

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

FORM 10-K

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

FOR THE FISCAL YEAR ENDED DECEMBER 31, 1998
Commission file number: 1-13011

COMFORT SYSTEMS USA, INC.
(EXACT NAME OF REGISTRANT AS SPECIFIED IN ITS CHARTER)

DELAWARE
(STATE OR OTHER JURISDICTION
OF INCORPORATION OR ORGANIZATION)

76-0526487
(I.R.S. EMPLOYER
IDENTIFICATION NO.)

777 POST OAK BLVD.
SUITE 500
HOUSTON, TEXAS 77056
(713) 830-9600
(ADDRESS AND TELEPHONE NUMBER OF PRINCIPAL EXECUTIVE OFFICES)

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

TITLE OF EACH CLASS	NAME OF EACH EXCHANGE ON WHICH REGISTERED
Common Stock, \$.01 par value	New York Stock Exchange

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

Indicate by check mark whether the registrant (1) has filed all reports 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 if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of the registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

As of March 26, 1999, the aggregate market value of the 30,606,521 shares of the registrant's common stock held by non-affiliates of the registrant was \$459,097,815, based on the \$15.00 last sale price of the registrant's common stock on the New York Stock Exchange on that date.

As of March 26, 1999, 38,586,426 shares of the registrant's common stock were issued and outstanding.

DOCUMENTS INCORPORATED BY REFERENCE: The information required by Part III (other than the required information regarding executive officers) is incorporated by reference from the registrant's definitive proxy statement, which will be filed with the Commission not later than 120 days following December 31, 1998.

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FORWARD-LOOKING STATEMENTS

This report contains "forward-looking statements" within the meaning of Section 27A of the Securities Act of 1933, as amended ("Securities Act") and Section 21E of the Exchange Act. Such forward-looking statements are made only as of the date of this report and involve known and unknown risks, uncertainties and other important factors that could cause the actual results, performance or achievements of the Company, or industry results, to differ materially from any future results, performance or achievements expressed or implied by such forward-looking statements. Such risks, uncertainties and other important factors include, among others, risks associated with acquisitions, fluctuations in operating results because of acquisitions and variations in stock prices, changes in government regulations, competition, and risks entailed in the operations and growth of the newly acquired businesses. Important factors that could cause actual results to differ are discussed under "Management's Discussion and Analysis of Financial Condition and Results of Operations -- Factors Which May Affect Future Results."

PART I

ITEM 1. BUSINESS

Comfort Systems USA, Inc., a Delaware corporation ("Comfort Systems" and collectively with its subsidiaries, the "Company"), is a leading national provider of comprehensive heating, ventilation and air conditioning ("HVAC") installation, maintenance, repair and replacement services. Founded in December 1996, the Company is consolidating the fragmented commercial and industrial HVAC markets, and performs most of its services within manufacturing plants, office buildings, retail centers, apartment complexes, and healthcare, education and government facilities. In addition to standard HVAC services, the Company also provides specialized applications such as process cooling, control systems, electronic monitoring and process piping. Certain locations also perform related services such as electrical and plumbing. Approximately 97% of the Company's pro forma combined 1998 revenues were derived from commercial and industrial customers with approximately 55% of the revenues attributable to installation services and 45% attributable to maintenance, repair and replacement services.

On July 2, 1997, Comfort Systems completed the initial public offering (the "IPO") of its common stock (the "Common Stock") and simultaneously acquired twelve companies (collectively referred to as the "Founding Companies") engaged in providing HVAC services. The Founding Companies had 18 operating locations in ten states. Subsequent to the IPO, and through December 31, 1998, the Company acquired 82 HVAC and complementary businesses (collectively with the Founding Companies, the "Acquired Companies"). The companies acquired subsequent to the IPO added 88 operating locations in 18 additional states. These acquisitions included 15 "tuck-in" operations that have been or are currently being integrated with existing Company operations. In addition, during the first three months of 1999, the Company acquired 10 HVAC businesses with aggregate 1998 annual revenues of approximately \$35 million. These acquisitions along with the existing Founding Companies allow the Company to provide services in 114 operating locations and 46 of the top 150 major markets.

INDUSTRY OVERVIEW

Based on available industry data, the Company believes that the HVAC industry is highly fragmented with over 40,000 companies, most of which are small, owner-operated businesses with limited access to capital for modernization and expansion. The HVAC industry as a whole is estimated to generate annual revenues in excess of \$75 billion, over \$35 billion of which is in the commercial and industrial markets. HVAC systems have become a necessity in virtually all commercial and industrial buildings as well as homes. Because most commercial buildings are sealed, HVAC systems provide the primary method of circulating fresh air in such buildings. Older industrial facilities often have poor air quality as well as inadequate air conditioning, and older HVAC systems result in significantly higher energy costs than do modern systems. In many

instances, the replacement of an aging system with a modern, energy-efficient system will significantly reduce a building's operating costs while also improving air quality and the

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effectiveness of the HVAC system. These factors cause many facility owners to consider early replacement of older systems.

Growth in the HVAC industry is positively affected by a number of factors, particularly (i) the aging of the installed base, (ii) the increasing efficiency, sophistication and complexity of HVAC systems, (iii) the increasing opportunities associated with utility deregulation and (iv) the increasing standards relating to indoor air quality, and the reduction or elimination of the refrigerants commonly used in older HVAC systems. These factors are expected to increase demand for the reconfiguration or replacement of existing HVAC systems. The Company believes that these factors also mitigate the effect on the HVAC industry of the cyclical nature inherent in the traditional construction industry.

The Company believes that the majority of business owners in the HVAC industry have limited access to capital for expansion of their businesses and that relatively few have attractive liquidity options. In addition, the increasing complexity of HVAC systems has led to a need for better trained technicians to install, monitor and service these systems. The cost of recruiting, training and retaining a sufficient number of qualified technicians makes it more difficult for smaller HVAC companies to expand their businesses. The Company believes that significant opportunities continue to exist for a well-capitalized, national company to excel in the HVAC industry.

The HVAC industry can be broadly divided into installation services and maintenance, repair and replacement services.

INSTALLATION SERVICES. Installation services consist of "design and build" and "plan and spec" projects. In "design and build" projects, the commercial HVAC firm is responsible for designing, engineering and installing a cost-effective, energy-efficient system customized to the specific needs of the building owner. Costs and other project terms are normally negotiated between the building owner or its representative and the HVAC firm. Firms which specialize in "design and build" projects generally have specially-trained HVAC engineers, CAD/CAM design systems and in-house sheet metal and prefabrication capabilities. These firms utilize a consultative approach with customers and tend to develop long-term relationships with building owners and developers, general contractors, architects and property managers. "Plan and spec" installation refers to projects where an architect or a consulting engineer designs the HVAC systems and the installation project is "put out for bid." The Company believes that "plan and spec" projects usually take longer to complete than "design and build" projects because the preparation of the system design by a third party and resulting bid process may often take months to complete. Furthermore, in "plan and spec" projects, the HVAC firm is not responsible for project design and any changes must be approved by several parties, thereby increasing overall project time and cost. Approximately 55% of the Company's pro forma combined 1998 revenues related to installation services and the majority of the revenues from installation projects were performed on a "design and build/negotiated" basis.

MAINTENANCE, REPAIR AND REPLACEMENT SERVICES. These services include the maintenance, repair, replacement, reconfiguration and monitoring of previously installed HVAC systems and controls. The growth and aging of the installed base of HVAC systems and the increasing demand for more efficient, sophisticated and complex systems and controls have fueled growth in this service line. The increasing sophistication and complexity of these HVAC systems is leading many commercial and industrial building owners and property managers to increase attention to maintenance and to outsource maintenance and repair, often through service agreements with HVAC service providers. In addition, increasing restrictions are being placed on the use of certain types of refrigerants used in HVAC systems, which, along with indoor air quality concerns, may increase demand for the reconfiguration and replacement of existing HVAC systems.

State-of-the-art control and monitoring systems feature electronic sensors and microprocessors. These systems require specialized training to install, maintain and repair, and the typical building engineer has not received this training. Increasingly, HVAC systems in commercial and industrial buildings are being remotely monitored through PC-based communications systems to improve energy efficiency and expedite problem diagnosis and correction. Approximately 45% of the Company's pro forma combined 1998 revenues related to maintenance, repair and replacement services.

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STRATEGY

The Company has implemented an operating strategy that emphasizes continued internal growth and expansion through acquisitions.

OPERATING STRATEGY. The key elements of the Company's operating strategy are:

FOCUS ON COMMERCIAL AND INDUSTRIAL MARKETS. The Company primarily focuses on the commercial and industrial markets with particular emphasis on "design and build" installation services and maintenance, repair and replacement services. The Company believes that the commercial and industrial HVAC markets are attractive because of their growth opportunities, diverse customer base, reduced weather exposure as compared to residential markets, attractive margins and potential for long-term relationships with building owners, property managers, general contractors and architects. Approximately 97% of the Company's pro forma combined 1998 revenues were derived from commercial and industrial customers.

OPERATE ON A DECENTRALIZED BASIS. The Company manages its subsidiaries on a decentralized basis, with local management maintaining responsibility for day-to-day operations, profitability and growth. While it maintains strong operating and financial controls, the Company believes that its decentralized operating structure allows local management to capitalize on existing knowledge of local and regional markets and on customer relationships.

ACHIEVE OPERATING EFFICIENCIES. The Company believes there are opportunities to achieve operating efficiencies and cost savings through purchasing economies and the adoption of "best practices" operating programs. The Company has begun and will continue to use its growing purchasing power to gain volume discounts on products and services such as HVAC components, raw materials, service vehicles, advertising, bonding, insurance and benefits. Moreover, the Company is reviewing its operations at the local and regional operating levels to identify those "best practices" that can be successfully implemented throughout its operations.

ATTRACT AND RETAIN QUALITY EMPLOYEES. The Company seeks to attract and retain quality employees by providing them (i) an enhanced career path from working for a larger public company, (ii) additional training, education and apprenticeships to allow talented employees to advance to higher-paying positions, (iii) the opportunity to realize a more stable income and (iv) attractive benefits packages.

INTERNAL GROWTH. A key component of the Company's strategy is to continue the internal growth at the Company's subsidiaries. The key elements of the Company's internal growth strategy are:

EXPAND ALLIANCES WITH UTILITY COMPANIES. The Company believes that there is significant potential for mutually beneficial relationships with companies that market energy and energy services. The Company has begun working with companies in the utility industry through its Preferred Partners program which involves cooperative marketing of the Company's services and provides utilities the opportunity to profit and to benefit from the Company's own customer relationships and marketing programs. The Company believes it can expand these relationships as it gains experience with successful programs and as its geographic presence increases.

CAPITALIZE ON SPECIALIZED TECHNICAL AND MARKETING STRENGTHS. The Company believes it will be able to continue to expand the services it offers in its markets by leveraging the specialized technical and marketing strengths of individual Acquired Companies. The Company also believes its growing geographical coverage will enable it to serve existing customers' needs in new regions that may have been beyond the service area of the Company's operations that originated the existing customer relationship. In addition, a number of Acquired Companies currently focus primarily on installation and, therefore, have only limited maintenance, repair and replacement operations. The Company believes there are significant opportunities for these Acquired Companies to provide maintenance, repair and replacement services, particularly by offering these services to customers for whom those companies have already designed and built systems. Several of the Acquired Companies have specific expertise in HVAC control and monitoring systems, process cooling, replacement and other services.

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This expertise has been and will be increasingly shared within the Company's family of HVAC businesses.

ESTABLISH REGIONAL AND NATIONAL MARKET COVERAGE. The Company believes that significant demand exists from large regional and national companies to utilize the services of a single HVAC service company capable of providing comprehensive commercial and industrial services on a regional or national basis. Many of the Acquired Companies already provide local or regional coverage to companies with nationwide locations, such as commercial real estate developers and managers, retailers and manufacturers. The Company believes it can expand these existing relationships as it develops and begins to leverage a regional and nationwide network to provide these customers with a single source for all of their HVAC needs to promote consistent service, improve control and reduce cost.

ACQUISITIONS. The Company believes the HVAC industry is highly fragmented, with small, owner-operated businesses with limited capital resources, which outnumber larger enterprises. The key elements of the Company's acquisition strategy are:

ENTER NEW GEOGRAPHIC MARKETS. In new markets, the Company targets one or more leading local or regional companies providing HVAC services with the customer base, technical skills and infrastructure necessary to be a core business into which other HVAC and/or complementary service operations can be consolidated or "tucked-in." The Company chooses businesses that are located in attractive markets, are financially stable, are experienced in the industry and have a strong management team.

EXPAND WITHIN EXISTING MARKETS. Once the Company has entered a market, it seeks to acquire other well-established HVAC businesses to expand its market penetration and range of services offered. The Company also pursues "tuck-in" acquisitions of smaller companies, whose operations can be integrated into an existing operation to leverage the existing infrastructure of the previously Acquired Company.

ACQUIRE COMPLEMENTARY BUSINESSES. The Company opportunistically acquires companies providing complementary services to the same customer base, such as commercial and industrial control systems, electrical and plumbing services. This enables the Company to offer, on a comprehensive basis and from a single provider, HVAC, mechanical and electrical services in certain markets.

ACQUISITION PROGRAM

The Company is regarded by acquisition candidates as an attractive acquirer because of (i) the Company's strategy of becoming a national, comprehensive and professionally managed HVAC service provider focused on commercial and industrial markets, (ii) the Company's decentralized operating strategy, (iii)

the Company's increased visibility and access to financial resources as a public company, (iv) increased employee benefits and job opportunities for their employees, (v) the potential for increased profitability due to certain centralized administrative functions, enhanced systems capabilities and access to increased marketing resources and (vi) the potential for the owners of the businesses being acquired to participate in the Company's planned internal growth and growth through acquisitions, while realizing liquidity.

As consideration for acquisitions, the Company will use various combinations of its Common Stock, cash and notes. The consideration for each future acquisition will vary on a case-by-case basis. The major factors in establishing the purchase price for each acquisition include historical operating results, future prospects of the acquiree and the ability of a business to complement the services offered by the Company.

OPERATIONS SERVICES PROVIDED

The Company provides a wide range of installation, maintenance, repair and replacement services for HVAC and related systems in commercial, industrial and, to a lesser extent, residential properties. Daily operations are managed on a local basis by the management team at each Acquired Company. In addition to senior management, Acquired Companies' personnel generally include design engineers, sales personnel,

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customer service personnel, installation service technicians, sheet metal and prefabrication technicians, estimators and administrative personnel. The Company manages the Acquired Companies on a decentralized basis, with local management maintaining responsibility for day-to-day operating decisions. The Company has centralized certain administrative functions such as insurance, employee benefits, safety programs and cash management to enable the management of each Acquired Company to focus on pursuing new business opportunities and improving operating efficiencies. Additional administrative functions which the Company is currently centralizing include Company-wide training programs, project financing programs and national purchasing programs.

INSTALLATION SERVICES. The Company's installation business comprised approximately 55% of the Company's 1998 pro forma combined revenues. These services consist of the design, engineering, integration, installation and start-up of HVAC and related systems. The commercial and industrial installation services performed by the Company consist of "design and build" systems for manufacturing plants, office buildings, retail centers, apartment complexes, and health care, education and government facilities. In a "design and build" project, the customer typically has an overall design for the facility prepared by an architect or a consulting engineer who then enlists the Company's engineering personnel to prepare a specific design for the HVAC system. The Company determines the needed capacity, energy efficiency and type of controls that best suit the proposed facility. The Company's engineer then estimates the amount of time, labor, materials and equipment needed to build the specified system. Materials and equipment for a typical commercial or industrial project include ductwork, compressors, blowers, chillers, cooling towers, air handling equipment and the associated pumps and piping necessary to complete the system. The Company utilizes CAD/CAM systems in the design and engineering phases of the project to calculate the material and labor costs of the project. The drawings are prepared in a format appropriate for submission to local building inspectors. The final design, terms, price and timing of the project are then negotiated with the customer or its representatives, after which any necessary modifications are made to the system.

Once an agreement has been reached, the Company orders the necessary materials and equipment for delivery to meet the project schedule. In most instances, the Company fabricates in its own facilities, the ductwork and piping and assembles certain components for the system based on the mechanical drawing specifications, thereby eliminating the need to subcontract ductwork or piping fabrication. The Company's CAD/CAM systems are capable of automatically cutting ductboard, sheet metal and piping, thereby reducing the amount of labor necessary to produce the ductwork and piping for the system. Project specific

components are then fabricated at the Company's facilities in sections small enough to be transported to the job site. This practice enables the Company to limit the amount of fieldwork required for installation, reduce the labor associated with the installation process and, therefore, meet the shorter time requirements increasingly demanded by commercial and industrial customers. The Company installs the system at the project site, working closely with the general contractor. Most commercial and industrial installation projects last from two weeks to one year and generate revenues from \$25,000 to \$2,000,000 per project. These projects are generally billed periodically as costs are incurred and, in most cases, with a 10% retainage held back until completion and successful start-up of the HVAC system.

The Company also performs selected "plan and spec" installation services in addition to "design and build" projects.

The Company also installs process cooling systems, control and monitoring systems and industrial process piping. Process cooling systems are utilized primarily in industrial facilities to provide heating and/or cooling to precise temperature and climate standards for products being manufactured and for the manufacturing equipment. Control systems are used in HVAC and process cooling systems to maintain pre-established temperature or climate standards for commercial or industrial facilities. These systems use direct digital technology integrated with computer terminals. HVAC control systems are capable not only of controlling a facility's entire HVAC system, often on a room-by-room basis, but can be programmed to integrate energy management, security, fire, card key access, lighting and overall facility monitoring. This monitoring can be performed on-site or remotely through a PC-based communications system. The

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monitoring system will communicate an exception when the HVAC system is operating outside pre-established parameters. Diagnosis of potential problems can be performed from the computer terminal which often can remotely adjust the control system. Industrial process piping is utilized in manufacturing facilities to convey required raw material, support utilities and finished products.

MAINTENANCE, REPAIR AND REPLACEMENT SERVICES. The Company's maintenance, repair and replacement services comprised approximately 45% of the Company's 1998 pro forma combined revenues, and include the maintenance, repair, replacement, reconfiguration and monitoring of HVAC systems and industrial process piping. Over two-thirds of the Company's maintenance, repair and replacement revenues were derived from reconfiguring existing HVAC systems for commercial and industrial customers. Reconfiguration often utilizes consultative expertise similar to that provided in the "design and build" installation market. The Company believes that the reconfiguration of an existing system results in a more cost-effective, energy-efficient system that better meets the specific needs of the building owner. The reconfiguration also enables the Company to utilize its design and engineering personnel as well as its sheet metal and pre-fabrication facilities.

Maintenance and repair services are provided either in response to service calls or pursuant to a service agreement. Service calls are coordinated by customer service representatives or dispatchers that use computer and communication technology to process orders, arrange service calls, communicate with customers, dispatch technicians and invoice customers. Service technicians work from service vehicles equipped with commonly used parts, supplies and tools to complete a variety of jobs.

Commercial and industrial service agreements usually have terms of one to three years, with automatic annual renewals. The Company also provides remote monitoring of temperature, pressure, humidity and air flow for HVAC systems. If the system is not operating within the specifications set forth by the customer and cannot be remotely adjusted, a service crew is dispatched to analyze and repair the system.

SOURCES OF SUPPLY

The raw materials and components used by the Company include HVAC system components, ductwork, steel, sheet metal and copper tubing and piping. These raw materials and components are generally available from a variety of domestic or foreign suppliers at competitive prices. Delivery times are typically short for most raw materials and standard components, but during periods of peak demand, may extend to a month or more. Chillers for large units typically have the longest delivery time and generally have lead times of up to six months. The major components of commercial HVAC systems are compressors and chillers that are manufactured primarily by York Heating and Air Conditioning Corporation ("York"), Carrier Corporation and Trane Air Conditioning Company. The major suppliers of control systems are Honeywell Inc., Johnson Controls Inc., York and Andover Control Corporation. The Company does not have any significant contracts guaranteeing the Company a supply of raw materials or components.

SALES AND MARKETING

The Company has a diverse customer base, with no single customer accounting for more than 2% of pro forma combined 1998 revenues. Management and a dedicated sales force at the Acquired Companies have been responsible for developing and maintaining successful long-term relationships with key customers. Customers of the Acquired Companies generally include building owners and developers and property managers, as well as general contractors, architects and consulting engineers. The Company intends to continue its emphasis on developing and maintaining long-term relationships with its customers by providing superior, high-quality service in a professional manner. Moreover, the dedicated sales force will receive additional technical and sales training to enhance the comprehensive selling skills necessary to serve the HVAC needs of their customers.

The Company also intends to capitalize on cross-marketing and business development opportunities that management believes are available to the Company as a regional or national provider of comprehensive commercial and industrial HVAC and related services. Management believes that it can increasingly leverage the diverse technical and marketing strengths of individual Acquired Companies to expand the

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services offered in other local markets. Eventually, the Company intends to offer comprehensive services from many of its regional locations.

EMPLOYEES

As of December 31, 1998, the Company had 8,893 employees, including 490 management personnel, 7,278 engineers, and service and installation technicians, 253 sales personnel and 872 administrative personnel. As it executes its internal growth and acquisition strategies, the Company expects the number of employees to increase. Certain of the Company's subsidiaries have collective bargaining agreements that cover, in the aggregate, approximately 2,375 employees. The Company has not experienced any strikes or work stoppages and believes its relations with employees covered by collective bargaining agreements are good.

RECRUITING, TRAINING AND SAFETY

The Company's continued future success will depend, in part, on its ability to continue to attract, retain and motivate qualified service technicians, field supervisors and project managers. The Company believes that its success in retaining qualified employees will be based on the quality of its recruiting, training, compensation, employee benefits programs and opportunities for advancement. The Company recruits at local technical schools and community colleges where students focus on learning basic HVAC and related skills. Additionally, Comfort Systems provides on-the-job training, apprenticeship programs, attractive benefit packages, steady employment and opportunities for advancement within the national network of Comfort Systems' companies.

The Company is working to establish "best practices" safety programs throughout its operations to ensure that all technicians comply with safety

standards established by the Company and federal, state and local laws and regulations. Additionally, the Company has implemented a "best practices" safety program throughout its operations, which will provide employees with incentives to improve safety performance and decrease workplace accidents. The Company's employment screening process seeks to determine that prospective employees have the requisite skills, sufficient background references and acceptable driving records, if applicable.

RISK MANAGEMENT, INSURANCE AND LITIGATION

The primary risks in the Company's operations are bodily injury, property damage and injured workers' compensation. The Company has obtained and intends to maintain liability insurance for bodily injury, third party property damage and workers' compensation which it considers sufficient to insure against these risks, subject to self-insured amounts.

The Company is subject to certain claims and lawsuits arising in the normal course of business and maintains various insurance coverages to minimize financial risk associated with these claims. The Company has provided accruals for probable losses and legal fees associated with certain of these actions in its consolidated financial statements. In the opinion of management, uninsured losses, if any, resulting from the ultimate resolution of these matters will not have a material effect on the Company's financial position or results of operations.

The Company's subsidiaries typically warrant labor for the first year after installation on new HVAC systems and pass through to the customer manufacturers' warranties on equipment. The Company's subsidiaries generally warrant labor for 30 days after servicing of existing HVAC systems. The Company does not expect warranty claims to have a material adverse effect on its financial position or results of operations.

COMPETITION

The HVAC industry is highly competitive. The Company believes that purchasing decisions in the commercial and industrial markets are based on (i) long-term customer relationships, (ii) quality, timeliness and reliability of services provided, (iii) competitive price, (iv) range of services provided and (v) scale of operation. The Company believes its strategy of becoming a leading national provider of comprehensive

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HVAC installation services as well as maintenance, repair and replacement of HVAC systems directly addresses these factors. Specifically, the Company's strategy to focus on the highly consultative "design and build" installation market and the maintenance, repair and replacement market, as well as its strategy to operate on a decentralized basis, should promote the development and strengthening of long-term customer relationships. In addition, the Company's focus on attracting, training and retaining quality employees by utilizing professionally managed recruiting, training and benefits programs should allow it to offer high quality, comprehensive HVAC services at a competitive price.

Most of the Company's competitors are small, owner-operated companies that typically operate in a limited geographic area. There are, however, a few public companies focused on providing HVAC services in some of the same service lines provided by the Company. In addition, there are several private companies attempting to consolidate HVAC companies on a regional or national basis. Also, some HVAC equipment manufacturers and public utilities are active in providing maintenance, repair and replacement services in the HVAC industry. Certain of the Company's competitors and potential competitors may have greater financial resources than the Company to finance acquisition and development opportunities, to pay higher prices for the same opportunities or to develop and support their own operations.

FACILITIES AND VEHICLES

The Company leases the majority of its facilities. In most instances these

leases are with the former owners who are now employed by the Company. The Acquired Companies collectively lease offices, warehouses and shop facilities at their various locations. Leased premises range in size from 500 square feet to over 196,000 square feet. The Company believes that its facilities are sufficient for its current needs.

The Company operates a fleet of various owned or leased service trucks, vans and support vehicles. The Company believes that these vehicles generally are well-maintained and adequate for its current operations.

GOVERNMENTAL REGULATION AND ENVIRONMENTAL MATTERS

The Company's operations are subject to various federal, state and local laws and regulations, including: (i) licensing requirements applicable to service technicians, (ii) building and HVAC codes and zoning ordinances, (iii) regulations relating to consumer protection, including those governing residential service agreements and (iv) regulations relating to worker safety and protection of the environment. The Company believes it has all required licenses to conduct its operations and is in substantial compliance with applicable regulatory requirements. Failure of the Company to comply with applicable regulations could result in substantial fines or revocation of the Company's operating licenses.

Many state and local regulations governing the HVAC services trades require permits and licenses to be held by individuals. In some cases, a required permit or license held by a single individual may be sufficient to authorize specified activities for all of the Company's service technicians who work in the state or county that issued the permit or license. The Company intends to implement a policy to ensure that, where possible, any such permits or licenses that may be material to the Company's operations in a particular geographic region are held by at least two Company employees within that region.

The Company's operations are subject to the federal Clean Air Act, as amended (the "Clean Air Act"), which governs air emissions and imposes specific requirements on the use and handling of chlorofluorocarbons ("CFCs") and certain other refrigerants. Clean Air Act regulations require the certification of service technicians involved in the service or repair of equipment containing these refrigerants and also regulate the containment and recycling of these refrigerants. These requirements have increased the Company's training expenses and expenditures for containment and recycling equipment. The Clean Air Act is intended ultimately to eliminate the use of CFCs in the United States and to require alternative refrigerants to be used in replacement HVAC systems.

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EXECUTIVE OFFICERS

The Company has six executive officers.

Fred M. Ferreira, age 55, has served as Chairman of the Board, Chief Executive Officer and President of Comfort Systems since January 1997. Mr. Ferreira was responsible for introducing the consolidation opportunity in the commercial and industrial HVAC industry to Notre Capital Ventures II, L.L.C. ("Notre") and was primarily responsible for the organization of the Company. From 1995 through 1996, Mr. Ferreira was a private investor. He served as Chief Operating Officer and a director of Allwaste, Inc., a publicly-traded environmental services company ("Allwaste"), from 1994 to 1995, and was President of Allwaste Environmental Services, Inc., the largest division of Allwaste, from 1991 to 1994. From 1989 to 1990, Mr. Ferreira served as President of Allied Waste Industries, Inc., an environmental services company. Prior to that time, Mr. Ferreira served as Vice President -- Southern District and in various other positions with Waste Management, Inc., an environmental services company.

Michael Nothum, Jr., age 44, is a director of the Company and became its Chief Operating Officer in January 1998. He was employed by Tri-City Mechanical, Inc., an Arizona corporation that is a wholly-owned subsidiary of the Company,

since 1979, serving as President from 1992 to December 1997.

J. Gordon Beittenmiller, age 40, has served as Executive Vice President, Chief Financial Officer and a director of Comfort Systems since May 1998, and was Senior Vice President, Chief Financial Officer and a director of Comfort Systems from February 1997 to April 1998. From 1994 to February 1997, Mr. Beittenmiller was Corporate Controller of Keystone International, Inc. ("Keystone"), a publicly-traded manufacturer of industrial valves and actuators, and served Keystone in other financial positions from 1991 to 1994. From 1987 to 1991, he was Vice President -- Finance of Critical Industries, Inc., a publicly-traded manufacturer and distributor of specialized safety equipment. From 1982 to 1987, he held various positions with Arthur Andersen LLP. Mr. Beittenmiller is a Certified Public Accountant.

Reagan S. Busbee, age 35, has served as Senior Vice President of Comfort Systems since January 1997. From 1992 through 1996, Mr. Busbee served as Vice President of Chas. P. Young Co., a financial printer and a wholly-owned subsidiary of Consolidated Graphics Inc., a publicly-traded consolidator of the printing industry. From August 1986 to May 1992, he held various positions and was a Certified Public Accountant with Arthur Andersen LLP.

William George, III, age 34, has served as Senior Vice President, General Counsel and Secretary of Comfort Systems since May 1998, and was Vice President, General Counsel and Secretary of Comfort Systems from March 1997 to April 1998. From October 1995 to February 1997, Mr. George was Vice President and General Counsel of American Medical Response, Inc., a publicly traded consolidator of the healthcare transportation industry. From September 1992 to September 1995, Mr. George practiced corporate and antitrust law at Ropes & Gray, a law firm.

Gary E. Hess, age 51, has served as Senior Vice President of Comfort Systems since February 1999. He served Comfort Systems as director of its northeast region from August 1998 to January 1999. Prior to that, he was employed by Hess Mechanical Corporation, a wholly-owned subsidiary of the Company, since 1980, serving as President and Chief Executive Officer. Mr. Hess was President of Associated Builders and Contractors during 1996 and was selected as their 1997 Contractor of the Year.

ITEM 2. PROPERTIES

Most of the Company's subsidiaries lease the real property and buildings from which it operates. The Company's facilities consist of offices, shops, maintenance and warehouse facilities. Generally, leases range from five to ten years and are on terms the Company believes to be commercially reasonable. Certain of these facilities are leased from related parties. In order to maximize available capital, the Company generally intends to continue to lease the majority of its properties. The Company believes that its facilities are adequate for its current needs.

The Company leases its executive and administrative offices in Houston, Texas and Phoenix, Arizona.

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ITEM 3. LEGAL PROCEEDINGS

The Company is from time to time party to litigation in the ordinary course of business. There are currently no pending legal proceedings that, in management's opinion, would have a material adverse effect on the Company's consolidated operating results or financial condition.

ITEM 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS

None.

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ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY AND RELATED STOCKHOLDER MATTERS

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

	HIGH -----	LOW -----
June 27-30, 1997.....	\$ 16.125	\$ 13.00
Third Quarter, 1997.....	\$ 21.5625	\$ 15.50
Fourth Quarter, 1997.....	\$ 20.0625	\$ 15.00
First Quarter, 1998.....	\$ 22.25	\$ 18.125
Second Quarter, 1998.....	\$ 24.75	\$ 19.125
Third Quarter, 1998.....	\$ 26.625	\$ 15.25
Fourth Quarter, 1998.....	\$ 20.50	\$ 14.1875
January 1 - March 26, 1999.....	\$ 18.50	\$ 11.375

As of March 26, 1999, there were approximately 1,512 stockholders of record of the Company's Common Stock, and the last reported sale price on that date was \$15.00 per share.

The Company has never declared or paid a dividend on its Common Stock. The Company currently expects to retain future earnings in order to finance its growth and, consequently, does not intend to declare any dividend on the Common Stock for the foreseeable future. In addition, the Company's revolving credit agreement restricts the ability of the Company to pay dividends without the lender's consent. No market exists for the Company's Restricted Voting Common Stock, which converts to Common Stock upon sale and under certain other conditions.

RECENT SALES OF UNREGISTERED SECURITIES

On November 15, 1998, the Company issued 1,610,889 unregistered shares of its Common Stock in connection with the acquisition of Shambaugh & Son, Inc. On December 11, 1998, the Company issued 382,384 unregistered shares of its Common Stock in connection with the acquisition of an HVAC business, which was not material. In each case, the shares were issued without registration under the Securities Act in reliance on the exemption provided by Section 4(2), no public offering being involved.

ITEM 6. SELECTED FINANCIAL DATA

Comfort Systems acquired the twelve Founding Companies in connection with the IPO on July 2, 1997. Subsequent to the IPO and through December 31, 1998, the Company completed 82 acquisitions, 17 of which were accounted for as poolings-of-interests (the "Pooled Companies") and 65 of which were accounted for as purchases (the "Purchased Companies"). The following selected historical financial data has been derived from the audited financial statements of the Company for each of the three years ended December 31, 1996, 1997, and 1998. The remaining selected historical financial data of the Company has been derived from unaudited financial statements of the Company. These unaudited financial statements have been prepared on the same basis as the audited financial statements of the Company, and in the opinion of the Company, reflect all adjustments necessary for a fair presentation of that historical information. The historical financial statement data reflects the acquisitions of the Founding Companies and Purchased Companies as of their respective acquisition dates and reflects 15 of the Pooled Companies (the "Restated Companies") for all periods presented. Two of the Pooled Companies are considered immaterial poolings based upon criteria set forth by the Securities and Exchange Commission and have not been

restated for all periods presented. The selected historical financial data below should be read in conjunction with the consolidated historical financial statements and related notes.

	YEAR ENDED DECEMBER 31,				
	1994	1995	1996	1997	1998
STATEMENT OF OPERATIONS DATA:					
Revenues.....	\$ 126,023	\$ 126,794	\$ 161,419	\$ 297,646	\$ 853,961
Operating income.....	3,653	4,011	6,575	5,699	68,497
Net income (loss).....	2,896	3,137	4,589	(2,064)	35,013
BALANCE SHEET DATA:					
Working capital.....	\$ 8,803	\$ 10,110	\$ 13,971	\$ 63,137	\$ 133,390
Total assets.....	36,366	42,035	50,366	308,779	789,293
Total debt, including current portion.....	6,738	9,076	8,376	24,726	236,446
Stockholders' equity.....	9,385	10,731	15,429	217,635	379,932

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

INTRODUCTION

The following discussion should be read in conjunction with the consolidated historical financial statements of the Company and related notes thereto. This discussion contains forward-looking statements regarding the business and industry of Comfort Systems within the meaning of the Private Securities Litigation Reform Act of 1995. These statements are based on the current plans and expectations of the Company and involve risks and uncertainties that could cause actual future activities and results of operations to be materially different from those set forth in the forward-looking statements. Important factors that could cause actual results to differ are discussed under "Management's Discussion and Analysis of Financial Condition and Results of Operations -- Factors Which May Affect Future Results."

Comfort Systems was founded in December 1996 to become a leading national provider of HVAC services, primarily focusing on commercial and industrial markets.

On July 2, 1997, Comfort Systems completed the IPO and simultaneously acquired the twelve Founding Companies, which are engaged in providing HVAC services. Subsequent to the IPO, and through December 31, 1998, the Company acquired 82 additional HVAC businesses. Of these additional acquisitions, 17 acquisitions were accounted for as poolings-of-interests and are referred to herein as the Pooled Companies, and the remaining 65 acquisitions were accounted for as purchases and are referred to herein as the Purchased Companies. The consolidated historical financial statements of the Company have been retroactively restated to give effect to the operations of 15 of the Pooled Companies. Two of the Pooled Companies are considered immaterial poolings based upon criteria set forth by the Securities and Exchange Commission and have not been restated for all periods presented.

Pro forma and historical results are not necessarily indicative of future results of the Company because, among other things, the Acquired Companies were not under common control or management prior to their acquisition. The results of the Company have historically been subject to seasonal fluctuations. These pro forma combined and historical statements of operations should be read in conjunction with the consolidated historical financial statements and related notes of Comfort Systems, filed herewith, and the additional information and the respective financial statements and related notes of Comfort Systems and the Founding Companies included in the Company's Registration Statement on Form S-1 (File No. 333-24021) (the "Registration Statement"), as amended, filed with the Securities and Exchange Commission in connection with the IPO.

The timing and magnitude of acquisitions, assimilation costs and the seasonal nature of the HVAC industry may materially affect operating results.

Accordingly, the operating results for any period are not necessarily indicative of the results that may be achieved for any subsequent period.

PRO FORMA COMBINED

The following pro forma combined information is presented as a supplement to reflect the pro forma results of operations as if the IPO and the acquisition of the Founding Companies occurred on January 1, 1997. Therefore, the accompanying unaudited pro forma combined statements of operations and the related management's discussion and analysis of the Company for the years ended December 31, 1998 and 1997, respectively, include the combined operations of the Pooled Companies and the Founding Companies from January 1, 1997, and the Purchased Companies from the dates of their acquisition.

The Founding Companies, Pooled Companies and Purchased Companies were managed prior to their acquisitions as independent private companies. Therefore, historical selling, general, and administrative expenses for the periods presented in the consolidated historical financial statements of the Company reflect compensation and related benefits the owners of those businesses received prior to acquisition. Historical selling, general and administrative expenses also include the non-recurring, non-cash compensation charge of \$11.6 million recorded by Comfort Systems in the first quarter of 1997 related to Common Stock issued to management of and consultants to the Company prior to the IPO. This pro forma combined financial information includes the effects of (a) the IPO, (b) certain reductions in salaries and benefits to the former owners ("the Compensation Differential") of the Founding and Pooled Companies which the former owners agreed would take effect as of the date of the acquisitions, (c) pro forma compensation expense of \$430,000 for the six months ended June 30, 1997, to reflect the ongoing salaries received by corporate management as though those salaries were being paid prior to the IPO, (d) amortization of goodwill resulting from the acquisitions of the Purchased and Founding Companies, (e) interest expense on borrowings of \$11.0 million that would have been necessary to fund certain S Corporation Distributions if they had occurred at the beginning of each period presented, (f) the elimination of the \$11.6 million non-recurring, non-cash compensation charge referred to above and (g) the reduction of the acquisition-related costs incurred in the acquisition of the Pooled Companies. In addition, an incremental tax provision has been recorded as if all applicable Purchased and Founding Companies, and Pooled Companies which were C Corporations had been subject to federal and state income taxes.

This pro forma combined financial information may not be comparable to and may not be indicative of the Company's future results of operations because these acquired companies were not under common control or management prior to their acquisition by the Company. Important factors that could cause actual results to differ are discussed under "Management's Discussion and Analysis of Financial Condition and Results of Operations -- Factors Which May Affect Future Results."

RESULTS OF OPERATIONS -- PRO FORMA COMBINED (UNAUDITED)

	YEAR ENDED DECEMBER 31,			
	1997		1998	
	(IN THOUSANDS)			
Revenues.....	\$ 384,546	100.0%	\$ 853,961	100.0%
Cost of services.....	282,814	73.5	647,512	75.8
Gross profit.....	101,732	26.5	206,449	24.2
Selling, general and administrative expenses.....	63,110	16.4	129,055	15.1
Goodwill amortization.....	3,593	0.9	7,132	0.8

Operating income.....	35,029	9.1	70,262	8.2
Other income (expense).....	(692)	(0.2)	(6,435)	0.8
Income before taxes.....	34,337	8.9	63,827	7.5
Provision for income taxes.....	13,987	--	27,756	--
Pro forma net income.....	\$ 20,350	5.3%	\$ 36,071	4.2%

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1998 COMPARED TO 1997

PRO FORMA REVENUES -- Pro forma combined revenues increased \$469.4 million, or 122.1%, to \$854.0 million in 1998 compared to 1997. The acquisition of the Purchased Companies, excluding "tuck-ins", acquired subsequent to the IPO through the end of 1998 contributed approximately \$426.2 million of revenue in 1998.

PRO FORMA GROSS PROFIT -- Pro forma combined gross profit increased \$104.7 million, or 102.9% to \$206.4 million in 1998 compared to 1997 primarily due to increased revenues at the Founding Companies, the addition of the Purchased Companies and incremental increases in volume and gross margin at some of the Pooled Companies. As a percentage of revenues, pro forma combined gross profit decreased from 26.5% in 1997 to 24.2% in 1998. This decline resulted primarily from the acquisition of the Purchased Companies, which, taken as a whole, have gross margins that are lower than the Company's historical average.

PRO FORMA SELLING, GENERAL AND ADMINISTRATIVE EXPENSES (SG&A) -- Pro forma combined SG&A, excluding goodwill amortization, increased \$65.9 million, or 104.5%, to \$129.1 million in 1998 compared to 1997. These increases were due principally to the addition of the Purchased Companies along with corporate office and management expenses associated with the Company's establishment as a public company. As a percentage of revenues, pro forma combined SG&A, excluding goodwill amortization, decreased from 16.4% to 15.1% in 1998, compared to the prior year. This decrease is due to the Company's acquisition of the Purchased Companies, which, taken as a whole, have SG&A as a percentage of revenues that is lower than the Company's historical average.

PRO FORMA OPERATING INCOME -- Pro forma combined operating income increased \$35.2 million, or 100.6%, to \$70.3 million in 1998 compared to 1997 primarily due to increased revenues at the Founding Companies, the addition of the Purchased Companies and incremental increases in volume at some of the Pooled Companies. As a percentage of revenues, pro forma operating income decreased from 9.1% in 1997 to 8.2% in 1998. This decline resulted primarily from the acquisition of the Purchased Companies, which, taken as a whole, have operating income margins that are lower than the Company's historical average.

PRO FORMA OTHER INCOME (EXPENSE) -- Pro forma combined other expense, net, increased to \$6.4 million in 1998 primarily due to the increase in interest expense related to the acquisition of the Purchased Companies acquired subsequent to the IPO and through the end of 1998.

HISTORICAL

The following historical consolidated financial information represents the operations of the Restated Companies for all periods presented and the Founding Companies and Purchased Companies from their respective dates of acquisition. Historical selling, general, and administrative expenses for the periods presented in the consolidated financial statements of the Company reflect compensation and related benefits the owners of those businesses received prior to acquisition. The following historical financial information for 1997 includes the non-recurring, non-cash compensation charge of \$11.6 million recorded by Comfort Systems in the first quarter of 1997, non-recurring acquisition-related costs and reflects normal recurring corporate costs of Comfort Systems subsequent to the IPO. This compensation charge is not deductible for federal

and state income taxes. This historical consolidated information has been derived from the audited consolidated financial statements of the Company.

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RESULTS OF OPERATIONS -- HISTORICAL

YEAR ENDED DECEMBER 31,

	1996		1997		1998	
	(IN THOUSANDS)					
Revenues.....	\$ 161,419	100.0%	\$ 297,646	100.0%	\$ 853,961	100.0%
Cost of services.....	128,049	79.3	220,419	74.1	647,512	75.8
Gross profit.....	33,370	20.7	77,227	25.9	206,449	24.2
Selling, general and administrative expenses.....	26,795	16.6	69,677	23.4	130,820	15.3
Goodwill amortization.....	--	--	1,851	0.6	7,132	0.8
Operating income.....	6,575	4.1	5,699	1.9	68,497	8.1
Other income (expense).....	(478)	(0.3)	(161)	--	(6,435)	(0.8)
Income before taxes.....	6,097	3.8	5,538	1.9	62,062	7.3
Provision for income taxes.....	1,508	--	7,602	--	27,049	--
Net income (loss).....	\$ 4,589	2.8%	\$ (2,064)	(0.7)%	\$ 35,013	4.1%

1998 COMPARED TO 1997

REVENUES -- Revenues increased \$556.3 million, or 186.9%, to \$854.0 million in 1998 compared to 1997. The increase in revenues over the prior year is primarily due to the acquisition of the Founding Companies and Purchased Companies coupled with broad growth in the Cincinnati, Syracuse and Kansas City, Kansas markets.

GROSS PROFIT -- Gross profit increased \$129.2 million, or 167.3%, to \$206.4 million in 1998 compared to 1997. The increase in gross profit was primarily due to the acquisitions described above. As a percentage of revenues, gross profit decreased from 25.9% in 1997 to 24.2% in 1998. This decline resulted primarily from the acquisition of the Purchased Companies, which, taken as a whole, have gross margins that are lower than the Company's historical average.

SELLING, GENERAL AND ADMINISTRATIVE EXPENSES -- SG&A, excluding goodwill amortization, in 1997 and 1998 includes \$10.3 million and \$1.8 million, respectively, of Compensation Differential and acquisition related costs which will be eliminated prospectively. Additionally, the Company recorded the non-recurring, non-cash Compensation Charge of \$11.6 million in the first quarter of 1997. Excluding the Compensation Differential, the Compensation Charge, and goodwill amortization, SG&A increased \$81.3 million to \$129.1 million in 1998. Most of this increase was related to the Founding Companies and Purchased Companies acquired since the IPO, along with corporate office and management expenses associated with the Company's establishment as a public company.

OPERATING INCOME -- Operating income increased \$62.8 million, or 1,101.9% to \$68.5 million in 1998 compared to 1997 primarily due to increased revenues at the Founding Companies, the addition of the Purchased Companies and incremental increases in volume at some of the Pooled Companies. As a percentage of revenue, operating income increased from 1.9% in 1997 to 8.1% in 1998. As discussed above, this increase primarily resulted from the Compensation Differential and the Compensation Charge recorded in 1997.

OTHER INCOME (EXPENSE) -- Other expense, net, increased to \$6.4 million in 1998 compared to 1997 primarily due to the increase in interest expense related to the acquisition of the Purchased Companies acquired subsequent to the IPO and through the end of 1998.

1997 COMPARED TO 1996

REVENUES -- Revenues increased \$136.2 million, or 84.4%, to \$297.6 million in 1997 compared to 1996. The acquisition of the Founding Companies and Purchased Companies in the second half of 1997 accounted for over 90% of the increase in revenues over the prior year. The remaining increase over the

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prior year is primarily attributed to increased demand for the Company's commercial service capabilities in the Cincinnati market.

GROSS PROFIT -- Gross Profit increased \$43.9 million, 131.4% to \$77.2 million in 1997 compared to 1996. The acquisition of the Founding Companies and Purchased Companies accounted for approximately three-fourths of the increase over the prior year. Gross profit as a percentage of revenues increased as a result of the Founding Companies' positive impact on the overall gross profit percentage in the second half of 1997 and an overall improvement from the Pooled Companies compared to the prior year. The Company's operations in Mobile, Alabama contributed to the largest increase as a percentage of revenues among the Pooled Companies due to higher margins associated with its specialized "design and build" HVAC installation capabilities.

SELLING, GENERAL AND ADMINISTRATIVE EXPENSES -- SG&A, excluding goodwill amortization, increased \$42.9 million, or 160.0%, to \$69.7 million in 1997 compared to 1996. Approximately 45% of this increase is related to the acquisition of the Founding and Purchased Companies in the second half of 1997. Historical SG&A for 1997 includes the non-recurring, non-cash compensation charge of \$11.6 million recorded by Comfort Systems in the first quarter of 1997 related to Common Stock issued to management of and consultants to the Company. The Company's establishment as a public company in 1997 resulted in \$2.8 million of corporate office and management expenses in 1997 whereas no such corporate expenses are reflected in 1996 as the Company was not yet public. Of this amount, approximately \$0.6 million was non-recurring acquisition costs in 1997 related to the Pooled Companies. The remaining increase related to increases in personnel and infrastructure to support growth at certain of the Pooled Companies, and does not reflect the reduction in management compensation and benefits as a result of the mergers of these Pooled Companies with Comfort Systems.

OPERATING INCOME -- Operating income decreased \$0.9 million, or 13.3%, to \$5.7 million in 1997 compared to 1996 primarily due to revenues attributed by the acquisition of the Founding and Purchased Companies offset by the Compensation Charge and corporate office and management expenses recorded in 1997 as discussed above.

OTHER INCOME (EXPENSE) -- Other expense, net, decreased to \$0.2 million in 1997 compared to 1996 due primarily to the increase in interest income of \$0.7 million resulting from the investment of temporary excess cash from the IPO.

LIQUIDITY AND CAPITAL RESOURCES -- HISTORICAL

For the year ended December 31, 1998, net cash used in operating activities was \$5.5 million primarily due to a decrease in accounts payable of \$15.0 million, an increase in accounts receivable of \$34.9 million and an increase in cost and estimated earnings in excess of billings of \$7.9 million. The increase in receivables is attributed to growth. Accounts payable balances decreased from the date of acquisition at various locations as certain companies took advantage of cash discounts for early payment. Cash provided from operations for 1997 and 1996 was \$1.0 million and \$7.2 million, respectively.

Cash used in investing activities was \$143.1 million for the year ended December 31, 1998, primarily in connection with the acquisition of Purchased Companies for \$133.3 million, net of cash acquired. Cash flows used in investing activities for 1997 and 1996 were \$57.6 million and \$3.4 million, respectively. The uses of cash in 1997 and 1996 were primarily for the acquisition of the Founding Companies and Purchased Companies and additions to equipment, respectively.

Cash provided by financing activities for the year ended December 31, 1998 was \$137.5 million and was primarily attributable to the \$16.7 million received from the second public offering (the "Second Public Offering") and net borrowings of long-term debt of \$124.2 million which were primarily used to fund acquisitions. Net cash provided by financing activities in 1997 was \$66.6 million and was primarily attributable to the \$79.9 million from the IPO, which was partially offset by a net reduction in outstanding debt. Net cash used in financing activities in 1996 was \$2.3 million primarily due to the net reduction in outstanding debt.

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On July 2, 1997, Comfort Systems completed the offering of 6,100,000 shares of Common Stock to the public at \$13.00 per share. The net proceeds to Comfort Systems from the IPO (after deducting underwriting commissions and offering expenses) were \$68.8 million. Of this amount, \$45.3 million was used to pay the cash portion of the purchase prices of the Founding Companies.

In connection with the IPO, the Company granted its underwriters an option to sell additional 915,000 shares at \$13.00 per share. On July 9, 1997, the underwriters exercised this option. Net proceeds to the Company from this sale of shares were \$11.1 million after deducting underwriting commissions.

On June 16, 1998, the Company completed a Second Public Offering of 400,000 shares of its Common Stock to the public at \$20.00 per share. The net proceeds from this offering (after deducting underwriting commissions and offering expenses) of \$7.6 million were used to repay debt.

In connection with the Second Public Offering, the Company granted its underwriters an option to sell additional shares at \$20.00 per share. On July 21, 1998, the underwriters exercised this option. An additional 461,479 shares of Common Stock was sold and the net proceeds of \$8.8 million, after deducting underwriting commissions, were used to repay debt.

Subsequent to December 31, 1998, and through March 26, 1999, the Company completed acquisitions of 10 companies for approximately \$9.8 million in cash, 381,690 shares of Common Stock, approximately \$2.2 million in convertible subordinated notes and approximately \$3.3 million in subordinated notes. These acquisitions will be accounted for as purchase transactions.

In July 1997, the Company entered into a credit agreement with Bank One, Texas, N.A. (the "Credit Facility"). The Credit Facility was amended and restated in September 1997 primarily to provide for additional banks to lend to the Company under the Credit Facility. At that time, the Credit Facility provided the Company with an unsecured revolving line of credit of \$75 million. The Credit Facility was further amended in April 1998 and again in December 1998 in order to increase borrowing capacity and to provide for additional banks to lend to the Company under the Credit Facility. The Credit Facility currently provides the Company with a revolving line of credit of up to \$300 million secured by accounts receivable, inventory and the shares of capital stock of the Company's subsidiaries. The Company currently has a choice of two interest rate options when borrowing under the Credit Facility. Under one option, the interest rate is determined based on the higher of the Federal Funds Rate plus 0.5% or the bank's prime rate. An additional margin of zero to 1.25% is then added to the higher of these two rates. Under the other interest rate option, borrowings bear interest based on designated short-term Eurodollar rates (which generally approximate LIBOR) plus 1.0% to 2.5%. The additional margin for both options depends on the ratio of the Company's debt to EBITDA. Commitment fees of 0.25% to 0.5% per annum, also depending on the ratio of debt to EBITDA, are payable on the unused portion of the facility. The Credit Facility prohibits the payment of dividends by the Company without the lenders' approval and requires the Company to comply with certain financial covenants. The amended Credit Facility expires on November 1, 2001, at which time all amounts outstanding under the Credit Facility are due.

As of December 31, 1998, the Company had borrowed \$170.7 million under the Credit Facility at an average interest rate of approximately 6.8% for the year ended December 31, 1998. As of March 26, 1999, \$188.0 million (unaudited) was

outstanding under this Facility.

The Company anticipates that available borrowings under its Credit Facility and cash flow from operations will provide cash in excess of the Company's normal working capital needs, debt service requirements, planned capital expenditures for equipment and additional acquisition opportunities. Should the Company accelerate or revise its acquisition program, the Company may need to seek additional financing through the public or private sale of equity or debt securities or increase its Credit Facility. There can be no assurance that the Company will secure such financing if and when it is needed, or that such financing will be available on terms that the Company deems acceptable.

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YEAR 2000

Computers, software, and other equipment utilizing embedded technology that use only two digits to identify a year in a date field may be unable to process accurately certain date-based information at or after the year 2000. This is commonly referred to as the "Year 2000 issue." The Company has implemented a Year 2000 program and is using both internal and external resources to assess and replace or reprogram computers, software and other equipment as needed. Key areas of the Company's operations that are being addressed include external customers, external suppliers and internal computers, software and potential back-up and contingency plans.

Year 2000 considerations may have an effect on some of the Company's customers and suppliers, and thus indirectly on the Company. If the Company's vendors or suppliers of the Company's necessary dispatching, power, telecommunications, transportation and financial services fail to provide the Company with equipment and service, the Company will be unable to provide services to its customers. If any of these uncertainties were to occur, the Company's business, financial condition and results of operations could be materially adversely affected. The Company is studying the potential effect on the Company with respect to customers and suppliers with Year 2000 issues and does not currently expect a material effect on the Company's financial condition or results of operations at this time. The Company has initiated communications with its significant customers and suppliers to assess the extent to which the Company is vulnerable to those third parties with which the Company transacts business.

The Company's initial assessment identified Year 2000 issues within the Company's operating systems. The total cost of anticipated Year 2000 enhancements is approximately \$500,000 and is being funded from operating cash flows. The majority of such costs is for the acquisition of hardware and software and will be capitalized. The remaining costs will be expensed as incurred and are not expected to have a material effect on the results of operations. The Company expects, but cannot be certain, that it will be substantially complete with Year 2000 enhancements for internal operating systems by September 1999.

The ability of third parties with which the Company transacts business to adequately address Year 2000 issues is outside of the Company's control. There can be no assurance that the failure of the Company, or such third parties, to adequately address their respective Year 2000 issues will not have a material adverse effect on the Company's financial condition or results of operations. Accordingly, as part of the Year 2000 program, contingency plans are being assessed and developed to respond to any failures as they may occur. Such contingency plans are scheduled to be completed during 1999. At this time, the Company does not expect that any failure of the Company or third parties to achieve Year 2000 compliance will adversely affect the Company.

SEASONALITY AND CYCLICALITY

The HVAC industry is subject to seasonal variations. Specifically, the demand for new installation and replacement is generally lower during the winter months due to reduced construction activity during inclement weather and less use of air conditioning during the colder months. Demand for HVAC services is

generally higher in the second and third calendar quarters due to increased construction activity and increased use of air conditioning during the warmer months. Accordingly, the Company expects its revenues and operating results generally will be lower in the first and fourth calendar quarters.

Historically, the construction industry has been highly cyclical. As a result, the Company's volume of business may be adversely affected by declines in new installation projects in various geographic regions of the United States.

FACTORS WHICH MAY AFFECT FUTURE RESULTS

The Company's future operating results are difficult to predict and may be affected by a number of factors, including the lack of a combined operating history and the difficulty of integrating acquired businesses, cyclical and seasonal fluctuations in the demand for HVAC systems, difficulties in implementing its acquisition strategy and the availability of acquisition financing. As a result of these and other

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factors, there can be no assurance that the Company will not experience material fluctuations in future operating results on a quarterly or annual basis.

The Company's success depends in part on its ability to integrate the Acquired Companies and the future businesses that it acquires. The businesses operated as separate, independent entities prior to their affiliation with the Company, and there can be no assurance that the Company will be able to integrate the operations of these businesses successfully or institute the necessary systems and procedures, including accounting and financial reporting systems, to effectively manage the combined enterprise on a profitable basis. The pro forma combined historical financial results of the acquired businesses primarily cover periods when such businesses were not under common control or management and, therefore, may not be indicative of the Company's future financial or operating results.

Key elements of the Company's strategy are to both maintain and improve the profitability of the acquired businesses and to continue to expand the revenues of acquired businesses. The Company's level of success in this strategy, if any, will be affected by demand for new or replacement HVAC systems. In part, such demand will be contingent upon factors outside the Company's control, such as the level of new construction or the potential for slower replacement based upon the overall level of activity in the economy. The HVAC industry is subject to both seasonal and cyclical variations, meaning that temperate weather and downturns in the domestic or regional economies will negatively affect overall demand for the Company's services.

The Company has grown significantly through the acquisition of additional HVAC and complementary businesses and intends to continue such acquisition activity in the future. However, the Company could face difficulties in implementing its acquisition strategy. The Company faces continuing competition for acquisition candidates, a fact that may limit the number of acquisition opportunities and may lead to higher acquisition prices. The HVAC industry is currently undergoing rapid consolidation on both a national and a regional level by the Company and by other companies that have acquisition objectives that are similar to the Company's objectives. Additionally, HVAC equipment manufacturers and certain public utilities are beginning to provide maintenance, repair and replacement services within the HVAC industry. These companies generally are better capitalized, have greater name recognition and may be able to provide these services at a lower cost.

Acquisitions also involve a number of special risks, including failure of the acquired business to achieve expected results, diversion of management's attention and failure to retain key personnel of the acquired business. There are also risks associated with unanticipated events or liabilities resulting from the acquired businesses' operations prior to their acquisition. Any of these risks, or a combination of them, could have a material adverse effect on the Company's business, financial condition and results of operations.

The timing, size and success of the Company's acquisition efforts depend in large part on the availability of financing. The Company intends to continue to finance future acquisitions by using shares of its Common Stock for a portion of the consideration to be paid. If the Common Stock does not have sufficient market value, or if potential acquisition candidates are otherwise unwilling to accept Common Stock as part of the consideration for the sale of their businesses, the Company may be required to utilize more of its cash resources, if available, to maintain its acquisition program. One factor that may affect the Common Stock's market price in the future, and thus its usefulness as acquisition currency, is the dilutive effect of the continued issuance of shares in connection with acquisitions. The availability of such shares in the market when they become eligible for sale could affect the Company's stock valuation (i.e., upon the expiration of contractual restrictions or of specified holding periods for unregistered shares). If the Company fails to maintain its stock valuation, and if the Company does not have sufficient cash resources, its growth could be limited unless it is able to obtain additional capital through debt or equity financing.

The timely provision of high-quality installation service and maintenance, repair and replacement of HVAC systems by the Company requires an adequate supply of skilled HVAC technicians. In addition, the Company depends on the senior management of the businesses it acquires to remain committed to the success of the businesses after their acquisition. Accordingly, the Company's ability to maintain and

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increase its productivity and profitability are also affected by its ability to employ, train and retain the skilled technicians necessary to meet the Company's service requirements, and to retain senior management in acquired businesses.

HVAC systems are also subject to various environmental statutes and regulations, including the Clean Air Act and those regulating the production, servicing and disposal of certain ozone depleting refrigerants used in HVAC systems. There can be no assurance that the regulatory environment in which the Company operates will not change significantly in the future. The Company's failure to comply, or the costs of compliance, with such laws and regulations could adversely affect the Company's future results.

Because of these and other factors, past financial performance should not necessarily be considered an indicator of future performance. Investors should not rely solely on historical trends to anticipate future results and should be aware that the trading price of the Company's Common Stock may be subject to wide fluctuations in response to quarter-to-quarter variations in operating results, general conditions in the HVAC industry, the increasing supply of tradable stock, changes in analysts' earnings estimates, recommendations by analysts, or other events.

ITEM 7-A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

The Company is exposed to market risk primarily related to potential adverse changes in interest rates as discussed below. Management is actively involved in monitoring exposure to market risk and continues to develop and utilize appropriate risk management techniques. The Company is not exposed to any other significant market risks including commodity price risk, foreign currency exchange risk or interest rate risks from the use of derivative financial instruments. Management does not use derivative financial instruments for trading or to speculate on changes in interest rates or commodity prices.

Therefore, the Company's exposure to changes in interest rates primarily results from its short-term and long-term debt with both fixed and floating interest rates. The Company's debt with fixed interest rates consists of capital leases, convertible subordinate notes, subordinated notes and various other notes payable. The Company's debt with variable interest rates consists entirely of its revolving credit facility. The following table presents principal amounts (stated in thousands) and related average interest rates by year of maturity for the Company's debt obligations and their indicated fair market value at December 31, 1998:

	1999	2000	2001	2002	2003	THEREAFTER	FAIR VALUE
Liabilities -- Long-Term Debt:							
Variable Rate Debt.....	\$ --	\$ --	\$ 170,700	\$ --	\$ --	\$--	\$170,700
Average Interest Rate.....	-- %	-- %	6.8%	-- %	-- %	-- %	6.8%
Fixed Rate Debt.....	\$ 9,077	\$ 11,218	\$ 43,711	\$ 1,176	\$ 564	\$--	\$ 65,746
Average Interest Rate.....	6.0%	6.0%	4.7%	5.4%	6.0%	-- %	5.11%

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ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTAL DATA

COMFORT SYSTEMS USA, INC.
PRO FORMA COMBINED STATEMENTS OF OPERATIONS
FOR THE YEARS ENDED DECEMBER 31, 1998 & 1997
(IN THOUSANDS, EXCEPT PER SHARE AMOUNTS)
(UNAUDITED)

These pro forma combined financial statements should be read in conjunction with the audited consolidated historical financial statements of Comfort Systems USA, Inc. included elsewhere in this report.

	YEAR ENDED DECEMBER 31,	
	1997	1998
	(IN THOUSANDS)	
Revenues.....	\$ 384,546	\$ 853,961
Cost of services.....	282,814	647,512
Gross profit.....	101,732	206,449
Selling, general and administrative expenses.....	63,110	129,055
Goodwill amortization.....	3,593	7,132
Operating income.....	35,029	70,262
Other income (expense).....	(692)	(6,435)
Income before taxes.....	34,337	63,827
Provision for income taxes.....	13,987	27,756
Pro forma net income.....	\$ 20,350	\$ 36,071
Pro forma net income per share (basic).....	\$ 0.79	\$ 1.09
Pro forma net income per share (diluted).....	0.78	1.07
Shares used in computing pro forma net income per share (basic).....	25,747	32,962
Shares used in computing pro forma net income per share (diluted).....	25,940	34,329

The pro forma combined financial information for the years ended December 31, 1998 and 1997, includes the results of Comfort Systems and the Founding Companies from January 1, 1997, the Purchased Companies from date of their respective acquisitions and the retroactive restatement to January 1, 1997 of the Pooled Companies. The Founding Companies, Pooled Companies and Purchased Companies were managed prior to their acquisitions as independent private

companies. Therefore, historical selling, general, and administrative expenses for the periods presented in the consolidated historical financial statements of the Company reflect compensation and related benefits the owners of those businesses received prior to acquisition. Historical selling, general and administrative expenses also include the non-recurring, non-cash compensation charge of \$11.6 million recorded by Comfort Systems in the first quarter of 1997 related to Common Stock issued to management of and consultants to the Company prior to the IPO. This pro forma combined financial information includes the effects of (a) the IPO, (b) certain reductions in salaries and benefits to the former owners ("the Compensation Differential") of the Founding and Pooled Companies which the former owners agreed would take effect as of the date of the acquisitions, (c) pro forma compensation expense of \$430,000 for the six months ended June 30, 1997, to reflect the ongoing salaries received by corporate management as though those salaries were being paid prior to the IPO, (d) amortization of goodwill resulting from the acquisitions of the Purchased and Founding Companies, (e) interest expense on borrowings of \$11.0 million that would have been necessary to fund certain S Corporation Distributions if they had occurred at the beginning of each period presented, (f) the elimination of the \$11.6 million non-recurring, non-cash compensation charge referred to above and (g) the elimination of the acquisition-related costs incurred in the acquisition of the Pooled Companies. In addition, an incremental tax provision has been recorded as if all applicable Purchased and Founding Companies, and

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Pooled Companies which were C Corporations had been subject to federal and state income taxes. Diluted earnings per share data presented above was calculated in accordance with Statement of Financial Accounting Standards No. 128. The diluted earnings per share data presented above reflects the dilutive effect, if any, of stock options and convertible subordinated notes which were outstanding during the periods presented.

This pro forma combined financial information may not be comparable to and may not be indicative of the Company's future results of operations because these Acquired Companies were not under common control or management.

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REPORT OF INDEPENDENT PUBLIC ACCOUNTANTS

To Comfort Systems USA, Inc.:

We have audited the accompanying consolidated balance sheets of Comfort Systems USA, Inc. (a Delaware corporation) and subsidiaries as of December 31, 1997 and 1998, and the related consolidated statements of operations, stockholders' equity and cash flows for each of the three years in the period ended December 31, 1998. These consolidated financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these consolidated financial statements based on our audits.

We conducted our audits in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the consolidated financial statements. An audit also includes 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 consolidated financial statements referred to above present fairly, in all material respects, the consolidated financial position of Comfort Systems USA, Inc., and subsidiaries as of December 31, 1997 and 1998, and the consolidated results of their operations and their cash flows for each of the three years in the period ended December 31, 1998, in conformity with generally accepted accounting principles.

COMFORT SYSTEMS USA, INC.
CONSOLIDATED BALANCE SHEETS
(IN THOUSANDS, EXCEPT SHARE AMOUNTS)

	DECEMBER 31,	
	1997	1998
	-----	-----
ASSETS		
CURRENT ASSETS:		
Cash and cash equivalents.....	\$ 18,097	\$ 6,985
Accounts receivable.....	86,120	241,332
Less -- Allowance.....	1,698	4,758
	-----	-----
Accounts receivable,		
net.....	84,422	236,574
Other receivables.....	879	2,733
Inventories.....	7,360	14,768
Prepaid expenses and other.....	4,993	14,264
Costs and estimated earnings in excess of billings.....	14,034	37,228
	-----	-----
Total current assets.....	129,785	312,552
PROPERTY AND EQUIPMENT, net.....	13,676	34,413
GOODWILL, net.....	163,126	430,526
OTHER NONCURRENT ASSETS.....	2,192	11,802
	-----	-----
Total assets.....	\$ 308,779	\$ 789,293
	=====	=====

LIABILITIES AND STOCKHOLDERS' EQUITY

CURRENT LIABILITIES:		
Current maturities of long-term debt.....	\$ 2,030	\$ 1,568
Current maturities of notes to affiliates and former owners.....	315	7,509
Accounts payable.....	28,353	74,161
Accrued compensation and benefits.....	7,603	25,869
Billings in excess of costs and estimated earnings.....	11,525	43,968
Income taxes payable.....	5,135	1,299
Other current liabilities.....	11,687	24,788
	-----	-----
Total current liabilities.....	66,648	179,162
DEFERRED INCOME TAXES.....	1,061	1,124
LONG-TERM DEBT, NET OF CURRENT MATURITIES.....	16,956	171,039
NOTES TO AFFILIATES AND FORMER OWNERS...	5,425	56,330
	-----	-----
OTHER LONG-TERM LIABILITIES.....	1,054	1,706
	-----	-----
Total liabilities.....	91,144	409,361
COMMITMENTS AND CONTINGENCIES		
STOCKHOLDERS' EQUITY:		

Preferred stock, \$.01 par, 5,000,000 shares authorized, none issued and outstanding.....	--	--
Common stock, \$.01 par, 102,969,912 shares authorized, 28,013,436 and 38,141,180 shares issued and outstanding, respectively.....	280	381
Additional paid-in capital.....	205,829	333,978
Retained earnings.....	11,526	45,573
	-----	-----
Total stockholders' equity.....	217,635	379,932
	-----	-----
Total liabilities and stockholders' equity.....	\$ 308,779	\$ 789,293
	=====	=====

Reflects a 121.1387-for-one stock split effective on March 19, 1997

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

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COMFORT SYSTEMS USA, INC.
CONSOLIDATED STATEMENTS OF OPERATIONS
(IN THOUSANDS, EXCEPT PER SHARE DATA)

	YEAR ENDED DECEMBER 31,		
	1996	1997	1998
	-----	-----	-----
REVENUES.....	\$ 161,419	\$ 297,646	\$ 853,961
COST OF SERVICES.....	128,049	220,419	647,512
	-----	-----	-----
Gross profit.....	33,370	77,227	206,449
SELLING, GENERAL AND ADMINISTRATIVE EXPENSES.....	26,795	69,102	130,370
GOODWILL AND OTHER AMORTIZATION.....	--	1,851	7,132
ACQUISITION RELATED EXPENSES.....	--	575	450
	-----	-----	-----
Operating income.....	6,575	5,699	68,497
OTHER INCOME (EXPENSE):			
Interest income.....	376	1,187	957
Interest expense.....	(561)	(1,331)	(7,633)
Other.....	(293)	(17)	241
	-----	-----	-----
Other income (expense).....	(478)	(161)	(6,435)
	-----	-----	-----
INCOME BEFORE INCOME TAXES.....	6,097	5,538	62,062
PROVISION FOR INCOME TAXES.....	1,508	7,602	27,049
	-----	-----	-----
NET INCOME (LOSS).....	\$ 4,589	\$ (2,064)	\$ 35,013
	=====	=====	=====
NET INCOME (LOSS) PER SHARE:			
Basic.....	\$ 0.45	\$ (0.11)	\$ 1.06
	=====	=====	=====
Diluted.....	\$ 0.45	\$ (0.11)	\$ 1.04
	=====	=====	=====
SHARES USED IN COMPUTING NET INCOME (LOSS) PER SHARE:			
Basic.....	10,117	18,954	32,962

Diluted.....	10,117	18,954	34,329
--------------	--------	--------	--------

Reflects a 121.1387-for-one stock split effective on March 19, 1997

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

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COMFORT SYSTEMS USA, INC.
CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY
(IN THOUSANDS, EXCEPT SHARE AMOUNTS)

	COMMON STOCK		ADDITIONAL PAID-IN CAPITAL	RETAINED EARNINGS (DEFICIT)	TOTAL STOCKHOLDERS' EQUITY
	SHARES	AMOUNT			
BALANCE AT DECEMBER 31, 1995.....	5,875,989	\$ 58	\$ 200	\$ 10,473	\$ 10,731
S Corporation distributions made by certain Pooled Companies.....	--	--	--	(1,107)	(1,107)
Adjustments to conform fiscal year ends of Pooled Companies.....	--	--	--	1,104	1,104
Initial Capitalization.....	121,139	1	--	--	1
Net income.....	--	--	--	4,589	4,589
Pooled Companies not restated.....	69,184	1	11	317	329
Other.....	--	--	5	(223)	(218)
BALANCE AT DECEMBER 31, 1996.....	6,066,312	60	216	15,153	15,429
Issuance of Common Stock:					
Proceeds of the Initial Public Offering.....	7,015,000	70	79,805	--	79,875
Acquisition of Founding Companies.....	9,720,927	98	100,999	--	101,097
Issuance of management shares.....	4,118,708	41	11,556	--	11,597
Acquisition of Purchased Companies.....	1,092,489	11	13,253	--	13,264
S Corporation distributions made by certain Pooled Companies.....	--	--	--	(2,191)	(2,191)
Adjustments to conform fiscal year-ends of Pooled Companies....	--	--	--	727	727
Net loss.....	--	--	--	(2,064)	(2,064)
Other.....	--	--	--	(99)	(99)
BALANCE AT DECEMBER 31, 1997.....	28,013,436	280	205,829	11,526	217,635
Issuance of Common stock:					
Proceeds of the Second Public Offering.....	861,479	9	15,892	--	15,901
Acquisition of Purchased Companies.....	9,212,573	92	111,456	--	111,548
Issuance of Employee Stock Purchase Plan shares.....	29,362	--	482	--	482
Issuance of shares for options exercised.....	24,330	--	319	--	319
S Corporation distributions made by certain Pooled Companies.....	--	--	--	(966)	(966)
Net income.....	--	--	--	35,013	35,013
BALANCE AT DECEMBER 31, 1998.....	38,141,180	\$ 381	\$ 333,978	\$ 45,573	\$ 379,932

Reflects a 121.1387-for-one stock split effective on March 19, 1997

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

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COMFORT SYSTEMS USA, INC.
CONSOLIDATED STATEMENTS OF CASH FLOWS
(IN THOUSANDS)

YEAR ENDED DECEMBER 31,

	1996	1997	1998
CASH FLOWS FROM OPERATING ACTIVITIES:			
Net income (loss).....	\$ 4,589	\$ (2,064)	\$ 35,013
Adjustments to reconcile net income (loss) to net cash provided by (used in) operating activities --			
Depreciation and amortization expense.....	1,788	4,786	14,001
Bad debt expense.....	177	583	1,253
Compensation expense related to issuance of management shares.....	--	11,556	--
Deferred tax expense (benefit).....	306	(630)	960
Gain on sale of property and equipment.....	(2)	(95)	(274)
Pooled Companies not restated.....	32	--	--
Adjustment to conform year-end of certain pooled companies.....	1,104	727	--
Changes in operating assets and liabilities, net of effects of acquisitions of Founding and Purchased Companies --			
(Increase) decrease in --			
Receivables, net.....	(3,347)	(12,066)	(34,915)
Inventories.....	(315)	1,008	(788)
Prepaid expenses and other current assets.....	(1,210)	503	2,437
Cost and estimated earnings in excess of billings.....	109	(5,167)	(7,926)
Other noncurrent assets.....	338	65	113
Increase (decrease) in --			
Accounts payable and accrued liabilities.....	2,510	1,170	(14,991)
Billings in excess of costs and estimated earnings.....	1,046	546	208
Other, net.....	64	31	(616)
	-----	-----	-----
Net cash provided by (used in) operating activities.....	7,189	953	(5,525)
	-----	-----	-----
CASH FLOWS FROM INVESTING ACTIVITIES:			
Purchases of property and equipment.....	(3,489)	(4,501)	(11,137)
Proceeds from sales of property and equipment.....	87	936	1,369
Cash paid for Founding Companies, net of cash acquired.....	--	(42,295)	--
Cash paid for Purchased Companies, net of cash acquired.....	--	(11,781)	(133,338)
	-----	-----	-----
Net cash used in investing activities.....	(3,402)	(57,641)	(143,106)
	-----	-----	-----
CASH FLOWS FROM FINANCING ACTIVITIES:			
Payments on long-term debt.....	(4,655)	(38,157)	(109,508)
Borrowings of long-term debt.....	3,449	27,107	233,684

S Corporation distributions paid by certain Pooled Companies.....	(1,107)	(2,090)	(966)
Proceeds from issuance of common stock, net of offering costs.....	--	79,916	16,702
Other.....	52	(189)	(2,393)
	-----	-----	-----
Net cash provided by (used in) financing activities.....	(2,261)	66,587	137,519
	-----	-----	-----
NET INCREASE (DECREASE) IN CASH.....	1,526	9,899	(11,112)
CASH AND CASH EQUIVALENTS, beginning of year.....	6,672	8,198	18,097
	-----	-----	-----
CASH AND CASH EQUIVALENTS, end of year.....	\$ 8,198	\$ 18,097	\$ 6,985
	=====	=====	=====

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

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COMFORT SYSTEMS USA, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
DECEMBER 31, 1998

1. BUSINESS AND ORGANIZATION:

Comfort Systems USA, Inc., a Delaware corporation ("Comfort Systems" and collectively with its subsidiaries, the "Company"), is a national provider of comprehensive heating, ventilation and air conditioning ("HVAC") installation, maintenance, repair and replacement services. Founded in December 1996, the Company is consolidating the fragmented commercial and industrial HVAC markets, executing most of its applications within office buildings, retail centers, apartment complexes, hotels, manufacturing plants and government facilities. In addition to standard HVAC services, the Company also provides specialized applications such as process cooling, control systems, electronic monitoring and process piping. Certain locations also perform related services such as electrical and plumbing.

On July 2, 1997, Comfort Systems completed the initial public offering (the "IPO") of its Common Stock (the "Common Stock") and simultaneously acquired twelve companies (collectively referred to as the "Founding Companies") engaged in providing HVAC services. The Founding Companies had 18 operating locations in ten states. Subsequent to the IPO, and through December 31, 1998, the Company acquired 82 HVAC and complementary businesses (collectively with the Founding Companies, the "Acquired Companies"). The companies acquired subsequent to the IPO added 88 operating locations in 18 additional states. These acquisitions included 15 "tuck-in" operations that have been or are currently being integrated with existing Company operations. In addition, during the first three months of 1999, the Company acquired 10 additional acquisitions (the "Additional Acquisitions") with aggregate 1998 annual revenues of approximately \$35 million (unaudited). These acquisitions along with the existing Founding Companies allow the Company to provide services in 114 operating locations (unaudited).

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES:

BASIS OF PRESENTATION

For financial statement purposes, Comfort Systems has been identified as the accounting acquirer. Accordingly, the historical financial statements include those of Comfort Systems since December 1996. Of the 82 acquisitions noted above, 17 were accounted for as poolings-of-interests (the "Pooled Companies") and 65 were accounted for as purchases (the "Purchased Companies"). These consolidated financial statements reflect the acquisitions of the Founding Companies and Purchased Companies as of their respective

acquisition dates and reflects 15 of the Pooled Companies (the "Restated Companies") for all periods presented. Two of the Pooled Companies are considered immaterial poolings based upon criteria set forth by the Securities and Exchange Commission and have not been restated for all periods presented. The acquisitions of the Founding and Purchased Companies were accounted for using the purchase method of accounting. The allocations of the purchase prices to the assets acquired and liabilities assumed of these companies have been recorded based on preliminary estimates of fair value and may be changed as additional information becomes available.

Prior to their acquisition by Comfort Systems, seven of the Pooled Companies reported annual results based on fiscal year-ends other than December 31. An adjustment to conform the year-ends of five of these companies to December 31 year-ends was made in 1996 resulting in an increase of approximately \$1.1 million to retained earnings and cash flows for 1996. An adjustment to conform the year-ends of two of these companies to December 31 year-ends was made in 1997 resulting in an increase of approximately \$727,000 to retained earnings and cash flows for 1997.

PRINCIPLES OF CONSOLIDATION

The accompanying consolidated financial statements include the accounts of Comfort Systems and its wholly-owned subsidiaries. All significant intercompany accounts and transactions have been eliminated.

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COMFORT SYSTEMS USA, INC. NOTES TO CONSOLIDATED FINANCIAL STATEMENTS -- (CONTINUED)

CASH FLOW INFORMATION

The Company considers all highly liquid investments purchased with an original maturity of three months or less to be cash equivalents.

Cash paid for interest in 1996, 1997 and 1998 was approximately \$548,000, \$736,000, and \$6,575,000, respectively. Cash paid for income taxes in 1996, 1997 and 1998 was approximately \$738,000, \$995,000, and \$33,329,000, respectively.

The Company recorded capital leases in 1996, 1997 and 1998 of approximately \$ -- , \$114,000 and \$20,000, respectively.

INVENTORIES

Inventories consist of parts and supplies held for use in the ordinary course of business and are stated at the lower of cost or market using the first-in, first-out method.

PROPERTY AND EQUIPMENT

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

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

GOODWILL

Goodwill represents the excess of the aggregate purchase price paid by the Company in acquisitions accounted for as purchases over the fair value of the net tangible assets acquired. Goodwill is amortized on a straight-line basis

over 40 years.

The Company periodically evaluates the recoverability of the remaining balance of goodwill recorded from business acquisitions. The Company uses an estimate of future income from operations and cash flows, as well as other economic and business factors as a measure of recoverability of these assets.

As of December 31, 1998 and 1997, accumulated amortization of goodwill was approximately \$9.1 million and \$1.9 million, respectively.

REVENUE RECOGNITION

The Company recognizes revenue when services are performed except when work is being performed under a construction contract. Revenues from construction contracts are recognized on the percentage-of-completion method measured by the percentage of costs incurred to total estimated costs for each contract. Contract costs include all direct material, labor and subcontract costs and those indirect costs related to contract performance, such as indirect labor, supplies, tools, repairs and depreciation costs. Provisions for the total estimated losses on uncompleted contracts are made in the period in which such losses are determined. Changes in job performance, job conditions, estimated profitability and final contract settlements may result in revisions to costs and revenues, and their effects are recognized in the period in which the revisions are determined.

Receivable balances billed but not paid by customers pursuant to retainage provisions in construction contracts will be due upon completion of the contracts and acceptance by the customer. Based on the Company's experience with similar contracts in recent years, the retention balance will be billed and

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COMFORT SYSTEMS USA, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS -- (CONTINUED)

collected in the upcoming fiscal year. The retainage retainage balances at December 31, 1997 and 1998 are \$11.6 million and \$45.3 million, respectively.

WARRANTY COSTS

The Company typically warrants labor for the first year after installation on new air conditioning and heating systems. The Company generally warrants labor for 30 days after servicing of existing air conditioning and heating systems. A reserve for warranty costs is recorded based upon the historical level of warranty claims and management's estimate of future costs.

INCOME TAXES

The Company files a consolidated return for federal income tax purposes. Income taxes are provided for under the liability method, which takes into account differences between financial statement treatment and tax treatment of certain transactions. Deferred tax assets represent the tax effect of activity that has been reflected in the financial statements but which will not be deductible for tax purposes until future periods. Deferred tax liabilities represent the tax effect of activity that has been reflected in the financial statements but which will not be taxable until future periods.

Certain of the Pooled Companies were S Corporations for income tax purposes and, accordingly, any income tax liabilities for the periods prior to the acquisition date are the responsibility of the respective stockholders. All acquired entities are subject to corporate income taxes subsequent to their acquisition.

USE OF ESTIMATES

The preparation of financial statements in conformity with generally accepted accounting principles requires the use of estimates and assumptions by management in determining the reported amounts of revenues, expenses, assets,

liabilities and contingent assets and liabilities at the date of the financial statements. Actual results could differ from those estimates.

CONCENTRATIONS OF CREDIT RISK

The Company provides services to a broad range of geographical regions. The Company's credit risk primarily consists of receivables from a variety of customers including general contractors, property owners and developers, and commercial and industrial companies. The Company reviews its accounts receivable and provides allowances as deemed necessary.

The Company's financial instruments consist of cash and cash equivalents, accounts receivable, receivables from related parties, other receivables, accounts payable, a line of credit, notes payable, notes payable to related parties and long-term debt. The Company believes that the carrying value of these instruments on the accompanying balance sheets approximate their fair value.

RECLASSIFICATIONS

Certain reclassifications have been made in prior years' financial statements to conform to the 1998 presentation.

3. BUSINESS COMBINATIONS:

POOLINGS

During 1997 and 1998, the Company acquired all of the outstanding stock of the Pooled Companies in exchange for 4,507,406 and 1,437,767 shares of Common Stock, respectively. These acquisitions have been accounted for as poolings-of-interests as described in Note 2. These companies provide HVAC and related services.

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COMFORT SYSTEMS USA, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS -- (CONTINUED)

The historical financial statements for 1996 and 1997 represent the operations of the Restated Companies prior to their acquisition by the Company. The combined revenues and net income of the Pooled Companies acquired in 1998 for the preacquisition period in 1998 were \$50.7 million and \$1.4 million, respectively.

The following table summarizes the restated revenues, net income and per share data of the Company after giving effect to the acquisition of the 1998 Pooled Companies:

	YEAR ENDED DECEMBER 31, 1996		YEAR ENDED DECEMBER 31, 1997	
	REVENUES	NET INCOME	REVENUES	NET INCOME
Revenues and net income (loss):				
As previously reported.....	\$ 97,315	\$3,759	\$237,709	\$ (2,830)
Pooled Companies.....	64,104	830	59,937	766
As restated.....	\$161,419	\$4,589	\$297,646	\$ (2,064)
Earnings per share:				
As previously reported.....		\$ 0.43		\$ (0.16)
Pooled Companies.....		0.02		0.05
As restated.....		\$ 0.45		\$ (0.11)

Diluted earnings per share and basic earnings per share are the same for all periods presented above.

PURCHASES

Subsequent to the IPO, and through December 31, 1997, Comfort Systems acquired 13 of the Purchased Companies, which were accounted for as purchase transactions. These companies provide HVAC and related services. The aggregate consideration paid in these transactions was \$14.5 million in cash, 1,092,489 shares of Common Stock with a market value at the date of acquisition totaling \$13.3 million and \$5.0 million in the form of convertible subordinated notes. These notes are convertible at various dates in 1999 and thereafter into 220,449 shares of Common Stock.

During 1998, the Company acquired 52 of the Purchased Companies, which were accounted for as purchase transactions. These companies provide HVAC and related services. The aggregate consideration paid in these transactions was \$161.2 million in cash, 9,212,573 shares of Common Stock with a market value at the date of acquisition totaling \$111.7 million, \$57.4 million in the form of convertible subordinated notes and \$3.1 million in the form of subordinated notes (collectively the "Notes"). The convertible notes are convertible at various dates in 1999, 2000, 2001, or 2002 and thereafter into 1,243,673, 1,699,729, 1,797,937, or 53,655 shares of Common Stock, respectively.

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COMFORT SYSTEMS USA, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS -- (CONTINUED)

The accompanying balance sheet as of December 31, 1998 includes allocations of the respective purchase prices to the assets acquired and liabilities assumed based on preliminary estimates of fair value and is subject to final adjustment. The allocations in 1997 and 1998 resulted in \$25.4 million and \$277.4 million in goodwill, respectively, which represents the excess of purchase price over the estimated fair value of the net assets acquired for the Purchased Companies. In conjunction with the acquisitions, goodwill was determined as follows (in thousands):

	1997	1998
	-----	-----
Fair value of assets acquired, net of cash acquired.....	\$ (21,677)	\$ (261,754)
Liabilities assumed.....	17,010	233,669
Cash paid, net of cash acquired.....	11,781	133,338
Estimated market value of stock consideration.....	13,264	111,681
Issuance of Notes.....	4,978	60,482
	-----	-----
Goodwill.....	\$ 25,356	\$ 277,416
	=====	=====

The unaudited pro forma data presented below consists of the income statement data presented in these consolidated financial statements plus income statement data for the Founding Companies and Purchased Companies as if the acquisitions were effective on January 1, 1997 through the respective dates of acquisitions (in thousands, except per share data):

YEAR ENDED DECEMBER 31,	

1997	1998

(UNAUDITED)

Revenues.....	\$ 1,066,147	\$ 1,227,013
Net income.....	37,839	37,568
Net income per share.....	1.05	0.99

Pro forma adjustments included in the preceding table regarding the Founding Companies and the Purchased Companies primarily relate to (a) the IPO, (b) certain reductions in salaries and benefits to the former owners (the "Compensation Differential") of the Founding Companies, Pooled Companies and Purchased Companies which the former owners agreed would take effect as of the acquisition date, (c) pro forma compensation expense of \$430,000 for the six months ended June 30, 1997, to reflect the ongoing salaries received by corporate management as though these salaries were being paid prior to the Offering, (d) elimination of merger costs in connection with the acquisition of the Pooled Companies, (e) amortization of goodwill related to the Purchased and Founding Companies, (f) elimination of the non-recurring, non-cash compensation charge of \$11.6 million recorded by Comfort Systems in the first quarter of 1997 related to Common Stock issued to management of and consultants to the Company, and (g) interest expense on borrowings of \$11.0 million that would have been necessary to fund certain S Corporation distributions as if they had occurred at the beginning of each period presented. In addition, an incremental tax provision has been recorded as if all applicable Purchased and Founding Companies and Pooled Companies which were C Corporations had been subject to federal and state income taxes.

The pro forma results presented above are not necessarily indicative of actual results which might have occurred had the operations and management teams of the Company, the Founding Companies, the Purchased Companies and Pooled Companies been combined at the beginning of the periods presented.

ADDITIONAL ACQUISITIONS (UNAUDITED)

Subsequent to December 31, 1998, and through March 26, 1999, the Company completed the 10 Additional Acquisitions for approximately \$9.8 million in cash, 381,690 shares of Common Stock, approximately \$2.2 million in convertible subordinated notes and approximately \$3.3 million in

COMFORT SYSTEMS USA, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS -- (CONTINUED)

subordinated notes. Annualized revenues from the businesses acquired in the Additional Acquisitions were approximately \$35 million. All of these acquisitions will be accounted for as purchase transactions.

4. PROPERTY AND EQUIPMENT:

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

	ESTIMATED USEFUL LIVES IN YEARS	DECEMBER 31,	
		1997	1998
Land.....	N/A	\$ 95	\$ 124
Transportation equipment.....	3-7	17,171	31,776
Machinery and equipment.....	3-15	8,789	23,002
Computer and telephone equipment.....	3-7	4,768	10,168
Buildings and leasehold improvements.....	3-20	3,532	8,564
Furniture and fixtures.....	3-10	3,394	8,082

	37,749	81,716
Less -- Accumulated depreciation.....	24,073	47,303
	-----	-----
Property and equipment, net.....	\$ 13,676	\$ 34,413
	=====	=====

5. DETAIL OF CERTAIN BALANCE SHEET ACCOUNTS:

Activity in the Company's allowance for doubtful accounts consists of the following (in thousands):

	DECEMBER 31,	
	1997	1998
	-----	-----
Balance at beginning of year.....	\$ 994	\$ 1,698
Additions for bad debt expense.....	583	1,253
Deductions for recoveries and for uncollectible receivables written off.....	(488)	(909)
Allowance for doubtful accounts of Founding and Purchased Companies at acquisition dates.....	609	2,716
	-----	-----
Balance at end of year.....	\$ 1,698	\$ 4,758
	=====	=====

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

	DECEMBER 31,	
	1997	1998
	-----	-----
Accrued warranty costs.....	\$ 2,053	\$ 4,596
Accrued insurance expense.....	737	4,851
Deferred income taxes.....	1,445	4,939
Deferred revenue.....	770	525
Other current liabilities.....	6,682	9,877
	-----	-----
	\$ 11,687	\$ 24,788
	=====	=====

COMFORT SYSTEMS USA, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS -- (CONTINUED)

Installation contracts in progress are as follows (in thousands):

	DECEMBER 31,	
	1997	1998
	-----	-----
Costs incurred on contracts in progress.....	\$ 169,426	\$ 748,542

Estimated earnings, net of losses....	43,072	151,792
	-----	-----
Less -- Billings to date.....	209,989	907,074
	-----	-----
	\$ 2,509	\$ (6,740)
	=====	=====
Costs and estimated earnings in excess of billings on uncompleted contracts.....	\$ 14,034	\$ 37,228
Billings in excess of costs and estimated earnings on uncompleted contracts.....	(11,525)	(43,968)
	-----	-----
	\$ 2,509	\$ (6,740)
	=====	=====

6. LONG-TERM DEBT OBLIGATIONS:

Long-term debt obligations consist of the following (in thousands):

	DECEMBER 31,	
	1997	1998
	-----	-----
Revolving credit facility.....	\$ 15,300	\$ 170,700
Notes to affiliates and former owners.....	5,425	63,839
Other.....	4,001	1,907
	-----	-----
Total long-term.....	24,726	236,446
Less: current maturities.....	2,345	9,077
	-----	-----
	\$ 22,381	\$ 227,369
	=====	=====

At December 31, 1998, future principal payments of long-term debt are as follows (in thousands):

YEAR ENDING DECEMBER 31 --

1999.....	\$ 9,077
2000.....	11,218
2001.....	214,411
2002.....	1,176
2003.....	564
Thereafter.....	--

	\$ 236,446
	=====

REVOLVING CREDIT AGREEMENT

In July 1997, the Company entered into a credit agreement with Bank One, Texas, N.A. (the "Credit Facility"). The Credit Facility was amended and restated in September 1997 primarily to provide for additional banks to lend to the Company under the Credit Facility. At that time, the Credit Facility provided the Company with an unsecured revolving line of credit of \$75 million. The Credit Facility was further amended in April 1998 and again in December 1998

in order to increase borrowing capacity and to provide for additional banks to lend to the Company under the Credit Facility. The Credit Facility currently provides the Company with a revolving line of credit of up to \$300 million secured by accounts receivable, inventory and the shares of capital stock of the Company's subsidiaries. The Company currently has a choice of the two interest rate options when borrowing under the Credit Facility. Under one option, the interest rate is

COMFORT SYSTEMS USA, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS -- (CONTINUED)

determined based on the higher of the Federal Funds Rate plus 0.5% or the bank's prime rate. An additional margin of zero to 1.25% is then added to the higher of these two rates. Under the other interest rate option, borrowings bear interest based on designated short-term Eurodollar rates (which generally approximate LIBOR) plus 1.0% to 2.5%. The additional margin for both options depends on the ratio of the Company's debt to EBITDA. Commitment fees of 0.25% to 0.5% per annum, also depending on the ratio of debt to EBITDA, are payable on the unused portion of the facility. The Credit Facility prohibits the payment of dividends by the Company without the lenders' approval and requires the Company to comply with certain financial covenants. The amended Credit Facility expires on November 1, 2001, at which time all amounts outstanding under the Credit Facility are due.

