

SECURITIES & EXCHANGE COMMISSION EDGAR FILING

Enservco Corp

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

FORM 10-K

ANNUAL REPORT UNDER SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934.
For the fiscal year ended December 31, 2015

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

Commission file number: 001-36335



ENSERVCO CORPORATION

(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction of
incorporation or organization)

84-0811316

(IRS Employer
Identification No.)

**501 South Cherry St., Ste. 1000
Denver, CO**

(Address of principal executive offices)

80246

(Zip Code)

Registrant's telephone number: **(303) 333-3678**

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

Title of each class

Name of each exchange on which registered

Common stock, \$0.005 par value

NYSE MKT

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

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

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

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

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Securities Exchange Act of 1934.

Large accelerated filer

Accelerated filer

Non-accelerated filer

Smaller reporting company

(Do not check if a smaller reporting company)

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Securities Exchange Act of 1934). Yes No

The aggregate market value of the common stock held by non-affiliates of the Registrant was approximately \$ 28,447,592 based upon the closing sale price of the Registrant's Common Stock of \$1.50 as of June 30, 2015, the last trading day of the registrant's most recently completed second fiscal quarter. This determination of affiliate status is not necessarily a conclusive determination for other purposes.

As of March 22, 2016, there were 38,130,160 shares of the Enservco Corporation's common stock outstanding.

DOCUMENTS INCORPORATED BY REFERENCE

Certain portions of the registrant's definitive information statement to be filed with the Securities and Exchange Commission pursuant to Regulation 14A not later than 120 days after the registrant's fiscal year ended December 31, 2015, in connection with the registrant's 2016 Annual Meeting of Shareholders, are incorporated herein by reference into Part III of this Annual Report on Form 10-K.

PART I

ITEM 1. BUSINESS

Enservco Corporation (“Enservco”) and its wholly-owned subsidiaries (collectively referred to as the “Company”, “we” or “us”) provides well enhancement and fluid management services to the domestic onshore oil and natural gas industry. These services include frac water heating, hot oiling and acidizing (well enhancement services), and water transfer, water treatment, water hauling, fluid disposal, frac tank rental (fluid management services) and other general oilfield services. The Company owns and operates a fleet of more than 340 specialized trucks, trailers, frac tanks and other well-site related equipment and serves customers in several major domestic oil and gas fields including the DJ Basin/Niobrara field in Colorado, the Bakken field in North Dakota, the Marcellus and Utica Shale fields in Pennsylvania and Ohio, the Jonah Field, Green River and Powder River Basins in Wyoming, the Eagle Ford Shale in Texas and the Mississippi Lime and Hugoton Fields in Kansas and Oklahoma.

Enservco was originally incorporated as Aspen Exploration Corporation under the laws of the State of Delaware on February 28, 1980 for the primary purpose of acquiring, exploring and developing oil and natural gas and other mineral properties. During the first half of 2009, Aspen disposed of its oil and natural gas producing assets and as a result was no longer engaged in active business operations. On June 24, 2010, Aspen entered into an Agreement and Plan of Merger and Reorganization with Dillco Fluid Service, Inc. (“Dillco”) which set forth the terms by which Dillco became a wholly owned subsidiary of Aspen on July 27, 2010 (the “Merger Transaction”). On December 30, 2010, Aspen changed its name to “Enservco Corporation.” As such, throughout this report the terms the “Company” and/or “Enservco” are intended to refer to the Company on a post-Merger Transaction basis and as a whole, with respect to both historical and forward looking contexts.

The Company’s executive (or corporate) offices are located at 501 South Cherry St., Ste. 1000, Denver, CO 80246. Our telephone number is (303) 333-3678, and our facsimile number is (720) 974-3417. Our website is www.enservco.com.

Cautionary Note Regarding Forward-Looking Statements

The information discussed in this annual report on Form 10-K as well as some statements in press releases and some oral statements of the Company’s officers during presentations about the Company include “forward-looking statements” within the meaning of Section 27A of the Securities Act of 1933 (the “Securities Act”) and Section 21E of the Securities Exchange Act of 1934 (the “Exchange Act”). All statements, other than statements of historical facts, included herein and therein concerning, among other things, planned capital expenditures, future cash flows and borrowings, pursuit of potential acquisition opportunities, our financial position, business strategy and other plans and objectives for future operations, are forward-looking statements. These forward-looking statements are identified by their use of terms and phrases such as “may,” “expect,” “estimate,” “project,” “plan,” “believe,” “intend,” “achievable,” “anticipate,” “will,” “continue,” “potential,” “should,” “could,” and similar terms and phrases. Although we believe that the expectations reflected in these forward-looking statements are reasonable, they do involve certain assumptions, risks and uncertainties and are not (and should not be considered to be) guarantees of future performance. Our results could differ materially from those anticipated in these forward-looking statements as a result of certain factors, including, among others:

- Our capital requirements and the uncertainty of being able to obtain additional funding on terms acceptable to us;
- The volatility of domestic and international oil and natural gas prices and the resulting impact on production and drilling activity, and the effect that lower prices may have on our customers' demand for our services, the result of which may adversely impact our revenues and financial performance;
- The broad geographical diversity of our operations which, while expected to diversify the risks related to a slow-down in one area of operations, also adds to our costs of doing business;
- The financial constraints imposed as a result of our indebtedness, including restrictions imposed on us under the terms of our credit facility agreement and our need to generate sufficient cash flows to repay our debt obligations;
- Our history of losses and working capital deficits which, at times, were significant;
- Adverse weather and environmental conditions;
- Our reliance on a limited number of customers;
- Our ability to retain key members of our senior management and key technical employees;
- The potential impact of environmental, health and safety, and other governmental regulations, and of current or pending legislation with which we and our customers must comply;
- Developments in the global economy;
- Changes in tax laws;
- The effects of competition;
- The effect of seasonal factors; and
- The effect of further sales or issuances of our common stock and the price and volume volatility of our common stock.

Finally, our future results will depend upon various other risks and uncertainties, including, but not limited to, those detailed in the section entitled "Risk Factors" included elsewhere in this annual report. All forward-looking statements attributable to us or persons acting on our behalf are expressly qualified in their entirety by the cautionary statements in this section and elsewhere in this annual report. Other than as required under securities laws, we do not assume a duty to update these forward-looking statements, whether as a result of new information, subsequent events or circumstances, changes in expectations or otherwise.

Corporate Structure

The Company's business operations are conducted primarily through Heat Waves and Dillco. The below table provides an overview of the Company's current subsidiaries and their activities.

Name	State of Formation	Ownership	Business
Heat Waves Hot Oil Service LLC ("Heat Waves")	Colorado	100% by Enservco	Oil and natural gas well services, including logistics and stimulation.
Dillco Fluid Service, Inc. ("Dillco")	Kansas	100% by Enservco	Oil and natural gas field fluid logistic services primarily in the Hugoton Basin in western Kansas and northwestern Oklahoma.
Heat Waves Water Management LLC ("HWWM")	Colorado	100% by Enservco	Water Transfer and Water Treatment Services
HE Services, LLC ("HES")	Nevada	100% by Heat Waves	No active business operations. Owns construction equipment used by Heat Waves.
Real GC, LLC ("Real GC")	Colorado	100% by Heat Waves	No active business operations. Owns real property in Garden City, Kansas that is used by Heat Waves.

On November 24, 2015, Heat Waves Water Management LLC (“HWWM”) was organized under the laws of the state of Colorado as a wholly owned subsidiary of Enservco for the purposes of launching a new water management division. Effective January 1, 2016, HWWM acquired the water transfer assets from WET Oil Services, LLC- including vehicles, high and low volume pumps, manifolds, pipe, and other support equipment for water transfer operations. In addition, effective January 1, 2016, HWWM acquired a new water treatment technology utilized in devices sold under the name of HydroFLOW and various other water transfer assets including high and low volume pumps, lay flat hose, trailers, generators, pipe and other equipment from HII Technologies, Inc. and its affiliates (“HIIT”). The total purchase price for both acquisitions was approximately \$4.0 million dollars. HydroFLOW products offer water treatment services based on patented hydropath technology that can remove bacteria and scale from water using electrical induction to reduce or eliminate down-hole scaling and corrosion. HWWM will provide water transfer services and water treatment services to the onshore oil and natural gas sector.

Overview of Business Operations

As described above, the Company primarily conducts its business operations through its principal operating subsidiaries, Heat Waves, HWWM, and Dillco, which provide oil field services to the domestic onshore oil and natural gas industry. These services include frac water heating, hot oiling, pressure testing, acidizing, water transfer, bacteria and scale treatment, freshwater and saltwater hauling, fluid disposal, frac tank rental, well site construction and other general oil field services. As described in the table above, certain assets utilized by Heat Waves and Dillco in their business operations are owned by other subsidiary entities. The Company currently operates in the following geographic regions:

- Eastern USA Region, including the southern region of the Marcellus Shale formation (southwestern Pennsylvania and northern West Virginia) and the Utica Shale formation in eastern Ohio. The Eastern USA Region operations are deployed from Heat Waves’ operations center in Carmichaels, Pennsylvania which opened in the first quarter of 2011.
- Rocky Mountain Region, including western Colorado and southern Wyoming (D-J Basin and Niobrara formations), central Wyoming (Powder River and Green River Basins) and western North Dakota and eastern Montana (Bakken formation). The Rocky Mountain Region operations are deployed from Heat Waves’ operations centers in Killdeer, North Dakota, Tioga, North Dakota, Rock Springs, Wyoming and Platteville, Colorado.
- Central USA Region, including the Mississippi Lime and Hugoton Field in southwestern Kansas, Texas panhandle, and northwestern Oklahoma, and the Eagle Ford Shale in south Texas. The Central USA Region operations are deployed from operations centers in Garden City, Kansas, Hugoton, Kansas, Okarche, Oklahoma, and Jourdanton, Texas.

Management believes that the Company is strategically positioned with its ability to provide its services to a large customer base in key oil and natural gas basins in the United States notwithstanding the current depressed state of the oil and natural gas industry. Management is optimistic that as a result of the significant expenditures the Company has made in new equipment in combination with expanding into new basins and geographical locations, the Company will be able to further grow and develop its business operations when the industry rebounds, although our ability to do so is clearly subject to domestic and international conditions in the oil and gas industry which have been adversely impacted by the substantial decline in crude oil prices since July 2014.

Historically, the Company focused its growth strategy on strategic acquisitions of operating companies and then expanding operations through additional capital investment consisting of the acquisition and fabrication of property and equipment. That strategy also included expanding the Company's geographical footprint as well as expanding the services it provides. These strategies are exemplified by the acquisitions of operating entities (described in the *Operating Entities* section below) and:

- (1) In 2014 and 2015, the Company spent approximately \$24 million, and \$4.5 million, respectively, for the acquisition and fabrication of additional frac water heating, hot oiling, and acidizing equipment; and
- (2) To expand its footprint, in early 2010 Heat Waves began providing services in the Marcellus Shale natural gas field in southwestern Pennsylvania and West Virginia, and in September 2011 Heat Waves extended its services into the D-J Basin / Niobrara formation and the Bakken formation through opening new operation centers in southern Wyoming and western North Dakota, respectively. In late 2012 the Company expanded its operations, through its Pennsylvania operation center, into the Utica Shale formation in eastern Ohio. Also, in mid-2015 the Company expanded its operations into the Eagle Ford formation through opening a new operations center in southern Texas.
- (3) To expand its services, in January 2016, Enservco acquired assets for approximately \$4.0 million in order to provide water transfer services and bacteria and scaling treatment solutions to its customers in all of its operating areas.

Going forward, and subject to the availability of adequate financing, the Company expects to continue to pursue its growth strategies of exploring additional acquisitions, potentially expanding the geographic areas in which it operates, and diversifying the products and services it provides to customers, as well as making further investments in its assets and equipment.

Operating Entities

As noted above, the Company conducts its business operations and holds assets primarily through its subsidiary entities. The following describes the operations and assets of the Company's subsidiaries through which the Company conducts its business operations.

Dillco. From its inception in 1974, Dillco has focused primarily on providing water hauling/disposal/storage services, well site construction services and frac tank rental to energy companies working in the Hugoton gas field in western Kansas and northwestern Oklahoma. Water hauling and disposal services have been the primary sources of Dillco's revenue. Dillco currently owns and operates a fleet of water hauling trucks and related assets, including specialized tank trucks, frac tanks, water disposal wells, construction and other related equipment. These assets transport, store and dispose of both fresh and salt water, as well as provide well site construction and maintenance services.

Heat Waves. Heat Waves provides a range of well stimulation/maintenance services to a diverse group of independent and major oil and natural gas companies. The primary services provided are intended to:

- (1) Assist in the fracturing of formations for newly drilled oil and natural gas wells; and
- (2) Help maintain and enhance the production of existing wells throughout their productive life.

These services consist of frac water heating, hot oiling and acidizing. Heat Waves also provides some water hauling and well site construction services. Heat Waves' operations are currently in southwestern Kansas, Texas panhandle, northwestern Oklahoma, southern and central Wyoming (Niobrara formation), Colorado (D-J Basin), southwest Pennsylvania/ northwestern West Virginia (Marcellus Shale) region, eastern Ohio (Utica Shale), western North Dakota and eastern Montana (Bakken formation), and southern Texas (Eagle Ford Shale).

HWWM. HWWM was organized in November 2015 as a new wholly owned subsidiary of Enservco for the purpose of launching a new water management division. In connection therewith, HWWM acquired approximately \$4 million of water management assets from HIIT and WET in January 2016.

HWWM will provide water transfer services, bacteria and scaling treatment solutions, and equipment rental to customers in the oil and natural gas industry. Water transfer entails using high and low volume pumps, lay flat hose, aluminum pipe and manifolds to move fresh and/or recycled water from a water source such as a pond, lake, river, stream, or water storage facility to frac tanks at drilling locations to be used in connection with well completion activities. In addition to providing traditional water transfer services, HWWM will also utilize a patented hydro path technology (distributed under the name of HydroFLOW) to provide bacteria and scaling treatment services to the oil and gas industry. HydroFLOW utilizes electrical induction to reduce or eliminate down-hole scaling and corrosion and to reduce or eliminate bacteria in water. The hydro path technology is owned by HydroPath Holdings Limited. Pursuant to a Sales Agreement with the North American master distributor, HydroFLOW U.S.A., HWWM has the exclusive right to sell or rent HydroFLOW devices in connection with bacteria deactivation and scale treatment services for treating injection and disposal wells, fracking water and recycled water in the oil and gas industry to customers in the United States (except in Texas where the right regarding injection and disposal wells is exclusive to only 20 companies but non-exclusive for the remaining companies in Texas). We believe this lower-cost and environmentally friendly alternative to conventional chemical treatment of frac and recycled water will significantly reduce the use, and therefore cost, of chemicals now used by oil and gas companies.

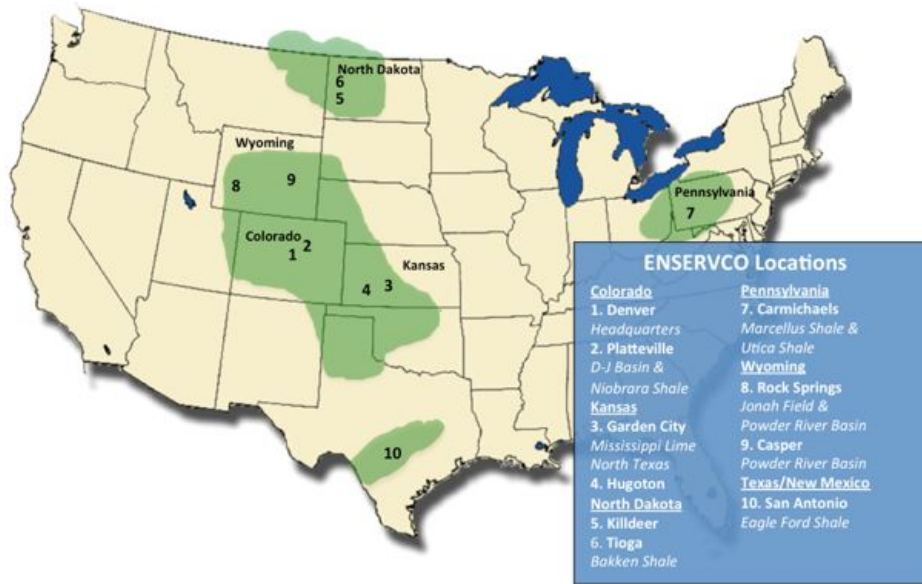
HES. HES owns construction and related equipment that Heat Waves used in its well site construction and maintenance services. However, HES does not currently engage in any business activities itself. HES also owns a disposal well near Garden City, Kansas that Dillco uses for salt water disposal.

Products and Services

The Company, through its operating subsidiaries, provides a range of services to owners and operators of oil and natural gas wells. Such services can generally be grouped into the three following categories:

- (1) Well enhancement services, i.e., hot oiling, acidizing, frac water heating, and pressure testing,
- (2) Fluid management services, i.e., water transfer, water treatment, water/fluid hauling, frac tank rental, and disposal services; and
- (3) Well site construction and roustabout services.

The following map shows the primary areas in which Heat Waves and Dillco currently have active business operations.



The following is a more complete description of the services provided by The Company through its subsidiaries.

Well Enhancement Services.

Well enhancement services consist of frac water heating, acidizing, hot oiling services, and pressure testing. These services are provided primarily by Heat Waves which currently utilizes a fleet of approximately 198 custom designed trucks and other related equipment. Heat Waves' operations are currently in southwestern Kansas, northwestern Oklahoma, Texas panhandle, southern Wyoming (Niobrara), Colorado (D-J Basin), southwestern Pennsylvania/northwestern West Virginia (Marcellus Shale), eastern Ohio (Utica Shale), western North Dakota and eastern Montana (Bakken formation), and southern Texas (Eagle Ford Shale). Well enhancement services accounted for approximately 82% of the Company's total revenues for its 2015 fiscal year on a consolidated basis as compared to 84% for the 2014 fiscal year.

Frac Water Heating - Frac Water Heating is the process of heating water used in connection with the fracturing process of completing a well. Fracturing services are intended to enhance the production from crude oil and natural gas wells where the natural flow has been restricted by underground formations through the creation of conductive flowpaths to enable the hydrocarbons to reach the wellbore. The fracturing process consists of pumping a fluid slurry, which largely consists of fresh water and a "proppant" (explained below), into a cased well at sufficient pressure to fracture (i.e. create conductive flowpaths) the producing formation. Sand, bauxite or synthetic proppants are suspended in the fracturing fluid slurry and are pumped into the well under great pressure to fracture the formation. To ensure these solutions are properly mixed (gel frac) or that plain water (used in slick water fracs) can flow freely, the water frequently needs to be heated to a sufficient temperature as determined by the well owner/operator. Heat Waves currently owns and operates a fleet 53 frac heaters (or the equivalent of 81 burner boxes) designed to heat large amounts of water stored in reservoirs or frac tanks.

Acidizing - Acidizing entails pumping large volumes of specially formulated acids and/or chemicals into a well to dissolve materials blocking the flow of the crude oil or natural gas. The acid is pumped into the well under pressure and allowed time to react. Acidizing is most often used to increase permeability throughout the formation, clean up formation damage near the wellbore caused by drilling, and to remove buildup of materials restricting the flow of crude oil and gas in the formation or through perforations in the well casing. For most customers, Heat Waves supplies the acid solution and also pumps that solution into a given well. In March of 2015, the Company completed its 2014 CAPEX program by adding one mobile acid transport and pump truck which increased its total fleet to seven units as of December 31, 2015.

Hot Oil Services – Hot oil services involve the circulation of a heated fluid, typically oil, to dissolve, melt, or dislodge paraffin or other hydrocarbon deposits from the tubing of a producing oil or natural gas well. These paraffin deposits build up over a period of time from normal production operations, although the rate at which these products build up depends on the chemical character of the crude oil and natural gas being produced. This is performed by circulating the hot oil down the casing and back up the tubing to remove the deposits from the well bore and formation.

Hot oil servicing also includes the heating of oil storage tanks. The heating of storage tanks is done:

- (1) To eliminate water and other soluble waste in the tank for which the operator's revenue is reduced at the refinery; and
- (2) Because heated oil flows more efficiently from the tanks to transports taking oil to the refineries in colder weather.

As of December 31, 2015, Heat Waves owns and operates a fleet of 57 hot oil trucks. During 2015, the Company added eight hot oil trucks from our 2014 CAPEX program. Heat Waves moves these vehicles among the service regions as necessary to maximize their productive time based on customer needs and seasonal conditions.

Pressure Testing – Pressure testing consists of pumping fluids into new or existing wells or other components of the well system such as flow lines to detect leaks. Hot oil trucks and pressure trucks are used to perform this service.

Fluid Management and Other Services.

Water Hauling – The Company currently owns or leases, and operates approximately 65 water hauling trucks and trailers equipped with pumps to move water from or into wells, tanks and other storage facilities in order to assist customers in managing their water-cost needs. Each water hauling transport has a hauling capacity of up to 130 barrels (each barrel being equal to 42 U.S. gallons). The trucks are used to:

- (1) Transport water to fill frac tanks on well locations,
- (2) Transport contaminated water produced as a by-product of producing wells to disposal wells, including disposal wells that we own and operate, and
- (3) Transport drilling and completion fluids to and from well locations; following completion of fracturing operations, the trucks are used to transport the flow-back produced as a result of the fracturing process from the well site to disposal wells.

Most wells produce residual salt or fresh water in conjunction with the extraction of the oil or natural gas. The Company's trucks pick up water at the well site and transport it to a disposal well for injection or to other environmentally sound surface recycling facilities. This is regular maintenance work that is done on a periodic basis depending on the volume of water a well produces. Water-cost management is an ongoing need for oil and natural gas well operators throughout the life of a well.

The Company's ability to outperform competitors in this segment is primarily dependent on logistical factors such as the proximity between areas where water is produced or used and the strategic placement and/or access to both disposal wells and recycling facilities. The Company owns four water disposal wells – two in Kansas and two in Oklahoma. It is management's intent to maintain the Company's disposal well holdings and access to recycling facilities, but also to use disposal wells and facilities owned by third parties where appropriate.

Typically the Company and a customer enter into a contract for water hauling services after that customer has completed a competitive bidding process. However, in certain instances, customers with requirements for minor or incidental water hauling services usually purchase the services on a "call out" basis and charged according to a published schedule of rates. The Company competes for services both on a call out and contractual basis.

Workover, completion, and remedial activities also provide the opportunity for higher operating margins from tank rentals and water hauling services. Drilling and workover jobs typically require water for multiple purposes. Completion and workover procedures often also require large volumes of water for fracturing operations, a process of stimulating a well hydraulically to increase production. All fluids are required to be transported from the well site to an approved disposal facility.

Competitors in the water hauling business, where the Company provides this service, are mostly small, regionally focused companies. The level of water hauling activity is comprised of a relatively stable demand for services related to the maintenance of producing wells and a highly variable demand for services used in the drilling and completion of new wells. As a result, the level of domestic onshore drilling activity significantly affects the level of the Company's activity in this service area, and may vary from region to region and from season to season.

Disposal Well Services – The Company owns four disposal wells in Kansas and Oklahoma that allow for the injection of salt water and incidental non-hazardous oil and natural gas wastes.

Our trucks frequently transport fluids to be disposed of into these disposal wells. The Company's disposal wells are located in southwestern Kansas and northwestern Oklahoma in areas in proximity to our customers' producing wells in those areas. Most oil and natural gas wells produce varying amounts of water throughout their productive lives. In the states in which we operate, oil and natural gas wastes and water produced from oil and natural gas wells are required by law to be disposed of in authorized facilities, including permitted water disposal wells. All of the Company's disposal wells are licensed by state authorities pursuant to guidelines and regulations imposed by the Environmental Protection Agency and the Safe Drinking Water Act and are completed in an environmentally sound manner in permeable formations below the fresh water table.

Frac Tank Rental – The Company also generates a small amount of revenues from the rental of frac tanks in the Hugoton Basin. The Company currently owns approximately 20 frac tanks, which can store up to 500 barrels of water and are used by oilfield operators to store fluids at the well site, including fresh water, salt water, and acid for frac jobs, flowback, temporary production and mud storage. Frac tanks are used during all phases of the life of a producing well. The Company generally rents frac tanks at daily rates and charges hourly rates for the transportation of the tanks to and from the well site.

Water Transfer Services – Water transfer entails using high and low volume pumps, lay flat hose, aluminum pipe and manifolds to move fresh and/or recycled water from a water source such as a pond, lake, river, stream, or water storage facility to frac tanks at drilling locations to be used in connection with fracking activities. Water transfer differs from water hauling in that water transfer is typically used in connection with well completion activities and involves moving water via pumps, hoses and pipes whereas water hauling involves moving water via bobtail trucks or water transports for either service or completion work.

Water Treatment Services – The Company uses patented hydropath technology under a sales agreement with HydroFLOW USA to remove bacteria and scale from water. The process uses electrical induction to reduce or eliminate down-hold scaling and corrosion in an environmentally friendly manner.

Construction and Roustabout Services – The Company provides well-site construction and roustabout services to as a supplementary services to existing customer primarily in the Hugoton Basin. Traditionally these services account for less than 1% of consolidated revenues.

Ownership of Company Assets

As described above, the Company (through Heat Waves, HWWM, and Dillco) owns and uses a fleet of trucks, trailers, frac tanks, disposal wells and other assets to provide its services and products. Substantially all of the equipment and personal property assets owned by these entities are subject to a security interest to secure loans made to the Company and its wholly-owned subsidiaries.

Historically, during portions of our fiscal year as supply and demand requires, the Company has leased additional trucks and equipment. These leases are treated as operating leases for accounting purposes, and the rent expense associated with these leases is reported ratably over the term of the lease.

Competitive Business Conditions

The markets in which the Company currently operates are highly competitive. Competition is influenced by such factors as price, capacity, the quality, safety record and availability of equipment, availability of work crews, and reputation and experience of the service provider. The Company believes that an important competitive factor in establishing and maintaining long-term customer relationships is having an experienced, skilled, and well-trained work force that is responsive to our customers' needs. Although we believe customers consider all of these factors, price is often a primary factor in determining which service provider is awarded the work.

The demand for our services fluctuates primarily in relation to the worldwide commodity price (or anticipated price) of oil and natural gas which, in turn, is largely driven by the worldwide supply of, and demand for, oil and natural gas, political events, as well as speculation within the financial markets. Demand and prices are often volatile and difficult to predict and depends on events that are not within our control. Generally, as supply of those commodities decreases and demand increases, service and maintenance requirements increase as oil and natural gas producers drill new wells and attempt to maximize the productivity of their existing wells to take advantage of the higher priced environment. Conversely, as the supply of commodities increase and demand and crude oil and natural gas prices fall, oil and gas producers drill fewer wells and scale back or suspend service and maintenance work.

The Company's competition primarily consists of small regional or local contractors. The Company attempts to differentiate itself from its competition in large part through its superior equipment and the range and quality of services it has the capability to provide. The Company invests a significant amount of capital into purchasing, developing, and maintaining a fleet of trucks and other equipment that are critical to the services it provides. Further, the Company concentrates on providing services to a diverse group of large and small independent oil and natural gas companies in a number of geographical areas. We believe we have been successful using this business model and believe it will enable us to continue to grow our business.

Dependence on One or a Few Major Customers

The Company serves numerous major and independent oil and natural gas companies that are active in its core areas of operations.

During the fiscal year ended December 31, 2015, two of the Company's customers accounted for approximately 21% of consolidated revenues. No other customer exceeded 10% of consolidated revenues. The Company's top five customers in 2015 accounted for approximately 38% of its total revenues. The loss of any one of these customers or a sustained decrease in demand by any of such customers could result in a substantial loss of revenues and could have a material adverse effect on the Company's results of operations.

During the fiscal year ended December 31, 2014, one of the Company's customers accounted for approximately 18% of consolidated revenues. No other customer exceeded 10% of consolidated revenues. The Company's top five customers in 2014 accounted for approximately 46% of its total revenues.

While the Company believes its equipment could be redeployed in the current market environment if it lost any material customers, such loss could have an adverse effect on the Company's business until the equipment is redeployed. We believe that the market for the Company's services is sufficiently diversified that it is not dependent on any single customer or a few major customers.

Seasonality

Portions of the Company's operations are impacted by seasonal factors, particularly with regards to its frac water heating and hot oiling services. In regards to frac water heating, because customers rely on Heat Waves to heat large amounts of water for use in fracturing formations, demand for this service is much greater in the colder months. Similarly, hot oiling services are in higher demand during the colder months when they are needed for maintenance of existing wells and to heat oil storage tanks.

Acidizing and pressure testing are done all year long with higher revenues during non-winter months.

The hauling of water from producing wells is not as seasonal as our other services since wells produce water whenever they are pumping regardless of weather conditions. Hauling of water for the drilling or fracturing of wells is also not seasonal but dependent on when customers decide to drill or complete wells.

Although they are new businesses to us, we believe water transfer services and bacteria and scaling solutions are not seasonal. However, our water transfer services and to a certain extent our bacteria and scaling solutions, do depend upon the level of drilling, well completion, and production activities.

Raw Materials

The Company purchases a wide variety of raw materials, parts, and components that are made by other manufacturers and suppliers for our use. The Company is not dependent on any single source of supply for those parts, supplies or materials. However, there are a limited number of vendors for propane and certain acids and chemicals. The Company utilizes a limited number of suppliers and service providers available to fabricate and/or construct the trucks and equipment used in its hot oiling, frac water heating, and acid related services.

Patents, Trademarks, Licenses, Franchises, Concessions, Royalty Agreements or Labor Contracts

The Company enters into agreements with local property owners where its disposal wells are located by which the Company generally agrees to pay those property owners a fixed amount per month plus a percentage of revenues derived from utilizing those wells. The terms of these agreements are separately negotiated with the given property owner, and during its 2015 and 2014 fiscal years the total amount paid under these various agreements by the Company was immaterial to the Company and its business operations.

As is the situation with all companies in the frac water heating service business, we rely on certain procedures and practices in performing our services. We have a patent application pending regarding certain of these used in our process of heating frac water. We are aware that one unrelated company (the "Patent Owner") has been awarded two patents related, in part, to the process they use for heating of frac water and has certain other patent applications pending. For a further discussion of this, see Item 3 – *Litigation*, below.

Pursuant to a Sales Agreement with HydroFLOW USA, HWWM has the exclusive right to sell or rent patented hydropath devices in connection with bacteria deactivation and scale treatment services for treating injection and disposal wells, fracking water and recycled water in the oil and gas industry to customers in the United States. The hydropath technology is owned by HydroPath Holdings Limited. Pursuant to the Sales Agreement, the Company is required to pay royalties on certain rental transactions and must meet certain annual purchase commitments in order to maintain the exclusivity provision under the Sales Agreement.

Government Regulation

The Company and its subsidiaries are subject to a variety of government regulations ranging from environmental to OSHA to the Department of Transportation. Our operations are also subject to stringent federal, state and local laws regulating the discharge of materials into the environment or otherwise relating to health and safety or the protection of the environment. These federal, state, and local laws and regulations relating to protection of the environment, wildlife protection, historic preservation, and health and safety are extensive and changing. The recent trend in environmental legislation and regulation is generally toward stricter standards, and we expect that this trend will continue as the governmental agencies issue and amend existing regulations. Failure to comply with these laws and regulations as they currently exist or may be amended in the future may result in the assessment of substantial administrative, civil and criminal penalties, as well as the issuance of injunctions limiting or prohibiting activities. Strict adherence with these regulatory requirements increases our cost of doing business and consequently affects our profitability. The Company does not believe that it is in material violation of any regulations that would have a significant negative impact on the Company's operations.

Through the routine course of providing services, the Company handles and stores bulk quantities of hazardous materials. If leaks or spills of hazardous materials handled, transported or stored by us occur, the Company may be responsible under applicable environmental laws for costs of remediating any damage to the surface or sub-surface (including aquifers).

The Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), also known as "Superfund," and comparable state statutes impose strict, joint and several liability on owners and operators of sites and on persons who disposed of or arranged for the disposal of "hazardous substances" found at such sites. It is not uncommon for the government to file claims requiring cleanup actions, demands for reimbursement for government-incurred cleanup costs, or natural resource damages, or for neighboring landowners and other third parties to file claims for personal injury and property damage allegedly caused by hazardous substances released into the environment. The Federal Resource Conservation and Recovery Act, or RCRA, and comparable state statutes govern the disposal of "solid waste" and "hazardous waste" and authorize the imposition of substantial fines and penalties for noncompliance, as well as requirements for corrective actions. Although CERCLA currently excludes petroleum from its definition of "hazardous substance," state laws affecting our operations may impose clean-up liability relating to petroleum and petroleum-related products. In addition, although RCRA classifies certain oil field wastes as "non-hazardous," such exploration and production wastes could be reclassified as hazardous wastes thereby making such wastes subject to more stringent handling and disposal requirements. CERCLA, RCRA and comparable state statutes can impose liability for clean-up of sites and disposal of substances found on drilling and production sites long after operations on such sites have been completed. Other statutes relating to the storage and handling of pollutants include the Oil Pollution Act of 1990, or OPA, which requires certain owners and operators of facilities that store or otherwise handle oil to prepare and implement spill response plans relating to the potential discharge of oil into surface waters. The OPA contains numerous requirements relating to prevention of, reporting of, and response to oil spills into waters of the United States. State laws mandate oil cleanup programs with respect to contaminated soil. A failure to comply with OPA's requirements or inadequate cooperation during a spill response action may subject a responsible party to civil or criminal enforcement actions.

In the course of the Company's operations, it does not typically generate materials that are considered "hazardous substances." One exception, however, would be spills that occur prior to well treatment materials being circulated down hole. For example, if the Company spills acid on a roadway as a result of a vehicle accident in the course of providing well enhancement/stimulation services, or if a tank with acid leaks prior to down hole circulation, the spilled material may be considered a "hazardous substance." In this respect, the Company may occasionally be considered to "generate" materials that are regulated as hazardous substances and, as a result, may incur CERCLA liability for cleanup costs. Also, claims may be filed for personal injury and property damage allegedly caused by the release of hazardous substances or other pollutants.

The Clean Water Act (the "CWA"), and comparable state statutes, impose restrictions and controls on the discharge of pollutants, including spills and leaks of oil and other substances, into waters of the United States. The discharge of pollutants into regulated waters is prohibited, except in accordance with the terms of a permit issued by the Environmental Protection Agency (the "EPA") or an analogous state agency. The CWA regulates storm water run-off from oil and natural gas facilities and requires a storm water discharge permit for certain activities. Such a permit requires the regulated facility to monitor and sample storm water run-off from its operations. The CWA and regulations implemented thereunder also prohibit discharges of dredged and fill material in wetlands and other waters of the United States unless authorized by an appropriately issued permit. The CWA and comparable state statutes provide for civil, criminal and administrative penalties for unauthorized discharges of oil and other pollutants and impose liability on parties responsible for those discharges for the costs of cleaning up any environmental damage caused by the release and for natural resource damages resulting from the release.

The Safe Drinking Water Act (the "SDWA"), and the Underground Injection Control ("UIC") program promulgated thereunder, regulate the drilling and operation of subsurface injection wells, such as the disposal wells owned and operated by the Company. EPA directly administers the UIC program in some states and in others the responsibility for the program has been delegated to the state. The program requires that a permit be obtained before drilling a disposal well. Violation of these regulations and/or contamination of groundwater by oil and natural gas drilling, production, and related operations may result in fines, penalties, and remediation costs, among other sanctions and liabilities under the SDWA and state laws. In addition, third party claims may be filed by landowners and other parties claiming damages for alternative water supplies, property damages, and bodily injury.

Regulations in the states in which the Company owns and operates wells (Kansas and Oklahoma) require us to obtain a permit to operate each of our disposal wells. The applicable regulatory agency may suspend or modify one of our permits if the Company's well operations are likely to result in pollution of freshwater, substantial violation of permit conditions or applicable rules, or if the well leaks into the environment.

The federal Energy Policy Act of 2005 amended the SDWA to exclude hydraulic fracturing from the definition of "underground injection" under certain circumstances. However, the repeal of this exclusion has been advocated by certain advocacy organizations and others in the public. The EPA at the request of Congress is currently conducting a national study examining the potential impacts of hydraulic fracturing on drinking water resources and issued a draft assessment report in June 2015. The EPA has asked the EPA Science Advisory Board ("SAB") to peer review the draft assessment report.

We incur, and expect to continue to incur, capital and operating costs to comply with the environmental laws and regulations described herein. The technical requirements of these laws and regulations are becoming increasingly complex, stringent and expensive to implement.

If new federal or state laws or regulations that significantly restrict hydraulic fracturing are adopted, such legal requirements could result in delays, eliminate certain drilling and injection activities, make it more difficult or costly for our customers to perform fracturing and increase their and our costs of compliance and doing business. It is also possible that drilling and injection operations utilizing our services could adversely affect the environment, which could result in a requirement to perform investigations or clean-ups or in the incurrence of other unexpected material costs or liabilities.

Significant studies and research have been devoted to climate change and global warming, and climate change has developed into a major political issue in the United States and globally. Certain research suggests that greenhouse gas emissions contribute to climate change and pose a threat to the environment. Recent scientific research and political debate has focused in part on carbon dioxide and methane incidental to oil and natural gas exploration and production. Many state governments have enacted legislation directed at controlling greenhouse gas emissions, and future state and federal legislation and regulation could impose additional restrictions or requirements in connection with our operations and favor use of alternative energy sources, which could increase operating costs and decrease demand for oil products. As such, our business could be materially adversely affected by domestic and international legislation targeted at controlling climate change.

We are also subject to a number of federal and state laws and regulations, including the federal Occupational Safety and Health Act, or OSHA, and comparable state laws, whose purpose is to protect the health and safety of workers. In addition, the OSHA hazard communication standard, the EPA community right-to-know regulations under Title III of the federal Superfund Amendment and Reauthorization Act and comparable state statutes require that information be maintained concerning hazardous materials used or produced in our operations and that this information be provided to employees, state and local government authorities and citizens.

Because our trucks travel over public highways to get to customer's wells, the Company is subject to the regulations of the Department of Transportation. These regulations are very comprehensive and cover a wide variety of subjects from the maintenance and operation of vehicles to driver qualifications to safety. Violations of these regulations can result in penalties ranging from monetary fines to a restriction on the use of the vehicles. Under regulations effective July 1, 2010, the continued violation of regulations could result in a shutdown of all of the vehicles of either Dillco or Heat Waves. The Company does not believe it is in violation of Department of Transportation regulations at this time that would result in a shutdown of vehicles.

Some states and certain municipalities have regulated, or are considering regulating hydraulic fracturing ("fracking") which, if accomplished, could impact certain of our operations. While the Company does not believe that existing regulations and contemplated actions to limit or prohibit fracking have impacted its activities to date, there can be no assurance that these actions, if taken on a wider scale, may not adversely impact the Company's business operations and revenues.

Employees

As of March 22, 2016, the Company employed 179 full time employees. Of these employees, 109 are employed by Heat Waves, 41 by Dillco, 20 by HWWM, and 9 are employed by Enservco.

Available Information

We maintain a website at <http://www.enservco.com>. The information contained on, or accessible through, our website is not part of this Annual Report on Form 10-K. Our Annual Report on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K and amendments to reports filed or furnished pursuant to Sections 13(a) and 15(d) of the Exchange Act, are available on our website, free of charge, as soon as reasonably practicable after we electronically file such reports with, or furnish those reports to, the SEC.

In addition, we maintain our corporate governance documents on our website, including:

- a Code of Business Conduct and Ethics for Directors, Officers and Employees which contains information regarding our whistleblower procedures,
- our Insider Trading Policy,
- our Audit Committee Charter,
- our Trading Blackout Policy, and
- our Related Party Transaction Policy.

ITEM 1A. RISK FACTORS

The Company's securities are highly speculative and involve a high degree of risk, including among other items the risk factors described below. The below risk factors are intended to generally describe certain risks that could materially affect the Company and its current business operations and activities.

You should carefully consider the risks described below and elsewhere herein in connection with any decision whether to acquire, hold or sell the Company's securities. If any of the contingencies discussed in the following paragraphs or other materially adverse events actually occur, the business, financial condition and results of operations could be materially and adversely affected. In such case, the trading price of our common stock could decline, and you could lose all or a significant part of your investment.

Operations Related Risks

Our business depends on domestic spending by the crude oil and natural gas industry which has suffered significant negative price volatility since July 2014, volatility which may continue; our business has been, and may in the future be, adversely affected by industry and financial market conditions that are beyond our control.

We depend on our customers' ability and willingness to make operating and capital expenditures to explore, develop and produce crude oil and natural gas in the United States. Customers' expectations for future crude oil and natural gas prices, as well as the availability of capital for operating and capital expenditures, may cause them to curtail spending, thereby reducing demand for our services and equipment. Major declines in oil and natural gas prices since July 2014 (when prices were at approximately \$100 per barrel) have resulted in substantial declines in capital spending and drilling programs across the industry. As a result of the declines in oil and natural gas prices, most exploration and production companies have shut down or substantially reduced drilling programs and asked service providers to make pricing concessions. Over the last year, the Company has offered pricing concessions to a number of customers. Typically, these concessions have been made with the intent to maintain existing service volumes and/or develop additional business.

Industry conditions and specifically the market price for crude oil and natural gas are influenced by numerous domestic and global factors over which the Company has no control, such as the supply of and demand for oil and natural gas, domestic and worldwide economic conditions, weather conditions, political instability in oil and natural gas producing countries, and merger and divestiture activity among oil and natural gas producers. The volatility of the oil and natural gas industry and the consequent impact on commodity prices as well as exploration and production activity could adversely impact the level of drilling and activity by some of our customers. Where declining prices lead to reduced exploration and development activities in the Company's market areas, the reduction in exploration and development activities also may have a negative long-term impact on the Company's business. Continued decline in oil and natural gas prices may result in increased pressure from our customers to make additional pricing concessions in the future and may impact our borrowing arrangements with our principal bank. There can be no assurance that the prices we charge to our customers will return to former levels.

There has also been significant political pressures for the United States economy to reduce its dependence on crude oil and natural gas due to the perceived impacts on climate change. Furthermore there have been significant political efforts to reduce or eliminate hydraulic fracturing operations in certain of the Company's service areas, particularly in Colorado. These activities may make oil and gas investment and production less attractive.

Higher oil and gas prices do not necessarily result in increased drilling activity because our customers' expectation of future prices also drives demand for drilling services. Oil and gas prices, as well as demand for the Company's services, also depend upon other factors that are beyond the Company's control, including the following:

- demand for crude oil and natural gas;
- political pressures against crude oil and natural gas exploration and production;
- cost of exploring for, producing, and delivering oil and natural gas;
- expectations regarding future energy prices;
- advancements in exploration and development technology;
- adoption or repeal of laws regulating oil and gas production in the U.S.;
- imposition or lifting of economic sanctions against foreign companies;
- weather conditions;
- rate of discovery of new oil and natural gas reserves;
- tax policy regarding the oil and gas industry; and
- development and use of alternative energy sources.

Ongoing volatility and uncertainty in the domestic and global economic and political environments have caused the oilfield services industry to experience volatility in terms of demand. While the Company is generally optimistic for the continuing development of the onshore North American oil and gas industry, there are a number of political and economic pressures negatively impacting the economics of continuing production from some existing wells, future drilling operations, and the willingness of banks and investors to provide capital to participants in the oil and gas industry. These cuts in spending will continue to curtail drilling programs as well as discretionary spending on well services, and will continue to result in a reduction in the demand for the Company's services, the rates we can charge, and equipment utilization. In addition, certain of the Company's customers could become unable to pay their suppliers, including the Company. Any of these conditions or events could adversely affect our operating results.

Our success depends on key members of our management, the loss of any executive or key personnel could disrupt our business operations.

We depend to a large extent on the services of certain of our executive officers. The loss of the services of Rick Kasch, Austin Peitz, Robert Devers or other key personnel, could disrupt our operations. Although we have entered into employment agreements with Messrs. Kasch, Peitz and Devers, that contain, among other things non-compete and confidentiality provisions, we may not be able to enforce the non-compete and/or confidentiality provisions in the employment agreements.

We depend on several significant customers, and a loss of one or more significant customers could adversely affect our results of operations.

The Company's customers consist primarily of major and independent oil and natural gas companies. During fiscal year 2015, two of the Company's customers accounted 21% of consolidated revenues and during fiscal year 2014, one of the Company's customers accounted for 18% of consolidated revenues. No other customer exceeded 10% of revenues.

The Company's top five customers accounted for approximately 38% and 46% of its total annual revenues for 2015 and 2014, respectively. The loss of any one of these customers or a sustained decrease in demand by any of such customers could result in a substantial loss of revenues and could have a material adverse effect on the Company's results of operations.

While the Company believes our equipment could be redeployed in the current market environment if we lost any material customers, such loss could have an adverse effect on the Company's business until the equipment is redeployed. We believe that the market for the Company's services is sufficiently diversified that it is not dependent on any single customer or a few major customers.

Demand for the majority of our services is substantially dependent on the levels of expenditures by the domestic oil and natural gas industry. The Company has no influence over its customers' capital expenditures. On-going economic volatility could have a material adverse effect on our financial condition, results of operations and cash flows.

Demand for the majority of our services depends substantially on the level of expenditures by participants in the domestic (United States) oil and natural gas industry for the exploration, development and production of oil and natural gas reserves. These expenditures are sensitive to the industry's view of future economic growth in the United States and elsewhere, and the resulting impact on demand for oil and natural gas. Beginning in the second half of 2014, oil prices have declined substantially from historical highs. This caused many of our customers to reduce or delay their oil and natural gas exploration and production spending in 2015, which consequently has reduced their demand for our services, and exerted downward pressure on the prices that we charged for our services and products. Given various domestic and global factors, oil and natural gas prices may remain depressed for the foreseeable future.

Furthermore, under an environment of increasing oil and natural gas prices it can lead to increasing costs of exploring for and producing oil and natural gas. Though the addition of frac stimulation into the domestic oil and gas industry has somewhat reduced the overall costs of producing oil and natural gas, the price of drill rigs, pipe, other equipment, fluids, and oil field services and the cost to companies like the Company of providing those services, has generally increased with significant increases in oil and natural gas prices. The resulting reduction in cash flows being experienced by our customers during the past months due to the decline in oil prices and the increase of the costs of exploring for and producing oil and natural gas as noted above could have significant adverse effects on the financial condition of some of our customers. This could result in project modifications, delays or cancellations, general business disruptions, and delay in, or nonpayment of, amounts that are owed to the Company, which could have a material adverse effect on our financial condition, results of operations and cash flows.

Environmental compliance costs and liabilities could reduce our earnings and cash available for operations.

We are subject to increasingly stringent laws and regulations relating to environmental protection and the importation and use of hazardous materials, including laws and regulations governing air emissions, water discharges and waste management. We incur, and expect to continue to incur, capital and operating costs to comply with environmental laws and regulations. The technical requirements of these laws and regulations are becoming increasingly complex, stringent and expensive to implement. These laws may provide for "strict liability" for damages to natural resources or threats to public health and safety. Strict liability can render a party liable for damages without regard to negligence or fault on the part of the party. Some environmental laws provide for joint and several strict liability for remediation of spills and releases of hazardous substances.

The Company uses hazardous substances and transports hazardous wastes in its operations. Accordingly, we could become subject to potentially material liabilities relating to the investigation and cleanup of contaminated properties, and to claims alleging personal injury or property damage as the result of exposures to, or releases of, hazardous substances. In addition, stricter enforcement of existing laws and regulations, new laws and regulations, the discovery of previously unknown contamination or the imposition of new or increased requirements could require the Company to incur costs or become the basis of new or increased liabilities that could reduce its earnings and cash available for operations. The Company believes it is currently in substantial compliance with environmental laws and regulations.

Competition within the well services industry may adversely affect our ability to market our services.

Although the well services industry is highly fragmented, it is very competitive. The well services industry includes numerous small companies capable of competing effectively in our markets on a local basis, as well as several large companies that possess substantially greater financial and other resources than the Company. The Company's larger competitors have greater resources that could allow those competitors to compete more effectively than the Company. The Company's small competitors may be able to react to market conditions more quickly. The amount of equipment available may exceed demand at some point in time, which could result in active price competition.

The Company could be impacted by unfavorable results of legal proceedings, such as being found to have infringed on intellectual property rights.

As is the situation with all companies in the frac water heating service business, we rely on certain procedures and practices in performing our services. We have a patent application pending regarding certain procedures used in our process of heating frac water. We are aware that one unrelated company (the "Patent Owner") has been awarded two patents related, in part, to a process for heating of frac water and is currently seeking additional patents. The Patent Owner is currently in litigation with two different groups of energy companies that are seeking to invalidate the first patent. A North Dakota court has issued a summary judgement that the primary patent owned by the Patent Owner is invalid. The same Court also found that this primary patent is unenforceable due to inequitable conduct by the Patent Owner and/or the inventor. Further, in a pending reexamination involving the same patent, the U.S. Patent and Trademark Office ("USPTO") has initially rejected all 99 claims of the patent. As of March 18, 2016, the Patent Owner is appealing the judgement and other adverse decisions by the North Dakota court and has filed an appeal with the U.S. Court of Appeals for the Federal Circuit. The Patent Owner has also filed a response to the USPTO's rejections in the pending reexamination and is awaiting a response from the USPTO.

In October 2014, the Company was served with a complaint that alleges that Enservco and Heat Waves, in offering and selling frac water heating services, infringed and induced others to infringe on two patents owned by the Patent Owner including the patent ruled invalid by the North Dakota Court. The complaint seeks various remedies including injunctive relief and unspecified damages and relates to only a portion of Heat Waves' frac water heating services. Heat Waves has answered the complaint, denied the Patent Owner's allegations of infringement and asserted counterclaims asking the Court to find, among other things, that it does not infringe either patent and that both patents are invalid. The Patent Owner has replied to and denied those counterclaims. In July 2015, a Colorado Court granted a joint request by Heat Waves and the Patent Owner to stay the case. The lawsuit is now stayed pending the outcome of the reexamination and the appeal by the Patent Owner of the summary judgment invalidating the Patent Owner's patent as set forth above. (See Item 3 – *Litigation*, for more information about this matter.)

However, if Enservco and/or Heat Waves are found to be infringing, they could be liable for the payment of substantial damages or royalties or be subject to a temporary or permanent injunction prohibiting Heat Waves from heating frac water in a manner it may have been using.

Our operations are subject to inherent risks, some of which are beyond our control. These risks may be self-insured, or may not be fully covered under our insurance policies, but to the extent not covered, are self-insured by the Company.

Our operations are subject to hazards inherent in the oil and natural gas industry, such as, but not limited to, accidents, blowouts, explosions, fires and oil spills. These conditions can cause:

- Personal injury or loss of life,
- Damage to or destruction of property, equipment and the environment, and
- Suspension of operations by our customers.

The occurrence of a significant event or adverse claim in excess of the insurance coverage that we maintain or that is not covered by insurance could have a material adverse effect on our financial condition and results of operations. In addition, claims for loss of oil and natural gas production and damage to formations can occur in the well services industry. Litigation arising from a catastrophic occurrence at a location where our equipment and services are being used may result in us being named as a defendant in lawsuits asserting large claims.

The Company maintains insurance coverage that we believe to be customary in the industry against these hazards. In addition, in June 2015, the Company became self-insured under its Employee Group Medical Plan for the first \$75,000 per individual participant. However, we do not have insurance against all foreseeable risks, either because insurance is not available or because of the high premium costs. The occurrence of an event not fully insured against, or the failure of an insurer to meet its insurance obligations, could result in substantial losses. In addition, we may not be able to maintain adequate insurance in the future at reasonable rates. Insurance may not be available to cover any or all of the risks to which we are subject, or, even if available, it may be inadequate, or insurance premiums or other costs could rise significantly in the future so as to make such insurance prohibitively expensive. It is likely that, in our insurance renewals, our premiums and deductibles will be higher, and certain insurance coverage either will be unavailable or considerably more expensive than it has been in the recent past. In addition, our insurance is subject to coverage limits, and some policies exclude coverage for damages resulting from environmental contamination.

While our growth strategy includes appropriate acquisitions, we may not be successful in identifying, making and integrating business or asset acquisitions, if any, in the future.

We anticipate that a component of our growth strategy may be to make geographically focused acquisitions of businesses or assets aimed to strengthen our presence and expand services offered in selected regional markets. Pursuit of this strategy may be restricted by the on-going volatility and uncertainty within the credit markets which may significantly limit the availability of funds for such acquisitions. Our ability to use shares of our common stock in an acquisition transaction may be adversely affected by the volatility in the price of our stock.

In addition to restricted funding availability, the success of this strategy will depend on our ability to identify suitable acquisition candidates and to negotiate acceptable financial and other terms. There is no assurance that we will be able to do so. The success of an acquisition also depends on our ability to perform adequate due diligence before the acquisition and on our ability to integrate the acquisition after it is completed. While the Company intends to commit significant resources to ensure that it conducts comprehensive due diligence, there can be no assurance that all potential risks and liabilities will be identified in connection with an acquisition. Similarly, while we expect to commit substantial resources, including management time and effort, to integrating acquired businesses into ours, there is no assurance that we will be successful in integrating these businesses. In particular, it is important that the Company be able to retain both key personnel of the acquired business and its customer base. A loss of either key personnel or customers could negatively impact the future operating results of any acquired business.

In January 2016, HWWM, a wholly owned subsidiary of the Company, acquired various assets including the water transfer assets of HIIT and WET for approximately \$4.0 million dollars. The Company's ability to successfully integrate these acquisitions and expand the water transfer and bacteria and scaling solutions services is a going to be challenging given the current industry environment. There can be no assurance that we will successfully integrate these acquisitions and expand these services.

Compliance with climate change legislation or initiatives could negatively impact our business.

The U.S. Congress has considered legislation to mandate reductions of greenhouse gas emissions and certain states have already implemented, or may be in the process of implementing, similar legislation. Additionally, the U.S. Supreme Court has held in its decisions that carbon dioxide can be regulated as an "air pollutant" under the Clean Air Act, which could result in future regulations even if the U.S. Congress does not adopt new legislation regarding emissions. At this time, it is not possible to predict how legislation or new federal or state government mandates regarding the emission of greenhouse gases could impact our business; however, any such future laws or regulations could require us or our customers to devote potentially material amounts of capital or other resources in order to comply with such regulations. These expenditures could have a material adverse impact on our financial condition, results of operations, or cash flows.

Anti-fracking initiatives could adversely impact our business.

Some states and certain municipalities have regulated, or are considering regulating hydraulic fracturing ("fracking") which, if accomplished, could impact certain of our operations. While the Company does not believe that these regulations and contemplated actions to limit or prohibit fracking have impacted its activities to date, there can be no assurance that these actions, if taken on a wider scale, may not adversely impact the Company's business operations and revenues.

Debt Related Risks

Our indebtedness, which is currently collateralized by substantially all of our assets, could restrict our operations and make us more vulnerable to adverse economic conditions.

As of December 31, 2015, the Company owed approximately \$21.6 million to banks and financial institutions under various collateralized debt facilities (approximately \$23.9 million as of February 29, 2016).-

Our current and future indebtedness could have important consequences. For example, it could:

- Impair our ability to make investments and obtain additional financing for working capital, capital expenditures, acquisitions or other general corporate purposes,
- Limit our ability to use operating cash flow in other areas of our business because we must dedicate a substantial portion of these funds to make principal and interest payments on our indebtedness,
- Make us more vulnerable to a downturn in our business, our industry or the economy in general as a substantial portion of our operating cash flow will be required to make principal and interest payments on our indebtedness, making it more difficult to react to changes in our business and in industry and market conditions,
- Put us at a competitive disadvantage to competitors that have less debt, or
- Increase our vulnerability to interest rate increases to the extent that we incur additional variable rate indebtedness, a variable rate that has increased as a result of the Sixth Amendment to our lending agreement with PNC Bank.

If we are unable to generate sufficient cash flow or are otherwise unable to obtain the funds required to make principal and interest payments on our indebtedness, or if we otherwise fail to comply with the various debt service covenants and/or reporting covenants in the business loan agreements or other instruments governing our current or any future indebtedness, we could be in default under the terms of our credit facilities or such other instruments. As of the date of this Form 10-K, we are in compliance with our debt covenant obligations as a result of having obtained a waiver as to certain obligations from our principal lender.

The availability of borrowings under our credit facility is based on a borrowing base which is subject to redetermination by our lender based on a number of factors and the lender's internal credit criteria. In the event the amount outstanding under our credit facility at any time exceeds the borrowing base at such time, we may be required to repay a portion of our outstanding borrowings on an accelerated basis.

In the event of a default, the holders of our indebtedness could elect to declare all the funds borrowed under those instruments to be due and payable together with accrued and unpaid interest, the lenders under our credit facility could elect to terminate their commitments there under and we or one or more of our subsidiaries could be forced into bankruptcy or liquidation. Any of the foregoing consequences could restrict our ability to grow our business and cause the value of our common stock to decline.

We may be unable to meet the obligations of various financial covenants that are contained in the terms of our loan agreements with our principal lender, PNC Bank, National Association.

The Company's agreements with PNC impose various obligations and financial covenants on the Company. The outstanding amount under the Amended and Restated Revolving Credit and Security Agreement, entered into with PNC in September 2014, is due in full in September 2019. The revolving credit agreement with PNC has a variable interest rate and is collateralized by substantially all of the assets of the Company and its subsidiaries.

Further, the related agreements with PNC impose various financial covenants on the Company including maintaining a prescribed fixed charge coverage ratio, maximum leverage ratio, and limit the Company's ability to incur additional debt or operating lease obligations. If the Company is unable to comply with its obligations and covenants under the loan agreements and it declares an event of default, all of its obligations to PNC could be immediately due. The depressed conditions in the oil and natural gas industry and the resultant reduction in drilling activity in our service areas has made it more difficult to meet our financial covenants.

Although the Company has obtained waivers of financial covenants or modifications to our credit agreements in the past when we have failed to meet specific provisions (including for various periods in the 2016 fiscal year), there can be no assurance that we will be able to obtain these waivers or modifications in the future.

The variable rate indebtedness with PNC subjects us to interest rate risk, which could cause our debt service obligations to increase significantly.

The Company's borrowings through PNC bear interest at variable rates, exposing the Company to interest rate risk. In September 2015, the Company entered into an Interest Rate Swap Agreement with a notional balance of \$10 million in conjunction with the senior revolving credit facility with PNC bank. The Company has decided not to hedge against the interest rate risk associated with the remaining balance of the senior revolving credit facility (with a maximum available balance of \$30 million). We may increase, decrease or terminate some or all of these hedging arrangements in the future. Depending on our overall hedging level, our debt service obligations could increase significantly in the event of large increases in interest rates. The Sixth Amendment to our loan agreement with PNC resulted in (among other things) an increase in our variable interest rate by 1.75% for the balance of the term of the agreement.

Our debt obligations, which may increase in the future, may reduce our financial and operating flexibility.

As of December 31, 2015, we had borrowed approximately \$20.7 million under our senior revolving credit facility and have approximately \$9.9 million of borrowing capacity available under this facility. Although the Company plans to utilize cash flow from operations during the first half of 2016 to reduce our outstanding borrowings, we may incur substantial additional indebtedness in the future. If the Company is unable to reduce debt as planned or new debt or other liabilities are added to our current debt levels, the related risks that we now face would increase.

A high level of indebtedness subjects us to a number of adverse risks. In particular, a high level of indebtedness may make it more likely that a reduction in the borrowing base of our credit facility following a periodic redetermination could require us to repay a portion of outstanding borrowings, may impair our ability to obtain additional financing in the future, and increases the risk that we may default on our debt obligations. In addition, we may be required to devote a significant portion of our cash flows to servicing our debt, and we are subject to interest rate risk under our credit facility, which bears interest at a variable rate and increased by 1.75% as a result of the Sixth Amendment. Any further increase in our interest rates (whether by amendment to our loan agreement or as the result of economic conditions) could have an adverse impact on our financial condition, results of operations and growth prospects.

Our ability to meet our debt obligations and to reduce our level of indebtedness depends on our future performance. General economic conditions, oil and natural gas prices and financial, business and other factors affect our operations and our future performance. Many of these factors are beyond our control. If we do not have sufficient funds on hand to pay our debt when due, we may be required to seek a waiver or amendment from our lenders, refinance our indebtedness, incur additional indebtedness, sell assets or sell additional shares of securities. We may not be able to complete such transactions on terms acceptable to us, or at all. Our failure to generate sufficient funds to pay our debts or to undertake any of these actions successfully could result in a default on our debt obligations, which would materially adversely affect our business, results of operations and financial condition.

Risks Related to Our Common Stock

Our existing shareholders could experience further dilution if we elect to raise equity capital to meet our liquidity needs or finance a strategic transaction.

As part of our growth strategy we may desire to raise capital and or utilize our common stock to effect strategic business transactions. Either such action will likely require that we issue equity (or debt) securities which would result in dilution to our existing stockholders. Although we will attempt to minimize the dilutive impact of any future capital-raising activities or business transactions, we cannot offer any assurance that we will be able to do so. If we are successful in raising additional working capital, we may have to issue additional shares of our common stock at prices at a discount from the then-current market price of our common stock.

A significant portion of our common stock is currently considered restricted stock pursuant to Rule 144 and is subject to the rules applicable to “former shell companies”.

A significant portion of our outstanding common stock has been issued as “restricted securities” under Rule 144 under the Securities Act, including the shares issued to our Former President and Chairman in July 2010 and in an equity placement completed in November 2012. As a former shell company, to the extent that any person holds restricted securities of the Company or otherwise must rely on Rule 144 for resale, Rule 144(i) imposes additional restrictions on the ability of any holder to utilize the exemption from registration for sales contained in Rule 144.

Because we have no plans to pay dividends on our common stock, investors must look solely to stock appreciation for a return on their investment in us.

We do not anticipate paying any cash dividends on our common stock in the foreseeable future. We currently intend to retain all future earnings to fund the development and growth of our business. Any payment of future dividends will be at the discretion of our board of directors and will depend on, among other things, our earnings, financial condition, capital requirements, level of indebtedness, statutory and contractual restrictions applying to the payment of dividends and other considerations that the board of directors deems relevant.

Investors must rely on sales of their common stock after price appreciation, which may never occur, as the only way to realize a return on their investment. Investors seeking cash dividends should not purchase our common stock.

The value of our common stock may decline significantly if we are unable to maintain our NYSE MKT listing.

Our common stock has recently sold and may continue to sell at a price per share well below \$1.00. The NYSE MKT rules contain requirements with respect to continued listing standards, which include, among other things, when it appears to the Board of Directors of the Exchange that “the extent of public distribution or the aggregate market value of the security has become so reduced as to make further dealings on the Exchange inadvisable” (Rule 1002). Rule 1003 also provides that the Exchange will not normally consider removing shares from listing where, like Enservco at the present time, “the issuer has at least 1,100,000 shares publicly held, a market value of publicly held shares of at least \$15,000,000 and 400 round lot shareholders”.

We believe we are in compliance with NYSE MKT listing requirements, but there can be no assurance that we will continue to meet those listing requirements in the future. If we fail to meet the requirements, our common stock may be delisted. If our common stock is delisted, we would be forced to list our common stock on the OTC Markets or some other quotation medium, depending on our ability to meet the specific requirements of those quotation systems. In that case, we may lose some or all of our institutional investors, and selling our common stock on the OTC Markets would be more difficult because smaller quantities of shares would likely be bought and sold and transactions could be delayed. These factors could result in lower prices and larger spreads in the bid and ask prices for shares of our common stock. Further, because of the additional regulatory burdens imposed upon broker-dealers with respect to de-listed companies, delisting could discourage broker-dealers from effecting transactions in our stock, further limiting the liquidity of our shares. These factors could have a material adverse effect on the trading price, liquidity, value and marketability of our stock.

General Corporate Risks

Concentration of ownership makes it unlikely that any stockholder will be able to influence the election of directors or engage in a change of control transaction.

Four stockholders directly and indirectly own approximately 42% of the Company's outstanding common stock and have the ability to heavily influence the election of our directors when they again stand for reelection. Furthermore, it is likely that no person seeking control of the Company through stock ownership will be able to succeed in doing so without negotiating an arrangement to do so with these stockholders. For so long as these stockholders continue to own a significant percentage of the outstanding shares of the Company common stock, they will retain such influence over the election of the board of directors and the negotiation of any change of control transaction.

Provisions in our charter documents could prevent or delay a change in control or a takeover.

Provisions in our bylaws provide certain requirements for the nomination of directors which preclude a stockholder from nominating a candidate to stand for election at any annual meeting. As described in Section 2.12 of the Company's bylaws, nominations must be presented to the Company well in advance of a scheduled annual meeting, and the notification must include specific information as set forth in that section. The Company believes that such a provision provides reasonable notice of the nominees to the board of directors, but it may preclude stockholder nomination at a meeting where the stockholder is not familiar with nomination procedures and, therefore, may prevent or delay a change of control or takeover.

Although the Delaware General Corporation Law includes §112 which provides that bylaws of Delaware corporations may require the corporation to include in its proxy materials one or more nominees submitted by stockholders in addition to individuals nominated by the board of directors, the bylaws of the Company do not so provide. As a result, if any stockholder desires to nominate persons for election to the board of directors, the proponent will have to incur all of the costs normally associated with a proxy contest.

Indemnification of officers and directors may result in unanticipated expenses.

The Delaware General Corporation Law, our Amended and Restated Certificate of Incorporation and bylaws, and indemnification agreements between the Company and certain individuals provide for the indemnification of our directors, officers, employees, and agents, under certain circumstances, against attorney's fees and other expenses incurred by them in any litigation to which they become a party arising from their association with us or activities on our behalf. We also will bear the expenses of such litigation for any of our directors, officers, employees, or agents, upon such person's promise to repay them if it is ultimately determined that any such person shall not have been entitled to indemnification. This indemnification policy could result in substantial expenditures by us that we may be unable to recoup and could direct funds away from our business and products (if any).

