Section 1: 10-K (10-K)

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

Form 10-K

(Mark One)
☑ ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
For the fiscal year ended December 31, 2018

OR

☐ TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
Commission File Number 1-38494

ARCOSA

Arcosa, Inc.

(Exact name of registrant as specified in its charter)

Delaware	**82-5339416**
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)
500 N. Akard Street, Suite 400, Dallas, Texas	**75201**
(Address of principal executive offices)	(Zip Code)

Registrant's telephone number, including area code: **(972) 942-6500**

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

Title of each class	Name of each exchange on which registered
Common Stock ($0.01 par value)	**New York Stock Exchange**

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

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

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

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

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

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§ 229.405 of this chapter) is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. ☑

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

Large accelerated filer ☐ Accelerated filer ☐ Non-accelerated filer ☑

Smaller reporting company ☐ Emerging growth company ☐

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

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

As of June 30, 2018, the last business day of the registrant's most recently completed fiscal quarter, the registrant's common stock was not publicly traded.

At January 31, 2019 the number of shares of common stock outstanding was 48,634,054.

DOCUMENTS INCORPORATED BY REFERENCE

The information required by Part III of this report, to the extent not set forth herein, is incorporated by reference from certain information from the registrant's definitive Proxy Statement for its 2019 Annual Meeting of Stockholders to be filed subsequently.

ARCOSA, INC.

FORM 10-K

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PART I

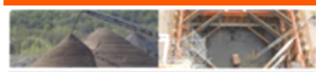
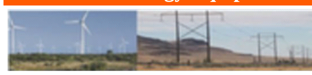
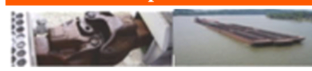
Item 1. *Business.*

General Description of Business. Arcosa, Inc. and its consolidated subsidiaries, (“Arcosa,” “Company,” “we,” or “our”) headquartered in Dallas, Texas, is a provider of infrastructure-related products and solutions. We provide critical products for a broad spectrum of markets throughout construction, energy, and transportation. We own businesses with well-established positions in attractive markets with favorable long-term demand drivers, which should provide us with compelling organic and acquisition opportunities.

Arcosa is a Delaware corporation and was incorporated in 2018 in connection with the separation of Arcosa from Trinity Industries, Inc. (“Trinity” or “Former Parent”) on November 1, 2018 as an independent, publicly-traded company, listed on the New York Stock Exchange (the “Separation”). At the time of the Separation, Arcosa consisted of certain of Trinity’s former construction products, energy equipment, and transportation products businesses. The Separation was effectuated through a pro rata dividend distribution on November 1, 2018 of all of the then-outstanding shares of common stock of Arcosa to the holders of common stock of Trinity as of October 17, 2018, the record date for the distribution.

Our principal executive offices are located at 500 N. Akard Street, Suite 400, Dallas, Texas 75201. Our telephone number is 972-942-6500, and our Internet website address is *www.arcosa.com*. We make available on our website our annual report on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K, and any amendments thereto, as soon as reasonably practicable after such material is filed with, or furnished to, the Securities and Exchange Commission ("SEC"). Information on our Investor Relations page and on our website is not part of this Annual Report on Form 10-K or any of our other securities filings unless specifically incorporated herein by reference.

Overview. As a provider of infrastructure-related products and solutions, we manufacture or process and sell a variety of products principally including:

	Construction Products	**Energy Equipment**	**Transportation Products**
			
Primary products	• Natural aggregates • Lightweight aggregates • Specialty milled or processed materials • Trench shields and shoring products	• Wind towers • Utility structures • Storage tanks	• Inland barges • Fiberglass barge covers and other components • Axles and couplers for railcars and locomotives • Industrial and mining components
Primary markets served	• Residential, commercial, and industrial construction • Road and bridge construction • Underground construction • Agriculture • Specialty building products	• Wind power generation • Power transmission and distribution • Gas and liquids storage for residential, agriculture, and industrial markets	• Transportation products serving numerous markets, including: • Agriculture/food products • Refined products • Chemicals • Upstream oil • Railcar manufacturers and maintenance operations

Recent Developments. On December 5, 2018, Arcosa completed the acquisition of ACG Materials (“ACG”), a producer of specialty materials and aggregates, with operations in Oklahoma, Texas, Nevada, Washington, Florida, Kansas, Missouri, and British Columbia. The acquisition of ACG expanded our geographic and product diversity beyond our existing natural and lightweight aggregates markets and introduced new markets including agricultural and specialty building products. The purchase price of $309.1 million was funded with a combination of cash on-hand and a $180 million borrowing under Arcosa's $400 million five-year credit facility.

During the fourth quarter of 2018, the Company divested certain businesses whose revenues are included in the other component of the Energy Equipment Group. The net proceeds from these divestitures were not significant. We concluded that the divestiture of these businesses does not represent a strategic shift that would result in a material effect on our operations and financial results; therefore, these disposals have not been reflected as discontinued operations in our Consolidated and Combined Financial Statements.

Our Segments. We serve our customers through the following three business groups:

Construction Products Group.

Markets

Our Construction Products Group provides products that are used in multiple areas of construction infrastructure. Our products are used across the construction landscape including residential, commercial, industrial, road and bridge, and underground construction. As the United States ("U.S.") continues to experience population growth and replace its aging infrastructure, we believe our businesses are well-positioned to benefit from this activity. Additionally, our products are used in certain agricultural and energy markets.

Products, Customers, and Competitors

Through wholly-owned subsidiaries, our Construction Products Group produces and sells construction aggregates including natural aggregates and specialty materials and construction site support equipment including trench shields and shoring products. See Item 7. “Management's Discussion and Analysis of Financial Condition and Results of Operations” for revenues attributable to construction aggregates products.

We are an established producer and distributor of natural aggregates serving both public infrastructure and private construction markets. Our natural aggregates products include sand, gravel, limestone, gypsum, and various other products used in the production of ready mixed concrete, cement, precast concrete products, roads, oil and gas well pads, wind farms, as well as various other building products. Our natural aggregates customers are concrete producers; commercial, residential, highway, and general contractors; manufacturers of masonry and building products; and state and local governments. We compete with natural aggregates producers in the regions where we operate.

Our specialty materials, including lightweight aggregates and milled or processed specialty building products and agricultural products, are produced and distributed nationwide. Our specialty materials products enjoy higher barriers to entry than our natural aggregates due to specific mineral properties, specialized manufacturing, or additional processing. Lightweight aggregates are select shales or clays that are expanded and hardened by high temperatures in a rotary kiln and possess a bulk density that can be less than half that of natural aggregates. Product applications include structural lightweight concrete, lightweight masonry block, and road surface treatments. Our specialty building products and agricultural products are processed at several production facilities across the U.S. using our natural aggregates as a component of raw material supply. Product applications include plasters, prills, agricultural supplements and fertilizers, paints, flooring, and glass. We compete with specialty materials producers nationwide.

We hold a strong market position in the manufacture of trench shields and shoring products for the U.S. construction industry. Trench shields and shoring products are used for water and sewer construction, utility installations, manhole work, oil and gas pipeline construction, and other underground applications. Our customers are equipment rental dealers and commercial, residential, and industrial contractors. Additionally, we participate in certain regional rental markets for trench shoring equipment. We compete with shoring products manufacturers nationwide.

Raw Material and Suppliers

Natural aggregates can be found throughout the U.S., and many producers exist nationwide. Shipments of natural aggregates from an individual quarry are generally limited in geographic scope because the cost of transportation to customers is high relative to the value of the product itself. Raw materials for specialty material products are also from quarries; however, due to the added value in processing, they have a much wider, multi-state distribution area due to their higher value relative to their distribution costs. We currently operate mining facilities located in Texas, Louisiana, Alabama, Colorado, California, Indiana, Kentucky, Florida, Oklahoma, Kansas, Missouri, Washington, Nevada, and British Columbia.

Energy Equipment Group.

Markets

Our Energy Equipment Group serves a broad spectrum of energy markets, including wind power generation, electricity transmission and distribution, and the storage and transportation of gas and liquid products for use in residential, commercial, agricultural, and industrial end markets.

Products, Customers, and Competitors

Through wholly-owned subsidiaries, our Energy Equipment Group manufactures structural wind towers; utility steel structures for electricity transmission and distribution; and storage and distribution tanks. See Item 7. “Management's Discussion and Analysis of Financial Condition and Results of Operations” for revenues attributable to wind towers and utility structures products.

We are one of the leading manufacturers of structural wind towers in the U.S. and Mexico. Our primary customers are wind turbine producers and we compete with both domestic and foreign producers of towers. Revenues from General Electric Company (“GE”) included in our Energy Equipment Group constituted 19.4%, 22.9%, and 22.4% of consolidated or combined revenues for the years ended December 31, 2018, 2017, and 2016, respectively.

We are a well-established manufacturer in the U.S. and Mexico of steel utility structures for electricity transmission. Through our recognized brands, we have developed strong relationships with our primary customers, public and private utilities. We compete with both domestic and foreign manufacturers.

Additionally, our storage tanks support oil, gas, and chemical markets and are used by industrial plants, utilities, residences, and small businesses in suburban and rural areas. We also manufacture fertilizer storage containers for agricultural markets, including bulk storage, farm storage, and the application and distribution of anhydrous ammonia.

We are one of the primary manufacturers in North America of pressurized and non-pressurized tanks that store and transport a wide variety of products, including propane, anhydrous ammonia, and natural gas liquids.

Raw Materials and Suppliers

The principal material used in our Energy Equipment manufacturing segment is steel. During 2018, the supply of steel was sufficient to support our manufacturing requirements. Market steel prices continue to exhibit periods of volatility and ended 2018 higher than 2017. Steel prices may be volatile in the future in part as a result of market conditions. We often use contract-specific purchasing practices, existing supplier commitments, contractual price escalation provisions, and other arrangements with our customers to mitigate the effect of steel price volatility on our operating profit for the year. In general, we believe there is enough capacity in the supply industry to meet current production levels and that our existing contracts and other relationships we have in place will meet our current production forecasts.

Arcosa’s manufacturing operations also use component parts, such as flanges for wind towers. In general, we believe there is enough capacity in the supply industry to meet current production levels through more than one supplier and that our existing contracts and other relationships we have in place will meet our current production forecasts.

Transportation Products Group.

Markets

Our Transportation Products Group consists of established companies that supply manufactured steel products to the transportation industry. These transportation products serve a wide variety of markets, including the transportation of commodities such as grain, coal, aggregates, chemicals, fertilizers, petrochemicals, and refined products.

Products, Customers, and Competitors

Through wholly-owned subsidiaries, our Transportation Products Group manufactures and sells inland barges, fiberglass barge covers, and marine hardware; and steel components for railcars and other transportation and industrial equipment. See Item 7. “Management's Discussion and Analysis of Financial Condition and Results of Operations” for revenues attributable to inland barges and steel components products.

We have a leading position in the U.S. market for the manufacture of inland barges and fiberglass barge covers. We manufacture a variety of hopper barges, tank barges, and fiberglass covers, and we provide a full line of deck hardware to the marine industry, including hatches, castings and winches for towboats and dock facilities. Dry cargo barges transport various commodities, such as grain, coal, and aggregates. Tank barges transport liquids including refined products, chemicals, and a variety of petroleum products. Our fiberglass reinforced lift covers are used primarily for grain barges. Our barge manufacturing facilities are located along the U.S. inland river systems, allowing for rapid delivery to our customers. Our customers are primarily commercial marine transportation companies and industrial shippers. We compete with a number of other manufacturers in the U.S.

We are a recognized manufacturer of steel components for railcars and other transportation equipment. We manufacture axles, circular forgings and coupling devices for freight, tank, locomotive and passenger rail transportation equipment, as well as other industrial uses, and also provide cast components for use in the industrial and mining sectors. Our customers are primarily freight and passenger railcar manufacturers, rail maintenance and repair facilities, railroads, steel mills, and mining equipment manufacturers. We compete with both domestic and foreign manufacturers.

Raw Materials and Suppliers

The principal material used in our Transportation Products manufacturing segment is steel. During 2018, the supply of steel was sufficient to support our manufacturing requirements. Market steel prices continue to exhibit periods of volatility and ended 2018 higher than 2017. Steel prices may be volatile in the future in part as a result of market conditions. We often use contract-specific purchasing practices, existing supplier commitments, contractual price escalation provisions, and other arrangements with our customers to mitigate the effect of steel price volatility on our operating profit for the year. In general, we believe there is enough capacity in the supply industry to meet current production levels and that our existing contracts and other relationships we have in place will meet our current production forecasts.

Arcosa’s manufacturing operations also use component parts, such as pumps, engines, and hardware for tank barges. In general, we believe there is enough capacity in the supply industry to meet current production levels through more than one supplier and that our existing contracts and other relationships we have in place will meet our current production forecasts.

Unsatisfied Performance Obligations (Backlog). As of December 31, 2018 and 2017, our backlog of firm orders was as follows:

	December 31, 2018	December 31, 2017
	(in millions)	
Energy Equipment Group:		
Wind towers and utility structures	**$ 633.1**	$ 899.0
Other	**$ 55.1**	*
Transportation Products Group:		
Inland barges	**$ 230.5**	$ 98.2

* Prior to January 2018, contracts within the Other businesses of the Energy Equipment Group did not meet the Company's historical definition of backlog, which was firm, non-cancellable orders. With the adoption in January 2018 of ASU 2014-09, Revenue from Contracts with Customers, these amounts are now included in backlog due to the fact that they contain substantive cancellation penalties.

Approximately 64% percent of unsatisfied performance obligations for our wind towers and utility structures in our Energy Equipment Group are expected to be delivered during the year ending December 31, 2019 with the remainder to be delivered through 2020. All of the unsatisfied performance obligations for our other business lines in our Energy Equipment Group are expected to be delivered during the year ending December 31, 2019. Approximately 94% percent of unsatisfied performance obligations for barges in our Transportation Products Group are expected to be delivered during the year ending December 31, 2019 with the remainder to be delivered through 2020.

Marketing. We sell substantially all of our products and services through our own sales personnel operating from offices in multiple locations in the U.S. and Mexico. We also use independent sales representatives and distributors.

Employees. The following table presents the approximate headcount breakdown of employees by business group:

Business Group	December 31, 2018
Construction Products Group	1,159
Energy Equipment Group	3,366
Transportation Products Group	1,261
Corporate	103
	5,889

As of December 31, 2018, approximately 4,150 employees were employed in the U.S., 1,726 employees in Mexico, and 13 employees in Canada.

Seasonality. Results in our Construction Products Group are affected by seasonal fluctuations with the second and third quarters historically being the quarters with the highest revenues.

Intellectual Property. Arcosa owns a number of patents, trademarks, copyrights, trade secrets, and licenses to intellectual property owned by others. Although Arcosa's patents, copyrights, trademarks, trade secrets, and other intellectual property rights are important to Arcosa's success, we do not regard our business as being dependent on any single patent, trademark, copyright, trade secret or license. For a discussion of risks related to our intellectual property, please refer to Item 1A. "Risk Factors— Risks Related to Our Business and Operations."

Governmental Regulation.

Construction Products Group. Arcosa's Construction Products Group is subject to regulation by the United States Mine Safety and Health Administration ("MSHA"), the Health-Safety and Reclamation Code of Ministry of Mines for British Columbia, and various state agencies.

Energy Equipment Group. Arcosa's storage tanks are subject to the regulations by the U.S. Pipeline and Hazardous Materials Safety Administration ("PHMSA") and the U.S. Federal Motor Carrier Safety Administration ("FMCSA"), both of which are part of the U.S. Department of Transportation ("USDOT"). These agencies promulgate and enforce rules and regulations pertaining, in part, to the manufacture of tanks that are used in the storage, transportation and transport arrangement, and distribution of regulated and non-regulated substances.

Transportation Products Group. The primary regulatory and industry authorities involved in the regulation of the inland barge industry are the U.S. Coast Guard, the U.S. National Transportation Safety Board, the U.S. Customs Service, the Maritime Administration of the USDOT, and private industry organizations such as the American Bureau of Shipping. These organizations establish safety criteria, investigate vessel accidents, and recommend improved safety standards.

Our steel components businesses that serve the railcar industry are regulated by governmental agencies such as the USDOT and the administrative agencies it oversees, including the Federal Railroad Administration (“FRA”), and industry authorities such as the Association of American Railroads (“AAR”). All such agencies and authorities promulgate rules, regulations, specifications, and operating standards affecting rail-related safety standards for railroad equipment.

Occupational Safety and Health Administration and Similar Regulations. In addition to the regulations described above, our operations are subject to regulation of health and safety matters by the U.S. Occupational Safety and Health Administration (“OSHA”) and, within our Construction Products Group, MSHA. We believe that we employ appropriate precautions to protect our employees and others from workplace injuries and harmful exposure to materials handled and managed at our facilities. However, claims that may be asserted against Arcosa for work-related illnesses or injury and the further adoption of occupational and mine safety and health regulations in the U.S. or in foreign jurisdictions in which we operate could increase our operating costs. While we do not anticipate having to make material expenditures in order to remain in substantial compliance with health and safety laws and regulations, we are unable to predict the ultimate cost of compliance.

International Regulations. We ship raw materials to Mexico and manufacture products in Mexico that are sold in the U.S. or elsewhere, which are subject to customs and other regulations. In addition, we are subject to other governmental regulations and authorities in Mexico and other countries where we conduct business that regulate products manufactured, sold or used in those countries.

Environmental, Health and Safety. We are subject to federal, state, and international environmental and safety and health laws and regulations in the U.S., Mexico, and each country in which we operate, including the U.S. Environmental Protection Agency (“USEPA”). These include laws regulating air emissions, water discharge, hazardous materials and waste management. We have an environmental management structure designed to facilitate and support our compliance with these requirements globally. Although it is our intent to comply with all such requirements and regulations, we cannot provide assurance that we are at all times in compliance. Environmental requirements are complex, change frequently, and have tended to become more stringent over time. Accordingly, we cannot assure that environmental requirements will not change or become more stringent over time or that our eventual environmental costs and liabilities will not be material.

Certain environmental laws assess liability on current or previous owners or operators of real property for the cost of removal or remediation of hazardous substances. At this time we are involved in various stages of investigation and cleanup related to environmental remediation matters at certain of our facilities. In addition, there may be soil or groundwater contamination at several of our properties resulting from historical, ongoing or nearby activities.

We cannot ensure that our eventual environmental remediation costs and liabilities will not exceed the amount of our current reserves. In the event that such liabilities were to significantly exceed the amounts recorded, our results of operations could be materially adversely affected. See “Critical Accounting Policies and Estimates” in Item 7. "Management’s Discussion and Analysis of Financial Condition and Results of Operations" and Note 14 of the Notes to the Consolidated and Combined Financial Statements for further information regarding reserves for environmental matters.

See Item 1A for further discussion of risk factors with regard to environmental, governmental, and other matters.

Executive Officers and Other Corporate Officers of the Company. The following table sets forth the names and ages of all of our executive officers and other corporate officers, their positions and offices presently held by them, and the year each person first became an officer.

Name	Age	Office	Officer Since
Antonio Carrillo*	52	President and Chief Executive Officer	2018
Scott C. Beasley*	38	Chief Financial Officer	2018
Reid S. Essl*	37	President, Construction Products	2018
Kerry S. Cole*	50	President, Energy Equipment	2018
Jesse E. Collins, Jr.*	52	President, Transportation Products	2018
Bryan P. Stevenson*	46	Chief Legal Officer	2018
Kathryn A. Collins	55	Chief Human Resources Officer	2018
Mary E. Henderson*	60	Chief Accounting Officer	2018
Gail M. Peck	51	Senior Vice President, Finance and Treasurer	2018

*Executive officer subject to reporting requirements under Section 16 of the Securities Exchange Act of 1934.

Antonio Carrillo serves as Arcosa’s President and Chief Executive Officer, as well as a member of its Board of Directors. From April 2018 until the Separation, Mr. Carrillo served as the Senior Vice President and Group President of Construction, Energy, Marine and Components of Trinity. From 2012 to February 2018, Mr. Carrillo served as the Chief Executive Officer of Mexichem S.A.B. de C.V., a publicly-traded global specialty chemical company. Prior to joining Mexichem, Mr. Carrillo spent 16 years at Trinity where he served as Senior Vice President and Group President of Trinity’s Energy Equipment Group and was responsible for Trinity’s Mexico operations. Mr. Carrillo previously served as a director of Trinity from 2014 until the Separation in 2018 and as a director of Dr. Pepper Snapple Group, Inc. from 2015 to 2018.

Scott C. Beasley serves as Arcosa’s Chief Financial Officer. From 2017 until the Separation, Mr. Beasley previously served as Group Chief Financial Officer of Trinity’s Construction, Energy, Marine, and Components businesses. Mr. Beasley joined Trinity in 2014 and previously served as Vice President of Corporate Strategic Planning for Trinity. Prior to joining Trinity, Mr. Beasley was an Associate Principal with McKinsey & Company, a global management consulting firm.

Reid S. Essl serves as the President of Construction Products at Arcosa. From 2016 until the Separation, Mr. Essl served as the President of Trinity Construction Materials and from 2013 to 2016, Mr. Essl served as the Group Chief Financial Officer of the Construction, Energy, Marine, and Components businesses of Trinity . In his 14 years at Trinity, Mr. Essl held a variety of financial, strategic planning, and business development positions.

Kerry S. Cole serves as the President of Energy Equipment at Arcosa. From 2016 until the Separation, Mr. Cole served as President of Trinity Electrical Products which included oversight for the Trinity Structural Towers and Trinity Meyer Utility Structures business units. Prior to this role, Mr. Cole served as President of Trinity Structural Towers business unit from 2007 to 2016. From 2000 to 2007, he served in a variety of operations and manufacturing leadership positions at Trinity spanning Mining and Construction Equipment, Heads, and Structural Bridge business units.

Jesse E. Collins, Jr. serves as the President of Transportation Products at Arcosa. From 2016 until the Separation, Mr. Collins served as the President of Trinity Parts and Components, which included McConway & Torley, Standard Forged Products, and the business of McKees Rocks Forgings. From 2014 to 2016, he served as President of Trinity Cryogenics. From 2008 to 2013, Mr. Collins served as Executive Vice President and Chief Operating Officer at Broadwind Energy serving wind energy, transportation, and infrastructure markets, prior to which he held various management and executive positions at Trinity from 1993 to 2006.

Bryan P. Stevenson serves as the Chief Legal Officer at Arcosa. From 2015 until the Separation, Mr. Stevenson was the Vice President, Associate General Counsel and Corporate Secretary for Trinity. Prior to joining Trinity, Mr. Stevenson was Vice President, General Counsel and Secretary for U.S. Auto Parts Network, Inc., an online provider of automotive parts, from 2011 to 2015.

Kathryn A. Collins serves as the Chief Human Resources Officer at Arcosa. From 2014 until the Separation, Ms. Collins served as the Vice President of Human Resources at Trinity. Prior to joining Trinity, she worked for RealPage, Inc., a provider of software and data analytics for the real estate industry, from 2012 to 2014, most recently serving as Vice President, Talent Management and HR Systems. She served as Divisional Vice President, Organization Effectiveness and Vice President, Associate Recruitment at J.C. Penney Company, Inc. where she held management and executive positions from 2009 to 2012.

Mary E. Henderson serves as the Chief Accounting Officer at Arcosa. From 2010 until the Separation, Ms. Henderson served as Vice President and Chief Accounting Officer of Trinity. Ms. Henderson joined Trinity in 2003 and has served in a variety of leadership positions including Corporate Controller, Assistant Corporate Controller, and Director of External Reporting.

Gail M. Peck serves as the Senior Vice President, Finance and Treasurer at Arcosa. From 2010 until the Separation, Ms. Peck served as Vice President, Finance and Treasurer of Trinity. From 2004 to 2009, she served as Vice President and Treasurer for Centex Corporation, a diversified building company.

Item 1A. *Risk Factors.*

Arcosa's business, financial condition, and results of operations may be impacted by a number of factors. In addition to the factors discussed elsewhere in this report, the following risks and uncertainties could materially harm its business, financial condition, or results of operations, including causing its actual results to differ materially from those projected in any forward-looking statements. The following list of significant risk factors is not all-inclusive or necessarily in order of importance. Additional risks and uncertainties not presently known to Arcosa or that it currently deems immaterial also may materially adversely affect it in future periods.

Risks Related to our Business and Operations

Many of the industries in which Arcosa operates are subject to global market volatility and economic cyclicality.

Instability in the global economy, negative conditions in the global credit markets, volatility in the industries that Arcosa’s products serve, fluctuations in commodity prices that Arcosa’s customers produce and transport, changes in legislative policy, adverse changes in the availability of raw materials and supplies, or adverse changes in the financial condition of Arcosa’s customers could lead to a reduction in orders for Arcosa’s products and customers’ requests for deferred deliveries of Arcosa’s backlog orders. Additionally such events could result in Arcosa’s customers’ attempts to unilaterally cancel or terminate firm contracts or orders in whole or in part resulting in contract or purchase order breaches which could result in increased commercial litigation costs.

If volatile conditions in the global credit markets prevent our customers’ access to credit, product order volumes may decrease, or customers may default on payments owed to Arcosa. Likewise, if Arcosa’s suppliers face challenges obtaining credit, selling their products to customers that require purchasing credit, or otherwise operating their businesses, the supply of materials Arcosa purchases from them to manufacture its products may be interrupted.

Periodic downturns in economic conditions usually have a significant adverse effect on cyclical industries in which Arcosa participates due to decreased demand for new and replacement products. Decreased demand could result in lower sales volumes, lower prices, and/or a decline in or loss of profits. The barge and wind energy industries in particular have previously experienced sharp cyclical downturns and at such times operated with a minimal backlog. While the business cycles of Arcosa’s different operations may not typically coincide, an economic downturn could affect disparate cycles contemporaneously.