As of December 31, 1998, the Company had borrowed \$170.7 million under the Credit Facility at an average interest rate of approximately 6.8% for the year ended December 31, 1998. As of March 26, 1999, \$188.0 million (unaudited) was outstanding under this facility.

NOTES TO AFFILIATES AND FORMER OWNERS

The Notes in the amount of \$63.8 million, net of \$1.6 million of repayments, referred to above were issued to former owners of certain Purchased Companies as partial consideration of the acquisition purchase price. Of these Notes, \$62.4 million bear interest, payable quarterly, at a weighted average interest rate of 5.11% and are convertible by the holder into shares of the Company's Common Stock at a weighted average price of \$25.84 per share. The remaining Notes in the amount of \$1.4 million are non-interest bearing, and require principal payments of \$1.0 million in 1999 and \$0.4 million in equal installments in 2000, 2001, 2002 and 2003. The terms of the convertible subordinated notes require \$6.5 million of principal payments in 1999, \$10.9 million of principal payments in 2000, \$43.5 million of principal payments in 2001, \$1.1 million of principal payments in 2002, and \$0.4 million of principal payments in 2003.

The Company estimates the fair value of long-term debt as of December 31, 1998 and 1997, to be approximately the same as the recorded value.

7. INCOME TAXES:

The Company has implemented SFAS No. 109, "Accounting for Income Taxes," which provides for a liability approach to accounting for income taxes. The provision for income taxes consists of the following (in thousands):

	YEAR ENDED DECEMBER 31,		
	1996	1997	1998
Current --			
Federal.....	\$ 912	\$ 6,469	\$ 21,650
State and Puerto Rico.....	290	1,763	4,439

	1,202	8,232	26,089
	-----	-----	-----
Deferred --			
Federal.....	302	(688)	907
State and Puerto Rico.....	4	58	53
	-----	-----	-----
	306	(630)	960
	-----	-----	-----
	\$ 1,508	\$ 7,602	\$ 27,049
	=====	=====	=====

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COMFORT SYSTEMS USA, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS -- (CONTINUED)

The difference in income taxes provided for and the amounts determined by applying the federal statutory tax rate to income before income taxes result from the following (in thousands):

	YEAR ENDED DECEMBER 31,		
	-----	-----	-----
	1996	1997	1998
	-----	-----	-----
Income tax expense at the statutory rate.....	\$ 2,134	\$ 1,937	\$ 21,713
Increase (decrease) resulting from --			
State income taxes, net of federal tax effect.....	163	1,245	3,148
Non-deductible expenses.....	30	428	364
Non-recurring, non-cash compensation charge.....	--	4,045	--
Effect of S Corporation income previously taxed to the former owners.....	(807)	(1,089)	(308)
Non-deductible goodwill amortization.....	--	633	2,047
Non-deductible acquisition costs related to Pooled Companies...	--	201	157
Provision (benefit) recognized upon termination of Subchapter S election.....	--	100	(101)
Other.....	(12)	102	29
	-----	-----	-----
	\$ 1,508	\$ 7,602	\$ 27,049
	=====	=====	=====

Deferred income tax provisions result from current period activity that has been reflected in the financial statements but which is not includable in determining the Company's tax liabilities until future periods. Deferred tax assets and liabilities reflect the tax effect in future periods of all such activity to date that has been reflected in the financial statements but which is not includable in determining the Company's tax liabilities until future periods.

	DECEMBER 31,	
	-----	-----
	1997	1998
	-----	-----

(IN THOUSANDS)

Deferred income tax assets --		
Accounts receivable and allowance for doubtful accounts.....	\$ (497)	\$ (1,699)
Accrued liabilities and expenses.....	(1,788)	(6,038)
Other.....	(514)	(470)
	-----	-----
Total deferred income tax assets.....	(2,799)	(8,207)
	-----	-----
Deferred income tax liabilities --		
Property and equipment.....	325	873
Long-term installation contracts.....	1,984	4,716
Other.....	153	475
	-----	-----
Total deferred income tax liabilities.....	2,462	6,064
	-----	-----
Net deferred income tax assets.....	\$ (337)	\$ (2,143)
	=====	=====

The deferred tax assets and liabilities reflected above are included in the consolidated balance sheet at December 31, 1998, as \$7.8 million of current deferred income tax assets in prepaid expenses and other, \$0.4 million of non-current deferred income tax assets in other non-current assets, \$5.0 million of current deferred income tax liabilities in other current liabilities and \$1.1 million of non-current deferred income tax liabilities in deferred income taxes.

8. EMPLOYEE BENEFIT PLANS:

Certain of the Company's subsidiaries sponsor various retirement plans for most full-time and some part-time employees. These plans consist of defined contribution plans and multi-employer pension plans

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COMFORT SYSTEMS USA, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS -- (CONTINUED)

and cover employees at substantially all of the Company's operating locations. The defined contribution plans provide for contributions ranging from 1% to 6% of covered employees' salaries or wages and totaled \$2.2 million for 1996, \$1.8 million for 1997 and \$3.6 million for 1998. Of these amounts, approximately \$670,000 and \$2.2 million was payable to the plans at December 31, 1997 and 1998, respectively.

Certain of the Company's subsidiaries also participate in several multi-employer pension plans for the benefit of their employees who are union members. Company contributions to these plans were approximately \$2.0 million for 1996, \$2.1 million for 1997 and \$8.1 million for 1998. The data available from administrators of the multi-employer pension plans is not sufficient to determine the accumulated benefit obligations, nor the net assets attributable to the multi-employer plans in which Company employees participate.

9. COMMITMENTS AND CONTINGENCIES:

LEASES

The Company leases certain facilities and equipment under noncancelable operating leases. Rent expense for the years ended December 31, 1996, 1997, and 1998 was \$0.9 million, \$2.2 million, and \$6.7 million, respectively. Concurrent with the acquisitions of certain Founding, Pooled and Purchased Companies, the Company entered into various agreements with previous owners to lease land and

buildings used in the Company's operations. The terms of these leases range from five years to twenty years and provide for certain escalations in the rental expenses each year. Included in the 1998 and 1997 rent expense above is approximately \$3.9 million and \$1.2 million of rent paid to these related parties, respectively. The following represents future minimum rental payments under noncancelable operating leases (in thousands):

Year ending December 31 --

1999.....	\$ 11,740
2000.....	10,461
2001.....	9,188
2002.....	8,084
2003.....	6,293
Thereafter.....	13,346

	\$ 59,112
	=====

CLAIMS AND LAWSUITS

The Company is from time to time party to litigation in the ordinary course of business. There are currently no pending legal proceedings that, in management's opinion, would have a material adverse effect on the Company's operating results or financial condition. The Company maintains various insurance coverages in order to minimize financial risk associated with certain claims. The Company has provided accruals for probable losses and legal fees associated with certain of these actions in the accompanying consolidated financial statements.

10. STOCKHOLDERS' EQUITY:

COMMON STOCK AND PREFERRED STOCK

Comfort Systems effected a 121.1387-for-one stock split on March 19, 1997 for each share of Common Stock of the Company then outstanding. In addition, the Company increased the number of authorized shares of Common Stock to 52,969,912 and authorized 5,000,000 shares of \$.01 par value preferred stock. Subsequent to December 31, 1997, the Company increased the number of authorized shares of Common Stock to 102,969,912.

The effects of the Common Stock split and the increase in the number of shares of authorized Common Stock have been retroactively reflected on the balance sheet and in the accompanying notes as applicable. In December 1996, in connection with the organization and initial capitalization of Comfort Systems, the Company issued 121,139 shares of Common Stock at \$.01 per share to Notre Capital Ventures II, L.L.C. ("Notre"). In January 1997, the Company issued 2,848,773 additional shares to Notre for \$.01 per share. In January and February 1997, the Company issued a total of 1,269,935 shares of Common Stock to management of and consultants to the Company at a price of \$.01 per share. As a result, the Company recorded a non-recurring, non-cash compensation charge of \$11.6 million in the first quarter of 1997, representing the difference between the amount paid for the shares and the estimated fair value of the shares on the date of sale.

On July 2, 1997, Comfort Systems completed the offering of 6,100,000 shares of Common Stock to the public at \$13.00 per share. The net proceeds to Comfort Systems from the IPO (after deducting underwriting commissions and offering expenses) were \$68.8 million. Of this amount, \$45.3 million was used to pay the

cash portion of the purchase prices of the Founding Companies. In connection with the IPO, the Company granted its underwriters an option to sell an additional 915,000 shares at \$13.00 per share. On July 9, 1997, the underwriters exercised this option. Net proceeds to the Company from this sale of shares were \$11.1 million after deducting underwriting commissions.

On June 16, 1998, the Company completed a second public offering (the "Second Public Offering") of 400,000 shares of its Common Stock. The net proceeds from this offering of \$7.6 million, after deducting underwriting commissions, were used to repay debt. On July 21, 1998, the underwriters exercised their overallotment option in connection with the Second Public Offering completed in June 1998. An additional 461,479 shares of Common Stock were sold and the net proceeds of \$8.8 million were used to repay debt.

RESTRICTED COMMON STOCK

In March 1997, Notre exchanged 2,742,912 shares of Common Stock for an equal number of shares of restricted voting common stock ("Restricted Voting Common Stock"). The holder of Restricted Voting Common Stock is entitled to elect one member of the Company's Board of Directors and to 0.55 of one vote for each share on all other matters on which they are entitled to vote. Holders of Restricted Voting Common Stock are not entitled to vote on the election of any other directors.

Each share of Restricted Voting Common Stock will automatically convert to Common Stock on a share-for-share basis (i) in the event of a disposition of such share of Restricted Voting Common Stock by the holder thereof (other than a distribution which is a distribution by a holder to its partners or beneficial owners, or a transfer to a related party of such holders (as defined in Sections 267, 707, 318 and/or 4946 of the Internal Revenue Code of 1986, as amended)), (ii) in the event any person acquires beneficial ownership of 15% or more of the total number of outstanding shares of Common Stock of the Company, or (iii) in the event any person offers to acquire 15% or more of the total number of outstanding shares of Common Stock of the Company. After July 1, 1998, the Board of Directors may elect to convert any remaining shares of Restricted Voting Common Stock into shares of Common Stock in the event that 80% or more of the originally outstanding shares of Restricted Voting Common Stock have been previously converted into shares of Common Stock. At December 31, 1998, no Restricted Voting Common Stock had been converted to shares of Common Stock.

EARNINGS PER SHARE

In February 1997, the Financial Accounting Standards Board issued SFAS No. 128, "Earnings Per Share." SFAS No. 128 revises the methodology to be used in computing earnings per share (EPS) such that the computations previously required for primary and fully diluted EPS are to be replaced with "basic" and "diluted" EPS. Basic EPS is computed by dividing net income by the weighted average number of shares

of common stock outstanding during the year. Diluted EPS is computed in a similar manner as fully diluted EPS, except that, among other changes, the average share price for the period is used in all cases when applying the treasury stock method to potentially dilutive outstanding options. Diluted EPS is also computed by adjusting both net earnings and shares outstanding as if the conversion of the convertible subordinated notes occurred on the first day of the year. The net earnings adjustment related to the conversion of the convertible subordinated notes in 1998 was \$753,000. The Company has adopted SFAS No. 128 and restated EPS for all periods presented.

The following table summarizes weighted average shares outstanding for each of the periods presented (in thousands):

YEAR ENDED DECEMBER 31,

	1996	1997	1998
Shares issued in connection with the acquisitions of Founding Companies....	--	5,008	9,721
Shares sold pursuant to the IPO.....	--	3,142	6,100
Shares held by Notre, management and consultants.....	4,240	4,240	4,240
Shares issued in connection with the acquisitions of Pooled Companies.....	5,877	5,946	5,946
Weighted average shares issued in connection with the underwriter's overallotment.....	--	434	1,122
Weighted average shares issued in connection with the acquisitions of the Purchased Companies.....	--	184	5,597
Weighted average portion of shares sold in the Second Public Offering.....	--	--	215
Weighted average portion of shares issued in connection with the Employee Stock Purchase Plan.....	--	--	12
Weighted average portion of shares issued in connection with the exercise of stock options.....	--	--	9
Weighted average shares outstanding -- Basic.....	10,117	18,954	32,962
Weighted average portion of shares related to stock options under the treasury stock method.....	--	--	462
Weighted average shares related to the issuance of convertible notes.....	--	--	905
Weighted average shares outstanding -- Diluted.....	10,117	18,954	34,329

11. STOCK OPTION PLANS:

LONG-TERM INCENTIVE PLANS

In March 1997, the Company's stockholders approved the Company's 1997 Long-Term Incentive Plan which provides for the granting or awarding of incentive or non-qualified stock options, stock appreciation rights, restricted or deferred stock, dividend equivalents or other incentive awards to directors, officers, key employees and consultants to the Company.

The Company's 1997 Long-Term Incentive Plan provides for the granting of options to key employees to purchase an aggregate of not more than 13% of the total number of shares of the Company's Common Stock outstanding at the time of grant. Such options have been issued by the Company at fair market value on the date of grant and become exercisable in five equal annual installments beginning on the first anniversary of the date of grant. The options expire after seven years from the date of grant if unexercised. Outstanding options may be canceled and reissued under terms specified in the plan.

The following table summarizes activity under the Company's stock option plan:

FIXED OPTIONS	1997		1998	
	SHARES	WEIGHTED-AVERAGE EXERCISE PRICE	SHARES	WEIGHTED-AVERAGE EXERCISE PRICE
Outstanding at beginning of year.....	--	-\$-	2,537,203	\$13.72
Granted.....	2,537,203	13.72	1,495,500	18.54
Exercised.....	--	--	(24,330)	13.45
Forfeited.....	--	--	(53,344)	16.01
Outstanding at end of year.....	2,537,203	\$13.72	3,955,029	\$15.51
Options exercisable at year-end.....	--		518,281	
Weighted-average fair value of options granted during the year as of December 31, 1998.....	\$3.53		\$7.33	

The following table summarizes information about fixed stock options outstanding at December 31, 1998:

RANGE OF EXERCISE PRICES	OPTIONS OUTSTANDING			OPTIONS EXERCISABLE	
	NUMBER OUTSTANDING AT 12/31/98	WEIGHTED-AVERAGE REMAINING CONTRACTUAL LIFE	WEIGHTED-AVERAGE EXERCISE PRICE	NUMBER EXERCISABLE AT 12/31/98	WEIGHTED-AVERAGE EXERCISE PRICE
\$13.00 to \$19.38.....	3,585,529	5.9 years	\$14.98	503,281	\$ 13.68
\$19.69 to \$21.44.....	369,500	6.5	21.04	15,000	21.13
\$13.00 to \$21.44.....	3,955,029	6.0	\$15.51	518,281	\$ 13.90

In September 1997, the Company's stockholders approved the Company's 1998 Employee Stock Purchase Plan which allows employees to purchase shares from the Company's authorized but unissued shares of Common Stock or from shares of Common Stock reacquired by the Company, including shares repurchased on the open market.

The Company's 1998 Employee Stock Purchase Plan provides for the purchase of 300,000 shares at semi-annual intervals. Full-time employees are eligible to purchase shares with payroll deductions ranging from 2% to 8% of compensation with a maximum deduction of \$2,000 for any purchase period for each participant. The purchase price per share is 85% of the lower of the market price on the first business day of the purchase period or the purchase date.

The Company accounts for its stock-based compensation under Accounting Principles Board Statement No. 25, "Accounting for Stock Issued to Employees" (APB 25). Under this accounting method, no expense in connection with the stock option plan or the stock purchase plan is recognized in the consolidated statements of operations. In October 1995, the Financial Accounting Standards Board issued SFAS No. 123, "Accounting for Stock-Based Compensation," which requires that if a company accounts for stock-based compensation in accordance with APB 25, the company must also disclose the effects on its results of operations as if an estimate of the value of stock-based compensation at the date of grant was recorded as an expense in the company's statement of operations. These effects for the Company are as follows (in thousands, except per share data):

	1997	1998
Net Income	As reported.....	\$ (2,064) \$ 35,013
	Pro forma for SFAS No. 123.....	\$ (2,436) \$ 33,341
Income Per Share -- Basic	As reported.....	\$ (.11) \$ 1.06
	Pro forma for SFAS No. 123.....	\$ (.13) \$ 1.01

Income Per Share -- Diluted	As reported.....	\$	(.11)	\$	1.04
	Pro forma for SFAS No. 123.....	\$	(.13)	\$	0.97

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COMFORT SYSTEMS USA, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS -- (CONTINUED)

LONG-TERM INCENTIVE PLAN -- The effects of applying SFAS No. 123 in the pro forma disclosure may not be indicative of future amounts as additional option awards in future years are anticipated. The fair value of each option grant is estimated on the date of grant using the Black-Scholes option-pricing model with the following assumptions:

Expected dividend yield.....	0.00%
Expected stock price volatility.....	44.87%
Risk free interest rate.....	5.00%-6.15%
Expected life of options.....	4 years

EMPLOYEE STOCK PURCHASE PLAN -- The effects of applying SFAS No. 123 in the pro forma disclosure may not be indicative of future amounts as the granting of additional purchase rights is anticipated. Compensation cost associated with the stock purchase plan is recognized for the fair value of the employees' purchase rights, which is estimated using the Black-Scholes model with the following assumptions:

Expected dividend yield.....	0.00%
Expected volatility.....	42.10%
Risk free interest rate.....	5.19%-5.25%
Expected life of purchase rights.....	0.5 years

The weighted average fair value of these purchase rights granted in 1998 was \$5.37.

NON-EMPLOYEE DIRECTORS STOCK PLAN

In March 1997, the Company's stockholders approved the 1997 Non-Employee Directors' Stock Plan (the "Directors' Plan"), which provides for the granting or awarding of stock options and stock appreciation rights to non-employees. The number of shares authorized and reserved for issuance under the Directors' Plan is 250,000 shares. The Directors' Plan provided for the automatic grant of options to purchase 10,000 shares to each non-employee director serving at the commencement of the IPO.

Each non-employee director will be granted options to purchase 10,000 shares at the time of the initial election. In addition, each non-employee director is automatically granted options to purchase an additional 5,000 shares at each annual meeting of the stockholders that is more than two months after the date of the director's initial election. All options are granted with an exercise price equal to the fair market value at the date of grant and are immediately vested upon grant.

Options have been granted to three current members of the board of directors to purchase 10,000 shares of Common Stock at the IPO price and each of these three directors received an option for 5,000 shares on the 1998 Annual Meeting date. These options will expire at the earlier of 10 years from the date of grant or one year after termination of service as a director.

The Directors' Plan allows non-employee directors to receive shares ("Deferred Shares") at future settlement dates in lieu of cash. The number of

Deferred Shares will have an aggregate fair market value equal to the fees payable to the directors. No Deferred Shares have been issued.

12. SIGNIFICANT VENDORS:

Significant vendors are defined as those that account for greater than 10% of the Company's purchases. For the year ended December 31, 1998, there were no significant vendors. For the year ended

COMFORT SYSTEMS USA, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS -- (CONTINUED)

December 31, 1997, one vendor accounted for 10.5% of the Company's purchases. For the year ended December 31, 1996, there were no significant vendors.

13. QUARTERLY RESULTS OF OPERATIONS (UNAUDITED):

Quarterly financial information for the year ended December 31, 1998 is summarized as follows (in thousands, except per share data):

	MARCH QUARTER -----	JUNE QUARTER -----	SEPTEMBER QUARTER -----	DECEMBER QUARTER -----
Revenues.....	\$132,608	\$194,350	\$ 232,381	\$ 294,622
Gross Profit.....	\$ 31,339	\$ 47,704	\$ 57,073	\$ 70,333
Net income.....	\$ 3,385	\$ 8,418	\$ 10,799	\$ 12,411
Earnings Share:				
Basic.....	\$ 0.12	\$ 0.27	\$ 0.32	\$ 0.34
Diluted.....	\$ 0.11	\$ 0.26	\$ 0.31	\$ 0.33

The quarterly information has been restated to include the results of the 1998 Pooled Companies.

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

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

None.

PART III

ITEMS 10 TO 13 INCLUSIVE

These items have been omitted in accordance with the instructions to Form 10-K. The Company will file with the Commission a definitive proxy statement including the information to be disclosed under the items in the 120 days following December 31, 1998.

PART IV

ITEM 14. EXHIBITS, FINANCIAL STATEMENT SCHEDULES, AND REPORTS ON FORM 8-K

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

(1) Consolidated Financial Statements of the Company, which are

included at Item 8 of this report.

(2) Exhibits.

INCORPORATED BY REFERENCE TO
THE EXHIBIT INDICATED BELOW
AND TO THE FILING WITH THE
COMMISSION INDICATED BELOW

EXHIBIT NUMBER	DESCRIPTION OF EXHIBITS	EXHIBIT NUMBER	FILING OR FILE NUMBER
3.1	-- Second Amended and Restated Certificate of Incorporation of "the Registrant."	3.1	333-24021
3.2	-- Certificate of Amendment dated May 21, 1998	3.2	Filed Herewith
3.3	-- Bylaws of "the Registrant", as amended	3.3	Filed Herewith
4.1	-- Form of certificate evidencing ownership of Common Stock of "the Registrant".	4.1	333-24021
10.1	-- Comfort Systems USA, Inc. 1997 Long-Term Incentive Plan	10.1	333-24021
10.2	-- Comfort Systems USA, Inc. 1997 Non-Employee Directors' Stock Plan.	10.2	333-24021
10.3	-- Form of Employment Agreement between the Registrant and Fred M. Ferreira.	10.3	333-24021
10.4	-- Form of Employment Agreement between the Registrant and J. Gordon Beittemiller.	10.4	333-24021
10.5	-- Form of Employment Agreement between the Registrant and William George, III.	10.5	333-24021
10.6	-- Form of Employment Agreement between the Registrant and Reagan S. Busbee.	10.6	333-24021
10.7	-- Form of Employment Agreement between the Registrant, Accurate Air Systems, Inc. and Thomas J. Beaty.	10.7	333-24021
10.8	-- Form of Employment Agreement between the Registrant, Atlas Comfort Services USA, Inc. and Brian S. Atlas.	10.8	333-24021
10.9	-- Form of Employment Agreement between the Registrant, Contract Service, Inc. and John C. Phillips.	10.9	333-24021
10.10	-- Form of Employment Agreement between the Registrant, Eastern Heating & Cooling, Inc. and Alfred J. Giardenelli, Jr.	10.10	333-24021
10.11	-- Form of Employment Agreement between the Registrant, Quality Air Heating & Cooling, Inc. and Robert J. Powers.	10.11	333-24021
10.12	-- Form of Employment Agreement between the Registrant, S. M. Lawrence Company, Inc. and Samuel M. Lawrence III.	10.12	333-24021
10.13	-- Form of Employment Agreement between the Registrant, Tech Heating and Air Conditioning, Inc. and Robert R. Cook.	10.13	333-24021
10.14	-- Form of Employment Agreement between the Registrant, Tri-City Mechanical, Inc. and Michael Nothum, Jr.	10.14	333-24021
10.15	-- Form of Employment Agreement between the Registrant, Western Building Services, Inc. and Charles W. Klapperich.	10.15	333-24021
10.16	-- Employment Agreement between the Registrant, F&G Mechanical Corporation and Salvatore P. Giardina.		February 1998 Form 8-K

INCORPORATED BY REFERENCE TO
THE EXHIBIT INDICATED BELOW
AND TO THE FILING WITH THE
COMMISSION INDICATED BELOW

EXHIBIT NUMBER	DESCRIPTION OF EXHIBITS	EXHIBIT NUMBER	FILING OR FILE NUMBER
10.17	-- Employment Agreement between the Registrant, Shambaugh & Son, Inc. and Mark P. Shambaugh.		Filed Herewith
10.18	-- Form of Agreement among certain stockholders.	10.16	333-24021
10.19	-- Lease between M & B Interests, Inc. and Atlas Air Conditioning Company, Inc. dated October 1, 1994.	10.17	333-32595
10.20	-- Lease between Thomas J. and Bonnie J. Beaty and Accurate Air Systems, Inc. dated July 1, 1997.	10.18	333-32595
10.21	-- Amended and Restated Agreement of Lease between Thomas J. and Bonnie J. Beaty and Accurate Air Systems, Inc. dated July 1, 1997.	10.19	333-32595
10.22	-- Lease between Nothum Development, L.L.C. and Tri-City Mechanical, Inc. dated July 1, 1997.	10.20	333-32595
10.23	-- Lease between Samuel Matthews Lawrence, Jr. and S.M. Lawrence Company, Incorporated dated November 1, 1996.	10.21	333-32595
10.24	-- Lease between K and P Warehouse #1 and Quality Trane Heating and Cooling, Inc. (n/k/a Quality Air Heating and Cooling, Inc.) dated April 1, 1986, together with amendments thereto.	10.22	333-32595
10.25	-- Lease between J&J Investments and Contract Service, Inc. dated March 1, 1997.	10.23	333-32595
10.26	-- Lease by Tech Heating and Air Conditioning, Inc. dated April 2, 1995 as amended by Amendment between Cook Properties, Inc. and Tech Heating and Air Conditioning, Inc. on March 13, 1997.	10.24	333-32595
10.27	-- Third Amended and Restated Credit Agreement among the Company and its subsidiaries, Bank One, Texas, N.A., as agent and the banks listed therein dated December 14, 1998.	10.25	Filed Herewith
10.28	-- Lease dated June 30, 1994, between Salpat Realty and F&G Mechanical Corp, together with lease modification agreements dated June 30, 1994 and February 12, 1998.	10.27	1997 Form 10-K
10.28	-- Lease dated October 31, 1998, between Mark Shambaugh and Shambaugh & Sons, Inc. (Opportunity Drive)		Filed Herewith
10.29	-- Lease dated October 31, 1998, between Mark Shambaugh and Shambaugh & Sons, Inc. (Di Salle Boulevard).		Filed Herewith

10.30	--	Lease dated October 31, 1998, between Mark Shambaugh and Shambaugh & Sons, Inc. (Speedway Drive).		Filed Herewith
10.31	--	Lease dated October 31, 1998, between Mark Shambaugh and Shambaugh & Sons, Inc. (South Bend).		Filed Herewith
10.32	--	Lease dated October 31, 1998, between Mark Shambaugh and Shambaugh & Sons, Inc. (Lafayette).		Filed Herewith
10.33	--	Promissory Note dated February 12, 1998 by Sorce Properties LLC in favor of F&G Mechanical Corporation.	10.28	1997 Form 10-K
10.34	--	Pledge Agreement dated February 12, 1998 by Salvatore Fichera and Salvatore P. Giardina in favor of F&G Mechanical Corporation.	10.29	1997 Form 10-K

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INCORPORATED BY REFERENCE TO THE EXHIBIT INDICATED BELOW AND TO THE FILING WITH THE COMMISSION INDICATED BELOW

EXHIBIT NUMBER		DESCRIPTION OF EXHIBITS	EXHIBIT NUMBER	FILING OR FILE NUMBER
10.35	--	Form of Indemnity Agreement entered into by the Company with each of the following persons: Fred M. Ferreira, J. Gordon Beittenmiller, Reagan S. Busbee, William George, III, Steven S. Harter, Robert J. Powers, Michael Nothum, Jr., Robert R. Cook, Brian S. Atlas, Thomas J. Beaty, John C. Phillips, Samuel M. Lawrence III, Alfred J. Giardenelli, Jr., Charles W. Klapperich, Larry Martin and John Mercadante, Jr. on June 27, 1997.	10.26	333-32595
10.36	--	Indemnity Agreement between the Company and Notre Capital Ventures II, L.L.C.	10.27	333-32595
10.37	--	Comfort Systems USA, Inc. 1998 Employee Stock Purchase Plan.	10.28	333-338009
10.38	--	Agreement Regarding Sale of Stock between Fred M. Ferreira and the Registrant dated October 31, 1997.	10.1	Third Quarter 1997 Form 10-Q
10.39	--	Agreement Regarding Sale of Stock between Steve S. Harter and the Registrant dated October 31, 1997.	10.2	Third Quarter 1997 Form 10-Q
10.40	--	Agreement Regarding Sale of Stock between J. Gordon Beittenmiller and the Registrant dated October 31, 1997.	10.3	Third Quarter 1997 Form 10-Q
10.41	--	Agreement Regarding Sale of Stock between Thomas J. Beaty and the Registrant dated October 31, 1997.	10.4	Third Quarter 1997 Form 10-Q
10.42	--	Agreement Regarding Sale of Stock between Brian S. Atlas and the Registrant dated October 31, 1997.	10.5	Third Quarter 1997 Form 10-Q
10.43	--	Agreement Regarding Sale of Stock between John C. Phillips and the Registrant dated October 31, 1997.	10.6	Third Quarter 1997 Form 10-Q
10.44	--	Agreement Regarding Sale of Stock between Alfred J. Giardenelli, Jr. and the Registrant dated October 31, 1997.	10.7	Third Quarter 1997 Form 10-Q
10.45	--	Agreement Regarding Sale of Stock between Robert J. Powers and the Registrant dated October 31, 1997.	10.8	Third Quarter 1997 Form 10-Q
10.46	--	Agreement Regarding Sale of Stock between Samuel M. Lawrence and the Registrant dated October 31, 1997.	10.9	Third Quarter 1997 Form 10-Q
10.47	--	Agreement Regarding Sale of Stock between Michael Nothum, Jr. and the Registrant dated October 31, 1997.	10.10	Third Quarter 1997 Form 10-Q
10.48	--	Agreement Regarding Sale of Stock between Bob R. Cook and the Registrant dated October 31, 1997.	10.11	Third Quarter 1997 Form 10-Q
10.49	--	Agreement Regarding Sale of Stock between Charles W. Klapperich and the Registrant dated October 31, 1997.	10.12	Third Quarter 1997 Form 10-Q
10.50	--	Agreement Regarding Sale of Stock between Reagan S. Busbee and the Registrant dated October 1997.	10.13	Third Quarter 1997 Form 10-Q
10.51	--	Agreement Regarding Sale of Stock between William George and the Registrant dated October 31, 1997.	10.14	Third Quarter 1997 Form 10-Q
10.52	--	Agreement and Plan of Organization, dated as of March 18, 1997, by and among the Registrant, Accurate Acquisition Corp., Accurate Air Systems, Inc. and the Stockholder named therein.	2.1	333-24021
10.53	--	Agreement and Plan of Organization, dated as of March 18, 1997, by and among the Registrant, Atlas Air Acquisition I Corp., Atlas Comfort Services USA, Inc. and the Stockholders named therein.	2.2	333-24021

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INCORPORATED BY REFERENCE TO THE EXHIBIT INDICATED BELOW AND TO THE FILING WITH THE COMMISSION INDICATED BELOW

EXHIBIT NUMBER		DESCRIPTION OF EXHIBITS	EXHIBIT NUMBER	FILING OR FILE NUMBER
10.54	--	Agreement and Plan of Organization, dated as of March 18, 1997, by and among the Registrant, Contract Acquisition Corp., Contract Service, Inc. and the Stockholders named therein.	2.3	333-24021
10.55	--	Agreement and Plan of Organization, dated as of March 18, 1997, by and among the Registrant, Eastern Acquisition Corp., Eastern II Acquisition Corp., Eastern Heating & Cooling, Inc., Eastern Refrigeration Co., Inc. and the Stockholder named therein.	2.4	333-24021
10.56	--	Agreement and Plan of Organization, dated as of March 18, 1997, by and among the Registrant, Quality Acquisition Corp., Quality Air Heating & Cooling, Inc. and the Stockholder named therein.	2.6	333-24021
10.57	--	Agreement and Plan of Organization, dated as of March 18, 1997, by and among the Registrant, S.M. Lawrence Acquisition Corp., S.M. Lawrence II Acquisition Corp., S.M. Lawrence Company, Inc., Lawrence Service, Inc. and the Stockholders named therein.	2.7	333-24021
10.58	--	Agreement and Plan of Organization, dated as of March 18, 1997, by and among the Registrant, Tech I Acquisition Corp, Tech II Acquisition Corp., Tech Heating and Air Conditioning, Inc., Tech Mechanical, Inc. and the Stockholder named therein.	2.10	333-24021
10.59	--	Agreement and Plan of Organization, dated as of March 18, 1997, by and among the Registrant, Tri-City Acquisition Corp., Tri-City Mechanical, Inc., and the Stockholder named therein.	2.11	333-24021
10.60	--	Agreement and Plan of Organization, dated as of March 18, 1997, by and among the Registrant, Western Building Acquisition Corp., Western Building Services, Inc., and the Stockholders named therein.	2.12	333-24021

10.61	--	Agreement and Plan of Merger dated February 12, 1998, by and among the Registrant, F&G Mechanical Corporation, Salvatore Fichera and Salvatore P. Giardina.	2.1	February 1998 Form 8-K
10.62	--	Agreement and Plan of Merger dated November 15, 1998, by and among the Registrant, Shambaugh & Son, Inc.	2.1	November 1998 Form 8-K
10.63	--	First Amendment to Credit Agreement among the Company and its subsidiaries, Bank One, Texas, N.A., as agent and the banks listed therein dated January 14, 1999.		Filed Herewith
21.1	--	List of subsidiaries of Comfort Systems USA, Inc.		Filed Herewith
23.1	--	Consent of Arthur Andersen L.L.P.		Filed Herewith
27.1	--	Financial Data Schedule		Filed Herewith

(b) Reports on Form 8-K

-- The Company filed a report on Form 8-K with the Securities and Exchange Commission on November 27, 1998. Under Item 2 of that report, the Company described its acquisition of Shambaugh & Son, Inc., a mechanical contractor engaged primarily in HVAC.

(c) Exhibits: as provided

(d) The following financial statements are filed as part of this report: as set forth in the Index to Financial Statements beginning on Page F-1.

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SIGNATURES

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

COMFORT SYSTEMS USA, INC.

By: ___/s/___FRED M. FERREIRA_____

FRED M. FERREIRA

CHIEF EXECUTIVE OFFICER

Date: _____ March 26, 1999 _____

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, this report has been signed by the following persons in the capacities and on the date indicated.

SIGNATURE	TITLE	DATE
/s/FRED M. FERREIRA FRED M. FERREIRA	Chairman of the Board, Chief Executive Officer and President	March 26, 1999
/s/J. GORDON BEITTENMILLER J. GORDON BEITTENMILLER	Executive Vice President, Chief Financial Officer and Director (PRINCIPAL ACCOUNTING OFFICER)	March 26, 1999
/s/MICHAEL NOTHUM, JR. MICHAEL NOTHUM, JR.	Chief Operating Officer and Director	March 26, 1999
/s/STEVEN S. HARTER STEVEN S. HARTER	Director	March 26, 1999
/s/BRIAN S. ATLAS BRIAN S. ATLAS	Director	March 26, 1999
/s/THOMAS J. BEATY THOMAS J. BEATY	Director	March 26, 1999
/s/ROBERT R. COOK ROBERT R. COOK	Director	March 26, 1999
/s/ALFRED J. GIARDENELLI, JR. ALFRED J. GIARDENELLI, JR.	Director	March 26, 1999
/s/CHARLES W. KLAPPERICH CHARLES W. KLAPPERICH	Director	March 26, 1999
/s/SAMUEL M. LAWRENCE III SAMUEL M. LAWRENCE III	Director	March 26, 1999

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SIGNATURES -- (CONTINUED)

SIGNATURE	TITLE	DATE
/s/LARRY MARTIN LARRY MARTIN	Director	March 26, 1999
/s/JOHN MERCADANTE, JR. JOHN MERCADANTE, JR.	Director	March 26, 1999

/s/JOHN C. PHILLIPS JOHN C. PHILLIPS	Director	March 26, 1999
/s/ROBERT J. POWERS ROBERT J. POWERS	Director	March 26, 1999
/s/SALVATORE P. GIARDINA SALVATORE P. GIARDINA	Director	March 26, 1999
/s/MARK P. SHAMBAUGH MARK P. SHAMBAUGH	Director	March 26, 1999

CERTIFICATE OF AMENDMENT
OF
CERTIFICATE OF INCORPORATION
OF
COMFORT SYSTEMS USA, INC.

Comfort Systems USA, Inc., a corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware (the "Corporation"), DOES HEREBY CERTIFY:

FIRST: That the Board of Directors of the Corporation, at a meeting duly held, adopted a resolution proposing and declaring advisable the following amendment to the Second Amended and Restated Certificate of Incorporation of the Corporation:

RESOLVED, that the Second Amended and Restated Certificate of Incorporation of the Corporation be amended by increasing the number of authorized shares of common stock, \$.01 par value per share, set forth in the first paragraph of ARTICLE FOUR so that, as amended, the first paragraph of ARTICLE FOUR shall be and read as follows:

The total number of shares of all classes of stock which the Corporation shall have authority to issue is One Hundred Seven Million, Nine Hundred Sixty-Nine Thousand, Nine Hundred Twelve (107,969,912) shares, of which Five Million (5,000,000) shares, designated as Preferred Stock, shall have a par value of One Cent (\$.01) per share (the "Preferred Stock"), One Hundred Million (100,000,000) shares, designated as Common Stock, shall have a par value of One Cent (\$.01) per share (the "Common Stock"), and Two Million, Nine Hundred Sixty-Nine Thousand, Nine Hundred Twelve (2,969,912) shares, designated as Restricted Voting Common Stock, shall have a par value of One Cent (\$.01) per share (the "Restricted Voting Common Stock").

SECOND: That the stockholders of the Corporation, at a meeting duly held, approved the amendment in accordance with the provisions of Section 242 of the General Corporation Law of the State of Delaware.

THIRD: That this Certificate of Amendment has been duly adopted in accordance with the provisions of Section 242 of the General Corporation Law of the State of Delaware.

IN WITNESS WHEREOF, the Corporation has caused this Certificate of Amendment to be executed by the undersigned effective as of May 21, 1998.

COMFORT SYSTEMS USA, INC.

By: /s/

William George, Vice President

BYLAWS

OF

COMFORT SYSTEMS USA, INC.

AS AMENDED THROUGH MARCH 5, 1999

BYLAWS

OF

COMFORT SYSTEMS USA, INC

ARTICLE I

STOCKHOLDERS

SECTION 1. ANNUAL MEETING. The annual meeting of the stockholders of the Corporation shall be held on such date, at such time and at such place within or without the State of Delaware as may be designated by the Board of Directors, for the purpose of electing Directors and for the transaction of such other business as may be properly brought before the meeting, which date shall be within thirteen (13) months subsequent to the last annual meeting of stockholders.

SECTION 2. SPECIAL MEETINGS. Unless otherwise provided in the Certificate of Incorporation of the Corporation, special meetings of the stockholders for any purpose or purposes may be called at any time by the Chief Executive Officer, by a majority of the Board of Directors, or by a majority of the executive committee (if any), at such time and at such place as may be stated in the notice of the meeting. Business transacted at such meeting shall be confined to the purpose(s) stated in the notice of such meeting.

SECTION 3. NOTICE OF STOCKHOLDER BUSINESS AND NOMINATIONS.

(a) ANNUAL MEETINGS OF STOCKHOLDERS.

(i) Nominations of persons for election to the Board of Directors and the proposal of business to be considered by the Stockholders may be made at an annual meeting of Stockholders (A) pursuant to the Corporation's notice of meeting, (B) by or at the direction of the Board of Directors or (C) by any Stockholder who was a Stockholder of record at the time of giving of notice provided for in this Section, who is entitled to vote at the meeting and who complies with the notice procedures set forth in this Section.

(ii) For nominations or other business to be properly brought before an annual meeting by a Stockholder pursuant to section 3(a)(i) of this ARTICLE 1, the Stockholder must have given timely notice thereof in writing to the Secretary of the

Corporation and such other business must otherwise be a proper matter for Stockholder action. To be timely, a Stockholder's notice shall be delivered to the Secretary at the principal offices of the Corporation not later than the close of business on the sixtieth (60th) day nor earlier than the close of business on the ninetieth (90th) day prior to the first (1st) anniversary of the preceding year's annual meeting; PROVIDED, HOWEVER, that in the event that the date of the annual meeting is more than thirty (30) days before or more than sixty (60) days after such anniversary date, notice by the Stockholder to be timely must be so delivered not earlier than the close of business on the ninetieth (90th) day prior to such annual meeting and not later than the close of business on the later of the sixtieth (60th) day prior to such annual meeting or the tenth (10th) day following the day on which public announcement of the date of such meeting is first made by the Corporation. In no event shall the public announcement of an adjournment of an annual meeting commence a new time period for the giving of a Stockholders's notice as described above. Such Stockholder's notice shall set forth:

(A) as to each person whom the Stockholder proposes to nominate for election or reelection as a Director all information relating to such person that is required to be disclosed in solicitations of proxies for election of Directors in an election contest, or is otherwise required, in each case pursuant to Regulation 14A under the Securities Exchange Act of 1934, as amended (the "EXCHANGE Act") and Rule 14a-11 thereunder (including such person's written consent to being named in the proxy statement as a nominee and to serving as a Director if elected);

(B) as to any other business that the Stockholder proposes to bring before the meeting, a brief description of the business desired to be brought before the meeting, the reasons for conducting such business at the meeting and any material interest in such business of such Stockholder and the beneficial owner, if any, on whose behalf the proposal is made; and

(C) as to the Stockholder giving the notice and the beneficial owner, if any, on whose behalf the nomination or proposal is made (1) the name and address of such Stockholder, as they appear on the Corporation's books, and of such beneficial owner and (2) the class and number of shares of the, Corporation which are owned beneficially and of record by such Stockholder and such beneficial owner.

(iii) Notwithstanding anything in the second sentence of Section 3(a)(ii) of this ARTICLE I to the contrary, in the event that the number of Directors to be elected to the Board of Directors is increased and there is no public announcement by the Corporation naming all of the nominees for Director or specifying the size of the increased Board of Directors at least seventy (70) days prior to the first (1st) anniversary of the preceding year's annual meeting, a Stockholder's notice required by this Section shall also be considered timely, but only with respect to nominees for any new positions created by such increase, if it shall be delivered to the Secretary at the principal executive offices of the Corporation not later than the close of business on the tenth (10th) day following the day on which such public announcement is first made by the Corporation.

(b) SPECIAL MEETINGS OF STOCKHOLDERS. Only such business shall be conducted at a special meeting of Stockholders as shall have been

brought before the meeting pursuant to the Corporation's notice of meeting. Nominations of persons for election to the Board of Directors may be made at a special meeting of Stockholders at which Directors are to be elected pursuant to the Corporation's notice of meeting (a) by or at the direction of the Board of Directors or (b) provided that the Board of Directors has determined that Directors shall be elected at such meeting, by any Stockholder who is a Stockholder of record at the time of giving of notice provided for in this Section 3, who shall be entitled to vote at the meeting and who complies with the notice procedures set forth in this Section 3. In the event the Corporation calls a special meeting of Stockholders for the purpose of electing one or more Directors to the Board of Directors, any such Stockholder may nominate a person or persons (as the case may be), for election to such positions(s) as specified in the Corporation's notice of meeting, if the Stockholder's notice required by Section 3(a)(ii) of this ARTICLE I shall be delivered to the Secretary at the principal executive offices of the Corporation not earlier than the close of business on the ninetieth (90th) day prior to such special meeting and not later than the close of business on the later of the sixtieth (60th) day prior to such special meeting or the tenth (10th) day following the day on which public announcement is first made of the date of the special meeting and, of the nominees proposed by the Board of Directors to be elected at such meeting. In no event shall the public announcement of an adjournment of a special meeting commence a new time period for the giving of a Stockholder's notice as described above.

(c) GENERAL.

(i) Only such persons who are nominated in accordance with the procedures set forth in this Section 3 shall be eligible to serve as Directors and only such business shall be conducted at a meeting of Stockholders as shall have been brought before the meeting in accordance with the procedures set forth in this Section 3. Except as otherwise provided by applicable law, the Chairman of the meeting shall have the power and duty to determine whether a nomination or any business proposed to be brought before the meeting was made or, proposed, as the case may be, in accordance with the procedures set forth in this Section 3 and, if any proposed nomination or business is not in compliance with this Section 3, to declare that such defective proposal or nomination shall be disregarded.

(ii) For purposes of this Section 3, "public announcement" shall mean disclosure in a press release reported by the Dow Jones News Service, Associate Press or comparable national news service or in a document publicly filed by the Corporation with the Securities and Exchange Commission pursuant to Section 13, 14 or 15(d) of the Exchange Act.

(iii) Notwithstanding the foregoing provisions of this Section 3., a Stockholder shall also comply with all applicable requirements of the Exchange Act and the rules and regulations thereunder with respect to the matters set forth in this Section 3. Nothing in this Section 3 shall be deemed to affect any rights (A) of Stockholders to request inclusion of proposals in the Corporation's proxy statement pursuant to Rule 14a-8 under the Exchange Act; or (B) of the holders of any series of Common Stock or Preferred Stock or any outstanding voting indebtedness to elect Directors under specified circumstances.

Notwithstanding any other provisions of the Certificate of Incorporation of the Corporation and notwithstanding that a lesser percentage may be permitted from time to time by applicable law, no provision of this Section 3 of ARTICLE I may be altered, amended or repealed in any respect, nor may any provision inconsistent therewith be adopted, unless such alteration, amendment, repeal or

adoption is approved by the active vote of the holders of at least 80 percent of the combined voting power of the then outstanding shares of the Corporation's stock entitled to vote generally at elections of Directors voting together as a single class, and at least 80 percent of each class, series and issuance of combined voting power of the then outstanding shares of the Corporation's stock entitled to vote generally at elections of Directors voting separately as a class, series and issuance.

SECTION 4. QUORUM. At any meeting of the stockholders, the holders of a majority in number of the total outstanding shares of stock of the Corporation entitled to vote at such meeting, present in person or represented by proxy, shall constitute a quorum of the stockholders for all purposes, unless the representation of a larger number of shares shall be required by law, by the Certificate of Incorporation or by these Bylaws, in which case the representation of the number of shares so required shall constitute a quorum; provided that at any meeting of the stockholders at which the holders of any class of stock of the Corporation shall be entitled to vote separately as a class, the holders of a majority in number of the total outstanding shares of such class, present in person or represented by proxy, shall constitute a quorum for purposes of such class vote unless the representation of a larger number of shares of such class shall be required by law, by the Certificate of Incorporation or by these Bylaws.

SECTION 5. ADJOURNED MEETINGS. Whether or not a quorum shall be present in person or represented at any meeting of the stockholders, the holders of a majority in number of the shares of stock of the Corporation present in person or represented by proxy and entitled to vote at such meeting may adjourn from time to time; provided, however, that if the holders of any class of stock of the Corporation are entitled to vote separately as a class upon any matter at such meeting, any adjournment of the meeting in respect of action by such class upon such matter shall be determined by the holders of a majority of the shares of such class present in person or represented by proxy and entitled to vote at such meeting. When a meeting is adjourned to another time or place, notice need not be given of the adjourned meeting if the time and place thereof are announced at the meeting at which the adjournment is taken. At the adjourned meeting the stockholders, or the holders of any class of stock entitled to vote separately as a class, as the case may be, may transact any business which might have been transacted by them at the original meeting. If the adjournment is for more than thirty days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the adjourned meeting.

SECTION 6. ORGANIZATION. Each annual and special meeting of Stockholders held in person shall be presided over by a chairman, who shall have the exclusive authority to, among other things, determine (a) whether business and nominations have been properly brought before such meetings, and (b) the order in which business and nominations properly brought before such meeting shall be considered. The chairman of each annual and special meeting shall be the Chairman of the Board of Directors, or such person as shall be appointed by the resolution approved by the majority of the Board of Directors.

The Secretary of the Corporation shall act as Secretary of all meetings of the stockholders; but in the absence of the Secretary, the Chairman may appoint any person to act as Secretary of the meeting. It shall be the duty of the Secretary to prepare and make, at least ten (10) days before every meeting of stockholders, a complete list of stockholders entitled to vote at such meeting, arranged in alphabetical order and showing the address of each stockholder and the number of shares registered in the name of each stockholder. Such list shall be open, either at a place within the city where the meeting is to be held, which place shall be specified in the notice of the meeting or, if not so specified, at the place where the meeting is to be held, for the ten (10) days next preceding the meeting, to the examination of any stockholder, for any purpose germane to the meeting, during ordinary business hours, and shall be produced and kept at the time and place of the meeting during the whole time thereof and subject to the inspection of any stockholder who may be present.

SECTION 7. VOTING. Except as otherwise provided in the Certificate of Incorporation or by law, each stockholder shall be entitled to one vote for each

share of the capital stock of the Corporation registered in the name of such stockholder upon the books of the Corporation. Each stockholder entitled to vote at a meeting of stockholders or to express consent or dissent to corporate action in writing without a meeting may authorize another person or persons to act for him by proxy, but no such proxy shall be voted or acted upon after three years from its date, unless the proxy provides for a longer period. When directed by the presiding officer or upon the demand of any stockholder, the vote upon any matter before a meeting of stockholders shall be by ballot. Except as otherwise provided by law or by the Certificate of Incorporation, Directors shall be elected by a plurality of the votes cast at a meeting of stockholders by the stockholders entitled to vote in the election and, whenever any corporate action, other than the election of Directors is to be taken, it shall be authorized by a majority of the votes cast at a meeting of stockholders by the stockholders entitled to vote thereon.

Shares of the capital stock of the Corporation belonging to the Corporation or to another corporation, if a majority of the shares entitled to vote in the election of directors of such other corporation is held, directly or indirectly, by the Corporation, shall neither be entitled to vote nor be counted for quorum purposes.

SECTION 8. INSPECTORS. When required by law or directed by the presiding officer or upon the demand of any stockholder entitled to vote, but not otherwise, the polls shall be opened and closed, the proxies and ballots shall be received and taken in charge, and all questions touching the qualification of voters, the validity of proxies and the acceptance or rejection of votes shall be decided at any meeting of the stockholders by two or more Inspectors who may be appointed by the Board of Directors before the meeting, or if not so appointed, shall be appointed by the presiding officer at the meeting. If any person so appointed fails to appear or act, the vacancy may be filled by appointment in like manner.

SECTION 9. ACTION WITHOUT MEETING. Unless otherwise provided in the Certificate of Incorporation of the Corporation, prior to a firm commitment underwritten public offering of the Corporation's Common Stock in which gross proceeds equal or exceed \$25 million before deducting underwriters' discounts and other expenses of the offering (the "Offering"), any action permitted or required by law, the Certificate of Incorporation of the Corporation or these Bylaws to be taken at a meeting of stockholders, may be taken without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action so taken, shall be signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted and shall be delivered to the Corporation by delivery to its registered office in the state of incorporation, its principal place of business, or an officer or agent of the Corporation having custody of the book in which proceedings of meetings of stockholders are recorded. Delivery made to the Corporation's registered office shall be by hand or by certified or registered mail, return receipt requested.

Every written consent shall bear the date of signature of each stockholder who signs the consent, and no written consent shall be effective to take the corporate action referred to therein unless, within sixty (60) days of the earliest dated consent delivered in the manner required by this Section to the Corporation, written consents signed by a sufficient number of holders to take action are delivered to the Corporation by delivery to its registered office in the state of incorporation, its principal place of business, or an officer or agent of the Corporation having custody of the book in which proceedings of meetings of stockholders are recorded. Delivery made to the Corporation's registered office shall be by hand or by certified or registered mail, return receipt requested.

Prompt notice of the taking of corporation action without a meeting by less than a unanimous written consent shall be given by the Secretary to those stockholders who have not consented in writing.

Subsequent to the Offering, any action required or permitted to be taken by the Stockholders must be effected at a duly called annual or special meeting

of Stockholders and may not be effected without such a meeting by any consent in writing by such holders.

ARTICLE II

BOARD OF DIRECTORS

SECTION 1. NUMBER AND TERM OF OFFICE; CLASSES. The business and affairs of the Corporation shall be managed by or under the direction of a Board of Directors, none of whom need be stockholders of the Corporation. The number of Directors constituting the Board of Directors shall be fixed from time to time by resolution passed by a majority of the Board of Directors. The directors of the Corporation shall be divided into three classes as nearly equal in size as is practicable, hereby designated Class I, Class II and Class III. The term of office of the initial Class I directors shall expire at the 1998 annual meeting of the stockholders, the term of office of the initial Class II directors shall expire at the 1999 annual meeting of the stockholders and the term of office of the initial Class III directors shall expire at the 2000 annual meeting of the stockholders. For the purposes thereof, the initial Class I, Class II and Class III directors shall be those directors so designated by the Board of Directors at its meeting held June 27, 1997. At each annual meeting of stockholders, commencing with the 1998 meeting of stockholders, each of the successors elected to replace the directors of a class whose term shall have expired at such annual meeting shall be elected to hold office until the third annual meeting next succeeding his or her election and until his or her respective successor shall have been duly elected and qualified. If the number of directors is hereafter changed, any newly created directorships or decrease in directorships shall be so apportioned among the classes as to make all classes as nearly equal in number as is practicable, provided that no decrease in the number of directors constituting the Board of Directors shall shorten the term of any remaining incumbent director.

SECTION 2. REMOVAL, VACANCIES AND ADDITIONAL DIRECTORS. Except as otherwise provided in the Certificate of Incorporation, the stockholders may, at any special meeting the notice of which shall state that it is called for that purpose, remove, with or without cause, any Director and fill the vacancy; provided that whenever any Director shall have been elected by the holders of any class of stock of the Corporation voting separately as a class under the provisions of the Certificate of Incorporation, such Director may be removed and the vacancy filled only by the holders of that class of stock voting separately as a class. Except as otherwise provided in the Certificate of Incorporation, vacancies caused by any such removal and not filled by the stockholders at the meeting at which such removal shall have been made, or any vacancy caused by the death or resignation of any Director or for any other reason, and any newly created directorship resulting from any increase in the authorized number of Directors, may be filled by the affirmative vote of a majority of the Directors then in office, although less than a quorum, and any Director so elected to fill any such vacancy or newly created directorship shall hold office until his successor is elected and qualified or until his earlier resignation or removal.

When one or more Directors shall resign effective at a future date, a majority of the Directors then in office, including those who have so resigned, shall have power to fill such vacancy or vacancies, the vote thereon to take effect when such resignation or resignations shall become effective, and each Director so chosen shall hold office as herein provided in connection with the filling of other vacancies

SECTION 3. PLACE OF MEETING. The Board of Directors may hold its meetings in such place or places in the State of Delaware or outside the State of Delaware as the Board from time to time shall determine.

SECTION 4. REGULAR MEETING. Regular meetings of the Board of Directors shall be held at such times and places as the Board from time to time by resolution shall determine. No notice shall be required for any regular meeting of the Board of Directors, but a copy of every resolution fixing or changing the time or place of regular meetings shall be mailed to every Director at least five (5) days before the first meeting held in pursuance thereof.

SECTION 5. SPECIAL MEETING. Special meetings of the Board of Directors shall be held whenever called by direction of the Chairman of the Board, the Vice Chairman of the Board, the President or by any two of the Directors then in office.

Notice of the day, hour and place of holding of each special meeting shall be given by mailing the same at least two (2) days before the meeting or by causing the same to be transmitted by telegraph, cable or wireless at least one day before the meeting to each Director. Unless otherwise indicated in the notice thereof, any and all business other than an amendment of these Bylaws may be transacted at any special meeting, and an amendment of these Bylaws may be acted upon if the notice of the meeting shall have stated that the amendment of these Bylaws is one of the purposes of the meeting. At any meeting at which every Director shall be present, even though without any notice, any business may be transacted, including the amendment of these Bylaws.

SECTION 6. QUORUM. Subject to the provisions of Section 2 of this Article II, a majority of the members of the Board of Directors in office (but, unless the Board shall consist solely of one Director, in no case less than one-third of the total number of Directors nor less than two Directors) shall constitute a quorum for the transaction of business and the vote of the majority of the Directors present at any meeting of the Board of Directors at which a quorum is present shall be the act of the Board of Directors. If at any meeting of the Board there is less than a quorum present, a majority of those present may adjourn the meeting from time to time.

SECTION 7. ORGANIZATION. The Chairman of the Board, or in his absence, the Vice Chairman of the Board, or in his absence, the President shall preside at all meetings of the Board of Directors. In the absence of the Chairman of the Board, the Vice Chairman of the Board and the President, a Chairman shall be elected from the Directors present. The Secretary of the Corporation shall act as Secretary of all meetings of the Directors; but in the absence of the Secretary, the Chairman may appoint any person to act as Secretary of the meeting.

SECTION 8. COMMITTEE. The Board of Directors may, by resolution passed by a majority of the whole Board, designate one or more committees, each committee to consist of one or more of the Directors of the Corporation. The Board may designate one or more Directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of a member of a committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not he or they constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in the place of any such absent or disqualified member. Any such committee, to the extent provided by resolution passed by a majority of the whole Board, shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and the affairs of the Corporation, and may authorize the seal of the Corporation to be affixed to all papers which may require it; but no such committee shall have the power or authority in reference to amending the Certificate of Incorporation, adopting an agreement of merger or consolidation, recommending to the stockholders the sale, lease or exchange of all or substantially all of the Corporation's property and assets, recommending to the stockholders a dissolution of the Corporation or a revocation of a dissolution, or amending these Bylaws; and unless such resolution, these Bylaws, or the Certificate of Incorporation expressly so provide, no such committee shall have the power or authority to declare a dividend or to authorize the issuance of stock.

SECTION 9. CONFERENCE TELEPHONE MEETINGS. Unless otherwise restricted by the Certificate of Incorporation or by these Bylaws, the members of the Board of Directors or any committee designated by the Board, may participate in a meeting of the Board or such committee, as the case may be, by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and such participation shall constitute presence in person at such meeting.

SECTION 10. CONSENT OF DIRECTORS OR COMMITTEE IN LIEU OF MEETING. Unless

otherwise restricted by the Certificate of Incorporation or by these Bylaws, any action required or permitted to be taken at any meeting of the Board of Directors, or of any committee thereto, may be taken without a meeting if all members of the Board or committee, as the case may be, consent thereto in writing and the writing or writings are filed with the minutes of proceedings of the Board or committee, as the case may be.

ARTICLE III

OFFICERS

SECTION 1. OFFICERS. The officers of the Corporation shall be a Chairman of the Board, a Vice Chairman of the Board, a President, one or more Vice Presidents, a Secretary and a Treasurer, and such additional officers, if any, as shall be elected by the Board of Directors pursuant to the provisions of Section 8 of this Article III. The Chairman of the Board, the Vice Chairman of the Board, the President, one or more Vice Presidents, the Secretary and the Treasurer shall be elected by the Board of Directors at its first meeting after each annual meeting of the stockholders. The failure to hold such election shall not of itself terminate the term of office of any officer. All officers shall hold office at the pleasure of the Board of Directors. Any officer may resign at any time upon written notice to the Corporation. Officers may, but need not, be Directors. Any number of offices may be held by the same person.

All officers, agents and employees shall be subject to removal, with or without cause, at any time by the Board of Directors. The removal of an officer without cause shall be without prejudice to his contract rights, if any. The election or appointment of an officer shall not of itself create contract rights. All agents and employees other than officers elected by the Board of Directors shall also be subject to removal, with or without cause, at any time by the officers appointing them.

Any vacancy caused by the death of any officer, his resignation, his removal, or otherwise, may be filled by the Board of Directors, and any officer so elected shall hold office at the pleasure of the Board of Directors.

In addition to the powers and duties, of the officers of the Corporation as set forth in these Bylaws, the officers shall have such authority and shall perform such duties as from time to time may be determined by the Board of Directors.

SECTION 2. POWERS AND DUTIES OF THE CHAIRMAN OF THE BOARD. The Chairman of the Board shall be the chief executive officer of the Corporation and, subject to the control of the Board of Directors, shall have general charge and control of all its business and affairs and shall have all powers and shall perform all duties incident to the office of Chairman of the Board. He shall preside at all meetings of the stockholders and at all meetings of the Board of Directors and shall have such other powers and perform such other duties as may from time to time be assigned to him by these Bylaws or by the Board of Directors.

SECTION 3. POWERS AND DUTIES OF THE VICE CHAIRMAN OF THE BOARD. The Vice Chairman of the Board, shall be the chief executive officer of the Corporation and, subject to the control of the Board of Directors and the Chairman of the Board, shall have general charge and control of all its business and affairs and shall have all powers and shall perform all duties incident to the office of Vice Chairman of the Board. In the absence of the Chairman of the Board, he shall preside at all meetings of the stockholders and at all meetings of the Board of Directors and shall have such other powers and perform such other duties as may from time to time to be assigned to him by these Bylaws or by the Board of Directors or the Chairman of the Board.

SECTION 4. POWERS AND DUTIES OF THE PRESIDENT. The President shall be the chief operating officer of the Corporation and, subject to the control of the Board of Directors, the Chairman of the Board and the Vice Chairman of the Board, shall have general charge and control of all its operations and shall have all powers and shall perform all duties incident to the office of President. In the absence of the Chairman of the Board and the Vice Chairman of the Board, he shall preside at all meetings of the stockholders and at all

meetings of the Board of Directors and shall have such other powers and perform such other duties as may from time to time be assigned to him by these Bylaws or by the Board of Directors, the Chairman of the Board or the Vice Chairman of the Board.

SECTION 5. POWERS AND DUTIES OF THE VICE PRESIDENTS. Each Vice President shall have all powers and shall perform all duties incident to the office of Vice President and shall have such other powers and perform such other duties as may from time to time be assigned to him by these By laws or by the Board of Directors, the Chairman of the Board, the Vice Chairman of the Board or the President.

SECTION 6. POWERS AND DUTIES OF THE SECRETARY. The Secretary shall keep the minutes of all meetings of the Board of Directors and the minutes of all meetings of the stockholders in books provided for that purpose; he shall attend to the giving or serving of all notices of the Corporation; he shall have custody of the corporate seal of the Corporation and shall affix the same to such documents and other papers as the Board of Directors or the President shall authorize and direct; he shall have charge of the stock certificate books, transfer books and stock ledgers and such other books and papers as the Board of Directors or the President shall direct, all of which shall at all reasonable times be open to the examination of any Director, upon application, at the office of the Corporation during business hours; and whenever required by the Board of Directors, the Chairman of the Board, the Vice Chairman of the Board or the President shall render statements of such accounts; and he shall have all powers and shall perform all duties incident to the office of Secretary and shall also have such other powers and shall perform such other duties as may from time to time be assigned to him by these Bylaws or by the Board of Directors, the Chairman of the Board., the Vice Chairman of the Board or the President.

SECTION 7. POWERS AND DUTIES OF THE TREASURER. The Treasurer shall have custody of, and when proper shall pay out, disburse or otherwise dispose of, all funds and securities of the Corporation which may have come into his hands; he may endorse on behalf of the Corporation for collection checks, notes and other obligations and shall deposit the same to the credit of the Corporation in such bank or banks or depository or depositories as the Board of Directors may designate; he shall sign all receipts and vouchers for payments made to the Corporation; he shall enter or cause to be entered regularly in the books of the Corporation kept for the purpose full and accurate accounts of all moneys received or paid or otherwise disposed of by him and whenever required by the Board of Directors, the Chairman of the Board, the Vice Chairman of the Board or the President shall render statements of such accounts; he shall, at all reasonable times, exhibit his books and accounts to any Director of the Corporation upon application at the office of the Corporation during business hours; and he shall have all powers and he shall perform all duties incident to the office of Treasurer and shall also have such other powers and shall perform such other duties as may from time to time be assigned to him by these Bylaws or by the Board of Directors, the Chairman of the Board, the Vice Chairman of the Board or the President.

SECTION 8. ADDITIONAL OFFICERS. The Board of Directors may from time to time elect such other officers (who may but need not be Directors), including a Controller, Assistant Treasurers, Assistant Secretaries and Assistant Controllers, as the Board may deem advisable and such officers shall have such authority and shall perform such duties as may from time to time be assigned to them by the Board of Directors, the Chairman of the Board, the Vice Chairman of the Board or the President.

The Board of Directors may from time to time by resolution delegate to any Assistant Treasurer or Assistant Treasurers any of the powers or duties herein assigned to the Treasurer; and may similarly delegate to any Assistant Secretary or Assistant Secretaries any of the powers or duties assigned to the Secretary.

SECTION 9. GIVING OF BOND BY OFFICERS. All officers of the Corporation, if required to do so by the Board of Directors, shall furnish bonds to the Corporation for the faithful performance of their duties, in such penalties and with such conditions and security as the Board shall require.

SECTION 10. VOTING UPON STOCKS. Unless otherwise ordered by the Board of Directors, the Chairman of the Board, the Vice Chairman of the Board, the President or any Vice President shall have full power and authority on behalf of the Corporation to attend and to act and to vote, or in the name of the Corporation to execute proxies to vote, at any meeting of stockholders of any corporation in which the Corporation may hold stock, and at any such meeting shall possess and may exercise, in person or by proxy, any and all rights, powers and privileges incident to the ownership of such stock. The Board of Directors may from time to time, by resolution, confer like powers upon any other person or persons.

SECTION 11. COMPENSATION OF OFFICERS. The officers of the Corporation shall be entitled to receive such compensation for their services as shall from time to time be determined by the Board of Directors.

ARTICLE IV

INDEMNIFICATION OF DIRECTORS AND OFFICERS

SECTION 1. NATURE OF INDEMNITY. The Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he is or was or has agreed to become a Director or officer of the Corporation, or is or was serving or has agreed to serve at the request of the Corporation as a Director or officer of another corporation, partnership, joint venture, trust or other enterprise, or by reason of any action alleged to have been taken or omitted in such capacity, and may indemnify any person who was or is a party or is threatened to be made a party to such an action, suit or proceeding by reason of the fact that he is or was or has agreed to become an employee or agent of the Corporation, or is or was serving or has agreed to serve at the request of the Corporation as an employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him or on his behalf in connection with such action, suit or proceeding and any appeal therefrom, if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful; except that in the case of an action or suit by or in the right of the Corporation to procure a judgment in its favor (1) such indemnification shall be limited to expenses (including attorneys' fees) actually and reasonably incurred by such person in the defense or settlement of such action or suit, and (1) no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the Corporation unless and only to the extent that the Delaware Court of Chancery or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Delaware Court of Chancery or such other court shall deem proper.

The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

SECTION 2. SUCCESSFUL DEFENSE. To the extent that a Director, officer, employee or agent of the Corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Section I of this Article IV or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith.

SECTION 3. DETERMINATION THAT INDEMNIFICATION IS PROPER. Any indemnification of a Director or Officer of the Corporation under Section I of

this Article IV (unless ordered by a court) shall be made by the Corporation unless a determination is made that indemnification of the Director or officer is not proper in the circumstances because he has not met the applicable standard of conduct set forth in Section I. Any indemnification of an employee or agent of the Corporation under Section I (unless ordered by a court) may be made by the Corporation upon a determination that indemnification of the employee or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in Section 1. Any such determination shall be made (1) by the Board of Directors by a majority vote of a quorum consisting of Directors who were not parties to such action, suit or proceeding, or (2) if such a quorum is not obtainable, or, even if obtainable .a quorum of disinterested Directors so directs, by independent legal counsel in a written opinion, or (3) by the stockholders.

SECTION 4. ADVANCE PAYMENT OF EXPENSES. Unless the Board of Directors otherwise determines in a specific case, expenses incurred by a Director or officer in defending a civil or criminal action, suit or proceeding shall be paid by the Corporation in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of the Director or officer to repay such amount if it shall ultimately be determined that he is not entitled to be indemnified by the Corporation as authorized in this Article IV. Such expenses incurred by other employees and agents may be so paid upon such terms and conditions, if any, as the Board of Directors deems appropriate. The Board of Directors may authorize the Corporation's legal counsel to represent such Director, officer, employee or agent in any action, suit or proceeding, whether or not the Corporation is a party to such action, suit or proceeding.

SECTION 5. SURVIVAL: PRESERVATION OF OTHER RIGHTS. The foregoing indemnification provisions shall be deemed to be a contract between the Corporation and each Director, officer, employee and agent who serves in any such capacity at any time while these provisions as well as the relevant provisions of the Delaware General Corporation Law are in effect and any repeal or modification thereof shall not affect any right or obligation then existing with respect to any state of facts then or previously existing or any action, suit, or proceeding previously or thereafter brought or threatened based in whole or in part upon any such state of facts. Such a contract right may not be modified retroactively without the consent of such Director, officer, employee or agent.

The indemnification provided by this Article IV shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any bylaw, agreement, vote of stockholders or disinterested Directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a Director, officer, . employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person. The Corporation may enter into an agreement with any of its Directors, officers, employees or agents providing for indemnification and advancement of expenses, including attorneys fees, that may change, enhance, qualify or limit any right to indemnification or advancement of expenses created by this Article IV.

SECTION 6. SEVERABILITY. If this Article IV or any portion hereof shall be invalidated on any ground by any court of competent jurisdiction, then the Corporation shall nevertheless indemnify each Director or officer and may indemnify each employee or agent of the Corporation as to costs, charges and expenses (including attorneys' fees), judgment, fines and amounts paid in settlement with respect to any action, suit or proceeding, whether civil, criminal, administrative or investigative, including an action by or in the right of the Corporation, to the fullest extent permitted by any applicable portion of this Article IV that shall not have been invalidated and to the fullest extent permitted by applicable law.

SECTION 7. SUBROGATION. In the event of payment of indemnification to a person described in Section I of this Article IV, the Corporation shall be subrogated to the extent of such payment to any right of recovery such person may have and such person, as a condition of receiving indemnification from the Corporation, shall execute all documents and do all things that the Corporation may deem necessary or desirable to perfect such right of recovery, including the

execution of such documents necessary to enable the Corporation effectively to enforce any such recovery.

SECTION 8. NO DUPLICATION OF PAYMENTS. The Corporation shall not be liable under this Article IV to make any payment in connection with any claim made against a person described in Section I of this Article IV to the extent such person has otherwise received payment (under any insurance policy, bylaw or otherwise) of the amounts otherwise indemnifiable hereunder.

ARTICLE V

STOCK-SEAL-FISCAL YEAR

SECTION 1. CERTIFICATES FOR SHARES OF Stock. The certificates for shares of stock of the Corporation shall be in such form, not inconsistent with the Certificate of Incorporation, as shall be approved by the Board of Directors. All certificates shall be signed by the Chairman of the Board, the Vice Chairman of the Board, the President or a Vice President and by the Secretary or an Assistant Secretary or the Treasurer or an Assistant Treasurer, and shall not be valid unless so signed.

In case any officer or officers who shall have signed any such certificate or certificates shall cease to be such officer or officers of the Corporation, whether because of death, resignation or otherwise, before such certificate or certificates shall have been delivered by the Corporation, such certificate or certificates may nevertheless be issued and delivered as though the person or persons who signed such certificate or certificates had not ceased to be such officer or officers of the Corporation.

All certificates for shares of stock shall be consecutively numbered as the same are issued. The name of the person owning the shares represented thereby with the number of such shares and the date of issue thereof shall be entered on the books of the Corporation.

Except as hereinafter provided, all certificates surrendered to the Corporation for transfer shall be canceled, and no new certificates shall be issued until former certificates for the same number of shares have been surrendered and canceled.

SECTION 2. LOST, STOLEN OR DESTROYED CERTIFICATES. Whenever a person owning a certificate for shares of stock of the Corporation alleges that it has been lost, stolen or destroyed, he shall file in the office of the Corporation an affidavit setting forth, to the best of his knowledge and belief, the time, place and circumstances of the loss, theft or destruction, and, if required by the Board of Directors, a bond of indemnity or other indemnification sufficient in the opinion of the Board of Directors to indemnify the Corporation and its agents against any claim that may be made against it or them on account of the alleged loss, theft or destruction of any such certificate or the issuance of a new certificate in replacement therefor. Thereupon the Corporation may cause to be issued to such person a new certificate in replacement for the certificate alleged to have been lost, stolen or destroyed. Upon the stub of every new certificate so issued shall be noted the fact of such issue and the number, date and the name of the registered owner of the lost, stolen or destroyed certificate in lieu of which the new certificate is issued.

SECTION 3. TRANSFER OF SHARES. Shares of stock of the Corporation shall be transferred on the books of the Corporation by the holder thereof, in person or by his attorney duly authorized in writing, upon surrender and cancellation of certificates for the number of shares of stock to be transferred, except as provided in Section 2 of this Article IV.

SECTION 4. REGULATIONS. The Board of Directors shall have power and authority to make such rules and regulations as it may deem expedient concerning the issue, transfer and registration of certificates for shares of stock of the Corporation.

SECTION 5. RECORD DATE. In order that the Corporation may determine the

stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, or to express consent to corporate action in writing without a meeting or to receive payment of any dividend or other distribution or allotment of any rights, or to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, as the case may be, the Board of Directors may fix, in advance, a record date, which shall not be (i) more than sixty (60) nor less than ten (10) days before the date of such meeting, or (ii) in the case of corporate action to be taken by consent in writing without a meeting prior to, or more than ten (10) days after, the date upon which the resolution fixing the record date is adopted by the Board of Directors, or (iii) more than sixty (60) days prior to any other action.

If no record date is fixed, the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held; the record date for determining stockholders entitled to express consent to corporate action in writing without a meeting, when no prior action by the Board of Directors is necessary, shall be the day on which the first written consent is delivered to the Corporation; and the record date for determining stockholders for any other purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for the adjourned meeting.

SECTION 6. DIVIDENDS. Subject to the provisions of the Certificate of Incorporation, the Board of Directors shall have power to declare and pay dividends upon shares of stock of the Corporation, but only out of funds available for the payment of dividends as provided by law.

Subject to the provisions of the Certificate of Incorporation, any dividends declared upon the stock of the Corporation shall be payable on such date or dates as the Board of Directors shall determine. If the date fixed for the payment of any dividend shall in any year fall upon a legal holiday, then the dividend payable on such date shall be paid on the next day not a legal holiday.

SECTION 7. CORPORATE SEAL. The Board of Directors shall provide a suitable seal, containing the name of the Corporation, which seal shall be kept in the custody of the Secretary. A duplicate of the seal may be kept and be used by any officer of the Corporation designated by the Board of Directors, the Chairman of the Board, the Vice Chairman of the Board or the President.

SECTION 8. FISCAL YEAR. The fiscal year of the Corporation shall be such fiscal year as the Board of Directors from time to time by resolution shall determine.

ARTICLE VI

MISCELLANEOUS PROVISIONS

SECTION 1. CHECKS, NOTES, ETC. All checks, drafts, bills of exchange, acceptances, notes or other obligations or orders for the payment of money shall be signed and, if so required by the Board of Directors, countersigned by such officers of the Corporation and/or other persons as the Board of Directors from time to time shall designate.

Checks, drafts, bills of exchange, acceptances, notes, obligations and orders for the payment of money made payable to the Corporation may be endorsed for deposit to the credit of the Corporation with a duly authorized depository by the Treasurer and/or such other officers or persons as the Board of Directors from time to time may designate.

SECTION 2. LOANS. No loans and no renewals of any loans shall be contracted on behalf of the Corporation except as authorized by the Board of

Directors. When authorized so to do, any officer or agent of the Corporation may effect loans and advances for the Corporation from any bank, trust company or other institution or from any firm, corporation or individual, and for such loans and advances may make, execute and deliver promissory notes, bonds or other evidences of indebtedness of the Corporation. When authorized so to do, any officer or agent of the Corporation may pledge, hypothecate or transfer, as security for the payment of any and all loans, advances, indebtedness and liabilities of the Corporation, any and all stocks, securities and other personal property at any time held by the Corporation, and to that end may endorse, assign and deliver the same. Such authority may be general or confined to specific instances.

SECTION 3. CONTRACTS. Except as otherwise provided in these Bylaws or by law or as otherwise directed by the Board of Directors, the Chairman of the Board, the Vice Chairman of the Board, the President or any Vice President shall be authorized to execute and deliver, in the name and on behalf of the Corporation, all agreements, bonds, contracts, deeds, mortgages, and other instruments, either for the Corporation's own account or in a fiduciary or other capacity, and the seal of the Corporation, if appropriate, shall be affixed thereto by any of such officers or the Secretary or an Assistant Secretary. The Board of Directors, the Chairman of the Board, the Vice Chairman of the Board, the President or any Vice President designated by the Board of Directors, the Chairman of the Board, the Vice Chairman of the Board or the President may authorize any other officer, employee or agent to execute and deliver, in the name and on behalf of the Corporation, agreements, bonds, contracts, deeds, mortgages, and other instruments, either for the Corporation's own account or in a fiduciary or other capacity, and, if appropriate, to affix the seal of the Corporation thereto. The grant of such authority by the Board or any such officer may be general or confined to specific instances.

SECTION 4. WAIVERS OF NOTICE. Whenever any notice whatever is required to be given by law, by the Certificate of Incorporation or by these Bylaws to any person or persons, a waiver thereof in writing, signed by the person or persons entitled to the notice, whether before or after the time stated therein, shall be deemed equivalent thereto.

SECTION 5. OFFICES OUTSIDE OF DELAWARE. Except as otherwise required by the laws of the State of Delaware, the Corporation may have an office or offices and keep its books, documents and papers outside of the State of Delaware at such place or places as from time to time may be determined by the Board of Directors, the Chairman of the Board or the Vice Chairman of the Board.

ARTICLE VII

AMENDMENTS

The Board of Directors shall have the power to adopt, amend and repeal from time to time Bylaws of the Corporation, subject to the right of the stockholders entitled to vote with respect thereto to amend or repeal such Bylaws as adopted or amended by the Board of Directors; provided, however, that unless a different percentage is called for in a particular provision hereof, any amendment or repeal of the Bylaws of the Corporation by the stockholders shall be by a vote of the holders of at least 66 2/3 percent of the total votes eligible to be cast by holders of voting stock with respect to such amendment or repeal.

EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT (the "Agreement") between Shambaugh & Son, Inc., an Indiana corporation (the "Company") and a wholly-owned subsidiary of Comfort Systems USA, Inc., a Delaware corporation ("Comfort"), and Mark Shambaugh ("Executive") is entered into and effective as of the 15th day of November, 1998. This Agreement supersedes any other employment agreements or understandings, written or oral, between the Company and Executive.

R E C I T A L S

The following statements are true and correct:

As of the date of this Agreement, the Company, Comfort and the other subsidiaries and affiliates of each (collectively, the "Comfort Group") are engaged primarily in the business of mechanical contracting services, including heating, ventilation and air conditioning, plumbing, piping and electrical and related services ("Services").

Executive is employed hereunder by the Company in a confidential relationship wherein Executive, in the course of his employment with the Company, has and will continue to become familiar with and aware of information as to the Comfort Group's customers, specific manner of doing business, including the processes, techniques and trade secrets utilized by the Comfort Group, and future plans with respect thereto, all of which has been and will be established and maintained at great expense to the Company and Comfort. This information is a trade secret and constitutes the valuable goodwill of the Company and Comfort.

NOW, THEREFORE, in consideration of the mutual promises, terms, covenants and conditions set forth herein and the performance of each, the Company and Executive hereby agree as follows:

A G R E E M E N T S

1. EMPLOYMENT AND DUTIES.

(1) The Company hereby employs Executive as its Chief Executive Officer and Executive hereby accepts this employment upon the terms and conditions herein contained. Executive agrees to devote substantially all of his business time, attention and efforts to promote and further the business of the Company.

(2) Executive shall faithfully adhere to, execute and fulfill all lawful policies established by the Company and Comfort, including Comfort's Corporate Compliance Policy.

(3) Executive shall not, during the term of Executive's employment hereunder, be engaged in any other business activity pursued for gain, profit or other pecuniary advantage if such activity interferes in any material respect with Executive's duties and responsibilities hereunder; PROVIDED, HOWEVER, that Executive may engage in the activities listed on Exhibit A hereto so long as Executive does not devote more time to such activities than Executive has historically devoted to such activities. The foregoing limitations shall not be construed as prohibiting Executive from making personal investments in such form or manner as will neither require Executive's services in the operation or affairs of the companies or enterprises in which such investments are made nor violate the terms of Section 4.

2. COMPENSATION. For all services rendered by Executive, the Company shall compensate Executive as follows:

(1) BASE SALARY. Effective the date hereof, the base salary payable to Executive shall be \$300,000 per year, payable on a regular basis in accordance with the Company's standard payroll procedures, but not less often than monthly. On at least an annual basis, the Company will review Executive's performance and may make increases to such base salary if, in its discretion, any such increase is warranted.

(2) EXECUTIVE PERQUISITES, BENEFITS AND OTHER COMPENSATION. Executive shall be entitled to receive additional benefits and compensation from the Company in such form and to the extent specified below:

(1) Coverage, subject to contributions required of employees generally, for Executive and Executive's dependent family members under health, hospitalization, disability, dental, life and other insurance plans that the Company may have in effect from time to time for the benefit of its employees.

(2) Reimbursement for all business travel and other out-of-pocket expenses reasonably incurred by Executive in the performance of Executive's services pursuant to this Agreement. Reimbursable expenses shall be appropriately documented in reasonable detail by Executive, and shall be in a format consistent with the Company's expense reporting policy.

(3) In addition to the benefits described in Section 2(b)(i), Executive shall be entitled to continue to participate in such other benefit programs, including, but not limited to, auto allowance and 401(k) plan, as shall be granted from time to time by the Company to its key employees in a manner consistent with its past practice.

(4) Executive may, in his discretion, take up to eight weeks of vacation time during any calendar year; PROVIDED, HOWEVER, that in no event shall Executive take more than three consecutive weeks of vacation time; and PROVIDED, FURTHER, that in no event shall Executive's vacation time accrue from year to year.

3. CONFIDENTIALITY.

(1) CONFIDENTIAL INFORMATION. As used herein, the term "Confidential Information" means any information, technical data or know-how of the Company and the other members of the Comfort Group, including, but not limited to, that which relates to customers, business affairs, business plans, financial matters, financial plans and projections, pending and proposed acquisitions, operational and hiring matters, contracts and agreements, marketing, sales and pricing, prospects of the Comfort Group, and any information, technical data or know-how that contain or reflect any of the foregoing, whether prepared by the Company, any other member of the Comfort Group, Executive or any other person or entity; PROVIDED, HOWEVER, that the term "Confidential Information" shall not include information, technical data or know-how which is generally available to the public not as a result of any breach of this Agreement by Executive.

(2) NO DISCLOSURE. Except in the performance of Executive's duties as an executive of the Company, Executive will not, during or after the Executive's engagement with the Company, disclose to any person or entity or use, for any reason whatsoever, any Confidential Information, unless such disclosure is required by law or the order of any governmental authority under color of law; PROVIDED, HOWEVER, that prior to disclosing any information pursuant to this Section 3(b), Executive shall, if possible, give prior written notice of the disclosure of such information to the Company and shall provide the Company with the opportunity to contest such disclosure.

4. NON-COMPETITION AGREEMENT.

(1) COMPETITION. Executive will not, during the period of Executive's employment by or with the Company, and for a period of two

years immediately following the termination of Executive's employment, for any reason whatsoever, directly or indirectly, on behalf of Executive or on behalf of or in conjunction with any other person, company, partnership, corporation or business of whatever nature:

(1) except for the activities listed on Exhibit A hereto, engage, as an officer, director, shareholder, owner, partner, joint venturer, or in a managerial capacity, whether as an employee, independent contractor, consultant or advisor, or as a sales representative, or make or guarantee loans or invest, in or for any business engaged in Services in competition with the Company or any other member of the Comfort Group anywhere within the United States or Canada (the "Territory");

(2) call upon any person who is, at that time, within the Territory, an employee of the Company or any other member of the Comfort Group in a technical, managerial or sales capacity for the purpose or with the intent of enticing such employee away from or out of the employ of the Company or such other member of the Comfort Group;

(3) call upon any person or entity which is at that time, or which has been within two years prior to that time, a customer of the Company or any other member of the Comfort Group for the purpose of soliciting or selling Services; or

(4) call upon any prospective acquisition candidate, on Executive's own behalf or on behalf of any competitor, which acquisition candidate either was called upon by Executive on behalf of the Company or any other member of the Comfort Group or was the subject of an acquisition analysis made by Executive on behalf of the Company or any other member of the Comfort Group for the purpose of acquiring such acquisition candidate.

Notwithstanding the above, the foregoing covenant shall not be deemed to prohibit Executive from acquiring as an investment not more than 1% of any class of securities of a competing business whose securities are traded on a national securities exchange or on an over-the-counter or similar market.

(2) NO VIOLATION. It is specifically agreed that the period during which the agreements and covenants of Executive made in this Section 4 shall be effective shall be computed by excluding from such computation any time during which Executive is in violation of any provision of this Section 4.

5. TERM; TERMINATION; RIGHTS ON TERMINATION. The term of this Agreement shall begin on the date hereof and continue for five years (the "Term"), unless terminated sooner as herein provided. This Agreement and Executive's employment may be terminated in any one of the following ways:

(1) DEATH. The death of Executive shall immediately terminate this Agreement with no severance compensation due to Executive's estate.

(2) DISABILITY. If, as a result of incapacity due to physical or mental illness or injury, Executive shall have been absent from Executive's full-time duties hereunder for four consecutive months, then 30 days after receiving written notice (which notice may occur before or after the end of such four-month period, but which shall not be effective earlier than the last day of such four-month period), the Company may terminate Executive's employment hereunder, provided Executive is unable to resume his full-time duties at the conclusion of such notice period. In the event this Agreement is terminated as a result of Executive's disability, Executive shall receive from the Company Executive's base salary at the rate then in effect for the lesser of the time period remaining under the Term or one year, and such amount shall be payable during such period in a manner consistent with Company's standard pay practices. The amount payable hereunder shall be decreased by the amount

of benefits otherwise actually paid by the Company to Executive or on Executive's behalf or under any insurance procured by the Company.

(3) CAUSE. The Company may terminate this Agreement 10 days after written notice to Executive for cause, which shall be any of the following: (i) Executive's willful or material breach of this Agreement, which breach is not cured within 10 days after written notice by the Company to Executive; (ii) Executive's gross negligence in the performance of any of Executive's material duties and responsibilities hereunder, which gross negligence is not cured within 10 days after written notice by the Company to Executive; (iii) Executive's intentional nonperformance of any of Executive's material duties and responsibilities hereunder, which nonperformance is not cured within 10 days after written notice by the Company to Executive; (iv) Executive's willful dishonesty, fraud or misconduct with respect to the business or affairs of the Company or any other member of the Comfort Group; (v) Executive's conviction of a felony crime; (vi) Executive's confirmed positive illegal drug test result; (vii) sexual harassment by Executive; or (viii) willful or material failure by Executive to comply with Comfort's Corporate Compliance Policy. In the event of a termination for cause, as enumerated above, Executive shall have no right to any severance compensation.

(4) WITHOUT CAUSE. At any time after the commencement of Executive's employment, Executive or the Company may, without cause, terminate this Agreement and Executive's employment, effective 30 days after receipt of written notice. Should Executive be terminated by the Company without cause during the first three years of the Term (the "Initial Term"), Executive shall receive from the Company Executive's base salary at the rate then in effect for the greater of the time period remaining under the Initial Term or for one year, and such amount shall be payable in a lump-sum payment due on the effective date of termination. Should Executive be terminated by the Company without cause during the final two years of the Term, Executive shall receive from the Company Executive's base salary at the rate then in effect for one year, and such amount shall be payable during such period in a manner consistent with the Company's standard pay practices. If Executive resigns or otherwise terminates Executive's employment, Executive shall receive no severance compensation.

6. RETURN OF COMPANY PROPERTY. All records, plans, manuals, "field guides", memoranda, lists, documents, statements and other property delivered to Executive by or on behalf of the Company or any other member of the Comfort Group, by any customer of the Company or any other member of the Comfort Group (including, but not limited to, any such customers obtained by Executive), by any acquisition candidate of the Company or any other member of the Comfort Group, and all records compiled by Executive which pertain to the business or activities of the Company or any other member of the Comfort Group shall be and remain the property of the Company and shall be subject at all times to its discretion and control. Likewise, all correspondence with customers, representatives or acquisition candidates, reports, records, charts, advertising materials, and any data collected by Executive or by or on behalf of the Company or any other member of the Comfort Group or any representative of any of them shall be delivered promptly to the Company without request by it upon termination of Executive's employment with the Company.

7. INVENTIONS. Executive shall disclose promptly to the Company any and all significant conceptions and ideas for inventions, improvements and valuable discoveries, whether patentable or not, which are conceived or made by Executive, solely or jointly with another, during the period of Executive's employment with the Company or within one year thereafter, and which are directly related to the business or activities of the Company or which Executive conceives as a result of his employment by the Company. Executive hereby assigns and agrees to assign all Executive's interests therein to the Company or its nominee. Whenever requested to do so by the Company, Executive shall execute any and all applications, assignments or other instruments that the Company shall deem necessary to apply for and obtain Letters Patent of the United States or any foreign country or to otherwise protect the Company's interest therein.

8. TRADE SECRETS. Executive agrees that Executive will not, during or

after the Term, disclose the specific terms of the Company's or any other member of the Comfort Group's relationships or agreements with significant vendors or customers or any other significant and material trade secret of the Company or any other member of the Comfort Group, whether in existence or proposed, to any person, firm, partnership, corporation or business for any reason or purpose whatsoever.

9. NO PRIOR AGREEMENTS. Executive hereby represents and warrants to the Company that the execution of this Agreement by Executive and Executive's employment by the Company and the performance of Executive's duties hereunder will not violate or be a breach of any agreement with a former employer, client or any other person or entity. Further, Executive agrees to indemnify the Company for any claim, including, but not limited to, attorneys' fees and expenses of investigation, by any such third party that such third party may now have or may hereafter come to have against the Company based upon or arising out of any non-competition agreement, invention or secrecy agreement between Executive and such third party which was in existence as of the date of this Agreement.