We have significant obligations under the 1934 Act and the NYSE MKT.

Because we are a public company filing reports under the Securities Exchange Act of 1934, we are subject to increased regulatory scrutiny and extensive and complex regulation. The Securities and Exchange Commission has the right to review the accuracy and completeness of our reports, press releases, and other public documents. In addition, we are subject to extensive requirements to institute and maintain financial accounting controls and for the accuracy and completeness of our books and records. In addition to regulation by the SEC, we are subject to the NYSE MKT rules. The NYSE MKT rules contain requirements with respect to corporate governance, communications with shareholders, and various other matters.

Forward-looking statements may prove to be inaccurate.

In our effort to make the information in this report more meaningful, this report contains both historical and forward-looking statements. All statements other than statements of historical fact are forward-looking statements within the meanings of Section 27A of the Securities Act of 1933 and Section 21E of the 1934 Act. Forward-looking statements in this report are not based on historical facts, but rather reflect the current expectations of our management concerning future results and events. We have attempted to qualify our forward-looking statements with appropriate cautionary language to take advantage of the judicially-created doctrine of “bespeaks caution” and other protections.

Forward-looking statements involve known and unknown risks, uncertainties and other factors which may cause our actual results, performance and achievements to be different from any future results, performance and achievements expressed or implied by these statements. These factors are not necessarily all of the important factors that could cause actual results to differ materially from those expressed in the forward-looking statements in this annual report. Other unknown or unpredictable factors also could have material adverse effects on our future results.

ITEM 1B. UNRESOLVED STAFF COMMENTS

None

ITEM 2. DESCRIPTION OF PROPERTIES

The following table sets forth real property owned and leased by the Company and its subsidiaries. Unless otherwise indicated, the properties are used in Heat Waves’ operations.

Owned Properties:

Location/Description	Approximate Size
Killdeer, ND(1) •Shop •Land – shop •Housing •Land – housing	10,000 sq. ft. 8 acres 5,000 sq. ft. 2 acres
Tioga, ND •Shop •Land	4,000 sq. ft. 6 acres
Garden City, KS •Shop(1) •Land – shop(1) •Land – acid dock, truck storage, etc.	11,700 sq. ft. 1 acre 10 acres
Trinidad, CO (1) (2) •Shop •Land – shop	9,200 sq. ft. 5 acres
Hugoton, KS (Dillco) •Shop/Office/Storage •Land – shop/office/storage •Office •Land – office	9,367 sq. ft. 3.3 acres 1,728 sq. ft. 10 acres

(1)Property is collateral for mortgage debt obligation.

(2)Company is receiving \$1,500 monthly under a short-term sublease agreement.

Leased Properties:

Location/Description	Approximate Size	Monthly Rental	Lease Expiration
Platteville, CO •Shop •Land	3,200 sq. ft. 1.5 acres	\$3,000	Month-to-month
La Salle, CO (3) •Shop •Land	6,000 sq. ft. 3.0 acres	\$8,000	January 2021
Rock Springs, WY •Shop •Land	10,200 sq. ft. 3 acres	\$6,500	August 2017
Casper, WY •Shop •Land	5,000 sq. ft. 1.0 acres	\$4,500	May 2017
Carmichaels, PA •Shop •Land	5,000 sq. ft. 12.1 acres	\$9,000	April 2017
Jourdanton, TX •Shop •Land	5,850 sq. ft. 2.3 acres	\$7,000	June 2020
Okarche, OK •Shop •Land	5,000 sq. ft. 2 acres	\$6,000	October 2020
Denver, CO (4) •Corporate offices	7,352 sq. ft.	\$15,980	June 2022

(3)Lease commenced on February 1, 2014

(4)Company is receiving \$2,850 monthly under a short-term sublease agreement.

Note - All leases have renewal clauses

ITEM 3. LEGAL PROCEEDINGS

In October 2014, the Company was served with a complaint filed in the United States District Court for the Northern District of Texas, Dallas Division (Civil Action No. 3:14-cv-03631) by Heat-On-The-Fly, LLC ("HOTF"), naming Enservco Corporation ("Enservco") and its subsidiary Heat Waves Hot Oil Service LLC ("Heat Waves") as defendants. The complaint alleges that Enservco and Heat Waves, in offering and selling frac water heating services, infringed and induced others to infringe two patents owned by HOTF (U.S. Patent Nos. 8,171,993 ("the '993 Patent") and 8,739,875 ("the '875 Patent")). The complaint seeks various remedies including injunctive relief and unspecified damages and relates to only a portion of Heat Waves' frac water heating services. In May 2015, the case was transferred to the U.S. District Court for the District of Colorado, Civil Action No. 1:15-cv-00983-RBJ ("Colorado Case"). Heat Waves has answered the complaint, denied HOTF's allegations of infringement and asserted counterclaims asking the Court to find, among other things, that it does not infringe either patent and that both patents are invalid. HOTF has replied to and denied those counterclaims. In July 2015, the Company and HOTF jointly asked the Colorado Court to stay the case pending any appeal by HOTF of the partial summary judgment ruling invalidating the '993 Patent referenced below, and on July 20, 2015, the Court granted the parties' joint request. The Colorado case is now stayed pending resolution of appeal by HOTF of the Court's invalidity ruling and the pending '993 Patent reexamination proceeding, also referenced below.

HOTF is currently involved in another litigation with a group of energy companies (which does not include Enservco or Heat Waves) that sought, among other things, to invalidate the '993 Patent ("North Dakota Case"). In March 2015, the North Dakota Court granted the energy companies' partial summary judgment motion, finding that the '993 Patent was invalid and later entered a judgment on this issue. In September 2015, a jury trial was conducted. While it did not find that HOTF committed the tort of deceit, the jury found that HOTF represented to a customer of one of the accused energy companies that HOTF had a valid patent and this representation was made in bad faith. The jury also found, among other things, that HOTF unlawfully interfered with a contract and prospective business relationship with that customer and as such, awarded the energy company \$750,000 in damages. Lastly, the Court also held a bench trial on the energy companies' claim that the '993 Patent is unenforceable due to inequitable conduct by the inventor of the '993 Patent before the U.S. Patent and Trademark Office ("USPTO"). In January 2016, the Court ruled that the '993 Patent is unenforceable due to inequitable conduct by the inventor and/or HOTF. In February 2016, HOTF filed a notice of its intent to appeal to the U.S. Court of Appeals for the Federal Circuit all judgments and adverse orders related to those judgments issued by the North Dakota Court.

Although the first 12 claims of the '993 Patent survived a prior reexamination, the USPTO granted a second request in July 2014 to reexamine the '993 Patent in its entirety (all 99 claims, including the prior 12 claims that survived the prior, limited reexamination) based on different reasoning. In February 2015, the USPTO issued initial findings in the second reexamination proceeding and rejected all 99 claims of the '993 Patent as being unpatentable. In April 2015, HOTF filed a response with the USPTO seeking to overcome these pending rejections, but no subsequent decision has been made by the USPTO. The timing of a response from the USPTO and any decision resulting therefrom is uncertain and is subject to appeal by HOTF. Further, HOTF has at least two additional pending patent applications based on the '993 and '875 Patents, which, if granted, could be asserted against the Company. As the '993 Patent and the '875 Patent are based on the same subject matter, management believes that a final finding of invalidity and/or unenforceability of the '993 Patent could serve as a basis to affect the validity of the '875 Patent. If these Patents are ultimately held to be invalid, the Colorado Case would become moot.

As noted above, the Colorado Case has been stayed. However, in the event that HOTF's appeal is successful and the '993 Patent is found to be valid and/or enforceable in the North Dakota Case and the pending reexamination with the USPTO, the Colorado Case may resume. To the extent that Enservco and Heat Waves are unsuccessful in their defense of the Colorado Case, they could be liable for damages (which may be significant) and Heat Waves could possibly be enjoined from using any technology that is determined to be infringing. Either result could negatively impact Heat Waves' business and operations. At this time, the Company is unable to predict the outcome of this case, and accordingly has not recorded an accrual for any potential loss.

ITEM 4. MINE SAFETY DISCLOSURES

Not applicable.

PART II

ITEM 5. MARKET FOR COMMON EQUITY AND RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES

Market Information

As of March 10, 2014, our common stock is traded on the NYSE MKT under the symbol "ENSV". Prior to March 10, 2014, our common stock was quoted on the Over-the-Counter Bulletin Board ("OTCBB") and the OTCQX under the symbol "ENSV." Prior to January 4, 2011 our common stock was quoted under symbol "ASPN".

The table below sets forth the high and low closing prices of the Company's Common Stock during the periods indicated as reported by the Internet source Yahoo Finance (<http://finance.yahoo.com>). The quotations reflect inter-dealer prices without retail mark-up, mark-down or commission and may not reflect actual transactions.

	2015				2014			
	Price Range				Price Range			
	High	Low	High	Low	High	Low	High	Low
First Quarter	\$ 2.31	\$ 1.48	\$ 2.68	\$ 1.76				
Second Quarter	1.92	1.39	3.10	1.88				
Third Quarter	1.54	0.65	3.89	2.46				
Fourth Quarter	0.93	0.49	3.89	1.36				

The closing sales price of the Company's common stock as reported on March 22, 2016, was \$0.68 per share.

Holders

As of March 22, 2016, there were approximately 450 holders of record of Company common stock. This does not include an indeterminate number of persons who hold our Common Stock in brokerage accounts and otherwise in "street name".

Dividends

Holders of common stock are entitled to receive such dividends as may be declared by the Company's Board of Directors. The Company did not declare or pay dividends during its fiscal years ended December 31, 2015 or 2014, and has no plans at present to declare or pay any dividends.

Decisions concerning dividend payments in the future will depend on income and cash requirements. However, in its agreements with PNC, our principal lender, the Company represented that it would not pay any cash dividends on its common stock until its obligations to PNC are satisfied. Furthermore, to the extent the Company has any earnings, it will likely retain earnings to expand corporate operations and not use such earnings to pay dividends.

Securities Authorized for Issuance Under Equity Compensation Plans

The following is provided with respect to compensation plans (including individual compensation arrangements) under which equity securities are authorized for issuance as of December 31, 2015:

Equity Compensation Plan Information

Plan Category and Description	Number of Securities to be Issued Upon Exercise of Outstanding Options, Warrants, and Rights (a)	Weighted-Average Exercise Price of Outstanding Options, Warrants, and Rights (b)	Number of Securities Remaining Available for Future Issuance Under Equity Compensation Plans (Excluding Securities Reflected in Column (a)) (c)
Equity Compensation Plans Approved by Security Holders (1)	3,485,168	\$ 1.31	1,290,242 ⁽³⁾
Equity Compensation Plans Not Approved by Security Holders	150,001 ⁽²⁾	0.55	-
Total	3,635,169	\$ 1.28	1,290,242

(1) Represents options granted pursuant to the Company's 2010 Stock Incentive Plan.

(2) Consists of: (i) warrants issued November 2012 to the principals of the Company's existing investor relations firm to acquire 112,500 shares of Company common stock exercisable at \$0.55 per share, and (ii) warrants issued November 2012 in conjunction with stock subscription agreements executed with equity investors to acquire 37,501 shares of Company common stock exercisable at \$0.55 per share.

(3) Calculated as 5,719,069 shares of common stock reserved per the 2010 Stock Incentive Plan (being 15% of 38,127,129 shares issued and outstanding at January 1, 2016 per the renewal clause noted within the plan) less 3,485,168 shares of common stock noted in Column (a), 927,688 shares exercised under the plan, and 15,971 shares issued under the plan for services.

Description of the 2010 Stock Incentive Plan:

On July 27, 2010 the Company's Board of Directors adopted the 2010 Stock Incentive Plan (the "2010 Plan"). The 2010 Plan permits the granting of equity-based awards to our directors, officers, employees, consultants, independent contractors and affiliates. Equity-based awards are intended to be determined by a compensation committee (or, in the absence of a compensation committee, the Board of Directors and in either case referred to herein as the "Committee") and are granted only in compliance with applicable laws and regulatory policy.

The 2010 Plan was approved by the Company's stockholders in October 2010 and permits the issuance of options that qualify as Incentive Stock Options pursuant to Section 422 of the Internal Revenue Code of 1986, as amended (the "Code"). In the absence of a compensation committee, the Board of Directors administers the 2010 Plan. Any employee, officer, consultant, independent contractor or director providing services to the Company or any of its affiliates, who is selected by the Committee, is eligible to receive an award under the 2010 Plan.

When the 2010 Plan was adopted, the aggregate number of shares of our common stock that could be issued was 3,500,000 shares of common stock. Beginning on January 1, 2012 and on January 1 of each subsequent year that the 2010 Plan is in effect, the aggregate number of Shares that may be issued under the 2010 Plan shall be automatically adjusted to equal 15% of the Company's issued and outstanding shares of common stock, calculated as of January 1 of the respective year. As a result of the January 1, 2016 adjustment, the maximum number of shares that are subject to equity awards under the 2010 Plan was increased to 5,719,069. The maximum number of shares of restricted stock, restricted stock units and stock awards that may be granted under the 2010 Plan is 2,000,000 shares.

The 2010 Plan permits the granting of:

- Stock options (including both incentive and non-qualified stock options);
- Stock appreciation rights ("SARs");
- Restricted stock and restricted stock units;
- Performance awards of cash, stock, other securities or property;
- Other stock grants; and
- Other stock-based awards.

Unless sooner discontinued or terminated by the Board, the 2010 Plan will expire on July 27, 2020. No awards may be made after that date. However, unless otherwise expressly provided in an applicable award agreement, any award granted under the 2010 Plan prior to expiration extends beyond the expiration of the 2010 Plan through the award's normal expiration date.

Without the approval of the Company's stockholders, the Committee will not re-price, adjust or amend the exercise price of any options or the grant price of any SAR previously awarded, whether through amendment, cancellation and replacement grant or any other means, except in connection with a stock dividend or other distribution, including a stock split, merger or other similar corporate transaction or event, in order to prevent dilution or enlargement of the benefits, or potential benefits intended to be provided under the 2010 Plan.

Other Compensation Arrangements:

In November 2012, the Company granted each of the principals of its existing investor relations firm a warrant to purchase 112,500 shares of the Company's common stock (a total of 225,000 shares) for the firm's part in creating awareness for the Company's private equity placement, in November 2012, as discussed herein. The warrants are exercisable at \$0.55 per share for a five year term. Each of the warrants may be exercised on a cashless basis. The warrants also provide that subject to various conditions, the holders have piggy-back registration rights with respect to the shares of common stock that may be acquired upon the exercise of the warrants. A total of 112,500 of these warrants were exercised in 2014 and 112,500 remain outstanding at December 31, 2015.

Recent Sales of Unregistered Securities

During the period from November 5, 2015 through March 18, 2016, there were no sales of unregistered securities.

ITEM 6. SELECTED FINANCIAL DATA

Smaller reporting companies are not required to provide the information required by this Item.

ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS.

The following discussion provides information regarding the results of operations for the years ended December 31, 2015 and 2014, and our financial condition, liquidity and capital resources as of December 31, 2015 and 2014. The financial statements and the notes thereto contain detailed information that should be referred to in conjunction with this discussion.

The following discussion and analysis should be read in conjunction with and our historical consolidated financial statements and the accompanying notes included elsewhere in this Annual Report on Form 10-K, as well as the Risk Factors and the *Cautionary Note Regarding Forward-Looking Statements included above*.

OVERVIEW

The Company, through its subsidiaries, provides well enhancement and fluid management services to the domestic onshore oil and natural gas industry. These services include frac water heating, hot oiling and acidizing (well enhancement services), and water transfer, water treatment, water hauling, fluid disposal, frac tank rental (fluid management services) and other general oilfield services. The Company owns and operates through its subsidiaries a fleet of more than 340 specialized trucks, trailers, frac tanks and other well-site related equipment and serves customers in several major domestic oil and gas fields including the DJ Basin/Niobrara field in Colorado, the Bakken field in North Dakota, the Marcellus and Utica Shale fields in Pennsylvania and Ohio, the Jonah Field, Green River and Powder River Basins in Wyoming, the Eagle Ford Shale in Texas and the Mississippi Lime and Hugoton Fields in Kansas and Oklahoma.

The Company expects to continue to pursue its growth strategies of exploring additional acquisitions, potentially expanding the geographic areas in which it operates, and diversifying the products and services it provides to customers, as well as making further investments in its assets and equipment provided it can do so on reasonable terms and conditions. The Company will most likely require additional debt or equity financing to fund the costs necessary to expand the services it offers. There can be no assurance that the Company will be able to raise outside capital or have access to outside funding on reasonable terms, if at all.

RESULTS OF OPERATIONS

The following table shows selected financial data for the periods noted. Please see information following the table for management's discussion of significant changes.

	For the Quarter Ended December 31,		For the Year Ended December 31,	
	2015	2014	2015	2014
FINANCIAL RESULTS:				
Revenues	\$ 8,626,960	\$ 18,278,289	\$ 38,777,860	\$ 56,563,944
Cost of Revenue	6,624,497	12,049,312	28,808,599	41,257,600
Gross Profit	2,002,463	6,228,977	9,969,261	15,306,344
Gross Margin	23%	34%	26%	27%
Income (Loss) From Operations	\$ (726,285)	\$ 3,729,331	\$ (620,226)	\$ 6,948,399
Net Income (Loss)	\$ (890,200)	\$ 2,518,831	\$ (1,261,022)	\$ 4,005,741
Earnings per Common Share – Diluted	\$ (0.02)	\$ 0.07	\$ (0.03)	\$ 0.10
Diluted weighted average number of common shares outstanding	38,116,928	38,702,938	37,835,637	38,999,005
OTHER:				
Adjusted EBITDA*	\$ 1,032,768	\$ 5,267,873	\$ 6,326,252	\$ 11,476,118
Adjusted EBITDA* Margin	12%	29%	16%	20%

(*) Management believes that, for the reasons set forth below, adjusted EBITDA and adjusted EBITDA margin (even though a non-GAAP measure) are valuable measurements of the Company's liquidity and performance and are consistent with the measurements offered by other companies in our industry. See further discussion of our use of EBITDA, the risks of non-GAAP measures, and the reconciliation to Net Income, in item 7.

Executive Summary

Fourth Quarter

The fourth quarter of 2015 was one of our most challenging quarters to date. Unseasonably warm weather in all of our heating markets and a continued decline in drilling, completion and service activities throughout the industry related to falling oil and natural gas prices resulted in a significant drop in demand for our services during our fourth quarter. With the intent to maintain existing service volumes and offset the drop in demand, as much as reasonably possible, we have offered pricing concessions/discounts to a number of customers. The combination of these factors resulted in a decline in fourth quarter revenues of \$9.7 million, or 53%, as compared to same quarter last year. Incremental revenues from our geographic expansion into the Eagle Ford Shale and from our Tioga acquisition in November 2014 helped to offset some of the decline in revenues.

Despite management's various actions to reduce variable operating costs in line with the decrease in revenues and to reduce fixed expenses where possible, the decline in higher margin well enhancement services, price concessions, and the remaining portion of fixed operating costs resulted in margins being squeezed as reflected in gross profit declining \$4.2 million, or 68%, and Adjusted EBITDA declining \$4.2 million, or 80%, as compared to the same quarter last year. For further details on the calculation of Adjusted EBITDA see Adjusted EBITDA section below.

A \$427,000, or 38%, increase in depreciation and amortization expense during the quarter due to recent fleet expansion towards the end of 2014 combined with the decline in gross profits discussed above resulted in a net loss for the quarter of \$890,000 (\$0.02 per share) as compared to net income of \$2.5 million (\$0.07 per share) for the comparable quarter last year.

Fiscal Year

The same factors that impacted our fourth quarter results had similar impacts on our full year results. In addition to the warm weather experienced in the fourth quarter, we also experienced warm weather in the first quarter of 2015, with first and fourth quarters being our two primary quarters of our heating season.

Declines in demand for our services due to falling oil prices continued throughout the year. In addition, we experienced a \$5.9 million decline in propane revenues due to lower propane prices and usage during our first quarter. Combined, these items resulted in revenues declining 31% to \$38.8 million as compared to \$56.6 million a year ago and gross profits declining \$5.3 million, or 35%, during the year ended December 31, 2015 as compared to last year. The decrease in gross profit is a direct result of the decrease in revenues as our gross margin remained relatively consistent at 26% and 27% for the year ended December 31, 2015 and 2014, respectively.

For the year ended December 31, 2015, net income decreased to a net loss of \$1.3 million (\$0.03 per share) as compared to a profit of \$4.0 million (\$0.10 per diluted share) last year primarily due to the decline in gross profit described above. In addition, a \$2.4 million increase in depreciation and amortization expense attributable to our fleet expansion in late 2014 also contributed to the net loss in 2015.

Despite all of the challenges discussed above, the Company realized Adjusted EBITDA of \$6.3 million for the year ended December 31, 2015 as compared to \$11.5 million in 2014. For further details on the calculation of Adjusted EBITDA see Adjusted EBITDA section below.

Industry Overview

The continuing decline in crude oil prices since July 2014 and continuing into 2016 has resulted in our customers scaling back drilling and completion programs, shifting capital resources to higher margin basins, requesting pricing concessions from vendors, and reducing or delaying certain maintenance related work to save costs. Further, the overall reduction in drilling, completion and service work has resulted in more service vendors chasing fewer jobs putting even further downward pressure on the pricing of services. Some competitors have responded by pricing work at negative margins. Although the Company has been able to partially mitigate the impact of these decisions by deploying resources to more active customers and basins, our revenue growth and operating margins have been impacted by reduced demand overall for our services, pricing concessions and the delay of hot oiling and acidizing maintenance work. Price concessions granted to customers were approximately 6.7% and 4.3% of total revenues for the quarter and fiscal year ended December 31, 2015, respectively.

Many customers have announced reduced capital spending programs for 2016 and some customers have suspended drilling and completion programs altogether until oil and natural gas prices recover and stabilize at an economical price for continuing such operations. In addition, some customers are delaying their routine hot oiling and acidizing maintenance work. Although we ultimately anticipate a rebound in routine hot oiling and acidizing maintenance similar to the last down cycle as the deferred maintenance eventually needs to be done to maintain production and protect the efficiency of a well, we do not anticipate that maintenance work will increase significantly until prices recover.

Revenue Details

Although the Company does not have segmented business operations, which would require segment reporting within the notes of its financial statements per accounting standards, we believe that revenue by service offering may be useful to readers of our financial statements.

The following tables set forth revenue from operations for the Company's service offerings during the quarter and fiscal years ended December 31, 2015 and 2014:

	For the Quarter Ended December 31,		For the Year Ended December 31,	
	2015	2014	2015	2014
BY SERVICE OFFERING:				
Well Enhancement Services ⁽¹⁾	\$ 7,322,649	\$ 16,086,194	\$ 31,918,713	\$ 47,511,850
Fluid Management and Other ⁽²⁾	1,304,311	2,192,095	6,859,147	9,052,094
Total Revenues	\$ 8,626,960	\$ 18,278,289	\$ 38,777,860	\$ 56,563,944

The Company has also determined that an understanding of the diversity of its operations by geography is important to an understanding of its business operations. The Company only does business in the United States, in what it believes are three geographically diverse regions. The following table sets forth revenue from operations for the Company's three geographic regions during the quarter and fiscal years ended December 31, 2015 and 2014:

	For the Quarter Ended December 31,		For the Year Ended December 30,	
	2015	2014	2015	2014
BY GEOGRAPHY:				
Rocky Mountain Region ⁽³⁾	\$ 5,563,782	\$ 12,531,770	\$ 23,148,703	\$ 33,827,814
Central USA Region ⁽⁴⁾	2,647,642	3,204,662	10,424,546	12,680,429
Eastern USA Region ⁽⁵⁾	415,536	2,541,857	5,204,611	10,055,701
Total Revenues	\$ 8,626,960	\$ 18,278,289	\$ 38,777,860	\$ 56,563,944

Notes to tables:

- (1) Includes frac water heating, acidizing, hot oil services, and pressure testing.
- (2) Includes water hauling, fluid disposal, frac tank rental and construction and roustabout services.
- (3) Includes the D-J Basin/Niobrara field (northern Colorado and southeastern Wyoming), the Powder River and Green River Basins (central Wyoming), the Bakken Field (western North Dakota and eastern Montana). Heat Waves is the only Company subsidiary operating in this region.
- (4) Includes the Eagle Ford Shale (Southern Texas) and Mississippi Lime and Hugoton Field (Kansas, Oklahoma, and Northern Texas). Both Dillco and Heat Waves engage in business operations in this region.
- (5) Consists of the southern region of the Marcellus Shale formation (southwestern Pennsylvania and northern West Virginia) and the Utica Shale formation (eastern Ohio). Heat Waves is the only Company subsidiary operating in this region.

Revenues:Well Enhancement Services:

For the year ended December 31, 2015, well enhancement service revenue declined \$15.6 million, or 33%, to \$31.9 million. A significant decline in demand for our frac water heating services due to unseasonably warm weather in our two largest frac water heating markets (D-J/Niobrara and Marcellus/Utica) and the overall decline in drilling and completions activity related to falling oil and natural gas price were the primary reason for the decline in revenues. In addition, a \$5.9 million decline in propane revenues during our first quarter due to a drop in propane prices and usage contributed to the decline from 2014. These declines were offset by incremental revenues from our geographic expansion into the Eagle Ford Shale basin in Texas and from our Tioga acquisition in November 2014.

The following table details the change in heating capacity for the quarter and fiscal year ended December 31, 2015. Unfortunately, the industry wide decline in drilling, completion, and service activities has reduced demand for our services and limited the amount of incremental revenue we could generate from our fleet expansion late last year.

	Frac Water Heater Burner Boxes ⁽¹⁾		Hot Oil Trucks	
	Q4 2015	FY2015	Q4 2015	FY 2015
Net Additions	-	-	(1)	6
Ending Units	81	81	57	57
Average Equivalent Units ⁽²⁾	81.0	81.0	57.0	53.8
Average Equivalent Units – Last Year	66.0	48.9	38.2	30.8
Change from same period last year	15.0	32.1	18.8	23.0
Increase in Equivalent Heating Capacity ⁽³⁾	23%	66%	49%	75%

Notes to tables:

- (1) The Company's bobtail frac heaters are equal to one burner box whereas the Company's double burner frac heaters and mega frac heaters are the equivalent of 2 burner boxes.
- (2) Average equivalent units represents the average number of trucks or burner boxes in service for each month during the period represented.
- (3) The increase in equivalent heating capacity represents the % change in equivalent units during the period over the equivalent units for the same period last year.

Frac water heating revenues for the year ended December 31, 2015 declined 42%, or \$13.1 million, from 2014. Several factors contributed to this decline including a \$5.9 million decline in propane revenues during the first quarter of 2015. Propane revenues, which are billed to customers on a cost plus basis, declined during our first quarter due to a sharp decline in propane prices and lower usage as some customers took advantage of our new bi-fuel capabilities. In addition, unseasonably warm weather in the DJ Basin and Marcellus/Utica Basin during our 2015 first and fourth quarters significantly reduced demand for our frac water heating services in these markets. Our Eastern USA region was hit particularly hard as cold weather was limited in the fourth quarter contributing to a \$2.1 million, or 89%, decline in heating revenues in the Marcellus/Utica Shale Basin. Further, industry wide declines in drilling and completion programs due to low oil and natural gas prices and price concessions issued to customers also contributed to the annual decline in frac heating revenues.

Hot oil revenues for the year ended December 31, 2015 decreased 12% to \$11.7 million as compared to \$13.3 million in 2014. Incremental hot oil service revenues from our geographic expansion into Texas and from our Tioga acquisition in November 2014 offset lower equipment utilization and price concessions in several markets. Hot oil equipment utilization fell from last year as customers in several locations scaled back frequency of service and reduced service hours in an effort to reduce costs. A decline in hot oil work tied to well completion activities by a customer in the Bakken Field and the completion of a significant hot oil project by a customer in the DJ Basin also contributed to the lower equipment utilization. During 2015, the Company granted pricing concessions of up to 10% to customers in several markets in order to retain or increase market share. These price concessions amounted to approximately 5.5% of overall hot oil revenues for 2015.

Acidizing revenues for the year ended December 31, 2015 declined \$1.1 million, or 39%, from last year. Despite increasing our acidizing fleet from three units in 2014 to seven units in 2015, revenue growth was hampered by falling oil prices and changes in ownership of producing properties that resulted in customers' reduction or postponement of recurring maintenance acidizing programs. The Company has lowered prices on some of its chemicals and partnered with chemical suppliers to develop new cost effective acid programs, however the ability to gain sales traction in the current environment is difficult.

Fluid Management and Other:

Fluid management service revenues, which represent approximately 18% of our 2015 consolidated revenues, declined \$2.2 million, or 24%, during 2015 as compared to last year. The decline was primarily attributable to lower water hauling revenues in our Central US region due to scaled back service work, pricing concessions and loss of certain low margin business. In addition, the Company scaled back or elected not to provide certain low margin water hauling services in the DJ Basin and Marcellus/Utica Basin.

Water hauling revenues have continued to decline over the last four years as this segment of the oil and gas industry has become highly competitive, which has resulted in downward pressure on water hauling prices. As noted above, the Company has reduced prices to remain competitive and elected to eliminate certain low margin work. The Company anticipates that revenues will continue to decline in future periods.

Geographic Areas:

Revenues in the Rocky Mountain Region decreased \$10.7 million, or 32%, for the year ended December 31, 2015 due to several factors including (i) decreased frac water heating activity in the Niobrara Shale/DJ Basin and Bakken Field as discussed above; (ii) decreased hot oiling, acidizing, and water hauling revenues due to the completion of projects and delayed maintenance programs by customers and (iii) decrease in propane revenues due to lower propane prices in the first quarter of 2015 as compared to the first quarter of last year.

Revenues in the Eastern USA region decreased \$4.9 million, or 48%, to \$5.2 million for the year ended December 31, 2015 primarily due to lower frac water service activity in the Marcellus and Utica shale basins during the first and fourth quarters of 2015. Several factors contributed to this decline including a \$1.8 million decrease in propane revenues during our first quarter due to falling propane prices combined with a significant drop in demand for frac water heating services during our fourth quarter due to unseasonably warm weather that essentially eliminated most of our frac water heating revenue in this quarter. Price concessions and reduced drilling and completion activities due to falling prices also contributed to the overall decline in revenues.

Revenues in the Central USA region decreased \$2.3 million, or 18%, to \$10.4 million for the year ended December 31, 2015. Incremental revenues from our geographic expansion into the Eagle Ford Shale of \$2.0 million was offset by a decline in well enhancement and fluid management service activity within the Hugoton Basin. Heavy rains during our second quarter and an overall decline in service activity during 2015 due to falling oil and natural gas prices contributed to the decline in well enhancement services. Scaled back service work, price concessions and elimination of certain low margin water hauling business were the primary reasons for decline in fluid management business in the Hugoton Basin.

Historical Seasonality of Revenues:

Because of the seasonality of our frac water heating and hot oiling business, revenues generated during the first and fourth quarters of our fiscal year, covering the months during what we call our "heating season," are significantly higher than revenues earned during the second and third quarters of the year. In addition, the revenue mix of our service offerings also changes among quarters as our Well Enhancement services (which includes frac water heating and hot oiling) decrease as a percentage of total revenues and Fluid Management services (water hauling) and other services increase. Thus, the revenues recognized in our quarterly financials in any given period are not indicative of the annual or quarterly revenues through the remainder of that fiscal year.

As an indication of this quarter-to-quarter seasonality, the Company generated revenues of \$27.8 million, or 72%, of its 2015 revenues during the first and fourth quarters of 2015 compared to \$11.0 million, or 28%, during the second and third quarters of 2015. In 2014, the Company earned revenues of \$43.5 million, or 77%, of its 2014 revenues during the first and fourth quarters of 2014, compared to \$13.1 million, or 23%, during the second and third quarters of 2014. While the Company is pursuing various strategies to lessen these quarterly fluctuations by increasing non-seasonal business opportunities, there can be no assurance that we will be successful in doing so.

Cost of Revenues:

Cost of revenues for 2015 decreased \$12.4 million, or 30%, from last year primarily due to a \$7.6 million decline in propane costs and management's efforts to reduce operating costs such as direct labor, equipment repairs and maintenance, and supply costs in order to minimize the negative impact of reduced revenues. Managements' efforts include reducing overtime and non-billable time, reducing indirect labor to correspond with lower activity, negotiating supplier discounts and implementing cost management tools. In addition, lower fuel costs also contributed to the decline in cost of revenues. The decline in cost of revenue was partially offset by increased costs from our expanded operations in Texas and North Dakota.

Gross Profit:

Gross profit for 2015 decreased \$5.3 million, or 35%, to \$10.0 million dollars as compared to \$15.3 million in 2014. The decline in gross profits was primarily due to the decline in our higher margin well enhancement service revenues. Managements' efforts to reduce operating costs and lower diesel costs helped to mitigate some of the impact on gross profits. Price concessions, which totaled \$1.7 million, or 4.3%, of revenue, and lower propane gross profits also contributed to the decline in gross profits during 2015.

Gross profit as a percentage of revenues decreased slightly to 26% of revenues for the year ended December 31, 2015 as compared to 27% for 2014. The reduction in percentage of revenues was primarily attributable to price concessions and was partially offset by a higher percentage of gross margins on propane sales. See discussion below.

Propane Impact Discussion:

In connection with our frac water heating services and hot oil services, the Company provides propane to certain customers on a cost plus basis. Since the Company passes along the cost of propane to its customers on a cost plus mark-up basis, fluctuations in the price of propane will impact our revenues, cost of revenues and gross profit percentages. Decreases in propane prices similar to what the Company experienced during the first half of 2015, will tend to reduce well enhancement revenues and cost of revenues and may increase our overall gross profit percentage as the dollar value of propane revenues and its related cost of revenues becomes a lower percentage of total revenues and cost of revenues. Conversely, increases in propane prices will tend to increase well enhancement revenues and cost of revenues and may decrease our gross profit percentage, as the dollar value of lower margin propane revenues and cost of revenue becomes a higher percentage of total revenues and cost of revenues.

During the year, propane revenues for frac water heating and hot oil services decreased \$8.3 million, or 63%, from 2014. The decline in propane revenues was due to a 44% decline in propane prices from last year and a reduction in propane volumes due to lower demand for frac water heating service and utilization of our bi-fuel capabilities whereby customers provide natural gas or well gas as their fuel source reducing the amount of propane used and billed to customers. Although, the bi-fuel capabilities contributed to the overall reduction in propane revenues and costs, it has generated cost savings for our customers.

The Company anticipates that propane prices will continue to fluctuate in the future based on the relative demand and availability of propane in different geographic areas across the United States and that more customers may utilize our bi-fuel capabilities.

General and Administrative Expenses:

General and administrative expenses for 2015 decreased \$133,000, or 3%, from 2014 primarily due lower consulting, corporate travel and investor relations costs attributable to our cost reduction efforts, combined with lower professional fees and stock exchange fees that were incurred last year related to our NYSE MKT listing and shelf registration statement. The decrease in general and administrative expenses is notable in that the Company is managing a larger fleet and an expanded geographical presence. These decreases were offset by an annual bonus of \$275,000 paid to management and key employees during the first quarter of 2015. The board of directors approved payment of these discretionary bonuses based upon a review a compensation study prepared by our outside counsel that compared officer and director compensation to a group of peer companies within the oilfield service sector.

Management plans to continue its efforts to reduce general and administrative costs during 2016.

Patent Litigation and Defense Costs:

Patent litigation and defense costs for the year ended December 31, 2015 declined to \$537,000 as compared to \$562,000 for last year. As discussed in Item 3. – *Litigation*, the U.S. District Court for the District of Colorado issued a decision on July 20, 2015 to stay the Company's case with HOTF pending an appeal of a recent judgement by a North Dakota Court invalidating the '993 Patent and reexamination of the '993 Patent by the U.S. Patent and Trademark Office. As a result of the stay, legal costs during the second half of 2015 were minimal as compared to 2014.

Enservco and Heat Waves deny that they are infringing upon any valid, enforceable claim of the asserted HOTF patents, and intend to continue to vigorously defend themselves in the Colorado Case and challenge the validity of these patents should the lawsuit resume. The Company expects associated legal fees to be minimal going forward until or if such time as the Colorado Case is resumed.

Depreciation and Amortization:

Depreciation and amortization expense for 2015 increased \$2.4 million, or 70%, from 2014 primarily due to a significant amount of new frac water heating, hot oil, and acidizing equipment added in late 2014 and early 2015 as part of the Company's 2014 CAPEX program. The Company anticipates that depreciation and amortization expense will continue to rise in 2016, albeit at a lower level, due to the \$4 million acquisition of water transfer assets from WET and HIIT in January 2016.

Income from operations:

For the year ended December 31, 2015, the Company recognized a loss from operations of \$620,000 as compared to an income from operations of \$6.9 million for the comparative period last year. The decline is primarily due to \$5.3 million decline in gross profit attributable to lower revenues and lower propane gross profits. Higher operating costs including a \$2.4 million increase in depreciation and amortization costs associated with the Company's fleet expansion also contributed to the lower income from operations.

Management believes that a number of factors impacted our results of operations during 2015 including the unseasonably warm weather in the DJ Basin and Marcellus/Utica Basin during the first and fourth quarters of 2015, which lowered equipment and personnel utilization, additional costs attributable to our fleet and geographical expansion and the impact of price concessions on our gross profits. Management plans to continue its efforts to reduce operating costs and general and administrative costs during 2016 and closely monitor price concessions. We believe that as long as we are able to control our costs and increase fleet utilization our financial performance will improve over the long run. On a quarter-to-quarter basis, there may still be periods of loss due to the seasonality of our operations, as discussed several times herein.

Interest Expense:

Interest expense for the year increased \$322,000, or 41%, from 2014. Higher average debt balances during 2015 as compared to 2014 combined with additional interest expense of \$163,000 related to the fair market adjustment on the PNC interest rate swap were the primary reasons for the increase. In addition, the Company capitalized approximately \$139,000 of interest expense during 2014 related to the Company's 2014 CAPEX program further contributing to the year over year increase from 2014 to 2015. These increases were offset by a lower effective interest rate on our PNC credit facility (which was approximately 3% during 2015) and lower amortization of debt issuance costs due to the re-amortization of debt costs for the PNC facility. Due to the increase in our interest rates under the Sixth Amendment to our loan agreement, with PNC Bank, by 175 basis points effective March 29, 2016, our interest expense is likely to increase significantly in 2016.

Income Taxes:

For the year, the Company recognized income tax benefit of \$418,000 on pre-tax net loss before taxes of approximately \$1.7 million as compared to income tax expense of \$2.4 million on pre-tax net income of \$6.4 million in 2014. The effective tax rate on income from operations for 2015 declined to approximately 25% as compared to 37% for 2014. The lower effective tax rate during 2015 was primarily due to permanent differences from incentive stock options which were a higher percentage of taxable income during 2015 as compared to 2014. The Company's effective tax rate during 2014 was higher than the federal statutory corporate tax rate of 34% primarily due to state and local income taxes. See Note 7 *Income Taxes* in the notes to the accompanying audited consolidated financial statements for further details.

Adjusted EBITDA*:

Management believes that, for the reasons set forth below, adjusted EBITDA (even though a non-GAAP measure) is a valuable measurement of the Company's liquidity and performance and is consistent with the measurements offered by other companies in the Company's industry.

Management uses these non-GAAP measures in its operational and financial decision-making, believing that it is useful to eliminate certain items in order to focus on what it deems to be a more reliable indicator of ongoing operating performance and the company's ability to generate cash flow from operations. Management also believes that investors may find non-GAAP financial measures useful for the same reasons, although investors are cautioned that non-GAAP financial measures are not a substitute for GAAP disclosures.

The following table presents a reconciliation of net income to Adjusted EBITDA for each of the periods indicated:

	For the Quarter Ended December 31,		For the Year Ended December 31,	
	2015	2014	2015	2014
EBITDA*				
Net Income (Loss)	\$ (890,200)	\$ 2,518,831	\$ (1,261,022)	\$ 4,005,741
Add Back (Deduct)				
Interest Expense	252,679	70,670	1,113,544	791,159
Provision for income taxes (benefit) expense	(88,091)	1,315,241	(418,253)	2,371,872
Depreciation and amortization	1,540,242	1,113,478	5,792,366	3,402,330
EBITDA*	814,630	5,018,220	5,226,635	10,571,102
Add Back (Deduct)				
Stock-based compensation	175,287	42,385	617,530	562,903
Patent litigation and defense expenses	43,524	382,679	536,582	562,486
Loss (Gain) on sale and disposal of equipment	7,089	(170,159)	8,160	(179,903)
Interest and other income	(7,762)	(5,252)	(62,655)	(40,470)
Adjusted EBITDA*	\$ 1,032,768	\$ 5,267,873	\$ 6,326,252	\$ 11,476,118

*Note: See discussion to follow below for use of non-GAAP financial measurements.

Use of Non-GAAP Financial Measures: Non-GAAP results are presented only as a supplement to the financial statements and for use within management's discussion and analysis based on U.S. generally accepted accounting principles (GAAP). The non-GAAP financial information is provided to enhance the reader's understanding of the Company's financial performance, but no non-GAAP measure should be considered in isolation or as a substitute for financial measures calculated in accordance with GAAP. Reconciliations of the most directly comparable GAAP measures to non-GAAP measures are provided herein.

EBITDA is defined as net income (loss) before interest expense, income taxes, and depreciation and amortization. Adjusted EBITDA excludes stock-based compensation from EBITDA and, when appropriate, other items that management does not utilize in assessing the Company's operating performance as set forth in the next paragraph. None of these non-GAAP financial measures are recognized terms under GAAP and do not purport to be an alternative to net income as an indicator of operating performance or any other GAAP measure.

All of the items included in the reconciliation from net income to EBITDA and from EBITDA to Adjusted EBITDA are either (i) non-cash items (e.g., depreciation, amortization of purchased intangibles, stock-based compensation, warrants issued, etc.) or (ii) items that management does not consider to be useful in assessing the Company's operating performance (e.g., income taxes, gain on sale of investments, loss on disposal of assets, patent litigation and defense costs, etc.). In the case of the non-cash items, management believes that investors can better assess the company's operating performance if the measures are presented without such items because, unlike cash expenses, these adjustments do not affect the Company's ability to generate free cash flow or invest in its business.

Because not all companies use identical calculations, the Company's presentation of non-GAAP financial measures may not be comparable to other similarly titled measures of other companies. However, management believes that these measures can still be useful in evaluating the company's performance against its peer companies because management believes the measures provide users with valuable insight into key components of GAAP financial disclosures.

Changes in Adjusted EBITDA*

Adjusted EBITDA from operations decreased \$5.2 million, or 45%, to \$6.3 million for the year ended December 31, 2015 as compared to \$11.5 million for 2014. This decrease was primarily due to a \$4.2 million, or 80%, decrease in Adjusted EBITDA during our fourth quarter of 2015 as compared to our 2014 fourth quarter. Decreased well enhancement revenues and gross profits within our Rocky Mountain and Eastern regions as described above were the primary reasons for the fourth quarter decrease in Adjusted EBITDA.

LIQUIDITY AND CAPITAL RESOURCES

The following table summarizes our statements of cash flows for the years ended December 31, 2015 and 2014 and (combined with the working capital table and discussion below) is important for understanding our liquidity:

	Years Ended December 31,	
	2015	2014
Net cash provided from operating activities	\$ 12,143,762	\$ 6,225,338
Net cash used in investing activities	(4,506,183)	(23,585,603)
Net cash provided by (used in) financing activities	(7,786,900)	16,446,133
Net (Decrease) Increase in Cash and Cash Equivalents	(149,321)	(914,132)
Cash and Cash Equivalents, Beginning of Period	954,058	1,868,190
Cash and Cash Equivalents, End of Period	\$ 804,737	\$ 954,058

The following table sets forth a summary of certain aspects of our balance sheets at December 31, 2015 and 2014:

	Years Ended December 31,	
	2015	2014
Current Assets	\$ 9,823,360	\$ 19,475,754
Total Assets	47,192,138	58,282,681
Current Liabilities	3,354,122	5,812,683
Total Liabilities	29,305,322	40,241,369
Working Capital (Current Assets net of Current Liabilities)	6,469,238	13,663,071
Stockholders' equity	17,886,816	18,041,312

Overview:

We have relied on cash flow from operations, borrowings under our revolving credit facilities, and equipment financing to satisfy our liquidity needs. Our ability to fund operating cash flow shortfalls, fund capital expenditures, and make acquisitions will depend upon our future operating performance and on the availability of equity and debt financing. At December 31, 2015, we had approximately \$805,000 of cash and cash equivalents and approximately \$9.9 million available under our asset based senior revolving credit facility.

In September 2014, the Company entered into an Amended and Restated Revolving Credit and Security Agreement (the "2014 Credit Agreement") with PNC Bank, National Association ("PNC") which provides for a five-year \$30 million senior secured revolving credit facility. The facility allows the Company to borrow up to 85% of eligible receivables, 85% of the appraised value of trucks and equipment, and up to 90% of the cost of new equipment. The Company had the option to pay variable interest rate based on (a) 1, 2 or 3 month LIBOR plus applicable margin ranging from 2.75% to 3.75% for LIBOR Rate Loans or (b) interest at PNC Base Rate plus applicable margin of 1.25% to 2.25% for Domestic Rate Loans. The interest rate at December 31, 2015 ranged from 2.92% to 3.01% for the \$20,250,000 of LIBOR Rate Loans and 4.25% for the \$456,241 of Domestic Rate Loans. As a result of the Sixth Amendment entered into in March 2016, the interest rates we will be paying on our loan for the balance of 2016 and through the end of the term in September 2019 have increased by 1.75%.

The PNC credit facility has certain customary financial covenants which have been amended from time to time and consisted of following as of December 31, 2015 although, as described below, these covenants have changed as a result of the Sixth Amendment which became effective March 29, 2016:

- (i) a minimum fixed charge coverage ratio (as defined, not less than 1.25 to 1.00, measured as of the last day of each fiscal quarter based on trailing twelve month information.);
- (ii) a maximum leverage ratio of funded debt to adjusted EBITDA (as defined, not more than 4.25 to 1.0 as of December 31, 2015, measured as of the last day of each fiscal quarter with adjusted EBITDA determined based on trailing twelve month information); and
- (iii) a limit on capital expenditures of \$7,800,000 for the period commencing October 1, 2015 through June 30, 2016.

As of December 31, 2015, the Company had an outstanding loan balance of \$20.7 million and approximately \$9.9 million available under the revolving credit facility and was in compliance with all of the financial covenants above.

Although the Company was not in default of its covenants as of December 31, 2015, subsequent to year-end, the Company determined based upon current industry conditions that it may not be able, in 2016, to meet some of the financial covenants outlined above and therefore met with PNC to discuss an amendment to the 2014 credit facility. As a result, on March 29, 2016, the Company entered into a sixth amendment to the 2014 Credit Agreement which among other things (i) reduced the revolving line of credit commitment from \$40 million back to its original \$30 million (ii) reset the fixed charge coverage ratio to build to a trailing four quarters beginning with the quarter ended December 31, 2015 (iii) added a new covenant which establishes a minimum monthly availability requirement for the period of March 2016 through March 2017 ranging from \$1.5 million to \$8.0 million (iv) converted the leverage and fixed charge coverage ratios to springing covenants which would only be triggered upon failure to meet the new availability covenant until it expires in February 2017; thereafter they will be individually tested quarterly (v) increased the applicable margins on advances by 175 basis points, and (vi) reinstated a full cash dominion requirement.

As of March 29, 2016, the Company had an outstanding loan balance of \$23.2 million. After consideration of the new terms discussed above, the Company would have had availability of approximately \$1.5 million. The Company believes that it will have sufficient availability through the remainder of 2016 to meet its liquidity requirements. As specified in the 2014 credit facility, the Company is currently undergoing a periodic appraisal of our equipment. To the extent that equipment valuation is reduced as a result of the decline in the oil and natural gas industry, our borrowing availability and certain financial covenants may be adversely affected.

The Company intends to continue to use the PNC facility to fund working capital needs and supplement future capital expenditures. The financial covenants outlined above could restrict our ability to secure additional debt financing or access funds under our revolving credit facility.

Working Capital:

As of December 31, 2015 the Company had working capital of approximately \$6.5 million as compared to \$13.7 million at our 2014 fiscal year end. The decrease in working capital was primarily attributable to a decrease in accounts receivable of \$7.6 million due to lower frac water heating revenues during the fourth quarter of 2015 as compared to the fourth quarter last year.

Cash flow from Operating Activities:

Cash flow from operating activities for the year ended December 31, 2015 increased \$5.9 million, or 95%, to \$12.1 million as compared to \$6.2 million during 2014 primarily due to changes in operating assets and liabilities including a \$7.5 million collection of outstanding receivables during fiscal 2015 as compared to a \$3.1 million increase in receivables during 2014. In addition, the Company realized additional cash inflows of \$1.6 million during 2015 related to the collection of the Company's income tax receivables. These increases were partially offset by \$2.4 million of net cash outflows for changes in accounts payable due to the payable of outstanding payables as of December 31, 2014, related to its 2014 CAPEX program.

Cash flow Used In Investing Activities:

Cash flow used in investing activities for the fiscal year 2015 was \$4.5 million as compared to \$23.6 million during the comparable period last year. The decrease in cash used in investing activities was primarily due to the timing of equipment purchases under the Company's 2014 CAPEX programs. The majority of the \$4.5 million of capital expenditures during 2015 was expended during the first quarter as the Company wrapped up its 2014 CAPEX program. During 2014 the majority of the \$24 million of capital expenditures were related to the purchase and fabrication of new equipment under the Company's 2014 CAPEX program. In addition, the Company acquired \$4 million of facilities and hot oil trucks in North Dakota in November 2014.

Cash flow from Financing Activities:

Cash used in financing activities for fiscal 2015 was \$7.8 million as compared to cash provided by financing activities of \$16.4 million for the comparable period last year. During 2015, the Company used excess cash flows from operating activities to pay down the PNC revolving credit facility by \$8.0 million. During 2014, the Company used proceeds of \$28.6 million from the PNC revolving credit facility to fund \$16.0 million of capital expenditures and pay \$12.6 million of term debt including the term loan with PNC under the 2012 credit facility.

Outlook:

The Company plans to continue to look for opportunities to expand its business operations through organic growth such as geographic expansion and increasing the volume and scope of services offered to our existing customers as capital permits. The Company will also look to expand its business operations through acquisitions. The Company will continue to focus on adding high margin services that reduce our seasonality, diversify our service offerings, and maintain a good balance between recurring maintenance work and drilling and completion related services.

As discussed above, the Company believes that it will have sufficient capital resources and availability under the PNC revolving credit facility through the remainder of 2016 to fund working capital needs and future capital expenditures.

On April 16, 2014, the Company filed a Registration Statement on Form S-3 with the Securities and Exchange Commission (SEC) that was declared effective by the SEC on April 30, 2014. The Form S-3 provides the Company with the flexibility to offer and sell from time to time, up to \$50 million of the Company's common stock in order to supplement our cash flows from operations and financing activities. The Company currently does not have any immediate plans to sell securities under the shelf registration statement, but plans to maintain the registration statement in the event there is a need to supplement its existing capital resources.

Capital Commitments and Obligations:

The Company's capital obligations as of December 31, 2015 consists primarily of scheduled principal payments under certain term loans and operating leases. The Company does not have any scheduled principal payments under its five-year, \$30 million revolving credit facility with PNC Bank. However, the Company may need to make future principal payments based upon collateral availability and to maintain required leverage ratios. General terms and conditions for amounts due under these commitments and obligations are summarized in the notes to the financial statements.

Pursuant to a Sales Agreement with HydroFLOW USA, HWWM has the exclusive right to sell or rent patented hydropath devices in connection with bacteria deactivation and scale treatment services for treating injection and disposal wells, fracking water and recycled water in the oil and gas industry to HWWM customers in the United States. Pursuant to the sales agreement, HWWM is required to pay royalties on certain rental transactions and in order to maintain the exclusivity provision under the agreement, the Company must meet certain annual purchase commitments of approximately \$655,000 per year commencing in 2016.

OFF-BALANCE SHEET ARRANGEMENTS

The Company has no significant off-balance sheet arrangements that have or are reasonably likely to have a current or future effect on our financial condition, changes in financial condition, revenues or expenses, results of operations, liquidity, capital expenditures or capital resources that are material to our stockholders.

CRITICAL ACCOUNTING POLICIES

The preparation of financial statements in conformity with U.S. generally accepted accounting principles requires management to make a variety of estimates and assumptions that affect (i) the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities as of the date of the financial statements, and (ii) the reported amounts of revenues and expenses during the reporting periods covered by the financial statements.

Our management routinely makes judgments and estimates about the effect of matters that are inherently uncertain. As the number of variables and assumptions affecting the future resolution of the uncertainties increase, these judgments become even more subjective and complex. Although we believe that our estimates and assumptions are reasonable, actual results may differ significantly from these estimates. Changes in estimates and assumptions based upon actual results may have a material impact on our results of operation and/or financial condition. Our significant accounting policies are disclosed in Note 2 to the Financial Statements included in this Form 10-K.

While all of the significant accounting policies are important to the Company's financial statements, the following accounting policies and the estimates derived there from have been identified as being critical.

Accounts Receivable:

Accounts receivable are stated at the amount billed to customers less a reserve for doubtful accounts. The reserve for doubtful accounts is estimated based on a review of outstanding receivables, historical collection information and existing economic conditions. The provision for uncollectible amounts is continually reviewed and adjusted to maintain the allowance at a level considered adequate to cover future losses. The allowance is management's best estimate of uncollectible amounts and is determined based on historical collection experience related to accounts receivable coupled with a review of the current status of existing receivables. The losses ultimately incurred could differ materially in the near term from the amounts estimated in determining the allowance.

Revenue Recognition:

The Company recognizes revenue when evidence of an arrangement exists, the fee is determinable, and services are provided and collection is reasonably assured.

Property and Equipment:

Property and equipment consists of (1) trucks, trailers and pickups; (2) real property which includes land and buildings used for office and shop facilities and wells used for the disposal of water; and (3) other equipment such as tools used for maintaining and repairing vehicles, office furniture and fixtures, and computer equipment. Property and equipment is stated at cost less accumulated depreciation. The Company capitalizes interest on certain qualifying assets that are undergoing activities to prepare them for their intended use. Interest costs incurred during the fabrication period are capitalized and amortized over the life of the assets. The Company charges repairs and maintenance against income when incurred and capitalizes renewals and betterments, which extend the remaining useful life, expand the capacity or efficiency of the assets. Depreciation is recorded on a straight-line basis over estimated useful lives of 5 to 30 years.

Long-Lived Assets:

The Company reviews its long-lived assets for impairment whenever events or changes in circumstances indicate that the carrying amount of the asset may not be recovered. The Company looks primarily to the discounted future cash flows in its assessment of whether or not long-lived assets have been impaired. No impairments were recorded during the years ended December 31, 2015 or 2014.

Income Taxes:

The Company recognizes deferred tax liabilities and assets based on the differences between the tax basis of assets and liabilities and their reported amounts in the financial statements that will result in taxable or deductible amounts in future years. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect of a change in tax rates on deferred tax assets and liabilities will be recognized in income in the period that includes the enactment date. Deferred income taxes are classified as a net current or non-current asset or liability based on the classification of the related asset or liability for financial reporting purposes. A deferred tax asset or liability that is not related to an asset or liability for financial reporting is classified according to the expected reversal date. The Company records a valuation allowance to reduce deferred tax assets to an amount that it believes is more likely than not expected to be realized.

The Company accounts for any uncertainty in income taxes by recognizing the tax benefit from an uncertain tax position only if it is more likely than not that the tax position will be sustained on examination by the taxing authorities, based on the technical merits of the position. The Company measures the tax benefits recognized in the financial statements from such a position based on the largest benefit that has a greater than 50% likelihood of being realized upon ultimate resolution. The application of income tax law is inherently complex. Laws and regulations in this area are voluminous and are often ambiguous. As such, the Company is required to make many subjective assumptions and judgments regarding income tax exposures. Interpretations of and guidance surrounding income tax law and regulations change over time and may result in changes to the Company's subjective assumptions and judgments which can materially affect amounts recognized in the consolidated balance sheets and consolidated statements of income. The result of the reassessment of the Company's tax positions did not have an impact on the consolidated financial statements.

Interest and penalties associated with tax positions are recorded in the period assessed as income tax expense. The Company files income tax returns in the United States and in the states in which it conducts its business operations. The Company's United States federal income tax filings for tax years 2012 through 2015 remain open to examination. In general, the Company's various state tax filings remain open for tax years 2011 to 2015.

Stock-based Compensation:

The Company uses the Black-Scholes pricing model as a method for determining the estimated fair value for all stock options awarded to employees, officers, and directors. The expected term of the options is based upon evaluation of historical and expected further exercise behavior. The risk-free interest rate is based upon U.S. Treasury rates at the date of grant with maturity dates approximately equal to the expected life of the grant. Volatility is determined upon historical volatility of our stock and adjusted if future volatility is expected to vary from historical experience. The dividend yield is assumed to be none as we have not paid dividends nor do we anticipate paying any dividends in the foreseeable future.

The Company also uses the Black-Scholes valuation model to determine the fair value of warrants. Expected volatility is based upon the weighted average of historical volatility over the contractual term of the warrant and implied volatility. The risk-free interest rate is based upon implied yield on a U.S. Treasury zero-coupon issue with a remaining term equal to the contractual term of the warrants. The dividend yield is assumed to be none.

ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

Not required.

ITEM 8. FINANCIAL STATEMENTS

The information required by this Item begins on page 50 of Part III of this report on Form 10-K and is incorporated into this part by reference.

ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE

None.

ITEM 9A CONTROLS AND PROCEDURES

Disclosure Controls and Procedures

Disclosure controls and procedures are controls and other procedures that are designed to ensure that information required to be disclosed in our reports filed or submitted under the 1934 Act is recorded, processed, summarized and reported, within the time periods specified in the Securities and Exchange Commission's rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed in our reports filed under the 1934 Act is accumulated and communicated to management, including our principal executive officer and our principal financial officer, as appropriate, to allow timely decisions regarding required disclosure.

Our management, under the direction of our Chief Executive Officer (who is our principal executive officer), and Chief Financial Officer (who is our principal accounting officer) has evaluated the effectiveness of our disclosure controls and procedures as required by 1934 Act Rule 13a-15(b) as of December 31, 2015 (the end of the period covered by this report). Based on that evaluation, our principal executive officer and our principal accounting officer concluded that these disclosure controls and procedures are effective to provide reasonable assurance that information required to be disclosed by the Company in the reports that it files or submits under the 1934 Act is accumulated and communicated to management, including the Chief Executive Officer and the Chief Financial Officer, to allow timely decisions regarding required disclosure and are effective to provide reasonable assurance that such information is recorded, processed, summarized and reported within the time periods specified by the SEC's rules and forms.

The Company, including its Chief Executive Officer and Chief Financial Officer, does not expect that its internal controls and procedures will prevent or detect all error and all fraud. A control system, no matter how well conceived or operated, can provide only reasonable, not absolute, assurance that the objectives of the control system are met.

Management's Annual Report on Internal Control Over Financial Reporting

In accordance with Item 308 of SEC Regulation S-K, management is required to provide an annual report regarding internal controls over our financial reporting. This report, which includes management's assessment of the effectiveness of our internal controls over financial reporting, is found below. Inasmuch as the Company is neither an accelerated filer nor a large accelerated filer, the Company is not obligated to provide an attestation report on the Company's internal control over financial reporting by the Company's registered public accounting firm.

Internal Control Over Financial Reporting

Our management is also responsible for establishing and maintaining adequate internal control over financial reporting ("ICFR") as defined in Rules 13a-15(f) and 15d-15(f) under the 1934 Act. Our ICFR are intended to be designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with U.S. generally accepted accounting principles. Our ICFR are expected to include those policies and procedures that management believes are necessary that:

- (1) Pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the Company;
- (2) Provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the Company are being made only in accordance with proper authorizations of management and our directors; and
- (3) Provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of the Company's assets that could have a material effect on the financial statements.

Management recognizes that there are inherent limitations in the effectiveness of any system of internal control, and accordingly, even effective internal control can provide only reasonable assurance with respect of financial statement preparation and may not prevent or detect misstatements. In addition, effective internal control at a point in time may become ineffective in future periods because of changes in conditions or due to deterioration in the degree of compliance with our established policies and procedures.

As of December 31, 2015, management (with the participation of the Chief Executive Officer and the Chief Financial Officer) conducted an evaluation of the effectiveness of the Company's ICFR based on the framework set forth in *Internal Control--Integrated Framework* (2013) issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) and SEC guidance on conducting such assessments by smaller reporting companies and non-accelerated filers. Based on that assessment, management (with the participation of the Chief Executive Officer and the Chief Financial Officer) concluded that, during the period covered by this report, such internal controls and procedures were effective as of December 31, 2015.

ITEM 9B. OTHER INFORMATION

On March 29, 2016, the Company entered into a sixth amendment to the 2014 Credit Agreement which among other things (i) reduced the revolving line of credit commitment from \$40 million back to its original \$30 million (ii) reset the fixed charge coverage ratio to build to a trailing four quarters beginning with the quarter ended December 31, 2015 (iii) added a new covenant which establishes a minimum monthly availability requirement for the period of March 2016 through March 2017 ranging from \$1.5 million to \$8.0 million (iv) converted the leverage and fixed charge coverage ratios to springing covenants which would only be triggered upon failure to meet the new availability covenant until it expires in March 2017; thereafter they will be individually tested quarterly (v) increased the applicable margins for Domestic Rate Loans to 3.0% to 4.0% and LIBOR Rate Loans to 4.5% to 5.5% based upon undrawn availability, and (vi) reinstated a full cash dominion requirement. In connection with the sixth amendment, the Company paid PNC an amendment fee in the amount of \$50,000.

PART III

ITEM 10. DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE

The information responsive to Items 401, 405, 406 and 407 of Regulation S-K to be included in our definitive Information Statement for our 2016 Annual Meeting of Shareholders, to be filed within 120 days of December 31, 2015, pursuant to Regulation 14A under the Securities Exchange Act of 1934, as amended (the "Information Statement"), is incorporated herein by reference.

ITEM 11. EXECUTIVE COMPENSATION

The information responsive to Items 402 and 407 of Regulation S-K to be included in our Information Statement is incorporated herein by reference.

ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS

The information responsive to Items 201(d) and 403 of Regulation S-K to be included in our Information Statement is incorporated herein by reference.

ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS, AND DIRECTOR INDEPENDENCE

The information responsive to Items 404 and 407 of Regulation S-K to be included in our Information Statement is incorporated herein by reference.

ITEM 14. PRINCIPAL ACCOUNTING FEES AND SERVICES

The information responsive to Item 9(e) of Schedule 14A to be included in our Information Statement is incorporated herein by reference.

PART IV.

ITEM 15. EXHIBITS

Exhibit No.	Title
3.01	Second Amended and Restated Certificate of Incorporation. (1)
3.02	Amended and Restated Bylaws. (2)
10.01	2008 Equity Plan. (3)
10.02	2010 Stock Incentive Plan. (2)
10.03	Employment Agreement between the Company and Rick Kasch. (2)(4)(5)(6)(12)(8)
10.04	Employment Agreement between the Company and Austin Peitz. (8)(14)
10.05	Employment Agreement between the Company and Robert Devers. (8)
10.06	Form of Indemnification Agreement. (11)
10.08	Amended and Restated Revolving Credit and Security Agreement dated as of September 12, 2014 (7)
10.09	Consent and First Amendment to Amended and Restated Revolving Credit and Security Agreement dated February 27, 2015 (9)
10.10	Second Amendment to Amended and Restated Revolving Credit and Security Agreement effective March 29, 2015. (15)
10.11	Third Amendment to Amended and Restated Revolving Credit and Security Agreement effective July 16, 2015. (16)
10.12	Fourth Amendment to Amended and Restated Revolving Credit and Security Agreement and First Amendment to Amended and Restated Pledge Agreement effective October 19, 2015. Filed herewith.
10.13	Fifth Amendment to Amended and Restated Revolving Credit and Security Agreement effective December 31, 2015 (10)
10.14	Sixth Amendment to Amended and Restated Revolving Credit and Security Agreement dated March 29, 2016, Filed herewith
11.1	Statement of Computation of per share earnings. Filed herewith. (contained in Note 2 to the Consolidated Financial Statements).
14.1	Code of Business Conduct and Ethics Whistleblower Policy. (12)
14.2	Related Party Transaction Policy. (12)
14.3	Audit Committee Charter. (12)
21.1	Subsidiaries of Enservco Corporation. Filed herewith.
23.2	Consent from EKS&H LLLP regarding Form S-8. Filed herewith.
31.1	Certification pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 (Principal Executive Officer). Filed herewith.
31.2	Certification pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 (Principal Financial Officer). Filed herewith.
32.1	Certification pursuant to 18 U.S.C. §1350, as adopted pursuant to Section 906 of the Sarbanes- Oxley Act of 2002 (Chief Executive Officer). Filed herewith.
32.2	Certification pursuant to 18 U.S.C. §1350, as adopted pursuant to Section 906 of the Sarbanes Oxley Act of 2002 (Chief Financial Officer). Filed herewith.
101.INS	XBRL Instance Document
101.SCH	XBRL Schema Document
101.CAL	XBRL Calculation Linkbase Document
101.LAB	XBRL Label Linkbase Document
101.PRE	XBRL Presentation Linkbase Document
101.DEF	XBRL Definition Linkbase Document

- (1) Incorporated by reference from the Company's Current Report on Form 8-K dated December 30, 2010, and filed on January 4, 2011.
- (3) Incorporated by reference from the Company's Current Report on Form 8-K dated July 27, 2010, and filed on July 28, 2010.
- (4) Incorporated by reference from the Company's Current Report on Form 8-K dated February 27, 2008, and filed on March 10, 2008.
- (5) Incorporated by reference from the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2011, and filed on August 15, 2011.
- (6) Incorporated by reference from the Company's Current Report on Form 8-K dated February 10, 2012, and filed on February 13, 2012.
- (7) Incorporated by reference from the Company's Current Report on Form 8-K dated September 12, 2014, and filed on September 18, 2014.
- (8) Incorporated by reference from the Company's Current Report on Form 8-K dated July 1, 2014, and filed on July 3, 2014.
- (9) Incorporated by reference from the Company's Current Report on Form 8-K dated February 27, 2015, and filed on March 5, 2015.
- (10) Incorporated by reference from the Company's Current Report on Form 8-K dated January 19, 2016, and filed on January 20, 2016.
- (11) Incorporated by reference from Exhibit 10.07 to the Company's Annual Report on Form 10-K dated December 31, 2013 and filed on March 18, 2014.
- (12) Incorporated by reference from Exhibit 10.03 to the Company's Form 10-K/A for the year ended December 31, 2012 and filed on October 8, 2013.
- (13) Incorporated by reference from the Company's Current Report on Form 8-K dated May 29, 2013, and filed on May 31, 2013.
- (14) Incorporated by reference from the Company's Current Report on Form 8-K dated April 8, 2015, and filed on April 10, 2015.
- (15) Incorporated by reference from the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2015, and filed on May 14, 2015.
- (16) Incorporated by reference from the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2015, and filed on August 14, 2015.