Any of the foregoing market or industry conditions or events could result in reductions in Arcosa’s revenues, increased price competition, or increased operating costs, which could adversely affect Arcosa’s business, cash flows, results of operations, and financial condition.

Arcosa operates in highly competitive industries. Arcosa may not be able to sustain its market positions, which may impact its financial results.

Arcosa faces aggressive competition in all geographic markets and each industry sector in which it operates. In addition to price, Arcosa faces competition in respect to product performance and technological innovation, quality, reliability of delivery, customer service, and other factors. The effects of this competition, which is often intense, could reduce Arcosa’s revenues and operating profits, limit Arcosa’s ability to grow, increase pricing pressure on Arcosa’s products, and otherwise affect Arcosa’s financial results.

Arcosa may be adversely affected by trade policies and practices, including trade practices of competitors that violate U.S. or other foreign laws, regulations, or practices.

Arcosa faces competition from manufacturers both in the U.S. and around the world, some of which may engage in competition and trade practices involving the importation of competing products into the U.S. in violation of U.S. or other foreign laws, regulations, or practices. For example, Arcosa’s competitors may import competing products that are subsidized by foreign governments and sold in the U.S. at less than fair value. The results of trade negotiations, trade agreements, and tariffs could also negatively affect Arcosa’s supplies, cost of goods sold, and customers. These trade policies and practices could increase pricing pressure on Arcosa’s products, reduce Arcosa’s revenues and operating profits, limit Arcosa’s ability to grow, and otherwise adversely affect Arcosa’s financial results.

Equipment failures or extensive damage to Arcosa's facilities, including as might occur as a result of natural disasters, could lead to production, delivery or service curtailments or shutdowns, loss of revenue or higher expenses.

Arcosa operates a substantial amount of equipment at Arcosa's production facilities, several of which are situated in tornado and hurricane zones and on navigable waterways in the U.S. An interruption in production capabilities or maintenance and repair capabilities at Arcosa's facilities, as a result of equipment failure or acts of nature, including non-navigation orders resulting from excessive or low-water conditions issued from time to time by the U.S. Army Corps of Engineers on one or more U.S. rivers that serve Arcosa's facilities, could reduce or prevent Arcosa's production, delivery, service, or repair of Arcosa's products and increase Arcosa's costs and expenses. A halt of production at any of Arcosa's manufacturing facilities could severely affect delivery times to Arcosa's customers. While Arcosa maintains emergency response and business recovery plans that are intended to allow Arcosa to recover from natural disasters that could disrupt Arcosa's business, Arcosa cannot provide assurances that its plans would fully protect Arcosa from the effects of all such disasters. In addition, insurance may not adequately compensate Arcosa for any losses incurred as a result of natural or other disasters, which may adversely affect Arcosa's financial condition. Any significant delay in deliveries not otherwise contractually mitigated by favorable force majeure or other provisions could result in cancellation of all or a portion of Arcosa's orders, cause Arcosa to lose future sales, and negatively affect Arcosa's reputation and Arcosa's results of operations.

Arcosa depends on its key management employees, and Arcosa may not be able to retain their services in the future.

Arcosa's success depends on the continued services of its executive team and key management employees, none of whom currently have an employment agreement with Arcosa. Arcosa may not be able to retain the services of its executives and key management in the future. The loss of the services of one or more executives or key members of Arcosa's management team could result in increased costs associated with attracting and retaining a replacement and could disrupt Arcosa's operations and result in a loss of revenues.

A material disruption at one or more of Arcosa's manufacturing facilities or in Arcosa's supply chain could have a material adverse effect on us.

Arcosa owns and operates manufacturing facilities of various ages and levels of automated control and relies on a number of third parties as part of Arcosa's supply chain, including for the efficient distribution of products to Arcosa's customers. Any disruption at one of Arcosa's manufacturing facilities or within Arcosa's supply chain could prevent Arcosa from meeting demand or require Arcosa to incur unplanned capital expenditures. Older facilities are generally less energy-efficient and are at an increased risk of breakdown or equipment failure, resulting in unplanned downtime. Any unplanned downtime at Arcosa's facilities may cause delays in meeting customer timelines, result in liquidated damages claims, or cause Arcosa to lose or harm customer relationships.

Additionally, Arcosa requires specialized equipment to manufacture certain of its products, and if any of its manufacturing equipment fails, the time required to repair or replace this equipment could be lengthy, which could result in extended downtime at the affected facility. Any unplanned repair or replacement work can also be very expensive. Moreover, manufacturing facilities can unexpectedly stop operating because of events unrelated to Arcosa or beyond its control, including fires and other industrial accidents, floods and other severe weather events, natural disasters, environmental incidents or other catastrophes, utility and transportation infrastructure disruptions, shortages of raw materials, and acts of war or terrorism. Work stoppages, whether union-organized or not, can also disrupt operations at manufacturing facilities.

Furthermore, while Arcosa is generally responsible for delivering products to the customer, any shortages in trucking capacity, any increase in the cost thereof, or any other disruption to the highway systems could limit Arcosa's ability to deliver its products in a timely manner or at all. Any material disruption at one or more of Arcosa's facilities or those of Arcosa's customers or suppliers or otherwise within Arcosa's supply chain, whether as a result of downtime, facility damage, an inability to deliver Arcosa's products or otherwise, could prevent Arcosa from meeting demand, require Arcosa to incur unplanned capital expenditures, or cause other material disruption to Arcosa's operations, any of which could have a material adverse effect on Arcosa's business, financial condition, and results of operations.

Delays in construction projects and any failure to manage Arcosa's inventory could have a material adverse effect on us.

Many of Arcosa's products are used in large-scale construction projects which generally require a significant amount of planning and preparation before construction commences. However, construction projects can be delayed and rescheduled for a number of reasons, including unanticipated soil conditions, adverse weather or flooding, changes in project priorities, financing issues, difficulties in complying with environmental and other government regulations or obtaining permits, and additional time required to acquire rights-of-way or property rights. These delays or rescheduling may occur with too little notice to allow Arcosa to replace those projects in Arcosa's manufacturing schedules or to adjust production capacity accordingly, creating unplanned downtime, increasing costs and inefficiencies in Arcosa's operations, and increased levels of obsolete inventory.

Additionally, Arcosa maintains an inventory of certain products that meet standard specifications and are ultimately purchased by a variety of end users. Arcosa forecasts demand for these products to ensure that it keeps sufficient inventory levels of certain products that Arcosa expects to be in high demand and limit its inventory for which Arcosa does not expect much interest. However, Arcosa’s forecasts are not always accurate and unexpected changes in demand for these products, whether because of a change in preferences or otherwise, can lead to increased levels of obsolete inventory. Any delays in construction projects and Arcosa’s customers’ orders or any inability to manage Arcosa’s inventory could have a material adverse effect on Arcosa’s business, financial condition, and results of operations.

The seasonality of Arcosa’s business and its susceptibility to severe and prolonged periods of adverse weather and other conditions could have a material adverse effect on us.

Demand for Arcosa’s products in some markets is typically seasonal, with periods of snow or heavy rain negatively affecting construction activity. For example, sales of Arcosa’s products in Canada and the Northeast and Midwest regions of the U.S. are somewhat higher from spring through autumn when construction activity is greatest. Construction activity declines in these markets during the winter months in particular due to inclement weather, frozen ground, and fewer hours of daylight. Construction activity can also be affected in any period by adverse weather conditions such as hurricanes, severe storms, torrential rains and floods, natural disasters such as fires and earthquakes, and similar events, any of which could reduce demand for Arcosa’s products, push back existing orders to later dates or lead to cancellations.

Furthermore, Arcosa’s ability to deliver products on time or at all to Arcosa’s customers can be significantly impeded by such conditions and events described above. Public holidays and vacation periods constitute an additional factor that may exacerbate certain seasonality effects, as building projects or industrial manufacturing processes may temporarily cease. These conditions, particularly when unanticipated, can leave both equipment and personnel underutilized.

Additionally, the seasonal nature of Arcosa’s business has led to variation in Arcosa’s quarterly results in the past and is expected to continue to do so in the future. This general seasonality of Arcosa’s business and any severe or prolonged adverse weather conditions or other similar events could have a material adverse effect on Arcosa’s business, financial condition, and results of operations.

Risks related to Arcosa’s operations outside of the U.S., particularly Mexico, could decrease Arcosa’s profitability.

Arcosa’s operations outside of the U.S. are subject to the risks associated with cross-border business transactions and activities. Political, legal, trade, economic change or instability, criminal activities or social unrest could limit or curtail Arcosa’s respective foreign business activities and operations, including the ability to hire and retain employees. Violence in Mexico associated with drug trafficking is continuing. Arcosa has not, to date, been materially affected by any of these risks, but Arcosa cannot predict the likelihood of future effects from such risks or any resulting adverse impact on Arcosa’s business, results of operations or financial condition. Arcosa ships raw materials to Mexico and manufactures products in Mexico that are sold in the U.S. or elsewhere, which are subject to customs and other regulations and the transportation and import of such products may be disrupted. Some foreign countries where Arcosa operates have regulatory authorities that regulate products sold or used in those countries. If Arcosa fails to comply with the applicable regulations related to the foreign countries where Arcosa operates, Arcosa may be unable to market and sell its products in those countries or could be subject to administrative fines or penalties.

In addition, with respect to operations in Mexico and other foreign countries, unexpected changes in the political environment, laws, rules, and regulatory requirements; tariffs and other trade barriers, including regulatory initiatives for buying goods produced in America; more stringent or restrictive laws, rules and regulations relating to labor or the environment; adverse tax consequences; price exchange controls and restrictions; regulations affecting cross-border rail and vehicular traffic; or availability of commodities, including gasoline and electricity could limit operations affecting production throughput and making the manufacture and distribution of Arcosa’s products less timely or more difficult. Furthermore, any material change in the quotas, regulations or duties on imports imposed by the U.S. government and agencies or on exports by the government of Mexico or its agencies, could affect Arcosa’s ability to export products that Arcosa manufactures in Mexico. Because Arcosa has operations outside the U.S., Arcosa could be adversely affected by final judgments of non-compliance with the U.S. Foreign Corrupt Practices Act of 1977 (“FCPA”) or import/export rules and regulations and similar anti-corruption, anti-bribery, or import/export laws of other countries.

Potential expansion of our business may expose us to new business, regulatory, political, operational, financial, and economic risks associated with such expansion, both inside and outside of the U.S.

We plan in the future to expand our business and operations, and this expansion may involve expansion into markets (either inside or outside the U.S.) in which we have limited operating experience, including with respect to seeking regulatory approvals and marketing or selling products. Further, our operations in new foreign markets may be adversely affected by a number of factors, including: general economic conditions and monetary and fiscal policy; financial risks, such as longer payment cycles, difficulty in collecting from international customers, the effect of local and regional financial crises and exposure to foreign currency exchange rate fluctuations and controls; multiple, conflicting and changing laws and regulations such as export and import restrictions, employment laws, regulatory requirements and other governmental approvals, permits and licenses; interest rates and taxation laws and policies; increased government regulation; social stability; and political, economic, or diplomatic developments. Certain jurisdictions have, from time to time, experienced instances of civil unrest and hostilities, both internally and with neighboring countries. Rioting, military activity, terrorist attacks, or armed hostilities could cause our operations in such jurisdictions to be adversely affected or suspended. We generally do not have insurance for losses and interruptions caused by terrorist attacks, military conflicts, and wars.

In addition, anti-bribery and anti-corruption laws may conflict with some local customs and practices in foreign jurisdictions. Our operations in international jurisdictions may be adversely affected by regulatory and compliance risks that relate to maintaining accurate information and control over activities that may fall within the purview of the FCPA, including both its books and records provisions and its anti-bribery provisions. As a result of our policy to comply with the FCPA and similar anti-bribery laws, we may be at a competitive disadvantage to competitors that are not subject to, or do not comply with, such laws

Any of these factors could significantly harm our potential business or international expansion and our operations and, consequently, our revenues, costs, results of operations, and financial condition.

Arcosa may incur increased costs due to fluctuations in interest rates and foreign currency exchange rates.

Arcosa is exposed to risks associated with fluctuations in interest rates and changes in foreign currency exchange rates. Under varying circumstances, Arcosa may seek to minimize these risks through the use of hedges and similar financial instruments and other activities, although these measures, if and when implemented, may not be effective. Any material and untimely changes in interest rates or exchange rates could adversely impact our results of operations, financial condition, or cash flows.

The loss of revenues attributable to one of our customers could negatively impact our revenues and results of operations.

GE, a customer in our Energy Equipment Group, accounted for approximately 19.4% of our consolidated revenues in 2018. The loss of revenues attributable to this customer could have a material adverse effect on our revenues and results of operations.

Repercussions from terrorist activities or armed conflict could harm Arcosa’s business.

Terrorist activities, anti-terrorist efforts, and other armed conflict involving the U.S. or its interests abroad may adversely affect the U.S. and global economies, potentially preventing Arcosa from meeting its financial and other obligations. In particular, the negative impacts of these events may affect the industries in which Arcosa operates. This could result in delays in or cancellations of the purchase of Arcosa’s products or shortages in raw materials, parts or components. Any of these occurrences could have a material adverse impact on Arcosa’s operating results, revenues, costs, and financial condition.

Arcosa may not consummate acquisitions of new businesses or products which may limit its growth opportunities or could potentially fail to successfully integrate new businesses or products into its current business which may have a material adverse effect on Arcosa's business, operations, or financial condition.

Arcosa expects to routinely engage in the search for growth opportunities, including assessment of merger and acquisition prospects in new markets and/or products. However, Arcosa may not be able to identify and secure suitable opportunities. Arcosa’s ability to consummate any acquisitions on terms that are favorable to Arcosa may be limited by a number of factors, such as competition for attractive targets and, to the extent necessary, Arcosa’s ability to obtain financing on satisfactory terms, if at all.

In addition, any merger or acquisition into which Arcosa may enter (including the recent acquisition of ACG Materials) is subject to integration of such business, markets, and/or products into Arcosa’s businesses and culture. If any such integration is unsuccessful to any material degree, such lack of success could result in unexpected claims or otherwise have a material adverse effect on Arcosa’s business, operations, or financial condition.

Arcosa’s access to capital may be limited or unavailable due to deterioration of conditions in the global capital markets and/or weakening of macroeconomic conditions.

In general, Arcosa will rely in large part upon banks and capital markets to fund its growth strategy. These markets can experience high levels of volatility and access to capital can be constrained for extended periods of time. In addition to conditions in the capital markets, a number of other factors could cause Arcosa to incur increased borrowing costs and have greater difficulty accessing public and private markets for both secured and unsecured debt, which factors include Arcosa’s financial performance. If Arcosa is unable to secure financing on acceptable terms, Arcosa’s other sources of funds, including available cash, its committed bank facility, and cash flow from operations may not be adequate to fund its operations and contractual commitments and refinance existing debt.

Arcosa's indebtedness restricts its current and future operations, which could adversely affect its ability to respond to changes in its business and manage its operations.

On November 1, 2018, Arcosa entered into a Credit Agreement (the “Credit Agreement”), by and among Arcosa, as borrower, and the lenders party thereto. The Credit Agreement includes a number of restrictive covenants that impose significant operating and financial restrictions on Arcosa, including restrictions on its and its guarantors' ability to, among other things and subject to certain exceptions, incur or guarantee additional indebtedness, merge or dispose of all or substantially all of its assets, engage in transactions with affiliates and make certain restricted payments. In addition, the Credit Agreement requires Arcosa to comply with financial covenants. The Credit Agreement requires that we maintain a minimum interest coverage ratio of no less than 2.50

to 1.00 and maximum leverage ratio of no greater than 3.00 to 1.00, subject to certain exceptions, in each case, for any period of four consecutive fiscal quarters of Arcosa.

For more information on the restrictive covenants in the Credit Agreement, see “Item 7. Management’s Discussion and Analysis of Financial Condition and Results of Operations—Liquidity and Capital Resources.” Arcosa's ability to comply with these agreements may be affected by events beyond its control, including prevailing economic, financial, and industry conditions. These covenants could have an adverse effect on Arcosa's business by limiting its ability to take advantage of financing, merger and acquisition, or other opportunities. The breach of any of these covenants or restrictions could result in a default under the Credit Agreement.

Fluctuations in the price and supply of raw materials and parts and components used in the production of Arcosa’s products could have a material adverse effect on its ability to cost-effectively manufacture and sell Arcosa’s products. In some instances, Arcosa relies on a limited number of suppliers for certain raw materials, parts and components needed in its production.

A significant portion of Arcosa’s business depends on the adequate supply of numerous specialty and other parts and components at competitive prices such as flanges for the structural wind towers business. Arcosa’s manufacturing operations partially depend on Arcosa’s ability to obtain timely deliveries of raw materials, parts, and components in acceptable quantities and quality from Arcosa’s suppliers. Certain raw materials, parts, and components for Arcosa’s products are currently available from a limited number of suppliers and, as a result, Arcosa may have limited control over pricing, availability, and delivery schedules. If Arcosa is unable to purchase a sufficient quantity of raw materials, parts, and components on a timely basis, Arcosa could face disruptions in its production and incur delays while Arcosa attempts to engage alternative suppliers. Fewer suppliers could result from unimproved or worsening economic or commercial conditions, potentially increasing Arcosa’s rejections for poor quality and requiring Arcosa to source unknown and distant supply alternatives. Any such disruption or conditions could harm Arcosa’s business and adversely impact Arcosa’s results of operations.

The principal material used in Arcosa’s manufacturing segments is steel. Market steel prices may exhibit periods of volatility. Steel prices may experience further volatility as a result of scrap surcharges assessed by steel mills, tariffs, and other market factors. Arcosa often uses contract-specific purchasing practices, supplier commitments, contractual price escalation provisions, and other arrangements with Arcosa’s customers to mitigate the effect of this volatility on Arcosa’s operating profits for the year. To the extent that Arcosa does not have such arrangements in place, a change in steel prices could materially lower Arcosa’s profitability. In addition, meeting production demands is dependent on Arcosa’s ability to obtain a sufficient amount of steel. An unanticipated interruption in Arcosa’s supply chain could have an adverse impact on both Arcosa’s margins and production schedules.

Reductions in the availability of energy supplies or an increase in energy costs may increase Arcosa’s operating costs.

Arcosa uses electricity and various gases, including natural gas, at Arcosa’s manufacturing facilities and uses diesel fuel in vehicles to transport Arcosa’s products to customers and to operate its plant equipment. An outbreak or escalation of hostilities between the U.S. and any foreign power and, in particular, prolonged conflicts could result in a real or perceived shortage of petroleum and/or natural gas, which could result in an increase in the cost of natural gas or energy in general. Extreme weather conditions and natural occurrences such as hurricanes, tornadoes, and floods could result in varying states of disaster and a real or perceived shortage of petroleum and/or natural gas, including rationing thereof, potentially resulting in unavailability or an increase in natural gas prices, electricity prices, or other general energy costs. Speculative trading in energy futures in the world markets could also result in an increase in natural gas and general energy cost. Future limitations on the availability (including limitations imposed by increased regulation or restrictions on rail, road, and pipeline transportation of energy supplies) or consumption of petroleum products and/or an increase in energy costs, particularly natural gas for plant operations and diesel fuel for vehicles and plant equipment, could have an adverse effect upon our ability to conduct Arcosa’s business cost effectively.

Shortages of skilled labor could adversely impact Arcosa’s operations.

Arcosa depends on skilled labor in the manufacture, maintenance, and repair of Arcosa’s products. Some of Arcosa’s facilities are located in areas where demand for skilled laborers may exceed supply. Shortages of some types of skilled laborers, such as welders, could restrict Arcosa’s ability to maintain or increase production rates and could increase Arcosa’s labor costs.

Some of Arcosa’s employees belong to labor unions and strikes or work stoppages could adversely affect Arcosa’s operations.

Arcosa is a party to collective bargaining agreements with various labor unions at some of Arcosa’s operations in the U.S. and Canada and all of Arcosa’s operations in Mexico. Disputes with regard to the terms of these agreements or Arcosa’s potential inability to negotiate acceptable contracts with these unions in the future could result in, among other things, strikes, work stoppages, or other slowdowns by the affected workers. Arcosa cannot be assured that its relations with its workforce will remain positive or that union organizers will not be successful in future attempts to organize at some of Arcosa’s facilities. If Arcosa’s workers were to engage in a strike, work stoppage, or other slowdown or other employees were to become unionized or the terms and conditions in future labor agreements were renegotiated, Arcosa could experience a significant disruption of its operations and higher ongoing labor costs. In addition, Arcosa could face higher labor costs in the future as a result of severance or other charges associated with lay-offs, shutdowns, or reductions in the size and scope of its operations or difficulties of restarting Arcosa’s operations that have been temporarily shuttered.

Our business is subject to significant regulatory compliance burdens in the U.S., Mexico, and other countries where we do business.

We are subject to various governmental regulations in the U.S., Mexico, and other countries where we do business related to occupational safety and health, labor, and business practices. Failure to comply with current or future regulations could result in the imposition of substantial fines, suspension of production, alterations of our production processes, cessation of operations, or other actions which could harm our business.

Although we believe that we are in material compliance with all applicable regulations material to our business operations, amendments to existing statutes and regulations or adoption of new statutes and regulations could require us to continually alter our methods of operation and/or discontinue the sale of certain of our products resulting in costs to us that could be substantial. We may not be able, for financial or other reasons, to comply with applicable laws, rules, regulations, and permit requirements. Our failure to comply with applicable laws, rules or regulations or permit requirements could subject us to civil remedies, including substantial fines, penalties, and injunctions, as well as possible criminal sanctions, which would, if of significant magnitude, materially adversely impact our operations and future financial condition.

Violations of or changes in the regulatory requirements applicable to the industries in which Arcosa operates may increase Arcosa's operating costs.

Arcosa's Transportation Products Group is subject to regulation by, among others, the U.S. Coast Guard; the U.S. National Transportation Safety Board; the U.S. Customs Service; the Maritime Administration of the U.S. DOT and private industry organizations such as the American Bureau of Shipping. These organizations establish safety criteria, investigate vessel accidents, and recommend improved safety standards.

Arcosa's Construction Products Group is subject to regulation by MSHA, USEPA, and various state agencies.

Arcosa's Energy Equipment Group is subject to the regulations by the PHMSA and the FMCSA, both of which are part of the USDOT. These agencies promulgate and enforce rules and regulations pertaining, in part, to the manufacture of tanks that are used in the storage, transportation and transport arrangement, and distribution of regulated and non-regulated substances.

Arcosa's operations are also subject to regulation of health and safety matters by OSHA and MSHA. Arcosa believes it employs appropriate precautions to protect its employees and others from workplace injuries and harmful exposure to materials handled and managed at Arcosa's facilities.

In addition, our business is subject to additional regulatory requirements in Mexico and other countries where we conduct business.

Future regulatory changes or the determination that Arcosa's products or processes are not in compliance with applicable requirements, rules, regulations, specifications, standards or product testing criteria might result in additional operating expenses, administrative fines or penalties, product recalls or loss of business that could have a material adverse effect on Arcosa's financial condition and operations. In addition, the impact of a government shutdown could have a material adverse effect on Arcosa's revenues, profits, and cash flows. Arcosa relies on government personnel to conduct certain routine business processes related to the inspection and delivery of products that, if disrupted, could have an immediate impact on Arcosa's revenues and business.

Arcosa is subject to health and safety laws and regulations and any failure to comply with any current or future laws or regulations could have a material adverse effect on us.

Manufacturing and construction sites are inherently dangerous workplaces. Arcosa's manufacturing sites often put Arcosa's employees and others in close proximity with large pieces of mechanized equipment, moving vehicles, chemical and manufacturing processes, heavy products and other items, and highly regulated materials. As a result, Arcosa is subject to a variety of health and safety laws and regulations dealing with occupational health and safety. Unsafe work sites have the potential to increase employee turnover and raise Arcosa's operating costs. Arcosa's safety record can also impact Arcosa's reputation. Arcosa maintains functional groups whose primary purpose is to ensure Arcosa implements effective work procedures throughout Arcosa's organization and take other steps to ensure the health and safety of Arcosa's work force, but there can be no assurances these measures will be successful in preventing injuries or violations of health and safety laws and regulations. Any failure to maintain safe work sites or violations of applicable law could expose Arcosa to significant financial losses and reputational harm, as well as civil and criminal liabilities, any of which could have a material adverse effect on Arcosa's business, financial condition, and results of operations.

Employment related lawsuits could be brought against us, which could be expensive, time consuming, and result in substantial damages to us and increases in our insurance rates.

Arcosa may become subject to substantial and costly litigation by its former and current employees related to improper termination of employment, sexual harassment, hostile work environment, and other employment-related claims. Such claims could divert management's attention from Arcosa's core business, be expensive to defend, and result in sizable damage awards against Arcosa. Arcosa's current insurance coverage may not apply or may not be sufficient to cover these claims and the coverage Arcosa may have could be subject to deductibles for which we are responsible. Moreover, in the future, Arcosa may not be able to obtain insurance in amount or scope sufficient to provide it with adequate coverage against potential liabilities. Any employment related claims brought against Arcosa, with or without merit, could increase employment law insurance rates or prevent Arcosa from securing coverage, or could harm Arcosa's reputation in the industry and reduce product sales. Arcosa would need to pay any losses in excess of insurance coverage out of cash reserves, harming Arcosa's financial condition and adversely affecting operating results.

Arcosa has potential exposure to environmental liabilities that may increase costs and lower profitability.