10. ASSIGNMENT; BINDING EFFECT. Executive understands that Executive has been selected for employment by the Company on the basis of Executive's personal qualifications, experience and skills. Executive agrees, therefore, that Executive cannot assign all or any portion of Executive's performance under this Agreement. Executive, Executive's spouse and the estate of each shall not have any right to encumber or dispose of any right to receive payments hereunder, it being understood that such payments and the right thereto are nonassignable and nontransferable; PROVIDED, HOWEVER, that in the event of the death of Executive, any payments that Executive is entitled to receive may be assigned to the beneficiaries of Executive's estate. Subject to the preceding three sentences and the express provisions of Section 11, this Agreement shall be binding upon, inure to the benefit of and be enforceable by the parties hereto and their respective heirs, legal representatives, successors and assigns.

11. COMPLETE AGREEMENT. Executive has no oral representations, understandings or agreements with the Company or any of its officers, directors or representatives covering the same subject matter as this Agreement. This Agreement is the final, complete and exclusive statement and expression of the agreement between the Company and Executive and of all the terms of this Agreement, and it cannot be varied, contradicted or supplemented by evidence of any prior or contemporaneous oral or written agreements.

12. AMENDMENT; WAIVER. This Agreement may not be modified except in a writing signed by the parties, and no term of this Agreement may be waived except by a writing signed by the party waiving the benefit of such term.

13. NOTICE. Whenever any notice is required hereunder, it shall be given in writing addressed as follows:

To the Company: Shambaugh & Son, Inc.
 7614 Opportunity Drive
 Ft. Wayne, IN 46801
 Attention: President

with a copy to: Comfort Systems USA, Inc.
 777 Post Oak Boulevard, Suite 500
 Houston, TX 77056
 Attention: General Counsel

To Executive: Mark Shambaugh
 2233 East Cedar Canyons Road
 Ft. Wayne, IN 46845

Notice shall be deemed given and effective on the earlier of five days after the deposit in the U.S. mail of a writing addressed as above and sent first class mail, certified, return receipt requested, or when actually received. Either party may change the address for notice by notifying the other party of such change in accordance with this Section 13.

14. SEVERABILITY; ENFORCEABILITY. If any portion of this Agreement is held invalid or inoperative, the other portions of this Agreement shall be deemed valid and operative and, so far as is reasonable and possible, effect shall be given to the intent manifested by the portion held invalid or inoperative. Moreover, in the event any court of competent jurisdiction shall determine that the scope, time or territorial restrictions set forth in any covenant contained herein are unreasonable, then it is the intention of the parties that such restrictions be enforced to the fullest extent which the court deems reasonable, and this Agreement shall thereby be reformed. Each of the covenants contained in this Agreement shall be construed as an agreement independent of any other provision in this Agreement, and the existence of any claim or cause of action of Executive against the Company, whether predicated on this Agreement or otherwise, shall not constitute a defense to the enforcement by the Company of such covenants.

15. SURVIVAL. The provisions of Sections 3, 4, 6, 7 and 8 shall survive the termination of this Agreement.

16. SPECIFIC PERFORMANCE. Because of the difficulty of measuring economic losses to the Company as a result of a breach of the covenants contained in Sections 3, 4, 6, 7 and 8 and because of the immediate and irreparable damage that could be caused to the Company for which it would have no other adequate remedy, Executive agrees that the Company shall be entitled to specific performance and that such covenants may be enforced by the Company in the event of any breach or threatened breach by Executive, by injunctions, restraining orders and other appropriate equitable relief. Executive further agrees to waive any requirement for the securing or posting of any bond in connection with the obtaining of any such injunctive or other equitable relief.

17. ARBITRATION. With the exception of Sections 4 and 8, any unresolved dispute or controversy arising under or in connection with this Agreement shall be settled exclusively by arbitration, conducted by a single arbitrator in the State of Indiana, in accordance with the National Rules for the Resolution of Employment Disputes of the American Arbitration Association ("AAA") then in effect, provided that the parties may agree to use an arbitrator other than those provided by the AAA. The arbitrator shall not have the authority to add to, detract from, or modify any provision hereof nor to award punitive damages to any injured party. The arbitrator shall have the authority to order back-pay, severance compensation, reimbursement of costs, including those incurred to enforce this Agreement, and interest thereon. A decision by a the arbitrator shall be final and binding. Judgment may be entered on the arbitrator's award in any court having jurisdiction. Responsibility for bearing the cost of the arbitration shall be determined by the arbitrator and shall be proportional to the arbitrator's decision on the merits.

18. ATTORNEYS' FEES. If any litigation is instituted to enforce or interpret the provisions of this Agreement or the transactions described herein, the prevailing party in such action shall be entitled to recover such party's reasonable attorneys' fees and other costs from the other party hereto.

19. GOVERNING LAW. This Agreement shall be governed by and construed in accordance with the internal laws of the State of Indiana.

20. COUNTERPARTS. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

COMPANY:

SHAMBAUGH & SON, INC.

By: /s/

William George, Vice President

EXECUTIVE:

/s/

Mark Shambaugh

THIRD AMENDED AND RESTATED CREDIT AGREEMENT

This THIRD AMENDED AND RESTATED CREDIT AGREEMENT dated as of December 14, 1998 (this "AGREEMENT") is among COMFORT SYSTEMS USA, INC., a Delaware corporation (the "COMPANY"), the Subsidiaries of the Company listed on the signature pages hereto as Guarantors (together with each other person who subsequently becomes a Guarantor, collectively the "GUARANTORS"), the banks and other financial institutions listed on the signature pages hereto under the caption "BANKS" (together with each other person who becomes a Bank, collectively the "BANKS"), and BANK ONE, TEXAS, N.A., individually as a Bank ("BOT") and as administrative agent for the other Banks (in such capacity together with any other Person who becomes the administrative agent, the "ADMINISTRATIVE AGENT"), BANKERS TRUST COMPANY, individually as a Bank ("BTCO") and as syndication agent for the other Banks (in such capacity together with any other Person who becomes the syndication agent, the "SYNDICATION AGENT"), NATIONSBANK, N.A., individually as a Bank ("NB") and as documentation agent for the other Banks (in such capacity together with any other Person who becomes the documentation agent, the "DOCUMENTATION AGENT"; and together with the Administrative Agent and the Syndication Agent, the "AGENTS"), CREDIT LYONNAIS, individually as a Bank and as Co-Agent, NATIONAL CITY BANK, individually as a Bank and as Co-Agent, and THE BANK OF NOVA SCOTIA, individually as a Bank and as Co-Agent (collectively, "Co-Agents").

WHEREAS, the Company, Guarantors, BOT and the Administrative Agent are parties to the Existing Credit Agreement (this and other terms used in these recitals without definition being used as defined in SECTION 1.1), which provides for a revolving credit facility pursuant to which BOT and the Banks named therein committed to make loans of up to \$175,000,000.00, including a letter of credit facility not to exceed \$10,000,000.00, to the Company for general corporate purposes, including working capital, financing permitted acquisitions and the issuance of letters of credit.

WHEREAS, the Company has requested the Banks to further amend and restate the Existing Credit Agreement to modify certain terms and conditions thereof, including, without limitation, to increase the revolving credit facility to \$300,000,000.00, to provide for the pledge and grant of a perfected First Priority security interest in favor of the Administrative Agent with respect to substantially all the accounts receivable and inventory of the Company and its Subsidiaries and all the shares of capital stock of the Company's domestic Subsidiaries and 65% of the capital stock of the Company's foreign Subsidiaries, and the addition and replacement of Agents and certain Banks, all as set forth herein.

WHEREAS, to facilitate the transactions contemplated hereby, all Banks under the Existing Credit Agreement, pursuant to a Master Assignment Agreement, have agreed to assign to BOT all of their existing loans and existing commitments under the Existing Credit Agreement and BOT, pursuant to such Master Assignment Agreement, has agreed to assign to each Bank under this Agreement the Commitments set forth on the signature pages hereto.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants set forth herein, the Company, the Guarantors, the Agents and the Banks agree as follows:

ARTICLE I

DEFINITIONS; ACCOUNTING TERMS; INTERPRETATION

SECTION 1.1. DEFINITIONS. As used in this Agreement, the following terms shall have the following meanings:

"ADMINISTRATIVE AGENT" has the meaning specified in the introduction to this Agreement.

"ADMINISTRATIVE QUESTIONNAIRE" means the questionnaire attached

hereto as EXHIBIT 1.1(A) to be completed by each Bank and returned to the Administrative Agent.

"ADVANCE" means an advance, pursuant to a Notice of Advance, comprised of a single Type of Loans from all the Banks (or resulting from a conversion or conversions on the same date having, in the case of Eurodollar Rate Advances, the same Interest Period (except as otherwise provided in this Agreement)), made by all of the Banks concurrently to the Company.

"ADVANCE DATE" means, with respect to each Advance, the Business Day upon which the proceeds of such Advance are to be made available to the Company.

"AFFILIATE" means any other Person directly or indirectly controlling (including all directors and officers of such Person), controlled by, or under direct or indirect common control with such Person.

"AGENTS" has the meaning specified in the introduction to this Agreement.

"AGREEMENT" has the meaning specified in the introduction to this Agreement.

"ALTERNATE BASE RATE" means, for any date, a rate per annum (rounded upwards, if necessary, to the next 1/16 of 1%) equal to the greater of (a) the Federal Funds Effective Rate in effect on such day plus 1/2 of 1% and (b) the Prime Rate in effect on such day. For purposes hereof, the term "PRIME RATE" means, as of a particular date, the prime rate of BOT most recently announced by BOT and in effect on such date, automatically fluctuating upward or downward, as the case may be, with and at the time of each change therein without notice to the Company or any other Person, which prime rate may not necessarily represent the lowest or best rate actually charged to a customer. "FEDERAL FUNDS EFFECTIVE RATE" means, for any day, the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System arranged by federal funds brokers, as published for such day (or, if such day is not a Business Day, for the next preceding Business Day) by the Federal Reserve Bank of New York, or, if such rate is not so published for any day which is a Business Day, the average of the quotations for such day on such transactions received by the Administrative Agent from three federal funds brokers of recognized standing selected by it. If, for any reason, the Administrative Agent shall have determined (which determination shall be conclusive absent manifest error) that it is unable to ascertain the Federal Funds Effective Rate, including the inability or failure of the Administrative Agent to obtain sufficient quotations in accordance with the terms hereof, the Alternate Base Rate shall be

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determined without regard to clause (a) of the first sentence of this definition until the circumstances giving rise to such inability no longer exist. Any change in the Alternate Base Rate due to a change in the Prime Rate or the Federal Funds Effective Rate shall be effective on the effective date of such change in the Prime Rate or the Federal Funds Effective Rate, respectively.

"ALTERNATE BASE RATE ADVANCE" means any Advance bearing interest at a rate determined by reference to the Alternate Base Rate in accordance with the provisions of ARTICLE II.

"APPLICABLE LENDING OFFICE" means, with respect to each Bank, such Bank's Domestic Lending Office in the case of an Alternate Base Rate Advance and such Bank's Eurodollar Lending Office in the case of a Eurodollar Rate Advance.

"APPLICATION FOR LETTER OF CREDIT" means a letter of credit application in a form satisfactory to the Issuing Bank.

"ASSET SALE" means the sale, transfer or other disposition for value, whether voluntary or involuntary, by the Company or any of its Subsidiaries to any Person other than the Company or any of its wholly-owned Subsidiaries of (i) any of the stock of any of the Company's Subsidiaries, (ii) substantially all of the Assets of any division or line of business of the Company and its Subsidiaries, or (iii) any other Assets of the Company or any of its Subsidiaries (other than (a) inventory and surplus or obsolete assets sold in the ordinary course of business and (b) any such other Assets to the extent that the aggregate value of such Assets sold in any single transaction or related series of transactions is equal to \$500,000 or less).

"ASSETS" (whether or not capitalized) means any interest in any kind of property or asset, whether real, personal or mixed, or tangible or intangible.

"ASSIGNMENT AND ACCEPTANCE" has the meaning specified in SECTION 12.10(C).

"BANK" has the meaning provided in the introduction to this Agreement.

"BANKRUPTCY CODE" has the meaning specified in SECTION 10.1(E).

"BOARD" means the Board of Governors of the Federal Reserve System of the United States (or any successor).

"BOT" means Bank One, Texas, N.A., 910 Travis, 7th Floor, Houston, Texas 77002.

"BTCO" means Bankers Trust, One Bankers Trust Plaza, 130 Liberty Street, New York, New York 10006.

"BUSINESS DAY" means any day (other than a day which is a Saturday, Sunday or legal holiday in the State of Texas) on which most banks are open for business in Houston, Texas.

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"CAPITALIZED LEASE OBLIGATIONS" means all lease or rental obligations which, pursuant to GAAP, are capitalized for balance sheet purposes.

"CERCLA" means the comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, state and local analogs, and all rules and regulations and requirements thereunder in each case as now or hereafter in effect.

"CHANGE OF CONTROL" means any of (i) the acquisition by any Person (other than the shareholders on the Effective Date), or two or more Persons acting in concert, after the Effective Date of beneficial ownership of 50% or more of the outstanding shares of voting stock of the Company, (ii) during any period of 24 consecutive months, beginning on the Effective Date, the ceasing of those individuals (the "CONTINUING DIRECTORS") who (a) were directors of the Company on the first day of each such period or (b) subsequently became directors of the Company and whose initial nomination for election subsequent to that date was approved by a majority of the Continuing Directors then on the board of directors of the Company, to constitute a majority of the board of directors of the Company at any time during such period, (iii) all or substantially all of the assets of the Company and its Subsidiaries are sold in a single transaction or series of related transactions to any Persons or (iv) the Company merges or consolidates with or into any other Person except as permitted hereunder.

"CODE" means the Internal Revenue Code of 1986 and the regulations promulgated thereunder.

"COLLATERAL" means, collectively, all of the personal property (including capital stock) in which Liens are purported to be granted pursuant to the Collateral Documents as security for the Obligations.

"COLLATERAL ACCOUNT AGREEMENT" means the Collateral Account Agreement executed and delivered by the Company and Administrative Agent on the Effective Date, substantially in the form of EXHIBIT 1.1(b) annexed hereto, as such Collateral Account Agreement may hereafter be amended, supplemented or otherwise modified from time to time.

"COLLATERAL DOCUMENTS" means the Collateral Account Agreement, the Company Pledge Agreement, the Company Security Agreement, the Subsidiary Pledge Agreements, the Subsidiary Security Agreements and all other instruments or documents delivered by the Company or any Guarantor pursuant to this Agreement or any of the other Loan Documents in order to grant to the Administrative Agent, on behalf of the Banks, a Lien on the Collateral as security for the Obligations.

"COMMITMENT" and "COMMITMENTS" means the obligation of each of the Banks to enter into and perform this Agreement, to make available the Loans and to issue or participate in the Letters of Credit to the Company in the amounts shown on the signature page of each Bank hereto and all other duties and obligations of the Banks hereunder.

"COMMITMENT FEE" has the meaning specified in SECTION 4.1(A).

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"COMPANY" has the meaning specified in the introduction to this Agreement.

"COMPANY PLEDGE AGREEMENT" means the Company Pledge Agreement executed and delivered by the Company on the Effective Date, substantially in the form of EXHIBIT 1.1(C) annexed hereto, as such Company Pledge Agreement may thereafter be amended, supplemented or otherwise modified from time to time.

"COMPANY SECURITY AGREEMENT" means the Company Security Agreement executed and delivered by the Company on the Effective Date, substantially in the form of EXHIBIT 1.1(D) annexed hereto, as such Company Security Agreement may thereafter be amended, supplemented or otherwise modified from time to time.

"COMPLIANCE CERTIFICATE" means a certificate substantially in the form of EXHIBIT 1.1(E) annexed hereto delivered to the Administrative Agent and the Banks by the Company pursuant to SECTION 7.1(D).

"CONSOLIDATED NET WORTH" means, at any date, an amount equal to the consolidated stockholders' equity of the Company and its subsidiaries determined in accordance with GAAP as of such date.

"CONVERSION" or "CONVERT" (in each case whether or not capitalized) means the changing of a Eurodollar Rate Advance to an Alternate Base Rate Advance or vice versa in accordance with the provisions hereof.

"CREDIT EVENT" means the making of any Advance or the issuance or extension of any Letter of Credit.

"CUMULATIVE CONSOLIDATED NET INCOME" means, as of any date of determination, (x) the consolidated net income (or loss) of the Company and its Subsidiaries, determined on a consolidated basis in accordance with GAAP, LESS (y) any Restricted Subordinated Debt Payments (other than interest payments) in respect of any Subordinated Debt existing on the Effective Date made during the period (taking as one accounting period) commencing on the Effective Date and ending on the last day of the most recent fiscal quarter for which financial statements have been delivered pursuant to Section 6.1.

"CURRENT ASSETS" and "CURRENT LIABILITIES" means, as to the Company and its Subsidiaries determined on a consolidated basis, at any time the aggregate current assets or current liabilities (other than the repayment of the Loans) of the Company, each as determined in accordance with GAAP.

"DEFAULT" means the occurrence of any event which with or without the giving of notice or the passage of time or both could become an Event of Default.

"DEFAULT RATE" means the lesser of (i) the Highest Lawful Rate and (ii) with respect to (a) Alternate Base Rate Advances, the rate per annum which would otherwise be applicable plus two percent (2.00%), and (b) Eurodollar Rate Advances, the rate per annum which would otherwise be applicable plus three percent (3.00%).

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"DESIGNATED PAYMENT DATE" means March 31, June 30, September 30 and December 31 of each year; PROVIDED, HOWEVER, if a Designated Payment Date shall be a day which is not a Business Day, such Designated Payment Date shall be the next succeeding Business Day, and such extension of time shall be included in determining the amount to be paid on such date.

"DOCUMENTATION AGENT" has the meaning specified in the introduction to this Agreement.

"DOMESTIC LENDING OFFICE" means, with respect to any Bank, the office of such Bank, designated from time to time as its "Domestic Lending Office" hereunder.

"EBITDA" means, for any period, the consolidated pre-tax income for such period, plus the aggregate amount which was deducted for such period in determining such consolidated, pre-tax income in respect of Interest Expense (including amortization of debt discount, imputed interest and capitalized interest), depreciation and amortization, provided, the calculations of EBITDA after the acquisition of assets or entities permitted under Section 8.5(d) shall include pro forma adjustments consistent with the regulations and practices of the United States Securities and Exchange Commission (whether or not applicable) to account for such acquired entity's historical EBITDA for the relevant period or similar adjustments in the case of an asset acquisition.

"EFFECTIVE DATE" means the date on or before December 14, 1998, on which all conditions to make an Advance set forth in SECTION 5.1 are first met or waived in accordance with SECTION 12.1 hereof.

"ELIGIBLE ASSIGNEE" means (a) any Bank; (b) a commercial bank organized under the laws of the United States, or any state thereof, and having total assets in excess of \$250,000,000.00; (c) a commercial bank organized under the laws of any other country which is a member of the Organization for Economic Cooperation and Development or any successor organization, or a political subdivision of any such country, and having total assets in excess of \$1,000,000,000.00; PROVIDED that such bank is acting through a branch or agency located in the country in which it is organized or another country which is also a member of the Organization for Economic Cooperation and Development or any successor organization; (d) the central bank of any country which is a member of the Organization for Economic Cooperation and Development or any successor organization; and (e) any other bank or similar financial institution approved by the Administrative Agent, the Majority Banks and the Company, which consent of the Company shall not be unreasonably withheld.

"ENVIRONMENTAL LAWS" means federal, state or local laws, rules or regulations, and any judicial or administrative interpretations thereof, including any judicial or administrative order, judgment, permit, approval, decision or determination pertaining to conservation or protection of the environment in effect at the time in question, including the Clean Air Act, CERCLA, the Federal Water Pollution Control Act, the

Occupational Safety and Health Act, the Resource Conservation and Recovery Act, the Safe Drinking Water Act, the Toxic Substances Control Act, the Superfund Amendment

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and Reauthorization Act of 1986, the Hazardous Materials Transportation Act, and comparable state and local laws, and other environmental conservation and protection laws.

"ERISA" means the Employee Retirement Income Security Act of 1974 and the regulations promulgated thereunder.

"ERISA AFFILIATE" means any trade or business (whether or not incorporated) which is either a member of the same "controlled group" or under "common control," within the meaning of Section 414 of the Code and the regulations thereunder, with the Company and (b) any Subsidiary of the Company.

"EUROCURRENCY LIABILITIES" has the meaning specified in Regulation D as in effect from time to time.

"EURODOLLAR LENDING OFFICE" means, with respect to each Bank, the branches or affiliates of such Bank designated as its "Eurodollar Lending Office" from time to time hereunder.

"EURODOLLAR RATE" means, with respect to any Eurodollar Rate Advance, the rate (rounded to 1/16 of 1%) at which dollar deposits approximately equal in principal amount to the entire portion of such Advance and for a maturity equal to the applicable Interest Period are offered in immediately available funds to the Administrative Agent by prime banks in whatever Eurodollar interbank market may be selected by the Administrative Agent in its sole and absolute discretion at the time of determination and in accordance with the then usual practice in such market at approximately 10:00 a.m. (Houston, Texas time) two Business Days prior to the commencement of such Interest Period.

"EURODOLLAR RATE ADVANCE" means any Advance bearing interest at a rate determined by reference to the Eurodollar Rate in accordance with the provisions of Article II.

"EVENTS OF DEFAULT" has the meaning specified in SECTION 10.1.

"EXISTING CREDIT AGREEMENT" means that certain Credit Agreement by and among the Company, Guarantors, BOT, the Administrative Agent and certain of the Banks dated as of July 2, 1997, as such credit agreement was amended and restated by that certain First Amended and Restated Credit Agreement dated as of September 22, 1997 and by that certain Second Amended and Restated Credit Agreement dated as of April 14, 1998, and as such credit agreement was further amended by that certain First Amendment to Second Amended and Restated Credit Agreement dated as of June 30, 1998.

"FEDERAL FUNDS EFFECTIVE RATE" has the meaning specified in the definition of the term "ALTERNATE BASE RATE."

"FEES" has the meaning specified in SECTION 4.1.

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"FINANCIAL CONDITION CERTIFICATE" means the certificate substantially in the form of EXHIBIT 1.1(F) annexed hereto, dated the Effective Date, delivered by the Company pursuant to SECTION 5.1(I).

"FINANCIALS" has the meaning specified in SECTION 5.1(H).

"FIRST PRIORITY" means, with respect to any Lien purported to be created in any Collateral pursuant to any Collateral Document, that (i) such Lien has priority over any other Lien on such Collateral (other than

Permitted Liens which as a matter of statutory law have priority over any other Lien irrespective of the prior perfection or filing of such other Lien) and (ii) such Lien is the only Lien (other than Permitted Liens and Liens otherwise permitted pursuant to SECTION 8.4) to which such Collateral is subject.

"FUNDED SENIOR DEBT" means all indebtedness for borrowed money evidenced by a written document and subject to required payments of interest and/or principal exclusive of Subordinated Debt.

"GAAP" means generally accepted accounting principles as in effect from time to time as set forth in the opinions, statements and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants, the Financial Accounting Standards Board and such other Persons who shall be approved by a significant segment of the accounting profession and concurred in by the independent certified public accountants certifying any audited financial statements of the Company.

"GUARANTEED OBLIGATIONS" has the meaning specified in SECTION 9.1.

"GUARANTORS" has the meaning provided in the introduction to this Agreement.

"GUARANTY" means the obligations contained in ARTICLE IX hereof and in any document containing similar obligations executed by subsequent Guarantors.

"HAZARDOUS MATERIALS" means (a) hazardous waste as defined in the Resource Conservation and Recovery Act of 1976, or in any applicable federal, state or local law or regulation, (b) hazardous substances, as defined in CERCLA, or in any applicable state or local law or regulation, (c) gasoline, or any other petroleum product or by-product, (d) toxic substances, as defined in the Toxic Substances Control Act of 1976, or in any applicable federal, state or local law or regulation, (e) asbestos or asbestos containing materials, or (f) insecticides, fungicides, or rodenticides, as defined in the Federal Insecticide, Fungicide, and Rodenticide Act of 1975, or in any applicable federal, state or local law or regulation, as each such act, statute or regulation may be amended from time to time.

"HIGHEST LAWFUL RATE" means, as to any Bank, the maximum nonusurious rate of interest that, under applicable law, may be contracted for, taken, reserved, charged or received by such Bank on the Loans or under the Loan Documents at any time or from time to time. If the maximum rate of interest which, under applicable law, any of the Banks are permitted to charge the Company on the Loans shall change after the date hereof, to the extent permitted by applicable law, the Highest Lawful Rate shall be

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automatically increased or decreased, as the case may be, as of the effective time of such change without notice to the Company or any other Person.

"INDEBTEDNESS" means, without duplication, (a) all indebtedness for borrowed money (whether by loan or the issuance and sale of debt securities or letters of credit issued under this facility, banker's acceptances or quasi equity issues) or for the deferred purchase price of property or services, (b) all indebtedness created or arising under any conditional sale or other title retention agreement with respect to property, (c) all Capitalized Lease Obligations, (d) hedge or swap agreements and Interest Rate Agreements (at a mark to market valuation); and (e) obligations under direct or indirect guaranties in respect of, and obligations (contingent or otherwise) to purchase or otherwise acquire, or otherwise to assure a creditor against loss in respect to indebtedness or obligations of another Person of the kinds referred to in clauses (a) through (d) above.

"INFORMATION SYSTEMS AND EQUIPMENT" means all computer hardware, firmware and software, as well as other information processing systems, or any equipment containing embedded microchips, whether directly or owned, licensed, leased, operated or otherwise controlled by the Company or any of its Subsidiaries, including through third-party service providers, and which, in whole or in part, are used, operated, relied upon, or integral to, the Company's or any of its Subsidiaries' conduct of their business.

"INTEREST EXPENSE" means, with respect to the Company and its Subsidiaries determined on a consolidated basis, for any period the total interest expense for such period determined in conformity with GAAP including any interest expense attributable to Capitalized Lease Obligations.

"INTEREST PERIOD" has the meaning specified in SECTION 2.11.

"INTEREST RATE AGREEMENT" means any interest rate swap agreement, interest rate cap agreement, interest rate collar agreement, interest rate hedging agreement or other similar agreement or arrangement designed to protect against fluctuations in interest rates to which the Company and any Bank are parties.

"INVESTMENT" means, as applied to any Person, any direct or indirect purchase or other acquisition by such Person of the assets, stock or other securities of any other Person, or any direct or indirect loan, advance or capital contribution by such Person to any other Person, and any other item which would be classified as an "investment" on a balance sheet of such Person in accordance with GAAP, including any direct or indirect contribution by such Person of property or assets to a joint venture, partnership or other business entity in which such Person retains an interest.

"ISSUING BANK" means, for each Letter of Credit, the Bank that agrees or is otherwise obligated to issue such Letter of Credit, determined as provided in Section 3.2(c).

"LETTER OF CREDIT" has the meaning specified in SECTION 3.1 (A).

"LETTER OF CREDIT FEE" means the following computed on the undrawn face amount of each Letter of Credit (i) a 1/8% per annum fronting fee payable to the Issuing Bank and (ii) a fee payable to the Issuing Bank for the ratable benefit of the Banks equal to the greater of (a) \$500.00 or (b) a rate per annum determined in accordance with the grid set forth below as a function of the ratio of Total Funded Debt on the last day of the immediately preceding fiscal quarter to EBITDA for the consecutive four fiscal quarters ending on the last day of such fiscal quarter:

TOTAL FUNDED DEBT/EBITDA RATIO	LETTER OF CREDIT FEE
(greater than or equal to) 3.00	2.500%
(greater than or equal to) 2.50 but <3.00	2.000%
(greater than or equal to) 2.00 but <2.50	1.750%
(greater than or equal to) 1.50 but <2.00	1.500%
(greater than or equal to) 1.00 but < 1.50	1.250%
<1.00	1.000%

Any Letter of Credit Fees expressed as a rate per annum shall be calculated on the basis of a 365 day-year.

"LETTER OF CREDIT OBLIGATIONS" means at any time the sum of (a) the aggregate then undrawn and unexpired amount of outstanding Letters of Credit and (b) the aggregate amount of drawings under Letters of Credit not reimbursed pursuant to SECTION 3.3(C).

"LETTER OF CREDIT REQUEST" has the meaning specified in SECTION 3.2(A).

"LIEN" means, when used with respect to any Person, any mortgage, lien, charge, pledge, security interest, attachment or encumbrance of any kind (whether voluntary or involuntary and whether imposed or created by operation of law or otherwise) upon, or pledge of, any of its property or assets, whether now owned or hereafter acquired, or any lease intended as security, any capital lease in the nature of the foregoing, any conditional sale agreement or other title retention agreement, in each case, for the purpose, or having the effect, of protecting a creditor against loss or securing the payment or performance of an obligation.

"LOAN" and "LOANS" has the meaning assigned thereto in SECTION 2.1.

"LOAN DOCUMENTS" means this Agreement, the Notes, the Letters of Credit (and any applications for, or reimbursement agreements or other documents or certificates executed by the Company in favor of an Issuing Bank relating to, the Letters of Credit), the Guaranty, the Collateral Documents, the Notice of Advance, and the corporate resolutions authorizing the Loan Documents.

"MAJORITY BANKS" means Banks holding at least 51% of the Advances outstanding under the Loans, or, if no Advances are outstanding, Banks holding such percentage of the Total Commitment (notwithstanding any reduction or termination of the Total

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Commitment) or if there are no Advances or Commitments outstanding, Banks holding such percentage of outstanding Letters of Credit.

"MARGIN" means with respect to any Advance, the percentage determined in accordance with the following table as a function of the ratio of Total Funded Debt on the last day of the immediately preceding fiscal quarter to EBITDA for the consecutive four fiscal quarters ending on the last day of such fiscal quarter:

TOTAL FUNDED DEBT/ EBITDA RATIO	EURODOLLAR RATE ADVANCE	ALTERNATE BASE RATE ADVANCE
(greater than or equal to) 3.00	2.500%	1.250%
(greater than or equal to) 2.50 but <3.00	2.000%	0.750%
(greater than or equal to) 2.00 but <2.50	1.750%	0.500%
(greater than or equal to) 1.50 but <2.00	1.500%	0.250%
(greater than or equal to) 1.00 but <1.50	1.250%	0.000%
<1.00	1.000%	0.000%

; PROVIDED that for the Margin Period from the Effective Date through the date that the first Compliance Certificate is delivered pursuant to SECTION 7.1(D), the applicable Margin shall be 1.500% for Eurodollar Rate Advances and 0.250% for Alternate Base Rate Advances.

"MARGIN PERIOD" means (a) the period from the Effective Date through the date that the first quarterly financial statements are delivered pursuant to SECTION 7.1(A) and (b) thereafter, a period commencing on the date on which the quarterly or annual financial statements of the Company are required to be delivered pursuant to SECTION 7.1(A) or SECTION 7.1(B) as the case may be, and ending on the next date a financial statement is required to be so delivered.

"MASTER ASSIGNMENT AGREEMENT" means that certain Master Assignment Agreement, substantially in the form of EXHIBIT 1.1(G) annexed hereto, among the Company, the banks under the Existing Credit Agreement, the Banks under this Agreement and the Agents pursuant to which all banks under the Existing Credit Agreement assign their commitments to the Administrative Agent, and the Administrative Agent assigns to each Bank

under this Agreement, and each such Bank purchases from the Administrative Agent, the Loans and the Commitments set forth on the signature pages hereto.

"MATERIAL ADVERSE EFFECT" means, relative to any occurrence of whatever nature (including any adverse determination in any litigation, arbitration or governmental investigation or proceeding), (a) a material adverse effect on the business, operations, properties, assets or condition (financial or otherwise) of the Company and its Subsidiaries taken as a whole or (b) the impairment of the ability of the Company and the Guarantors to perform, or of any Agent or any Bank to enforce, the Obligations.

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"MATERIAL SUBSIDIARY" means a Subsidiary of the Company that has annual revenues or Assets with a book value of \$5,000,000 or more for the most recently ended fiscal year.

"MATURITY DATE" means November 1, 2001.

"MAXIMUM GUARANTEED AMOUNT" means for each Guarantor the maximum amount which any Guarantor could pay under the Guaranty without having such payment set aside as a fraudulent transfer or conveyance or similar action under the Bankruptcy Code or any applicable state or foreign law.

"MULTIEMPLOYER PLAN" means any plan which is a "multiemployer plan" (as such term is defined in Section 4001(a)(3) of ERISA).

"NB" means NationsBank, N.A., 700 Louisiana Street, Houston, Texas 77002.

"NET ASSET SALE PROCEEDS" means, with respect to any Asset Sale, cash payments (including any cash received by way of deferred payment pursuant to, or by monetization of, a note receivable or otherwise, but only as and when so received) received from such Asset Sale, net of any bona fide direct costs incurred in connection with Asset Sale, including (i) income taxes reasonably estimated to be actually payable within two years of the date of such Asset Sale as a result of any gain recognized in connection with such Asset Sale and (ii) payment of the outstanding principal amount of, premium or penalty, if any, and interest on any Indebtedness (other than the Loans) that is secured by a Lien on the stock or assets in question and that is required to be repaid under the terms thereof as a result of such Asset Sale.

"NOTE" and "NOTES" have the meaning specified in SECTION 2.2.

"NOTICE OF ADVANCE" has the meaning provided in SECTION 2.3(A).

"NOTICE OF CONVERSION" has the meaning provided in SECTION 2.5.

"NOTICE OF DEFAULT" has the meaning specified in SECTION 10.2.

"OBLIGATIONS" means all the obligations of every nature of the Company and each Guarantor owed to Agents, Banks or any of them now or hereafter existing under the Loan Documents, whether for principal, interest, Fees, expenses, indemnification or otherwise.

"OTHER ACTIVITIES" has the meaning specified in SECTION 11.3.

"OTHER FINANCINGS" has the meaning specified in SECTION 11.3.

"OTHER HEDGING AGREEMENT" shall mean any foreign exchange contract, currency swap agreements, commodity agreements or other similar agreements or arrangements designed to protect against the fluctuations in currency values to which the Company is a party.

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"PAYMENT OFFICE" means the office of the Administrative Agent located at 910 Travis, Houston, Texas 77002, or such other office as the Administrative Agent may hereafter designate in writing as such to the other parties hereto.

"PBGC" means the Pension Benefit Guaranty Corporation or any entity succeeding to all or any of its functions under ERISA.

"PERMITTED INVESTMENTS" means, as to any Person:

(a) securities issued or directly and fully guaranteed or insured by the United States or any agency or instrumentality thereof (PROVIDED that the full faith and credit of the United States is pledged in support thereof) having maturities of not more than twelve months from the date of acquisition thereof,

(b) time deposits and certificates of deposit with maturities of not more than twelve months from the date of acquisition by such Person which deposits or certificates are either: (a) fully insured by the Federal Deposit Insurance Corporation or (b) in any Bank or other commercial bank incorporated in the United States or any U.S. branch of any other commercial bank, in each case having capital, surplus and undivided profits aggregating \$100,000,000.00 or more with a long-term unsecured debt rating of at least A- from Standard & Poor's Ratings Group or A3 from Moody's Investors Service,

(c) commercial paper issued by any Person incorporated in the United States rated at least A2 or the equivalent thereof by Standard & Poor's Ratings Group or at least P2 or the equivalent thereof by Moody's Investors Service and, in each case, maturing not more than 270 days after the date of issuance,

(d) investments in money market mutual funds having assets in excess of \$2,000,000,000.00 substantially all of whose assets are comprised of securities of the types described in clauses (a) through (c) above, and

(e) repurchase or reverse purchase agreements respecting obligations with a term of not more than seven days for underlying securities of the types described in clause (a) above entered into with any bank listed in or meeting the qualifications specified in clause (b) above.

"PERMITTED LIENS" shall mean: (a) Liens for taxes, assessments, levies or other governmental charges not yet due or which are being contested in good faith by appropriate proceedings and for which adequate reserves are maintained in accordance with GAAP; (b) Liens in connection with worker's compensation, unemployment insurance or other social security, old age pension or public liability obligations not yet due or which are being contested in good faith by appropriate proceedings and for which adequate reserves are maintained in accordance with GAAP; (c) operator's, vendors', carriers', warehousemen's, repairmen's, mechanics', workers', materialmen's or other like Liens arising by operation of law in the ordinary course of business (or deposits to obtain the release of any such Lien) and securing amounts not yet due or which are being contested in good faith by appropriate proceedings and for which adequate reserves are

maintained in accordance with GAAP; (d) deposits to secure insurance in the ordinary course of business; (e) deposits to secure the performance of bids, tenders, contracts (other than contracts for the payment of money or the deferred purchase price of goods or services), leases, licenses, franchises, trade contracts, statutory obligations, surety and appeal bonds and performance bonds and other obligations of a like nature incurred in the ordinary course of business; (f) easements, rights of way, covenants, restrictions, reservations, exceptions, encroachments, zoning

and similar restrictions and other similar encumbrances (other than to secure the payment of borrowed money or the deferred purchase price of goods or services) or title defects, in each case incurred in the ordinary course of business which, in the aggregate, are not substantial in amount, and which do not in any case singly or in the aggregate materially detract from the value or usefulness of the Property subject thereto for the business conducted by the Company and its Subsidiaries or materially interfere with the ordinary conduct of the business of the Company and its Subsidiaries; (g) bankers' liens arising by operation of law; and (h) inchoate Liens arising under ERISA to secure contingent liabilities of the Company and its Subsidiaries.

"PERSON" means an individual, partnership, corporation (including a business trust), limited liability company, joint stock company, trust, unincorporated association, joint venture or other entity, or a foreign or domestic state or political subdivision thereof or any agency of such state or subdivision.

"PLAN" means any employee pension benefit plan (as defined in Section 3(2) of ERISA), subject to Title IV of ERISA or Section 412 of the Code, other than a Multiemployer Plan, with respect to which the Company or an ERISA Affiliate contributes or has an obligation or liability to contribute, including any such plan that may have been terminated.

"PLEGGED COLLATERAL" means, collectively, the "PLEGGED COLLATERAL" as defined in the Company Pledge Agreement and the Subsidiary Pledge Agreements.

"PRESCRIBED FORMS" shall mean such duly executed form(s) or statement(s), and in such number of copies, which may, from time to time, be prescribed by law and which, pursuant to applicable provisions of the Code or an income tax treaty between the United States and the country of residence of the Bank providing the form(s) or statement(s), permit each of the Company and the Administrative Agent to make payments hereunder for the account of such Bank free of deduction or withholding of income and other taxes, or with deduction or withholding of income or other taxes at a reduced rate under an applicable tax treaty.

"PRIME RATE" has the meaning set forth in the definition of Alternate Base Rate.

"PROPERTY" (whether or not capitalized) means any interest in any kind of property or asset, whether real, personal or mixed, or tangible or intangible.

"RELEASE" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment

(including the abandonment or discarding of barrels, containers and other closed receptacles).

"REPORTABLE EVENT" means an event described in Section 4043(b) of ERISA with respect to a Plan as to which the 30-day notice requirement has not been waived by the PBGC.

"REQUIREMENTS OF ENVIRONMENTAL LAWS" means, as to any Person, the requirements of any applicable Environmental Law relating to or affecting such Person or the condition or operation of such Person's business or its properties, both real and personal.

"RESERVE PERCENTAGE" means, for any Interest Period and for any Bank, the reserve percentage applicable during such Interest Period under regulations issued from time to time by the Board (or if more than one such percentage is so applicable, the daily average for such percentages for those days in such Interest Period during which any such percentage

shall be so applicable) for determining the actual reserve requirement (including any marginal, supplemental or emergency reserves) for such Bank in respect of liabilities or assets consisting of or including Eurocurrency Liabilities.

"RESPONSIBLE OFFICER" means, with respect to the Company, the chairman of the board of directors, president, any vice president, chief executive officer, chief operating officer, treasurer or chief financial officer of the Company.

"RESTRICTED SUBORDINATED DEBT PAYMENTS" means any payment or prepayment of principal of, premium or penalty, if any, or interest on, or redemption, purchase, retirement, defeasance (including in-substance or legal defeasance), sinking fund or similar payment with respect to, any Subordinated Indebtedness.

"SOLVENT" means, with respect to any Person, that as of the date of determination both (a) (i) the then fair saleable value of the property of such Person is (y) greater than the total amount of liabilities (including contingent liabilities) of such Person and (z) not less than the amount that will be required to pay the probable liabilities on such Person's then existing debts as they become absolute and matured considering all financing alternatives and potential asset sales reasonably available to such Person; (ii) such Person's capital is not unreasonably small in relation to its business or any contemplated or undertaken transaction; and (iii) such Person does not intend to incur, or believe (nor should it reasonably believe) that it will incur, debts beyond its ability to pay such debts as they become due; and (b) such Person is "solvent" within the meaning given that term and similar terms under applicable laws relating to fraudulent transfers and conveyances. For purposes of this definition, the amount of any contingent liability at any time shall be computed as the amount that, in light of all of the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

"SUBSIDIARY" means and includes, with respect to any Person, (a) any corporation more than 50% of whose stock of any class or classes having by the terms thereof

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ordinary voting power to elect a majority of the directors of such corporation (irrespective of whether or not at the time stock of any class or classes of such corporation shall have or might have voting power by reason of the happening of any contingency) is at the time owned by such Person, directly or indirectly and (b) any partnership, association, joint venture or other entity in which such Person, directly or indirectly, has greater than 50% of the equity interest. Unless otherwise provided or the context otherwise requires, the term "Subsidiary" or "Subsidiaries" shall mean a Subsidiary or Subsidiaries of the Company.

"SUBSIDIARY PLEDGE AGREEMENT" means each Subsidiary Pledge Agreement executed and delivered by an existing Guarantor on the Effective Date or executed and delivered by any additional Guarantor from time to time thereafter in accordance with SECTION 7.8, in each case substantially in the form of EXHIBIT 1.1(H) annexed hereto, as such Subsidiary Pledge Agreement may be amended, supplemented or otherwise modified from time to time, and "SUBSIDIARY PLEDGE AGREEMENTS" means all such Subsidiary Security Agreements.

"SUBSIDIARY SECURITY AGREEMENT" means each Subsidiary Security Agreement executed and delivered by an existing Guarantor on the Effective Date or executed and delivered by any additional Guarantor from time to time thereafter in accordance with SECTION 7.8, in each case substantially in the form of EXHIBIT 1.1(I) annexed hereto, as such Subsidiary Security Agreement may be amended, supplemented or otherwise modified from time to time, and "SUBSIDIARY SECURITY AGREEMENTS" means all such Subsidiary Security Agreements.

"SUBORDINATED DEBT" means any Indebtedness of the Company or any subsidiary of the Company which is expressly and validly subordinated to the obligations of the Company hereunder and under the Notes and other Loan Documents pursuant to terms and conditions substantially in the form of the attached EXHIBIT 1.1(J).

"SYNDICATION AGENT" has the meaning specified in the introduction to this Agreement.

"TOTAL COMMITMENT" means the sum of the Commitments for each Bank totaling a maximum of \$300,000,000.00 for all Banks.

"TOTAL FUNDED DEBT" means Funded Senior Debt plus Subordinated Debt.

"UCC" means the Uniform Commercial Code (or any similar or equivalent legislation) as in effect in any applicable jurisdiction.

"UNUTILIZED COMMITMENT" means the Total Commitment less Letter of Credit Obligations less the outstanding Advances under the Loan, as same may be reduced pursuant to SECTION 2.16.

"YEAR 2000 COMPLIANT" means that all Information Systems and Equipment accurately process date data (including, but not limited to, calculating, comparing and sequencing), before, during and after the year 2000, as well as same and multi-century

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dates, or between the years 1999 and 2000, taking into account all leap years, including the fact that the year 2000 is a leap year, except where a failure to so process would not have a Material Adverse Effect, and further, that when used in combination with, or interfacing with, other Information Systems and Equipment, shall accurately accept, release and exchange date data, except where a failure to so accept, release and exchange would not have a Material Adverse Effect, and shall in all material respects continue to function in the same manner as it performs today, except where a failure to function would not cause a Material Adverse Effect, and shall not otherwise impair the accuracy or functionality of Information Systems and Equipment, except where an impairment would not have a Material Adverse Effect.

SECTION 1.2. TYPES OF ADVANCES. Advances hereunder are distinguished by "Type". The Type of an Advance refers to the determination whether such Advance is a Eurodollar Rate Advance or an Alternate Base Rate Advance.

SECTION 1.3. ACCOUNTING TERMS. All accounting terms not defined herein shall be construed in accordance with GAAP, as applicable, and all calculations required to be made hereunder and all financial information required to be provided hereunder shall be done or prepared in accordance with GAAP.

SECTION 1.4. SCHEDULES. Schedules hereto may be updated by the Company from time to time to reflect transactions and other matters not prohibited by the Loan Documents.

ARTICLE II THE LOANS

SECTION 2.1. THE LOANS. Subject to the terms and conditions hereof, each Bank severally agrees at any time and from time to time on and after the Effective Date and prior to the Maturity Date, to make and maintain a loan or loans (together with any Advances under a Letter of Credit described in Article III, a "LOAN" and collectively, the "LOANS") to the Company not to exceed at any time outstanding the maximum amount of its Commitment, which Loans (i) shall, at the option of the Company, be made and maintained pursuant to one or more Advances comprised of Alternate Base Rate Advances or Eurodollar Rate Advances;

PROVIDED that, except as otherwise specifically provided herein, all Advances made simultaneously under the Loan shall be of the same Type, (ii) in the case of Eurodollar Rate Advances, shall be made in the minimum amount of \$1,000,000.00 and integral multiples of \$100,000.00 and, in the case of Alternate Base Rate Advances, in the minimum amount of \$100,000.00 and integral multiples thereof, or, in either case, in the remaining balance of the Total Commitment, (iii) may be repaid and, so long as no Default or Event of Default exists hereunder, reborrowed, at the option of the Company in accordance with the provisions hereof, and (iv) shall, in the aggregate at any time outstanding and together with all Letter of Credit Obligations, not exceed the Total Commitment. There shall be no further Advances after the Maturity Date.

SECTION 2.2. THE NOTES. The Loans shall be evidenced by a Note in favor of each Bank (individually a "NOTE" and collectively, the "NOTES"), substantially in the form of EXHIBIT 2.2(A).

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SECTION 2.3. NOTICE OF ADVANCE.

(a) Whenever the Company desires an Advance, it shall give written notice thereof (a "NOTICE OF ADVANCE") (or telephonic notice promptly confirmed in writing) to the Administrative Agent (i) in the case of an Alternate Base Rate Advance, not later than 11:00 a.m. (Houston, Texas time) on the date of such Advance and (ii) in the case of a Eurodollar Rate Advance, not later than noon (Houston, Texas time) three Business Days prior to the date of such Advance. Each Notice of Advance shall be irrevocable and shall be in the form of EXHIBIT 2.3 hereto, specifying (i) the aggregate principal amount of the Advance to be made, (ii) the date of such Advance (which shall be a Business Day), (iii) whether it is to be an Alternate Base Rate Advance or a Eurodollar Rate Advance and (iv) if the proposed Advance is to be a Eurodollar Rate Advance, the initial Interest Period to be applicable thereto.

(b) The Administrative Agent shall promptly give the Banks written notice or telephonic notice (promptly confirmed in writing) of each proposed Advance, of each Bank's proportionate share thereof and of the other matters covered by each Notice of Advance.

SECTION 2.4. DISBURSEMENT OF FUNDS FOR LOANS.

(a) No later than 1:00 p.m. (Houston, Texas time) on any Advance Date for Loans, each Bank shall make available its pro rata portion of the amount of such Advance in U.S. dollars and in immediately available funds at the Payment Office. At such time, the Administrative Agent shall credit the amounts so received to the general deposit account of the Company maintained with the Administrative Agent in immediately available funds or as otherwise directed by the Company.

(b) Unless the Administrative Agent shall have been notified by any Bank prior to disbursement of the Advance by the Administrative Agent that such Bank does not intend to make available to the Administrative Agent such Bank's portion of the Advance to be made on such date, the Administrative Agent may assume that such Bank has made such amount available to the Administrative Agent on such Advance Date and the Administrative Agent may, in reliance upon such assumption, make available to the Company a corresponding amount. If such corresponding amount is not in fact made available to the Administrative Agent by such Bank and the Administrative Agent has made available same to the Company, the Administrative Agent shall be entitled to recover such corresponding amount on demand from such Bank. If such Bank does not pay such corresponding amount forthwith upon the Administrative Agent's demand therefor, the Administrative Agent shall promptly notify the Company, and the Company shall pay such corresponding amount to the Administrative Agent within two (2) Business Days after demand therefor. The Administrative Agent shall also be entitled to recover from such Bank or the Company, as the case may be, interest on such corresponding amount from the date such corresponding amount was made available by the Administrative Agent to the Company to the date such

corresponding amount is recovered by the Administrative Agent, at a rate per annum equal to (i) as to the Company, the Alternate Base Rate or the Eurodollar Rate PLUS the applicable Margin, as

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appropriate or (ii) as to any Bank, the Federal Funds Effective Rate on the date of such Advance for a period of three (3) days and thereafter at the Alternate Base Rate or the Eurodollar Rate PLUS the applicable Margin, as appropriate. Nothing herein shall be deemed to relieve any Bank from its obligation to fulfill its Commitments hereunder or to prejudice any rights which the Company may have against any Bank as a result of any default by such Bank hereunder.

SECTION 2.5. CONVERSIONS AND CONTINUANCES. The Company shall have the option to convert or continue on any Business Day all or a portion of the outstanding principal amount of one Type of Advance for any Loan into another Type of Advance; PROVIDED, no Advances may be converted into or continued as Eurodollar Rate Advances if a Default or Event of Default is in existence on the date of the conversion or continuation. Any continuation of an Advance as the same Type of Advance in the same amount shall be effected by the Company giving notice to the Administrative Agent, in writing, or by telephone promptly confirmed in writing, of its intention to continue such Advance as an Advance of the same Type. Each such conversion shall be effected by the Company giving the Administrative Agent written notice (each a "NOTICE OF CONVERSION"), substantially in the form of EXHIBIT 2.5 hereto, prior to noon (Houston, Texas time) at least (a) three (3) Business Days prior to the date of such conversion in the case of conversion into or continuance as Eurodollar Rate Advances and (b) prior to 11:00 a.m. (Houston, Texas time) one Business Day prior to the date of conversion in the case of a conversion into Alternate Base Rate Advances, specifying each Advance (or portions thereof) to be so converted and, if to be converted into or continued as Eurodollar Rate Advances, the Interest Period to be initially applicable thereto. The Administrative Agent shall thereafter promptly notify each Bank of such Notice of Conversion.

SECTION 2.6. VOLUNTARY PREPAYMENTS. The Company shall have the right to voluntarily prepay any Loan in whole or in part at any time on the following terms and conditions: (a) no Eurodollar Rate Advance may be prepaid prior to the last day of its Interest Period unless, simultaneously therewith, the Company pays to the Administrative Agent for the benefit of the Banks, all sums necessary to compensate the Banks for all costs and expenses resulting from such prepayment, as reasonably determined by the Banks, including but not limited to those costs described in SECTIONS 2.10(F), 2.14, and SECTION 2.15 hereof; and (b) each prepayment pursuant to this section shall be applied first, to the payment of accrued and unpaid interest, and then, to the outstanding principal of such Advances.

SECTION 2.7. MANDATORY REPAYMENTS. The Loans shall be repaid and/or the Commitments shall be permanently reduced, in the amounts and under the circumstances set forth below, all such repayments and/or reductions to be applied as set forth below:

(a) NET ASSET SALE PROCEEDS. No later than (i) the first Business Day following the date of receipt by the Company or any of its Subsidiaries of any Net Asset Sale Proceeds in respect of any Asset Sale in excess of \$5,000,000 for any single transaction or related series of transactions the Company shall repay the Loans and the Revolving Loan Commitments shall be permanently reduced in an aggregate amount equal to such Net Asset Sale Proceeds and (ii) the first Business Day following the 360th day after receipt by the Company or any Subsidiary of any Net Asset Sale Proceeds in respect of any Asset Sale of \$5,000,000 or less for any single transaction or related series of transactions

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the Company shall repay the Loans and the Revolving Loan Commitments shall be permanently reduced in an aggregate amount equal to the amount of such Net Asset Sale Proceeds that were not reinvested in the business of the

Company or any of its Subsidiaries on or before such date;

(b) LOANS AND LETTER OF CREDIT OBLIGATIONS IN EXCESS OF TOTAL COMMITMENT. The Company shall repay Loans on any day on which the aggregate outstanding principal amount of the Loans together with the outstanding Letter of Credit Obligations exceeds the Total Commitment, in the amount of such excess; and

(c) REPAYMENT UPON MATURITY. The aggregate amount under the Notes (and all accrued, unpaid interest) shall be due and payable, and the Commitments shall terminate on the Maturity Date.

SECTION 2.8. METHOD AND PLACE OF PAYMENT. Except as otherwise specifically provided herein, all payments under this Agreement due from the Company shall be made to the Administrative Agent for the benefit of the Banks not later than 11:00 a.m. (Houston, Texas time) on the date when due and shall be made in lawful money of the United States in immediately available funds at the Payment Office.

SECTION 2.9. PRO RATA ADVANCES. All Advances under this Agreement shall be incurred from the Banks pro rata, on the basis of their respective Commitments. It is understood that no Bank shall be responsible for any default by any other Bank in its obligation to make Loans hereunder and that each Bank shall be obligated to make the Loans provided to be made by it hereunder, regardless of the failure of any other Bank to fulfill its commitments hereunder.

SECTION 2.10. INTEREST.

(a) Subject to SECTION 12.8, the Company agrees to pay interest on the total outstanding principal balance of all Alternate Base Rate Advances from the date of each respective Advance to maturity (whether by acceleration or otherwise) at a rate per annum which shall at all times be equal to the lesser of (i) the Highest Lawful Rate and (ii) the Alternate Base Rate in effect from time to time plus the Margin for Alternate Base Rate Advances, which Margin shall be adjusted on the first day of each Margin Period. If the Alternate Base Rate is based on the Prime Rate, interest shall be computed on the basis of the actual number of days elapsed over a year of 365 or 366 days, as the case may be. If the Alternate Base Rate is based on the Federal Funds Effective Rate, interest shall be computed on the basis of the actual number of days elapsed over a year of 360 days.

(b) Subject to SECTION 12.8, the Company agrees to pay interest on the total outstanding principal balance of all Eurodollar Rate Advances from the date of each respective Advance to maturity (whether by acceleration or otherwise) at a rate per annum (computed on the basis of the actual number of days elapsed over a year of 360 days) which shall, during each Interest Period applicable thereto, be equal to the lesser of (i) the Highest Lawful Rate and (ii) the applicable Eurodollar Rate for such Interest

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Period plus the Margin for Eurodollar Rate Advances. The applicable Eurodollar Rate shall be fixed for each Interest Period and shall not change during said Interest Period, but the applicable Margin, which is added to said Eurodollar Rate to determine the total interest payable to the Banks, shall be adjusted, if applicable under the definition of "Margin", effective on the first day of each Margin Period, whether or not said adjustment occurs at a time other than the beginning of an Interest Period.

(c) Subject to SECTION 12.8, overdue principal and, to the extent permitted by law, overdue interest in respect of any Advance and all other overdue amounts owing hereunder shall bear interest for each day that such amounts are overdue at a rate per annum equal to the Default Rate.

(d) Interest on each Advance shall accrue from and including the date of such Advance to but excluding the date of any repayment thereof and shall be payable (i) in respect of Eurodollar Rate Advances (A) on the last day of the Interest Period (as defined below) applicable thereto and, in the case of any Interest Period in excess of three (3) months, the date that is three months after the commencement of such Interest Period, and (B) on the date of any voluntary or mandatory repayment or any conversion or continuance, (ii) in respect of Alternate Base Rate Advances (A) on each Designated Payment Date, and (B) on the date of any voluntary or mandatory repayment of such Advances on the principal amount repaid and (iii) in respect of each Advance, at maturity (whether by acceleration or otherwise) and, after maturity, on demand.

(e) The Administrative Agent, upon determining the Eurodollar Rate for any Interest Period, shall notify the Company thereof. Each such determination shall, absent manifest error, be final and conclusive and binding on all parties hereto. In addition, prior to the due date for the payment of interest on any Advances set forth in the immediately preceding paragraph, the Administrative Agent shall notify the Company of the amount of interest due by the Company on all outstanding Advances on the applicable due date, but any failure of the Administrative Agent to so notify the Company shall not reduce the Company's liability for the amount owed.

(f) The Company shall pay to the Administrative Agent for the account of each Bank, so long as such Bank shall be required under regulations of the Board to maintain reserves with respect to liabilities or assets consisting of or including Eurocurrency Liabilities, additional interest on the unpaid principal amount of such Bank's share of each Eurodollar Rate Advance, from the date of such Advance until such principal amount is paid in full, at an interest rate per annum equal at all times during the Interest Period for such Advance to the lesser of (i) the Highest Lawful Rate and (ii) the remainder obtained by subtracting (A) the Eurodollar Rate for such Interest Period from (B) the rate obtained by dividing such Eurodollar Rate referred to in clause (A) above by that percentage equal to 100% minus the Reserve Percentage of such Bank for such Interest Period. Such additional interest shall be determined by such Bank as incurred and shall be payable upon demand therefor by the Bank to the Company. Each determination by such Bank of additional interest due under this Section shall be conclusive and binding for all purposes in the absence of manifest error.

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SECTION 2.11. INTEREST PERIODS.

(a) At the time the Company gives any Notice of Advance or Notice of Conversion or provides notice of its intent to continue a loan as the same Type in respect of the making of, or conversion into, a Eurodollar Rate Advance, the Company shall have the right to elect, by giving the Administrative Agent on the dates and at the times specified in SECTION 2.3 or SECTION 2.5, as the case may be, notice of the interest period (each an "INTEREST PERIOD") applicable to such Eurodollar Rate Advance, which Interest Period shall be either a one, two, three or six month period; PROVIDED that:

(i) the initial Interest Period for any Eurodollar Rate Advance shall commence on the date of such Eurodollar Rate Advance (including the date of any conversion thereto or continuance thereof pursuant to SECTION 2.5); each Interest Period occurring thereafter in respect of such Eurodollar Rate Advance shall commence on the expiration date of the immediately preceding Interest Period;

(ii) if any Interest Period relating to a Eurodollar Rate Advance begins on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period, such Interest Period shall end on the last Business Day of such calendar month;

(iii) if any Interest Period would otherwise expire on a day which is not a Business Day, such Interest Period shall expire on the next succeeding Business Day; PROVIDED, that if there are no more Business Days in that month, the Interest Period shall expire on the preceding Business Day;

(iv) no Interest Period for Advances shall extend beyond the applicable Maturity Date; and

(v) the Company shall be entitled to have a maximum of ten (10) separate Eurodollar Rate Advances hereunder for all Loans outstanding at any one time.

(b) If, upon the expiration of any Interest Period applicable to a Eurodollar Rate Advance, the Company has failed to elect a new Interest Period to be applicable to such Advance as provided above, the Company shall be deemed to have elected to convert such Advance into an Alternate Base Rate Advance effective as of the expiration date of such current Interest Period.

SECTION 2.12. INTEREST RATE NOT ASCERTAINABLE. In the event that the Administrative Agent shall determine (which determination shall, absent manifest error, be final, conclusive and binding upon all parties) that on any date for determining the Eurodollar Rate for any Interest Period, by reason of any changes arising after the date of this Agreement affecting the Eurodollar interbank market or the Administrative Agent's position in such market, adequate and fair means do not exist for ascertaining the applicable interest rate on the basis provided for in the definition of Eurodollar Rate, then, and in any such event, the Administrative Agent shall forthwith give notice to the Company and to the Banks of such determination. Until the

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circumstances giving rise to the suspension described herein no longer exist, the obligations of the Banks to make Eurodollar Rate Advances shall be suspended.

SECTION 2.13. CHANGE IN LEGALITY.

(a) Notwithstanding anything to the contrary herein contained, if any change in any law or regulation or in the interpretation thereof by any governmental authority charged with the administration or interpretation thereof shall make it unlawful for any Bank or its Eurodollar Lending Office to make or maintain any Eurodollar Rate Advance or to give effect to its obligations as contemplated hereby, then, by prompt written notice to the Company, such Bank may:

(i) declare that Eurodollar Rate Advances will not thereafter be made by such Bank hereunder, whereupon the Company shall be prohibited from requesting Eurodollar Rate Advances from such Bank hereunder unless such declaration is subsequently withdrawn, PROVIDED, such request for a Eurodollar Rate Advance shall, if the Company so indicates, be automatically converted (as to such Bank) into a request for an Alternate Base Rate Advance and the affected Bank or Banks shall respond thereto as provided herein; and

(ii) require that all outstanding Eurodollar Rate Advances made by such Bank be converted to Alternate Base Rate Advances, in which event (A) all such Eurodollar Rate Advances shall be automatically converted to Alternate Base Rate Advances as of the effective date of such notice as provided in paragraph (b) below if required by applicable law or regulation, or if not so required, at the end of the current Interest Period and (B) all payments and prepayments of principal which would otherwise have been applied to repay the converted Eurodollar Rate Advances shall instead be applied to repay the Alternate Base Rate Advances resulting from the conversion of such Eurodollar Rate Advances.

(b) For purposes of this Section, a notice to the Company by the Administrative Agent pursuant to paragraph (a) above shall be effective on the date of receipt thereof by the Company.

SECTION 2.14. INCREASED COSTS, TAXES OR CAPITAL ADEQUACY REQUIREMENTS.

(a) If any change in the application or effectiveness of any applicable law or regulation or compliance by any Bank with any applicable guideline or request issued after the date hereof from any central bank or governmental authority having jurisdiction over such Bank (whether or not having the force of law) (i) shall change the basis of taxation of payments to such Bank of the principal of or interest on any Eurodollar Rate Advance made by such Bank or any other fees or amounts payable hereunder with respect to Eurodollar Rate Advances (other than taxes imposed on the overall net income of such Bank or its Applicable Lending Office or franchise taxes imposed upon it by the jurisdiction in which such Bank or its Applicable Lending Office has an office), (ii) shall impose, modify or deem applicable any reserve, special deposit or similar requirement with respect to Eurodollar Rate Advances against assets of, deposits with or for the

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account of, or credit extended by, such Bank (without duplication of any amounts paid pursuant to SECTION 2.10(F) or (iii) shall impose on such Bank any other condition affecting this Agreement with respect to Eurodollar Rate Advances or any Eurodollar Rate Advance made by such Bank, and the result of any of the foregoing shall be to increase the cost to such Bank of maintaining its Commitment or of making or maintaining any Eurodollar Rate Advance or to reduce the amount of any sum received or receivable by such Bank hereunder (whether of principal, interest or otherwise) in respect thereof by an amount deemed in good faith by such Bank to be material, then the Company shall pay to such Bank such additional amount as will compensate it for such increase or reduction within ten (10) days after notice thereof pursuant to Section 2.14(c).

(b) If any Bank shall have determined in good faith that any change in any law, rule, regulation or guideline regarding capital adequacy, or any change therein or any change in the interpretation or administration thereof or compliance 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 the capital of such Bank as a consequence of, or with reference to, such Bank's obligations hereunder to a level below that which it could have achieved but for such adoption, change or compliance by an amount deemed by such Bank to be material, then, from time to time, the Company shall pay to the Administrative Agent for the benefit of such Bank such additional amount as will reasonably compensate it for such reduction within ten (10) days after notice thereof pursuant to SECTION 2.14(C).

(c) Each Bank will notify the Company through the Administrative Agent of any event occurring after the date of this Agreement which will entitle it to compensation pursuant to this Section, as promptly as practicable after it becomes aware thereof and determines to request compensation and in any case, within 120 days after becoming aware thereof. A certificate setting forth in reasonable detail the amount necessary to compensate the Bank in question as specified in paragraph (a) or (b) above, as the case may be, and the calculation of such amount shall be delivered to the Company and shall be conclusive absent manifest error. The failure on the part of any Bank to demand increased compensation with respect to any Interest Period shall not constitute a waiver of the right to demand compensation thereafter within the 120 day time limit set forth above. Each Bank agrees, to the extent it may lawfully do so without incurring additional costs, to use its best efforts to minimize costs arising under this section by designating another lending office for the Loans affected, PROVIDED no Bank shall be required to do so.

(d) In the event any Bank gives a notice to the Company pursuant to SECTION 2.13 or 2.14 that it cannot fund certain Loans or that such funding will be at an increased cost, or is unable to deliver the Prescribed Forms as required by SECTION 2.17 below, the Company may give notice in response, with copies to the Administrative Agent, that it wishes to seek one or more banks to replace such Bank in accordance with the provisions set forth in SECTION 12.10. Each Bank giving such a notice agrees that, at the request of the Company, it will assign all of its interests hereunder and under the Notes and the Commitment to a designated, Eligible Assignee for the full amount then owing to it, all in accordance with SECTION 12.10. Thereafter, said assignee shall have all of the rights

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hereunder and obligations of the Assigning Bank (except as otherwise expressly set forth herein) and such Bank shall have no further obligations to the Company hereunder.

(e) Any notice given pursuant to this SECTION 2.14 shall be deemed to contain a representation by the Bank issuing such notice that the increased costs and charges are common to substantially all of the loan customers of such Bank and are not unique to the Company.

SECTION 2.15. EURODOLLAR ADVANCE PREPAYMENT AND DEFAULT Penalties. Subject to SECTION 12.8, the Company shall indemnify each Bank against any loss or expense (excluding loss of anticipated profits) which it may sustain or incur as a consequence of (a) an Advance of, or a conversion from or into, Eurodollar Rate Advances that does not occur on the date specified therefor in a Notice of Advance or Notice of Conversion or (b) any payment, prepayment or conversion of a Eurodollar Rate Advance required by any other provision of this Agreement or otherwise made on a date other than the last day of the applicable Interest Period. Such loss or expense shall include an amount equal to the excess determined by each Bank of (i) its cost of obtaining the funds for the Advance being paid, prepaid or converted or not borrowed (based on the Eurodollar Rate) for the period from the date of such payment, prepayment or conversion or failure to borrow to the last day of the Interest Period for such Advance (or, in the case of a failure to borrow, the Interest Period for the Advance which would have commenced on the date of such failure to borrow) OVER (ii) the amount of interest (as determined by each Bank) that would be realized in reemploying the funds so paid, prepaid or converted or not borrowed for such period or Interest Period, as the case may be. The Administrative Agent, on behalf of the Banks, will notify the Company of any loss or expense which will entitle the Banks to compensation pursuant to this Section, as promptly as possible after it becomes aware thereof, but failure to so notify shall not affect the Company's liability therefor. A certificate of any Bank setting forth any amount which it is entitled to receive pursuant to this Section shall be delivered to the Company and shall be conclusive absent manifest error if such determination is made on a reasonable basis. The Company shall pay to the Administrative Agent for the account of the Banks the amount shown as due on any certificate within ten (10) days after its receipt of the same. Without prejudice to the survival of any other obligations of the Company hereunder, the obligations of the Company under this Section shall survive the termination of this Agreement and, with respect to the assigning Bank, the assignment of any of the Notes, in each case for one hundred and twenty (120) days.

SECTION 2.16. VOLUNTARY REDUCTION OF COMMITMENT. Upon at least three (3) Business Days' prior written notice, the Company shall have the right, without premium or penalty, to reduce or terminate the Commitments, in whole or in part, in the amount of \$5,000,000.00 or integral multiples thereof.

SECTION 2.17. TAX FORMS. With respect to any Bank which is organized under the laws of a jurisdiction outside the United States, on the date of the initial Advance hereunder or on the date it becomes a party hereto, and from time to time thereafter if requested by the Company or the Administrative Agent, each such Bank shall provide the Administrative Agent and the Company with the Prescribed Forms. Unless the Company and the Administrative Agent have received

such Prescribed Forms, the Administrative Agent and the Company if required by applicable law or regulation, may withhold taxes from payments under the Loan

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Documents at the applicable rate in the case of payments to or for any Bank organized under the laws of a jurisdiction outside the United States; PROVIDED the Company shall, unless otherwise directed in writing by the Administrative Agent or unless otherwise required by law, make all payments in full to the Administrative Agent without deducting any withholding or similar taxes. If the Company is required by law to deduct or withhold any taxes from any Payment, the Company shall: (a) make such deduction or withholding; (b) pay the amount so deducted or withheld to the appropriate taxing authority not later than the date when due (irrespective of the rate of such deduction or withholding); (c) deliver to the relevant Administrative Agent or Bank, as the case may be, promptly and in any event within 30 days after the date on which such taxes become due, original tax receipts and other evidence satisfactory to such Administrative Agent or Bank, as the case may be, of the payment when due of the full amount of such taxes; and (d) pay to the respective Administrative Agent or Bank, forthwith upon any request by such Administrative Agent or Bank, therefor from time to time, such additional amounts as may be necessary so that such Administrative Agent or Bank, as the case may be, receives, free and clear of all taxes, the full amount of such Payment stated to be due under this Agreement, the Notes or the other Loan Documents as if no such deduction or withholding had been made. The Company hereby indemnifies each Agent and each Bank, and holds each of them harmless for, any taxes and any loss, cost, damage, penalty or expense whatsoever arising from any failure of the Company to make, or delay in making, any deduction or withholding of taxes, or its failure to pay when due the amount so deducted or withheld to the appropriate taxation authority or its failure otherwise to comply with the terms and conditions of this Section.

ARTICLE III
LETTERS OF CREDIT

SECTION 3.1. LETTERS OF CREDIT.

(a) Subject to and upon the terms and conditions herein set forth, the Issuing Bank agrees that it will, at any time and from time to time on or after the Effective Date and prior to the Maturity Date, following its receipt of a Letter of Credit Request and Application for Letter of Credit, issue for the account of the Company and in support of the obligations of the Company or any of its Subsidiaries, one or more standby and/or commercial letters of credit (the "LETTERS OF Credit") payable on a sight basis, up to a maximum amount outstanding at any one time for all Letters of Credit of \$10,000,000.00; PROVIDED that the Issuing Bank shall not issue any Letter of Credit if at the time of such issuance: (i) Letter of Credit Obligations shall be greater than an amount which, when added to the sum of all Advances then outstanding plus Letter of Credit Obligations, would exceed the Total Commitment or (ii) the expiry date or, in the case of any Letter of Credit containing an expiry date that is extendible at the option of the Issuing Bank, the initial expiry date, of such Letter of Credit is a date that is later than the Maturity Date.

(b) The Issuing Bank shall neither renew or extend nor permit the renewal or extension of any Letter of Credit (which renewal or extension will not be for any period ending after the Maturity Date) if any of the conditions precedent to such renewal set forth in Section 5.2 are not satisfied or waived or, after giving effect to such renewal, the expiry date of such Letter of Credit would be a date that is later than five (5) Business Days prior to the Maturity Date.

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SECTION 3.2. LETTER OF CREDIT REQUESTS.

(a) Whenever the Company desires that a Letter of Credit be issued for its account or that the existing expiry date shall be extended, it shall give

the Issuing Bank (with copies to be sent to the Administrative Agent and each Bank) (i) in the case of a Letter of Credit to be issued, at least five (5) Business Days' prior written request therefor and (ii) in the case of the extension of the existing expiry date of any Letter of Credit, at least five (5) Business Days prior to the date on which the Issuing Bank must notify the beneficiary thereof that the Issuing Bank does not intend to extend such existing expiry date. Each such request shall be executed by the Company and shall be in the form of EXHIBIT 3.2 attached hereto (each a "LETTER OF CREDIT REQUEST") and shall be accompanied by an Application for Letter of Credit therefor, completed to the reasonable satisfaction of the Issuing Bank, and such other certificates, documents and other papers and information as the Issuing Bank or the Administrative Agent may reasonably request. Each Letter of Credit shall be denominated in U.S. dollars, shall expire no later than the date specified in SECTION 3.1, shall not be in an amount greater than is permitted under clause (i) of SECTION 3.1(A) and shall be in such form as may be reasonably approved from time to time by the Issuing Bank and the Company.

(b) The making of each Letter of Credit Request shall be deemed to be a representation and warranty by the Company that such Letter of Credit may be issued in accordance with, and will not violate the requirements of this Agreement. Unless the Issuing Bank has received notice from any Bank before it issues the respective Letter of Credit or extends the existing expiry date of a Letter of Credit that one or more of the conditions specified in ARTICLE V are not then satisfied, or that the issuance of such Letter of Credit would violate this Agreement, then the Issuing Bank shall issue the requested Letter of Credit for the account of the Company in accordance with the Issuing Bank's usual and customary practices. Upon its issuance of any Letter of Credit or the extension of the existing expiry date of any Letter of Credit, as the case may be, the Issuing Bank shall promptly notify the Company and the Administrative Agent and the Administrative Agent shall notify each Bank of such issuance or extension, which notices shall be accompanied by a copy of the Letter of Credit actually issued or a copy of any amendment extending the existing expiry date of any Letter of Credit, as the case may be.

(c) Upon receipt by a proposed Issuing Bank of a Letter of Credit Request pursuant to Section 3.2(a) requesting the issuance of a Letter of Credit, (a) in the event the Administrative Agent is the proposed Issuing Bank, the Administrative Agent shall be the Issuing Bank with respect to such Letter of Credit, notwithstanding the fact that the Letter of Credit Obligations with respect to such Letter of Credit and with respect to all other Letters of Credit issued by the Administrative Agent, when aggregated with the Administrative Agent's outstanding Loans, may exceed the Administrative Agent's Commitments; and (b) in the event any other Bank is the proposed Issuing Bank, such Bank shall promptly notify the Company and the Administrative Agent whether or not, in its sole discretion, it has elected to issue such Letter of Credit, and (1) if such Bank so elects to issue such Letter of Credit, it shall be the Issuing Bank with respect thereto and (2) if such Bank fails to so promptly notify the Company and the Administrative Agent or declines to issue such Letter of Credit, the Company may request the Administrative

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Agent or another Bank to be the Issuing Bank with respect to such Letter of Credit in accordance with the provisions of this Section 3.2.

SECTION 3.3. LETTER OF CREDIT PARTICIPATIONS.

(a) All Letters of Credit issued subsequent hereto shall be deemed to have been sold and transferred by the Issuing Bank to each Bank, and each Bank shall be deemed irrevocably and unconditionally to have purchased and received from the Issuing Bank, without recourse or warranty, an undivided interest and participation, (to the extent of such Bank's percentage participation in the Commitment) in each such Letter of Credit (including extensions of the expiry date thereof), each substitute Letter of Credit, each drawing made thereunder and the obligations of the Company under this

Agreement and the other Loan Documents with respect thereto, and any security therefor or guaranty pertaining thereto.

(b) In determining whether to pay under any Letter of Credit, the Issuing Bank shall have no obligation relative to the Banks other than to confirm that any documents required to be delivered under such Letter of Credit appear to have been delivered and that they appear to comply on their face with the requirements of such Letter of Credit.

(c) In the event that the Issuing Bank makes any payment under any Letter of Credit, the same shall be considered an Alternate Base Rate Advance without further action by any Person. The Issuing Bank shall promptly notify the Administrative Agent, which shall promptly notify each Bank thereof. Each Bank shall immediately pay to the Administrative Agent for the account of the Issuing Bank the amount of such Lender's percentage participation of such Advance. If any Bank shall not have so made its percentage participation available to the Administrative Agent, such Lender agrees to pay interest thereon, for each day from such date until the date such amount is paid at the lesser of (i) the Federal Funds Effective Rate and (ii) the Highest Lawful Rate.

(d) The Issuing Bank shall not be liable for, and the obligations of the Company and the Banks to make payments to the Administrative Agent for the account of the Issuing Bank with respect to Letters of Credit shall not be subject to, any qualification or exception whatsoever, including any of the following circumstances:

(i) any lack of validity or enforceability of this Agreement or any of the other Loan Documents;

(ii) the existence of any claim, setoff, defense or other right which the Company may have at any time against a beneficiary named in a Letter of Credit, any transferee of any Letter of Credit, the Administrative Agent, any Issuing Bank, any Bank, or any other Person, whether in connection with this Agreement, any Letter of Credit, the transactions contemplated herein or any unrelated transactions (including any underlying transaction between the Company and the beneficiary named in any such Letter of Credit);

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(iii) any draft, certificate or any other document presented under the Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect;

(iv) the surrender or impairment of any security for the performance or observance of any of the terms of any of the Loan Documents; or
(v) the occurrence of any Default or Event of Default.

(e) The Issuing Bank shall not be liable for any error, omission, interruption or delay in transmission, dispatch or delivery of any message or advice, however transmitted, in connection with any Letter of Credit, except for errors or omissions caused by such Issuing Bank's gross negligence or willful misconduct. IT IS THE EXPRESS INTENTION OF THE PARTIES HERETO THAT SUCH ISSUING BANK, ITS OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS (OTHER THAN WITH RESPECT TO ANY CLAIMS BY THE ISSUING BANK AGAINST ANY SUCH OFFICER, DIRECTOR, EMPLOYEE OR AGENT THEREOF) SHALL BE INDEMNIFIED AND HELD HARMLESS FROM, SUBJECT TO THE SAME TYPE OF PROTECTIONS SET FORTH IN SECTION 11.5(B), ANY ACTION TAKEN OR OMITTED BY SUCH PERSON UNDER OR IN CONNECTION WITH ANY LETTER OF CREDIT OR ANY RELATED DRAFT OR DOCUMENT ARISING OUT OF OR RESULTING FROM SUCH PERSON'S SOLE OR CONTRIBUTORY NEGLIGENCE, BUT NOT FROM THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF SUCH PERSON AS DETERMINED BY A COURT OF COMPETENT JURISDICTION. The Company agrees that any action taken or omitted by the Issuing Bank under or in connection with any Letter of Credit or the related drafts or documents, if done in accordance with the standards of care specified in the Uniform Customs and Practice for Documentary Credits

(1993 Revision), International Chamber of Commerce, Publication No. 500 (and any subsequent revisions thereof approved by a Congress of the International Chamber of Commerce and adhered to by the Issuing Bank) or any other comparable or successor publication or document and, to the extent not inconsistent therewith, the Uniform Commercial Code of the State of New York, shall not result in any liability of the Issuing Bank to the Company.

SECTION 3.4. INCREASED COSTS.

(a) Notwithstanding any other provision herein, but subject to SECTION 12.8, if any Bank shall have determined in good faith that any change after the Effective Date of any law, rule, regulation or guideline or the application or effectiveness of any applicable law or regulation or any change after the Effective Date in the interpretation or administration thereof, or compliance by any Bank (or any lending office of such Bank) with any applicable guideline or request from any central bank or governmental authority (whether or not having the force of law) issued after the Effective Date either (i) shall impose, modify or make applicable any reserve, deposit, capital adequacy or similar requirement against Letters of Credit issued, or participated in, by any Bank or (ii) shall impose on any Bank any other conditions affecting this Agreement or any Letter of Credit; and the result of any of the foregoing is to increase the cost to any Bank of issuing, maintaining or participating in any Letter of Credit, or reduce the amount received or receivable by any Bank hereunder with respect to Letters of Credit, by an amount deemed by such Lender to be material, then, from time to time, the Company shall pay to the

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Administrative Agent for the account of such Lender such additional amount or amounts as will reasonably compensate such Lender for such increased cost or reduction by such Lender.

(b) Each Bank will notify the Company through the Administrative Agent of any event occurring after the date of this Agreement which will entitle such Bank to compensation pursuant to subsection (a) above, as promptly as practicable. A certificate of such Lender (i) stating that the compensation sought to be recovered pursuant to this SECTION 3.4 is generally being charged to other similarly situated customers and (ii) setting forth in reasonable detail such amount or amounts as shall be necessary to compensate such Bank as specified in subsection (a) above may be delivered to the Company (with a copy to the Administrative Agent) and shall be conclusive absent manifest error. The Company shall pay to the Administrative Agent for the account of such Bank the amount shown as due on any such certificate upon demand; PROVIDED that with respect to events occurring prior to any notice given under this SECTION 3.4(B), such Bank shall only be entitled to recover compensation for such events occurring over a period of 120 days.

(c) Except as expressly provided in SECTION 3.4(B), failure on the part of any Bank to demand compensation for any increased costs or reduction in amounts received or receivable or reduction in return on capital with respect to any Letter of Credit shall not constitute a waiver of such Bank's rights to demand compensation for any increased costs or reduction in amounts received or receivables or reduction in return on capital with respect to such Letter of Credit.

SECTION 3.5. CONFLICT BETWEEN APPLICATIONS AND AGREEMENT. To the extent that any provision of any application related to any Letter of Credit is inconsistent with the provisions of this Agreement, the provisions of this Agreement shall control.

ARTICLE IV
FEES

SECTION 4.1. FEES. Subject to SECTION 12.8 hereof, the Company

agrees to pay the following fees (the "FEES"):

(a) The Company agrees to pay to the Administrative Agent for the ratable account of the Banks a Commitment fee (the "COMMITMENT FEE") for the period from and including the Effective Date to the Maturity Date computed at a rate per annum determined by the grid set forth below and calculated on the basis of a 360 day-year on the daily average of the Unutilized Commitment of each Bank; PROVIDED that for the Margin Period from the Effective Date through the date that the first Compliance Certificate is delivered pursuant to SECTION 7.1(D), the applicable Commitment Fee shall be 0.375%. The rate for the Commitment Fee shall be adjusted on the first day of each Margin Period. Commitment Fees shall be due and payable in arrears on each Designated Payment Date commencing on the first such date following the Effective Date and on the Maturity Date.

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TOTAL FUNDED DEBT/ EBITDA RATIO	COMMITMENT FEE RATE
(greater than or equal to) 3.00	0.500%
(greater than or equal to) 2.50 but < 3.00	0.500%
(greater than or equal to) 2.00 but < 2.50	0.375%
(greater than or equal to) 1.50 but < 2.00	0.375%
(greater than or equal to) 1.00 but < 1.50	0.375%
< 1.00	0.250%

(b) The Letter of Credit Fees shall be due and payable at the time the Issuing Bank is to issue or renew any Letter of Credit. The Letter of Credit Fee shall be adjusted, if applicable under the definition of "Letter of Credit Fee", on the first day of each Margin Period; provided that for the Margin Period from the Effective Date through the date that the first Compliance Certificate is delivered pursuant to SECTION 7.1(D), the applicable Letter of Credit Fee shall be 1.500%.

(c) The fees described in those certain fee letters between the Company and BTCo, NB and BOT and any of their respective Affiliates.

ARTICLE V CONDITIONS PRECEDENT

SECTION 5.1. CONDITIONS PRECEDENT TO THE INITIAL ADVANCE. The obligation of each Bank to make its initial Advance to the Company is subject to, in addition to the conditions precedent specified in subsection 5.2, the prior or concurrent satisfaction of the following conditions:

(a) LOAN AND OTHER RELATED DOCUMENTS. On or before the Effective Date, the Company shall, and shall cause each Guarantor to, deliver to the Agents the following, all in form and substance satisfactory to the Agents, and, where relevant, executed by all appropriate parties:

(i) this Agreement (which includes the Guaranty) and all other Loan Documents;

(ii) one Note for each Bank;

(iii) a Notice of Advance with respect to the initial Advance meeting the requirements of SECTION 2.3(A);

(iv) a certificate of an officer and of the secretary or an assistant secretary of the Company and of each Guarantor, as applicable, dated as of the Effective Date certifying, (i) true and complete copies of each of (1) the articles or certificate of incorporation, marked as filed with the applicable governmental authorities and as amended and in effect, of the Company and each of the Guarantors not party to the Existing Credit Agreement, (2) the bylaws, as amended and in effect, of the Company and each of the Guarantors not party to the Existing Credit Agreement and (3) the

resolutions adopted by the board of directors of the Company and each

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of the Guarantors (A) authorizing the execution, delivery and performance by the Company and each of its Subsidiaries of this Agreement and the other Loan Documents to which it is or will be a party and, in the case of the Company, the Advances to be made hereunder, (B) approving the forms of the Loan Documents to which it is or will be a party and which will be delivered at or prior to the date of the initial Advance and (C) authorizing officers of the Company and each of its Subsidiaries to execute and deliver the Loan Documents to which it is or will be a party and any related documents, including, any agreement contemplated by this Agreement, in each case as being in full force and effect without modification or amendment, (ii) that the articles or certificate of incorporation and bylaws of each of the Guarantors party to the Existing Credit Agreement have not been amended, supplemented, or otherwise modified since April 14, 1998, except as attached to such certificate, (iii) the incumbency and specimen signatures of the officers of the Company and each of its Subsidiaries executing any documents on its behalf, and (iv) that since December 31, 1997 there has been no change in the businesses, operations, properties, assets, liabilities, condition (financial or otherwise) or prospects of the Company and its Subsidiaries taken as a whole which could reasonably be expected to have a Material Adverse Effect.

(v) on or before the Effective Date, the Company, each bank under the Existing Credit Agreement, BOT, as administrative agent under the Existing Credit Agreement, each Bank under this Agreement and the Agents shall have executed and delivered the Master Assignment Agreement and on the Effective Date, each such bank, BOT, Bank and Agent shall have sold, purchased and/or assigned such loans and/or commitments pursuant to the Master Assignment Agreement such that each Bank's pro rata share of the Loans and/or Commitments shall be as set forth on the signature pages hereto.

(b) SECURITY INTERESTS IN PERSONAL PROPERTY. The Agents shall have received evidence satisfactory to them that the Company and the Guarantors shall have taken or caused to be taken all such actions, executed and delivered or caused to be executed and delivered all such agreements, documents and instruments, and made or caused to be made all such filings and recordings (other than the filing or recording of the items described in clauses (iii) and (iv) below) that may be necessary or, in the opinion of the Agents, desirable in order to create in favor of the Administrative Agent, for the benefit of the Banks, a valid and (upon such filing and recording) perfected First Priority security interest in the entire Collateral. Such actions shall include the following:

(i) SCHEDULES TO COLLATERAL DOCUMENTS. Delivery to the Administrative Agent of accurate and complete schedules to all of the applicable Collateral Documents;

(ii) STOCK CERTIFICATES AND INSTRUMENTS. Delivery to the Administrative Agent of (a) certificates (which certificates shall be accompanied by irrevocable undated stock powers, duly endorsed in blank and otherwise satisfactory in form and substance to the Agents) representing substantially all capital stock pledged pursuant to the Company Pledge Agreement and the Subsidiary Pledge Agreements and (b) substantially all promissory notes or other instruments (duly

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endorsed, where appropriate, in a manner satisfactory to the Agents) evidencing any Collateral;

(iii) LIEN SEARCHES AND UCC TERMINATION STATEMENTS. Delivery to the Administrative Agent of (a) the results of a recent search, by a Person satisfactory to the Agents, of all jurisdictions where filings to perfect are material or a material portion of the Collateral are located, together with copies of all such filings disclosed by such search; and (b) UCC termination statements duly executed by all applicable Persons for filing in all applicable jurisdictions as may be necessary to terminate any effective UCC financing statements or fixture filings disclosed in such search and affecting a material portion of the Collateral (other than any such financing statements or fixture filings in respect of Liens permitted to remain outstanding pursuant to the terms of this Agreement);

(iv) UCC FINANCING STATEMENTS. Delivery to the Administrative Agent of UCC financing statements duly executed by the Company and each applicable Guarantor with respect to all Collateral of the Company or such Guarantor, for filing in all jurisdictions as may be necessary or, in the opinion of the Agents, desirable to perfect the security interests created in such Collateral pursuant to the Collateral Documents; and

(v) OPINIONS OF LOCAL COUNSEL. Delivery to the Administrative Agent of an opinion of counsel (which counsel shall be reasonably satisfactory to the Agents) under the laws of Texas and such other jurisdictions as Agents may reasonably request, in each case with respect to the creation and perfection of the security interests in favor the Administrative Agent on behalf of the Banks in such Collateral and such other matters governed by the laws of such jurisdiction regarding such security interests as the Agents may reasonably request, in each case in form and substance reasonably satisfactory to the Agents.

(c) NECESSARY GOVERNMENTAL AUTHORIZATIONS AND CONSENTS. The Company and its Subsidiaries shall have obtained all authorizations, consents, approvals, licenses or exemptions of or have made all filings or registrations with any court or governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, and shall have obtained all consents of other Persons, in each case that are necessary or advisable in connection with the transactions contemplated hereby and the continued operation of the businesses conducted by the Company and its Subsidiaries in substantially the same manner as conducted prior to the Effective Date, and each shall be in full force and effect, in each case other than those the failure to obtain, which either individually or in the aggregate, would not be reasonably likely to have a Material Adverse Effect;

(d) OPINION OF BRACEWELL & PATTERSON, L.L.P. The Banks shall have received originally executed copies of one or more favorable written opinions addressed to the Agents and the Banks from Bracewell & Patterson, L.L.P., counsel to the Company and the Guarantors dated as of the Effective Date, substantially in the form of EXHIBIT 5.1(D)

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annexed hereto and such other matters as the Agents acting on behalf of the Banks may reasonably request;

(e) OPINION OF O'MELVENY & MYERS LLP. The Banks shall have received originally executed copies of one or more favorable written opinions of O'Melveny & Myers LLP, dated as of the Effective Date, substantially in the form of EXHIBIT 5.1(E) annexed hereto and as to such other matters as the Agents acting on behalf of the Banks may reasonably request;

(f) PAYMENT OF FEES. The Company shall have paid to the Administrative Agent, for distribution as appropriate to the Agents and the Banks, the Fees payable on the Effective Date referred to in Section 4.1 and all reasonable fees and expenses (including the reasonable fees and expenses

of O'Melveny & Myers LLP) agreed upon by such parties to be paid on the Effective Date;

(g) GOOD STANDING AND RELATED CERTIFICATES. On or prior to the Effective Date, the Agents shall have received certificates of appropriate public officials as to the existence, good standing and qualification to do business as a foreign corporation, as applicable, of the Company and its Subsidiaries in each jurisdiction in which the ownership of its properties or the conduct of its business requires such qualifications and where the failure to so qualify would have a Material Adverse Effect; and

(h) FINANCIAL STATEMENTS; PRO FORMA BALANCE SHEET. On or prior to the Effective Date, the Banks shall have received from the Company (i) the audited financial statements of the Company and its Subsidiaries for the twelve (12) months ended December 31, 1997 consisting of a balance sheet and related consolidated statements of income, stockholders' equity and cash flows for such period, (ii) the unaudited financial statements of the Company and its Subsidiaries for the fiscal periods most recently ended prior to the Effective Date (including without limitation monthly income statements for any such period of less than three months), in each case consisting of a balance sheet and the related consolidated statements of income, stockholders' equity and cash flows for such periods, all in reasonably detail and certified by the chief financial officer of the Company that they fairly present the financial condition of the Company and its Subsidiaries for such periods and the results of their operations and their cash flows for such periods, subject to changes resulting from audit and normal year-end adjustments, (iii) pro forma consolidated balance sheets of the Company and its Subsidiaries as at September 30, 1998, prepared in accordance with GAAP and reasonably reflecting the transactions contemplated hereby, which pro forma financial statements shall be in form and substance reasonably satisfactory to the Agents, and (iv) projected consolidated financial statements of the Company and its Subsidiaries for the three-year period after the Effective Date consisting of a balance sheet and consolidated statements of income, shareholders' equity and cash flows, which projected financial statements shall be in form and substance reasonably satisfactory to the Agents (such financial statements and information described in clauses (i) through (iv) above are hereinafter collectively referred to as the "FINANCIALS");

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(i) SOLVENCY ASSURANCES. On the Effective Date, as to the Company and its Subsidiaries, the Agents and the Banks shall have received a Financial Condition Certificate with appropriate attachments, demonstrating that, after giving effect to the consummation of the transactions contemplated hereby, the Company and its Subsidiaries will be Solvent;

(j) NO DISRUPTION OF FINANCIAL AND CAPITAL MARKETS. There shall have been no material adverse change after October 28, 1998 to the syndication markets for credit facilities similar to the credit facilities provided herein and there shall not have occurred and be continuing a material disruption of or material adverse change in financial, banking or capital markets that would have an adverse effect on such syndication market, in each case as determined by the Agents in their sole discretion.