SIGNATURES

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

March 30, 2016

ENSERVCO CORPORATION,

a Delaware Corporation

/s/Rick D. Kasch

Principal Executive Officer

/s/ Robert J. Devers

Principal Financial Officer & Principal Accounting Officer

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

<u>Date</u>	<u>Name and Title</u>	<u>Signature</u>
March 30, 2016	Rick D. Kasch Chief Executive Officer (principal executive officer), and Chairman of the Board	<u>/s/ Rick D. Kasch</u>
March 30, 2016	Robert J. Devers Treasurer and Chief Financial Officer (principal financial officer and principal accounting officer)	<u>/s/ Robert J. Devers</u>
March 30, 2016	Steven P. Oppenheim Director	<u>/s/ Steven P. Oppenheim</u>
March 30, 2016	Keith J. Behrens Director	<u>/s/ Keith J. Behrens</u>
March 30, 2016	Robert S. Herlin Director	<u>/s/ Robert S. Herlin</u>
March 30, 2016	William A. Jolly Director	<u>/s/ William A. Jolly</u>
March 30, 2016	Richard A. Murphy Director	<u>/s/ Richard A. Murphy</u>

**ENSERVCO CORPORATION AND SUBSIDIARIES
INDEX TO CONSOLIDATED FINANCIAL STATEMENTS**

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REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

The Board of Directors and Stockholders
Enservco Corporation
Denver, Colorado

We have audited the accompanying consolidated balance sheets of Enservco Corporation and subsidiaries (the "Company") as of December 31, 2015 and 2014, and the related consolidated statements of operations and comprehensive income (loss), stockholders' equity, and cash flows for each of the years in the two-period ended December 31, 2015. The Company's management is responsible for these consolidated financial statements. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free of material misstatement. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. Our audit included consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Enservco Corporation and subsidiaries as of December 31, 2015 and 2014, and the results of their operations and their cash flows for each of the years in the two-year period ended December 31, 2015, in conformity with accounting principles generally accepted in the United States of America.

/s/ EKS&H LLLP

March 30, 2016
Denver, Colorado

ENSERVCO CORPORATION
Consolidated Balance Sheets

	December 31, 2015	December 31, 2014
ASSETS		
Current Assets		
Cash and cash equivalents	\$ 804,737	\$ 954,058
Accounts receivable, net	7,037,419	14,679,858
Prepaid expenses and other current assets	1,213,049	1,540,667
Inventories	308,297	390,081
Income tax receivable	222,447	1,776,035
Deferred tax assets	237,411	135,055
Total current assets	<u>9,823,360</u>	<u>19,475,754</u>
Property and equipment, net	36,494,661	37,789,004
Goodwill	301,087	301,087
Other assets	573,030	716,836
TOTAL ASSETS	<u>\$ 47,192,138</u>	<u>\$ 58,282,681</u>
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current Liabilities		
Accounts payable and accrued liabilities	\$ 3,039,859	\$ 5,472,163
Current portion of long-term debt	314,263	340,520
Total current liabilities	<u>3,354,122</u>	<u>5,812,683</u>
Long-Term Liabilities		
Senior revolving credit facility	20,706,241	28,634,037
Long-term debt, less current portion	590,505	801,968
Deferred income taxes, net	4,654,454	4,992,681
Total long-term liabilities	<u>25,951,200</u>	<u>34,428,686</u>
Total liabilities	<u>29,305,322</u>	<u>40,241,369</u>
Commitments and Contingencies (Note 10)		
Stockholders' Equity		
Preferred stock, \$.005 par value, 10,000,000 shares authorized, no shares issued or outstanding	-	-
Common stock, \$.005 par value, 100,000,000 common shares authorized, 38,230,729 and 37,159,815 shares issued, respectively; 103,600 shares of treasury stock; and 38,127,129 and 37,056,215 shares outstanding, respectively	190,634	185,282
Additional paid-in-capital	13,852,563	12,751,389
Accumulated earnings	3,843,619	5,104,641
Total stockholders' equity	<u>17,886,816</u>	<u>18,041,312</u>
TOTAL LIABILITIES AND STOCKHOLDERS' EQUITY	<u>\$ 47,192,138</u>	<u>\$ 58,282,681</u>

See accompanying notes to consolidated financial statements.

ENSERVCO CORPORATION
Consolidated Statements of Operations and Comprehensive Income (Loss)

	For the Years Ended December 31,	
	2015	2014
Revenues	\$ 38,777,860	\$ 56,563,944
Cost of Revenue	<u>28,808,599</u>	<u>41,257,600</u>
Gross Profit	<u>9,969,261</u>	<u>15,306,344</u>
Operating Expenses		
General and administrative expenses	4,260,539	4,393,129
Patent litigation and defense expenses	536,582	562,486
Depreciation and amortization	5,792,366	3,402,330
Total operating expenses	<u>10,589,487</u>	<u>8,357,945</u>
Income (Loss) from Operations	<u>(620,226)</u>	<u>6,948,399</u>
Other Income (Expense)		
Interest expense	(1,113,544)	(791,159)
Gain (Loss) on sale and disposal of equipment	(8,160)	179,903
Other income	62,655	40,470
Total other expense	<u>(1,059,049)</u>	<u>(570,786)</u>
Income (Loss) Before Tax Expense	<u>(1,679,275)</u>	<u>6,377,613</u>
Income Tax Benefit (Expense)	<u>418,253</u>	<u>(2,371,872)</u>
Net Income (Loss)	<u>\$ (1,261,022)</u>	<u>\$ 4,005,741</u>
Other Comprehensive Loss	<u>-</u>	<u>(4,070)</u>
Comprehensive Income (Loss)	<u>\$ (1,261,022)</u>	<u>\$ 4,001,671</u>
Earnings (Loss) per Common Share – Basic	\$ (0.03)	\$ 0.11
Earnings (Loss) per Common Share – Diluted	\$ (0.03)	\$ 0.10
Basic weighted average number of common shares outstanding	37,835,637	36,529,906
Add: Dilutive shares assuming exercise of options and warrants	<u>-</u>	<u>2,469,099</u>
Diluted weighted average number of common shares outstanding	<u>37,835,637</u>	<u>38,999,005</u>

See accompanying notes to consolidated financial statements.

ENSERVCO CORPORATION
Consolidated Statement of Stockholders' Equity

	Common Shares	Common Stock	Additional Paid-in Capital	Accumulated Earnings (Deficit)	Accumulated Other Comprehensive Income	Total Stockholders 'Equity
Balance at January 1, 2014	34,822,536	\$ 174,113	\$ 11,568,033	\$ 1,098,900	\$ 4,070	\$ 12,845,116
Exercise of warrants	482,357	2,413	262,885	-	-	265,298
Exercise of stock options	244,999	1,225	126,762	-	-	127,987
Cashless exercise of warrants	1,482,041	7,410	(7,410)	-	-	-
Cashless exercise of stock options	24,282	121	(121)	-	-	-
Stock-based compensation	-	-	562,903	-	-	562,903
Tax benefits related to exercise of options and warrants	-	-	238,337	-	-	238,337
Net income	-	-	-	4,005,741	-	4,005,741
Other comprehensive loss	-	-	-	-	(4,070)	(4,070)
Balance at December 31, 2014	37,056,215	\$ 185,282	\$ 12,751,389	\$ 5,104,641	\$ -	\$ 18,041,312
Exercise of warrants	100,000	500	76,600	-	-	77,100
Exercise of stock options	404,667	2,023	196,262	-	-	198,285
Cashless exercise of stock options	550,276	2,751	(2,751)	-	-	-
Stock-based compensation	-	-	617,530	-	-	617,530
Stock issued for services	15,971	78	10,302	-	-	10,380
Tax benefits related to exercise of options and warrants	-	-	203,231	-	-	203,231
Net loss	-	-	-	(1,261,022)	-	(1,261,022)
Balance at December 31, 2015	<u>38,127,129</u>	<u>\$ 190,634</u>	<u>\$ 13,852,563</u>	<u>\$ 3,843,619</u>	<u>\$ -</u>	<u>\$ 17,886,816</u>

See accompanying notes to consolidated financial statements.

ENSERVCO CORPORATION
Consolidated Statements of Cash Flows

For the Years Ended
December 31,

	2015	2014
OPERATING ACTIVITIES		
Net income (loss)	\$ (1,261,022)	\$ 4,005,741
Adjustments to reconcile net income (loss) to net cash provided by operating activities:		
Depreciation and amortization	5,792,366	3,402,330
Loss (Gain) on sale and disposal of equipment	8,160	(179,903)
Deferred income taxes	(440,583)	2,785,196
Stock-based compensation	617,530	562,903
Stock issued for services	10,380	-
Amortization of debt issuance costs	125,404	253,803
Bad debt expense	135,434	96,592
Changes in operating assets and liabilities		
Accounts receivable	7,507,005	(3,090,584)
Inventories	81,784	(75,077)
Prepaid expense and other current assets	352,618	(417,084)
Income taxes receivable	1,553,588	(1,776,035)
Other assets	93,402	(423,301)
Accounts payable and accrued liabilities	(2,432,304)	2,359,356
Income taxes payable	-	(1,278,599)
Net cash provided by operating activities	12,143,762	6,225,338
INVESTING ACTIVITIES		
Purchases of property and equipment	(4,533,352)	(23,955,603)
Proceeds from sale and disposal of equipment	27,169	370,000
Net cash used in investing activities	(4,506,183)	(23,585,603)
FINANCING ACTIVITIES		
Net credit facility borrowings (repayments)	(7,927,796)	28,634,037
Repayment of long-term debt	(237,720)	(12,619,701)
Payment of debt issuance costs	(100,000)	(199,825)
Proceeds from exercise of warrants	77,100	265,298
Proceeds from exercise of stock options	198,285	127,987
Excess tax benefits related to exercise of options and warrants	203,231	238,337
Net cash (used in) provided by financing activities	(7,786,900)	16,446,133
Net Decrease in Cash and Cash Equivalents	(149,321)	(914,132)
Cash and Cash Equivalents, Beginning of Year	954,058	1,868,190
Cash and Cash Equivalents, End of Year	\$ 804,737	\$ 954,058

See accompanying notes to consolidated financial statements.

ENSERVCO CORPORATION
Consolidated Statements of Cash Flows (continued)

	For the Years Ended December 31,	
	2015	2014
Supplemental cash flow information:		
Cash paid for interest	\$ 814,033	\$ 519,050
Cash (refund) paid for taxes	\$ (1,742,057)	\$ 2,412,681
Supplemental Disclosure of Non-cash Investing and Financing Activities:		
Cashless exercise of stock options and warrants	\$ 2,751	\$ 7,531

See accompanying notes to consolidated financial statements.

ENSERVCO CORPORATION
Notes to Consolidated Financial Statements

Note 1 – Basis of Presentation

The accompanying consolidated financial statements have been derived from the accounting records of Enservco Corporation (formerly Aspen Exploration Corporation), Heat Waves Hot Oil Service LLC (“Heat Waves”), Dillco Fluid Service, Inc. (“Dillco”), Heat Waves Water Management LLC (“HWWM”), Trinidad Housing LLC, HE Services LLC, and Real GC LLC (collectively, the “Company”) as of December 31, 2015 and 2014 and the results of operations for the years then ended. -

The below table provides an overview of the Company’s current ownership hierarchy:

Name	State of Formation	Ownership	Business
Dillco Fluid Service, Inc. (“Dillco”)	Kansas	100% by Enservco	Oil and natural gas field fluid logistic services.
Heat Waves Hot Oil Service LLC (“Heat Waves”)	Colorado	100% by Enservco	Oil and natural gas well services, including logistics and stimulation.
Heat Waves Water Management LLC (“HWWM”)	Colorado	100% by Enservco	Water Transfer and Water Treatment Services (Organized on November 24, 2015 – No business operations during 2014 or 2015)
HE Services LLC (“HES”)	Nevada	100% by Heat Waves	No active business operations. Owns construction equipment used by Heat Waves.
Real GC, LLC (“Real GC”)	Colorado	100% by Heat Waves	No active business operations. Owns real property in Garden City, Kansas that is utilized by Heat Waves.

The accompanying consolidated financial statements were prepared in accordance with accounting principles generally accepted in the United States of America (“GAAP”)- Inter-company balances and transactions have been eliminated in the accompanying consolidated financial statements.

Note 2 - Summary of Significant Accounting Policies

Cash and Cash Equivalents

The Company considers all highly liquid instruments purchased with an original maturity of three months or less to be cash equivalents. The Company continually monitors its positions with, and the credit quality of, the financial institutions with which it invests.

Accounts Receivable

Accounts receivable are stated at the amount billed to customers less an allowance for doubtful accounts. The Company provides an allowance for doubtful accounts based on a review of outstanding receivables, historical collection information and existing economic conditions. The allowance for doubtful accounts is continually reviewed and adjusted to maintain the allowance at a level considered adequate to cover future losses. The allowance is management's best estimate of uncollectible amounts and is determined based on historical collection experience related to accounts receivable coupled with a review of the current status of existing receivables. The losses ultimately incurred could differ materially in the near term from the amounts estimated in determining the allowance. As of December 31, 2015 and December 31, 2014, the Company had an allowance for doubtful accounts of \$158,800 and \$100,000, respectively. For the years ended December 31, 2015 and 2014 the Company has recorded bad debt expense (net of recoveries) of \$135,434 and \$96,592, respectively.

Concentrations

As of December 31, 2015, two customers each comprised more than 10% of the Company's accounts receivable balance; at approximately 28% and 10%, respectively. Revenues from these two customers represented 11% and 3% of total revenues, respectively, for the year ended December 31, 2015. Additionally, one other customer exceeded 10% of total revenues at approximately 10% of total revenues for the year ended December 31, 2015.

As of December 31, 2014, three customers each comprised more than 10% of the Company's accounts receivable balance; at approximately 12%, 12% and 10%, respectively. Revenues from these three customers represented 18%, 6% and 8% of total revenues, respectively, for the year ended December 31, 2014. No other customer exceeded 10% of total revenues for the year ended December 31, 2014.

Inventories

Inventory consists primarily of propane, diesel fuel and chemicals that are used in the servicing of oil wells and is carried at the lower of cost or market in accordance with the first in, first out method. The company periodically reviews the value of items in inventory and provides write-downs or write-offs of inventory based on its assessment of market conditions. Write-downs and write-offs are charged to cost of goods sold.

Property and Equipment

Property and equipment consists of (1) trucks, trailers and pickups; (2) trucks that are in various stages of fabrication; (3) real property which includes land and buildings used for office and shop facilities and wells used for the disposal of water; and (4) other equipment such as tools used for maintaining and repairing vehicles, office furniture and fixtures, and computer equipment. Property and equipment is stated at cost less accumulated depreciation. The Company capitalizes interest on certain qualifying assets that are undergoing activities to prepare them for their intended use. Interest costs incurred during the fabrication period are capitalized and amortized over the life of the assets. The Company charges repairs and maintenance against income when incurred and capitalizes renewals and betterments, which extend the remaining useful life, expand the capacity or efficiency of the assets. Depreciation is recorded on a straight-line basis over estimated useful lives of 5 to 30 years.

Leases

The Company conducts a major part of its operations from leased facilities. Each of these leases is accounted for as operating leases. Normally, the Company records rental expense on its operating leases over the lease term as it becomes payable. If rental payments are not made on a straight-line basis, per terms of the agreement, the Company records a deferred rent expense and recognizes the rental expense on a straight-line basis throughout the lease term. The majority of the Company's facility leases contain renewal clauses and expire through June 2022. In most cases, management expects that in the normal course of business, leases will be renewed or replaced by other leases.

The Company has leased trucks and equipment in the normal course of business, which was recorded as an operating lease. The Company recorded rental expense on equipment under operating leases over the lease term as it becomes payable; there were no rent escalation terms associated with these equipment leases. The equipment leases contained a purchase options that allowed the Company to purchase the leased equipment at the end of the lease term, based on the market price of the equipment at the time of the lease termination. In October 2015, the Company exercised the purchase option on three frac heaters. There are no significant equipment leases outstanding as of December 31, 2015.

Long-Lived Assets

The Company reviews its long-lived assets for impairment whenever events or changes in circumstances indicate that the carrying amount of the asset may not be recovered. The Company looks primarily to the undiscounted future cash flows in its assessment of whether or not long-lived assets have been impaired. No impairments were recorded during the years ended December 31, 2015 or 2014.

Earnings (Loss) Per Share

Earnings (loss) per share is computed by dividing net income (loss) by the weighted average number of common shares outstanding for the period. Diluted earnings per share is calculated by dividing net income (loss) by the diluted weighted average number of common shares. The diluted weighted average number of common shares is computed using the treasury stock method for common stock that may be issued for outstanding stock options and warrants.

As of December 31, 2015 and 2014, there were outstanding stock options and warrants to acquire an aggregate of 3,635,169 and 3,750,169 shares of Company common stock, respectively, which have a potentially dilutive impact on earnings per share. For the year ended December 31, 2014, the incremental shares of the options and warrants to be included in the calculation of diluted earnings per share had a dilutive impact on the Company's earnings per share of 2,469,099 shares. Dilution is not permitted if there are net losses during the period. As such, the Company does not show dilutive earnings per share for the year ended December 31, 2015.

Intangible Assets

Goodwill

Goodwill represents the excess of the cost over the fair value of net assets acquired, including identified intangible assets, recorded in connection with the acquisitions of Heat Waves. Goodwill is not amortized but is assessed for impairment at least annually.

Impairment

The Company assesses goodwill and intangible assets with indefinite lives for impairment at the reporting unit level on an annual basis and between annual tests if events occur or circumstances change that would more likely than not reduce the fair value below its carrying amount. Guidance allows a qualitative assessment of impairment to determine whether it is more-likely-than-not that the intangible asset is impaired. If it is determined that it is more-likely-than-not that an impairment exists, accounting guidance requires that the impairment test be performed through the application of a two-step test. The Company utilizes this method and recognizes a goodwill impairment loss in the event that the fair value of the reporting unit does not exceed its carrying value. During fiscal years ending December 31, 2015 and 2014, the Company performed the annual impairment test as of the date ending at each of these fiscal years and determined in both fiscal years that no impairment existed.

Derivative Instruments

The Company has swap agreements in place to hedge against changes in interest rates. The fair value of the Company's derivative instruments is reflected as assets or liabilities on the balance sheets. The accounting for changes in the fair value of a derivative instrument depends on the intended use of the derivative instrument and the resulting designation. Transactions related to the Company's derivative instruments accounted for as hedges are classified in the same category as the item hedged in the statement of cash flows. The Company does not hold derivative instruments for trading purposes.

For derivative instruments designated as fair-value hedges, the changes in the fair value of the derivative instrument is recorded in earnings.

For derivative instruments designated as cash-flow hedges, the effective portion of changes in the fair value of the derivative instruments are deferred in *Accumulated other comprehensive loss* and are reclassified to income when the hedged transaction affects earnings. The ineffective portion of the change in fair value of the derivative instrument is recorded in earnings. The Company assesses the retrospective and prospective effectiveness of its derivative instruments on a quarterly basis to determine whether the hedging instruments have been highly effective in offsetting changes in fair value of the hedged items. The Company also assesses on a quarterly basis whether the hedging instruments are expected to be highly effective in the future. If a hedging instrument is not expected to be highly effective, the Company will stop cash flow hedge accounting prospectively. In those instances, the gains or losses remain in *Accumulated other comprehensive loss* until the hedged item affects earnings.

The Company has designated its interest rate swap agreement with PNC as a fair value hedge. As such, changes in the fair value of the interest rate swap agreement are recorded in earnings.

Income Taxes

The Company recognizes deferred tax liabilities and assets (Note 7) based on the differences between the tax basis of assets and liabilities and their reported amounts in the financial statements that will result in taxable or deductible amounts in future years. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect of a change in tax rates on deferred tax assets and liabilities will be recognized in income in the period that includes the enactment date. Deferred income taxes are classified as a net current or non-current asset or liability based on the classification of the related asset or liability for financial reporting purposes. A deferred tax asset or liability that is not related to an asset or liability for financial reporting is classified according to the expected reversal date. The Company records a valuation allowance to reduce deferred tax assets to an amount that it believes is more likely than not expected to be realized.

The Company accounts for any uncertainty in income taxes by recognizing the tax benefit from an uncertain tax position only if it is more likely than not that the tax position will be sustained on examination by the taxing authorities, based on the technical merits of the position. The Company measures the tax benefits recognized in the financial statements from such a position based on the largest benefit that has a greater than 50% likelihood of being realized upon ultimate resolution. The application of income tax law is inherently complex. Laws and regulations in this area are voluminous and are often ambiguous. As such, the Company is required to make many subjective assumptions and judgments regarding income tax exposures. Interpretations of and guidance surrounding income tax law and regulations change over time and may result in changes to the Company's subjective assumptions and judgments which can materially affect amounts recognized in the consolidated balance sheets and consolidated statements of income. The result of the reassessment of the Company's tax positions did not have an impact on the consolidated financial statements.

Interest and penalties associated with tax positions are recorded in the period assessed as income tax expense. The Company files income tax returns in the United States and in the states in which it conducts its business operations. The Company's United States federal income tax filings for tax years 2012 through 2015 remain open to examination. In general, the Company's various state tax filings remain open for tax years 2011 to 2015.

Fair Value

The Company follows authoritative guidance that applies to all financial assets and liabilities required to be measured and reported on a fair value basis. The Company also applies the guidance to non-financial assets and liabilities measured at fair value on a nonrecurring basis, including non-competition agreements and goodwill. The guidance defines fair value as the price that would be received to sell an asset or paid to transfer a liability (an exit price) in an orderly transaction between market participants at the measurement date. During the year ended December 31, 2015, the Company did not change any of its valuation techniques. The guidance establishes a hierarchy for inputs used in measuring fair value that maximizes the use of observable inputs and minimizes the use of unobservable inputs by requiring that the most observable inputs be used when available.

Observable inputs are inputs that market participants would use in pricing the asset or liability developed based on market data obtained from sources independent of the Company. Unobservable inputs are inputs that reflect the Company's assumptions of what market participants would use in pricing the asset or liability based on the best information available in the circumstances. The financial and nonfinancial assets and liabilities are classified based on the lowest level of input that is significant to the fair value measurement.

The hierarchy is broken down into three levels based on the reliability of the inputs as follows:

- Level 1: Quoted prices are available in active markets for identical assets or liabilities;
- Level 2: Quoted prices in active markets for similar assets and liabilities that are observable for the asset or liability; or
- Level 3: Unobservable pricing inputs that are generally less observable from objective sources, such as discounted cash flow models or valuations.

Stock-based Compensation

The Company uses the Black-Scholes pricing model as a method for determining the estimated fair value for all stock options awarded to employees, officers, and directors. The expected term of the options is based upon evaluation of historical and expected further exercise behavior. The risk-free interest rate is based upon U.S. Treasury rates at the date of grant with maturity dates approximately equal to the expected life of the grant. Volatility is determined upon historical volatility of our stock and adjusted if future volatility is expected to vary from historical experience. The dividend yield is assumed to be none as we have not paid dividends nor do we anticipate paying any dividends in the foreseeable future.

The Company also uses the Black-Scholes valuation model to determine the fair value of warrants. Expected volatility is based upon the weighted average of historical volatility over the contractual term of the warrant and implied volatility. The risk-free interest rate is based upon implied yield on a U.S. Treasury zero-coupon issue with a remaining term equal to the contractual term of the warrants. The dividend yield is assumed to be none.

Loan Fees and Other Deferred Costs

In the normal course of business, the Company often enters into loan agreements with its primary lending institutions. The majority of these lending agreements require origination fees and other fees in the course of executing the agreements. For all costs associated with the execution of the lending agreements, the Company defers these costs and amortizes them as interest expense over the term of the loan agreement using the effective interest method. These deferred costs are classified on the balance sheet as current or long-term assets based on the contractual terms of the loan agreements. All other costs not associated with the execution of the loan agreements are expensed as incurred. See Note 4 for loan fees recorded in the current period.

Revenue Recognition

The Company recognizes revenue when evidence of an arrangement exists, the fee is fixed or determinable, services are provided and collection is reasonably assured.

Management Estimates

The preparation of the Company's financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Significant estimates include the realization of accounts receivable, stock based compensation expense, income tax provision, the valuation of deferred taxes, and the valuation of the Company's interest rate swap. Actual results could differ from those estimates.

Accounting Pronouncements

Recently Issued

In May 2014, the FASB issued ASU No. 2014-09, *Revenue from Contracts with Customers*, which requires an entity to recognize the amount of revenue to which it expects to be entitled for the transfer of promised goods or services to customers. The ASU will replace most existing revenue recognition guidance in U.S. GAAP when it becomes effective. In August 2015 the FASB agreed to defer the effective date by one year, the new standard becomes effective for us on January 1, 2018. Early adoption is permitted. The standard permits the use of either the retrospective or cumulative effect transition method. We are evaluating the effect that ASU 2014-09 will have on our consolidated financial statements and related disclosures. We have not yet selected a transition method nor have we determined the effect of the standard on our ongoing financial reporting.

In August 2014, the FASB issued ASU 2014-15, "*Presentation of Financial Statements—Going Concern: Disclosure of Uncertainties about an Entity's Ability to Continue as a Going Concern*". The standard requires an entity's management to evaluate whether there are conditions or events that raise substantial doubt about the entity's ability to continue as a going concern within one year after the date that the financial statements are issued. Public entities are required to apply the standard for annual reporting periods ending after December 15, 2016, and interim periods thereafter. Early application is permitted. The adoption of this guidance is not expected to impact the Company's consolidated financial position, results of operations, or cash flows.

In April 2015, the FASB issued ASU 2015-03, "*Simplifying the Presentation of Debt Issuance Costs*." ASU 2015-03 requires that debt issuance costs related to a recognized debt liability be presented in the balance sheet as a direct deduction from the carrying amount of that debt liability, consistent with debt discounts. The ASU is effective for annual periods beginning after December 15, 2015, and interim periods within those annual periods. The simplification of the presentation of debt issuance costs is expected to have an immaterial impact on the Company's total assets and debt.

In July 2015, the FASB issued ASU 2015-11, "*Simplifying the Measurement of Inventory*", effective for annual and interim periods beginning after December 15, 2016. ASU 2015-11 changes the inventory measurement principle for entities using the first-in, first out (FIFO) or average cost methods. For entities utilizing one of these methods, the inventory measurement principle will change from lower of cost or market to the lower of cost and net realizable value. The adoption of this guidance is not expected to impact the Company's consolidated financial statements.

In November 2015, the FASB issued ASU 2015-17, "*Balance Sheet Classification of Deferred Taxes*", effective for annual and interim reporting periods beginning after December 15, 2016, with early adoption permitted. ASU 2015-17 requires that all deferred tax liabilities and assets, as well as any related valuation allowance, be classified in the balance sheet as noncurrent. This guidance may be applied either prospectively to all deferred tax liabilities and assets or retrospectively to all periods presented. The adoption of this guidance is expected to have an immaterial impact on the Company's total assets and liabilities.

In February 2016, the FASB issued ASU 2016-02 "*Leases (Topic 842)*", which requires a lessee to record a right-of-use asset and a lease liability on the balance sheet for all leases with terms longer than 12 months. Leases will be classified as either finance or operating, with classification affecting the pattern of expense recognition in the income statement. The new standard is effective for fiscal years beginning after December 15, 2018, including interim periods within those fiscal years. A modified retrospective transition approach is required for lessees for capital and operating leases existing at, or entered into after, the beginning of the earliest comparative period presented in the financial statements. We are currently evaluating the impact of our pending adoption of the new standard on our consolidated financial statements.

Note 3 - Property and Equipment

Property and equipment consists of the following at:

	December 31,	
	2015	2014
Trucks and vehicles	\$ 54,153,487	\$ 48,020,268
Other equipment	3,335,170	3,135,916
Buildings and improvements	3,752,841	3,396,280
Trucks in process	-	2,366,758
Land	873,428	776,420
Disposal wells	391,003	367,330
Total property and equipment	62,505,929	58,062,972
Accumulated depreciation	(26,011,268)	(20,273,968)
Property and equipment – net	\$ 36,494,661	\$ 37,789,004

Depreciation expense on property and equipment for the years ended December 31, 2015 and 2014 totaled \$5,792,366 and \$3,402,330, respectively.

Note 4 – PNC Credit Facility

2014 PNC Credit Facility

In September 2014, the Company entered into an Amended and Restated Revolving Credit and Security Agreement (the "2014 Credit Agreement") with PNC Bank, National Association ("PNC") which provides for a five-year \$30 million senior secured revolving credit facility which replaced a prior revolving credit facility and term loan with PNC that totaled \$16 million (the "2012 Credit Agreement"). The 2014 Credit Agreement allows the Company to borrow up to 85% of eligible receivables and 85% of the appraised value of trucks and equipment. Under the 2014 Credit Agreement, there are no required principal payments until maturity and the Company had the option to pay variable interest rate based on (i) 1, 2 or 3 month LIBOR plus an applicable margin ranging from 2.50% to 3.50% for LIBOR Rate Loans or (ii) interest at PNC Base Rate plus an applicable margin of 1.00% to 2.00% for Domestic Rate Loans. Interest is calculated monthly and added to the principal balance of the loan. Additionally, the Company incurs an unused credit line fee of 0.375%. The revolving credit facility is collateralized by substantially all of the Company's assets and subject to financial covenants. The interest rate at December 31, 2015 ranged from 2.92% to 3.01% for the \$20,250,000 of outstanding LIBOR Rate Loans and 4.25% for the \$456,241 of outstanding Domestic Rate Loans.

Effective February 27, 2015, the Company entered into a Consent and First Amendment (the "First Amendment") with respect to the 2014 Credit Agreement. The First Amendment, among other things, (i) modified certain financial covenants, and (ii) consented to a \$100,000 principal prepayment by the Company to a third party bank that eliminated a monthly fee of \$12,500 paid to the guarantor of that indebtedness. Effective March 29, 2015, the Company entered into a second amendment to the 2014 Credit Agreement with PNC to increase the Company's leverage ratio, as defined from 2.75 to 1 to 3.50 to 1 and to exclude certain capital expenditures from the calculation of the fixed charge ratio. In July and October 2015, the Company entered into a third and fourth amendment, respectively, to the 2014 Credit Agreement with PNC. The amendments were made to administrative terms of the agreement and did not modify any terms of the financial covenants. Effective December 31, 2015, the Company entered into a fifth amendment to the 2014 Credit Agreement. The fifth amendment, among other things, (i) increased the applicable margin for Domestic Rate Loans and LIBOR Rate Loans by 25 basis points (ii) adjusted the Company's leverage ratio, as defined to 4.25 to 1.00 as of December 31, 2015, 4.50 to 1.00 as of March 31, 2016, and 3.50 to 1.0 as of June 30, 2016 and each quarter thereafter, and (iii) limited capital expenditures, as defined to an aggregate amount of \$7,800,000 during the period commencing October 1, 2015 through June 30, 2016.

As of December 31, 2015, the Company had an outstanding loan balance of \$20,706,241. The outstanding loan balance matures in September 2019. As of December 31, 2015, approximately \$9,900,000 was available under the revolving credit facility.

On March 29, 2016, the Company entered into a sixth amendment to the 2014 Credit Agreement. The sixth amendment, among other things, (i) reduced the revolving line of credit commitment from \$40 million back to its original \$30 million (ii) reset the fixed charge coverage ratio to build to a trailing four quarters beginning with the quarter ended December 31, 2015 (iii) added a new covenant which establishes a minimum monthly availability requirement for the period of March 2016 through March 2017 ranging from \$1.5 million to \$8.0 million (iv) converted the leverage and fixed charge coverage ratios to springing covenants which would only be triggered upon failure to meet the new availability covenant until it expires in February 2017; thereafter they will be individually tested quarterly (v) increased the applicable margin for Domestic Rate Loans and LIBOR Rate Loans by 175 basis points, and (vi) reinstated a full cash dominion requirement.

Debt Issuance Costs

In November 2012, the Company incurred \$922,685 of debt issuance costs related to the 2012 Credit Agreement and these costs were being amortized to interest expense over the term of the credit facility using the effective interest method. An additional \$50,422 of debt issuance costs was incurred in connection with the 2012 Credit Agreement loan amendment in November 2013.

In September 2014, the Company incurred an additional \$199,825 of debt issuance costs related to the 2014 Credit Agreement. Due to the debt modification in September 2014 with the 2014 Credit Agreement the unamortized debt issuance costs associated with the 2012 Credit Agreement in the amount of \$378,023 and additional debt issuance costs of \$199,825 are amortized over the 60 month term of the 2014 Credit Agreement.

In September 2015, the Company incurred an additional \$100,000 of debt issuance costs related to the 2014 Credit Agreement due to the payment of the second half of the commitment fee in accordance with the 2014 Credit Agreement. As of December 31, 2015 and 2014, \$140,570 and \$115,570, respectively of unamortized debt issuance costs were included in *Prepaid expenses and other current assets* in the accompanying consolidated balance sheet. The remaining long-term portion of debt issuance costs of \$392,300 and \$442,704 is included in *Other Assets* in the accompanying consolidated balance sheet for December 31, 2015 and 2014, respectively. During the years ended December 31, 2015 and 2014, the Company amortized \$125,404 and \$253,803 of these costs to *Interest Expense*.

Interest Rate Swaps

On November 13, 2012 the Company entered into an interest rate swap agreement with PNC with a notional value of \$11,000,000 in order to hedge the cash flow requirements for the variable interest rate associated with the PNC Term Loan. The floating variable interest rate associated with the Term Loan debt of 4.25% plus LIBOR was swapped for a fixed rate of 4.25% plus 0.64% for the duration of the PNC Term Loan. This swap agreement expired in November 2015.

On September 17, 2015, the Company entered into an interest rate swap agreement with PNC which the Company designated as a fair value hedge against the variability in future interest payments related to its 2014 Credit Agreement. The terms of the interest rate swap agreement include a notional amount of \$10,000,000, a fixed payment rate of 1.88% plus applicable a margin ranging from 2.50% to 3.50% paid by the Company and a floating payment rate equal to LIBOR plus applicable margin of 2.50% to 3.50% paid by PNC. The purpose of the swap agreement is to adjust the interest rate profile of the Company's debt obligations and to achieve a targeted mix of floating and fixed rate debt.

During the year ended December 31, 2015, the fair market value of the interest rate swap decreased by \$163,000 which was recorded as interest expense. The corresponding liability of \$163,000 for the interest rate swap is including in accounts payable and accrued liabilities on the consolidated balance sheet as of December 31, 2015.

Note 5 – Long-Term Debt

Long-term debt consists of the following at December 31, 2015 and 2014:

	December 31,	
	2015	2014
Real Estate Loan for our facility in North Dakota, interest at 3.75%, monthly principal and interest payment of \$5,255 ending October 3, 2028. Collateralized by land and property purchased with the loan.	536,038	677,204
Note payable to the seller of Heat Waves. The note was garnished by the Internal Revenue Service ("IRS") in 2009 and is due on demand; payable in monthly installments of \$3,000 per agreement with the IRS.	206,000	242,000
Mortgage payable to a bank, interest at 5.9%, monthly principal and interest payments of \$1,550 through January 2017 with a balloon payment of \$88,118 on February 1, 2017; secured by land.	103,191	115,317
Mortgage payable to a bank; interest at 7.25%, due in monthly principal and interest payments of \$4,555 through February 2017, secured by land.	59,539	107,967
Total	904,768	1,142,488
Total current portion	(314,263)	(340,520)
Long term debt, net of current portion	590,505	801,968

Aggregate maturities of debt, excluding the Senior Revolving Credit Facility described in Note 4, are as follows:

Year Ended December 31,	
2016	\$ 314,263
2017	142,944
2018	46,851
2019	48,663
2020	50,509
Thereafter	301,538
Total	\$ 904,768

Note 6 - Fair Value Measurements

The following tables present the Company's financial assets and liabilities that were accounted for at fair value on a recurring basis by level within the fair value hierarchy:

	Fair Value Measurement Using			Fair Value Measurement
	Quoted Prices in Active Markets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)	
December 31, 2015				
Derivative Instrument				
Interest rate swap	\$ -	\$ 163,000	\$ -	\$ 163,000
December 31, 2014				
Derivative Instrument				
Interest rate swap	\$ -	\$ 9,895	\$ -	\$ 9,895

The interest rate swap as of December 31, 2015 and 2014 consists of a liability of \$163,000 and \$9,895, respectively (classified within *Accounts payable and accrued liabilities*).

The Company's derivative instrument (e.g. interest rate swap, or "swap") is valued using models which require a variety of inputs, including contractual terms, market prices, yield curves, credit spreads, and correlations of such inputs. Some of the model inputs used in valuing the derivative instruments traded in liquid markets therefore the derivative instrument is classified within Level 2 of the fair value hierarchy. For applicable financial assets carried at fair value, the credit standing of the counterparties is analyzed and factored into the fair value measurement of those assets. The fair value estimate of the swap does not reflect its actual trading value.

Note 7 – Income Taxes

The income tax provision (benefit) from operations consists of the following:

	December 31,	
	2015	2014
Current		
Federal	\$ (18,817)	\$ (431,810)
State	-	-
Total Current	(18,817)	(431,810)
Deferred		
Federal	(361,830)	2,603,115
State	(37,606)	200,567
Total Deferred	(399,436)	2,803,682
Total Income Tax Provision	\$ (418,253)	\$ 2,371,872

A reconciliation of computed income taxes by applying the statutory federal income tax rate of 34% to income (loss) from operations before taxes to the provision (benefit) for income taxes for the years ended December 31, 2015 and 2014 is as follows:

	December 31,	
	2015	2014
Computed income taxes at 34%	\$ (570,954)	\$ 2,168,389
Increase in income taxes resulting from:		
State and local income taxes, net of federal impact	(50,378)	191,328
Change in tax rate	-	(97,350)
Stock-based compensation	137,296	79,841
Other	65,783	29,664
Provision (benefit) for income taxes	\$ (418,253)	\$ 2,371,872

In assessing the realization of deferred tax assets, management considers whether it is more likely than not that some portion or all of the deferred tax assets will not be realized. The ultimate realization of deferred tax assets is dependent upon the generation of future taxable income during the periods in which those temporary differences become deductible. Management considers the scheduled reversal of deferred tax liabilities, projected future taxable income, and tax planning strategies in making this assessment.

Based upon the level of historical taxable income and projections for future taxable income over the periods in which the deferred tax assets are deductible, management believes it is more likely than not that the Company will realize the benefits of these deductible differences. The amount of the deferred tax asset considered realizable, however, could be reduced in the near term if estimates of future taxable income during the carryforward period are reduced.

We have a requirement of reporting of taxes based on tax positions which meet a more likely than not standard and which are measured at the amount that is more likely than not to be realized. Differences between financial and tax reporting which do not meet this threshold are required to be recorded as unrecognized tax benefits. This standard also provides guidance on the presentation of tax matters and the recognition of potential IRS interest and penalties. As of December 31, 2015 and 2014, the Company does not have an unrecognized tax liability.

The Company has approximately \$5.1 million of net operating losses that will begin to expire in the year 2036.

The components of deferred income taxes for the years ended December 31, 2015 and 2014 are as follows:

	December 31, 2015		December 31, 2014	
	Current	Long-Term	Current	Long-Term
Deferred tax assets				
Reserves and accruals	\$ 237,411	\$ -	\$ 135,055	\$ -
Amortization	-	136,673	-	173,700
Capital losses	-	-	-	3,661
Non-qualified stock option expense	-	406,896	-	400,009
Loss Carryforwards	-	2,116,303	-	71,710
Total deferred tax assets	237,411	2,659,872	135,055	649,080
Deferred tax liabilities				
Depreciation	-	(7,314,326)	-	(5,641,761)
Total deferred tax liabilities	-	(7,314,326)	-	(5,641,761)
Net deferred tax assets (liabilities)	\$ 237,411	\$ (4,654,454)	\$ 135,055	\$ (4,992,681)

As of December 31, 2015 and 2014, the Company did not record any valuation allowances.

The Company classifies penalty and interest expense related to income tax liabilities as an income tax expense. Interest and penalties of \$3,740 and \$19,760 were recognized in the statement of operations for the fiscal years ended December 31, 2015 and 2014, respectively.

The Company files tax returns in the United States, in various states including Colorado, Kansas, North Dakota, Ohio and Pennsylvania. The Company's United States federal income tax filings for tax years 2012 through 2015 remain open to examination. In general, the Company's various state tax filings remain open for tax years 2011 to 2015.

Note 8 – Stockholders Equity

Registration Rights Agreement

In conjunction with a private placement transaction in November 2012, the Company and each private placement investor entered into a registration rights agreement; which agreement requires the payment of penalty fees to the equity investor in the event the Company is unable to timely register the shares of common stock acquired by the equity investor pursuant to the stock subscription agreement. The Company filed a registration statement for these shares which was declared effective June 21, 2013. If the Company fails to maintain the effectiveness of this registration statement, it may be subject to a penalty in cash or shares equal to 1.0% per month (prorated for any partial months), for the period(s) of time that the Company fails to maintain effectiveness of the registration statement underlying these shares. Liquidated Damages shall not exceed 8% of the original purchase price of such shares. The Company has not recorded an obligation for liquidated damages as the possibility of failing to maintain effectiveness is remote.

Warrants

In conjunction with a private placement transaction and subordinated debt conversion in November 2012, the Company granted warrants to purchase 5,185,714 shares of the Company's common stock, exercisable at \$0.55 per share for a five year term. Each of the warrants may be exercised on a cashless basis. The warrants also provide that subject to various conditions, the holders have piggy-back registration rights with respect to the shares of common stock that may be acquired upon the exercise of the warrants. As of December 31, 2015, 150,001 of these warrants remain outstanding.

A summary of warrant activity for the years ended December 31, 2015 and 2014 is as follows:

Warrants	Shares	Weighted Average Exercise Price	Weighted Average Remaining Contractual Life (Years)	Aggregate Intrinsic Value
Outstanding at January 1, 2014	2,657,714	\$ 0.55	3.7	\$ 3,359,170
Issued	-	-	-	-
Exercised	(2,407,713)	0.54	-	-
Forfeited/cancelled	-	-	-	-
Outstanding at December 31, 2014	250,001	\$ 0.64	2.3	\$ 242,901
Issued	-	-	-	-
Exercised	(100,000)	0.77	-	-
Forfeited/Cancelled	-	-	-	-
Outstanding at December 31, 2015	150,001	\$ 0.55	1.9	\$ -
Exercisable at December 31, 2015	150,001	\$ 0.55	1.9	\$ -

During the year ended December 31, 2015, warrants to acquire 100,000 shares were exercised for cash payments totaling \$77,100. The warrants exercised had a total intrinsic value of \$102,000 at the time of exercise. No warrants were issued during the year ended December 31, 2015.

During the year ended December 31, 2014, warrants to acquire 1,925,357 shares of common stock were exercised by way of cashless exercise whereby the warrant holders elected to receive 1,482,041 shares without payment of the exercise price and the remaining warrants for 443,316 shares were cancelled. In addition, warrants to acquire 482,357 shares were exercised for cash payments totaling \$265,298. The warrants exercised had a total intrinsic value of \$4,425,344 at the time of exercise.

Stock Issued for Services

During the fiscal year ended December 31, 2015, the Company issued 15,971 shares of common stock to a consultant as partial compensation for services provided to the Company. The shares were granted under the 2010 Stock Incentive Plan and were fully vested and unrestricted at the time of issuance. For the year ended December 31, 2015, the Company recorded \$10,400 of stock based compensation expense for these services in the accompanying consolidated statement of operations and comprehensive income (loss).

Note 9 – Stock Options

On July 27, 2010 the Company's board of directors adopted the 2010 Stock Incentive Plan (the "2010 Plan"). The aggregate number of shares of common stock that may be granted under the 2010 Plan is reset at the beginning of each year based on 15% of the number of shares of common stock then outstanding. As such, on January 1, 2016, the 2010 plan was reset to 5,719,069 shares based upon 38,127,129 shares outstanding on that date. Options are typically granted with an exercise price equal to the estimated fair value of the Company's common stock at the date of grant with a vesting schedule of one to three years and a contractual term of 5 years. As of December 31, 2015, there were 3,485,168 options outstanding under the 2010 Plan.

A summary of the range of assumptions used to value stock options granted for the years ended December, 2015 and 2014 are as follows:

	For the Years Ended December 31,	
	2015	2014
Expected volatility	107 - 109%	114 - 124%
Risk-free interest rate	0.75 - 0.86%	0.72 - 0.99%
Dividend yield	-	-
Expected term (in years)	3.3 - 3.5	2.5 - 3.5

During the year December 31, 2015, the Company granted options to acquire 1,123,500 shares of common stock with a weighted-average grant-date fair value of \$1.19 per share. During the year ended December 31, 2015, options to acquire 720,333 shares of common stock were exercised by way of a cashless exercise whereby the option holders elected to receive 550,276 shares of common stock without payment of the exercise price and the remaining options for 170,057 shares were cancelled. The options had an intrinsic value of \$1,131,371 at the time of exercise. In addition, options to acquire 404,667 shares of common stock were exercised for cash payments of \$198,285. The options had an intrinsic value of \$423,837 at the time of exercise.

During the year ended December 31, 2014, the Company granted options to acquire 462,500 shares of common stock with a weighted-average grant-date fair value of \$1.67 per share. During the year ended December 31, 2014, options to acquire 28,333 shares of common stock were exercised by way of a cashless exercise whereby the option holder elected to receive 24,282 shares of common stock without payment of the exercise price and the remaining options for 4,051 shares were cancelled. The options had an intrinsic value of \$75,837 at the time of exercise. In addition, options to acquire 244,999 shares of common stock were exercised for cash payments of \$127,987. The options had an intrinsic value of \$531,609 at the time of exercise.

The following is a summary of stock option activity for all equity plans for the years ended December 31, 2015 and 2014:

	Shares	Weighted Average Exercise Price	Weighted Average Remaining Contractual Term (Years)	Aggregate Intrinsic Value
Outstanding at January 1, 2014	3,375,000	\$ 0.70	2.60	\$ 3,760,325
Granted	462,500	2.37		
Exercised	(273,332)	0.51		
Forfeited or Expired	(64,000)	2.27		
Outstanding at December 31, 2014	3,500,168	\$ 0.90	2.02	\$ 2,785,893
Granted	1,123,500	1.75		
Exercised	(1,125,000)	0.48		
Forfeited or Expired	(13,500)	2.06		
Outstanding at December 31, 2015	3,485,168	\$ 1.31	2.53	\$ 63,067
Vested or Expected to Vest at December 31, 2015	2,161,499	\$ 1.03	1.61	\$ 63,067
Exercisable at December 31, 2015	2,161,499	\$ 1.03	1.61	\$ 63,067

The aggregate intrinsic value in the table above represents the total intrinsic value (the difference between the estimated fair value of the Company's common stock and the exercise price, multiplied by the number of in-the-money options) that would have been received by the option holders had they exercised their options on December 31, 2015.

During the years ended December 31, 2015 and 2014, the Company recognized stock-based compensation costs for stock options of \$617,530 and \$562,903, respectively in general and administrative expenses. The Company currently expects all outstanding options to vest. Compensation cost is revised if subsequent information indicates that the actual number of options vested is likely to differ from previous estimates.

A summary of the status of non-vested shares underlying the options are presented below:

	<u>Number of Shares</u>	<u>Weighted- Average Grant- Date Fair Value</u>
Non-vested at January 1, 2014	666,668	\$ 0.54
Granted	462,500	1.67
Vested	(566,664)	0.87
Forfeited	(64,000)	1.74
Non-vested at December 31, 2014	498,504	\$ 1.05
Granted	1,123,500	1.19
Vested	(287,835)	0.83
Forfeited	(10,500)	1.48
Non-vested at December 31, 2015	<u>1,323,669</u>	<u>\$ 1.22</u>

As of December 31, 2015 there was \$1,048,303 of total unrecognized compensation costs related to non-vested shares under the qualified stock option plans which will be recognized over the remaining weighted-average period of 1.7 years.

Note 10 – Commitments and Contingencies

Operating Leases

As of December 31, 2015, the Company leases facilities under lease commitments that expire through June 2022. All of these facility leases are accounted for as operating leases. Future minimum lease commitments for these facilities and other operating leases are as follows:

<u>Year Ended December 31,</u>	
2016	\$ 592,752
2017	567,342
2018	463,518
2019	470,194
2020	415,370
Thereafter	331,488
Total	<u>\$ 2,840,664</u>

Rent expense under operating leases for the years ended December 31, 2015 and 2014 was \$828,098 and \$1,113,581, respectively.

Equipment Purchase Commitments

As of December 31, 2015, the Company did not have any outstanding purchase commitments related to the purchase of equipment and construction of building facilities.

Self-Insurance

In June 2015, the Company became self-insured under its Employee Group Medical Plan for the first \$75,000 per individual participant. The Company has accrued a liability of approximately \$39,500 as of December 31, 2015 for insurance claims that it anticipates paying in the future related to incidents that occurred during the period ended December 31, 2015.

Litigation

In October 2014, the Company was served with a complaint filed in the United States District Court for the Northern District of Texas, Dallas Division (Civil Action No. 3:14-cv-03631) by Heat-On-The-Fly, LLC ("HOTF"), naming Enservco Corporation ("Enservco") and its subsidiary Heat Waves Hot Oil Service LLC ("Heat Waves") as defendants. The complaint alleges that Enservco and Heat Waves, in offering and selling frac water heating services, infringed and induced others to infringe two patents owned by HOTF (U.S. Patent Nos. 8,171,993 ("the '993 Patent") and 8,739,875 ("the '875 Patent")). The complaint seeks various remedies including injunctive relief and unspecified damages and relates to only a portion of Heat Waves' frac water heating services. In May 2015, the case was transferred to the U.S. District Court for the District of Colorado, Civil Action No. 1:15-cv-00983-RBJ ("Colorado Case"). Heat Waves has answered the complaint, denied HOTF's allegations of infringement and asserted counterclaims asking the Court to find, among other things, that it does not infringe either patent and that both patents are invalid. HOTF has replied to and denied those counterclaims. In July 2015, the Company and HOTF jointly asked the Colorado Court to stay the case pending any appeal by HOTF of the partial summary judgment ruling invalidating the '993 Patent referenced below, and on July 20, 2015, the Court granted the parties' joint request. The Colorado case is now stayed pending resolution of appeal by HOTF of the Court's invalidity ruling and the pending '993 Patent reexamination proceeding, also referenced below.

HOTF is currently involved in another litigation with a group of energy companies (which does not include Enservco or Heat Waves) that sought, among other things, to invalidate the '993 Patent ("North Dakota Case"). In March 2015, the North Dakota Court granted the energy companies' partial summary judgment motion, finding that the '993 Patent was invalid and later entered a judgment on this issue. In September 2015, a jury trial was conducted. While it did not find that HOTF committed the tort of deceit, the jury found that HOTF represented to a customer of one of the accused energy companies that HOTF had a valid patent and this representation was made in bad faith. The jury also found, among other things, that HOTF unlawfully interfered with a contract and prospective business relationship with that customer and as such, awarded the energy company \$750,000 in damages. Lastly, the Court also held a bench trial on the energy companies' claim that the '993 Patent is unenforceable due to inequitable conduct by the inventor of the '993 Patent before the U.S. Patent and Trademark Office ("USPTO"). In January 2016, the Court ruled that the '993 Patent is unenforceable due to inequitable conduct by the inventor and/or HOTF. In February 2016, HOTF filed a notice of its intent to appeal to the U.S. Court of Appeals for the Federal Circuit all judgments and adverse orders related to those judgments issued by the North Dakota Court.

Although the first 12 claims of the '993 Patent survived a prior reexamination, the USPTO granted a second request in July 2014 to reexamine the '993 Patent in its entirety (all 99 claims, including the prior 12 claims that survived the prior, limited reexamination) based on different reasoning. In February 2015, the USPTO issued initial findings in the second reexamination proceeding and rejected all 99 claims of the '993 Patent as being unpatentable. In April 2015, HOTF filed a response with the USPTO seeking to overcome these pending rejections, but no subsequent decision has been made by the USPTO. The timing of a response from the USPTO and any decision resulting therefrom is uncertain and is subject to appeal by HOTF. Further, HOTF has at least two additional pending patent applications based on the '993 and '875 Patents, which, if granted, could be asserted against the Company. As the '993 Patent and the '875 Patent are based on the same subject matter, management believes that a final finding of invalidity and/or unenforceability of the '993 Patent could serve as a basis to affect the validity of the '875 Patent. If these Patents are ultimately held to be invalid, the Colorado Case would become moot.

As noted above, the Colorado Case has been stayed. However, in the event that HOTF's appeal is successful and the '993 Patent is found to be valid and/or enforceable in the North Dakota Case and the pending reexamination with the USPTO, the Colorado Case may resume. To the extent that Enservco and Heat Waves are unsuccessful in their defense of the Colorado Case, they could be liable for damages (which may be significant) and Heat Waves could possibly be enjoined from using any technology that is determined to be infringing. Either result could negatively impact Heat Waves' business and operations. At this time, the Company is unable to predict the outcome of this case, and accordingly has not recorded an accrual for any potential loss.

Note 11 – Related Party Transactions

The following sets forth information regarding transactions between the Company (and its subsidiaries) and its officers, directors and significant stockholders.

Loan Guaranty:

On October 3, 2013, the Company refinanced its real estate loan for its facility in North Dakota as described in Note 5. Under the terms of the agreement, \$100,000 of the loan is guaranteed by Mike Herman, the Company's former Chairman and Chief Executive Officer, and the Company had agreed to pay Mr. Herman a fee for so long as he guaranteed Company indebtedness of \$12,500 per month (\$150,000 annually). The agreement with the lender provided that if the Company makes a principal payment equal to or greater than \$100,000, the guaranty is released in full. The Company made that payment in March 2015 and is no longer obligated to pay Mr. Herman the guaranty fee.

Sale of Equipment:

On February 3, 2014, the Board of Directors approved the sale of two trucks and a trailer to an entity owned 50% by the Company's former Chairman and Chief Executive Officer for \$50,000. The equipment had not been in service for over two years and was not economically feasible to repair and return to service. The Company was holding this equipment primarily for salvage purposes. At the time of the sale, the equipment had a net book value of \$38,000 which resulted in a gain of \$12,000. The Company believes the price paid was at least equal to the fair market value of the units had they been sold through auction or in the open market.

Note 12 – Subsequent Events

On November 24, 2015, HWWM was organized in state of Colorado as a wholly owned subsidiary of Enservco for the purposes of launching a new water management division. Effective January 1, 2016, HWWM acquired the water management assets of HII Technologies, Inc. (HIIT), and WET Oilfield Services, LLC (WET) for approximately \$4.0 million dollars which was funded through an advance under the PNC revolving credit facility. HWWM will provide water transfer services and water treatment services to the oil and natural gas sector. Additionally in accordance with FASB Accounting Standards Codification 805, *Business Combinations*, the Company has accounted for the acquisitions of both HIIT and WET assets as asset acquisitions.

**FOURTH AMENDMENT TO
AMENDED AND RESTATED REVOLVING CREDIT AND SECURITY AGREEMENT
AND FIRST AMENDMENT TO
AMENDED AND RESTATED PLEDGE AGREEMENT**

This FOURTH AMENDMENT TO AMENDED AND RESTATED REVOLVING CREDIT AND SECURITY AGREEMENT AND FIRST AMENDMENT TO AMENDED AND RESTATED PLEDGE AGREEMENT (this "Amendment"), effective as of October 19, 2015, is entered into by and among ENSERVCO CORPORATION, a Delaware corporation ("Enservco"), DILLCO FLUID SERVICE, INC., a Kansas corporation ("Dillco"), and HEAT WAVES HOT OIL SERVICE LLC, a Colorado limited liability company ("Heat Waves") (Enservco, Dillco and Heat Waves, and each Person joined hereto as a borrower from time to time, each, a "Borrower" and collectively, "Borrowers"), PNC BANK, NATIONAL ASSOCIATION ("PNC"), as the sole Lender on the date hereof, and PNC, as Agent for the Lenders (in such capacity, "Agent"), with reference to the following facts:

RECITALS

- A. The parties to this Amendment have entered into an Amended and Restated Revolving Credit and Security Agreement, dated as of September 12, 2014, as amended by the Consent and First Amendment to Amended and Restated Revolving Credit and Security Agreement dated as of February 27, 2015, the Second Amendment to Amended and Restated Revolving Credit and Security Agreement dated as of March 29, 2015, and the Third Amendment to Amended and Restated Revolving Credit and Security Agreement dated as of July 16, 2015 (as maybe further amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), pursuant to which the Lenders provide certain credit facilities to Borrowers;
- B. Any and all initially capitalized terms used in this Amendment without definition shall have the respective meanings assigned thereto in the Credit Agreement;
- C. Borrowers have requested Agent and the Lenders amend certain provisions of the Credit Agreement and Pledge Agreement, each as more fully set forth herein; and
- D. Agent and the Lenders are willing to make such amendments to the Credit Agreement and Pledge Agreement, in accordance with, and subject to the terms and conditions set forth herein.
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NOW, THEREFORE, in consideration of the agreements hereinafter set forth, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE I AMENDMENTS TO CREDIT AGREEMENT

1.01 Amendment to Section 1.2 of the Credit Agreement. The definition of "Permitted Loans" set forth in Section 1.2 of the Credit Agreement is hereby amended and restated to delete the stricken text (indicated textually in the same manner as the following example: ~~stricken text~~) and to add the double-underlined text (indicated textually in the same manner as the following example: double-underlined text) as follows:

“Permitted Loans” shall mean: (a) the extension of trade credit by a Borrower to its Customer(s), in the Ordinary Course of Business in connection with a sale of Inventory or rendition of services, in each case on open account terms; (b) loans to employees in the Ordinary Course of Business not to exceed as to all such loans the aggregate amount of \$250,000 at any time outstanding; ~~and~~ (c) intercompany loans between and among Borrowers, so long as, at the request of Agent, each such intercompany loan is evidenced by a promissory note (including, if applicable, any master intercompany note executed by Borrowers) on terms and conditions (including terms subordinating payment of the indebtedness evidenced by such note to the prior payment in full of all Obligations) acceptable to Agent in its sole discretion that has been delivered to Agent either endorsed in blank or together with an undated instrument of transfer executed in blank by the applicable Borrower(s) that are the payee(s) on such note, and other indebtedness in form and substance acceptable to Agent in its sole discretion; and (d) advances by Enservco from time-to-time to WET Oilfield Service LLC, a Colorado limited liability company (“WET”) to the extent (i) the aggregate principal amount of such advances outstanding from time to time does not exceed in the aggregate \$250,000, (ii) such advances are made pursuant to an amended and restated promissory note dated on or about October 1, 2015, (iii) such advances are evidenced by an amended and restated promissory note, on terms and conditions acceptable to Agent in its sole discretion, which promissory note has been delivered to Agent either endorsed in blank or together with an undated instrument of transfer executed in blank by Enservco, and (iv) the Equity Interests of WET owned by Ernest L. (“EL”) Dodson, Ernest C. (“Chad”) Dodson, and Lance C. (“Cody”) Dodson that have been pledged to Enservco as security for the payment in full of such advances pursuant to an amended and restated pledge and security agreement which amended and restated the original pledge and security agreement dated October 6, 2015, and which have been collaterally assigned to Agent as set forth in Section 12(d) thereof.”

1.02 Amendment to Exhibit “A” to Pledge Agreement. Exhibit “A” to Pledge Agreement is hereby amended and restated to delete the stricken text (indicated textually in the same manner as the following example: ~~stricken text~~) and to add the double-underlined text (indicated textually in the same manner as the following example: double-underlined text) as attached hereto as Exhibit A.

ARTICLE II CONDITIONS PRECEDENT

2.01 Closing Conditions. This Amendment shall become effective as of the day and year first set forth above (the “Amendment Effective Date”) upon satisfaction of the following conditions (in each case, in form and substance reasonably acceptable to the Agent):

- (a) Amendment. The Agent shall have received from Borrowers, this Amendment duly executed by Borrowers and by PNC, as Agent and as the sole Lender as of the Amendment Effective Date;
-

- (b) Fees and Expenses. The Agent shall have received from Borrowers such fees and expenses that are payable in connection with the consummation of the transactions contemplated hereby and the Agent's counsel shall have received from Borrowers payment of all outstanding fees and expenses previously incurred and all fees and expenses incurred in connection with this Amendment;
- (c) WET Promissory Note and Allonge. The Agent shall have received from Borrowers, the original Amended and Restated 7% Secured Promissory Note, dated October [], 2015, in the original principal amount of \$250,000 issued by Ernest L. ("EL") Dodson, in his individual capacity, Ernest C. ("Chad") Dodson, in his individual capacity, and Lance C. ("Cody") Dodson, in his individual capacity, and originally made payable to the order of Enservco Corporation, together with an undated instrument of transfer (allonge) executed in blank by Enservco;
- (d) Limited Liability Company Interests and Endorsement. As represented by Ernest L. ("EL") Dodson, Ernest C. ("Chad") Dodson, and Lance C. ("Cody") Dodson, and by WET in the Amended and Restated Pledge and Security Agreement dated October [], 2015 and in WET's acknowledgement thereof and agreement thereto:
- (i) The only holders of limited liability company interests ("owner's interests" as defined in C.R.S. § 7-90-102(44)) in WET are Ernest L. ("EL") Dodson, Ernest C. ("Chad") Dodson, and Lance C. ("Cody") Dodson, each in their individual capacities,
 - (ii) the owner's interests held by each of them are not represented by certificates, and
 - (iii) WET has not made and will not make an election to treat such owner's interests as "securities" for the purposes of Article 8 of the Uniform Commercial Code as in effect in Colorado;
- (e) WET Pledge Agreement and Management Agreement. The Agent shall have received from Borrowers, copies of (i) the final and duly executed Amended and Restated Pledge and Security Agreement, dated as of the date hereof, by EL, Chad and Cody, on the one hand, and Enservco on the other hand, and (ii) the final and duly executed Management Agreement, dated as of the date hereof, by and among EL, Chad, Cody, Enservco and WET;
- (f) Default. After giving effect to this Amendment, no Default or Event of Default shall exist; and
- (g) Representations and Warranties. The representations and warranties set forth herein must be true and correct in all material respects (except that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof).
-

**ARTICLE III
MISCELLANEOUS**

3.01 Survival of Representations and Warranties. All representations and warranties made in the Credit Agreement or in any Other Document and any related agreements to which it is a party, and each of the representations and warranties contained in any certificate, document or financial or other statement furnished at any time under or in connection with the Credit Agreement, the Other Documents or any related agreement are true and correct in all material respects on and as of the date hereof as though made on and as of the date hereof, other than representations and warranties relating to a specific earlier date, and in such case such representations and warranties are true and correct in all material respects as of such earlier date.

3.02 Authority. Each Borrower has full power, authority and legal right to enter into this Amendment and to perform all its respective Obligations hereunder and under the Other Documents (as amended or modified hereby). This Amendment has been duly executed and delivered by such Person, and this Amendment constitutes the legal, valid and binding obligation of such Person enforceable in accordance with its terms, except as such enforceability may be limited by any applicable bankruptcy, insolvency, moratorium or similar laws affecting creditors' rights generally. The execution, delivery and performance of this Amendment (a) are within such Person's corporate, limited liability company or limited partnership powers (as applicable), have been duly authorized by all necessary company or partnership (as applicable) action, are not in contravention of law or the terms of such Person's operating agreement, bylaws, partnership agreement, certificate of formation, articles of incorporation or other applicable documents relating to such Person's formation or to the conduct of such Person's business or of any material agreement or undertaking to which such Person is a party or by which such Person is bound, (b) will not, in any material respect, conflict with or violate any law or regulation, or any judgment, order or decree of any Governmental Body, (c) will not require the Consent of any Governmental Body or any other Person, except those Consents which have been duly obtained, made or compiled prior to the date hereof and which are in full force and effect or except those which the failure to have obtained would not have, or could not reasonably be expected to have a Material Adverse Effect and (d) will not conflict with, nor result in any breach in any of the provisions of or constitute a default under or result in the creation of any Lien except Permitted Encumbrances upon any asset of any Borrower or Guarantor under the provisions of any material agreement, charter document, operating agreement or other instrument to which any Borrower or Guarantor is a party or by which it or its property is a party or by which it may be bound.

3.03 No Default. After giving effect to this Amendment, no event has occurred and is continuing that constitutes a Default or an Event of Default.