Arcosa is subject to comprehensive federal, state, local, and foreign environmental laws and regulations relating to: (i) the release or discharge of regulated materials into the environment at Arcosa's facilities or with respect to Arcosa's products while in operation; (ii) the management, use, processing, handling, storage, transport and transport arrangement, and disposal of hazardous and non-hazardous waste, substances, and materials; and (iii) other activities relating to the protection of human health and the environment. Such laws and regulations expose Arcosa to liability for its own acts and in certain instances potentially expose Arcosa to liability for the acts of others. These laws and regulations also may impose liability on Arcosa currently under circumstances where at the time of the action taken, Arcosa's acts or those of others complied with then applicable laws and regulations. In addition, such laws may require significant expenditures to achieve compliance, and are frequently modified or revised to impose new obligations. Civil and criminal fines and penalties may be imposed for non-compliance with these environmental laws and regulations. Arcosa's operations involving hazardous materials also raise potential risks of liability under common law.

Environmental operating permits are, or may be, required for Arcosa's operations under these laws and regulations. These operating permits are subject to modification, renewal, and revocation. Although Arcosa regularly monitors and reviews its operations, procedures, and policies for compliance with Arcosa's operating permits and related laws and regulations, the risk of environmental liability is inherent in the operation of Arcosa's businesses, as it is with other companies operating under environmental permits.

However, future events, such as changes in, or modified interpretations of, existing environmental laws and regulations or enforcement policies, or further investigation or evaluation of the potential health hazards associated with the manufacture of Arcosa's products and related business activities and properties, may give rise to additional compliance and other costs that could have a material adverse effect on Arcosa's financial condition and operations.

In addition to environmental laws, the transportation of commodities by rail, barge, or container raises potential risks in the event of an accident that results in the release of an environmentally sensitive substance. Generally, liability under existing laws for an accident depends upon causation analysis and the acts, errors, or omissions, if any, of a party involved in the transportation activity, including, but not limited to, the shipper, the buyer, and the seller of the substances being transported, or the manufacturer of the barge, container, or its components. Additionally, the severity of injury or property damage arising from an incident may influence the causation responsibility analysis, exposing Arcosa to potentially greater liability. Under certain circumstances, strict liability concepts may apply and if Arcosa is found liable in any such incident, it could have a material adverse effect on Arcosa's financial condition, business and operations.

Responding to claims relating to improper handling, transport, storage, or disposal of hazardous materials could be time consuming and costly.

We use controlled hazardous materials in our business and generate wastes that are regulated as hazardous wastes under U.S. federal, state, and local environmental laws and under equivalent provisions of law in those and other jurisdictions in which our manufacturing facilities are located. Our use of these substances and materials is subject to stringent, and periodically changing, regulation that can impose costly compliance obligations on us and have the potential to adversely affect our manufacturing activities. We are also subject to potential liability for claims alleging property damage and personal and bodily injury or death arising from the use of or exposure to our products, especially in connection with products we manufacture that our customers use to transport or store hazardous, flammable, toxic, or explosive materials.

The risk of accidental contamination or injury from these materials cannot be completely eliminated. If an accident with these substances occurs, we could be held liable for any damages that result, as well as incurring clean-up costs and liabilities, which can be substantial. Additionally, an accident could damage our facilities, resulting in delays and increased costs.

Our manufacturing plants or other facilities may have unknown environmental conditions that could be expensive and time-consuming to correct.

There can be no assurance that we will not encounter hazardous environmental conditions at any of our manufacturing plants or other facilities that may require us to incur significant clean-up or correction costs. Upon encountering a hazardous environmental condition or receiving a notice of a hazardous environmental condition, we may be required to correct the condition. The presence of a hazardous environmental condition relating to any of our manufacturing plants or other facilities may require significant expenditures to correct the environmental condition.

Business, regulatory, and legal developments regarding climate change may affect the demand for Arcosa's products or the ability of Arcosa's critical suppliers to meet Arcosa's needs.

Arcosa has followed the current debate over climate change in general, and the related science, policy discussion, and prospective legislation. Some scientific studies have suggested that emissions of certain gases, commonly referred to as greenhouse gases ("GHGs") which include carbon dioxide and methane, may be contributing to warming of the Earth's atmosphere and other climate changes. Additionally, Arcosa periodically reviews the potential challenges and opportunities for Arcosa that climate change policy and legislation may pose. However, any such challenges or opportunities are heavily dependent on the nature and degree of climate change legislation and the extent to which it applies to Arcosa's industries.

Potential impacts of climate change include physical impacts, such as disruption in production and product distribution due to impacts from major storm events, shifts in regional weather patterns and intensities, and potential impacts from sea level changes. There is also a potential for climate change legislation and regulation that could adversely impact the cost of certain manufacturing inputs, including the cost of energy and electricity.

In response to an emerging scientific and political consensus, legislation and new rules to regulate emission of GHGs has been introduced in numerous state legislatures, the U.S. Congress, and by the U.S. Environmental Protection Agency. Some of these proposals would require industries to meet stringent new standards that may require substantial reductions in carbon emissions. While Arcosa cannot assess the direct impact of these or other potential regulations, Arcosa does recognize that new climate change protocols could affect demand for its products and/or affect the price of materials, input factors, and manufactured components. Potential opportunities could include greater demand for structural wind towers, while potential challenges could include decreased demand for certain types of products and higher energy costs. Other adverse consequences of climate change could include an increased frequency of severe weather events and rising sea levels that could affect operations at Arcosa's manufacturing facilities as well as the price of insuring Company assets or other unforeseen disruptions of Arcosa's operations, systems, property, or equipment. Ultimately, when or if these impacts may occur cannot be assessed until scientific analysis and legislative policy are more developed and specific legislative proposals begin to take shape.

The impacts of climate change on our operations and the Company overall are highly uncertain and difficult to estimate. However, climate change legislation and regulation concerning greenhouse gases could have a material adverse effect on our future financial position, results of operations, or cash flows.

Arcosa may be required to reduce the value of Arcosa's long-lived assets, including intangible assets, and/or goodwill, which would weaken Arcosa's financial results. Further, if the goodwill or intangible assets we have recorded in connection with acquisitions becomes impaired, it could have a material adverse impact on our financial condition, results of operations, shareholder's equity, and/or share price.

Arcosa periodically evaluates for potential impairment the carrying values of Arcosa's long-lived assets, including intangible assets, to be held and used. The carrying value of a long-lived asset to be held and used is considered impaired when the carrying value is not recoverable through undiscounted future cash flows and the fair value of the asset is less than the carrying value. Fair value is determined primarily using the anticipated cash flows discounted at a rate commensurate with the risks involved or market quotes as available. Impairment losses on long-lived assets held for sale are determined in a similar manner, except that fair values are reduced commensurate with the estimated cost to dispose of the assets. In addition, goodwill is required to be tested for impairment annually or on an interim basis whenever events or circumstances change indicating that the carrying amount of the goodwill might be impaired.

Certain non-cash impairments may result from a change in our strategic goals, business direction, changes in market interest rates, or other factors relating to the overall business environment. Any impairment of the value of goodwill or other intangible assets will result in a non-cash charge against earnings, which could have a material adverse effect on our financial condition, results of operations, shareholder's equity, and/or share price.

Changes in accounting policies or inaccurate estimates or assumptions in the application of accounting policies could adversely affect the reported value of Arcosa's assets or liabilities and financial results.

Arcosa's financial statements have been prepared in accordance with U.S. generally accepted accounting principles ("GAAP"). The significant accounting policies, together with the other notes that follow, are an integral part of the financial statements. Some of these policies require the use of estimates and assumptions that may affect the reported value of Arcosa's assets or liabilities and financial results and require management to make difficult, subjective, and complex judgments about matters that are inherently uncertain. Accounting standard setters and those who interpret the accounting standards (such as the Financial Accounting Standards Board, the SEC, and Arcosa's independent registered public accounting firm) may amend or even reverse their previous interpretations or positions on how these standards should be applied. These changes can be difficult to predict and can materially impact how Arcosa records and reports its financial condition and results of operations. In some cases, Arcosa could be required to apply a new or revised standard retroactively, resulting in the restatement of prior period financial statements. For a further discussion of some of Arcosa's critical accounting policies and standards and recent accounting changes, see "Item 7. Management's

Discussion and Analysis of Financial Condition and Results of Operations--Critical Accounting Policies and Estimates” and Note 1 “Overview and Summary of Significant Accounting Policies” of the Notes to Consolidated and Combined Financial Statements.

From time to time Arcosa may take tax positions that the Internal Revenue Service, the Servicio de Administracion Tributaria (“SAT”) in Mexico, or other taxing jurisdictions may contest.

Our subsidiaries have in the past and may in the future take tax positions that the Internal Revenue Service, the SAT, or other taxing jurisdictions may challenge. Arcosa is required to disclose to the IRS as part of Arcosa’s tax returns particular tax positions in which Arcosa has a reasonable basis for the position but not a “more likely than not” chance of prevailing. If the IRS, SAT, or other taxing jurisdictions successfully contests a tax position that Arcosa takes, Arcosa may be required to pay additional taxes or fines which may not have been previously accrued that may adversely affect its results of operations and financial position.

The limited number of customers for certain of Arcosa’s products, the variable purchase patterns of Arcosa’s customers in all of its segments, and the timing of completion, delivery, and customer acceptance of orders may cause Arcosa’s revenues and income from operations to vary substantially each quarter, potentially resulting in significant fluctuations in its quarterly results.

Some of the markets Arcosa serves have a limited number of customers. The volumes purchased by customers in each of Arcosa’s business segments vary from year to year, and not all customers make purchases every year. As a result, the order levels for Arcosa’s products have varied significantly from quarterly period to quarterly period in the past and may continue to vary significantly in the future. Therefore, Arcosa’s results of operations in any particular quarterly period may also vary. As a result of these quarterly fluctuations, Arcosa believes that comparisons of its sales and operating results between quarterly periods may not be meaningful and should not be relied upon as indicators of future performance.

Some of Arcosa’s products are sold to contractors, distributors, installers, and rental companies who may misuse, abuse, improperly install, or improperly or inadequately maintain or repair such products, thereby potentially exposing Arcosa to claims that could increase Arcosa’s costs and weaken Arcosa’s financial condition.

The products Arcosa manufactures are designed to work optimally when properly assembled, operated, installed, repaired, and maintained. When this does not occur, Arcosa may be subjected to claims or litigation associated with personal or bodily injuries or death and property damage.

Some of Arcosa’s customers place orders for Arcosa’s products (i) in reliance on their ability to utilize tax benefits or tax credits such as accelerated depreciation or the production tax credit for renewable energy or (ii) to utilize federal-aid programs that allow for purchase price reimbursement or other government funding or subsidies, any of which benefits, credits, or programs could be discontinued or allowed to expire without extension thereby reducing demand for certain of Arcosa’s products.

There is no assurance that the U.S. government will reauthorize, modify, or otherwise not allow the expiration of tax benefits, tax credits, subsidies, or federal-aid programs that may include funding of the purchase or purchase price reimbursement of certain of Arcosa’s products. For example, the federal renewable electricity production tax credit (“the PTC”) for wind energy facilities is being phased out and is scheduled to expire on December 31, 2019. Historically, the PTC has been renewed and expanded numerous times. However, there are no assurances that the PTC will continue. In instances where such benefits, credits, subsidies, or programs are allowed to expire or are otherwise modified or discontinued, the demand for Arcosa’s products could decrease, thereby creating the potential for a material adverse effect on Arcosa’s financial condition or results of operations and could result in non-cash impairments on long-lived assets, including intangible assets, and/or goodwill.

U.S. government actions relative to the federal budget, taxation policies, government expenditures, U.S. borrowing/debt ceiling limits, and trade policies could adversely affect Arcosa’s business and operating results.

Periods of impasse, deadlock, and last minute accords may continue to permeate many aspects of U.S. governance, including federal government budgeting and spending, taxation, U.S. deficit spending and debt ceiling adjustments, and international commerce. Such periods could negatively impact U.S. domestic and global financial markets, thereby reducing customer demand for Arcosa’s products and services and potentially result in reductions in Arcosa’s revenues, increased price competition, or increased operating costs, any of which could adversely affect Arcosa’s business, results of operations, and financial condition. Arcosa produces many of its products at its manufacturing facilities in Mexico. Arcosa’s business benefits from free trade agreements such as the North American Free Trade Agreement (“NAFTA”). The U.S., Mexico and Canada have reached a preliminary U.S.-Mexico-Canada Agreement (“USMCA”) which would replace NAFTA. The USMCA would maintain duty-free access for many products. The USMCA still requires approval from the U.S. Congress, Mexico’s Senate and Canada’s Parliament before it takes effect. In addition, the USMCA is still undergoing a legal review which could result in further negotiations and modifications of certain provisions. It is uncertain what the outcome of the Congressional approval process, legal review and any further negotiations will be, but it is possible that revisions to USMCA or failure to secure Congressional or other approvals could adversely affect Arcosa’s existing production operations in Mexico and have a material adverse effect on Arcosa’s business, financial condition, and results of operations.

Arcosa's business is based in part on government-funded infrastructure projects and building activities, and any reductions or re-allocation of spending or related subsidies in these areas could have an adverse effect on us.

Certain of Arcosa's businesses depend on government spending for infrastructure and other similar building activities. As a result, demand for some of Arcosa's products is influenced by U.S. federal government fiscal policies and tax incentives and other subsidies. Projects in which Arcosa participates may be funded directly by governments or privately-funded, but are otherwise tied to or impacted by government policies and spending measures.

Government infrastructure spending and governmental policies with respect thereto depend primarily on the availability of public funds, which is influenced by many factors, including governmental budgets; public debt levels; interest rates; existing and anticipated and actual federal, state, provincial, and local tax revenues; government leadership; and the general political climate, as well as other general macroeconomic and political factors. In addition, U.S. federal government funds may only be available based on states' willingness to provide matching funding. Government spending is often approved only on a short-term basis and some of the projects in which Arcosa's products are used require longer-term funding commitments. If government funding is not approved or funding is lowered as a result of poor economic conditions, lower than expected revenues, competing spending priorities or other factors, it could limit infrastructure projects available, increase competition for projects, result in excess inventory, and decrease sales, all of which could adversely affect the profitability of Arcosa's business.

Additionally, certain regions or states may require or possess the means to finance only a limited number of large infrastructure projects and periods of high demand may be followed by years of little to no activity. There can be no assurances that governments will sustain or increase current infrastructure spending and tax incentive and other subsidy levels, and any reductions thereto or delays therein could affect Arcosa's business, financial condition, and results of operations.

Litigated disputes and other claims could increase Arcosa's costs and weaken Arcosa's financial condition.

Arcosa is currently, and may from time to time be, involved in various claims or legal proceedings arising out of Arcosa's operations. Adverse judgments and outcomes in some or all of these matters could result in significant losses and costs that could weaken Arcosa's financial condition. Although Arcosa maintains reserves for its reasonably estimable liability, Arcosa's reserves may be inadequate to cover its portion of claims or final judgments after taking into consideration rights in indemnity and recourse under insurance policies or to third parties as a result of which there could be a material adverse effect on Arcosa's business, operations, or financial condition.

Arcosa's manufacturer's warranties expose Arcosa to product replacement and repair claims.

Depending on the product, Arcosa warrants its workmanship and certain materials (including surface coatings), parts, and components pursuant to express limited contractual warranties. Arcosa may be subject to significant warranty claims in the future, such as multiple claims based on one defect repeated throughout Arcosa's production process or claims for which the cost of shipping, repairing, or replacing the defective part, component, or material is highly disproportionate to the original price. These types of warranty claims could result in significant costs associated with product recalls or product shipping, repair, or replacement, and damage to Arcosa's reputation.

Defects in materials and workmanship could harm our reputation, expose us to product warranty or product liability claims, decrease demand for products, or materially harm existing or prospective customer relationships.

A defect in materials or in the manufacturing of our products could result in product warranty and product liability claims, decrease demand for products, or materially harm existing or prospective customer relationships. These claims may require costly repairs or replacement and may include cost related to disassembly of our products and transportation of the products from the field to our facilities and returning the products to the customer, a change in our manufacturing processes, recall of previously manufactured products, or personal injury claims, which could result in significant expense and materially harm our existing or prospective customer relationships. Any of the foregoing could materially harm our business, operating results, and financial condition.

Increasing insurance claims and expenses could lower profitability and increase business risk.

Arcosa is subject to potential liability for claims alleging property damage and personal and bodily injury or death arising from the use of or exposure to Arcosa's products, especially in connection with products Arcosa manufactures that Arcosa's customers use to transport hazardous, flammable, toxic, or explosive materials. As policies expire, premiums for renewed or new coverage may further increase and/or require that Arcosa increase its self-insured retention or deductibles. Arcosa maintains primary coverage and excess coverage policies. If the number of claims or the dollar amounts of any such claims rise in any policy year, Arcosa could suffer additional costs associated with accessing its excess coverage policies. Also, an increase in the loss amounts attributable to such claims could expose Arcosa to uninsured damages if Arcosa were unable or elected not to insure against certain claims because of high premiums or other reasons. While Arcosa's liability insurance coverage is at or above levels based on commercial norms in Arcosa's industries, an unusually large liability claim or a string of claims coupled with an unusually large damage award could exceed Arcosa's available insurance coverage. In addition, the availability of, and Arcosa's ability to collect on, insurance coverage is often subject to factors beyond Arcosa's control, including positions on policy coverage taken by insurers. If any of

Arcosa’s third-party insurers fail, cancel, or refuse coverage or otherwise are unable to provide Arcosa with adequate insurance coverage, then Arcosa’s risk exposure and Arcosa’s operational expenses may increase and the management of its business operations would be disrupted. Moreover, any accident or incident involving Arcosa’s industries in general or Arcosa or Arcosa’s products specifically, even if Arcosa is fully insured, contractually indemnified, or not held to be liable, could negatively affect Arcosa’s reputation among customers and the public, thereby making it more difficult for Arcosa to compete effectively, and could significantly affect the cost and availability of insurance in the future.

Arcosa’s inability to produce and disseminate relevant and/or reliable data and information pertaining to Arcosa’s business in an efficient, cost-effective, secure, and well-controlled fashion may have significant negative impacts on confidentiality requirements and obligations and trade secret or other proprietary needs and expectations and, therefore, Arcosa’s future operations, profitability, and competitive position.

Arcosa relies on information technology infrastructure and architecture, including hardware, network including the cloud, software, people, and processes to provide useful and confidential information to conduct Arcosa’s business in the ordinary course, including correspondence and commercial data and information interchange with customers, suppliers, legal counsel, governmental agencies, and consultants and to support assessments and conclusions about future plans and initiatives pertaining to market demands, operating performance, and competitive positioning. In addition, any material failure, interruption of service, compromised data security, or cybersecurity threat could adversely affect Arcosa’s relations with suppliers and customers, place Arcosa in violation of confidentiality and data protection laws, rules, and regulations, and result in negative impacts to Arcosa’s market share, operations, and profitability. Security breaches in Arcosa’s information technology could result in theft, destruction, loss, misappropriation, or release of confidential data, trade secrets, or other proprietary or intellectual property that could adversely impact Arcosa’s future results.

Cybersecurity incidents could disrupt our business and result in the compromise of confidential information.

Our business is at risk from and may be impacted by information security incidents, including attempts to gain unauthorized access to our confidential data, ransomware, malware, phishing emails, and other electronic security events. Such incidents can range from individual attempts to gain unauthorized access to our information technology systems to more sophisticated security threats. They can also result from internal compromises, such as human error, or malicious acts. While we employ a number of measures to prevent, detect, and mitigate these threats, there is no guarantee such efforts will be successful in preventing a cyber event. Cybersecurity incidents could disrupt our business and compromise confidential information belonging to us and third parties.

The use of social and other digital media (including websites, blogs, and newsletters) to disseminate false or misleading data and information about Arcosa could create volatility in Arcosa’s stock price and losses to Arcosa’s stockholders and could adversely affect Arcosa’s reputation, products, business, and operating results.

The number of people relying on social and other digital media to receive news, data, and information is increasing. Social and other digital media can be used by anyone to publish false or misleading data and information. The use of social and other digital media to publish inaccurate, offensive, and disparaging data and information coupled with the increasingly frequent use of strong language and hostile expression and the speed of dissemination of information, could obstruct an effective and timely response to correct inaccuracies or falsehoods. Such use of social and other digital media could result in unexpected and false or misleading claims concerning Arcosa in general or Arcosa’s products, Arcosa’s leadership, or Arcosa’s reputation among customers and the public at large, thereby making it more difficult for Arcosa to compete effectively, and potentially having a material adverse effect on Arcosa’s business, operations, or financial condition.

Arcosa’s inability to sufficiently protect Arcosa’s intellectual property rights could adversely affect Arcosa’s business.

Arcosa’s patents, copyrights, trademarks, trade secrets, and other intellectual property rights are important to Arcosa’s success. Arcosa relies on patent, copyright, and trademark law, and trade secret protection and confidentiality and/or license agreements with others to protect Arcosa’s intellectual property rights. Arcosa’s trademarks, service marks, copyrights, patents, and trade secrets may be exposed to market confusion, commercial abuse, infringement, or misappropriation and possibly challenged, invalidated, circumvented, narrowed, or declared unenforceable by countries where Arcosa’s products and services are made available, including countries where the laws may not protect Arcosa’s intellectual property rights as fully as in the U.S. Such instances could negatively impact Arcosa’s competitive position and adversely affect Arcosa’s business. Additionally, Arcosa could be required to incur significant expenses to protect its intellectual property rights.

Risks Related to the Separation

Arcosa may not achieve some or all of the expected benefits of the Separation, and the Separation may adversely affect Arcosa’s business.

Arcosa may not be able to achieve the full strategic and financial benefits expected to result from the Separation, or such benefits may be delayed or not occur at all. The Separation is expected to provide the following benefits, among others:

- allow Arcosa to more effectively pursue its own distinct operating priorities and strategies, enable Arcosa's management to pursue its own separate opportunities for long-term growth and profitability and to recruit, retain, and motivate employees pursuant to compensation policies which are appropriate for Arcosa's lines of business;

- permit Arcosa to concentrate its financial resources solely on its own operations, providing greater flexibility to invest capital in its business in a time and manner appropriate for its distinct strategy and business needs; and

- enable investors to evaluate the merits, performance, and future prospects of Arcosa's businesses and to invest in Arcosa separately based on these distinct characteristics.

Arcosa may not achieve these and other anticipated benefits for a variety of reasons, including, among others: (a) the transition to being a stand-alone public company has required and will continue to require significant amounts of management’s time and effort, which may divert management’s attention from operating and growing Arcosa’s business; (b) Arcosa’s stock price may be more susceptible to market fluctuations and other events particular to one or more of Arcosa’s products than if it were still a part of Trinity; and (c) Arcosa’s operational and financial profile changed such that Arcosa’s diversification of revenue sources diminished, and Arcosa’s results of operations, cash flows, working capital, and financing requirements may be subject to increased volatility than prior to the Separation. Additionally, Arcosa may experience unanticipated competitive developments, including changes in the conditions of Arcosa’s infrastructure-related businesses’ markets that could negate the expected benefits from the Separation. If Arcosa does not realize some or all of the benefits expected to result from the Separation, or if such benefits are delayed, the business, financial condition, results of operations, and cash flows of Arcosa could be adversely affected.

Arcosa has only operated as an independent, publicly-traded company since November 1, 2018, and its historical financial information is not necessarily representative of the results that it would have achieved as a separate, publicly-traded company and therefore may not be a reliable indicator of its future results.

The historical information about Arcosa in this report refers to Arcosa’s business as operated by and integrated with Trinity prior to November 1, 2018. Arcosa’s historical financial information included in this report is derived from the combined financial statements and accounting records of Trinity. Accordingly, the historical financial information included in this report does not necessarily reflect the financial condition, results of operations, or cash flows that Arcosa would have achieved as a separate, publicly-traded company during the periods presented or those that Arcosa will achieve in the future primarily as a result of the factors described below:

- Arcosa will need to make significant investments to replicate or outsource certain systems, infrastructure, and functional expertise after its Separation from Trinity. These initiatives to develop Arcosa’s independent ability to operate without access to Trinity’s existing operational and administrative infrastructure will be costly to implement. Arcosa may not be able to operate its business efficiently or at comparable costs, and its profitability may decline; and

- Arcosa has relied upon Trinity for working capital requirements and other cash requirements, including in connection with Arcosa’s previous acquisitions. Subsequent to the Separation, Trinity no longer provides Arcosa with funds to finance Arcosa’s working capital or other cash requirements. Arcosa’s access to and cost of debt financing may be different from the historical access to and cost of debt financing under Trinity. Differences in access to and cost of debt financing may result in differences in the interest rate charged to Arcosa on financings, as well as the amounts of indebtedness, types of financing structures, and debt markets that may be available to Arcosa, which could have an adverse effect on Arcosa’s business, financial condition, results of operations, and cash flows.

For additional information about the past financial performance of Arcosa’s business and the basis of presentation of the historical combined financial statements of Arcosa’s business, see “Item 6. Selected Financial Data,” and “Item 7. Management’s Discussion and Analysis of Financial Condition and Results of Operations,” as well as the Consolidated and Combined Financial Statements and accompanying Notes included elsewhere in this report.

We incur increased costs and are subject to additional regulations and requirements as a public company, which could lower our profits or make it more difficult to run our business.

As a public company, we incur significant legal, accounting and other expenses, including costs associated with public company reporting requirements. We also have incurred and will continue to incur costs associated with the Sarbanes-Oxley Act of 2002, and related rules implemented by the SEC and the New York Stock Exchange. The expenses incurred by public companies generally for reporting and corporate governance purposes have been increasing. These rules and regulations have and will increase our legal and financial compliance costs and make some activities more time-consuming and costly.

Trinity may fail to perform under various transaction agreements that were executed as part of the Separation or Arcosa may fail to have necessary systems and services in place when Trinity is no longer obligated to provide services under the various agreements.