(k) DUE DILIGENCE. The results of Agents' continuing financial, legal, tax and accounting due diligence investigations with respect to the Company and its Subsidiaries and the other transactions contemplated hereunder shall be satisfactory in all respects to the Agents and the other Banks, and any supplemental business or financial due diligence that the Agents reasonably determine have become necessary shall not have disclosed information not previously disclosed to the Agents which causes the results of such diligences not to be satisfactory in all respects to the Agents and the other Banks. The Agents and the other Banks shall also have received any information reasonably necessary to conduct their continuing due diligence.

(l) EVIDENCE OF INSURANCE. Agents shall have received a certificate from

the Company's insurance broker or other evidence satisfactory to them that all insurance required to be maintained pursuant to Section 7.3 is in full force and effect and that the Administrative Agent on behalf of the Banks has been named as additional insured and/or loss payee thereunder to the extent required under Section 7.3.

The acceptance of the benefits of the initial Credit Event shall constitute a representation and warranty by the Company to the Administrative Agent and each of the Banks that, all of the conditions specified in this Section above shall have been satisfied or waived as of that time.

SECTION 5.2. CONDITIONS PRECEDENT TO ALL CREDIT EVENTS. The obligation of the Banks to make any Advance is, including, without limitation, the initial Advance, subject to the further conditions precedent that on the date of such Credit Event:

(a) The representations and warranties set forth in ARTICLE VI and in each of the Collateral Documents shall be true and correct in all material respects as of, and as if such representations and warranties were made on, the date of the proposed Advance (unless such representation and warranty expressly relates to an earlier date or is no longer true and correct solely as a result of transactions permitted by the Loan Documents), and the Company shall be deemed to have certified to the Administrative Agent and the Banks that such representations and warranties are true and correct in all material respects by submitting a Notice of Advance.

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(b) The Company shall have complied with the provisions of SECTION 2.3 hereof.

(c) No Default or Event of Default shall have occurred and be continuing or would result from such Credit Event.

(d) No Material Adverse Effect shall have occurred since the delivery of the most recent financial statements delivered pursuant to SECTION 7.1.

(e) The Administrative Agent shall have received such other approvals or documents as the Administrative Agent or the Banks may reasonably request.

The acceptance of the benefits of each such Credit Event shall constitute a representation and warranty by the Company to the Administrative Agent and each of the Banks that all of the conditions specified in this Section above exist as of that time.

SECTION 5.3. DELIVERY OF DOCUMENTS. All of the Notes, certificates, legal opinions and other documents and papers referred to in this ARTICLE V, unless otherwise specified, shall be delivered to the Administrative Agent for the account of each of the Banks and, except for the Notes, in sufficient counterparts for each of the Banks and shall be reasonably satisfactory in form and substance to the Banks.

ARTICLE VI REPRESENTATIONS AND WARRANTIES

The Company, as to itself and each of its Subsidiaries, makes, on or as of the occurrence of each Credit Event (except to the extent such representations or warranties relate to an earlier date or are no longer true and correct in all material respects solely as a result of transactions not prohibited by the Loan Documents), the following representations and warranties to the Administrative Agent and the Banks:

SECTION 6.1. ORGANIZATION AND QUALIFICATION. Each of the Company and its Subsidiaries (a) is duly formed or organized, validly existing and is in good standing under the laws of the state of its organization, (b) has the power to own its property and to carry on its business as now conducted, except where the failure to do so would not have a Material Adverse Effect and (c) is duly

qualified to do business and is in good standing in every jurisdiction in which the failure to be so qualified would have a Material Adverse Effect.

SECTION 6.2. AUTHORIZATION AND VALIDITY. Each of the Company and its Subsidiaries has the corporate power and authority to execute, deliver and perform its obligations hereunder and under the other Loan Documents to which it is a party and all such action has been duly authorized by all necessary corporate proceedings on its part. The Loan Documents to which each of the Company and its Subsidiaries is a party have been duly and validly executed and delivered by such Person and constitute a valid and legally binding agreement of such Person enforceable in accordance with the respective terms thereof, except, in each case, as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium, fraudulent transfer or other similar laws relating to or affecting the enforcement of creditors' rights generally, and by general principles of equity regardless of whether such enforceability is a proceeding in equity or at law.

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SECTION 6.3. GOVERNMENTAL CONSENTS. No authorization, consent, approval, license or exemption of or filing or registration with any court or governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, is necessary for the valid execution, delivery or performance by the Company or any Subsidiary of any Loan Document.

SECTION 6.4. CONFLICTING OR ADVERSE AGREEMENTS OR RESTRICTIONS. Neither the Company nor any Subsidiary is a party to any contract or agreement or subject to any restriction which would reasonably be expected to have a Material Adverse Effect. Neither the execution nor delivery of the Loan Documents nor compliance with the terms and provisions hereof or thereof will be contrary to the provisions of, or constitute a default under (a) the charter or bylaws of the Company or any of its Subsidiaries or (b) any law, regulation, order, writ, injunction or decree of any court or governmental instrumentality that is applicable to the Company or any of its Subsidiaries or (c) any material agreement to which the Company or any of its Subsidiaries is a party or by which it is bound or to which it is subject.

SECTION 6.5. TITLE TO ASSETS. Each of the Company and its Subsidiaries has good title to all material personalty and good and indefeasible title to all material realty as reflected on the Company's and the Subsidiaries' books and records as being owned by them, except for properties disposed of in the ordinary course of business, subject to no Liens, except those permitted hereunder, except where the failure to do so could not reasonably be expected to have a Material Adverse Effect. All of such assets have been and are being maintained by the appropriate Person in good working condition in accordance with industry standards, except where the failure to do so could not reasonably be expected to have a Material Adverse Effect.

SECTION 6.6. LITIGATION. No proceedings against or affecting the Company or any Subsidiary are pending or, to the knowledge of the Company, threatened before any court or governmental agency or department which involve a reasonable material risk of having a Material Adverse Effect, individually or in the aggregate, except those listed on SCHEDULE 6.6 hereof.

SECTION 6.7. FINANCIAL STATEMENTS. Prior to the Effective Date, the Company has furnished to the Banks the Financials. The Financials have been prepared in conformity with GAAP consistently applied (except as otherwise disclosed in such financial statements) throughout the periods involved and present fairly, in all material respects, the consolidated financial condition of the Company and its consolidated Subsidiaries as of the dates thereof and the consolidated results of their operations for the periods then ended. As of the Effective Date, no Material Adverse Effect has occurred since December 31, 1997.

SECTION 6.8. DEFAULT. Neither the Company nor any Subsidiary is in default under any material provisions of any instrument evidencing any Indebtedness or of any agreement relating thereto, or in default in any respect under any order, writ, injunction or decree of any court, or in default in any respect under or in violation of any order, injunction or decree of any

governmental instrumentality, in each case in such manner as to cause a Material Adverse Effect.

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SECTION 6.9. INVESTMENT COMPANY ACT. Neither the Company nor any Subsidiary is, or is directly or indirectly controlled by or acting on behalf of any Person which is, an "investment company," as such term is defined in the Investment Company Act of 1940, as amended.

SECTION 6.10. PUBLIC UTILITY HOLDING COMPANY ACT. Neither the Company nor any Subsidiary is a non-exempt "holding company," or subject to regulation as such, or, to the knowledge of the Company's or such Subsidiary's officers, an "affiliate" of a "holding company" or a "subsidiary company" of a "holding company," within the meaning of the Public Utility Holding Company Act of 1935, as amended.

SECTION 6.11. ERISA. No accumulated funding deficiency (as defined in Section 412 of the Code or Section 302 of ERISA), that would cause a Material Adverse Effect whether or not waived, exists or is expected to be incurred with respect to any Plan. No liability to the PBGC (other than required premium payments) has been or is expected by the Company to be incurred with respect to any Plan by the Company or any ERISA Affiliate that would cause a Material Adverse Effect. Neither the Company nor any ERISA Affiliate has incurred any withdrawal liability under Title IV of ERISA with respect to any Multi-Employer Plans.

SECTION 6.12. TAX RETURNS AND PAYMENTS. Each of the Company and its Subsidiaries has filed all federal income tax returns and other tax returns, statements and reports (or obtained extensions with respect thereto) which are required to be filed and has paid or deposited or made adequate provision, in accordance with GAAP for the payment of all taxes (including estimated taxes shown on such returns, statements and reports) which are shown to be due pursuant to such returns, except for such taxes as are being contested in good faith and by appropriate proceedings.

SECTION 6.13. ENVIRONMENTAL MATTERS. Each of the Company and its Subsidiaries (a) possesses all environmental, health and safety licenses, permits, authorizations, registrations, approvals and similar rights necessary under law or otherwise for the Company or such Subsidiary to conduct its operations as now being conducted (other than those with respect to which the failure to possess or maintain would not, individually or in the aggregate for the Company and such Subsidiaries, reasonably be expected to have a Material Adverse Effect) and (b) each of such licenses, permits, authorizations, registrations, approvals and similar rights is valid and subsisting, in full force and effect and enforceable by the Company or such Subsidiary, and each of the Company and its Subsidiaries is in compliance with all effective terms, conditions or other provisions of such permits, authorizations, registrations, approvals and similar rights except for such failure or noncompliance that, individually or in the aggregate for the Company and such Subsidiaries, would not reasonably be expected to have a Material Adverse Effect. Except as disclosed on SCHEDULE 6.13, on the Effective Date, neither the Company nor any of its Subsidiaries has received any notices of any violation of, noncompliance with, or remedial obligation under, Requirements of Environmental Laws (which violation or non-compliance has not been cured), and there are no writs, injunctions, decrees, orders or judgments outstanding, or lawsuits, claims, proceedings, investigations or inquiries pending or, to the knowledge of the Company or any Subsidiary, threatened, relating to the ownership, use, condition, maintenance or operation of, or conduct of business related to, any property owned, leased or operated by the Company or such

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Subsidiary or other assets of the Company or such Subsidiary, other than those violations, instances of noncompliance, obligations, writs, injunctions, decrees, orders, judgments, lawsuits, claims, proceedings, investigations or inquiries that, individually or in the aggregate for the Company and such Subsidiaries, would not have a Material Adverse Effect. Except as disclosed on

Schedule 6.13, there are no material obligations, undertakings or liabilities arising out of or relating to Environmental Laws to which the Company or any of its Subsidiaries has agreed, assumed or retained, or by which the Company or any of its Subsidiaries is adversely affected, by contract or otherwise and, further, except as disclosed on SCHEDULE 6.13, neither the Company nor any of its Subsidiaries has received a written notice or claim to the effect that the Company or any of its Subsidiaries is or may be liable to any other Person as the result of a Release or threatened Release of a Hazardous Material which, in either case, could reasonably be expected to have a Material Adverse Effect.

SECTION 6.14. PURPOSE OF LOANS

(a) The proceeds of the Loan will be used solely for general corporate purposes, including working capital, to finance acquisitions permitted hereunder, and for Letters of Credit.

(b) None of the proceeds of any Advance will be used directly or indirectly for the purpose of purchasing or carrying any "margin stock" within the meaning of Regulation U or for the purpose of reducing or retiring any indebtedness which was originally incurred to purchase or carry any margin stock.

SECTION 6.15. FRANCHISES AND OTHER RIGHTS. The Company and each of its Subsidiaries has all franchises, permits, licenses and other authority as are necessary to enable them to carry on their respective businesses as now being conducted and is not in default in respect thereof where the absence of such or any such default could reasonably be expected to have a Material Adverse Effect, individually or in the aggregate.

SECTION 6.16. SUBSIDIARIES AND ASSETS. The Subsidiaries listed on SCHEDULE 6.16 are all of the Subsidiaries of the Company as of the Effective Date and the address given for such Guarantors is the correct mailing address as of the Effective Date. The Company shall update such SCHEDULE 6.16 within thirty (30) days of new Subsidiaries being added.

SECTION 6.17. SOLVENCY. After giving effect to the initial Advance hereunder and all other Indebtedness of the Company existing at the time of such Advance, the Company and its Subsidiaries, viewed as a consolidated entity, is Solvent.

SECTION 6.18. PAYMENT OF CERTAIN INDEBTEDNESS. The Company has (a) repaid in full all of the Indebtedness described on SCHEDULE 8.3(B)(II) and (b) obtained, and where applicable recorded in all appropriate locations, releases of Liens for all real and personal property securing same.

SECTION 6.19. MATTERS RELATING TO COLLATERAL .

(a) CREATION, PERFECTION AND PRIORITY OF LIENS. The execution and delivery of the Collateral Documents by the Company and the Guarantors, together with (i) the actions taken on or prior to the date hereof pursuant to SECTION 5.1(B) and (ii) the delivery to the

Administrative Agent of any Pledged Collateral not delivered to the Administrative Agent at the time of execution and delivery of the applicable Collateral Document (all of which Pledged Collateral has been so delivered) are effective to create in favor of the Administrative Agent for the benefit of the Banks, as security for the respective Secured Obligations (as defined in the applicable Collateral Document in respect of any Collateral), a valid and perfected First Priority Lien on all of the Collateral, and all filings and other actions necessary or desirable to perfect and maintain the perfection and First Priority status of such Liens have been duly made or taken and remain in full force and effect, other than the filing of any UCC financing statements delivered to the Administrative Agent for filing (but not yet filed) and the periodic filing of UCC continuation statements in respect of UCC financing statements filed by or on behalf of the Administrative Agent.

(b) GOVERNMENTAL AUTHORIZATIONS. No authorization, approval or other action by, and no notice to or filing with, any governmental authority or regulatory body is required for either (i) pledge or grant by the Company or any Guarantor of the Liens purported to be created in favor of the Administrative Agent pursuant to any of the Collateral Documents or (ii) the exercise by the Administrative Agent of any rights or remedies in respect of any Collateral (whether specifically granted or created pursuant to any of the Collateral Documents or created or provided for by applicable law), except for filings or recordings contemplated by SECTION 6.19(A) and except as may be required, in connection with the disposition of any Pledged Collateral, by laws generally affecting the offering and sale of securities.

(c) ABSENCE OF THIRD-PARTY FILINGS. Except such as may have been filed in favor of the Administrative Agent as contemplated by SECTION 6.19(A) or filed in connection with a Permitted Lien, no effective UCC financing statement, fixture filing or other instrument similar in effect covering a substantial portion of the Collateral is on file in any filing or recording office.

(d) MARGIN REGULATIONS. The pledge of the Pledged Collateral pursuant to the Collateral Documents does not violate Regulation T, U or X of the Board of Governors of the Federal Reserve System.

(e) INFORMATION REGARDING COLLATERAL. All information supplied to the Agents by or on behalf of the Company or any Guarantor with respect to any of the Collateral (in each case taken as a whole with respect to any particular Collateral) is accurate and complete in all material respects.

SECTION 6.20. YEAR 2000 COMPLIANCE All Information Systems and Equipment are either (i) Year 2000 Compliant, or (ii) any reprogramming, remediation, or any other corrective action necessary to make such Information Systems and Equipment Year 2000 Compliant, including the internal testing of all such Information Systems and Equipment, will be completed by either (x) July 1, 1999 with respect to the Company and its Subsidiaries existing on the Effective Date or (y) within 45 days after the date of creation or acquisition of any Subsidiary of the Company created or acquired after the Effective Date, but in any event no later than December 31, 1999. Further, to the extent that such reprogramming/ remediation and testing

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action is required, the cost thereof, as well as the cost of the reasonably foreseeable consequences of failure to become Year 2000 Compliant, to the Company and its Subsidiaries (including, without limitation, reprogramming errors and the failure of other systems or equipment) will not result in a Default or Material Adverse Effect.

ARTICLE VII AFFIRMATIVE COVENANTS

The Company, as to itself and each of its Subsidiaries, covenants and agrees that on and after the date hereof and for so long as this Agreement is in effect and until the Notes have been paid in full and the Commitments have terminated:

SECTION 7.1. INFORMATION COVENANTS. The Company will furnish to each Bank:

(a) As soon as available, and in any event within forty-five (45) days after the close of each fiscal quarter, the consolidated balance sheet of the Company and its Subsidiaries as of the end of such period and the related consolidated statements of income and cash flow for such period, setting forth, in each case, comparative consolidated figures for the related periods in the prior fiscal year, all of which shall be certified by the treasurer, chief financial officer, or chief executive officer of the Company as fairly presenting in all material respects, the financial

position of the Company and its Subsidiaries as of the end of such period and the results of their operations for the period then ended in accordance with GAAP, subject to changes resulting from normal year-end audit adjustments. In addition to the foregoing, the Company shall also provide at such time, summary balance sheet and operating income information with respect to each direct Subsidiary fairly representing in all material respects, the financial position of each direct Subsidiary as of the end of such period and the results of their operations for the period then ended.

(b) As soon as available, and in any event within one hundred twenty (120) days after the close of each fiscal year of the Company, the audited consolidated balance sheets of the Company as at the end of such fiscal year and the related consolidated and statements of income, stockholders equity and cash flows for such fiscal year, setting forth, in each case comparative figures for the preceding fiscal year and certified by Arthur Andersen or other independent certified public accountants of recognized national standing, whose report shall be without limitation as to the scope of the audit and reasonably satisfactory in substance to the Banks. In addition to the foregoing, the Company shall cause each Subsidiary to deliver summary income statements within one hundred twenty (120) days after the close of each fiscal year of the Company.

(c) Promptly after any Responsible Officer of the Company obtains knowledge thereof, notice of:

(i) any material violation of, noncompliance with, or remedial obligations under, Requirements of Environmental Laws that could cause a Material Adverse Effect;

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(ii) any Release or threatened material Release of Hazardous Materials affecting any property owned, leased or operated by the Company or any of its Subsidiaries that could cause a Material Adverse Effect;

(iii) any event or condition which constitutes a Default or an Event of Default;

(iv) any condition or event which, in the opinion of management of the Company, would reasonably be expected to have a Material Adverse Effect;

(v) any Person having given any written notice to the Company or taken any other action with respect to a claimed material default or event under any material instrument or material agreement;

(vi) the institution of any litigation which might reasonably be expected in the good faith judgment of the Company either to have a Material Adverse Effect or result in a final, non-appealable judgment or award in excess of \$1,000,000.00 with respect to any single cause of action; and

(vii) all ERISA notices required by SECTION 7.7;

such notice shall specify the nature and period of existence thereof and specifying the notice given or action taken by such Person and the nature of any such claimed default, event or condition and, in the case of an Event of Default or Default, what action has been taken, is being taken or is proposed to be taken with respect thereto.

(d) At the time of the delivery of the financial statements provided for in SECTIONS 7.1(A) and 7.1(B), a Compliance Certificate of a Responsible Officer to the effect that, no Default or Event of Default exists or, if any Default or Event of Default does exist, specifying the nature and extent thereof and the action that is being taken or that is proposed to be taken with respect thereto, which certificate shall set forth the

calculations required to establish whether the Company was in compliance with the provisions of SECTIONS 8.10 through 8.14 as at the end of such fiscal period or year, as the case may be.

(e) Promptly following request by the Administrative Agent such environmental reports, studies and audits of the Company's procedures and policies, assets and operations in respect of Environmental Laws as the Administrative Agent may reasonably request.

(f) Promptly upon receipt thereof, a copy of any report or letter submitted to the Company by its independent accountants in connection with any regular or special audit of the Company's records.

(g) From time to time and with reasonable promptness, such other information or documents as the Administrative Agent or any Bank through the Administrative Agent may reasonably request.

SECTION 7.2. BOOKS, RECORDS AND INSPECTIONS. The Company and its Subsidiaries will maintain, and will permit, or cause to be permitted, any Person designated by

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any Bank or the Banks to visit and inspect any of the properties of the Company and its Subsidiaries, to examine the corporate books and financial records of the Company and its Subsidiaries and make copies thereof or extracts therefrom and to discuss the affairs, finances and accounts of any such corporations with the officers of the Company and its Subsidiaries and with their independent public accountants, all at such reasonable times and as often as the Administrative Agent or such Bank may reasonably request. Such inspections shall be at the expense of the Bank or Banks requesting same unless there is in existence a Default at the time of such request in which event such expense shall be at the expense of the Company.

SECTION 7.3. INSURANCE AND MAINTENANCE OF PROPERTIES.

(a) Each of the Company and its Subsidiaries will keep reasonably adequately insured by financially sound and reputable insurers all of its material property, which is of a character, and in amounts and against such risks, usually and reasonably insured by similar Persons engaged in the same or similar businesses, including, without limitation, insurance against fire, casualty and any other hazards normally insured against. Each of the Company and its Subsidiaries will at all times maintain insurance against its liability for injury to Persons or property, which insurance shall be by financially sound and reputable insurers and in such amounts and form as are customary for corporations of established reputation engaged in the same or a similar business and owning and operating similar properties. The Company shall provide the Administrative Agent a listing of all such insurance and such other certificates and other evidence thereof, on or prior to the Effective Date hereof and annually thereafter. Each policy of insurance that insures against loss or damage with respect to any Collateral or against losses due to business interruption shall name the Administrative Agent for the benefit of the Banks as the loss payee thereunder for any covered loss in excess of \$500,000 and shall provide for at least thirty (30) days (fifteen (15) days in the event of non-payment of premium) prior written notice to the Administrative Agent of any modification or cancellation of such policy.

(b) Each of the Company and its Subsidiaries will cause all of its material properties used or useful in the conduct of its business to be maintained and kept in good condition, repair and working order and supplied with all necessary equipment and will cause to be made all reasonably necessary repairs, renewals and replacements thereof, all as in the reasonable judgment of such Person may be reasonably necessary so that the business carried on in connection therewith may be properly conducted at all times, except where such failure could not reasonably be expected to have a Material Adverse Effect.

SECTION 7.4. PAYMENT OF TAXES. Each of the Company and its Subsidiaries will pay and discharge all taxes, assessments and governmental charges or levies imposed upon it or upon its income or profits, or upon any properties belonging to it, prior to the date on which penalties attach thereto, except for such amounts that are being contested in good faith and by appropriate proceedings, except where such failure could not reasonably be expected to have a Material Adverse Effect, individually or in the aggregate.

SECTION 7.5. CORPORATE EXISTENCE. Each of the Company and its Subsidiaries will do all things necessary to preserve and keep in full force and effect (a) the

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existence of the Company, and (b) unless the failure to do so would not reasonably be expected to have a Material Adverse Effect, individually or in the aggregate, the rights and franchises of each of the Company and its Subsidiaries.

SECTION 7.6. COMPLIANCE WITH STATUTES. Each of the Company and its Subsidiaries will comply with all applicable statutes, regulations and orders of, and all applicable restrictions imposed by, all governmental bodies, domestic or foreign, in respect of the conduct of its business and the ownership of its property, except to the extent the failure to do so would not reasonably be expected to have a Material Adverse Effect.

SECTION 7.7. ERISA. Promptly after any Responsible Officer of the Company or any of its Subsidiaries knows or has reason to know any of the following items are true the Company will deliver or cause to be delivered to the Banks a certificate of the chief financial officer of the Company setting forth details as to such occurrence and such action, if any, the Company or its ERISA Affiliate is required or proposes to take, together with any notices required or proposed to be given to or filed with or by the Company or its ERISA Affiliate with respect thereto: that a Reportable Event has occurred or that an application may be or has been made to the Secretary of the Treasury for a waiver or modification of the minimum funding standard; that a Multiemployer Plan has been or may be terminated, reorganized, partitioned or declared insolvent under Title IV of ERISA; that any required contribution to a Plan or Multiemployer Plan has not been or may not be timely made; that proceedings may be or have been instituted under Section 4069(a) of ERISA to impose liability on the Company or an ERISA Affiliate or under Section 4042 of ERISA to terminate a Plan or appoint a trustee to administer a Plan; that the Company or any ERISA Affiliate has incurred or may incur any liability (including any contingent or secondary liability) on account of the termination of or withdrawal from a Plan or a Multiemployer Plan; and that the Company or an ERISA Affiliate may be required to provide security to a Plan under Section 401(a)(29) of the Code.

SECTION 7.8. ADDITIONAL SUBSIDIARIES. The Company will cause any Person that becomes a Material Subsidiary subsequent to the Effective Date, within thirty (30) Business Days after becoming a Material Subsidiary, (A) to execute and deliver (i) a Guaranty or a counterpart of this Agreement and deliver same to the Administrative Agent (together with certificates and all other instruments for such Material Subsidiary as required by SECTION 5.1(A)(IV) hereof); (ii) a Subsidiary Pledge Agreement or a counterpart of a Subsidiary Pledge Agreement executed by each such new Guarantor; and (iii) a Subsidiary Security Agreement or a counterpart of a Subsidiary Security Agreement executed by each such new Guarantor; PROVIDED if said Material Subsidiary is not incorporated under the laws of the United States or one of its states or territories, no such Guaranty, Subsidiary Pledge Agreement or Subsidiary Security Agreement, will be required if the Company makes arrangements, satisfactory to the Administrative Agent, in its sole discretion, regarding restrictions on transfer of funds or other assets by the Company or any Subsidiary to said new foreign Material Subsidiary; and (B) to take all such other further actions and executed all such further documents and instruments (including actions, documents and instruments comparable to those described in SECTION 5.1(B)) as may be necessary or, in the opinion of the Administrative Agent, desirable to create in favor of the Administrative Agent, for the benefit of the Banks, a valid and perfected First Priority Lien on all of the personal

property assets of such Subsidiary described in the applicable forms of the Collateral Documents.

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SECTION 7.9. YEAR 2000 COMPLIANCE. The Company will ensure that its and its Subsidiaries' Information Systems and Equipment are Year 2000 Compliant (x) at all times after July 1, 1999 with respect to the Company and its Subsidiaries existing on the Effective Date or (y) within 45 days after the date of creation or acquisition of any Subsidiary of the Company created or acquired after the Effective Date, but in any event no later than December 31, 1999, except insofar as the failure to do so will not result in a Material Adverse Effect, and shall notify the Administrative Agent and any Bank promptly upon detecting any failure of the Information Systems and Equipment to be Year 2000 Compliant. In addition, the Company shall provide the Agents and any Bank with such information about its year 2000 computer readiness (including, without limitation, information as to contingency plans, budgets and testing results) as such Agent or such Bank may reasonably request.

ARTICLE VIII
NEGATIVE COVENANTS

The Company covenants and agrees, as to itself and, except as otherwise provided herein, each of its Subsidiaries, that on and after the date hereof and for so long as this Agreement is in effect and until the Commitments have terminated:

SECTION 8.1. CHANGE IN BUSINESS. The Company will not, and will not permit any of its Subsidiaries to, engage in any businesses not of the same general type or reasonably related thereto as those conducted by the Company on the Effective Date.

SECTION 8.2. CONSOLIDATION, MERGER OR SALE OF ASSETS. Except as disclosed to the Administrative Agent on or before the Effective Date, the Company will not, and will not permit any of its Subsidiaries to, wind up, liquidate or dissolve their affairs, or enter into any transaction of merger or consolidation, or enter into any Asset Sales, except for (a) mergers permitted under SECTION 8.5(D), so long as the Company is the surviving entity and so long as no Event of Default occurs immediately before or after such merger, (b) mergers by the Company with any of its wholly-owned Subsidiaries and mergers by the Company's wholly-owned Subsidiaries with another of the Company's wholly-owned Subsidiaries, so long as the Company is the surviving entity and so long as no Event of Default occurs immediately before or after such merger, and (c) mergers by a wholly-owned Subsidiary of the Company with another Person in connection with an Investment permitted under SECTION 8.5(D), so long as the relevant Subsidiary is the surviving entity and so long as no Event of Default occurs immediately before or after such merger.

SECTION 8.3. INDEBTEDNESS. Neither the Company nor any Subsidiary of the Company will create, incur, assume or permit to exist any Indebtedness of the Company or any Subsidiary except:

- (a) Indebtedness existing hereunder;
- (b) Indebtedness existing on the Effective Date not otherwise permitted in this Section 8.3 listed on SCHEDULE 8.3(B) (I) and (II);
- (c) Indebtedness arising as a result of the endorsement in the ordinary course of business of negotiable instruments in the course of collection;

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- (d) accounts payable and unsecured, current and long-term, liabilities (including accrued insurance related liabilities), not the result of indebtedness for borrowed money, to vendors, suppliers and other Persons for goods and services in the ordinary course of business;
- (e) agreements to acquire any Person or assets entered into by the Company

or any of its Subsidiaries in anticipation of acquiring such Person or assets if such acquisition is not prohibited by this Agreement, and so long as the Indebtedness represented by such agreements is not otherwise prohibited hereunder;

(f) intercompany Indebtedness of any Subsidiary of the Company to the Company or any other Subsidiary and Indebtedness of the Company to any Subsidiary of the Company provided that same is subordinate to the Obligations in the manner provided in SECTION 8.5 hereof;

(g) current and deferred taxes;

(h) other Indebtedness not in excess of \$5,000,000.00 in the aggregate at any time outstanding;

(i) Subordinated Debt incurred by the Company or any of its Subsidiaries solely in connection with Investments permitted by SECTION 8.5(D) and Subordinated Debt incurred to refinance the then outstanding aggregate principal amount of any such Subordinated Debt incurred solely in connection with Investments permitted by SECTION 8.5(D); PROVIDED that such refinancing Subordinated Debt (1) shall be in an aggregate principal amount not to exceed the then outstanding aggregate principal amount of such Subordinated Indebtedness to be refinanced plus the amount of accrued and unpaid interest thereon; (2) shall not mature earlier than twelve months after the Maturity Date; and (3) shall contain such other terms and conditions that are not more favorable to the holders of such refinancing Subordinated Debt than to the holders of the Subordinated Debt being refinanced;

(j) Indebtedness assumed or acquired in connection with Investments permitted under SECTION 8.5(D); provided that all of such Indebtedness in excess of three percent (3%) of the net book value of the assets acquired in any such Investment shall be retired within 60 days after the date of such Investment;

(k) renewals and extensions with the same lenders (in the same or lesser principal amount on similar terms and conditions) of any Indebtedness listed in subparagraphs (a) through (i) but excluding (h) above;

(l) vehicle leases not to exceed \$10,000,000.00 in face value; and

(m) Indebtedness under Interest Rate Agreements and Other Hedging Agreements to which the Company and any Bank are parties; PROVIDED that the Company or any of its Subsidiaries may enter into Interest Rate Agreements and Other Hedging Agreements with lenders other than Banks so long as such Interest Rate Agreements and Other

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Hedging Agreements are unsecured and are entered into in the ordinary course of business for non-speculative purposes.

SECTION 8.4. LIENS AND RELATED MATTERS.

(a) PROHIBITION ON LIENS. Neither the Company nor any Subsidiary of the Company will create, incur, assume or suffer to exist any Lien upon or with respect to any of its property or assets of any kind whether now owned or hereafter acquired, except:

(i) Liens existing on the Effective Date and listed on SCHEDULE 8.4(A);

(ii) Liens existing on the Effective Date securing currently secured Indebtedness permitted under SECTION 8.3(B) or (h) above;

(iii) Permitted Liens;

(iv) Liens securing Indebtedness permitted under SECTION 8.3(H) and

8.3(J);

(v) Liens granted pursuant to the Collateral Documents; and

(vi) any renewal, extension or replacement of any Lien referred to above with the same lenders; PROVIDED that no Lien arising or existing as a result of such extension, renewal or replacement shall be extended to cover any property not theretofore subject to the Lien being extended, renewed or replaced; and PROVIDED FURTHER that the principal amount of the Indebtedness secured thereby shall not exceed the principal amount of the Indebtedness so secured at the time of such extension, renewal or replacement.

(b) EQUITABLE LIEN IN FAVOR OF LENDERS. If the Company or any of its Subsidiaries shall create or assume any Lien upon any of its properties or assets, whether now owned or hereafter acquired, other than Liens excepted by the provisions of subsection 8.4(a), it shall make or cause to be made effective provision whereby the Obligations will be secured by such Lien equally and ratably with any and all other Indebtedness secured thereby as long as any such Indebtedness shall be so secured; PROVIDED that, notwithstanding the foregoing, this covenant shall not be construed as a consent by Majority Banks to the creation or assumption of any such Lien not permitted by the provisions of SECTION 8.4(A).

(c) NO FURTHER NEGATIVE PLEDGES. Except with respect to specific property encumbered to secure payment of particular Indebtedness or to be sold pursuant to an executed agreement with respect to an Asset Sale, neither the Company nor any of its Subsidiaries shall enter into any agreement (other than an agreement prohibiting only the creation of Liens securing Subordinated Indebtedness) prohibiting the creation or assumption on any Lien upon any of its properties or assets, whether now or owned or hereafter acquired.

SECTION 8.5. INVESTMENTS. Neither the Company nor any Subsidiary will, directly or indirectly, make or own any Investment in any Person, except:

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(a) Permitted Investments;

(b) Investments owned on the Effective Date as set forth on SCHEDULE 8.5(B), including Investments in the Subsidiaries, direct and indirect;

(c) Investments arising out of loans and advances for expenses, travel per diem and similar items in the ordinary course of business to officers, directors and employees and intercompany Indebtedness permitted by SECTION 8.3(F);

(d) Investments in the stock, warrants, stock appreciation rights, other securities and/or other assets of domestic entities engaged in the same general type of business as the Company on the Effective Date, (i) in which the Company or one of its wholly owned Subsidiaries is the surviving entity, (ii) at a time when no Default or Event of Default exists hereunder, (iii) the cash portion of the purchase price for any one such Investment does not exceed \$15,000,000.00, and (iv) the aggregate cash portion of the purchase price of all such Investments shall not exceed \$60,000,000.00 in any given two consecutive fiscal quarters;

(e) other Investments having cost to the Company and its Subsidiaries not exceeding \$500,000.00 in the aggregate at any one time outstanding during the term of this Agreement,

(f) Investments in the form of stock buybacks allowed under SECTION 8.6; and

(g) Investments in capital stock of wholly-owned Subsidiaries of the Company.

SECTION 8.6. RESTRICTED PAYMENTS. The Company will not (i) pay any dividend or other distribution, direct or indirect, on account of, or redeem, retire, purchase or guaranty the value of or make any other acquisition, direct or indirect, of any shares of any class of stock of the Company, or of any warrants, rights or options to acquire any such shares, now or hereafter outstanding, except to the extent that the consideration therefor consists solely of shares of stock (including warrants, rights or options relating thereto) of the Company or is approved by the Majority Banks, and (ii) make any Restricted Subordinated Debt Payments; PROVIDED the Company may (a) purchase the stock of departing officers and employees upon their departure in a maximum, aggregate amount not to exceed \$500,000.00 in the aggregate measured over the entire period any Loans are outstanding under this Agreement or such larger amount at the Administrative Agent's written consent, (b) make payments of regularly scheduled interest in respect of any Subordinated Indebtedness, in accordance with the terms of and to the extent required by, and subject to the subordination provisions contained in, the documents establishing and evidencing such Subordinated Indebtedness, and (c) so long as no Event of Default shall have occurred and be continuing or occurs as a result thereof, make Restricted Subordinated Debt Payments (other than interest payments) in respect of Subordinated Debt existing on the Effective Date only in an aggregate amount not to exceed at any time (x) 50% of Cumulative Consolidated Net Income at such time LESS (y) the amount of Restricted Subordinated Debt Payments (other than interest payments) made pursuant to this clause (c) following the last day of the most recent fiscal quarter for which financial statements have been delivered pursuant to Section 6.1.

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SECTION 8.7. CHANGE IN ACCOUNTING. The Company will not and will not permit any Subsidiary to, change its method of accounting including a change of the Company's fiscal year except for (a) changes permitted by GAAP in which the Company's auditors concur, (b) changes with respect to any Person or assets acquired by the Company to conform with the Company's policies and procedures and which are permitted by GAAP or (c) changes required by GAAP. The Company shall advise the Administrative Agent in writing promptly upon making any material change to the extent same is not disclosed in the financial statements required under SECTION 7.1 hereof. In the event of any such change, the Company, the Banks and the Administrative Agent agree to negotiate amendments to SECTIONS 8.10 through 8.14 hereof (and related definitions, if relevant) so as to equitably reflect such changes thereon with the intended result that the criteria for evaluating the financial condition of the Company and its Subsidiaries shall be substantially the same after such changes as before.

SECTION 8.8. CHANGE OF CERTAIN INDEBTEDNESS. The Company will not, and will not permit any of its Subsidiaries after the occurrence and during the continuance of any Event of Default to make any voluntary prepayments of principal or interest on any other of the Company's Indebtedness.

SECTION 8.9. TRANSACTIONS WITH AFFILIATES. The Company will not, directly or indirectly, engage in any transaction with any Affiliate, including the purchase, sale or exchange of assets or the rendering of any service, except in the ordinary course of business or pursuant to the reasonable requirements of its business and, in each case, upon terms that are no less favorable than those which might be obtained in an arm's-length transaction at the time from non-Affiliates.

SECTION 8.10. FUNDED SENIOR DEBT TO EBITDA RATIO. The Company will not as of the last day of any fiscal quarter permit the ratio of its total Funded Senior Debt on such day to EBITDA for the rolling four (4) quarters then ended to be greater than 2.50 to 1.00 at any time during the term hereof.

SECTION 8.11. TOTAL FUNDED DEBT TO EBITDA RATIO. The Company will not as of the last day of any fiscal quarter permit the ratio of (i) its Total Funded Debt on such day to (ii) EBITDA for the four consecutive fiscal quarters then ended to be greater than 3.50 to 1.00 at any time during the term hereof.

SECTION 8.12. MINIMUM NET WORTH. The Company will not permit, as of

the last day of the fiscal quarter ending December 31, 1998, its Consolidated Net Worth to be less than \$282,000,000. The Company will not permit, as of the last day of any fiscal quarter commencing with fiscal quarter ending March 31, 1999, its Consolidated Net Worth to be less than the sum of (i) \$300,000,000 PLUS (ii) seventy-five percent (75%) of the cumulative quarterly consolidated net income of the Company for each such fiscal quarter during which the Company has positive consolidated net income PLUS (iii) one hundred percent (100%) of the net proceeds received by the Company from any sale or issuance of any equity securities of, or any other additions to capital by, the Company or its Subsidiaries.

SECTION 8.13. CAPITAL EXPENDITURES. The Company will not permit total consolidated capital expenditures (including Capitalized Lease Obligations but exclusive of (x)

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Investments permitted under SECTION 8.5(D) and (y) consolidated capital expenditures with respect to casualty loss replacements) to be greater than the lesser of (i) \$30,000,000.00 or (ii) two percent (2.00%) of gross revenues (pro forma gross revenues with respect to permitted acquisitions) for any fiscal year during the term hereof.

SECTION 8.14. INTEREST COVERAGE RATIO. The Company will not permit as of the last day of any fiscal quarter the ratio of EBITDA for the four consecutive fiscal quarters ended on such day to cash Interest Expense for such period to be less than 4.00 to 1.00. This interest coverage ratio shall be calculated on a rolling four quarter basis.

For purposes of calculating the ratios in SECTIONS 8.10 and 8.11, the calculations of Total Funded Debt and Funded Senior Debt after the acquisition of assets or entities permitted under this Agreement shall include pro forma adjustments to account for such acquired entity's historical Total Funded Debt and Funded Senior Debt for the relevant period.

ARTICLE IX GUARANTY

SECTION 9.1. GUARANTY. In consideration of, and in order to induce the Banks to make the Loans and the Issuing Bank to issue Letters of Credit hereunder, the Guarantors hereby absolutely, unconditionally and irrevocably, jointly and severally, guarantee the punctual payment and performance when due, whether at stated maturity, by acceleration or otherwise, of the Obligations, and all other obligations and covenants of the Company now or hereafter existing under this Agreement, the Notes and the other Loan Documents whether for principal, interest (including interest accruing or becoming owing both prior to and subsequent to the commencement of any proceeding against or with respect to the Company under any chapter of the Bankruptcy Code), Fees, commissions, expenses (including reasonable attorneys' fees and expenses) or otherwise, and all reasonable costs and expenses, if any, incurred by the Administrative Agent or any Bank in connection with enforcing any rights under this Guaranty (all such obligations being the "GUARANTEED OBLIGATIONS",) and agree to pay any and all reasonable expenses incurred by each Bank and the Administrative Agent in enforcing this Guaranty; PROVIDED that notwithstanding anything contained herein or in any of the Loan Documents to the contrary, the maximum liability of each Guarantor hereunder and under the other Loan Documents shall in no event exceed such Guarantor's Maximum Guaranteed Amount, PROVIDED FURTHER, each Guarantor shall be unconditionally required to pay all amounts demanded of it hereunder prior to any determination of such Maximum Guaranteed Amount and the recipient of such payment, if so required by a final non-appealable order of a court of competent jurisdiction, shall then be liable for the refund of any excess amounts. If any such rebate or refund is ever required, all other Guarantors (and the Company) shall be fully liable for the repayment thereof to the maximum extent allowed by applicable law. This Guaranty is an absolute, unconditional, present and continuing guaranty of payment and not of collectibility and is in no way conditioned upon any attempt to collect from the Company or any other action, occurrence or circumstance whatsoever. Each Guarantor agrees that the Guaranteed Obligations may at any time and from time to time exceed the Maximum

Guaranteed Amount of such Guarantor without impairing this Guaranty or affecting the rights and remedies of the Banks hereunder.

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SECTION 9.2. CONTINUING GUARANTY. Each Guarantor guarantees that the Guaranteed Obligations will be paid strictly in accordance with the terms of this Agreement, the Notes and the other Loan Documents. Each Guarantor agrees that the Guaranteed Obligations and Loan Documents may be extended or renewed, and Loans repaid and reborrowed in whole or in part, without notice to or assent by such Guarantor, and that it will remain bound upon this Guaranty notwithstanding any extension, renewal or other alteration of any Guaranteed Obligations or Loan Documents, or any repayment and reborrowing of Loans. To the maximum extent permitted by applicable law, the obligations of each Guarantor under this Guaranty shall be absolute, unconditional and irrevocable, and shall be performed strictly in accordance with the terms hereof under any circumstances whatsoever, including:

- (a) any extension, renewal, modification, settlement, compromise, waiver or release in respect of any Guaranteed Obligations;
- (b) any extension, renewal, amendment, modification, rescission, waiver or release in respect of any Loan Documents;
- (c) any release, exchange, substitution, non-perfection or invalidity of, or failure to exercise rights or remedies with respect to, any direct or indirect security for any Guaranteed Obligations, including the release of any Guarantor or other Person liable on any Guaranteed Obligations;
- (d) any change in the corporate existence, structure or ownership of the Company, any Guarantor, or any insolvency, bankruptcy, reorganization or other similar proceeding affecting the Company, such Guarantor, any other Guarantor or any of their respective assets;
- (e) the existence of any claim, defense, set-off or other rights or remedies which such Guarantor at any time may have against the Company, or the Company or such Guarantor may have at any time against the Administrative Agent, any Bank, any other Guarantor or any other Person, whether in connection with this Guaranty, the Loan Documents, the transactions contemplated thereby or any other transaction other than by the payment in full by the Company of the Guaranteed Obligations after the termination of the Commitments of the Banks;
- (f) any invalidity or unenforceability for any reason of this Agreement or other Loan Documents, or any provision of law purporting to prohibit the payment or performance by the Company, such Guarantor or any other Guarantor of the Guaranteed Obligations or Loan Documents, or of any other obligation to the Administrative Agent or any Bank; or
- (g) any other circumstances or happening whatsoever, whether or not similar to any of the foregoing.

SECTION 9.3. EFFECT OF DEBTOR RELIEF LAWS. If after receipt of any payment of, or proceeds of any security applied (or intended to be applied) to the payment of all or any part of the Guaranteed Obligations, the Administrative Agent or any Bank is for any reason compelled to surrender or voluntarily surrenders such payment or proceeds to any Person (a)

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because such payment or application of proceeds is or may be avoided, invalidated, declared fraudulent, set aside, determined to be void or voidable as a preference, fraudulent conveyance, fraudulent transfer, impermissible set-off or a diversion of trust funds or (b) for any other similar reason, including (i) any judgment, decree or order of any court or administrative body having jurisdiction over the Administrative Agent, any Bank or any of their respective properties or (ii) any settlement or compromise of any such claim effected by the Administrative Agent or any Bank with any such claimant

(including the Company), then the Guaranteed Obligations or part thereof intended to be satisfied shall be reinstated and continue, and this Guaranty shall continue in full force as if such payment or proceeds have not been received, notwithstanding any revocation thereof or the cancellation of any Note or any other instrument evidencing any Guaranteed Obligations or otherwise; and the Guarantors, jointly and severally, shall be liable to pay the Administrative Agent and the Banks, and hereby do indemnify the Administrative Agent and the Banks and hold them harmless for the amount of such payment or proceeds so surrendered and all expenses (including reasonable attorneys' fees, court costs and expenses attributable thereto) incurred by the Administrative Agent or any Bank in the defense of any claim made against it that any payment or proceeds received by the Administrative Agent or any Bank in respect of all or part of the Guaranteed Obligations must be surrendered. The provisions of this paragraph shall survive the termination of this Guaranty, and any satisfaction and discharge of the Company by virtue of any payment, court order or any federal or state law.

SECTION 9.4. WAIVER OF SUBROGATION. Notwithstanding any payment or payments made by any Guarantor hereunder, or any set-off or application by the Administrative Agent or any Bank of any security or of any credits or claims, no Guarantor will assert or exercise any rights of the Administrative Agent or any Bank or of such Guarantor against the Company to recover the amount of any payment made by such Guarantor to the Administrative Agent or any Bank hereunder by way of any claim, remedy or subrogation, reimbursement, exoneration, contribution, indemnity, participation or otherwise arising by contract, by statute, under common law or otherwise, and such Guarantor shall not have any right of recourse to or any claim against assets or property of the Company, in each case unless and until the Obligations of the Company guaranteed hereby have been fully and finally satisfied. Until such time, each Guarantor hereby expressly waives any right to exercise any claim, right or remedy which such Guarantor may now have or hereafter acquire against the Company that arises under this Agreement or any other Loan Document or from the performance by any Guarantor of the Guaranty hereunder including any claim, remedy or right of subrogation, reimbursement, exoneration, contribution, indemnification or participation in any claim, right or remedy of the Administrative Agent or any Bank against the Company, or any security that the Administrative Agent or any Bank now has or hereafter acquires, whether or not such claim, right or remedy arises in equity, under contract, by statute, under common law or otherwise. If any amount shall be paid to a Guarantor by the Company or another Guarantor after payment in full of the Obligations, and the Obligations shall thereafter be reinstated in whole or in part and the Administrative Agent or any Bank forced to repay and sums received by any of them in payment of the Obligations, this Guaranty shall be automatically reinstated and such amount shall be held in trust for the benefit of the Administrative Agent and the Banks and shall forthwith be paid to the Administrative Agent to be credited and applied to the Guaranteed Obligations, whether matured or unmatured. The provisions of this paragraph shall survive the termination of this Guaranty, and any satisfaction and discharge of the Company by virtue of any payment, court order or any federal or state law.

SECTION 9.5. SUBORDINATION. If any Guarantor becomes the holder of any indebtedness payable by the Company or another Guarantor, each Guarantor hereby subordinates all indebtedness owing to it from the Company to all indebtedness of the Company to the Administrative Agent and the Banks, and agrees that during the continuance of any Event of Default it shall not accept any payment on the same until payment in full of the Obligations of the Company under this Agreement and the other Loan Documents after the termination of the Commitments of the Banks and shall in no circumstance whatsoever attempt to set-off or reduce any obligations hereunder because of such indebtedness. If any amount shall nevertheless be paid in violation of the foregoing to a Guarantor by the Company or another Guarantor prior to payment in full of the Guaranteed Obligations, such amount shall be held in trust for the benefit of the Administrative Agent and the Banks and shall forthwith be paid to the Administrative Agent to be credited and applied to the Guaranteed Obligations, whether matured or unmatured.

SECTION 9.6. WAIVER. Each Guarantor hereby waives promptness, diligence, notice of acceptance and any other notice with respect to any of the Guaranteed Obligations and this Guaranty and waives presentment, demand of payment, notice of intent to accelerate, notice of dishonor or nonpayment and any requirement that the Administrative Agent or any Bank institute suit, collection proceedings or take any other action to collect the Guaranteed Obligations, including any requirement that the Administrative Agent or any Bank protect, secure, perfect or insure any Lien against any property subject thereto or exhaust any right or take any action against the Company or any other Person or any collateral (it being the intention of the Administrative Agent, the Banks and each Guarantor that this Guaranty is to be a guaranty of payment and not of collection). It shall not be necessary for the Administrative Agent or any Bank, in order to enforce any payment by any Guarantor hereunder, to institute suit or exhaust its rights and remedies against the Company, any other Guarantor or any other Person, including others liable to pay any Guaranteed Obligations, or to enforce its rights against any security ever given to secure payment thereof. Each Guarantor hereby expressly waives to the maximum extent permitted by applicable law each and every right to which it may be entitled by virtue of the suretyship laws of the State of Texas, including any and all rights it may have pursuant to Rule 31, Texas Rules of Civil Procedure, Section 17.001 of the Texas Civil Practice and Remedies Code and Chapter 34 of the Texas Business and Commerce Code. Each Guarantor hereby waives marshaling of assets and liabilities, notice by the Administrative Agent or any Bank of any indebtedness or liability to which such Bank applies or may apply any amounts received by such Bank, and of the creation, advancement, increase, existence, extension, renewal, rearrangement or modification of the Guaranteed Obligations. Each Guarantor expressly waives, to the extent permitted by applicable law, the benefit of any and all laws providing for exemption of property from execution or for valuation and appraisal upon foreclosure.

SECTION 9.7. FULL FORCE AND EFFECT. This Guaranty is a continuing guaranty and shall remain in full force and effect until all of the Obligations of the Company under this Agreement and the other Loan Documents and all other amounts payable under this Guaranty have been paid in full (after the termination of the Commitments of the Banks). All rights, remedies and powers provided in this Guaranty may be exercised, and all waivers contained in this Guaranty may be enforced, only to the extent that the exercise or enforcement thereof does not violate any provisions of applicable law which may not be waived.

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ARTICLE X
EVENTS OF DEFAULT AND REMEDIES

SECTION 10.1. EVENTS OF DEFAULT. The following events shall constitute Events of Default ("EVENTS OF DEFAULT") hereunder:

- (a) any installment of principal is not paid when due; or any payment of interest or Fees is not paid on the date on which such payment is due and such failure continues for a period of five (5) days; or
- (b) any representation or warranty made or deemed made by the Company or any Subsidiary herein or in any of the Loan Documents or other document, certificate or financial statement delivered in connection with this Agreement or any other Loan Document shall prove to have been incorrect in any material respect when made or deemed made or reaffirmed, as the case may be; or
- (c) the Company shall fail to perform, comply or observe or cause any Subsidiary, to fail to perform, comply or observe (i) any term, duty or covenant contained in ARTICLE VIII of this Agreement; or (ii) any other term, duty or covenant contained elsewhere in this Agreement or in any of the Loan Documents and such failure continues for a period of thirty (30) days after receipt by the Company and such Guarantor of notice from the Administrative Agent or any Bank of such default; or
- (d) the Company or any Subsidiary shall (i) fail to make (whether as

primary obligor or as guarantor or other surety) any principal payment of or interest or premium, if any, on any instruments of Indebtedness in excess of \$2,500,000 in the aggregate allowed hereunder outstanding beyond any period of grace provided with respect thereto or (ii) shall fail to duly observe, perform or comply with any agreement with any Person or any term or condition of any instrument of Indebtedness in excess of \$2,500,000 in the aggregate, if the effect of such failure is to cause, or to permit the holder or holders to cause, such obligations to become due prior to any stated maturity; or

(e) an involuntary proceeding shall be commenced or an involuntary petition shall be filed in a court of competent jurisdiction seeking (i) relief in respect of the Company or any Subsidiary, or of a substantial part of the property or assets of the Company or any Subsidiary, under Title 11 of the United States Code, as now or hereafter in effect, or any successor thereto (the "BANKRUPTCY CODE"), or any other federal or state bankruptcy, insolvency, receivership or similar law, (ii) the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for the Company or any Subsidiary or for a substantial part of the property or assets of the Company or any Subsidiary or (iii) the winding-up or liquidation of the Company or any Subsidiary; and such proceeding or petition shall continue undismissed for 60 days or an order or decree approving or ordering any of the foregoing shall be entered; or

(f) the Company or any Subsidiary shall (i) voluntarily commence any proceeding or file any petition seeking relief under the Bankruptcy Code or any other federal or state bankruptcy, insolvency, receivership or similar law, (ii) consent to the institution of, or

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fail to contest in a timely and appropriate manner, any proceeding or the filing of any petition described in clause (e) above, (iii) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for the Company or any Subsidiary or for a substantial part of the property or assets of the Company or any Subsidiary, (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (v) make a general assignment for the benefit of creditors, (vi) become unable, or admit in writing its inability or fail generally to pay its debts as they become due or (vii) take any action for the purpose of effecting any of the foregoing; or

(g) a judgment or order, which with other outstanding judgments and orders against the Company and its Subsidiaries equal or exceed \$1,000,000.00 in the aggregate (to the extent not covered by insurance as to which the respective insurer has acknowledged coverage), shall be entered against the Company or any Subsidiary and (i) within 30 days after entry thereof such judgment shall not have been paid or discharged or execution thereof stayed pending appeal or, within 30 days after the expiration of any such stay, such judgment shall not have been paid or discharged or (ii) any enforcement proceeding shall have been commenced (and not stayed) by any creditor or upon such judgment; or

(h) a Change of Control shall occur; or

(i) at any time after the execution and delivery thereof, (i) the Guaranty for any reason, other than the satisfaction in full of all Obligations, shall cease to be in full force and effect (other than in accordance with its terms) or shall be declared to be null and void, (ii) any Collateral Document shall cease to be in full force and effect (other than by reason of a release of Collateral thereunder in accordance with the terms hereof or thereof, the satisfaction in full of the Obligations or any other termination of such Collateral Document in accordance with the terms hereof or thereof) or shall be declared null and void, or the Administrative Agent shall not have or shall cease to have a valid and perfected First Priority Lien in any material amount of Collateral purported to be covered thereby, in each case for any reason other than

the failure of the Administrative Agent or any Bank to take any action within its control, or (iii) the Company or any Guarantor shall contest the validity or enforceability of any Loan Document in writing or deny in writing that it has any further liability, including with respect to future Advances by the Banks, under any Loan Document to which it is a party.

SECTION 10.2. PRIMARY REMEDIES. In any such event, and at any time after the occurrence of any of the above described events, the Administrative Agent, if directed by the Majority Banks, shall by written notice to the Company (a "NOTICE OF DEFAULT") take any or all of the following actions; PROVIDED, that if an Event of Default specified in SECTION 10.1 (E) or SECTION 10.1(F) shall occur, the following shall occur automatically without the giving of any Notice of Default: (a) declare the Commitments terminated, whereupon the Commitments shall forthwith terminate immediately and any Commitment Fee and any other owing and unpaid Fee shall forthwith become due and payable without any other notice of any kind; (b) declare (i) the principal of and any accrued and unpaid interest in respect of all Advances, (ii) an amount equal to the maximum amount that may at any time be drawn under all Letters of Credit then outstanding (whether or not any beneficiary under any such Letter of Credit shall have presented, or shall be entitled at such time to present, the drafts or other documents or certificates required

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to draw under such Letter of Credit), and (iii) all other Obligations owing hereunder, to be, whereupon the same shall become, forthwith due and payable without presentment, demand, notice of demand or of dishonor and non-payment, protest, notice of protest, notice of intent to accelerate, declaration or notice of acceleration or any other notice of any kind (except as herein expressly provided), all of which are hereby waived by the Company; (c) set off any assets or money of the Company or any Guarantor in its or any Banks' possession against the Obligations; and (d) exercise any rights or remedies under any document securing any of the Loan Documents or under any applicable state or federal law. Any amounts described in clause (b)(ii) above, when received by the Administrative Agent, shall be held by the Administrative Agent pursuant to the terms of the Collateral Account Agreement and shall be applied as therein provided.

SECTION 10.3. OTHER REMEDIES. Upon the occurrence and during the continuance of any Event of Default, the Administrative Agent may proceed to protect and enforce its and the Banks' rights, either by suit in equity or by action at law or both, whether for the specific performance of any covenant or agreement contained in this Agreement or in any other Loan Document or in aid of the exercise of any power granted in this Agreement or in any other Loan Document; or may proceed to enforce the payment of all amounts owing to the Banks under the Loan Documents and any accrued and unpaid interest thereon in the manner set forth herein or therein; it being intended that no remedy conferred herein or in any of the other Loan Documents is to be exclusive of any other remedy, and each and every remedy contained herein or in any other Loan Document shall be cumulative and shall be in addition to every other remedy given hereunder and under the other Loan Documents or now or hereafter existing at law or in equity or by statute or otherwise.

ARTICLE XI
THE AGENTS

SECTION 11.1. AUTHORIZATION AND ACTION. Each Bank hereby irrevocably appoints and authorizes each Agent to act on its behalf and to exercise such powers under this Agreement and the other Loan Documents as are specifically delegated to or required of such Agent by the terms hereof, together with such powers as are reasonably incidental thereto. Each Agent may perform any of its duties hereunder by or through its agents and employees. The duties of each Agent shall be mechanical and administrative in nature; no Agent shall have by reason of this Agreement or any other Loan Documents a fiduciary relationship in respect of any Bank; and nothing in this Agreement or any other Loan Document, expressed or implied is intended to, or shall be so construed as to, impose upon any Agent any obligations in respect of this Agreement or any other Loan

Document except as expressly set forth herein or therein. As to any matters not expressly provided for by this Agreement, the Notes or the other Loan Documents (including enforcement or collection of the Notes), no Agent shall 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 the Majority Banks, and such instructions shall be binding upon the Banks and all holders of Notes and the Obligations; PROVIDED, that no Agent shall be required to take any action which exposes such Agent to personal liability and shall not be required or entitled to take any action which is contrary to any of the Loan Documents or applicable law.

SECTION 11.2. AGENTS' RELIANCE.

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(a) None of the Agents nor any of its directors, officers, agents or employees shall be liable to the Banks for any action taken or omitted to be taken by it or them under or in connection with this Agreement, the Notes or any of the other Loan Documents (i) with the consent or at the request of the Majority Banks or (ii) in the absence of its or their own gross negligence or willful misconduct, IT BEING THE EXPRESS INTENTION OF THE PARTIES HERETO THAT EACH AGENT AND ITS DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES SHALL HAVE NO LIABILITY TO THE BANKS FOR ACTIONS AND OMISSIONS UNDER THIS SECTION RESULTING FROM THEIR SOLE ORDINARY OR CONTRIBUTORY NEGLIGENCE.

(b) Without limitation of the generality of the foregoing, each Agent: (i) may treat the payee of each Note and the Obligations as the holder thereof until the Administrative Agent receives written notice of the assignment or transfer thereof signed by such payee and in form satisfactory to the Agents; (ii) may consult with legal counsel (including counsel for the Company), independent public accountants and other experts selected by it and shall not be liable for any action taken or omitted to be taken in good faith by it in accordance with the advice of such counsel, accountants or experts; (iii) makes no warranty or representation to any Bank and shall not be responsible to any Bank for any statements, warranties or representations made in or in connection with this Agreement, any Note or any other Loan Document; (iv) except as otherwise expressly provided herein, shall not have any duty to ascertain or to inquire as to the performance or observance of any of the terms, covenants or conditions of this Agreement, any Note or any other Loan Document or to inspect the property (including the books and records) of the Company; (v) shall not be responsible to any Bank for the due execution, legality, validity, enforceability, collectibility, genuineness, sufficiency or value of this Agreement, any Note, any other Loan Document or any other instrument or document furnished pursuant hereto or thereto; (vi) shall not be responsible to any Bank for the perfection or priority of any Lien securing the Obligations; and (vii) shall incur no liability under or in respect of this Agreement, any Note or any other Loan Document by acting upon any notice, consent, certificate or other instrument or writing (which may be by telegram, telecopier or cable) reasonably believed by it to be genuine and signed or sent by the proper party or parties.

SECTION 11.3. AGENT AND AFFILIATES. Without limiting the right of any other Bank to engage in any business transactions with the Company or any of its Affiliates, with respect to their Commitments, the Loans made by them and the Notes issued to them, BOT, BTCo and NB and each other Bank who may become the Administrative Agent, Syndication Agent or Documentation Agent, as the case may be, shall have the same rights and powers under this Agreement and its Notes as any other Bank and may exercise the same as though it was not an Agent; and the term "Bank" or "Banks" shall, unless otherwise expressly indicated, include BOT, BTCo and NB and any such other Bank, in their individual capacities. BOT, BTCo and NB, each other Person who becomes the Administrative Agent, the Syndication Agent or the Documentation Agent, as the case may be, and their respective Affiliates may be engaged in, or may hereafter engage in, one or more loan, letter of credit, leasing or other financing activity not the subject of this Agreement (collectively, the "OTHER FINANCINGS") with the Company, any Subsidiary or any of its Affiliates, or may act as trustee on behalf of, or

depository for, or otherwise engage in other business transactions with the Company, any Subsidiary or any of its Affiliates (all Other Financings and other such business transactions being collectively, the

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"OTHER ACTIVITIES") with no responsibility to account therefor to the Banks. Without limiting the rights and remedies of the Banks specifically set forth herein, no other Bank by virtue of being a Bank hereunder shall have any interest in (a) any Other Activities, (b) any present or future guaranty by or for the account of the Company not contemplated or included herein, (c) any present or future offset exercised by an Agent in respect of any such Other Activities, (d) any present or future property taken as security for any such Other Activities or (e) any property now or hereafter in the possession or control of any Agent which may be or become security for the Obligations of the Company hereunder and under the Notes by reason of the general description of indebtedness secured, or of property contained in any other agreements, documents or instruments related to such Other Activities; PROVIDED, HOWEVER, that if any payment in respect of such guaranties or such property or the proceeds thereof shall be applied to reduction of the Obligations evidenced hereunder and by the Notes, then each Bank shall be entitled to share in such application according to its pro rata portion of such Obligations.

SECTION 11.4. BANK CREDIT DECISION. Each Bank acknowledges and agrees that it has, independently and without reliance upon any Agent or any other Bank and based on the financial statements referred to in SECTION 7.1 and such other documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Bank also acknowledges and agrees that it will, independently and without reliance upon any Agent or any other Bank and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under this Agreement and the other Loan Documents.

SECTION 11.5. AGENTS' INDEMNITY.

(a) No Agent shall be required to take any action hereunder or to prosecute or defend any suit in respect of this Agreement, the Notes or any other Loan Document unless indemnified to Agents' satisfaction by the Banks against loss, cost, liability and expense. If any indemnity furnished to the Agents shall become impaired, it may call for additional indemnity and cease to do the acts indemnified against until such additional indemnity is given. In addition, the Banks agree to indemnify the Agents (to the extent not reimbursed by the Company), ratably according to the respective aggregate principal amounts of the Notes then held by each of them (or if no Notes are at the time outstanding, ratably according to the respective amounts of the Commitments), 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 any Agent in any way relating to or arising out of this Agreement or any action taken or omitted by any Agent under this Agreement, the Notes and the other Loan Documents. Without limitation of the foregoing, each Bank agrees to reimburse each Agent promptly upon demand for its ratable share of any out-of-pocket expenses (including reasonable counsel fees) incurred by such Agent in connection with the preparation, execution, administration, or enforcement of, or legal advice in respect of rights or responsibilities under, this Agreement, the Notes and the other Loan Documents to the extent that such Agent is not reimbursed for such expenses by the Company. The provisions of this Section shall survive the termination of this Agreement, the payment of the Obligations and/or the assignment of any of the Notes.

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(b) Notwithstanding the foregoing, no Bank shall be liable under this Section to the Administrative Agent for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements due to the Administrative Agent resulting from

the Administrative Agent's gross negligence or willful misconduct. EACH BANK AGREES, HOWEVER, THAT IT EXPRESSLY INTENDS, UNDER THIS SECTION, TO INDEMNIFY THE ADMINISTRATIVE AGENT RATABLY AS AFORESAID FOR ALL SUCH LIABILITIES, OBLIGATIONS, LOSSES, DAMAGES, PENALTIES, ACTIONS, JUDGMENTS, SUITS, COSTS, EXPENSES AND DISBURSEMENTS ARISING OUT OF OR RESULTING FROM THE ADMINISTRATIVE AGENT'S SOLE ORDINARY OR CONTRIBUTORY NEGLIGENCE.

SECTION 11.6. SUCCESSOR AGENTS. Each Agent may resign at any time by giving written notice thereof to the Banks and the Company and may be removed as an Agent under this Agreement, the Notes and the other Loan Documents at any time with or without cause by the Majority Banks. Upon any such resignation or removal, the Majority Banks shall have the right to appoint a successor Agent with, so long as no Event of Default exists, the consent of the Company, which will not be unreasonably withheld. If no successor Agent shall have been so appointed by the Majority Banks, and shall have accepted such appointment, within 30 calendar days after the retiring Agent's giving of notice of resignation or the Majority Banks' removal of the retiring Agent, then the retiring Agent may, on behalf of the Banks, appoint a successor Agent, which shall be an Eligible Assignee. Upon the acceptance of any appointment as an Agent hereunder and under the Notes and the other Loan Documents by a successor Agent, such successor Agent shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the retiring Agent, and the retiring Agent shall be discharged from its duties and obligations under this Agreement, the Notes and the other Loan Documents. After any retiring Agent's resignation or removal as an Agent hereunder and under the Notes and the other Loan Documents, the provisions of this ARTICLE XI shall inure to its benefit as to any actions taken or omitted to be taken by it while it was an Agent under this Agreement, the Notes and the other Loan Documents.

SECTION 11.7. NOTICE OF DEFAULT. No Agent shall be deemed to have knowledge or notice of the occurrence of any Default or Event of Default hereunder unless such Agent shall have received notice from a Bank or the Company referring to this Agreement, describing such Default or Event of Default and stating that such notice is a "notice of default." If an Agent receives such notice, such Agent shall give notice thereof to the Banks; PROVIDED HOWEVER, if such notice is received from a Bank, such Agent also shall give notice thereof to the Company. Each Agent shall be entitled to take action or refrain from taking action with respect to such Default or Event of Default as provided in SECTION 10.1 and SECTION 10.2.

SECTION 11.8. COLLATERAL DOCUMENTS AND GUARANTIES. Each Bank hereby further authorizes the Administrative Agent, on behalf of and for the benefit of the Banks, to enter into each Collateral Document as secured party and to be the agent for and representative of the Banks under the Guaranty, and each Bank agrees to be bound by the terms of each Collateral Document and the Guaranty; PROVIDED that the Administrative Agent shall not (i) enter into or consent to any material amendment, modification, termination or waiver of any provision contained in any Collateral Document or the Guaranty or (ii) release any Collateral (except as otherwise expressly permitted or required pursuant to the terms of this Agreement or the

applicable Collateral Document), in each case without the prior consent of Majority Banks (or, if required pursuant to Section 12.1, all Banks); PROVIDED FURTHER, HOWEVER, that, without further written consent or authorization from the Banks, the Administrative Agent may execute any documents or instruments necessary to (a) release any Lien encumbering any item of Collateral that is the subject of a sale or other disposition of assets permitted by this Agreement or to which Majority Banks have otherwise consented or (b) release any Guarantor from the Guaranty if all of the capital stock of such Guarantor is sold to any Person (other than an Affiliate of the Company) pursuant to a sale or other disposition permitted hereunder or to which Majority Banks have otherwise consented. Anything contained in any of the Loan Documents to the contrary notwithstanding, the Company, the Agents and each Bank hereby agree that (X) no Bank shall have any right individually to realize upon any of the Collateral under any Collateral Document or to enforce the Guaranty, it being understood and agreed that all powers, rights and remedies under the Collateral Documents

and the Guaranty may be exercised solely by the Administrative Agent for the benefit of the Banks in accordance with the terms thereof, and (Y) in the event of a foreclosure by the Administrative Agent on any of the Collateral pursuant to a public or private sale, any Agent or any Bank may be the purchaser of any or all of such Collateral at any such sale and the Administrative Agent, as agent for and representative of Banks (but not any Bank or Banks in its or their respective individual capacities unless Majority Banks shall otherwise agree in writing) shall be entitled, for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral sold at any such public sale, to use and apply any of the Obligations as a credit on account of the purchase price for any Collateral payable by the Administrative Agent at such sale.

ARTICLE XII
MISCELLANEOUS

SECTION 12.1. AMENDMENTS. No amendment, modification, termination or waiver of any provision of this Agreement or of the Notes, or consent to any departure by the Company therefrom, shall in any event be effective without the written concurrence of Majority Banks; PROVIDED that no such amendment, modification, termination, waiver or consent shall, without the consent of each Bank (with Obligations directly affected in the case of the following clause (i)): (i) extend the scheduled final maturity of any Loan or Note, or extend the stated expiration date of any Letter of Credit beyond the Maturity Date, or reduce the rate of interest (other than any waiver of any increase in the interest rate applicable to any of the Loans pursuant to the Default Rate) or fees thereon, or extend the time of payment of interest, principal or fees thereon, or reduce the principal amount thereof, (ii) release all or substantially all of the Collateral, release all or substantially all of the Subsidiaries that are party to the Guaranty from the Guaranty except as expressly provided in the Loan Documents, (iii) amend, modify, terminate or waive any provision of this Section 12.1, (iv) reduce the percentage specified in the definition of Majority Banks, or (v) consent to the assignment or transfer by the Company of any of its respective rights and obligations under this Agreement; PROVIDED FURTHER that no such amendment, modification, termination or waiver shall (1) increase the Commitments of any Bank over the amount thereof then in effect without the consent of such Bank (it being understood that amendments, modifications or waivers of conditions precedent, covenants, Events of Default or of a mandatory reduction of the Commitments shall not constitute an increase of the Commitment of any Bank, and that an increase in the available portion of any

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Commitment of any Bank shall not constitute an increase in the Commitment of such Bank), (2) no amendment, modification, termination or waiver relating to the obligations of Banks relating to the purchase or participation in Letters of Credit shall be effective without the written concurrence of each Issuing Bank having a Letter of Credit then outstanding or which has not been reimbursed for a drawing under a Letter of Credit issued by it and of the Administrative Agent, and (3) no amendment, modification, termination or waiver of any provision of Article XI or of any provision of this Agreement which, by its terms, expressly requires the approval or concurrence of any Agent shall be effective without the written concurrence of such Agent. The Administrative Agent may, but shall have no obligation to, with the concurrence of any Bank, execute amendments, modifications, waivers or consents on behalf of that Bank. Any waiver or consent shall be effective only in the specific instance and for the specific purpose for which it was given. No notice to or demand on the Company in any case shall entitle the Company to any other or further notice or demand in similar or other circumstances. Any amendment, modification, termination, waiver or consent effected in accordance with this Section 12.1 shall be binding upon each Bank at the time outstanding, each future Bank and, if signed by the Company, on the Company.

SECTION 12.2. NOTICES. Except with respect to telephone notifications specifically permitted pursuant to ARTICLE II, all notices, consents, requests,

approvals, demands and other communications provided for herein shall be in writing (including telecopy communications) and mailed, telecopied, sent by overnight courier or delivered:

(a) If to the Company and the Guarantors:

Comfort Systems USA, Inc.
777 Post Oak Boulevard, Suite 500
Houston, Texas 77056
Telephone No.: (713) 830-9600
Telecopy No.: (713) 830-9676
Attention: Jeff Wheeler

(b) If to the Administrative Agent:

Bank One, Texas, N.A.
910 Travis, 7th Floor
Houston, Texas 77002
Telephone No.: (713) 751-6243
Telecopy No.: (713) 751-6199
Attention: Cynthia Cady

or, in the case of any party hereto, such other address or telecopy number as such party may hereafter specify for such purpose by notice to the other parties.

(c) If to any Bank, to the address shown on the signature page hereof or specified by such Bank (or the Administrative Agent on behalf of any Bank) to the Company.

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All communications shall, when mailed, telecopied or delivered, be effective when mailed by certified mail, return receipt requested to any party at its address specified above, or telecopied to any party to the telecopy number set forth above, or delivered personally to any party at its address specified above; PROVIDED, that communications to the Administrative Agent pursuant to ARTICLE II shall not be effective until actually received by the Administrative Agent, and PROVIDED FURTHER that communications sent by telecopy after 5:00 p.m., Houston, Texas time, shall be effective on the next succeeding Business Day.

SECTION 12.3. NO WAIVER; REMEDIES. No failure on the part of any Bank or the Administrative Agent to exercise, and no delay in exercising, any right hereunder, under any Note or under any other Loan Document shall operate as a waiver thereof; nor shall any single or partial exercise of any such right, or any abandonment or discontinuance of any steps to enforce such right, preclude any other or further exercise thereof or the exercise of any other right. No notice to or demand on the Company in any case shall entitle the Company to any other or further notice or demand in similar or other circumstances. The remedies herein are cumulative and not exclusive of any other remedies provided by law, at equity or in any other agreement.

SECTION 12.4. COSTS, EXPENSES AND TAXES. The Company agrees to pay on demand: (a) all reasonable out-of-pocket costs and expenses of the Syndication Agent in connection with the preparation, execution and delivery of this Agreement, the Notes, the other Loan Documents and the other documents to be delivered hereunder, including the reasonable fees and out-of-pocket expenses of counsel for the Syndication Agent with respect thereto and with respect to advising the Syndication Agent as to its rights and responsibilities under this Agreement, the Notes and the other Loan Documents, and any modification, supplement or waiver of any of the terms of this Agreement or any other Loan Document, (b) all reasonable costs and expenses of any Bank and any other holder of an interest in the Notes, and the Obligations of the Company hereunder and under the Loan Documents, including reasonable legal fees and expenses, in connection with the enforcement of this Agreement, the Notes and the other Loan Documents and (c) reasonable costs and expenses incurred in connection with third party professional services required by the Syndication Agent, such as

appraisers, environmental consultants, accountants or similar Persons; PROVIDED THAT prior to any Event of Default hereunder, such Agent will first obtain the consent of the Company to such expense, which consent shall not be unreasonably withheld. Without prejudice to the survival of any other obligations of the Company hereunder and under the Notes, the obligations of the Company under this Section shall survive the termination of this Agreement or the replacement of any Agent and each assignment of the Notes.

SECTION 12.5. INDEMNITY.

(a) The Company shall and hereby does indemnify each Agent and each Bank and each Affiliate thereof and their respective directors, officers, employees and agents from, and hold each of them harmless against, any and all losses, liabilities, claims or damages (including reasonable legal fees and expenses) to which any of them may become subject, insofar as such losses, liabilities, claims or damages arise out of or result from any actual or proposed use by the Company of the proceeds of any extension of credit hereunder or any investigation, litigation or other proceeding (including any threatened investigation or proceeding) relating to the foregoing or any of the other Loan Documents, including,

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without limitation, any of the foregoing relating to the violations of, noncompliance with or liability under any Environmental Law applicable to the operations of the Company, any of its Subsidiaries or any of their respective Property, and the Company shall reimburse each Agent, each Bank and each Affiliate thereof and their respective directors, officers, employees and agents, upon demand for any expenses (including legal fees) reasonably incurred in connection with any such investigation or proceeding; but excluding any such losses, liabilities, claims, damages or expenses incurred by reason of the gross negligence or willful misconduct of the Person to be indemnified (the "INDEMNIFIED OBLIGATIONS").

(b) WITHOUT LIMITING ANY PROVISION OF THIS AGREEMENT, IT IS THE EXPRESS INTENTION OF THE PARTIES HERETO THAT EACH PERSON TO BE INDEMNIFIED HEREUNDER SHALL BE INDEMNIFIED AND HELD HARMLESS AGAINST ANY AND ALL INDEMNIFIED OBLIGATIONS: (I) ARISING OUT OF OR RESULTING FROM THE ORDINARY SOLE OR CONTRIBUTORY NEGLIGENCE OF SUCH PERSON OR (II) IMPOSED UPON SAID PARTY UNDER ANY THEORY OF STRICT LIABILITY. Without prejudice to the survival of any other obligations of the Company hereunder and under the other Loan Documents, the obligations of the Company under this Section shall survive the termination of this Agreement and the other Loan Documents and the payment of the Obligations or the assignment of the Notes.

SECTION 12.6. RIGHT OF SETOFF. Without limiting the remedies provided for in ARTICLE X, each Bank is hereby authorized at any time and from time to time, to the fullest extent permitted by law, to set off and apply any and all deposits held and other indebtedness owing by such Bank, or any branch, subsidiary or Affiliate, to or for the credit or the account of the Company against any and all the Obligations of the Company now or hereafter existing under this Agreement and the other Loan Documents and other obligations of the Company held by such Bank, irrespective of whether or not such Bank shall have made any demand under this Agreement, its Note or the Obligations and although the Obligations may be unmatured. The rights of each Bank under this Section are in addition to other rights and remedies (including other rights of setoff) which such Bank may have.

SECTION 12.7. GOVERNING LAW. This Agreement, all Notes, the other Loan Documents and all other documents executed in connection herewith shall be deemed to be contracts and agreements executed by the Company and each Bank under the laws of the State of New York and of the United States of America and for all purposes shall be construed in accordance with, and governed by, the laws of said state and of the United States of America. Without limitation of the foregoing, nothing in this Agreement, or in the Notes or in any other Loan Document shall be deemed to constitute a waiver of any rights which any Bank may have under applicable federal legislation relating to the amount of interest

which such Bank may contract for, take, receive or charge in respect of the Loan and the Loan Documents, including any right to take, receive, reserve and charge interest at the rate allowed by the law of the state where any Bank is located. Each Agent, each Bank and the Company further agree that insofar as the provisions of Article 5069-1.04, of the Revised Civil Statutes of Texas, as amended, are applicable to the determination of the Highest Lawful Rate with respect to the Notes and the Obligations hereunder and under the other Loan Documents, the indicated rate ceiling of such Article shall be applicable; PROVIDED, HOWEVER, that to the extent permitted by such Article, the Administrative Agent may from time to time by notice to the Company revise the election of

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such interest rate ceiling as such ceiling affects the then current or future balances of the Loans. The provisions of Article 5069-15.01 ET SEQ. do not apply to this Agreement, any Note issued hereunder or the other Loan Documents.

SECTION 12.8. INTEREST. Each provision in this Agreement and each other Loan Document is expressly limited so that in no event whatsoever shall the amount paid, or otherwise agreed to be paid, to the Administrative Agent or any Bank, or charged, contracted for, reserved, taken or received by the Administrative Agent or any Bank, for the use, forbearance or detention of the money to be loaned under this Agreement or any Loan Document or otherwise (including any sums paid as required by any covenant or obligation contained herein or in any other Loan Document which is for the use, forbearance or detention of such money), exceed that amount of money which would cause the effective rate of interest to exceed the Highest Lawful Rate, and all amounts owed under this Agreement and each other Loan Document shall be held to be subject to reduction to the effect that such amounts so paid or agreed to be paid, charged, contracted for, reserved, taken or received which are for the use, forbearance or detention of money under this Agreement or such Loan Document shall in no event exceed that amount of money which would cause the effective rate of interest to exceed the Highest Lawful Rate. Anything in any Note or any other Loan Document to the contrary notwithstanding, the Company shall not be required to pay unearned interest on any Note and the Company shall not be required to pay interest on the Obligations at a rate in excess of the Highest Lawful Rate, and if the effective rate of interest which would otherwise be payable under such Note and such Loan Documents would exceed the Highest Lawful Rate, or if the holder of such Note shall receive any unearned interest or shall receive monies that are deemed to constitute interest which would increase the effective rate of interest payable by the Company under such Note and the other Loan Documents to a rate in excess of the Highest Lawful Rate, then (a) the amount of interest which would otherwise be payable by the Company shall be reduced to the amount allowed under applicable law and (b) any unearned interest paid by the Company or any interest paid by the Company in excess of the Highest Lawful Rate shall in the first instance be credited on the principal of the Obligations of the Company (or if all such Obligations shall have been paid in full, refunded to the Company). It is further agreed that, without limitation of the foregoing, all calculations of the rate of interest contracted for, reserved, taken, charged or received by any Bank under the Notes and the Obligations and under the other Loan Documents are made for the purpose of determining whether such rate exceeds the Highest Lawful Rate, and shall be made, to the extent permitted by usury laws applicable to such Bank, by amortizing, prorating and spreading in equal parts during the period of the full stated term of the Notes and this Agreement all interest at any time contracted for, charged or received by such Bank in connection therewith. Furthermore, in the event that the maturity of any Note or other obligation is accelerated or in the event of any required or permitted prepayment, then such consideration that constitutes interest under applicable law may never include more than the maximum amount allowed by applicable law and excess interest, if any, provided for in this Agreement, any Note or otherwise shall be canceled automatically as of the date of such acceleration or prepayment and, if theretofore paid, shall be refunded to the Company.

SECTION 12.9. SURVIVAL OF REPRESENTATIONS AND WARRANTIES. All representations, warranties and covenants contained herein or made in writing by the Company in connection herewith and the other Loan Documents shall survive

the execution and delivery of this Agreement, the Notes and the other Loan Documents, the termination of the Commitments

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of the Banks and will bind and inure to the benefit of the respective successors and assigns of the parties hereto, whether so expressed or not, PROVIDED, that the Commitments of the Banks shall not inure to the benefit of any successor or assign of the Company.

SECTION 12.10. SUCCESSORS AND ASSIGNS; PARTICIPATIONS.

(a) All covenants, promises and agreements by or on behalf of the Company or the Banks that are contained in this Agreement shall bind and inure to the benefit of their respective permitted successors and assigns. Neither the Company nor any Guarantor may assign or transfer any of its rights or obligations hereunder.

(b) Any of the Banks may assign to or sell participations to one or more banks of all or a portion of its rights and obligations under this Agreement and the other Loan Documents (including all or a portion of its Commitment, the Advances and the Obligations of the Company owing to it and the Notes); PROVIDED, that the participating banks or other entities shall be entitled to the cost protection provisions contained in Article II and SECTION 12.4 and the Company shall continue to deal solely and directly with the Administrative Agent in connection with its rights and obligations under this Agreement and the other Loan Documents. Except with respect to cost protections provided to a participant pursuant to this paragraph and the items listed in SECTION 12.1 hereof, no participant shall be a third party beneficiary of this Agreement nor shall it be entitled to enforce any rights provided to the Banks against the Company under this Agreement. Notwithstanding the foregoing, no Bank shall transfer or grant any participation under which the participant shall have rights to approve any amendment to or waiver of this Agreement or any other Loan Document except to the extent such amendment or waiver would (i) extend the final scheduled maturity of any Loan, Note or Letter of Credit (unless such Letter of Credit is not extended beyond the Maturity Date) in which such participant is participating, or reduce the rate or extend the time of payment of interest or fees thereon (except in connection with a waiver of applicability of any post-default increase in interest rates) or reduce the principal amount thereof, or increase the amount of the participant's participation over the amount thereof then in effect (it being understood that a waiver of any Default or Event of Default or of a mandatory reduction in the Total Commitment, shall not constitute a change in the terms of such participation, and that an increase in Commitment or any Loan shall be permitted without the consent of any participant if the participant's participation is not increased as a result thereof).

(c) A Bank may assign to any other Bank or Banks or to any Affiliate of a Bank and, with the prior written consent of the Company (so long as no Event of Default exists) and the Administrative Agent (which consent shall not be unreasonably withheld), a Bank may assign to one or more other Eligible Assignees all or a portion of its interests, rights, and obligations under this Agreement and the other Loan Documents (including all or a portion of its Commitment and the same portion of the Loans and other Obligations of the Company at the time owing to it and the Note held by it); PROVIDED, HOWEVER, that (i) each such assignment shall be in a minimum principal amount of not less than \$5,000,000.00, or 100% of such Bank's outstanding Loans, all Types of Loans and shall be of a constant, and not a varying, percentage of all the assigning Bank's Commitment,

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rights and obligations under this Agreement, (ii) the parties to each such assignment shall execute and deliver to the Administrative Agent, for its acceptance, an Assignment and Acceptance, substantially in the form of EXHIBIT 12.10(C) hereto, in form and substance satisfactory to the

Administrative Agent (an "ASSIGNMENT AND ACCEPTANCE") and any Note subject to such assignment and (iii) no assignment shall be effective until receipt by the Administrative Agent of a reasonable service fee from the assignee in respect of said assignment equal to \$2,000.00. Upon such execution, delivery, acceptance and recording, from and after the effective date specified in each Assignment and Acceptance, which effective date (unless otherwise agreed to by the assigning Bank, the Eligible Assignee thereunder and the Administrative Agent) shall be at least five Business Days after the execution thereof, (x) the Eligible Assignee thereunder shall be a party hereto and to the other Loan Documents and, to the extent provided in such Assignment and Acceptance, have the rights and obligations of a Bank hereunder and under the other Loan Documents and (y) the assignor Bank thereunder shall, to the extent provided in such Assignment and Acceptance, be released from its obligations under this Agreement and the other Loan Documents (and, in the case of an Assignment and Acceptance covering all of the remaining portion of an assigning Bank's rights and obligations under this Agreement and the other Loan Documents, such Bank shall cease to be a party hereto).

(d) Notwithstanding any other provision herein, any Bank may, in connection with any assignment or participation or proposed assignment or participation pursuant to this section, disclose to the assignee or participant or proposed assignee or participant, any information relating to the Company furnished to such Bank by or on behalf of the Company.

SECTION 12.11. CONFIDENTIALITY. Each Bank agrees to exercise its best efforts to keep any information delivered or made available by the Company to it which is clearly indicated to be confidential information, confidential from anyone other than Persons employed or retained by such Bank who are or are expected to become engaged in evaluating, approving, structuring or administering the Loans; PROVIDED that nothing herein shall prevent any Bank from disclosing such information (a) to any other Bank, (b) pursuant to subpoena or upon the order of any court or administrative agency, (c) upon the request or demand of any regulatory agency or authority having jurisdiction over such Bank, (d) which has been publicly disclosed, (e) to the extent reasonably required in connection with any litigation to which the Administrative Agent, any Bank, the Company or its respective Affiliates may be a party, (f) to the extent reasonably required in connection with the exercise of any remedy hereunder, (g) to such Bank's legal counsel and independent auditors and (h) to any actual or proposed participant or assignee of all or part of its rights hereunder which has agreed in writing to be bound by the provisions of this Section. Each Bank will promptly notify the Company of any information that it is required or requested to deliver pursuant to clause (b) or (c) of this Section and, if the Company is a party to any such litigation, clause (e) of this Section.

SECTION 12.12. PRO RATA TREATMENT.

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(a) Except as otherwise specifically permitted hereunder, each payment or prepayment of principal, if permitted under this Agreement, and each payment of interest with respect to an Advance shall be made pro rata among the Banks.

(b) Each Bank agrees that if, through the exercise of a right of banker's Lien, setoff or claim of any kind against the Company as a result of which the unpaid principal portion of the Notes and the Obligations held by it shall be proportionately less than the unpaid principal portion of the Notes and Obligations held by any other Bank, it shall be deemed to have simultaneously purchased from such other Bank a participation in the Notes and Obligations held by such other Bank, in the amount required to render such amounts proportional; PROVIDED, HOWEVER, that if any such purchase or purchases or adjustments shall be made pursuant to this Section and the payment giving rise thereto shall thereafter be recovered, such purchase or purchases or adjustments shall be rescinded to the extent of such recovery and the purchase price or prices or adjustments restored without interest. Each Bank purchasing participations pursuant to this clause may exercise all rights of collection, set-off and banker's liens with respect

to such participations as if such Bank were a holder of a direct Loan to the Company.

SECTION 12.13. SEPARABILITY. Should any clause, sentence, paragraph or Section of this Agreement be judicially declared to be invalid, unenforceable or void, such decision will not have the effect of invalidating or voiding the remainder of this Agreement, and the parties hereto agree that the part or parts of this Agreement so held to be invalid, unenforceable or void will be deemed to have been stricken herefrom and the remainder will have the same force and effectiveness as if such part or parts had never been included herein.

SECTION 12.14. EXECUTION IN COUNTERPARTS. This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement. Any Subsidiary of the Company that executes this Agreement after the date of this Agreement shall, upon such execution, become a party hereto as a Guarantor.

SECTION 12.15. INTERPRETATION.

(a) In this Agreement, unless a clear contrary intention appears:

(i) the singular number includes the plural number and VICE VERSA:

(ii) reference to any gender includes each other gender;

(iii) the words "herein," "hereof" and "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section or other subdivision;

(iv) reference to any Person includes such Person's successors and assigns but, if applicable, only if such successors and assigns are permitted by this Agreement, and reference to a Person in a particular capacity excludes such Person in any

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other capacity or individually, PROVIDED at nothing in this clause is intended to authorize any assignment not otherwise permitted by this Agreement;

(v) except as expressly provided to the contrary herein, reference to any agreement, document or instrument (including this Agreement) means such agreement, document or instrument as amended, supplemented or modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof, and reference to any Note or other note includes any Note issued pursuant hereto in extension or renewal thereof and in substitution or replacement therefor;

(vi) unless the context indicates otherwise, reference to any Article, Section, Schedule or Exhibit means such Article or Section hereof or such Schedule or Exhibit hereto;

(vii) the words "including" (and with correlative meaning "include") means including, without limiting the generality of any description preceding such term;

(viii) with respect to the determination of any period of time, except as expressly provided to the contrary, the word "from" means "from and including" and the word "to" means "to but excluding"; and

(ix) reference to any law, rule or regulation means such as amended, modified, codified or reenacted, in whole or in part, and in effect from time to time.

(b) The Article and Section headings herein and the Table of Contents are

for convenience only and shall not affect the construction hereof.

(c) No provision of this Agreement shall be interpreted or construed against any Person solely because that Person or its legal representative drafted such provision.

(d) In the event of any conflict between the specific provisions of this Agreement and the provisions of any application pertaining to any Letter of Credit, the terms of this Agreement shall control.

SECTION 12.16. SUBMISSION TO JURISDICTION.