3.04 References to the Credit Agreement. The Credit Agreement, each of the Other Documents, and any and all other agreements, documents or instruments now or hereafter executed and delivered pursuant to the terms hereof, or pursuant to the terms of the Credit Agreement as amended hereby, are hereby amended so that any reference therein to the Credit Agreement shall mean a reference to the Credit Agreement as amended by this Amendment.

3.05 Credit Agreement Remains in Effect. The Credit Agreement and the Other Documents remain in full force and effect and Borrowers ratify and confirm their agreements and covenants contained therein. Borrowers hereby confirm that, after giving effect to this Amendment, no Event of Default or Default has occurred and is continuing. The execution, delivery and effectiveness of this Amendment shall not operate as a waiver of any right, power or remedy of the Agent or the Lenders under any of the Other Documents, nor constitute a waiver of any provision of any of the Other Documents.

3.06 Submission of Amendment. The submission of this Amendment to the parties or their agents or attorneys for review or signature does not constitute a commitment by Agent or the Lenders to modify any of their respective rights and remedies under the Other Documents, and this Amendment shall have no binding force or effect until all of the conditions to the effectiveness of this Amendment have been satisfied as set forth herein.

3.07 Severability. Any provision of this Amendment held by a court of competent jurisdiction to be invalid or unenforceable shall not impair or invalidate the remainder of this Amendment and the effect thereof shall be confined to the provision so held to be invalid or unenforceable.

3.08 Counterparts. This Amendment may be executed in one or more counterparts, each of which when so executed shall be deemed to be an original, but all of which when taken together shall constitute one and the same instrument.

3.09 Headings. The headings, captions and arrangements used in this Amendment are for convenience only and shall not affect the interpretation of this Amendment.

3.10 Expenses of Agent. Borrowers agree to pay on demand all costs and expenses reasonably incurred by Agent in connection with the preparation, negotiation and execution of this Amendment, including, without limitation, the costs and fees of Agent's legal counsel.

3.11 NO ORAL AGREEMENTS. THIS AMENDMENT, TOGETHER WITH THE OTHER DOCUMENTS AS WRITTEN, REPRESENTS THE FINAL AGREEMENT AMONG THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS AMONG THE PARTIES.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties have entered into this Amendment by their respective duly authorized officers as of the date first above written.

BORROWERS:

ENSERVCO CORPORATION,

a Delaware corporation

By: _____

Name: Rick D. Kasch

Title: President

DILLCO FLUID SERVICE, INC.,

a Kansas corporation

By: _____

Name: Rick D. Kasch

Title: President

HEAT WAVES HOT OIL SERVICE LLC,

a Colorado limited liability company

By: _____

Name: Rick D. Kasch

Title: Manager

Fourth Amendment to Amended and Restated Revolving Credit and Security Agreement
and First Amendment to Amended and Restated Pledge Agreement

AGENT:

PNC BANK, NATIONAL ASSOCIATION,
as Agent

By: _____
Name: Jeffrey Cristol
Title: Senior Vice President

SOLE LENDER:

PNC BANK, NATIONAL ASSOCIATION

By: _____
Name: Jeffrey Cristol
Title: Senior Vice President

Fourth Amendment to Amended and Restated Revolving Credit and Security Agreement
and First Amendment to Amended and Restated Pledge Agreement

**Exhibit A to
Fourth Amendment to Amended and Restated Revolving Credit and Security Agreement
and First Amendment to Amended and Restated Pledge Agreement**

EXHIBIT "A" TO PLEDGE AGREEMENT

All of each Pledgor's (a) right, title and interest in and to all of the Equity Interests of the pledged companies set forth below, in each case, regardless of class or designation, and all substitutions therefor and replacements thereof, all proceeds thereof and all rights relating thereto, also including any certificates representing such Equity Interests, the right to receive any certificates representing any of such Equity Interests, all warrants, options, share appreciation rights and other rights, contractual or otherwise, in respect thereof and the right to receive all dividends, distributions of income, profits, surplus, or other compensation by way of income or liquidating distributions, in cash or in kind, and all cash, instruments, and other property from time to time received, receivable, or otherwise distributed in respect of or in addition to, in substitution of, on account of, or in exchange for any or all of the foregoing, (ii) rights, powers, and remedies under the limited liability company operating agreements of each of the pledged companies that are limited liability companies ~~and~~ (iii) rights, powers, and remedies under the partnership agreements of each of the pledged companies that are partnerships, and (iv) all "instruments" (as defined in Article 9 of the Uniform Commercial Code), including promissory notes and all proceeds and products thereof in whatever form.

Pledged Companies

Name of Pledged Company	Pledged By	Number of Shares/Units	Class of Interests	Percentage of Class Owned	Percentage of Class Pledged	Certificate Nos.
Dillco Fluid Service, Inc.	Enservco	712,733	Common	100%	100%	10
Heat Waves Hot Oil Service LLC	Enservco	100	LLC	100%	100%	N/A
HE Services, LLC	Dillco	100	LLC	100%	100%	N/A
Real GC LLC	Dillco	100	LLC	100%	100%	N/A

The owner's interests in WET Oilfield Services, LLC, a limited liability company formed under Colorado law owned by Ernest L. ("EL") Dodson, in his individual capacity, Ernest C. ("Chad") Dodson, in his individual capacity, and Lance C. ("Cody") Dodson, in his individual capacity, and originally pledged to Enservco Corporation pursuant to the Pledge and Security Agreement dated October 6, 2015, as amended and restated (the "Amended and Restated Pledge and Security Agreement" dated October [], 2015) to collateralize the repayment of the Amended and Restated 7% Secured Promissory Note dated October [], 2015.

Instruments

That certain Amended and Restated 7% Secured Promissory Note, dated October [], 2015, in the original principal amount of \$250,000 issued by Ernest L. ("EL") Dodson, in his individual capacity, Ernest C. ("Chad") Dodson, in his individual capacity, and Lance C. ("Cody") Dodson, in his individual capacity, and originally made payable to the order of Enservco Corporation.

Fourth Amendment to Amended and Restated Revolving Credit and Security Agreement
and First Amendment to Amended and Restated Pledge Agreement

**SIXTH AMENDMENT TO
AMENDED AND RESTATED REVOLVING CREDIT AND SECURITY AGREEMENT**

This SIXTH AMENDMENT TO AMENDED AND RESTATED REVOLVING CREDIT AND SECURITY AGREEMENT (this "Amendment"), effective as of March 29, 2016, is entered into by and among ENSERVCO CORPORATION, a Delaware corporation ("Enservco"), DILLCO FLUID SERVICE, INC., a Kansas corporation ("Dillco"), and HEAT WAVES HOT OIL SERVICE LLC, a Colorado limited liability company ("Heat Waves") (Enservco, Dillco and Heat Waves, and each Person joined hereto as a borrower from time to time, each, a "Borrower" and collectively, "Borrowers"), PNC BANK, NATIONAL ASSOCIATION ("PNC"), as the sole Lender on the date hereof, and PNC, as Agent for the Lenders (in such capacity, "Agent"), with reference to the following facts:

RECITALS

A. The parties to this Amendment have entered into an Amended and Restated Revolving Credit and Security Agreement, dated as of September 12, 2014, as amended by the Consent and First Amendment to Amended and Restated Revolving Credit and Security Agreement dated as of February 27, 2015, the Second Amendment to Amended and Restated Revolving Credit and Security Agreement dated as of March 29, 2015, and the Third Amendment to Amended and Restated Revolving Credit and Security Agreement dated as of July 16, 2015, the Fourth Amendment to Amended and Restated Revolving Credit and Security Agreement and First Amendment to Amended and Restated Pledge and Security Agreement dated as of October 19, 2015, and the Fifth Amendment to Amended and Restated Revolving Credit and Security Agreement effective as of December 31, 2015 (as maybe further amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), pursuant to which the Lenders provide certain credit facilities to Borrowers;

B. Any and all initially capitalized terms used in this Amendment without definition shall have the respective meanings assigned thereto in the Credit Agreement;

C. Borrowers have requested Agent and the Lenders amend certain provisions of the Credit Agreement as more fully set forth herein; and

D. Agent and the Lenders are willing to make such amendments to the Credit Agreement, in accordance with, and subject to the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the agreements hereinafter set forth, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

**ARTICLE I
AMENDMENTS TO CREDIT AGREEMENT**

1.01 Amendments to Credit Agreement. The Credit Agreement is hereby amended to delete the stricken text (indicated textually in the same manner as the following example: ~~stricken text~~) and to add the double-underlined text (indicated textually in the same manner as the following example: double-underlined text) as set forth in the pages of the Credit Agreement attached as Exhibit A hereto.

**ARTICLE II
CONDITIONS PRECEDENT**

2.01 Closing Conditions. This Amendment shall become effective as of the day and year first set forth above (the “Amendment Effective Date”) upon satisfaction of the following conditions (in each case, in form and substance reasonably acceptable to the Agent):

- (a) Amendment. The Agent shall have received from Borrowers, this Amendment duly executed by Borrowers and by PNC, as Agent and as the sole Lender as of the Amendment Effective Date;
- (b) Fees and Expenses. (a) The Agent shall have received from the Borrowers, an amendment fee in an amount equal to \$50,000, and such other fees and expenses that are payable in connection with the consummation of the transactions contemplated hereby, and (b) the Agent's counsel shall have received from Borrowers payment of all outstanding fees and expenses previously incurred and all fees and expenses incurred in connection with this Amendment;
- (c) Default. After giving effect to this Amendment, no Default or Event of Default shall exist; and
- (d) Representations and Warranties. The representations and warranties set forth herein must be true and correct in all material respects (except that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof).

**ARTICLE III
MISCELLANEOUS**

3.01 Survival of Representations and Warranties. All representations and warranties made in the Credit Agreement or in any Other Document and any related agreements to which it is a party, and each of the representations and warranties contained in any certificate, document or financial or other statement furnished at any time under or in connection with the Credit Agreement, the Other Documents or any related agreement are true and correct in all material respects on and as of the date hereof as though made on and as of the date hereof, other than representations and warranties relating to a specific earlier date, and in such case such representations and warranties are true and correct in all material respects as of such earlier date.

3.02 Deposit Accounts and Securities Accounts. Schedule 4.8(i) of the Credit Agreement lists all deposit accounts (including all Blocked Accounts and Depository Accounts), securities accounts and investment accounts of each Borrower and its Subsidiaries as of the Sixth Amendment Effective Date.

3.03 Authority. Each Borrower has full power, authority and legal right to enter into this Amendment and to perform all its respective Obligations hereunder and under the Other Documents (as amended or modified hereby). This Amendment has been duly executed and delivered by such Person, and this Amendment constitutes the legal, valid and binding obligation of such Person enforceable in accordance with its terms, except as such enforceability may be limited by any applicable bankruptcy, insolvency, moratorium or similar laws affecting creditors' rights generally. The execution, delivery and performance of this Amendment (a) are within such Person's corporate, limited liability company or limited partnership powers (as applicable), have been duly authorized by all necessary company or partnership (as applicable) action, are not in contravention of law or the terms of such Person's operating agreement, bylaws, partnership agreement, certificate of formation, articles of incorporation or other applicable documents relating to such Person's formation or to the conduct of such Person's business or of any material agreement or undertaking to which such Person is a party or by which such Person is bound, (b) will not, in any material respect, conflict with or violate any law or regulation, or any judgment, order or decree of any Governmental Body, (c) will not require the Consent of any Governmental Body or any other Person, except those Consents which have been duly obtained, made or compiled prior to the date hereof and which are in full force and effect or except those which the failure to have obtained would not have, or could not reasonably be expected to have a Material Adverse Effect and (d) will not conflict with, nor result in any breach in any of the provisions of or constitute a default under or result in the creation of any Lien except Permitted Encumbrances upon any asset of any Borrower or Guarantor under the provisions of any material agreement, charter document, operating agreement or other instrument to which any Borrower or Guarantor is a party or by which it or its property is a party or by which it may be bound.

3.04 No Default. After giving effect to this Amendment, no event has occurred and is continuing that constitutes a Default or an Event of Default.

3.05 References to the Credit Agreement. The Credit Agreement, each of the Other Documents, and any and all other agreements, documents or instruments now or hereafter executed and delivered pursuant to the terms hereof, or pursuant to the terms of the Credit Agreement as amended hereby, are hereby amended so that any reference therein to the Credit Agreement shall mean a reference to the Credit Agreement as amended by this Amendment.

3.06 Credit Agreement Remains in Effect. The Credit Agreement and the Other Documents remain in full force and effect and Borrowers ratify and confirm their agreements and covenants contained therein. Borrowers hereby confirm that, after giving effect to this Amendment, no Event of Default or Default has occurred and is continuing. The execution, delivery and effectiveness of this Amendment shall not operate as a waiver of any right, power or remedy of the Agent or the Lenders under any of the Other Documents, nor constitute a waiver of any provision of any of the Other Documents.

3.07 Submission of Amendment. The submission of this Amendment to the parties or their agents or attorneys for review or signature does not constitute a commitment by Agent or the Lenders to modify any of their respective rights and remedies under the Other Documents, and this Amendment shall have no binding force or effect until all of the conditions to the effectiveness of this Amendment have been satisfied as set forth herein.

3.08 Severability. Any provision of this Amendment held by a court of competent jurisdiction to be invalid or unenforceable shall not impair or invalidate the remainder of this Amendment and the effect thereof shall be confined to the provision so held to be invalid or unenforceable.

3.09 Counterparts. This Amendment may be executed in one or more counterparts, each of which when so executed shall be deemed to be an original, but all of which when taken together shall constitute one and the same instrument.

3.10 Headings. The headings, captions and arrangements used in this Amendment are for convenience only and shall not affect the interpretation of this Amendment.

3.11 Expenses of Agent. Borrowers agree to pay on demand all costs and expenses reasonably incurred by Agent in connection with the preparation, negotiation and execution of this Amendment, including, without limitation, the costs and fees of Agent's legal counsel.

3.12 General Release. In consideration of the Agent's willingness to enter into this Amendment, on behalf of the Lenders, each Borrower and Guarantor hereby releases and forever discharges the Agent and Lenders, and the Agent's and Lenders' respective predecessors, successors, assigns, officers, managers, directors, employees, agents, attorneys, representatives, and affiliates (hereinafter all of the above collectively referred to as the "Bank Group"), from any and all claims, counterclaims, demands, damages, debts, suits, liabilities, actions and causes of action of any nature whatsoever, including, without limitation, all claims, demands, and causes of action for contribution and indemnity, whether arising at law or in equity, whether known or unknown, whether liability be direct or indirect, liquidated or unliquidated, whether absolute or contingent, foreseen or unforeseen, and whether or not heretofore asserted, which any Borrower or Guarantor may have or claim to have against any of the Bank Group in any way related to or connected with the Credit Agreement or the Other Documents and the transactions contemplated thereby.

3.13 NO ORAL AGREEMENTS. THIS AMENDMENT, TOGETHER WITH THE OTHER DOCUMENTS AS WRITTEN, REPRESENTS THE FINAL AGREEMENT AMONG THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS AMONG THE PARTIES.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties have entered into this Amendment by their respective duly authorized officers as of the date first above written.

BORROWERS:

ENSERVO CORPORATION,
a Delaware corporation

By: _____
Name: Rick D. Kasch
Title: President

DILLCO FLUID SERVICE, INC.,
a Kansas corporation

By: _____
Name: Rick D. Kasch
Title: President

HEAT WAVES HOT OIL SERVICE LLC,
a Colorado limited liability company

By: _____
Name: Rick D. Kasch
Title: Manager

Sixth Amendment to Amended and Restated Revolving Credit and Security Agreement

AGENT:

PNC BANK, NATIONAL ASSOCIATION

By: _____
Mark Tito
Vice President

SOLE LENDER:

PNC BANK, NATIONAL ASSOCIATION

By: _____
Mark Tito
Vice President

Sixth Amendment to Amended and Restated Revolving Credit and Security Agreement

AMENDED AND RESTATED REVOLVING CREDIT
AND
SECURITY AGREEMENT
PNC BANK, NATIONAL ASSOCIATION
(AS LENDER AND AS AGENT)
WITH
ENSERVCO CORPORATION,
DILLCO FLUID SERVICE, INC.,
AND
HEAT WAVES HOT OIL ~~SERVICES~~ SERVICE LLC
(BORROWERS)
September 12, 2014

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LIST OF EXHIBITS AND SCHEDULES

Exhibits

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Schedule 5.27	Material Contracts

**AMENDED AND RESTATED REVOLVING CREDIT
AND
SECURITY AGREEMENT**

Amended and Restated Revolving Credit and Security Agreement dated as of September 12, 2014 among ENSERVCO CORPORATION, a Delaware corporation ("Enservco"), DILLCO FLUID SERVICE, INC., a Kansas corporation ("Dillco"), and HEAT WAVES HOT OIL ~~SERVICES~~ SERVICE LLC, a Colorado limited liability company ("Heat Waves") (Enservco, Dillco and Heat Waves and each Person joined hereto as a borrower from time to time, each, a "Borrower" and collectively, "Borrowers"), the financial institutions which are now or which hereafter become a party hereto (collectively, "Lenders" and each individually, a "Lender") and PNC BANK, NATIONAL ASSOCIATION ("PNC"), as agent for Lenders (PNC, in such capacity, "Agent").

RECITALS

A. The parties hereto are parties to the Revolving Credit, Term Loan and Credit Agreement, dated as of November 2, 2012 (as amended, the "Existing Credit Agreement") by and among Borrowers, the Lenders identified therein and Agent, and certain Other Documents entered into in connection with (and as defined in) the Existing Credit Agreement (collectively with the Existing Credit Agreement, the "Existing Loan Documents"), pursuant to which Lenders party thereto agreed to provide Revolving Advances and Letters of Credit in the aggregate principal amount of up to \$5,000,000 and a Term Loan in the aggregate principal amount of \$11,000,000, in each case on terms and conditions set forth in the Existing Credit Agreement.

B. In order to (a) refinance the Term Loan under (as defined in) the Existing Credit Agreement , (b) refinance existing term loan Indebtedness of the Borrowers (other than the Term Loan), (c) pay transactional fees, costs, and expenses incurred in connection with this Agreement, the Other Documents, and the transactions contemplated hereby and thereby, and (d) finance general corporate purposes of Borrowers, Borrowers have requested that the Lenders extend additional credit to Borrowers pursuant to, and in accordance with, this Agreement; and

C. The parties wish to enter into this Agreement and the Other Documents described herein, which shall amend, restate, replace and supersede (but not cause a novation of) the Existing Credit Agreement and the other Existing Loan Documents and which hereinafter shall govern the terms and conditions under which the Lenders shall provide senior revolving and letter of credit facilities to the Borrowers.

D. On the effective date of this Agreement, the Existing Letters of Credit identified more particularly herein, which were issued under the Existing Credit Agreement, will be considered to be outstanding under and hereafter shall be governed by the terms of this Agreement.

IN CONSIDERATION of the mutual covenants and undertakings herein contained, Borrowers, Lenders and Agent hereby agree as follows:

I. **DEFINITIONS.**

1.1 Accounting Terms. As used in this Agreement, the Other Documents or any certificate, report or other document made or delivered pursuant to this Agreement, accounting terms not defined in Section 1.2 or elsewhere in this Agreement and accounting terms partly defined in Section 1.2 to the extent not defined shall have the respective meanings given to them under GAAP; provided, however, whenever such accounting terms are used for the purposes of determining compliance with financial covenants in this Agreement, such accounting terms shall be defined in accordance with GAAP as applied in preparation of the audited financial statements of Borrowers for the fiscal year ended December 31, 2013.

1.2 General Terms. For purposes of this Agreement the following terms shall have the following meanings:

"Accountants" shall have the meaning set forth in Section 9.7 hereof.

"Adjusted EBITDA" shall mean EBITDA for such period plus: (A) depletion, (B) amortization of deferred financing costs, (C) impairment, (D) non-cash expenses relating to share based payments recognized under ASC Topic 718 and ASC Subtopic 505-50, (E) pre-tax unrealized gains and losses on foreign currency, (F) pre-tax unrealized gain and losses on any Interest Rate Hedge or other Hedge Liabilities or commodity price risk management activities, (G) losses on derivatives for such period, (H) losses on sale of damaged, obsolete or worn-out equipment for such period and (I) losses on sale of investments for such period; minus (X) gains on derivatives for such period, (Y) gains on sale of damaged, obsolete or worn-out equipment for such period, and (Z) gains on sale of investments for such period.

"Advance Rates" shall mean, collectively, the Receivables Advance Rate, the Existing Equipment Advance Rate and the New Equipment Advance Rate.

"Advances" shall mean and include the Revolving Advances and the Letters of Credit.

"Affected Lender" shall have the meaning set forth in Section 3.11 hereof.

"Affiliate" of any Person shall mean (a) any Person which, directly or indirectly, is in control of, is controlled by, or is under common control with such Person, or (b) any Person who is a director, manager, member, managing member, general partner or officer (i) of such Person, (ii) of any Subsidiary of such Person or (iii) of any Person described in clause (a) above. For purposes of this definition, control of a Person shall mean the power, direct or indirect, (x) to vote 5% or more of the Equity Interests having ordinary voting power for the election of directors of such Person or other Persons performing similar functions for any such Person, or (y) to direct or cause the direction of the management and policies of such Person whether by ownership of Equity Interests, contract or otherwise.

"Agent" shall have the meaning set forth in the preamble to this Agreement and shall include its successors and assigns.

"Agreement" shall mean this Amended and Restated Revolving Credit and Security Agreement, as the same may be amended, restated, supplemented or otherwise modified from time to time.

"Alternate Base Rate" shall mean, for any day, a rate per annum equal to the highest of (a) the Base Rate in effect on such day, (b) the sum of the Federal Funds Open Rate in effect on such day plus one half of one percent (0.5%), and (c) the sum of the Daily LIBOR Rate in effect on such day plus one percent (1.0%), so long as a Daily LIBOR Rate is offered, ascertainable and not unlawful.

"Alternate Source" shall have the meaning set forth in the definition of Federal Funds Open Rate.

"Amendment Effective Date" shall mean September 12, 2014 or such other date as may be agreed to in writing by the parties hereto.

"Anti-Terrorism Laws" shall mean any Laws relating to terrorism, trade sanctions programs and embargoes, import/export licensing, money laundering or bribery, and any regulation, order, or directive promulgated, issued or enforced pursuant to such Laws, all as amended, supplemented or replaced from time to time.

"Applicable Law" shall mean all laws, rules and regulations applicable to the Person, conduct, transaction, covenant, Other Document or contract in question, including all applicable common law and equitable principles, all provisions of all applicable state, federal and foreign constitutions, statutes, rules, regulations, treaties, directives and orders of any Governmental Body, and all orders, judgments and decrees of all courts and arbitrators.

"Applicable Margin" shall mean, with respect to Domestic Rate Loans or LIBOR Rate Loans, as the case may be, as of any date of determination, the margins set forth in the following table that correspond to the Borrowers' Average Undrawn Availability for the most recently completed fiscal quarter of Borrowers:

Level	Average Undrawn Availability	Applicable Margin for Domestic Rate Loans	Applicable Margin for LIBOR Rate Loans
I	≥ \$4,000,000	1.00 3.00%	2.50 4.50%
II	< \$4,000,000 and ≥ \$3,000,000	1.50 3.50%	3.00 5.00%
III	< \$3,000,000	2.00 4.00%	3.50 5.50%

The Applicable Margin shall be adjusted on the first day of each fiscal quarter of Borrowers, and shall be based upon the Average Undrawn Availability as of such date which shall be calculated by Agent using its internal records and the Borrowing Base Certificates delivered by Borrowers pursuant to Section 9.2; provided that from the Sixth Amendment Effective Date through and including the last day of the quarter fiscal quarter ended ~~March 31, 2015, 2016~~; the Applicable Margin shall be set at Level I specified in the pricing table set forth above.

Notwithstanding anything to the contrary contained herein, no downward adjustment in any Applicable Margin shall be made on any date on which any Event of Default shall have occurred and be continuing. Any increase in interest rates and/or other fees payable by Borrowers under this Agreement and the Other Documents pursuant to the provisions of the foregoing sentence shall be in addition to and independent of any increase in such interest rates and/or other fees resulting from the occurrence of any Event of Default (including, if applicable, any Event of Default arising from a breach of Sections 9.7 or 9.8 hereof) and/or the effectiveness of the Default Rate provisions of Section 3.1 hereof or the default fee rate provisions of Section 3.2 hereof.

"Application Date" shall have the meaning set forth in Section 2.8(b) hereof.

"Approvals" shall have the meaning set forth in Section 5.7(b) hereof.

"Approved Electronic Communication" shall mean each notice, demand, communication, information, document and other material transmitted, posted or otherwise made or communicated by e-mail, E-Fax, the StuckyNet System^{††}, or any other equivalent electronic service agreed to by Agent, whether owned, operated or hosted by Agent, any Lender, any of their Affiliates or any other Person, that any party is obligated to, or otherwise chooses to, provide to Agent pursuant to this Agreement or any Other Document, including any financial statement, financial and other report, notice, request, certificate and other information material; provided that Approved Electronic Communications shall not include any notice, demand, communication, information, document or other material that Agent specifically instructs a Person to deliver in physical form.

"Availability Block" means (a) commencing on the Sixth Amendment Effective Date and continuing until such time as Agent receives an appraisal of the Borrowers' assets, the results of which shall be satisfactory in form and substance to Agent, \$2,400,000 and (b) thereafter, \$0.

"Average Undrawn Availability" shall mean, as of any date of determination, the sum of Undrawn Availability for each of the previous ~~one hundred eighty~~ ~~(180) ninety~~ days, divided by ~~one hundred eighty~~ ~~(180) ninety~~ days.

"Base Rate" shall mean the base commercial lending rate of PNC as publicly announced to be in effect from time to time, such rate to be adjusted automatically, without notice, on the effective date of any change in such rate. This rate of interest is determined from time to time by PNC as a means of pricing some loans to its customers and is neither tied to any external rate of interest or index nor does it necessarily reflect the lowest rate of interest actually charged by PNC to any particular class or category of customers of PNC.

[†]NTD — Enservco currently uses StuckyNet System to make draw requests

"Benefited Lender" shall have the meaning set forth in Section 2.6(e) hereof.

"Blocked Account Bank" shall have the meaning set forth in Section 4.8(h) hereof.

"Blocked Accounts" shall have the meaning set forth in Section 4.8(h) hereof.

"Borrower" or "Borrowers" shall have the meaning set forth in the preamble to this Agreement and shall extend to all permitted successors and assigns of such Persons.

"Borrowers on a Consolidated Basis" shall mean the consolidation in accordance with GAAP of the accounts or other items of Enservco and its Subsidiaries whether or not the Subsidiaries are a Borrower, and which are included on a consolidated basis in the financial statements filed by Enservco with the SEC.

"Borrowers' Account" shall have the meaning set forth in Section 2.10 hereof.

"Borrowing Agent" shall mean Enservco.

"Borrowing Base Certificate" shall mean a certificate in substantially the form of Exhibit 1.2(a) hereto duly executed by the President, Chief Financial Officer or Controller of the Borrowing Agent and delivered to Agent, appropriately completed, by which such officer shall certify to Agent the Formula Amount and calculation thereof as of the date of such certificate.

"Business Day" shall mean any day other than Saturday or Sunday or a legal holiday on which commercial banks are authorized or required by law to be closed for business in East Brunswick, New Jersey and, if the applicable Business Day relates to any LIBOR Rate Loans, such day must also be a day on which dealings are carried on in the London interbank market.

"Capital Expenditures" shall mean expenditures made or liabilities incurred for the acquisition of any fixed assets or improvements (or of any replacements or substitutions thereof or additions thereto) which have a useful life of more than one year and which, in accordance with GAAP, would be classified as capital expenditures. Capital Expenditures shall include the total principal portion of Capitalized Lease Obligations. Notwithstanding the foregoing, solely for the purposes of calculating the Fixed Charge Coverage Ratio in accordance with Section 6.5(a) hereof, Borrowers shall be permitted to deduct from the calculation of Capital Expenditures the expenditures made or liabilities incurred during the applicable measurement period for the acquisition of new fixed assets or improvements to the extent such fixed assets or improvements have not been made available to the Borrowers for use as of the date of such calculation.

"Capitalized Lease Obligation" shall mean any Indebtedness of any Borrower represented by obligations under a lease that is required to be capitalized for financial reporting purposes in accordance with GAAP.

"Cash Management Products and Services" shall mean agreements or other arrangements under which Agent or any Lender or any Affiliate of Agent or a Lender provides any of the following products or services to any Borrower: (a) credit cards; (b) credit card processing services; (c) debit cards and stored value cards; (d) commercial cards; (e) ACH transactions; and (f) cash management and treasury management services and products, including without limitation controlled disbursement accounts or services, lockboxes, automated clearinghouse transactions, overdrafts, interstate depository network services. The indebtedness, obligations and liabilities of any Borrower to the provider of any Cash Management Products and Services (including all obligations and liabilities owing to such provider in respect of any returned items deposited with such provider) (the "Cash Management Liabilities") shall be "Obligations" hereunder, guaranteed obligations under the Guaranty and secured obligations under any Guarantor Security Agreement, as applicable, and otherwise treated as Obligations for purposes of each of the Other Documents. The Liens securing the Cash Management Products and Services shall be pari passu with the Liens securing all other Obligations under this Agreement and the Other Documents, subject to the express provisions of Section 11.5.

"Cash Management Liabilities" shall have the meaning provided in the definition of "Cash Management Products and Services."

"CEA" shall mean the Commodity Exchange Act (7 U.S.C. § 1 et seq.), as amended from time to time, and any successor statute.

"CFTC" shall mean the Commodity Futures Trading Commission.

"CERCLA" shall mean the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. §§9601 et seq.

"Change in Law" shall mean the occurrence, after the Amendment Effective Date, of any of the following: (a) the adoption or taking effect of any Applicable Law; (b) any change in any Applicable Law or in the administration, implementation, interpretation or application thereof by any Governmental Body; or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Body; provided that notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, regulations, guidelines, interpretations or directives thereunder or issued in connection therewith (whether or not having the force of Applicable Law) and (y) all requests, rules, regulations, guidelines, interpretations or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities (whether or not having the force of law), in each case pursuant to Basel III, shall in each case be deemed to be a Change in Law regardless of the date enacted, adopted, issued, promulgated or implemented.

"Change of Control" shall mean any of the following events to the extent that such event has (or can reasonably be expected to have) a Material Adverse Effect on the Borrowers on a Consolidated Basis: (a) Enservco shall cease to own all of the Equity Interests of Dillco, (b) Enservco shall cease to own all of the Equity Interests of Heat Waves or (c) any merger, consolidation or sale of substantially all of the property or assets of any Borrower.

"Charges" shall mean all taxes, charges, fees, imposts, levies or other assessments, including all net income, gross income, gross receipts, sales, use, ad valorem, value added, transfer, franchise, profits, inventory, capital stock, license, withholding, payroll, employment, social security, unemployment, excise, severance, stamp, occupation and property taxes, custom duties, fees, assessments, liens, claims and charges of any kind whatsoever, together with any interest and any penalties, additions to tax or additional amounts, imposed by any taxing or other authority, domestic or foreign (including the Pension Benefit Guaranty Corporation or any environmental agency), upon the Collateral, any Borrower or any of its Affiliates.

"CIP Regulations" shall have the meaning set forth in Section 14.12 hereof.

"Code" shall mean the Internal Revenue Code of 1986, as the same may be amended or supplemented from time to time, and any successor statute of similar import, and the rules and regulations thereunder, as from time to time in effect.

"Collateral" shall mean and include all right, title and interest of each Borrower in all of the following property and assets of such Borrower, in each case whether now existing or hereafter arising or created and whether now owned or hereafter acquired and wherever located:

- (a) all Receivables and all supporting obligations relating thereto;
- (b) all equipment and fixtures;
- (c) all general intangibles (including all payment intangibles and all software) and all supporting obligations related thereto;
- (d) all Inventory;
- (e) all Subsidiary Stock, securities, investment property, and financial assets;

(f) all contract rights, rights of payment which have been earned under a contract rights, chattel paper (including electronic chattel paper and tangible chattel paper), commercial tort claims (whether now existing or hereafter arising); documents (including all warehouse receipts and bills of lading), deposit accounts, goods, instruments (including promissory notes), letters of credit (whether or not the respective letter of credit is evidenced by a writing) and letter-of-credit rights, cash, certificates of deposit, insurance proceeds (including hazard, flood and credit insurance), security agreements, eminent domain proceeds, condemnation proceeds, tort claim proceeds and all supporting obligations;

(g) all ledger sheets, ledger cards, files, correspondence, records, books of account, business papers, computers, computer software (owned by any Borrower or in which it has an interest), computer programs, tapes, disks and documents, including all of such property relating to the property described in clauses (a) through (f) of this definition; and

(h) all proceeds and products of the property described in clauses (a) through (g) of this definition, in whatever form. It is the intention of the parties that if Agent shall fail to have a perfected Lien in any particular property or assets of any Borrower for any reason whatsoever, but the provisions of this Agreement and/or of the Other Documents, together with all financing statements and other public filings relating to Liens filed or recorded by Agent against Borrowers, would be sufficient to create a perfected Lien in any property or assets that such Borrower may receive upon the sale, lease, license, exchange, transfer or disposition of such particular property or assets, then all such "proceeds" of such particular property or assets shall be included in the Collateral as original collateral that is the subject of a direct and original grant of a security interest as provided for herein and in the Other Documents (and not merely as proceeds (as defined in Article 9 of the Uniform Commercial Code) in which a security interest is created or arises solely pursuant to Section 9-315 of the Uniform Commercial Code).

Notwithstanding the foregoing, Collateral shall not include any of the foregoing which are collateral for Permitted Encumbrances.

"Commitment Transfer Supplement" shall mean a document in the form of Exhibit 16.3 hereto, properly completed and otherwise in form and substance satisfactory to Agent by which the Purchasing Lender purchases and assumes a portion of the obligation of Lenders to make Advances under this Agreement.

"Compliance Certificate" shall mean a compliance certificate substantially in the form of Exhibit 1.2(b) hereto to be signed by the Chief Financial Officer or Controller of Borrowing Agent.

"Consents" shall mean all filings and all licenses, permits, consents, approvals, authorizations, qualifications and orders of Governmental Bodies and other third parties, domestic or foreign, necessary to carry on any Borrower's business or necessary (including to avoid a conflict or breach under any agreement, instrument, other document, license, permit or other authorization) for the execution, delivery or performance of this Agreement, the Other Documents, including any Consents required under all applicable federal, state or other Applicable Law, except to the extent that the failure to obtain such Consent reasonably would not be expected to have a Material Adverse Effect.

"Contract Rate" shall have the meaning set forth in Section 3.1 hereof.

"Controlled Group" shall mean, at any time, each Borrower and all members of a controlled group of corporations and all trades or businesses (whether or not incorporated) under common control and all other entities which, together with any Borrower, are treated as a single employer under Section 414 of the Code.

"Covered Entity" shall mean (a) each Borrower, each of Borrower's Subsidiaries, all Guarantors and all pledgors of Collateral and (b) each Person that, directly or indirectly, is in control of a Person described in clause (a) above. For purposes of this definition, control of a Person shall mean the direct or indirect (x) ownership of, or power to vote, 25% or more of the issued and outstanding equity interests having ordinary voting power for the election of directors of such Person or other Persons performing similar functions for such Person, or (y) power to direct or cause the direction of the management and policies of such Person whether by ownership of equity interests, contract or otherwise.

"Customer" shall mean and include the account debtor with respect to any Receivable and/or the prospective purchaser of goods, services or both with respect to any contract or contract right, and/or any party who enters into or proposes to enter into any contract or other arrangement with any Borrower, pursuant to which such Borrower is to deliver any personal property or perform any services.

"Customs" shall have the meaning set forth in Section 2.13(b) hereof.

"Daily LIBOR Rate" shall mean, for any day, the rate per annum determined by the Agent by dividing (x) the Published Rate by (y) a number equal to 1.00 minus the Reserve Percentage.

"Debt Payments" shall mean for any period, in each case, all cash actually expended by any Borrower to make: (a) interest payments on any Advances hereunder, plus (b) payments for all fees, commissions and charges set forth herein, plus (c) payments on Capitalized Lease Obligations, plus (d) payments with respect to any other Indebtedness for borrowed money.

"Default" shall mean an event, circumstance or condition which, with the giving of notice or passage of time or both, would constitute an Event of Default.

"Default Rate" shall have the meaning set forth in Section 3.1 hereof.

"Defaulting Lender" shall mean any Lender that: (a) has failed, within two (2) Business Days of the date required to be funded or paid, to (i) fund any portion of its Revolving Commitment Percentage of Advances, (ii) if applicable, fund any portion of its Participation Commitment in Letters of Credit or (iii) pay over to Agent, Issuer or any Lender any other amount required to be paid by it hereunder, unless, in the case of clause (i) above, such Lender notifies Agent in writing that such failure is the result of such Lender's good faith determination that a condition precedent to funding (specifically identified and including a particular Default or Event of Default, if any) has not been satisfied; (b) has notified Borrowers or Agent in writing, or has made a public statement to the effect, that it does not intend or expect to comply with any of its funding obligations under this Agreement (unless such writing or public statement indicates that such position is based on such Lender's good faith determination that a condition precedent (specifically identified and including a particular Default or Event of Default, if any) to funding a loan under this Agreement cannot be satisfied) or generally under other agreements in which it commits to extend credit; (c) has failed, within two (2) Business Days after request by Agent, acting in good faith, to provide a certification in writing from an authorized officer of such Lender that it will comply with its obligations (and is financially able to meet such obligations) to fund prospective Advances and, if applicable, participations in then outstanding Letters of Credit under this Agreement, provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon Agent's receipt of such certification in form and substance satisfactory to the Agent; (d) has become the subject of an Insolvency Event; or (e) has failed at any time to comply with the provisions of Section 2.6(e) with respect to purchasing participations from the other Lenders, whereby such Lender's share of any payment received, whether by setoff or otherwise, is in excess of its pro rata share of such payments due and payable to all of the Lenders.

"Depository Accounts" shall have the meaning set forth in Section 4.8(h) hereof.

"Designated Lender" shall have the meaning set forth in Section 16.2(d) hereof.

"Dillco" shall have the meaning set forth in preamble hereof.

"Document" shall have the meaning given to the term "document" in the Uniform Commercial Code.

"Dollar" and the sign "\$" shall mean lawful money of the United States of America.

"Domestic Rate Loan" shall mean any Advance that bears interest based upon the Alternate Base Rate.

~~"Dominion Event" shall mean that Undrawn Availability on any date is less than the greater of (a) \$3,500,000 or (b) the product of the Formula Amount on such date (up to the Maximum Revolving Advance Amount) times 15%.~~

"Drawing Date" shall have the meaning set forth in Section 2.14(b) hereof.

"Early Termination Date" shall have the meaning set forth in Section 13.1 hereof.

"EBITDA" shall mean for any period the sum of (i) net income (or loss) of Borrowers on a Consolidated Basis for such period (excluding extraordinary gains and losses), plus (ii) all interest expense of Borrowers on a Consolidated Basis for such period, plus (iii) all charges against income of Borrowers on a Consolidated Basis for such period for federal, state and local taxes actually paid, plus (iv) depreciation expenses for such period, plus (v) amortization expenses for such period.

"Effective Date" means the date indicated in a document or agreement to be the date on which such document or agreement becomes effective, or, if there is no such indication, the date of execution of such document or agreement.

"Eligible Contract Participant" shall mean an "eligible contract participant" as defined in the CEA and regulations thereunder.

"Eligibility Date" shall mean, with respect to each Borrower and Guarantor and each Swap, the date on which this Agreement or any Other Document becomes effective with respect to such Swap (for the avoidance of doubt, the Eligibility Date shall be the Effective Date of such Swap if this Agreement or any Other Document is then in effect with respect to such Borrower or Guarantor, and otherwise it shall be the Effective Date of this Agreement and/or such Other Document(s) to which such Borrower or Guarantor is a party).

"Eligible Existing Equipment Advance Rate" shall have the meaning set forth in Section 2.1(a)(y)(ii) hereof.

"Eligible Existing Equipment" shall mean and include with respect to each Borrower, (i) the equipment owned by such Borrower on the Amendment Effective Date, and (ii) the equipment purchased, acquired or newly fabricated by such Borrower after the Amendment Effective Date to the extent Agent has received an equipment appraisal covering such equipment, and which in each case Agent, in its sole credit judgment, deems to be Eligible Existing Equipment, based on such considerations as Agent may from time to time deem appropriate.

"Eligible New Equipment Advance Rate" shall have the meaning set forth in Section 2.1(a)(v)(iii) hereof.

"Eligible New Equipment" shall mean and include with respect to each Borrower, the equipment purchased, acquired or newly fabricated by such Borrower on or after Amendment Effective Date and not covered by an equipment appraisal received by Agent, and which Agent, in its sole credit judgment, deems to be Eligible New Equipment, based on such considerations as Agent may from time to time deem appropriate. For the avoidance of doubt, equipment purchased, acquired or newly fabricated by any Borrower after the Amendment Effective Date shall cease to be Eligible New Equipment and instead shall constitute Eligible Existing Equipment on or after the date that Agent receives an updated equipment appraisal, in form and substance satisfactory to Agent, in respect of such equipment.

"Eligible Receivables" shall mean and include with respect to each Borrower, each Receivable of such Borrower arising in the Ordinary Course of Business and which Agent, in its sole credit judgment, shall deem to be an Eligible Receivable, based on such considerations as Agent may from time to time deem appropriate. A Receivable shall not be deemed eligible unless such Receivable is subject to Agent's first priority perfected security interest and no other Lien (other than Permitted Encumbrances), and is evidenced by an invoice or other documentary evidence satisfactory to Agent. In addition, no Receivable shall be an Eligible Receivable if:

- (a) it arises out of a sale made by any Borrower to an Affiliate of any Borrower or to a Person controlled by an Affiliate of any Borrower;
- (b) it is due or unpaid more than ninety (90) days after the original invoice date or sixty (60) days after the due date, or if such Receivable is from an Extended Term Customer, it is due or unpaid more than one hundred twenty (120) days after the original invoice date or ninety (90) days after the due date;
- (c) it constitutes a retainage receivable;
- (d) fifty percent (50%) or more of the Receivables from such Customer are not deemed Eligible Receivables hereunder if such Customer is not an Extended Term Customer, or twenty-five percent (25%) or more of the Receivables from such Customer are not deemed Eligible Receivables hereunder if such Customer is an Extended Term Customer;
- (e) any covenant, representation or warranty contained in this Agreement with respect to such Receivable has been breached in any material respect;

(f) the Customer shall (i) apply for, suffer, or consent to the appointment of, or the taking of possession by, a receiver, custodian, trustee or liquidator of itself or of all or a substantial part of its property or call a meeting of its creditors, (ii) admit in writing its inability, or be generally unable, to pay its debts as they become due or cease operations of its present business, (iii) make a general assignment for the benefit of creditors, (iv) commence a voluntary case under any state or federal bankruptcy laws (as now or hereafter in effect), (v) be adjudicated a bankrupt or insolvent, (vi) file a petition seeking to take advantage of any other law providing for the relief of debtors, (vii) acquiesce to, or fail to have dismissed, any petition which is filed against it in any involuntary case under such bankruptcy laws, or (viii) take any action for the purpose of effecting any of the foregoing;

(g) the sale is to a Customer outside the continental United States of America, unless the sale is on letter of credit, guaranty or acceptance terms, in each case acceptable to Agent in its Permitted Discretion;

(h) the sale to the Customer is on a bill-and-hold, guaranteed sale, sale-and-return, sale on approval, consignment or any other repurchase or return basis or is evidenced by chattel paper;

(i) Agent believes, in its Permitted Discretion, that collection of such Receivable is materially insecure or that such Receivable may not be paid by reason of the Customer's financial inability to pay;

(j) the Customer is the United States of America, any state or any department, agency or instrumentality of any of them, unless the applicable Borrower assigns its right to payment of such Receivable to Agent pursuant to the Assignment of Claims Act of 1940, as amended (31 U.S.C. Section 3727 et seq. and 41 U.S.C. Section 15 et seq.) or has otherwise complied with other applicable statutes or ordinances;

(k) the goods giving rise to such Receivable have not been delivered to and accepted by the Customer or the services giving rise to such Receivable have not been performed by the applicable Borrower and accepted by the Customer or the Receivable otherwise does not represent a final sale;

(l) the Receivables of the Customer exceed a credit limit determined by Agent, in its Permitted Discretion, to the extent such Receivable exceeds such limit;

(m) the Receivable is subject to any offset, deduction, defense, dispute, or counterclaim, the Customer is also a creditor or supplier of a Borrower, or the Receivable is contingent in any respect or for any reason;

(n) the applicable Borrower has made any agreement with any Customer for any deduction therefrom, except for discounts or allowances made in the Ordinary Course of Business for prompt payment, all of which discounts or allowances are reflected in the calculation of the face value of each respective invoice related thereto;

- (o) any return, rejection or repossession of the merchandise has occurred or the rendition of services has been disputed;
- (p) such Receivable is not payable to a Borrower; or
- (q) such Receivable is not otherwise satisfactory to Agent as determined in good faith by Agent in the exercise of its Permitted Discretion.

"Enservco" shall have the meaning set forth in preamble hereof.

"Environmental Complaint" shall have the meaning set forth in Section 9.3(b) hereof.

"Environmental Laws" shall mean all federal, state and local environmental, land use, zoning, health, chemical use, safety and sanitation laws, statutes, ordinances and codes as well as common laws, relating to the protection of the environment, human health and/or governing the use, storage, treatment, generation, transportation, processing, handling, production or disposal of Hazardous Materials and the rules, regulations, policies, guidelines, interpretations, decisions, orders and directives of federal, state, international and local governmental agencies and authorities with respect thereto.

"Equity Interests" shall mean, with respect to any Person, any and all shares, rights to purchase, options, warrants, general, limited or limited liability partnership interests, member interests, participation or other equivalents of or interest in (regardless of how designated) equity of such Person, whether voting or nonvoting, including common stock, preferred stock, convertible securities or any other "equity security" (as such term is defined in Rule 3a11-1 of the General Rules and Regulations promulgated by the SEC under the Exchange Act), including in each case all of the following rights relating to such Equity Interests, whether arising under the Organizational Documents of the Person issuing such Equity Interests (the "issuer") or under the applicable laws of such issuer's jurisdiction of organization relating to the formation, existence and governance of corporations, limited liability companies or partnerships or business trusts or other legal entities, as the case may be: (i) all economic rights (including all rights to receive dividends and distributions) relating to such Equity Interests; (ii) all voting rights and rights to consent to any particular action(s) by the applicable issuer; (iii) all management rights with respect to such issuer; (iv) in the case of any Equity Interests consisting of a general partner interest in a partnership, all powers and rights as a general partner with respect to the management, operations and control of the business and affairs of the applicable issuer; (v) in the case of any Equity Interests consisting of the membership/limited liability company interests of a managing member in a limited liability company, all powers and rights as a managing member with respect to the management, operations and control of the business and affairs of the applicable issuer; (vi) all rights to designate or appoint or vote for or remove any officers, directors, manager(s), general partner(s) or managing member(s) of such issuer and/or any members of any board of members/managers/partners/directors that may at any time have any rights to manage and direct the business and affairs of the applicable issuer under its Organizational Documents as in effect from time to time or under Applicable Law; (vii) all rights to amend the Organizational Documents of such issuer, (viii) in the case of any Equity Interests in a partnership or limited liability company, the status of the holder of such Equity Interests as a "partner," general or limited, or "member" (as applicable) under the applicable Organizational Documents and/or Applicable Law; and (ix) all certificates evidencing such Equity Interests.

"ERISA" shall mean the Employee Retirement Income Security Act of 1974, as the same may be amended or supplemented from time to time and the rules and regulations promulgated thereunder.

"Event of Default" shall have the meaning set forth in Article X hereof.

"Exchange Act" shall mean the Securities Exchange Act of 1934, as amended.

"Excluded Hedge Liability or Liabilities" shall mean, with respect to each Borrower and Guarantor, each of its Swap Obligations if, and only to the extent that, all or any portion of this Agreement or any Other Document that relates to such Swap Obligation is or becomes illegal under the CEA, or any rule, regulation or order of the CFTC, solely by virtue of such Borrower's and/or Guarantor's failure to qualify as an Eligible Contract Participant on the Eligibility Date for such Swap. Notwithstanding anything to the contrary contained in the foregoing or in any other provision of this Agreement or any Other Document, the foregoing is subject to the following provisos: (a) if a Swap Obligation arises under a master agreement governing more than one Swap, this definition shall apply only to the portion of such Swap Obligation that is attributable to Swaps for which such guaranty or security interest is or becomes illegal under the CEA, or any rule, regulations or order of the CFTC, solely as a result of the failure by such Borrower or Guarantor for any reason to qualify as an Eligible Contract Participant on the Eligibility Date for such Swap; (b) if a guarantee of a Swap Obligation would cause such obligation to be an Excluded Hedge Liability but the grant of a security interest would not cause such obligation to be an Excluded Hedge Liability, such Swap Obligation shall constitute an Excluded Hedge Liability for purposes of the guaranty but not for purposes of the grant of the security interest; and (c) if there is more than one Borrower or Guarantor executing this Agreement or the Other Documents and a Swap Obligation would be an Excluded Hedge Liability with respect to one or more of such Persons, but not all of them, the definition of Excluded Hedge Liability or Liabilities with respect to each such Person shall only be deemed applicable to (i) the particular Swap Obligations that constitute Excluded Hedge Liabilities with respect to such Person, and (ii) the particular Person with respect to which such Swap Obligations constitute Excluded Hedge Liabilities.

"Excluded Taxes" shall mean, with respect to Agent, any Lender, Participant, Issuer or any other recipient of any payment to be made by or on account of any Obligations, (a) taxes imposed on or measured by its overall net income (however denominated), and franchise taxes imposed on it (in lieu of net income taxes), by the jurisdiction (or any political subdivision thereof) under the laws of which such recipient is organized or in which its principal office or applicable lending office is located or, in the case of any Lender, Participant or Issuer, in which its applicable lending office is located, (b) any branch profits taxes imposed by the United States of America or any similar tax imposed by any other jurisdiction in which any Borrower is located, (c) in the case of a Foreign Lender, any withholding tax that is imposed on amounts payable to such Foreign Lender at the time such Foreign Lender becomes a party hereto (or designates a new lending office) or is attributable to such Foreign Lender's failure or inability (other than as a result of a Change in Law) to comply with Section 3.10(e), except to the extent that such Foreign Lender or Participant (or its assignor or seller of a participation, if any) was entitled, at the time of designation of a new lending office (or assignment or sale of a participation), to receive additional amounts from Borrowers with respect to such withholding tax pursuant to Section 3.10(a), or (d) any Taxes imposed on any "withholding payment" payable to such recipient as a result of the failure of such recipient to satisfy the requirements set forth in the FATCA after December 31, 2012.

"Extended Term Customer" means Anadarko, Oxy USA, E.Q.T., Exxon Mobil, Antero Resources, Chesapeake, Brigham-Statoil Company or Gulfport Energy Corporation.

"Facility Fee" shall have the meaning set forth in Section 3.3(b) hereof.

"FATCA" shall mean Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with) and any current or future regulations thereunder or official interpretations thereof.

"Federal Funds Effective Rate" shall mean for any day the rate per annum (based on a year of 360 days and actual days elapsed and rounded upward to the nearest 1/100 of 1%) announced by the Federal Reserve Bank of New York (or any successor) on such day as being the weighted average of the rates on overnight federal funds transactions arranged by federal funds brokers on the previous trading day, as computed and announced by such Federal Reserve Bank (or any successor) in substantially the same manner as such Federal Reserve Bank computes and announces the weighted average it refers to as the "Federal Funds Effective Rate" as of the date of this Agreement; provided, if such Federal Reserve Bank (or its successor) does not announce such rate on any day, the "Federal Funds Effective Rate" for such day shall be the Federal Funds Effective Rate for the last day on which such rate was announced.

"Federal Funds Open Rate" shall mean for any day the rate per annum (based on a year of 360 days and actual days elapsed) which is the daily federal funds open rate as quoted by ICAP North America, Inc. (or any successor) as set forth on the Bloomberg Screen BTMM for that day opposite the caption "OPEN" (or on such other substitute Bloomberg Screen that displays such rate), or as set forth on such other recognized electronic source used for the purpose of displaying such rate as selected by PNC (an "Alternate Source") (or if such rate for such day does not appear on the Bloomberg Screen BTMM (or any substitute screen) or on any Alternate Source, or if there shall at any time, for any reason, no longer exist a Bloomberg Screen BTMM (or any substitute screen) or any Alternate Source, a comparable replacement rate determined by PNC at such time (which determination shall be conclusive absent manifest error); provided however, that if such day is not a Business Day, the Federal Funds Open Rate for such day shall be the "open" rate on the immediately preceding Business Day. If and when the Federal Funds Open Rate changes, the rate of interest with respect to any advance to which the Federal Funds Open Rate applies will change automatically without notice to Borrowers, effective on the date of any such change.

"Fee Letter" shall mean the fee letter dated the Amendment Effective Date among Borrowers and PNC.

"Financial Covenant Period" means the period commencing on the earlier of: (a) March 31, 2017, and (b) the first date on which Borrowers fail to satisfy the Undrawn Availability covenant set forth in Section 6.5(c) hereof, and shall continue each day thereafter through the Term of this Agreement.

"Fixed Charge Coverage Ratio" shall mean and include, with respect to any fiscal period, the ratio of (a) Adjusted EBITDA for such period minus (i) Unfunded Capital Expenditures made during such period and (ii) cash taxes paid during such period to (b) all Senior Debt Payments during such period; provided that principal payments in respect of the Term Loan under (and as defined in the Existing Credit Agreement) which were made on or prior to the Amendment Effective Date shall not be included in the calculation of the Fixed Charge Coverage Ratio.

"Flood Laws" shall mean all Applicable Laws relating to policies and procedures that address requirements placed on federally regulated lenders under the National Flood Insurance Reform Act of 1994 and other Applicable Laws related thereto.

"Foreign Currency Hedge" shall mean any foreign exchange transaction, including spot and forward foreign currency purchases and sales, listed or over-the-counter options on foreign currencies, non-deliverable forwards and options, foreign currency swap agreements, currency exchange rate price hedging arrangements, and any other similar transaction providing for the purchase of one currency in exchange for the sale of another currency entered into by any Borrower, Guarantor and/or any of their respective Subsidiaries.

"Foreign Currency Hedge Liabilities" shall have the meaning assigned in the definition of Lender-Provided Foreign Currency Hedge.

"Foreign Lender" shall mean any Lender that is organized under the laws of a jurisdiction other than that in which Borrowers are resident for tax purposes. For purposes of this definition, the United States of America, each State thereof and the District of Columbia shall be deemed to constitute a single jurisdiction.

"Foreign Subsidiary" shall mean any Subsidiary of any Person that is not organized or incorporated in the United States, any State or territory thereof or the District of Columbia.

"Formula Amount" shall have the meaning set forth in Section 2.1(a) hereof.

"Funded Debt" shall mean, with respect to any Person, without duplication, all Indebtedness for borrowed money evidenced by notes, bonds, debentures, or similar evidences of Indebtedness that by its terms matures more than one year from, or is directly or indirectly renewable or extendible at such Person's option under a revolving credit or similar agreement obligating the lender or lenders to extend credit over a period of more than one year from the date of creation thereof, and specifically including Capitalized Lease Obligations, current maturities of long-term debt, revolving credit and short term debt extendible beyond one year at the option of the debtor, and also including, in the case of Borrowers, the Obligations and, without duplication, Indebtedness consisting of guaranties of Funded Debt of other Persons.

"GAAP" shall mean generally accepted accounting principles in the United States of America in effect from time to time.

"Governmental Acts" shall mean any act or omission, whether rightful or wrongful, of any present or future de jure or de facto Governmental Body.

"Governmental Body" shall mean any nation or government, any state or other political subdivision thereof or any entity, authority, agency, division or department exercising the executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to a government (including any supra-national bodies such as the European Union or the European Central Bank) and any group or body charged with setting financial accounting or regulatory capital rules or standards (including, without limitation, the Financial Accounting Standards Board, the Bank for International Settlements or the Basel Committee on Banking Supervision or any successor or similar authority to any of the foregoing).

"Guarantor" shall mean (i) each Subsidiary of Parent which is directly or indirectly wholly owned by Parent and is not an Immaterial Subsidiary, and (ii) any other Person who may hereafter guarantee payment or performance of the whole or any part of the Obligations, and "Guarantors" means collectively all such Persons.

"Guarantor Security Agreement" shall mean any security agreement executed by any Guarantor in favor of Agent securing the Obligations or the Guaranty of such Guarantor, in form and substance satisfactory to Agent.

"Guaranty" shall mean any guaranty of the Obligations executed by a Guarantor in favor of Agent for its benefit and for the ratable benefit of Lenders, in form and substance satisfactory to Agent.

"Hazardous Discharge" shall have the meaning set forth in Section 9.3(b) hereof.

"Hazardous Materials" shall mean, without limitation, any flammable explosives, radon, radioactive materials, asbestos, urea formaldehyde foam insulation, polychlorinated biphenyls, petroleum and petroleum products, methane, Hazardous Wastes, hazardous or Toxic Substances or related materials as defined in or subject to regulation under Environmental Laws.

"Hazardous Wastes" shall mean all waste materials subject to regulation under CERCLA, RCRA or applicable state law, and any other applicable Federal and state laws now in force or hereafter enacted relating to hazardous waste disposal.

"Heat Waves" shall have the meaning set forth in preamble hereof.

"Hedge Liabilities" shall mean the Interest Rate Hedge Liabilities.

"Immaterial Subsidiary" shall mean each of the Subsidiaries existing on the Amendment Effective Date and listed on Schedule 1.2(b) hereto.

"Increased Tax Burden" shall mean the additional federal, state or local taxes assumed to be payable by a shareholder or member of any Borrower as a result of such Borrower's status as a limited liability company, subchapter S corporation or any other entity that is disregarded for federal and state income tax purposes (as applicable) but only so long as such Borrower has elected to be treated as a pass through entity for federal and state income tax purposes and such election has not been rescinded or withdrawn, as evidenced and substantiated by the tax returns filed by such Borrower (as applicable), with such taxes being calculated for all members or shareholders, as applicable, at the highest marginal rate applicable to any member or shareholder, as applicable to the extent such losses have not previously been applied to reduce the Increased Tax Burden hereunder, provided that capital losses and capital loss carry forwards shall be taken into account only to the extent they are currently usable to offset income or gain allocated by such Borrower to a member or shareholder, as applicable; and provided, further, that to the extent that any losses allocated by such Borrower result in a payback by a member(s) to such Borrower of previous tax distributions pursuant to Section 7.7 hereof, then such losses shall not be taken into account for purposes of determining the Increased Tax Burden hereunder.

~~"Increasing Lender" shall have the meaning set forth in Section 2.24(a) hereof.~~

"Indebtedness" shall mean, as to any Person at any time, any and all indebtedness, obligations or liabilities (whether matured or unmatured, liquidated or unliquidated, direct or indirect, absolute or contingent, or joint or several) of such Person for or in respect of: (a) borrowed money; (b) amounts received under or liabilities in respect of any note purchase or acceptance credit facility, and all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments; (c) all Capitalized Lease Obligations; (d) reimbursement obligations (contingent or otherwise) under any letter of credit agreement, banker's acceptance agreement or similar arrangement; (e) obligations under any Interest Rate Hedge, Foreign Currency Hedge, or other interest rate management device, foreign currency exchange agreement, currency swap agreement, commodity price protection agreement or other interest or currency exchange rate or commodity price hedging arrangement; (f) any other advances of credit made to or on behalf of such Person or other transaction (including forward sale or purchase agreements, capitalized leases and conditional sales agreements) having the commercial effect of a borrowing of money entered into by such Person to finance its operations or capital requirements including to finance the purchase price of property or services and all obligations of such Person to pay the deferred purchase price of property or services (but not including trade payables and accrued expenses incurred in the Ordinary Course of Business which are not represented by a promissory note or other evidence of indebtedness); (g) all Equity Interests of such Person subject to repurchase or redemption rights or obligations (excluding repurchases or redemptions at the sole option of such Person); (h) all indebtedness, obligations or liabilities secured by a Lien on any asset of such Person, whether or not such indebtedness, obligations or liabilities are otherwise an obligation of such Person; (i) to the extent such obligations appear in the liabilities section of the balance sheet of such Person, all obligations of such Person for "earnouts," purchase price adjustments, profit sharing arrangements, deferred purchase money amounts and similar payment obligations or continuing obligations of any nature of such Person arising out of purchase and sale contracts; (j) off-balance sheet liabilities and/or pension plan liabilities of such Person; (k) obligations arising under bonus, deferred compensation, incentive compensation or similar arrangements, other than those arising in the Ordinary Course of Business; and (l) any guaranty of any indebtedness, obligations or liabilities of a type described in the foregoing clauses (a) through (k).

"Indemnified Taxes" shall mean Taxes other than Excluded Taxes.

"Ineligible Security" shall mean any security which may not be underwritten or dealt in by member banks of the Federal Reserve System under Section 16 of the Banking Act of 1933 (12 U.S.C. Section 24, Seventh), as amended.

"Insolvency Event" shall mean, with respect to any Person, including without limitation any Lender, such Person or such Person's direct or indirect parent company (a) becomes the subject of a bankruptcy or insolvency proceeding (including any proceeding under Title 11 of the United States Code), or regulatory restrictions, (b) has had a receiver, conservator, trustee, administrator, custodian, assignee for the benefit of creditors or similar Person charged with the reorganization or liquidation of its business appointed for it or has called a meeting of its creditors, (c) admits in writing its inability, or be generally unable, to pay its debts as they become due or cease operations of its present business, (d) with respect to a Lender, such Lender is unable to perform hereunder due to the application of Applicable Law, or (e) in the good faith determination of Agent, has taken any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any such proceeding or appointment of a type described in clauses (a) or (b), provided that an Insolvency Event shall not result solely by virtue of any ownership interest, or the acquisition of any ownership interest, in such Person or such Person's direct or indirect parent company by a Governmental Body or instrumentality thereof if, and only if, such ownership interest does not result in or provide such Person with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Person (or such Governmental Body or instrumentality) to reject, repudiate, disavow or disaffirm any contracts or agreements made by such Person.

"Intellectual Property" shall mean property constituting a patent, copyright, trademark (or any application in respect of the foregoing), service mark, copyright, copyright application, trade name, mask work, trade secrets, design right, assumed name or license or other right to use any of the foregoing under Applicable Law.

"Intellectual Property Claim" shall mean the assertion, by any means, by any Person of a claim that any Borrower's ownership, use, marketing, sale or distribution of any Inventory, equipment, Intellectual Property or other property or asset that is material to Borrowers on a Consolidated Basis is violative of any ownership of or right to use any Intellectual Property of such Person.

"Interest Period" shall mean the period provided for any LIBOR Rate Loan pursuant to Section 2.2(b) hereof.

"Interest Rate Hedge" shall mean an interest rate exchange, collar, cap, swap, floor, adjustable strike cap, adjustable strike corridor, cross-currency swap or similar agreements entered into by any Borrower, Guarantor and/or their respective Subsidiaries in order to provide protection to, or minimize the impact upon, such Borrower, any Guarantor and/or their respective Subsidiaries of increasing floating rates of interest applicable to Indebtedness.

"Interest Rate Hedge Liabilities" shall have the meaning assigned in the definition of Lender-Provided Interest Rate Hedge.

"Inventory" shall mean and include as to each Borrower all of such Borrower's inventory (as defined in Article 9 of the Uniform Commercial Code) and all of such Borrower's goods, merchandise and other personal property, wherever located, to be furnished under any consignment arrangement, contract of service or held for sale or lease, all raw materials, work in process, finished goods and materials and supplies of any kind, nature or description which are or might be used or consumed in such Borrower's business or used in selling or furnishing such goods, merchandise and other personal property, and all Documents.

"Issuer" shall mean (i) Agent in its capacity as the issuer of Letters of Credit under this Agreement and (ii) any other Lender which Agent in its discretion shall designate as the issuer of and cause to issue any particular Letter of Credit under this Agreement in place of Agent as issuer.

"Law(s)" shall mean any law(s) (including common law), constitution, statute, treaty, regulation, rule, ordinance, opinion, issued guidance, release, ruling, order, executive order, injunction, writ, decree, bond, judgment, authorization or approval, lien or award of or any settlement arrangement, by agreement, consent or otherwise, with any Governmental Body, foreign or domestic.

"Lender" and "Lenders" shall have the meaning ascribed to such term in the preamble to this Agreement and shall include each Person which becomes a transferee, successor or assign of any Lender. For the purpose of provision of this Agreement or any Other Document which provides for the granting of a security interest or other Lien to the Agent for the benefit of Lenders as security for the Obligations, "Lenders" shall include any Affiliate of a Lender to which such Obligation (specifically including any Hedge Liabilities and any Cash Management Liabilities) is owed.

"Lender-Provided Interest Rate Hedge" shall mean an Interest Rate Hedge which is provided by any Lender and with respect to which such Lender confirms to Agent in writing prior to the execution thereof that it: (a) is documented in a standard International Swap Dealers Association, Inc. Master Agreement or another reasonable and customary manner; (b) provides for the method of calculating the reimbursable amount of the provider's credit exposure in a reasonable and customary manner; and (c) is entered into for hedging (rather than speculative) purposes. The liabilities owing to the provider of any Lender-Provided Interest Rate Hedge (the "Interest Rate Hedge Liabilities") by any Borrower, Guarantor, or any of their respective Subsidiaries that is party to such Lender-Provided Interest Rate Hedge shall, for purposes of this Agreement and all Other Documents be "Obligations" of such Person and of each other Borrower and Guarantor, be guaranteed obligations under any Guaranty and secured obligations under any Guarantor Security Agreement, as applicable, and otherwise treated as Obligations for purposes of the Other Documents, except to the extent constituting Excluded Hedge Liabilities of such Person. The Liens securing the Hedge Liabilities shall be pari passu with the Liens securing all other Obligations under this Agreement and the Other Documents, subject to the express provisions of Section 11.5 hereof.