The separation and distribution agreement and other agreements entered into in connection with the Separation determined the allocation of assets and liabilities between the companies following the Separation for those respective areas and include any necessary indemnifications related to liabilities and obligations. The transition services agreement provides for the performance of certain services for a period of time after the Separation. Arcosa is relying on Trinity to satisfy its performance and payment obligations under these agreements. If Trinity is unable to satisfy its obligations under these agreements, including its indemnification obligations, Arcosa could incur operational difficulties or losses.

If Arcosa does not have in place its own systems and services, and does not have agreements with other providers of these services when the transitional or other agreements terminate, or if Arcosa does not implement the new systems or replace Trinity's services successfully, Arcosa may not be able to operate its business effectively, which could disrupt its business and have a material adverse effect on its business, financial condition, and results of operations. These systems and services may also be more expensive to install, implement and operate, or less efficient than the systems and services Trinity is expected to provide during the transition period.

Potential indemnification liabilities to Trinity pursuant to the separation and distribution agreement could materially and adversely affect Arcosa's business, financial condition, results of operations, and cash flows.

The separation and distribution agreement, among other things, provides for indemnification obligations designed to make Arcosa financially responsible for certain liabilities that may exist relating to its business activities. If Arcosa is required to indemnify Trinity under the circumstances set forth in the separation and distribution agreement, Arcosa may be subject to substantial liabilities.

Arcosa may be subject to certain contingent liabilities of Trinity following the Separation.

There is the possibility that certain liabilities of Trinity could become Arcosa's obligations. For example, under the U.S. Internal Revenue Code of 1986, as amended (the "Code") and the related rules and regulations, each corporation that was a member of the Trinity U.S. consolidated group during a taxable period or portion of a taxable period ending on or before the effective time of the distribution is jointly and severally liable for the U.S. federal income tax liability of the entire Trinity U.S. consolidated group for that taxable period. Consequently, if Trinity is unable to pay the consolidated U.S. federal income tax liability for a prior period, Arcosa could be required to pay the entire amount of such tax which could be substantial and in excess of the amount allocated to it under the tax matters agreement between it and Trinity. Other provisions of federal law establish similar liability for other matters, including laws governing tax-qualified pension plans as well as other contingent liabilities.

In connection with Arcosa's Separation from Trinity, Trinity has agreed to indemnify Arcosa for certain liabilities. However, there can be no assurance that the indemnity will be sufficient to insure Arcosa against the full amount of such liabilities, or that Trinity's ability to satisfy its indemnification obligation will not be impaired in the future.

Pursuant to the separation and distribution agreement, Trinity has agreed to indemnify Arcosa for certain pre-Separation liabilities. However, third parties could also seek to hold Arcosa responsible for liabilities that Trinity has agreed to retain, and there can be no assurance that the indemnity from Trinity will be sufficient to protect Arcosa against the full amount of such liabilities, or that Trinity will be able to fully satisfy its indemnification obligations. In addition, Trinity's insurers may attempt to deny coverage to Arcosa for liabilities associated with certain occurrences of indemnified liabilities prior to the Separation.

If the distribution of shares of Arcosa, together with certain related transactions, does not qualify as a transaction that is generally tax-free for U.S. federal income tax purposes, Arcosa's stockholders in the distribution and Trinity could be subject to significant tax liability and, in certain circumstances, Arcosa could be required to indemnify Trinity for material taxes pursuant to indemnification obligations under the tax matters agreement.

In connection with the distribution of shares of Arcosa, Trinity received (i) a private letter ruling from the IRS and (ii) an opinion of each of Skadden, Arps, Slate, Meagher & Flom LLP, tax counsel to Trinity, and KPMG, tax advisor to Trinity, substantially to the effect that, among other things, the distribution, together with certain related transactions, qualifies as tax-free for U.S. federal income tax purposes under Sections 368(a)(1)(D) and 355 of the Code. The IRS ruling and the tax opinions rely on certain facts, assumptions, representations, and undertakings from Trinity and Arcosa, including those regarding the past and future conduct of the companies' respective businesses and other matters, and the tax opinions rely on the IRS ruling. Notwithstanding the IRS ruling and the tax opinions, the IRS could determine that the distribution or any such related transaction is taxable if it determines that any of these facts, assumptions, representations, or undertakings are not correct or have been violated, or that the distribution should be taxable for other reasons, including if the IRS were to disagree with the conclusions in the tax opinions that are not covered by the IRS ruling.

If the distribution is determined to be taxable for U.S. federal income tax purposes, a stockholder of Trinity that has received shares of Arcosa common stock in the distribution would be treated as having received a distribution of property in an amount equal to the fair value of such Arcosa shares on the distribution date and could incur significant income tax liabilities. Such distribution would be taxable to such stockholder as a dividend to the extent of Trinity's current and accumulated earnings and profits, including Trinity's taxable gain, if any, on the distribution. Any amount that exceeded Trinity's earnings and profits would be treated first as a non-taxable return of capital to the extent of such stockholder's tax basis in its shares of Trinity stock, with any remaining amount being taxed as capital gain. Trinity would recognize a taxable gain in an amount equal to the excess, if any, of the fair market value of the shares of Arcosa common stock held by Trinity on the distribution date over Trinity's tax basis in such shares.

Under the tax matters agreement between Trinity and Arcosa, Arcosa may be required to indemnify Trinity against any taxes imposed on Trinity that arise from the failure of the distribution to qualify as tax-free for U.S. federal income tax purposes within the meaning of Section 355 of the Code or the failure of certain related transactions to qualify for tax-free treatment, to the extent such failure to qualify is attributable to actions, events or transactions relating to Arcosa's stock, assets or business or any breach of Arcosa's representations, covenants or obligations under the tax matters agreement (or any other agreement Arcosa enters into in connection with the separation and distribution), the materials submitted to the IRS in connection with the request for the IRS ruling or the representation letters provided by Arcosa in connection with the tax opinions. Events triggering an indemnification obligation under the tax matters agreement include events occurring after the distribution that cause Trinity to recognize a gain under Section 355(e) of the Code. Such tax amounts could be significant, and Arcosa's obligations under the tax matters agreement will not be limited by amount or subject to any cap. If Arcosa is required to indemnify Trinity under the circumstances set forth above or otherwise under the tax matters agreement, Arcosa may be subject to substantial liabilities, which could materially adversely affect its financial position.

Arcosa may not be able to engage in certain corporate transactions after the Separation.

To preserve the tax-free treatment to Trinity and its stockholders of the distribution and certain related transactions, under the tax matters agreement between Arcosa and Trinity, Arcosa will be restricted from taking any action following the distribution that prevents the distribution and related transactions from being tax-free for U.S. federal income tax purposes. Under the tax matters agreement, for the two-year period following the distribution, Arcosa will be prohibited, except in certain circumstances, from:

- entering into any transaction resulting in the acquisition of 40 percent or more of its stock or substantially all of its assets, whether by merger or otherwise;
- merging, consolidating, or liquidating;
- issuing equity securities beyond certain thresholds;
- repurchasing its capital stock unless certain condition are met; and
- ceasing to actively conduct its business.

These restrictions may limit Arcosa's ability to pursue certain strategic transactions or other transactions that it may believe to be in the best interests of its stockholders or that might increase the value of its business. In addition, under the tax matters agreement, Arcosa will be required to indemnify Trinity against any such tax liabilities as a result of the acquisition of Arcosa's stock or assets, even if Arcosa did not participate in or otherwise facilitate the acquisition.

The Separation and related internal restructuring transactions may expose Arcosa to potential liabilities arising out of state and federal fraudulent conveyance laws and legal dividend requirements.

The Separation could be challenged under various state and federal fraudulent conveyance laws. Fraudulent conveyances or transfers are generally defined to include transfers made or obligations incurred with the actual intent to hinder, delay, or defraud current or future creditors or transfers made or obligations incurred for less than reasonably equivalent value when the debtor was insolvent, or that rendered the debtor insolvent, inadequately capitalized or unable to pay its debts as they become due. An unpaid creditor or an entity acting on behalf of a creditor (including, without limitation, a trustee or debtor-in-possession in a bankruptcy by Trinity or Arcosa or any of their respective subsidiaries) may bring a lawsuit alleging that the Separation or any of the related transactions constituted a constructive fraudulent conveyance. If a court accepts these allegations, it could impose a number of remedies, including, without limitation, voiding the distribution and returning Arcosa's assets or Arcosa's shares and subject Trinity and/or Arcosa to liability.

The distribution of Arcosa common stock is also subject to state corporate distribution statutes. Under Delaware General Corporation Law ("DGCL"), a corporation may only pay dividends to its stockholders either (i) out of its surplus (net assets minus capital) or (ii) if there is no such surplus, out of its net profits for the fiscal year in which the dividend is declared and/or the preceding fiscal year. Although Trinity made the distribution of Arcosa common stock entirely out of surplus, Arcosa or Trinity cannot ensure that a court would reach the same conclusion in determining the availability of surplus for the separation and the distribution to Trinity's stockholders.

After the Separation, certain of Arcosa's executive officers and directors may have actual or potential conflicts of interest because of their previous positions at Trinity.

Because of their former positions with Trinity, certain of Arcosa's executive officers and directors own equity interests in Trinity. Although Arcosa's Board of Directors consists of a majority of directors who are independent, and Arcosa's executive officers who were former employees of Trinity ceased to be employees of Trinity upon the Separation, some of Arcosa's executive officers and directors will continue to have a financial interest in shares of Trinity common stock. Continuing ownership of shares of Trinity common stock and equity awards could create, or appear to create, potential conflicts of interest if Arcosa and Trinity pursue the same corporate opportunities or face decisions that could have different implications for Trinity and Arcosa.

Arcosa may have received better terms from unaffiliated third parties than the terms it receives in its agreements with Trinity.

The agreements Arcosa entered into with Trinity in connection with the Separation, including the separation and distribution agreement, transition services agreement, tax matters agreement, intellectual property matters agreement, and employee matters agreement, were prepared in the context of Arcosa's Separation from Trinity while Arcosa was still a wholly-owned subsidiary of Trinity. Accordingly, during the period in which the terms of those agreements were prepared, Arcosa did not have a board of directors or management team that was independent of Trinity. While the parties believe the terms reflect arm's-length terms, there can be no assurance that Arcosa would not have received better terms from unaffiliated third parties than the terms it receives in its agreements with Trinity.

Risks Related to Arcosa Common Stock

Arcosa's stock price may fluctuate significantly.

We cannot predict the prices at which shares of Arcosa common stock may trade. The trading and market price of Arcosa common stock may fluctuate significantly due to a number of factors, some of which may be beyond Arcosa's control, including:

- Arcosa's quarterly or annual earnings, or those of other companies in its industry;
- the failure of securities analysts to cover Arcosa common stock as a stand-alone company;
- actual or anticipated fluctuations in Arcosa's operating results;
- changes in earnings estimates by securities analysts or Arcosa's ability to meet those estimates;
- Arcosa's ability to meet its forward looking guidance;
- the operating and stock price performance of other comparable companies;
- overall market fluctuations and domestic and worldwide economic conditions; and
- other factors described in these "Risk Factors" and elsewhere in this Annual Report on Form 10-K.

Stock markets in general have experienced volatility that has often been unrelated to the operating performance of a particular company. Broad market and industry factors may materially harm the market price of Arcosa's common stock, regardless of Arcosa's operating performance. In the past, following periods of volatility in the market price of a company's securities, shareholder derivative lawsuits and/or securities class action litigation has often been instituted against that company. Such litigation, if instituted against us, could result in substantial costs and a diversion of management's attention and resources.

In addition, investors may have difficulty accurately valuing Arcosa common stock. Investors often value companies based on the stock prices and results of operations of other comparable companies. Investors may find it difficult to find comparable companies and to accurately value Arcosa common stock, which may cause the trading price of Arcosa common stock to fluctuate.

Future sales by us or our existing stockholders may cause our stock price to decline.

Any transfer or sales of substantial amounts of our common stock in the public market or the perception that such transfer or sales might occur may cause the market price of our common stock to decline, particularly when our trading volumes are low. As of January 31, 2019, we had an aggregate of 48.8 million shares of our common stock issued and outstanding. Shares will generally be freely tradeable without restriction or further registration under the Securities Act, except for shares owned by one of our "affiliates," as that term is defined in Rule 405 under the Securities Act. Shares held by "affiliates" may be sold in the public market if registered or if they qualify for an exemption from registration under Rule 144.

We also have a large stockholder base of institutional investors with significant holdings of Arcosa as a result of the Separation, and it is not possible to predict whether or not those stockholders could wish to sell their shares of our common stock. The sales of significant amounts of shares of our common stock or the perception in the market that this could occur may result in the lowering of the market price of our common stock.

Arcosa cannot guarantee the timing, amount, or payment of dividends on its common stock.

The timing, declaration, amount, and payment of future dividends to Arcosa's stockholders falls within the discretion of Arcosa's Board of Directors. The Board of Directors' decisions regarding the payment of future dividends will depend on many factors, such as Arcosa's financial condition, earnings, capital requirements, debt service obligations, covenants related to our debt service obligations, industry practice, legal requirements, regulatory constraints, and other factors that the Board of Directors deems relevant. Arcosa's ability to pay future dividends will depend on its ongoing ability to generate cash from operations and access to the capital markets. Arcosa cannot guarantee that it will continue to pay any dividend in the future.

Your percentage of ownership in Arcosa may be diluted in the future.

Your percentage ownership in Arcosa may be diluted because of equity issuances for acquisitions, capital market transactions, or otherwise, including, without limitation, equity awards that Arcosa grants to its directors, officers, and employees.

In addition, Arcosa's restated certificate of incorporation authorizes Arcosa to issue, without the approval of Arcosa's stockholders, one or more classes or series of preferred stock having such designation, powers, preferences, and relative, participating, optional, and other special rights, including preferences over Arcosa common stock respecting dividends and distributions, as Arcosa's Board of Directors generally may determine. The terms of one or more classes or series of preferred stock could dilute the voting power or reduce the value of Arcosa common stock. For example, Arcosa could grant the holders of preferred stock the right to elect some number of Arcosa's directors in all events or on the happening of specified events or to veto specified transactions. Similarly, the repurchase or redemption rights or liquidation preferences Arcosa could assign to holders of preferred stock could affect the residual value of Arcosa common stock.

Certain provisions in Arcosa's restated certificate of incorporation and amended and restated bylaws, and of Delaware law, may prevent or delay an acquisition of Arcosa, which could decrease the trading price of the common stock.

Arcosa's restated certificate of incorporation, amended and restated bylaws and Delaware law contain provisions that are intended to deter coercive takeover practices and inadequate takeover bids by making such practices or bids unacceptably expensive to the bidder and to encourage prospective acquirers to negotiate with Arcosa's Board of Directors rather than to attempt a hostile takeover. These provisions include, among others:

- rules regarding how stockholders may present proposals or nominate directors for election at stockholder meetings;
- the right of Arcosa's Board of Directors to issue preferred stock without stockholder approval;
- the ability of Arcosa's directors, and not stockholders, to fill vacancies (including those resulting from an enlargement of the Board of Directors) on Arcosa's Board of Directors;
- the initial division of Arcosa's Board of Directors into three classes of directors, with each class serving a staggered term; and
- a provision that directors serving on a classified board may be removed by stockholders only for cause.

In addition, Arcosa is subject to Section 203 of the DGCL. Section 203 provides that, subject to limited exceptions, persons that (without prior board approval) acquire, or are affiliated with a person that acquires, more than 15 percent of the outstanding voting stock of a Delaware corporation shall not engage in any business combination with that corporation, including by merger, consolidation or acquisitions of additional shares, for a three-year period following the date on which that person or its affiliate becomes the holder of more than 15 percent of the corporation's outstanding voting stock.

Arcosa believes these provisions will protect its stockholders from coercive or otherwise unfair takeover tactics by requiring potential acquirers to negotiate with Arcosa's Board of Directors and by providing Arcosa's Board of Directors with more time to assess any acquisition proposal. These provisions are not intended to make Arcosa immune from takeovers. However, these provisions will apply even if the offer may be considered beneficial by some stockholders and could delay or prevent an acquisition that Arcosa's Board of Directors determines is not in the best interests of Arcosa and its stockholders. These provisions may also prevent or discourage attempts to remove and replace incumbent directors.

In addition, an acquisition or further issuance of Arcosa's stock could trigger the application of Section 355(e) of the Code. Under the tax matters agreement, Arcosa would be required to indemnify Trinity for the tax imposed under Section 355(e) of the Code resulting from an acquisition or issuance of Arcosa stock, even if Arcosa did not participate in or otherwise facilitate the acquisition, and this indemnity obligation might discourage, delay or prevent a change of control that you may consider favorable.

Arcosa's restated certificate of incorporation and bylaws contain exclusive forum provisions that could limit an Arcosa stockholder's ability to choose a judicial forum that it finds favorable for certain disputes with Arcosa or its directors, officers, stockholders, employees, or agents, and may discourage lawsuits with respect to such claims.

Arcosa's restated certificate of incorporation and bylaws provide that unless the Board of Directors otherwise determines, the Court of Chancery of the State of Delaware will be the sole and exclusive forum for (i) any derivative action or proceeding brought on behalf of Arcosa, (ii) any action asserting a claim of breach of a fiduciary duty owed by any director, officer, stockholder, employee, or agent of Arcosa to Arcosa or Arcosa's stockholders, (iii) any action asserting a claim against Arcosa or any director, officer, stockholder, employee, or agent of Arcosa arising out of or relating to any provision of the DGCL or Arcosa's restated certificate of incorporation or bylaws, or (iv) any action asserting a claim against Arcosa or any director, officer, stockholder, employee or agent of Arcosa governed by the internal affairs doctrine, in all cases subject to the court having subject matter jurisdiction and personal jurisdiction over an indispensable party named as a defendant. These exclusive forum provisions may limit a stockholder's ability to bring a claim in a judicial forum that it finds favorable for such disputes and may discourage these types of lawsuits. Alternatively, if a court were to find the exclusive forum provisions inapplicable to, or unenforceable in respect of, one or more of the specified types of actions or proceedings, Arcosa may incur additional costs associated with resolving such matters in other jurisdictions.

Item 1B. *Unresolved Staff Comments.*

None.

Item 2. *Properties.*

Arcosa's corporate headquarters is located in Dallas, Texas. We principally operate in various locations throughout the U.S. and in Mexico. Our facilities are considered to be in good condition, well maintained, and adequate for our purposes. Information about the aggregate square footage of our facilities as of December 31, 2018 is as follows:

	Approximate Square Feet(1)		Approximate Square Feet Located In(1)		
	Owned	Leased	US	Mexico	Canada
Construction Products Group	625,300	61,100	636,200	—	50,200
Energy Equipment Group	2,265,300	448,500	1,679,100	1,034,700	—
Transportation Products Group	1,505,100	116,300	1,621,400	—	—
Corporate and Business Unit Offices(2)	20,200	50,200	50,200	20,200	—
	4,415,900	676,100	3,986,900	1,054,900	50,200

(1) Excludes non-operating facilities.
(2) Includes approximately 39,800 square feet of corporate office space under an 11 year lease that commenced on January 1, 2019.

Our estimated weighted average production capacity utilization for the twelve month period ended December 31, 2018 is reflected by the following percentages:

	Production Capacity Utilized(1)
Construction Products Group(2)	75%
Energy Equipment Group	70%
Transportation Products Group	55%

(1) Excludes non-operating facilities.
(2) Excludes facilities acquired on December 5, 2019 as a result of the ACG acquisition.

In our Construction Products Group, the Company estimates proven and probable aggregate reserves based on the results of drill sampling and geological analysis. As of December 31, 2018, the Company estimates that its proven and probable aggregate reserves from properties owned or leased prior to the acquisition of ACG exceed 300 million tons. Based on current production levels of approximately 9 million tons produced during the year ended December 31, 2018 from our legacy business, we estimate an average reserve life of at least 33 years across our legacy owned and leased mines. This estimate of reserve life varies across regions and plant sites. We have not yet finalized our evaluation of the reserves related to newly acquired owned or leased properties from the ACG acquisition.

Item 3. *Legal Proceedings.*

Arcosa is, from time to time, a party to various legal actions and claims incidental to its business, including those arising out of commercial disputes, alleged product defect and/or warranty claims, intellectual property matters, personal injury claims, environmental issues, employment and/or workplace-related matters, and various governmental regulations. It is the opinion of Arcosa that the outcome of such matters will not have a material adverse impact on the consolidated financial position, results of operations or cash flows of Arcosa. See Note 14 of the Consolidated and Combined Financial Statements for further information regarding legal proceedings.

Item 4. *Mine Safety Disclosures*

The information concerning mine safety violations or other regulatory matters required by Section 1503(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act and Item 104 of Regulation S-K is included in Exhibit 95 to this Form 10-K.

PART II

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

Shares of our common stock are listed on the New York Stock Exchange under the ticker symbol “ACA,” which began “regular-way” trading on November 1, 2018 immediately following the Separation. Our transfer agent and registrar is American Stock Transfer & Trust Company.

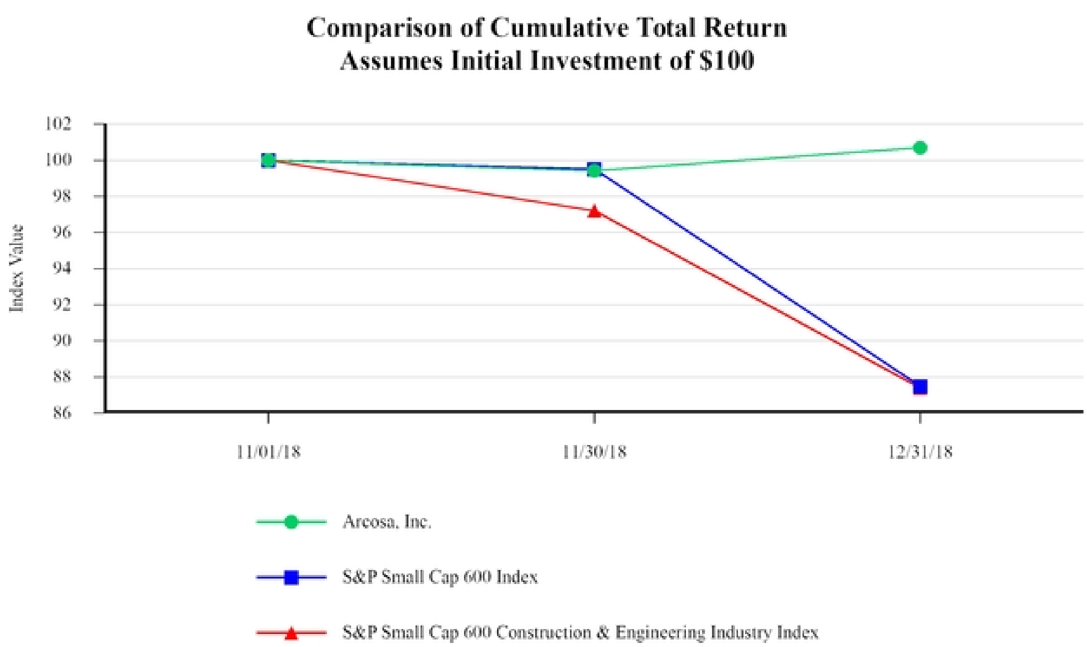
Holders

At December 31, 2018, we had 1,681 record holders of common stock. Because many of our shares are held by brokers and other institutions on behalf of stockholders, we are unable to estimate the total number of stockholders represented by these recordholders.

Performance Graph

The following Performance Graph and related information shall not be deemed “soliciting material” or to be “filed” with the SEC, nor shall such information be incorporated by reference into any future filing under the Securities Act of 1933 or Securities Exchange Act of 1934, each as amended, except to the extent that the Company specifically incorporates it by reference into such filing.

The following graph compares the Company's cumulative total stockholder return during the two-month period from November 1, 2018 (beginning of “regular-way” trading) through December 31, 2018 with the S&P Small Cap 600 Index and the S&P Small Cap 600 Construction & Engineering Industry Index. The data in the graph assumes $100 was invested in each index on November 1, 2018 and assumes the reinvestment of dividends.



	11/1/2018	11/30/18	12/31/2018
Arcosa, Inc.	$ 100	$ 99	$ 101
S&P Small Cap 600 Index	$ 100	$ 100	$ 88
S&P Small Cap 600 Construction & Engineering Industry Index	$ 100	$ 97	$ 87

Issuer Purchases of Equity Securities

This table provides information with respect to purchases by the Company of shares of its common stock during the quarter ended December 31, 2018:

Period	Number of Shares Purchased [(1)]	Average Price Paid per Share [(1)]	Total Number of Shares (or Units) Purchased as Part of Publicly Announced Plans or Programs [(2)]	Maximum Number (or Approximate Dollar Value) of Shares (or Units) that May Yet Be Purchased Under the Plans or Programs [(2)]
October 1, 2018 through October 31, 2018	—	$ —	—	$ —
November 1, 2018 through November 30, 2018	—	$ —	—	$ —
December 1, 2018 through December 31, 2018	136,037	$ 24.40	124,272	$ 47,002,522
Total	136,037	$ 24.40	124,272	$ 47,002,522

—

(1) These columns include the following transactions during the three months ended December 31, 2018: (i) the surrender to the Company of 11,765 shares of common stock to satisfy tax withholding obligations in connection with the vesting of restricted stock issued to employees and (ii) the purchase of 124,272 shares of common stock on the open market as part of the stock repurchase program.

(2) In December 2018, the Company’s Board of Directors authorized a new $50 million share repurchase program that expires December 31, 2020.

Item 6. *Selected Financial Data.*

The following financial information for the five years ended December 31, 2018 has been derived from our Consolidated and Combined Financial Statements. This information should be read in conjunction with Management's Discussion and Analysis of Financial Condition and Results of Operations and the Consolidated and Combined Financial Statements and notes thereto included elsewhere herein.