(a) ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS MAY BE BROUGHT IN THE COURTS OF THE STATE OF NEW YORK, IN NEW YORK COUNTY OR OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK AND, BY EXECUTION AND DELIVERY OF THIS AGREEMENT, EACH OF THE COMPANY AND EACH GUARANTOR HEREBY IRREVOCABLY ACCEPTS FOR ITSELF AND IN RESPECT OF ITS PROPERTY, UNCONDITIONALLY, THE JURISDICTION OF THE AFORESAID COURTS WITH RESPECT TO ANY SUCH ACTION OR PROCEEDING. THE COMPANY AND EACH GUARANTOR FURTHER IRREVOCABLY CONSENT TO THE SERVICE OF PROCESS OUT OF ANY OF THE AFOREMENTIONED COURTS IN ANY SUCH ACTION OR

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PROCEEDING BY THE MAILING OF COPIES THEREOF BY REGISTERED OR CERTIFIED MAIL, POSTAGE PREPAID, TO IT AT ITS ADDRESS PROVIDED IN SECTION 12.2 AND WITH RESPECT TO ANY GUARANTOR, AT THE ADDRESS PROVIDED ON SCHEDULE 6.16 HERETO, SUCH SERVICE TO BECOME EFFECTIVE THIRTY (30) DAYS AFTER SUCH MAILING. NOTHING HEREIN SHALL AFFECT THE RIGHT OF THE ADMINISTRATIVE AGENT OR ANY BANK TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO COMMENCE LEGAL PROCEEDINGS OR OTHERWISE PROCEED AGAINST THE COMPANY IN ANY OTHER JURISDICTION. THE SUBMISSION TO JURISDICTION CONTAINED IN THIS SECTION IS NON-EXCLUSIVE.

(b) EACH OF THE COMPANY AND THE GUARANTORS HEREBY IRREVOCABLY WAIVES ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY OF THE AFORESAID ACTIONS OR PROCEEDINGS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT BROUGHT IN THE COURTS REFERRED TO IN CLAUSE (a) ABOVE AND HEREBY FURTHER IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY SUCH COURT THAT ANY SUCH ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

SECTION 12.17. WAIVER OF JURY TRIAL. EACH OF THE COMPANY AND EACH GUARANTOR HEREBY WAIVES, TO THE EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS UNDER THIS AGREEMENT OR UNDER ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION HERewith OR ARISING FROM OR RELATING TO ANY BANKING RELATIONSHIP EXISTING IN CONNECTION WITH THIS AGREEMENT, AND AGREES, TO THE EXTENT PERMITTED BY APPLICABLE LAW, THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.

SECTION 12.18. FINAL AGREEMENT OF THE PARTIES. THIS AGREEMENT (INCLUDING THE SCHEDULES AND EXHIBITS HERETO), THE NOTES AND THE OTHER LOAN DOCUMENTS CONSTITUTE A "LOAN AGREEMENT" AS DEFINED IN SECTION 26.02(A) OF THE TEXAS BUSINESS AND COMMERCE CODE, AND REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES RELATING TO THE SUBJECT MATTER HEREOF AND THEREOF AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS

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OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

[Remainder of page intentionally left blank]

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

BORROWER:

COMFORT SYSTEMS USA, INC.

By: /s/ _____
J. Gordon Beittenmiller
Senior Vice President and
Chief Financial Officer

GUARANTORS:

ACCURATE AIR SYSTEMS, INC.
ACCU-TEMP LP, INC.
ACCU-TEMP, LLC
ACI MECHANICAL, INC.
ADAMS MECHANICAL SERVICES, INC.
ADAMS MECHANICAL, SERVICES, INC.
AIR POWER SYSTEMS, INC.
AIR POWER SYSTEMS, INC.
AIR SOLUTIONS, INC.
ALLSTATE MECHANICAL, INC.
AMERICAN REFRIGERATION CONTRACTORS, INC.
ARMANI PLUMBING & MECHANICAL
ATLAS AIR CONDITIONING COMPANY
ATLAS COMFORT SERVICES USA, INC.
BATCHELOR'S MECHANICAL CONTRACTORS, INC.
BCM CONTROLS CORPORATION
CEL, INC.
CENTRAL MECHANICAL CONSTRUCTION CO., INC.
CENTRAL MECHANICAL INC.
CONTRACT SERVICE, INC.
CS44 ACQUISITION CORPORATION
DESIGN MECHANICAL INCORPORATED
DYNASTAR, INC.
E.L. PRUITT COMPANY
EASTERN HEATING & COOLING, INC.
EASTERN REFRIGERATION CO., INC.
EDS, INC.
F&G MECHANICAL CORPORATION
FRED HAYES MECHANICAL CONTRACTORS, INC.

FREEWAY HEATING & AIR CONDITIONING, INC.
GMS AIR CONDITIONING, INC.
GOTHAM AIR CONDITIONING SERVICE, INC.
GULFSIDE MECHANICAL, INC.
H & H PLUMBING & HEATING, INC.
HARRIS GENERAL & MECHANICAL CONTRACTORS, INC.
HELM CORPORATION
HELM CORPORATION SAN DIEGO
HESS MECHANICAL CORPORATION
HILLCREST SHEET METAL, INC.
INDUSTRIAL COOLING INC.
JAMES AIR CONDITIONING ENTERPRISES, INC.
KILGUST MECHANICAL, INC.
KUEMPEL SERVICE, INC.
LAWRENCE SERVICE, INC.
LOWRIE ELECTRIC CO., INC.

MANDELL MECHANICAL CORPORATION
 MARTIN HEATING, INC.
 MAXIMUM REFRIGERATION & AIR CONDITIONING CORPORATION
 MEADOWLANDS FIRE PROTECTION CORP.
 MECHANICAL SERVICE GROUP, INC.
 MJ MECHANICAL SERVICES, INC.
 NOGLE & BLACK MECHANICAL, INC.
 NORTH AMERICAN MECHANICAL, INC.
 NORTH JERSEY MECHANICAL CONTRACTORS, INC.
 OK SHEET METAL & AIR CONDITIONING, INC.
 QUALITY AIR HEATING & COOLING, INC.
 RADNEY PLUMBING, INC.
 RIVER CITY MECHANICAL, INC.
 RIVER CITY MECHANICAL, INCORPORATED
 ROSS & ASSOCIATES
 S&K AIR CONDITIONING CO., INC.
 S. I. GOLDMAN
 S.M. LAWRENCE COMPANY, INC.
 SALMON & ALDER, INC.
 SEASONAIR, INC.
 SOUTHERN BLUEGRASS MECHANICAL, INC.

STANDARD HEATING & AIR CONDITIONING COMPANY
 TARGET CONSTRUCTION, INC.
 TECH HEATING AND AIR CONDITIONING, INC.
 TECH MECHANICAL, INC.
 TEMP-RIGHT SERVICE, INC.
 TEMPRITE AIR CONDITIONING AND REFRIGERATION, INC.
 THE CAPITAL REFRIGERATION COMPANY
 THE FAGAN COMPANY
 THE HARVEY ROBBIN COMPANY
 TRI-CITY MECHANICAL, INC.
 TROOST SERVICE CO.
 UNITED ENVIRONMENTAL SERVICES, INC.
 WALKER-J-WALKER, INC.
 WESTERN BUILDING SERVICES, INC.
 WOODCOCK & ASSOCIATES, INC.

By: /s/ _____
 J. Gordon Beittenmiller
 Vice President

Amount of Commitment:

ADMINISTRATIVE AGENT/BANK:

\$32,000,000.00

BANK ONE, TEXAS, N.A.,
 as Administrative Agent and Individually,
 as a Bank

By: /s/ _____
 Name: _____
 Title: _____

Address for Notice:

910 Travis, 7th Floor
 Houston, Texas 77002
 Attn: John Elan & Barry Kelly

Amount of Commitment:

SYNDICATION AGENT/ BANK:

\$32,000,000.00

BANKERS TRUST COMPANY

By: /s/
Name: _____
Title: _____

Address for Notice:

130 Liberty Street, 30th Floor
New York, NY 10006

Amount of Commitment:

CO-AGENT/ BANK:

\$29,000,000.00

CREDIT LYONNAIS, New York Branch

By: /s/
Name: _____
Title: _____

Address for Notice:

2200 Ross Avenue, Suite 4400 West
Dallas, Texas 75201
Attn: Blake Wright

Amount of Commitment:

DOCUMENTATION AGENT/ BANK:

\$32,000,000.00

NATIONSBANK

By: /s/
Name: _____
Title: _____

Address for Notice:

700 Louisiana Street
Houston, TX 77002
Attn: Richard Nichols

Amount of Commitment:

BANK:

\$12,500,000.00

THE LONG-TERM CREDIT BANK OF JAPAN, LTD.

By: /s/
Name: _____
Title: _____

Address for Notice:

2200 Ross Avenue, Suite 4700 West
Dallas, Texas 75201
Attn: Bruce Frey

By: /s/ _____
Name: _____
Title: _____

Address for Notice:

470 Park Avenue South, 15th Floor
New York, NY 10016
Attention: Harvey Winter

AGREEMENT OF LEASE

BETWEEN

MARK P. SHAMBAUGH

LANDLORD

AND

SHAMBAUGH & SON, INC.

TENANT

DATED: OCTOBER 31, 1998

PREMISES

7614 AND 7720 OPPORTUNITY DRIVE
FORT WAYNE, IN 46825

AGREEMENT OF LEASE ("Lease"), made as of the 31st day of October, 1998, between Mark P. Shambaugh, as Landlord, and Shambaugh & Son, Inc., an Indiana corporation.

R E C I T A L S :

WHEREAS, the Landlord is the owner of certain premises known as and by the street address of 7614 and 7720 Opportunity Drive, Fort Wayne, Indiana 46801 (as more particularly described on Schedule "A", annexed hereto and made a part hereof); and

WHEREAS, the Landlord desires to rent the aforementioned premises to the Tenant and the Tenant desires to rent the aforementioned premises from the Landlord.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, for themselves, as well as their respective legal representatives, heirs, successors and assigns, hereby agree as follows:

ARTICLE 1
GLOSSARY

For the purposes of this Lease, the following terms shall have the meanings indicated below:

"Additional Rent" shall have the meaning set forth in Section 2.2(B) hereof.

"Applicable Rate" shall mean the lesser of (x) three percentage points above the then current Prime Interest rate as published, from time to time, by the WALL STREET JOURNAL as its prime interest rate in its Money Rates section (or if such publication no longer exists or no longer publishes such

rate, then the "base rate" as announced by Citibank, N.A. [or its successors], from time to time, for the rate presently referred to as its "base rate") or (y) the maximum rate permitted by applicable law.

"Bankruptcy Code" shall mean 11 U.S.C. Section 101 ET SEQ., or any statute, federal or state, of similar nature and purpose, now or hereafter.

"Building Systems" shall mean the mechanical, electrical, sanitary, heating, air conditioning, ventilating, elevator, plumbing, life-safety and other service or support systems of any nature whatsoever located at or on the Premises, BUT shall not include installations made by Tenant or fixtures or appliances (regardless of whether or not such fixtures or appliances are owned by the Tenant or the Landlord).

"Building Insurance" shall have the meaning set forth in Section 10.2 hereof.

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"Business Days" shall mean all days, excluding Saturdays, Sundays and all days observed as holidays by the State of Indiana or the federal government.

"Commencement Date" is October 31, 1998.

"Event of Default" shall have the meaning set forth in Section 16.1 hereof.

"Expiration Date" shall mean the Fixed Expiration Date or such other date on which the Term ends pursuant to any of the terms, conditions or covenants of this Lease or pursuant to law.

"Fixed Expiration Date" is October 31, 2008.

"Fixed Rent" : \$660,000.00 per annum (\$55,000.00 per month) for the first Lease Year (as such term is hereinafter defined) subject to adjustment thereafter in accordance with the provisions of Rider 1 hereof.

"Government Authority" or "Government Authorities" shall mean the United States of America, the State of Indiana, the County of Allen, the Municipality of Fort Wayne, and/or any political subdivision thereof and any agency, department, commission, board, bureau or instrumentality of any of the foregoing, now existing or hereafter created, having jurisdiction over the Premises or any portion thereof.

"Hazardous Materials" shall have the meaning set forth in Section 8.2 hereof.

"Increase Notice" shall have the meaning set forth in Section 3 of Rider 1 attached hereto and made a part hereof.

"Indemnitees" shall mean Landlord, his agents and contractors (and the partners, shareholders, officers, directors and employees of any of the Landlord's agents or contractors).

"Initial Term" shall mean the ten (10) year period commencing on the Commencement Date.

"Landlord", on the date as of which this Lease is made, shall mean Mark P. Shambaugh, but thereafter, "Landlord" shall mean any fee owner of the Premises.

"Lease Year" shall mean each twelve (12) month period commencing on the Commencement Date and each anniversary of the Commencement Date.

"Mortgage(s)" Shall mean any deed of trust, trust indenture or mortgage which may now or hereafter affect the Premises and all extensions, supplements, amendments, modifications, consolidations, refinancings and

replacements thereof or thereto, substitutions therefor, and advances made thereunder.

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"Mortgagee(s)" Shall mean any trustee or mortgagee or holder of a Mortgage.

"Notice(s)" shall have the meaning set forth in Section 22.1(A) hereof.

"Option" or "Options" shall have the meaning set forth in Section 26.1 hereof.

"Option Period" or "Option Periods" shall have the meaning set forth in Section 26.1 hereof.

"Permitted Use" shall mean general, executive and administrative offices, parking, machine shop, repair, and warehouse facilities in connection with Tenant's business as a mechanical contracting and service company and uses related thereto including the evolution of the Tenant's business consistent with the evolution of the mechanical contracting industry in general, subject to all applicable laws, regulations, codes and ordinances, and subject further to all recorded restrictions, covenants and limitations affecting the Premises, provided, however, that no recorded restrictions, covenants or limitations impair the use of the Premises for the purposes intended by Tenant as of the Commencement Date.

"Person(s) or Person(s)" shall mean any natural person or persons, a partnership, a corporation and any other form of business or legal association or entity.

"Persons Within Tenant's Control" shall mean and include Tenant, all of Tenant's respective shareholders, directors, officers, agents, contractors, sub-contractors, servants, employees, licensees and invitees as well as any of the heirs, successors, representatives and assigns of any of the foregoing.

"Premises" shall mean all that certain plot, piece and parcel of land, together with all buildings and improvements erected thereon, known as and by the street address of 7614 and 7720 Opportunity Drive, Fort Wayne, Indiana 46825 (as more particularly described on Schedule "A", annexed hereto and made a part hereof).

"Price Index" shall have the meaning set forth in Section 1(B) of Rider 1 attached hereto.

"Rental" shall mean and be deemed to include Fixed Rent, Additional Rent and any other sums payable, now or hereafter, by Tenant hereunder.

"Requirements" shall mean all present and future laws, rules, ordinances, regulations, statutes, requirements, codes and executive orders, extraordinary as well as ordinary, retroactive and prospective, of all Governmental Authorities, now existing or hereafter created which affect, directly or indirectly, the Premises and/or the maintenance, use, operation or occupation of the Premises, and all recorded restrictions, covenants and limitations affecting the Premises, provided, however, that no recorded restrictions, covenants or limitations impair the use of the Premises for the purposes intended by Tenant as of the Commencement Date.

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

"Tenant", on the date as of which this Lease is made, shall mean the Tenant named in this Lease, but thereafter "Tenant" shall mean only the tenant under this Lease at the time in question; provided, however, that the Tenant named in this Lease and any and all successor tenant(s) hereunder shall not be

released and relieved from any liability hereunder in the event of any assignment of this Lease or a sublet, in whole or in part, of the Premises.

"Tenant Indemnities" shall mean Tenant, its agents and contractors (and the partners, shareholders, officers, directors and employees of Tenant and its agents and contractors).

"Tenant's Property" shall mean Tenant's movable fixtures and movable partitions, telephone and other equipment, furniture, furnishings and other movable items of personal property owned by the Tenant.

"Term", on the date as of which this Lease is made shall mean the Initial Term, but thereafter shall be deemed to include any Option Period for which the Tenant exercises its Option pursuant to the provisions of Article 26 hereof.

ARTICLE 2 DEMISE; PREMISES; TERM; RENT

SECTION 2.1. Landlord hereby leases to Tenant and Tenant hereby hires from Landlord the Premises for the Initial Term to commence on the Commencement Date and to end on the Fixed Expiration Date, unless earlier terminated as provided herein and subject to the renewal options provided for in Article 26 below.

SECTION 2.2. Commencing upon the Commencement Date, Tenant shall pay to Landlord, in lawful money of the United States of America, without Notice or demand, without relief from valuation and appraisal laws, by good and sufficient check at the office of Landlord or at such other place as Landlord may designate from time to time, the following:

(A) the Fixed Rent, as such term is defined in Article 1 hereof, which shall be payable in equal monthly installments in advance on the first day of each and every calendar month during the Term, and

(B) additional rent ("Additional Rent") consisting of all other sums of money as shall become due from and be payable by Tenant hereunder.

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SECTION 2.3. If the Commencement Date is other than the first day of a calendar month, or the Fixed Expiration Date is other than the last day of a calendar month, Fixed Rent for such month shall be prorated on a per diem basis.

SECTION 2.4. Tenant shall pay the Fixed Rent and Additional Rent when due without abatement, deduction, counterclaim, setoff or defense of any nature. It is understood and agreed that the Fixed Rent to be received by Landlord during the Term shall be net to Landlord so that this Lease shall yield to Landlord the Fixed Rent specified herein and, accordingly, all real estate taxes, insurance, maintenance and other expenses of any nature related to the Premises, excluding Landlord's income taxes, shall be solely the responsibility of Tenant unless otherwise specifically set forth herein.

ARTICLE 3 REAL ESTATE TAXES

SECTION 3.1. The Tenant covenants and agrees that it shall, within twenty (20) days of written demand by the Landlord to the Tenant, pay to the Landlord, as Additional Rent, any and all Taxes (as hereinafter defined) of any nature whatsoever assessed or imposed against the Premises for each and every Lease Year during the Term of this Lease. The Landlord hereby agrees that any demand given by the Landlord to the Tenant pursuant to the provisions of this Section 3.1 shall include an accurate copy of the invoice, statement, bill or similar document issued by the relevant Governmental Authority or Governmental Authorities, as the case may be, with respect to the Taxes for which payment is demanded. For purposes of this Section 3.1, "Taxes" shall include, without limitation, any and all taxes assessed against the Premises, all personal property taxes, all ad valorem taxes and any and all other taxes assessed

against the Premises by any Governmental Authority, now or hereafter, but shall EXCLUDE any special assessments or charges for improvements or infrastructure effected or installed prior to the Commencement Date. With respect to Taxes for tax periods commencing before or ending after the Term of this Lease, Tenant shall only be obligated to pay to Landlord the pro rata portion of such Taxes equal to the portion of such tax period falling within the Term of this Lease.

ARTICLE 4
UTILITIES

SECTION 4.1. The Tenant shall contract for in its name, and covenants and agrees that it shall pay when due any and all charges incurred for, any and all utilities supplied to the Premises including, without limitation, electricity, water, heating oil and/or natural gas. Landlord represents and warrants to Tenant that electricity, water, telephone, sewer, and natural gas, if any, are present at and available to the Premises in quantities sufficient for Tenant's business purposes.

SECTION 4.2. Landlord shall not be liable in any way to Tenant for any interruption or failure of or defect in the supply or character of any utility furnished to the Premises, now or hereafter, or for any loss, damage or expense Tenant may sustain if either the quantity or character of any utility is changed or is no longer suitable for Tenant's requirements, whether by reason of any requirement, act or omission of the public utility serving the Premises or for any other reason whatsoever. Notwithstanding the provisions of this Section 4.2, the Landlord shall be responsible for any and all actual damages suffered by the Tenant as a result of any interruption of utility service to the extent caused by the Landlord's gross negligence or intentional misconduct, and Rent shall abate until such service is fully restored.

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SECTION 4.3. If any Taxes are imposed upon Landlord with respect to any utility furnished as a service to Tenant by any Governmental Authority, Tenant agrees that such Taxes shall be reimbursed by Tenant to Landlord upon written demand. The Landlord hereby agrees that any demand given by the Landlord to the Tenant pursuant to the provisions of this Section 4.3 shall include an accurate copy of the invoice, statement, bill or similar document issued by the relevant Governmental Authority or Governmental Authorities, as the case may be, with respect to the Taxes for which payment is demanded.

ARTICLE 5
USE AND OCCUPANCY

SECTION 5.1. Tenant shall use and occupy the Premises for the Permitted Use and for no other purpose of any nature whatsoever. However, nothing contained herein shall require Tenant to operate or occupy the Premises continuously during the Term.

ARTICLE 6
ALTERATIONS

SECTION 6.1.

(A) (1) Except as provided below, prior to making any additions, alterations or improvements to the Premises, Tenant shall: (i) submit to Landlord plans and specifications for approval by the Landlord (including to the extent reasonably applicable, layout, architectural, electrical, mechanical and structural drawings) that comply with all Requirements for each proposed addition, alteration or improvement to the Premises, and Tenant shall not commence any such work without first obtaining Landlord's approval of such plans and specifications; and (ii) at Tenant's expense, obtain all permits, approvals and certificates required by any Governmental Authorities. Upon completion of such addition, alteration or improvement, Tenant, at Tenant's expense, shall obtain certificates of final approval of such addition, alteration or improvement required by any Governmental Authority and shall furnish Landlord with copies thereof. All additions, alterations and improvements shall be made and performed in

accordance with the plans and specifications therefor as approved by Landlord and otherwise in accordance with all Requirements. All materials and equipment to be incorporated in the Premises as a result thereof shall be good quality and no such materials or equipment shall be subject to any lien, encumbrance, chattel mortgage, title retention or security agreement.

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(A) (2) Notwithstanding anything to the contrary contained in this Lease, Tenant shall have the right to make any alterations, additions and improvements to the Premises without the consent of the Landlord if and only if: (i) the total cost of such alterations, additions or improvements do not exceed Fifty Thousand and No/100 Dollars (\$50,000.00) for any Lease Year; and (ii) Tenant shall not remove, materially alter or otherwise impair any structural element of the Premises or the Building System.

(A) (3) Tenant agrees that any review or approval by Landlord of any plans and/or specifications with respect to any alteration, addition and improvement is solely for Landlord's benefit, and without any representation or warranty whatsoever to Tenant or any other Person with respect to the adequacy, correctness or sufficiency thereof or with respect to Requirements or otherwise.

(A) (4) Landlord, at Tenant's expense, and upon the request of Tenant, shall join in any applications for any permits, approvals or certificates required to be obtained by Tenant in connection with any permitted alteration, addition and improvement (provided that the provisions of the applicable Requirements shall require that Landlord join in such application) and shall otherwise cooperate with Tenant in connection therewith; provided, however, that Landlord shall not be obligated to incur any cost or expense or liability in connection therewith.

(B) All alterations, additions and improvements shall become a part of the Premises and shall be Landlord's property from and after the installation thereof and may not be removed or changed without Landlord's prior written consent. All Tenant's Property shall remain the property of Tenant and, on or before the Expiration Date or earlier end of the Term, may be removed from the Premises by Tenant at Tenant's sole cost and option; provided, however, that Tenant shall repair and restore in a good and workmanlike manner any damage to the Premises caused by such removal. The provisions of this Section 6.1(B) shall survive the expiration or earlier termination of this Lease.

(C) (1) Any mechanic's lien filed against the Premises for work claimed to have been done for, or materials claimed to have been furnished to, Tenant shall be contested by appropriate judicial proceedings or shall be canceled or discharged by Tenant, at Tenant's expense, within ninety (90) days after such lien shall be filed and Tenant receives notice thereof, by payment or filing of the bond required by law.

(C) (2) If Tenant shall fail to contest or discharge such mechanic's lien within the aforesaid period, then, in addition to any other right or remedy of Landlord, Landlord may, but shall not be obligated to, discharge the same either by paying the amount claimed to be due or by procuring the discharge of such lien by deposit in court or bonding.

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(C) (3) Any amount paid by Landlord for any of the aforesaid charges and for all expenses of Landlord (including, but not limited to, reasonable attorneys' fees and disbursements) incurred in defending any such action, discharging said lien or in procuring the discharge of said lien, with interest on all such amounts at the Applicable Rate, shall be repaid by Tenant within twenty (20) days after written demand therefor, and all amounts so repayable, together with such interest, shall be considered Additional Rent.

(D) Tenant shall have the right, at its sole cost and expense, to erect and maintain any exterior signs on the Premises with the prior written consent of Landlord so long as the same comply with all applicable Requirements. Landlord acknowledges consent to Tenant's signage in existence as of the Commencement Date.

SECTION 6.2. Landlord reserves the right to construct additions to the office building and pre-fab shop as hereinafter specifically set forth; PROVIDED, HOWEVER, that such right shall expire in the event that, upon the day prior to the date upon which Landlord becomes contractually obligated to construct either of said additions either (i) Mark P. Shambaugh has not reasonably determined that the Tenant will be able to make productive use of such addition or (ii) Mark P. Shambaugh has ceased being employed as the Chief Executive Officer of Tenant.

(A) Landlord reserves the right to construct an addition to the office building located upon the Premises containing approximately 20,000 additional square feet provided Landlord commences construction of said addition during the first three (3) years of the Initial Term. Landlord's addition to the office building shall be constructed pursuant to plans and specifications acceptable to Landlord and consistent with the existing interior and exterior structure and architecture of the office building. Landlord agrees to notify Tenant in writing of its election to construct said addition, and Landlord shall promptly thereafter commence and complete construction of the addition as soon as reasonably possible under the circumstances. Tenant agrees that upon completion of construction of the addition to the office building, Tenant shall take possession thereof and occupy the same. Upon completion of construction, Tenant agrees to pay as additional Fixed Rent an annual sum equal to Eleven and No/100 Dollars (\$11.00) per square foot of leasable area contained within the addition to the office building, which amount shall be adjusted as if it were Fixed Rent upon the effective date hereof in accordance with Rider 1 and paid in equal monthly installments as Fixed Rent is paid pursuant to this Lease. From and after the completion of construction, the additional amounts paid pursuant to this subparagraph shall be deemed for all purposes to be Fixed Rent.

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(B) Landlord reserves the right to construct an addition to the pre-fab shop building located upon the Premises containing approximately 10,000 additional square feet provided Landlord commences construction of said addition during the first three (3) years of the Initial Term. Landlord's addition to the pre-fab shop building shall be constructed pursuant to plans and specifications acceptable to Landlord and consistent with the existing interior and exterior structure and architecture of the pre-fab shop building. Landlord agrees to notify Tenant in writing of its election to construct said addition, and Landlord shall promptly thereafter commence and complete construction of the addition as soon as reasonably possible under the circumstances. Tenant agrees that upon completion of construction of the addition to the pre-fab shop building, Tenant shall take possession thereof and occupy the same. Upon completion of construction, Tenant agrees to pay as additional Fixed Rent an annual sum equal to Six and No/100 Dollars (\$6.00) per square foot of leasable area contained within the addition to the pre-fab shop building, which amount shall be adjusted as if it were Fixed Rent upon the effective date hereof in accordance with Rider 1 and paid in equal monthly installments as Fixed Rent is paid pursuant to this Lease. From and after the completion of construction, the additional amounts paid pursuant to this subparagraph shall be deemed for all purposes to be Fixed Rent.

ARTICLE 7
REPAIRS; REPLACEMENTS; MAINTENANCE

SECTION 7.1. Except for those repairs, replacements or maintenance

required to be effected by Landlord, and further subject to the right of reimbursement herein provided, Tenant, at Tenant's sole cost and expense, shall take good care of the Premises and the improvements, buildings, Building Systems, fixtures, equipment, parking lots, landscaping and appurtenances located thereon and make all non-structural repairs, REPLACEMENTS or alterations thereto of any nature whatsoever as and when needed to preserve them in as good working order and condition as exists as of the Commencement Date, ordinary wear and tear excepted, ("Maintenance Repairs") or to comply with any Requirement ("Requirement Alteration"). If Tenant shall fail, after thirty (30) days Notice (or such shorter period as may be required because of an emergency), to commence to make repairs, replacements or alterations required to be made by Tenant and complete the same within a reasonable period of time thereafter exercising due diligence, the same may be made by Landlord, at the expense of Tenant, and the expenses thereof incurred by Landlord, with interest thereon at the Applicable Rate, shall be paid to Landlord, as Additional Rent, within twenty (20) days after rendition of a bill or statement therefor. Tenant shall give Landlord prompt Notice of any defective condition known to Tenant in any Building Systems located in, servicing or passing through the Premises. If the cost of any Maintenance Repair or Requirement Alteration, whether structural or non-structural, exceeds \$10,000.00, and Landlord consents to such Maintenance Repair or Requirement Alteration after prior written notice from Tenant, then upon termination or other expiration of this Lease Landlord shall reimburse to Tenant the pro rata portion of the cost of such Maintenance Repair or Requirement Alterations equal to the portion of the useful life of such Maintenance Repair or Requirement Alterations that remains after the expiration or other termination of this Lease. The useful life of such Maintenance Repair or Requirement Alterations shall be established by the party making such Maintenance Repair or Requirement Alterations at the time made. Notwithstanding anything to the contrary contained in this Section, in no event shall Tenant be responsible for any repair, item of maintenance or replacement to the extent the same is caused by the negligence or willful misconduct of Landlord or Landlord's employees, contractors or agents.

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SECTION 7.2. Landlord hereby assigns all warranties and guaranty agreements relating to the Premises and the Building Systems to Tenant during the Term.

SECTION 7.3. Landlord hereby agrees to repair, maintain and replace all structural portions of the Premises, including, without limitation, exterior walls, support columns and walls, foundation and the roof in as good repair and working order as exists as of the Commencement Date, ordinary wear and tear excepted.

SECTION 7.4 Tenant shall further be responsible for the payment of all assessments duly issued against the Premises as and when the same shall become due and payable during the Term of this Lease pursuant to the recorded plat and restrictions for Cook Road Office and Industrial Park. In the event any such assessment shall exceed \$10,000.00 for capital improvements, then upon termination or other expiration of this Lease, Landlord shall reimburse Tenant the pro rata portion of the cost of such assessment equal to the useful life of the capital improvement that remains after the expiration or other termination of this Lease. The useful life of the capital improvement shall be determined by the party making the capital improvement at the time made.

ARTICLE 8 REQUIREMENTS OF LAW

SECTION 8.1. Tenant shall not do, and shall not permit (to the extent Tenant has control over the same) any act or thing in or upon the Premises which will invalidate or be in conflict with the certificate of occupancy for the Premises or violate any Requirements. Tenant shall immediately take all action, including but not limited to, making any Requirement Alterations necessary to comply with all Requirements which shall or may impose any violation, order or duty upon Landlord or Tenant arising from or in connection with the Premises, Tenant's occupancy, use or manner of use of the Premises or any installations in the Premises, or required by reason of a breach

of any of Tenant's covenants or agreements under this Lease, whether or not such Requirements shall now be in effect or hereafter enacted or issued, and whether or not any work required shall be ordinary or extraordinary or foreseen or unforeseen as of the date hereof. Landlord represents and warrants to Tenant that as of the Commencement Date no condition exists with respect to the Premises that will necessitate any Requirement Alteration.

SECTION 8.2. Tenant covenants and agrees that Tenant shall, at Tenant's sole cost and expense, comply at all times with all Requirements governing the use, generation, storage, treatment and/or disposal of any Hazardous Materials (as defined below) in, on, under, about or

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from the presence of which results from or in connection with the act or omission of Tenant or Persons Within Tenant's Control or the breach of this Lease by Tenant or Persons Within Tenant's Control. The term "Hazardous Materials" shall mean any biologically or chemically active or other toxic or hazardous wastes, pollutants or substances, including, without limitation, asbestos, PCBs, petroleum products and by-products, substances defined or listed as "hazardous substances" or "toxic substances" or similarly identified in or pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. ' 9601 ET SEQ., and as hazardous wastes under the Resource Conservation and Recovery Act, 42 U.S.C. ' 6010, ET SEQ., any chemical substance or mixture regulated under the Toxic Substance Control Act of 1976, as amended, 15 U.S.C. 2601, ET SEQ., any "toxic pollutant" under the Clean Water Act, 33 U.S.C. ' 466 ET SEQ., as amended, any hazardous air pollutant under the Clean Air Act, 42 U.S.C. ' 7401 ET SEQ., hazardous materials identified in or pursuant to the Hazardous Materials Transportation Act, 49 U.S.C. ' 1802, ET SEQ., and any hazardous or toxic substances or pollutant regulated under any other Requirements. Tenant shall indemnify and hold harmless all Indemnitees from and against any loss, claim, cost, damage, liability or expense (including attorneys' fees and disbursements) arising by reason of any clean up, removal, remediation, detoxification action or any other activity required or recommended of any Indemnitees by any Governmental Authority by reason of the presence in, on, under or about the Premises of any Hazardous Materials, as a result of or in connection with the act or omission of Tenant or Persons Within Tenant's Control or the breach of this Lease by Tenant or Persons Within Tenant's Control. Landlord shall indemnify and hold harmless all Tenant Indemnitees from and against any loss, claim, cost, damage, liability or expense (including attorneys' fees and disbursements) arising by reason of any clean up, removal, remediation, detoxification action or any other activity required or recommended of any Tenant Indemnitees by any Governmental Authority by reason of the presence in, on, under or about the Premises of any Hazardous Materials either in existence on the Commencement Date or that come to exist thereafter that are not the result of or in connection with the act or omission of Tenant or Persons Within Tenant's Control or the breach of this Lease by Tenant or Persons Within Tenant's Control. The foregoing covenants and indemnities shall survive the expiration or any termination of this Lease.

SECTION 8.3. Landlord represents and warrants to Tenant that as of the date hereof Landlord has no notice of the presence, generation, storage, disposal or other use of Hazardous Materials on, in or under the Premises prior to the date hereof or any violation of any violation of any applicable Requirements relating to Hazardous Materials.

SECTION 8.4. If Tenant shall receive notice of any violation of or defaults under, any Requirements, liens or other encumbrances applicable to the Premises, Tenant shall give immediate written Notice thereof to Landlord.

SECTION 8.5. If any governmental license or permit shall be required for the proper and lawful conduct of Tenant's business and if the failure to secure such license or permit would, in any way, affect Landlord or the Premises, then Tenant, at Tenant's expense, shall promptly procure and thereafter maintain, submit for inspection by Landlord, and at all times comply with the terms and conditions of, each such license or permit.

ARTICLE 9
SUBORDINATION

SECTION 9.1. This Lease shall at all times, now and hereafter, be subject and subordinate to each and every Mortgage, whether made prior to or after the execution of this Lease, and to all extensions, supplements, amendments, modifications, consolidations and replacements thereof or thereto, substitutions therefor, and advances made thereunder, provided that the Mortgagee confirms and accepts the provisions of Section 9.5 below. This clause shall be self-operative and no further agreement of subordination shall be required to make the interest of any Mortgagee superior to the interest of Tenant hereunder. In confirmation of such subordination, Tenant shall promptly execute and deliver, at its own cost and expense, any document, in recordable form if requested, that Landlord or any Mortgagee may request to evidence such subordination; and if Tenant fails to execute, acknowledge or deliver any such document within twenty (20) days after request therefor, Tenant hereby irrevocably constitutes and appoints Landlord as Tenant's attorney-in-fact, coupled with an interest, to execute, acknowledge and deliver any such document for and on behalf of Tenant.

SECTION 9.2. The subordination set forth in Section 9.1 above is subject to the written agreement (a "Non-Disturbance Agreement") by any Mortgagee or any other person to whom Tenant may be required to attorn, that so long as Tenant is in compliance with the terms of this Lease, Tenant's use and occupancy of the Premises shall not be disturbed, and that all provisions of the Lease shall be given effect, including those related to the application of any proceeds of insurance. Landlord shall cause each Mortgagee, whether pursuant to a Mortgage now existing or hereafter arising, to execute and deliver to Tenant a Non-Disturbance Agreement, subject to the terms of the preceding sentence, in a form acceptable to such Mortgagee.

ARTICLE 10
INSURANCE; PROPERTY LOSS OR DAMAGE; REIMBURSEMENT

SECTION 10.1.

(A) Neither Landlord nor Landlord's agents shall be liable for any injury or damage to persons or property, or interruption of Tenant's business, resulting from fire or other casualty caused by Persons other than the Landlord.

(B) Tenant shall give written Notice to Landlord, promptly after Tenant learns thereof, of any accident, emergency, occurrence, fire or other casualty and all damages to or defects in the Premises for the repair of which Landlord might be responsible. Such Notice shall be given by telecopy or personal delivery to the address(es) of Landlord in effect for Notice.

SECTION 10.2. Tenant shall not do or permit to be done any act or thing in or upon the Premises which will invalidate or be in conflict with the terms of the State of Indiana standard form of fire insurance with extended coverage, or with rental, liability, boiler, sprinkler, water damage, war risk or other insurance policies covering the Premises (hereinafter referred to as "Building Insurance"); and Tenant, at Tenant's own expense, shall comply with all rules, orders, regulations and requirements of all insurance boards.

SECTION 10.3.

(A) Tenant shall, at Tenant's own cost and expense, obtain, maintain and keep in full force and effect during the Term, for the benefit of Landlord, any Mortgagees and Tenant, the Building Insurance in an amount equal to the replacement value of the Building and its contents (not to

exceed \$7,417,000.00) and commercial general liability insurance (including premises operation, bodily injury, personal injury, death, independent contractors, broad form contractual liability and broad form property damage coverages) with coverage limits of \$1,000,000 per occurrence and \$2,000,000 in the aggregate, against all claims, demands or actions with respect to damage, injury or death made by or on behalf of any person or entity, arising from or relating to the conduct and operation of Tenant's business in, on or about the Premises (which shall include Tenant's signs, if any), or arising from or related to any act or omission of Tenant or of Persons Within Tenant's Control.

(B) Landlord and any Mortgagees shall be named as additional insureds in said policies. All said policies of insurance shall be: (i) written as "occurrence" policies; (ii) written as primary policy coverage and not contributing with or in excess of any coverage which Landlord may carry; and (iii) issued by reputable and independent insurance companies rated in Best's Insurance Guide, or any successor thereto (or if there be none, an organization having a national reputation) as having a general policyholder rating of "A" and a financial rating of at least "XI", and which are licensed to do business in the State of Indiana. Upon Landlord's request, Tenant shall deliver to Landlord the policies of insurance or certificates thereof, together with evidence of payment of premiums thereon, and shall thereafter furnish to Landlord, at least thirty (30) days prior to the expiration of any such policies and any renewal thereof, a new policy or certificate in lieu thereof, with evidence of the payment of premiums thereon. Each of said policies shall also contain a provision whereby the insurer agrees not to cancel, fail to renew, diminish or materially modify said insurance policy(ies) without having given Landlord and any Mortgagees at least thirty (30) days prior written Notice thereof.

(C) Tenant shall pay all premiums and charges for all of said policies, and, if Tenant shall fail to make any payment when due or carry any such policy, Landlord may, but shall not be obligated to, make such payment or carry such policy, and the amount paid by Landlord, with interest thereon (at the Applicable Rate), shall be repaid to Landlord by Tenant on demand, and all such amounts so repayable, together with such interest, shall be deemed to constitute Additional Rent hereunder. Payment by Landlord of any such premium, or the carrying by Landlord of any such policy, shall not be deemed to waive or release the default of Tenant with respect thereto.

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(D) Tenant, at Tenant's sole cost and expense, shall maintain insurance protecting and indemnifying Tenant against any and all damage to or loss of Tenant's Property, and all claims and liabilities relating thereto.

SECTION 10.4.

(A) Landlord and Tenant hereby release each other and their respective agents, employees, partners, shareholders, officers and directors from any claims or actions for damage to the Premises or Tenant's Property to the extent the same are covered by proceeds of any insurance policies maintained by the parties hereto under the terms of this Lease or in force at the time of any such damage. Each party shall cause each insurance policy obtained by it to provide that the insurance company waives all rights of recovery by way of subrogation against the other party in connection with any damage covered by any such policy.

(B) The waiver of subrogation referred to in Section 10.4(A) above shall extend to the agents and employees of each party, but only if and to the extent that such waiver can be obtained without additional charge (unless such party shall pay such charge). Nothing contained in this Section 10.4 shall be deemed to relieve the Landlord or Tenant from any duty imposed elsewhere in this Lease to repair, restore and rebuild the Premises, in whole or in part.

ARTICLE 11
DESTRUCTION BY FIRE OR OTHER CAUSE

SECTION 11.1. If the Premises or any part thereof shall be damaged by fire or other casualty, Tenant shall give immediate written Notice thereof to Landlord. Landlord shall, subject to the provisions of Sections 11.2 and 11.3 below, proceed with reasonable diligence, after receipt of the net proceeds of insurance, to repair or cause to be repaired such damage at its expense, to the condition immediately preceding such damage and, if the Premises, or any part thereof, shall be rendered untenable by reason of such damage, then the Fixed Rent hereunder, or an amount thereof apportioned according to the area of the Premises so rendered untenable (if less than the entire Premises shall be so rendered untenable), shall be abated for the period from the date of such damage to the date that is thirty (30) days after the date when the repair of such damage shall have been substantially completed. If Landlord or any Mortgagee shall be unable to collect the insurance proceeds applicable to such damage because of some action or inaction on the part of Tenant or Persons Within Tenant's Control, then Landlord shall have no duty to make such repairs or effect any restoration hereunder. Tenant covenants and agrees to cooperate with Landlord and any Mortgagee in their efforts to collect insurance proceeds (including rent insurance proceeds) payable to such parties. Landlord shall not be liable for any delay which may arise by reason of adjustment of insurance on the part of Landlord and/or Tenant, or any cause beyond the control of Landlord or contractors employed by Landlord.

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SECTION 11.2. Landlord shall not be liable for any inconvenience or annoyance to Tenant or injury to the business of Tenant resulting in any way from damage from fire or other casualty or the repair thereof unless caused by Landlord. Tenant understands that Landlord, in reliance upon Section 10.3 hereof, will not carry insurance of any kind on Tenant's Property, and that Landlord shall not be obligated to repair any damage thereto or replace the same.

SECTION 11.3.

(A) Notwithstanding anything to the contrary contained in Sections 11.1 and 11.2 above, in the event that:

(1) at least fifty (50%) percent of the rentable square feet of the Premises shall be damaged by a fire or other casualty so that substantial alteration or reconstruction of the Premises shall be required (whether or not the remainder of the Premises shall have been damaged by such fire or other casualty and without regard to the structural integrity of the Premises); or

(2) the Premises shall be totally or substantially damaged or shall be rendered wholly or substantially unsuitable for the Permitted Use; or

(3) the Landlord fails to commence any repairs, reconstruction or restoration of the Premises within sixty (60) days after a casualty; or

(4) Landlord fails complete all repairs, reconstruction or restoration of the Premises within one hundred twenty (120) days after the date of casualty;

then, as a result of any circumstances described in subparagraphs (1), (2), (3) or (4) hereof, the Tenant, at Tenant's option, may terminate this Lease and the term and estate hereby granted, by notifying the Landlord in writing of such termination within one hundred twenty (120) days after the date of such damage [as to subparagraphs (1) and (2)] or within thirty (30) days after the passage of the times periods in subparagraphs (3) and (4) above. In the event that such a Notice of termination shall be given, then this Lease and the term and estate hereby granted shall expire as of the date of termination stated in said Notice with the same effect as if that date were the Fixed Expiration Date, and the

Fixed Rent and Additional Rent hereunder shall be apportioned as of such date. Notwithstanding the termination of this Lease as provided in this Subsection 11.3(A) Landlord shall be obligated to reimburse to Tenant a portion of the cost of any Maintenance Repair or Requirement Alterations to the extent required by Section 7.1 above. In the event of an occurrence as described in subparagraphs (1) or (2) above, Landlord, at Landlord's option, may terminate this Lease and the term and estate hereby granted by notifying Tenant in writing of such termination within one hundred twenty (120) days after the date of such damage.

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ARTICLE 12
EMINENT DOMAIN

SECTION 12.1. If the whole of the Premises is acquired or condemned for any public or quasi-public use or purpose, this Lease and the Term shall end as of the date of the vesting of title with the same effect as if said date were the Fixed Expiration Date. If only a part of the Premises is so acquired or condemned then, except as hereinafter provided in this Section 12.1, this Lease and the Term shall continue in effect but, if a part of the Premises is so acquired or condemned, from and after the date of the vesting of title, the Fixed Rent and Additional Rent, if any, shall be reduced in the proportion which the area of the part of the Premises so acquired or condemned bears to the total area of the Premises immediately prior to such acquisition or condemnation. If the part of the Premises acquired or condemned contains more than fifty percent (50%) of the rentable square feet of the Premises or if, by reason of such acquisition or condemnation, the Premises shall be rendered wholly or substantially unsuitable for the Permitted Use, then either Landlord or Tenant may terminate this Lease and the Term and estate hereby granted, by notifying the other party in writing of such termination within one hundred twenty (120) days after the date upon which Tenant receives Notice of vesting of title. In the event that such Notice of termination shall be given, then this Lease and the Term and estate hereby granted shall expire as of the date of termination stated in said Notice, with the same effect as if that date were the Fixed Expiration Date. In the event of any termination of this Lease and the Term pursuant to the provisions of this Section 12.1, the Fixed Rent or Additional Rent shall be apportioned as of the date of sooner termination and any prepaid portion of the Fixed Rent for any period after such date shall be refunded by Landlord to Tenant.

SECTION 12.2. In the event of any such acquisition or condemnation of all or any part of the Premises, Landlord shall be entitled to receive the entire award for any such acquisition or condemnation, but shall be obligated to proceed with reasonable diligence to repair and restore the Premises, at Landlord's expense, to a condition most suitable for the Permitted Use. Tenant shall have no claim against Landlord or the condemning authority for the value of any unexpired portion of the Term and Tenant hereby expressly assigns to Landlord all of its right in and to any such award. Nothing contained in this Section 12.2 shall be deemed to prevent Tenant from making a separate claim in any condemnation proceedings for the value of any Tenant's Property included in such taking, and for any moving expenses, so long as Landlord's award is not reduced thereby.

SECTION 12.3.

(A) Notwithstanding anything to the contrary contained in Sections 12.1 and 12.2 above, in the event that:

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(1) the Landlord fails to commence any repairs, reconstruction or restoration of the Premises within sixty (60) days after the physical taking of a portion of the Premises; or

(2) Landlord fails complete all repairs, reconstruction or restoration of the Premises within one hundred twenty (120) days

after the date of such physical taking,

then, as a result of any circumstances described in subparagraphs (1) or (2) hereof, the Tenant, at Tenant's option, may terminate this Lease and the term and estate hereby granted, by notifying the Landlord in writing of such termination within thirty (30) days after the passage of the times periods in subparagraphs (1) and (2) above. In the event that such a Notice of termination shall be given, then this Lease and the term and estate hereby granted shall expire as of the date of termination stated in said Notice with the same effect as if that date were the Fixed Expiration Date, and the Fixed Rent and Additional Rent hereunder shall be apportioned as of such date. Notwithstanding the termination of this Lease as provided in this Subsection 12.3(A) Landlord shall be obligated to reimburse to Tenant a portion of the cost of any Maintenance Repair or Requirement Alterations to the extent required by Section 7.1 above.

ARTICLE 13
ASSIGNMENT; SUBLETTING; MORTGAGE; ETC.

SECTION 13.1.

(A) The Tenant shall not: (i) assign this Lease; or (ii) mortgage or encumber Tenant's interest in this Lease, in whole or in part; or (iii) sublet, or permit the subletting of, the Premises or any part thereof without the prior consent of Landlord. Notwithstanding the provisions of this Section 13.1, the use of the Premises by any Person AFFILIATED (as such term is hereinafter defined) with the Tenant or under the COMMON CONTROL (as such term is hereinafter defined) of Comfort Systems USA, Inc., as the case may be, shall not be deemed an assignment of this Lease or a sublet of the Premises, provided Tenant is not in default and remains fully obligated pursuant to the terms and conditions of this Lease. For purposes of this Article 13, a Person shall be deemed to be an "affiliate" of the Tenant or under the "common control" of Comfort Systems USA, Inc., if such Person is a member of a "parent-subsidiary controlled group" as such term is defined by Section 1563(a)(1) of the Internal Revenue Code of 1986, as amended or a member of a "brother-sister controlled group" as such term is defined by Section 1563(a)(2) of the Internal Revenue Code of 1986, as amended of which either Comfort Systems USA, Inc. or the Tenant, as the case may be, is a member.

(B) Notwithstanding the provisions otherwise set forth in this Article 13, no reorganization, consolidation and/or restructuring of the Tenant or the sale or transfer of any of its stock shall be deemed an assignment of this Lease or a sublet of the Premises, provided that the surviving entity resulting from such reorganization, consolidation and/or restructuring remains fully obligated pursuant to the terms and conditions of this Lease as Tenant.

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SECTION 13.2. If Tenant's interest in this Lease shall be assigned in violation of the provisions of this Article 13, such assignment shall be invalid and of no force and effect against Landlord. If the Premises or any part thereof are sublet to, or occupied by, or used by, any person other than Tenant, whether or not in violation of this Article 13, Landlord, may collect an amount equal to the then Fixed Rent plus any other items of Rental or other sums paid by the subtenant, user or occupant as a fee for its use and occupancy, and shall apply the net amount collected to the Fixed Rent and the other items of Rental reserved in this Lease. No such assignment, subletting, occupancy, or use, nor any such collection or application of Rental or fee for use and occupancy, shall be deemed a waiver by Landlord of any term, covenant or condition of this Lease or the acceptance by Landlord of such assignee, subtenant, occupant or user as Tenant hereunder, nor shall the same, in any circumstances, relieve Tenant of any of its obligations under this Lease.

ARTICLE 14
ACCESS TO PREMISES

SECTION 14.1. Landlord or Landlord's agents shall have the right to enter the Premises at all reasonable times during Tenant's regular business hours upon (except in case of emergency) reasonable prior notice, which notice may be oral, to examine the same, to show the same to prospective purchasers or Mortgagees and to make such repairs, alterations, improvements or additions: (i) as Landlord may deem necessary or required under the terms of the Lease; or (ii) which Landlord may elect to perform at least twenty (20) days after notice (except in an emergency when no notice shall be required) following Tenant's failure to make repairs or perform any work which Tenant is obligated to make or perform under this Lease, and Landlord shall be allowed to take all material into and upon the Premises that may be required therefor without the same constituting an eviction or constructive eviction of Tenant in whole or in part and except as herein provided the Fixed Rent (and any other item of Rental) shall in no respect abate or be reduced by reason of said repairs, alterations, improvements or additions, wherever located, or while the same are being made, by reason of loss or interruption of business of Tenant, or otherwise. Landlord shall promptly repair any damage caused to the Premises or Tenant's Property by such work, alterations, improvements or additions. In all events, Landlord shall use its best efforts not to interfere with or obstruct Tenant's business activities on or in the Premises during any entry.

ARTICLE 15
CERTIFICATE OF OCCUPANCY

SECTION 15.1. Landlord represents and warrants to Tenant that use and occupancy of the Premises for the Permitted Uses shall not violate the certificate of occupancy for the Premises or any Requirement. Tenant shall not at any time, now or hereafter, use or occupy the Premises, directly or indirectly, in violation of the certificate of occupancy for the Premises and in the event that any Governmental Authority hereafter contends or declares by notice, order or in any other manner whatsoever that the Premises are used for a purpose that is not included in the Permitted Uses and is a violation of such certificate of occupancy, Tenant shall, upon three (3) Business Days' written Notice from Landlord or any Government Authority, immediately discontinue such use of the Premises.

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ARTICLE 16
DEFAULT

SECTION 16.1. Each of the following events shall be an "Event of Default" under this Lease:

(A) if Tenant shall on any occasion default in the payment when due of any installment of Fixed Rent or Additional Rent or in the payment when due of any other item of Rental and such default shall continue for ten (10) days from and after the date on which Landlord gives Tenant written Notice specifying such default; or

(B) (1) if Tenant shall not, or shall be unable to, or shall admit in writing Tenant's inability to, as to any obligation, pay Tenant's debts as they become due; or

(B) (2) if Tenant shall commence or institute any case, proceeding or other action (a) seeking relief on Tenant's behalf as debtor, or to adjudicate it a bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to Tenant or Tenant's debts under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization or relief of debtors, or (b) seeking appointment of a receiver, trustee, custodian or other similar official for it or for all or any substantial part of its property; or

(B) (3) if Tenant shall make a general assignment for the benefit of creditors; or

(B) (4) if any case, proceeding or other action shall be commenced or

instituted against Tenant (a) seeking to have an order for relief entered against Tenant as debtor or to adjudicate Tenant a bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to Tenant or Tenant's debts under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization or relief of debtors, or (b) seeking appointment of a receiver, trustee, custodian or other similar official for Tenant or for all or any substantial part of Tenant's property, which either: (i) results in any such entry of an order for relief, adjudication of bankruptcy or insolvency or such an appointment or the issuance or entry of any other order having a similar effect; or (ii) remains undismissed for a period of sixty (60) days; or

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(B) (5) if a trustee, receiver or other custodian shall be appointed for any substantial part of the assets of Tenant which appointment is not vacated or effectively stayed within ninety (90) days; or

(C) if Tenant shall default in the observance or performance of any other term, covenant or condition of this Lease on Tenant's part to be observed or performed, and Tenant shall fail to remedy such default within thirty (30) days after written Notice by Landlord to Tenant of such default, or if such default is of such a nature that it cannot with due diligence be completely remedied within said period of thirty (30) days, if Tenant shall not: (i) duly institute within said thirty (30) day period; and (ii) thereafter diligently and continuously prosecute to completion all steps necessary to remedy the same.

SECTION 16.2. If an Event of Default shall occur, Landlord may, at any time thereafter, at Landlord's option, give written Notice to Tenant stating that this Lease and the Term shall expire and terminate on the date specified in such Notice, which date shall not be less than ten (10) days after the giving of such Notice, whereupon this Lease and the Term and all rights of Tenant under this Lease shall automatically expire and terminate as if the date specified in the Notice given pursuant to this Section 16.2 were the Fixed Expiration Date and Tenant thereafter shall quit and surrender the Premises, but Tenant shall remain liable for damages as provided herein or pursuant to law. Anything contained herein to the contrary notwithstanding, if such termination shall be stayed by order of any court having jurisdiction over any proceeding described in Section 16.1(B), or by federal or state statute, then, following the expiration of any such stay, or if the trustee appointed in any such proceeding, Tenant or Tenant as debtor-in-possession fails to assume Tenant's obligations under this Lease within the period prescribed therefor by law or within one hundred twenty (120) days after entry of the order for relief or as may be allowed by the court, or if said trustee, Tenant or Tenant as debtor-in-possession shall fail to provide adequate protection of Landlord's right, title and interest in and to the Premises or adequate assurance of the complete and continuous future performance of Tenant's obligations under this Lease, Landlord, to the extent permitted by law or by leave of the court having jurisdiction over such proceeding, shall have the right, at its election, to terminate this Lease on ten (10) days' Notice to Tenant, Tenant as debtor-in-possession or said trustee and upon the expiration of said ten (10) day period this Lease shall cease and expire as aforesaid and Tenant, Tenant as debtor-in-possession or said trustee shall thereafter quit and surrender the Premises as aforesaid.

SECTION 16.3. If, at any time: (i) Tenant shall consist of two (2) or more Persons; or (ii) Tenant's obligations under this Lease shall have been guaranteed by any Person other than Tenant; or (iii) Tenant's interest in this Lease has been assigned, the word "Tenant" as used and referred to in this Lease, shall be deemed to mean any one or more of the persons primarily or secondarily liable for Tenant's obligations under this Lease. Any monies received by Landlord from or on behalf of Tenant during the pendency of any proceeding of the types referred to in Section 16.1(B) hereof shall be deemed paid as compensation for the use and occupancy of the Premises and the

acceptance of any such compensation by Landlord shall not be deemed an acceptance of Rental or a waiver on the part of Landlord of any rights under Section 16.2 hereof.

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SECTION 16.4. In the event of any default by Landlord hereunder, except as otherwise provided herein, Tenant will give Landlord written notice specifying such default with particularity, and Landlord shall thereupon have thirty (30) days in which to cure such default or to commence to cure such default if any such default cannot be reasonably cured within such 30-day period, in which event Landlord shall prosecute such cure with diligence to a conclusion. Unless and until Landlord fails to so cure or proceed with diligence to cure any default after such notice, Tenant shall not have any remedy or cause of action by reason thereof.

If Landlord is in default hereunder, and fails to cure the same timely, in addition to any and all other rights, remedies and recourses available to Tenant, Tenant may undertake to cure such default on behalf of Landlord, and thereupon Landlord agrees to pay Tenant, upon demand, all costs, expenses and disbursements (including reasonable attorneys' fees) incurred by Tenant in taking such remedial actions with interest thereon at the Applicable Rate. In addition to the foregoing, Tenant shall also have the same rights granted to Landlord under Section 17.1(B) relating to injunctive or equitable relief. The right to invoke the remedies hereinbefore set forth are cumulative and shall not preclude Tenant from invoking any other remedy allowed at law or in equity.

ARTICLE 17
REMEDIES AND DAMAGES

SECTION 17.1.

(A) If any Event of Default shall occur, or this Lease and the Term shall expire and come to an end as provided in Article 16 hereof:

(1) Tenant shall quit and peacefully surrender the Premises to Landlord, and Landlord and its agents may, after the date upon which this Lease and the Term shall expire and come to an end, re-enter the Premises or any part thereof, without Notice, either by summary proceedings, or by any other applicable action or proceeding or otherwise, and may repossess the Premises and dispossess Tenant and any other persons from the Premises by summary proceedings or otherwise and remove any and all of their property and effects from the Premises (and Tenant shall remain liable for damages as provided herein or pursuant to law); and

(2) Landlord, at Landlord's option, may relet the whole or any part or parts of the Premises from time to time, either in the name of Landlord or otherwise, to such tenant or tenants, for such term or terms ending before, on or after the Fixed Expiration Date, at such rent or rentals and upon such other conditions, which may include concessions and free rent periods, as Landlord may determine; provided, however, that Landlord shall exercise reasonable efforts to mitigate any damages related to liability of Tenant under this Lease.

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(B) In the event of a breach or threatened breach by Tenant, or any persons claiming through or under Tenant, of any term, covenant or condition of this Lease, Landlord shall have the right to enjoin such breach.

SECTION 17.2.

(A) If this Lease and the Term shall expire and come to an end as provided in Article 2 hereof, or by or under any summary proceeding or any other action or proceeding, or if Landlord shall re-enter the Premises as

provided in Section 17.1 hereof, or by or under any summary proceeding or any other action or proceeding, then, in any of said events:

(1) Tenant shall pay to Landlord all Fixed Rent, Additional Rent and other items of Rental payable under this Lease by Tenant to Landlord to the date upon which this Lease and the Term shall have expired and come to an end or to the date of re-entry upon the Premises by Landlord, as the case may be;

(2) if Landlord has not terminated the Lease, but only Tenant's right of possession to the Premises, Tenant also shall be liable for and shall pay to Landlord, as damages, any deficiency ("Deficiency") between the Rental for the period which is the unexpired portion of the Term and the net amount, if any, of rents collected under any reletting effected pursuant to the provisions of Section 17.1(A)(2) for any part of such period (after first deducting from the rents collected under any such reletting all of Landlord's reasonable and actual expenses in connection with the termination of Tenant's right of possession, Landlord's re-entry upon the Premises and such reletting including, but not limited to, all repossession costs, brokerage commissions, attorneys' fees and disbursements, alteration costs and other expenses of preparing the Premises for such reletting, to the extent the same are allocable to the remaining Term); any such Deficiency shall be paid in monthly installments by Tenant on the days specified in this Lease for payment of installments of Fixed Rent; Landlord shall be entitled to recover from Tenant each monthly Deficiency as the same shall arise, and no suit to collect the amount of the Deficiency for any month shall prejudice Landlord's right to collect the Deficiency for any subsequent month by a similar proceeding; and

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(3) alternatively, if Landlord has terminated the Lease, Landlord shall be entitled to recover from Tenant, and Tenant shall pay to Landlord, on demand, and as and for liquidated and agreed final damages, a sum equal to the amount by which the present value (calculated using the Base Rate as the discount rate) of the unpaid Rental for the period which otherwise would have constituted the unexpired portion of the Term exceeds the present value (calculated using the Base Rate as the discount rate) of the then fair and reasonable rental value of the Premises for the same period, taking into consideration reasonable costs incurred to relet the Premises; if, before presentation of proof of such liquidated damages to any court, commission or tribunal, the Premises, or any part thereof, are relet by Landlord on a fair and arms-length basis for the period which otherwise would have constituted the unexpired portion of the Term, or any part thereof, the amount of rent reserved upon such reletting shall be deemed, prima facie, to be the fair and reasonable rental value for the part or the whole of the Premises so relet during the term of the reletting.

(B) Tenant shall in no event be entitled to any rents collected or payable under any reletting, whether or not such rents exceed the Fixed Rent reserved in this Lease. Nothing contained in this Article 17 shall be deemed to limit or preclude the recovery by Landlord from Tenant of the maximum amount allowed to be obtained as damages by any statute or rule of law, or of any sums or damages to which Landlord may be entitled in addition to the damages set forth in this Section 17.2.

ARTICLE 18
FEES AND EXPENSES

SECTION 18.1. If an Event of Default shall have occurred by Tenant or Landlord has defaulted on its obligations on this Lease and the same is not cured within any applicable cure period, the non-defaulting party may (1) perform any term, covenant or condition of this Lease for the account of the

defaulting party, or (2) make any expenditure or incur any obligation for the payment of money in connection with any obligation owed to the non-defaulting party, including, but not limited to, reasonable attorneys' fees and disbursements in instituting, prosecuting or defending any action or proceeding, and in either case the cost thereof, with interest thereon at the Applicable Rate, shall be paid by the defaulting party to the non-defaulting party within twenty (20) days after rendition of any bill or statement therefor.

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ARTICLE 19
END OF TERM

SECTION 19.1. Upon the expiration or other termination of this Lease, Tenant shall quit and surrender to Landlord the Premises, vacant, broom clean, in good order and condition, ordinary wear and tear and damage by fire or other casualty or by condemnation excepted, and Tenant shall remove all of Tenant's Property and all other personal property and personal effects of all persons claiming through or under Tenant, and shall pay the cost of repairing all damage to the Premises occasioned by such removal.

SECTION 19.2. If the Premises are not surrendered upon the expiration or other termination of this Lease and all Tenant Property removed as provided above, Tenant shall be deemed to be occupying the Premises as a tenant at will, and after sixty (60) days written notice from Landlord, such continued occupancy will be at a rental equal to the Fixed Rent herein provided plus fifty percent (50%) of such amount and otherwise subject to all the conditions, provisions and obligations of this Lease insofar as the same are applicable to a tenancy at will.

SECTION 19.3. Tenant's obligations under this Article 19 shall survive the expiration or termination of this Lease.

ARTICLE 20
NOTICES

SECTION 20.1.

(A) Except as otherwise expressly provided in this Lease, any bills, statements, consents, notices, demands, requests or other communications given or required to be given under this Lease ("Notice(s)") shall be in writing and shall be deemed sufficiently given or rendered if delivered by hand (against a signed receipt) or if deposited with a nationally recognized overnight courier or if deposited in the United States mail, and sent by first class mail, certified, return receipt requested with postage prepaid, and in any case addressed:

IF TO TENANT:

(i) at Tenant's address first set forth in this Lease and (ii) to the Premises, and

WITH A COPY TO:

Comfort Systems USA, Inc.
777 Post Oak Boulevard, Suite 500
Houston, TX 77056
Attention: General Counsel

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IF TO LANDLORD:

Mark P. Shambaugh
2233 East Cedar Canyons Road
Fort Wayne, IN 46845

WITH A COPY TO:

N. Reed Silliman, Esq.
Baker & Daniels
111 East Wayne Street, Suite 800
Fort Wayne, IN 46802

and any Mortgagee who may have requested the same, by Notice given in accordance with the provisions of this Article 20, at the address designated by such Mortgagee, or to such other address(es) as either Landlord or Tenant may designate as its new address(es) for such purpose by Notice given to the other in accordance with the provisions of this Article 20.

(B) Notices shall be deemed to have been rendered or given (a) on the date delivered, if delivered by hand, (b) on the day after being deposited with a nationally recognized overnight courier or (c) five (5) days after deposit in the United States mail, as provided in Section 20.1(A) hereof.

ARTICLE 21 INDEMNITY

SECTION 21.1. Tenant shall not do or permit any act or thing to be done in, at or upon the Premises that may subject any Indemnatee to any liability or responsibility for injury, damage to persons or property or to any liability by reason of the existence or application of, compliance with or violation of any Requirement, but shall exercise such control over the Premises as to protect each Indemnatee fully against any such liability and responsibility. Tenant shall indemnify and save harmless the Indemnitees from and against (a) all claims against the Indemnitees arising from any accident, injury or damage whatsoever caused to any person or to the property of any person and occurring in, on or about the Premises during the Term or during Tenant's occupancy of the Premises, unless, and to the extent not, caused by the negligent or intentional misconduct of Landlord, and (b) any breach, violation or non-performance of any covenant, condition or agreement contained in this Lease to be fulfilled, kept, observed and performed by Tenant. This indemnity and hold harmless agreement shall include indemnity from and against any and all liability, claims, fines, suits, demands, costs and expenses of any kind or nature (including, without limitation, attorneys' fees and disbursements) incurred in or in connection with any such claim or proceeding brought thereon, and the defense thereof. If any claim, action or proceeding is made or brought against any Indemnatee, against which claim, action or proceeding Tenant is obligated to indemnify such Indemnatee pursuant to the terms of this Lease, then, upon demand by the Indemnatee, Tenant, at its sole cost and expense, shall contest or defend such claim, action or proceeding in the Indemnatee's name, if necessary, by such attorneys as the Indemnatee may select, including, without limitation, attorneys for the Indemnatee's insurer. The provisions of this Article 21 shall survive the expiration or earlier termination of this Lease.

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SECTION 21.2. Landlord shall indemnify and save harmless the Tenant and the other Tenant Indemnitees from and against (a) all claims against the Tenant Indemnitees arising from any accident, injury or damage whatsoever caused to any person or the property of any person and occurring in, on or about the Premises during the Term or during Tenant's occupancy of the Premises to the extent caused by the negligent or intentional misconduct of Landlord and (b) any breach, violation or nonperformance of any covenant, condition or agreement contained in this Lease to be fulfilled, kept, observed and performed by Landlord. This indemnity and hold harmless shall include indemnity from and against any and all liability, claims, fines, suits, demands, costs and expenses of any kind or nature (including, without limitation, attorneys' fees and disbursements) incurred in or in connection with any such claim or proceeding brought thereon, and the defense thereof. If any claim, action or proceeding is made or brought against any Tenant Indemnatee, against which claim, action or proceeding Landlord is obligated to indemnify such Tenant Indemnatee pursuant to the terms of this Lease, then, upon demand by the Tenant Indemnatee, Landlord at its sole cost and expense shall contest or defend such claim, action or proceeding in the Tenant Indemnatee's name, if necessary, by such attorneys as

the Tenant Indemnitee may select, including without limitation attorneys for the Indemnitee's insurer. The provisions of this Article 21 shall survive the expiration or earlier termination of this Lease.

ARTICLE 22
RENEWAL OPTIONS

SECTION 22.1. Provided that there is no Event of Default at the time the Option (as such term is hereinafter defined) is to be exercised, the Tenant shall have the option to renew this Lease for one (1) additional five (5) year period as follows:

OPTION PERIOD shall commence on the tenth (10th) anniversary of the Commencement Date and shall continue up to and including the day before the fifteenth (15th) anniversary of the Commencement Date,

the aforementioned option period is referred to herein as the "Option Period".

SECTION 22.2. The Option granted to the Tenant pursuant to the provisions of Section 22.1 hereof shall be exercised by the Tenant giving written Notice to the Landlord of the Tenant's intent to exercise the Option not less than one-hundred twenty (120) days prior to the expiration of the Initial Term.

SECTION 22.3. In the event that the Tenant exercises the Option, the Landlord and the Tenant hereby agree that this Lease shall continue in full force and effect and remain unamended during the Option Period, except that the Fixed Rent payable by the Tenant to the Landlord during such Option Period shall continue to be increased annually in accordance with the provisions of Rider 1 hereof.

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ARTICLE 23
COVENANT OF QUIET ENJOYMENT

SECTION 23.1. Landlord covenants that, upon Tenant paying all Fixed Rent and Additional Rent and observing and performing all of the terms, agreements, covenants, provisions and conditions of this Lease on Tenant's part to be observed and performed, Tenant may peaceably and quietly enjoy the Premises.

ARTICLE 24
MISCELLANEOUS

SECTION 24.1. The obligations of Landlord under this Lease shall be binding upon Landlord named herein after the sale, conveyance, assignment or transfer by such Landlord (or upon any subsequent landlord after the sale, conveyance, assignment or transfer by such subsequent landlord) of its interest in the Premises, as the case may be, and in the event of any such sale, conveyance, assignment or transfer, Landlord shall be freed and relieved of any of the covenants and obligations of Landlord under this Lease thereafter arising, upon the date that the transferee shall have assumed, in writing, for the benefit of Tenant, all obligations of the Landlord under this Lease arising after the effective date of the transfer.

SECTION 24.2. Notwithstanding anything contained in this Lease to the contrary, all amounts payable by Tenant to or on behalf of Landlord under this Lease, whether or not expressly denominated Fixed Rent, Additional Rent or Rental, shall constitute rent for the purposes of Section 502(b)(7) of the Bankruptcy Code.

SECTION 24.3. Upon the request of either party, the other will execute and deliver a mutually acceptable memorandum of this Lease in recordable form.

SECTION 24.4. Except as otherwise provided specifically herein, any consent or approval required to be obtained from Landlord or Tenant under this Lease shall not be unreasonably withheld, conditioned or delayed.

SECTION 24.5. Landlord represents and warrants to Tenant that Landlord has full power and authority to enter into this Lease without the consent of any other parties, including any Mortgagees. Tenant and the person executing this Lease on behalf of Tenant hereby covenant and warrant that: (i) Tenant is now and shall remain throughout the term of this Lease a duly organized and validly existing corporation qualified to do business in the State of Indiana; and (ii) the persons executing this Lease on behalf of Tenant are duly authorized to do so by all necessary corporate action.

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SECTION 24.6. If any words or phrases in this Lease are stricken out or otherwise eliminated, whether or not any other words or phrases have been added, this Lease shall be construed as if the words or phrases so stricken out or otherwise eliminated were never included in this Lease and no implication or inference shall be drawn from the fact that such words or phrases were stricken out or otherwise eliminated.

SECTION 24.7. If any of the provisions of this Lease, or the application thereof to any person or circumstance, shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such provisions to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected thereby and shall remain valid and enforceable, and every provision of this Lease shall be valid and enforceable to the fullest extent permitted by law.

SECTION 24.8. This Lease contains the entire agreement between the parties and all prior negotiations and agreements are merged into this Lease. This Lease may not be changed, abandoned or discharged, in whole or in part, nor may any of its provisions be waived except by a written agreement that (a) expressly refers to this Lease, and (b) is executed by the party against whom enforcement of the change, abandonment, discharge or waiver is sought.

SECTION 24.9. The laws of the State of Indiana applicable to contracts made and to be performed wholly within the State of Indiana shall govern and control the validity, interpretation, performance and enforcement of this Lease without regard to principles of conflicts of law.

SECTION 24.10. The captions are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Lease nor the intent of any provision thereof.

SECTION 24.11. The covenants, conditions and agreements contained in this Lease shall bind and inure to the benefit of Landlord and Tenant and their respective legal representatives, heirs, successors, and, except as otherwise provided in this Lease, their assigns.

SECTION 24.12. Tenant acknowledges and agrees that the liability of Landlord under this Lease shall be limited to Landlord's interest in the Premises, and any judgments rendered against Landlord shall be satisfied solely out of the proceeds of the sale of Landlord's interest in the Premises. The foregoing provision is not intended to relieve Landlord from the performance of any of Landlord's obligations under this Lease, but only to limit the personal liability of Landlord in the case of a recovery of a judgment against Landlord; nor shall the foregoing be deemed to limit Tenant's rights to injunctive relief or to avail itself of any other right or remedy which may be awarded Tenant by law or under this Lease.

SECTION 24.13. For the purposes of this Lease and all agreements supplemental to this Lease, unless the context otherwise requires:

(A) The words "herein", "hereof", "hereunder" and "hereby" and words of similar import shall be construed to refer to this Lease as a whole and not to any particular Article or Section unless expressly so stated.

(B) Obligations hereunder shall be construed in every instance as conditions as well as covenants, each separate and independent of any other terms of this Lease.

(C) Reference to "termination of this Lease" or "expiration of this Lease" and words of like import includes expiration or sooner termination of this Lease and the Term and the estate hereby granted or cancellation of this Lease pursuant to any of the provisions of this Lease or by law. Upon the termination of this Lease, the Term and estate granted by this Lease shall end at noon on the date of termination as if such date were the Fixed Expiration Date, and neither party shall have any further obligation or liability to the other after such termination except: (i) as shall be expressly provided for in this Lease; and (ii) for such obligations as by their nature under the circumstances can only be, or by the provisions of this Lease, may be, performed after such termination, and, in any event, unless expressly otherwise provided in this Lease, any liability for a payment (which shall be apportioned as of such termination) which shall have accrued to or with respect to any period ending at the time of termination shall survive the termination of this Lease.

(D) Words and phrases used in the singular shall be deemed to include the plural and vice versa, and nouns and pronouns used in any particular gender shall be deemed to include any other gender.

IN WITNESS WHEREOF, Landlord and Tenant have duly executed this Lease as of the day and year first above written.

/s/

MARK P. SHAMBAUGH

"Landlord"

SHAMBAUGH & SON, INC.,
an Indiana Corporation

By: /s/

Printed: KEVIN L. BEACH
Its: V.P./SEC'Y.

"Tenant"

RIDER 1
INCREASES IN FIXED RENT

SECTION 1. For purposes of the Lease:

(A) "Bureau" means the Federal Bureau of Labor Statistics or any successor agency that shall issue the indices or data referred to in subparagraph (ii) below.

(B) "Price Index" means the Consumer Price Index for All Urban

Consumers for the Fort Wayne, Indiana geographic area, 1982-1984=100, issued from time to time by the Bureau or any other successor measure hereafter employed by the Bureau in lieu of such price index that measures the cost of living for such geographic area or failing such successor, the most nearly comparable index (reflecting changes in costs of housing including rental housing, energy and services), published by a Governmental Authority, appropriately adjusted. Furthermore, if hereafter the Price Index is converted to a different standard reference base or a substantial change is made in the terms or number of items contained therein, the Price Index shall be adjusted (with the use of such conversion factor, formula or table as is published by the Bureau, or if it shall not publish same, the conversion factor published by Prentice Hall, Inc., or, failing such publication, by any other nationally recognized publisher of similar statistical information) to the figure that would have resulted if not for such conversion or change.

(C) "Base Index" means the Price Index issued for December 31, 1998.

(D) "Applicable Price Index" for a Lease Year means the Price Index most recently issued prior to the date on which such Lease Year commences.

SECTION 2.

(A) Tenant shall pay to Landlord the Fixed Rent in the amount set forth in Article 1 of this Lease for the first Lease Year.

(B) Beginning after the end of the first Lease Year, and for each and every Lease Year thereafter, the Tenant shall pay to the Landlord, as Fixed Rent, an amount equal to the GREATER of:

(1) an amount equal to the sum of (x) the percentage by which the Applicable Price Index for such Lease Year exceeds the Applicable Price Index for the immediately preceding Lease Year, multiplied by the Fixed Rent payable for such immediately preceding Lease Year and (y) such Fixed Rent payable for the immediately preceding Lease Year (e.g., if the Base Index is 200, the Applicable Price Index for the second Lease Year is 203, the Applicable Price Index for the third Lease Year is 215, and the Fixed Rent payable for the second Lease Year is \$50,000.00, then the Applicable Price Index for the third Lease Year exceeds the Applicable Price Index for the second Year by 5.91% (i.e., the difference between 203 and 215), and the Fixed Rent derived from the aforesaid calculation shall be \$52,955.75 (5.91% of \$50,000.00, which is \$2,955.00, plus \$50,000.00); or

(2) an amount equal to the Fixed Rent for the immediately preceding Lease Year.

The Landlord and the Tenant hereby acknowledge that it is the mutual intention of the parties that for each and every Lease Year subsequent to the first Lease Year during the Term hereof, the Fixed Rent payable by the Tenant to the Landlord hereunder shall never be decreased from the prior Lease Year.

SECTION 3. Upon Notice by the Landlord to the Tenant of an increase in the Fixed Rent pursuant to the provisions of this Section 3 ("Increase Notice?"), the Tenant shall pay the Fixed Rent as set forth in the Increase Notice for the period in which the increase identified in such Notice shall apply.

SCHEDULE A LEGAL DESCRIPTION OPPORTUNITY DRIVE

Lots 2, 3 and 4, all in Cook Road Office in Industrial Park. Section I, according to the recorded plat thereof in plat book 47, page 132-137, and re-recorded in plat book 48, pages 126-131, in the Office of the Recorder of Allen County, Indiana.

AGREEMENT OF LEASE

BETWEEN

MARK P. SHAMBAUGH

LANDLORD

AND

SHAMBAUGH & SON, INC.

TENANT

DATED: OCTOBER 31, 1998

PREMISES

7525 DI SALLE BLVD.
FORT WAYNE, IN 46825

AGREEMENT OF LEASE ("Lease"), made as of the 31st day of October, 1998, between Mark P. Shambaugh, as Landlord, and Shambaugh & Son, Inc., an Indiana corporation.

R E C I T A L S:

WHEREAS, the Landlord is the owner of certain premises known as and by the street address of 7525 Di Salle Blvd., Fort Wayne, Indiana 46825 (as more particularly described on Schedule ?A?, annexed hereto and made a part hereof); and

WHEREAS, the Landlord desires to rent the aforementioned premises to the Tenant and the Tenant desires to rent the aforementioned premises from the Landlord.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, for themselves, as well as their respective legal representatives, heirs, successors and assigns, hereby agree as follows:

ARTICLE 1
GLOSSARY

For the purposes of this Lease, the following terms shall have the meanings indicated below:

"Additional Rent" shall have the meaning set forth in Section 2.2(B) hereof.

"Applicable Rate" shall mean the lesser of (x) three percentage points above the then current Prime Interest rate as published, from time to time, by the WALL STREET JOURNAL as its prime interest rate in its Money Rates section (or if such publication no longer exists or no longer publishes such rate, then the "base rate" as announced by Citibank, N.A. [or its successors], from time to time, for the rate presently referred to as its "base rate") or (y) the maximum rate permitted by applicable law.

"Bankruptcy Code" shall mean 11 U.S.C. Section 101 ET SEQ., or any statute, federal or state, of similar nature and purpose, now or hereafter.

"Building Systems" shall mean the mechanical, electrical, sanitary, heating, air conditioning, ventilating, elevator, plumbing, life-safety and other service or support systems of any nature whatsoever located at or on the Premises, BUT shall not include installations made by Tenant or fixtures or appliances (regardless of whether or not such fixtures or appliances are owned by the Tenant or the Landlord).

"Building Insurance" shall have the meaning set forth in Section 10.2 hereof.

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"Business Days" shall mean all days, excluding Saturdays, Sundays and all days observed as holidays by the State of Indiana or the federal government.

"Commencement Date" is October 31, 1998.

"Event of Default" shall have the meaning set forth in Section 16.1 hereof.

"Expiration Date" shall mean the Fixed Expiration Date or such other date on which the Term ends pursuant to any of the terms, conditions or covenants of this Lease or pursuant to law.

"Fixed Expiration Date" is October 31, 2008.

"Fixed Rent" : \$130,000.00 per annum (\$10,833.33 per month) for the first Lease Year (as such term is hereinafter defined) subject to adjustment thereafter in accordance with the provisions of Rider 1 hereof.

"Government Authority" or "Government Authorities" shall mean the United States of America, the State of Indiana, the County of Allen, the Municipality of Fort Wayne, and/or any political subdivision thereof and any agency, department, commission, board, bureau or instrumentality of any of the foregoing, now existing or hereafter created, having jurisdiction over the Premises or any portion thereof.

"Hazardous Materials" shall have the meaning set forth in Section 8.2 hereof.

"Increase Notice" shall have the meaning set forth in Section 3 of Rider 1 attached hereto and made a part hereof.

"Indemnitees" shall mean Landlord, his agents and contractors (and the partners, shareholders, officers, directors and employees of any of the Landlord's agents or contractors).

"Initial Term" shall mean the ten (10) year period commencing on the Commencement Date.

"Landlord", on the date as of which this Lease is made, shall mean Mark P. Shambaugh, but thereafter, "Landlord" shall mean any fee owner of the Premises.

"Lease Year" shall mean each twelve (12) month period commencing on the Commencement Date and each anniversary of the Commencement Date.

"Mortgage(s)" Shall mean any deed of trust, trust indenture or mortgage which may now or hereafter affect the Premises and all extensions, supplements, amendments, modifications, consolidations, refinancings and replacements thereof or thereto, substitutions therefor, and advances made thereunder.

"Mortgagee(s)" Shall mean any trustee or mortgagee or holder of a Mortgage.

"Notice(s)" shall have the meaning set forth in Section 22.1(A) hereof.

"Option" or "Options" shall have the meaning set forth in Section 26.1 hereof.

"Option Period" or "Option Periods" shall have the meaning set forth in Section 26.1 hereof.

"Permitted Use" shall mean general, executive and administrative offices, parking, machine shop, repair, and warehouse facilities in connection with Tenant's business as a mechanical contracting and service company and uses related thereto including the evolution of the Tenant's business consistent with the evolution of the mechanical contracting industry in general, subject to all applicable laws, regulations, codes and ordinances, and subject further to all recorded restrictions, covenants and limitations affecting the Premises, provided, however, that no recorded restrictions, covenants or limitations impair the use of the Premises for the purposes intended by Tenant as of the Commencement Date.

"Person(s) or Person(s)" shall mean any natural person or persons, a partnership, a corporation and any other form of business or legal association or entity.

"Persons Within Tenant's Control" shall mean and include Tenant, all of Tenant's respective shareholders, directors, officers, agents, contractors, sub-contractors, servants, employees, licensees and invitees as well as any of the heirs, successors, representatives and assigns of any of the foregoing.

"Premises" shall mean all that certain plot, piece and parcel of land, together with all buildings and improvements erected thereon, known as and by the street address of 7614 and 7620 Opportunity Drive, Fort Wayne, Indiana 46801 (as more particularly described on Schedule "A", annexed hereto and made a part hereof).

"Price Index" shall have the meaning set forth in Section 1(B) of Rider 1 attached hereto.

"Rental" shall mean and be deemed to include Fixed Rent, Additional Rent and any other sums payable, now or hereafter, by Tenant hereunder.

"Requirements" shall mean all present and future laws, rules, ordinances, regulations, statutes, requirements, codes and executive orders, extraordinary as well as ordinary, retroactive and prospective, of all Governmental Authorities, now existing or hereafter created which affect, directly or indirectly, the Premises and/or the maintenance, use, operation or occupation of the Premises, and all recorded restrictions, covenants and limitations affecting the Premises, provided, however, that no recorded restrictions, covenants or limitations impair the use of the Premises for the purposes intended by Tenant as of the Commencement Date.

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

"Tenant", on the date as of which this Lease is made, shall mean the Tenant named in this Lease, but thereafter "Tenant" shall mean only the tenant under this Lease at the time in question; provided, however, that the Tenant named in this Lease and any and all successor tenant(s) hereunder shall not be released and relieved from any liability hereunder in the event of any assignment of this Lease or a sublet, in whole or in part, of the Premises.

"Tenant Indemnities" shall mean Tenant, its agents and contractors

(and the partners, shareholders, officers, directors and employees of Tenant and its agents and contractors).

"Tenant's Property" shall mean Tenant's movable fixtures and movable partitions, telephone and other equipment, furniture, furnishings and other movable items of personal property owned by the Tenant.

"Term", on the date as of which this Lease is made shall mean the Initial Term, but thereafter shall be deemed to include any Option Period for which the Tenant exercises its Option pursuant to the provisions of Article 26 hereof.

ARTICLE 2 DEMISE; PREMISES; TERM; RENT

SECTION 2.1. Landlord hereby leases to Tenant and Tenant hereby hires from Landlord the Premises for the Initial Term to commence on the Commencement Date and to end on the Fixed Expiration Date, unless earlier terminated as provided herein and subject to the renewal options provided for in Article 26 below.

SECTION 2.2. Commencing upon the Commencement Date, Tenant shall pay to Landlord, in lawful money of the United States of America, without Notice or demand, without relief from valuation and appraisal laws, by good and sufficient check at the office of Landlord or at such other place as Landlord may designate from time to time, the following:

(A) the Fixed Rent, as such term is defined in Article 1 hereof, which shall be payable in equal monthly installments in advance on the first day of each and every calendar month during the Term, and

(B) additional rent ("Additional Rent") consisting of all other sums of money as shall become due from and be payable by Tenant hereunder.

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SECTION 2.3. If the Commencement Date is other than the first day of a calendar month, or the Fixed Expiration Date is other than the last day of a calendar month, Fixed Rent for such month shall be prorated on a per diem basis.

SECTION 2.4. Tenant shall pay the Fixed Rent and Additional Rent when due without abatement, deduction, counterclaim, setoff or defense of any nature. It is understood and agreed that the Fixed Rent to be received by Landlord during the Term shall be net to Landlord so that this Lease shall yield to Landlord the Fixed Rent specified herein and, accordingly, all real estate taxes, insurance, maintenance and other expenses of any nature related to the Premises, excluding Landlord's income taxes, shall be solely the responsibility of Tenant unless otherwise specifically set forth herein.

ARTICLE 3 REAL ESTATE TAXES

SECTION 3.1. The Tenant covenants and agrees that it shall, within twenty (20) days of written demand by the Landlord to the Tenant, pay to the Landlord, as Additional Rent, any and all Taxes (as hereinafter defined) of any nature whatsoever assessed or imposed against the Premises for each and every Lease Year during the Term of this Lease. The Landlord hereby agrees that any demand given by the Landlord to the Tenant pursuant to the provisions of this Section 3.1 shall include an accurate copy of the invoice, statement, bill or similar document issued by the relevant Governmental Authority or Governmental Authorities, as the case may be, with respect to the Taxes for which payment is demanded. For purposes of this Section 3.1, "Taxes" shall include, without limitation, any and all taxes assessed against the Premises, all personal property taxes, all ad valorem taxes and any and all other taxes assessed against the Premises by any Governmental Authority, now or hereafter, but shall EXCLUDE any special assessments or charges for improvements or infrastructure effected or installed prior to the Commencement Date. With respect to Taxes for

tax periods commencing before or ending after the Term of this Lease, Tenant shall only be obligated to pay to Landlord the pro rata portion of such Taxes equal to the portion of such tax period falling within the Term of this Lease.

ARTICLE 4
UTILITIES

SECTION 4.1. The Tenant shall contract for in its name, and covenants and agrees that it shall pay when due any and all charges incurred for, any and all utilities supplied to the Premises including, without limitation, electricity, water, heating oil and/or natural gas. Landlord represents and warrants to Tenant that electricity, water, telephone, sewer, and natural gas, if any, are present at and available to the Premises in quantities sufficient for Tenant's business purposes.

SECTION 4.2. Landlord shall not be liable in any way to Tenant for any interruption or failure of or defect in the supply or character of any utility furnished to the Premises, now or hereafter, or for any loss, damage or expense Tenant may sustain if either the quantity or character of any utility is changed or is no longer suitable for Tenant's requirements, whether by reason of any requirement, act or omission of the public utility serving the Premises or for any other reason whatsoever. Notwithstanding the provisions of this Section 4.2, the Landlord shall be responsible for any and all actual damages suffered by the Tenant as a result of any interruption of utility service to the extent caused by the Landlord's gross negligence or intentional misconduct, and Rent shall abate until such service is fully restored.

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SECTION 4.3. If any Taxes are imposed upon Landlord with respect to any utility furnished as a service to Tenant by any Governmental Authority, Tenant agrees that such Taxes shall be reimbursed by Tenant to Landlord upon written demand. The Landlord hereby agrees that any demand given by the Landlord to the Tenant pursuant to the provisions of this Section 4.3 shall include an accurate copy of the invoice, statement, bill or similar document issued by the relevant Governmental Authority or Governmental Authorities, as the case may be, with respect to the Taxes for which payment is demanded.

ARTICLE 5
USE AND OCCUPANCY

SECTION 5.1. Tenant shall use and occupy the Premises for the Permitted Use and for no other purpose of any nature whatsoever. However, nothing contained herein shall require Tenant to operate or occupy the Premises continuously during the Term.

ARTICLE 6
ALTERATIONS

SECTION 6.1.

(A) (1) Except as provided below, prior to making any additions, alterations or improvements to the Premises, Tenant shall: (i) submit to Landlord plans and specifications for approval by the Landlord (including to the extent reasonably applicable, layout, architectural, electrical, mechanical and structural drawings) that comply with all Requirements for each proposed addition, alteration or improvement to the Premises, and Tenant shall not commence any such work without first obtaining Landlord's approval of such plans and specifications; and (ii) at Tenant's expense, obtain all permits, approvals and certificates required by any Governmental Authorities. Upon completion of such addition, alteration or improvement, Tenant, at Tenant's expense, shall obtain certificates of final approval of such addition, alteration or improvement required by any Governmental Authority and shall furnish Landlord with copies thereof. All additions, alterations and improvements shall be made and performed in accordance with the plans and specifications therefor as approved by Landlord and otherwise in accordance with all Requirements. All materials and equipment to be incorporated in the Premises as a result thereof shall

be good quality and no such materials or equipment shall be subject to any lien, encumbrance, chattel mortgage, title retention or security agreement.

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(A) (2) Notwithstanding anything to the contrary contained in this Lease, Tenant shall have the right to make any alterations, additions and improvements to the Premises without the consent of the Landlord if and only if: (i) the total cost of such alterations, additions or improvements do not exceed Fifty Thousand and No/100 Dollars (\$50,000.00) for any Lease Year; and (ii) Tenant shall not remove, materially alter or otherwise impair any structural element of the Premises or the Building System.

(A) (3) Tenant agrees that any review or approval by Landlord of any plans and/or specifications with respect to any alteration, addition and improvement is solely for Landlord's benefit, and without any representation or warranty whatsoever to Tenant or any other Person with respect to the adequacy, correctness or sufficiency thereof or with respect to Requirements or otherwise.

(A) (4) Landlord, at Tenant's expense, and upon the request of Tenant, shall join in any applications for any permits, approvals or certificates required to be obtained by Tenant in connection with any permitted alteration, addition and improvement (provided that the provisions of the applicable Requirements shall require that Landlord join in such application) and shall otherwise cooperate with Tenant in connection therewith; provided, however, that Landlord shall not be obligated to incur any cost or expense or liability in connection therewith.

(B) All alterations, additions and improvements shall become a part of the Premises and shall be Landlord's property from and after the installation thereof and may not be removed or changed without Landlord's prior written consent. All Tenant's Property shall remain the property of Tenant and, on or before the Expiration Date or earlier end of the Term, may be removed from the Premises by Tenant at Tenant's sole cost and option; provided, however, that Tenant shall repair and restore in a good and workmanlike manner any damage to the Premises caused by such removal. The provisions of this Section 6.1(B) shall survive the expiration or earlier termination of this Lease.