"Letter of Credit Application" shall have the meaning set forth in Section 2.12(a) hereof.

"Letter of Credit Borrowing" shall have the meaning set forth in Section 2.14(d) hereof.

"Letter of Credit Fees" shall have the meaning set forth in Section 3.2 hereof

"Letter of Credit Sublimit" shall mean \$250,000.

"Letters of Credit" shall have the meaning set forth in Section 2.11 hereof.

"LIBOR Alternate Source" shall have the meaning set forth in the definition of LIBOR Rate.

"LIBOR Rate" shall mean for any LIBOR Rate Loan for the then current Interest Period relating thereto, the interest rate per annum determined by Agent by dividing (the resulting quotient rounded upwards, if necessary, to the nearest 1/100th of 1% per annum) (a) the rate which appears on the Bloomberg Page BBAM1 (or on such other substitute Bloomberg page that displays rates at which U.S. dollar deposits are offered by leading banks in the London interbank deposit market), or the rate which is quoted by another source selected by Agent as an authorized information vendor for the purpose of displaying rates at which U.S. dollar deposits are offered by leading banks in the London interbank deposit market (a "LIBOR Alternate Source"), at approximately 11:00 a.m., London time, two (2) Business Days prior to the commencement of such Interest Period as the London interbank offered rate for U.S. Dollars for an amount comparable to such LIBOR Rate Loan and having a borrowing date and a maturity comparable to such Interest Period (or if there shall at any time, for any reason, no longer exist a Bloomberg Page BBAM1 (or any substitute page) or any LIBOR Alternate Source, a comparable replacement rate determined by Agent at such time (which determination shall be conclusive absent manifest error)), by (b) a number equal to 1.00 minus the Reserve Percentage.

The LIBOR Rate shall be adjusted with respect to any LIBOR Rate Loan that is outstanding on the effective date of any change in the Reserve Percentage as of such effective date. Agent shall give reasonably prompt notice to the Borrowing Agent of the LIBOR Rate as determined or adjusted in accordance herewith, which determination shall be conclusive absent manifest error.

"LIBOR Rate Loan" shall mean any Advance that bears interest based on the LIBOR Rate.

"License Agreement" shall mean any agreement between any Borrower and a Licensor pursuant to which such Borrower is authorized to use any Intellectual Property in connection with the manufacturing, marketing, sale or other distribution of any Inventory of such Borrower or otherwise in connection with such Borrower's business operations.

"Licensor" shall mean any Person from whom any Borrower obtains the right to use (whether on an exclusive or non-exclusive basis) any Intellectual Property in connection with such Borrower's manufacture, marketing, sale or other distribution of any Inventory or otherwise in connection with such Borrower's business operations.

"Licensor/Agent Agreement" shall mean an agreement between Agent and a Licensor, in form and substance satisfactory to Agent, by which Agent is given the unqualified right, vis-à-vis such Licensor, to enforce Agent's Liens with respect to and to dispose of any Borrower's Inventory with the benefit of any Intellectual Property applicable thereto, irrespective of such Borrower's default under any License Agreement with such Licensor.

"Lien" shall mean any mortgage, deed of trust, pledge, hypothecation, assignment, security interest, lien (whether statutory or otherwise), Charge, claim or encumbrance, or preference, priority or other security agreement or preferential arrangement held or asserted in respect of any asset of any kind or nature whatsoever including any conditional sale or other title retention agreement, any lease having substantially the same economic effect as any of the foregoing, and the filing of, or agreement to give, any financing statement under the Uniform Commercial Code or comparable law of any jurisdiction.

"Lien Waiver Agreement" shall mean an agreement which is executed in favor of Agent by a Person who owns or occupies premises at which any Collateral may be located from time to time in form and substance satisfactory to Agent.

"Material Adverse Effect" shall mean a material adverse effect on (a) the condition (financial or otherwise), results of operations, assets, business, properties or prospects of Borrowers on a Consolidated Basis, (b) the ability of Borrowers on a Consolidated Basis to duly and punctually pay or perform the Obligations in accordance with the terms thereof, (c) the value of the Collateral, or Agent's Liens on the Collateral or the priority of any such Lien or (d) the practical realization of the benefits of Agent's and each Lender's rights and remedies under this Agreement and the Other Documents.

"Material Contract" shall mean any contract, agreement, instrument, permit, lease or license, written or oral, of any Borrower, which is material to any Borrower's business or which the failure to comply with could reasonably be expected to result in a Material Adverse Effect.

"Maximum Revolving Advance Amount" shall mean \$30,000,000 ~~plus any increases in accordance with Section 2.24.~~

"Maximum Undrawn Amount" shall mean, with respect to any outstanding Letter of Credit as of any date, the amount of such Letter of Credit that is or may become available to be drawn, including all automatic increases provided for in such Letter of Credit, whether or not any such automatic increase has become effective.

"Modified Commitment Transfer Supplement" shall have the meaning set forth in Section 16.3(d) hereof.

"Multiemployer Plan" shall mean a "multiemployer plan" as defined in Sections 3(37) or 4001(a)(3) of ERISA to which contributions are required or, within the preceding five plan years, were required by any Borrower or any member of the Controlled Group.

"Multiple Employer Plan" shall mean a Plan which has two or more contributing sponsors (including any Borrower or any member of the Controlled Group) at least two of whom are not under common control, as such a plan is described in Section 4064 of ERISA.

"Negotiable Document" shall mean a Document that is "negotiable" within the meaning of Article 7 of the Uniform Commercial Code.

"Net Invoice Cost" shall mean, with respect to equipment, the net invoice cost of such equipment (excluding taxes, shipping, delivery, handling, installation, overhead and other so called "soft" costs).

~~"New Lender" shall have the meaning set forth in Section 2.24(a) hereof.~~

"Non-Defaulting Lender" shall mean, at any time, any Lender holding a Revolving Commitment that is not a Defaulting Lender at such time.

"Non-Qualifying Party" shall mean any Borrower or any Guarantor that on the Eligibility Date fails for any reason to qualify as an Eligible Contract Participant.

"Note" shall mean the Revolving Credit Note.

"Obligations" shall mean and include any and all loans (including without limitation, all Advances), advances, debts, liabilities, obligations (including without limitation all reimbursement obligations and cash collateralization obligations with respect to Letters of Credit issued hereunder), covenants and duties owing by any Borrower or Guarantor or any Subsidiary of any Borrower or any Guarantor to Issuer, Lenders or Agent (or to any other direct or indirect subsidiary or affiliate of Issuer, any Lender or Agent) of any kind or nature, present or future (including any interest or other amounts accruing thereon, any fees accruing under or in connection therewith, any costs and expenses of any Person payable by any Borrower and any indemnification obligations payable by any Borrower arising or payable after maturity, or after the filing of any petition in bankruptcy, or the commencement of any insolvency, reorganization or like proceeding relating to any Borrower, whether or not a claim for post-filing or post-petition interest, fees or other amounts is allowable or allowed in such proceeding), whether or not for the payment of money, whether arising by reason of an extension of credit, opening or issuance of a letter of credit, loan, equipment lease, establishment of any commercial card or similar facility or guarantee, under any interest or currency swap, future, option or other similar agreement, or in any other manner, whether arising out of overdrafts or deposit or other accounts or electronic funds transfers (whether through automated clearing houses or otherwise) or out of Agent's or any Lender's non-receipt of or inability to collect funds or otherwise not being made whole in connection with depository transfer check or other similar arrangements, whether direct or indirect (including those acquired by assignment or participation), absolute or contingent, joint or several, due or to become due, now existing or hereafter arising, contractual or tortious, liquidated or unliquidated, regardless of how such indebtedness or liabilities arise or by what agreement or instrument they may be evidenced or whether evidenced by any agreement or instrument, including but not limited to, (i) this Agreement, the Other Documents and any amendments, extensions, renewals or increases thereto, including all costs and expenses of Agent, Issuer, and any Lender incurred in the documentation, negotiation, modification, enforcement, collection or otherwise in connection with any of the foregoing, including but not limited to reasonable attorneys' fees and expenses and all obligations of any Borrower to Agent, Issuer, or Lenders to perform acts or refrain from taking any action, (ii) all Hedge Liabilities and (iii) all Cash Management Liabilities. Notwithstanding anything to the contrary contained in the foregoing, the Obligations shall not include any Excluded Hedge Liabilities.

"Ordinary Course of Business" shall mean, with respect to any Borrower, the ordinary course of such Borrower's business as conducted on the Amendment Effective Date and reasonable extensions thereof.

"Organizational Documents" shall mean, with respect to any Person, any charter, articles or certificate of incorporation, certificate of organization, registration or formation, certificate of partnership or limited partnership, bylaws, operating agreement, limited liability company agreement, or partnership agreement of such Person and any and all other applicable documents relating to such Person's formation, organization or entity governance matters (including any shareholders' or equity holders' agreement or voting trust agreement) and specifically includes, without limitation, any certificates of designation for preferred stock or other forms of preferred equity.

"Other Documents" shall mean the Note, the Perfection Certificates, the Fee Letter, any Guaranty, any Guarantor Security Agreement, any Pledge Agreement, any Lender-Provided Interest Rate Hedge, and any and all other agreements, instruments and documents, including intercreditor agreements, guaranties, pledges, powers of attorney, consents, interest or currency swap agreements, futures, options or other similar agreements and all other writings heretofore, now or hereafter executed by any Borrower or any Guarantor and/or delivered to Agent or any Lender in respect of the transactions contemplated by this Agreement, in each case together with all extensions, renewals, amendments, supplements, modifications, substitutions and replacements thereto and thereof.

"Other Taxes" shall mean all present or future stamp or documentary taxes or any other excise or property taxes, charges or similar levies arising from any payment made hereunder or under any Other Document or from the execution, delivery or enforcement of, or otherwise with respect to, this Agreement or any Other Document.

"Out-of-Formula Loans" shall have the meaning set forth in Section 16.2(e) hereof.

"Overadvance Threshold Amount" shall have the meaning set forth in Section 16.2(e) hereof.

"Parent" of any Person shall mean a corporation or other entity owning, directly or indirectly, 50% or more of the Equity Interests issued by such Person having ordinary voting power to elect a majority of the directors of such Person, or other Persons performing similar functions for any such Person.

"Participant" shall mean each Person who shall be granted the right by any Lender to participate in any of the Advances and who shall have entered into a participation agreement in form and substance satisfactory to such Lender.

"Participation Advance" shall have the meaning set forth in Section 2.14(d) hereof.

"Participation Commitment" shall mean the obligation hereunder of each Lender holding a Revolving Commitment to buy a participation equal to its Revolving Commitment Percentage (subject to any reallocation pursuant to Section 2.22(b)(iii) hereof) in the Letters of Credit issued hereunder as provided for in Section 2.14(a) hereof.

"Payment Office" shall mean initially Two Tower Center Boulevard, East Brunswick, New Jersey 08816; thereafter, such other office of Agent, if any, which it may designate by notice to Borrowing Agent and to each Lender to be the Payment Office.

"PBGC" shall mean the Pension Benefit Guaranty Corporation established pursuant to Subtitle A of Title IV of ERISA or any successor.

"Pension Benefit Plan" shall mean at any time any "employee pension benefit plan" as defined in Section 3(2) of ERISA (including a Multiple Employer Plan, but not a Multiemployer Plan) which is covered by Title IV of ERISA or is subject to the minimum funding standards under Sections 412, 430 or 436 of the Code and either (i) is maintained or to which contributions are required by Borrower or any member of the Controlled Group or (ii) has at any time within the preceding five years been maintained or to which contributions have been required by a Borrower or any entity which was at such time a member of the Controlled Group.

"Perfection Certificates" shall mean, collectively, the information questionnaires and the responses thereto provided by each Borrower and delivered to Agent.

"Permitted Discretion" means a determination made in good faith and in the exercise (from the perspective of a secured asset-based lender) of commercially reasonable business judgment.

"Permitted Dividends" shall mean so long as: (a) a notice of termination with regard to this Agreement shall not be outstanding; (b) no Event of Default or Default shall have occurred or would occur after giving pro forma effect to such dividends; and (c) the purpose for such dividend shall be as set forth in writing to Agent at least ten (10) days prior to the making of such dividend and such dividend shall in fact be used for such purpose, Borrowers shall be permitted to pay dividends (i) to its shareholders in accordance with the provisions of each Borrower's Organizational Documents as in effect on the Amendment Effective Date.

"Permitted Encumbrances" shall mean: (a) Liens in favor of Agent for the benefit of Agent and Lenders, including without limitation, Liens securing Hedge Liabilities and Cash Management Products and Services; (b) Liens for taxes, assessments or other governmental charges not delinquent or being Properly Contested; (c) deposits or pledges to secure obligations under worker's compensation, social security or similar laws, or under unemployment insurance; (d) deposits or pledges to secure bids, tenders, contracts (other than contracts for the payment of money), leases, statutory obligations, surety and appeal bonds and other obligations of like nature arising in the Ordinary Course of Business; (e) Liens arising by virtue of the rendition, entry or issuance against any Borrower or any Subsidiary, or any property of any Borrower or any Subsidiary, of any judgment, writ, order, or decree to the extent the rendition, entry, issuance or continued existence of such judgment, writ, order or decree (or any event or circumstance relating thereto) has not resulted in the occurrence of an Event of Default under Section 10.6 hereof; (f) carriers', repairmen's, mechanics', workers', materialmen's or other like Liens arising in the Ordinary Course of Business with respect to obligations which are not due or which are being Properly Contested; (g) Liens placed upon fixed assets hereafter acquired to secure a portion of the purchase price thereof, provided that (I) any such lien shall not encumber any other property of any Borrower and (II) [Reserved]; (h) other Liens incidental to the conduct of any Borrower's business or the ownership of its property and assets which were not incurred in connection with the borrowing of money or the obtaining of advances or credit, and which do not in the aggregate materially detract from Agent's or Lenders' rights in and to the Collateral or the value of any Borrower's property or assets or which do not materially impair the use thereof in the operation of any Borrower's business; and (j) Liens disclosed on Schedule 1.2; provided that such Liens shall secure only those obligations which they secure on the Amendment Effective Date (and extensions, renewals and refinancing of such obligations permitted by Section 7.8 hereof) and shall not subsequently apply to any other property or assets of any Borrower other than the property and assets to which they apply as of the Amendment Effective Date.

"Permitted Indebtedness" shall mean: (a) the Obligations; (b) Indebtedness incurred for Capital Expenditures; (c) any guarantees of Indebtedness permitted under Section 7.3 hereof; (d) any Indebtedness listed on Schedule 5.8(b)(ii) hereof; (e) Interest Rate Hedges that are entered into by Borrowers to hedge their risks with respect to outstanding Indebtedness of Borrowers and not for speculative or investment purposes; and (f) intercompany Indebtedness owing from one or more Borrowers to any other one or more Borrowers in accordance with clause (c) of the definition of Permitted Loans.

"Permitted Investments" shall mean investments in: (a) obligations issued or guaranteed by the United States of America or any agency thereof; (b) commercial paper with maturities of not more than 180 days and a published rating of not less than A-1 or P-1 (or the equivalent rating); (c) certificates of time deposit and bankers' acceptances having maturities of not more than 180 days and repurchase agreements backed by United States government securities of a commercial bank if (i) such bank has a combined capital and surplus of at least \$500,000,000, or (ii) its debt obligations, or those of a holding company of which it is a Subsidiary, are rated not less than A (or the equivalent rating) by a nationally recognized investment rating agency; (d) U.S. money market funds that invest solely in obligations issued or guaranteed by the United States of America or an agency thereof; and (e) Permitted Loans.

"Permitted Loans" shall mean: (a) the extension of trade credit by a Borrower to its Customer(s), in the Ordinary Course of Business in connection with a sale of Inventory or rendition of services, in each case on open account terms; (b) loans to employees in the Ordinary Course of Business not to exceed as to all such loans the aggregate amount of \$250,000 at any time outstanding; ~~and~~ (c) intercompany loans between and among Borrowers, so long as, at the request of Agent, each such intercompany loan is evidenced by a promissory note (including, if applicable, any master intercompany note executed by Borrowers) on terms and conditions (including terms subordinating payment of the indebtedness evidenced by such note to the prior payment in full of all Obligations) acceptable to Agent in its sole discretion that has been delivered to Agent either endorsed in blank or together with an undated instrument of transfer executed in blank by the applicable Borrower(s) that are the payee(s) on such note, and other Indebtedness in form and substance acceptable to Agent in its sole discretion; and (d) advances by Enservco from time-to-time to WET Oilfield Service LLC, a Colorado limited liability company ("WET") to the extent (i) the aggregate principal amount of such advances outstanding from time to time does not exceed in the aggregate \$250,000, (ii) such advances are made pursuant to an amended and restated promissory note dated on or about October 19, 2015, (iii) such advances are evidenced by an amended and restated promissory note, on terms and conditions acceptable to Agent in its sole discretion, which promissory note has been delivered to Agent either endorsed in blank or together with an undated instrument of transfer executed in blank by Enservco, and (iv) the Equity Interests of WET owned by Ernest L. ("EL") Dodson, Ernest C. ("Chad") Dodson, and Lance C. ("Cody") Dodson that have been pledged to Enservco as security for the payment in full of such advances pursuant to an amended and restated pledge and security agreement which amended and restated the original pledge and security agreement dated October 6, 2015, and which have been collaterally assigned to Agent as set forth in Section 12(d) thereof.

"Person" shall mean any individual, sole proprietorship, partnership, corporation, business trust, joint stock company, trust, unincorporated organization, association, limited liability company, limited liability partnership, institution, public benefit corporation, joint venture, entity or Governmental Body (whether federal, state, county, city, municipal or otherwise, including any instrumentality, division, agency, body or department thereof).

"Plan" shall mean any employee benefit plan within the meaning of Section 3(3) of ERISA (including a Pension Benefit Plan and a Multiemployer Plan, as defined herein) maintained by any Borrower or any member of the Controlled Group or to which any Borrower or any member of the Controlled Group is required to contribute.

"Pledge Agreement" shall mean that certain Pledge Agreement executed by Borrowers in favor of Agent dated as of November 2, 2012, as amended, and any other pledge agreements executed subsequent to the Amendment Effective Date by any other Person to secure the Obligations.

"PNC" shall have the meaning set forth in the preamble to this Agreement and shall extend to all of its successors and assigns.

"Properly Contested" shall mean, in the case of any Indebtedness, Lien or Taxes, as applicable, of any Person that are not paid as and when due or payable by reason of such Person's bona fide dispute concerning its liability to pay the same or concerning the amount thereof: (a) such Indebtedness, Lien or Taxes, as applicable, are being properly contested in good faith by appropriate proceedings promptly instituted and diligently conducted; (b) such Person has established appropriate reserves as shall be required in conformity with GAAP; (c) the non-payment of such Indebtedness or Taxes will not have a Material Adverse Effect or will not result in the forfeiture of any assets of such Person; (d) no Lien is imposed upon any of such Person's assets with respect to such Indebtedness or taxes unless such Lien (x) does not attach to any Receivables or Inventory, (y) is at all times junior and subordinate in priority to the Liens in favor of the Agent (except only with respect to property Taxes that have priority as a matter of applicable state law) and, (z) enforcement of such Lien is stayed during the period prior to the final resolution or disposition of such dispute; and (e) if such Indebtedness or Lien, as applicable, results from, or is determined by the entry, rendition or issuance against a Person or any of its assets of a judgment, writ, order or decree, enforcement of such judgment, writ, order or decree is stayed pending a timely appeal or other judicial review.

"Protective Advances" shall have the meaning set forth in Section 16.2(f) hereof.

"Published Rate" shall mean the rate of interest published each Business Day in the Wall Street Journal "Money Rates" listing under the caption "London Interbank Offered Rates" for a one month period (or, if no such rate is published therein for any reason, then the Published Rate shall be the LIBOR Rate for a one month period as published in another publication selected by the Agent).

"Purchasing CLO" shall have the meaning set forth in Section 16.3(d) hereof.

"Purchasing Lender" shall have the meaning set forth in Section 16.3(c) hereof.

"Qualified ECP Loan Party" shall mean each Borrower or Guarantor that on the Eligibility Date is (a) a corporation, partnership, proprietorship, organization, trust, or other entity other than a "commodity pool" as defined in Section 1a(10) of the CEA and CFTC regulations thereunder that has total assets exceeding \$10,000,000 or (b) an Eligible Contract Participant that can cause another person to qualify as an Eligible Contract Participant on the Eligibility Date under Section 1a(18)(A)(v)(II) of the CEA by entering into or otherwise providing a "letter of credit or keepwell, support, or other agreement" for purposes of Section 1a(18)(A)(v)(II) of the CEA.

"RCRA" shall mean the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq., as same may be amended from time to time.

"Real Property" shall mean any real property or any improvements thereto owned or leased by any Borrower.

"Receivables" shall mean and include, as to each Borrower, all of such Borrower's accounts (as defined in Article 9 of the Uniform Commercial Code) and all of such Borrower's contract rights, instruments (including those evidencing indebtedness owed to such Borrower by its Affiliates), documents, chattel paper (including electronic chattel paper), general intangibles relating to accounts, contract rights, instruments, documents and chattel paper, and drafts and acceptances, credit card receivables and all other forms of obligations owing to such Borrower arising out of or in connection with the sale or lease of Inventory or the rendition of services, all supporting obligations, guarantees and other security therefor, whether secured or unsecured, now existing or hereafter created, and whether or not specifically sold or assigned to Agent hereunder.

"Receivables Advance Rate" shall have the meaning set forth in Section 2.1(a)(y)(i) hereof.

"Register" shall have the meaning set forth in Section 16.3(e) hereof.

"Reimbursement Obligation" shall have the meaning set forth in Section 2.14(b) hereof.

"Release" shall have the meaning set forth in Section 5.7(c)(i) hereof.

"Reportable Compliance Event" shall mean that any Covered Entity becomes a Sanctioned Person, or is charged by indictment, criminal complaint or similar charging instrument, arraigned, or custodially detained in connection with any Anti-Terrorism Law or any predicate crime to any Anti-Terrorism Law, or has knowledge of facts or circumstances to the effect that it is reasonably likely that any aspect of its operations is in actual or probable violation of any Anti-Terrorism Law.

"Reportable ERISA Event" shall mean a reportable event described in Section 4043(c) of ERISA or the regulations promulgated thereunder.

"Required Lenders" shall mean Lenders holding at least fifty-one percent (51%) of the Advances and, if no Advances are outstanding, shall mean Lenders holding at least fifty-one percent (51%) of the Commitment Percentages; provided, however, if there are fewer than three (3) Lenders, Required Lenders shall mean all Lenders.

"Reserve Percentage" shall mean as of any day the maximum effective percentage in effect on such day as prescribed by the Board of Governors of the Federal Reserve System (or any successor) for determining the reserve requirements (including supplemental, marginal and emergency reserve requirements) with respect to eurocurrency funding (currently referred to as "Eurocurrency Liabilities").

"Revolving Advances" shall mean Advances other than Letters of Credit.

"Revolving Commitment" shall mean, as to any Lender, the obligation of such Lender (if applicable), to make Revolving Advances and Letters of Credit, in an aggregate principal and/or face amount not to exceed the Revolving Commitment Amount (if any) of such Lender.

~~“Revolving Commitment Amount” shall mean, (i) as to any Lender other than a New Lender, the Revolving Commitment amount (if any) set forth below such Lender’s name on the signature page hereto (or, in the case of any Lender that became party to this Agreement after the Amendment Effective Date pursuant to Section 16.3(c) or (d) hereof, the Revolving Commitment amount (if any) of such Lender as set forth in the applicable Commitment Transfer Supplement); and (ii) as to any Lender that is a New Lender, the Revolving Commitment amount provided for in the joinder signed by such New Lender under Section 2.24(a)(x), in each case as the same may be adjusted upon any increase by such Lender pursuant to Section 2.24 hereof, or any assignment by or to such Lender pursuant to Section 16.3(c) or (d) hereof.~~

~~“Revolving Commitment Percentage” shall mean, (i) as to any Lender other than a New Lender, the Revolving Commitment Percentage (if any) set forth below such Lender’s name on the signature page hereof (or, in the case of any Lender that became party to this Agreement after the Amendment Effective Date pursuant to Section 16.3(c) or (d) hereof, the Revolving Commitment Percentage (if any) of such Lender as set forth in the applicable Commitment Transfer Supplement); and (ii) as to any Lender that is a New Lender, the Revolving Commitment Percentage provided for in the joinder signed by such New Lender under Section 2.24(a)(ix), in each case as the same may be adjusted upon any increase in the Maximum Revolving Advance Amount pursuant to Section 2.24 hereof, or any assignment by or to such Lender pursuant to Section 16.3(c) or (d) hereof.~~

“Revolving Credit Note” shall mean the promissory note referred to in Section 2.1(a) hereof.

“Revolving Interest Rate” shall mean (a) with respect to Revolving Advances that are Domestic Rate Loans, an interest rate per annum equal to the sum of the Applicable Margin plus the Alternate Base Rate and (b) with respect to LIBOR Rate Loans, the sum of the Applicable Margin plus the LIBOR Rate.

“Sanctioned Country” shall mean a country subject to a sanctions program maintained under any Anti-Terrorism Law.

“Sanctioned Person” shall mean any individual person, group, regime, entity or thing listed or otherwise recognized as a specially designated, prohibited, sanctioned or debarred person, group, regime, entity or thing, or subject to any limitations or prohibitions (including but not limited to the blocking of property or rejection of transactions), under any Anti-Terrorism Law.

“SEC” shall mean the Securities and Exchange Commission or any successor thereto.

“Secured Parties” shall mean, collectively, Agent, Issuer and Lenders, together with any Affiliates of Agent or any Lender to whom any Hedge Liabilities or Cash Management Liabilities are owed and with each other holder of any of the Obligations, and the respective successors and assigns of each of them.

“Securities Act” shall mean the Securities Act of 1933, as amended.

“Senior Debt Payments” shall mean and include all cash actually expended by any Borrower to make (a) interest payments on any Advances hereunder, plus (b) payments for all fees, commissions and charges set forth herein and with respect to any Advances, plus (c) capitalized lease payments, plus (d) payments with respect to any other Indebtedness for borrowed money.

"Settlement" shall have the meaning set forth in Section 2.6(d) hereof.

"Settlement Date" shall have the meaning set forth in Section 2.6(d) hereof.

"Sixth Amendment Effective Date" means March 29, 2016.

"Subsidiary" shall mean of any Person a corporation or other entity of whose Equity Interests having ordinary voting power (other than Equity Interests having such power only by reason of the happening of a contingency) to elect a majority of the directors of such corporation, or other Persons performing similar functions for such entity, are owned, directly or indirectly, by such Person.

"Subsidiary Stock" shall mean (a) with respect to the Equity Interests issued to a Borrower by any Subsidiary (other than a Foreign Subsidiary), 100% of such issued and outstanding Equity Interests, and (b) with respect to any Equity Interests issued to a Borrower by any Foreign Subsidiary (i) 100% of such issued and outstanding Equity Interests not entitled to vote (within the meaning of Treas. Reg. Section 1.956(c)(2)) and (ii) 66% (or such greater percentage that, due to a change in an Applicable Law after the date hereof, (x) could not reasonably be expected to cause the undistributed earnings of such Foreign Subsidiary as determined for United States federal income tax purposes to be treated as a deemed dividend to such Borrower and (y) could not reasonably be expected to cause any material adverse tax consequences) of such issued and outstanding Equity Interests entitled to vote (within the meaning of Treas. Reg. Section 1.956 2(c)(2)).

"Swap" shall mean any "swap" as defined in Section 1a(47) of the CEA and regulations thereunder other than (a) a swap entered into on, or subject to the rules of, a board of trade designated as a contract market under Section 5 of the CEA, or (b) a commodity option entered into pursuant to CFTC Regulation 32.3(a).

"Swap Obligation" means any obligation to pay or perform under any agreement, contract or transaction that constitutes a Swap which is also a Lender-Provided Interest Rate Hedge, or a Lender-Provided Foreign Currency Hedge.

"Taxes" shall mean all present or future taxes, levies, imposts, duties, deductions, withholdings, assessments, fees or other charges imposed by any Governmental Body, including any interest, additions to tax or penalties applicable thereto.

"Term" shall have the meaning set forth in Section 13.1 hereof.

"Termination Event" shall mean: (a) a Reportable ERISA Event with respect to any Plan; (b) the withdrawal of any Borrower or any member of the Controlled Group from a Plan during a plan year in which such entity was a "substantial employer" as defined in Section 4001(a)(2) of ERISA or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA; (c) the providing of notice of intent to terminate a Plan in a distress termination described in Section 4041(c) of ERISA; (d) the commencement of proceedings by the PBGC to terminate a Plan; (e) any event or condition (a) which might constitute grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Plan, or (b) that may result in termination of a Multiemployer Plan pursuant to Section 4041A of ERISA; (f) the partial or complete withdrawal within the meaning of Section 4203 or 4205 of ERISA, of any Borrower or any member of the Controlled Group from a Multiemployer Plan; (g) notice that a Multiemployer Plan is subject to Section 4245 of ERISA; or (h) the imposition of any liability under Title IV of ERISA, other than for PBGC premiums due but not diligent, upon any Borrower or any member of the Controlled Group.

"Toxic Substance" shall mean and include any material present on the Real Property (including the Leasehold Interests), exposure to which has been shown to have significant adverse effect on human health or which is subject to regulation under the Toxic Substances Control Act (TSCA), 15 U.S.C. §§ 2601 et seq., applicable state law, or any other applicable Federal or state laws now in force or hereafter enacted relating to toxic substances. "Toxic Substance" includes but is not limited to asbestos, polychlorinated biphenyls (PCBs) and lead-based paints.

"Transferee" shall have the meaning set forth in Section 16.3(d) hereof.

"Undrawn Availability" at a particular date shall mean an amount equal to (a) the lesser of (i) the Formula Amount or (ii) the Maximum Revolving Advance Amount minus the Maximum Undrawn Amount of all outstanding Letters of Credit, minus (b) the sum of (i) the outstanding amount of Advances plus (ii) all amounts due and owing to any Borrower's trade creditors which are outstanding beyond normal trade terms.

"Unfunded Capital Expenditures" shall mean, as to any Borrower, without duplication, a Capital Expenditure funded (a) from such Borrower's internally generated cash flow or (b) with the proceeds of a Revolving Advance except for those Revolving Advances designated by Borrower for purchase of Eligible New Equipment.

"Uniform Commercial Code" shall have the meaning set forth in Section 1.3 hereof.

"USA PATRIOT Act" shall mean the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Public Law 107-56, as the same has been, or shall hereafter be, renewed, extended, amended or replaced.

1.3 Uniform Commercial Code Terms. All terms used herein and defined in the Uniform Commercial Code as adopted in the State of New York from time to time (the "Uniform Commercial Code") shall have the meaning given therein unless otherwise defined herein. Without limiting the foregoing, the terms "accounts," "chattel paper" (and "electronic chattel paper" and "tangible chattel paper"), "commercial tort claims," "deposit accounts," "documents," "equipment," "financial asset," "fixtures," "general intangibles," "goods," "instruments," "inventory," "investment property," "letter-of-credit rights," "payment intangibles," "proceeds," "promissory note" "securities," "software" and "supporting obligations" as and when used in the description of Collateral shall have the meanings given to such terms in Articles 8 or 9 of the Uniform Commercial Code. To the extent the definition of any category or type of collateral is expanded by any amendment, modification or revision to the Uniform Commercial Code, such expanded definition will apply automatically as of the date of such amendment, modification or revision.

1.4 Certain Matters of Construction. The terms “herein,” “hereof” and “hereunder” and other words of similar import refer to this Agreement as a whole and not to any particular section, paragraph or subdivision. All references herein to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement. Any pronoun used shall be deemed to cover all genders. Wherever appropriate in the context, terms used herein in the singular also include the plural and vice versa. All references to statutes and related regulations shall include any amendments of same and any successor statutes and regulations. Unless otherwise provided, all references to any instruments or agreements to which Agent is a party, including references to any of the Other Documents, shall include any and all modifications, supplements or amendments thereto, any and all restatements or replacements thereof and any and all extensions or renewals thereof. All references herein to the time of day shall mean the time in New York, New York. Whenever the words “including” or “include” shall be used, such words shall be understood to mean “including, without limitation” or “include, without limitation”. A Default or an Event of Default shall be deemed to exist at all times during the period commencing on the date that such Default or Event of Default occurs to the date on which such Default or Event of Default is waived in writing pursuant to this Agreement or, in the case of a Default, is cured within any period of cure expressly provided for in this Agreement; and an Event of Default shall “continue” or be “continuing” until such Event of Default has been waived in writing by Required Lenders. Any Lien referred to in this Agreement or any of the Other Documents as having been created in favor of Agent, any agreement entered into by Agent pursuant to this Agreement or any of the Other Documents, any payment made by or to or funds received by Agent pursuant to or as contemplated by this Agreement or any of the Other Documents, or any act taken or omitted to be taken by Agent, shall, unless otherwise expressly provided, be created, entered into, made or received, or taken or omitted, for the benefit or account of Agent and Lenders. Wherever the phrase “to the best of Borrowers’ knowledge” or words of similar import relating to the knowledge or the awareness of any Borrower are used in this Agreement or Other Documents, such phrase shall mean and refer to (i) the actual knowledge of an officer of any Borrower or (ii) the knowledge that an officer would have obtained if he/she had engaged in a good faith and diligent performance of his/her duties, including the making of such reasonably specific inquiries as may be necessary of the employees or agents of such Borrower and a good faith attempt to ascertain the existence or accuracy of the matter to which such phrase relates. All covenants hereunder shall be given independent effect so that if a particular action or condition is not permitted by any of such covenants, the fact that it would be permitted by an exception to, or otherwise within the limitations of, another covenant shall not avoid the occurrence of a default if such action is taken or condition exists. In addition, all representations and warranties hereunder shall be given independent effect so that if a particular representation or warranty proves to be incorrect or is breached, the fact that another representation or warranty concerning the same or similar subject matter is correct or is not breached will not affect the incorrectness of a breach of a representation or warranty hereunder.

II. ADVANCES, PAYMENTS.

2.1 Revolving Advances.

(a) Amount of Revolving Advances. Subject to the terms and conditions set forth in this Agreement including Section 2.1(b), each Lender, severally and not jointly, will make Revolving Advances to Borrowers in aggregate amounts outstanding at any time equal to such Lender's Commitment Percentage of the lesser of:

(x) an amount equal to:

(i) the Maximum Revolving Advance Amount, minus

(ii) the aggregate Maximum Undrawn Amount of all outstanding Letters of Credit, minus

(iii) the sum of the Availability Block then in effect plus such reserves as Agent may reasonably deem proper and necessary from time to time;

or

(y) an amount equal to:

(i) up to 85%, subject to the provisions of Section 2.1(b) hereof (the "Advance Rate"), of Eligible Receivables, plus

(ii) up to 85%, subject to the provisions of Section 2.1(b) hereof, the appraised net orderly liquidation value of Eligible Existing Equipment, as evidenced by an equipment appraisal satisfactory to Agent in its Permitted Discretion, (the "Eligible Existing Equipment Advance Rate"); provided that the Eligible Existing Equipment Advance Rate shall decrease by 0.5% per month commencing on the first day of the month immediately following the date on which Agent receives an equipment appraisal until such time as Agent receives an updated equipment appraisal, at which point the Eligible Existing Equipment Advance Rate shall re-set to 85% and continue to be subject to the 0.5% per month reductions described above; plus

(iii) up to 90%, subject to the provisions of Section 2.1(b) hereof, of (1) the Net Invoice Cost of Eligible New Equipment consisting of new equipment purchased by Borrowers or (2) the manufacturing cost to Borrowers of Eligible New Equipment consisting of equipment newly fabricated by Borrowers, as applicable (the "Eligible New Equipment Advance Rate"); provided that the applicable Borrower shall have provided to Agent (a) a copy of the invoice relating to any new purchased equipment or a statement of the manufacturing costs to the applicable Borrower of any newly fabricated equipment, as applicable, (b) evidence that any purchased equipment has been shipped to the applicable Borrower and that any newly fabricated equipment is operational and located at a facility of the applicable Borrower or has been placed into service at a job site of the applicable Borrower, and (c) such other documentation and evidence that Agent may request in its Permitted Discretion; plus

(iv) the aggregate Maximum Undrawn Amount of all outstanding Letters of Credit, minus

(v) the sum of the Availability Block then in effect plus such reserves as Agent may reasonably deem proper and necessary from time to time.

The amount derived from (x) Section 2.1(a)(y)(i) plus Section 2.1(a)(y)(ii) Section 2.1(a)(y)(iii) minus (y) Sections 2.1(a)(y)(iv) and (v) at any time and from time to time shall be referred to as the "Formula Amount." The Revolving Advances shall be evidenced by one or more secured promissory notes (collectively, the "Revolving Credit Note") substantially in the form attached hereto as Exhibit 2.1(a).

(b) Discretionary Rights. The Advance Rate may be increased or decreased by Agent at any time and from time to time in the exercise of its Permitted Discretion. Each Borrower consents to any such increases or decreases and acknowledges that decreasing the Advance Rate or increasing or imposing reserves may limit or restrict Advances requested by Borrowing Agent. Agent shall give Borrowing Agent not less than five (5) Business Days prior written notice of its intention to decrease the Advance Rate. The rights of Agent under this subsection are subject to the provisions of Section 16.2(b).

2.2 Procedures for Requesting Revolving Advances; Procedures for Selection of Applicable Interest Rates for All Advances.

(a) Borrowing Agent on behalf of any Borrower may notify Agent prior to 1:00 p.m. Eastern Time on a Business Day of a Borrower's request to incur, on that day, a Revolving Advance hereunder. Should any amount required to be paid as interest hereunder, or as fees or other charges under this Agreement or any other agreement with Agent or Lenders, or with respect to any other Obligation under this Agreement, become due, same shall be deemed a request for a Revolving Advance maintained as a Domestic Rate Loan as of the date such payment is due, in the amount required to pay in full such interest, fee, charge or Obligation, and such request shall be irrevocable.

(b) Notwithstanding the provisions of subsection (a) above, in the event any Borrower desires to obtain a LIBOR Rate Loan for any Advance, Borrowing Agent shall give Agent written notice by no later than 1:00 p.m. Eastern Time on the day which is three (3) Business Days prior to the date such LIBOR Rate Loan is to be borrowed, specifying (i) the date of the proposed borrowing (which shall be a Business Day), (ii) the type of borrowing and the amount of such Advance to be borrowed, which amount shall be in a minimum amount of \$500,000 and in integral multiples of \$100,000 thereafter, and (iii) the duration of the first Interest Period therefor. Interest Periods for LIBOR Rate Loans shall be for one, two or three months; provided that, if an Interest Period would end on a day that is not a Business Day, it shall end on the next succeeding Business Day unless such day falls in the next succeeding calendar month in which case the Interest Period shall end on the next preceding Business Day. No LIBOR Rate Loan shall be made available to any Borrower during the continuance of a Default or an Event of Default. After giving effect to each requested LIBOR Rate Loan, including those which are converted from a Domestic Rate Loan under Section 2.2(e), there shall not be outstanding more than seven (7) LIBOR Rate Loans, in the aggregate.

(c) Each Interest Period of a LIBOR Rate Loan shall commence on the date such LIBOR Rate Loan is made and shall end on such date as Borrowing Agent may elect as set forth in subsection (b)(iii) above, provided that the exact length of each Interest Period shall be determined in accordance with the practice of the interbank market for offshore Dollar deposits and no Interest Period shall end after the last day of the Term.

(d) Borrowing Agent shall elect the initial Interest Period applicable to a LIBOR Rate Loan by its notice of borrowing given to Agent pursuant to Section 2.2(b) or by its notice of conversion given to Agent pursuant to Section 2.2(e), as the case may be. Borrowing Agent shall elect the duration of each succeeding Interest Period by giving irrevocable written notice to Agent of such duration not later than 1:00 p.m. Eastern Time on the day which is three (3) Business Days prior to the last day of the then current Interest Period applicable to such LIBOR Rate Loan. If Agent does not receive timely notice of the Interest Period elected by Borrowing Agent, Borrowing Agent shall be deemed to have elected to convert such LIBOR Rate Loan to a Domestic Rate Loan subject to Section 2.2(e) below.

(e) Provided that no Default or Event of Default shall have occurred and be continuing, Borrowing Agent may, on the last Business Day of the then current Interest Period applicable to any outstanding LIBOR Rate Loan, or on any Business Day with respect to Domestic Rate Loans, convert any such loan into a loan of another type in the same aggregate principal amount provided that any conversion of a LIBOR Rate Loan shall be made only on the last Business Day of the then current Interest Period applicable to such LIBOR Rate Loan. If Borrowing Agent desires to convert a loan, Borrowing Agent shall give Agent written notice by no later than 1:00 p.m. (i) on the day which is three (3) Business Days prior to the date on which such conversion is to occur with respect to a conversion from a Domestic Rate Loan to a LIBOR Rate Loan, or (ii) on the day which is one (1) Business Day prior to the date on which such conversion is to occur (which date shall be the last Business Day of the Interest Period for the applicable LIBOR Rate Loan) with respect to a conversion from a LIBOR Rate Loan to a Domestic Rate Loan, specifying, in each case, the date of such conversion, the loans to be converted and if the conversion is to a LIBOR Rate Loan, the duration of the first Interest Period therefor.

(f) At its option and upon written notice given prior to 1:00 p.m. Eastern Time at least three (3) Business Days prior to the date of such prepayment, any Borrower may, subject to Section 2.2(g) hereof, prepay the LIBOR Rate Loans in whole at any time or in part from time to time with accrued interest on the principal being prepaid to the date of such repayment. Such Borrower shall specify the date of prepayment of Advances which are LIBOR Rate Loans and the amount of such prepayment. In the event that any prepayment of a LIBOR Rate Loan is required or permitted on a date other than the last Business Day of the then current Interest Period with respect thereto, such Borrower shall indemnify Agent and Lenders therefor in accordance with Section 2.2(g) hereof.

(g) Each Borrower shall indemnify Agent and Lenders and hold Agent and Lenders harmless from and against any and all losses or expenses that Agent and Lenders may sustain or incur as a consequence of any prepayment, conversion of or any default by any Borrower in the payment of the principal of or interest on any LIBOR Rate Loan or failure by any Borrower to complete a borrowing of, a prepayment of or conversion of or to a LIBOR Rate Loan after notice thereof has been given, including, but not limited to, any interest payable by Agent or Lenders to lenders of funds obtained by it in order to make or maintain its LIBOR Rate Loans hereunder. A certificate as to any additional amounts payable pursuant to the foregoing sentence submitted by Agent or any Lender to Borrowing Agent shall be conclusive absent manifest error.

(h) Notwithstanding any other provision hereof, if any Applicable Law, treaty, regulation or directive, or any change therein or in the interpretation or application thereof, including without limitation any Change in Law, shall make it unlawful for Lenders or any Lender (for purposes of this subsection (h), the term "Lender" shall include any Lender and the office or branch where any Lender or any Person controlling such Lender makes or maintains any LIBOR Rate Loans) to make or maintain its LIBOR Rate Loans, the obligation of Lenders (or such affected Lender) to make LIBOR Rate Loans hereunder shall forthwith be cancelled and Borrowers shall, if any affected LIBOR Rate Loans are then outstanding, promptly upon request from Agent, either pay all such affected LIBOR Rate Loans or convert such affected LIBOR Rate Loans into loans of another type. If any such payment or conversion of any LIBOR Rate Loan is made on a day that is not the last day of the Interest Period applicable to such LIBOR Rate Loan, Borrowers shall pay Agent, upon Agent's request, such amount or amounts set forth in clause (g) above. A certificate as to any additional amounts payable pursuant to the foregoing sentence submitted by Lenders to Borrowing Agent shall be conclusive absent manifest error.

2.3 [Reserved].

2.4 [Reserved].

2.5 Disbursement of Advance Proceeds. All Advances shall be disbursed from whichever office or other place Agent may designate from time to time and, together with any and all other Obligations of Borrowers to Agent or Lenders, shall be charged to Borrowers' Account on Agent's books. The proceeds of each Revolving Advance requested by Borrowing Agent on behalf of any Borrower or deemed to have been requested by any Borrower under Sections 2.2(a), 2.6(b) or 2.14 hereof shall, (i) to the extent Lenders make such Revolving Advances in accordance with Section 2.2(a), 2.6(b) or 2.14 hereof, be made available to the applicable Borrower on the day so requested by way of credit to such Borrower's operating account at PNC, or such other bank as Borrowing Agent may designate following notification to Agent, in immediately available federal funds or other immediately available funds or, (ii) with respect to Revolving Advances deemed to have been requested by any Borrower, be disbursed to Agent to be applied to the outstanding Obligations giving rise to such deemed request. During the Term, Borrowers may use the Revolving Advances by borrowing, prepaying and reborrowing, all in accordance with the terms and conditions hereof.

2.6 Making and Settlement of Advances.

(a) Each borrowing of Revolving Advances shall be advanced according to the applicable Revolving Commitment Percentages of Lenders holding the Revolving Commitments (subject to any contrary terms of Section 2.22).

(b) Promptly after receipt by Agent of a request or a deemed request for a Revolving Advance pursuant to Section 2.2(a), Agent shall notify Lenders holding the Revolving Commitments of its receipt of such request specifying the information provided by Borrowing Agent and the apportionment among Lenders of the requested Revolving as determined by Agent in accordance with the terms hereof. Each Lender shall remit the principal amount of each Revolving Advance to Agent such that Agent is able to, and Agent shall, to the extent the applicable Lenders have made funds available to it for such purpose and subject to Section 8.2, fund such Revolving Advance to Borrowers in U.S. Dollars and immediately available funds at the Payment Office prior to the close of business, on the applicable borrowing date; provided that if any applicable Lender fails to remit such funds to Agent in a timely manner, Agent may elect in its sole discretion to fund with its own funds the Revolving Advance of such Lender on such borrowing date, and such Lender shall be subject to the repayment obligation in Section 2.6(c) hereof.

(c) Unless Agent shall have been notified by telephone, confirmed in writing, by any Lender holding a Revolving Commitment that such Lender will not make the amount which would constitute its applicable Revolving Commitment Percentage of the requested Revolving Advance available to Agent, Agent may (but shall not be obligated to) assume that such Lender has made such amount available to Agent on such date in accordance with Section 2.6(b) and may, in reliance upon such assumption, make available to Borrowers a corresponding amount. In such event, if a Lender has not in fact made its applicable Revolving Commitment Percentage of the requested Revolving Advance available to Agent, then the applicable Lender and Borrowers severally agree to pay to Agent on demand such corresponding amount with interest thereon, for each day from and including the date such amount is made available to Borrowers through but excluding the date of payment to Agent, at (i) in the case of a payment to be made by such Lender, the greater of (A) (x) the daily average Federal Funds Effective Rate (computed on the basis of a year of 360 days) during such period as quoted by Agent, times (y) such amount or (B) a rate determined by Agent in accordance with banking industry rules on interbank compensation, and (ii) in the case of a payment to be made by Borrower, the Revolving Interest Rate for Revolving Advances that are Domestic Rate Loans. If such Lender pays its share of the applicable Revolving Advance to Agent, then the amount so paid shall constitute such Lender's Revolving Advance. Any payment by Borrowers shall be without prejudice to any claim Borrowers may have against a Lender holding a Revolving Commitment that shall have failed to make such payment to Agent. A certificate of Agent submitted to any Lender or Borrower with respect to any amounts owing under this paragraph (c) shall be conclusive, in the absence of manifest error.

(d) [Reserved].

(e) If any Lender or Participant (a "Benefited Lender") shall at any time receive any payment of all or part of its Advances, or interest thereon, or receive any Collateral in respect thereof (whether voluntarily or involuntarily or by set-off) in a greater proportion than any such payment to and Collateral received by any other Lender, if any, in respect of such other Lender's Advances, or interest thereon, and such greater proportionate payment or receipt of Collateral is not expressly permitted hereunder, such Benefited Lender shall purchase for cash from the other Lenders a participation in such portion of each such other Lender's Advances, or shall provide such other Lender with the benefits of any such Collateral, or the proceeds thereof, as shall be necessary to cause such Benefited Lender to share the excess payment or benefits of such Collateral or proceeds ratably with each of the other Lenders; provided, however, that if all or any portion of such excess payment or benefits is thereafter recovered from such Benefited Lender, such purchase shall be rescinded, and the purchase price and benefits returned, to the extent of such recovery, but without interest. Each Borrower consents to the foregoing and agrees, to the extent it may effectively do so under Applicable Law, that each Lender so purchasing a portion of another Lender's Advances may exercise all rights of payment (including rights of set-off) with respect to such portion as fully as if such Lender were the direct holder of such portion, and the obligations owing to each such purchasing Lender in respect of such participation and such purchased portion of any other Lender's Advances shall be part of the Obligations secured by the Collateral, and the obligations owing to each such purchasing Lender in respect of such participation and such purchased portion of any other Lender's Advances shall be part of the Obligations secured by the Collateral.

2.7 Maximum Advances. The aggregate balance of Revolving Advances outstanding at any time shall not exceed the lesser of (a) the Maximum Revolving Advance Amount less the aggregate Maximum Undrawn Amount of all issued and outstanding Letters of Credit or (b) the Formula Amount.

2.8 Manner and Repayment of Advances.

(a) The Revolving Advances shall be due and payable in full on the last day of the Term subject to earlier prepayment as herein provided. Notwithstanding the foregoing, all Advances shall be subject to earlier repayment upon (x) acceleration upon the occurrence of an Event of Default under this Agreement or (y) termination of this Agreement. Each payment (including each prepayment) by any Borrower on account of the principal of and interest on the Advances shall be applied, pro rata according to the applicable Revolving Commitment Percentages of Lenders, to the outstanding Revolving Advances (subject to any contrary provisions of Section 2.22).

(b) Each Borrower recognizes that the amounts evidenced by checks, notes, drafts or any other items of payment relating to and/or proceeds of Collateral may not be collectible by Agent on the date received by Agent. Agent shall conditionally credit Borrowers' Account for each item of payment on the next Business Day after the Business Day on which such item of payment is received by Agent (and the Business Day on which each such item of payment is so credited shall be referred to, with respect to such item, as the "Application Date"). Agent is not, however, required to credit Borrowers' Account for the amount of any item of payment which is unsatisfactory to Agent and Agent may charge Borrowers' Account for the amount of any item of payment which is returned, for any reason whatsoever, to Agent unpaid. Subject to the foregoing, Borrowers agree that for purposes of computing the interest charges under this Agreement, each item of payment received by Agent shall be deemed applied by Agent on account of the Obligations on its respective Application Date. Borrowers further agree that there is a monthly float charge payable to Agent for Agent's sole benefit, in an amount equal to (y) the face amount of all items of payment received during the prior month (including items of payment received by Agent as a wire transfer or electronic depository check) multiplied by (z) the Revolving Interest Rate with respect to Domestic Rate Loans for one (1) Business Day. All proceeds received by Agent shall be applied to the Obligations in accordance with Section 4.8(h).

(c) All payments of principal, interest and other amounts payable hereunder, or under any of the Other Documents shall be made to Agent at the Payment Office not later than 1:00 p.m. on the due date therefor in Dollars in federal funds or other funds immediately available to Agent. Agent shall have the right to effectuate payment of any and all Obligations due and owing hereunder by charging Borrowers' Account or by making Advances as provided in Section 2.2 hereof.

(d) Except as expressly provided herein, all payments (including prepayments) to be made by any Borrower on account of principal, interest, fees and other amounts payable hereunder shall be made without deduction, setoff or counterclaim and shall be made to Agent on behalf of Lenders to the Payment Office, in each case on or prior to 1:00 p.m. Eastern Time, in Dollars and in immediately available funds.

2.9 Repayment of Excess Advances. If at any time the aggregate balance of outstanding Revolving Advances and/or Advances taken as a whole exceeds the maximum amount of such type of Advances and/or Advances taken as a whole (as applicable) permitted hereunder, such excess Advances shall be immediately due and payable without the necessity of any demand, at the Payment Office, whether or not a Default or an Event of Default has occurred.

2.10 Statement of Account. Agent shall maintain, in accordance with its customary procedures, a loan account ("Borrowers' Account") in the name of Borrowers in which shall be recorded the date and amount of each Advance made by Agent or Lenders and the date and amount of each payment in respect thereof; provided, however, the failure by Agent to record the date and amount of any Advance shall not adversely affect Agent or any Lender. Each month, Agent shall send to Borrowing Agent a statement showing the accounting for the Advances made, payments made or credited in respect thereof, and other transactions between Agent, Lenders and Borrowers during such month. The monthly statements shall be deemed correct and binding upon Borrowers in the absence of manifest error and shall constitute an account stated between Lenders and Borrowers unless Agent receives a written statement of Borrowers' specific exceptions thereto within thirty (30) days after such statement is received by Borrowing Agent. The records of Agent with respect to Borrowers' Account shall be conclusive evidence absent manifest error of the amounts of Advances and other charges thereto and of payments applicable thereto.

2.11 Letters of Credit.

(a) Subject to the terms and conditions hereof, Issuer shall issue or cause the issuance of standby letters of credit denominated in Dollars ("Letters of Credit") for the account of any Borrower except to the extent that the issuance thereof would then cause the sum of (i) the outstanding Revolving Advances plus (ii) the Maximum Undrawn Amount of all outstanding Letters of Credit, plus (iii) the Maximum Undrawn Amount of the Letter of Credit to be issued to exceed the lesser of (x) the Maximum Revolving Advance Amount or (y) the Formula Amount (calculated without giving effect to the deductions provided for in Section 2.1(a)(y)(ii)); provided, further, however, that Issuer will not be required to issue or cause to be issued any Letters of Credit to the extent that the issuance of such Letters of Credit for the benefit of such Borrower would then cause the sum of (i) the outstanding Revolving Advances to such Borrower plus (ii) the Maximum Undrawn Amount of all outstanding Letters of Credit issued or caused to be issued on behalf of such Borrower to exceed the lesser of (x) such Borrower's Individual Maximum Revolving Advance Amount or (y) such Borrower's Individual Formula Amount (calculated without giving effect to the deductions provided for in clause. The Maximum Undrawn Amount of all outstanding Letters of Credit shall not exceed in the aggregate at any time the Letter of Credit Sublimit. All disbursements or payments related to Letters of Credit shall be deemed to be Domestic Rate Loans consisting of Revolving Advances and shall bear interest at the Revolving Interest Rate for Domestic Rate Loans. Letters of Credit that have not been drawn upon shall not bear interest (but fees shall accrue in respect of outstanding Letters of Credit as provided in Section 3.2 hereof).

(b) Notwithstanding any provision of this Agreement, Issuer shall not be under any obligation to issue any Letter of Credit if (i) any order, judgment or decree of any Governmental Body or arbitrator shall by its terms purport to enjoin or restrain Issuer from issuing any Letter of Credit, or any Law applicable to Issuer or any request or directive (whether or not having the force of law) from any Governmental Body with jurisdiction over Issuer shall prohibit, or request that Issuer refrain from, the issuance of letters of credit generally or the Letter of Credit in particular or shall impose upon Issuer with respect to the Letter of Credit any restriction, reserve or capital requirement (for which Issuer is not otherwise compensated hereunder) not in effect on the date of this Agreement, or shall impose upon Issuer any unreimbursed loss, cost or expense which was not applicable on the date of this Agreement, and which Issuer in good faith deems material to it, or (ii) the issuance of the Letter of Credit would violate one or more policies of Issuer applicable to letters of credit generally.

(c) Schedule 2.11 hereto sets forth all of the Letters of Credit issued by Issuer under and pursuant to the Existing Credit Agreement which remain outstanding on the Amendment Effective Date (collectively, the "Existing Letters of Credit"). Each of the Existing Letters of Credit shall be considered to be outstanding hereunder shall be governed by the terms of this Agreement.

2.12 Issuance of Letters of Credit.

(a) Borrowing Agent, on behalf of any Borrower, may request Issuer to issue or cause the issuance of a Letter of Credit by delivering to Issuer, with a copy to Agent at the Payment Office, prior to 1:00 p.m., at least five (5) Business Days prior to the proposed date of issuance, such Issuer's form of Letter of Credit Application (the "Letter of Credit Application") completed to the satisfaction of Agent and Issuer; and, such other certificates, documents and other papers and information as Agent or Issuer may reasonably request. Issuer shall not issue any requested Letter of Credit if such Issuer has received notice from Agent or any Lender that one or more of the applicable conditions set forth in Section 8.2 of this Agreement have not been satisfied or the commitments of Lenders to make Revolving Advances hereunder have been terminated for any reason.

(b) Each Letter of Credit shall, among other things, (i) provide for the payment of sight drafts when presented for honor thereunder in accordance with the terms thereof and when accompanied by the documents described therein and (ii) have an expiry date not later than twelve (12) months after such Letter of Credit's date of issuance and in no event later than the last day of the Term. Each standby Letter of Credit shall be subject either to the Uniform Customs and Practice for Documentary Credits as most recently published by the International Chamber of Commerce at the time a Letter of Credit is issued (the "UCP") or the International Standby Practices (International Chamber of Commerce Publication Number 590) (the "ISP98 Rules"), or any subsequent revision thereof at the time a standby Letter of Credit is issued, as determined by Issuer, and each trade Letter of Credit shall be subject to the UCP.

(c) Agent shall use its reasonable efforts to notify Lenders of the request by Borrowing Agent for a Letter of Credit hereunder.

2.13 Requirements For Issuance of Letters of Credit.

(a) Borrowing Agent shall authorize and direct any Issuer to name the applicable Borrower as the "Applicant" or "Account Party" of each Letter of Credit. If Agent is not the Issuer of any Letter of Credit, Borrowing Agent shall authorize and direct Issuer to deliver to Agent all instruments, documents, and other writings and property received by Issuer pursuant to the Letter of Credit and to accept and rely upon Agent's instructions and agreements with respect to all matters arising in connection with the Letter of Credit, the application therefor.

(b) In connection with all trade Letters of Credit issued or caused to be issued by Issuer under this Agreement, each Borrower hereby appoints Issuer, or its designee, as its attorney, with full power and authority if an Event of Default shall have occurred: (i) to sign and/or endorse such Borrower's name upon any warehouse or other receipts, and acceptances; (ii) to sign such Borrower's name on bills of lading; (iii) to clear Inventory through the United States of America Customs Department ("Customs") in the name of such Borrower or Issuer or Issuer's designee, and to sign and deliver to Customs officials powers of attorney in the name of such Borrower for such purpose; and (iv) to complete in such Borrower's name or Issuer's, or in the name of Issuer's designee, any order, sale or transaction, obtain the necessary documents in connection therewith, and collect the proceeds thereof. Neither Agent, Issuer nor their attorneys will be liable for any acts or omissions nor for any error of judgment or mistakes of fact or law, except for Agent's, Issuer's or their respective attorney's willful misconduct. This power, being coupled with an interest, is irrevocable as long as any Letters of Credit remain outstanding.

2.14 Disbursements, Reimbursement.

(a) Immediately upon the issuance of each Letter of Credit, each Lender holding a Revolving Commitment shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from Issuer a participation in each Letter of Credit and each drawing thereunder in an amount equal to such Lender's Revolving Commitment Percentage of the Maximum Undrawn Amount of such Letter of Credit (as in effect from time to time) and the amount of such drawing, respectively.

(b) In the event of any request for a drawing under a Letter of Credit by the beneficiary or transferee thereof, Issuer will promptly notify Agent and Borrowing Agent. Regardless of whether Borrowing Agent shall have received such notice, Borrowers shall reimburse (such obligation to reimburse Issuer shall sometimes be referred to as a "Reimbursement Obligation") Issuer prior to 12:00 Noon Eastern Time, on each date that an amount is paid by Issuer under any Letter of Credit (each such date, a "Drawing Date") in an amount equal to the amount so paid by Issuer. In the event Borrowers fail to reimburse Issuer for the full amount of any drawing under any Letter of Credit by 12:00 Noon, on the Drawing Date, Issuer will promptly notify Agent and each Lender holding a Revolving Commitment thereof, and Borrowers shall be automatically deemed to have requested that a Revolving Advance maintained as a Domestic Rate Loan be made by Lenders to be disbursed on the Drawing Date under such Letter of Credit, and Lenders holding the Revolving Commitments shall be unconditionally obligated to fund such Revolving Advance (all whether or not the conditions specified in Section 8.2 are then satisfied or the commitments of Lenders to make Revolving Advances hereunder have been terminated for any reason) as provided for in Section 2.14(c) immediately below. Any notice given by Issuer pursuant to this Section 2.14(b) may be oral if promptly confirmed in writing; provided that the lack of such a confirmation shall not affect the conclusiveness or binding effect of such notice.

(c) Each Lender holding a Revolving Commitment shall upon any notice pursuant to Section 2.14(b) make available to Issuer through Agent at the Payment Office an amount in immediately available funds equal to its Revolving Commitment Percentage (subject to any contrary provisions of Section 2.22) of the amount of the drawing, whereupon the participating Lenders shall (subject to Section 2.14(d)) each be deemed to have made a Revolving Advance maintained as a Domestic Rate Loan to Borrowers in that amount. If any Lender holding a Revolving Commitment so notified fails to make available to Agent, for the benefit of Issuer, the amount of such Lender's Revolving Commitment Percentage of such amount by 2:00 p.m. on the Drawing Date, then interest shall accrue on such Lender's obligation to make such payment, from the Drawing Date to the date on which such Lender makes such payment (i) at a rate per annum equal to the Federal Funds Effective Rate during the first three (3) days following the Drawing Date and (ii) at a rate per annum equal to the rate applicable to Revolving Advances maintained as a Domestic Rate Loan on and after the fourth day following the Drawing Date. Agent and Issuer will promptly give notice of the occurrence of the Drawing Date, but failure of Agent or Issuer to give any such notice on the Drawing Date or in sufficient time to enable any Lender holding a Revolving Commitment to effect such payment on such date shall not relieve such Lender from its obligations under this Section 2.14(c), provided that such Lender shall not be obligated to pay interest as provided in Section 2.14(c)(i) and (ii) until and commencing from the date of receipt of notice from Agent or Issuer of a drawing.

(d) With respect to any unreimbursed drawing that is not converted into a Revolving Advance maintained as a Domestic Rate Loan to Borrowers in whole or in part as contemplated by Section 2.14(b), because of Borrowers' failure to satisfy the conditions set forth in Section 8.2 hereof (other than any notice requirements) or for any other reason, Borrowers shall be deemed to have incurred from Agent a borrowing (each a "Letter of Credit Borrowing") in the amount of such drawing. Such Letter of Credit Borrowing shall be due and payable on demand (together with interest) and shall bear interest at the rate per annum applicable to a Revolving Advance maintained as a Domestic Rate Loan. Each applicable Lender's payment to Agent pursuant to Section 2.14(c) shall be deemed to be a payment in respect of its participation in such Letter of Credit Borrowing and shall constitute a "Participation Advance" from such Lender in satisfaction of its Participation Commitment in respect of the applicable Letter of Credit under this Section 2.14.

(e) Each applicable Lender's Participation Commitment in respect of the Letters of Credit shall continue until the last to occur of any of the following events: (x) Issuer ceases to be obligated to issue or cause to be issued Letters of Credit hereunder; (y) no Letter of Credit issued or created hereunder remains outstanding and uncanceled; and (z) all Persons (other than Borrowers) have been fully reimbursed for all payments made under or relating to Letters of Credit.

2.15 Repayment of Participation Advances.

(a) Upon (and only upon) receipt by Agent for the account of Issuer of immediately available funds from Borrowers (i) in reimbursement of any payment made by Issuer or Agent under the Letter of Credit with respect to which any Lender has made a Participation Advance to Agent, or (ii) in payment of interest on such a payment made by Issuer or Agent under such a Letter of Credit, Agent will pay to each Lender holding a Revolving Commitment, in the same funds as those received by Agent, the amount of such Lender's Revolving Commitment Percentage of such funds, except Agent shall retain the amount of the Revolving Commitment Percentage of such funds of any Lender holding a Revolving Commitment that did not make a Participation Advance in respect of such payment by Agent (and, to the extent that any of the other Lender(s) holding the Revolving Commitment have funded any portion such Defaulting Lender's Participation Advance in accordance with the provisions of Section 2.22, Agent will pay over to such Non-Defaulting Lenders a pro rata portion of the funds so withheld from such Defaulting Lender).

(b) If Issuer or Agent is required at any time to return to any Borrower, or to a trustee, receiver, liquidator, custodian, or any official in any insolvency proceeding, any portion of the payments made by Borrowers to Issuer or Agent pursuant to Section 2.15(a) in reimbursement of a payment made under the Letter of Credit or interest or fee thereon, each applicable Lender shall, on demand of Agent, forthwith return to Issuer or Agent the amount of its Revolving Commitment Percentage of any amounts so returned by Issuer or Agent plus interest at the Federal Funds Effective Rate.

2.16 Documentation. Each Borrower agrees to be bound by the terms of the Letter of Credit Application and by Issuer's interpretations of any Letter of Credit issued on behalf of such Borrower and by Issuer's written regulations and customary practices relating to letters of credit, though Issuer's interpretations may be different from such Borrower's own. In the event of a conflict between the Letter of Credit Application and this Agreement, this Agreement shall govern. It is understood and agreed that, except in the case of gross negligence or willful misconduct (as determined by a court of competent jurisdiction in a final non-appealable judgment), Issuer shall not be liable for any error, negligence and/or mistakes, whether of omission or commission, in following Borrowing Agent's or any Borrower's instructions or those contained in the Letters of Credit or any modifications, amendments or supplements thereto.

2.17 Determination to Honor Drawing Request In determining whether to honor any request for drawing under any Letter of Credit by the beneficiary thereof, Issuer shall be responsible only to determine that the documents and certificates required to be delivered under such Letter of Credit have been delivered and that they comply on their face with the requirements of such Letter of Credit and that any other drawing condition appearing on the face of such Letter of Credit has been satisfied in the manner so set forth.

