERSHIP TRUST**

By: /s/ Dawn Goestenkors, EVP  
First Bankers Trust Services, Inc., not in its corporate capacity, but solely in its capacity as Trustee of the PAC Industries, Inc. Employee Stock Ownership Trust

**BUYER:**

**EVI INDUSTRIES, INC.**

By: /s/ Henry M. Nahmad  
Name: Henry M. Nahmad  
Title: Chief Executive Officer

[Signature Page to Stock Purchase Agreement]

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**WARRANT HOLDERS:**

/s/ Kaitlyn A. Costabile  
Kaitlyn A. Costabile

/s/ Phillip A. Costabile II  
Philip A. Costabile II

/s/ Christina Marie Costabile  
Christina Marie Costabile

/s/ Emily M. Bradbury  
Emily M. Bradbury

/s/ Karrah D. Devlin  
Karrah D. Devlin

/s/ Sommer Costabile  
Sommer Costabile

/s/ Rocco J. Costabile  
Rocco J. Costabile

**WARRANT HOLDER REPRESENTATIVE:**

/s/ Frank Costabile  
Frank Costabile

[Signature Page to Stock Purchase Agreement]

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CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER PURSUANT TO  
18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO  
SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Henry M. Nahmad, certify that:

1. I have reviewed this quarterly report on Form 10-Q of EVI Industries, 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 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
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5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

(a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

(b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: February 11, 2019

/s/ Henry M. Nahmad  
Henry M. Nahmad  
Principal Executive Officer

CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER PURSUANT TO  
18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO  
SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Robert H. Lazar, certify that:

1. I have reviewed this quarterly report on Form 10-Q of EVI Industries, 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 and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

(a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

(b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: February 11, 2019

/s/ Robert H. Lazar

Robert H. Lazar

Principal Financial Officer



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

In connection with the Quarterly Report on Form 10-Q of EVI Industries, Inc. (the "Company") for the quarter ended December 31, 2018, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Henry M. Nahmad, Principal Executive Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

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

February 11, 2019

/s/ Henry M. Nahmad  
Henry M. Nahmad  
Principal Executive Officer

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

In connection with the Quarterly Report on Form 10-Q of EVI Industries, Inc. (the "Company") for the quarter ended December 31, 2018, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Robert H. Lazar, Principal Financial Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

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

February 11, 2019

/s/ Robert H. Lazar

Robert H. Lazar

Principal Financial Officer

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