(C) (1) Any mechanic's lien filed against the Premises for work claimed to have been done for, or materials claimed to have been furnished to, Tenant shall be contested by appropriate judicial proceedings or shall be canceled or discharged by Tenant, at Tenant's expense, within ninety (90) days after such lien shall be filed and Tenant receives notice thereof, by payment or filing of the bond required by law.

(C) (2) If Tenant shall fail to contest or discharge such mechanic's lien within the aforesaid period, then, in addition to any other right or remedy of Landlord, Landlord may, but shall not be obligated to, discharge the same either by paying the amount claimed to be due or by procuring the discharge of such lien by deposit in court or bonding.

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(C) (3) Any amount paid by Landlord for any of the aforesaid charges and for all expenses of Landlord (including, but not limited to, reasonable attorneys' fees and disbursements) incurred in defending any such action, discharging said lien or in procuring the discharge of said lien, with interest on all such amounts at the Applicable Rate, shall be repaid by Tenant within twenty (20) days after written demand therefor, and all amounts so repayable, together with such interest, shall be considered Additional Rent.

(D) Tenant shall have the right, at its sole cost and expense, to erect and maintain any exterior signs on the Premises with the prior

written consent of Landlord so long as the same comply with all applicable Requirements. Landlord acknowledges consent to Tenant's signage in existence as of the Commencement Date.

ARTICLE 7
REPAIRS; REPLACEMENTS; MAINTENANCE

SECTION 7.1. Except for those repairs, replacements or maintenance required to be effected by Landlord, and further subject to the right of reimbursement herein provided, Tenant, at Tenant's sole cost and expense, shall take good care of the Premises and the improvements, buildings, Building Systems, fixtures, equipment, parking lots, landscaping and appurtenances located thereon and make all non-structural repairs, REPLACEMENTS or alterations thereto of any nature whatsoever as and when needed to preserve them in as good working order and condition as exists as of the Commencement Date, ordinary wear and tear excepted, ("Maintenance Repairs") or to comply with any Requirement ("Requirement Alteration"). If Tenant shall fail, after thirty (30) days Notice (or such shorter period as may be required because of an emergency), to commence to make repairs, replacements or alterations required to be made by Tenant and complete the same within a reasonable period of time thereafter exercising due diligence, the same may be made by Landlord, at the expense of Tenant, and the expenses thereof incurred by Landlord, with interest thereon at the Applicable Rate, shall be paid to Landlord, as Additional Rent, within twenty (20) days after rendition of a bill or statement therefor. Tenant shall give Landlord prompt Notice of any defective condition known to Tenant in any Building Systems located in, servicing or passing through the Premises. If the cost of any Maintenance Repair or Requirement Alteration, whether structural or non-structural, exceeds \$10,000.00, and Landlord consents to such Maintenance Repair or Requirement Alteration after prior written notice from Tenant, then upon termination or other expiration of this Lease Landlord shall reimburse to Tenant the pro rata portion of the cost of such Maintenance Repair or Requirement Alterations equal to the portion of the useful life of such Maintenance Repair or Requirement Alterations that remains after the expiration or other termination of this Lease. The useful life of such Maintenance Repair or Requirement Alterations shall be established by the party making such Maintenance Repair or Requirement Alterations at the time made. Notwithstanding anything to the contrary contained in this Section, in no event shall Tenant be responsible for any repair, item of maintenance or replacement to the extent the same is caused by the negligence or willful misconduct of Landlord or Landlord's employees, contractors or agents.

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SECTION 7.2. Landlord hereby assigns all warranties and guaranty agreements relating to the Premises and the Building Systems to Tenant during the Term.

SECTION 7.3. Landlord hereby agrees to repair, maintain and replace all structural portions of the Premises, including, without limitation, exterior walls, support columns and walls, foundation and the roof in as good repair and working order as exists as of the Commencement Date, ordinary wear and tear excepted.

ARTICLE 8
REQUIREMENTS OF LAW

SECTION 8.1. Tenant shall not do, and shall not permit (to the extent Tenant has control over the same) any act or thing in or upon the Premises which will invalidate or be in conflict with the certificate of occupancy for the Premises or violate any Requirements. Tenant shall immediately take all action, including but not limited to, making any Requirement Alterations necessary to comply with all Requirements which shall or may impose any violation, order or duty upon Landlord or Tenant arising from or in connection with the Premises, Tenant's occupancy, use or manner of use of the Premises or any installations in the Premises, or required by reason of a breach of any of Tenant's covenants or agreements under this Lease, whether or not such Requirements shall now be in effect or hereafter enacted or issued, and whether or not any work required shall be ordinary or extraordinary or foreseen or

unforeseen as of the date hereof. Landlord represents and warrants to Tenant that as of the Commencement Date no condition exists with respect to the Premises that will necessitate any Requirement Alteration.

SECTION 8.2. Tenant covenants and agrees that Tenant shall, at Tenant's sole cost and expense, comply at all times with all Requirements governing the use, generation, storage, treatment and/or disposal of any Hazardous Materials (as defined below) in, on, under, about or from the presence of which results from or in connection with the act or omission of Tenant or Persons Within Tenant's Control or the breach of this Lease by Tenant or Persons Within Tenant's Control. The term "Hazardous Materials" shall mean any biologically or chemically active or other toxic or hazardous wastes, pollutants or substances, including, without limitation, asbestos, PCBS, petroleum products and by-products, substances defined or listed as "hazardous substances" or "toxic substances" or similarly identified in or pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. ' 9601 ET SEQ., and as hazardous wastes under the Resource Conservation and Recovery Act, 42 U.S.C. ' 6010, ET SEQ., any chemical substance or mixture regulated under the Toxic Substance Control Act of 1976, as amended, 15 U.S.C. 2601, ET SEQ., any "toxic pollutant" under the Clean Water Act, 33 U.S.C. ' 466 ET SEQ., as amended, any hazardous air pollutant under the Clean Air Act, 42 U.S.C. ' 7401 ET SEQ., hazardous materials identified in or pursuant to the Hazardous Materials Transportation Act, 49 U.S.C. ' 1802, ET SEQ., and any hazardous or toxic substances or pollutant regulated under any other Requirements. Tenant shall indemnify and hold harmless all Indemnitees from and against any loss, claim, cost, damage, liability or expense (including attorneys' fees and disbursements) arising by reason of any clean up, removal, remediation, detoxification action or any other activity required or recommended of any Indemnitees by any Governmental Authority by reason of the presence in, on, under or about the Premises of any Hazardous Materials, as a result of or in connection with the act or omission of Tenant or Persons Within Tenant's Control or the breach of this Lease by Tenant or Persons Within Tenant's Control. Landlord shall indemnify and hold harmless all Tenant Indemnitees from and against any loss, claim, cost, damage, liability or expense (including attorneys' fees and disbursements) arising by reason of any clean up, removal, remediation, detoxification action or any other activity required or recommended of any Tenant Indemnitees by any Governmental Authority by reason of the presence in, on, under or about the Premises of any Hazardous Materials either in existence on the Commencement Date or that come to exist thereafter that are not the result of or in connection with the act or omission of Tenant or Persons Within Tenant's Control or the breach of this Lease by Tenant or Persons Within Tenant's Control. The foregoing covenants and indemnities shall survive the expiration or any termination of this Lease.

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SECTION 8.3. Landlord represents and warrants to Tenant that as of the date hereof Landlord has no notice of the presence, generation, storage, disposal or other use of Hazardous Materials on, in or under the Premises prior to the date hereof or any violation of any violation of any applicable Requirements relating to Hazardous Materials.

SECTION 8.4. If Tenant shall receive notice of any violation of or defaults under, any Requirements, liens or other encumbrances applicable to the Premises, Tenant shall give immediate written Notice thereof to Landlord.

SECTION 8.5. If any governmental license or permit shall be required for the proper and lawful conduct of Tenant's business and if the failure to secure such license or permit would, in any way, affect Landlord or the Premises, then Tenant, at Tenant's expense, shall promptly procure and thereafter maintain, submit for inspection by Landlord, and at all times comply with the terms and conditions of, each such license or permit.

ARTICLE 9
SUBORDINATION

SECTION 9.1. This Lease shall at all times, now and hereafter, be subject and subordinate to each and every Mortgage, whether made prior to or

after the execution of this Lease, and to all extensions, supplements, amendments, modifications, consolidations and replacements thereof or thereto, substitutions therefor, and advances made thereunder, provided that the Mortgagee confirms and accepts the provisions of Section 9.5 below. This clause shall be self-operative and no further agreement of subordination shall be required to make the interest of any Mortgagee superior to the interest of Tenant hereunder. In confirmation of such subordination, Tenant shall promptly execute and deliver, at its own cost and expense, any document, in recordable form if requested, that Landlord or any Mortgagee may request to evidence such subordination; and if Tenant fails to execute, acknowledge or deliver any such document within twenty (20) days after request therefor, Tenant hereby irrevocably constitutes and appoints Landlord as Tenant's attorney-in-fact, coupled with an interest, to execute, acknowledge and deliver any such document for and on behalf of Tenant.

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SECTION 9.2. The subordination set forth in Section 9.1 above is subject to the written agreement (a "Non-Disturbance Agreement") by any Mortgagee or any other person to whom Tenant may be required to attorn, that so long as Tenant is in compliance with the terms of this Lease, Tenant's use and occupancy of the Premises shall not be disturbed, and that all provisions of the Lease shall be given effect, including those related to the application of any proceeds of insurance. Landlord shall cause each Mortgagee, whether pursuant to a Mortgage now existing or hereafter arising, to execute and deliver to Tenant a Non-Disturbance Agreement, subject to the terms of the preceding sentence, in a form acceptable to such Mortgagee.

ARTICLE 10

INSURANCE; PROPERTY LOSS OR DAMAGE; REIMBURSEMENT

SECTION 10.1.

(A) Neither Landlord nor Landlord's agents shall be liable for any injury or damage to persons or property, or interruption of Tenant's business, resulting from fire or other casualty caused by Persons other than the Landlord.

(B) Tenant shall give written Notice to Landlord, promptly after Tenant learns thereof, of any accident, emergency, occurrence, fire or other casualty and all damages to or defects in the Premises for the repair of which Landlord might be responsible. Such Notice shall be given by telecopy or personal delivery to the address(es) of Landlord in effect for Notice.

SECTION 10.2. Tenant shall not do or permit to be done any act or thing in or upon the Premises which will invalidate or be in conflict with the terms of the State of Indiana standard form of fire insurance with extended coverage, or with rental, liability, boiler, sprinkler, water damage, war risk or other insurance policies covering the Premises (hereinafter referred to as "Building Insurance"); and Tenant, at Tenant's own expense, shall comply with all rules, orders, regulations and requirements of all insurance boards.

SECTION 10.3.

(A) Tenant shall, at Tenant's own cost and expense, obtain, maintain and keep in full force and effect during the Term, for the benefit of Landlord, any Mortgagees and Tenant, the Building Insurance in an amount equal to the replacement value of the Building and its contents (not to exceed \$1,815,700.00) and commercial general liability insurance (including premises operation, bodily injury, personal injury, death, independent contractors, broad form contractual liability and broad form property damage coverages) with coverage limits of \$1,000,000 per occurrence and \$2,000,000 in the aggregate, against all claims, demands or actions with respect to damage, injury or death made by or on behalf of any person or entity, arising from or relating to the conduct and operation of Tenant's business in, on or about the Premises (which shall include Tenant's signs, if any), or arising from or related to any act or

omission of Tenant or of Persons Within Tenant's Control.

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(B) Landlord and any Mortgagees shall be named as additional insureds in said policies. All said policies of insurance shall be: (i) written as "occurrence" policies; (ii) written as primary policy coverage and not contributing with or in excess of any coverage which Landlord may carry; and (iii) issued by reputable and independent insurance companies rated in Best's Insurance Guide, or any successor thereto (or if there be none, an organization having a national reputation) as having a general policyholder rating of "A" and a financial rating of at least "XI", and which are licensed to do business in the State of Indiana. Upon Landlord's request, Tenant shall deliver to Landlord the policies of insurance or certificates thereof, together with evidence of payment of premiums thereon, and shall thereafter furnish to Landlord, at least thirty (30) days prior to the expiration of any such policies and any renewal thereof, a new policy or certificate in lieu thereof, with evidence of the payment of premiums thereon. Each of said policies shall also contain a provision whereby the insurer agrees not to cancel, fail to renew, diminish or materially modify said insurance policy(ies) without having given Landlord and any Mortgagees at least thirty (30) days prior written Notice thereof.

(C) Tenant shall pay all premiums and charges for all of said policies, and, if Tenant shall fail to make any payment when due or carry any such policy, Landlord may, but shall not be obligated to, make such payment or carry such policy, and the amount paid by Landlord, with interest thereon (at the Applicable Rate), shall be repaid to Landlord by Tenant on demand, and all such amounts so repayable, together with such interest, shall be deemed to constitute Additional Rent hereunder. Payment by Landlord of any such premium, or the carrying by Landlord of any such policy, shall not be deemed to waive or release the default of Tenant with respect thereto.

(D) Tenant, at Tenant's sole cost and expense, shall maintain insurance protecting and indemnifying Tenant against any and all damage to or loss of Tenant's Property, and all claims and liabilities relating thereto.

SECTION 10.4.

(A) Landlord and Tenant hereby release each other and their respective agents, employees, partners, shareholders, officers and directors from any claims or actions for damage to the Premises or Tenant's Property to the extent the same are covered by proceeds of any insurance policies maintained by the parties hereto under the terms of this Lease or in force at the time of any such damage. Each party shall cause each insurance policy obtained by it to provide that the insurance company waives all rights of recovery by way of subrogation against the other party in connection with any damage covered by any such policy.

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(B) The waiver of subrogation referred to in Section 10.4(A) above shall extend to the agents and employees of each party, but only if and to the extent that such waiver can be obtained without additional charge (unless such party shall pay such charge). Nothing contained in this Section 10.4 shall be deemed to relieve the Landlord or Tenant from any duty imposed elsewhere in this Lease to repair, restore and rebuild the Premises, in whole or in part.

ARTICLE 11 DESTRUCTION BY FIRE OR OTHER CAUSE

SECTION 11.1. If the Premises or any part thereof shall be damaged by fire or other casualty, Tenant shall give immediate written Notice thereof to

Landlord. Landlord shall, subject to the provisions of Sections 11.2 and 11.3 below, proceed with reasonable diligence, after receipt of the net proceeds of insurance, to repair or cause to be repaired such damage at its expense, to the condition immediately preceding such damage and, if the Premises, or any part thereof, shall be rendered untenantable by reason of such damage, then the Fixed Rent hereunder, or an amount thereof apportioned according to the area of the Premises so rendered untenantable (if less than the entire Premises shall be so rendered untenantable), shall be abated for the period from the date of such damage to the date that is thirty (30) days after the date when the repair of such damage shall have been substantially completed. If Landlord or any Mortgagee shall be unable to collect the insurance proceeds applicable to such damage because of some action or inaction on the part of Tenant or Persons Within Tenant's Control, then Landlord shall have no duty to make such repairs or effect any restoration hereunder. Tenant covenants and agrees to cooperate with Landlord and any Mortgagee in their efforts to collect insurance proceeds (including rent insurance proceeds) payable to such parties. Landlord shall not be liable for any delay which may arise by reason of adjustment of insurance on the part of Landlord and/or Tenant, or any cause beyond the control of Landlord or contractors employed by Landlord.

SECTION 11.2. Landlord shall not be liable for any inconvenience or annoyance to Tenant or injury to the business of Tenant resulting in any way from damage from fire or other casualty or the repair thereof unless caused by Landlord. Tenant understands that Landlord, in reliance upon Section 10.3 hereof, will not carry insurance of any kind on Tenant's Property, and that Landlord shall not be obligated to repair any damage thereto or replace the same.

SECTION 11.3.

(A) Notwithstanding anything to the contrary contained in Sections 11.1 and 11.2 above, in the event that:

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(1) at least fifty (50%) percent of the rentable square feet of the Premises shall be damaged by a fire or other casualty so that substantial alteration or reconstruction of the Premises shall be required (whether or not the remainder of the Premises shall have been damaged by such fire or other casualty and without regard to the structural integrity of the Premises); or

(2) the Premises shall be totally or substantially damaged or shall be rendered wholly or substantially unsuitable for the Permitted Use; or

(3) the Landlord fails to commence any repairs, reconstruction or restoration of the Premises within sixty (60) days after a casualty; or

(4) Landlord fails complete all repairs, reconstruction or restoration of the Premises within one hundred twenty (120) days after the date of casualty;

then, as a result of any circumstances described in subparagraphs (1), (2), (3) or (4) hereof, the Tenant, at Tenant's option, may terminate this Lease and the term and estate hereby granted, by notifying the Landlord in writing of such termination within one hundred twenty (120) days after the date of such damage [as to subparagraphs (1) and (2)] or within thirty (30) days after the passage of the times periods in subparagraphs (3) and (4) above. In the event that such a Notice of termination shall be given, then this Lease and the term and estate hereby granted shall expire as of the date of termination stated in said Notice with the same effect as if that date were the Fixed Expiration Date, and the Fixed Rent and Additional Rent hereunder shall be apportioned as of such date. Notwithstanding the termination of this Lease as provided in this Subsection 11.3(A) Landlord shall be obligated to reimburse to Tenant a portion of the cost

of any Maintenance Repair or Requirement Alterations to the extent required by Section 7.1 above. In the event of an occurrence as described in subparagraphs (1) or (2) above, Landlord, at Landlord's option, may terminate this Lease and the term and estate hereby granted by notifying Tenant in writing of such termination within one hundred twenty (120) days after the date of such damage.

ARTICLE 12
EMINENT DOMAIN

SECTION 12.1. If the whole of the Premises is acquired or condemned for any public or quasi-public use or purpose, this Lease and the Term shall end as of the date of the vesting of title with the same effect as if said date were the Fixed Expiration Date. If only a part of the Premises is so acquired or condemned then, except as hereinafter provided in this Section 12.1, this Lease and the Term shall continue in effect but, if a part of the Premises is so acquired or condemned, from and after the date of the vesting of title, the Fixed Rent and Additional Rent, if any, shall be reduced in the proportion which the area of the part of the Premises so acquired or condemned bears to the total area of the Premises immediately prior to such acquisition or condemnation. If the part of the Premises acquired or condemned contains more than fifty percent (50%) of the rentable square feet of the Premises or if, by reason of such acquisition or condemnation, the Premises shall be rendered wholly or substantially unsuitable for the Permitted Use, then either Landlord or Tenant may terminate this Lease and the Term and estate hereby granted, by notifying the other party in writing of such termination within one hundred twenty (120) days after the date upon which Tenant receives Notice of vesting of title. In the event that such Notice of termination shall be given, then this Lease and the Term and estate hereby granted shall expire as of the date of termination stated in said Notice, with the same effect as if that date were the Fixed Expiration Date. In the event of any termination of this Lease and the Term pursuant to the provisions of this Section 12.1, the Fixed Rent or Additional Rent shall be apportioned as of the date of sooner termination and any prepaid portion of the Fixed Rent for any period after such date shall be refunded by Landlord to Tenant.

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SECTION 12.2. In the event of any such acquisition or condemnation of all or any part of the Premises, Landlord shall be entitled to receive the entire award for any such acquisition or condemnation, but shall be obligated to proceed with reasonable diligence to repair and restore the Premises, at Landlord's expense, to a condition most suitable for the Permitted Use. Tenant shall have no claim against Landlord or the condemning authority for the value of any unexpired portion of the Term and Tenant hereby expressly assigns to Landlord all of its right in and to any such award. Nothing contained in this Section 12.2 shall be deemed to prevent Tenant from making a separate claim in any condemnation proceedings for the value of any Tenant's Property included in such taking, and for any moving expenses, so long as Landlord's award is not reduced thereby.

SECTION 12.3.

(A) Notwithstanding anything to the contrary contained in Sections 12.1 and 12.2 above, in the event that:

(1) the Landlord fails to commence any repairs, reconstruction or restoration of the Premises within sixty (60) days after the physical taking of a portion of the Premises; or

(2) Landlord fails complete all repairs, reconstruction or restoration of the Premises within one hundred twenty (120) days after the date of such physical taking,

then, as a result of any circumstances described in subparagraphs (1) or (2) hereof, the Tenant, at Tenant's option, may terminate this Lease and the term and estate hereby granted, by notifying the Landlord in writing of such termination within thirty (30) days after the passage of the times periods in subparagraphs (1) and (2) above. In the event that such a Notice of termination

shall be given, then this Lease and the term and estate hereby granted shall expire as of the date of termination stated in said Notice with the same effect as if that date were the Fixed Expiration Date, and the Fixed Rent and Additional Rent hereunder shall be apportioned as of such date. Notwithstanding the termination of this Lease as provided in this Subsection 12.3(A) Landlord shall be obligated to reimburse to Tenant a portion of the cost of any Maintenance Repair or Requirement Alterations to the extent required by Section 7.1 above.

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ARTICLE 13
ASSIGNMENT; SUBLETTING; MORTGAGE; ETC.

SECTION 13.1.

(A) The Tenant shall not: (i) assign this Lease; or (ii) mortgage or encumber Tenant's interest in this Lease, in whole or in part; or (iii) sublet, or permit the subletting of, the Premises or any part thereof without the prior consent of Landlord. Notwithstanding the provisions of this Section 13.1, the use of the Premises by any Person AFFILIATED (as such term is hereinafter defined) with the Tenant or under the COMMON CONTROL (as such term is hereinafter defined) of Comfort Systems USA, Inc., as the case may be, shall not be deemed an assignment of this Lease or a sublet of the Premises, provided Tenant is not in default and remains fully obligated pursuant to the terms and conditions of this Lease. For purposes of this Article 13, a Person shall be deemed to be an "affiliate" of the Tenant or under the "common control" of Comfort Systems USA, Inc., if such Person is a member of a "parent-subsidiary controlled group" as such term is defined by Section 1563(a)(1) of the Internal Revenue Code of 1986, as amended or a member of a "brother-sister controlled group" as such term is defined by Section 1563(a)(2) of the Internal Revenue Code of 1986, as amended of which either Comfort Systems USA, Inc. or the Tenant, as the case may be, is a member.

(B) Notwithstanding the provisions otherwise set forth in this Article 13, no reorganization, consolidation and/or restructuring of the Tenant or the sale or transfer of any of its stock shall be deemed an assignment of this Lease or a sublet of the Premises, provided that the surviving entity resulting from such reorganization, consolidation and/or restructuring remains fully obligated pursuant to the terms and conditions of this Lease as Tenant.

SECTION 13.2. If Tenant's interest in this Lease shall be assigned in violation of the provisions of this Article 13, such assignment shall be invalid and of no force and effect against Landlord. If the Premises or any part thereof are sublet to, or occupied by, or used by, any person other than Tenant, whether or not in violation of this Article 13, Landlord, may collect an amount equal to the then Fixed Rent plus any other items of Rental or other sums paid by the subtenant, user or occupant as a fee for its use and occupancy, and shall apply the net amount collected to the Fixed Rent and the other items of Rental reserved in this Lease. No such assignment, subletting, occupancy, or use, nor any such collection or application of Rental or fee for use and occupancy, shall be deemed a waiver by Landlord of any term, covenant or condition of this Lease or the acceptance by Landlord of such assignee, subtenant, occupant or user as Tenant hereunder, nor shall the same, in any circumstances, relieve Tenant of any of its obligations under this Lease.

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ARTICLE 14
ACCESS TO PREMISES

SECTION 14.1. Landlord or Landlord's agents shall have the right to enter the Premises at all reasonable times during Tenant's regular business hours upon (except in case of emergency) reasonable prior notice, which notice

may be oral, to examine the same, to show the same to prospective purchasers or Mortgagees and to make such repairs, alterations, improvements or additions: (i) as Landlord may deem necessary or required under the terms of the Lease; or (ii) which Landlord may elect to perform at least twenty (20) days after notice (except in an emergency when no notice shall be required) following Tenant's failure to make repairs or perform any work which Tenant is obligated to make or perform under this Lease, and Landlord shall be allowed to take all material into and upon the Premises that may be required therefor without the same constituting an eviction or constructive eviction of Tenant in whole or in part and except as herein provided the Fixed Rent (and any other item of Rental) shall in no respect abate or be reduced by reason of said repairs, alterations, improvements or additions, wherever located, or while the same are being made, by reason of loss or interruption of business of Tenant, or otherwise. Landlord shall promptly repair any damage caused to the Premises or Tenant's Property by such work, alterations, improvements or additions. In all events, Landlord shall use its best efforts not to interfere with or obstruct Tenant's business activities on or in the Premises during any entry.

ARTICLE 15
CERTIFICATE OF OCCUPANCY

SECTION 15.1. Landlord represents and warrants to Tenant that use and occupancy of the Premises for the Permitted Uses shall not violate the certificate of occupancy for the Premises or any Requirement. Tenant shall not at any time, now or hereafter, use or occupy the Premises, directly or indirectly, in violation of the certificate of occupancy for the Premises and in the event that any Governmental Authority hereafter contends or declares by notice, order or in any other manner whatsoever that the Premises are used for a purpose that is not included in the Permitted Uses and is a violation of such certificate of occupancy, Tenant shall, upon three (3) Business Days' written Notice from Landlord or any Governmental Authority, immediately discontinue such use of the Premises.

ARTICLE 16
DEFAULT

SECTION 16.1. Each of the following events shall be an "Event of Default" under this Lease:

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(A) if Tenant shall on any occasion default in the payment when due of any installment of Fixed Rent or Additional Rent or in the payment when due of any other item of Rental and such default shall continue for ten (10) days from and after the date on which Landlord gives Tenant written Notice specifying such default; or

(B) (1) if Tenant shall not, or shall be unable to, or shall admit in writing Tenant's inability to, as to any obligation, pay Tenant's debts as they become due; or

(B) (2) if Tenant shall commence or institute any case, proceeding or other action (a) seeking relief on Tenant's behalf as debtor, or to adjudicate it a bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to Tenant or Tenant's debts under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization or relief of debtors, or (b) seeking appointment of a receiver, trustee, custodian or other similar official for it or for all or any substantial part of its property; or

(B) (3) if Tenant shall make a general assignment for the benefit of creditors; or

(B) (4) if any case, proceeding or other action shall be commenced or instituted against Tenant (a) seeking to have an order for relief entered against Tenant as debtor or to adjudicate Tenant a bankrupt or insolvent,

or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to Tenant or Tenant's debts under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization or relief of debtors, or (b) seeking appointment of a receiver, trustee, custodian or other similar official for Tenant or for all or any substantial part of Tenant's property, which either: (i) results in any such entry of an order for relief, adjudication of bankruptcy or insolvency or such an appointment or the issuance or entry of any other order having a similar effect; or (ii) remains undismissed for a period of sixty (60) days; or

(B) (5) if a trustee, receiver or other custodian shall be appointed for any substantial part of the assets of Tenant which appointment is not vacated or effectively stayed within ninety (90) days; or

(C) if Tenant shall default in the observance or performance of any other term, covenant or condition of this Lease on Tenant's part to be observed or performed, and Tenant shall fail to remedy such default within thirty (30) days after written Notice by Landlord to Tenant of such default, or if such default is of such a nature that it cannot with due diligence be completely remedied within said period of thirty (30) days, if Tenant shall not: (i) duly institute within said thirty (30) day period; and (ii) thereafter diligently and continuously prosecute to completion all steps necessary to remedy the same.

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SECTION 16.2. If an Event of Default shall occur, Landlord may, at any time thereafter, at Landlord's option, give written Notice to Tenant stating that this Lease and the Term shall expire and terminate on the date specified in such Notice, which date shall not be less than ten (10) days after the giving of such Notice, whereupon this Lease and the Term and all rights of Tenant under this Lease shall automatically expire and terminate as if the date specified in the Notice given pursuant to this Section 16.2 were the Fixed Expiration Date and Tenant thereafter shall quit and surrender the Premises, but Tenant shall remain liable for damages as provided herein or pursuant to law. Anything contained herein to the contrary notwithstanding, if such termination shall be stayed by order of any court having jurisdiction over any proceeding described in Section 16.1(B), or by federal or state statute, then, following the expiration of any such stay, or if the trustee appointed in any such proceeding, Tenant or Tenant as debtor-in-possession fails to assume Tenant's obligations under this Lease within the period prescribed therefor by law or within one hundred twenty (120) days after entry of the order for relief or as may be allowed by the court, or if said trustee, Tenant or Tenant as debtor-in-possession shall fail to provide adequate protection of Landlord's right, title and interest in and to the Premises or adequate assurance of the complete and continuous future performance of Tenant's obligations under this Lease, Landlord, to the extent permitted by law or by leave of the court having jurisdiction over such proceeding, shall have the right, at its election, to terminate this Lease on ten (10) days' Notice to Tenant, Tenant as debtor-in-possession or said trustee and upon the expiration of said ten (10) day period this Lease shall cease and expire as aforesaid and Tenant, Tenant as debtor-in-possession or said trustee shall thereafter quit and surrender the Premises as aforesaid.

SECTION 16.3. If, at any time: (i) Tenant shall consist of two (2) or more Persons; or (ii) Tenant's obligations under this Lease shall have been guaranteed by any Person other than Tenant; or (iii) Tenant's interest in this Lease has been assigned, the word "Tenant" as used and referred to in this Lease, shall be deemed to mean any one or more of the persons primarily or secondarily liable for Tenant's obligations under this Lease. Any monies received by Landlord from or on behalf of Tenant during the pendency of any proceeding of the types referred to in Section 16.1(B) hereof shall be deemed paid as compensation for the use and occupancy of the Premises and the acceptance of any such compensation by Landlord shall not be deemed an acceptance of Rental or a waiver on the part of Landlord of any rights under Section 16.2 hereof.

SECTION 16.4. In the event of any default by Landlord hereunder, except as otherwise provided herein, Tenant will give Landlord written notice specifying such default with particularity, and Landlord shall thereupon have thirty (30) days in which to cure such default or to commence to cure such default if any such default cannot be reasonably cured within such 30-day period, in which event Landlord shall prosecute such cure with diligence to a conclusion. Unless and until Landlord fails to so cure or proceed with diligence to cure any default after such notice, Tenant shall not have any remedy or cause of action by reason thereof.

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If Landlord is in default hereunder, and fails to cure the same timely, in addition to any and all other rights, remedies and recourses available to Tenant, Tenant may undertake to cure such default on behalf of Landlord, and thereupon Landlord agrees to pay Tenant, upon demand, all costs, expenses and disbursements (including reasonable attorneys' fees) incurred by Tenant in taking such remedial actions with interest thereon at the Applicable Rate. In addition to the foregoing, Tenant shall also have the same rights granted to Landlord under Section 17.1(B) relating to injunctive or equitable relief. The right to invoke the remedies hereinbefore set forth are cumulative and shall not preclude Tenant from invoking any other remedy allowed at law or in equity.

ARTICLE 17
REMEDIES AND DAMAGES

SECTION 17.1.

(A) If any Event of Default shall occur, or this Lease and the Term shall expire and come to an end as provided in Article 16 hereof:

(1) Tenant shall quit and peacefully surrender the Premises to Landlord, and Landlord and its agents may, after the date upon which this Lease and the Term shall expire and come to an end, re-enter the Premises or any part thereof, without Notice, either by summary proceedings, or by any other applicable action or proceeding or otherwise, and may repossess the Premises and dispossess Tenant and any other persons from the Premises by summary proceedings or otherwise and remove any and all of their property and effects from the Premises (and Tenant shall remain liable for damages as provided herein or pursuant to law); and

(2) Landlord, at Landlord's option, may relet the whole or any part or parts of the Premises from time to time, either in the name of Landlord or otherwise, to such tenant or tenants, for such term or terms ending before, on or after the Fixed Expiration Date, at such rent or rentals and upon such other conditions, which may include concessions and free rent periods, as Landlord may determine; provided, however, that Landlord shall exercise reasonable efforts to mitigate any damages related to liability of Tenant under this Lease.

(B) In the event of a breach or threatened breach by Tenant, or any persons claiming through or under Tenant, of any term, covenant or condition of this Lease, Landlord shall have the right to enjoin such breach.

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SECTION 17.2.

(A) If this Lease and the Term shall expire and come to an end as provided in Article 2 hereof, or by or under any summary proceeding or any other action or proceeding, or if Landlord shall re-enter the Premises as provided in Section 17.1 hereof, or by or under any summary proceeding or any other action or proceeding, then, in any of said events:

(1) Tenant shall pay to Landlord all Fixed Rent, Additional Rent and other items of Rental payable under this Lease by Tenant to Landlord to the date upon which this Lease and the Term shall have expired and come to an end or to the date of re-entry upon the Premises by Landlord, as the case may be;

(2) if Landlord has not terminated the Lease, but only Tenant's right of possession to the Premises, Tenant also shall be liable for and shall pay to Landlord, as damages, any deficiency ("Deficiency") between the Rental for the period which is the unexpired portion of the Term and the net amount, if any, of rents collected under any reletting effected pursuant to the provisions of Section 17.1(A)(2) for any part of such period (after first deducting from the rents collected under any such reletting all of Landlord's reasonable and actual expenses in connection with the termination of Tenant's right of possession, Landlord's re-entry upon the Premises and such reletting including, but not limited to, all repossession costs, brokerage commissions, attorneys' fees and disbursements, alteration costs and other expenses of preparing the Premises for such reletting, to the extent the same are allocable to the remaining Term); any such Deficiency shall be paid in monthly installments by Tenant on the days specified in this Lease for payment of installments of Fixed Rent; Landlord shall be entitled to recover from Tenant each monthly Deficiency as the same shall arise, and no suit to collect the amount of the Deficiency for any month shall prejudice Landlord's right to collect the Deficiency for any subsequent month by a similar proceeding; and

(3) alternatively, if Landlord has terminated the Lease, Landlord shall be entitled to recover from Tenant, and Tenant shall pay to Landlord, on demand, and as and for liquidated and agreed final damages, a sum equal to the amount by which the present value (calculated using the Base Rate as the discount rate) of the unpaid Rental for the period which otherwise would have constituted the unexpired portion of the Term exceeds the present value (calculated using the Base Rate as the discount rate) of the then fair and reasonable rental value of the Premises for the same period, taking into consideration reasonable costs incurred to relet the Premises; if, before presentation of proof of such liquidated damages to any court, commission or tribunal, the Premises, or any part thereof, are relet by Landlord on a fair and arms-length basis for the period which otherwise would have constituted the unexpired portion of the Term, or any part thereof, the amount of rent reserved upon such reletting shall be deemed, prima facie, to be the fair and reasonable rental value for the part or the whole of the Premises so relet during the term of the reletting.

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(B) Tenant shall in no event be entitled to any rents collected or payable under any reletting, whether or not such rents exceed the Fixed Rent reserved in this Lease. Nothing contained in this Article 17 shall be deemed to limit or preclude the recovery by Landlord from Tenant of the maximum amount allowed to be obtained as damages by any statute or rule of law, or of any sums or damages to which Landlord may be entitled in addition to the damages set forth in this Section 17.2.

ARTICLE 18 FEES AND EXPENSES

SECTION 18.1. If an Event of Default shall have occurred by Tenant or Landlord has defaulted on its obligations on this Lease and the same is not cured within any applicable cure period, the non-defaulting party may (1) perform any term, covenant or condition of this Lease for the account of the defaulting party, or (2) make any expenditure or incur any obligation for the payment of money in connection with any obligation owed to the non-defaulting

party, including, but not limited to, reasonable attorneys' fees and disbursements in instituting, prosecuting or defending any action or proceeding, and in either case the cost thereof, with interest thereon at the Applicable Rate, shall be paid by the defaulting party to the non-defaulting party within twenty (20) days after rendition of any bill or statement therefor.

ARTICLE 19
END OF TERM

SECTION 19.1. Upon the expiration or other termination of this Lease, Tenant shall quit and surrender to Landlord the Premises, vacant, broom clean, in good order and condition, ordinary wear and tear and damage by fire or other casualty or by condemnation excepted, and Tenant shall remove all of Tenant's Property and all other personal property and personal effects of all persons claiming through or under Tenant, and shall pay the cost of repairing all damage to the Premises occasioned by such removal.

SECTION 19.2. If the Premises are not surrendered upon the expiration or other termination of this Lease and all Tenant Property removed as provided above, Tenant shall be deemed to be occupying the Premises as a tenant at will, and after sixty (60) days written notice from Landlord, such continued occupancy will be at a rental equal to the Fixed Rent herein provided plus fifty percent (50%) of such amount and otherwise subject to all the conditions, provisions and obligations of this Lease insofar as the same are applicable to a tenancy at will.

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SECTION 19.3. Tenant's obligations under this Article 19 shall survive the expiration or termination of this Lease.

ARTICLE 20
NOTICES

SECTION 20.1.

(A) Except as otherwise expressly provided in this Lease, any bills, statements, consents, notices, demands, requests or other communications given or required to be given under this Lease ("Notice(s)") shall be in writing and shall be deemed sufficiently given or rendered if delivered by hand (against a signed receipt) or if deposited with a nationally recognized overnight courier or if deposited in the United States mail, and sent by first class mail, certified, return receipt requested with postage prepaid, and in any case addressed:

IF TO TENANT:

(i) at Tenant's address first set forth in this Lease and (ii) to the Premises, and

WITH A COPY TO:

Comfort Systems USA, Inc.
777 Post Oak Boulevard, Suite 500
Houston, TX 77056
Attention: General Counsel

IF TO LANDLORD:

Mark P. Shambaugh
2233 East Cedar Canyons Road
Fort Wayne, IN 46845

WITH A COPY TO:

N. Reed Silliman, Esq.
Baker & Daniels
111 East Wayne Street, Suite 800
Fort Wayne, IN 46802

and any Mortgagee who may have requested the same, by Notice given in accordance with the provisions of this Article 20, at the address

designated by such Mortgagee, or to such other address(es) as either Landlord or Tenant may designate as its new address(es) for such purpose by Notice given to the other in accordance with the provisions of this Article 20.

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(B) Notices shall be deemed to have been rendered or given (a) on the date delivered, if delivered by hand, (b) on the day after being deposited with a nationally recognized overnight courier or (c) five (5) days after deposit in the United States mail, as provided in Section 20.1(A) hereof.

ARTICLE 21
INDEMNITY

SECTION 21.1. Tenant shall not do or permit any act or thing to be done in, at or upon the Premises that may subject any Indemnitee to any liability or responsibility for injury, damage to persons or property or to any liability by reason of the existence or application of, compliance with or violation of any Requirement, but shall exercise such control over the Premises as to protect each Indemnitee fully against any such liability and responsibility. Tenant shall indemnify and save harmless the Indemnitees from and against (a) all claims against the Indemnitees arising from any accident, injury or damage whatsoever caused to any person or to the property of any person and occurring in, on or about the Premises during the Term or during Tenant's occupancy of the Premises, unless, and to the extent not, caused by the negligent or intentional misconduct of Landlord, and (b) any breach, violation or non-performance of any covenant, condition or agreement contained in this Lease to be fulfilled, kept, observed and performed by Tenant. This indemnity and hold harmless agreement shall include indemnity from and against any and all liability, claims, fines, suits, demands, costs and expenses of any kind or nature (including, without limitation, attorneys' fees and disbursements) incurred in or in connection with any such claim or proceeding brought thereon, and the defense thereof. If any claim, action or proceeding is made or brought against any Indemnitee, against which claim, action or proceeding Tenant is obligated to indemnify such Indemnitee pursuant to the terms of this Lease, then, upon demand by the Indemnitee, Tenant, at its sole cost and expense, shall contest or defend such claim, action or proceeding in the Indemnitee's name, if necessary, by such attorneys as the Indemnitee may select, including, without limitation, attorneys for the Indemnitee's insurer. The provisions of this Article 21 shall survive the expiration or earlier termination of this Lease.

SECTION 21.2. Landlord shall indemnify and save harmless the Tenant and the other Tenant Indemnitees from and against (a) all claims against the Tenant Indemnitees arising from any accident, injury or damage whatsoever caused to any person or the property of any person and occurring in, on or about the Premises during the Term or during Tenant's occupancy of the Premises to the extent caused by the negligent or intentional misconduct of Landlord and (b) any breach, violation or nonperformance of any covenant, condition or agreement contained in this Lease to be fulfilled, kept, observed and performed by Landlord. This indemnity and hold harmless shall include indemnity from and against any and all liability, claims, fines, suits, demands, costs and expenses of any kind or nature (including, without limitation, attorneys' fees and disbursements) incurred in or in connection with any such claim or proceeding brought thereon, and the defense thereof. If any claim, action or proceeding is made or brought against any Tenant Indemnitee, against which claim, action or proceeding Landlord is obligated to indemnify such Tenant Indemnitee pursuant to the terms of this Lease, then, upon demand by the Tenant Indemnitee, Landlord at its sole cost and expense shall contest or defend such claim, action or proceeding in the Tenant Indemnitee's name, if necessary, by such attorneys as the Tenant Indemnitee may select, including without limitation attorneys for the Indemnitee's insurer. The provisions of this Article 21 shall survive the expiration or earlier termination of this Lease.

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ARTICLE 22
RENEWAL OPTIONS

SECTION 22.1. Provided that there is no Event of Default at the time the Option (as such term is hereinafter defined) is to be exercised, the Tenant shall have the option to renew this Lease for one (1) additional five (5) year period as follows:

OPTION PERIOD shall commence on the tenth (10th) anniversary of the Commencement Date and shall continue up to and including the day before the fifteenth (15th) anniversary of the Commencement Date,

the aforementioned option period is referred to herein as the "Option Period".

SECTION 22.2. The Option granted to the Tenant pursuant to the provisions of Section 22.1 hereof shall be exercised by the Tenant giving written Notice to the Landlord of the Tenant's intent to exercise the Option not less than one-hundred twenty (120) days prior to the expiration of the Initial Term.

SECTION 22.3. In the event that the Tenant exercises the Option, the Landlord and the Tenant hereby agree that this Lease shall continue in full force and effect and remain unamended during the Option Period, except that the Fixed Rent payable by the Tenant to the Landlord during such Option Period shall continue to be increased annually in accordance with the provisions of Rider 1 hereof.

ARTICLE 23
COVENANT OF QUIET ENJOYMENT

SECTION 23.1. Landlord covenants that, upon Tenant paying all Fixed Rent and Additional Rent and observing and performing all of the terms, agreements, covenants, provisions and conditions of this Lease on Tenant's part to be observed and performed, Tenant may peaceably and quietly enjoy the Premises.

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ARTICLE 24
MISCELLANEOUS

SECTION 24.1. The obligations of Landlord under this Lease shall be binding upon Landlord named herein after the sale, conveyance, assignment or transfer by such Landlord (or upon any subsequent landlord after the sale, conveyance, assignment or transfer by such subsequent landlord) of its interest in the Premises, as the case may be, and in the event of any such sale, conveyance, assignment or transfer, Landlord shall be freed and relieved of any of the covenants and obligations of Landlord under this Lease thereafter arising, upon the date that the transferee shall have assumed, in writing, for the benefit of Tenant, all obligations of the Landlord under this Lease arising after the effective date of the transfer.

SECTION 24.2. Notwithstanding anything contained in this Lease to the contrary, all amounts payable by Tenant to or on behalf of Landlord under this Lease, whether or not expressly denominated Fixed Rent, Additional Rent or Rental, shall constitute rent for the purposes of Section 502(b)(7) of the Bankruptcy Code.

SECTION 24.3. Upon the request of either party, the other will execute and deliver a mutually acceptable memorandum of this Lease in recordable form.

SECTION 24.4. Except as otherwise provided specifically herein, any consent or approval required to be obtained from Landlord or Tenant under this Lease shall not be unreasonably withheld, conditioned or delayed.

SECTION 24.5. Landlord represents and warrants to Tenant that Landlord has full power and authority to enter into this Lease without the consent of any other parties, including any Mortgagees. Tenant and the person executing this Lease on behalf of Tenant hereby covenant and warrant that: (i) Tenant is now and shall remain throughout the term of this Lease a duly organized and validly existing corporation qualified to do business in the State of Indiana; and (ii) the persons executing this Lease on behalf of Tenant are duly authorized to do so by all necessary corporate action.

SECTION 24.6. If any words or phrases in this Lease are stricken out or otherwise eliminated, whether or not any other words or phrases have been added, this Lease shall be construed as if the words or phrases so stricken out or otherwise eliminated were never included in this Lease and no implication or inference shall be drawn from the fact that such words or phrases were stricken out or otherwise eliminated.

SECTION 24.7. If any of the provisions of this Lease, or the application thereof to any person or circumstance, shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such provisions to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected thereby and shall remain valid and enforceable, and every provision of this Lease shall be valid and enforceable to the fullest extent permitted by law.

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SECTION 24.8. This Lease contains the entire agreement between the parties and all prior negotiations and agreements are merged into this Lease. This Lease may not be changed, abandoned or discharged, in whole or in part, nor may any of its provisions be waived except by a written agreement that (a) expressly refers to this Lease, and (b) is executed by the party against whom enforcement of the change, abandonment, discharge or waiver is sought.

SECTION 24.9. The laws of the State of Indiana applicable to contracts made and to be performed wholly within the State of Indiana shall govern and control the validity, interpretation, performance and enforcement of this Lease without regard to principles of conflicts of law.

SECTION 24.10. The captions are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Lease nor the intent of any provision thereof.

SECTION 24.11. The covenants, conditions and agreements contained in this Lease shall bind and inure to the benefit of Landlord and Tenant and their respective legal representatives, heirs, successors, and, except as otherwise provided in this Lease, their assigns.

SECTION 24.12. Tenant acknowledges and agrees that the liability of Landlord under this Lease shall be limited to Landlord's interest in the Premises, and any judgments rendered against Landlord shall be satisfied solely out of the proceeds of the sale of Landlord's interest in the Premises. The foregoing provision is not intended to relieve Landlord from the performance of any of Landlord's obligations under this Lease, but only to limit the personal liability of Landlord in the case of a recovery of a judgment against Landlord; nor shall the foregoing be deemed to limit Tenant's rights to injunctive relief or to avail itself of any other right or remedy which may be awarded Tenant by law or under this Lease.

SECTION 24.13. For the purposes of this Lease and all agreements supplemental to this Lease, unless the context otherwise requires:

(A) The words "herein", "hereof", "hereunder" and "hereby" and words of similar import shall be construed to refer to this Lease as a whole and not to any particular Article or Section unless expressly so stated.

(B) Obligations hereunder shall be construed in every instance as

conditions as well as covenants, each separate and independent of any other terms of this Lease.

(C) Reference to "termination of this Lease" or "expiration of this Lease" and words of like import includes expiration or sooner termination of this Lease and the Term and the estate hereby granted or cancellation of this Lease pursuant to any of the provisions of this Lease or by law. Upon the termination of this Lease, the Term and estate granted by this Lease shall end at noon on the date of termination as if such date were the Fixed Expiration Date, and neither party shall have any further obligation or liability to the other after such termination except: (i) as shall be expressly provided for in this Lease; and (ii) for such obligations as by their nature under the circumstances can only be, or by the provisions of this Lease, may be, performed after such termination, and, in any event, unless expressly otherwise provided in this Lease, any liability for a payment (which shall be apportioned as of such termination) which shall have accrued to or with respect to any period ending at the time of termination shall survive the termination of this Lease.

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(D) Words and phrases used in the singular shall be deemed to include the plural and vice versa, and nouns and pronouns used in any particular gender shall be deemed to include any other gender.

IN WITNESS WHEREOF, Landlord and Tenant have duly executed this Lease as of the day and year first above written.

/s/

MARK P. SHAMBAUGH

"Landlord"

SHAMBAUGH & SON, INC.,
an Indiana Corporation

By: /s/

Printed: KEVIN L. BEACH
Its: V.P./SEC'Y.

"Tenant"

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RIDER 1

INCREASES IN FIXED RENT

SECTION 1. For purposes of the Lease:

(A) "Bureau" means the Federal Bureau of Labor Statistics or any successor agency that shall issue the indices or data referred to in subparagraph (ii) below.

(B) "Price Index" means the Consumer Price Index for All Urban Consumers for the Fort Wayne, Indiana geographic area, 1982-1984=100, issued from time to time by the Bureau or any other successor measure hereafter employed by the Bureau in lieu of such price index that measures the cost of living for such geographic area or failing such successor, the most nearly comparable index (reflecting changes in costs of housing

including rental housing, energy and services), published by a Governmental Authority, appropriately adjusted. Furthermore, if hereafter the Price Index is converted to a different standard reference base or a substantial change is made in the terms or number of items contained therein, the Price Index shall be adjusted (with the use of such conversion factor, formula or table as is published by the Bureau, or if it shall not publish same, the conversion factor published by Prentice Hall, Inc., or, failing such publication, by any other nationally recognized publisher of similar statistical information) to the figure that would have resulted if not for such conversion or change.

(C) "Base Index" means the Price Index issued for December 31, 1998.

(D) "Applicable Price Index" for a Lease Year means the Price Index most recently issued prior to the date on which such Lease Year commences.

SECTION 2.

(A) Tenant shall pay to Landlord the Fixed Rent in the amount set forth in Article 1 of this Lease for the first Lease Year.

(B) Beginning after the end of the first Lease Year, and for each and every Lease Year thereafter, the Tenant shall pay to the Landlord, as Fixed Rent, an amount equal to the GREATER of:

(1) an amount equal to the sum of (x) the percentage by which the Applicable Price Index for such Lease Year exceeds the Applicable Price Index for the immediately preceding Lease Year, multiplied by the Fixed Rent payable for such immediately preceding Lease Year and (y) such Fixed Rent payable for the immediately preceding Lease Year (e.g., if the Base Index is 200, the Applicable Price Index for the second Lease Year is 203, the Applicable Price Index for the third Lease Year is 215, and the Fixed Rent payable for the second Lease Year is \$50,000.00, then the Applicable Price Index for the third Lease Year exceeds the Applicable Price Index for the second Year by 5.91% (i.e., the difference between 203 and 215), and the Fixed Rent derived from the aforesaid calculation shall be \$52,955.75 (5.91% of \$50,000.00, which is \$2,955.00, plus \$50,000.00); or

(2) an amount equal to the Fixed Rent for the immediately preceding Lease Year.

The Landlord and the Tenant hereby acknowledge that it is the mutual intention of the parties that for each and every Lease Year subsequent to the first Lease Year during the Term hereof, the Fixed Rent payable by the Tenant to the Landlord hereunder shall never be decreased from the prior Lease Year.

SECTION 3. Upon Notice by the Landlord to the Tenant of an increase in the Fixed Rent pursuant to the provisions of this Section 3 ("Increase Notice"), the Tenant shall pay the Fixed Rent as set forth in the Increase Notice for the period in which the increase identified in such Notice shall apply.

SCHEDULE A
LEGAL DESCRIPTION
HAVEL BROS., FORT WAYNE

Lot 2 in Stone Point Industrial Park, according to the recorded plat thereof in the Office of the Recorder of Allen County, Indiana.

AGREEMENT OF LEASE

BETWEEN

MARK P. SHAMBAUGH

LANDLORD

AND

SHAMBAUGH & SON, INC.

TENANT

DATED: OCTOBER 31, 1998

PREMISES

4711 SPEEDWAY DRIVE
FORT WAYNE, IN 46825

AGREEMENT OF LEASE ("Lease"), made as of the 31st day of October, 1998, between Mark P. Shambaugh, as Landlord, and Shambaugh & Son, Inc., an Indiana corporation.

R E C I T A L S:

WHEREAS, the Landlord is the owner of certain premises known as and by the street address of 4711 Speedway Drive, Fort Wayne, Indiana 46825 (as more particularly described on Schedule ?A?, annexed hereto and made a part hereof); and

WHEREAS, the Landlord desires to rent the aforementioned premises to the Tenant and the Tenant desires to rent the aforementioned premises from the Landlord.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, for themselves, as well as their respective legal representatives, heirs, successors and assigns, hereby agree as follows:

ARTICLE 1
GLOSSARY

For the purposes of this Lease, the following terms shall have the meanings indicated below:

"Additional Rent" shall have the meaning set forth in Section 2.2(B) hereof.

"Applicable Rate" shall mean the lesser of (x) three percentage points above the then current Prime Interest rate as published, from time to time, by the WALL STREET JOURNAL as its prime interest rate in its Money Rates section (or if such publication no longer exists or no longer publishes such rate, then the "base rate" as announced by Citibank, N.A. [or its successors], from time to time, for the rate presently referred to as its "base rate") or (y)

the maximum rate permitted by applicable law.

"Bankruptcy Code" shall mean 11 U.S.C. Section 101 ET SEQ., or any statute, federal or state, of similar nature and purpose, now or hereafter.

"Building Systems" shall mean the mechanical, electrical, sanitary, heating, air conditioning, ventilating, elevator, plumbing, life-safety and other service or support systems of any nature whatsoever located at or on the Premises, BUT shall not include installations made by Tenant or fixtures or appliances (regardless of whether or not such fixtures or appliances are owned by the Tenant or the Landlord).

"Building Insurance" shall have the meaning set forth in Section 10.2 hereof.

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"Business Days" shall mean all days, excluding Saturdays, Sundays and all days observed as holidays by the State of Indiana or the federal government.

"Commencement Date" is October 31, 1998.

"Event of Default" shall have the meaning set forth in Section 16.1 hereof.

"Expiration Date" shall mean the Fixed Expiration Date or such other date on which the Term ends pursuant to any of the terms, conditions or covenants of this Lease or pursuant to law.

"Fixed Expiration Date" is October 31, 2008.

"Fixed Rent" : \$12,000.00 per annum (\$1,000.00 per month) for the first Lease Year (as such term is hereinafter defined) subject to adjustment thereafter in accordance with the provisions of Rider 1 hereof.

"Government Authority" or "Government Authorities" shall mean the United States of America, the State of Indiana, the County of Allen, the Municipality of Fort Wayne, and/or any political subdivision thereof and any agency, department, commission, board, bureau or instrumentality of any of the foregoing, now existing or hereafter created, having jurisdiction over the Premises or any portion thereof.

"Hazardous Materials" shall have the meaning set forth in Section 8.2 hereof.

"Increase Notice" shall have the meaning set forth in Section 3 of Rider 1 attached hereto and made a part hereof.

"Indemnitees" shall mean Landlord, his agents and contractors (and the partners, shareholders, officers, directors and employees of any of the Landlord's agents or contractors).

"Initial Term" shall mean the ten (10) year period commencing on the Commencement Date.

"Landlord", on the date as of which this Lease is made, shall mean Mark P. Shambaugh, but thereafter, "Landlord" shall mean any fee owner of the Premises.

"Lease Year" shall mean each twelve (12) month period commencing on the Commencement Date and each anniversary of the Commencement Date.

"Mortgage(s)" Shall mean any deed of trust, trust indenture or mortgage which may now or hereafter affect the Premises and all extensions, supplements, amendments, modifications, consolidations, refinancings and replacements thereof or thereto, substitutions therefor, and advances made thereunder.

"Mortgagee(s)" Shall mean any trustee or mortgagee or holder of a Mortgage.

"Notice(s)" shall have the meaning set forth in Section 22.1(A) hereof.

"Option" or "Options" shall have the meaning set forth in Section 26.1 hereof.

"Option Period" or "Option Periods" shall have the meaning set forth in Section 26.1 hereof.

"Permitted Use" shall mean general, executive and administrative offices, parking, machine shop, repair, and warehouse facilities in connection with Tenant's business as a mechanical contracting and service company and uses related thereto including the evolution of the Tenant's business consistent with the evolution of the mechanical contracting industry in general, subject to all applicable laws, regulations, codes and ordinances, and subject further to all recorded restrictions, covenants and limitations affecting the Premises, provided, however, that no recorded restrictions, covenants or limitations impair the use of the Premises for the purposes intended by Tenant as of the Commencement Date.

"Person(s) or Person(s)" shall mean any natural person or persons, a partnership, a corporation and any other form of business or legal association or entity.

"Persons Within Tenant's Control" shall mean and include Tenant, all of Tenant's respective shareholders, directors, officers, agents, contractors, sub-contractors, servants, employees, licensees and invitees as well as any of the heirs, successors, representatives and assigns of any of the foregoing.

"Premises" shall mean all that certain plot, piece and parcel of land, together with all buildings and improvements erected thereon, known as and by the street address of 7614 and 7620 Opportunity Drive, Fort Wayne, Indiana 46801 (as more particularly described on Schedule "A", annexed hereto and made a part hereof).

"Price Index" shall have the meaning set forth in Section 1(B) of Rider 1 attached hereto.

"Rental" shall mean and be deemed to include Fixed Rent, Additional Rent and any other sums payable, now or hereafter, by Tenant hereunder.

"Requirements" shall mean all present and future laws, rules, ordinances, regulations, statutes, requirements, codes and executive orders, extraordinary as well as ordinary, retroactive and prospective, of all Governmental Authorities, now existing or hereafter created which affect, directly or indirectly, the Premises and/or the maintenance, use, operation or occupation of the Premises, and all recorded restrictions, covenants and limitations affecting the Premises, provided, however, that no recorded restrictions, covenants or limitations impair the use of the Premises for the purposes intended by Tenant as of the Commencement Date.

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

"Tenant", on the date as of which this Lease is made, shall mean the Tenant named in this Lease, but thereafter "Tenant" shall mean only the tenant under this Lease at the time in question; provided, however, that the Tenant named in this Lease and any and all successor tenant(s) hereunder shall not be released and relieved from any liability hereunder in the event of any assignment of this Lease or a sublet, in whole or in part, of the Premises.

"Tenant Indemnities" shall mean Tenant, its agents and contractors (and the partners, shareholders, officers, directors and employees of Tenant and its agents and contractors).

"Tenant's Property" shall mean Tenant's movable fixtures and movable partitions, telephone and other equipment, furniture, furnishings and other movable items of personal property owned by the Tenant.

"Term", on the date as of which this Lease is made shall mean the Initial Term, but thereafter shall be deemed to include any Option Period for which the Tenant exercises its Option pursuant to the provisions of Article 26 hereof.

ARTICLE 2 DEMISE; PREMISES; TERM; RENT

SECTION 2.1. Landlord hereby leases to Tenant and Tenant hereby hires from Landlord the Premises for the Initial Term to commence on the Commencement Date and to end on the Fixed Expiration Date, unless earlier terminated as provided herein and subject to the renewal options provided for in Article 26 below.

SECTION 2.2. Commencing upon the Commencement Date, Tenant shall pay to Landlord, in lawful money of the United States of America, without Notice or demand, without relief from valuation and appraisal laws, by good and sufficient check at the office of Landlord or at such other place as Landlord may designate from time to time, the following:

(A) the Fixed Rent, as such term is defined in Article 1 hereof, which shall be payable in equal monthly installments in advance on the first day of each and every calendar month during the Term, and

(B) additional rent ("Additional Rent") consisting of all other sums of money as shall become due from and be payable by Tenant hereunder.

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SECTION 2.3. If the Commencement Date is other than the first day of a calendar month, or the Fixed Expiration Date is other than the last day of a calendar month, Fixed Rent for such month shall be prorated on a per diem basis.

SECTION 2.4. Tenant shall pay the Fixed Rent and Additional Rent when due without abatement, deduction, counterclaim, setoff or defense of any nature. It is understood and agreed that the Fixed Rent to be received by Landlord during the Term shall be net to Landlord so that this Lease shall yield to Landlord the Fixed Rent specified herein and, accordingly, all real estate taxes, insurance, maintenance and other expenses of any nature related to the Premises, excluding Landlord's income taxes, shall be solely the responsibility of Tenant unless otherwise specifically set forth herein.

ARTICLE 3 REAL ESTATE TAXES

SECTION 3.1. The Tenant covenants and agrees that it shall, within twenty (20) days of written demand by the Landlord to the Tenant, pay to the Landlord, as Additional Rent, any and all Taxes (as hereinafter defined) of any nature whatsoever assessed or imposed against the Premises for each and every Lease Year during the Term of this Lease. The Landlord hereby agrees that any demand given by the Landlord to the Tenant pursuant to the provisions of this Section 3.1 shall include an accurate copy of the invoice, statement, bill or similar document issued by the relevant Governmental Authority or Governmental Authorities, as the case may be, with respect to the Taxes for which payment is demanded. For purposes of this Section 3.1, "Taxes" shall include, without limitation, any and all taxes assessed against the Premises, all personal property taxes, all ad valorem taxes and any and all other taxes assessed against the Premises by any Governmental Authority, now or hereafter, but shall EXCLUDE any special assessments or charges for improvements or infrastructure

effected or installed prior to the Commencement Date. With respect to Taxes for tax periods commencing before or ending after the Term of this Lease, Tenant shall only be obligated to pay to Landlord the pro rata portion of such Taxes equal to the portion of such tax period falling within the Term of this Lease.

ARTICLE 4
UTILITIES

SECTION 4.1. The Tenant shall contract for in its name, and covenants and agrees that it shall pay when due any and all charges incurred for, any and all utilities supplied to the Premises including, without limitation, electricity, water, heating oil and/or natural gas. Landlord represents and warrants to Tenant that electricity, water, telephone, sewer, and natural gas, if any, are present at and available to the Premises in quantities sufficient for Tenant's business purposes.

SECTION 4.2. Landlord shall not be liable in any way to Tenant for any interruption or failure of or defect in the supply or character of any utility furnished to the Premises, now or hereafter, or for any loss, damage or expense Tenant may sustain if either the quantity or character of any utility is changed or is no longer suitable for Tenant's requirements, whether by reason of any requirement, act or omission of the public utility serving the Premises or for any other reason whatsoever. Notwithstanding the provisions of this Section 4.2, the Landlord shall be responsible for any and all actual damages suffered by the Tenant as a result of any interruption of utility service to the extent caused by the Landlord's gross negligence or intentional misconduct, and Rent shall abate until such service is fully restored.

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SECTION 4.3. If any Taxes are imposed upon Landlord with respect to any utility furnished as a service to Tenant by any Governmental Authority, Tenant agrees that such Taxes shall be reimbursed by Tenant to Landlord upon written demand. The Landlord hereby agrees that any demand given by the Landlord to the Tenant pursuant to the provisions of this Section 4.3 shall include an accurate copy of the invoice, statement, bill or similar document issued by the relevant Governmental Authority or Governmental Authorities, as the case may be, with respect to the Taxes for which payment is demanded.

ARTICLE 5
USE AND OCCUPANCY

SECTION 5.1. Tenant shall use and occupy the Premises for the Permitted Use and for no other purpose of any nature whatsoever. However, nothing contained herein shall require Tenant to operate or occupy the Premises continuously during the Term.

ARTICLE 6
ALTERATIONS

SECTION 6.1.

(A) (1) Except as provided below, prior to making any additions, alterations or improvements to the Premises, Tenant shall: (i) submit to Landlord plans and specifications for approval by the Landlord (including to the extent reasonably applicable, layout, architectural, electrical, mechanical and structural drawings) that comply with all Requirements for each proposed addition, alteration or improvement to the Premises, and Tenant shall not commence any such work without first obtaining Landlord's approval of such plans and specifications; and (ii) at Tenant's expense, obtain all permits, approvals and certificates required by any Governmental Authorities. Upon completion of such addition, alteration or improvement, Tenant, at Tenant's expense, shall obtain certificates of final approval of such addition, alteration or improvement required by any Governmental Authority and shall furnish Landlord with copies thereof. All additions, alterations and improvements shall be made and performed in accordance with the plans and specifications therefor as approved by Landlord and otherwise in accordance with all Requirements. All materials

and equipment to be incorporated in the Premises as a result thereof shall be good quality and no such materials or equipment shall be subject to any lien, encumbrance, chattel mortgage, title retention or security agreement.

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(A) (2) Notwithstanding anything to the contrary contained in this Lease, Tenant shall have the right to make any alterations, additions and improvements to the Premises without the consent of the Landlord if and only if: (i) the total cost of such alterations, additions or improvements do not exceed Fifty Thousand and No/100 Dollars (\$50,000.00) for any Lease Year; and (ii) Tenant shall not remove, materially alter or otherwise impair any structural element of the Premises or the Building System.

(A) (3) Tenant agrees that any review or approval by Landlord of any plans and/or specifications with respect to any alteration, addition and improvement is solely for Landlord's benefit, and without any representation or warranty whatsoever to Tenant or any other Person with respect to the adequacy, correctness or sufficiency thereof or with respect to Requirements or otherwise.

(A) (4) Landlord, at Tenant's expense, and upon the request of Tenant, shall join in any applications for any permits, approvals or certificates required to be obtained by Tenant in connection with any permitted alteration, addition and improvement (provided that the provisions of the applicable Requirements shall require that Landlord join in such application) and shall otherwise cooperate with Tenant in connection therewith; provided, however, that Landlord shall not be obligated to incur any cost or expense or liability in connection therewith.

(B) All alterations, additions and improvements shall become a part of the Premises and shall be Landlord's property from and after the installation thereof and may not be removed or changed without Landlord's prior written consent. All Tenant's Property shall remain the property of Tenant and, on or before the Expiration Date or earlier end of the Term, may be removed from the Premises by Tenant at Tenant's sole cost and option; provided, however, that Tenant shall repair and restore in a good and workmanlike manner any damage to the Premises caused by such removal. The provisions of this Section 6.1(B) shall survive the expiration or earlier termination of this Lease.

(C) (1) Any mechanic's lien filed against the Premises for work claimed to have been done for, or materials claimed to have been furnished to, Tenant shall be contested by appropriate judicial proceedings or shall be canceled or discharged by Tenant, at Tenant's expense, within ninety (90) days after such lien shall be filed and Tenant receives notice thereof, by payment or filing of the bond required by law.

(C) (2) If Tenant shall fail to contest or discharge such mechanic's lien within the aforesaid period, then, in addition to any other right or remedy of Landlord, Landlord may, but shall not be obligated to, discharge the same either by paying the amount claimed to be due or by procuring the discharge of such lien by deposit in court or bonding.

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(C) (3) Any amount paid by Landlord for any of the aforesaid charges and for all expenses of Landlord (including, but not limited to, reasonable attorneys' fees and disbursements) incurred in defending any such action, discharging said lien or in procuring the discharge of said lien, with interest on all such amounts at the Applicable Rate, shall be repaid by Tenant within twenty (20) days after written demand therefor, and all amounts so repayable, together with such interest, shall be considered Additional Rent.

(D) Tenant shall have the right, at its sole cost and expense, to

erect and maintain any exterior signs on the Premises with the prior written consent of Landlord so long as the same comply with all applicable Requirements. Landlord acknowledges consent to Tenant's signage in existence as of the Commencement Date.

ARTICLE 7
REPAIRS; REPLACEMENTS; MAINTENANCE

SECTION 7.1. Except for those repairs, replacements or maintenance required to be effected by Landlord, and further subject to the right of reimbursement herein provided, Tenant, at Tenant's sole cost and expense, shall take good care of the Premises and the improvements, buildings, Building Systems, fixtures, equipment, parking lots, landscaping and appurtenances located thereon and make all non-structural repairs, REPLACEMENTS or alterations thereto of any nature whatsoever as and when needed to preserve them in as good working order and condition as exists as of the Commencement Date, ordinary wear and tear excepted, ("Maintenance Repairs") or to comply with any Requirement ("Requirement Alteration"). If Tenant shall fail, after thirty (30) days Notice (or such shorter period as may be required because of an emergency), to commence to make repairs, replacements or alterations required to be made by Tenant and complete the same within a reasonable period of time thereafter exercising due diligence, the same may be made by Landlord, at the expense of Tenant, and the expenses thereof incurred by Landlord, with interest thereon at the Applicable Rate, shall be paid to Landlord, as Additional Rent, within twenty (20) days after rendition of a bill or statement therefor. Tenant shall give Landlord prompt Notice of any defective condition known to Tenant in any Building Systems located in, servicing or passing through the Premises. If the cost of any Maintenance Repair or Requirement Alteration, whether structural or non-structural, exceeds \$10,000.00, and Landlord consents to such Maintenance Repair or Requirement Alteration after prior written notice from Tenant, then upon termination or other expiration of this Lease Landlord shall reimburse to Tenant the pro rata portion of the cost of such Maintenance Repair or Requirement Alterations equal to the portion of the useful life of such Maintenance Repair or Requirement Alterations that remains after the expiration or other termination of this Lease. The useful life of such Maintenance Repair or Requirement Alterations shall be established by the party making such Maintenance Repair or Requirement Alterations at the time made. Notwithstanding anything to the contrary contained in this Section, in no event shall Tenant be responsible for any repair, item of maintenance or replacement to the extent the same is caused by the negligence or willful misconduct of Landlord or Landlord's employees, contractors or agents.

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SECTION 7.2. Landlord hereby assigns all warranties and guaranty agreements relating to the Premises and the Building Systems to Tenant during the Term.

SECTION 7.3. Landlord hereby agrees to repair, maintain and replace all structural portions of the Premises, including, without limitation, exterior walls, support columns and walls, foundation and the roof in as good repair and working order as exists as of the Commencement Date, ordinary wear and tear excepted.

ARTICLE 8
REQUIREMENTS OF LAW

SECTION 8.1. Tenant shall not do, and shall not permit (to the extent Tenant has control over the same) any act or thing in or upon the Premises which will invalidate or be in conflict with the certificate of occupancy for the Premises or violate any Requirements. Tenant shall immediately take all action, including but not limited to, making any Requirement Alterations necessary to comply with all Requirements which shall or may impose any violation, order or duty upon Landlord or Tenant arising from or in connection with the Premises, Tenant's occupancy, use or manner of use of the Premises or any installations in the Premises, or required by reason of a breach of any of Tenant's covenants or agreements under this Lease, whether or not such Requirements shall now be in effect or hereafter enacted or issued, and whether

or not any work required shall be ordinary or extraordinary or foreseen or unforeseen as of the date hereof. Landlord represents and warrants to Tenant that as of the Commencement Date no condition exists with respect to the Premises that will necessitate any Requirement Alteration.

SECTION 8.2. Tenant covenants and agrees that Tenant shall, at Tenant's sole cost and expense, comply at all times with all Requirements governing the use, generation, storage, treatment and/or disposal of any Hazardous Materials (as defined below) in, on, under, about or from the presence of which results from or in connection with the act or omission of Tenant or Persons Within Tenant's Control or the breach of this Lease by Tenant or Persons Within Tenant's Control. The term "Hazardous Materials" shall mean any biologically or chemically active or other toxic or hazardous wastes, pollutants or substances, including, without limitation, asbestos, PCBS, petroleum products and by-products, substances defined or listed as "hazardous substances" or "toxic substances" or similarly identified in or pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. ' 9601 ET SEQ., and as hazardous wastes under the Resource Conservation and Recovery Act, 42 U.S.C. ' 6010, ET SEQ., any chemical substance or mixture regulated under the Toxic Substance Control Act of 1976, as amended, 15 U.S.C. 2601, ET SEQ., any "toxic pollutant" under the Clean Water Act, 33 U.S.C. ' 466 ET SEQ., as amended, any hazardous air pollutant under the Clean Air Act, 42 U.S.C. ' 7401 ET SEQ., hazardous materials identified in or pursuant to the Hazardous Materials Transportation Act, 49 U.S.C. ' 1802, ET SEQ., and any hazardous or toxic substances or pollutant regulated under any other Requirements. Tenant shall indemnify and hold harmless all Indemnitees from and against any loss, claim, cost, damage, liability or expense (including attorneys' fees and disbursements) arising by reason of any clean up, removal, remediation, detoxification action or any other activity required or recommended of any Indemnitees by any Governmental Authority by reason of the presence in, on, under or about the Premises of any Hazardous Materials, as a result of or in connection with the act or omission of Tenant or Persons Within Tenant's Control or the breach of this Lease by Tenant or Persons Within Tenant's Control. Landlord shall indemnify and hold harmless all Tenant Indemnitees from and against any loss, claim, cost, damage, liability or expense (including attorneys' fees and disbursements) arising by reason of any clean up, removal, remediation, detoxification action or any other activity required or recommended of any Tenant Indemnitees by any Governmental Authority by reason of the presence in, on, under or about the Premises of any Hazardous Materials either in existence on the Commencement Date or that come to exist thereafter that are not the result of or in connection with the act or omission of Tenant or Persons Within Tenant's Control or the breach of this Lease by Tenant or Persons Within Tenant's Control. The foregoing covenants and indemnities shall survive the expiration or any termination of this Lease.

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SECTION 8.3. Landlord represents and warrants to Tenant that as of the date hereof Landlord has no notice of the presence, generation, storage, disposal or other use of Hazardous Materials on, in or under the Premises prior to the date hereof or any violation of any violation of any applicable Requirements relating to Hazardous Materials.

SECTION 8.4. If Tenant shall receive notice of any violation of or defaults under, any Requirements, liens or other encumbrances applicable to the Premises, Tenant shall give immediate written Notice thereof to Landlord.

SECTION 8.5. If any governmental license or permit shall be required for the proper and lawful conduct of Tenant's business and if the failure to secure such license or permit would, in any way, affect Landlord or the Premises, then Tenant, at Tenant's expense, shall promptly procure and thereafter maintain, submit for inspection by Landlord, and at all times comply with the terms and conditions of, each such license or permit.

ARTICLE 9 SUBORDINATION

SECTION 9.1. This Lease shall at all times, now and hereafter, be

subject and subordinate to each and every Mortgage, whether made prior to or after the execution of this Lease, and to all extensions, supplements, amendments, modifications, consolidations and replacements thereof or thereto, substitutions therefor, and advances made thereunder, provided that the Mortgagee confirms and accepts the provisions of Section 9.5 below. This clause shall be self-operative and no further agreement of subordination shall be required to make the interest of any Mortgagee superior to the interest of Tenant hereunder. In confirmation of such subordination, Tenant shall promptly execute and deliver, at its own cost and expense, any document, in recordable form if requested, that Landlord or any Mortgagee may request to evidence such subordination; and if Tenant fails to execute, acknowledge or deliver any such document within twenty (20) days after request therefor, Tenant hereby irrevocably constitutes and appoints Landlord as Tenant's attorney-in-fact, coupled with an interest, to execute, acknowledge and deliver any such document for and on behalf of Tenant.

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SECTION 9.2. The subordination set forth in Section 9.1 above is subject to the written agreement (a "Non-Disturbance Agreement") by any Mortgagee or any other person to whom Tenant may be required to attorn, that so long as Tenant is in compliance with the terms of this Lease, Tenant's use and occupancy of the Premises shall not be disturbed, and that all provisions of the Lease shall be given effect, including those related to the application of any proceeds of insurance. Landlord shall cause each Mortgagee, whether pursuant to a Mortgage now existing or hereafter arising, to execute and deliver to Tenant a Non-Disturbance Agreement, subject to the terms of the preceding sentence, in a form acceptable to such Mortgagee.

ARTICLE 10

INSURANCE; PROPERTY LOSS OR DAMAGE; REIMBURSEMENT

SECTION 10.1.

(A) Neither Landlord nor Landlord's agents shall be liable for any injury or damage to persons or property, or interruption of Tenant's business, resulting from fire or other casualty caused by Persons other than the Landlord.

(B) Tenant shall give written Notice to Landlord, promptly after Tenant learns thereof, of any accident, emergency, occurrence, fire or other casualty and all damages to or defects in the Premises for the repair of which Landlord might be responsible. Such Notice shall be given by telecopy or personal delivery to the address(es) of Landlord in effect for Notice.

SECTION 10.2. Tenant shall not do or permit to be done any act or thing in or upon the Premises which will invalidate or be in conflict with the terms of the State of Indiana standard form of fire insurance with extended coverage, or with rental, liability, boiler, sprinkler, water damage, war risk or other insurance policies covering the Premises (hereinafter referred to as "Building Insurance"); and Tenant, at Tenant's own expense, shall comply with all rules, orders, regulations and requirements of all insurance boards.

SECTION 10.3.

(A) Tenant shall, at Tenant's own cost and expense, obtain, maintain and keep in full force and effect during the Term, for the benefit of Landlord, any Mortgagees and Tenant, the Building Insurance in an amount equal to the replacement value of the Building and its contents (not to exceed _____) and commercial general liability insurance (including premises operation, bodily injury, personal injury, death, independent contractors, broad form contractual liability and broad form property damage coverages) with coverage limits of \$1,000,000 per occurrence and \$2,000,000 in the aggregate, against all claims, demands or actions with respect to damage, injury or death made by or on behalf of any person or

entity, arising from or relating to the conduct and operation of Tenant's business in, on or about the Premises (which shall include Tenant's signs, if any), or arising from or related to any act or omission of Tenant or of Persons Within Tenant's Control.

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(B) Landlord and any Mortgagees shall be named as additional insureds in said policies. All said policies of insurance shall be: (i) written as "occurrence" policies; (ii) written as primary policy coverage and not contributing with or in excess of any coverage which Landlord may carry; and (iii) issued by reputable and independent insurance companies rated in Best's Insurance Guide, or any successor thereto (or if there be none, an organization having a national reputation) as having a general policyholder rating of "A" and a financial rating of at least "XI", and which are licensed to do business in the State of Indiana. Upon Landlord's request, Tenant shall deliver to Landlord the policies of insurance or certificates thereof, together with evidence of payment of premiums thereon, and shall thereafter furnish to Landlord, at least thirty (30) days prior to the expiration of any such policies and any renewal thereof, a new policy or certificate in lieu thereof, with evidence of the payment of premiums thereon. Each of said policies shall also contain a provision whereby the insurer agrees not to cancel, fail to renew, diminish or materially modify said insurance policy(ies) without having given Landlord and any Mortgagees at least thirty (30) days prior written Notice thereof.

(C) Tenant shall pay all premiums and charges for all of said policies, and, if Tenant shall fail to make any payment when due or carry any such policy, Landlord may, but shall not be obligated to, make such payment or carry such policy, and the amount paid by Landlord, with interest thereon (at the Applicable Rate), shall be repaid to Landlord by Tenant on demand, and all such amounts so repayable, together with such interest, shall be deemed to constitute Additional Rent hereunder. Payment by Landlord of any such premium, or the carrying by Landlord of any such policy, shall not be deemed to waive or release the default of Tenant with respect thereto.

(D) Tenant, at Tenant's sole cost and expense, shall maintain insurance protecting and indemnifying Tenant against any and all damage to or loss of Tenant's Property, and all claims and liabilities relating thereto.

SECTION 10.4.

(A) Landlord and Tenant hereby release each other and their respective agents, employees, partners, shareholders, officers and directors from any claims or actions for damage to the Premises or Tenant's Property to the extent the same are covered by proceeds of any insurance policies maintained by the parties hereto under the terms of this Lease or in force at the time of any such damage. Each party shall cause each insurance policy obtained by it to provide that the insurance company waives all rights of recovery by way of subrogation against the other party in connection with any damage covered by any such policy.

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(B) The waiver of subrogation referred to in Section 10.4(A) above shall extend to the agents and employees of each party, but only if and to the extent that such waiver can be obtained without additional charge (unless such party shall pay such charge). Nothing contained in this Section 10.4 shall be deemed to relieve the Landlord or Tenant from any duty imposed elsewhere in this Lease to repair, restore and rebuild the Premises, in whole or in part.

SECTION 11.1. If the Premises or any part thereof shall be damaged by fire or other casualty, Tenant shall give immediate written Notice thereof to Landlord. Landlord shall, subject to the provisions of Sections 11.2 and 11.3 below, proceed with reasonable diligence, after receipt of the net proceeds of insurance, to repair or cause to be repaired such damage at its expense, to the condition immediately preceding such damage and, if the Premises, or any part thereof, shall be rendered untenable by reason of such damage, then the Fixed Rent hereunder, or an amount thereof apportioned according to the area of the Premises so rendered untenable (if less than the entire Premises shall be so rendered untenable), shall be abated for the period from the date of such damage to the date that is thirty (30) days after the date when the repair of such damage shall have been substantially completed. If Landlord or any Mortgagee shall be unable to collect the insurance proceeds applicable to such damage because of some action or inaction on the part of Tenant or Persons Within Tenant's Control, then Landlord shall have no duty to make such repairs or effect any restoration hereunder. Tenant covenants and agrees to cooperate with Landlord and any Mortgagee in their efforts to collect insurance proceeds (including rent insurance proceeds) payable to such parties. Landlord shall not be liable for any delay which may arise by reason of adjustment of insurance on the part of Landlord and/or Tenant, or any cause beyond the control of Landlord or contractors employed by Landlord.

SECTION 11.2. Landlord shall not be liable for any inconvenience or annoyance to Tenant or injury to the business of Tenant resulting in any way from damage from fire or other casualty or the repair thereof unless caused by Landlord. Tenant understands that Landlord, in reliance upon Section 10.3 hereof, will not carry insurance of any kind on Tenant's Property, and that Landlord shall not be obligated to repair any damage thereto or replace the same.

SECTION 11.3.

(A) Notwithstanding anything to the contrary contained in Sections 11.1 and 11.2 above, in the event that:

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(1) at least fifty (50%) percent of the rentable square feet of the Premises shall be damaged by a fire or other casualty so that substantial alteration or reconstruction of the Premises shall be required (whether or not the remainder of the Premises shall have been damaged by such fire or other casualty and without regard to the structural integrity of the Premises); or

(2) the Premises shall be totally or substantially damaged or shall be rendered wholly or substantially unsuitable for the Permitted Use; or

(3) the Landlord fails to commence any repairs, reconstruction or restoration of the Premises within sixty (60) days after a casualty; or

(4) Landlord fails complete all repairs, reconstruction or restoration of the Premises within one hundred twenty (120) days after the date of casualty;

then, as a result of any circumstances described in subparagraphs (1), (2), (3) or (4) hereof, the Tenant, at Tenant's option, may terminate this Lease and the term and estate hereby granted, by notifying the Landlord in writing of such termination within one hundred twenty (120) days after the date of such damage [as to subparagraphs (1) and (2)] or within thirty (30) days after the passage of the times periods in subparagraphs (3) and (4) above. In the event that such a Notice of termination shall be given, then this Lease and the term and estate hereby granted shall expire as of the date of termination stated in said Notice with the same effect as if that date were the Fixed Expiration Date, and the Fixed Rent and Additional Rent hereunder shall be apportioned as of such date.

Notwithstanding the termination of this Lease as provided in this Subsection 11.3(A) Landlord shall be obligated to reimburse to Tenant a portion of the cost of any Maintenance Repair or Requirement Alterations to the extent required by Section 7.1 above. In the event of an occurrence as described in subparagraphs (1) or (2) above, Landlord, at Landlord's option, may terminate this Lease and the term and estate hereby granted by notifying Tenant in writing of such termination within one hundred twenty (120) days after the date of such damage.

ARTICLE 12
EMINENT DOMAIN

SECTION 12.1. If the whole of the Premises is acquired or condemned for any public or quasi-public use or purpose, this Lease and the Term shall end as of the date of the vesting of title with the same effect as if said date were the Fixed Expiration Date. If only a part of the Premises is so acquired or condemned then, except as hereinafter provided in this Section 12.1, this Lease and the Term shall continue in effect but, if a part of the Premises is so acquired or condemned, from and after the date of the vesting of title, the Fixed Rent and Additional Rent, if

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any, shall be reduced in the proportion which the area of the part of the Premises so acquired or condemned bears to the total area of the Premises immediately prior to such acquisition or condemnation. If the part of the Premises acquired or condemned contains more than fifty percent (50%) of the rentable square feet of the Premises or if, by reason of such acquisition or condemnation, the Premises shall be rendered wholly or substantially unsuitable for the Permitted Use, then either Landlord or Tenant may terminate this Lease and the Term and estate hereby granted, by notifying the other party in writing of such termination within one hundred twenty (120) days after the date upon which Tenant receives Notice of vesting of title. In the event that such Notice of termination shall be given, then this Lease and the Term and estate hereby granted shall expire as of the date of termination stated in said Notice, with the same effect as if that date were the Fixed Expiration Date. In the event of any termination of this Lease and the Term pursuant to the provisions of this Section 12.1, the Fixed Rent or Additional Rent shall be apportioned as of the date of sooner termination and any prepaid portion of the Fixed Rent for any period after such date shall be refunded by Landlord to Tenant.

SECTION 12.2. In the event of any such acquisition or condemnation of all or any part of the Premises, Landlord shall be entitled to receive the entire award for any such acquisition or condemnation, but shall be obligated to proceed with reasonable diligence to repair and restore the Premises, at Landlord's expense, to a condition most suitable for the Permitted Use. Tenant shall have no claim against Landlord or the condemning authority for the value of any unexpired portion of the Term and Tenant hereby expressly assigns to Landlord all of its right in and to any such award. Nothing contained in this Section 12.2 shall be deemed to prevent Tenant from making a separate claim in any condemnation proceedings for the value of any Tenant's Property included in such taking, and for any moving expenses, so long as Landlord's award is not reduced thereby.

SECTION 12.3.

(A) Notwithstanding anything to the contrary contained in Sections 12.1 and 12.2 above, in the event that:

(1) the Landlord fails to commence any repairs, reconstruction or restoration of the Premises within sixty (60) days after the physical taking of a portion of the Premises; or

(2) Landlord fails complete all repairs, reconstruction or restoration of the Premises within one hundred twenty (120) days after the date of such physical taking,

then, as a result of any circumstances described in subparagraphs (1) or (2)

hereof, the Tenant, at Tenant's option, may terminate this Lease and the term and estate hereby granted, by notifying the Landlord in writing of such termination within thirty (30) days after the passage of the times periods in subparagraphs (1) and (2) above. In the event that such a Notice of termination shall be given, then this Lease and the term and estate hereby granted shall expire as of the date of termination stated in said Notice with the same effect as if that date were the Fixed Expiration Date, and the Fixed Rent and Additional Rent hereunder shall be apportioned as of such date. Notwithstanding the termination of this Lease as provided in this Subsection 12.3(A) Landlord shall be obligated to reimburse to Tenant a portion of the cost of any Maintenance Repair or Requirement Alterations to the extent required by Section 7.1 above.

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ARTICLE 13
ASSIGNMENT; SUBLETTING; MORTGAGE; ETC.

SECTION 13.1.

(A) The Tenant shall not: (i) assign this Lease; or (ii) mortgage or encumber Tenant's interest in this Lease, in whole or in part; or (iii) sublet, or permit the subletting of, the Premises or any part thereof without the prior consent of Landlord. Notwithstanding the provisions of this Section 13.1, the use of the Premises by any Person AFFILIATED (as such term is hereinafter defined) with the Tenant or under the COMMON CONTROL (as such term is hereinafter defined) of Comfort Systems USA, Inc., as the case may be, shall not be deemed an assignment of this Lease or a sublet of the Premises, provided Tenant is not in default and remains fully obligated pursuant to the terms and conditions of this Lease. For purposes of this Article 13, a Person shall be deemed to be an "affiliate" of the Tenant or under the "common control" of Comfort Systems USA, Inc., if such Person is a member of a "parent-subsidiary controlled group" as such term is defined by Section 1563(a)(1) of the Internal Revenue Code of 1986, as amended or a member of a "brother-sister controlled group" as such term is defined by Section 1563(a)(2) of the Internal Revenue Code of 1986, as amended of which either Comfort Systems USA, Inc. or the Tenant, as the case may be, is a member.

(B) Notwithstanding the provisions otherwise set forth in this Article 13, no reorganization, consolidation and/or restructuring of the Tenant or the sale or transfer of any of its stock shall be deemed an assignment of this Lease or a sublet of the Premises, provided that the surviving entity resulting from such reorganization, consolidation and/or restructuring remains fully obligated pursuant to the terms and conditions of this Lease as Tenant.

SECTION 13.2. If Tenant's interest in this Lease shall be assigned in violation of the provisions of this Article 13, such assignment shall be invalid and of no force and effect against Landlord. If the Premises or any part thereof are sublet to, or occupied by, or used by, any person other than Tenant, whether or not in violation of this Article 13, Landlord, may collect an amount equal to the then Fixed Rent plus any other items of Rental or other sums paid by the subtenant, user or occupant as a fee for its use and occupancy, and shall apply the net amount collected to the Fixed Rent and the other items of Rental reserved in this Lease. No such assignment, subletting, occupancy, or use, nor any such collection or application of Rental or fee for use and occupancy, shall be deemed a waiver by Landlord of any term, covenant or condition of this Lease or the acceptance by Landlord of such assignee, subtenant, occupant or user as Tenant hereunder, nor shall the same, in any circumstances, relieve Tenant of any of its obligations under this Lease.

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ARTICLE 14
ACCESS TO PREMISES

SECTION 14.1. Landlord or Landlord's agents shall have the right to enter the Premises at all reasonable times during Tenant's regular business hours upon (except in case of emergency) reasonable prior notice, which notice may be oral, to examine the same, to show the same to prospective purchasers or Mortgagees and to make such repairs, alterations, improvements or additions: (i) as Landlord may deem necessary or required under the terms of the Lease; or (ii) which Landlord may elect to perform at least twenty (20) days after notice (except in an emergency when no notice shall be required) following Tenant's failure to make repairs or perform any work which Tenant is obligated to make or perform under this Lease, and Landlord shall be allowed to take all material into and upon the Premises that may be required therefor without the same constituting an eviction or constructive eviction of Tenant in whole or in part and except as herein provided the Fixed Rent (and any other item of Rental) shall in no respect abate or be reduced by reason of said repairs, alterations, improvements or additions, wherever located, or while the same are being made, by reason of loss or interruption of business of Tenant, or otherwise. Landlord shall promptly repair any damage caused to the Premises or Tenant's Property by such work, alterations, improvements or additions. In all events, Landlord shall use its best efforts not to interfere with or obstruct Tenant's business activities on or in the Premises during any entry.

ARTICLE 15
CERTIFICATE OF OCCUPANCY

SECTION 15.1. Landlord represents and warrants to Tenant that use and occupancy of the Premises for the Permitted Uses shall not violate the certificate of occupancy for the Premises or any Requirement. Tenant shall not at any time, now or hereafter, use or occupy the Premises, directly or indirectly, in violation of the certificate of occupancy for the Premises and in the event that any Governmental Authority hereafter contends or declares by notice, order or in any other manner whatsoever that the Premises are used for a purpose that is not included in the Permitted Uses and is a violation of such certificate of occupancy, Tenant shall, upon three (3) Business Days' written Notice from Landlord or any Government Authority, immediately discontinue such use of the Premises.

ARTICLE 16
DEFAULT

SECTION 16.1. Each of the following events shall be an "Event of Default" under this Lease:

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(A) if Tenant shall on any occasion default in the payment when due of any installment of Fixed Rent or Additional Rent or in the payment when due of any other item of Rental and such default shall continue for ten (10) days from and after the date on which Landlord gives Tenant written Notice specifying such default; or

(B)(1) if Tenant shall not, or shall be unable to, or shall admit in writing Tenant's inability to, as to any obligation, pay Tenant's debts as they become due; or

(B)(2) if Tenant shall commence or institute any case, proceeding or other action (a) seeking relief on Tenant's behalf as debtor, or to adjudicate it a bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to Tenant or Tenant's debts under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization or relief of debtors, or (b) seeking appointment of a receiver, trustee, custodian or other similar official for it or for all or any substantial part of its property; or

(B)(3) if Tenant shall make a general assignment for the benefit of

creditors; or

(B) (4) if any case, proceeding or other action shall be commenced or instituted against Tenant (a) seeking to have an order for relief entered against Tenant as debtor or to adjudicate Tenant a bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to Tenant or Tenant's debts under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization or relief of debtors, or (b) seeking appointment of a receiver, trustee, custodian or other similar official for Tenant or for all or any substantial part of Tenant's property, which either: (i) results in any such entry of an order for relief, adjudication of bankruptcy or insolvency or such an appointment or the issuance or entry of any other order having a similar effect; or (ii) remains undismissed for a period of sixty (60) days; or

(B) (5) if a trustee, receiver or other custodian shall be appointed for any substantial part of the assets of Tenant which appointment is not vacated or effectively stayed within ninety (90) days; or

(C) if Tenant shall default in the observance or performance of any other term, covenant or condition of this Lease on Tenant's part to be observed or performed, and Tenant shall fail to remedy such default within thirty (30) days after written Notice by Landlord to Tenant of such default, or if such default is of such a nature that it cannot with due diligence be completely remedied within said period of thirty (30) days, if Tenant shall not: (i) duly institute within said thirty (30) day period; and (ii) thereafter diligently and continuously prosecute to completion all steps necessary to remedy the same.