2.18 Nature of Participation and Reimbursement Obligations. The obligation of each Lender holding a Revolving Commitment in accordance with this Agreement to make the Revolving Advances or Participation Advances as a result of a drawing under a Letter of Credit, and the obligations of Borrowers to reimburse Issuer upon a draw under a Letter of Credit, shall be absolute, unconditional and irrevocable, and shall be performed strictly in accordance with the terms of this Section 2.18 under all circumstances, including the following circumstances:

(i) any set-off, counterclaim, recoupment, defense or other right which such Lender or any Borrower, as the case may be, may have against Issuer, Agent, any Borrower or Lender, as the case may be, or any other Person for any reason whatsoever;

(ii) the failure of any Borrower or any other Person to comply, in connection with a Letter of Credit Borrowing, with the conditions set forth in this Agreement for the making of a Revolving Advance, it being acknowledged that such conditions are not required for the making of a Letter of Credit Borrowing and the obligation of Lenders to make Participation Advances under Section 2.14;

(iii) any lack of validity or enforceability of any Letter of Credit;

(iv) any claim of breach of warranty that might be made by any Borrower, Agent, Issuer or any Lender against the beneficiary of a Letter of Credit, or the existence of any claim, set-off, recoupment, counterclaim, cross-claim, defense or other right which any Borrower, Agent, Issuer or any Lender may have at any time against a beneficiary, any successor beneficiary or any transferee of any Letter of Credit or assignee of the proceeds thereof (or any Persons for whom any such transferee or assignee may be acting), Issuer, Agent or any Lender or any other Person, whether in connection with this Agreement, the transactions contemplated herein or any unrelated transaction (including any underlying transaction between any Borrower or any Subsidiaries of such Borrower and the beneficiary for which any Letter of Credit was procured);

(v) the lack of power or authority of any signer of (or any defect in or forgery of any signature or endorsement on) or the form of or lack of validity, sufficiency, accuracy, enforceability or genuineness of any draft, demand, instrument, certificate or other document presented under or in connection with any Letter of Credit, or any fraud or alleged fraud in connection with any Letter of Credit, or the transport of any property or provision of services relating to a Letter of Credit, in each case even if Issuer or any of Issuer's Affiliates has been notified thereof;

(vi) payment by Issuer under any Letter of Credit against presentation of a demand, draft or certificate or other document which is forged or does not fully comply with the terms of such Letter of Credit (provided that the foregoing shall not excuse Issuer from any obligation under the terms of any applicable Letter of Credit to require the presentation of documents that on their face appear to satisfy any applicable requirements for drawing under such Letter of Credit prior to honoring or paying any such draw);

(vii) the solvency of, or any acts or omissions by, any beneficiary of any Letter of Credit, or any other Person having a role in any transaction or obligation relating to a Letter of Credit, or the existence, nature, quality, quantity, condition, value or other characteristic of any property or services relating to a Letter of Credit;

(viii) any failure by Issuer or any of Issuer's Affiliates to issue any Letter of Credit in the form requested by Borrowing Agent, unless Agent and Issuer have each received written notice from Borrowing Agent of such failure within three (3) Business Days after Issuer shall have furnished Agent and Borrowing Agent a copy of such Letter of Credit and such error is material and no drawing has been made thereon prior to receipt of such notice;

(ix) the occurrence of any Material Adverse Effect;

(x) any breach of this Agreement or any Other Document by any party thereto;

(xi) the occurrence or continuance of an insolvency proceeding with respect to any Borrower or any Guarantor;

(xii) the fact that a Default or an Event of Default shall have occurred and be continuing;

(xiii) the fact that the Term shall have expired or this Agreement or the obligations of Lenders to make Advances have been terminated; and

(xiv) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing.

2.19 Liability for Acts and Omissions.

(a) As between Borrowers and Issuer, Agent and Lenders, each Borrower assumes all risks of the acts and omissions of, or misuse of the Letters of Credit by, the respective beneficiaries of such Letters of Credit. In furtherance and not in limitation of the foregoing, Issuer shall not be responsible for: (i) the form, validity, sufficiency, accuracy, genuineness or legal effect of any document submitted by any party in connection with the application for an issuance of any such Letter of Credit, even if it should in fact prove to be in any or all respects invalid, insufficient, inaccurate, fraudulent or forged (even if Issuer or any of its Affiliates shall have been notified thereof); (ii) the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign any such Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, which may prove to be invalid or ineffective for any reason; (iii) the failure of the beneficiary of any such Letter of Credit, or any other party to which such Letter of Credit may be transferred, to comply fully with any conditions required in order to draw upon such Letter of Credit or any other claim of any Borrower against any beneficiary of such Letter of Credit, or any such transferee, or any dispute between or among any Borrower and any beneficiary of any Letter of Credit or any such transferee; (iv) errors, omissions, interruptions or delays in transmission or delivery of any messages, by mail, cable, facsimile, telex or otherwise, whether or not they be in cipher; (v) errors in interpretation of technical terms; (vi) any loss or delay in the transmission or otherwise of any document required in order to make a drawing under any such Letter of Credit or of the proceeds thereof; (vii) the misapplication by the beneficiary of any such Letter of Credit of the proceeds of any drawing under such Letter of Credit; or (viii) any consequences arising from causes beyond the control of Issuer, including any Governmental Acts, and none of the above shall affect or impair, or prevent the vesting of, any of Issuer's rights or powers hereunder. Nothing in the preceding sentence shall relieve Issuer from liability for Issuer's gross negligence or willful misconduct (as determined by a court of competent jurisdiction in a final non-appealable judgment) in connection with actions or omissions described in such clauses (i) through (viii) of such sentence. In no event shall Issuer or Issuer's Affiliates be liable to any Borrower for any indirect, consequential, incidental, punitive, exemplary or special damages or expenses (including without limitation attorneys' fees), or for any damages resulting from any change in the value of any property relating to a Letter of Credit.

(b) Without limiting the generality of the foregoing, Issuer and each of its Affiliates: (i) may rely on any oral or other communication believed in good faith by Issuer or such Affiliate to have been authorized or given by or on behalf of the applicant for a Letter of Credit; (ii) may honor any presentation if the documents presented appear on their face substantially to comply with the terms and conditions of the relevant Letter of Credit; (iii) may honor a previously dishonored presentation under a Letter of Credit, whether such dishonor was pursuant to a court order, to settle or compromise any claim of wrongful dishonor, or otherwise, and shall be entitled to reimbursement to the same extent as if such presentation had initially been honored, together with any interest paid by Issuer or its Affiliates; (iv) may honor any drawing that is payable upon presentation of a statement advising negotiation or payment, upon receipt of such statement (even if such statement indicates that a draft or other document is being delivered separately), and shall not be liable for any failure of any such draft or other document to arrive, or to conform in any way with the relevant Letter of Credit; (v) may pay any paying or negotiating bank claiming that it rightfully honored under the laws or practices of the place where such bank is located; and (vi) may settle or adjust any claim or demand made on Issuer or its Affiliate in any way related to any order issued at the applicant's request to an air carrier, a letter of guarantee or of indemnity issued to a steamship agent or carrier or any document or instrument of like import (each an "Order") and honor any drawing in connection with any Letter of Credit that is the subject of such Order, notwithstanding that any drafts or other documents presented in connection with such Letter of Credit fail to conform in any way with such Letter of Credit.

(c) In furtherance and extension and not in limitation of the specific provisions set forth above, any action taken or omitted by Issuer under or in connection with the Letters of Credit issued by it or any documents and certificates delivered thereunder, if taken or omitted in good faith and without gross negligence (as determined by a court of competent jurisdiction in a final non-appealable judgment), shall not put Issuer under any resulting liability to any Borrower, Agent or any Lender.

2.20 Mandatory Prepayments.

(a) Subject to Section 4.3 hereof, when any Borrower sells or otherwise disposes of any Collateral other than equipment in the Ordinary Course of Business, Borrowers shall repay the Advances in an amount equal to the net proceeds of such sale (i.e., gross proceeds less the reasonable costs of such sales or other dispositions), such repayments to be made promptly but in no event more than one (1) Business Day following receipt of such net proceeds, and until the date of payment, such proceeds shall be held in trust for Agent. The foregoing shall not be deemed to be implied consent to any such sale otherwise prohibited by the terms and conditions hereof. Such repayments shall be applied to the Advances in such order as Agent may determine, subject to Borrowers' ability to reborrow Revolving Advances in accordance with the terms hereof; and

(b) All proceeds received by Borrowers or Agent (i) under any insurance policy on account of damage or destruction of any assets or property of any Borrowers, or (ii) as a result of any taking or condemnation of any assets or property shall be applied in accordance with Section 6.6 hereof.

2.21 Use of Proceeds.

(a) Borrowers shall apply the proceeds of Advances to (i) refinance the Term Loan under (and as defined in the Existing Loan Agreement), (ii) refinance existing term loan Indebtedness of the Borrowers (other than the Term Loan) in an aggregate amount of not greater than \$500,000, (iii) pay fees and expenses relating to this transaction, and (iv) provide for its working capital needs (including, without limitation, Capital Expenditures) and reimburse drawings under Letters of Credit.

(b) Without limiting the generality of Section 2.21(a) above, neither the Borrowers, the Guarantors nor any other Person which may in the future become party to this Agreement or the Other Documents as a Borrower or Guarantor, intends to use nor shall they use any portion of the proceeds of the Advances, directly or indirectly, for any purpose in violation of Applicable Law.

2.22 Defaulting Lender.

(a) Notwithstanding anything to the contrary contained herein, in the event any Lender is a Defaulting Lender, all rights and obligations hereunder of such Defaulting Lender and of the other parties hereto shall be modified to the extent of the express provisions of this Section 2.22 so long as such Lender is a Defaulting Lender.

(b) (i) except as otherwise expressly provided for in this Section 2.22, Revolving Advances shall be made pro rata from Lenders holding Revolving Commitments which are not Defaulting Lenders based on their respective Revolving Commitment Percentages, and no Revolving Commitment Percentage of any Lender or any pro rata share of any Revolving Advances required to be advanced by any Lender shall be increased as a result of any Lender being a Defaulting Lender. Amounts received in respect of principal of any type of Revolving Advances shall be applied to reduce such type of Revolving Advances of each Lender (other than any Defaulting Lender) holding a Revolving Commitment in accordance with their Revolving Commitment Percentages; provided, that, Agent shall not be obligated to transfer to a Defaulting Lender any payments received by Agent for Defaulting Lender's benefit, nor shall a Defaulting Lender be entitled to the sharing of any payments hereunder (including any principal, interest or fees). Amounts payable to a Defaulting Lender shall instead be paid to or retained by Agent. Agent may hold and, in its discretion, re-lend to a Borrower the amount of such payments received or retained by it for the account of such Defaulting Lender.

(i) fees pursuant to Section 3.3(b) hereof shall cease to accrue in favor of such Defaulting Lender.

(ii) if Letters of Credit (or drawings under any Letter of Credit for which Issuer has not been reimbursed) are outstanding or exist at the time any such Lender holding a Revolving Commitment becomes a Defaulting Lender, then:

(A) Defaulting Lender's Participation Commitment in the Maximum Undrawn Amount of all outstanding Letters of Credit shall be reallocated among Non-Defaulting Lenders holding Revolving Commitments in proportion to the respective Revolving Commitment Percentages of such Non-Defaulting Lenders to the extent (but only to the extent) that (x) such reallocation does not cause the aggregate sum of outstanding Revolving Advances made by any such Non-Defaulting Lender holding a Revolving Commitment plus such Lender's reallocated Participation Commitment in the aggregate Maximum Undrawn Amount of all outstanding Letters of Credit to exceed the Revolving Commitment Amount of any such Non-Defaulting Lender, and (y) no Default or Event of Default has occurred and is continuing at such time;

(B) if the reallocation described in clause (A) above cannot, or can only partially, be effected, Borrowers shall within one Business Day following notice by Agent, cash collateralize for the benefit of Issuer, Borrowers' obligations corresponding to such Defaulting Lender's Participation Commitment in the Maximum Undrawn Amount of all Letters of Credit (after giving effect to any partial reallocation pursuant to clause (A) above) in accordance with Section 3.2(b) for so long as such Obligations are outstanding;

(C) if Borrowers cash collateralize any portion of such Defaulting Lender's Participation Commitment in the Maximum Undrawn Amount of all Letters of Credit pursuant to clause (B) above, Borrowers shall not be required to pay any fees to such Defaulting Lender pursuant to Section 3.2(a) with respect to such Defaulting Lender's Revolving Commitment Percentage of Maximum Undrawn Amount of all Letters of Credit during the period such Defaulting Lender's Participation Commitment in the Maximum Undrawn Amount of all Letters of Credit are cash collateralized;

(D) if Defaulting Lender's Participation Commitment in the Maximum Undrawn Amount of all Letters of Credit is reallocated pursuant to clause (A) above, then the fees payable to Lenders holding Revolving Commitments pursuant to Section 3.2(a) shall be adjusted and reallocated to Non-Defaulting Lenders holding Revolving Commitments in accordance with such reallocation; and

(E) if all or any portion of such Defaulting Lender's Participation Commitment in the Maximum Undrawn Amount of all Letters of Credit is neither reallocated nor cash collateralized pursuant to clauses (A) or (B) above, then, without prejudice to any rights or remedies of Issuer or any other Lender hereunder, all Letter of Credit Fees payable under Section 3.2(a) with respect to such Defaulting Lender's Revolving Commitment Percentage of the Maximum Undrawn Amount of all Letters of Credit shall be payable to the Issuer (and not to such Defaulting Lender) until (and then only to the extent that) such Participation Commitment in the Maximum Undrawn Amount of all Letters of Credit is reallocated and/or cash collateralized;

(c) A Defaulting Lender shall not be entitled to give instructions to Agent or to approve, disapprove, consent to or vote on any matters relating to this Agreement and the Other Documents, and all amendments, waivers and other modifications of this Agreement and the Other Documents may be made without regard to a Defaulting Lender and, for purposes of the definition of "Required Lenders," a Defaulting Lender shall not be deemed to be a Lender, to have any outstanding Advances or a Revolving Commitment Percentage.

(d) Other than as expressly set forth in this Section 2.22, the rights and obligations of a Defaulting Lender (including the obligation to indemnify Agent) and the other parties hereto shall remain unchanged. Nothing in this Section 2.22 shall be deemed to release any Defaulting Lender from its obligations under this Agreement and the Other Documents, shall alter such obligations, shall operate as a waiver of any default by such Defaulting Lender hereunder, or shall prejudice any rights which any Borrower, Agent or any Lender may have against any Defaulting Lender as a result of any default by such Defaulting Lender hereunder.

(e) In the event that Agent, Borrowers and Issuer agree in writing that a Defaulting Lender has adequately remedied all matters that caused such Lender to be a Defaulting Lender, then Agent will so notify the parties hereto, and, if such cured Defaulting Lender is a Lender holding a Revolving Commitment, then Participation Commitments of Lenders holding Revolving Commitments (including such cured Defaulting Lender) of the Maximum Undrawn Amount of all outstanding Letters of Credit shall be reallocated to reflect the inclusion of such Lender's Revolving Commitment, and on such date such Lender shall purchase at par such of the Revolving Advances of the other Lenders as Agent shall determine may be necessary in order for such Lender to hold such Revolving Advances in accordance with its Revolving Commitment Percentage.

(f) If Issuer has a good faith belief that any Lender holding a Revolving Commitment has defaulted in fulfilling its obligations under one or more other agreements in which such Lender commits to extend credit, Issuer shall not be required to issue, amend or increase any Letter of Credit, Issuer shall have entered into arrangements with Borrowers or such Lender, satisfactory to Issuer, to defease any risk to it in respect of such Lender hereunder.

2.23 Payment of Obligations. Agent may charge to Borrowers' Account as a Revolving Advance or (i) all payments with respect to any of the Obligations required hereunder (including without limitation principal payments, payments of interest, payments of Letter of Credit Fees and all other fees provided for hereunder and payments under Sections 16.5 and 16.9) as and when each such payment shall become due and payable (whether as regularly scheduled, upon or after acceleration, upon maturity or otherwise), (ii) without limiting the generality of the foregoing clause (i), (a) all amounts expended by Agent or any Lender pursuant to Sections 4.2 or 4.3 hereof and (b) all expenses which Agent incurs in connection with the forwarding of Advance proceeds and the establishment and maintenance of any Blocked Accounts or Depository Accounts as provided for in Section 4.8(h), and (iii) any sums expended by Agent or any Lender due to any Borrower's failure to perform or comply with its obligations under this Agreement or any Other Document including any Borrower's obligations under Sections 3.3, 3.4, 4.4, 4.7, 6.4, 6.6, 6.7 and 6.8 hereof, and all amounts so charged shall be added to the Obligations and shall be secured by the Collateral. To the extent Revolving Advances are not actually funded by the other Lenders in respect of any such amounts so charged, all such amounts so charged shall be deemed to be Revolving Advances made by and owing to Agent and Agent shall be entitled to all rights (including accrual of interest) and remedies of a Lender under this Agreement and the Other Documents with respect to such Revolving Advances.

~~2.24 Increase in Maximum Revolving Advance Amount.~~

~~(a) Borrowers may, at any time prior to the fourth anniversary of the Amendment Effective Date, request that the Maximum Revolving Advance Amount be increased by (1) one or more of the current Lenders increasing their Revolving Commitment Amount (any current Lender which elects to increase its Revolving Commitment Amount shall be referred to as an "Increasing Lender") or (2) one or more new lenders (each a "New Lender") joining this Agreement and providing a Revolving Commitment Amount hereunder, subject to the following terms and conditions:~~

~~(i) There shall exist no Event of Default or Default on the effective date of such increase after giving effect to such increase;~~

~~(ii) — After giving effect to such increase, the Maximum Revolving Advance Amount shall not exceed \$40,000,000;~~

~~(iii) — Borrowers may not request an increase in the Maximum Revolving Advance Amount under this Section 2.24 more than once during the Term, and no single such increase in the Maximum Revolving Advance Amount shall be for an amount less than \$10,000,000;~~

~~(iv) — Borrowers shall deliver to Agent on or before the effective date of such increase the following documents in form and substance satisfactory to Agent: (1) certifications of their corporate secretaries with attached resolutions certifying that the increase in the Revolving Commitment Amounts has been approved by such Borrowers, (2) certificate dated as of the effective date of such increase certifying that no Default or Event of Default shall have occurred and be continuing and certifying that the representations and warranties made by each Borrower herein and in the Other Documents are true and complete in all respects with the same force and effect as if made on and as of such date (except to the extent any such representation or warranty expressly relates only to any earlier and/or specified date), and (3) such other agreements, instruments and information (including supplements or modifications to this Agreement and/or the Other Documents executed by Borrowers) as Agent reasonably deems necessary in order to document the increase to the Maximum Revolving Advance Amount and to protect, preserve and continue the perfection and priority of the liens, security interests, rights and remedies of Agent and Lenders hereunder and under the Other Documents in light of such increase, and (4) an opinion of counsel in form and substance satisfactory to Agent which shall cover such matters related to such increase as Agent may reasonably require and each Borrower hereby authorizes and directs such counsel to deliver such opinions to Agent and Lenders;~~

~~(v) — Borrowers shall execute and deliver (1) to each Increasing Lender a replacement Note reflecting the new amount of such Increasing Lender's Revolving Commitment Amount after giving effect to the increase (and the prior Note issued to such Increasing Lender shall be deemed to be cancelled) and (2) to each New Lender a Note reflecting the amount of such New Lender's Revolving Commitment Amount;~~

~~(vi) — Any New Lender shall be subject to the approval of Agent and Issuer;~~

~~(vii) — Each New Lender shall execute a lender joinder in form and substance satisfactory to Agent pursuant to which such New Lender shall join and become a party to this Agreement and the Other Documents with a Revolving Commitment Amount as set forth in such lender joinder.~~

~~(b) — On the effective date of such increase, (i) Borrowers shall repay all Revolving Advances then outstanding, subject to Borrowers' obligations under Sections 3.7, 3.9, or 3.10; provided that subject to the other conditions of this Agreement, the Borrowing Agent may request new Revolving Advances on such date and (ii) the Revolving Commitment Percentages of Lenders holding a Revolving Commitment (including each Increasing Lender and/or New Lender) shall be recalculated such that each such Lender's Revolving Commitment Percentage is equal to (x) the Revolving Commitment Amount of such Lender divided by (y) the aggregate of the Revolving Commitment Amounts of all Lenders. Each Lender shall participate in any new Revolving Advances made on or after such date in accordance with its Revolving Commitment Percentage after giving effect to the increase in the Maximum Revolving Advance Amount and recalculation of the Revolving Commitment Percentages contemplated by this Section 2.24.~~

~~(c) — On the effective date of such increase, each Increasing Lender shall be deemed to have purchased an additional/increased participation in, and each New Lender will be deemed to have purchased a new participation in, each then outstanding Letter of Credit in an amount equal to such Lender's Revolving Commitment Percentage (as calculated pursuant to Section 2.24(b) above) of the Maximum Undrawn Amount of each such Letter of Credit (as in effect from time to time). As necessary to effectuate the foregoing, each existing Lender holding a Revolving Commitment Percentage that is not an Increasing Lender shall be deemed to have sold to each applicable Increasing Lender and/or New Lender, as necessary, a portion of such existing Lender's participations in such outstanding Letters of Credit and drawings such that, after giving effect to all such purchases and sales, each Lender holding a Revolving Commitment (including each Increasing Lender and/or New Lender) shall hold a participation in all Letters of Credit (and drawings thereunder) in accordance with their respective Revolving Commitment Percentages (as calculated pursuant to Section 2.24(b) above).~~

~~(d) — On the effective date of such increase, Borrowers shall pay all cost and expenses incurred by Agent and by each Increasing Lender and New Lender in connection with the negotiations regarding, and the preparation, negotiation, execution and delivery of all agreements and instruments executed and delivered by any of Agent, Borrowers and/or Increasing Lenders and New Lenders in connection with, such increase (including all fees for any supplemental or additional public filings of any Other Documents necessary to protect, preserve and continue the perfection and priority of the liens, security interests, rights and remedies of Agent and Lenders hereunder and under the Other Documents in light of such increase).~~

III. INTEREST AND FEES.

3.1 Interest. Interest on Advances shall be payable in arrears on the first day of each month with respect to Domestic Rate Loans and LIBOR Rate Loans; provided that all accrued and unpaid interest shall be due and payable at the end of the Term. Interest charges shall be computed on the actual principal amount of Advances outstanding during the month at a rate per annum equal to the Revolving Interest Rate (the "Contract Rate"). Except as expressly provided otherwise in this Agreement, any Obligations other than the Advances that are not paid when due shall accrue interest at the Revolving Interest Rate for Domestic Rate Loans, subject to the provision of the final sentence of this Section 3.1 regarding the Default Rate. Whenever, subsequent to the date of this Agreement, the Alternate Base Rate is increased or decreased, the Contract Rate shall be similarly changed without notice or demand of any kind by an amount equal to the amount of such change in the Alternate Base Rate during the time such change or changes remain in effect. The LIBOR Rate shall be adjusted with respect to LIBOR Rate Loans without notice or demand of any kind on the effective date of any change in the Reserve Percentage as of such effective date. Upon and after the occurrence of an Event of Default, and during the continuation thereof, at the option of Agent or at the direction of Required Lenders (or, in the case of any Event of Default under Section 10.7, immediately and automatically upon the occurrence of any such Event of Default without the requirement of any affirmative action by any party), the Obligations other than LIBOR Rate Loans shall bear interest at the applicable Contract Rate plus two percent (2%) per annum (the "Default Rate").

3.2 Letter of Credit Fees.

(a) Borrowers shall pay (x) to Agent, for the ratable benefit of Lenders holding Revolving Commitments, fees for each Letter of Credit for the period from and excluding the date of issuance of same to and including the date of expiration or termination, equal to the average daily face amount of each outstanding Letter of Credit multiplied by the Applicable Margin for Revolving Advances consisting of LIBOR Rate Loans, such fees to be calculated on the basis of a 360-day year for the actual number of days elapsed and to be payable quarterly in arrears on the first day of each calendar quarter and on the last day of the Term, and (y) to Issuer, a fronting fee of one quarter of one percent (0.25%) per annum times the average daily face amount of each outstanding Letter of Credit for the period from and excluding the date of issuance of same to and including the date of expiration or termination, to be payable quarterly in arrears on the first day of each calendar quarter and on the last day of the Term. (all of the foregoing fees, the "Letter of Credit Fees"). In addition, Borrowers shall pay to Agent, for the benefit of Issuer, any and all administrative, issuance, amendment, payment and negotiation charges with respect to Letters of Credit and all fees and expenses as agreed upon by Issuer and the Borrowing Agent in connection with any Letter of Credit, including in connection with the opening, amendment or renewal of any such Letter of Credit and any acceptances created thereunder, all such charges, fees and expenses, if any, to be payable on demand. All such charges shall be deemed earned in full on the date when the same are due and payable hereunder and shall not be subject to rebate or pro-rata upon the termination of this Agreement for any reason. Any such charge in effect at the time of a particular transaction shall be the charge for that transaction, notwithstanding any subsequent change in Issuer's prevailing charges for that type of transaction. Upon and after the occurrence of an Event of Default, and during the continuation thereof, at the option of Agent or at the direction of Required Lenders (or, in the case of any Event of Default under Section 10.7, immediately and automatically upon the occurrence of any such Event of Default without the requirement of any affirmative action by any party), the Letter of Credit Fees described in clause (x) of this Section 3.2(a) shall be increased by an additional two percent (2.0%) per annum.

(b) At any time following the occurrence of an Event of Default, at the option of Agent or at the direction of Required Lenders (or, in the case of any Event of Default under Section 10.7, immediately and automatically upon the occurrence of such Event of Default, without the requirement of any affirmative action by any party), or upon the expiration of the Term or any other termination of this Agreement (and also, if applicable, in connection with any mandatory prepayment under Section 2.20), Borrowers will cause cash to be deposited and maintained in an account with Agent, as cash collateral, in an amount equal to one hundred and five percent (105%) of the Maximum Undrawn Amount of all outstanding Letters of Credit, and each Borrower hereby irrevocably authorizes Agent, in its discretion, on such Borrower's behalf and in such Borrower's name, to open such an account and to make and maintain deposits therein, or in an account opened by such Borrower, in the amounts required to be made by such Borrower, out of the proceeds of Receivables or other Collateral or out of any other funds of such Borrower coming into any Lender's possession at any time. Agent may, in its discretion, invest such cash collateral (less applicable reserves) in such short-term money-market items as to which Agent and such Borrower mutually agree (or, in the absence of such agreement, as Agent may reasonably select) and the net return on such investments shall be credited to such account and constitute additional cash collateral, or Agent may (notwithstanding the foregoing) establish the account provided for under this Section 3.2(b) as a non-interest bearing account and in such case Agent shall have no obligation (and Borrowers hereby waive any claim) under Article 9 of the Uniform Commercial Code or under any other Applicable Law to pay interest on such cash collateral being held by Agent. No Borrower may withdraw amounts credited to any such account except upon the occurrence of all of the following: (x) payment and performance in full of all Obligations; (y) expiration of all Letters of Credit; and (z) termination of this Agreement. Borrowers hereby assign, pledge and grant to Agent, for its benefit and the ratable benefit of Issuer, Lenders and each other Secured Party, a continuing security interest in and to and Lien on any such cash collateral and any right, title and interest of Borrowers in any deposit account, securities account or investment account into which such cash collateral may be deposited from time to time to secure the Obligations, specifically including all Obligations with respect to any Letters of Credit. Borrowers agree that upon the coming due of any Reimbursement Obligations (or any other Obligations, including Obligations for Letter of Credit Fees) with respect to the Letters of Credit, Agent may use such cash collateral to pay and satisfy such Obligations.

3.3 Facility Fee. If, for any calendar quarter during the Term, the average daily unpaid balance of the sum of Revolving Advances plus the Maximum Undrawn Amount of all outstanding Letters of Credit for each day of such calendar quarter does not equal the Maximum Revolving Advance Amount, then Borrowers shall pay to Agent, for the ratable benefit of Lenders holding the Revolving Commitments based on their Revolving Commitment Percentages, a fee at a rate equal to three-eighth of one percent (0.375%) per annum on the amount by which the Maximum Revolving Advance Amount exceeds such average daily unpaid balance (the "Facility Fee"). Such Facility Fee shall be payable to Agent in arrears on the first day of each calendar quarter with respect to the previous calendar quarter.

3.4 Fee Letter. Borrowers shall pay the amounts required to be paid in the Fee Letter in the manner and at the times required by the Fee Letter.

3.5 Computation of Interest and Fees. Interest and fees hereunder shall be computed on the basis of a year of 360 days and for the actual number of days elapsed. If any payment to be made hereunder becomes due and payable on a day other than a Business Day, the due date thereof shall be extended to the next succeeding Business Day and interest thereon shall be payable at the applicable Contract Rate during such extension.

3.6 Maximum Charges. In no event whatsoever shall interest and other charges charged hereunder exceed the highest rate permissible under Applicable Law. In the event interest and other charges as computed hereunder would otherwise exceed the highest rate permitted under Applicable Law: (i) the interest rates hereunder will be reduced to the maximum rate permitted under Applicable Law; (ii) such excess amount shall be first applied to any unpaid principal balance owed by Borrowers; and (iii) if the then remaining excess amount is greater than the previously unpaid principal balance, Lenders shall promptly refund such excess amount to Borrowers and the provisions hereof shall be deemed amended to provide for such permissible rate.

3.7 Increased Costs. In the event that any Applicable Law or any Change in Law or compliance by any Lender (for purposes of this Section 3.7, the term "Lender" shall include Agent, any Issuer or Lender and any corporation or bank controlling Agent, any Lender or Issuer and the office or branch where Agent, any Lender or Issuer (as so defined) makes or maintains any LIBOR Rate Loans) with any request or directive (whether or not having the force of law) from any central bank or other financial, monetary or other authority, shall:

(a) subject Agent, any Lender or Issuer to any tax of any kind whatsoever with respect to this Agreement, any Letter of Credit, any participation in a Letter of Credit or any LIBOR Rate Loan, or change the basis of taxation of payments to Agent, such Lender or Issuer in respect thereof (except for Indemnified Taxes or Other Taxes covered by Section 3.10 and the imposition of, or any change in the rate of, any Excluded Tax payable by Agent, such Lender or the Issuer);

(b) impose, modify or deem applicable any reserve, special deposit, assessment, special deposit, compulsory loan, insurance charge or similar requirement against assets held by, or deposits in or for the account of, advances or loans by, or other credit extended by, any office of Agent, Issuer or any Lender, including pursuant to Regulation D of the Board of Governors of the Federal Reserve System; or

(c) impose on Agent, any Lender or Issuer or the London interbank LIBOR market any other condition, loss or expense (other than Taxes) affecting this Agreement or any Other Document or any Advance made by any Lender, or any Letter of Credit or participation therein;

and the result of any of the foregoing is to increase the cost to Agent, any Lender or Issuer of making, converting to, continuing, renewing or maintaining its Advances hereunder by an amount that Agent, such Lender or Issuer deems to be material or to reduce the amount of any payment (whether of principal, interest or otherwise) in respect of any of the Advances by an amount that Agent, or such Lender or Issuer deems (in its Permitted Discretion) to be material, then, in any case Borrowers shall promptly pay Agent, such Lender or Issuer, upon its demand, such additional amount as will compensate Agent, or such Lender or Issuer for such additional cost or such reduction, as the case may be, provided that the foregoing shall not apply to increased costs which are reflected in the LIBOR Rate, as the case may be. Agent, such Lender or Issuer shall certify the amount of such additional cost or reduced amount to Borrowing Agent, and such certification shall be conclusive absent manifest error.

3.8 Basis For Determining Interest Rate Inadequate or Unfair . In the event that Agent or any Lender shall have determined that:

(a) reasonable means do not exist for ascertaining the LIBOR Rate applicable pursuant to Section 2.2 hereof for any Interest Period; or

(b) Dollar deposits in the relevant amount and for the relevant maturity are not available in the London interbank LIBOR market, with respect to an outstanding LIBOR Rate Loan, a proposed LIBOR Rate Loan, or a proposed conversion of a Domestic Rate Loan into a LIBOR Rate Loan; or

(c) the making, maintenance or funding of any LIBOR Rate Loan has been made impracticable or unlawful by compliance by Agent or such Lender in good faith with any Applicable Law or any interpretation or application thereof by any Governmental Body or with any request or directive of any such Governmental Body (whether or not having the force of law),

then Agent shall give Borrowing Agent prompt written or telephonic notice of such determination. If such notice is given, (i) any such requested LIBOR Rate Loan shall be made as a Domestic Rate Loan, unless Borrowing Agent shall notify Agent no later than 1:00 p.m. Eastern Time two (2) Business Days prior to the date of such proposed borrowing, that its request for such borrowing shall be cancelled or made as an unaffected type of LIBOR Rate Loan, (ii) any Domestic Rate Loan or LIBOR Rate Loan which was to have been converted to an affected type of LIBOR Rate Loan shall be continued as or converted into a Domestic Rate Loan, or, if Borrowing Agent shall notify Agent, no later than 1:00 p.m. Eastern Time two (2) Business Days prior to the proposed conversion, shall be maintained as an unaffected type of LIBOR Rate Loan, and (iii) any outstanding affected LIBOR Rate Loans shall be converted into a Domestic Rate Loan, or, if Borrowing Agent shall notify Agent, no later than 1:00 p.m. Eastern Time two (2) Business Days prior to the last Business Day of the then current Interest Period applicable to such affected LIBOR Rate Loan, shall be converted into an unaffected type of LIBOR Rate Loan, on the last Business Day of the then current Interest Period for such affected LIBOR Rate Loans (or sooner, if any Lender cannot continue to lawfully maintain such affected LIBOR Rate Loan). Until such notice has been withdrawn, Lenders shall have no obligation to make an affected type of LIBOR Rate Loan or maintain outstanding affected LIBOR Rate Loans and no Borrower shall have the right to convert a Domestic Rate Loan or an unaffected type of LIBOR Rate Loan into an affected type of LIBOR Rate Loan.

3.9 Capital Adequacy.

(a) In the event that Agent, or any Lender shall have determined that any Applicable Law or guideline regarding capital adequacy, or any Change in Law or any change in the interpretation or administration thereof by any Governmental Body, central bank or comparable agency charged with the interpretation or administration thereof, or compliance by Agent, Issuer or any Lender (for purposes of this Section 3.9, the term "Lender" shall include Agent, Issuer or any Lender and any corporation or bank controlling Agent, or any Lender and the office or branch where Agent, or any Lender (as so defined) makes or maintains any LIBOR Rate Loans) with any request or directive regarding capital adequacy (whether or not having the force of law) of any such authority, central bank or comparable agency, has or would have the effect of reducing the rate of return on Agent, or any Lender's capital as a consequence of its obligations hereunder to a level below that which Agent, or such Lender could have achieved but for such adoption, change or compliance (taking into consideration Agent's, and each Lender's policies with respect to capital adequacy) by an amount deemed by Agent, or any Lender to be material, then, from time to time, Borrowers shall pay upon demand to Agent, or such Lender such additional amount or amounts as will compensate Agent, or such Lender for such reduction. In determining such amount or amounts, Agent, or such Lender may use any reasonable averaging or attribution methods. The protection of this Section 3.9 shall be available to Agent, and each Lender regardless of any possible contention of invalidity or inapplicability with respect to the Applicable Law, rule, regulation, guideline or condition.

(b) A certificate of Agent, or such Lender setting forth such amount or amounts as shall be necessary to compensate Agent, or such Lender with respect to Section 3.9(a) hereof when delivered to Borrowing Agent shall be conclusive absent manifest error.

3.10 Taxes.

(a) Any and all payments by or on account of any Obligations hereunder or under any Other Document shall be made free and clear of and without reduction or withholding for any Indemnified Taxes or Other Taxes; provided that if Borrowers shall be required by Applicable Law to deduct any Indemnified Taxes (including any Other Taxes) from such payments, then (i) the sum payable shall be increased as necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section) Agent, Lender, Issuer or Participant, as the case may be, receives an amount equal to the sum it would have received had no such deductions been made, (ii) Borrowers shall make such deductions and (iii) Borrowers shall timely pay the full amount deducted to the relevant Governmental Body in accordance with Applicable Law.

(b) Without limiting the provisions of Section 3.10(a) above, Borrowers shall timely pay any Other Taxes to the relevant Governmental Body in accordance with Applicable Law.

(c) Each Borrower shall indemnify Agent, each Lender, Issuer and any Participant, within ten (10) days after demand therefor, for the full amount of any Indemnified Taxes or Other Taxes (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section) paid by Agent, such Lender, Issuer, or such Participant, as the case may be, and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Body. A certificate as to the amount of such payment or liability delivered to Borrowers by any Lender, Participant, or Issuer (with a copy to Agent), or by Agent on its own behalf or on behalf of a Lender or Issuer, shall be conclusive absent manifest error.

(d) As soon as practicable after any payment of Indemnified Taxes or Other Taxes by any Borrower to a Governmental Body, Borrowers shall deliver to Agent the original or a certified copy of a receipt issued by such Governmental Body evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to Agent.

(e) Any Foreign Lender that is entitled to an exemption from or reduction of withholding tax under the law of the jurisdiction in which any Borrower is resident for tax purposes, or under any treaty to which such jurisdiction is a party, with respect to payments hereunder or under any Other Document shall deliver to Borrowers (with a copy to Agent), at the time or times prescribed by Applicable Law or reasonably requested by Borrowers or Agent, such properly completed and executed documentation prescribed by Applicable Law as will permit such payments to be made without withholding or at a reduced rate of withholding. Notwithstanding the submission of such documentation claiming a reduced rate of or exemption from U.S. withholding tax, Agent shall be entitled to withhold United States federal income taxes at the full 30% withholding rate if in its reasonable judgment it is required to do so under the due diligence requirements imposed upon a withholding agent under § 1.1441-7(b) of the United States Income Tax Regulations or other Applicable Law. Further, Agent is indemnified under § 1.1461-1(e) of the United States Income Tax Regulations against any claims and demands of any Lender, Issuer or assignee or participant of a Lender or Issuer for the amount of any tax it deducts and withholds in accordance with regulations under § 1441 of the Code. In addition, any Lender, if requested by Borrowers or Agent, shall deliver such other documentation prescribed by Applicable Law or reasonably requested by the Borrowers or Agent as will enable Borrowers or Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Without limiting the generality of the foregoing, in the event that any Borrower is resident for tax purposes in the United States of America, any Foreign Lender (or other Lender) shall deliver to Borrowers and Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender (or other Lender) becomes a Lender under this Agreement (and from time to time thereafter upon the request of Borrowers or Agent, but only if such Foreign Lender (or other Lender) is legally entitled to do so), whichever of the following is applicable: two (2) duly completed valid originals of IRS Form W-8BEN claiming eligibility for benefits of an income tax treaty to which the United States of America is a party,

(i) two (2) duly completed valid originals of IRS Form W-8ECI,

(ii) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under section 881(c) of the Code, (x) a certificate to the effect that such Foreign Lender is not (A) a "bank" within the meaning of section 881(c)(3)(A) of the Code, (B) a "10 percent shareholder" of Borrowers within the meaning of section 881(c)(3)(B) of the Code, or (C) a "controlled foreign corporation" described in section 881(c)(3)(C) of the Code and (y) two duly completed valid originals of IRS Form W-8BEN,

(iii) any other form prescribed by Applicable Law as a basis for claiming exemption from or a reduction in United States Federal withholding tax duly completed together with such supplementary documentation as may be prescribed by Applicable Law to permit the Borrowers to determine the withholding or deduction required to be made, or

(iv) To the extent that any Lender is not a Foreign Lender, such Lender shall submit to Agent two (2) originals of an IRS Form W-9 or any other form prescribed by Applicable Law demonstrating that such Lender is not a Foreign Lender.

(f) If a payment made to a Lender, Participant, Issuer, or Agent under this Agreement or any Other Document would be subject to U.S. Federal withholding Tax imposed by FATCA if such Person fails to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender, Participant, Issuer, or Agent shall deliver to the Agent (in the case of a Lender, Participant or Issuer) and Borrowers (A) a certification signed by the chief financial officer, principal accounting officer, treasurer or controller of such Person, and (B) other documentation reasonably requested by Agent or any Borrower sufficient for Agent and Borrowers to comply with their obligations under FATCA and to determine such Lender, Participant, Issuer, or Agent has complied with such applicable reporting requirements.

(g) If Agent, a Lender, a Participant or Issuer determines, in its Permitted Discretion, that it has received a refund of any Indemnified Taxes or Other Taxes as to which it has been indemnified by Borrowers or with respect to which Borrowers have paid additional amounts pursuant to this Section, it shall pay to Borrowers an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, by Borrowers under this Section with respect to the Indemnified Taxes or Other Taxes giving rise to such refund); net of all out-of-pocket expenses of the Agent, such Lender, Participant, or the Issuer, as the case may be, and without interest (other than any interest paid by the relevant Governmental Body with respect to such refund), provided that Borrowers, upon the request of Agent, such Lender, Participant, or Issuer, agrees to repay the amount paid over to Borrowers (plus any penalties, interest or other charges imposed by the relevant Governmental Body) to Agent, such Lender, Participant or the Issuer in the event Agent, such Lender, Participant or the Issuer is required to repay such refund to such Governmental Body. This Section shall not be construed to require Agent, any Lender, Participant, or Issuer to make available its tax returns (or any other information relating to its taxes that it deems confidential) to Borrowers or any other Person.

3.11 Replacement of Lenders. If any Lender (an "Affected Lender") (a) makes demand upon Borrowers for (or if Borrowers are otherwise required to pay) amounts pursuant to Section 3.7 or 3.9 hereof, (b) is unable to make or maintain LIBOR Rate Loans as a result of a condition described in Section 2.2(h) hereof, (c) is a Defaulting Lender, or (d) denies any consent requested by the Agent pursuant to Section 16.2(b) hereof, Borrowers may, within ninety (90) days of receipt of such demand, notice (or the occurrence of such other event causing Borrowers to be required to pay such compensation or causing Section 2.2(h) hereof to be applicable), or such Lender becoming a Defaulting Lender or denial of a request by Agent pursuant to Section 16.2(b) hereof, as the case may be, by notice in writing to the Agent and such Affected Lender (i) request the Affected Lender to cooperate with Borrowers in obtaining a replacement Lender satisfactory to Agent and Borrowers (the "Replacement Lender"); (ii) request the non-Affected Lenders to acquire and assume all of the Affected Lender's Advances and its Revolving Commitment Percentage, as provided herein, but none of such Lenders shall be under any obligation to do so; or (iii) propose a Replacement Lender subject to approval by Agent in its good faith business judgment. If any satisfactory Replacement Lender shall be obtained, and/or if any one or more of the non-Affected Lenders shall agree to acquire and assume all of the Affected Lender's Advances and its Revolving Commitment Percentage, then such Affected Lender shall assign, in accordance with Section 16.3 hereof, all of its Advances and its Revolving Commitment Percentage, and other rights and obligations under this Loan Agreement and the Other Documents to such Replacement Lender or non-Affected Lenders, as the case may be, in exchange for payment of the principal amount so assigned and all interest and fees accrued on the amount so assigned, plus all other Obligations then due and payable to the Affected Lender.

IV. COLLATERAL: GENERAL TERMS

4.1 Security Interest in the Collateral. To secure the prompt payment and performance to Agent, Issuer and each Lender (and each other holder of any Obligations) of the Obligations, each Borrower hereby assigns, pledges and grants to Agent for its benefit and for the ratable benefit of each Lender, Issuer and each other Secured Party, a continuing security interest in and to and Lien on all of its Collateral, whether now owned or existing or hereafter created, acquired or arising and wheresoever located. Each Borrower shall mark its books and records as may be necessary or appropriate to evidence, protect and perfect Agent's security interest and shall cause its financial statements to reflect such security interest. Each Borrower shall provide Agent with written notice of all commercial tort claims promptly upon the occurrence of any events giving rise to any such claim(s) (regardless of whether legal proceedings have yet been commenced), such notice to contain a brief description of the claim(s), the events out of which such claim(s) arose and the parties against which such claims may be asserted and, if applicable in any case where legal proceedings regarding such claim(s) have been commenced, the case title together with the applicable court and docket number. Upon delivery of each such notice, such Borrower shall be deemed to thereby grant to Agent a security interest and lien in and to such commercial tort claims described therein and all proceeds thereof. Each Borrower shall provide Agent with written notice promptly upon becoming the beneficiary under any letter of credit or otherwise obtaining any right, title or interest in any letter of credit rights, and at Agent's request shall take such actions as Agent may reasonably request for the perfection of Agent's security interest therein.

4.2 Perfection of Security Interest. Each Borrower shall take all action that may be necessary or desirable, or that Agent may request, so as at all times to maintain the validity, perfection, enforceability and priority of Agent's security interest in and Lien on the Collateral or to enable Agent to protect, exercise or enforce its rights hereunder and in the Collateral, including, but not limited to, (i) immediately discharging all Liens other than Permitted Encumbrances, (ii) obtaining Lien Waiver Agreements, (iii) delivering to Agent, endorsed or accompanied by such instruments of assignment as Agent may specify, and stamping or marking, in such manner as Agent may specify, any and all chattel paper, instruments, letters of credits and advices thereof and documents evidencing or forming a part of the Collateral, (iv) entering into warehousing, lockbox, customs and freight agreements and other custodial arrangements satisfactory to Agent, and (v) executing and delivering financing statements, control agreements, instruments of pledge, mortgages, notices and assignments, in each case in form and substance satisfactory to Agent, relating to the creation, validity, perfection, maintenance or continuation of Agent's security interest and Lien under the Uniform Commercial Code or other Applicable Law. By its signature hereto, each Borrower hereby authorizes Agent to file against such Borrower, one or more financing, continuation or amendment statements pursuant to the Uniform Commercial Code in form and substance satisfactory to Agent (which statements may have a description of collateral which is broader than that set forth herein, including without limitation a description of Collateral as "all assets" and/or "all personal property" of any Borrower). All charges, expenses and fees Agent may incur in doing any of the foregoing, and any local taxes relating thereto, shall be charged to Borrowers' Account as a Revolving Advance of a Domestic Rate Loan and added to the Obligations, or, at Agent's option, shall be paid by Borrowers to Agent for its benefit and for the ratable benefit of Lenders immediately upon demand.

4.3 Preservation of Collateral. In addition to the rights and remedies set forth in Section 11.1 hereof, Agent: (a) may at any time take such steps as Agent, in its Permitted Discretion, deems necessary to protect Agent's interest in and to preserve the Collateral, including the hiring of security guards or the placing of other security protection measures as Agent may deem appropriate; (b) may employ and maintain at any of any Borrower's premises a custodian who shall have full authority to do all acts necessary to protect Agent's interests in the Collateral; (c) may lease warehouse facilities to which Agent may move all or part of the Collateral; (d) may use any Borrower's owned or leased lifts, hoists, trucks and other facilities or equipment for handling or removing the Collateral; and (e) shall have, and is hereby granted, a right of ingress and egress to the places where the Collateral is located, and may proceed over and through any of Borrowers' owned or leased property. Each Borrower shall cooperate fully with all of Agent's efforts to preserve the Collateral and will take such actions to preserve the Collateral as Agent may direct. All of Agent's expenses of preserving the Collateral, including any expenses relating to the bonding of a custodian, shall be charged to Borrowers' Account as a Revolving Advance maintained as a Domestic Rate Loan and added to the Obligations.

4.4 Ownership and Location of Collateral.

(a) With respect to the Collateral, at the time the Collateral becomes subject to Agent's security interest: (i) each Borrower shall be the sole owner of and fully authorized and able to sell, transfer, pledge and/or grant a first priority security interest in each and every item of its respective Collateral to Agent; and, except for Permitted Encumbrances the Collateral shall be free and clear of all Liens whatsoever; (ii) each document and agreement executed by each Borrower or delivered to Agent or any Lender in connection with this Agreement shall be true and correct in all respects; (iii) all signatures and endorsements of each Borrower that appear on such documents and agreements shall be genuine and each Borrower shall have full capacity to execute same; and (iv) each Borrower's equipment and Inventory shall be located as set forth on Schedule 4.4 and shall not be removed from such location(s) without the prior written consent of Agent except with respect to: (A) the sale of Inventory and equipment in the Ordinary Course of Business, (B) the movement of the rolling stock or goods in transit in the Ordinary Course of Business, or (C) to the extent permitted in Section 7.1(b) hereof.

(b) (i) There is no location at which any Borrower has any Inventory (except for Inventory in transit) or other Collateral other than those locations listed on Schedule 4.4 or locations at which the Collateral is operating in the Ordinary Course of Business; (ii) Schedule 4.4 hereto contains a correct and complete list, as of the Amendment Effective Date, of the legal names and addresses of each warehouse at which Inventory of any Borrower is stored; none of the receipts received by any Borrower from any warehouse states that the goods covered thereby are to be delivered to bearer or to the order of a named Person or to a named Person and such named Person's assigns; (iii) Schedule 4.4 hereto sets forth a correct and complete list as of the Amendment Effective Date of (A) each place of business of each Borrower and (B) the chief executive office of each Borrower; and (iv) Schedule 4.4 hereto sets forth a correct and complete list as of the Amendment Effective Date of the location, by state and street address, of all real property owned or leased by each Borrower, identifying which properties are owned and which are leased, together with the names and addresses of any landlords.

4 . 5 Defense of Agent's and Lenders' Interests. Until (a) payment and performance in full of all of the Obligations and (b) termination of this Agreement, Agent's interests in the Collateral shall continue in full force and effect. During such period no Borrower shall, without Agent's prior written consent, pledge, sell (except for sales or other dispositions otherwise permitted in Section 7.1(b) hereof), assign, transfer, create or suffer to exist a Lien upon or encumber or allow or suffer to be encumbered in any way except for Permitted Encumbrances, any part of the Collateral. Each Borrower shall defend Agent's interests in the Collateral against any and all Persons whatsoever. At any time following demand by Agent for payment of all Obligations, Agent shall have the right to take possession of the indicia of the Collateral and the Collateral in whatever physical form contained, including: labels, stationery, documents, instruments and advertising materials. If Agent exercises this right to take possession of the Collateral, Borrowers shall, upon demand, assemble it in the best manner possible and make it available to Agent at a place reasonably convenient to Agent. In addition, with respect to all Collateral, Agent and Lenders shall be entitled to all of the rights and remedies set forth herein and further provided by the Uniform Commercial Code or other Applicable Law. Each Borrower shall, and Agent may, at its option, instruct all suppliers, carriers, forwarders, warehousemen or others receiving or holding cash, checks, Inventory, documents or instruments in which Agent holds a security interest to deliver same to Agent and/or subject to Agent's order and if they shall come into any Borrower's possession, they, and each of them, shall be held by such Borrower in trust as Agent's trustee, and such Borrower will immediately deliver them to Agent in their original form together with any necessary endorsement.

4 . 6 Inspection of Premises. At all reasonable times and from time to time as often as Agent shall elect in its sole discretion, Agent and each Lender shall have full access to and the right to audit, check, inspect and make abstracts and copies from each Borrower's books, records, audits, correspondence and all other papers relating to the Collateral and the operation of each Borrower's business. Agent, any Lender and their agents may enter upon any premises of any Borrower at any time during business hours and at any other reasonable time, and from time to time as often as Agent shall elect in its sole discretion, for the purpose of inspecting the Collateral and any and all records pertaining thereto and the operation of such Borrower's business.

4.7 Appraisals. Agent may, in its sole discretion, exercised in a commercially reasonable manner, at any time after the Amendment Effective Date and from time to time, engage the services of an independent appraisal firm or firms of reputable standing, satisfactory to Agent, for the purpose of appraising the then current values of Borrowers' assets. Absent the occurrence and continuance of an Event of Default at such time, Agent shall consult with Borrowers as to the identity of any such firm. Agent may commission such appraisals with such frequency as Agent may elect in its Permitted Discretion; provided, however, that prior to the occurrence and continuation of an Event of Default, Borrowers shall be obligated to reimburse Agent for the cost of only one (1) full and ~~one~~ two (2) "desktop" ~~appraisal appraisals~~ in any year of the Term. In the event the value of Borrowers' equipment, as so determined pursuant to such appraisal, is less than anticipated by Agent or Lenders, such that the Revolving Advances are in excess of such Advances permitted hereunder, then, promptly upon Agent's demand for same, Borrowers shall make mandatory prepayments of the then outstanding Revolving Advances so as to eliminate the excess Advances.

4.8 Receivables; Deposit Accounts and Securities Accounts .

(a) Each of the Receivables shall be a bona fide and valid account representing a bona fide indebtedness incurred by the Customer therein named, for a fixed sum as set forth in the invoice relating thereto (provided immaterial or unintentional invoice errors shall not be deemed to be a breach hereof) with respect to an absolute sale or lease and delivery of goods upon stated terms of a Borrower, or work, labor or services theretofore rendered by a Borrower as of the date each Receivable is created. Same shall be due and owing in accordance with the applicable Borrower's standard terms of sale without dispute, setoff or counterclaim except as may be stated on the accounts receivable schedules delivered by Borrowers to Agent.

(b) Each Customer, to the best of each Borrower's knowledge, as of the date each Receivable is created, is and will be solvent and able to pay all Receivables on which the Customer is obligated in full when due. With respect to such Customers of any Borrower who are not solvent, such Borrower has set up on its books and in its financial records bad debt reserves adequate to cover such Receivables.

(c) Each Borrower's chief executive office is located as set forth on Schedule 4.4. Until written notice is given to Agent by Borrowing Agent of any other office at which any Borrower keeps its records pertaining to Receivables, all such records shall be kept at such executive office.

(d) Borrowers shall instruct their Customers to deliver all remittances upon Receivables (whether paid by check or by wire transfer of funds) to such Blocked Account(s) and/or Depository Accounts (and any associated lockboxes) as Agent shall designate from time to time as contemplated by Section 4.8(h) or as otherwise agreed to from time to time by Agent. Notwithstanding the foregoing, to the extent any Borrower directly receives any remittances upon Receivables, such Borrower shall, at such Borrower's sole cost and expense, but on Agent's behalf and for Agent's account, collect as Agent's property and in trust for Agent all amounts received on Receivables, and shall not commingle such collections with any Borrower's funds or use the same except to pay Obligations, and shall as soon as possible and in any event no later than one (1) Business Day after the receipt thereof (i) in the case of remittances paid by check, deposit all such remittances in their original form (after supplying any necessary endorsements) and (ii) in the case of remittances paid by wire transfer of funds, transfer all such remittances, in each case, into such Blocked Account(s) and/or Depository Account(s). Each Borrower shall deposit in the Blocked Account and/or Depository Account or, upon request by Agent, deliver to Agent, in original form and on the date of receipt thereof, all checks, drafts, notes, money orders, acceptances, cash and other evidences of Indebtedness.

(e) At any time following the occurrence of an Event of Default or a Default, Agent shall have the right to send notice of the assignment of, and Agent's security interest in and Lien on, the Receivables to any and all Customers or any third party holding or otherwise concerned with any of the Collateral. Thereafter, Agent shall have the sole right to collect the Receivables, take possession of the Collateral, or both. Agent's actual collection expenses, including, but not limited to, stationery and postage, telephone, facsimile, telegraph, secretarial and clerical expenses and the salaries of any collection personnel used for collection, may be charged to Borrowers' Account and added to the Obligations.

(f) Agent shall have the right to receive, endorse, assign and/or deliver in the name of Agent or any Borrower any and all checks, drafts and other instruments for the payment of money relating to the Receivables, and each Borrower hereby waives notice of presentment, protest and non-payment of any instrument so endorsed. Each Borrower hereby constitutes Agent or Agent's designee as such Borrower's attorney with power (i) at any time: (A) to endorse such Borrower's name upon any notes, acceptances, checks, drafts, money orders or other evidences of payment or Collateral; (B) to sign such Borrower's name on any invoice or bill of lading relating to any of the Receivables, drafts against Customers, assignments and verifications of Receivables; (C) to send verifications of Receivables to any Customer; (D) to sign such Borrower's name on all financing statements or any other documents or instruments deemed necessary or appropriate by Agent to preserve, protect, or perfect Agent's interest in the Collateral and to file same; and (E) to receive, open and dispose of all mail addressed to any Borrower at any post office box/lockbox maintained by Agent for Borrowers or at any other business premises of Agent; and (ii) at any time following the occurrence of a Default or an Event of Default: (A) to demand payment of the Receivables; (B) to enforce payment of the Receivables by legal proceedings or otherwise; (C) to exercise all of such Borrower's rights and remedies with respect to the collection of the Receivables and any other Collateral; (D) to sue upon or otherwise collect, extend the time of payment of, settle, adjust, compromise, extend or renew the Receivables; (E) to settle, adjust or compromise any legal proceedings brought to collect Receivables; (F) to prepare, file and sign such Borrower's name on a proof of claim in bankruptcy or similar document against any Customer; (G) to prepare, file and sign such Borrower's name on any notice of Lien, assignment or satisfaction of Lien or similar document in connection with the Receivables; (H) to accept the return of goods represented by any of the Receivables; (I) to change the address for delivery of mail addressed to any Borrower to such address as Agent may designate; and (J) to do all other acts and things necessary to carry out this Agreement. All acts of said attorney or designee are hereby ratified and approved, and said attorney or designee shall not be liable for any acts of omission or commission nor for any error of judgment or mistake of fact or of law, unless done maliciously or with gross (not mere) negligence (as determined by a court of competent jurisdiction in a final non-appealable judgment); this power being coupled with an interest is irrevocable while any of the Obligations remain unpaid.

(g) Neither Agent nor any Lender shall, under any circumstances or in any event whatsoever, have any liability for any error or omission or delay of any kind occurring in the settlement, collection or payment of any of the Receivables or any instrument received in payment thereof, or for any damage resulting therefrom.

(h) All proceeds of Collateral shall be deposited by Borrowers into either (i) a lockbox account, dominion account or such other "blocked account" ("Blocked Accounts") established at a bank or banks (each such bank, a "Blocked Account Bank") pursuant to an arrangement with such Blocked Account Bank as may be acceptable to Agent or (ii) depository accounts ("Depository Accounts") established at Agent for the deposit of such proceeds. Each applicable Borrower, Agent and each Blocked Account Bank shall enter into a deposit account control agreement in form and substance satisfactory to Agent that is sufficient to give Agent "control" (for purposes of Articles 8 and 9 of the Uniform Commercial Code) over such account and which directs such Blocked Account Bank to transfer such funds so deposited on a daily basis or at other times acceptable to Agent to Agent, either to any account maintained by Agent at such Blocked Account Bank or by wire transfer to appropriate account(s) at Agent. All funds deposited in such Blocked Accounts or Depository Accounts shall immediately become subject to the security interest of Agent for its own benefit and the ratable benefit of Issuer, Lenders and all other holders of the Obligations, and Borrowing Agent shall obtain the agreement by such Blocked Account Bank to waive any offset rights against the funds so deposited. Neither Agent nor any Lender assumes any responsibility for such blocked account arrangement, including any claim of accord and satisfaction or release with respect to deposits accepted by any Blocked Account Bank thereunder. ~~Upon notice from Agent to Borrowers that a Dominion Event has occurred and is continuing, Agent may establish~~ Commencing on the Sixth Amendment Effective Date and continuing thereafter until Agent shall determine otherwise in its sole discretion, Agent shall have exclusive control of the Blocked Account or Depository Accounts and apply all funds received by Agent from the Blocked Accounts or Depository Accounts to the satisfaction of the Obligations (including the cash collateralization of the Letters of Credit) in such order as Agent shall determine in its Permitted Discretion.

(i) No Borrower will, without Agent's consent, compromise or adjust any material amount of the Receivables (or extend the time for payment thereof) or accept any material returns of merchandise or grant any additional discounts, allowances or credits thereon except for those compromises, adjustments, returns, discounts, credits and allowances as have been heretofore customary in the Ordinary Course of Business of such Borrower.

(j) All deposit accounts (including all Blocked Accounts and Depository Accounts), securities accounts and investment accounts of each Borrower and its Subsidiaries as of the Amendment Effective Date are set forth on Schedule 4.8(j). No Borrower shall open any new deposit account, securities account or investment account unless (i) Borrowers shall have given at least thirty (30) days prior written notice to Agent and (ii) if such account is to be maintained with a bank, depository institution or securities intermediary that is not the Agent, such bank, depository institution or securities intermediary, each applicable Borrower and Agent shall first have entered into an account control agreement in form and substance satisfactory to Agent sufficient to give Agent "control" (for purposes of Articles 8 and 9 of the Uniform Commercial Code) over such account.

4.9 Inventory. To the extent Inventory held for sale or lease has been produced by any Borrower, it has been and will be produced by such Borrower in accordance with the Federal Fair Labor Standards Act of 1938, as amended, and all rules, regulations and orders thereunder.

4.10 Maintenance of Equipment. The equipment shall be maintained in good operating condition and repair (reasonable wear and tear excepted) and all necessary replacements of and repairs thereto shall be made so that the value and operating efficiency of the equipment shall be maintained and preserved. No Borrower shall use or operate the equipment in violation of any law, statute, ordinance, code, rule or regulation.

4.11 Exculpation of Liability. Nothing herein contained shall be construed to constitute Agent or any Lender as any Borrower's agent for any purpose whatsoever, nor shall Agent or any Lender be responsible or liable for any shortage, discrepancy, damage, loss or destruction of any part of the Collateral wherever the same may be located and regardless of the cause thereof. Neither Agent nor any Lender, whether by anything herein or in any assignment or otherwise, assume any of any Borrower's obligations under any contract or agreement assigned to Agent or such Lender, and neither Agent nor any Lender shall be responsible in any way for the performance by any Borrower of any of the terms and conditions thereof.

4.12 Financing Statements. Except as respects the financing statements filed by Agent, financing statements described on Schedule 1.2, and financing statements filed in connection with Permitted Encumbrances, no financing statement covering any of the Collateral or any proceeds thereof is or will be on file in any public office.

V. REPRESENTATIONS AND WARRANTIES.

Each Borrower represents and warrants as follows:

5.1 Authority. Each Borrower has full power, authority and legal right to enter into this Agreement and the Other Documents to which it is a party and to perform all its respective Obligations hereunder and thereunder. This Agreement and the Other Documents to which it is a party have been duly executed and delivered by each Borrower, and this Agreement and the Other Documents to which it is a party constitute the legal, valid and binding obligation of such Borrower enforceable in accordance with their terms, except as such enforceability may be limited by any applicable bankruptcy, insolvency, moratorium or similar laws affecting creditors' rights generally. The execution, delivery and performance of this Agreement and of the Other Documents to which it is a party (a) are within such Borrower's corporate or company powers, as applicable, have been duly authorized by all necessary corporate or company action, as applicable, are not in contravention of law or the terms of such Borrower's Organizational Documents or to the conduct of such Borrower's business or of any Material Contract or undertaking to which such Borrower is a party or by which such Borrower is bound, (b) will not conflict with or violate any law or regulation, or any judgment, order or decree of any Governmental Body, (c) will not require the Consent of any Governmental Body, any party to a Material Contract or any other Person, except those Consents set forth on Schedule 5.1 hereto, all of which will have been duly obtained, made or compiled prior to the Amendment Effective Date and which are in full force and effect and (d) will not conflict with, nor result in any breach in any of the provisions of or constitute a default under or result in the creation of any Lien except Permitted Encumbrances upon any asset of such Borrower under the provisions of any agreement, instrument, or other document to which such Borrower is a party or by which it or its property is a party or by which it may be bound.

5.2 Formation and Qualification.

(a) Each Borrower is duly incorporated or formed, as applicable, and in good standing under the laws of the state listed on Schedule 5.2(a) and is qualified to do business and is in good standing in the states listed on Schedule 5.2(a) which constitute all states in which qualification and good standing are necessary for such Borrower to conduct its business and own its property and where the failure to so qualify could reasonably be expected to have a Material Adverse Effect on such Borrower. Each Borrower has delivered to Agent true and complete copies of its Organizational Documents and will promptly notify Agent of any amendment or changes thereto.

(b) The only Subsidiaries of each Borrower are listed on Schedule 5.2(b).

5.3 Survival of Representations and Warranties. All representations and warranties of such Borrower contained in this Agreement and the Other Documents to which it is a party shall be true in all material respects at the time of such Borrower's execution of this Agreement and the Other Documents to which it is a party, and shall survive the execution, delivery and acceptance thereof by the parties thereto and the closing of the transactions described therein or related thereto.

5.4 Tax Returns. Each Borrower's federal tax identification number is set forth on Schedule 5.4. Each Borrower has filed all federal, state and local tax returns and other reports each is required by law to file and has paid all taxes, assessments, fees and other governmental charges that are due and payable. The provision for taxes on the books of each Borrower is adequate for all years not closed by applicable statutes, and for its current fiscal year, and no Borrower has any knowledge of any deficiency or additional assessment in connection therewith not provided for on its books.

5.5 Financial Statements. The consolidated balance sheets of Enservco as included in Enservco's reports filed with the SEC for the year ended December 31, 2013, and the related statements of income, changes in stockholder's equity, and changes in cash flow for the period ended on such date, all accompanied by reports thereon containing opinions without qualification by independent certified public accountants, copies of which have been delivered to Agent and are available at www.sec.gov, have been prepared in accordance with GAAP, consistently applied (except for changes in application in which such accountants concur) and present fairly the financial position of Enservco at such date and the results of their operations for such period. Since December 31, 2013, there has been no material adverse change in the condition, financial or otherwise, of Enservco on a Consolidated Basis as shown on the consolidated balance sheet as of such date and no material adverse change in the aggregate value of machinery, equipment and real property owned by Enservco on a Consolidated Basis, except changes in the Ordinary Course of Business, none of which individually or in the aggregate has been materially adverse which have been reflected on the financial statements subsequently filed with the SEC.