The selected historical consolidated and combined financial information as of December 31, 2018, 2017, and 2016 and for the years ended December 31, 2018, 2017, 2016, and 2015 has been derived from Arcosa’s audited Consolidated and Combined Financial Statements. The selected historical combined financial information as of December 31, 2015 and as of and for the year ended December 31, 2014 has been derived from Trinity’s underlying financial records and, in the opinion of Arcosa’s management, has been prepared on the same basis as the information included in the table derived from Arcosa’s audited Consolidated and Combined Financial Statements.

The selected historical combined financial data includes expenses of Trinity that were allocated to Arcosa for certain corporate functions including information technology, finance, legal, insurance, compliance, and human resources activities. These costs may not be representative of the future costs we will incur as an independent, publicly-traded company.

	Year Ended December 31,				
	2018	**2017**	**2016**	**2015**	**2014**
	(in millions, except per share data)				
Statement of Operations Data:					
Revenues	**$ 1,460.4**	$ 1,462.4	$ 1,704.0	$ 2,140.4	$ 1,966.8
Income before income taxes	**95.0**	130.1	197.2	219.2	241.5
Provision for income taxes	**19.3**	40.4	74.2	84.2	85.0
Net income	**$ 75.7**	$ 89.7	$ 123.0	$ 135.0	$ 156.5
Net income per common share:					
Basic	**$ 1.55**	$ 1.84	$ 2.52	$ 2.77	$ 3.21
Diluted	**$ 1.54**	$ 1.84	$ 2.52	$ 2.77	$ 3.21
Weighted average number of shares outstanding[1]:					
Basic	**48.8**	48.8	48.8	48.8	48.8
Diluted	**48.9**	48.8	48.8	48.8	48.8
Dividends declared per common share	**$ 0.05**	$ —	$ —	$ —	$ —
Balance Sheet Data:					
Total assets	**$ 2,172.2**	$ 1,602.5	$ 1,526.3	$ 1,603.7	$ 1,687.5
Debt	**$ 185.5**	$ 0.5	$ —	$ 0.5	$ 0.7

[1] For periods prior to the Separation, the denominator for basic and diluted net income per common share was calculated using the 48.8 million shares of common stock outstanding immediately following the Separation.

The Tax Cuts and Jobs Act (the "Act") was enacted on December 22, 2017. The Act reduced the U.S. federal corporate income tax rate from 35% to 21%, required companies to pay a one-time transition tax on earnings of certain foreign subsidiaries that were previously tax deferred and creates new taxes on certain foreign-sourced earnings. For the year ended December 31, 2017, we recognized a provisional benefit of $6.2 million. During the year ended December 31, 2018, we finalized the accounting for the enactment of the Act and recorded an additional $1.5 million benefit, primarily as a result of the true-up of our deferred taxes.

On January 1, 2018, the Company adopted Accounting Standards Update No. 2014-09, "Revenue from Contracts with Customers," (ASU 2014-09) which provides common revenue recognition guidance for U.S. generally accepted accounting principles. The primary impact to the adoption of ASU 2014-09 is a change in the timing of revenue recognition for our wind towers and certain utility structure product lines within our Energy Equipment Group. Previously, the Company recognized revenue when the product was delivered. Under ASU 2014-09, revenue is recognized over time as the products are manufactured. Revenue recognition policies in our other business segments remain substantially unchanged. See Note 1 "Overview and Summary of Significant Accounting Policies" of the Notes to Consolidated and Combined Financial Statements included in this report for further details.

Arcosa's goodwill was tested for impairment at the reporting unit level for each of the five years in the period ended December 31, 2018. Accordingly, we determined that the goodwill associated with certain operations included in the Energy Equipment Group was impaired in its entirety and recorded a pre-tax impairment charge of $89.5 million for the year ended December 31, 2015. See Note 6 "Goodwill" of the Notes to the Consolidated and Combined Financial Statements.

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

Management's Discussion and Analysis of Financial Condition and Results of Operations ("MD&A") is intended to provide a reader of our financial statements with a narrative from the perspective of our management on our financial condition, results of operations, liquidity, and certain other factors that may affect our future results. Our MD&A is presented in the following sections:

- Separation from Trinity
- Basis of Historical Presentation
- Executive Overview
- Results of Operations
- Liquidity and Capital Resources
- Contractual Obligations and Commercial Commitments
- Critical Accounting Policies and Estimates
- Recent Accounting Pronouncements
- Forward-Looking Statements

Our MD&A should be read in conjunction with our Consolidated and Combined Financial Statements and related Notes in Item 8, "Financial Statements and Supplementary Data," of this Annual Report on Form 10-K.

Separation from Trinity

Arcosa is a Delaware corporation and was incorporated in 2018 in connection with the Separation of Arcosa from Trinity on November 1, 2018 as an independent, publicly-traded company, listed on the New York Stock Exchange. At the time of the Separation, Arcosa consisted of certain of Trinity's former construction products, energy equipment, and transportation products businesses. The Separation was effectuated through a pro rata dividend distribution on November 1, 2018 of all of the then-outstanding shares of common stock of Arcosa to the holders of common stock of Trinity as of October 17, 2018, the record date for the distribution. Trinity stockholders received one share of Arcosa common stock for every three shares of Trinity common stock held as of the record date. The transaction was structured to be tax-free to both Trinity and Arcosa stockholders for U.S. federal income tax purposes.

Basis of Historical Presentation

The accompanying Consolidated and Combined Financial Statements present our historical financial position, results of operations, comprehensive income/loss, and cash flows in accordance with accounting principles generally accepted in the U.S. ("GAAP"). The combined financial statements for periods prior to the Separation were derived from Trinity's consolidated financial statements and accounting records and prepared in accordance with GAAP for the preparation of carved-out combined financial statements. Through the date of the Separation, all revenues and costs as well as assets and liabilities directly associated with Arcosa have been included in the combined financial statements. Prior to the Separation, the combined financial statements also included allocations of certain selling, engineering, and administrative expenses provided by Trinity to Arcosa and allocations of related assets, liabilities, and the Former Parent's net investment, as applicable. The allocations were determined on a reasonable basis; however, the amounts are not necessarily representative of the amounts that would have been reflected in the financial statements had the Company been an entity that operated independently of Trinity during the applicable periods. Related party allocations prior to the Separation, including the method for such allocation, are described further in Note 1, "Overview and Summary of Significant Accounting Policies" to the Consolidated and Combined Financial Statements.

Following the Separation, the consolidated financial statements include the accounts of Arcosa and those of our wholly-owned subsidiaries and no longer include any allocations from Trinity. Trinity will continue to provide some general and administrative functions on a transitional basis for a fee following the Separation.

Executive Overview

Financial Operations and Highlights

The Company's revenues for the year ended December 31, 2018 were $1.5 billion, essentially flat compared to the year ended December 31, 2017. Operating profit for year ended December 31, 2018 totaled $94.9 million, representing a decrease of 27.9% compared to the year ended December 31, 2017 primarily due to lower volumes in our Energy Equipment Group combined with an impairment charge of $23.2 million recognized in the third quarter in our Energy Equipment Group on businesses that were subsequently divested. Revenues in our Construction Products Group increased for the year ended December 31, 2018 primarily due to increased volumes driven by 2017 and 2018 acquisitions. Operating profit in our Construction Products Group decreased for the year ended December 31, 2018 primarily due to lower volumes in our legacy construction aggregates businesses and increased costs related to the fair value markup of acquired inventory. The Energy Equipment Group recorded lower revenues and operating profit for the year ended December 31, 2018 resulting primarily from a planned reduction in volumes in our wind towers product line, partially offset by an increase in revenues from our other product lines, and the impact of the $23.2 million impairment charge. Revenues and operating profit from the Transportation Products Group were higher for the year ended December 31, 2018 when compared to the year ended December 31, 2017 primarily related to increased volumes in both our inland barge and steel components product lines. The effect of the required adoption of new revenue accounting rules effective January 1, 2018 was to increase revenues and operating profit by $24.1 million and $6.2 million, respectively, for the year ended December 31, 2018 within our Energy Equipment Group. See Note 1 of the Consolidated and Combined Financial Statements.

Selling, engineering, and administrative expenses decreased by 5.6% for the year ended December 31, 2018, when compared to the prior year primarily due to lower compensation related expenses

Acquisition of ACG Materials

In December 2018, we completed the stock acquisition of ACG Materials ("ACG"), a producer of specialty materials and aggregates, which is included in our Construction Products Group. The purchase price of $309.1 million was funded with a combination of cash on-hand and a $180 million borrowing under the Company's credit facility. See Note 2 of the Consolidated and Combined Financial Statements.

Revolving Credit Facility

On November 1, 2018, the Company entered into a $400.0 million unsecured revolving credit facility that matures in November 2023. The revolving credit facility requires the maintenance of certain ratios related to leverage and interest coverage. Borrowings under the credit facility bear interest at a defined index rate plus a margin and are guaranteed by certain wholly-owned subsidiaries of the Company. As of December 31, 2018, we had $180.0 million of outstanding loans borrowed under the facility and there were approximately $47.7 million in letters of credit issued, leaving $172.3 million available for borrowing. See Note 7 of the Consolidated and Combined Financial Statements.

Other Acquisitions and Divestitures

In October and November 2018, the Company completed the divestiture of certain businesses whose revenues, approximately $20 million for the year ended December 31, 2018, are included in the Other component of the Energy Equipment Group. The net proceeds from these divestitures were not significant. Prior to the sale, the Company recognized a pre-tax impairment charge of $23.2 million on these businesses. See Note 2 of the Consolidated and Combined Financial Statements.

In March 2018, we completed the acquisition of certain assets of an inland barge business.

Unsatisfied Performance Obligations (Backlog)

As of December 31, 2018 and 2017 our backlog of firm orders was as follows:

	December 31, 2018	December 31, 2017
	(in millions)	
Energy Equipment Group:		
Wind towers and utility structures	**$ 633.1**	$ 899.0
Other	**$ 55.1**	*
Transportation Products Group:		
Inland barges	**$ 230.5**	$ 98.2

* Prior to January 2018, contracts within the Other businesses of the Energy Equipment Group did not meet the Company's historical definition of backlog, which was firm, non-cancellable orders. With the adoption in January 2018 of ASU 2014-09, Revenue from Contracts with Customers, these amounts are now included in backlog due to the fact that they contain substantive cancellation penalties.

Approximately 64% percent of unsatisfied performance obligations for our wind towers and utility structures in our Energy Equipment Group are expected to be delivered during the year ending December 31, 2019 with the remainder to be delivered through 2020. All of the unsatisfied performance obligations for our other business lines in our Energy Equipment Group are expected to be delivered during the year ending December 31, 2019. Approximately 94% percent of unsatisfied performance obligations for barges in our Transportation Products Group are expected to be delivered during the year ending December 31, 2019 with the remainder to be delivered through 2020.

Results of Operations

The following discussion of Arcosa's results of operations should be read in connection with "Forward-Looking Statements" and "Risk Factors". These items provide additional relevant information regarding the business of Arcosa, its strategy and various industry conditions which have a direct and significant impact on Arcosa's results of operations, as well as the risks associated with Arcosa's business.

Years Ended December 31, 2018, 2017, and 2016

Overall Summary

Revenues

	Year Ended December 31, 2018			Percent Change 2018 versus 2017
	Revenues			
	External	Intersegment	Total	
	($ in millions)			
Construction Products Group	$ 292.3	$ —	$ 292.3	12.9 %
Energy Equipment Group	776.7	3.4	780.1	(7.6)
Transportation Products Group	391.4	—	391.4	7.7
Segment Totals before Eliminations	1,460.4	3.4	1,463.8	(0.2)
Eliminations	—	(3.4)	(3.4)	
Consolidated Total	$ 1,460.4	$ —	$ 1,460.4	(0.1)

	Year Ended December 31, 2017			Percent Change 2017 versus 2016
	Revenues			
	External	Intersegment	Total	
	($ in millions)			
Construction Products Group	$ 258.9	$ —	$ 258.9	2.8 %
Energy Equipment Group	840.2	3.9	844.1	2.0
Transportation Products Group	363.3	—	363.3	(42.1)
Segment Totals before Eliminations	1,462.4	3.9	1,466.3	(14.1)
Eliminations	—	(3.9)	(3.9)	
Consolidated Total	$ 1,462.4	$ —	$ 1,462.4	(14.2)

	Year Ended December 31, 2016		
	Revenues		
	External	Intersegment	Total
	($ in millions)		
Construction Products Group	$ 251.9	$ —	$ 251.9
Energy Equipment Group	824.6	2.8	827.4
Transportation Products Group	627.5	—	627.5
Segment Totals before Eliminations	1,704.0	2.8	1,706.8
Eliminations	—	(2.8)	(2.8)
Consolidated Total	$ 1,704.0	$ —	$ 1,704.0

Our revenues for the year ended December 31, 2018, decreased by 0.1% from the previous year primarily as a result of reduced volumes in our Energy Equipment Group which were largely offset by increased volumes in both the Construction Products and Transportation Products Groups. Revenues from our Construction Products Group increased for the year ended December 31, 2018 primarily due the impact of acquisitions in 2018 and 2017 in both our construction aggregates and other product lines. In our Energy Equipment Group, revenues for the year ended December 31, 2018 decreased when compared to the prior year primarily due to a planned reduction in volumes in our wind towers product line partially offset by an increase in revenues from our other product lines. Revenues from our Transportation Products Group increased for the year ended December 31, 2018 when compared to the prior year primarily due to increased volumes in both our inland barge and steel components product lines.

Our revenues for the year ended December 31, 2017, decreased by 14.2% from the previous year primarily as a result of reduced volumes in our Transportation Products Group. Revenues from our Construction Products Group increased for the year ended December 31, 2017 primarily as a result of an acquisition in our trench shoring products business partially offset by lower volumes in the construction aggregates business. In our Energy Equipment Group, revenues for the year ended December 31, 2017 increased when compared to the prior year primarily as a result of an increase in revenues from our utility structures product line partially offset by lower delivery volumes in our wind towers product line.

Operating Costs

Operating costs are comprised of cost of revenues; selling, engineering, and administrative expenses; impairment charges; and gains or losses on property disposals.

	Year Ended December 31,		
	2018	2017	2016
	(in millions)		
Construction Products Group	$ **241.9**	$ 205.2	$ 192.6
Energy Equipment Group	**751.5**	765.7	739.7
Transportation Products Group	**343.0**	324.3	540.2
All Other	**0.1**	0.1	2.1
Segment Totals before Eliminations and Corporate Expenses	**1,336.5**	1,295.3	1,474.6
Corporate	**32.1**	39.3	31.4
Eliminations	**(3.1)**	(3.9)	(2.8)
Consolidated Total	$ **1,365.5**	$ 1,330.7	$ 1,503.2

Operating costs for the year ended December 31, 2018 increased by 2.6% over the previous year. The increase in operating costs in our Construction Products Group was primarily due to the impact of acquisitions in 2018 and 2017 in both our construction aggregates and other product lines. Operating costs for the Energy Equipment Group were lower primarily due to a planned reduction in volumes in our wind tower product line, partially offset by the impact of an impairment charge of $23.2 million on businesses that were subsequently divested. Operating costs for the Transportation Products Group were higher than the previous year due to increased deliveries in our inland barge and steel components product lines. Total selling, engineering, and administrative expenses decreased for the year ended December 31, 2018 by 5.6%, primarily due to lower compensation-related expenses.

Operating costs for the year ended December 31, 2017 decreased by 11.5% over the previous year primarily due to lower shipment levels in our Transportation Products Group. Total selling, engineering, and administrative expenses for the year ended December 31, 2017, increased by 10.7%, primarily due to higher performance-related compensation.

Operating Profit (Loss)

	Year Ended December 31,		
	2018	2017	2016
	(in millions)		
Construction Products Group	$ **50.4**	$ 53.7	$ 59.3
Energy Equipment Group	**28.6**	78.4	87.7
Transportation Products Group	**48.4**	39.0	87.3
All Other	**(0.1)**	(0.1)	(2.1)
Segment Totals before Eliminations and Corporate Expenses	**127.3**	171.0	232.2
Corporate	**(32.1)**	(39.3)	(31.4)
Eliminations	**(0.3)**	—	—
Consolidated Total	$ **94.9**	$ 131.7	$ 200.8

Our operating profit for the year ended December 31, 2018 decreased by 27.9% when compared to the prior year. Operating profit in the Construction Products Group decreased compared to the prior period primarily due to lower volumes in our legacy construction aggregates businesses and increased costs related to the fair value markup of acquired inventory. Operating profit in our Energy Equipment Group decreased for the year ended December 31, 2018 when compared to the prior year as a result of a planned reduction in volumes in our wind towers product line and the impact of an impairment charge of $23.2 million on businesses that were subsequently divested. Operating profit in our Transportation Products Group increased compared to the prior year due to increased deliveries in our inland barge and steel components product lines.

Our operating profit for the year ended December 31, 2017 decreased by 34.4% when compared to the prior year primarily as a result of lower shipment levels in our Transportation Products Group. Operating profit in the Construction Products Group decreased for the year ended December 31, 2017 when compared to the prior year primarily due to lower volumes in our construction aggregates business partially offset by higher volumes in the Group’s other businesses as a result of an acquisition in our trench shoring products business. Operating profit in our Energy Equipment Group decreased for the year ended December 31, 2017 when compared to the prior year as a result of lower delivery volumes in our wind towers business partially offset by an increase in revenues from our utility structures product line and other businesses.

For a further discussion of revenues, costs, and the operating results of individual segments, see *Segment Discussion* below.

Other Income and Expense

Other, net (income) expense consists of the following items:

	Year Ended December 31,		
	2018	2017	2016
		(in millions)	
Interest income	**$ (0.4)**	$ (0.1)	$ (0.1)
Foreign currency exchange transactions	**(0.2)**	2.2	4.8
Other	**(0.4)**	(0.5)	(1.1)
Other, net	**$ (1.0)**	$ 1.6	$ 3.6

Income Taxes

The income tax provision for the years ended December 31, 2018, 2017, and 2016 was $19.3 million, $40.4 million, and $74.2 million, respectively. The effective tax rate for the years ended December 31, 2018, 2017, and 2016 was 20.3%, 31.1%, and 37.6%, respectively. The effective tax rates differ from the federal tax rates of 21.0%, 35.0%, and 35.0%, respectively, due to the impact of the Act, state income taxes, excess tax deficiencies (benefits) related to equity compensation, and changes in valuation allowances on certain deferred tax assets.

See Note 9 of the Notes to the Consolidated and Combined Financial Statements for a further discussion of income taxes.

Segment Discussion

Construction Products Group

	Year Ended December 31,			Percent Change	
	2018	2017	2016	2018 versus 2017	2017 versus 2016
		($ in millions)			
Revenues:					
Construction aggregates	**$ 217.9**	$ 204.9	$ 213.4	**6.3 %**	(4.0)%
Other	**74.4**	54.0	38.5	**37.8**	40.3
Total revenues	**292.3**	258.9	251.9	**12.9**	2.8
Operating costs:					
Cost of revenues	**212.6**	178.6	170.8	**19.0**	4.6
Selling, engineering, and administrative costs	**29.3**	26.6	21.8	**10.2**	22.0
Operating profit	**$ 50.4**	$ 53.7	$ 59.3	**(6.1)**	(9.4)
Operating profit margin	**17.2%**	20.7%	23.5%		
Depreciation, depletion, and amortization	**$ 21.9**	$ 18.4	$ 16.0	**19.0**	15.0

Revenues and cost of revenues increased by 12.9% and 19.0%, respectively, for the year ended December 31, 2018, when compared to the same period in 2017. The increases in revenues and cost of revenues resulted primarily from 2018 revenues attributable to the 2017 acquisitions in both the lightweight and the trench shoring products businesses and the December 2018 acquisition of ACG. Selling, engineering, and administrative expenses increased by 10.2% for the year ended December 31, 2018 compared to the same period in 2017 primarily due to acquisitions. Operating profit decreased by 6.1% primarily due to lower volumes in our legacy construction aggregates businesses and increased costs related to the fair value markup of acquired inventory.

Revenues and cost of revenues increased by 2.8% and 4.6%, respectively, for the year ended December 31, 2017, when compared to the same period in 2016. Approximately 65% of the increase in revenues from other businesses and substantially all of the increase in segment cost of revenues was a result of the acquisition in our trench shoring business in the third quarter of 2017. The decrease in revenues in our construction aggregates business was primarily due to lower volumes. Selling, engineering, and administrative expenses increased by 22.0% for the year ended December 31, 2017 compared to the same period in 2016, approximately 30% of which related to increased compensation-related costs from the newly acquired shoring business and approximately 65% of which related to increased compensation-related costs of existing businesses.

Energy Equipment Group

	Year Ended December 31,			Percent Change	
	2018	2017	2016	2018 versus 2017	2017 versus 2016
		($ in millions)			
Revenues:					
Wind towers and utility structures	**$ 582.9**	$ 652.1	$ 641.1	**(10.6)%**	1.7 %
Other	**197.2**	192.0	186.3	**2.7**	3.1
Total revenues	**780.1**	844.1	827.4	**(7.6)**	2.0
Operating costs:					
Cost of revenues	**658.3**	691.7	670.3	**(4.8)**	3.2
Selling, engineering, and administrative costs	**70.0**	74.0	69.4	**(5.4)**	6.6
Impairment charge	**23.2**	—	—		
Operating profit	**$ 28.6**	$ 78.4	$ 87.7	**(63.5)**	(10.6)
Operating profit margin	**3.7%**	9.3%	10.6%		
Depreciation and amortization	**$ 29.7**	$ 30.2	$ 31.7	**(1.7)**	(4.7)

Revenues for the year ended December 31, 2018 decreased by 7.6% compared to the same period in 2017. Revenues from our wind towers and utility structures product lines decreased by 10.6% for the year ended December 31, 2018 driven primarily by a planned reduction in volume in our wind towers product line. Other revenues include results primarily from our storage and distribution containers. Revenues from other product lines for the year ended December 31, 2018 increased by 2.7% when compared to 2017 as a result of increased shipping volumes in our storage tanks product line. Cost of revenues decreased by 4.8% for the year ended December 31, 2018 compared to 2017, due to lower volumes in our wind tower product line, partially offset by a $6.1 million finished goods inventory write-off related to an order for a single customer in our utility structures business. Declines in revenues and cost of revenues on our wind towers and utility structures product lines were also partially offset by the required adoption of ASU 2014-09. See Note 1 of the Notes to the Combined and Consolidated Financial Statements for further discussion of the impact of this required change in accounting policy. Selling, engineering, and administrative costs decreased by 5.4% for the year ended December 31, 2018 primarily due to bad debt expense related to a single customer recognized in 2017. Operating profit for the year ended December 31, 2018 was also negatively impacted by an impairment charge of $23.2 million on businesses that were subsequently divested.

Revenues for the year ended December 31, 2017 increased by 2.0% compared to the same period in 2016. Revenues from our wind towers and utility structures product lines increased by 1.7% for the year ended December 31, 2017 driven by an approximately 10% increase in revenues in our utility structures product line due largely to improved pricing, partially offset by an approximately 5% decrease in revenues in our wind towers product line due to lower shipping volumes and pricing. Revenues from other product lines for the year ended December 31, 2017 increased by 3.1% when compared to 2016 as a result of increased shipping volumes. Cost of revenues increased by 3.2% for the year ended December 31, 2017, compared to 2016, due to higher volumes in our utility structures and other product lines. Selling, engineering, and administrative costs increased by 6.6% for the year ended December 31, 2017 approximately 60% of which related to increased bad debt expense primarily related to a single customer and approximately 20% of which related to increased compensation-related expenses.

As of December 31, 2018, the backlog for wind towers and utility structures was $633.1 million compared to $899.0 million as of December 31, 2017. Approximately 64% of our structural wind towers and utility structures backlog is expected to be delivered during the year ending December 31, 2019 with the remainder to be delivered through 2020. Future wind tower orders are subject to uncertainty following the phase-out of the PTC. As of December 31, 2018, the backlog for our other business lines in our Energy Equipment Group was $55.1 million, all of which is expected to be delivered during the year ending December 31, 2019.

Transportation Products Group

	Year Ended December 31,			Percent Change	
	2018	2017	2016	2018 versus 2017	2017 versus 2016
	($ in millions)				
Revenues:					
Inland barges	**$ 170.2**	$ 157.9	$ 403.1	**7.8 %**	(60.8)%
Steel components	**221.2**	205.4	224.4	**7.7**	(8.5)
Total revenues	**391.4**	363.3	627.5	**7.7**	(42.1)
Operating costs:					
Cost of revenues	**320.5**	301.2	515.5	**6.4**	(41.6)
Selling, engineering, and administrative costs	**22.5**	23.1	24.7	**(2.6)**	(6.5)
Operating profit	**$ 48.4**	$ 39.0	$ 87.3	**24.1**	(55.3)
Operating profit margin	**12.4%**	10.7%	13.9%		
Depreciation and amortization	**$ 15.5**	$ 17.1	$ 17.9	**(9.4)**	(4.5)

Revenues and cost of revenues increased for the year ended December 31, 2018 by 7.7% and 6.4%, respectively, compared to the same period in 2017 primarily from higher deliveries in both the inland barge and steel components product lines. Selling, engineering, and administrative costs decreased for the year ended December 31, 2018 compared to the same period in 2017.

Revenues and cost of revenues decreased for the year ended December 31, 2017 by 42.1% and 41.6%, respectively, compared to the same period in 2016 primarily from lower barge deliveries and steel components deliveries. Selling, engineering, and administrative costs decreased for the year ended December 31, 2017 compared to the same period in 2016.

As of December 31, 2018, the backlog for the Transportation Products Group was $230.5 million compared to $98.2 million as of December 31, 2017. Approximately 94% percent of backlog for barges in our Transportation Products Group is expected to be delivered during the year ending December 31, 2019 with the remainder to be delivered through 2020.