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SECTION 16.2. If an Event of Default shall occur, Landlord may, at any time thereafter, at Landlord's option, give written Notice to Tenant stating that this Lease and the Term shall expire and terminate on the date specified in such Notice, which date shall not be less than ten (10) days after the giving of such Notice, whereupon this Lease and the Term and all rights of Tenant under this Lease shall automatically expire and terminate as if the date specified in the Notice given pursuant to this Section 16.2 were the Fixed Expiration Date and Tenant thereafter shall quit and surrender the Premises, but Tenant shall remain liable for damages as provided herein or pursuant to law. Anything contained herein to the contrary notwithstanding, if such termination shall be stayed by order of any court having jurisdiction over any proceeding described in Section 16.1(B), or by federal or state statute, then, following the expiration of any such stay, or if the trustee appointed in any such proceeding, Tenant or Tenant as debtor-in-possession fails to assume Tenant's obligations under this Lease within the period prescribed therefor by law or within one hundred twenty (120) days after entry of the order for relief or as may be allowed by the court, or if said trustee, Tenant or Tenant as debtor-in-possession shall fail to provide adequate protection of Landlord's right, title and interest in and to the Premises or adequate assurance of the complete and continuous future performance of Tenant's obligations under this Lease, Landlord, to the extent permitted by law or by leave of the court having jurisdiction over such proceeding, shall have the right, at its election, to terminate this Lease on ten (10) days' Notice to Tenant, Tenant as debtor-in-possession or said trustee and upon the expiration of said ten (10) day period this Lease shall cease and expire as aforesaid and Tenant, Tenant as debtor-in-possession or said trustee shall thereafter quit and surrender the Premises as aforesaid.

SECTION 16.3. If, at any time: (i) Tenant shall consist of two (2) or more Persons; or (ii) Tenant's obligations under this Lease shall have been guaranteed by any Person other than Tenant; or (iii) Tenant's interest in this Lease has been assigned, the word "Tenant" as used and referred to in this Lease, shall be deemed to mean any one or more of the persons primarily or secondarily liable for Tenant's obligations under this Lease. Any monies

received by Landlord from or on behalf of Tenant during the pendency of any proceeding of the types referred to in Section 16.1(B) hereof shall be deemed paid as compensation for the use and occupancy of the Premises and the acceptance of any such compensation by Landlord shall not be deemed an acceptance of Rental or a waiver on the part of Landlord of any rights under Section 16.2 hereof.

SECTION 16.4. In the event of any default by Landlord hereunder, except as otherwise provided herein, Tenant will give Landlord written notice specifying such default with particularity, and Landlord shall thereupon have thirty (30) days in which to cure such default or to commence to cure such default if any such default cannot be reasonably cured within such 30-day period, in which event Landlord shall prosecute such cure with diligence to a conclusion. Unless and until Landlord fails to so cure or proceed with diligence to cure any default after such notice, Tenant shall not have any remedy or cause of action by reason thereof.

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If Landlord is in default hereunder, and fails to cure the same timely, in addition to any and all other rights, remedies and recourses available to Tenant, Tenant may undertake to cure such default on behalf of Landlord, and thereupon Landlord agrees to pay Tenant, upon demand, all costs, expenses and disbursements (including reasonable attorneys' fees) incurred by Tenant in taking such remedial actions with interest thereon at the Applicable Rate. In addition to the foregoing, Tenant shall also have the same rights granted to Landlord under Section 17.1(B) relating to injunctive or equitable relief. The right to invoke the remedies hereinbefore set forth are cumulative and shall not preclude Tenant from invoking any other remedy allowed at law or in equity.

ARTICLE 17
REMEDIES AND DAMAGES

SECTION 17.1.

(A) If any Event of Default shall occur, or this Lease and the Term shall expire and come to an end as provided in Article 16 hereof:

(1) Tenant shall quit and peacefully surrender the Premises to Landlord, and Landlord and its agents may, after the date upon which this Lease and the Term shall expire and come to an end, re-enter the Premises or any part thereof, without Notice, either by summary proceedings, or by any other applicable action or proceeding or otherwise, and may repossess the Premises and dispossess Tenant and any other persons from the Premises by summary proceedings or otherwise and remove any and all of their property and effects from the Premises (and Tenant shall remain liable for damages as provided herein or pursuant to law); and

(2) Landlord, at Landlord's option, may relet the whole or any part or parts of the Premises from time to time, either in the name of Landlord or otherwise, to such tenant or tenants, for such term or terms ending before, on or after the Fixed Expiration Date, at such rent or rentals and upon such other conditions, which may include concessions and free rent periods, as Landlord may determine; provided, however, that Landlord shall exercise reasonable efforts to mitigate any damages related to liability of Tenant under this Lease.

(B) In the event of a breach or threatened breach by Tenant, or any persons claiming through or under Tenant, of any term, covenant or condition of this Lease, Landlord shall have the right to enjoin such breach.

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SECTION 17.2.

(A) If this Lease and the Term shall expire and come to an end as provided in Article 2 hereof, or by or under any summary proceeding or any other action or proceeding, or if Landlord shall re-enter the Premises as provided in Section 17.1 hereof, or by or under any summary proceeding or any other action or proceeding, then, in any of said events:

(1) Tenant shall pay to Landlord all Fixed Rent, Additional Rent and other items of Rental payable under this Lease by Tenant to Landlord to the date upon which this Lease and the Term shall have expired and come to an end or to the date of re-entry upon the Premises by Landlord, as the case may be;

(2) if Landlord has not terminated the Lease, but only Tenant's right of possession to the Premises, Tenant also shall be liable for and shall pay to Landlord, as damages, any deficiency ("Deficiency") between the Rental for the period which is the unexpired portion of the Term and the net amount, if any, of rents collected under any reletting effected pursuant to the provisions of Section 17.1(A)(2) for any part of such period (after first deducting from the rents collected under any such reletting all of Landlord's reasonable and actual expenses in connection with the termination of Tenant's right of possession, Landlord's re-entry upon the Premises and such reletting including, but not limited to, all repossession costs, brokerage commissions, attorneys' fees and disbursements, alteration costs and other expenses of preparing the Premises for such reletting, to the extent the same are allocable to the remaining Term); any such Deficiency shall be paid in monthly installments by Tenant on the days specified in this Lease for payment of installments of Fixed Rent; Landlord shall be entitled to recover from Tenant each monthly Deficiency as the same shall arise, and no suit to collect the amount of the Deficiency for any month shall prejudice Landlord's right to collect the Deficiency for any subsequent month by a similar proceeding; and

(3) alternatively, if Landlord has terminated the Lease, Landlord shall be entitled to recover from Tenant, and Tenant shall pay to Landlord, on demand, and as and for liquidated and agreed final damages, a sum equal to the amount by which the present value (calculated using the Base Rate as the discount rate) of the unpaid Rental for the period which otherwise would have constituted the unexpired portion of the Term exceeds the present value (calculated using the Base Rate as the discount rate) of the then fair and reasonable rental value of the Premises for the same period, taking into consideration reasonable costs incurred to relet the Premises; if, before presentation of proof of such liquidated damages to any court, commission or tribunal, the Premises, or any part thereof, are relet by Landlord on a fair and arms-length basis for the period which otherwise would have constituted the unexpired portion of the Term, or any part thereof, the amount of rent reserved upon such reletting shall be deemed, prima facie, to be the fair and reasonable rental value for the part or the whole of the Premises so relet during the term of the reletting.

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(B) Tenant shall in no event be entitled to any rents collected or payable under any reletting, whether or not such rents exceed the Fixed Rent reserved in this Lease. Nothing contained in this Article 17 shall be deemed to limit or preclude the recovery by Landlord from Tenant of the maximum amount allowed to be obtained as damages by any statute or rule of law, or of any sums or damages to which Landlord may be entitled in addition to the damages set forth in this Section 17.2.

FEES AND EXPENSES

SECTION 18.1. If an Event of Default shall have occurred by Tenant or Landlord has defaulted on its obligations on this Lease and the same is not cured within any applicable cure period, the non-defaulting party may (1) perform any term, covenant or condition of this Lease for the account of the defaulting party, or (2) make any expenditure or incur any obligation for the payment of money in connection with any obligation owed to the non-defaulting party, including, but not limited to, reasonable attorneys' fees and disbursements in instituting, prosecuting or defending any action or proceeding, and in either case the cost thereof, with interest thereon at the Applicable Rate, shall be paid by the defaulting party to the non-defaulting party within twenty (20) days after rendition of any bill or statement therefor.

ARTICLE 19
END OF TERM

SECTION 19.1. Upon the expiration or other termination of this Lease, Tenant shall quit and surrender to Landlord the Premises, vacant, broom clean, in good order and condition, ordinary wear and tear and damage by fire or other casualty or by condemnation excepted, and Tenant shall remove all of Tenant's Property and all other personal property and personal effects of all persons claiming through or under Tenant, and shall pay the cost of repairing all damage to the Premises occasioned by such removal.

SECTION 19.2. If the Premises are not surrendered upon the expiration or other termination of this Lease and all Tenant Property removed as provided above, Tenant shall be deemed to be occupying the Premises as a tenant at will, and after sixty (60) days written notice from Landlord, such continued occupancy will be at a rental equal to the Fixed Rent herein provided plus fifty percent (50%) of such amount and otherwise subject to all the conditions, provisions and obligations of this Lease insofar as the same are applicable to a tenancy at will.

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SECTION 19.3. Tenant's obligations under this Article 19 shall survive the expiration or termination of this Lease.

ARTICLE 20
NOTICES

SECTION 20.1.

(A) Except as otherwise expressly provided in this Lease, any bills, statements, consents, notices, demands, requests or other communications given or required to be given under this Lease ("Notice(s)") shall be in writing and shall be deemed sufficiently given or rendered if delivered by hand (against a signed receipt) or if deposited with a nationally recognized overnight courier or if deposited in the United States mail, and sent by first class mail, certified, return receipt requested with postage prepaid, and in any case addressed:

IF TO TENANT:

(i) at Tenant's address first set forth in this Lease and (ii) to the Premises, and

WITH A COPY TO:

Comfort Systems USA, Inc.
777 Post Oak Boulevard, Suite 500
Houston, TX 77056
Attention: General Counsel

IF TO LANDLORD:

Mark P. Shambaugh
2233 East Cedar Canyons Road

Fort Wayne, IN 46845

WITH A COPY TO:
N. Reed Silliman, Esq.
Baker & Daniels
111 East Wayne Street, Suite 800
Fort Wayne, IN 46802

and any Mortgagee who may have requested the same, by Notice given in accordance with the provisions of this Article 20, at the address designated by such Mortgagee, or to such other address(es) as either Landlord or Tenant may designate as its new address(es) for such purpose by Notice given to the other in accordance with the provisions of this Article 20.

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(B) Notices shall be deemed to have been rendered or given (a) on the date delivered, if delivered by hand, (b) on the day after being deposited with a nationally recognized overnight courier or (c) five (5) days after deposit in the United States mail, as provided in Section 20.1(A) hereof.

ARTICLE 21
INDEMNITY

SECTION 21.1. Tenant shall not do or permit any act or thing to be done in, at or upon the Premises that may subject any Indemnitee to any liability or responsibility for injury, damage to persons or property or to any liability by reason of the existence or application of, compliance with or violation of any Requirement, but shall exercise such control over the Premises as to protect each Indemnitee fully against any such liability and responsibility. Tenant shall indemnify and save harmless the Indemnitees from and against (a) all claims against the Indemnitees arising from any accident, injury or damage whatsoever caused to any person or to the property of any person and occurring in, on or about the Premises during the Term or during Tenant's occupancy of the Premises, unless, and to the extent not, caused by the negligent or intentional misconduct of Landlord, and (b) any breach, violation or non-performance of any covenant, condition or agreement contained in this Lease to be fulfilled, kept, observed and performed by Tenant. This indemnity and hold harmless agreement shall include indemnity from and against any and all liability, claims, fines, suits, demands, costs and expenses of any kind or nature (including, without limitation, attorneys' fees and disbursements) incurred in or in connection with any such claim or proceeding brought thereon, and the defense thereof. If any claim, action or proceeding is made or brought against any Indemnitee, against which claim, action or proceeding Tenant is obligated to indemnify such Indemnitee pursuant to the terms of this Lease, then, upon demand by the Indemnitee, Tenant, at its sole cost and expense, shall contest or defend such claim, action or proceeding in the Indemnitee's name, if necessary, by such attorneys as the Indemnitee may select, including, without limitation, attorneys for the Indemnitee's insurer. The provisions of this Article 21 shall survive the expiration or earlier termination of this Lease.

SECTION 21.2. Landlord shall indemnify and save harmless the Tenant and the other Tenant Indemnitees from and against (a) all claims against the Tenant Indemnitees arising from any accident, injury or damage whatsoever caused to any person or the property of any person and occurring in, on or about the Premises during the Term or during Tenant's occupancy of the Premises to the extent caused by the negligent or intentional misconduct of Landlord and (b) any breach, violation or nonperformance of any covenant, condition or agreement contained in this Lease to be fulfilled, kept, observed and performed by Landlord. This indemnity and hold harmless shall include indemnity from and against any and all liability, claims, fines, suits, demands, costs and expenses of any kind or nature (including, without limitation, attorneys' fees and disbursements) incurred in or in connection with any such claim or proceeding brought thereon, and the defense thereof. If any claim, action or proceeding is made or brought against any Tenant Indemnitee, against which claim, action or

proceeding Landlord is obligated to indemnify such Tenant Indemnatee pursuant to the terms of this Lease, then, upon demand by the Tenant Indemnatee, Landlord at its sole cost and expense shall contest or defend such claim, action or proceeding in the Tenant Indemnatee's name, if necessary, by such attorneys as the Tenant Indemnatee may select, including without limitation attorneys for the Indemnatee's insurer. The provisions of this Article 21 shall survive the expiration or earlier termination of this Lease.

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ARTICLE 22
RENEWAL OPTIONS

SECTION 22.1. Provided that there is no Event of Default at the time the Option (as such term is hereinafter defined) is to be exercised, the Tenant shall have the option to renew this Lease for one (1) additional five (5) year period as follows:

OPTION PERIOD shall commence on the tenth (10th) anniversary of the Commencement Date and shall continue up to and including the day before the fifteenth (15th) anniversary of the Commencement Date,

the aforementioned option period is referred to herein as the "Option Period".

SECTION 22.2. The Option granted to the Tenant pursuant to the provisions of Section 22.1 hereof shall be exercised by the Tenant giving written Notice to the Landlord of the Tenant's intent to exercise the Option not less than one-hundred twenty (120) days prior to the expiration of the Initial Term.

SECTION 22.3. In the event that the Tenant exercises the Option, the Landlord and the Tenant hereby agree that this Lease shall continue in full force and effect and remain unamended during the Option Period, except that the Fixed Rent payable by the Tenant to the Landlord during such Option Period shall continue to be increased annually in accordance with the provisions of Rider 1 hereof.

ARTICLE 23
COVENANT OF QUIET ENJOYMENT

SECTION 23.1. Landlord covenants that, upon Tenant paying all Fixed Rent and Additional Rent and observing and performing all of the terms, agreements, covenants, provisions and conditions of this Lease on Tenant's part to be observed and performed, Tenant may peaceably and quietly enjoy the Premises.

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ARTICLE 24
MISCELLANEOUS

SECTION 24.1. The obligations of Landlord under this Lease shall be binding upon Landlord named herein after the sale, conveyance, assignment or transfer by such Landlord (or upon any subsequent landlord after the sale, conveyance, assignment or transfer by such subsequent landlord) of its interest in the Premises, as the case may be, and in the event of any such sale, conveyance, assignment or transfer, Landlord shall be freed and relieved of any of the covenants and obligations of Landlord under this Lease thereafter arising, upon the date that the transferee shall have assumed, in writing, for the benefit of Tenant, all obligations of the Landlord under this Lease arising after the effective date of the transfer.

SECTION 24.2. Notwithstanding anything contained in this Lease to the contrary, all amounts payable by Tenant to or on behalf of Landlord under this Lease, whether or not expressly denominated Fixed Rent, Additional Rent or

Rental, shall constitute rent for the purposes of Section 502(b)(7) of the Bankruptcy Code.

SECTION 24.3. Upon the request of either party, the other will execute and deliver a mutually acceptable memorandum of this Lease in recordable form.

SECTION 24.4. Except as otherwise provided specifically herein, any consent or approval required to be obtained from Landlord or Tenant under this Lease shall not be unreasonably withheld, conditioned or delayed.

SECTION 24.5. Landlord represents and warrants to Tenant that Landlord has full power and authority to enter into this Lease without the consent of any other parties, including any Mortgagees. Tenant and the person executing this Lease on behalf of Tenant hereby covenant and warrant that: (i) Tenant is now and shall remain throughout the term of this Lease a duly organized and validly existing corporation qualified to do business in the State of Indiana; and (ii) the persons executing this Lease on behalf of Tenant are duly authorized to do so by all necessary corporate action.

SECTION 24.6. If any words or phrases in this Lease are stricken out or otherwise eliminated, whether or not any other words or phrases have been added, this Lease shall be construed as if the words or phrases so stricken out or otherwise eliminated were never included in this Lease and no implication or inference shall be drawn from the fact that such words or phrases were stricken out or otherwise eliminated.

SECTION 24.7. If any of the provisions of this Lease, or the application thereof to any person or circumstance, shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such provisions to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected thereby and shall remain valid and enforceable, and every provision of this Lease shall be valid and enforceable to the fullest extent permitted by law.

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SECTION 24.8. This Lease contains the entire agreement between the parties and all prior negotiations and agreements are merged into this Lease. This Lease may not be changed, abandoned or discharged, in whole or in part, nor may any of its provisions be waived except by a written agreement that (a) expressly refers to this Lease, and (b) is executed by the party against whom enforcement of the change, abandonment, discharge or waiver is sought.

SECTION 24.9. The laws of the State of Indiana applicable to contracts made and to be performed wholly within the State of Indiana shall govern and control the validity, interpretation, performance and enforcement of this Lease without regard to principles of conflicts of law.

SECTION 24.10. The captions are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Lease nor the intent of any provision thereof.

SECTION 24.11. The covenants, conditions and agreements contained in this Lease shall bind and inure to the benefit of Landlord and Tenant and their respective legal representatives, heirs, successors, and, except as otherwise provided in this Lease, their assigns.

SECTION 24.12. Tenant acknowledges and agrees that the liability of Landlord under this Lease shall be limited to Landlord's interest in the Premises, and any judgments rendered against Landlord shall be satisfied solely out of the proceeds of the sale of Landlord's interest in the Premises. The foregoing provision is not intended to relieve Landlord from the performance of any of Landlord's obligations under this Lease, but only to limit the personal liability of Landlord in the case of a recovery of a judgment against Landlord; nor shall the foregoing be deemed to limit Tenant's rights to injunctive relief or to avail itself of any other right or remedy which may be awarded Tenant by

law or under this Lease.

SECTION 24.13. For the purposes of this Lease and all agreements supplemental to this Lease, unless the context otherwise requires:

(A) The words "herein", "hereof", "hereunder" and "hereby" and words of similar import shall be construed to refer to this Lease as a whole and not to any particular Article or Section unless expressly so stated.

(B) Obligations hereunder shall be construed in every instance as conditions as well as covenants, each separate and independent of any other terms of this Lease.

(C) Reference to "termination of this Lease" or "expiration of this Lease" and words of like import includes expiration or sooner termination of this Lease and the Term and the estate hereby granted or cancellation of this Lease pursuant to any of the provisions of this Lease or by law. Upon the termination of this Lease, the Term and estate granted by this Lease shall end at noon on the date of termination as if such date were the Fixed Expiration Date, and neither party shall have any further obligation or liability to the other after such termination except: (i) as shall be expressly provided for in this Lease; and (ii) for such obligations as by their nature under the circumstances can only be, or by the provisions of this Lease, may be, performed after such termination, and, in any event, unless expressly otherwise provided in this Lease, any liability for a payment (which shall be apportioned as of such termination) which shall have accrued to or with respect to any period ending at the time of termination shall survive the termination of this Lease.

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(D) Words and phrases used in the singular shall be deemed to include the plural and vice versa, and nouns and pronouns used in any particular gender shall be deemed to include any other gender.

IN WITNESS WHEREOF, Landlord and Tenant have duly executed this Lease as of the day and year first above written.

/s/

MARK P. SHAMBAUGH

"Landlord"

SHAMBAUGH & SON, INC.,
an Indiana Corporation

By: /s/

Printed: KEVIN L. BEACH
Its: V.P./SEC'Y.

"Tenant"

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RIDER 1

INCREASES IN FIXED RENT

SECTION 1. For purposes of the Lease:

(A) "Bureau" means the Federal Bureau of Labor Statistics or any successor agency that shall issue the indices or data referred to in subparagraph (ii) below.

(B) "Price Index" means the Consumer Price Index for All Urban Consumers for the Fort Wayne, Indiana geographic area, 1982-1984=100, issued from time to time by the Bureau or any other successor measure hereafter employed by the Bureau in lieu of such price index that measures the cost of living for such geographic area or failing such successor, the most nearly comparable index (reflecting changes in costs of housing including rental housing, energy and services), published by a Governmental Authority, appropriately adjusted. Furthermore, if hereafter the Price Index is converted to a different standard reference base or a substantial change is made in the terms or number of items contained therein, the Price Index shall be adjusted (with the use of such conversion factor, formula or table as is published by the Bureau, or if it shall not publish same, the conversion factor published by Prentice Hall, Inc., or, failing such publication, by any other nationally recognized publisher of similar statistical information) to the figure that would have resulted if not for such conversion or change.

(C) "Base Index" means the Price Index issued for December 31, 1998.

(D) "Applicable Price Index" for a Lease Year means the Price Index most recently issued prior to the date on which such Lease Year commences.

SECTION 2.

(A) Tenant shall pay to Landlord the Fixed Rent in the amount set forth in Article 1 of this Lease for the first Lease Year.

(B) Beginning after the end of the first Lease Year, and for each and every Lease Year thereafter, the Tenant shall pay to the Landlord, as Fixed Rent, an amount equal to the GREATER of:

(1) an amount equal to the sum of (x) the percentage by which the Applicable Price Index for such Lease Year exceeds the Applicable Price Index for the immediately preceding Lease Year, multiplied by the Fixed Rent payable for such immediately preceding Lease Year and (y) such Fixed Rent payable for the immediately preceding Lease Year (e.g., if the Base Index is 200, the Applicable Price Index for the second Lease Year is 203, the Applicable Price Index for the third Lease Year is 215, and the Fixed Rent payable for the second Lease Year is \$50,000.00, then the Applicable Price Index for the third Lease Year exceeds the Applicable Price Index for the second Year by 5.91% (i.e., the difference between 203 and 215), and the Fixed Rent derived from the aforesaid calculation shall be \$52,955.75 (5.91% of \$50,000.00, which is \$2,955.00, plus \$50,000.00); or

(2) an amount equal to the Fixed Rent for the immediately preceding Lease Year.

The Landlord and the Tenant hereby acknowledge that it is the mutual intention of the parties that for each and every Lease Year subsequent to the first Lease Year during the Term hereof, the Fixed Rent payable by the Tenant to the Landlord hereunder shall never be decreased from the prior Lease Year.

SECTION 3. Upon Notice by the Landlord to the Tenant of an increase in the Fixed Rent pursuant to the provisions of this Section 3 ("Increase Notice?"), the Tenant shall pay the Fixed Rent as set forth in the Increase Notice for the period in which the increase identified in such Notice shall apply.

SCHEDULE A
LEGAL DESCRIPTION
SPEEDWAY DRIVE/ASCC

Block 10, Speedway Addition, Section 2, according to the recorded plat thereof located at plat book 32, pages 13-14, in the Office of the Recorder of Allen County, Indiana.

AGREEMENT OF LEASE

BETWEEN

MARK P. SHAMBAUGH

LANDLORD

AND

SHAMBAUGH & SON, INC.

TENANT

DATED: OCTOBER 31, 1998

PREMISES

3210 SUGAR MAPLE COURT
SOUTH BEND, IN 46628

AGREEMENT OF LEASE ("Lease"), made as of the 31st day of October, 1998, between Mark P. Shambaugh, as Landlord, and Shambaugh & Son, Inc., an Indiana corporation.

R E C I T A L S :

WHEREAS, the Landlord is the owner of certain premises known as and by the street address of 3210 Sugar Maple Court, South Bend, Indiana 46628 (as more particularly described on Schedule ?A?, annexed hereto and made a part hereof); and

WHEREAS, the Landlord desires to rent the aforementioned premises to the Tenant and the Tenant desires to rent the aforementioned premises from the Landlord.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, for themselves, as well as their respective legal representatives, heirs, successors and assigns, hereby agree as follows:

ARTICLE 1
GLOSSARY

For the purposes of this Lease, the following terms shall have the meanings indicated below:

"Additional Rent" shall have the meaning set forth in Section 2.2(B) hereof.

"Applicable Rate" shall mean the lesser of (x) three percentage points above the then current Prime Interest rate as published, from time to time, by the WALL STREET JOURNAL as its prime interest rate in its Money Rates

section (or if such publication no longer exists or no longer publishes such rate, then the "base rate" as announced by Citibank, N.A. [or its successors], from time to time, for the rate presently referred to as its "base rate") or (y) the maximum rate permitted by applicable law.

"Bankruptcy Code" shall mean 11 U.S.C. Section 101 ET SEQ., or any statute, federal or state, of similar nature and purpose, now or hereafter.

"Building Systems" shall mean the mechanical, electrical, sanitary, heating, air conditioning, ventilating, elevator, plumbing, life-safety and other service or support systems of any nature whatsoever located at or on the Premises, BUT shall not include installations made by Tenant or fixtures or appliances (regardless of whether or not such fixtures or appliances are owned by the Tenant or the Landlord).

"Building Insurance" shall have the meaning set forth in Section 10.2 hereof.

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"Business Days" shall mean all days, excluding Saturdays, Sundays and all days observed as holidays by the State of Indiana or the federal government.

"Commencement Date" is October 31, 1998.

"Event of Default" shall have the meaning set forth in Section 16.1 hereof.

"Expiration Date" shall mean the Fixed Expiration Date or such other date on which the Term ends pursuant to any of the terms, conditions or covenants of this Lease or pursuant to law.

"Fixed Expiration Date" is October 31, 2008.

"Fixed Rent" : \$43,500.00 per annum (\$3,625.00 per month) for the first Lease Year (as such term is hereinafter defined) subject to adjustment thereafter in accordance with the provisions of Rider 1 hereof.

"Government Authority" or "Government Authorities" shall mean the United States of America, the State of Indiana, the County of Allen, the Municipality of Fort Wayne, and/or any political subdivision thereof and any agency, department, commission, board, bureau or instrumentality of any of the foregoing, now existing or hereafter created, having jurisdiction over the Premises or any portion thereof.

"Hazardous Materials" shall have the meaning set forth in Section 8.2 hereof.

"Increase Notice" shall have the meaning set forth in Section 3 of Rider 1 attached hereto and made a part hereof.

"Indemnities" shall mean Landlord, his agents and contractors (and the partners, shareholders, officers, directors and employees of any of the Landlord's agents or contractors).

"Initial Term" shall mean the ten (10) year period commencing on the Commencement Date.

"Landlord", on the date as of which this Lease is made, shall mean Mark P. Shambaugh, but thereafter, "Landlord" shall mean any fee owner of the Premises.

"Lease Year" shall mean each twelve (12) month period commencing on the Commencement Date and each anniversary of the Commencement Date.

"Mortgage(s)" Shall mean any deed of trust, trust indenture or

mortgage which may now or hereafter affect the Premises and all extensions, supplements, amendments, modifications, consolidations, refinancings and replacements thereof or thereto, substitutions therefor, and advances made thereunder.

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"Mortgagee(s)" Shall mean any trustee or mortgagee or holder of a Mortgage.

"Notice(s)" shall have the meaning set forth in Section 22.1(A) hereof.

"Option" or "Options" shall have the meaning set forth in Section 26.1 hereof.

"Option Period" or "Option Periods" shall have the meaning set forth in Section 26.1 hereof.

"Permitted Use" shall mean general, executive and administrative offices, parking, machine shop, repair, and warehouse facilities in connection with Tenant's business as a mechanical contracting and service company and uses related thereto including the evolution of the Tenant's business consistent with the evolution of the mechanical contracting industry in general, subject to all applicable laws, regulations, codes and ordinances, and subject further to all recorded restrictions, covenants and limitations affecting the Premises, provided, however, that no recorded restrictions, covenants or limitations impair the use of the Premises for the purposes intended by Tenant as of the Commencement Date.

"Person(s) or Person(s)" shall mean any natural person or persons, a partnership, a corporation and any other form of business or legal association or entity.

"Persons Within Tenant's Control" shall mean and include Tenant, all of Tenant's respective shareholders, directors, officers, agents, contractors, sub-contractors, servants, employees, licensees and invitees as well as any of the heirs, successors, representatives and assigns of any of the foregoing.

"Premises" shall mean all that certain plot, piece and parcel of land, together with all buildings and improvements erected thereon, known as and by the street address of 7614 and 7620 Opportunity Drive, Fort Wayne, Indiana 46801 (as more particularly described on Schedule "A", annexed hereto and made a part hereof).

"Price Index" shall have the meaning set forth in Section 1(B) of Rider 1 attached hereto.

"Rental" shall mean and be deemed to include Fixed Rent, Additional Rent and any other sums payable, now or hereafter, by Tenant hereunder.

"Requirements" shall mean all present and future laws, rules, ordinances, regulations, statutes, requirements, codes and executive orders, extraordinary as well as ordinary, retroactive and prospective, of all Governmental Authorities, now existing or hereafter created which affect, directly or indirectly, the Premises and/or the maintenance, use, operation or occupation of the Premises, and all recorded restrictions, covenants and limitations affecting the

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Premises, provided, however, that no recorded restrictions, covenants or limitations impair the use of the Premises for the purposes intended by Tenant as of the Commencement Date.

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

"Tenant", on the date as of which this Lease is made, shall mean the Tenant named in this Lease, but thereafter "Tenant" shall mean only the tenant under this Lease at the time in question; provided, however, that the Tenant named in this Lease and any and all successor tenant(s) hereunder shall not be released and relieved from any liability hereunder in the event of any assignment of this Lease or a sublet, in whole or in part, of the Premises.

"Tenant Indemnities" shall mean Tenant, its agents and contractors (and the partners, shareholders, officers, directors and employees of Tenant and its agents and contractors).

"Tenant's Property" shall mean Tenant's movable fixtures and movable partitions, telephone and other equipment, furniture, furnishings and other movable items of personal property owned by the Tenant.

"Term", on the date as of which this Lease is made shall mean the Initial Term, but thereafter shall be deemed to include any Option Period for which the Tenant exercises its Option pursuant to the provisions of Article 26 hereof.

ARTICLE 2
DEMISE; PREMISES; TERM; RENT

SECTION 2.1. Landlord hereby leases to Tenant and Tenant hereby hires from Landlord the Premises for the Initial Term to commence on the Commencement Date and to end on the Fixed Expiration Date, unless earlier terminated as provided herein and subject to the renewal options provided for in Article 26 below.

SECTION 2.2. Commencing upon the Commencement Date, Tenant shall pay to Landlord, in lawful money of the United States of America, without Notice or demand, without relief from valuation and appraisal laws, by good and sufficient check at the office of Landlord or at such other place as Landlord may designate from time to time, the following:

(A) the Fixed Rent, as such term is defined in Article 1 hereof, which shall be payable in equal monthly installments in advance on the first day of each and every calendar month during the Term, and

(B) additional rent ("Additional Rent") consisting of all other sums of money as shall become due from and be payable by Tenant hereunder.

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SECTION 2.3. If the Commencement Date is other than the first day of a calendar month, or the Fixed Expiration Date is other than the last day of a calendar month, Fixed Rent for such month shall be prorated on a per diem basis.

SECTION 2.4. Tenant shall pay the Fixed Rent and Additional Rent when due without abatement, deduction, counterclaim, setoff or defense of any nature. It is understood and agreed that the Fixed Rent to be received by Landlord during the Term shall be net to Landlord so that this Lease shall yield to Landlord the Fixed Rent specified herein and, accordingly, all real estate taxes, insurance, maintenance and other expenses of any nature related to the Premises, excluding Landlord's income taxes, shall be solely the responsibility of Tenant unless otherwise specifically set forth herein.

ARTICLE 3
REAL ESTATE TAXES

SECTION 3.1. The Tenant covenants and agrees that it shall, within twenty (20) days of written demand by the Landlord to the Tenant, pay to the Landlord, as Additional Rent, any and all Taxes (as hereinafter defined) of any nature whatsoever assessed or imposed against the Premises for each and every Lease Year during the Term of this Lease. The Landlord hereby agrees that any demand given by the Landlord to the Tenant pursuant to the provisions of this

Section 3.1 shall include an accurate copy of the invoice, statement, bill or similar document issued by the relevant Governmental Authority or Governmental Authorities, as the case may be, with respect to the Taxes for which payment is demanded. For purposes of this Section 3.1, "Taxes" shall include, without limitation, any and all taxes assessed against the Premises, all personal property taxes, all ad valorem taxes and any and all other taxes assessed against the Premises by any Governmental Authority, now or hereafter, but shall EXCLUDE any special assessments or charges for improvements or infrastructure effected or installed prior to the Commencement Date. With respect to Taxes for tax periods commencing before or ending after the Term of this Lease, Tenant shall only be obligated to pay to Landlord the pro rata portion of such Taxes equal to the portion of such tax period falling within the Term of this Lease.

ARTICLE 4
UTILITIES

SECTION 4.1. The Tenant shall contract for in its name, and covenants and agrees that it shall pay when due any and all charges incurred for, any and all utilities supplied to the Premises including, without limitation, electricity, water, heating oil and/or natural gas. Landlord represents and warrants to Tenant that electricity, water, telephone, sewer, and natural gas, if any, are present at and available to the Premises in quantities sufficient for Tenant's business purposes.

SECTION 4.2. Landlord shall not be liable in any way to Tenant for any interruption or failure of or defect in the supply or character of any utility furnished to the Premises, now or hereafter, or for any loss, damage or expense Tenant may sustain if either the quantity or character of any utility is changed or is no longer suitable for Tenant's requirements,

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whether by reason of any requirement, act or omission of the public utility serving the Premises or for any other reason whatsoever. Notwithstanding the provisions of this Section 4.2, the Landlord shall be responsible for any and all actual damages suffered by the Tenant as a result of any interruption of utility service to the extent caused by the Landlord's gross negligence or intentional misconduct, and Rent shall abate until such service is fully restored.

SECTION 4.3. If any Taxes are imposed upon Landlord with respect to any utility furnished as a service to Tenant by any Governmental Authority, Tenant agrees that such Taxes shall be reimbursed by Tenant to Landlord upon written demand. The Landlord hereby agrees that any demand given by the Landlord to the Tenant pursuant to the provisions of this Section 4.3 shall include an accurate copy of the invoice, statement, bill or similar document issued by the relevant Governmental Authority or Governmental Authorities, as the case may be, with respect to the Taxes for which payment is demanded.

ARTICLE 5
USE AND OCCUPANCY

SECTION 5.1. Tenant shall use and occupy the Premises for the Permitted Use and for no other purpose of any nature whatsoever. However, nothing contained herein shall require Tenant to operate or occupy the Premises continuously during the Term.

ARTICLE 6
ALTERATIONS

SECTION 6.1.

(A) (1) Except as provided below, prior to making any additions, alterations or improvements to the Premises, Tenant shall: (i) submit to Landlord plans and specifications for approval by the Landlord (including to the extent reasonably applicable, layout, architectural, electrical, mechanical and structural drawings) that comply with all Requirements for each proposed addition, alteration or improvement to the Premises, and

Tenant shall not commence any such work without first obtaining Landlord's approval of such plans and specifications; and (ii) at Tenant's expense, obtain all permits, approvals and certificates required by any Governmental Authorities. Upon completion of such addition, alteration or improvement, Tenant, at Tenant's expense, shall obtain certificates of final approval of such addition, alteration or improvement required by any Governmental Authority and shall furnish Landlord with copies thereof. All additions, alterations and improvements shall be made and performed in accordance with the plans and specifications therefor as approved by Landlord and otherwise in accordance with all Requirements. All materials and equipment to be incorporated in the Premises as a result thereof shall be good quality and no such materials or equipment shall be subject to any lien, encumbrance, chattel mortgage, title retention or security agreement.

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(A) (2) Notwithstanding anything to the contrary contained in this Lease, Tenant shall have the right to make any alterations, additions and improvements to the Premises without the consent of the Landlord if and only if: (i) the total cost of such alterations, additions or improvements do not exceed Fifty Thousand and No/100 Dollars (\$50,000.00) for any Lease Year; and (ii) Tenant shall not remove, materially alter or otherwise impair any structural element of the Premises or the Building System.

(A) (3) Tenant agrees that any review or approval by Landlord of any plans and/or specifications with respect to any alteration, addition and improvement is solely for Landlord's benefit, and without any representation or warranty whatsoever to Tenant or any other Person with respect to the adequacy, correctness or sufficiency thereof or with respect to Requirements or otherwise.

(A) (4) Landlord, at Tenant's expense, and upon the request of Tenant, shall join in any applications for any permits, approvals or certificates required to be obtained by Tenant in connection with any permitted alteration, addition and improvement (provided that the provisions of the applicable Requirements shall require that Landlord join in such application) and shall otherwise cooperate with Tenant in connection therewith; provided, however, that Landlord shall not be obligated to incur any cost or expense or liability in connection therewith.

(B) All alterations, additions and improvements shall become a part of the Premises and shall be Landlord's property from and after the installation thereof and may not be removed or changed without Landlord's prior written consent. All Tenant's Property shall remain the property of Tenant and, on or before the Expiration Date or earlier end of the Term, may be removed from the Premises by Tenant at Tenant's sole cost and option; provided, however, that Tenant shall repair and restore in a good and workmanlike manner any damage to the Premises caused by such removal. The provisions of this Section 6.1(B) shall survive the expiration or earlier termination of this Lease.

(C) (1) Any mechanic's lien filed against the Premises for work claimed to have been done for, or materials claimed to have been furnished to, Tenant shall be contested by appropriate judicial proceedings or shall be canceled or discharged by Tenant, at Tenant's expense, within ninety (90) days after such lien shall be filed and Tenant receives notice thereof, by payment or filing of the bond required by law.

(C) (2) If Tenant shall fail to contest or discharge such mechanic's lien within the aforesaid period, then, in addition to any other right or remedy of Landlord, Landlord may, but shall not be obligated to, discharge the same either

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by paying the amount claimed to be due or by procuring the discharge of such lien by deposit in court or bonding.

(C) (3) Any amount paid by Landlord for any of the aforesaid charges and for all expenses of Landlord (including, but not limited to, reasonable attorneys' fees and disbursements) incurred in defending any such action, discharging said lien or in procuring the discharge of said lien, with interest on all such amounts at the Applicable Rate, shall be repaid by Tenant within twenty (20) days after written demand therefor, and all amounts so repayable, together with such interest, shall be considered Additional Rent.

(D) Tenant shall have the right, at its sole cost and expense, to erect and maintain any exterior signs on the Premises with the prior written consent of Landlord so long as the same comply with all applicable Requirements. Landlord acknowledges consent to Tenant's signage in existence as of the Commencement Date.

ARTICLE 7
REPAIRS; REPLACEMENTS; MAINTENANCE

SECTION 7.1. Except for those repairs, replacements or maintenance required to be effected by Landlord, and further subject to the right of reimbursement herein provided, Tenant, at Tenant's sole cost and expense, shall take good care of the Premises and the improvements, buildings, Building Systems, fixtures, equipment, parking lots, landscaping and appurtenances located thereon and make all non-structural repairs, REPLACEMENTS or alterations thereto of any nature whatsoever as and when needed to preserve them in as good working order and condition as exists as of the Commencement Date, ordinary wear and tear excepted, ("Maintenance Repairs") or to comply with any Requirement ("Requirement Alteration"). If Tenant shall fail, after thirty (30) days Notice (or such shorter period as may be required because of an emergency), to commence to make repairs, replacements or alterations required to be made by Tenant and complete the same within a reasonable period of time thereafter exercising due diligence, the same may be made by Landlord, at the expense of Tenant, and the expenses thereof incurred by Landlord, with interest thereon at the Applicable Rate, shall be paid to Landlord, as Additional Rent, within twenty (20) days after rendition of a bill or statement therefor. Tenant shall give Landlord prompt Notice of any defective condition known to Tenant in any Building Systems located in, servicing or passing through the Premises. If the cost of any Maintenance Repair or Requirement Alteration, whether structural or non-structural, exceeds \$10,000.00, and Landlord consents to such Maintenance Repair or Requirement Alteration after prior written notice from Tenant, then upon termination or other expiration of this Lease Landlord shall reimburse to Tenant the pro rata portion of the cost of such Maintenance Repair or Requirement Alterations equal to the portion of the useful life of such Maintenance Repair or Requirement Alterations that remains after the expiration or other termination of this Lease. The useful life of such Maintenance Repair or Requirement Alterations shall be established by the party making such Maintenance Repair or Requirement Alterations at the time made. Notwithstanding anything to

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the contrary contained in this Section, in no event shall Tenant be responsible for any repair, item of maintenance or replacement to the extent the same is caused by the negligence or willful misconduct of Landlord or Landlord's employees, contractors or agents.

SECTION 7.2. Landlord hereby assigns all warranties and guaranty agreements relating to the Premises and the Building Systems to Tenant during the Term.

SECTION 7.3. Landlord hereby agrees to repair, maintain and replace all structural portions of the Premises, including, without limitation, exterior walls, support columns and walls, foundation and the roof in as good repair and working order as exists as of the Commencement Date, ordinary wear and tear excepted.

ARTICLE 8
REQUIREMENTS OF LAW

SECTION 8.1. Tenant shall not do, and shall not permit (to the extent Tenant has control over the same) any act or thing in or upon the Premises which will invalidate or be in conflict with the certificate of occupancy for the Premises or violate any Requirements. Tenant shall immediately take all action, including but not limited to, making any Requirement Alterations necessary to comply with all Requirements which shall or may impose any violation, order or duty upon Landlord or Tenant arising from or in connection with the Premises, Tenant's occupancy, use or manner of use of the Premises or any installations in the Premises, or required by reason of a breach of any of Tenant's covenants or agreements under this Lease, whether or not such Requirements shall now be in effect or hereafter enacted or issued, and whether or not any work required shall be ordinary or extraordinary or foreseen or unforeseen as of the date hereof. Landlord represents and warrants to Tenant that as of the Commencement Date no condition exists with respect to the Premises that will necessitate any Requirement Alteration.

SECTION 8.2. Tenant covenants and agrees that Tenant shall, at Tenant's sole cost and expense, comply at all times with all Requirements governing the use, generation, storage, treatment and/or disposal of any Hazardous Materials (as defined below) in, on, under, about or from the presence of which results from or in connection with the act or omission of Tenant or Persons Within Tenant's Control or the breach of this Lease by Tenant or Persons Within Tenant's Control. The term "Hazardous Materials" shall mean any biologically or chemically active or other toxic or hazardous wastes, pollutants or substances, including, without limitation, asbestos, PCBS, petroleum products and by-products, substances defined or listed as "hazardous substances" or "toxic substances" or similarly identified in or pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. ' 9601 ET SEQ., and as hazardous wastes under the Resource Conservation and Recovery Act, 42 U.S.C. ' 6010, ET SEQ., any chemical substance or mixture regulated under the Toxic Substance Control Act of 1976, as amended, 15 U.S.C. 2601, ET SEQ., any "toxic pollutant" under the Clean Water Act, 33 U.S.C. ' 466 ET SEQ., as amended, any hazardous air pollutant under the Clean Air Act, 42 U.S.C. ' 7401 ET SEQ., hazardous materials identified in or pursuant to the Hazardous Materials Transportation Act, 49 U.S.C. ' 1802, ET SEQ., and any hazardous or toxic substances or pollutant regulated under any

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other Requirements. Tenant shall indemnify and hold harmless all Indemnitees from and against any loss, claim, cost, damage, liability or expense (including attorneys' fees and disbursements) arising by reason of any clean up, removal, remediation, detoxification action or any other activity required or recommended of any Indemnitees by any Governmental Authority by reason of the presence in, on, under or about the Premises of any Hazardous Materials, as a result of or in connection with the act or omission of Tenant or Persons Within Tenant's Control or the breach of this Lease by Tenant or Persons Within Tenant's Control. Landlord shall indemnify and hold harmless all Tenant Indemnitees from and against any loss, claim, cost, damage, liability or expense (including attorneys' fees and disbursements) arising by reason of any clean up, removal, remediation, detoxification action or any other activity required or recommended of any Tenant Indemnitees by any Governmental Authority by reason of the presence in, on, under or about the Premises of any Hazardous Materials either in existence on the Commencement Date or that come to exist thereafter that are not the result of or in connection with the act or omission of Tenant or Persons Within Tenant's Control or the breach of this Lease by Tenant or Persons Within Tenant's Control. The foregoing covenants and indemnities shall survive the expiration or any termination of this Lease.

SECTION 8.3. Landlord represents and warrants to Tenant that as of the date hereof Landlord has no notice of the presence, generation, storage, disposal or other use of Hazardous Materials on, in or under the Premises prior to the date hereof or any violation of any violation of any applicable Requirements relating to Hazardous Materials.

SECTION 8.4. If Tenant shall receive notice of any violation of or defaults under, any Requirements, liens or other encumbrances applicable to the Premises, Tenant shall give immediate written Notice thereof to Landlord.

SECTION 8.5. If any governmental license or permit shall be required for the proper and lawful conduct of Tenant's business and if the failure to secure such license or permit would, in any way, affect Landlord or the Premises, then Tenant, at Tenant's expense, shall promptly procure and thereafter maintain, submit for inspection by Landlord, and at all times comply with the terms and conditions of, each such license or permit.

ARTICLE 9
SUBORDINATION

SECTION 9.1. This Lease shall at all times, now and hereafter, be subject and subordinate to each and every Mortgage, whether made prior to or after the execution of this Lease, and to all extensions, supplements, amendments, modifications, consolidations and replacements thereof or thereto, substitutions therefor, and advances made thereunder, provided that the Mortgagee confirms and accepts the provisions of Section 9.5 below. This clause shall be self-operative and no further agreement of subordination shall be required to make the interest of any Mortgagee superior to the interest of Tenant hereunder. In confirmation of such subordination, Tenant shall promptly execute and deliver, at its own cost and expense, any document, in recordable form if requested, that Landlord or any Mortgagee may request to

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evidence such subordination; and if Tenant fails to execute, acknowledge or deliver any such document within twenty (20) days after request therefor, Tenant hereby irrevocably constitutes and appoints Landlord as Tenant's attorney-in-fact, coupled with an interest, to execute, acknowledge and deliver any such document for and on behalf of Tenant.

SECTION 9.2. The subordination set forth in Section 9.1 above is subject to the written agreement (a "Non-Disturbance Agreement") by any Mortgagee or any other person to whom Tenant may be required to attorn, that so long as Tenant is in compliance with the terms of this Lease, Tenant's use and occupancy of the Premises shall not be disturbed, and that all provisions of the Lease shall be given effect, including those related to the application of any proceeds of insurance. Landlord shall cause each Mortgagee, whether pursuant to a Mortgage now existing or hereafter arising, to execute and deliver to Tenant a Non-Disturbance Agreement, subject to the terms of the preceding sentence, in a form acceptable to such Mortgagee.

ARTICLE 10
INSURANCE; PROPERTY LOSS OR DAMAGE; REIMBURSEMENT

SECTION 10.1.

(A) Neither Landlord nor Landlord's agents shall be liable for any injury or damage to persons or property, or interruption of Tenant's business, resulting from fire or other casualty caused by Persons other than the Landlord.

(B) Tenant shall give written Notice to Landlord, promptly after Tenant learns thereof, of any accident, emergency, occurrence, fire or other casualty and all damages to or defects in the Premises for the repair of which Landlord might be responsible. Such Notice shall be given by telecopy or personal delivery to the address(es) of Landlord in effect for Notice.

SECTION 10.2. Tenant shall not do or permit to be done any act or thing in or upon the Premises which will invalidate or be in conflict with the terms of the State of Indiana standard form of fire insurance with extended coverage, or with rental, liability, boiler, sprinkler, water damage, war risk or other insurance policies covering the Premises (hereinafter referred to as

"Building Insurance"); and Tenant, at Tenant's own expense, shall comply with all rules, orders, regulations and requirements of all insurance boards.

SECTION 10.3.

(A) Tenant shall, at Tenant's own cost and expense, obtain, maintain and keep in full force and effect during the Term, for the benefit of Landlord, any Mortgagees and Tenant, the Building Insurance in an amount equal to the replacement value of the Building and its contents (not to exceed \$500,000.00) and commercial general liability insurance (including premises operation, bodily injury, personal injury, death, independent contractors, broad form contractual liability

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and broad form property damage coverages) with coverage limits of \$1,000,000 per occurrence and \$2,000,000 in the aggregate, against all claims, demands or actions with respect to damage, injury or death made by or on behalf of any person or entity, arising from or relating to the conduct and operation of Tenant's business in, on or about the Premises (which shall include Tenant's signs, if any), or arising from or related to any act or omission of Tenant or of Persons Within Tenant's Control.

(B) Landlord and any Mortgagees shall be named as additional insureds in said policies. All said policies of insurance shall be: (i) written as "occurrence" policies; (ii) written as primary policy coverage and not contributing with or in excess of any coverage which Landlord may carry; and (iii) issued by reputable and independent insurance companies rated in Best's Insurance Guide, or any successor thereto (or if there be none, an organization having a national reputation) as having a general policyholder rating of "A" and a financial rating of at least "XI", and which are licensed to do business in the State of Indiana. Upon Landlord's request, Tenant shall deliver to Landlord the policies of insurance or certificates thereof, together with evidence of payment of premiums thereon, and shall thereafter furnish to Landlord, at least thirty (30) days prior to the expiration of any such policies and any renewal thereof, a new policy or certificate in lieu thereof, with evidence of the payment of premiums thereon. Each of said policies shall also contain a provision whereby the insurer agrees not to cancel, fail to renew, diminish or materially modify said insurance policy(ies) without having given Landlord and any Mortgagees at least thirty (30) days prior written Notice thereof.

(C) Tenant shall pay all premiums and charges for all of said policies, and, if Tenant shall fail to make any payment when due or carry any such policy, Landlord may, but shall not be obligated to, make such payment or carry such policy, and the amount paid by Landlord, with interest thereon (at the Applicable Rate), shall be repaid to Landlord by Tenant on demand, and all such amounts so repayable, together with such interest, shall be deemed to constitute Additional Rent hereunder. Payment by Landlord of any such premium, or the carrying by Landlord of any such policy, shall not be deemed to waive or release the default of Tenant with respect thereto.

(D) Tenant, at Tenant's sole cost and expense, shall maintain insurance protecting and indemnifying Tenant against any and all damage to or loss of Tenant's Property, and all claims and liabilities relating thereto.

SECTION 10.4.

(A) Landlord and Tenant hereby release each other and their respective agents, employees, partners, shareholders, officers and directors from any claims or actions for damage to the Premises or Tenant's Property to the extent the same

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are covered by proceeds of any insurance policies maintained by the

parties hereto under the terms of this Lease or in force at the time of any such damage. Each party shall cause each insurance policy obtained by it to provide that the insurance company waives all rights of recovery by way of subrogation against the other party in connection with any damage covered by any such policy.

(B) The waiver of subrogation referred to in Section 10.4(A) above shall extend to the agents and employees of each party, but only if and to the extent that such waiver can be obtained without additional charge (unless such party shall pay such charge). Nothing contained in this Section 10.4 shall be deemed to relieve the Landlord or Tenant from any duty imposed elsewhere in this Lease to repair, restore and rebuild the Premises, in whole or in part.

ARTICLE 11
DESTRUCTION BY FIRE OR OTHER CAUSE

SECTION 11.1. If the Premises or any part thereof shall be damaged by fire or other casualty, Tenant shall give immediate written Notice thereof to Landlord. Landlord shall, subject to the provisions of Sections 11.2 and 11.3 below, proceed with reasonable diligence, after receipt of the net proceeds of insurance, to repair or cause to be repaired such damage at its expense, to the condition immediately preceding such damage and, if the Premises, or any part thereof, shall be rendered untenable by reason of such damage, then the Fixed Rent hereunder, or an amount thereof apportioned according to the area of the Premises so rendered untenable (if less than the entire Premises shall be so rendered untenable), shall be abated for the period from the date of such damage to the date that is thirty (30) days after the date when the repair of such damage shall have been substantially completed. If Landlord or any Mortgagee shall be unable to collect the insurance proceeds applicable to such damage because of some action or inaction on the part of Tenant or Persons Within Tenant's Control, then Landlord shall have no duty to make such repairs or effect any restoration hereunder. Tenant covenants and agrees to cooperate with Landlord and any Mortgagee in their efforts to collect insurance proceeds (including rent insurance proceeds) payable to such parties. Landlord shall not be liable for any delay which may arise by reason of adjustment of insurance on the part of Landlord and/or Tenant, or any cause beyond the control of Landlord or contractors employed by Landlord.

SECTION 11.2. Landlord shall not be liable for any inconvenience or annoyance to Tenant or injury to the business of Tenant resulting in any way from damage from fire or other casualty or the repair thereof unless caused by Landlord. Tenant understands that Landlord, in reliance upon Section 10.3 hereof, will not carry insurance of any kind on Tenant's Property, and that Landlord shall not be obligated to repair any damage thereto or replace the same.

SECTION 11.3.

(A) Notwithstanding anything to the contrary contained in Sections 11.1 and 11.2 above, in the event that:

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(1) at least fifty (50%) percent of the rentable square feet of the Premises shall be damaged by a fire or other casualty so that substantial alteration or reconstruction of the Premises shall be required (whether or not the remainder of the Premises shall have been damaged by such fire or other casualty and without regard to the structural integrity of the Premises); or

(2) the Premises shall be totally or substantially damaged or shall be rendered wholly or substantially unsuitable for the Permitted Use; or

(3) the Landlord fails to commence any repairs, reconstruction or restoration of the Premises within sixty (60) days after a casualty;

or

(4) Landlord fails complete all repairs, reconstruction or restoration of the Premises within one hundred twenty (120) days after the date of casualty;

then, as a result of any circumstances described in subparagraphs (1), (2), (3) or (4) hereof, the Tenant, at Tenant's option, may terminate this Lease and the term and estate hereby granted, by notifying the Landlord in writing of such termination within one hundred twenty (120) days after the date of such damage [as to subparagraphs (1) and (2)] or within thirty (30) days after the passage of the times periods in subparagraphs (3) and (4) above. In the event that such a Notice of termination shall be given, then this Lease and the term and estate hereby granted shall expire as of the date of termination stated in said Notice with the same effect as if that date were the Fixed Expiration Date, and the Fixed Rent and Additional Rent hereunder shall be apportioned as of such date. Notwithstanding the termination of this Lease as provided in this Subsection 11.3(A) Landlord shall be obligated to reimburse to Tenant a portion of the cost of any Maintenance Repair or Requirement Alterations to the extent required by Section 7.1 above. In the event of an occurrence as described in subparagraphs (1) or (2) above, Landlord, at Landlord's option, may terminate this Lease and the term and estate hereby granted by notifying Tenant in writing of such termination within one hundred twenty (120) days after the date of such damage.

ARTICLE 12
EMINENT DOMAIN

SECTION 12.1. If the whole of the Premises is acquired or condemned for any public or quasi-public use or purpose, this Lease and the Term shall end as of the date of the vesting of title with the same effect as if said date were the Fixed Expiration Date. If only a part of the Premises is so acquired or condemned then, except as hereinafter provided in this Section 12.1, this Lease and the Term shall continue in effect but, if a part of the Premises is so acquired or condemned, from and after the date of the vesting of title, the Fixed Rent and Additional Rent, if

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any, shall be reduced in the proportion which the area of the part of the Premises so acquired or condemned bears to the total area of the Premises immediately prior to such acquisition or condemnation. If the part of the Premises acquired or condemned contains more than fifty percent (50%) of the rentable square feet of the Premises or if, by reason of such acquisition or condemnation, the Premises shall be rendered wholly or substantially unsuitable for the Permitted Use, then either Landlord or Tenant may terminate this Lease and the Term and estate hereby granted, by notifying the other party in writing of such termination within one hundred twenty (120) days after the date upon which Tenant receives Notice of vesting of title. In the event that such Notice of termination shall be given, then this Lease and the Term and estate hereby granted shall expire as of the date of termination stated in said Notice, with the same effect as if that date were the Fixed Expiration Date. In the event of any termination of this Lease and the Term pursuant to the provisions of this Section 12.1, the Fixed Rent or Additional Rent shall be apportioned as of the date of sooner termination and any prepaid portion of the Fixed Rent for any period after such date shall be refunded by Landlord to Tenant.

SECTION 12.2. In the event of any such acquisition or condemnation of all or any part of the Premises, Landlord shall be entitled to receive the entire award for any such acquisition or condemnation, but shall be obligated to proceed with reasonable diligence to repair and restore the Premises, at Landlord's expense, to a condition most suitable for the Permitted Use. Tenant shall have no claim against Landlord or the condemning authority for the value of any unexpired portion of the Term and Tenant hereby expressly assigns to Landlord all of its right in and to any such award. Nothing contained in this Section 12.2 shall be deemed to prevent Tenant from making a separate claim in any condemnation proceedings for the value of any Tenant's Property included in such taking, and for any moving expenses, so long as Landlord's award is not reduced thereby.

SECTION 12.3.

(A) Notwithstanding anything to the contrary contained in Sections 12.1 and 12.2 above, in the event that:

(1) the Landlord fails to commence any repairs, reconstruction or restoration of the Premises within sixty (60) days after the physical taking of a portion of the Premises; or

(2) Landlord fails complete all repairs, reconstruction or restoration of the Premises within one hundred twenty (120) days after the date of such physical taking,

then, as a result of any circumstances described in subparagraphs (1) or (2) hereof, the Tenant, at Tenant's option, may terminate this Lease and the term and estate hereby granted, by notifying the Landlord in writing of such termination within thirty (30) days after the passage of the times periods in subparagraphs (1) and (2) above. In the event that such a Notice of termination shall be given, then this Lease and the term and estate hereby granted shall expire as of the date of

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termination stated in said Notice with the same effect as if that date were the Fixed Expiration Date, and the Fixed Rent and Additional Rent hereunder shall be apportioned as of such date. Notwithstanding the termination of this Lease as provided in this Subsection 12.3(A) Landlord shall be obligated to reimburse to Tenant a portion of the cost of any Maintenance Repair or Requirement Alterations to the extent required by Section 7.1 above.

ARTICLE 13
ASSIGNMENT; SUBLETTING; MORTGAGE; ETC.

SECTION 13.1.

(A) The Tenant shall not: (i) assign this Lease; or (ii) mortgage or encumber Tenant's interest in this Lease, in whole or in part; or (iii) sublet, or permit the subletting of, the Premises or any part thereof without the prior consent of Landlord. Notwithstanding the provisions of this Section 13.1, the use of the Premises by any Person AFFILIATED (as such term is hereinafter defined) with the Tenant or under the COMMON CONTROL (as such term is hereinafter defined) of Comfort Systems USA, Inc., as the case may be, shall not be deemed an assignment of this Lease or a sublet of the Premises, provided Tenant is not in default and remains fully obligated pursuant to the terms and conditions of this Lease. For purposes of this Article 13, a Person shall be deemed to be an "affiliate" of the Tenant or under the "common control" of Comfort Systems USA, Inc., if such Person is a member of a "parent-subsidiary controlled group" as such term is defined by Section 1563(a)(1) of the Internal Revenue Code of 1986, as amended or a member of a "brother-sister controlled group" as such term is defined by Section 1563(a)(2) of the Internal Revenue Code of 1986, as amended of which either Comfort Systems USA, Inc. or the Tenant, as the case may be, is a member.

(B) Notwithstanding the provisions otherwise set forth in this Article 13, no reorganization, consolidation and/or restructuring of the Tenant or the sale or transfer of any of its stock shall be deemed an assignment of this Lease or a sublet of the Premises, provided that the surviving entity resulting from such reorganization, consolidation and/or restructuring remains fully obligated pursuant to the terms and conditions of this Lease as Tenant.

SECTION 13.2. If Tenant's interest in this Lease shall be assigned in violation of the provisions of this Article 13, such assignment shall be invalid and of no force and effect against Landlord. If the Premises or any part thereof are sublet to, or occupied by, or used by, any person other than Tenant, whether or not in violation of this Article 13, Landlord, may collect an amount

equal to the then Fixed Rent plus any other items of Rental or other sums paid by the subtenant, user or occupant as a fee for its use and occupancy, and shall apply the net amount collected to the Fixed Rent and the other items of Rental reserved in this Lease. No such assignment, subletting, occupancy, or use, nor any such collection or application of Rental or fee for use and occupancy, shall be deemed a waiver by Landlord of any term, covenant or condition

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of this Lease or the acceptance by Landlord of such assignee, subtenant, occupant or user as Tenant hereunder, nor shall the same, in any circumstances, relieve Tenant of any of its obligations under this Lease.

ARTICLE 14
ACCESS TO PREMISES

SECTION 14.1. Landlord or Landlord's agents shall have the right to enter the Premises at all reasonable times during Tenant's regular business hours upon (except in case of emergency) reasonable prior notice, which notice may be oral, to examine the same, to show the same to prospective purchasers or Mortgagees and to make such repairs, alterations, improvements or additions: (i) as Landlord may deem necessary or required under the terms of the Lease; or (ii) which Landlord may elect to perform at least twenty (20) days after notice (except in an emergency when no notice shall be required) following Tenant's failure to make repairs or perform any work which Tenant is obligated to make or perform under this Lease, and Landlord shall be allowed to take all material into and upon the Premises that may be required therefor without the same constituting an eviction or constructive eviction of Tenant in whole or in part and except as herein provided the Fixed Rent (and any other item of Rental) shall in no respect abate or be reduced by reason of said repairs, alterations, improvements or additions, wherever located, or while the same are being made, by reason of loss or interruption of business of Tenant, or otherwise. Landlord shall promptly repair any damage caused to the Premises or Tenant's Property by such work, alterations, improvements or additions. In all events, Landlord shall use its best efforts not to interfere with or obstruct Tenant's business activities on or in the Premises during any entry.

ARTICLE 15
CERTIFICATE OF OCCUPANCY

SECTION 15.1. Landlord represents and warrants to Tenant that use and occupancy of the Premises for the Permitted Uses shall not violate the certificate of occupancy for the Premises or any Requirement. Tenant shall not at any time, now or hereafter, use or occupy the Premises, directly or indirectly, in violation of the certificate of occupancy for the Premises and in the event that any Governmental Authority hereafter contends or declares by notice, order or in any other manner whatsoever that the Premises are used for a purpose that is not included in the Permitted Uses and is a violation of such certificate of occupancy, Tenant shall, upon three (3) Business Days' written Notice from Landlord or any Government Authority, immediately discontinue such use of the Premises.

ARTICLE 16
DEFAULT

SECTION 16.1. Each of the following events shall be an "Event of Default" under this Lease:

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(A) if Tenant shall on any occasion default in the payment when due of any installment of Fixed Rent or Additional Rent or in the payment when due of any other item of Rental and such default shall continue for ten (10) days from and after the date on which Landlord gives Tenant written Notice specifying such default; or

(B) (1) if Tenant shall not, or shall be unable to, or shall admit in writing Tenant's inability to, as to any obligation, pay Tenant's debts as they become due; or

(B) (2) if Tenant shall commence or institute any case, proceeding or other action (a) seeking relief on Tenant's behalf as debtor, or to adjudicate it a bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to Tenant or Tenant's debts under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization or relief of debtors, or (b) seeking appointment of a receiver, trustee, custodian or other similar official for it or for all or any substantial part of its property; or

(B) (3) if Tenant shall make a general assignment for the benefit of creditors; or

(B) (4) if any case, proceeding or other action shall be commenced or instituted against Tenant (a) seeking to have an order for relief entered against Tenant as debtor or to adjudicate Tenant a bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to Tenant or Tenant's debts under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization or relief of debtors, or (b) seeking appointment of a receiver, trustee, custodian or other similar official for Tenant or for all or any substantial part of Tenant's property, which either: (i) results in any such entry of an order for relief, adjudication of bankruptcy or insolvency or such an appointment or the issuance or entry of any other order having a similar effect; or (ii) remains undismissed for a period of sixty (60) days; or

(B) (5) if a trustee, receiver or other custodian shall be appointed for any substantial part of the assets of Tenant which appointment is not vacated or effectively stayed within ninety (90) days; or

(C) if Tenant shall default in the observance or performance of any other term, covenant or condition of this Lease on Tenant's part to be observed or performed, and Tenant shall fail to remedy such default within thirty (30) days after written Notice by Landlord to Tenant of such default, or if such default is of such a nature that it cannot with due diligence be completely remedied within said period

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of thirty (30) days, if Tenant shall not: (i) duly institute within said thirty (30) day period; and (ii) thereafter diligently and continuously prosecute to completion all steps necessary to remedy the same.

SECTION 16.2. If an Event of Default shall occur, Landlord may, at any time thereafter, at Landlord's option, give written Notice to Tenant stating that this Lease and the Term shall expire and terminate on the date specified in such Notice, which date shall not be less than ten (10) days after the giving of such Notice, whereupon this Lease and the Term and all rights of Tenant under this Lease shall automatically expire and terminate as if the date specified in the Notice given pursuant to this Section 16.2 were the Fixed Expiration Date and Tenant thereafter shall quit and surrender the Premises, but Tenant shall remain liable for damages as provided herein or pursuant to law. Anything contained herein to the contrary notwithstanding, if such termination shall be stayed by order of any court having jurisdiction over any proceeding described in Section 16.1(B), or by federal or state statute, then, following the expiration of any such stay, or if the trustee appointed in any such proceeding, Tenant or Tenant as debtor-in-possession fails to assume Tenant's obligations under this Lease within the period prescribed therefor by law or within one hundred twenty (120) days after entry of the order for relief or as may be allowed by the court, or if said trustee, Tenant or Tenant as debtor-in-possession shall fail to provide adequate protection of Landlord's

right, title and interest in and to the Premises or adequate assurance of the complete and continuous future performance of Tenant's obligations under this Lease, Landlord, to the extent permitted by law or by leave of the court having jurisdiction over such proceeding, shall have the right, at its election, to terminate this Lease on ten (10) days' Notice to Tenant, Tenant as debtor-in-possession or said trustee and upon the expiration of said ten (10) day period this Lease shall cease and expire as aforesaid and Tenant, Tenant as debtor-in-possession or said trustee shall thereafter quit and surrender the Premises as aforesaid.

SECTION 16.3. If, at any time: (i) Tenant shall consist of two (2) or more Persons; or (ii) Tenant's obligations under this Lease shall have been guaranteed by any Person other than Tenant; or (iii) Tenant's interest in this Lease has been assigned, the word "Tenant" as used and referred to in this Lease, shall be deemed to mean any one or more of the persons primarily or secondarily liable for Tenant's obligations under this Lease. Any monies received by Landlord from or on behalf of Tenant during the pendency of any proceeding of the types referred to in Section 16.1(B) hereof shall be deemed paid as compensation for the use and occupancy of the Premises and the acceptance of any such compensation by Landlord shall not be deemed an acceptance of Rental or a waiver on the part of Landlord of any rights under Section 16.2 hereof.

SECTION 16.4. In the event of any default by Landlord hereunder, except as otherwise provided herein, Tenant will give Landlord written notice specifying such default with particularity, and Landlord shall thereupon have thirty (30) days in which to cure such default or to commence to cure such default if any such default cannot be reasonably cured within such 30-day period, in which event Landlord shall prosecute such cure with diligence to a conclusion. Unless and until Landlord fails to so cure or proceed with diligence to cure any default after such notice, Tenant shall not have any remedy or cause of action by reason thereof.

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If Landlord is in default hereunder, and fails to cure the same timely, in addition to any and all other rights, remedies and recourses available to Tenant, Tenant may undertake to cure such default on behalf of Landlord, and thereupon Landlord agrees to pay Tenant, upon demand, all costs, expenses and disbursements (including reasonable attorneys' fees) incurred by Tenant in taking such remedial actions with interest thereon at the Applicable Rate. In addition to the foregoing, Tenant shall also have the same rights granted to Landlord under Section 17.1(B) relating to injunctive or equitable relief. The right to invoke the remedies hereinbefore set forth are cumulative and shall not preclude Tenant from invoking any other remedy allowed at law or in equity.

ARTICLE 17 REMEDIES AND DAMAGES

SECTION 17.1.

(A) If any Event of Default shall occur, or this Lease and the Term shall expire and come to an end as provided in Article 16 hereof:

(1) Tenant shall quit and peacefully surrender the Premises to Landlord, and Landlord and its agents may, after the date upon which this Lease and the Term shall expire and come to an end, re-enter the Premises or any part thereof, without Notice, either by summary proceedings, or by any other applicable action or proceeding or otherwise, and may repossess the Premises and dispossess Tenant and any other persons from the Premises by summary proceedings or otherwise and remove any and all of their property and effects from the Premises (and Tenant shall remain liable for damages as provided herein or pursuant to law); and

(2) Landlord, at Landlord's option, may relet the whole or any part or parts of the Premises from time to time, either in the name

of Landlord or otherwise, to such tenant or tenants, for such term or terms ending before, on or after the Fixed Expiration Date, at such rent or rentals and upon such other conditions, which may include concessions and free rent periods, as Landlord may determine; provided, however, that Landlord shall exercise reasonable efforts to mitigate any damages related to liability of Tenant under this Lease.

(B) In the event of a breach or threatened breach by Tenant, or any persons claiming through or under Tenant, of any term, covenant or condition of this Lease, Landlord shall have the right to enjoin such breach.

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SECTION 17.2.

(A) If this Lease and the Term shall expire and come to an end as provided in Article 2 hereof, or by or under any summary proceeding or any other action or proceeding, or if Landlord shall re-enter the Premises as provided in Section 17.1 hereof, or by or under any summary proceeding or any other action or proceeding, then, in any of said events:

(1) Tenant shall pay to Landlord all Fixed Rent, Additional Rent and other items of Rental payable under this Lease by Tenant to Landlord to the date upon which this Lease and the Term shall have expired and come to an end or to the date of re-entry upon the Premises by Landlord, as the case may be;

(2) if Landlord has not terminated the Lease, but only Tenant's right of possession to the Premises, Tenant also shall be liable for and shall pay to Landlord, as damages, any deficiency ("Deficiency") between the Rental for the period which is the unexpired portion of the Term and the net amount, if any, of rents collected under any reletting effected pursuant to the provisions of Section 17.1(A)(2) for any part of such period (after first deducting from the rents collected under any such reletting all of Landlord's reasonable and actual expenses in connection with the termination of Tenant's right of possession, Landlord's re-entry upon the Premises and such reletting including, but not limited to, all repossession costs, brokerage commissions, attorneys' fees and disbursements, alteration costs and other expenses of preparing the Premises for such reletting, to the extent the same are allocable to the remaining Term); any such Deficiency shall be paid in monthly installments by Tenant on the days specified in this Lease for payment of installments of Fixed Rent; Landlord shall be entitled to recover from Tenant each monthly Deficiency as the same shall arise, and no suit to collect the amount of the Deficiency for any month shall prejudice Landlord's right to collect the Deficiency for any subsequent month by a similar proceeding; and

(3) alternatively, if Landlord has terminated the Lease, Landlord shall be entitled to recover from Tenant, and Tenant shall pay to Landlord, on demand, and as and for liquidated and agreed final damages, a sum equal to the amount by which the present value (calculated using the Base Rate as the discount rate) of the unpaid Rental for the period which otherwise would have constituted the unexpired portion of the Term exceeds the present value (calculated using the Base Rate as the discount rate) of the then fair and

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reasonable rental value of the Premises for the same period, taking into consideration reasonable costs incurred to relet the Premises; if, before presentation of proof of such liquidated damages to any court, commission or tribunal, the Premises, or any part thereof, are relet by Landlord on a fair and arms-length basis for the period

which otherwise would have constituted the unexpired portion of the Term, or any part thereof, the amount of rent reserved upon such reletting shall be deemed, prima facie, to be the fair and reasonable rental value for the part or the whole of the Premises so relet during the term of the reletting.

(B) Tenant shall in no event be entitled to any rents collected or payable under any reletting, whether or not such rents exceed the Fixed Rent reserved in this Lease. Nothing contained in this Article 17 shall be deemed to limit or preclude the recovery by Landlord from Tenant of the maximum amount allowed to be obtained as damages by any statute or rule of law, or of any sums or damages to which Landlord may be entitled in addition to the damages set forth in this Section 17.2.

ARTICLE 18 FEES AND EXPENSES

SECTION 18.1. If an Event of Default shall have occurred by Tenant or Landlord has defaulted on its obligations on this Lease and the same is not cured within any applicable cure period, the non-defaulting party may (1) perform any term, covenant or condition of this Lease for the account of the defaulting party, or (2) make any expenditure or incur any obligation for the payment of money in connection with any obligation owed to the non-defaulting party, including, but not limited to, reasonable attorneys' fees and disbursements in instituting, prosecuting or defending any action or proceeding, and in either case the cost thereof, with interest thereon at the Applicable Rate, shall be paid by the defaulting party to the non-defaulting party within twenty (20) days after rendition of any bill or statement therefor.

ARTICLE 19 END OF TERM

SECTION 19.1. Upon the expiration or other termination of this Lease, Tenant shall quit and surrender to Landlord the Premises, vacant, broom clean, in good order and condition, ordinary wear and tear and damage by fire or other casualty or by condemnation excepted, and Tenant shall remove all of Tenant's Property and all other personal property and personal effects of all persons claiming through or under Tenant, and shall pay the cost of repairing all damage to the Premises occasioned by such removal.

SECTION 19.2. If the Premises are not surrendered upon the expiration or other termination of this Lease and all Tenant Property removed as provided above, Tenant shall be

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deemed to be occupying the Premises as a tenant at will, and after sixty (60) days written notice from Landlord, such continued occupancy will be at a rental equal to the Fixed Rent herein provided plus fifty percent (50%) of such amount and otherwise subject to all the conditions, provisions and obligations of this Lease insofar as the same are applicable to a tenancy at will.

SECTION 19.3. Tenant's obligations under this Article 19 shall survive the expiration or termination of this Lease.

ARTICLE 20 NOTICES

SECTION 20.1.

(A) Except as otherwise expressly provided in this Lease, any bills, statements, consents, notices, demands, requests or other communications given or required to be given under this Lease ("Notice(s)") shall be in writing and shall be deemed sufficiently given or rendered if delivered by hand (against a signed receipt) or if deposited with a nationally recognized overnight courier or if deposited in the United States mail, and sent by first class mail, certified, return receipt requested with postage prepaid, and in any case addressed:

IF TO TENANT:

(i) at Tenant's address first set forth in this Lease and (ii) to the Premises, and

WITH A COPY TO:

Comfort Systems USA, Inc.
777 Post Oak Boulevard, Suite 500
Houston, TX 77056
Attention: General Counsel

IF TO LANDLORD:

Mark P. Shambaugh
2233 East Cedar Canyons Road
Fort Wayne, IN 46845

WITH A COPY TO:

N. Reed Silliman, Esq.
Baker & Daniels
111 East Wayne Street, Suite 800
Fort Wayne, IN 46802

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and any Mortgagee who may have requested the same, by Notice given in accordance with the provisions of this Article 20, at the address designated by such Mortgagee,

or to such other address(es) as either Landlord or Tenant may designate as its new address(es) for such purpose by Notice given to the other in accordance with the provisions of this Article 20.

(B) Notices shall be deemed to have been rendered or given (a) on the date delivered, if delivered by hand, (b) on the day after being deposited with a nationally recognized overnight courier or (c) five (5) days after deposit in the United States mail, as provided in Section 20.1(A) hereof.

ARTICLE 21 INDEMNITY

SECTION 21.1. Tenant shall not do or permit any act or thing to be done in, at or upon the Premises that may subject any Indemnitee to any liability or responsibility for injury, damage to persons or property or to any liability by reason of the existence or application of, compliance with or violation of any Requirement, but shall exercise such control over the Premises as to protect each Indemnitee fully against any such liability and responsibility. Tenant shall indemnify and save harmless the Indemnitees from and against (a) all claims against the Indemnitees arising from any accident, injury or damage whatsoever caused to any person or to the property of any person and occurring in, on or about the Premises during the Term or during Tenant's occupancy of the Premises, unless, and to the extent not, caused by the negligent or intentional misconduct of Landlord, and (b) any breach, violation or non-performance of any covenant, condition or agreement contained in this Lease to be fulfilled, kept, observed and performed by Tenant. This indemnity and hold harmless agreement shall include indemnity from and against any and all liability, claims, fines, suits, demands, costs and expenses of any kind or nature (including, without limitation, attorneys' fees and disbursements) incurred in or in connection with any such claim or proceeding brought thereon, and the defense thereof. If any claim, action or proceeding is made or brought against any Indemnitee, against which claim, action or proceeding Tenant is obligated to indemnify such Indemnitee pursuant to the terms of this Lease, then, upon demand by the Indemnitee, Tenant, at its sole cost and expense, shall contest or defend such claim, action or proceeding in the Indemnitee's name, if necessary, by such attorneys as the Indemnitee may select, including, without limitation, attorneys for the Indemnitee's insurer. The provisions of this Article 21 shall survive the expiration or earlier termination of this Lease.

SECTION 21.2. Landlord shall indemnify and save harmless the Tenant and the other Tenant Indemnitees from and against (a) all claims against the Tenant Indemnitees arising from any accident, injury or damage whatsoever caused to any person or the property of any person and occurring in, on or about the Premises during the Term or during Tenant's occupancy of the Premises to the extent caused by the negligent or intentional misconduct of Landlord and (b) any

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breach, violation or nonperformance of any covenant, condition or agreement contained in this Lease to be fulfilled, kept, observed and performed by Landlord. This indemnity and hold harmless shall include indemnity from and against any and all liability, claims, fines, suits, demands, costs and expenses of any kind or nature (including, without limitation, attorneys' fees and disbursements) incurred in or in connection with any such claim or proceeding brought thereon, and the defense thereof. If any claim, action or proceeding is made or brought against any Tenant Indemnatee, against which claim, action or proceeding Landlord is obligated to indemnify such Tenant Indemnatee pursuant to the terms of this Lease, then, upon demand by the Tenant Indemnatee, Landlord at its sole cost and expense shall contest or defend such claim, action or proceeding in the Tenant Indemnatee's name, if necessary, by such attorneys as the Tenant Indemnatee may select, including without limitation attorneys for the Indemnatee's insurer. The provisions of this Article 21 shall survive the expiration or earlier termination of this Lease.

ARTICLE 22
RENEWAL OPTIONS

SECTION 22.1. Provided that there is no Event of Default at the time the Option (as such term is hereinafter defined) is to be exercised, the Tenant shall have the option to renew this Lease for one (1) additional five (5) year period as follows:

OPTION PERIOD shall commence on the tenth (10th) anniversary of the Commencement Date and shall continue up to and including the day before the fifteenth (15th) anniversary of the Commencement Date,

the aforementioned option period is referred to herein as the "Option Period".

SECTION 22.2. The Option granted to the Tenant pursuant to the provisions of Section 22.1 hereof shall be exercised by the Tenant giving written Notice to the Landlord of the Tenant's intent to exercise the Option not less than one-hundred twenty (120) days prior to the expiration of the Initial Term.

SECTION 22.3. In the event that the Tenant exercises the Option, the Landlord and the Tenant hereby agree that this Lease shall continue in full force and effect and remain unamended during the Option Period, except that the Fixed Rent payable by the Tenant to the Landlord during such Option Period shall continue to be increased annually in accordance with the provisions of Rider 1 hereof.

ARTICLE 23
COVENANT OF QUIET ENJOYMENT

SECTION 23.1. Landlord covenants that, upon Tenant paying all Fixed Rent and Additional Rent and observing and performing all of the terms, agreements, covenants, provisions and conditions of this Lease on Tenant's part to be observed and performed, Tenant may peaceably and quietly enjoy the Premises.

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ARTICLE 24

MISCELLANEOUS

SECTION 24.1. The obligations of Landlord under this Lease shall be binding upon Landlord named herein after the sale, conveyance, assignment or transfer by such Landlord (or upon any subsequent landlord after the sale, conveyance, assignment or transfer by such subsequent landlord) of its interest in the Premises, as the case may be, and in the event of any such sale, conveyance, assignment or transfer, Landlord shall be freed and relieved of any of the covenants and obligations of Landlord under this Lease thereafter arising, upon the date that the transferee shall have assumed, in writing, for the benefit of Tenant, all obligations of the Landlord under this Lease arising after the effective date of the transfer.

SECTION 24.2. Notwithstanding anything contained in this Lease to the contrary, all amounts payable by Tenant to or on behalf of Landlord under this Lease, whether or not expressly denominated Fixed Rent, Additional Rent or Rental, shall constitute rent for the purposes of Section 502(b)(7) of the Bankruptcy Code.

SECTION 24.3. Upon the request of either party, the other will execute and deliver a mutually acceptable memorandum of this Lease in recordable form.

SECTION 24.4. Except as otherwise provided specifically herein, any consent or approval required to be obtained from Landlord or Tenant under this Lease shall not be unreasonably withheld, conditioned or delayed.

SECTION 24.5. Landlord represents and warrants to Tenant that Landlord has full power and authority to enter into this Lease without the consent of any other parties, including any Mortgagees. Tenant and the person executing this Lease on behalf of Tenant hereby covenant and warrant that: (i) Tenant is now and shall remain throughout the term of this Lease a duly organized and validly existing corporation qualified to do business in the State of Indiana; and (ii) the persons executing this Lease on behalf of Tenant are duly authorized to do so by all necessary corporate action.

SECTION 24.6. If any words or phrases in this Lease are stricken out or otherwise eliminated, whether or not any other words or phrases have been added, this Lease shall be construed as if the words or phrases so stricken out or otherwise eliminated were never included in this Lease and no implication or inference shall be drawn from the fact that such words or phrases were stricken out or otherwise eliminated.

SECTION 24.7. If any of the provisions of this Lease, or the application thereof to any person or circumstance, shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such provisions to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected thereby and shall remain

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valid and enforceable, and every provision of this Lease shall be valid and enforceable to the fullest extent permitted by law.

SECTION 24.8. This Lease contains the entire agreement between the parties and all prior negotiations and agreements are merged into this Lease. This Lease may not be changed, abandoned or discharged, in whole or in part, nor may any of its provisions be waived except by a written agreement that (a) expressly refers to this Lease, and (b) is executed by the party against whom enforcement of the change, abandonment, discharge or waiver is sought.

SECTION 24.9. The laws of the State of Indiana applicable to contracts made and to be performed wholly within the State of Indiana shall govern and control the validity, interpretation, performance and enforcement of this Lease without regard to principles of conflicts of law.

SECTION 24.10. The captions are inserted only as a matter of

convenience and for reference and in no way define, limit or describe the scope of this Lease nor the intent of any provision thereof.

SECTION 24.11. The covenants, conditions and agreements contained in this Lease shall bind and inure to the benefit of Landlord and Tenant and their respective legal representatives, heirs, successors, and, except as otherwise provided in this Lease, their assigns.

SECTION 24.12. Tenant acknowledges and agrees that the liability of Landlord under this Lease shall be limited to Landlord's interest in the Premises, and any judgments rendered against Landlord shall be satisfied solely out of the proceeds of the sale of Landlord's interest in the Premises. The foregoing provision is not intended to relieve Landlord from the performance of any of Landlord's obligations under this Lease, but only to limit the personal liability of Landlord in the case of a recovery of a judgment against Landlord; nor shall the foregoing be deemed to limit Tenant's rights to injunctive relief or to avail itself of any other right or remedy which may be awarded Tenant by law or under this Lease.

SECTION 24.13. For the purposes of this Lease and all agreements supplemental to this Lease, unless the context otherwise requires:

(A) The words "herein", "hereof", "hereunder" and "hereby" and words of similar import shall be construed to refer to this Lease as a whole and not to any particular Article or Section unless expressly so stated.

(B) Obligations hereunder shall be construed in every instance as conditions as well as covenants, each separate and independent of any other terms of this Lease.

(C) Reference to "termination of this Lease" or "expiration of this Lease" and words of like import includes expiration or sooner termination of this

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Lease and the Term and the estate hereby granted or cancellation of this Lease pursuant to any of the provisions of this Lease or by law. Upon the termination of this Lease, the Term and estate granted by this Lease shall end at noon on the date of termination as if such date were the Fixed Expiration Date, and neither party shall have any further obligation or liability to the other after such termination except: (i) as shall be expressly provided for in this Lease; and (ii) for such obligations as by their nature under the circumstances can only be, or by the provisions of this Lease, may be, performed after such termination, and, in any event, unless expressly otherwise provided in this Lease, any liability for a payment (which shall be apportioned as of such termination) which shall have accrued to or with respect to any period ending at the time of termination shall survive the termination of this Lease.

(D) Words and phrases used in the singular shall be deemed to include the plural and vice versa, and nouns and pronouns used in any particular gender shall be deemed to include any other gender.

IN WITNESS WHEREOF, Landlord and Tenant have duly executed this Lease as of the day and year first above written.

/s/ _____
MARK P. SHAMBAUGH

"Landlord"

SHAMBAUGH & SON, INC.,
an Indiana Corporation

By: /s/

Printed: KEVIN L. BEACH

Its: V.P./SEC'Y.

"Tenant"

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RIDER 1

INCREASES IN FIXED RENT

SECTION 1. For purposes of the Lease:

(A) "Bureau" means the Federal Bureau of Labor Statistics or any successor agency that shall issue the indices or data referred to in subparagraph (ii) below.

(B) "Price Index" means the Consumer Price Index for All Urban Consumers for the Fort Wayne, Indiana geographic area, 1982-1984=100, issued from time to time by the Bureau or any other successor measure hereafter employed by the Bureau in lieu of such price index that measures the cost of living for such geographic area or failing such successor, the most nearly comparable index (reflecting changes in costs of housing including rental housing, energy and services), published by a Governmental Authority, appropriately adjusted. Furthermore, if hereafter the Price Index is converted to a different standard reference base or a substantial change is made in the terms or number of items contained therein, the Price Index shall be adjusted (with the use of such conversion factor, formula or table as is published by the Bureau, or if it shall not publish same, the conversion factor published by Prentice Hall, Inc., or, failing such publication, by any other nationally recognized publisher of similar statistical information) to the figure that would have resulted if not for such conversion or change.

(C) "Base Index" means the Price Index issued for December 31, 1998.

(D) "Applicable Price Index" for a Lease Year means the Price Index most recently issued prior to the date on which such Lease Year commences.

SECTION 2.

(A) Tenant shall pay to Landlord the Fixed Rent in the amount set forth in Article 1 of this Lease for the first Lease Year.

(B) Beginning after the end of the first Lease Year, and for each and every Lease Year thereafter, the Tenant shall pay to the Landlord, as Fixed Rent, an amount equal to the GREATER of:

(1) an amount equal to the sum of (x) the percentage by which the Applicable Price Index for such Lease Year exceeds the Applicable Price Index for the immediately preceding Lease Year, multiplied by the Fixed Rent payable for such immediately

preceding Lease Year and (y) such Fixed Rent payable for the immediately preceding Lease Year (e.g., if the Base Index is 200, the Applicable Price Index for the second Lease Year is 203, the Applicable Price Index for the third Lease Year is 215, and the Fixed Rent payable for the second Lease Year is \$50,000.00, then the Applicable Price Index for the third Lease Year exceeds the Applicable Price Index for the second Year by 5.91% (i.e., the difference between 203 and 215), and the Fixed Rent derived from the aforesaid calculation shall be \$52,955.75 (5.91% of \$50,000.00, which is \$2,955.00, plus \$50,000.00); or

(2) an amount equal to the Fixed Rent for the immediately preceding Lease Year.

The Landlord and the Tenant hereby acknowledge that it is the mutual intention of the parties that for each and every Lease Year subsequent to the first Lease Year during the Term hereof, the Fixed Rent payable by the Tenant to the Landlord hereunder shall never be decreased from the prior Lease Year.

SECTION 3. Upon Notice by the Landlord to the Tenant of an increase in the Fixed Rent pursuant to the provisions of this Section 3 ("Increase Notice"), the Tenant shall pay the Fixed Rent as set forth in the Increase Notice for the period in which the increase identified in such Notice shall apply.

SCHEDULE A
LEGAL DESCRIPTION
HAVEL BROS., SOUTH BEND

A tract of land in the Northeast Quarter of Section 28, Township 38 North, Range 2 East, City of South Bend, St. Joseph County, Indiana, more particularly described as follows: Commencing at the Southeast corner of said Northeast Quarter; then North 000 00' 01" East along the East Line thereof, 1550.16 feet; thence South 890 58' 58" West, 210.65 feet to the Point of Beginning; said Point of Beginning being the Southwest corner of Lot Numbered 1 of Bendix Park Minor Subdivision, recorded as Document Number 8804247 in the Office of the St. Joseph County Recorder; thence South 890 58' 58" West, 140.00 feet; then North 000 06' 23" East, 291.12 feet to a point on a curve, said curve being concave Northwesterly and having a radius of 60.00 feet, a chord length of 52.08 feet, and a chord bearing of North 640 23' 08" East, thence Northeasterly along said curve an arc length of 53.87 feet to the beginning of a curve, said curve being concave Southeasterly and having a radius of 20.00 feet, a chord length of 17.32 feet and a chord bearing of North 640 19' 26" East; thence North 890 58' 58" East, 76.89 feet to the Northwest corner of said Lot Numbered 1 of Bendix Park Minor Subdivision; thence South 000 00' 01" West along the West line of said Lot 1 a distance of 321.12 feet to the Point of Beginning and to be known as Lot Lettered "A" in Bendix Park 2nd Minor Subdivision.

AGREEMENT OF LEASE

BETWEEN

MARK P. SHAMBAUGH

LANDLORD

AND

SHAMBAUGH & SON, INC.

TENANT

DATED: OCTOBER 31, 1998

PREMISES

N. NINTH STREET ROAD
LAFAYETTE, IN 47902

AGREEMENT OF LEASE ("Lease"), made as of the 31st day of October, 1998, between Mark P. Shambaugh, as Landlord, and Shambaugh & Son, Inc., an Indiana corporation.