5.6 Entity Names. No Borrower has been known by any other company or corporate name, as applicable, in the past five (5) years and does not sell Inventory under any other name except as set forth on Schedule 5.6, nor has any Borrower been the surviving corporation or company, as applicable, of a merger or consolidation or acquired all or substantially all of the assets of any Person during the preceding five (5) years except that Enservco was known as Aspen Exploration Corporation until the effectiveness of its name change to Enservco on December 30, 2010.

5.7 O.S.H.A. Environmental Compliance; Flood Insurance.

(a) To the best of Borrowers' knowledge, each Borrower is in compliance with, and its facilities, business, assets, property, leaseholds, Real Property and equipment are in compliance with the Federal Occupational Safety and Health Act, and Environmental Laws and there are no outstanding citations, notices or orders of non-compliance issued to any Borrower or relating to its business, assets, property, leaseholds or equipment under any such laws, rules or regulations except as set forth on Schedule 5.7.

(b) Each Borrower has been issued all required federal, state and local licenses, certificates or permits (collectively, "Approvals") relating to all applicable Environmental Laws and all such Approvals are current and in full force and effect.

(c) (i) There are no visible signs of releases, spills, discharges, leaks or disposal (collectively referred to as "Releases") of Hazardous Materials at, upon, under or within any Real Property or any premises leased by any Borrower; (ii) there are no underground storage tanks or polychlorinated biphenyls on any premises leased or owned by any Borrower; (iii) to the best of Borrowers' knowledge, no premises leased or owned by any Borrower has ever been used as a treatment, storage or disposal facility of Hazardous Waste; and (iv) to the best of Borrower's knowledge, no Hazardous Materials are present on any premises leased or owned by any Borrower, excepting such quantities as are handled in accordance with all applicable manufacturer's instructions and governmental regulations and in proper storage containers and as are necessary for the operation of the commercial business of any Borrower.

(d) All Real Property owned by Borrowers is insured pursuant to policies and other bonds which are valid and in full force and effect and which provide adequate coverage from reputable and financially sound insurers in amounts sufficient to insure the assets and risks of each such Borrower in accordance with prudent business practice in the industry of such Borrower. To the extent Agent has a perfected Lien in the Real Property of any Borrower, such Borrower has taken all actions required under the Flood Laws and/or requested by Agent to assist in ensuring that each Lender is in compliance with the Flood Laws applicable to the Collateral, including, but not limited to, providing Agent with the address and/or GPS coordinates of each structure located upon any Real Property that will be subject to a Mortgage in favor of Agent, for the benefit of Lenders, and, to the extent required, obtaining flood insurance for such property, structures and contents prior to such property, structures and contents becoming Collateral.

5.8 Solvency; No Litigation, Violation, Indebtedness or Default; ERISA Compliance.

(a) Each Borrower is solvent, is able to pay its debts as they mature, has capital sufficient to carry on its business and all businesses in which it is about to engage, and (i) as of the Amendment Effective Date, the fair present saleable value of the assets of each Borrower, calculated on a going concern basis, is in excess of the amount of the liabilities of such Borrower and (ii) subsequent to the Amendment Effective Date, the fair saleable value of the assets of each Borrower (calculated on a going concern basis) will be in excess of the amount of the liabilities of such Borrower.

(b) Except as disclosed in Schedule 5.8(b)(i), no Borrower has any pending or threatened litigation, arbitration, actions or proceedings that we believe will have a Material Adverse Effect on the business or financial condition of any Borrower. No Borrower has any outstanding Indebtedness other than the Obligations, except for (i) Indebtedness disclosed in Schedule 5.8(b)(ii) and (ii) Indebtedness otherwise permitted under Section 7.8 hereof.

(c) To the best of Borrowers' knowledge, no Borrower is in violation of any applicable statute, law, rule, regulation or ordinance in any respect which could reasonably be expected to have a Material Adverse Effect, nor is any Borrower in violation of any order of any court, Governmental Body or arbitration board or tribunal. To the best of Borrowers' knowledge, each Plan is in compliance in all material respects with the applicable provisions of ERISA, the Code and other federal or state laws.

(d) No Borrower or any member of the Controlled Group maintains or is required to contribute to any Plan other than those listed on Schedule 5.8(d) hereto. (i) Each Borrower and each member of the Controlled Group has met all applicable minimum funding requirements under Section 302 of ERISA and Section 412 of the Code in respect of each Plan, and each Plan is in compliance with Sections 412, 430 and 436 of the Code and Sections 206(g), 302 and 303 of ERISA, without regard to waivers and variances; (ii) each Plan which is intended to be a qualified plan under Section 401(a) of the Code as currently in effect has been determined by the Internal Revenue Service to be qualified under Section 401(a) of the Code and the trust related thereto is exempt from federal income tax under Section 501(a) of the Code or an application for such a determination is currently being processed by the Internal Revenue Code; (iii) neither any Borrower nor any member of the Controlled Group has incurred any liability to the PBGC other than for the payment of premiums, and there are no premium payments which have become due which are unpaid; (iv) no Plan has been terminated by the plan administrator thereof nor by the PBGC, and there is no occurrence which would cause the PBGC to institute proceedings under Title IV of ERISA to terminate any Plan; (v) to the best of Borrowers' knowledge, the current value of the assets of each Plan exceeds the present value of the accrued benefits and other liabilities of such Plan and neither any Borrower nor any member of the Controlled Group knows of any facts or circumstances which would materially change the value of such assets and accrued benefits and other liabilities; (vi) to the best of Borrowers' knowledge, neither any Borrower nor any member of the Controlled Group has breached any of the responsibilities, obligations or duties imposed on it by ERISA with respect to any Plan; (vii) neither any Borrower nor any member of a Controlled Group has incurred any liability for any excise tax arising under Section 4971, 4972 or 4980B of the Code, and no fact exists which could give rise to any such liability; (viii) neither any Borrower nor any member of the Controlled Group nor any fiduciary of, nor any trustee to, any Plan, has engaged in a "prohibited transaction" described in Section 406 of the ERISA or Section 4975 of the Code nor taken any action which would constitute or result in a Termination Event with respect to any such Plan which is subject to ERISA; (ix) no Termination Event has occurred or is reasonably expected to occur; (x) there exists no event described in Section 4043 of ERISA, for which the thirty (30) day notice period has not been waived; (xi) neither any Borrower nor any member of the Controlled Group has engaged in a transaction that could be subject to Section 4069 or 4212(c) of ERISA; (xii) neither any Borrower nor any member of the Controlled Group maintains or is required to contribute to any Plan which provides health, accident or life insurance benefits to former employees, their spouses or dependents, other than in accordance with Section 4980B of the Code; (xiii) neither any Borrower nor any member of the Controlled Group has withdrawn, completely or partially, within the meaning of Section 4203 or 4205 of ERISA, from any Multiemployer Plan so as to incur liability under the Multiemployer Pension Plan Amendments Act of 1980 and there exists no fact which would reasonably be expected to result in any such liability; and (xiv) to the best of Borrowers' knowledge, no Plan fiduciary (as defined in Section 3(21) of ERISA) has any liability for breach of fiduciary duty or for any failure in connection with the administration or investment of the assets of a Plan.

5.9 Patents, Trademarks, Copyrights and Licenses. Except for non-exclusive licenses granted to its customers in the ordinary course of business and over-the-counter software that is commercially available to the public, all material Intellectual Property owned or utilized by any Borrower: (i) is set forth on Schedule 5.9; (ii) is valid and has been duly registered or filed with all appropriate Governmental Bodies; and (iii) constitutes all of the intellectual property rights which are necessary for the operation of its business. There is no objection to, pending challenge to the validity of, or proceeding by any Governmental Body to suspend, revoke, terminate or adversely modify, any such Intellectual Property and no Borrower is aware of any grounds for any challenge or proceedings. All of such Intellectual Property owned or held by any Borrower consists of original material or property developed by such Borrower or was lawfully acquired by such Borrower from the proper and lawful owner thereof. Each of such items has been maintained so as to preserve the value thereof from the date of creation or acquisition thereof.

5.10 Licenses and Permits. Except as set forth in Schedule 5.10 and subject to Section 5.7(b), each Borrower (a) is in compliance with and (b) has procured and is now in possession of, all material licenses or permits required by any applicable federal, state or local law, rule or regulation for the operation of its business in each jurisdiction wherein it is now conducting or proposes to conduct business and where the failure to procure such licenses or permits could reasonably be expected to have a Material Adverse Effect.

5.11 Default of Indebtedness. No Borrower is in default in the payment of the principal of or interest on any Indebtedness or under any instrument or agreement under or subject to which any Indebtedness has been issued and to the best of Borrowers' knowledge, no event has occurred under the provisions of any such instrument or agreement which with or without the lapse of time or the giving of notice, or both, constitutes or would constitute an event of default thereunder, in either case which default would have a Material Adverse Effect.

5.12 No Default. No Borrower is in default in the payment or performance of any of its contractual obligations and no Default or Event of Default has occurred which default would have a Material Advise Effect.

5.13 No Burdensome Restrictions. No Borrower is party to any contract or agreement the performance of which could reasonably be expected to have a Material Adverse Effect. True and complete copies of all Material Contracts to which each Borrower is a party or to which it or any of its properties is subject are publicly available at www.sec.gov. No Borrower has agreed or consented to cause or permit in the future (upon the happening of a contingency or otherwise) any of its property, whether now owned or hereafter acquired, to be subject to a Lien which is not a Permitted Encumbrance.

5.14 No Labor Disputes. No Borrower is involved in any labor dispute; there are no strikes or walkouts or union organization of any Borrower's employees threatened or in existence and no labor contract is scheduled to expire during the Term other than as set forth on Schedule 5.14 hereto.

5.15 Margin Regulations. No Borrower is engaged, nor will it engage, principally or as one of its important activities, in the business of extending credit for the purpose of "purchasing" or "carrying" any "margin stock" within the respective meanings of each of the quoted terms under Regulation U of the Board of Governors of the Federal Reserve System as now and from time to time hereafter in effect. No part of the proceeds of any Advance will be used for "purchasing" or "carrying" "margin stock" as defined in Regulation U of such Board of Governors.

5.16 Investment Company Act. No Borrower is an "investment company" registered or required to be registered under the Investment Company Act of 1940, as amended, nor is it controlled by such a company.

5.17 Disclosure. No representation or warranty made by any Borrower in this Agreement or in any financial statement, report, certificate or any other document furnished in connection herewith contains any untrue statement of a material fact or omits to state any material fact necessary to make the statements herein or therein not misleading. There is no fact known to any Borrower or which reasonably should be known to such Borrower which such Borrower has not disclosed to Agent in writing with respect to the transactions contemplated by this Agreement which could reasonably be expected to have a Material Adverse Effect.

5.18 **[Reserved]**.

5.19 **[Reserved]**.

5.20 **Swaps**. No Borrower is a party to, nor will it be a party to, any swap agreement whereby such Borrower has agreed or will agree to swap interest rates or currencies unless same provides that damages upon termination following an event of default thereunder are payable on an unlimited “two-way basis” without regard to fault on the part of either party.

5.21 **Business and Property of Borrowers**. Upon and after the Amendment Effective Date, Borrowers do not propose to engage in any business other than: (i) the business of providing oil field services to the domestic on-shore oil and gas industry and activities necessary to conduct the foregoing, (ii) ownership and management of working and royalty interests in certain wells producing oil and natural gas in North Dakota, (iii) ownership and operation of three salt water disposal wells, and (iv) ownership, management, and maintenance of certain Real Estate. On the Amendment Effective Date, each Borrower will own all the property and possess all of the rights and Consents necessary for the conduct of the business of such Borrower.

5.22 **Ineligible Securities**. Borrowers do not intend to use and shall not use any portion of the proceeds of the Advances, directly or indirectly, to purchase during the underwriting period, or for 30 days thereafter, Ineligible Securities being underwritten by a securities Affiliate of Agent or any Lender.

5.23 **Federal Securities Laws**. Enservco’s common stock is registered under Section 12(b) of the Exchange Act, and Enservco files reports pursuant thereto. No other Borrower nor any of its Subsidiaries (i) is required to file periodic reports under the Exchange Act, (ii) has any securities registered under the Exchange Act or (iii) has filed a registration statement that has not yet become effective under the Securities Act.

5.24 **Equity Interests**. The authorized and outstanding Equity Interests of each Borrower, and each legal and beneficial holder thereof as of the Amendment Effective Date, are (for Enservco) as set forth in the reports that Enservco has filed with the SEC as of the dates thereof and (for each other Borrower) as set forth on Schedule 5.24(a) hereto. All of the Equity Interests of each Borrower have been duly and validly authorized and issued and are fully paid and non-assessable and have been sold and delivered to the holders hereof in compliance with, or under valid exemption from, all federal and state laws and the rules and regulations of each Governmental Body governing the sale and delivery of securities. Except for the rights and obligations with respect to Equity Interests of Enservco set forth in the reports that Enservco has filed with the SEC (as of the dates thereof), there are no subscriptions, warrants, options, calls, commitments, rights or agreement by which any Borrower or any of the shareholders of any Borrower is bound relating to the issuance, transfer, voting or redemption of shares of its Equity Interests or any pre-emptive rights held by any Person with respect to the Equity Interests of Borrowers. Except as permitted under currently approved equity plans set forth in the reports that Enservco has filed with the SEC or as otherwise described in such reports (as of the dates thereof), Borrowers have not issued any securities convertible into or exchangeable for shares of its Equity Interests or any options, warrants or other rights to acquire such shares or securities convertible into or exchangeable for such shares.

5.25 Commercial Tort Claims. No Borrower has any commercial tort claims except as set forth on Schedule 5.25 hereto.

5.26 Letter of Credit Rights. As of the Amendment Effective Date, no Borrower has any letter of credit rights except as set forth on Schedule 5.26 hereto.

5.27 Material Contracts. Schedule 5.27 sets forth all Material Contracts of the Borrowers. All Material Contracts are in full force and effect and no material defaults currently exist thereunder.

VI. AFFIRMATIVE COVENANTS.

Each Borrower shall, until payment in full of the Obligations and termination of this Agreement:

6.1 Compliance with Laws. Comply in all material respects with all Applicable Laws with respect to the Collateral or any part thereof or to the operation of such Borrower's business the non-compliance with which could reasonably be expected to have a Material Adverse Effect (except to the extent any separate provision of this Agreement shall expressly require compliance with any particular Applicable Law(s) pursuant to another standard). Each Borrower may, however, contest or dispute any Applicable Laws in any reasonable manner, provided that any related Lien is inchoate or stayed and sufficient reserves are established to the reasonable satisfaction of Agent to protect Agent's Lien on or security interest in the Collateral.

6.2 Conduct of Business and Maintenance of Existence and Assets. (a) Conduct continuously and operate actively its business according to good business practices and maintain all of its properties useful or necessary in its business in good working order and condition (reasonable wear and tear excepted and except as may be disposed of in accordance with the terms of this Agreement), including all Intellectual Property and take all actions necessary to enforce and protect the validity of any intellectual property right or other right included in the Collateral; (b) keep in full force and effect its existence and comply in all material respects with the laws and regulations governing the conduct of its business where the failure to do so could reasonably be expected to have a Material Adverse Effect; and (c) make all such reports and pay all such franchise and other taxes and license fees and do all such other acts and things as may be lawfully required to maintain its rights, licenses, leases, powers and franchises under the laws of the United States or any political subdivision thereof.

6 . 3 Books and Records. Keep proper books of record and account in which full, true and correct entries will be made of all dealings or transactions of or in relation to its business and affairs (including without limitation accruals for taxes, assessments, Charges, levies and claims, allowances against doubtful Receivables and accruals for depreciation, obsolescence or amortization of assets), all in accordance with, or as required by, GAAP consistently applied in the opinion of such independent public accountant as shall then be regularly engaged by Borrowers.

6.4 Payment of Taxes. Pay, when due, all taxes, assessments and other Charges lawfully levied or assessed upon such Borrower or any of the Collateral, including real and personal property taxes, assessments and charges and all franchise, income, employment, social security benefits, withholding, and sales taxes. If any tax by any Governmental Body is or may be imposed on or as a result of any transaction between any Borrower and Agent or any Lender which Agent or any Lender may be required to withhold or pay or if any taxes, assessments, or other Charges remain unpaid after the date fixed for their payment, or if any claim shall be made which, in Agent's or any Lender's opinion, may possibly create a valid Lien on the Collateral, Agent may without notice to Borrowers pay the taxes, assessments or other Charges and each Borrower hereby indemnifies and holds Agent and each Lender harmless in respect thereof. The amount of any payment by Agent under this Section 6.4 shall be charged to Borrowers' Account as a Revolving Advance maintained as a Domestic Rate Loan and added to the Obligations and, until Borrowers shall furnish Agent with an indemnity therefor (or supply Agent with evidence satisfactory to Agent that due provision for the payment thereof has been made), Agent may hold without interest any balance standing to Borrowers' credit and Agent shall retain its security interest in and Lien on any and all Collateral held by Agent.

6.5 Financial Covenants.

(a) Fixed Charge Coverage Ratio. ~~Cause~~ Commencing on the date on which the Financial Covenant Period begins and measured as of the end of the fiscal quarter immediately preceding the date on which the Financial Covenant Period first begins and as of each fiscal quarter end thereafter during the Financial Covenant Period, Borrowers will cause to be maintained as of the last day of each such fiscal quarter of Borrowers (the "compliance test date" as used in this Section 6.5), commencing with the fiscal quarter of Borrowers ending September 30, 2014, a Fixed Charge Coverage Ratio of not less than 1.15 to 1.00 in respect of each compliance test date. For the purpose of this covenant, the Fixed Charge Coverage Ratio shall be determined on the basis of the trailing twelve-month four-quarter period ended on the applicable quarterly compliance test date; provided that (i) in respect of the December 31, 2015 compliance test date, the Fixed Charge Coverage Ratio shall be determined solely on the basis of the fiscal quarter ended December 31, 2015, (ii) in respect of the March 31, 2016 compliance test date, the Fixed Charge Coverage Ratio shall be determined solely on the basis of the fiscal quarters ending December 31, 2015 and March 31, 2016; (iii) in respect of the June 30, 2016 compliance test date, the Fixed Charge Coverage Ratio shall be determined solely on the basis of the fiscal quarters ending December 31, 2015, March 31, 2016 and June 30, 2016.

(b) Leverage Ratio. Maintain as of the end of the Commencing on the date on which the Financial Covenant Period begins and measured as of the end of the fiscal quarter immediately preceding the date on which the Financial Covenant Period first begins and as of each fiscal quarter end thereafter during the Financial Covenant Period. Borrowers will maintain as of the end of each fiscal quarter set forth below a ratio of Funded Debt to Adjusted EBITDA of not greater than ~~2.75 to 1.00~~ the ratio set forth below opposite such fiscal quarter:

<u>Fiscal Quarter Ending</u>	<u>Maximum Leverage Ratio</u>
<u>March 31, 2016</u>	<u>4.00 to 1.00</u>
<u>June 30, 2016 and each fiscal quarter thereafter</u>	<u>3.50 to 1.00</u>

(c) Undrawn Availability. Cause to be maintained at all times during the period commencing on the Sixth Amendment Effective Date through and including March 31, 2017, tested each day, Undrawn Availability of not less than the applicable amount set forth below opposite the measurement date set forth below:

<u>Measurement date:</u>	<u>Undrawn Availability</u>
<u>March 1, 2016 through and including March 31, 2016</u>	<u>\$3,249,698</u>
<u>April 1, 2016 through and including April 30, 2016</u>	<u>\$4,131,224</u>
<u>May 1, 2016 through and including May 31, 2016</u>	<u>\$3,821,775</u>
<u>June 1, 2016 through and including June 30, 2016</u>	<u>\$3,483,882</u>
<u>July 1, 2016 through and including July 31, 2016</u>	<u>\$2,761,488</u>
<u>August 1, 2016 through and including August 31, 2016</u>	<u>\$1,521,327</u>
<u>September 1, 2016 through and including September 30, 2016</u>	<u>\$1,500,000</u>
<u>October 1, 2016 through and including October 31, 2016</u>	<u>\$1,500,000</u>
<u>November 1, 2016 through and including November 30, 2016</u>	<u>\$1,834,243</u>
<u>December 1, 2016 through and including December 31, 2016</u>	<u>\$2,402,507</u>
<u>January 1, 2017 through and including January 31, 2017</u>	<u>\$2,402,507</u>
<u>February 1, 2017 through and including February 28, 2017</u>	<u>\$8,000,322</u>
<u>March 1, 2017 through and including March 31, 2017</u>	<u>\$1,500,000</u>

6.6 **Insurance.**

(a) (i) Keep all its insurable properties and properties in which such Borrower has an interest insured against the hazards of fire, flood, sprinkler leakage, those hazards covered by extended coverage insurance and such other hazards, and for such amounts, as is customary in the case of companies engaged in businesses similar to such Borrower's ~~including~~, provided that, in addition to the foregoing insurance requirements, upon the occurrence of any Event of Default, Agent, in its sole discretion, may require each Borrower to obtain and maintain, for so long as the Event of Default continues, business interruption insurance for such amounts as is customary in the case of companies engaged in businesses similar to such Borrower's; (ii) maintain a bond or insurance coverage in such amounts as is customary in the case of companies engaged in businesses similar to such Borrower insuring against larceny, embezzlement or other criminal misappropriation of insured's officers and employees who may either singly or jointly with others at any time have access to the assets or funds of such Borrower either directly or through authority to draw upon such funds or to direct generally the disposition of such assets; (iii) maintain public and product liability insurance against claims for personal injury, death or property damage suffered by others; (iv) maintain all such worker's compensation or similar insurance as may be required under the laws of any state or jurisdiction in which such Borrower is engaged in business; (v) furnish Agent with (A) copies of all policies and evidence of the maintenance of such policies as requested by the Agent, and (B) appropriate loss payable endorsements in form and substance satisfactory to Agent, naming Agent as an additional insured and mortgagee and/or lender loss payee (as applicable) as its interests may appear with respect to all insurance coverage referred to in clauses (i), and (iii) and (v) above, and providing (I) that all proceeds thereunder shall be payable to Agent, (II) no such insurance shall be affected by any act or neglect of the insured or owner of the property described in such policy, and (III) that such policy and loss payable clauses may not be cancelled, amended or terminated unless at least thirty (30) days prior written notice is given to Agent (or in the case of non-payment, at least ten (10) days prior written notice). In the event of any loss thereunder, the carriers named therein hereby are directed by Agent and the applicable Borrower to make payment for such loss to Agent and not to such Borrower and Agent jointly. If any insurance losses are paid by check, draft or other instrument payable to any Borrower and Agent jointly, Agent may endorse such Borrower's name thereon and do such other things as Agent may deem advisable to reduce the same to cash.

(b) To the extent Agent has a perfected Lien in the Real Property of any Borrower, such Borrower shall take all actions required under the Flood Laws and/or requested by Agent to assist in ensuring that each Lender is in compliance with the Flood Laws applicable to the Collateral, including, but not limited to, providing Agent with the address and/or GPS coordinates of each structure on any real property that will be subject to a mortgage in favor of Agent, for the benefit of Lenders, and, to the extent required, obtaining flood insurance for such property, structures and contents prior to such property, structures and contents becoming Collateral, and thereafter maintaining such flood insurance in full force and effect for so long as required by the Flood Laws.

(c) Agent is hereby authorized to adjust and compromise claims under insurance coverage referred to in Sections 6.6(a)(i), and (iii) and (v) and 6.6(b) above. All loss recoveries received by Agent under any such insurance may be applied to the Obligations, in such order as Agent in its sole discretion shall determine. Any surplus shall be paid by Agent to Borrowers or applied as may be otherwise required by law. Any deficiency thereon shall be paid by Borrowers to Agent, on demand. If any Borrower fails to obtain insurance as hereinabove provided, or to keep the same in force, Agent, if Agent so elects, may obtain such insurance and pay the premium therefor on behalf of such Borrower, which payments shall be charged to Borrowers' Account and constitute part of the obligations.

6 . 7 Payment of Indebtedness and Leasehold Obligations. Pay, discharge or otherwise satisfy (i) at or before maturity (subject, where applicable, to specified grace periods) all its Indebtedness, except when the failure to do so could not reasonably be expected to have a Material Adverse Effect or when the amount or validity thereof is currently being Properly Contested, subject at all times to any applicable subordination arrangement in favor of Lenders and (ii) when due its rental obligations under all leases under which it is a tenant, and shall otherwise comply, in all material respects, with all other terms of such leases and keep them in full force and effect.

6.8 Environmental Matters.

(a) Ensure that the Real Property and all operations and businesses conducted thereon are in compliance and remain in compliance in all material respects with applicable Environmental Laws and manage any and all Hazardous Materials on any Real Property in compliance with Environmental Laws.

(b) Establish and maintain an environmental management and compliance system to assure and monitor continued compliance with all applicable Environmental Laws, including periodic environmental compliance audits conducted by knowledgeable environmental professionals and review of potential violations and violations of Environmental Laws with legal counsel to determine reporting requirements and required corrective actions. Unless a Default or an Event of Default shall have occurred and be continuing, Agent may request an environmental site assessment or environmental compliance audit at Borrowers' expense only if Agent reasonably believes or has reason to believe that a reportable Hazardous Discharge has occurred at the Real Property.

(c) Respond promptly to any material Hazardous Discharge or Environmental Complaint and take all necessary action in order to safeguard the health of any Person and to avoid subjecting the Collateral or Real Property to any Lien. If any Borrower shall fail to respond promptly to any material Hazardous Discharge or Environmental Complaint or any Borrower shall fail to comply with any of the material requirements of any Environmental Laws, Agent on behalf of Lenders may, but without the obligation to do so, for the sole purpose of protecting Agent's interest in the Collateral and following written notice to the Borrowers of not less than two (2) Business Days: (i) give such notices or (ii) enter onto the Real Property (or authorize third parties to enter onto the Real Property) and take such actions as Agent (or such third parties as directed by Agent) deem reasonably necessary or advisable, to remediate, remove, mitigate or otherwise manage any such Hazardous Discharge or Environmental Complaint. All reasonable costs and expenses incurred by Agent and Lenders (or such third parties) in the exercise of any such rights, including any sums paid in connection with any judicial or administrative investigation or proceedings, fines and penalties, together with interest thereon from the date expended at the Default Rate for Domestic Rate Loans constituting Revolving Advances shall be paid upon demand by Borrowers, and until paid shall be added to and become a part of the Obligations secured by the Liens created by the terms of this Agreement or any other agreement between Agent, any Lender and any Borrower.

(d) Promptly upon the written request of Agent from time to time, Borrowers shall provide Agent, at Borrowers' expense, with an environmental site assessment or environmental compliance audit report prepared by an environmental engineering firm acceptable in the reasonable opinion of Agent, to assess with a reasonable degree of certainty the existence of a reportable Hazardous Discharge and the potential costs in connection with abatement, remediation and removal of any Hazardous Materials found on, under, at or within the Real Property. Any report or investigation of such Hazardous Discharge proposed and acceptable to the responsible Governmental Body shall be acceptable to Agent. If such estimates, individually or in the aggregate, exceed \$100,000, Agent shall have the right to require Borrowers to post a bond, letter of credit or other security reasonably satisfactory to Agent to secure payment of these costs and expenses. Unless a Default or an Event of Default shall have occurred and be continuing, Agent may request an environmental site assessment or environmental compliance audit at Borrowers' expense only if Agent reasonably believes or has reason to believe that a reportable Hazardous Discharge has occurred at the Real Property.

6.9 Standards of Financial Statements. Cause all financial statements referred to in Sections 9.7, 9.8, 9.9, 9.10, 9.11, 9.12, and 9.13 as to which GAAP is applicable to be complete and correct in all material respects (subject, in the case of interim financial statements, to normal year-end audit adjustments) and (except as to the financial statements referred to in Section 9.9) to be prepared in reasonable detail and in accordance with GAAP applied consistently throughout the periods reflected therein (except as disclosed therein and agreed to by such reporting accountants or officer, as applicable).

6.10 Federal Securities Laws. Promptly notify Agent in writing if any Borrower or any of their Subsidiaries (i) registers any securities under the Exchange Act or (ii) files a registration statement under the Securities Act.

6.11 Execution of Supplemental Instruments. Execute and deliver to Agent from time to time, upon demand, such supplemental agreements, statements, assignments and transfers, or instructions or documents relating to the Collateral, and such other instruments as Agent may request, in order that the full intent of this Agreement may be carried into effect.

6.12 Exercise of Rights. Enforce all of its rights under the Acquisition Agreement and any indemnification agreement executed in connection therewith including, but not limited to, all indemnification rights and pursue all remedies available to it with diligence and in good faith in connection with the enforcement of any such rights.

6.13 Government Receivables. Take all steps necessary to protect Agent's interest in the Collateral under the Federal Assignment of Claims Act, the Uniform Commercial Code and all other applicable state or local statutes or ordinances and deliver to Agent appropriately endorsed, any instrument or chattel paper connected with any Receivable arising out of any contract between any Borrower and the United States, any state or any department, agency or instrumentality of any of them.

6.14 Membership/Partnership Interests. Designate and shall cause all of their Subsidiaries to designate (a) their limited liability company membership interests or partnership interests as the case may be, as securities as contemplated by the definition of "security" in Section 8-102(15) and Section 8-103 of Article 8 of the Uniform Commercial Code, and (b) certificate such limited liability company membership interests and partnership interests, as applicable.

6.15 Keepwell. If it is a Qualified ECP Loan Party, then jointly and severally, together with each other Qualified ECP Loan Party, hereby absolutely unconditionally and irrevocably (a) guarantees the prompt payment and performance of all Swap Obligations owing by each Non-Qualifying Party (it being understood and agreed that this guarantee is a guaranty of payment and not of collection), and (b) undertakes to provide such funds or other support as may be needed from time to time by any Non-Qualifying Party to honor all of such Non Qualifying Party's obligations under this Agreement or any Other Document in respect of Swap Obligations (provided, however, that each Qualified ECP Loan Party shall only be liable under this Section 6.15 for the maximum amount of such liability that can be hereby incurred without rendering its obligations under this Section 6.15, or otherwise under this Agreement or any Other Document, voidable under applicable law, including applicable law relating to fraudulent conveyance or fraudulent transfer, and not for any greater amount). The obligations of each Qualified ECP Loan Party under this Section 6.15 shall remain in full force and effect until payment in full of the Obligations and termination of this Agreement and the Other Documents. Each Qualified ECP Loan Party intends that this Section 6.15 constitute, and this Section 6.15 shall be deemed to constitute, a guarantee of the obligations of, and a "keepwell, support, or other agreement" for the benefit of each other Borrower and Guarantor for all purposes of Section 1a(18(A)(v)(II) of the CEA.

6.16 Vehicle Titles. Cause Agent to be named as the sole registered lien holder on each certificate of title to each material (as determined by Agent in its Permitted Discretion) item of rolling stock of Borrowers, with such process having been started in coordination with the release of such Liens by Borrowers' prior lender with the intention to have commenced such process within sixty (60) days after the Closing Date and thereafter diligently pursued by Agent and Borrowers.

VII. NEGATIVE COVENANTS.

No Borrower shall, until satisfaction in full of the Obligations and termination of this Agreement:

7.1 Merger, Consolidation, Acquisition and Sale of Assets.

(a) Enter into any merger, consolidation or other reorganization with or into any other Person or acquire all or a substantial portion of the assets or Equity Interests of any Person or permit any other Person to consolidate with or merge with it in any manner that would have a Material Adverse Effect, except any Borrower may merge, consolidate or reorganize with another Borrower or acquire the assets or Equity Interest of another Borrower so long as such Borrower provides Agent with ten (10) days prior written notice of such merger, consolidation or reorganization and delivers all of the relevant documents evidencing such merger, consolidation or reorganization.

(b) Sell, lease, transfer or otherwise dispose of any material portion of its properties or assets, except (i) the disposition or transfer of obsolete and worn-out equipment in the Ordinary Course of Business during any fiscal year having an aggregate fair market value of not more than \$1,250,000 and only to the extent that the proceeds of any such disposition are used to acquire replacement equipment which is subject to Agent's first priority security interest and (ii) any other sales or dispositions expressly permitted by this Agreement.

7.2 Creation of Liens. Create or suffer to exist any Lien or transfer upon or against any of its property or assets now owned or hereafter created or acquired, except Permitted Encumbrances.

7.3 Guarantees. Become liable upon the obligations or liabilities of any Person by assumption, endorsement or guaranty thereof or otherwise (other than to Lenders) except the endorsement of checks in the Ordinary Course of Business.

7.4 Investments. Purchase or acquire obligations or Equity Interests of, or any other interest in, any Person, other than Permitted Investments.

7.5 Loans. Make advances, loans or extensions of credit to any Person, including any Parent, Subsidiary or Affiliate other than Permitted Loans.

~~7.6 [Reserved].~~

7.6 Capital Expenditures. During the period commencing October 1, 2015 through and including June 30, 2016, contract for, purchase or make any expenditure or commitments for Capital Expenditures in an aggregate amount for all Borrowers in excess of \$7,800,000.

7.7 Dividends. No Borrower shall declare, pay or make any cash dividend or distribution on any of its Equity Interests or apply any of its funds, property or assets to the purchase, redemption or other retirement of any of its Equity Interests, or of any options to purchase or acquire any of its Equity Interests except (i) dividends or distributions from a Subsidiary of a Borrower to a Borrower and (ii) dividends or distributions to Enservco (x) to enable Enservco to pay costs of overhead related to its status as owner of Dillco and Heat Waves, and (y) to enable Enservco to pay taxes related to the income of its Subsidiaries and (iii) dividends or distributions (in amounts and on terms acceptable to Agent) pursuant to a certificate of designation of preferred stock which Agent has approved in writing.

7.8 Indebtedness. Create, incur, assume or suffer to exist any Indebtedness other than Permitted Indebtedness.

7.9 Nature of Business. Substantially change the nature of the business in which it is presently engaged, nor except as specifically permitted hereby purchase or invest, directly or indirectly, in any assets or property other than in the Ordinary Course of Business for assets or property which are useful in, necessary for and are to be used in its business as presently conducted.

7.10 Transactions with Affiliates. Directly or indirectly, purchase, acquire or lease any property from, or sell, transfer or lease any property to, or otherwise enter into any transaction or deal with, any Affiliate, except transactions disclosed to the Agent or which have been disclosed in reports that Enservco has filed or may in the future file with the SEC, which are in the Ordinary Course of Business, on an arm's-length basis on terms and conditions no less favorable than terms and conditions which would have been obtainable from a Person other than an Affiliate.

7.11 Leases. Enter as lessee into any lease arrangement for real or personal property if after giving effect thereto, aggregate annual rental payments for all leased property would exceed \$500,000 in any one fiscal year in the aggregate for all Borrowers except to the extent in effect on the Amendment Effective Date or which are entered into to replace or renew existing leases.

7.12 Subsidiaries.

(a) Form any Subsidiary unless (i) such Subsidiary expressly joins in this Agreement as a borrower hereunder or guarantor hereof and thereby becomes jointly and severally liable for the obligations of Borrowers hereunder, under the Notes, and under any other agreement between any Borrower and Lenders and (ii) Agent shall have received all documents, including legal opinions, it may reasonably require to establish compliance with each of the foregoing conditions.

(b) Enter into any partnership, joint venture or similar arrangement.

7.13 Fiscal Year and Accounting Changes. Change its fiscal year from December 31st or make any significant change (i) in accounting treatment and reporting practices except as required by GAAP or (ii) in tax reporting treatment except as required by law.

7.14 Pledge of Credit. Now or hereafter pledge Agent's or any Lender's credit on any purchases, commitments or contracts or for any purpose whatsoever or use any portion of any Advance in or for any business other than such Borrower's business operations as conducted on the Amendment Effective Date.

7.15 Amendment of Organizational Documents. (i) Change its legal name, (ii) change its form of legal entity (e.g., converting from a corporation to a limited liability company or vice versa), (iii) change its jurisdiction of organization or become (or attempt or purport to become) organized in more than one jurisdiction, or (iv) otherwise amend, modify or waive any term or material provision of its Organizational Documents unless required by law, in any such case without (x) giving at least thirty (30) days prior written notice of such intended change to Agent, (y) having received from Agent confirmation that Agent has taken all steps necessary for Agent to continue the perfection of and protect the enforceability and priority of its Liens in the Collateral belonging to such Borrower and in the Equity Interests of such Borrower and (z) in any case under clause (iv), having received the prior written consent of Agent and Required Lenders to such amendment, modification or waiver.

7.16 Compliance with ERISA. (i) (x) Maintain, or permit any member of the Controlled Group to maintain, or (y) become obligated to contribute, or permit any member of the Controlled Group to become obligated to contribute, to any Plan, other than those Plans disclosed on Schedule 5.8(d), (ii) engage, or permit any member of the Controlled Group to engage, in any non-exempt "prohibited transaction," as that term is defined in Section 406 of ERISA or Section 4975 of the Code, (iii) terminate, or permit any member of the Controlled Group to terminate, any Plan where such event could result in any liability of any Borrower or any member of the Controlled Group or the imposition of a lien on the property of any Borrower or any member of the Controlled Group pursuant to Section 4068 of ERISA, (iv) incur, or permit any member of the Controlled Group to incur, any withdrawal liability to any Multiemployer Plan; (v) fail promptly to notify Agent of the occurrence of any Termination Event, (vi) fail to comply, or permit a member of the Controlled Group to fail to comply, with the requirements of ERISA or the Code or other Applicable Laws in respect of any Plan, (vii) fail to meet, permit any member of the Controlled Group to fail to meet, or permit any Plan to fail to meet all minimum funding requirements under ERISA and the Code, without regard to any waivers or variances, or postpone or delay or allow any member of the Controlled Group to postpone or delay any funding requirement with respect of any Plan, or (viii) cause, or permit any member of the Controlled Group to cause, a representation or warranty in Section 5.8(d) to cease to be true and correct.

7.17 Prepayment of Indebtedness. At any time, directly or indirectly, prepay any Indebtedness (other than to Lenders), or repurchase, redeem, retire or otherwise acquire any Indebtedness of any Borrower other than as contemplated in Section 2.21, above.

7.18 [Reserved].

7.19 [Reserved].

7.20 Membership / Partnership Interests. Designate or permit any of their Subsidiaries to (a) treat their limited liability company membership interests or partnership interests, as the case may be, as securities as contemplated by the definition of "security" in Section 8-102(15) and by Section 8-103 of Article 8 of the Uniform Commercial Code or (b) certificate their limited liability membership interests or partnership interests, as applicable.

VIII. CONDITIONS PRECEDENT.

8.1 Conditions to Initial Advances. The agreement of Lenders to make the initial Advances requested to be made on the Amendment Effective Date is subject to the satisfaction, or waiver by Agent, immediately prior to or concurrently with the making of such Advances, of the following conditions precedent:

(a) Loan Documents. Agent shall have received this Agreement and each of the other Documents, each duly executed and delivered by an authorized officer of each Borrower or Guarantor party thereto;

(b) Filings, Registrations and Recordings. Each document (including any Uniform Commercial Code financing statement) required by this Agreement, any related agreement or under law or reasonably requested by the Agent to be filed, registered or recorded in order to create, in favor of Agent, a perfected security interest in or lien upon the Collateral shall have been properly filed, registered or recorded in each jurisdiction in which the filing, registration or recordation thereof is so required or requested, and Agent shall have received an acknowledgment copy, or other evidence satisfactory to it, of each such filing, registration or recordation and satisfactory evidence of the payment of any necessary fee, tax or expense relating thereto except with respect to vehicle titles which shall be dealt with as contemplated in Section 6.16;

(c) Corporate or Company Proceedings of Borrowers. Agent shall have received a copy of the resolutions in form and substance reasonably satisfactory to Agent, of the Board of Directors, Board of Managers or Managing Member of each Borrower authorizing (i) the execution, delivery and performance of this Agreement and any Other Documents to which such Borrower is a party and (ii) the granting by each Borrower of the security interests in and liens upon the Collateral in each case certified by the Secretary or an Assistant Secretary of each Borrower as of the Amendment Effective Date; and, such certificate shall state that the resolutions thereby certified have not been amended, modified, revoked or rescinded as of the date of such certificate;

(d) Incumbency Certificates of Borrowers. Agent shall have received a certificate of the Secretary or an Assistant Secretary of each Borrower, dated the Amendment Effective Date, as to the incumbency and signature of the officers of each Borrower executing this Agreement, the Other Documents, any certificate or other documents to be delivered by it pursuant hereto, together with evidence of the incumbency of such Secretary or Assistant Secretary;

(e) Certificates. Agent shall have received a copy of the Articles or Certificate of Incorporation or Formation of each Borrower and all amendments thereto, certified by the Secretary of State or other appropriate official of its jurisdiction of incorporation or formation together with copies of the By-Laws or Operating Agreement of each Borrower and all agreements of each Borrower's shareholders or members certified as accurate and complete by the Secretary of each Borrower;

(f) Good Standing Certificates. Agent shall have received good standing certificates for each Borrower dated not more than 30 days prior to the Amendment Effective Date, issued by the Secretary of State or other appropriate official of each Borrower's jurisdiction of incorporation or formation and each jurisdiction where the conduct of each Borrower's business activities or the ownership of its properties necessitates qualification;

(g) Legal Opinion. Agent shall have received the executed legal opinion of Burns, Figa & Will, P.C. in form and substance satisfactory to Agent which shall cover such matters incident to the transactions contemplated by this Agreement and the Other Documents as Agent may reasonably require;

(h) No Litigation. (i) No litigation, investigation or proceeding before or by any arbitrator or Governmental Body shall be continuing or threatened against any Borrower or against the officers or directors of any Borrower (A) in connection with this Agreement, the Other Documents or any of the transactions contemplated thereby and which, in the reasonable opinion of Agent, is deemed material or (B) which could, in the reasonable opinion of Agent, have a Material Adverse Effect; and (ii) no injunction, writ, restraining order or other order of any nature materially adverse to any Borrower or the conduct of its business or inconsistent with the due consummation of the transactions contemplated hereunder shall have been issued by any Governmental Body;

(i) Financial Condition Certificates. Agent shall have received an executed Financial Condition Certificate in the form of Exhibit 8.1(i).

(j) Collateral Examination. Agent shall have completed Collateral examinations and received appraisals, the results of which shall be satisfactory in form and substance to Lenders, of the Receivables, equipment and other assets of each Borrower and of all books and records in connection therewith;

(k) Fees. Agent shall have received all fees payable to Agent and Lenders on or prior to the Amendment Effective Date hereunder, including pursuant to Article III hereof;

(l) Insurance. Agent shall have received in form and substance satisfactory to Agent, certified copies of Borrowers' casualty insurance policies, together with loss payable endorsements on Agent's standard form of loss payee endorsement naming Agent as loss payee, and certified copies of Borrowers' liability insurance policies, together with endorsements naming Agent as an additional insured;

(m) [Reserved].

(n) Payment Instructions. Agent shall have received written instructions from Borrowing Agent directing the application of proceeds of the initial Advances made pursuant to this Agreement;

(o) Blocked Accounts. Agent shall have received duly executed springing exclusive control agreements establishing the Blocked Accounts or Depository Accounts with financial institutions acceptable to Agent for the collection or servicing of the Receivables and proceeds of the Collateral;

(p) Consents. Agent shall have received any and all Consents necessary to permit the effectuation of the transactions contemplated by this Agreement and the Other Documents; and, Agent shall have received such Consents and waivers of such third parties as might assert claims with respect to the Collateral, as Agent and its counsel shall deem necessary;

(q) No Adverse Material Change. (i) since June 30, 2014, there shall not have occurred any event, condition or state of facts which could reasonably be expected to have a Material Adverse Effect and (ii) no representations made or information supplied to Agent or Lenders shall have been proven to be inaccurate or misleading in any material respect;

(r) Capital Structure. Agent, in its Permitted Discretion, shall have been satisfied with its review of the capital structure of the Borrowers;

(s) Leasehold Agreements. Agent shall have received landlord, mortgagee or warehouseman agreements satisfactory to Agent with respect to all premises leased by Borrowers at which Inventory, equipment or books and records are located, or Agent shall have established a reserve against availability under the Revolving Advances facility in an amount equal to three (3) months' rent for any such premises for which Agent did not receive such an agreement;

(t) Contract Review. Agent shall have reviewed all material contracts of Borrowers including MSAs, leases, union contracts, labor contracts, vendor supply contracts, license agreements and distributorship agreements, and all such material contracts and agreements shall be satisfactory in all respects to Agent;

(u) Closing Certificate. Agent shall have received a closing certificate signed by the Chief Financial Officer of each Borrower dated as of the date hereof, stating that (i) all representations and warranties set forth in this Agreement and the Other Documents are true and correct on and as of such date, (ii) Borrowers are on such date in compliance with all the terms and provisions set forth in this Agreement and the Other Documents and (iii) on such date no Default or Event of Default has occurred or is continuing;

(v) Borrowing Base. Agent shall have received evidence from Borrowers that the aggregate amount of Eligible Receivables and Eligible Equipment is sufficient in value and amount to support Advances in the amount requested by Borrowers on the Amendment Effective Date;

(w) [Reserved].

(x) Compliance with Laws. Agent shall be reasonably satisfied that each Borrower is in compliance with all Applicable Laws; and

(y) Other. All corporate and other proceedings, and all documents, instruments and other legal matters in connection with the transactions contemplated hereunder shall be satisfactory in form and substance to Agent and its counsel.

8 . 2 Conditions to Each Advance. The agreement of Lenders to make any Advance requested to be made on any date (including the initial Advance), is subject to the satisfaction of the following conditions precedent as of the date such Advance is made:

(a) Representations and Warranties. Each of the representations and warranties made by any Borrower in or pursuant to this Agreement, the Other Documents and any related agreements to which it is a party, and each of the representations and warranties contained in any certificate, document or financial or other statement furnished at any time under or in connection with this Agreement, the Other Documents or any related agreement shall be true and correct in all respects on and as of such date as if made on and as of such date (except to the extent any such representation or warranty expressly relates only to any earlier and/or specified date);

(b) No Default. No Event of Default or Default shall have occurred and be continuing on such date, or would exist after giving effect to the Advances requested to be made, on such date; provided, however that Agent, in its sole discretion, may continue to make Advances notwithstanding the existence of an Event of Default or Default and that any Advances so made shall not be deemed a waiver of any such Event of Default or Default; and

(c) Maximum Advances. In the case of any type of Advance requested to be made, after giving effect thereto, the aggregate amount of such type of Advance shall not exceed the maximum amount of such type of Advance permitted under this Agreement.

Each request for an Advance by any Borrower hereunder shall constitute a representation and warranty by each Borrower as of the date of such Advance that the conditions contained in this subsection shall have been satisfied.

IX. INFORMATION AS TO BORROWERS.

Each Borrower shall, or (except with respect to Section 9.11) shall cause Borrowing Agent on its behalf to, until satisfaction in full of the Obligations and the termination of this Agreement:

9.1 Disclosure of Material Matters. Immediately upon learning thereof, report to Agent all matters materially affecting the value, enforceability or collectability of any portion of the Collateral, including any Borrower's reclamation or repossession of, or the return to any Borrower of, a material amount of goods or claims or disputes asserted by any Customer or other obligor.

9.2 Schedules. Deliver to Agent on or before the fifteenth (15th) day of each month as and for the prior month (a) accounts receivable agings inclusive of reconciliations to the general ledger, (b) accounts payable schedules inclusive of reconciliations to the general ledger, and (c) a Borrowing Base Certificate in form and substance satisfactory to Agent (which shall be calculated as of the last day of the prior month and which shall not be binding upon Agent or restrictive of Agent's rights under this Agreement). In addition, each Borrower will deliver to Agent at such intervals as Agent may require: (i) confirmatory assignment schedules, (ii) copies of Customer's invoices, (iii) evidence of shipment or delivery, and (iv) such further schedules, documents and/or information regarding the Collateral as Agent may require including trial balances and test verifications. Agent shall have the right to confirm and verify all Receivables by any manner and through any medium it considers advisable and do whatever it may deem reasonably necessary to protect its interests hereunder. The items to be provided under this Section are to be in form satisfactory to Agent and executed by each Borrower and delivered to Agent from time to time solely for Agent's convenience in maintaining records of the Collateral, and any Borrower's failure to deliver any of such items to Agent shall not affect, terminate, modify or otherwise limit Agent's Lien with respect to the Collateral.

9.3 Environmental Reports.

(a) Furnish Agent, concurrently with the delivery of the financial statements referred to in Sections 9.7 and 9.8, with a certificate signed by the President of Borrowing Agent stating, to the best of his knowledge, that each Borrower is in compliance in all material respects with all applicable Environmental Laws. To the extent any Borrower is not in compliance with the foregoing laws, the certificate shall set forth with specificity all areas of non-compliance and the proposed action such Borrower will implement in order to achieve full compliance.

(b) In the event any Borrower obtains, gives or receives notice of any Release or threat of Release of a reportable quantity of any Hazardous Materials at the Real Property (any such event being hereinafter referred to as a "Hazardous Discharge") or receives any notice of violation, request for information or notification that it is potentially responsible for investigation or cleanup of environmental conditions at the Real Property, demand letter or complaint, order, citation, or other written notice with regard to any Hazardous Discharge or violation of Environmental Laws affecting the Real Property or any Borrower's interest in the Real Property or the operations or the business (any of the foregoing is referred to herein as an "Environmental Complaint") from any Person, including any Governmental Body, then Borrowing Agent shall, within five (5) Business Days, give written notice of same to Agent detailing facts and circumstances of which any Borrower is aware giving rise to the Hazardous Discharge or Environmental Complaint. Such information is to be provided to allow Agent to protect its security interest in and Lien on the Collateral and is not intended to create nor shall it create any obligation upon Agent or any Lender with respect thereto.

(c) Borrowing Agent shall promptly forward to Agent copies of any request for information, notification of potential liability, demand letter relating to potential responsibility with respect to the investigation or cleanup of Hazardous Materials at any other site owned, operated or used by any Borrower to manage Hazardous Materials and shall continue to forward copies of correspondence between any Borrower and the Governmental Body regarding such claims to Agent until the claim is settled. Borrowing Agent shall promptly forward to Agent copies of all documents and reports concerning a Hazardous Discharge or Environmental Complaint at or relating to the Real Property, operations or business that any Borrower is required to file under any Environmental Laws. Such information is to be provided solely to allow Agent to protect Agent's security interest in and Lien on the Collateral.

9 . 4 Litigation. Promptly notify Agent in writing of any material claim, litigation, suit or administrative proceeding affecting any Borrower or any Guarantor, whether or not the claim is covered by insurance, and of any litigation, suit or administrative proceeding, which in any such case affects the Collateral or which could reasonably be expected to have a Material Adverse Effect.

9 . 5 Material Occurrences. Immediately notify Agent in writing upon the occurrence of: (a) any Event of Default or Default; (b) any event, development or circumstance whereby any financial statements or other reports furnished to Agent fail in any material respect to present fairly, in accordance with GAAP consistently applied, the financial condition or operating results of any Borrower as of the date of such statements; (c) any accumulated retirement plan funding deficiency which, if such deficiency continued for two plan years and was not corrected as provided in Section 4971 of the Code, could subject any Borrower to a tax imposed by Section 4971 of the Code; (d) each and every default by any Borrower which might result in the acceleration of the maturity of any Indebtedness, including the names and addresses of the holders of such Indebtedness with respect to which there is a default existing or with respect to which the maturity has been or could be accelerated, and the amount of such Indebtedness; and (e) any other development in the business or affairs of any Borrower or any Guarantor, which could reasonably be expected to have a Material Adverse Effect; in each case describing the nature thereof and the action Borrowers propose to take with respect thereto.

9.6 Government Receivables. Notify Agent immediately if any of its Receivables arise out of contracts between any Borrower and the United States, any state, or any department, agency or instrumentality of any of them.

9.7 Annual Financial Statements. Furnish Agent at the same time furnished to the SEC (but not later than the time limit set forth in SEC Form 10-K as may be extended by SEC Rule 12b-25), financial statements of Enservco in the same form filed with the SEC and reported upon without qualification by an independent certified public accounting firm selected by Borrowers and satisfactory to Agent (the "Accountants"). In addition, the financial statements shall be accompanied by a Compliance Certificate and the internal consolidating financial statements (that support the consolidated financial statements) prepared by Enservco in the Ordinary Course of Business.

9.8 Quarterly Financial Statements. Furnish Agent at the same time furnished to the SEC (but not later than the time limit set forth in SEC Form 10-Q as may be extended by SEC Rule 12b-25), an unaudited balance sheet of Enservco in the same form filed with the SEC pursuant to the SEC's Rules and Regulations, prepared on a basis consistent with prior practices and complete and correct in all material respects, subject to normal and recurring year-end adjustments that individually and in the aggregate are not material to Borrowers' business. The financial statements shall be accompanied by a Compliance Certificate and the internal consolidating financial statements (that support the consolidated financial statements) prepared by Enservco in the Ordinary Course of Business.

9.9 Monthly Financial Statements. For months other than those referred to in Sections 9.7 and 9.8 above, furnish Agent within thirty (30) days after the end of each month, an unaudited balance sheet of Borrowers on a Consolidated Basis in the same form as prepared in the Ordinary Course of Business for management of Enservco and unaudited statements of income and stockholders' equity and cash flow of Borrowers on a Consolidated Basis reflecting results of operations from the beginning of the fiscal year to the end of such month and for such month in the same form as prepared in the Ordinary Course of Business for management of Enservco, prepared on a basis consistent with prior practices and complete and correct in all material respects, subject to normal and recurring year-end adjustments that individually and in the aggregate are not material to Borrowers' business. The financial statements shall be accompanied by a Compliance Certificate and the internal consolidating financial statements (that support the consolidated financial statements) prepared by Enservco in the Ordinary Course of Business.

9.10 Other Reports. Furnish Agent as soon as available, but in any event within ten (10) days after the issuance thereof, with copies of such financial statements, reports and returns as Enservco shall send to its stockholders.

9.11 Additional Information. Furnish Agent with such additional information as Agent shall reasonably request in order to enable Agent to determine whether the terms, covenants, provisions and conditions of this Agreement and the Note have been complied with by Borrowers including, without the necessity of any request by Agent, (a) copies of all environmental audits and reviews, (b) at least thirty (30) days prior thereto, notice of any Borrower's opening of any new office or place of business or any Borrower's closing of any existing office or place of business, and (c) promptly upon any Borrower's learning thereof, notice of any labor dispute to which any Borrower may become a party, any strikes or walkouts relating to any of its plants or other facilities, and the expiration of any labor contract to which any Borrower is a party or by which any Borrower is bound.

9.12 Projected Operating Budget. Furnish Agent, no later than thirty (30) days prior to the beginning of each fiscal year of Borrowers commencing with fiscal year 2015, a quarter-by-quarter projected operating budget and cash flow of Borrowers on a Consolidated Basis for such fiscal year (including an income statement for each month and a balance sheet as at the end of the last month in each fiscal quarter), such projections to be accompanied by a certificate signed by the President or Chief Financial Officer of each Borrower to the effect that such projections have been prepared on the basis of sound financial planning practice consistent with past budgets and financial statements and that such officer has no reason to question the reasonableness of any material assumptions on which such projections were prepared.

9.13 Material Variances From Operating Budget, Management Discussion and Analysis. Furnish Agent, concurrently with the delivery of the financial statements referred to in Section 9.7 and each quarterly financial statement referred to in Section 9.8, a written report summarizing (both with figures and appropriate narrative explanation) (a) material variances from the budget for the applicable period submitted by Borrowers pursuant to Section 9.12, (b) material variances from the financial statements for the similar period of the preceding year delivered pursuant to Section 9.7 or 9.8, as applicable, and (c) a discussion and analysis by management with respect to such material variances reported under subsection (a) and (b) hereto.

9.14 Notice of Suits, Adverse Events. Furnish Agent with prompt written notice of (i) any lapse or other termination of any Consent issued to any Borrower by any Governmental Body or any other Person that is material to the operation of any Borrower's business, (ii) any refusal by any Governmental Body or any other Person to renew or extend any such Consent; and (iii) copies of any periodic or special reports filed by any Borrower or any Guarantor with any Governmental Body or Person, if such reports indicate any material change in the business, operations, affairs or condition of any Borrower or any Guarantor, or if copies thereof are requested by Lender, and (iv) copies of any material notices and other communications from any Governmental Body or Person which specifically relate to any Borrower or any Guarantor.

9.15 ERISA Notices and Requests. Furnish Agent with immediate written notice in the event that (i) any Borrower or any member of the Controlled Group knows or has reason to know that a Termination Event has occurred, together with a written statement describing such Termination Event and the action, if any, which such Borrower or any member of the Controlled Group has taken, is taking, or proposes to take with respect thereto and, when known, any action taken or threatened by the Internal Revenue Service, Department of Labor or PBGC with respect thereto, (ii) any Borrower or any member of the Controlled Group knows or has reason to know that a prohibited transaction (as defined in Sections 406 of ERISA and 4975 of the Code) has occurred together with a written statement describing such transaction and the action which such Borrower or any member of the Controlled Group has taken, is taking or proposes to take with respect thereto, (iii) a funding waiver request has been filed with respect to any Plan together with all communications received by any Borrower or any member of the Controlled Group with respect to such request, (iv) any increase in the benefits of any existing Plan or the establishment of any new Plan or the commencement of contributions to any Plan to which any Borrower or any member of the Controlled Group was not previously contributing shall occur, (v) any Borrower or any member of the Controlled Group shall receive from the PBGC a notice of intention to terminate a Plan or to have a trustee appointed to administer a Plan, together with copies of each such notice, (vi) any Borrower or any member of the Controlled Group shall receive any favorable or unfavorable determination letter from the Internal Revenue Service regarding the qualification of a Plan under Section 401(a) of the Code, together with copies of each such letter; (vii) any Borrower or any member of the Controlled Group shall receive a notice regarding the imposition of withdrawal liability, together with copies of each such notice; (viii) any Borrower or any member of the Controlled Group shall fail to make a required installment or any other required payment under the Code or ERISA on or before the due date for such installment or payment; or (ix) any Borrower or any member of the Controlled Group knows that (a) a Multiemployer Plan has been terminated, (b) the administrator or plan sponsor of a Multiemployer Plan intends to terminate a Multiemployer Plan, (c) the PBGC has instituted or will institute proceedings under Section 4042 of ERISA to terminate a Multiemployer Plan or (d) a Multiemployer Plan is subject to Section 432 of the Code or Section 305 of ERISA.

9.16 Additional Documents. Execute and deliver to Agent, upon request, such documents and agreements as Agent may, from time to time, reasonably request to carry out the purposes, terms or conditions of this Agreement.

9.17 Updates to Certain Schedules. Deliver to Agent promptly as shall be required to maintain the related representations and warranties as true and correct (a) updates to Schedules 4.4 (Locations of equipment and Inventory) and 5.9 (Intellectual Property, Source Code Escrow Agreements); provided, that absent the occurrence and continuance of any Event of Default, Borrowers shall only be required to provide such updates on a monthly basis in connection with delivery of a Compliance Certificate with respect to the applicable month, and (b) updates to Schedules 5.24 (Equity Interests), 5.25 (Commercial Tort Claims), and 5.26 (Letter-of-Credit Rights); provided, that absent the occurrence and continuance of any Event of Default, Borrowers shall only be required to provide such updates on a quarterly basis in connection with delivery of a Compliance Certificate with respect to the applicable fiscal quarter. Any such updated Schedules delivered by Borrowers to Agent in accordance with this Section 9.17 shall automatically and immediately be deemed to amend and restate the prior version of such Schedule previously delivered to Agent and attached to and made part of this Agreement.

9.18 Financial Disclosure. Each Borrower hereby irrevocably authorizes and directs all accountants and auditors employed by such Borrower at any time during the Term to exhibit and deliver to Agent and each Lender copies of any of such Borrower's financial statements, trial balances or other accounting records of any sort in the accountant's or auditor's possession, and to disclose to Agent and each Lender any information such accountants may have concerning such Borrower's financial status and business operations. Each Borrower hereby authorizes all Governmental Bodies to furnish to Agent and each Lender copies of reports or examinations relating to such Borrower, whether made by such Borrower or otherwise; however, Agent and each Lender will attempt to obtain such information or materials directly from such Borrower prior to obtaining such information or materials from such accountants or Governmental Bodies.

X. EVENTS OF DEFAULT.

The occurrence of any one or more of the following events shall constitute an "Event of Default":

10.1 Nonpayment. Failure by any Borrower to pay when due (a) any principal or interest on the Obligations (including without limitation pursuant to Section 2.9), or (b) any other fee, charge, amount or liability provided for herein or in any Other Document, in each case whether at maturity, by reason of acceleration pursuant to the terms of this Agreement, by notice of intention to prepay or by required prepayment unless such other liability, payment, fee or charge is paid within five (5) Business Days after Agent or any Lender makes written demand therefor.

10.2 Breach of Representation. Any representation or warranty made or deemed made by any Borrower or any Guarantor in this Agreement, any Other Document or any related agreement or in any certificate, document or financial or other statement furnished at any time in connection herewith or therewith shall prove to have been incorrect or misleading in any material respect on the date when made or deemed to have been made;

10.3 Financial Information. Failure by any Borrower to (i) furnish financial information when due or ten (10) Business Days after written demand therefore is made, or when requested which is unremedied for a period of fifteen (15) days, or (ii) permit the inspection of its books or records or access to its premises for audits and appraisals in accordance with the terms hereof;

10.4 Judicial Actions. Issuance of a notice of Lien, levy, assessment, injunction or attachment (a) against any Borrower's Inventory or Receivables or (b) against a material portion of any Borrower's other property which is not stayed or lifted within thirty (30) days;

10.5 Noncompliance. Except as otherwise provided for in Sections 10.1, 10.3 and 10.5(ii), (i) failure or neglect of any Borrower, any Guarantor or any Person to (in any respect that would have a Material Adverse Effect) perform, keep or observe any term, provision, condition, covenant herein contained, or contained in any Other Document or any other agreement or arrangement, now or hereafter entered into between any Borrower, any Guarantor or such Person, and Agent or any Lender, or (ii) failure or neglect of any Borrower to perform, keep or observe any term, provision, condition or covenant, contained in Sections 4.5, 6.1, 6.3, 6.11, 6.13, 9.4 or 9.6 hereof which is not cured within ten (10) days from the occurrence of such failure or neglect which would have a Material Adverse Effect;

10.6 Judgments. Any (a) judgment or judgments, writ(s), order(s) or decree(s) for the payment of money are rendered against any Borrower or any Guarantor for an aggregate amount in excess of \$500,000 and (b) (i) action shall be legally taken by any judgment creditor to levy upon assets or properties of any Borrower or any Guarantor to enforce any such judgment, (ii) such judgment shall remain undischarged for a period of thirty (30) consecutive days during which a stay of enforcement of such judgment, by reason of a pending appeal or otherwise, shall not be in effect, or (iii) any Liens arising by virtue of the rendition, entry or issuance of such judgment upon assets or properties of any Borrower or any Guarantor shall be senior to any Liens in favor of Agent on such assets or properties;

10.7 Bankruptcy. Any Borrower, any Guarantor, any Subsidiary or Affiliate of any Borrower shall (i) apply for, consent to or suffer the appointment of, or the taking of possession by, a receiver, custodian, trustee, liquidator or similar fiduciary of itself or of all or a substantial part of its property, (ii) admit in writing its inability, or be generally unable, to pay its debts as they become due or cease operations of its present business, (iii) make a general assignment for the benefit of creditors, (iv) commence a voluntary case under any state or federal bankruptcy or receivership laws (as now or hereafter in effect), (v) be adjudicated a bankrupt or insolvent (including by entry of any order for relief in any involuntary bankruptcy or insolvency proceeding commenced against it), (vi) file a petition seeking to take advantage of any other law providing for the relief of debtors, (vii) acquiesce to, or fail to have dismissed, within thirty (30) days, any petition filed against it in any involuntary case under such bankruptcy laws, or (viii) take any action for the purpose of effecting any of the foregoing;

10.8 Material Adverse Effect. The occurrence of any event or development which could reasonably be expected to have a Material Adverse Effect;

10.9 Lien Priority. Any Lien created hereunder or provided for hereby or under any related agreement for any reason ceases to be or is not a valid and perfected Lien having a first priority interest (subject only to Permitted Encumbrances that have priority as a matter of Applicable Law to the extent such Liens only attach to Collateral other than Receivables or Inventory);

10.10 [Reserved].

10.11 Cross Default. A default of the obligations of any Borrower under any other agreement to which it is a party shall occur which default has a Material Adverse Effect upon Enservco's condition, affairs or prospects (financial or otherwise), which default is not cured within any applicable grace period;

10.12 Breach of Guaranty or Pledge Agreement. Termination or breach of any Guaranty, Guarantor Security Agreement, Pledge Agreement or similar agreement executed and delivered to Agent in connection with the Obligations of any Borrower, or if any Guarantor or pledgor attempts to terminate, challenges the validity of, or its liability under, any such Guaranty, Guarantor Security Agreement, Pledge Agreement or similar agreement;

10.13 Change of Control. Any Change of Control shall occur which Change of Control is not cured or rectified within thirty (30) days after written notice thereof to Borrowers from Agent;

10.14 Invalidity. Any material provision of this Agreement or any Other Document shall, for any reason, cease to be valid and binding on any Borrower or any Guarantor, or any Borrower or any Guarantor shall so claim in writing to Agent or any Lender or any Borrower challenges the validity of or its liability under this Agreement or any Other Document;

10.15 Seizures. Any material (a) portion of the Collateral shall be seized, subject to garnishment or taken by a Governmental Body, or any Borrower or any Guarantor, or (b) the title and rights of any Borrower, any Guarantor or any Original Owner which is the owner of any material portion of the Collateral shall have become the subject matter of claim, litigation, suit, garnishment or other proceeding which might, in the opinion of Agent, upon final determination, result in impairment or loss of the security provided by this Agreement or the Other Documents unless Borrowers have provided adequate bond in the matter;

10.16 Operations. The operations of any Borrower are interrupted in any material respect for more than seven (7) days during any period of twenty-one (21) consecutive days, unless such Borrower shall (i) be entitled to receive for such period of interruption, proceeds of business interruption insurance sufficient to assure that its per diem cash needs during such period is at least equal to its average per diem cash needs for the consecutive three month period immediately preceding the initial date of interruption and (ii) receive such proceeds in the amount described in clause (i) preceding not later than thirty (30) days following the initial date of any such interruption; provided, however, that notwithstanding the provisions of clauses (i) and (ii) of this section, an Event of Default shall be deemed to have occurred if such Borrower shall be receiving the proceeds of business interruption insurance for a period of thirty (30) consecutive days; or

10.17 Pension Plans. An event or condition specified in Sections 7.16 or 9.15 hereof shall occur or exist with respect to any Plan and, as a result of such event or condition, together with all other such events or conditions, any Borrower or any member of the Controlled Group shall incur, or in the opinion of Agent be reasonably likely to incur, a liability to a Plan or the PBGC (or both) which, in the reasonable judgment of Agent, would have a Material Adverse Effect; or the occurrence of any Termination Event, or any Borrower's failure to immediately report a Termination Event in accordance with Section 9.15 hereof.