Corporate

	Year Ended December 31,			Percent Change	
	2018	2017	2016	2018 versus 2017	2017 versus 2016
	($ in millions)				
Corporate overhead costs	**$ 32.1**	$ 39.3	$ 31.4	**(18.3)%**	25.2%

Corporate overhead costs prior to the Separation consist of costs not previously allocated to Trinity's business units and have been allocated to Arcosa based on an analysis of each cost function and the relative benefits received by Arcosa for each of the periods using methods management believes are consistent and reasonable. See Note 1 of the Notes to the Consolidated and Combined Financial Statements for further information.

The decrease in corporate overhead costs of 18.3% for the year ended December 31, 2018 compared to 2017 is primarily due to lower compensation related expenses.

The increase in corporate overhead costs for the year ended December 31, 2017 compared to 2016 is primarily due to higher corporate level infrastructure costs and performance-based compensation-related expenses.

Liquidity and Capital Resources

Arcosa's liquidity requirements are primarily to fund our business operations, including capital expenditures, working capital requirements, and disciplined acquisitions. Our primary sources of liquidity are cash flows from operations, our existing cash balance and, as necessary, borrowings under the revolving credit facility and issuance of long-term debt or equity. To the extent we generate discretionary cash flow, we may consider using this additional cash flow to undertake new capital investment projects, execute strategic acquisitions, return capital to stockholders, or for general corporate purposes.

Pursuant to the separation and distribution agreement, on October 31, 2018, Trinity contributed $200 million of cash to Arcosa in connection with the Separation.

Revolving Credit Faciltiy

On November 1, 2018, the Company entered into a $400.0 million unsecured revolving credit facility that matures in November 2023. The interest rates under the facility are variable based on LIBOR or an alternate base rate plus a margin that is determined based on Arcosa's leverage as measured by a consolidated total indebtedness to consolidated EBITDA ratio, which is currently set at LIBOR plus 1.25%. A commitment fee accrues on the average daily unused portion of the revolving facility at the current rate of 0.20%. Borrowings under the credit facility are guaranteed by certain wholly-owned subsidiaries of the Company.

As of December 31, 2018, we had $180.0 million of outstanding loans borrowed under the facility and there were approximately $47.7 million in letters of credit issued, leaving $172.3 million available for borrowing.

The Company's revolving credit facility requires the maintenance of certain ratios related to leverage and interest coverage. As of December 31, 2018, we were in compliance with all such financial covenants.

Cash Flows

The following table summarizes our cash flows from operating, investing, and financing activities for each of the last three years:

	Year Ended December 31,		
	2018	2017	2016
		(in millions)	
Total cash provided by (required by):			
Operating activities	**$ 118.5**	$ 162.0	$ 227.8
Investing activities	**(364.5)**	(126.4)	(79.8)
Financing activities	**338.6**	(42.8)	(144.2)
Net increase (decrease) in cash and cash equivalents	**$ 92.6**	$ (7.2)	$ 3.8

2018 compared with 2017

Operating Activities. Net cash provided by operating activities for the year ended December 31, 2018 was $118.5 million compared to net cash provided by operating activities of $162.0 million for the same period in 2017. Cash flow provided by operating activities decreased primarily due to lower operating profit.

Receivables at December 31, 2018 increased by $80.9 million, or 48.9%, from December 31, 2017. While most of this increase relates to the timing of payments from trade receivables, approximately 10% of the increase is due to the recognition of receivables from the Former Parent which had previously been deemed settled in the period incurred in the historical combined financial statements. Raw materials inventory at December 31, 2018 increased by $37.1 million, or 40.6%, since December 31, 2017, while work in process inventory decreased by $13.9 million, or 29.4%. Finished goods inventory decreased by $17.5 million, or 16.2%, since December 31, 2017. Accounts payable increased by $20.6 million, while accrued liabilities increased by $20.2 million from December 31, 2017. We continually review reserves related to collectability as well as the adequacy of lower of cost or net realizable value with regard to accounts receivable and inventory. Certain amounts above may not be able to be recalculated from the information provided in the Consolidated and Combined Balance Sheets due to, among others, the impact of acquisitions.

Investing Activities. Net cash required by investing activities for the year ended December 31, 2018 was $364.5 million compared to $126.4 million for the year ended December 31, 2017. Capital expenditures for the year ended December 31, 2018 were $44.8 million. This compares to $82.4 million of capital expenditures for the same period in 2017. Full-year capital expenditures for 2019 are expected to range between $70 million and $80 million. We expect maintenance capital expenditures to be in the range of $60 million to $65 million and capital expenditures related to additional growth to be in the range of $10 million and $15 million. Proceeds from the sale of property, plant, and equipment and other assets totaled $10.2 million for the year ended December 31, 2018 compared to $3.5 million for the same period in 2017. Net cash required related to acquisitions amounted to $333.2 million for the year ended December 31, 2018 compared to $47.5 million for the same period in 2017. Net cash provided related to divestitures totaled $3.3 million for the year ended December 31, 2018. There was no divestiture activity for the year ended December 31, 2017.

Financing Activities. Net cash provided by financing activities during the year ended December 31, 2018 was $338.6 million compared to $42.8 million of net cash required by financing activities for the same period in 2017. During the year ended December 31, 2018, we borrowed $180.0 million and retired $0.3 million in debt. During the year ended December 31, 2017, we borrowed $0.6 million and retired $0.1 million in debt. We received a capital contribution of $200.0 million from Trinity during the year ended December 31, 2018. Net transfers to Trinity totaled $34.5 million for the year ended December 31, 2018 compared with $43.0 million for the year ended December 31, 2017.

2017 compared with 2016

Operating Activities. Net cash provided by operating activities for the year ended December 31, 2017 was $162.0 million compared to net cash provided by operating activities of $227.8 million for the same period in 2016. Cash flow provided by operating activities decreased primarily due to lower operating profit.

Receivables at December 31, 2017 increased by $26.4 million, or 19.9%, from December 31, 2016. Raw materials inventory at December 31, 2017 decreased by $2.5 million, or 2.7%, since December 31, 2016, while work in process inventory decreased by $16.5 million, or 25.9%. Finished goods inventory increased by $2.1 million, or 2.0%, since December 31, 2016. Accounts payable increased by $7.1 million, while accrued liabilities decreased by $4.9 million from December 31, 2016.

Investing Activities. Net cash required by investing activities for the year ended December 31, 2017 was $126.4 million compared to $79.8 million for the year ended December 31, 2016. Capital expenditures for the year ended December 31, 2017 were $82.4 million. This compares to $84.8 million of capital expenditures for the same period in 2016. Proceeds from the sale of property, plant, and equipment and other assets totaled $3.5 million for the year ended December 31, 2017 compared to $5.0 million for the same period in 2016. Net cash required related to acquisitions amounted to $47.5 million for the year ended December 31, 2017. There was no divestiture activity for the year ended December 31, 2017. There was no acquisition or divestiture activity for the year ended December 31, 2016.

Financing Activities. Net cash required by financing activities during the year ended December 31, 2017 was $42.8 million compared to $144.2 million of net cash required by financing activities for the same period in 2016. During the year ended December 31, 2017, we borrowed $0.6 million and retired $0.1 million in debt. During the year ended December 31, 2016, we retired $0.5 million in debt as scheduled. Net transfers to Trinity totaled $43.0 million for the year ended December 31, 2017 compared with $141.7 million for the year ended December 31, 2016.

Other Investing and Financing Activities

Dividends and Repurchase Program

In December 2018, the Company declared a quarterly dividend of $0.05 per share paid in January 2019.

In December 2018, the Company's Board of Directors authorized a $50.0 million share repurchase program effective December 5, 2018 through December 31, 2020. During December 2018, the Company repurchased 124,272 shares at a cost of $3.0 million. See Note 1 of the Notes to the Consolidated and Combined Financial Statements.

Off-Balance Sheet Arrangements

As of December 31, 2018, we had letters of credit issued under our revolving credit facility in an aggregate principal amount of $47.7 million, all of which are expected to expire in 2019. The majority of our letters of credit obligations support the Company's various insurance programs and warranty claims and generally renew by their terms each year. See Note 7 of the Notes to the Consolidated and Combined Financial Statements.

Derivative Instruments

In December 2018, the Company entered into an interest rate swap instrument, effective as of January 2, 2019 and expiring in 2023, to reduce the effect of changes in the variable interest rates associated with borrowings under the revolving credit facility. The instrument carried an initial notional amount of $100 million, thereby hedging the first $100 million of borrowings under the credit facility. The instrument effectively fixes the LIBOR component of the credit facility borrowings at 2.71%. As of December 31, 2018, the Company has recorded a liability of $1.2 million for the fair value of the instrument, all of which is recorded in accumulated other comprehensive loss. See Note 3 and Note 7 of the Notes to the Consolidated and Combined Financial Statements.

Stock-Based Compensation

We have a stock-based compensation plan covering our employees and our Board of Directors. See Note 12 of the Notes to the Consolidated and Combined Financial Statements.

Employee Retirement Plans

We sponsor an employee savings plan under the existing 401(k) plan that covers substantially all employees and includes both a company matching contribution and an annual retirement contribution of up to 3% each of eligible compensation based on our performance, as well as a Supplemental Profit Sharing Plan. Both the annual retirement contribution and the company matching contribution are discretionary, requiring board approval, and made annually with the investment of the funds directed by the participants.The Company also contributes to a multiemployer defined benefit pension plan under the terms of a collective-bargaining agreement that covers certain union-represented employees at one of our facilities. See Note 10 of the Notes to the Consolidated and Combined Financial Statements.

Contractual Obligations and Commercial Commitments

As of December 31, 2018, we had the following contractual obligations and commercial commitments:

Contractual Obligations and Commercial Commitments	Total	Payments Due by Period 1 Year or Less	2-3 Years	4-5 Years	After 5 Years
			(in millions)		
Debt	$ 185.5	$ 1.9	$ 2.3	$ 181.3	$ —
Operating leases	28.6	7.7	9.2	4.1	7.6
Obligations for purchase of goods and services	188.4	131.2	39.4	17.8	—
Other	0.4	0.1	0.3	—	—
Total	$ 402.9	$ 140.9	$ 51.2	$ 203.2	$ 7.6

As of December 31, 2018 and 2017, we had $0.5 million and $2.2 million, respectively, of tax liabilities, including interest and penalties, related to uncertain tax positions. Because of the high degree of uncertainty regarding the timing of future cash outflows associated with these liabilities, we are unable to estimate the years in which settlement will occur with the respective taxing authorities. See Note 14 of the Notes to the Consolidated and Combined Financial Statements.

Critical Accounting Policies and Estimates

MD&A discusses our Consolidated and Combined Financial Statements, which have been prepared in accordance with accounting principles generally accepted in the U.S. The preparation of these financial statements requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, the disclosure of contingent assets and liabilities at the date of the financial statements, and the reported amounts of revenues and expenses during the reporting period.

On an on-going basis, management evaluates its estimates and judgments, including those related to bad debts, inventories, property, plant, and equipment, goodwill, income taxes, warranty obligations, insurance, contingencies, and litigation. Management bases its estimates and judgments on historical experience and on various other factors that are believed to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying values of assets and liabilities that are not readily apparent from other sources. Actual results may differ from these estimates under different assumptions or conditions.

We believe the following critical accounting policies, among others, affect our more significant judgments and estimates used in the preparation of our Consolidated and Combined Financial Statements.

Revenue Recognition

Revenue is measured based on the allocation of the transaction price in a contract to satisfied performance obligations. The transaction price does not include any amounts collected on behalf of third parties. The Company recognizes revenue when it satisfies a performance obligation by transferring control over a product or service to a customer. The following is a description of principal activities from which the Company generates its revenue, separated by reportable segments. Payments for our products and services are generally due within normal commercial terms.

Construction Products Group

The Construction Products Group recognizes revenue when the customer has accepted the product and legal title of the product has passed to the customer.

Energy Equipment Group

Within the Energy Equipment Group, revenue is recognized for our wind tower and certain utility structure product lines over time as the products are manufactured using an input approach based on the costs incurred relative to the total estimated costs of production. We recognize revenue over time for these products as they are highly customized to the needs of an individual customer resulting in no alternative use to the Company if not purchased by the customer after the contract is executed, and we have the right to bill the customer for our work performed to date plus at least a reasonable profit margin for work performed. For all other products, revenue is recognized when the customer has accepted the product and legal title of the product has passed to the customer.

Transportation Products Group

The Transportation Products Group recognizes revenue when the customer has accepted the product and legal title of the product has passed to the customer.

Inventory

Inventories are valued at the lower of cost or net realizable value. Our policy related to excess and obsolete inventory requires an analysis of inventory at the business unit level on a quarterly basis and the recording of any required adjustments. In assessing the ultimate realization of inventories, we are required to make judgments as to future demand requirements and compare that with the current or committed inventory levels. It is possible that changes in required inventory reserves may occur in the future due to then current market conditions.

Long-lived Assets

We periodically evaluate the carrying value of long-lived assets to be held and used for potential impairment. The carrying value of long-lived assets to be held and used is considered impaired only when the carrying value is not recoverable through undiscounted future cash flows and the fair value of the assets is less than their carrying value. Fair value is determined primarily using the anticipated cash flows discounted at a rate commensurate with the risks involved or market quotes as available. Impairment losses on long-lived assets held for sale are determined in a similar manner, except that fair values are reduced by the estimated cost to dispose of the assets.

Goodwill

Goodwill is required to be tested for impairment annually, or on an interim basis whenever events or circumstances change, indicating that the carrying amount of the goodwill might be impaired. The quantitative goodwill impairment test is a two-step process with step one requiring the comparison of the reporting unit's estimated fair value with the carrying amount of its net assets. If necessary, step two of the impairment test determines the amount of goodwill impairment to be recorded when the reporting unit's recorded net assets exceed its fair value. Impairment is assessed at the "reporting unit" level by applying a fair value-based test for each unit with recorded goodwill. The estimates and judgments that most significantly affect the fair value calculations are assumptions, consisting of level three inputs, related to revenue and operating profit growth, discount rates, and exit multiples. Based on the Company's annual goodwill impairment test, performed at the reporting unit level as of December 31, 2018, the Company concluded that no impairment charges were determined to be necessary and that none of the reporting units evaluated was at risk of failing the first step of the goodwill impairment test. A reporting unit is considered to be at risk if its estimated fair value does not exceed the carrying value of its net assets by 10% or more. See Note 1 and Note 6 of the Notes to the Consolidated and Combined Financial Statements for further explanation.

Given the uncertainties of the economy and its potential impact on our businesses, there can be no assurance that our estimates and assumptions regarding the fair value of our reporting units, made for the purposes of the long-lived asset and goodwill impairment tests, will prove to be accurate predictions of the future. If our assumptions regarding forecasted cash flows are not achieved, it is possible that impairments of goodwill and long-lived assets may be required.

Warranties

The Company provides various express, limited product warranties that generally range from one to five years depending on the product. The warranty costs are estimated using a two-step approach. First, an engineering estimate is made for the cost of all claims that have been asserted by customers. Second, based on historical, accepted claims experience, a cost is accrued for all products still within a warranty period for which no claims have been filed. The Company provides for the estimated cost of product warranties at the time revenue is recognized related to products covered by warranties and assesses the adequacy of the resulting reserves on a quarterly basis.

Insurance

We are effectively self-insured for workers' compensation claims. A third-party administrator processes all such claims. We accrue our workers' compensation liability based upon independent actuarial studies. To the extent actuarial assumptions change and claims experience rates differ from historical rates, our liability may change.

Contingencies and Litigation

The Company is involved in claims and lawsuits incidental to our business. Based on information currently available with respect to such claims and lawsuits, including information on claims and lawsuits as to which the Company is aware but for which the Company has not been served with legal process, it is management's opinion that the ultimate outcome of all such claims and litigation, including settlements, in the aggregate will not have a material adverse effect on the Company's financial condition for purposes of financial reporting. However, resolution of certain claims or lawsuits by settlement or otherwise, could impact the operating results of the reporting period in which such resolution occurs.

Environmental

We are involved in various proceedings related to environmental matters. We have provided reserves to cover probable and estimable liabilities with respect to such proceedings, taking into account currently available information and our contractual recourse. However, estimates of future response costs are necessarily imprecise. Accordingly, there can be no assurance that we will not become involved in future environmental litigation or other proceedings or, if we were found to be responsible or liable in any litigation or proceeding, that such costs would not be material to us.

Income Taxes

Income taxes as presented herein attribute current and deferred income taxes of Trinity to Arcosa's standalone financial statements in a manner that is systematic, rational, and consistent with the asset and liability method prescribed by the Accounting Standards Codification Topic 740 — Income Taxes ("ASC 740"). Accordingly, Arcosa's income tax provision has been prepared following the separate return method. The separate return method applies ASC 740 to the standalone financial statements of each member of the consolidated group as if the group member were a separate taxpayer and a standalone enterprise. As a result, actual tax transactions included in the consolidated financial statements of Trinity may not be included in the separate financial statements of Arcosa. Similarly, the tax treatment of certain items reflected in the separate financial statements of Arcosa may not be reflected in the consolidated financial statements and tax returns of Trinity; therefore, such items as net operating losses, credit carryforwards, and valuation allowances may exist in the standalone financial statements that may or may not exist in Trinity's consolidated financial statements.

Deferred tax assets and liabilities are recognized for the future tax consequences attributable to temporary differences between the financial statement carrying amount of existing assets and liabilities and their respective tax bases and other tax attributes using currently enacted tax rates. The effect of a change in tax rates on deferred tax assets and liabilities is recognized in the provision for income taxes in the period that includes the enactment date. Management is required to estimate the timing of the recognition of deferred tax assets and liabilities, make assumptions about the future deductibility of deferred tax assets, and assess deferred tax liabilities based on enacted law and tax rates for the appropriate tax jurisdictions to determine the amount of such deferred tax assets and liabilities. Changes in the calculated deferred tax assets and liabilities may occur in certain circumstances including statutory income tax rate changes, statutory tax law changes, or changes in the structure or tax status of the Company. The Company assesses whether a valuation allowance should be established against its deferred tax assets based on consideration of all available evidence, both positive and negative, using a more likely than not standard. This assessment considers, among other matters, the nature, frequency, and severity of recent losses; a forecast of future profitability; the duration of statutory carryback and carryforward periods; the Company's experience with tax attributes expiring unused; and tax planning alternatives.

At December 31, 2018, the Company had $105.0 million federal consolidated net operating loss carryforwards and $2.7 million of tax-effected state loss carryforwards remaining. In addition, the Company had $23.9 million of foreign net operating loss carryforwards that will begin to expire in the year 2034. We have established a valuation allowance for state and foreign tax operating losses and credits that we have estimated may not be realizable.

At times, we may claim tax benefits that may be challenged by a tax authority. We recognize tax benefits only for tax positions more likely than not to be sustained upon examination by tax authorities. The amount recognized is measured as the largest amount of benefit that is greater than 50 percent likely to be realized upon settlement. A liability for "unrecognized tax benefits" is recorded for any tax benefits claimed in our tax returns that do not meet these recognition and measurement standards.

The Act was enacted on December 22, 2017. The Act reduced the U.S. federal corporate income tax rate from 35% to 21%, required companies to pay a one-time transition tax on earnings of certain foreign subsidiaries that were previously tax deferred, and created new taxes on certain foreign-sourced earnings. For the year ended December 31, 2017, we recognized a provisional benefit of $6.2 million. During the year ended December 31, 2018, we finalized the accounting for the enactment of the Act and recorded an additional $1.5 million benefit, primarily as a result of the true up of our deferred taxes.

Recent Accounting Pronouncements

See Note 1 of the Notes to the Consolidated and Combined Financial Statements for information about recent accounting pronouncements.

Forward-Looking Statements

This annual report on Form 10-K (or statements otherwise made by the Company or on the Company's behalf from time to time in other reports, filings with the Securities and Exchange Commission ("SEC"), news releases, conferences, internet postings or otherwise) contains forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. Any statements contained herein that are not historical facts are forward-looking statements and involve risks and uncertainties. These forward-looking statements include expectations, beliefs, plans, objectives, future financial performances, estimates, projections, goals, and forecasts. Arcosa uses the words "anticipates," "assumes," "believes," "estimates," "expects," "intends," "forecasts," "may," "will," "should," and similar expressions to identify these forward-looking statements. Potential factors, which could cause our actual results of operations to differ materially from those in the forward-looking statements include, among others:

- market conditions and customer demand for our business products and services;
- the cyclical nature of the industries in which we compete;
- variations in weather in areas where our construction products are sold, used, or installed;
- naturally-occurring events and disasters causing disruption to our manufacturing, product deliveries, and production capacity, thereby giving rise to an increase in expenses, loss of revenue, and property losses;
- our ability to identify, consummate, or integrate acquisition of new businesses or products;
- the timing of introduction of new products;
- the timing and delivery of customer orders or a breach of customer contracts;
- the credit worthiness of customers and their access to capital;
- product price changes;
- changes in mix of products sold;
- the costs incurred to align manufacturing capacity with demand and the extent of its utilization;
- the operating leverage and efficiencies that can be achieved by our manufacturing businesses;
- availability and costs of steel, component parts, supplies, and other raw materials;
- competition and other competitive factors, including U.S. and foreign trade practices;
- changing technologies;
- surcharges and other fees added to fixed pricing agreements for steel, component parts, supplies and other raw materials;
- interest rates and capital costs;
- counter-party risks for financial instruments;
- long-term funding of our operations;
- taxes;
- the stability of the governments and political and business conditions in certain foreign countries, particularly Mexico;
- changes in import and export quotas and regulations;
- business conditions in emerging economies;
- costs and results of litigation;
- changes in accounting standards or inaccurate estimates or assumptions in the application of accounting policies;
- legal, regulatory, and environmental issues, including compliance of our products with mandated specifications, standards, or testing criteria and obligations to remove and replace our products following installation or to recall our products and install different products manufactured by us or our competitors;
- actions by the executive and legislative branches of the U.S. government relative to federal government budgeting, taxation policies, government expenditures, U.S. borrowing/debt ceiling limits, and trade policies, including NAFTA and the USMCA;
- the use of social or digital media to disseminate false, misleading and/or unreliable or inaccurate information;
- the inability to sufficiently protect our intellectual property rights;
- if the Company does not realize some or all of the benefits expected to result from the Separation, or if such benefits are delayed;
- the Company's ongoing businesses may be adversely affected and subject to certain risks and consequences as a result of the Separation;
- if the distribution does not qualify as a transaction that is generally tax-free for U.S. federal income tax purposes, the Company's stockholders at the time of the distribution and the Company could be subject to significant tax liability; and
- if the Separation does not comply with state and federal fraudulent conveyance laws and legal dividend requirements.

Any forward-looking statement speaks only as of the date on which such statement is made. Arcosa undertakes no obligation to update any forward-looking statement to reflect events or circumstances after the date on which such statement is made. For a discussion of risks and uncertainties which could cause actual results to differ from those contained in the forward-looking statements, see Item 1A, "Risk Factors" included elsewhere herein.

Item 7A. ***Quantitative and Qualitative Disclosures About Market Risk.***

Our earnings could be affected by changes in interest rates due to the impact those changes have on our variable rate revolving credit facility. As of December 31, 2018, we had $180.0 million of outstanding loans borrowed under the facility. A 1% increase in interest rates would result in an increase in interest expense of approximately $0.8 million annually, after considering the effects of interest rate hedges.

In addition, we are subject to market risk related to our net investments in our foreign subsidiaries. The net investment in foreign subsidiaries as of December 31, 2018 was $158.5 million. The impact of such market risk exposures as a result of foreign exchange rate fluctuations has not been significant to Arcosa. See Note 8 of the Consolidated and Combined Financial Statements.

Item 8. ***Financial Statements***

Arcosa, Inc.

Index to Financial Statements

Report of Independent Registered Public Accounting Firm

The Board of Directors and Stockholders
Arcosa, Inc.

Opinion on the Financial Statements

We have audited the accompanying consolidated and combined balance sheets of Arcosa, Inc. and subsidiaries (the Company) as of December 31, 2018 and 2017, the related consolidated and combined statements of operations, comprehensive income, stockholders' equity and cash flows for each of the three years in the period ended December 31, 2018, and the related notes (collectively referred to as the "consolidated and combined financial statements"). In our opinion, the consolidated and combined financial statements present fairly, in all material respects, the financial position of the Company at December 31, 2018 and 2017, and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2018, in conformity with U.S. generally accepted accounting principles.

Basis for Opinion

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

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. As part of our audits we are required to obtain an understanding of internal control over financial reporting but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion.

Our audits included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that our audits provide a reasonable basis for our opinion.

/s/ ERNST & YOUNG LLP

We have served as the Company's auditor since 2015.

Dallas, Texas
February 28, 2019

Arcosa, Inc. and Subsidiaries
Consolidated and Combined Statements of Operations

	Year Ended December 31,		
	2018	**2017**	**2016**
	(in millions, except per share amounts)		
Revenues	**$ 1,460.4**	$ 1,462.4	$ 1,704.0
Operating costs:			
Cost of revenues	**1,188.4**	1,167.7	1,355.9
Selling, engineering, and administrative expenses	**153.9**	163.0	147.3
Impairment charge	**23.2**	—	—
	1,365.5	1,330.7	1,503.2
Total operating profit	**94.9**	131.7	200.8
Interest expense	**0.9**	—	—
Other, net (income) expense	**(1.0)**	1.6	3.6
	(0.1)	1.6	3.6
Income before income taxes	**95.0**	130.1	197.2
Provision (benefit) for income taxes:			
Current	**(3.1)**	30.1	51.1
Deferred	**22.4**	10.3	23.1
	19.3	40.4	74.2
Net income	**$ 75.7**	$ 89.7	$ 123.0
Net income per common share:			
Basic	**$ 1.55**	$ 1.84	$ 2.52
Diluted	**$ 1.54**	$ 1.84	$ 2.52
Weighted average number of shares outstanding[(1)]:			
Basic	**48.8**	48.8	48.8
Diluted	**48.9**	48.8	48.8
Dividends declared per common share	**$ 0.05**	$ —	$ —

[(1)] For periods prior to the Separation, the denominator for basic and diluted net income per common share was calculated using the 48.8 million shares of common stock outstanding immediately following the Separation.