R E C I T A L S :

WHEREAS, the Landlord is the owner of certain premises known as and by the street address of N. Ninth Street Road, Lafayette, Indiana 47902 (as more particularly described on Schedule "A", annexed hereto and made a part hereof); and

WHEREAS, the Landlord desires to rent the aforementioned premises to the Tenant and the Tenant desires to rent the aforementioned premises from the Landlord.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, for themselves, as well as their respective legal representatives, heirs, successors and assigns, hereby agree as follows:

ARTICLE 1
GLOSSARY

For the purposes of this Lease, the following terms shall have the meanings indicated below:

"Additional Rent" shall have the meaning set forth in Section 2.2(B) hereof.

"Applicable Rate" shall mean the lesser of (x) three percentage

points above the then current Prime Interest rate as published, from time to time, by the WALL STREET JOURNAL as its prime interest rate in its Money Rates section (or if such publication no longer exists or no longer publishes such rate, then the "base rate" as announced by Citibank, N.A. [or its successors], from time to time, for the rate presently referred to as its "base rate") or (y) the maximum rate permitted by applicable law.

"Bankruptcy Code" shall mean 11 U.S.C. Section 101 ET SEQ., or any statute, federal or state, of similar nature and purpose, now or hereafter.

"Building Systems" shall mean the mechanical, electrical, sanitary, heating, air conditioning, ventilating, elevator, plumbing, life-safety and other service or support systems of any nature whatsoever located at or on the Premises, BUT shall not include installations made by Tenant or fixtures or appliances (regardless of whether or not such fixtures or appliances are owned by the Tenant or the Landlord).

"Building Insurance" shall have the meaning set forth in Section 10.2 hereof.

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"Business Days" shall mean all days, excluding Saturdays, Sundays and all days observed as holidays by the State of Indiana or the federal government.

"Commencement Date" is October 31, 1998.

"Event of Default" shall have the meaning set forth in Section 16.1 hereof.

"Expiration Date" shall mean the Fixed Expiration Date or such other date on which the Term ends pursuant to any of the terms, conditions or covenants of this Lease or pursuant to law.

"Fixed Expiration Date" is October 31, 2008.

"Fixed Rent" : \$26,500.00 per annum (\$2,208.33 per month) for the first Lease Year (as such term is hereinafter defined) subject to adjustment thereafter in accordance with the provisions of Rider 1 hereof.

"Government Authority" or "Government Authorities" shall mean the United States of America, the State of Indiana, the County of Allen, the Municipality of Fort Wayne, and/or any political subdivision thereof and any agency, department, commission, board, bureau or instrumentality of any of the foregoing, now existing or hereafter created, having jurisdiction over the Premises or any portion thereof.

"Hazardous Materials" shall have the meaning set forth in Section 8.2 hereof.

"Increase Notice" shall have the meaning set forth in Section 3 of Rider 1 attached hereto and made a part hereof.

"Indemnitees" shall mean Landlord, his agents and contractors (and the partners, shareholders, officers, directors and employees of any of the Landlord's agents or contractors).

"Initial Term" shall mean the ten (10) year period commencing on the Commencement Date.

"Landlord", on the date as of which this Lease is made, shall mean Mark P. Shambaugh, but thereafter, "Landlord" shall mean any fee owner of the Premises.

"Lease Year" shall mean each twelve (12) month period commencing on the Commencement Date and each anniversary of the Commencement Date.

"Mortgage(s)" Shall mean any deed of trust, trust indenture or mortgage which may now or hereafter affect the Premises and all extensions, supplements, amendments, modifications, consolidations, refinancings and replacements thereof or thereto, substitutions therefor, and advances made thereunder.

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"Mortgagee(s)" Shall mean any trustee or mortgagee or holder of a Mortgage.

"Notice(s)" shall have the meaning set forth in Section 22.1(A) hereof.

"Option" or "Options" shall have the meaning set forth in Section 26.1 hereof.

"Option Period" or "Option Periods" shall have the meaning set forth in Section 26.1 hereof.

"Permitted Use" shall mean general, executive and administrative offices, parking, machine shop, repair, and warehouse facilities in connection with Tenant's business as a mechanical contracting and service company and uses related thereto including the evolution of the Tenant's business consistent with the evolution of the mechanical contracting industry in general, subject to all applicable laws, regulations, codes and ordinances, and subject further to all recorded restrictions, covenants and limitations affecting the Premises, provided, however, that no recorded restrictions, covenants or limitations impair the use of the Premises for the purposes intended by Tenant as of the Commencement Date.

"Person(s) or Person(s)" shall mean any natural person or persons, a partnership, a corporation and any other form of business or legal association or entity.

"Persons Within Tenant's Control" shall mean and include Tenant, all of Tenant's respective shareholders, directors, officers, agents, contractors, sub-contractors, servants, employees, licensees and invitees as well as any of the heirs, successors, representatives and assigns of any of the foregoing.

"Premises" shall mean all that certain plot, piece and parcel of land, together with all buildings and improvements erected thereon, known as and by the street address of 7614 and 7620 Opportunity Drive, Fort Wayne, Indiana 46801 (as more particularly described on Schedule "A", annexed hereto and made a part hereof).

"Price Index" shall have the meaning set forth in Section 1(B) of Rider 1 attached hereto.

"Rental" shall mean and be deemed to include Fixed Rent, Additional Rent and any other sums payable, now or hereafter, by Tenant hereunder.

"Requirements" shall mean all present and future laws, rules, ordinances, regulations, statutes, requirements, codes and executive orders, extraordinary as well as ordinary, retroactive and prospective, of all Governmental Authorities, now existing or hereafter created which affect, directly or indirectly, the Premises and/or the maintenance, use, operation or occupation of the Premises, and all recorded restrictions, covenants and limitations affecting the

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Premises, provided, however, that no recorded restrictions, covenants or limitations impair the use of the Premises for the purposes intended by Tenant as of the Commencement Date.

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

"Tenant", on the date as of which this Lease is made, shall mean the Tenant named in this Lease, but thereafter "Tenant" shall mean only the tenant under this Lease at the time in question; provided, however, that the Tenant named in this Lease and any and all successor tenant(s) hereunder shall not be released and relieved from any liability hereunder in the event of any assignment of this Lease or a sublet, in whole or in part, of the Premises.

"Tenant Indemnities" shall mean Tenant, its agents and contractors (and the partners, shareholders, officers, directors and employees of Tenant and its agents and contractors).

"Tenant's Property" shall mean Tenant's movable fixtures and movable partitions, telephone and other equipment, furniture, furnishings and other movable items of personal property owned by the Tenant.

"Term", on the date as of which this Lease is made shall mean the Initial Term, but thereafter shall be deemed to include any Option Period for which the Tenant exercises its Option pursuant to the provisions of Article 26 hereof.

ARTICLE 2
DEMISE; PREMISES; TERM; RENT

SECTION 2.1. Landlord hereby leases to Tenant and Tenant hereby hires from Landlord the Premises for the Initial Term to commence on the Commencement Date and to end on the Fixed Expiration Date, unless earlier terminated as provided herein and subject to the renewal options provided for in Article 26 below.

SECTION 2.2. Commencing upon the Commencement Date, Tenant shall pay to Landlord, in lawful money of the United States of America, without Notice or demand, without relief from valuation and appraisal laws, by good and sufficient check at the office of Landlord or at such other place as Landlord may designate from time to time, the following:

(A) the Fixed Rent, as such term is defined in Article 1 hereof, which shall be payable in equal monthly installments in advance on the first day of each and every calendar month during the Term, and

(B) additional rent ("Additional Rent") consisting of all other sums of money as shall become due from and be payable by Tenant hereunder.

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SECTION 2.3. If the Commencement Date is other than the first day of a calendar month, or the Fixed Expiration Date is other than the last day of a calendar month, Fixed Rent for such month shall be prorated on a per diem basis.

SECTION 2.4. Tenant shall pay the Fixed Rent and Additional Rent when due without abatement, deduction, counterclaim, setoff or defense of any nature. It is understood and agreed that the Fixed Rent to be received by Landlord during the Term shall be net to Landlord so that this Lease shall yield to Landlord the Fixed Rent specified herein and, accordingly, all real estate taxes, insurance, maintenance and other expenses of any nature related to the Premises, excluding Landlord's income taxes, shall be solely the responsibility of Tenant unless otherwise specifically set forth herein.

ARTICLE 3
REAL ESTATE TAXES

SECTION 3.1. The Tenant covenants and agrees that it shall, within twenty (20) days of written demand by the Landlord to the Tenant, pay to the Landlord, as Additional Rent, any and all Taxes (as hereinafter defined) of any nature whatsoever assessed or imposed against the Premises for each and every Lease Year during the Term of this Lease. The Landlord hereby agrees that any demand given by the Landlord to the Tenant pursuant to the provisions of this

Section 3.1 shall include an accurate copy of the invoice, statement, bill or similar document issued by the relevant Governmental Authority or Governmental Authorities, as the case may be, with respect to the Taxes for which payment is demanded. For purposes of this Section 3.1, "Taxes" shall include, without limitation, any and all taxes assessed against the Premises, all personal property taxes, all ad valorem taxes and any and all other taxes assessed against the Premises by any Governmental Authority, now or hereafter, but shall EXCLUDE any special assessments or charges for improvements or infrastructure effected or installed prior to the Commencement Date. With respect to Taxes for tax periods commencing before or ending after the Term of this Lease, Tenant shall only be obligated to pay to Landlord the pro rata portion of such Taxes equal to the portion of such tax period falling within the Term of this Lease.

ARTICLE 4
UTILITIES

SECTION 4.1. The Tenant shall contract for in its name, and covenants and agrees that it shall pay when due any and all charges incurred for, any and all utilities supplied to the Premises including, without limitation, electricity, water, heating oil and/or natural gas. Landlord represents and warrants to Tenant that electricity, water, telephone, sewer, and natural gas, if any, are present at and available to the Premises in quantities sufficient for Tenant's business purposes.

SECTION 4.2. Landlord shall not be liable in any way to Tenant for any interruption or failure of or defect in the supply or character of any utility furnished to the Premises, now or hereafter, or for any loss, damage or expense Tenant may sustain if either the quantity or character of any utility is changed or is no longer suitable for Tenant's requirements,

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whether by reason of any requirement, act or omission of the public utility serving the Premises or for any other reason whatsoever. Notwithstanding the provisions of this Section 4.2, the Landlord shall be responsible for any and all actual damages suffered by the Tenant as a result of any interruption of utility service to the extent caused by the Landlord's gross negligence or intentional misconduct, and Rent shall abate until such service is fully restored.

SECTION 4.3. If any Taxes are imposed upon Landlord with respect to any utility furnished as a service to Tenant by any Governmental Authority, Tenant agrees that such Taxes shall be reimbursed by Tenant to Landlord upon written demand. The Landlord hereby agrees that any demand given by the Landlord to the Tenant pursuant to the provisions of this Section 4.3 shall include an accurate copy of the invoice, statement, bill or similar document issued by the relevant Governmental Authority or Governmental Authorities, as the case may be, with respect to the Taxes for which payment is demanded.

ARTICLE 5
USE AND OCCUPANCY

SECTION 5.1. Tenant shall use and occupy the Premises for the Permitted Use and for no other purpose of any nature whatsoever. However, nothing contained herein shall require Tenant to operate or occupy the Premises continuously during the Term.

ARTICLE 6
ALTERATIONS

SECTION 6.1.

(A) (1) Except as provided below, prior to making any additions, alterations or improvements to the Premises, Tenant shall: (i) submit to Landlord plans and specifications for approval by the Landlord (including to the extent reasonably applicable, layout, architectural, electrical, mechanical and structural drawings) that comply with all Requirements for each proposed addition, alteration or improvement to the Premises, and

Tenant shall not commence any such work without first obtaining Landlord's approval of such plans and specifications; and (ii) at Tenant's expense, obtain all permits, approvals and certificates required by any Governmental Authorities. Upon completion of such addition, alteration or improvement, Tenant, at Tenant's expense, shall obtain certificates of final approval of such addition, alteration or improvement required by any Governmental Authority and shall furnish Landlord with copies thereof. All additions, alterations and improvements shall be made and performed in accordance with the plans and specifications therefor as approved by Landlord and otherwise in accordance with all Requirements. All materials and equipment to be incorporated in the Premises as a result thereof shall be good quality and no such materials or equipment shall be subject to any lien, encumbrance, chattel mortgage, title retention or security agreement.

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(A) (2) Notwithstanding anything to the contrary contained in this Lease, Tenant shall have the right to make any alterations, additions and improvements to the Premises without the consent of the Landlord if and only if: (i) the total cost of such alterations, additions or improvements do not exceed Fifty Thousand and No/100 Dollars (\$50,000.00) for any Lease Year; and (ii) Tenant shall not remove, materially alter or otherwise impair any structural element of the Premises or the Building System.

(A) (3) Tenant agrees that any review or approval by Landlord of any plans and/or specifications with respect to any alteration, addition and improvement is solely for Landlord's benefit, and without any representation or warranty whatsoever to Tenant or any other Person with respect to the adequacy, correctness or sufficiency thereof or with respect to Requirements or otherwise.

(A) (4) Landlord, at Tenant's expense, and upon the request of Tenant, shall join in any applications for any permits, approvals or certificates required to be obtained by Tenant in connection with any permitted alteration, addition and improvement (provided that the provisions of the applicable Requirements shall require that Landlord join in such application) and shall otherwise cooperate with Tenant in connection therewith; provided, however, that Landlord shall not be obligated to incur any cost or expense or liability in connection therewith.

(B) All alterations, additions and improvements shall become a part of the Premises and shall be Landlord's property from and after the installation thereof and may not be removed or changed without Landlord's prior written consent. All Tenant's Property shall remain the property of Tenant and, on or before the Expiration Date or earlier end of the Term, may be removed from the Premises by Tenant at Tenant's sole cost and option; provided, however, that Tenant shall repair and restore in a good and workmanlike manner any damage to the Premises caused by such removal. The provisions of this Section 6.1(B) shall survive the expiration or earlier termination of this Lease.

(C) (1) Any mechanic's lien filed against the Premises for work claimed to have been done for, or materials claimed to have been furnished to, Tenant shall be contested by appropriate judicial proceedings or shall be canceled or discharged by Tenant, at Tenant's expense, within ninety (90) days after such lien shall be filed and Tenant receives notice thereof, by payment or filing of the bond required by law.

(C) (2) If Tenant shall fail to contest or discharge such mechanic's lien within the aforesaid period, then, in addition to any other right or remedy of Landlord, Landlord may, but shall not be obligated to, discharge the same either

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by paying the amount claimed to be due or by procuring the discharge of

such lien by deposit in court or bonding.

(C) (3) Any amount paid by Landlord for any of the aforesaid charges and for all expenses of Landlord (including, but not limited to, reasonable attorneys' fees and disbursements) incurred in defending any such action, discharging said lien or in procuring the discharge of said lien, with interest on all such amounts at the Applicable Rate, shall be repaid by Tenant within twenty (20) days after written demand therefor, and all amounts so repayable, together with such interest, shall be considered Additional Rent.

(D) Tenant shall have the right, at its sole cost and expense, to erect and maintain any exterior signs on the Premises with the prior written consent of Landlord so long as the same comply with all applicable Requirements. Landlord acknowledges consent to Tenant's signage in existence as of the Commencement Date.

ARTICLE 7
REPAIRS; REPLACEMENTS; MAINTENANCE

SECTION 7.1. Except for those repairs, replacements or maintenance required to be effected by Landlord, and further subject to the right of reimbursement herein provided, Tenant, at Tenant's sole cost and expense, shall take good care of the Premises and the improvements, buildings, Building Systems, fixtures, equipment, parking lots, landscaping and appurtenances located thereon and make all non-structural repairs, REPLACEMENTS or alterations thereto of any nature whatsoever as and when needed to preserve them in as good working order and condition as exists as of the Commencement Date, ordinary wear and tear excepted, ("Maintenance Repairs") or to comply with any Requirement ("Requirement Alteration"). If Tenant shall fail, after thirty (30) days Notice (or such shorter period as may be required because of an emergency), to commence to make repairs, replacements or alterations required to be made by Tenant and complete the same within a reasonable period of time thereafter exercising due diligence, the same may be made by Landlord, at the expense of Tenant, and the expenses thereof incurred by Landlord, with interest thereon at the Applicable Rate, shall be paid to Landlord, as Additional Rent, within twenty (20) days after rendition of a bill or statement therefor. Tenant shall give Landlord prompt Notice of any defective condition known to Tenant in any Building Systems located in, servicing or passing through the Premises. If the cost of any Maintenance Repair or Requirement Alteration, whether structural or non-structural, exceeds \$10,000.00, and Landlord consents to such Maintenance Repair or Requirement Alteration after prior written notice from Tenant, then upon termination or other expiration of this Lease Landlord shall reimburse to Tenant the pro rata portion of the cost of such Maintenance Repair or Requirement Alterations equal to the portion of the useful life of such Maintenance Repair or Requirement Alterations that remains after the expiration or other termination of this Lease. The useful life of such Maintenance Repair or Requirement Alterations shall be established by the party making such Maintenance Repair or Requirement Alterations at the time made. Notwithstanding anything to

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the contrary contained in this Section, in no event shall Tenant be responsible for any repair, item of maintenance or replacement to the extent the same is caused by the negligence or willful misconduct of Landlord or Landlord's employees, contractors or agents.

SECTION 7.2. Landlord hereby assigns all warranties and guaranty agreements relating to the Premises and the Building Systems to Tenant during the Term.

SECTION 7.3. Landlord hereby agrees to repair, maintain and replace all structural portions of the Premises, including, without limitation, exterior walls, support columns and walls, foundation and the roof in as good repair and working order as exists as of the Commencement Date, ordinary wear and tear excepted.

ARTICLE 8
REQUIREMENTS OF LAW

SECTION 8.1. Tenant shall not do, and shall not permit (to the extent Tenant has control over the same) any act or thing in or upon the Premises which will invalidate or be in conflict with the certificate of occupancy for the Premises or violate any Requirements. Tenant shall immediately take all action, including but not limited to, making any Requirement Alterations necessary to comply with all Requirements which shall or may impose any violation, order or duty upon Landlord or Tenant arising from or in connection with the Premises, Tenant's occupancy, use or manner of use of the Premises or any installations in the Premises, or required by reason of a breach of any of Tenant's covenants or agreements under this Lease, whether or not such Requirements shall now be in effect or hereafter enacted or issued, and whether or not any work required shall be ordinary or extraordinary or foreseen or unforeseen as of the date hereof. Landlord represents and warrants to Tenant that as of the Commencement Date no condition exists with respect to the Premises that will necessitate any Requirement Alteration.

SECTION 8.2. Tenant covenants and agrees that Tenant shall, at Tenant's sole cost and expense, comply at all times with all Requirements governing the use, generation, storage, treatment and/or disposal of any Hazardous Materials (as defined below) in, on, under, about or from the presence of which results from or in connection with the act or omission of Tenant or Persons Within Tenant's Control or the breach of this Lease by Tenant or Persons Within Tenant's Control. The term "Hazardous Materials" shall mean any biologically or chemically active or other toxic or hazardous wastes, pollutants or substances, including, without limitation, asbestos, PCBS, petroleum products and by-products, substances defined or listed as "hazardous substances" or "toxic substances" or similarly identified in or pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. ' 9601 ET SEQ., and as hazardous wastes under the Resource Conservation and Recovery Act, 42 U.S.C. ' 6010, ET SEQ., any chemical substance or mixture regulated under the Toxic Substance Control Act of 1976, as amended, 15 U.S.C. 2601, ET SEQ., any "toxic pollutant" under the Clean Water Act, 33 U.S.C. ' 466 ET SEQ., as amended, any hazardous air pollutant under the Clean Air Act, 42 U.S.C. ' 7401 ET SEQ., hazardous materials identified in or pursuant to the Hazardous Materials Transportation Act, 49 U.S.C. ' 1802, ET SEQ., and any hazardous or toxic substances or pollutant regulated under any

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other Requirements. Tenant shall indemnify and hold harmless all Indemnitees from and against any loss, claim, cost, damage, liability or expense (including attorneys' fees and disbursements) arising by reason of any clean up, removal, remediation, detoxification action or any other activity required or recommended of any Indemnitees by any Governmental Authority by reason of the presence in, on, under or about the Premises of any Hazardous Materials, as a result of or in connection with the act or omission of Tenant or Persons Within Tenant's Control or the breach of this Lease by Tenant or Persons Within Tenant's Control. Landlord shall indemnify and hold harmless all Tenant Indemnitees from and against any loss, claim, cost, damage, liability or expense (including attorneys' fees and disbursements) arising by reason of any clean up, removal, remediation, detoxification action or any other activity required or recommended of any Tenant Indemnitees by any Governmental Authority by reason of the presence in, on, under or about the Premises of any Hazardous Materials either in existence on the Commencement Date or that come to exist thereafter that are not the result of or in connection with the act or omission of Tenant or Persons Within Tenant's Control or the breach of this Lease by Tenant or Persons Within Tenant's Control. The foregoing covenants and indemnities shall survive the expiration or any termination of this Lease.

SECTION 8.3. Landlord represents and warrants to Tenant that as of the date hereof Landlord has no notice of the presence, generation, storage, disposal or other use of Hazardous Materials on, in or under the Premises prior to the date hereof or any violation of any violation of any applicable Requirements relating to Hazardous Materials.

SECTION 8.4. If Tenant shall receive notice of any violation of or defaults under, any Requirements, liens or other encumbrances applicable to the Premises, Tenant shall give immediate written Notice thereof to Landlord.

SECTION 8.5. If any governmental license or permit shall be required for the proper and lawful conduct of Tenant's business and if the failure to secure such license or permit would, in any way, affect Landlord or the Premises, then Tenant, at Tenant's expense, shall promptly procure and thereafter maintain, submit for inspection by Landlord, and at all times comply with the terms and conditions of, each such license or permit.

ARTICLE 9
SUBORDINATION

SECTION 9.1. This Lease shall at all times, now and hereafter, be subject and subordinate to each and every Mortgage, whether made prior to or after the execution of this Lease, and to all extensions, supplements, amendments, modifications, consolidations and replacements thereof or thereto, substitutions therefor, and advances made thereunder, provided that the Mortgagee confirms and accepts the provisions of Section 9.5 below. This clause shall be self-operative and no further agreement of subordination shall be required to make the interest of any Mortgagee superior to the interest of Tenant hereunder. In confirmation of such subordination, Tenant shall promptly execute and deliver, at its own cost and expense, any document, in recordable form if requested, that Landlord or any Mortgagee may request to

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evidence such subordination; and if Tenant fails to execute, acknowledge or deliver any such document within twenty (20) days after request therefor, Tenant hereby irrevocably constitutes and appoints Landlord as Tenant's attorney-in-fact, coupled with an interest, to execute, acknowledge and deliver any such document for and on behalf of Tenant.

SECTION 9.2. The subordination set forth in Section 9.1 above is subject to the written agreement (a "Non-Disturbance Agreement") by any Mortgagee or any other person to whom Tenant may be required to attorn, that so long as Tenant is in compliance with the terms of this Lease, Tenant's use and occupancy of the Premises shall not be disturbed, and that all provisions of the Lease shall be given effect, including those related to the application of any proceeds of insurance. Landlord shall cause each Mortgagee, whether pursuant to a Mortgage now existing or hereafter arising, to execute and deliver to Tenant a Non-Disturbance Agreement, subject to the terms of the preceding sentence, in a form acceptable to such Mortgagee.

ARTICLE 10
INSURANCE; PROPERTY LOSS OR DAMAGE; REIMBURSEMENT

SECTION 10.1.

(A) Neither Landlord nor Landlord's agents shall be liable for any injury or damage to persons or property, or interruption of Tenant's business, resulting from fire or other casualty caused by Persons other than the Landlord.

(B) Tenant shall give written Notice to Landlord, promptly after Tenant learns thereof, of any accident, emergency, occurrence, fire or other casualty and all damages to or defects in the Premises for the repair of which Landlord might be responsible. Such Notice shall be given by telecopy or personal delivery to the address(es) of Landlord in effect for Notice.

SECTION 10.2. Tenant shall not do or permit to be done any act or thing in or upon the Premises which will invalidate or be in conflict with the terms of the State of Indiana standard form of fire insurance with extended coverage, or with rental, liability, boiler, sprinkler, water damage, war risk or other insurance policies covering the Premises (hereinafter referred to as "Building Insurance"); and Tenant, at Tenant's own expense, shall comply with

all rules, orders, regulations and requirements of all insurance boards.

SECTION 10.3.

(A) Tenant shall, at Tenant's own cost and expense, obtain, maintain and keep in full force and effect during the Term, for the benefit of Landlord, any Mortgagees and Tenant, the Building Insurance in an amount equal to the replacement value of the Building and its contents (not to exceed \$902,000.00) and commercial general liability insurance (including premises operation, bodily injury, personal injury, death, independent contractors, broad form contractual liability

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and broad form property damage coverages) with coverage limits of \$1,000,000 per occurrence and \$2,000,000 in the aggregate, against all claims, demands or actions with respect to damage, injury or death made by or on behalf of any person or entity, arising from or relating to the conduct and operation of Tenant's business in, on or about the Premises (which shall include Tenant's signs, if any), or arising from or related to any act or omission of Tenant or of Persons Within Tenant's Control.

(B) Landlord and any Mortgagees shall be named as additional insureds in said policies. All said policies of insurance shall be: (i) written as "occurrence" policies; (ii) written as primary policy coverage and not contributing with or in excess of any coverage which Landlord may carry; and (iii) issued by reputable and independent insurance companies rated in Best's Insurance Guide, or any successor thereto (or if there be none, an organization having a national reputation) as having a general policyholder rating of "A" and a financial rating of at least "XI", and which are licensed to do business in the State of Indiana. Upon Landlord's request, Tenant shall deliver to Landlord the policies of insurance or certificates thereof, together with evidence of payment of premiums thereon, and shall thereafter furnish to Landlord, at least thirty (30) days prior to the expiration of any such policies and any renewal thereof, a new policy or certificate in lieu thereof, with evidence of the payment of premiums thereon. Each of said policies shall also contain a provision whereby the insurer agrees not to cancel, fail to renew, diminish or materially modify said insurance policy(ies) without having given Landlord and any Mortgagees at least thirty (30) days prior written Notice thereof.

(C) Tenant shall pay all premiums and charges for all of said policies, and, if Tenant shall fail to make any payment when due or carry any such policy, Landlord may, but shall not be obligated to, make such payment or carry such policy, and the amount paid by Landlord, with interest thereon (at the Applicable Rate), shall be repaid to Landlord by Tenant on demand, and all such amounts so repayable, together with such interest, shall be deemed to constitute Additional Rent hereunder. Payment by Landlord of any such premium, or the carrying by Landlord of any such policy, shall not be deemed to waive or release the default of Tenant with respect thereto.

(D) Tenant, at Tenant's sole cost and expense, shall maintain insurance protecting and indemnifying Tenant against any and all damage to or loss of Tenant's Property, and all claims and liabilities relating thereto.

SECTION 10.4.

(A) Landlord and Tenant hereby release each other and their respective agents, employees, partners, shareholders, officers and directors from any claims or actions for damage to the Premises or Tenant's Property to the extent the same

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are covered by proceeds of any insurance policies maintained by the parties hereto under the terms of this Lease or in force at the time of

any such damage. Each party shall cause each insurance policy obtained by it to provide that the insurance company waives all rights of recovery by way of subrogation against the other party in connection with any damage covered by any such policy.

(B) The waiver of subrogation referred to in Section 10.4(A) above shall extend to the agents and employees of each party, but only if and to the extent that such waiver can be obtained without additional charge (unless such party shall pay such charge). Nothing contained in this Section 10.4 shall be deemed to relieve the Landlord or Tenant from any duty imposed elsewhere in this Lease to repair, restore and rebuild the Premises, in whole or in part.

ARTICLE 11
DESTRUCTION BY FIRE OR OTHER CAUSE

SECTION 11.1. If the Premises or any part thereof shall be damaged by fire or other casualty, Tenant shall give immediate written Notice thereof to Landlord. Landlord shall, subject to the provisions of Sections 11.2 and 11.3 below, proceed with reasonable diligence, after receipt of the net proceeds of insurance, to repair or cause to be repaired such damage at its expense, to the condition immediately preceding such damage and, if the Premises, or any part thereof, shall be rendered untenable by reason of such damage, then the Fixed Rent hereunder, or an amount thereof apportioned according to the area of the Premises so rendered untenable (if less than the entire Premises shall be so rendered untenable), shall be abated for the period from the date of such damage to the date that is thirty (30) days after the date when the repair of such damage shall have been substantially completed. If Landlord or any Mortgagee shall be unable to collect the insurance proceeds applicable to such damage because of some action or inaction on the part of Tenant or Persons Within Tenant's Control, then Landlord shall have no duty to make such repairs or effect any restoration hereunder. Tenant covenants and agrees to cooperate with Landlord and any Mortgagee in their efforts to collect insurance proceeds (including rent insurance proceeds) payable to such parties. Landlord shall not be liable for any delay which may arise by reason of adjustment of insurance on the part of Landlord and/or Tenant, or any cause beyond the control of Landlord or contractors employed by Landlord.

SECTION 11.2. Landlord shall not be liable for any inconvenience or annoyance to Tenant or injury to the business of Tenant resulting in any way from damage from fire or other casualty or the repair thereof unless caused by Landlord. Tenant understands that Landlord, in reliance upon Section 10.3 hereof, will not carry insurance of any kind on Tenant's Property, and that Landlord shall not be obligated to repair any damage thereto or replace the same.

SECTION 11.3.

(A) Notwithstanding anything to the contrary contained in Sections 11.1 and 11.2 above, in the event that:

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(1) at least fifty (50%) percent of the rentable square feet of the Premises shall be damaged by a fire or other casualty so that substantial alteration or reconstruction of the Premises shall be required (whether or not the remainder of the Premises shall have been damaged by such fire or other casualty and without regard to the structural integrity of the Premises); or

(2) the Premises shall be totally or substantially damaged or shall be rendered wholly or substantially unsuitable for the Permitted Use; or

(3) the Landlord fails to commence any repairs, reconstruction or restoration of the Premises within sixty (60) days after a casualty; or

(4) Landlord fails complete all repairs, reconstruction or restoration of the Premises within one hundred twenty (120) days after the date of casualty;

then, as a result of any circumstances described in subparagraphs (1), (2), (3) or (4) hereof, the Tenant, at Tenant's option, may terminate this Lease and the term and estate hereby granted, by notifying the Landlord in writing of such termination within one hundred twenty (120) days after the date of such damage [as to subparagraphs (1) and (2)] or within thirty (30) days after the passage of the times periods in subparagraphs (3) and (4) above. In the event that such a Notice of termination shall be given, then this Lease and the term and estate hereby granted shall expire as of the date of termination stated in said Notice with the same effect as if that date were the Fixed Expiration Date, and the Fixed Rent and Additional Rent hereunder shall be apportioned as of such date. Notwithstanding the termination of this Lease as provided in this Subsection 11.3(A) Landlord shall be obligated to reimburse to Tenant a portion of the cost of any Maintenance Repair or Requirement Alterations to the extent required by Section 7.1 above. In the event of an occurrence as described in subparagraphs (1) or (2) above, Landlord, at Landlord's option, may terminate this Lease and the term and estate hereby granted by notifying Tenant in writing of such termination within one hundred twenty (120) days after the date of such damage.

ARTICLE 12
EMINENT DOMAIN

SECTION 12.1. If the whole of the Premises is acquired or condemned for any public or quasi-public use or purpose, this Lease and the Term shall end as of the date of the vesting of title with the same effect as if said date were the Fixed Expiration Date. If only a part of the Premises is so acquired or condemned then, except as hereinafter provided in this Section 12.1, this Lease and the Term shall continue in effect but, if a part of the Premises is so acquired or condemned, from and after the date of the vesting of title, the Fixed Rent and Additional Rent, if

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any, shall be reduced in the proportion which the area of the part of the Premises so acquired or condemned bears to the total area of the Premises immediately prior to such acquisition or condemnation. If the part of the Premises acquired or condemned contains more than fifty percent (50%) of the rentable square feet of the Premises or if, by reason of such acquisition or condemnation, the Premises shall be rendered wholly or substantially unsuitable for the Permitted Use, then either Landlord or Tenant may terminate this Lease and the Term and estate hereby granted, by notifying the other party in writing of such termination within one hundred twenty (120) days after the date upon which Tenant receives Notice of vesting of title. In the event that such Notice of termination shall be given, then this Lease and the Term and estate hereby granted shall expire as of the date of termination stated in said Notice, with the same effect as if that date were the Fixed Expiration Date. In the event of any termination of this Lease and the Term pursuant to the provisions of this Section 12.1, the Fixed Rent or Additional Rent shall be apportioned as of the date of sooner termination and any prepaid portion of the Fixed Rent for any period after such date shall be refunded by Landlord to Tenant.

SECTION 12.2. In the event of any such acquisition or condemnation of all or any part of the Premises, Landlord shall be entitled to receive the entire award for any such acquisition or condemnation, but shall be obligated to proceed with reasonable diligence to repair and restore the Premises, at Landlord's expense, to a condition most suitable for the Permitted Use. Tenant shall have no claim against Landlord or the condemning authority for the value of any unexpired portion of the Term and Tenant hereby expressly assigns to Landlord all of its right in and to any such award. Nothing contained in this Section 12.2 shall be deemed to prevent Tenant from making a separate claim in any condemnation proceedings for the value of any Tenant's Property included in such taking, and for any moving expenses, so long as Landlord's award is not reduced thereby.

SECTION 12.3.

(A) Notwithstanding anything to the contrary contained in Sections 12.1 and 12.2 above, in the event that:

(1) the Landlord fails to commence any repairs, reconstruction or restoration of the Premises within sixty (60) days after the physical taking of a portion of the Premises; or

(2) Landlord fails complete all repairs, reconstruction or restoration of the Premises within one hundred twenty (120) days after the date of such physical taking,

then, as a result of any circumstances described in subparagraphs (1) or (2) hereof, the Tenant, at Tenant's option, may terminate this Lease and the term and estate hereby granted, by notifying the Landlord in writing of such termination within thirty (30) days after the passage of the times periods in subparagraphs (1) and (2) above. In the event that such a Notice of termination shall be given, then this Lease and the term and estate hereby granted shall expire as of the date of

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termination stated in said Notice with the same effect as if that date were the Fixed Expiration Date, and the Fixed Rent and Additional Rent hereunder shall be apportioned as of such date. Notwithstanding the termination of this Lease as provided in this Subsection 12.3(A) Landlord shall be obligated to reimburse to Tenant a portion of the cost of any Maintenance Repair or Requirement Alterations to the extent required by Section 7.1 above.

ARTICLE 13
ASSIGNMENT; SUBLETTING; MORTGAGE; ETC.

SECTION 13.1.

(A) The Tenant shall not: (i) assign this Lease; or (ii) mortgage or encumber Tenant's interest in this Lease, in whole or in part; or (iii) sublet, or permit the subletting of, the Premises or any part thereof without the prior consent of Landlord. Notwithstanding the provisions of this Section 13.1, the use of the Premises by any Person AFFILIATED (as such term is hereinafter defined) with the Tenant or under the COMMON CONTROL (as such term is hereinafter defined) of Comfort Systems USA, Inc., as the case may be, shall not be deemed an assignment of this Lease or a sublet of the Premises, provided Tenant is not in default and remains fully obligated pursuant to the terms and conditions of this Lease. For purposes of this Article 13, a Person shall be deemed to be an "affiliate" of the Tenant or under the "common control" of Comfort Systems USA, Inc., if such Person is a member of a "parent-subsidiary controlled group" as such term is defined by Section 1563(a)(1) of the Internal Revenue Code of 1986, as amended or a member of a "brother-sister controlled group" as such term is defined by Section 1563(a)(2) of the Internal Revenue Code of 1986, as amended of which either Comfort Systems USA, Inc. or the Tenant, as the case may be, is a member.

(B) Notwithstanding the provisions otherwise set forth in this Article 13, no reorganization, consolidation and/or restructuring of the Tenant or the sale or transfer of any of its stock shall be deemed an assignment of this Lease or a sublet of the Premises, provided that the surviving entity resulting from such reorganization, consolidation and/or restructuring remains fully obligated pursuant to the terms and conditions of this Lease as Tenant.

SECTION 13.2. If Tenant's interest in this Lease shall be assigned in violation of the provisions of this Article 13, such assignment shall be invalid and of no force and effect against Landlord. If the Premises or any part thereof are sublet to, or occupied by, or used by, any person other than Tenant, whether or not in violation of this Article 13, Landlord, may collect an amount equal to the then Fixed Rent plus any other items of Rental or other sums paid

by the subtenant, user or occupant as a fee for its use and occupancy, and shall apply the net amount collected to the Fixed Rent and the other items of Rental reserved in this Lease. No such assignment, subletting, occupancy, or use, nor any such collection or application of Rental or fee for use and occupancy, shall be deemed a waiver by Landlord of any term, covenant or condition

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of this Lease or the acceptance by Landlord of such assignee, subtenant, occupant or user as Tenant hereunder, nor shall the same, in any circumstances, relieve Tenant of any of its obligations under this Lease.

ARTICLE 14
ACCESS TO PREMISES

SECTION 14.1. Landlord or Landlord's agents shall have the right to enter the Premises at all reasonable times during Tenant's regular business hours upon (except in case of emergency) reasonable prior notice, which notice may be oral, to examine the same, to show the same to prospective purchasers or Mortgagees and to make such repairs, alterations, improvements or additions: (i) as Landlord may deem necessary or required under the terms of the Lease; or (ii) which Landlord may elect to perform at least twenty (20) days after notice (except in an emergency when no notice shall be required) following Tenant's failure to make repairs or perform any work which Tenant is obligated to make or perform under this Lease, and Landlord shall be allowed to take all material into and upon the Premises that may be required therefor without the same constituting an eviction or constructive eviction of Tenant in whole or in part and except as herein provided the Fixed Rent (and any other item of Rental) shall in no respect abate or be reduced by reason of said repairs, alterations, improvements or additions, wherever located, or while the same are being made, by reason of loss or interruption of business of Tenant, or otherwise. Landlord shall promptly repair any damage caused to the Premises or Tenant's Property by such work, alterations, improvements or additions. In all events, Landlord shall use its best efforts not to interfere with or obstruct Tenant's business activities on or in the Premises during any entry.

ARTICLE 15
CERTIFICATE OF OCCUPANCY

SECTION 15.1. Landlord represents and warrants to Tenant that use and occupancy of the Premises for the Permitted Uses shall not violate the certificate of occupancy for the Premises or any Requirement. Tenant shall not at any time, now or hereafter, use or occupy the Premises, directly or indirectly, in violation of the certificate of occupancy for the Premises and in the event that any Governmental Authority hereafter contends or declares by notice, order or in any other manner whatsoever that the Premises are used for a purpose that is not included in the Permitted Uses and is a violation of such certificate of occupancy, Tenant shall, upon three (3) Business Days' written Notice from Landlord or any Government Authority, immediately discontinue such use of the Premises.

ARTICLE 16
DEFAULT

SECTION 16.1. Each of the following events shall be an "Event of Default" under this Lease:

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(A) if Tenant shall on any occasion default in the payment when due of any installment of Fixed Rent or Additional Rent or in the payment when due of any other item of Rental and such default shall continue for ten (10) days from and after the date on which Landlord gives Tenant written Notice specifying such default; or

(B) (1) if Tenant shall not, or shall be unable to, or shall admit in writing Tenant's inability to, as to any obligation, pay Tenant's debts as they become due; or

(B) (2) if Tenant shall commence or institute any case, proceeding or other action (a) seeking relief on Tenant's behalf as debtor, or to adjudicate it a bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to Tenant or Tenant's debts under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization or relief of debtors, or (b) seeking appointment of a receiver, trustee, custodian or other similar official for it or for all or any substantial part of its property; or

(B) (3) if Tenant shall make a general assignment for the benefit of creditors; or

(B) (4) if any case, proceeding or other action shall be commenced or instituted against Tenant (a) seeking to have an order for relief entered against Tenant as debtor or to adjudicate Tenant a bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to Tenant or Tenant's debts under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization or relief of debtors, or (b) seeking appointment of a receiver, trustee, custodian or other similar official for Tenant or for all or any substantial part of Tenant's property, which either: (i) results in any such entry of an order for relief, adjudication of bankruptcy or insolvency or such an appointment or the issuance or entry of any other order having a similar effect; or (ii) remains undismitted for a period of sixty (60) days; or

(B) (5) if a trustee, receiver or other custodian shall be appointed for any substantial part of the assets of Tenant which appointment is not vacated or effectively stayed within ninety (90) days; or

(C) if Tenant shall default in the observance or performance of any other term, covenant or condition of this Lease on Tenant's part to be observed or performed, and Tenant shall fail to remedy such default within thirty (30) days after written Notice by Landlord to Tenant of such default, or if such default is of such a nature that it cannot with due diligence be completely remedied within said period

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of thirty (30) days, if Tenant shall not: (i) duly institute within said thirty (30) day period; and (ii) thereafter diligently and continuously prosecute to completion all steps necessary to remedy the same.

SECTION 16.2. If an Event of Default shall occur, Landlord may, at any time thereafter, at Landlord's option, give written Notice to Tenant stating that this Lease and the Term shall expire and terminate on the date specified in such Notice, which date shall not be less than ten (10) days after the giving of such Notice, whereupon this Lease and the Term and all rights of Tenant under this Lease shall automatically expire and terminate as if the date specified in the Notice given pursuant to this Section 16.2 were the Fixed Expiration Date and Tenant thereafter shall quit and surrender the Premises, but Tenant shall remain liable for damages as provided herein or pursuant to law. Anything contained herein to the contrary notwithstanding, if such termination shall be stayed by order of any court having jurisdiction over any proceeding described in Section 16.1(B), or by federal or state statute, then, following the expiration of any such stay, or if the trustee appointed in any such proceeding, Tenant or Tenant as debtor-in-possession fails to assume Tenant's obligations under this Lease within the period prescribed therefor by law or within one hundred twenty (120) days after entry of the order for relief or as may be allowed by the court, or if said trustee, Tenant or Tenant as debtor-in-possession shall fail to provide adequate protection of Landlord's right, title and interest in and to the Premises or adequate assurance of the complete and continuous future performance of Tenant's obligations under this Lease, Landlord, to the extent permitted by law or by leave of the court having jurisdiction over such proceeding, shall have the right, at its election, to

terminate this Lease on ten (10) days' Notice to Tenant, Tenant as debtor-in-possession or said trustee and upon the expiration of said ten (10) day period this Lease shall cease and expire as aforesaid and Tenant, Tenant as debtor-in-possession or said trustee shall thereafter quit and surrender the Premises as aforesaid.

SECTION 16.3. If, at any time: (i) Tenant shall consist of two (2) or more Persons; or (ii) Tenant's obligations under this Lease shall have been guaranteed by any Person other than Tenant; or (iii) Tenant's interest in this Lease has been assigned, the word "Tenant" as used and referred to in this Lease, shall be deemed to mean any one or more of the persons primarily or secondarily liable for Tenant's obligations under this Lease. Any monies received by Landlord from or on behalf of Tenant during the pendency of any proceeding of the types referred to in Section 16.1(B) hereof shall be deemed paid as compensation for the use and occupancy of the Premises and the acceptance of any such compensation by Landlord shall not be deemed an acceptance of Rental or a waiver on the part of Landlord of any rights under Section 16.2 hereof.

SECTION 16.4. In the event of any default by Landlord hereunder, except as otherwise provided herein, Tenant will give Landlord written notice specifying such default with particularity, and Landlord shall thereupon have thirty (30) days in which to cure such default or to commence to cure such default if any such default cannot be reasonably cured within such 30-day period, in which event Landlord shall prosecute such cure with diligence to a conclusion. Unless and until Landlord fails to so cure or proceed with diligence to cure any default after such notice, Tenant shall not have any remedy or cause of action by reason thereof.

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If Landlord is in default hereunder, and fails to cure the same timely, in addition to any and all other rights, remedies and recourses available to Tenant, Tenant may undertake to cure such default on behalf of Landlord, and thereupon Landlord agrees to pay Tenant, upon demand, all costs, expenses and disbursements (including reasonable attorneys' fees) incurred by Tenant in taking such remedial actions with interest thereon at the Applicable Rate. In addition to the foregoing, Tenant shall also have the same rights granted to Landlord under Section 17.1(B) relating to injunctive or equitable relief. The right to invoke the remedies hereinbefore set forth are cumulative and shall not preclude Tenant from invoking any other remedy allowed at law or in equity.

ARTICLE 17 REMEDIES AND DAMAGES

SECTION 17.1.

(A) If any Event of Default shall occur, or this Lease and the Term shall expire and come to an end as provided in Article 16 hereof:

(1) Tenant shall quit and peacefully surrender the Premises to Landlord, and Landlord and its agents may, after the date upon which this Lease and the Term shall expire and come to an end, re-enter the Premises or any part thereof, without Notice, either by summary proceedings, or by any other applicable action or proceeding or otherwise, and may repossess the Premises and dispossess Tenant and any other persons from the Premises by summary proceedings or otherwise and remove any and all of their property and effects from the Premises (and Tenant shall remain liable for damages as provided herein or pursuant to law); and

(2) Landlord, at Landlord's option, may relet the whole or any part or parts of the Premises from time to time, either in the name of Landlord or otherwise, to such tenant or tenants, for such term or terms ending before, on or after the Fixed Expiration Date, at such rent or rentals and upon such other conditions, which may include concessions and free rent periods, as Landlord may

determine; provided, however, that Landlord shall exercise reasonable efforts to mitigate any damages related to liability of Tenant under this Lease.

(B) In the event of a breach or threatened breach by Tenant, or any persons claiming through or under Tenant, of any term, covenant or condition of this Lease, Landlord shall have the right to enjoin such breach.

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SECTION 17.2.

(A) If this Lease and the Term shall expire and come to an end as provided in Article 2 hereof, or by or under any summary proceeding or any other action or proceeding, or if Landlord shall re-enter the Premises as provided in Section 17.1 hereof, or by or under any summary proceeding or any other action or proceeding, then, in any of said events:

(1) Tenant shall pay to Landlord all Fixed Rent, Additional Rent and other items of Rental payable under this Lease by Tenant to Landlord to the date upon which this Lease and the Term shall have expired and come to an end or to the date of re-entry upon the Premises by Landlord, as the case may be;

(2) if Landlord has not terminated the Lease, but only Tenant's right of possession to the Premises, Tenant also shall be liable for and shall pay to Landlord, as damages, any deficiency ("Deficiency") between the Rental for the period which is the unexpired portion of the Term and the net amount, if any, of rents collected under any reletting effected pursuant to the provisions of Section 17.1(A) (2) for any part of such period (after first deducting from the rents collected under any such reletting all of Landlord's reasonable and actual expenses in connection with the termination of Tenant's right of possession, Landlord's re-entry upon the Premises and such reletting including, but not limited to, all repossession costs, brokerage commissions, attorneys' fees and disbursements, alteration costs and other expenses of preparing the Premises for such reletting, to the extent the same are allocable to the remaining Term); any such Deficiency shall be paid in monthly installments by Tenant on the days specified in this Lease for payment of installments of Fixed Rent; Landlord shall be entitled to recover from Tenant each monthly Deficiency as the same shall arise, and no suit to collect the amount of the Deficiency for any month shall prejudice Landlord's right to collect the Deficiency for any subsequent month by a similar proceeding; and

(3) alternatively, if Landlord has terminated the Lease, Landlord shall be entitled to recover from Tenant, and Tenant shall pay to Landlord, on demand, and as and for liquidated and agreed final damages, a sum equal to the amount by which the present value (calculated using the Base Rate as the discount rate) of the unpaid Rental for the period which otherwise would have constituted the unexpired portion of the Term exceeds the present value (calculated using the Base Rate as the discount rate) of the then fair and

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reasonable rental value of the Premises for the same period, taking into consideration reasonable costs incurred to relet the Premises; if, before presentation of proof of such liquidated damages to any court, commission or tribunal, the Premises, or any part thereof, are relet by Landlord on a fair and arms-length basis for the period which otherwise would have constituted the unexpired portion of the Term, or any part thereof, the amount of rent reserved upon such reletting shall be deemed, prima facie, to be the fair and reasonable rental value for the part or the whole of the Premises so

relet during the term of the reletting.

(B) Tenant shall in no event be entitled to any rents collected or payable under any reletting, whether or not such rents exceed the Fixed Rent reserved in this Lease. Nothing contained in this Article 17 shall be deemed to limit or preclude the recovery by Landlord from Tenant of the maximum amount allowed to be obtained as damages by any statute or rule of law, or of any sums or damages to which Landlord may be entitled in addition to the damages set forth in this Section 17.2.

ARTICLE 18
FEES AND EXPENSES

SECTION 18.1. If an Event of Default shall have occurred by Tenant or Landlord has defaulted on its obligations on this Lease and the same is not cured within any applicable cure period, the non-defaulting party may (1) perform any term, covenant or condition of this Lease for the account of the defaulting party, or (2) make any expenditure or incur any obligation for the payment of money in connection with any obligation owed to the non-defaulting party, including, but not limited to, reasonable attorneys' fees and disbursements in instituting, prosecuting or defending any action or proceeding, and in either case the cost thereof, with interest thereon at the Applicable Rate, shall be paid by the defaulting party to the non-defaulting party within twenty (20) days after rendition of any bill or statement therefor.

ARTICLE 19
END OF TERM

SECTION 19.1. Upon the expiration or other termination of this Lease, Tenant shall quit and surrender to Landlord the Premises, vacant, broom clean, in good order and condition, ordinary wear and tear and damage by fire or other casualty or by condemnation excepted, and Tenant shall remove all of Tenant's Property and all other personal property and personal effects of all persons claiming through or under Tenant, and shall pay the cost of repairing all damage to the Premises occasioned by such removal.

SECTION 19.2. If the Premises are not surrendered upon the expiration or other termination of this Lease and all Tenant Property removed as provided above, Tenant shall be

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deemed to be occupying the Premises as a tenant at will, and after sixty (60) days written notice from Landlord, such continued occupancy will be at a rental equal to the Fixed Rent herein provided plus fifty percent (50%) of such amount and otherwise subject to all the conditions, provisions and obligations of this Lease insofar as the same are applicable to a tenancy at will.

SECTION 19.3. Tenant's obligations under this Article 19 shall survive the expiration or termination of this Lease.

ARTICLE 20
NOTICES

SECTION 20.1.

(A) Except as otherwise expressly provided in this Lease, any bills, statements, consents, notices, demands, requests or other communications given or required to be given under this Lease ("Notice(s)") shall be in writing and shall be deemed sufficiently given or rendered if delivered by hand (against a signed receipt) or if deposited with a nationally recognized overnight courier or if deposited in the United States mail, and sent by first class mail, certified, return receipt requested with postage prepaid, and in any case addressed:

IF TO TENANT:

(i) at Tenant's address first set forth in this Lease and (ii) to the Premises, and

WITH A COPY TO:
Comfort Systems USA, Inc.
777 Post Oak Boulevard, Suite 500
Houston, TX 77056
Attention: General Counsel

IF TO LANDLORD:
Mark P. Shambaugh
2233 East Cedar Canyons Road
Fort Wayne, IN 46845

WITH A COPY TO:
N. Reed Silliman, Esq.
Baker & Daniels
111 East Wayne Street, Suite 800
Fort Wayne, IN 46802

and any Mortgagee who may have requested the same, by Notice given in accordance with the provisions of this Article 20, at the

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address designated by such Mortgagee, or to such other address(es) as either Landlord or Tenant may designate as its new address(es) for such purpose by Notice given to the other in accordance with the provisions of this Article 20.

(B) Notices shall be deemed to have been rendered or given (a) on the date delivered, if delivered by hand, (b) on the day after being deposited with a nationally recognized overnight courier or (c) five (5) days after deposit in the United States mail, as provided in Section 20.1(A) hereof.

ARTICLE 21 INDEMNITY

SECTION 21.1. Tenant shall not do or permit any act or thing to be done in, at or upon the Premises that may subject any Indemnitee to any liability or responsibility for injury, damage to persons or property or to any liability by reason of the existence or application of, compliance with or violation of any Requirement, but shall exercise such control over the Premises as to protect each Indemnitee fully against any such liability and responsibility. Tenant shall indemnify and save harmless the Indemnitees from and against (a) all claims against the Indemnitees arising from any accident, injury or damage whatsoever caused to any person or to the property of any person and occurring in, on or about the Premises during the Term or during Tenant's occupancy of the Premises, unless, and to the extent not, caused by the negligent or intentional misconduct of Landlord, and (b) any breach, violation or non-performance of any covenant, condition or agreement contained in this Lease to be fulfilled, kept, observed and performed by Tenant. This indemnity and hold harmless agreement shall include indemnity from and against any and all liability, claims, fines, suits, demands, costs and expenses of any kind or nature (including, without limitation, attorneys' fees and disbursements) incurred in or in connection with any such claim or proceeding brought thereon, and the defense thereof. If any claim, action or proceeding is made or brought against any Indemnitee, against which claim, action or proceeding Tenant is obligated to indemnify such Indemnitee pursuant to the terms of this Lease, then, upon demand by the Indemnitee, Tenant, at its sole cost and expense, shall contest or defend such claim, action or proceeding in the Indemnitee's name, if necessary, by such attorneys as the Indemnitee may select, including, without limitation, attorneys for the Indemnitee's insurer. The provisions of this Article 21 shall survive the expiration or earlier termination of this Lease.

SECTION 21.2. Landlord shall indemnify and save harmless the Tenant and the other Tenant Indemnitees from and against (a) all claims against the Tenant Indemnitees arising from any accident, injury or damage whatsoever caused to any person or the property of any person and occurring in, on or about the

Premises during the Term or during Tenant's occupancy of the Premises to the extent caused by the negligent or intentional misconduct of Landlord and (b) any breach, violation or nonperformance of any covenant, condition or agreement contained in this Lease to be fulfilled, kept, observed and performed by Landlord. This indemnity and hold harmless shall include indemnity from and against any and all liability, claims, fines, suits,

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demands, costs and expenses of any kind or nature (including, without limitation, attorneys' fees and disbursements) incurred in or in connection with any such claim or proceeding brought thereon, and the defense thereof. If any claim, action or proceeding is made or brought against any Tenant Indemnatee, against which claim, action or proceeding Landlord is obligated to indemnify such Tenant Indemnatee pursuant to the terms of this Lease, then, upon demand by the Tenant Indemnatee, Landlord at its sole cost and expense shall contest or defend such claim, action or proceeding in the Tenant Indemnatee's name, if necessary, by such attorneys as the Tenant Indemnatee may select, including without limitation attorneys for the Indemnatee's insurer. The provisions of this Article 21 shall survive the expiration or earlier termination of this Lease.

ARTICLE 22
RENEWAL OPTIONS

SECTION 22.1. Provided that there is no Event of Default at the time the Option (as such term is hereinafter defined) is to be exercised, the Tenant shall have the option to renew this Lease for one (1) additional five (5) year period as follows:

OPTION PERIOD shall commence on the tenth (10th) anniversary of the Commencement Date and shall continue up to and including the day before the fifteenth (15th) anniversary of the Commencement Date,

the aforementioned option period is referred to herein as the "Option Period".

SECTION 22.2. The Option granted to the Tenant pursuant to the provisions of Section 22.1 hereof shall be exercised by the Tenant giving written Notice to the Landlord of the Tenant's intent to exercise the Option not less than one-hundred twenty (120) days prior to the expiration of the Initial Term.

SECTION 22.3. In the event that the Tenant exercises the Option, the Landlord and the Tenant hereby agree that this Lease shall continue in full force and effect and remain unamended during the Option Period, except that the Fixed Rent payable by the Tenant to the Landlord during such Option Period shall continue to be increased annually in accordance with the provisions of Rider 1 hereof.

ARTICLE 23
COVENANT OF QUIET ENJOYMENT

SECTION 23.1. Landlord covenants that, upon Tenant paying all Fixed Rent and Additional Rent and observing and performing all of the terms, agreements, covenants, provisions and conditions of this Lease on Tenant's part to be observed and performed, Tenant may peaceably and quietly enjoy the Premises.

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ARTICLE 24
MISCELLANEOUS

SECTION 24.1. The obligations of Landlord under this Lease shall be binding upon Landlord named herein after the sale, conveyance, assignment or transfer by such Landlord (or upon any subsequent landlord after the sale,

conveyance, assignment or transfer by such subsequent landlord) of its interest in the Premises, as the case may be, and in the event of any such sale, conveyance, assignment or transfer, Landlord shall be freed and relieved of any of the covenants and obligations of Landlord under this Lease thereafter arising, upon the date that the transferee shall have assumed, in writing, for the benefit of Tenant, all obligations of the Landlord under this Lease arising after the effective date of the transfer.

SECTION 24.2. Notwithstanding anything contained in this Lease to the contrary, all amounts payable by Tenant to or on behalf of Landlord under this Lease, whether or not expressly denominated Fixed Rent, Additional Rent or Rental, shall constitute rent for the purposes of Section 502(b)(7) of the Bankruptcy Code.

SECTION 24.3. Upon the request of either party, the other will execute and deliver a mutually acceptable memorandum of this Lease in recordable form.

SECTION 24.4. Except as otherwise provided specifically herein, any consent or approval required to be obtained from Landlord or Tenant under this Lease shall not be unreasonably withheld, conditioned or delayed.

SECTION 24.5. Landlord represents and warrants to Tenant that Landlord has full power and authority to enter into this Lease without the consent of any other parties, including any Mortgagees. Tenant and the person executing this Lease on behalf of Tenant hereby covenant and warrant that: (i) Tenant is now and shall remain throughout the term of this Lease a duly organized and validly existing corporation qualified to do business in the State of Indiana; and (ii) the persons executing this Lease on behalf of Tenant are duly authorized to do so by all necessary corporate action.

SECTION 24.6. If any words or phrases in this Lease are stricken out or otherwise eliminated, whether or not any other words or phrases have been added, this Lease shall be construed as if the words or phrases so stricken out or otherwise eliminated were never included in this Lease and no implication or inference shall be drawn from the fact that such words or phrases were stricken out or otherwise eliminated.

SECTION 24.7. If any of the provisions of this Lease, or the application thereof to any person or circumstance, shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such provisions to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected thereby and shall remain valid and enforceable, and every provision of this Lease shall be valid and enforceable to the fullest extent permitted by law.

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SECTION 24.8. This Lease contains the entire agreement between the parties and all prior negotiations and agreements are merged into this Lease. This Lease may not be changed, abandoned or discharged, in whole or in part, nor may any of its provisions be waived except by a written agreement that (a) expressly refers to this Lease, and (b) is executed by the party against whom enforcement of the change, abandonment, discharge or waiver is sought.

SECTION 24.9. The laws of the State of Indiana applicable to contracts made and to be performed wholly within the State of Indiana shall govern and control the validity, interpretation, performance and enforcement of this Lease without regard to principles of conflicts of law.

SECTION 24.10. The captions are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Lease nor the intent of any provision thereof.

SECTION 24.11. The covenants, conditions and agreements contained in this Lease shall bind and inure to the benefit of Landlord and Tenant and their respective legal representatives, heirs, successors, and, except as otherwise

provided in this Lease, their assigns.

SECTION 24.12. Tenant acknowledges and agrees that the liability of Landlord under this Lease shall be limited to Landlord's interest in the Premises, and any judgments rendered against Landlord shall be satisfied solely out of the proceeds of the sale of Landlord's interest in the Premises. The foregoing provision is not intended to relieve Landlord from the performance of any of Landlord's obligations under this Lease, but only to limit the personal liability of Landlord in the case of a recovery of a judgment against Landlord; nor shall the foregoing be deemed to limit Tenant's rights to injunctive relief or to avail itself of any other right or remedy which may be awarded Tenant by law or under this Lease.

SECTION 24.13. For the purposes of this Lease and all agreements supplemental to this Lease, unless the context otherwise requires:

(A) The words "herein", "hereof", "hereunder" and "hereby" and words of similar import shall be construed to refer to this Lease as a whole and not to any particular Article or Section unless expressly so stated.

(B) Obligations hereunder shall be construed in every instance as conditions as well as covenants, each separate and independent of any other terms of this Lease.

(C) Reference to "termination of this Lease" or "expiration of this Lease" and words of like import includes expiration or sooner termination of this Lease and the Term and the estate hereby granted or cancellation of this Lease pursuant to any of the provisions of this Lease or by law. Upon the termination of

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this Lease, the Term and estate granted by this Lease shall end at noon on the date of termination as if such date were the Fixed Expiration Date, and neither party shall have any further obligation or liability to the other after such termination except: (i) as shall be expressly provided for in this Lease; and (ii) for such obligations as by their nature under the circumstances can only be, or by the provisions of this Lease, may be, performed after such termination, and, in any event, unless expressly otherwise provided in this Lease, any liability for a payment (which shall be apportioned as of such termination) which shall have accrued to or with respect to any period ending at the time of termination shall survive the termination of this Lease.

(D) Words and phrases used in the singular shall be deemed to include the plural and vice versa, and nouns and pronouns used in any particular gender shall be deemed to include any other gender.

IN WITNESS WHEREOF, Landlord and Tenant have duly executed this Lease as of the day and year first above written.

/s/ _____
MARK P. SHAMBAUGH

"Landlord"

SHAMBAUGH & SON, INC.,
an Indiana Corporation

By: /s/ _____

Printed: KEVIN L. BEACH

Its: V.P./SEC'Y.

RIDER 1

INCREASES IN FIXED RENT

SECTION 1. For purposes of the Lease:

(A) "Bureau" means the Federal Bureau of Labor Statistics or any successor agency that shall issue the indices or data referred to in subparagraph (ii) below.

(B) "Price Index" means the Consumer Price Index for All Urban Consumers for the Fort Wayne, Indiana geographic area, 1982-1984=100, issued from time to time by the Bureau or any other successor measure hereafter employed by the Bureau in lieu of such price index that measures the cost of living for such geographic area or failing such successor, the most nearly comparable index (reflecting changes in costs of housing including rental housing, energy and services), published by a Governmental Authority, appropriately adjusted. Furthermore, if hereafter the Price Index is converted to a different standard reference base or a substantial change is made in the terms or number of items contained therein, the Price Index shall be adjusted (with the use of such conversion factor, formula or table as is published by the Bureau, or if it shall not publish same, the conversion factor published by Prentice Hall, Inc., or, failing such publication, by any other nationally recognized publisher of similar statistical information) to the figure that would have resulted if not for such conversion or change.

(C) "Base Index" means the Price Index issued for December 31, 1998.

(D) "Applicable Price Index" for a Lease Year means the Price Index most recently issued prior to the date on which such Lease Year commences.

SECTION 2.

(A) Tenant shall pay to Landlord the Fixed Rent in the amount set forth in Article 1 of this Lease for the first Lease Year.

(B) Beginning after the end of the first Lease Year, and for each and every Lease Year thereafter, the Tenant shall pay to the Landlord, as Fixed Rent, an amount equal to the GREATER of:

(1) an amount equal to the sum of (x) the percentage by which the Applicable Price Index for such Lease Year exceeds the Applicable Price Index for the immediately preceding Lease Year, multiplied by the Fixed Rent payable for such immediately preceding Lease Year and (y) such Fixed Rent payable for the immediately

preceding Lease Year (e.g., if the Base Index is 200, the Applicable Price Index for the second Lease Year is 203, the Applicable Price Index for the third Lease Year is 215, and the Fixed Rent payable for the second Lease Year is \$50,000.00, then the Applicable Price Index for the third Lease Year exceeds the Applicable Price Index for the second Year by 5.91% (i.e., the difference between 203 and 215), and the Fixed Rent derived from the aforesaid calculation shall be \$52,955.75 (5.91% of \$50,000.00, which is \$2,955.00, plus \$50,000.00); or

(2) an amount equal to the Fixed Rent for the immediately preceding Lease Year.

The Landlord and the Tenant hereby acknowledge that it is the mutual intention of the parties that for each and every Lease Year subsequent to the first Lease Year during the Term hereof, the Fixed Rent payable by the Tenant to the Landlord hereunder shall never be decreased from the prior Lease Year.

SECTION 3. Upon Notice by the Landlord to the Tenant of an increase in the Fixed Rent pursuant to the provisions of this Section 3 ("Increase Notice"), the Tenant shall pay the Fixed Rent as set forth in the Increase Notice for the period in which the increase identified in such Notice shall apply.

SCHEDULE A
LEGAL DESCRIPTION
ED GRACE COMPANY

PARCEL I:

A part of the Fractional Southwest Quarter of Section 9, Township 23 North, Range 4 West, more completely described as follows:

Beginning at a point, said point being on the South line of said Section 9-23-4 and 40 feet North 890-15' West of the intersection of the South line of said section and the West line of the Longlois Reserve; thence North 890-15' West along the South line of said Section a distance of 338.38 feet to an iron pipe; thence North 000 -25' West a distance of 95.34 feet to an iron pipe; thence South 890-38' East a distance of 338.35 feet to an iron pipe; thence South 000-25' East a distance of 97.76 feet to an iron pipe on the South line of said Section and the place of beginning, containing 0.75 acres, more or less.

PARCEL II:

A part of School Lot 9 in Section 16, Township 23 North, Range of West of the Second Principal Meridian in Fairfield Township, Tippecanoe County, Indiana, being more completely described as follows, to-wit:

Commencing at a capped rebar in a position historically representing the Northeast Corner of School Lot 9 in Section 16, Township 23 North, Range 4 West; thence North 890-15'-00" West (Record Bearing) along the north line of said Lot a distance of 253.50 feet to the Point of Beginning of the herein described tract; thence South 080 -37'-07" West a distance of 170.20 feet; thence South 880 -52'-35" East a distance of 225.73 feet to the West right-of-way of North 9th Street Road; thence South 040 -28'-36" West along said Right-of-Way a distance of 19.40 feet to the center line of said North 9th Street Road; thence South 330 -46'-00" West along said center line a distance of 16.37 feet to a railroad spike with a cut "+"; thence South 890 -56'- 48" West in part along a chain link type security fence a distance of 438.40 feet to a capped rebar; thence North 000 -28'-18" West a distance of 209.35 feet to a capped rebar on the North line of said Lot 9; thence South 890 -15'-00" East a distance of 250.58 feet to the Point of Beginning, containing 1.299 acres.

PARCEL III:

A part of School Lot 9 in Section 16, Township 23 North, Range 4 West of the Second Principal Meridian in Fairfield Township, Tippecanoe County, Indiana, being more completely described as follows, to-wit:

Beginning at a capped rebar in a position historically representing the Northeast corner of School Lot 9 in Section 16, Township 23 North, Range 4 West; thence North 890 -15'-00" West (Record Bearing) along the North line of said Lot a distance of 253.50 feet; thence South 080 -37'-07" West a distance of 170.20 feet; thence South 880 52'-35" East a distance of 237.00 feet to the center line of North 9th Street Road; thence North 330 -46'-00" East along said center line a distance of 77.00 feet; thence North 000 -25'-00" East a distance of 105.60 feet to the point of Beginning, containing 1.000 acre.

COMFORT SYSTEMS USA, INC.

FIRST AMENDMENT TO CREDIT AGREEMENT

This FIRST AMENDMENT TO CREDIT AGREEMENT (this "AMENDMENT") is dated as of January 14, 1999 and entered into by and among COMFORT SYSTEMS USA, INC., a Delaware corporation (the "COMPANY"), the other Credit Support Parties (as defined in Section 4 hereof), the Subsidiaries of the Company listed on the signature pages hereto as Guarantors (together with each other Person who subsequently becomes a Guarantor, collectively the "GUARANTORS"), the banks and other financial institutions listed on the signature pages hereto under the caption "BANKS" (together with each other Person who becomes a Bank, collectively the "BANKS"), BANK ONE, TEXAS, N.A. individually as a bank ("BOT") and as administrative agent for the other Banks (in such capacity together with any other Person who becomes the administrative agent, the "ADMINISTRATIVE AGENT"), BANKERS TRUST COMPANY, individually as a Bank ("BTCO") and as syndication agent for the other Banks (in such capacity together with any other Person who becomes the syndication agent, the "SYNDICATION AGENT"), and NATIONS BANK, N.A., individually as a Bank ("NB") and as documentation agent for the other Banks (in such capacity together with any other Person who becomes the documentation agent, the "DOCUMENTATION AGENT"); and together with the Administrative Agent and the Syndication Agent, the "AGENTS"), CREDIT LYONNAIS, individually as a Bank and Co-Agent, NATIONAL CITY BANK, individually as a Bank and as Co-Agent, and THE BANK OF NOVA SCOTIA, individually as a Bank and as Co-Agent (collectively, the "CO-AGENTS"), and is made with reference to that certain Third Amended and Restated Credit Agreement dated as of December 14, 1998, by and among the Company, the Guarantors, the Banks, the Administrative Agent, the Syndication Agent, the Documentation Agent, and the Co-Agents (the "CREDIT AGREEMENT"), and to other Loan Documents. Capitalized terms used herein without definition shall have the same meanings herein as set forth in the Credit Agreement.

RECITALS

WHEREAS, Loan Parties and the Banks desire to amend the Credit Agreement to permit the Company to make certain other Investments having a cost to the Company and its Subsidiaries not exceeding \$2,000,000 in the aggregate over the life of the Credit Agreement.

NOW, THEREFORE, in consideration of the premises and the agreements, provisions and covenants herein contained, the parties hereto agree as follows:

SECTION 1. AMENDMENT TO THE CREDIT AGREEMENT

1.1 AMENDMENT TO SECTION 8.5: INVESTMENTS

Section 8.5(e) of the Credit Agreement is hereby amended by deleting the reference to "\$500,000" contained therein and substituting "\$2,000,000" therefor.

SECTION 2. CONDITIONS TO EFFECTIVENESS

Section 1 of this Amendment shall become effective only upon the prior or concurrent satisfaction of all of the following conditions precedent (the date of satisfaction of such conditions being referred to herein as the "AMENDMENT EFFECTIVE DATE"):

A. On or before the Amendment Effective Date, the Company shall deliver to the Banks (or to the Agents for the Banks) the following, each, unless otherwise noted, dated the Amendment Effective Date:

1. A certificate of the secretary or an assistant secretary of the Company and of the Guarantors certifying: (i) that the resolutions of

its Board of Directors of the Company and of the Guarantors approving and authorizing the execution, delivery, and performance of the Credit Agreement and amendments thereto delivered on the Effective Date, are in full force and effect and have not been amended, supplemented or otherwise modified since December 14, 1998 and (ii) that the signature and incumbency certificates of the officers of each of the Company and of the Guarantors delivered on the Effective Date, are in full force and effect and have not been amended, supplemented or otherwise modified since December 14, 1998; and

2. Counterparts of this Amendment executed by the Requisite Banks and each of the other parties hereto.

B. On or before the Amendment Effective Date, all corporate and other proceedings taken or to be taken in connection with the transactions contemplated hereby and all documents incidental thereto not previously found acceptable by the Agents, acting on behalf of the Banks, and their counsel shall be satisfactory in form and substance to the Agents and such counsel, and the Agents and such counsel shall have received all such counterpart originals or certified copies of such documents as the Agents may reasonably request.

SECTION 3. REPRESENTATIONS AND WARRANTIES

In order to induce the Banks to enter into this Amendment and to amend the Credit Agreement in the manner provided herein, the Company and each other Loan Party party hereto represents and warrants to each Bank that the following statements are true, correct and complete as to itself:

A. CORPORATE POWER AND AUTHORITY. Each Loan Party party hereto has all requisite corporate power and authority to enter into this Amendment and to carry out the transactions contemplated hereby and the Company and each other Loan Party party hereto has all requisite corporate power and authority to carry out the transactions contemplated by, and perform its obligations under, the Credit Agreement as further amended by this Amendment (the "AMENDED AGREEMENT").

B. AUTHORIZATION OF AGREEMENTS. The execution and delivery of this Amendment and the performance of the Amended Agreement have been duly authorized by all necessary corporate action on the part of the Company and each of the other Loan Parties party hereto, as the case may be.

C. NO CONFLICT. The execution and delivery by each Loan Party party hereto of this Amendment and the performance by such Loan Party of this Amendment and the performance by the Company of the Amended Agreement do not and will not (i) violate any provision of any law or any governmental rule or regulation applicable to the Company or any of its Subsidiaries, the Certificate or Articles of Incorporation or Bylaws of the Company or any of its Subsidiaries or any order, judgment or decree of any court or other agency of government binding on the Company or any of its Subsidiaries, (ii) conflict with, result in a breach of or constitute (with due notice or lapse of time or both) a default any Contractual Obligation of the Company or any of its Subsidiaries, (iii) result in or require the creation or imposition of any Lien upon any of the properties or assets of the Company or any of its Subsidiaries (other than any Liens created under any of the Loan Documents in favor of the Agents on behalf of the Banks), or (iv) require any approval of stockholders or any approval or consent of any Person under any Contractual Obligation of the Company or any of its Subsidiaries.

D. GOVERNMENTAL CONSENTS. The execution and delivery by each Loan Party party hereto of this Amendment and the performance by such Loan Party of this Amendment and the performance by the Company of the Amended Agreement do not and will not require any registration with, consent or approval of, or notice to, or other action to, with or by, any federal, state or other governmental authority or regulatory body.

E. BINDING OBLIGATION. This Amendment has been duly executed and delivered by each Loan Party party hereto and this Amendment and the Amended Agreement are the legally valid and binding obligations of such Loan Party,

enforceable against such Loan Party in accordance with their respective terms, except as may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws relating to or limiting creditors' rights generally or by equitable principles relating to enforceability.

F. INCORPORATION OF REPRESENTATIONS AND WARRANTIES FROM CREDIT AGREEMENT. The representations and warranties contained in Article VI of the Credit Agreement are and will be true, correct and complete in all material respects on and as of the Amendment Effective Date to the same extent as though made on and as of that date, except to the extent such representations and warranties specifically relate to an earlier date, in which case they were true, correct and complete in all material respects on and as of such earlier date.

G. ABSENCE OF DEFAULT. No event has occurred and is continuing or will result from the consummation of the transactions contemplated by this Amendment that would constitute an Event of Default or a Potential Event of Default.

SECTION 4. ACKNOWLEDGEMENT AND CONSENT

The Company is a party to certain Collateral Documents pursuant to which the

Company has created Liens in favor of the Agents on certain Collateral to secure the Obligations. Each of the other Loan Parties party hereto is a party to certain Collateral Documents and the Guaranty, pursuant to which each such Loan Party has (i) guaranteed the Obligations and (ii) created Liens in favor of the Agents on certain Collateral to secure the obligations of such Loan Party under the Guaranty. The Loan Parties party hereto are collectively referred to herein as the "CREDIT SUPPORT PARTIES", and the Collateral Documents and the Guaranty are collectively referred to herein as the "CREDIT SUPPORT DOCUMENTS".

Each Credit Support Party hereby acknowledges that it has reviewed the terms and provisions of the Credit Agreement, the Collateral Documents and the Guaranty and this Amendment and consents to the further amendment of the Credit Agreement effected pursuant to this Amendment. Each Credit Support Party hereby confirms that each Credit Support Document to which it is a party or otherwise bound and all Collateral encumbered thereby will continue to guaranty or secure, as the case may be, to the fullest extent possible the payment and performance of all "Obligations," "Guarantied Obligations" and "Secured Obligations," as the case may be (in each case as such terms are defined in the applicable Credit Support Document), including without limitation the payment and performance of all such "Obligations," "Guarantied Obligations" or "Secured Obligations," as the case may be, in respect of the Obligations of Company now or hereafter existing under or in respect of the Amended Agreement and the Notes defined therein.

Each Credit Support Party acknowledges and agrees that any of the Credit Support Documents to which it is a party or otherwise bound shall continue in full force and effect and that all of its obligations thereunder shall be valid and enforceable and shall not be impaired or limited by the execution or effectiveness of this Amendment. Each Credit Support Party represents and warrants that all representations and warranties contained in the Amended Agreement and the other Credit Support Documents to which it is a party or otherwise bound are true, correct and complete in all material respects on and as of the Amendment Effective Date to the same extent as though made on and as of that date, except to the extent such representations and warranties specifically relate to an earlier date, in which case they were true, correct and complete in all material respects on and as of such earlier date.

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

SECTION 5. MISCELLANEOUS

A. REFERENCE TO AND EFFECT ON THE CREDIT AGREEMENT AND THE OTHER LOAN DOCUMENTS.

(i) On and after the Amendment Effective Date, each reference in the Credit Agreement to "this Agreement", "hereunder", "hereof", "herein" or words of like import referring to the Credit Agreement, and each reference in the other Loan Documents to the "Credit Agreement", "thereunder", "thereof" or words of like import referring to the Credit Agreement shall mean and be a reference to the Amended Agreement.

(ii) Except as specifically amended by this Amendment, the Credit Agreement and the other Loan Documents shall remain in full force and effect and are hereby ratified and confirmed.

(iii) The execution, delivery and performance of this Amendment shall not, except as expressly provided herein, constitute a waiver of any provision of, or operate as a waiver of any right, power or remedy of any Agent or any Bank under, the Credit Agreement or any of the other Loan Documents.

B. FEES AND EXPENSES. Company acknowledges that all reasonable costs, fees and expenses as described in Section 12.4 of the Credit Agreement incurred by the Syndication Agent and its counsel with respect to this Amendment and the documents and transactions contemplated hereby shall be for the account of the Company.

C. HEADINGS. Section and subsection headings in this Amendment are included herein for convenience of reference only and shall not constitute a part of this Amendment for any other purpose or be given any substantive effect.

D. APPLICABLE LAW. THIS AMENDMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF NEW YORK (INCLUDING WITHOUT LIMITATION SECTION 5-1401 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK), WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES.

E. COUNTERPARTS; EFFECTIVENESS. This Amendment may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument; signature pages may be detached from multiple separate counterparts and attached to a single counterpart so that all signature pages are physically attached to the same document. This Amendment (other than the provisions of Section 1, which shall become effective upon the satisfaction of each of the conditions set forth in Section 2 hereof) shall become effective upon the execution of a counterpart hereof by the Requisite Banks and each of the other parties hereto and receipt by the Company and the Agents of written or telephonic notification of such execution and authorization of delivery thereof.

[Remainder of page intentionally left blank]

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

BORROWER:

COMFORT SYSTEMS USA, INC.

By: /s/ _____

J. Gordon Beittenmiller
Senior Vice President and
Chief Financial Officer

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GUARANTORS:

ACCURATE AIR SYSTEMS, INC.
ACCU-TEMP LP, INC.
ACCU-TEMP, LLC
ACI MECHANICAL, INC.
ADAMS MECHANICAL SERVICES, INC.
ADAMS MECHANICAL, SERVICES, INC.
AIR POWER SYSTEMS, INC.
AIR POWER SYSTEMS, INC.
AIR SOLUTIONS, INC.
ALLSTATE MECHANICAL, INC.
AMERICAN REFRIGERATION CONTRACTORS, INC.
ARMANI PLUMBING & MECHANICAL
ATLAS AIR CONDITIONING COMPANY
ATLAS COMFORT SERVICES USA, INC.
BATCHELOR'S MECHANICAL CONTRACTORS, INC.
BCM CONTROLS CORPORATION
CEL, INC.
CENTRAL MECHANICAL CONSTRUCTION CO., INC.
CENTRAL MECHANICAL INC.
CLIMATE CONTROL, INC.
CONTRACT SERVICE, INC.
CS44 ACQUISITION CORPORATION
DESIGN MECHANICAL INCORPORATED
DYNASTAR, INC.
E.L. PRUITT COMPANY
EASTERN HEATING & COOLING, INC.
EASTERN REFRIGERATION CO., INC.
EDISON COOLING SYSTEMS, INC.
EDS, INC.
F&G MECHANICAL CORPORATION
FRED HAYES MECHANICAL CONTRACTORS, INC.
FREEWAY HEATING & AIR CONDITIONING, INC.
GMS AIR CONDITIONING, INC.
GOTHAM AIR CONDITIONING SERVICE, INC.
GULFSIDE MECHANICAL, INC.
H & H PLUMBING & HEATING, INC.

HARRIS GENERAL & MECHANICAL
CONTRACTORS, INC.
HELM CORPORATION
HELM CORPORATION SAN DIEGO
HESS MECHANICAL CORPORATION
HILLCREST SHEET METAL, INC.
INDUSTRIAL COOLING INC.
JAMES AIR CONDITIONING ENTERPRISES, INC.
KILGUST MECHANICAL, INC.
KUMPEL SERVICE, INC.
LAWRENCE SERVICE, INC.
LOWRIE ELECTRIC CO., INC.
MANDELL MECHANICAL CORPORATION
MARTIN HEATING, INC.
MAXIMUM REFRIGERATION & AIR
CONDITIONING CORPORATION
MEADOWLANDS FIRE PROTECTION CORP.
MECHANICAL SERVICE GROUP, INC.
MJ MECHANICAL SERVICES, INC.
NOGLE & BLACK MECHANICAL, INC.
NORTH AMERICAN MECHANICAL, INC.
NORTH JERSEY MECHANICAL CONTRACTORS, INC.

OK SHEET METAL & AIR CONDITIONING, INC.
QUALITY AIR HEATING & COOLING, INC.
RADNEY PLUMBING, INC.
RIVER CITY MECHANICAL, INC.
RIVER CITY MECHANICAL, INCORPORATED
ROSS & ASSOCIATES
S&K AIR CONDITIONING CO., INC.
S. I. GOLDMAN
S.M. LAWRENCE COMPANY, INC.
SALMON & ALDER, INC.
SEASONAIR, INC.
SHAMBAUGH & SON, INC.
SOUTHERN BLUEGRASS MECHANICAL, INC.
STANDARD HEATING & AIR CONDITIONING
COMPANY

SUPERIOR HEATING AND SHEET METAL
COMPANY
TARGET CONSTRUCTION, INC.
TECH HEATING AND AIR CONDITIONING,
INC.
TECH MECHANICAL, INC.
TEMP-RIGHT SERVICE, INC.
TEMPRITE AIR CONDITIONING AND
REFRIGERATION, INC.
THE CAPITAL REFRIGERATION COMPANY
THE FAGAN COMPANY
THE HARVEY ROBBIN COMPANY
TRI-CITY MECHANICAL, INC.
TROOST SERVICE CO.
UNITED ENVIRONMENTAL SERVICES, INC.
WALKER-J-WALKER, INC.
WEATHER ENGINEERING, INC.
WESTERN BUILDING SERVICES, INC.
WOODCOCK & ASSOCIATES, INC.

By: ___/s/ _____
J. Gordon Beittenmiller
Vice President

ADMINISTRATIVE AGENT/BANK:

BANK ONE, TEXAS, N.A.,
AS ADMINISTRATIVE AGENT AND INDIVIDUALLY,
AS A BANK

By: ___/s/ _____
Name: _____
Title: _____

SYNDICATION AGENT/ BANK:

BANKERS TRUST COMPANY,
AS SYNDICATION AGENT AND INDIVIDUALLY AS A
BANK

By: _____
Name: _____
Title: _____

DOCUMENTATION AGENT/ BANK:

NATIONSBANK, N.A.,
AS DOCUMENTATION AGENT AND INDIVIDUALLY,
AS A BANK

By: _____
_____/s/_____
Name: _____
Title: _____

CO-AGENT/ BANK:

CREDIT LYONNAIS, NEW YORK BRANCH,
AS CO-AGENT AND INDIVIDUALLY, AS A BANK

By: _____
_____/s/_____
Name: _____
Title: _____

CO-AGENT/BANK:

NATIONAL CITY BANK,
AS CO-AGENT AND INDIVIDUALLY, AS A BANK

By: _____
_____/s/_____
Michael J. Durbin
Vice President

CO-AGENT/ BANK:

THE BANK OF NOVA SCOTIA,
AS CO-AGENT AND INDIVIDUALLY, AS A BANK

By: _____
_____/s/_____
Name: _____
Title: _____

BANK:

THE LONG-TERM CREDIT BANK OF JAPAN, LTD.

By: _____
_____/s/_____
Name: _____
Title: _____

BANK:

STAR BANK, NATIONAL ASSOCIATION

By: /s/ _____
Name: _____
Title: _____

BANK:

UNION BANK OF CALIFORNIA, N.A.

By: /s/ _____
Name: _____
Title: _____

BANK:

BANK OF MONTREAL

By: /s/ _____
Name: _____
Title: _____

BANK:

SOCIETE GENERALE, SOUTHWEST AGENCY

By: /s/ _____
Name: _____
Title: _____

BANK:

COMERICA BANK

By: /s/ _____
Name: _____
Title: _____

BANK:

BANK POLSKA, KASA OPIEKI S.A., PEKOA S.A.
GROUP, NEW YORK BRANCH

By: /s/ _____
Name: _____
Title: _____

BANK:

LASALLE NATIONAL BANK

By: /s/ _____
Name: _____
Title: _____

LIST OF SUBSIDIARIES OF COMFORT SYSTEMS USA, INC.

ENTITY NUMBER - - - - -	NAME OF ENTITY - - - - -	STATE OF ORGANIZATION - - - - -
1.	Aaron Mechanical, Inc.	Michigan
2.	ACI Mechanical, Inc.	Delaware
3.	A.C.I. Mechanical USA, Inc.	Delaware
4.	Accurate Air Systems, L.P.	Texas
5.	Accu-Temp GP, Inc.	Delaware
6.	Accu-Temp LP, Inc.	Delaware
7.	Accu-Temp, LLC	Indiana
8.	Adams Mechanical Services, Inc.	Texas
9.	Air Power Systems, Inc.	Delaware
10.	Air Solutions USA, Inc.	Delaware
11.	All Temp Services, Inc.	Florida
12.	American Refrigeration Contractors, Inc.	Delaware
13.	Armani Plumbing & Mechanical, Inc.	New York
14.	Atlas-Accurate Holdings, L.L.C.	Delaware
15.	Atlas Air Conditioning Company, L.P.	Texas
16.	Batchelor's Mechanical Contractors, Inc.	Alabama
17.	BCM Controls Corporation	Massachusetts
18.	Bessette Plumbing & Heating, Inc.	Connecticut
19.	CEL, Inc. (Casey Electric)	Delaware
20.	Central Mechanical Construction Co., Inc.	Delaware
21.	Central Mechanical, Inc.	Delaware
22.	Climate Control, Inc.	Delaware
23.	Comfort Systems USA G.P., Inc.	Delaware
24.	Comfort Systems USA (Texas), L.P.	Texas
25.	Contract Service, Inc. [C.S.I./Bonneville]	Utah
26.	CS44 Acquisition Corp. [Edmonds/Service Refrigeration]	Delaware
27.	Design Mechanical Incorporated	Delaware
28.	Eastern Heating & Cooling, Inc.	New York
29.	Eastern Refrigeration Co., Inc.	New York
30.	EDS, Inc. [Energy Development Services]	Minnesota
31.	E.L. Pruitt Company	Delaware
32.	ESS Engineering, Inc.	Delaware
33.	F&G Mechanical Corporation	Delaware
34.	FIX Reinsurance Corporation	Vermont
35.	Fred Hayes Mechanical Contractors, Inc.	Delaware
36.	Freeway Heating & Air Conditioning, Inc.	Utah
37.	GMS Air Conditioning, Inc.	Delaware
38.	Gotham Air Conditioning Service, Inc.	Delaware
39.	Gulfside Mechanical, Inc.	Delaware
40.	H & H Plumbing & Heating, Inc.	Delaware
41.	H & M Mechanical, Inc.	Delaware

Page 1 of 3

ENTITY NUMBER - - - - -	NAME OF ENTITY - - - - -	STATE OF ORGANIZATION - - - - -
42.	Harris General & Mechanical Contractors, Inc.	Delaware
43.	Helm Corporation	Colorado

44.	Helm Corporation San Diego	California
45.	Hess Mechanical Corporation	Delaware
46.	Hillcrest Sheet Metal, Inc.	Delaware
47.	Industrial Cooling Inc.	Delaware
48.	J & J Mechanical, Inc.	Kentucky
49.	James Air Conditioning Enterprise Inc.	Puerto Rico
50.	Kilgust Mechanical, Inc.	Delaware
51.	Kuempel Service, Inc.	Ohio
52.	Lawrence Service, Inc.	Tennessee
53.	Lower Bucks Cooling and Heating Corporation	Pennsylvania
54.	Lowrie Electric Company, Inc.	Tennessee
55.	Mandell Mechanical Corporation	New York
56.	Martin Heating, Inc.	Delaware
57.	Maximum Refrigeration & Air Conditioning Corp.	Delaware
58.	Meadowlands Fire Protection Corp.	New Jersey
59.	Mechanical Service Group, Inc. [Page]	Delaware
60.	MJ Mechanical Services, Inc.	Delaware
61.	N.J.M. Service Co., Inc.	New Jersey
62.	Nogle & Black Mechanical, Inc.	Delaware
63.	North American Mechanical, Inc.	Delaware
64.	North Jersey Mechanical Contractors, Inc.	New Jersey
65.	OK Sheet Metal and Air Conditioning, Inc.	Delaware
66.	Quality Air Heating & Cooling, Inc.	Michigan
67.	Radney Plumbing, Inc.	Delaware
68.	River City Mechanical, Inc.	Michigan
69.	River City Mechanical, Incorporated	Delaware
70.	Ross & Associates, Inc.	Delaware
71.	S&K Air Conditioning Co., Inc.	Georgia
72.	S. I. Goldman Company, Inc.	Delaware
73.	S.M. Lawrence Company, Inc.	Tennessee
74.	Salmon & Alder, Inc.	Utah
75.	Salmon & Alder, LLC	Utah
76.	Seasonair, Inc.	Maryland
77.	Shambaugh & Son, Inc.	Indiana
78.	Sheren Plumbing & Heating, Inc.	Delaware
79.	Southern Bluegrass Mechanical, Inc.	Delaware
80.	Standard Heating & Air Conditioning Company	Alabama
81.	Superior Heating and Sheet Metal Company	Delaware
82.	Target Construction, Inc.	Delaware
83.	Tech Heating and Air Conditioning, Inc.	Ohio

ENTITY NUMBER - - - - -	NAME OF ENTITY -----	STATE OF ORGANIZATION -----
84.	Tech Mechanical Inc.	Ohio
85.	Temp-Right Service, Inc.	Delaware
86.	Temprite Air Conditioning and Refrigeration, Inc.	Delaware
87.	The Capital Refrigeration Company	Delaware
88.	The Fagan Company	Kansas
89.	The Harvey Robbin Company	Delaware
90.	Tri-City Mechanical, Inc.	Arizona
91.	Troost Service Co.	Michigan
92.	United Environmental Services, Inc.	Delaware

93.	Walker-J-Walker, Inc.	Tennessee
94.	Weather Engineering, Inc.	Delaware
95.	Western Building Services, Inc.	Colorado
96.	Woodcock & Associates, Inc.	New York

CONSENT OF INDEPENDENT PUBLIC ACCOUNTANTS

As independent public accountants, we hereby consent to the incorporation of our reports included in this Form 10-K, into the Company's previously filed Registration Statement on Form S-1 on July 31, 1997 File No. 333-32595 and Registration Statement on Form S-8 on October 16, 1997 File No. 333-38011.

ARTHUR ANDERSEN LLP

Houston, Texas
March 26, 1999

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