10.18 Anti-Money Laundering/International Trade Law Compliance. Any representation or warranty contained in Section 16.18 is or becomes false or misleading at any time.

XI. LENDERS' RIGHTS AND REMEDIES AFTER DEFAULT.

11.1 Rights and Remedies.

(a) Upon the occurrence of: (i) an Event of Default pursuant to Section 10.7 (other than Section 10.7(vii)), all Obligations shall be immediately due and payable and this Agreement and the obligation of Lenders to make Advances shall be deemed terminated, (ii) any of the other Events of Default and at any time thereafter, at the option of Agent or at the direction of Required Lenders all Obligations shall be immediately due and payable and Agent or Required Lenders shall have the right to terminate this Agreement and to terminate the obligation of Lenders to make Advances; and (iii) without limiting Section 8.2 hereof, any Default under Sections 10.7(vii) hereof, the obligation of Lenders to make Advances hereunder shall be suspended until such time as such involuntary petition shall be dismissed. Upon the occurrence of any Event of Default, Agent shall have the right to exercise any and all rights and remedies provided for herein, under the Other Documents, under the Uniform Commercial Code and at law or equity generally, including the right to foreclose the security interests granted herein and to realize upon any Collateral by any available judicial procedure and/or to take possession of and sell any or all of the Collateral with or without judicial process. Agent may enter any of any Borrower's premises or other premises without legal process and without incurring liability to any Borrower therefor, and Agent may thereupon, or at any time thereafter, in its Permitted Discretion without notice or demand, take the Collateral and remove the same to such place as Agent may deem advisable and Agent may require Borrowers to make the Collateral available to Agent at a convenient place. With or without having the Collateral at the time or place of sale, Agent may sell the Collateral, or any part thereof, at public or private sale, at any time or place, in one or more sales, at such price or prices, and upon such terms, either for cash, credit or future delivery, as Agent may elect. Except as to that part of the Collateral which is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, Agent shall give Borrowers reasonable notification of such sale or sales, it being agreed that in all events written notice mailed to Borrowing Agent at least ten (10) days prior to such sale or sales is reasonable notification. At any public sale Agent or any Lender may bid (including credit bid) for and become the purchaser, and Agent, any Lender or any other purchaser at any such sale thereafter shall hold the Collateral sold absolutely free from any claim or right of whatsoever kind, including any equity of redemption and all such claims, rights and equities are hereby expressly waived and released by each Borrower. In connection with the exercise of the foregoing remedies, including the sale of Inventory, Agent is granted a perpetual nonrevocable, royalty free, nonexclusive license and Agent is granted permission to use all of each Borrower's (a) Intellectual Property which is used or useful in connection with Inventory for the purpose of marketing, advertising for sale and selling or otherwise disposing of such Inventory and (b) equipment for the purpose of completing the manufacture of unfinished goods. The cash proceeds realized from the sale of any Collateral shall be applied to the Obligations in the order set forth in Section 11.5 hereof. Noncash proceeds will only be applied to the Obligations as they are converted into cash. If any deficiency shall arise, Borrowers shall remain liable to Agent and Lenders therefor.

(b) To the extent that Applicable Law imposes duties on Agent to exercise remedies in a commercially reasonable manner, each Borrower acknowledges and agrees that it is not commercially unreasonable for Agent: (i) to fail to incur expenses reasonably deemed significant by Agent to prepare Collateral for disposition or otherwise to complete raw material or work in process into finished goods or other finished products for disposition; (ii) to fail to obtain third party consents for access to Collateral to be disposed of, or to obtain or, if not required by other law, to fail to obtain governmental or third party consents for the collection or disposition of Collateral to be collected or disposed of; (iii) to fail to exercise collection remedies against Customers or other Persons obligated on Collateral or to remove Liens on or any adverse claims against Collateral; (iv) to exercise collection remedies against Customers and other Persons obligated on Collateral directly or through the use of collection agencies and other collection specialists; (v) to advertise dispositions of Collateral through publications or media of general circulation, whether or not the Collateral is of a specialized nature; (vi) to contact other Persons, whether or not in the same business as any Borrower, for expressions of interest in acquiring all or any portion of such Collateral; (vii) to hire one or more professional auctioneers to assist in the disposition of Collateral, whether or not the Collateral is of a specialized nature; (viii) to dispose of Collateral by utilizing internet sites that provide for the auction of assets of the types included in the Collateral or that have the reasonable capacity of doing so, or that match buyers and sellers of assets; (ix) to dispose of assets in wholesale rather than retail markets; (x) to disclaim disposition warranties, such as title, possession or quiet enjoyment, (xi) to purchase insurance or credit enhancements to insure Agent against risks of loss, collection or disposition of Collateral or to provide to Agent a guaranteed return from the collection or disposition of Collateral; or (xii) to the extent deemed appropriate by the Agent, to obtain the services of other brokers, investment bankers, consultants and other professionals to assist Agent in the collection or disposition of any of the Collateral. Each Borrower acknowledges that the purpose of this Section 11.1(b) is to provide non-exhaustive indications of what actions or omissions by Agent would not be commercially unreasonable in Agent's exercise of remedies against the Collateral and that other actions or omissions by Agent shall not be deemed commercially unreasonable solely on account of not being indicated in this Section 11.1(b). Without limitation upon the foregoing, nothing contained in this Section 11.1(b) shall be construed to grant any rights to any Borrower or to impose any duties on Agent that would not have been granted or imposed by this Agreement or by Applicable Law in the absence of this Section 11.1(b).

11.2 Agent's Discretion. Agent shall have the right in its Permitted Discretion to determine which rights, Liens, security interests or remedies Agent may at any time pursue, relinquish, subordinate, or modify, which procedures, timing and methodologies to employ, and what any other action to take with respect to any or all of the Collateral and in what order, thereto and such determination will not in any way modify or affect any of Agent's or Lenders' rights hereunder as against Borrowers or each other.

11.3 Setoff. Subject to Section 14.13, in addition to any other rights which Agent or any Lender may have under Applicable Law, upon the occurrence of an Event of Default hereunder, Agent and such Lender shall have a right, immediately and without notice of any kind, to apply any Borrower's property held by Agent and such Lender or any of their Affiliates to reduce the Obligations and to exercise any and all rights of setoff which may be available to Agent and such Lender with respect to any deposits held by Agent or such Lender.

11.4 Rights and Remedies not Exclusive. The enumeration of the foregoing rights and remedies is not intended to be exhaustive and the exercise of any rights or remedy shall not preclude the exercise of any other right or remedies provided for herein or otherwise provided by law, all of which shall be cumulative and not alternative.

11.5 Allocation of Payments After Event of Default. Notwithstanding any other provisions of this Agreement to the contrary, after the occurrence and during the continuance of an Event of Default, all amounts collected or received by Agent on account of the Obligations (including without limitation any amounts on account of any of Cash Management Liabilities or Hedge Liabilities), or in respect of the Collateral may, at Agent's Permitted Discretion, be paid over or delivered as follows:

FIRST, to the payment of all reasonable out-of-pocket costs and expenses (including reasonable attorneys' fees) of Agent in connection with enforcing its rights and the rights of Lenders under this Agreement and the Other Documents, and any Out-of-Formula Loans and Protective Advances funded by Agent with respect to the Collateral under or pursuant to the terms of this Agreement;

SECOND, to payment of any fees owed to Agent;

THIRD, to the payment of all reasonable out-of-pocket costs and expenses (including reasonable attorneys' fees) of each of the Lenders to the extent owing to such Lender pursuant to the terms of this Agreement;

FOURTH, to the payment of all Obligations arising under this Agreement and the Other Documents consisting of accrued fees and interest;

FIFTH, to the payment of the outstanding principal amount of the Obligations arising under this Agreement (including Cash Management Liabilities and Hedge Liabilities and including the payment or cash collateralization of any outstanding Letters of Credit in accordance with Section 3.2(b) hereof).

SIXTH, to all other Obligations arising under this Agreement (other than Cash Management Liabilities and Hedge Liabilities) which shall have become due and payable (hereunder, under the Other Documents or otherwise) and not repaid pursuant to clauses "FIRST" through "FIFTH" above;

SEVENTH, to all other Obligations which shall have become due and payable and not repaid pursuant to clauses "FIRST" through "SIXTH"; and

EIGHTH, to the payment of the surplus, if any, to whoever may be lawfully entitled to receive such surplus.

In carrying out the foregoing, (i) amounts received shall be applied in the numerical order provided until exhausted prior to application to the next succeeding category; (ii) each of the Lenders shall receive (so long as it is not a Defaulting Lender) an amount equal to its pro rata share (based on the proportion that the then outstanding Advances held by such Lender bears to the aggregate then outstanding Advances) of amounts available to be applied pursuant to clauses "FOURTH," "FIFTH," "SIXTH" and "EIGHTH" above; and (iii) notwithstanding anything to the contrary in this Section 11.5, no Swap Obligations of any Non-Qualifying Party shall be paid with amounts received from such Non-Qualifying Party under its Guaranty (including sums received as a result of the exercise of remedies with respect to such Guaranty) or from the proceeds of such Non-Qualifying Party's Collateral if such Swap Obligations would constitute Excluded Hedge Liabilities, provided, however, that to the extent possible appropriate adjustments shall be made with respect to payments and/or the proceeds of Collateral from other Borrowers and/or Guarantors that are Eligible Contract Participants with respect to such Swap Obligations to preserve the allocation to Obligations otherwise set forth above in this Section 11.5; and (iv) to the extent that any amounts available for distribution pursuant to clause "SEVENTH" above are attributable to the issued but undrawn amount of outstanding Letters of Credit, such amounts shall be held by Agent as cash collateral for the Letters of Credit pursuant to Section 3.2(b) hereof and applied (A) first, to reimburse Issuer from time to time for any drawings under such Letters of Credit and (B) then, following the expiration of all Letters of Credit, to all other obligations of the types described in clauses "FIFTH," "SIXTH," and "EIGHTH" above in the manner provided in this Section 11.5.

XII. WAIVERS AND JUDICIAL PROCEEDINGS.

12.1 Waiver of Notice. Each Borrower hereby waives notice of non-payment of any of the Receivables, demand, presentment, protest and notice thereof with respect to any and all instruments, notice of acceptance hereof, notice of loans or advances made, credit extended, Collateral received or delivered, or any other action taken in reliance hereon, and all other demands and notices of any description, except such as are expressly provided for herein.

12.2 Delay. No delay or omission on Agent's or any Lender's part in exercising any right, remedy or option shall operate as a waiver of such or any other right, remedy or option or of any Default or Event of Default.

12.3 Jury Waiver. EACH PARTY TO THIS AGREEMENT HEREBY EXPRESSLY WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, COUNTERCLAIM, DEMAND, ACTION OR CAUSE OF ACTION (A) ARISING UNDER THIS AGREEMENT, ANY OTHER DOCUMENT OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HEREWITH, OR (B) IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO OR ANY OF THEM WITH RESPECT TO THIS AGREEMENT, ANY OTHER DOCUMENT OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HEREWITH, OR THE TRANSACTIONS RELATED HERETO OR THERETO IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT OR TORT OR OTHERWISE AND EACH PARTY HEREBY CONSENTS THAT ANY SUCH CLAIM, COUNTERCLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY, AND THAT ANY PARTY TO THIS AGREEMENT MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENTS OF THE PARTIES HERETO TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY.

XIII. EFFECTIVE DATE AND TERMINATION.

13.1 Term. This Agreement, which shall inure to the benefit of and shall be binding upon the respective successors and permitted assigns of each Borrower, Agent and each Lender, shall become effective on the date hereof and shall continue in full force and effect until September 12, 2019 (the "Term") unless sooner terminated as herein provided. Borrowers may terminate this Agreement at any time upon ninety (90) days prior written notice to Agent upon payment in full of the Obligations. In the event the Obligations are prepaid in full (whether voluntary or involuntary, including after acceleration thereof) and this Agreement is terminated prior to the last day of the Term (the date of such prepayment hereinafter referred to as the "Early Termination Date"), Borrowers shall concurrently pay to Agent for the benefit of Lenders an early termination fee in an amount equal to (x) 1.5% of the Maximum Loan Amount if the Early Termination Date occurs on or after the Amendment Effective Date to and including the date immediately preceding the third anniversary of the Amendment Effective Date, (y) 1.0% of the Maximum Loan Amount if the Early Termination Date occurs on or after the third anniversary of the Amendment Effective Date to and including the date immediately preceding the fourth anniversary of the Amendment Effective Date, and (z) 0% of the Maximum Loan Amount if the Early Termination Date occurs on or after the fourth anniversary of the Amendment Effective Date to and including the date immediately preceding the third anniversary of the Amendment Effective Date.

13.2 Termination. The termination of the Agreement shall not affect Agent's or any Lender's rights, or any of the Obligations having their inception prior to the effective date of such termination or any Obligations which pursuant to the terms hereof continue to accrue after such date, and the provisions hereof shall continue to be fully operative until all transactions entered into, rights or interests created and Obligations have been fully and indefeasibly paid, disposed of, concluded or liquidated. The security interests, Liens and rights granted to Agent and Lenders hereunder and the financing statements filed hereunder shall continue in full force and effect, notwithstanding the termination of this Agreement or the fact that Borrowers' Account may from time to time be temporarily in a zero or credit position, until all of the Obligations of each Borrower have been indefeasibly paid and performed in full after the termination of this Agreement or each Borrower has furnished Agent and Lenders with an indemnification satisfactory to Agent and Lenders with respect thereto. Accordingly, each Borrower waives any rights which it may have under the Uniform Commercial Code to demand the filing of termination statements with respect to the Collateral, and Agent shall not be required to send such termination statements to each Borrower, or to file them with any filing office, unless and until this Agreement shall have been terminated in accordance with its terms and all Obligations have been indefeasibly paid in full in immediately available funds. All representations, warranties, covenants, waivers and agreements contained herein shall survive termination hereof until all Obligations are indefeasibly paid and performed in full.

XIV. REGARDING AGENT.

14.1 Appointment. Each Lender hereby designates PNC to act as Agent for such Lender under this Agreement and the Other Documents. Each Lender hereby irrevocably authorizes Agent to take such action on its behalf under the provisions of this Agreement and the Other Documents and to exercise such powers and to perform such duties hereunder and thereunder as are specifically delegated to or required of Agent by the terms hereof and thereof and such other powers as are reasonably incidental thereto and Agent shall hold all Collateral, payments of principal and interest, fees (except the fees set forth in Sections 2.8(b), 3.3(a) and the Fee Letter), charges and collections received pursuant to this Agreement, for the ratable benefit of Lenders. Agent may perform any of its duties hereunder by or through its agents or employees. As to any matters not expressly provided for by this Agreement (including collection of the Note) Agent shall not be required to exercise any discretion or take any action, but shall be required to act or to refrain from acting (and shall be fully protected in so acting or refraining from acting) upon the instructions of Required Lenders, and such instructions shall be binding; provided, however, that Agent shall not be required to take any action which, in Agent's discretion, exposes Agent to liability or which is contrary to this Agreement or the Other Documents or Applicable Law unless Agent is furnished with an indemnification reasonably satisfactory to Agent with respect thereto.

14.2 Nature of Duties. Agent shall have no duties or responsibilities except those expressly set forth in this Agreement and the Other Documents. Neither Agent nor any of its officers, directors, employees or agents shall be (i) liable for any action taken or omitted by them as such hereunder or in connection herewith, unless caused by their gross (not mere) negligence or willful misconduct (as determined by a court of competent jurisdiction in a final non-appealable judgment), or (ii) responsible in any manner for any recitals, statements, representations or warranties made by any Borrower or any officer thereof contained in this Agreement, or in any of the Other Documents or in any certificate, report, statement or other document referred to or provided for in, or received by Agent under or in connection with, this Agreement or any of the Other Documents or for the value, validity, effectiveness, genuineness, due execution, enforceability or sufficiency of this Agreement, or any of the Other Documents or for any failure of any Borrower to perform its obligations hereunder. Agent shall not be under any obligation to any Lender to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement or any of the Other Documents, or to inspect the properties, books or records of any Borrower. The duties of Agent as respects the Advances to Borrowers shall be mechanical and administrative in nature; Agent shall not have by reason of this Agreement a fiduciary relationship in respect of any Lender; and nothing in this Agreement, expressed or implied, is intended to or shall be so construed as to impose upon Agent any obligations in respect of this Agreement or the transactions described herein except as expressly set forth herein.

14.3 Lack of Reliance on Agent. Independently and without reliance upon Agent or any other Lender, each Lender has made and shall continue to make (i) its own independent investigation of the financial condition and affairs of each Borrower and each Guarantor in connection with the making and the continuance of the Advances hereunder and the taking or not taking of any action in connection herewith, and (ii) its own appraisal of the creditworthiness of each Borrower and each Guarantor. Agent shall have no duty or responsibility, either initially or on a continuing basis, to provide any Lender with any credit or other information with respect thereto, whether coming into its possession before making of the Advances or at any time or times thereafter except as shall be provided by any Borrower pursuant to the terms hereof. Agent shall not be responsible to any Lender for any recitals, statements, information, representations or warranties herein or in any agreement, document, certificate or a statement delivered in connection with or for the execution, effectiveness, genuineness, validity, enforceability, collectability or sufficiency of this Agreement or any Other Document, or of the financial condition of any Borrower or any Guarantor, or be required to make any inquiry concerning either the performance or observance of any of the terms, provisions or conditions of this Agreement, the Note, the Other Documents or the financial condition or prospects of any Borrower, or the existence of any Event of Default or any Default.

14.4 Resignation of Agent: Successor Agent. Agent may resign on sixty (60) days written notice to each Lender and Borrowing Agent and upon such resignation, Required Lenders will promptly designate a successor Agent reasonably satisfactory to Borrowers (provided that no such approval by Borrowers shall be required (i) in any case where the successor Agent is one of the Lenders or (ii) after the occurrence and during the continuance of any Event of Default). Any such successor Agent shall succeed to the rights, powers and duties of Agent, and shall in particular succeed to all of Agent's right, title and interest in and to all of the Liens in the Collateral securing the Obligations created hereunder or any Other Document (including Pledge Agreement and all account control agreements), and the term "Agent" shall mean such successor agent effective upon its appointment, and the former Agent's rights, powers and duties as Agent shall be terminated, without any other or further act or deed on the part of such former Agent. However, notwithstanding the foregoing, if at the time of the effectiveness of the new Agent's appointment, any further actions need to be taken in order to provide for the legally binding and valid transfer of any Liens in the Collateral from former Agent to new Agent and/or for the perfection of any Liens in the Collateral as held by new Agent or it is otherwise not then possible for new Agent to become the holder of a fully valid, enforceable and perfected Lien as to any of the Collateral, former Agent shall continue to hold such Liens solely as agent for perfection of such Liens on behalf of new Agent until such time as new Agent can obtain a fully valid, enforceable and perfected Lien on all Collateral, provided that Agent shall not be required to or have any liability or responsibility to take any further actions after such date as such agent for perfection to continue the perfection of any such Liens (other than to forego from taking any affirmative action to release any such Liens). After any Agent's resignation as Agent, the provisions of this Article XIV, and any indemnification rights under this Agreement, including without limitation, rights arising under Section 16.5 hereof, shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Agent under this Agreement (and in the event resigning Agent continues to hold any Liens pursuant to the provisions of the immediately preceding sentence, the provisions of this Article XIV and any indemnification rights under this Agreement, including without limitation, rights arising under Section 16.5 hereof, shall inure to its benefit as to any actions taken or omitted to be taken by it in connection with such Liens).

14.5 Certain Rights of Agent. If Agent shall request instructions from Lenders with respect to any act or action (including failure to act) in connection with this Agreement or any Other Document, Agent shall be entitled to refrain from such act or taking such action unless and until Agent shall have received instructions from Required Lenders; and Agent shall not incur liability to any Person by reason of so refraining. Without limiting the foregoing, Lenders shall not have any right of action whatsoever against Agent as a result of its acting or refraining from acting hereunder in accordance with the instructions of Required Lenders.

14.6 Reliance. Agent shall be entitled to rely, and shall be fully protected in relying, upon any note, writing, resolution, notice, statement, certificate, email, facsimile, telex, teletype or telecopier message, cablegram, order or other document or telephone message believed by it to be genuine and correct and to have been signed, sent or made by the proper person or entity, and, with respect to all legal matters pertaining to this Agreement and the Other Documents and its duties hereunder, upon advice of counsel selected by it. Agent may employ agents and attorneys-in-fact and shall not be liable for the default or misconduct of any such agents or attorneys-in-fact selected by Agent with reasonable care.

14.7 Notice of Default. Agent shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default hereunder or under the Other Documents, unless Agent has received notice from a Lender or Borrowing Agent referring to this Agreement or the Other Documents, describing such Default or Event of Default and stating that such notice is a "notice of default". In the event that Agent receives such a notice, Agent shall give notice thereof to Lenders. Agent shall take such action with respect to such Default or Event of Default as shall be reasonably directed by Required Lenders; provided, that, unless and until Agent shall have received such directions, Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable in the best interests of Lenders.

14.8 Indemnification. To the extent Agent is not reimbursed and indemnified by Borrowers, each Lender will reimburse and indemnify Agent in proportion to its respective portion of the outstanding Advances and its respective Participation Commitments in the outstanding Letters of Credit (or, if no Advances are outstanding, pro rata according to the percentage that its Revolving Commitment Amount constitutes of the total aggregate Revolving Commitment Amounts), from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever which may be imposed on, incurred by or asserted against Agent in performing its duties hereunder, or in any way relating to or arising out of this Agreement or any Other Document; provided that Lenders shall not be liable for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from Agent's gross (not mere) negligence or willful misconduct (as determined by a court of competent jurisdiction in a final non-appealable judgment).

14.9 Agent in its Individual Capacity. With respect to the obligation of Agent to lend under this Agreement, the Advances made by it shall have the same rights and powers hereunder as any other Lender and as if it were not performing the duties as Agent specified herein; and the term "Lender" or any similar term shall, unless the context clearly otherwise indicates, include Agent in its individual capacity as a Lender. Agent may engage in business with any Borrower as if it were not performing the duties specified herein, and may accept fees and other consideration from any Borrower for services in connection with this Agreement or otherwise without having to account for the same to Lenders.

14.10 Delivery of Documents. To the extent Agent receives financial statements required under Sections 9.7, 9.8, 9.9, 9.12 and 9.13 or Borrowing Base Certificates from any Borrower pursuant to the terms of this Agreement which any Borrower is not obligated to deliver to each Lender, Agent will promptly furnish such documents and information to Lenders.

14.11 Borrowers' Undertaking to Agent. Without prejudice to their respective obligations to Lenders under the other provisions of this Agreement, each Borrower hereby undertakes with Agent to pay to Agent from time to time on demand all amounts from time to time due and payable by it for the account of Agent or Lenders or any of them pursuant to this Agreement to the extent not already paid. Any payment made pursuant to any such demand shall pro tanto satisfy the relevant Borrower's obligations to make payments for the account of Lenders or the relevant one or more of them pursuant to this Agreement.

14.12 No Reliance on Agent's Customer Identification Program. To the extent the Advances or this Agreement is, or becomes, syndicated in cooperation with other Lenders, each Lender acknowledges and agrees that neither such Lender, nor any of its Affiliates, participants or assignees, may rely on Agent to carry out such Lender's, Affiliate's, participant's or assignee's customer identification program, or other obligations required or imposed under or pursuant to the USA PATRIOT Act or the regulations thereunder, including the regulations contained in 31 CFR 103.121 (as hereafter amended or replaced, the "CIP Regulations"), or any other Anti-Terrorism Law, including any programs involving any of the following items relating to or in connection with any of Borrowers, their Affiliates or their agents, the Other Documents or the transactions hereunder or contemplated hereby: (i) any identity verification procedures, (ii) any recordkeeping, (iii) comparisons with government lists, (iv) customer notices or (v) other procedures required under the CIP Regulations or such Anti-Terrorism Laws.

14.13 Other Agreements. Each of the Lenders agrees that it shall not, without the express consent of Agent, and that it shall, to the extent it is lawfully entitled to do so, upon the request of Agent, set off against the Obligations, any amounts owing by such Lender to any Borrower or any deposit accounts of any Borrower now or hereafter maintained with such Lender. Anything in this Agreement to the contrary notwithstanding, each of the Lenders further agrees that it shall not, unless specifically requested to do so by Agent, take any action to protect or enforce its rights arising out of this Agreement or the Other Documents, it being the intent of Lenders that any such action to protect or enforce rights under this Agreement and the Other Documents shall be taken in concert and at the direction or with the consent of Agent or Required Lenders.

XV. BORROWING AGENCY.

15.1 Borrowing Agency Provisions.

(a) Each Borrower hereby irrevocably designates Borrowing Agent to be its attorney and agent and in such capacity to (i) borrow, (ii) request advances, (iii) request the issuance of Letters of Credit, (iv) sign and endorse notes, (v) execute and deliver all instruments, documents, applications, security agreements, reimbursement agreements and letter of credit agreements for Letters of Credit and all other certificates, notice, writings and further assurances now or hereafter required hereunder, (vi) make elections regarding interest rates, (vii) give instructions regarding Letters of Credit and agree with Issuer upon any amendment, extension or renewal of any Letter of Credit and (viii) otherwise take action under and in connection with this Agreement and the Other Documents, all on behalf of and in the name such Borrower or Borrowers, and hereby authorizes Agent to pay over or credit all loan proceeds hereunder in accordance with the request of Borrowing Agent.

(b) The handling of this credit facility as a co-borrowing facility with a borrowing agent in the manner set forth in this Agreement is solely as an accommodation to Borrowers and at their request. Neither Agent nor any Lender shall incur liability to Borrowers as a result thereof. To induce Agent and Lenders to do so and in consideration thereof, each Borrower hereby indemnifies Agent and each Lender and holds Agent and each Lender harmless from and against any and all liabilities, expenses, losses, damages and claims of damage or injury asserted against Agent or any Lender by any Person arising from or incurred by reason of the handling of the financing arrangements of Borrowers as provided herein, reliance by Agent or any Lender on any request or instruction from Borrowing Agent or any other action taken by Agent or any Lender with respect to this Section 15.1 except due to willful misconduct or gross (not mere) negligence by the indemnified party (as determined by a court of competent jurisdiction in a final and non-appealable judgment).

(c) All Obligations shall be joint and several, and each Borrower shall make payment upon the maturity of the Obligations by acceleration or otherwise, and such obligation and liability on the part of each Borrower shall in no way be affected by any extensions, renewals and forbearance granted by Agent or any Lender to any Borrower, failure of Agent or any Lender to give any Borrower notice of borrowing or any other notice, any failure of Agent or any Lender to pursue or preserve its rights against any Borrower, the release by Agent or any Lender of any Collateral now or thereafter acquired from any Borrower, and such agreement by each Borrower to pay upon any notice issued pursuant thereto is unconditional and unaffected by prior recourse by Agent or any Lender to the other Borrowers or any Collateral for such Borrower's Obligations or the lack thereof. Each Borrower waives all suretyship defenses.

15.2 Waiver of Subrogation. Each Borrower expressly waives any and all rights of subrogation, reimbursement, indemnity, exoneration, contribution of any other claim which such Borrower may now or hereafter have against the other Borrowers or any other Person directly or contingently liable for the Obligations hereunder, or against or with respect to any other Borrowers' property (including, without limitation, any property which is Collateral for the Obligations), arising from the existence or performance of this Agreement, until termination of this Agreement and repayment in full of the Obligations.

XVI. MISCELLANEOUS.

16.1 Governing Law. This Agreement and each Other Document (unless and except to the extent expressly provided otherwise in any such Other Document), and all matters relating hereto or thereto or arising herefrom or therefrom (whether arising under contract law, tort law or otherwise) shall, in accordance with Section 5-1401 of the General Obligations Law of the State of New York, be governed by and construed in accordance with the laws of the State of New York. Any judicial proceeding brought by or against any Borrower with respect to any of the Obligations, this Agreement, the Other Documents or any related agreement may be brought in any court of competent jurisdiction in the State of New York, United States of America, and, by execution and delivery of this Agreement, each Borrower accepts for itself and in connection with its properties, generally and unconditionally, the non-exclusive jurisdiction of the aforesaid courts, and irrevocably agrees to be bound by any judgment rendered thereby in connection with this Agreement. Each Borrower hereby waives personal service of any and all process upon it and consents that all such service of process may be made by certified or registered mail (return receipt requested) directed to Borrowing Agent at its address set forth in Section 16.6 and service so made shall be deemed completed five (5) days after the same shall have been so deposited in the mails of the United States of America, or, at Agent's option, by service upon Borrowing Agent which each Borrower irrevocably appoints as such Borrower's Agent for the purpose of accepting service within the State of New York. Nothing herein shall affect the right to serve process in any manner permitted by law or shall limit the right of Agent or any Lender to bring proceedings against any Borrower in the courts of any other jurisdiction. Each Borrower waives any objection to jurisdiction and venue of any action instituted hereunder and shall not assert any defense based on lack of jurisdiction or venue or based upon forum non conveniens. Each Borrower waives the right to remove any judicial proceeding brought against such Borrower in any state court to any federal court. Any judicial proceeding by any Borrower against Agent or any Lender involving, directly or indirectly, any matter or claim in any way arising out of, related to or connected with this Agreement or any related agreement, shall be brought only in a federal or state court located in the County of New York, State of New York.

16.2 Entire Understanding.

(a) This Agreement and the documents executed concurrently herewith contain the entire understanding between each Borrower, Agent and each Lender and supersedes all prior agreements and understandings, if any, relating to the subject matter hereof. Any promises, representations, warranties or guarantees not herein contained and hereinafter made shall have no force and effect unless in writing, signed by each Borrower's, Agent's and each Lender's respective officers. Neither this Agreement nor any portion or provisions hereof may be changed, modified, amended, waived, supplemented, discharged, cancelled or terminated orally or by any course of dealing, or in any manner other than by an agreement in writing, signed by the party to be charged. Notwithstanding the foregoing, Agent may modify this Agreement or any of the Other Documents for the purposes of completing missing content or correcting erroneous content of an administrative nature, without the need for a written amendment, provided that the Agent shall send a copy of any such modification to the Borrowers and each Lender (which copy may be provided by electronic mail). Each Borrower acknowledges that it has been advised by counsel in connection with the execution of this Agreement and Other Documents and is not relying upon oral representations or statements inconsistent with the terms and provisions of this Agreement.

(b) Required Lenders, Agent with the consent in writing of Required Lenders, and Borrowers may, subject to the provisions of this Section 16.2(b), from time to time enter into written supplemental agreements to this Agreement or the Other Documents executed by Borrowers, for the purpose of adding or deleting any provisions or otherwise changing, varying or waiving in any manner the rights of Lenders, Agent or Borrowers thereunder or the conditions, provisions or terms thereof or waiving any Event of Default thereunder, but only to the extent specified in such written agreements; provided, however, that no such supplemental agreement shall:

(i) increase the Revolving Commitment Percentage, or the maximum dollar amount of the Revolving Commitment Amount of any Lender without the consent of such Lender directly affected thereby;

(ii) whether or not any Advances are outstanding, extend the Term or the time for payment of principal or interest of any Advance (excluding the due date of any mandatory prepayment of an Advance), or any fee payable to any Lender, or reduce the principal amount of or the rate of interest borne by any Advances or reduce any fee payable to any Lender, without the consent of each Lender directly affected thereby (except that Required Lenders may elect to waive or rescind any imposition of the Default Rate under Section 3.1 or of default rates of Letter of Credit fees under Section 3.2 (unless imposed by Agent));

(iii) ~~except in connection with any increase pursuant to Section 2.24 hereof,~~ increase the Maximum Revolving Advance Amount without the consent of each Lender directly affected thereby;

(iv) alter the definition of the term Required Lenders or alter, amend or modify this Section 16.2(b) without the consent of all Lenders;

(v) alter, amend or modify the provisions of Section 11.5 without the consent of all Lenders;

(vi) release any Collateral during any calendar year (other than in accordance with the provisions of this Agreement) having an aggregate value in excess of \$250,000 without the consent of all Lenders;

(vii) change the rights and duties of Agent without the consent of all Lenders;

(viii) subject to clause (e) below, permit any Revolving Advance to be made if after giving effect thereto the total of Revolving Advances outstanding hereunder would exceed the Formula Amount for more than sixty (60) consecutive Business Days or exceed one hundred and ten percent (110%) of the Formula Amount without the consent of each Lender directly affected thereby;

(ix) increase the Advance Rates above the Advance Rates in effect on the Amendment Effective Date without the consent of each Lender directly affected thereby; or

(x) release any Guarantor or Borrower without the consent of all Lenders.

(c) Any such supplemental agreement shall apply equally to each Lender and shall be binding upon Borrowers, Lenders and Agent and all future holders of the Obligations. In the case of any waiver, Borrowers, Agent and Lenders shall be restored to their former positions and rights, and any Event of Default waived shall be deemed to be cured and not continuing, but no waiver of a specific Event of Default shall extend to any subsequent Event of Default (whether or not the subsequent Event of Default is the same as the Event of Default which was waived), or impair any right consequent thereon.

(d) In the event that Agent requests the consent of a Lender pursuant to this Section 16.2 and such consent is denied, then Agent may, at its option, require such Lender to assign its interest in the Advances to Agent or to another Lender or to any other Person designated by Agent (the "Designated Lender"), for a price equal to (i) the then outstanding principal amount thereof plus (ii) accrued and unpaid interest and fees due such Lender, which interest and fees shall be paid when collected from Borrowers. In the event Agent elects to require any Lender to assign its interest to Agent or to the Designated Lender, Agent will so notify such Lender in writing within forty five (45) days following such Lender's denial, and such Lender will assign its interest to Agent or the Designated Lender no later than five (5) days following receipt of such notice pursuant to a Commitment Transfer Supplement executed by such Lender, Agent or the Designated Lender, as appropriate, and Agent.

(e) Notwithstanding (a) the existence of a Default or an Event of Default, (b) that any of the other applicable conditions precedent set forth in Section 8.2 hereof have not been satisfied or (c) any other provision of this Agreement, Agent may at its discretion and without the consent of the Required Lenders, voluntarily permit the sum of the outstanding Revolving Advances and the Maximum Undrawn Amount at any time to exceed the Formula Amount (the "Overadvance Threshold Amount") by up to ten percent (10%) of the Formula Amount for up to sixty (60) consecutive Business Days (the "Out-of-Formula Loans"); provided, that, such outstanding Advances do not exceed the Maximum Revolving Advance Amount. If Agent is willing in its sole and absolute discretion to make such Out-of-Formula Loans, such Out-of-Formula Loans shall be payable on demand and shall bear interest at the Default Rate for Revolving Advances consisting of Domestic Rate Loans; provided that, if Lenders do make Out-of-Formula Loans, neither Agent nor Lenders shall be deemed thereby to have changed the limits of Section 2.1(a). For purposes of this paragraph, the discretion granted to Agent hereunder shall not preclude involuntary overadvances that may result from time to time due to the fact that the Formula Amount was unintentionally exceeded for any reason, including, but not limited to, Collateral previously deemed to be either "Eligible Receivables" or "Eligible Inventory," as applicable, becomes ineligible, collections of Receivables applied to reduce outstanding Revolving Advances are thereafter returned for insufficient funds or overadvances are made to protect or preserve the Collateral. In the event Agent involuntarily permits the outstanding Revolving Advances to exceed the Formula Amount by more than ten percent (10%), Agent shall use its efforts to have Borrowers decrease such excess in as expeditious a manner as is practicable under the circumstances and not inconsistent with the reason for such excess. Revolving Advances made after Agent has determined the existence of involuntary overadvances shall be deemed to be involuntary overadvances and shall be decreased in accordance with the preceding sentence.

(f) In addition to (and not in substitution of) the discretionary Revolving Advances permitted above in this Section 16.2, Agent is hereby authorized by Borrowers and Lenders, at any time in Agent's sole discretion, regardless of (i) the existence of a Default or an Event of Default, (ii) whether any of the other applicable conditions precedent set forth in Section 8.2 hereof have not been satisfied or the commitments of Lenders to make Revolving Advances hereunder have been terminated for any reason, or (iii) any other contrary provision of this Agreement, to make Revolving Advances ("Protective Advances") to Borrowers on behalf of Lenders which Agent, in its reasonable business judgment, deems necessary or desirable (a) to preserve or protect the Collateral, or any portion thereof, (b) to enhance the likelihood of, or maximize the amount of, repayment of the Advances and other Obligations, or (c) to pay any other amount chargeable to Borrowers pursuant to the terms of this Agreement (the "Protective Advances"). Lenders holding the Revolving Commitments shall be obligated to fund such Protective Advances and effect a settlement with Agent therefor upon demand of Agent in accordance with their respective Revolving Commitment Percentages. To the extent any Protective Advances are not actually funded by the other Lenders as provided for in this Section 16.2(f), any such Protective Advances funded by Agent shall be deemed to be Revolving Advances made by and owing to Agent, and Agent shall be entitled to all rights (including accrual of interest) and remedies of a Lender holding a Revolving Commitment under this Agreement and the Other Documents with respect to such Revolving Advances.

16.3 Successors and Assigns; Participations; New Lenders.

(a) This Agreement shall be binding upon and inure to the benefit of Borrowers, Agent, each Lender, all future holders of the Obligations and their respective successors and assigns, except that no Borrower may assign or transfer any of its rights or obligations under this Agreement without the prior written consent of Agent and each Lender.

(b) Each Borrower acknowledges that in the regular course of commercial banking business one or more Lenders may at any time and from time to time sell participating interests in the Advances to other Persons (each such transferee or purchaser of a participating interest, a "Participant"). Each Participant may exercise all rights of payment (including rights of set-off) with respect to the portion of such Advances held by it or other Obligations payable hereunder as fully as if such Participant were the direct holder thereof provided that (i) Borrowers shall not be required to pay to any Participant more than the amount which it would have been required to pay to Lender which granted an interest in its Advances or other Obligations payable hereunder to such Participant had such Lender retained such interest in the Advances hereunder or other Obligations payable hereunder unless the sale of the participation to such Participant is made with Borrower's prior written consent, and (ii) in no event shall Borrowers be required to pay any such amount arising from the same circumstances and with respect to the same Advances or other Obligations payable hereunder to both such Lender and such Participant. Each Borrower hereby grants to any Participant a continuing security interest in any deposits, money or other property actually or constructively held by such Participant as security for the Participant's interest in the Advances.

(c) Any Lender, with the consent of Agent, may sell, assign or transfer all or any part of its rights and obligations under or relating to Revolving Advances under this Agreement and the Other Documents to one or more additional Persons and one or more additional Persons may commit to make Advances hereunder (each a "Purchasing Lender"), in minimum amounts of not less than \$1,000,000, pursuant to a Commitment Transfer Supplement, executed by a Purchasing Lender, the transferor Lender, and Agent and delivered to Agent for recording, provided, however, that each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to each of the Revolving Advances, under this Agreement in which such Lender has an interest. Upon such execution, delivery, acceptance and recording, from and after the transfer effective date determined pursuant to such Commitment Transfer Supplement, (i) Purchasing Lender thereunder shall be a party hereto and, to the extent provided in such Commitment Transfer Supplement, have the rights and obligations of a Lender thereunder with a Revolving Commitment Percentage as set forth therein, and (ii) the transferor Lender thereunder shall, to the extent provided in such Commitment Transfer Supplement, be released from its obligations under this Agreement, the Commitment Transfer Supplement creating a novation for that purpose. Such Commitment Transfer Supplement shall be deemed to amend this Agreement to the extent, and only to the extent, necessary to reflect the addition of such Purchasing Lender and the resulting adjustment of the Revolving Commitment Percentages arising from the purchase by such Purchasing Lender of all or a portion of the rights and obligations of such transferor Lender under this Agreement and the Other Documents. Each Borrower hereby consents to the addition of such Purchasing Lender and the resulting adjustment of the Revolving Commitment Percentages arising from the purchase by such Purchasing Lender of all or a portion of the rights and obligations of such transferor Lender under this Agreement and the Other Documents. Borrowers shall execute and deliver such further documents and do such further acts and things in order to effectuate the foregoing.

(d) Any Lender, with the consent of Agent which shall not be unreasonably withheld or delayed, may directly or indirectly sell, assign or transfer all or any portion of its rights and obligations under or relating to Revolving Advances under this Agreement and the Other Documents to an entity, whether a corporation, partnership, trust, limited liability company or other entity that (i) is engaged in making, purchasing, holding or otherwise investing in bank loans and similar extensions of credit in the ordinary course of its business and (ii) is administered, serviced or managed by the assigning Lender or an Affiliate of such Lender (a "Purchasing CLO" and together with each Participant and Purchasing Lender, each a "Transferee" and collectively the "Transferees"), pursuant to a Commitment Transfer Supplement modified as appropriate to reflect the interest being assigned ("Modified Commitment Transfer Supplement"), executed by any intermediate purchaser, the Purchasing CLO, the transferor Lender, and Agent as appropriate and delivered to Agent for recording. Upon such execution and delivery, from and after the transfer effective date determined pursuant to such Modified Commitment Transfer Supplement, (i) Purchasing CLO thereunder shall be a party hereto and, to the extent provided in such Modified Commitment Transfer Supplement, have the rights and obligations of a Lender thereunder and (ii) the transferor Lender thereunder shall, to the extent provided in such Modified Commitment Transfer Supplement, be released from its obligations under this Agreement, the Modified Commitment Transfer Supplement creating a novation for that purpose. Such Modified Commitment Transfer Supplement shall be deemed to amend this Agreement to the extent, and only to the extent, necessary to reflect the addition of such Purchasing CLO. Each Borrower hereby consents to the addition of such Purchasing CLO. Borrowers shall execute and deliver such further documents and do such further acts and things in order to effectuate the foregoing.

(e) Agent shall maintain at its address a copy of each Commitment Transfer Supplement and Modified Commitment Transfer Supplement delivered to it and a register (the "Register") for the recordation of the names and addresses of each Lender and the outstanding principal, accrued and unpaid interest and other fees due hereunder. The entries in the Register shall be conclusive, in the absence of manifest error, and each Borrower, Agent and Lenders may treat each Person whose name is recorded in the Register as the owner of the Advance recorded therein for the purposes of this Agreement. The Register shall be available for inspection by Borrowing Agent or any Lender at any reasonable time and from time to time upon reasonable prior notice. Agent shall receive a fee in the amount of \$3,500 payable by the applicable Purchasing Lender and/or Purchasing CLO upon the effective date of each transfer or assignment (other than to an intermediate purchaser) to such Purchasing Lender and/or Purchasing CLO.

(f) Each Borrower authorizes each Lender to disclose to any Transferee and any prospective Transferee any and all financial information in such Lender's possession concerning such Borrower which has been delivered to such Lender by or on behalf of such Borrower pursuant to this Agreement or in connection with such Lender's credit evaluation of such Borrower.

(g) Notwithstanding anything to the contrary contained in this Agreement, any Lender may at any time and from time to time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank; provided that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

16.4 Application of Payments. Agent shall have the continuing and exclusive right to apply or reverse and re-apply any payment and any and all proceeds of Collateral to any portion of the Obligations. To the extent that any Borrower makes a payment or Agent or any Lender receives any payment or proceeds of the Collateral for any Borrower's benefit, which are subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, debtor in possession, receiver, custodian or any other party under any bankruptcy law, common law or equitable cause, then, to such extent, the Obligations or part thereof intended to be satisfied shall be revived and continue as if such payment or proceeds had not been received by Agent or such Lender.

16.5 Indemnity. or such Lender.

16.6 Indemnity. Each Borrower shall defend, protect, indemnify, pay and save harmless Agent, Issuer, each Lender and each of their respective officers, directors, Affiliates, attorneys, employees and agents (each an "Indemnified Party") for and from and against any and all claims, demands, liabilities, obligations, losses, damages, penalties, fines, actions, judgments, suits, costs, charges, expenses and disbursements of any kind or nature whatsoever (including reasonable fees and disbursements of counsel (including allocated costs of internal counsel)) (collectively, "Claims") which may be imposed on, incurred by, or asserted against any Indemnified Party in arising out of or in any way relating to or as a consequence, direct or indirect, of:

(i) this Agreement, the Other Documents, the Advances and other Obligations and/or the transactions contemplated hereby including the transactions contemplated hereunder,

(ii) any action or failure to act or action taken only after delay or the satisfaction of any conditions by any Indemnified Party in connection with and/or relating to the negotiation, execution, delivery or administration of the Agreement and the Other Documents, the credit facilities established hereunder and thereunder and/or the transactions contemplated hereby including the transactions contemplated hereunder,

(iii) any Borrower's or any Guarantor's failure to observe, perform or discharge any of its covenants, obligations, agreements or duties under or breach of any of the representations or warranties made in this Agreement and the Other Documents,

(iv) the enforcement of any of the rights and remedies of Agent, Issuer or any Lender under the Agreement and the Other Documents,

(v) any threatened or actual imposition of fines or penalties, or disgorgement of benefits, for violation of any Anti-Terrorism Law by any Borrower, any Affiliate or Subsidiary of any Borrowers, or any Guarantor, and

(vi) any claim, litigation, proceeding or investigation instituted or conducted by any Governmental Body or instrumentality or any other Person with respect to any aspect of, or any transaction contemplated by, or referred to in, or any matter related to, this Agreement or the Other Documents, whether or not Agent or any Lender is a party thereto.

Without limiting the generality of any of the foregoing, each Borrower shall defend, protect, indemnify, pay and save harmless each Indemnified Party from (x) any Claims which may be imposed on, incurred by, or asserted against any Indemnified Party arising out of or in any way relating to or as a consequence, direct or indirect, of the issuance of any Letter of Credit hereunder and (y) any Claims which may be imposed on, incurred by, or asserted against any Indemnified Party under any Environmental Laws with respect to or in connection with the Real Property, any Hazardous Discharge, the presence of any reportable quantity of Hazardous Materials affecting the Real Property (whether or not the same originates or emerges from the Real Property or any contiguous real estate), including any Claims consisting of or relating to the imposition or assertion of any Lien on any of the Real Property under any Environmental Laws and any loss of value of the Real Property as a result of the foregoing except to the extent such loss, liability, damage and expense is attributable to any Hazardous Discharge resulting from actions on the part of Agent or any Lender. Borrowers' obligations under this Section 16.5 shall arise upon the discovery of the presence of any reportable quantity of Hazardous Materials at the Real Property, whether or not any federal, state, or local environmental agency has taken or threatened any action in connection with the presence of any Hazardous Materials, in each such case except to the extent that any of the foregoing arises out of the gross negligence or willful misconduct of the Indemnified Party (as determined by a court of competent jurisdiction in a final and non-appealable judgment). Without limiting the generality of the foregoing, this indemnity shall extend to any liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses and disbursements of any kind or nature whatsoever (including fees and disbursements of counsel) asserted against or incurred by any of the Indemnified Parties by any Person under any Environmental Laws or similar laws by reason of any Borrower's or any other Person's failure to comply with laws applicable to solid or hazardous waste materials, including Hazardous Materials and Hazardous Waste, or other Toxic Substances at the Real Property. Additionally, if any taxes (excluding taxes imposed upon or measured solely by the net income of Agent and Lenders, but including any intangibles taxes, stamp tax, recording tax or franchise tax) shall be payable by Agent, Lenders or Borrowers on account of the execution or delivery of this Agreement, or the execution, delivery, issuance or recording of any of the Other Documents, or the creation or repayment of any of the Obligations hereunder, by reason of any Applicable Law now or hereafter in effect, Borrowers will pay (or will promptly reimburse Agent and Lenders for payment of) all such taxes, including interest and penalties thereon, and will indemnify and hold the Indemnified Parties harmless from and against all liability in connection therewith.

Notice. Any notice or request hereunder may be given to Borrowing Agent or any Borrower or to Agent or any Lender at their respective addresses set forth below or at such other address as may hereafter be specified in a notice designated as a notice of change of address under this Section. Any notice, request, demand, direction or other communication (for purposes of this Section 16.6 only, a "Notice") to be given to or made upon any party hereto under any provision of this Agreement shall be given or made by telephone or in writing (which includes by means of electronic transmission (i.e., "e-mail") or facsimile transmission or by setting forth such Notice on a website to which Borrowers are directed (an "Internet Posting") if Notice of such Internet Posting (including the information necessary to access such site) has previously been delivered to the applicable parties hereto by another means set forth in this Section 16.6) in accordance with this Section 16.6. Any such Notice must be delivered to the applicable parties hereto at the addresses and numbers set forth under their respective names on Section 16.6 hereof or in accordance with any subsequent unrevoked Notice from any such party that is given in accordance with this Section 16.6. Any Notice shall be effective:

- (a) In the case of hand-delivery, when delivered;
- (b) If given by mail, four (4) days after such Notice is deposited with the United States Postal Service, with first-class postage prepaid, return receipt requested;
- (c) In the case of a telephonic Notice, when a party is contacted by telephone, if delivery of such telephonic Notice is confirmed no later than the next Business Day by hand delivery, a facsimile or electronic transmission, an Internet Posting or an overnight courier delivery of a confirmatory Notice (received at or before noon on such next Business Day);
- (d) In the case of a facsimile transmission, when sent to the applicable party's facsimile machine's telephone number, if the party sending such Notice receives confirmation of the delivery thereof from its own facsimile machine;
- (e) In the case of electronic transmission, when actually received;
- (f) In the case of an Internet Posting, upon delivery of a Notice of such posting (including the information necessary to access such site) by another means set forth in this Section 16.6; and
- (g) If given by any other means (including by overnight courier), when actually received.

Any Lender giving a Notice to Borrowing Agent or any Borrower shall concurrently send a copy thereof to Agent, and Agent shall promptly notify the other Lenders of its receipt of such Notice.

(A) If to Agent or PNC at:

PNC Bank, National Association
2 North Lake Avenue
Suite 440
Pasadena, California 91101
Attention: Mark Tito
Telephone: (626) 432-7542
Facsimile: (626) 432-4589
E-mail: mark.tito@pnc.com

with a copy to:

PNC Bank, National Association
PNC Agency Services
PNC Firstside Center
500 First Avenue, 4th Floor
Pittsburgh, Pennsylvania 15219
Attention: Lisa Pierce
Telephone: (412) 762-6442
Facsimile: (412) 762-8672

with an additional copy to:

Buchalter Nemer, P.C.
1000 Wilshire Boulevard, Suite 1500
Los Angeles, California 90017
Attention: Anthony R. Callobre, Esq.
Telephone: (213) 891-5024
Facsimile: (213) 630-5773
E-mail: acallobre@buchalter.com

(B) If to a Lender other than Agent, as specified on the signature pages hereof

(C) If to Borrowing Agent or any Borrower:

Enservco Corporation
501 South Cherry Street, Suite 320
Denver, Colorado 80246
Attention: Robert Devers
Telephone: (720) 974-3408
Facsimile: (720) 974-3417
E-mail: bdevers@enservco.com

with a copy to:

Enservco Corporation
501 South Cherry Street, Suite 320
Denver, Colorado 80246
Attention: Rick Kasch
Telephone: (720) 974-3406
Facsimile: (720) 974-3417
E-mail: rkasch@enservco.com

with an additional copy to:

Burns, Figa & Will, P.C.
6400 S. Fiddler's Green Circle, Suite 100
Greenwood Village, Colorado 80111
Attention: Herrick K. Lidstone, Jr., Esq.
Telephone: (303) 796-2626
Facsimile: (303) 796-2777
E-mail: hklidstone@bfiwlaw.com

16.7 Survival. The obligations of Borrowers under Sections 2.2(f), 2.2(g), 2.2(h), 3.7, 3.8, 3.9, 3.10, 16.5 and 16.9 and the obligations of Lenders under Sections 2.2, 2.15(b), 2.16, 2.18, 2.19, 14.8 and 16.5, shall survive termination of this Agreement and the Other Documents and payment in full of the Obligations.

16.8 Severability. If any part of this Agreement is contrary to, prohibited by, or deemed invalid under Applicable Laws, such provision shall be inapplicable and deemed omitted to the extent so contrary, prohibited or invalid, but the remainder hereof shall not be invalidated thereby and shall be given effect so far as possible.

16.9 Expenses. Borrowers shall pay (i) all out-of-pocket expenses incurred by Agent and its Affiliates (including the reasonable fees, charges and disbursements of counsel for Agent), and shall pay all fees and time charges and disbursements for attorneys who may be employees of Agent, in connection with the syndication of the credit facilities provided for herein, the preparation, negotiation, execution, delivery and administration of this Agreement and the Other Documents or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), (ii) all out-of-pocket expenses incurred by Issuer in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder, (iii) all out-of-pocket expenses incurred by Agent, any Lender or Issuer (including the fees, charges and disbursements of any counsel for Agent, any Lender or Issuer), and shall pay all fees and time charges for attorneys who may be employees of Agent, any Lender or Issuer, in connection with the enforcement or protection of its rights (A) in connection with this Agreement and the Other Documents, including its rights under this Section, or (B) in connection with the Advances made or Letters of Credit issued hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans or Letters of Credit, and (iv) all reasonable out-of-pocket expenses of Agent's regular employees and agents engaged periodically to perform audits of the any Borrower's or any Borrower's Affiliate's or Subsidiary's books, records and business properties.

16.10 Injunctive Relief. Each Borrower recognizes that, in the event any Borrower fails to perform, observe or discharge any of its obligations or liabilities under this Agreement, or threatens to fail to perform, observe or discharge such obligations or liabilities, any remedy at law may prove to be inadequate relief to Lenders; therefor, Agent, if Agent so requests, shall be entitled to temporary and permanent injunctive relief in any such case without the necessity of proving that actual damages are not an adequate remedy.

16.11 Consequential Damages. Neither Agent nor any Lender, nor any agent or attorney for any of them, shall be liable to any Borrower, or any Guarantor (or any Affiliate of any such Person) for indirect, punitive, exemplary or consequential damages arising from any breach of contract, tort or other wrong relating to the establishment, administration or collection of the Obligations or as a result of any transaction contemplated under this Agreement or any Other Document.

16.12 Captions. The captions at various places in this Agreement are intended for convenience only and do not constitute and shall not be interpreted as part of this Agreement.

16.13 Counterparts; Facsimile Signatures. This Agreement may be executed in any number of and by different parties hereto on separate counterparts, all of which, when so executed, shall be deemed an original, but all such counterparts shall constitute one and the same agreement. Any signature delivered by a party by facsimile or electronic transmission (including email transmission of a PDF image) shall be deemed to be an original signature hereto.

16.14 Construction. The parties acknowledge that each party and its counsel have reviewed this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendments, schedules or exhibits thereto.

16.15 Confidentiality; Sharing Information. Agent, each Lender and each Transferee recognize that Enservco is a company with a class of securities registered under Section 12(g) of the Exchange Act, and that some of the information to be furnished to Agent, each Lender and each Transferee pursuant to this Agreement will be non-public information. In compliance with SEC Regulation FD and any other confidentiality obligations established herein, Agent, each Lender and each Transferee shall hold all non-public information obtained by Agent, such Lender or such Transferee pursuant to the requirements of this Agreement in accordance with Agent's, such Lender's and such Transferee's customary procedures for handling confidential information of this nature; provided, however, Agent, each Lender and each Transferee may disclose such confidential information (a) to its examiners, Affiliates, outside auditors, counsel and other professional advisors, (b) to Agent, any Lender or to any prospective Transferees, and (c) as required or requested by any Governmental Body or representative thereof or pursuant to legal process; provided, further that (i) unless specifically prohibited by Applicable Law, Agent, each Lender and each Transferee shall use its reasonable best efforts prior to disclosure thereof, to notify the applicable Borrower of the applicable request for disclosure of such non-public information (A) by a Governmental Body or representative thereof (other than any such request in connection with an examination of the financial condition of a Lender or a Transferee by such Governmental Body) or (B) pursuant to legal process and (ii) in no event shall Agent, any Lender or any Transferee be obligated to return any materials furnished by any Borrower other than those documents and instruments in possession of Agent or any Lender in order to perfect its Lien on the Collateral once the Obligations have been paid in full and this Agreement has been terminated. Each Borrower acknowledges that from time to time financial advisory, investment banking and other services may be offered or provided to such Borrower or one or more of its Affiliates (in connection with this Agreement or otherwise) by any Lender or by one or more Subsidiaries or Affiliates of such Lender and each Borrower hereby authorizes each Lender to share any information delivered to such Lender by such Borrower and its Subsidiaries pursuant to this Agreement, or in connection with the decision of such Lender to enter into this Agreement, to any such Subsidiary or Affiliate of such Lender, it being understood that any such Subsidiary or Affiliate of any Lender receiving such information shall be bound by the provisions of this Section 16.15 as if it were a Lender hereunder. Such authorization shall survive the repayment of the other Obligations and the termination of this Agreement. Notwithstanding any non-disclosure agreement or similar document executed by Agent in favor of any Borrower or any of any Borrower's affiliates, the provisions of this Agreement shall supersede such agreements.

16.16 Publicity. Subject to the requirements of Enservco under the Exchange Act and to the requirements of SEC Regulation FD, each Borrower and each Lender hereby authorizes Agent to make appropriate announcements of the financial arrangement entered into among Borrowers, Agent and Lenders, including announcements which are commonly known as tombstones, in such publications and to such selected parties as Agent shall in its Permitted Discretion deem appropriate.

16.17 Certifications From Banks and Participants: USA PATRIOT Act.

(a) Each Lender or assignee or participant of a Lender that is not incorporated under the Laws of the United States of America or a state thereof (and is not excepted from the certification requirement contained in Section 313 of the USA PATRIOT Act and the applicable regulations because it is both (i) an affiliate of a depository institution or foreign bank that maintains a physical presence in the United States or foreign country, and (ii) subject to supervision by a banking authority regulating such affiliated depository institution or foreign bank) shall deliver to the Agent the certification, or, if applicable, recertification, certifying that such Lender is not a "shell" and certifying to other matters as required by Section 313 of the USA PATRIOT Act and the applicable regulations: (1) within ten (10) days after the Amendment Effective Date, and (2) as such other times as are required under the USA PATRIOT Act.

(b) The USA PATRIOT Act requires all financial institutions to obtain, verify and record certain information that identifies individuals or business entities which open an "account" with such financial institution. Consequently, Lender may from time to time request, and each Borrower shall provide to Lender, such Borrower's name, address, tax identification number and/or such other identifying information as shall be necessary for Lender to comply with the USA PATRIOT Act and any other Anti-Terrorism Law.

16.18 Anti-Terrorism Laws.

(a) Each Borrower represents and warrants that (i) no Covered Entity is a Sanctioned Person and (ii) no Covered Entity, either in its own right or through any third party, (A) has any of its assets in a Sanctioned Country or in the possession, custody or control of a Sanctioned Person in violation of any Anti-Terrorism Law; (B) does business in or with, or derives any of its income from investments in or transactions with, any Sanctioned Country or Sanctioned Person in violation of any Anti-Terrorism Law; or (C) engages in any dealings or transactions prohibited by any Anti-Terrorism Law.

(b) Each Borrower covenants and agrees that (i) no Covered Entity will become a Sanctioned Person, (ii) no Covered Entity, either in its own right or through any third party, will (A) have any of its assets in a Sanctioned Country or in the possession, custody or control of a Sanctioned Person in violation of any Anti-Terrorism Law; (B) do business in or with, or derive any of its income from investments in or transactions with, any Sanctioned Country or Sanctioned Person in violation of any Anti-Terrorism Law; (C) engage in any dealings or transactions prohibited by any Anti-Terrorism Law or (D) use the Advances to fund any operations in, finance any investments or activities in, or, make any payments to, a Sanctioned Country or Sanctioned Person in violation of any Anti-Terrorism Law, (iii) the funds used to repay the Obligations will not be derived from any unlawful activity, (iv) each Covered Entity shall comply with all Anti-Terrorism Laws and (v) the Borrowers shall promptly notify the Agent in writing upon the occurrence of a Reportable Compliance Event.

16.19 Amendment and Restatement of Existing Credit Agreement. This Agreement constitutes an amendment and restatement of the Existing Credit Agreement effective from and after the Amendment Effective Date. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby and by the Other Documents are not intended by the parties to be, and shall not constitute, a novation or an accord and satisfaction of the Obligations or any other obligations owing to Agent or the Lenders under the Existing Credit Agreement or any other Existing Loan Document. On the Amendment Effective Date, the credit facilities and the terms and conditions thereof described in the Existing Credit Agreement shall be amended and replaced in their entirety by the credit facilities and the terms and conditions described herein, and all Loans, Letters of Credit, and other Obligations of Borrowers outstanding as of such date under the Existing Credit Agreement shall be deemed to be Revolving Loans, Letters of Credit, and other Obligations outstanding under the corresponding facilities described herein (such that all Obligations which are outstanding on the Amendment Effective Date under the Existing Credit Agreement shall become Obligations under this Agreement), without further action by any Person. Each of the parties hereto hereby acknowledges and agrees that the grant of the security interests in the Collateral pursuant to the security agreements and in any Other Document is not intended to, nor shall it be construed, as constituting a release of any prior security interests granted by any Borrower in favor of Agent for the benefit of itself, and the Lenders, in or to any Collateral or any other property of such Borrower, but is intended to constitute a restatement and reconfirmation of the prior security interests granted by Borrowers in favor of Agent for the benefit of itself, and the Lenders, in and to the Collateral and a grant of a new security interest in any Collateral that is not included in the prior security grants by Borrowers and in favor of Agent for the benefit of itself, and the Lenders, to the extent such grant was not included in the prior security grants.

[Rest of page intentionally left blank; signature pages follow]

Each of the parties has signed this Agreement as of the day and year first above written.

BORROWERS:

ENSERVCO CORPORATION,
a Delaware corporation

By: _____
Robert J. Devers
Chief Financial Officer

DILCO FLUID SERVICE, INC.,
a Kansas corporation

By: _____
Robert J. Devers
Chief Financial Officer

HEAT WAVES HOT OIL ~~SERVICES~~ SERVICE LLC,
a Colorado limited liability company

By: _____
Robert J. Devers
Manager

Amended and Restated Revolving Credit and Security Agreement

PNC BANK, NATIONAL ASSOCIATION,
as Lender and as Agent

By: _____

Name: ~~Jeffrey Cristo~~ Mark Tito

Title: ~~Senior Vice President~~

Commitment Percentage: 100%

Amended and Restated Revolving Credit and Security Agreement

ENSERVCO CORPORATION
Subsidiaries of the Registrant
December 31, 2015

<u>Name</u>	<u>State of Formation</u>	<u>Ownership</u>
Dillco Fluid Service, Inc.	Kansas	100% by Enservco
Heat Waves Hot Oil Service LLC	Colorado	100% by Enservco
Heat Waves Water Management LLC	Colorado	100% by Enservco
HE Services, LLC	Nevada	100% by Heat Waves
Real GC, LLC	Colorado	100% by Heat Waves

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in the Registration Statements (No. 333-195328) on Form S-3 and (No. 333-188156) on Form S-8 of Enservco Corporation of our report dated March 30, 2016 with respect to the consolidated financial statements of Enservco Corporation included in this Annual Report on Form 10-K for the year ended December 31, 2015.

/s/ EKS&H LLLP
Denver, Colorado
March 30, 2016

**CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER
PURSUANT TO RULE 13a-14(a) OF THE
SECURITIES EXCHANGE ACT OF 1934**

I, Rick D. Kasch, certify that:

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

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

March 30, 2016

/s/ Rick D. Kasch

Rick D. Kasch, Principal Executive Officer and
Chief Executive Officer

**CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER
PURSUANT TO RULE 13a-14(a) OF THE
SECURITIES EXCHANGE ACT OF 1934**

I, Robert Devers, certify that:

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

March 30, 2016

/s/ Robert J. Devers

Robert J. Devers, Principal Financial Officer and
Chief Financial Officer

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

In connection with the Annual Report of Enservco Corporation (the "Company") on Form 10-K for the period ended December 31, 2015 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Rick D. Kasch, Chief Executive Officer and principal executive officer of the Company, certify, pursuant to 18 U.S.C. §1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

- (1) The Report fully complies with the requirements of Section 13(a) or 15(d) 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.

March 30, 2016

/s/ Rick D. Kasch

Rick D. Kasch, Principal Executive Officer and
Chief Executive Officer

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

In connection with the Annual Report of Enservco Corporation (the "Company") on Form 10-K for the period ended December 31, 2015 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Robert J. Devers, Chief Financial Officer and principal financial officer of the Company, certify, pursuant to 18 U.S.C. §1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

- (1) The Report fully complies with the requirements of Section 13(a) or 15(d) 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.

March 30, 2016

/s/ Robert J. Devers

Robert J. Devers, Principal Financial Officer and
Chief Financial Officer