See accompanying notes to consolidated and combined financial statements.

Arcosa, Inc. and Subsidiaries
Consolidated and Combined Statements of Comprehensive Income

	Year Ended December 31,		
	2018	**2017**	**2016**
		(in millions)	
Net income	**$ 75.7**	$ 89.7	$ 123.0
Other comprehensive income (loss):			
Derivative financial instruments:			
Unrealized losses arising during the period, net of tax benefit of $0.3, $0.0, and $0.0	**(0.9)**	—	—
Currency translation adjustment:			
Unrealized losses arising during the period, net of tax benefit of $0.3, $0.0, and $0.0	**—**	(1.4)	(0.1)
Reclassification adjustments for losses included in net income, net of tax benefit of $0.0, $0.0, and $0.0	**3.0**	—	—
	2.1	(1.4)	(0.1)
Comprehensive income	**$ 77.8**	$ 88.3	$ 122.9

See accompanying notes to consolidated and combined financial statements.

Arcosa, Inc. and Subsidiaries
Consolidated and Combined Balance Sheets

	December 31, 2018	December 31, 2017
	(in millions, except per share amounts)	
ASSETS		
Current assets:		
Cash and cash equivalents	**$ 99.4**	$ 6.8
Receivables, net of allowance for doubtful accounts of $8.7 and $8.6	**291.4**	165.3
Inventories:		
Raw materials and supplies	**128.4**	91.3
Work in process	**33.3**	47.2
Finished goods	**90.8**	108.3
	252.5	246.8
Other	**23.7**	9.9
Total current assets	**667.0**	428.8
Property, plant, and equipment, net	**803.0**	583.1
Goodwill	**615.2**	494.3
Deferred income taxes	**6.9**	8.8
Other assets	**80.1**	87.5
	$ 2,172.2	$ 1,602.5
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	**$ 86.2**	$ 56.0
Accrued liabilities	**146.2**	118.0
Current portion of long-term debt	**1.8**	0.1
Total current liabilities	**234.2**	174.1
Debt	**183.7**	0.4
Deferred income taxes	**58.3**	11.0
Other liabilities	**11.5**	9.1
	487.7	194.6
Stockholders' equity:		
Former Parent's net investment	**—**	1,427.7
Common stock, $0.01 par value – 200.0 shares authorized at December 31, 2018; 0.0 at December 31, 2017; 48.8 shares issued and outstanding at December 31, 2018; 0.0 at December 31, 2017	**0.5**	—
Capital in excess of par value	**1,685.7**	—
Retained earnings	**19.5**	—
Accumulated other comprehensive loss	**(17.7)**	(19.8)
Treasury stock – 0.1 shares at December 31, 2018; 0.0 at December 31, 2017	**(3.5)**	—
	1,684.5	1,407.9
	$ 2,172.2	$ 1,602.5

See accompanying notes to consolidated and combined financial statements.

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Arcosa, Inc. and Subsidiaries
Consolidated and Combined Statements of Cash Flows

	Year Ended December 31,		
	2018	**2017**	**2016**
		(in millions)	
Operating activities:			
Net income	**$ 75.7**	$ 89.7	$ 123.0
Adjustments to reconcile net income to net cash provided by operating activities:			
Depreciation, depletion, and amortization	**67.6**	65.7	65.6
Impairment charge	**23.2**	—	—
Stock-based compensation expense	**9.9**	9.0	10.5
Provision for deferred income taxes	**22.4**	10.3	23.1
Gains on disposition of property and other assets	**(1.1)**	(1.4)	(1.3)
(Increase) decrease in other assets	**6.4**	(3.3)	(4.3)
Increase (decrease) in other liabilities	**(1.7)**	(7.6)	0.9
Other	**(3.1)**	0.1	—
Changes in current assets and liabilities:			
(Increase) decrease in receivables	**(80.9)**	(26.4)	0.3
(Increase) decrease in inventories	**(29.9)**	24.3	56.4
(Increase) decrease in other current assets	**(10.8)**	(0.6)	3.1
Increase (decrease) in accounts payable	**20.6**	7.1	(20.5)
Increase (decrease) in accrued liabilities	**20.2**	(4.9)	(29.0)
Net cash provided by operating activities	**118.5**	162.0	227.8
Investing activities:			
Proceeds from disposition of property and other assets	**10.2**	3.5	5.0
Capital expenditures	**(44.8)**	(82.4)	(84.8)
Acquisitions, net of cash acquired	**(333.2)**	(47.5)	—
Proceeds from divestitures	**3.3**	—	—
Net cash required by investing activities	**(364.5)**	(126.4)	(79.8)
Financing activities:			
Payments to retire debt	**(0.3)**	(0.1)	(0.5)
Proceeds from issuance of debt	**180.0**	0.6	—
Shares repurchased	**(3.5)**	—	—
Capital contribution from Former Parent	**200.0**	—	—
Net transfers from/(to) Former Parent and affiliates	**(34.5)**	(43.0)	(141.7)
Other	**(3.1)**	(0.3)	(2.0)
Net cash provided by (required by) financing activities	**338.6**	(42.8)	(144.2)
Net increase (decrease) in cash and cash equivalents	**92.6**	(7.2)	3.8
Cash and cash equivalents at beginning of period	**6.8**	14.0	10.2
Cash and cash equivalents at end of period	**$ 99.4**	$ 6.8	$ 14.0

Income tax payments (refunds) for the years ended December 31, 2018, 2017, and 2016 were $0.6 million, $0.0 million, and $0.0 million, respectively.

Non-cash investing activity: The Company's Former Parent issued shares of its common stock valued at $14.7 million in connection with a 2017 acquisition. See Note 2 Acquisitions and Divestitures.

See accompanying notes to consolidated and combined financial statements.

Arcosa, Inc. and Subsidiaries
Consolidated and Combined Statements of Stockholders' Equity

	Former Parent's Net Investment	Common Stock		Capital in Excess of Par Value	Retained Earnings	Accumulated Other Comprehensive Loss	Treasury Stock		Total Stockholders' Equity
		Shares	$0.01 Par Value				Shares	Amount	
					(in millions, except par value)				
Balances at December 31, 2015	$ 1,386.6	—	$ —	$ —	$ —	$ (18.3)	—	$ —	$ 1,368.3
Net income	123.0	—	—	—	—	—	—	—	123.0
Other comprehensive loss	—	—	—	—	—	(0.1)	—	—	(0.1)
Net transfers from Former Parent and affiliates	(159.9)	—	—	—	—	—	—	—	(159.9)
Restricted shares, net	10.5	—	—	—	—	—	—	—	10.5
Balances at December 31, 2016	$ 1,360.2	—	$ —	$ —	$ —	$ (18.4)	—	$ —	$ 1,341.8
Net income	89.7	—	—	—	—	—	—	—	89.7
Other comprehensive loss	—	—	—	—	—	(1.4)	—	—	(1.4)
Net transfers from Former Parent and affiliates	(31.2)	—	—	—	—	—	—	—	(31.2)
Restricted shares, net	9.0	—	—	—	—	—	—	—	9.0
Balances at December 31, 2017	$ 1,427.7	—	$ —	$ —	$ —	$ (19.8)	—	$ —	$ 1,407.9
Cumulative effect of adopting new accounting standards (see Note 1)	(4.0)	—	—	—	—	—	—	—	(4.0)
Net income	53.8	—	—	—	21.9	—	—	—	75.7
Other comprehensive income	—	—	—	—	—	2.1	—	—	2.1
Capital contribution from Former Parent	200.0	—	—	—	—	—	—	—	200.0
Net transfers from Former Parent and affiliates	(1.2)	—	—	—	—	—	—	—	(1.2)
Distribution by Former Parent	(1,684.6)	48.8	0.5	1,684.1	—	—	—	—	—
Cash dividends on common stock		—	—	—	(2.4)	—	—	—	(2.4)
Restricted shares, net	8.3	—	—	1.6	—	—	—	(0.5)	9.4
Shares repurchased	—	—	—	—	—	—	(0.1)	(3.0)	(3.0)
Balances at December 31, 2018	$ —	48.8	$ 0.5	$ 1,685.7	$ 19.5	$ (17.7)	(0.1)	$ (3.5)	$ 1,684.5

See accompanying notes to consolidated and combined financial statements.

Arcosa, Inc. and Subsidiaries
Notes to Consolidated and Combined Financial Statements

Note 1. Overview and Summary of Significant Accounting Policies

Basis of Presentation

On November 1, 2018, Arcosa, Inc. and its consolidated subsidiaries ("Arcosa," the “Company,” "we," or "our") became an independent publicly-traded company as a result of the distribution by Trinity Industries, Inc. (“Trinity” or "Former Parent") of 100% of the outstanding shares of Arcosa, Inc. to Trinity’s stockholders (the “Separation”). Trinity stockholders received one share of Arcosa, Inc. common stock for every three shares of Trinity common stock held as of 5:00 p.m. local New York City time on October 17, 2018, the record date for the distribution. The transaction was structured to be tax-free to both Trinity and Arcosa stockholders for U.S. federal income tax purposes.

The accompanying Consolidated and Combined Financial Statements present our historical financial position, results of operations, comprehensive income/loss, and cash flows in accordance with accounting principles generally accepted in the U.S. (“GAAP”). The combined financial statements for periods prior to the Separation were derived from Trinity’s consolidated financial statements and accounting records and prepared in accordance with GAAP for the preparation of carved-out combined financial statements. Through the date of the Separation, all revenues and costs as well as assets and liabilities directly associated with Arcosa have been included in the combined financial statements. Prior to the Separation, the combined financial statements also included allocations of certain selling, engineering, and administrative expenses provided by Trinity to Arcosa and allocations of related assets, liabilities, and the Former Parent’s net investment, as applicable. The allocations were determined on a reasonable basis; however, the amounts are not necessarily representative of the amounts that would have been reflected in the financial statements had the Company been an entity that operated independently of Trinity during the applicable periods.

Following the Separation, the consolidated financial statements include the accounts of the Company and its subsidiaries and no longer include any allocations from Trinity.

All normal and recurring adjustments necessary for a fair presentation of the financial position of the Company and the results of operations and cash flows have been made in conformity with GAAP. All significant intercompany accounts and transactions have been eliminated.

Relationship with Former Parent and Related Entities

Prior to the Separation, Arcosa was managed and operated in the normal course of business with other business units of Trinity. The accompanying combined financial results for periods prior to the Separation include sales and purchase transactions with Trinity and its subsidiaries in addition to certain shared costs which have been allocated to Arcosa and reflected as expenses in the Combined Statements of Operations. Transactions and allocations between Trinity and Arcosa are reflected in equity in the Combined Balance Sheets as Former Parent's net investment and in the Combined Statements of Cash Flows as a financing activity in Net transfers from/(to) Former Parent and affiliates. All transactions and allocations between Trinity and Arcosa prior to the Separation have been deemed paid between the parties, in cash, in the period in which the transaction or allocation was recorded in the Combined Financial Statements. Disbursements and cash receipts were made through centralized accounts payable and cash collection systems, respectively, which were operated by Trinity. As cash was disbursed and received by Trinity, it was accounted for by Arcosa through the Former Parent's net investment account. Allocations of current income taxes receivable or payable prior to the Separation were deemed to have been remitted to Arcosa or Trinity, respectively, in cash, in the period to which the receivable or payable applies.

Corporate Costs/Allocations

The combined financial results include an allocation of costs related to certain corporate functions incurred by Trinity for services that are provided to or on behalf of Arcosa. Corporate costs have been allocated to Arcosa using methods management believes are consistent and reasonable. Such cost allocations to Arcosa consist of (1) shared service charges and (2) corporate overhead costs. Shared service charges consist of monthly charges to each Trinity business unit for certain corporate functions such as information technology, human resources, and legal based on usage rates and activity units. Corporate overhead costs consist of costs not previously allocated to Trinity's business units and were allocated to Arcosa based on an analysis of each cost function and the relative benefits received by Arcosa for each of the periods. Corporate overhead costs allocated to Arcosa prior to the Separation totaled $26.0 million, $39.3 million, and $31.4 million for the ten months ended October 31, 2018 and the years ended December 31, 2017 and 2016, respectively. Corporate overhead costs are included in selling, engineering, and administrative expenses in the accompanying Consolidated and Combined Statements of Operations. Also see Note 4 Segment Information.

The Consolidated and Combined Financial Statements of Arcosa may not include all of the actual expenses that would have been incurred had we operated as a standalone company during the periods presented and may not reflect our combined results of operations, financial position, and cash flows had we operated as a standalone company during the periods presented. Actual costs that would have been incurred if we had operated as a standalone company would depend on multiple factors, including organizational structure and strategic decisions made in various areas, including information technology and infrastructure. We also may incur additional costs associated with being a standalone, independent, publicly-traded company that were not included in the expense allocations and, therefore, would result in additional costs that are not reflected in our historical results of operations, financial position, and cash flows.

Other Transactions with Trinity Businesses

Other transactions with Trinity businesses for purchases or sales of products and services are as follows:

	Year Ended December 31,		
	2018	**2017**	**2016**
		(in millions)	
Sales by Arcosa to Trinity businesses	**$ 160.3**	$ 148.3	$ 187.2
Purchases by Arcosa from Trinity businesses	**$ 44.5**	$ 53.2	$ 44.2

Stockholders' Equity

In December 2018, the Company’s Board of Directors authorized a $50 million share repurchase program effective December 5, 2018 through December 31, 2020. During December 2018, the Company repurchased 124,272 shares at a cost of $3.0 million.

Prior to the Separation, the Company filed its Restated Certificate of Incorporation which authorizes the issuance of 200 million shares of common stock at a par value of $0.01 per share.

Revenue Recognition

Revenue is measured based on the allocation of the transaction price in a contract to satisfied performance obligations. The transaction price does not include any amounts collected on behalf of third parties. The Company recognizes revenue when it satisfies a performance obligation by transferring control over a product or service to a customer. The following is a description of principal activities from which the Company generates its revenue, separated by reportable segments. Payments for our products and services are generally due within normal commercial terms. For a further discussion regarding the Company’s reportable segments, see Note 4 Segment Information.

Construction Products Group

The Construction Products Group recognizes revenue when the customer has accepted the product and legal title of the product has passed to the customer.

Energy Equipment Group

Within the Energy Equipment Group, revenue is recognized for our wind tower and certain utility structure product lines over time as the products are manufactured using an input approach based on the costs incurred relative to the total estimated costs of production. We recognize revenue over time for these products as they are highly customized to the needs of an individual customer resulting in no alternative use to the Company if not purchased by the customer after the contract is executed, and we have the right to bill the customer for our work performed to date plus at least a reasonable profit margin for work performed. For all other products, revenue is recognized when the customer has accepted the product and legal title of the product has passed to the customer.

Transportation Products Group

The Transportation Products Group recognizes revenue when the customer has accepted the product and legal title of the product has passed to the customer.

Unsatisfied Performance Obligations

The following table includes estimated revenue expected to be recognized in future periods related to performance obligations that are unsatisfied or partially satisfied as of December 31, 2018 and the percentage of the outstanding performance obligations as of December 31, 2018 expected to be delivered during 2019:

	Unsatisfied performance obligations at December 31, 2018	
	Total Amount	Percent expected to be delivered in 2019
	(in millions)	
Energy Equipment Group:		
Wind towers and utility structures	$ 633.1	64.0%
Other	$ 55.1	100.0%
Transportation Products Group:		
Inland barges	$ 230.5	94.0%

The remainder of the unsatisfied performance obligations for wind towers and utility structures and inland barges are expected to be delivered through 2020.

Income Taxes

Income taxes as presented in the Consolidated and Combined Financial Statements attribute current and deferred income taxes of Trinity to Arcosa's standalone financial statements in a manner that is systematic, rational, and consistent with the asset and liability method prescribed by the Accounting Standards Codification Topic 740 - Income Taxes ("ASC 740"). Accordingly, Arcosa's income tax provision has been prepared following the separate return method. The separate return method applies ASC 740 to the standalone financial statements of each member of the consolidated group as if the group member were a separate taxpayer and a standalone enterprise. As a result, actual tax transactions included in the consolidated financial statements of Trinity may not be included in the Consolidated and Combined Financial Statements of Arcosa. Similarly, the tax treatment of certain items reflected in the Consolidated and Combined Financial Statements of Arcosa may not be reflected in the consolidated financial statements and tax returns of Trinity; therefore, such items as net operating losses, credit carryforwards, and valuation allowances may exist in the standalone financial statements that may or may not exist in Trinity's consolidated financial statements.

The liability method is used to account for income taxes. Deferred income taxes represent the tax effects of temporary differences between the carrying amounts of assets and liabilities for financial reporting purposes and the amounts used for income tax purposes. Valuation allowances reduce deferred tax assets to an amount that will more likely than not be realized.

The Company regularly evaluates the likelihood of realization of tax benefits derived from positions it has taken in various federal and state filings after consideration of all relevant facts, circumstances, and available information. For those tax positions that are deemed more likely than not to be sustained, the Company recognizes the benefit it believes is cumulatively greater than 50% likely to be realized. To the extent the Company were to prevail in matters for which accruals have been established or be required to pay amounts in excess of recorded reserves, the effective tax rate in a given financial statement period could be materially impacted.

Financial Instruments

The Company considers all highly liquid debt instruments to be either cash and cash equivalents if purchased with a maturity of three months or less. Financial instruments that potentially subject the Company to a concentration of credit risk are primarily cash investments and receivables. The Company places its cash investments in bank deposits and investment grade, short-term debt instruments and limits the amount of credit exposure to any one commercial issuer. We seek to limit concentrations of credit risk with respect to receivables with control procedures that monitor the credit worthiness of customers, the large number of customers in the Company's customer base, and their dispersion across different industries and geographic areas. As receivables are generally unsecured, the Company maintains an allowance for doubtful accounts based upon the expected collectibility of all receivables. Receivable balances determined to be uncollectible are charged against the allowance. The carrying values of cash, receivables, and accounts payable are considered to be representative of their respective fair values.

Inventories

Inventories are valued at the lower of cost or net realizable value. Cost is determined principally on the first in first out method. The value of inventory is adjusted for damaged, obsolete, excess, or slow-moving inventory. Work in process and finished goods include material, labor, and overhead. During the year ended December 31, 2018, the Company recorded a $6.1 million write-off on finished goods inventory related to an order for a single customer in our utility structures business.

Property, Plant, and Equipment

Property, plant, and equipment are stated at cost and depreciated over their estimated useful lives using the straight-line method. The estimated useful lives are: buildings and improvements - 3 to 30 years; leasehold improvements - the lesser of the term of the lease or 7 years; machinery and equipment - 2 to 10 years; and information systems hardware and software - 2 to 5 years. The costs of ordinary maintenance and repair are charged to operating costs as incurred.

Long-lived Assets

The Company periodically evaluates the carrying value of long-lived assets to be held and used for potential impairment. The carrying value of long-lived assets to be held and used is considered impaired only when the carrying value is not recoverable through undiscounted future cash flows and the fair value of the assets is less than their carrying value. Fair value is determined primarily using the anticipated cash flows discounted at a rate commensurate with the risks involved or market quotes as available. Impairment losses on long-lived assets held for sale are determined in a similar manner, except that fair values are reduced by the estimated cost to dispose of the assets. See Note 2 Acquisitions and Divestitures for discussion of the impairment charge recorded during the year on businesses that were subsequently divested. Based on the Company's evaluations, no additional impairment charges were determined to be necessary as of December 31, 2018 and 2017.

Goodwill and Intangible Assets

Goodwill is required to be tested for impairment annually, or on an interim basis whenever events or circumstances change, indicating that the carrying amount of the goodwill might be impaired. The quantitative goodwill impairment test is a two-step process with step one requiring the comparison of the reporting unit's estimated fair value with the carrying amount of its net assets. If necessary, step two of the impairment test determines the amount of goodwill impairment to be recorded when the reporting unit's recorded net assets exceed its fair value. Impairment is assessed at the “reporting unit” level by applying a fair value-based test for each unit with recorded goodwill. The estimates and judgments that most significantly affect the fair value calculations are assumptions, consisting of level three inputs, related to revenue and operating profit growth, discount rates, and exit multiples. As of December 31, 2018 and 2017, the Company's annual impairment test of goodwill was completed at the reporting unit level and no impairment charges were determined to be necessary.

The net book value of intangible assets totaled $55.2 million and $64.4 million as of December 31, 2018 and 2017, respectively, and included $34.1 million not subject to amortization related to an acquired trademark. The remaining intangible assets with a gross cost of $44.6 million and $55.0 million as of December 31, 2018 and 2017, are amortized over their estimated useful lives ranging from 1 to 12 years, and primarily relate to acquired customer relationships. Aggregate amortization expense from intangible assets was $4.7 million, $5.0 million, and $5.3 million for the years ended December 31, 2018, 2017 and 2016, respectively. Intangible assets were evaluated for potential impairment as of December 31, 2018 and 2017.

Insurance

The Company is effectively self-insured for workers' compensation claims. A third party administrator is used to process claims. We accrue our workers' compensation liability based upon independent actuarial studies.

Warranties

The Company provides various express, limited product warranties that generally range from one to five years depending on the product. The warranty costs are estimated using a two-step approach. First, an engineering estimate is made for the cost of all claims that have been asserted by customers. Second, based on historical, accepted claims experience, a cost is accrued for all products still within a warranty period for which no claims have been filed. The Company provides for the estimated cost of product warranties at the time revenue is recognized related to products covered by warranties and assesses the adequacy of the resulting reserves on a quarterly basis. As of December 31, 2018 and 2017, the Company's accrual for warranty costs was $2.9 million and $2.6 million, respectively, which is included in accrued liabilities within the Consolidated and Combined Balance Sheets.

Derivative Instruments

The Company may, from time to time, use derivative instruments to mitigate the impact of changes in interest rates or changes in foreign currency exchange rates. For derivative instruments designated as hedges, the Company formally documents the relationship between the derivative instrument and the hedged item, as well as the risk management objective and strategy for the use of the derivative instrument. This documentation includes linking the derivative to specific assets or liabilities on the balance sheet, commitments, or forecasted transactions. At the time a derivative instrument is entered into, and at least quarterly thereafter, the Company assesses whether the derivative instrument is effective in offsetting the changes in fair value or cash flows of the hedged item. Any change in the fair value of the hedged instrument is recorded in accumulated other comprehensive loss ("AOCL") as a separate component of stockholders' equity and reclassified into earnings in the period during which the hedged transaction affects earnings. The Company monitors its derivative positions and the credit ratings of its counterparties and does not anticipate losses due to counterparties' non-performance.

Foreign Currency Translation

Certain operations outside the U.S. prepare financial statements in currencies other than the U.S. dollar. The income statement amounts are translated at average exchange rates for the year, while the assets and liabilities are translated at year-end exchange rates. Translation adjustments are accumulated as a separate component of stockholders' equity and other comprehensive income. The functional currency of our Mexico operations is considered to be the U.S. dollar. The functional currency of our Canadian operations is considered to be the Canadian dollar.

Other Comprehensive Income (Loss)

Other comprehensive income (loss) consists of foreign currency translation adjustments and the effective unrealized gains and losses on the Company's derivative financial instruments, the sum of which, along with net income, constitutes comprehensive net income (loss). See Note 11 Accumulated Other Comprehensive Loss. All components are shown net of tax.

Recent Accounting Pronouncements

Effective as of January 1, 2018, the Company adopted Accounting Standards Update No. 2014-09, "Revenue from Contracts with Customers," ("ASU 2014-09") which provides common revenue recognition guidance for GAAP. Under ASU 2014-09, an entity recognizes revenue when it transfers promised goods or services to customers in an amount that reflects what it expects to receive in exchange for the goods or services. It also requires additional detailed disclosures to enable users of financial statements to understand the nature, amount, timing, and uncertainty of revenues and cash flows arising from contracts with customers.

The Company applied ASU 2014-09 to all contracts that were not complete as of January 1, 2018 using the modified retrospective method of adoption, resulting in a reduction to Former Parent's Net Investment of $4.0 million, net of tax, as of January 1, 2018 related to the cumulative effect of applying this standard. Therefore, the comparative information for the years ended December 31, 2017 and December 31, 2016 have not been adjusted and continue to be reported under ASC Topic 605.

The primary impact of adopting the standard is a change in the timing of revenue recognition for our wind towers and certain utility structures product lines within our Energy Equipment Group. Previously, the Company recognized revenue when the product was delivered. Under ASU 2014-09, revenue is recognized over time as the products are manufactured. Revenue recognition policies in our other business segments remain substantially unchanged.

The following tables summarize the impact of adopting ASU 2014-09 on the Company’s Consolidated and Combined Financial Statements as of December 31, 2018 and the twelve months then ended:

	As Reported	Adjustments (in millions)	Balance without adjustment for adoption of ASU 2014-09
Consolidated and Combined Statement of Operations			
Revenues	1,460.4	(24.1)	1,436.3
Cost of revenues	1,188.4	(17.8)	1,170.6
Operating profit	94.9	(6.2)	88.7
Income before income taxes	95.0	(6.2)	88.8
Provision for income taxes	19.3	(1.4)	17.9
Net income	75.7	(4.8)	70.9
Consolidated and Combined Balance Sheet			
Receivables, net of allowance [(1)]	291.4	(46.5)	244.9
Inventories:			
Raw materials	128.4	—	128.4
Work in process	33.3	17.8	51.1
Finished goods	90.8	27.8	118.6
Accrued liabilities	146.2	(0.2)	146.0
Deferred income taxes	58.3	(0.1)	58.2
Capital in excess of par value	1,685.7	5.0	1,690.7
Retained earnings	19.5	(5.6)	13.9
Consolidated and Combined Statement of Cash Flows			
Operating activities:			
Net income	75.7	(4.8)	70.9
Provisions for deferred income taxes	22.4	(1.3)	21.1
(Increase) decrease in receivables	(80.9)	38.6	(42.3)
(Increase) decrease in inventories	(29.9)	(17.8)	(47.7)
Increase (decrease) in accrued liabilities	20.2	(14.7)	5.5
Net cash provided by operating activities	118.5	—	118.5

[(1)]The increase in the receivables balance at December 31, 2018 from the adoption of ASU 2014-09 represents our balance of contract receivables for which we have recognized revenues but have not yet billed our customers.

In February 2016, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update No. 2016-02, "Leases", ("ASU 2016-02") which amended the previous accounting standards for lease accounting, including requiring lessees to recognize most leases on their balance sheets and making targeted changes to lessor accounting. ASU 2016-02 became effective for public companies during interim and annual reporting periods beginning after December 15, 2018, with early adoption permitted.

The Company adopted ASU 2016-02 effective January 1, 2019 using the optional transition method that allows the Company to apply the guidance only to the most current period presented in the financial statements. Any cumulative effect of initially applying the standard will result in an adjustment to the opening balance of retained earnings as of the date of adoption. We do not expect the cumulative effect adjustment to be significant, nor do we expect the standard to have a material impact on our results of operations or cash flows. We expect the standard to increase total assets by approximately 1%. The Company has implemented processes and a lease accounting system to ensure adequate internal controls were in place to assess our contracts and enable proper accounting and reporting of financial information upon adoption.

In February 2018, the FASB issued Accounting Standards Update No. 2018-02, “Income Statement - Reporting Comprehensive Income: Reclassification of Certain Tax Effects from Accumulated Other Comprehensive Income”, (“ASU 2018-02”) which gives entities the option to reclassify from AOCL to retained earnings the stranded tax effects resulting from the Tax Cuts and Jobs Act enacted on December 22, 2017 (the "Act"). ASU 2018-02 became effective for public companies during interim and annual reporting periods beginning after December 15, 2018, with early adoption permitted. The Company elected to adopt ASU 2018-02 as of January 1, 2018 resulting in a reclassification adjustment from AOCL for the twelve months ended December 31, 2018 which was not significant.

Management's Estimates

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements as well as the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

Note 2. Acquisitions and Divestitures

The Company's acquisition and divestiture activities are summarized below:

	Year Ended December 31,		
	2018	**2017**	**2016**
		(in millions)	
Acquisitions:			
Purchase price	**$ 334.1**	$ 63.0	$ —
Net cash paid	**$ 333.2**	$ 47.5	$ —
Goodwill recorded	**$ 120.9**	$ 25.0	$ —

Acquisitions - ACG Materials

On December 5, 2018, we completed the stock acquisition of ACG Materials ("ACG"), a producer of specialty materials and aggregates which is included in our Construction Products Group. The purchase price of $309.1 million was funded with a combination of cash on-hand and a $180.0 million borrowing under the Company's credit facility. From the date of the Separation until December 31, 2018, acquisition-related transaction costs were insignificant. Costs incurred by the Former Parent prior to the Separation were included in the allocation of corporate costs in accordance with the methodology described in Note 1.

The acquisition was recorded as a business combination based on preliminary valuations of the acquired assets and liabilities at their acquisition date fair value using level three inputs, defined as unobservable inputs that are supported by little or no market activity and that are significant to the fair value of the assets or liabilities. We expect to complete our purchase price allocation as soon as reasonably possible not to exceed one year from the acquisition date. Adjustments to the preliminary purchase price allocation could be material to the purchase price allocation, particularly with respect to our preliminary estimates of mineral reserves and deferred income taxes. The following table represents our preliminary purchase price allocation as of December 31, 2018:

	December 31, 2018
	(in millions)
Accounts receivable	$ 23.7
Inventories	12.5
Property, plant, and equipment	83.4
Mineral reserves	137.1
Goodwill	111.4
Other assets	5.5
Accounts payable	(10.2)
Accrued and other liabilities	(13.2)
Capital lease obligations	(5.3)
Deferred income taxes	(35.8)
Total net assets acquired	$ 309.1

The goodwill acquired, none of which is tax deductible, primarily relates to ACG's geographic footprint, market position, and existing workforce. Revenues included in the Consolidated Statement of Operations from the date of the acquisition were approximately $11.7 million during the year ended December 31, 2018, whereas operating profit during the same period was insignificant.

The following table represents the unaudited pro-forma consolidated operating results of the Company as if the ACG acquisition had been completed on January 1, 2017. The unaudited pro-forma information makes certain adjustments to depreciation, depletion, and amortization expense to reflect the fair value recognized in the purchase price allocation, as well as to align ACG's capital structure and debt financing with that of the Company at the acquisition date. As a measure of unaudited pro-forma earnings, we have presented income before income taxes because our effective tax rates for 2018 and 2017 were impacted by one-time effects of the Act that would be impracticable to calculate for ACG. The unaudited pro-forma information should not be considered indicative of the results that would have occurred if the acquisition had been completed on January 1, 2017, nor is such unaudited pro-forma information necessarily indicative of future results.

	Year Ended December 31, 2018	Year Ended December 31, 2017
	(in millions)	
Revenues	**$ 1,604.1**	$ 1,594.4
Income before income taxes	**$ 97.6**	$ 133.6

Acquisitions - Other

In March 2018, we completed the acquisition of certain assets of an inland barge business with a purchase price and net cash paid of $25.0 million. The acquisition was recorded as a business combination based on valuations of the acquired assets and liabilities at their acquisition date fair value using level three inputs, defined as unobservable inputs that are supported by little or no market activity and that are significant to the fair value of the assets or liabilities. The valuation resulted in the recognition of $9.5 million of goodwill in our Transportation Products Group. Such assets and liabilities were not significant in relation to assets and liabilities at the consolidated and combined or segment level.

In May 2017, we completed the acquisition of the assets of a lightweight aggregates business paid for with cash of $6.2 million. In October 2017, we completed the acquisition of the assets of a lightweight aggregates businesses paid for with shares of Trinity stock valued at $14.7 million. In July 2017, we completed the acquisition of the assets of a trench shoring products business for $42.1 million. All three acquisitions were in our Construction Products Group. These acquisitions were recorded based on valuations of the acquired assets and liabilities at their acquisition date fair value using level three inputs. Such assets and liabilities were not significant in relation to assets and liabilities at the consolidated or segment level. See Note 3 Fair Value Accounting for a discussion of inputs in determining fair value.

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Divestitures

In October and November 2018, the Company completed the divestiture of certain businesses whose revenues of approximately $20 million for the year ended December 31, 2018 are included in the Other component of the Energy Equipment Group. The net proceeds from these divestitures were not significant. Prior to the sales, the Company recognized a pre-tax impairment charge of $23.2 million on these businesses.

We have concluded that the divestiture of these businesses does not represent a strategic shift that would result in a material effect on our operations and financial results; therefore, these disposals have not been reflected in discontinued operations in our Consolidated and Combined Financial Statements.

There were no divestitures during the years ended December 31, 2017 and December 31, 2016.

Note 3. Fair Value Accounting

Assets and liabilities measured at fair value on a recurring basis are summarized below:

	Fair Value Measurement as of December 31, 2018			
	Level 1	Level 2	Level 3	Total
	(in millions)			
Assets:				
Cash equivalents	$ 30.0	$ —	$ —	$ 30.0
Total assets	$ 30.0	$ —	$ —	$ 30.0
Liabilities:				
Interest rate hedge[(1)]	$ —	$ 1.2	$ —	$ 1.2
Total liabilities	$ —	$ 1.2	$ —	$ 1.2

	Fair Value Measurement as of December 31, 2017			
	Level 1	Level 2	Level 3	Total
	(in millions)			
Assets:				
Cash equivalents	$ —	$ —	$ —	$ —
Total assets	$ —	$ —	$ —	$ —
Liabilities:				
Interest rate hedge[(1)]	$ —	$ —	$ —	$ —
Total liabilities	$ —	$ —	$ —	$ —

(1) Included in other liabilities on the Consolidated Balance Sheet.

Fair value is defined as the exchange price that would be received for an asset or paid to transfer a liability (an exit price) in the principal or most advantageous market for that asset or liability in an orderly transaction between market participants on the measurement date. An entity is required to establish a fair value hierarchy that maximizes the use of observable inputs and minimizes the use of unobservable inputs when measuring fair value. The three levels of inputs that may be used to measure fair values are listed below:

Level 1 – This level is defined as quoted prices in active markets for identical assets or liabilities. The Company’s cash equivalents are instruments of the U.S. Treasury or highly-rated money market mutual funds.

Level 2 – This level is defined as observable inputs other than Level 1 prices such as quoted prices for similar assets or liabilities; quoted prices in markets that are not active; or other inputs that are observable or can be corroborated by observable market data for substantially the full term of the assets or liabilities. Interest rate hedges are valued at exit prices obtained from each counterparty. See Note 7 Debt.

Level 3 – This level is defined as unobservable inputs that are supported by little or no market activity and that are significant to the fair value of the assets or liabilities.

Note 4. Segment Information

The Company reports operating results in three principal business segments:

Construction Products. The Construction Products segment produces and sells construction aggregates and manufactures and sells trench shields and shoring products and services for infrastructure-related projects.

Energy Equipment. The Energy Equipment segment manufactures and sells products for energy-related businesses, including structural wind towers, steel utility structures for electricity transmission and distribution, and storage and distribution tanks.

Transportation Products. The Transportation Products segment manufactures and sells products for the inland waterway and rail transportation industries including barges, barge-related products, axles, and couplers.

The financial information for these segments is shown in the tables below. We operate principally in North America.

Year Ended December 31, 2018

	Revenues			Operating Profit (Loss)	Assets	Depreciation, Depletion, & Amortization	Capital Expenditures
	External	Intersegment	Total				
				(in millions)			
Construction aggregates			$ 217.9				
Other			74.4				
Construction Products Group	$ 292.3	$ —	292.3	$ 50.4	$ 769.8	$ 21.9	$ 17.2
Wind towers and utility structures			582.9				
Other			197.2				
Energy Equipment Group	776.7	3.4	780.1	28.6	976.2	29.7	16.0
Inland barges			170.2				
Steel components			221.2				
Transportation Products Group	391.4	—	391.4	48.4	305.0	15.5	10.3
All Other	—	—	—	(0.1)	—	—	—
Segment Totals before Eliminations and Corporate	1,460.4	3.4	1,463.8	127.3	2,051.0	67.1	43.5
Corporate	—	—	—	(32.1)	121.2	0.5	1.3
Eliminations	—	(3.4)	(3.4)	(0.3)	—	—	—
Consolidated and Combined Total	$ 1,460.4	$ —	$ 1,460.4	$ 94.9	$ 2,172.2	$ 67.6	$ 44.8

Year Ended December 31, 2017

	Revenues			Operating Profit (Loss)	Assets	Depreciation, Depletion, & Amortization	Capital Expenditures
	External	Intersegment	Total				
				(in millions)			
Construction aggregates			$ 204.9				
Other			54.0				
Construction Products Group	$ 258.9	$ —	258.9	$ 53.7	$ 391.2	$ 18.4	$ 48.9
Wind towers and utility structures			652.1				
Other			192.0				
Energy Equipment Group	840.2	3.9	844.1	78.4	928.8	30.2	27.7
Inland barges			157.9				
Steel components			205.4				
Transportation Products Group	363.3	—	363.3	39.0	257.5	17.1	5.8
All Other	—	—	—	(0.1)	—	—	—
Segment Totals before Eliminations and Corporate	1,462.4	3.9	1,466.3	171.0	1,577.5	65.7	82.4
Corporate	—	—	—	(39.3)	25.0	—	—
Eliminations	—	(3.9)	(3.9)	—	—	—	—
Combined Total	$ 1,462.4	$ —	$ 1,462.4	$ 131.7	$ 1,602.5	$ 65.7	$ 82.4

Year Ended December 31, 2016

	Revenues External	Revenues Intersegment	Revenues Total	Operating Profit (Loss)	Assets	Depreciation, Depletion, & Amortization	Capital Expenditures
				(in millions)			
Construction aggregates			$ 213.4				
Other			38.5				
Construction Products Group	$ 251.9	$ —	251.9	$ 59.3	$ 288.1	$ 16.0	$ 44.6
Wind towers and utility structures			641.1				
Other			186.3				
Energy Equipment Group	824.6	2.8	827.4	87.7	941.3	31.7	23.8
Inland barges			403.1				
Steel components			224.4				
Transportation Products Group	627.5	—	627.5	87.3	272.5	17.9	16.4
All Other	—	—	—	(2.1)	—	—	—
Segment Totals before Eliminations and Corporate	1,704.0	2.8	1,706.8	232.2	1,501.9	65.6	84.8
Corporate	—	—	—	(31.4)	24.4	—	—
Eliminations	—	(2.8)	(2.8)	—	—	—	—
Combined Total	$ 1,704.0	$ —	$ 1,704.0	$ 200.8	$ 1,526.3	$ 65.6	$ 84.8

Corporate assets are composed of cash and cash equivalents, certain property, plant, and equipment, and other assets. Capital expenditures do not include business acquisitions.

Revenues from one customer included in the Energy Equipment Group constituted 19.4%, 22.9%, and 22.4% of consolidated or combined revenues for the years ended December 31, 2018, 2017, and 2016, respectively. At December 31, 2018, one Energy Equipment Group customer's trade receivables balance, all of which is expected to be collected within contract terms, accounted for 15.3% percent of the consolidated net receivables balance outstanding.

Revenues and operating profit for our Mexico operations for the years ended December 31, 2018, 2017, and 2016 are presented below. Our Canadian operations were not significant in relation to the consolidated financial statements.

	Year Ended December 31, 2018	2017	2016
		(in millions)	
Mexico:			
Revenues:			
External	**$ 108.2**	$ 118.2	$ 106.0
Intercompany	**82.3**	62.6	67.1
	$ 190.5	$ 180.8	$ 173.1
Operating profit	**$ (11.0)**	$ 1.4	$ 3.8

Total assets and long-lived assets for our Mexico operations as of December 31, 2018 and 2017 are presented below:

	Total Assets		Long-Lived Assets	
	December 31,			
	2018	2017	2018	2017
		(in millions)		
Mexico	**$ 203.8**	$ 172.5	**$ 85.8**	$ 91.9

Note 5. Property, Plant, and Equipment

The following table summarizes the components of property, plant, and equipment as of December 31, 2018 and 2017.

	December 31, 2018	December 31, 2017
	(in millions)	
Land[(1)]	**$ 316.5**	$ 176.0
Buildings and improvements	**267.5**	265.8
Machinery and other	**715.9**	598.6
Construction in progress	**28.8**	24.3
	1,328.7	1,064.7
Less accumulated depreciation and depletion	**(525.7)**	(481.6)
	$ 803.0	$ 583.1

(1) Includes depletable land of $201.9 million as of December 31, 2018 and $64.9 million as of December 31, 2017.

We lease certain equipment and facilities under operating leases. Future minimum rent expense in each year is (in millions): 2019 - $7.7; 2020 - $5.7; 2021 - $3.5; 2022 - $2.3; 2023 - $1.8; and $7.6 thereafter.

We did not capitalize any interest expense as part of the construction of facilities and equipment during 2018 or 2017.

We estimate the fair market value of properties no longer in use based on the location and condition of the properties, the fair market value of similar properties in the area, and the Company's experience selling similar properties in the past. As of December 31, 2018, the Company had non-operating plants with a net book value of $46.9 million. Our estimated fair value of these assets exceeds their book value.

Note 6. Goodwill

Goodwill by segment is as follows:

	December 31, 2018	December 31, 2017
	(in millions)	
Construction Products Group	**$ 171.7**	$ 60.3
Energy Equipment Group	**416.9**	416.9
Transportation Products Group	**26.6**	17.1
	$ 615.2	$ 494.3

As of December 31, 2018 and 2017, the Company's annual impairment test of goodwill was completed at the reporting unit level and no impairment charges were determined to be necessary. The increase in the Construction Products Group goodwill during the year ended December 31, 2018 is due to the acquisition of ACG. The increase in the Transportation Products Group goodwill during the year ended December 31, 2018 is due to an acquisition. See Note 2 Acquisitions and Divestitures.

Note 7. Debt

The following table summarizes the components of debt as of December 31, 2018 and 2017:

	December 31, 2018	December 31, 2017
	(in millions)	
Revolving credit facility	**$ 180.0**	$ —
Capital leases	**5.5**	0.5
Total debt	**$ 185.5**	$ 0.5

On November 1, 2018, the Company entered into a $400.0 million unsecured revolving credit facility that matures in November 2023. The interest rates under the facility are variable based on LIBOR or an alternate base rate plus a margin that is determined based on Arcosa’s leverage as measured by a consolidated total indebtedness to consolidated EBITDA ratio, which is currently set at LIBOR plus 1.25%. A commitment fee accrues on the average daily unused portion of the revolving facility at the current rate of 0.20%.

As of December 31, 2018, we had $180.0 million of outstanding loans borrowed under the facility and there were approximately $47.7 million in letters of credit issued, leaving $172.3 million available for borrowing. All of the outstanding letters of credit as of December 31, 2018 are expected to expire in 2019. The majority of our letters of credit obligations support the Company's various insurance programs and warranty claims and generally renew by their terms each year.

The Company's revolving credit facility requires the maintenance of certain ratios related to leverage and interest coverage. As of December 31, 2018, we were in compliance with all such financial covenants. Borrowings under the credit facility are guaranteed by certain wholly-owned subsidiaries of the Company.

The carrying value of borrowings under our revolving credit facility approximates fair value because the interest rate adjusts to the market interest rate (Level 3 input). See Note 3 Fair Value Accounting.

As of December 31, 2018, the Company had $1.4 million of unamortized debt issuance cost related to the revolving credit facility, which is included in other assets on the Consolidated Balance Sheet.

The remaining principal payments under existing debt agreements as of December 31, 2018 are as follows:

	2019	2020	2021	2022	2023	Thereafter
	(in millions)					
Revolving credit facility	$ —	$ —	$ —	$ —	$ 180.0	$ —
Capital leases	1.9	1.3	1.0	1.3	—	—
Total principal payments	$ 1.9	$ 1.3	$ 1.0	$ 1.3	$ 180.0	$ —

Interest rate hedges

In December 2018, the Company entered into an interest rate swap instrument, effective as of January 2, 2019 and expiring in 2023, to reduce the effect of changes in the variable interest rates associated with borrowings under the revolving credit facility. The instrument carried an initial notional amount of $100 million, thereby hedging the first $100 million of borrowings under the credit facility. The instrument effectively fixes the LIBOR component of the credit facility borrowings at 2.71%. As of December 31, 2018, the Company has recorded a liability of $1.2 million for the fair value of the instrument, all of which is recorded in accumulated other comprehensive loss. See Note 3 Fair Value Accounting.

Note 8. Other, Net

Other, net (income) expense consists of the following items:

	Year Ended December 31,		
	2018	2017	2016
	(in millions)		
Interest income	**$ (0.4)**	$ (0.1)	$ (0.1)
Foreign currency exchange transactions	**(0.2)**	2.2	4.8
Other	**(0.4)**	(0.5)	(1.1)
Other, net (income) expense	**$ (1.0)**	$ 1.6	$ 3.6

Note 9. Income Taxes

The components of the provision for income taxes are as follows:

	Year Ended December 31,		
	2018	2017	2016
		(in millions)	
Current:			
Federal	**$ (5.4)**	$ 29.3	$ 43.9
State	**0.8**	0.5	3.2
Foreign	**1.5**	0.3	4.0
Total current	**(3.1)**	30.1	51.1
Deferred:			
Federal			
Effect of Tax Cuts and Jobs Act	**(1.5)**	(6.2)	—
Other	**24.8**	16.6	21.9
	23.3	10.4	21.9
State	**5.4**	0.9	0.3
Foreign	**(6.3)**	(1.0)	0.9
Total deferred	**22.4**	10.3	23.1
Provision	**$ 19.3**	$ 40.4	$ 74.2

The provision for income taxes results in effective tax rates that differ from the statutory rates. The following is a reconciliation between the statutory U.S. federal income tax rate and the Company’s effective income tax rate on income before income taxes:

	Year Ended December 31,		
	2018	2017	2016
Statutory rate	**21.0 %**	35.0 %	35.0 %
State taxes	**3.1**	2.5	1.7
Domestic production activities deduction	**—**	(2.1)	(2.1)
Changes in valuation allowances and reserves	**(1.2)**	1.3	0.7
Changes in tax reserves	**(1.4)**	0.8	0.4
Effect of Tax Cuts and Jobs Act	**(1.6)**	(5.0)	—
Prior year true-ups	**(0.4)**	(2.2)	(0.6)
Foreign adjustments	**2.4**	1.8	2.9
Other, net	**(1.6)**	(1.0)	(0.4)
Effective rate	**20.3 %**	31.1 %	37.6 %

The Act was enacted on December 22, 2017. The Act reduced the U.S. federal corporate income tax rate from 35% to 21%, required companies to pay a one-time transition tax on earnings of certain foreign subsidiaries that were previously tax deferred and created new taxes on certain foreign-sourced earnings. For the year ended December 31, 2017, we recognized a provisional benefit of $6.2 million, primarily related to the impact of the Act on our deferred taxes. During the year ended December 31, 2018, we finalized the accounting for the enactment of the Act and recorded an additional $1.5 million benefit, primarily as a result of the true-up of our deferred taxes.

Income (loss) before income taxes for the years ended December 31, 2018, 2017, and 2016 was $106.6 million, $139.9 million, and $205.7 million, respectively, for U.S. operations, and $(11.6) million, $(9.8) million, and $(8.5) million, respectively, for foreign operations, principally Mexico and Canada. The Company provides deferred income taxes on the unrepatriated earnings of its foreign operations where it results in a deferred tax liability.

Deferred income taxes represent the tax effects of temporary differences between the carrying amounts of assets and liabilities for financial reporting purposes and the amounts used for income tax purposes. The components of deferred tax liabilities and assets are as follows:

	December 31,	
	2018	2017
	(in millions)	
Deferred tax liabilities:		
Depreciation, depletion, and amortization	**$ 103.2**	$ 32.6
Total deferred tax liabilities	**103.2**	32.6
Deferred tax assets:		
Workers compensation, pensions, and other benefits	**16.2**	16.4
Warranties and reserves	**2.2**	1.2
Tax loss carryforwards and credits	**31.0**	6.8
Inventory	**10.8**	10.0
Accrued liabilities and other	**(2.7)**	2.7
Total deferred tax assets	**57.5**	37.1
Net deferred tax assets (liabilities) before valuation allowances	**(45.7)**	4.5
Valuation allowances	**5.7**	7.0
Net deferred tax assets (liabilities) before reserve for uncertain tax positions	**(51.4)**	(2.5)
Deferred tax assets included in reserve for uncertain tax positions	**—**	0.3
Adjusted net deferred tax assets (liabilities)	**$ (51.4)**	$ (2.2)

At December 31, 2018, the Company had $105.0 million of federal consolidated net operating loss carryforwards and $2.7 million of tax-effected state loss carryforwards remaining. In addition, the Company had $23.9 million of foreign net operating loss carryforwards that will begin to expire in the year 2034.

We have established a valuation allowance for federal, state, and foreign tax operating losses and credits that we have estimated may not be realizable.

Taxing authority examinations

We have various subsidiaries in Mexico that file separate tax returns and are subject to examination by taxing authorities at different times. The entities are generally open for their 2013 tax years and forward.

Unrecognized tax benefits

The change in unrecognized tax benefits for the years ended December 31, 2018, 2017 and 2016 was as follows:

	Year Ended December 31,		
	2018	2017	2016
		(in millions)	
Beginning balance	**$ 1.3**	$ 7.4	$ 8.3
Additions for tax positions related to the current year	**—**	—	—
Additions for tax positions of prior years	**0.1**	0.2	—
Reductions for tax positions of prior years	**—**	—	(0.9)
Settlements	**—**	(6.0)	—
Expiration of statute of limitations	**(0.9)**	(0.3)	—
Ending balance	**$ 0.5**	$ 1.3	$ 7.4

The additions for tax positions of prior years of $0.1 million and $0.2 million for the years ended December 31, 2018 and 2017, respectively, are due to foreign tax positions.

The reductions for tax positions of prior years of $0.9 million for the year ended December 31, 2016 related primarily to remeasured federal tax positions based upon new information that have been agreed to by the IRS. The corresponding deferred tax assets related to these positions have also been removed.

Settlements for the year ended December 31, 2017 were due to the resolution of our 2006-2009 tax years.

Expiration of statutes of limitations during the year ended December 31, 2018 relate to state and foreign tax returns. Expiration of statutes of limitations during the year ended December 31, 2017 relate to a foreign tax return.

The total amount of unrecognized tax benefits including interest and penalties at December 31, 2018 and 2017, that would affect the Company’s effective tax rate if recognized was $0.5 million and $1.9 million, respectively. There is a reasonable possibility that unrecognized federal and state tax benefits will decrease by $0.5 million by December 31, 2019 due to settlements and lapses in statutes of limitations for assessing tax years in which an extension was not requested by the taxing authority.

Arcosa accounts for interest expense and penalties related to income tax issues as income tax expense. Accordingly, interest expense and penalties associated with an uncertain tax position are included in the income tax provision. The total amount of accrued interest and penalties as of December 31, 2018 and 2017 was $0.0 million and $0.9 million, respectively. Income tax expense for the years ended December 31, 2018, 2017, and 2016 included decreases of $0.9 million, $1.5 million, and $0.6 million, respectively, with regard to interest expense and penalties related to uncertain tax positions.

Note 10. Employee Retirement Plans

The Company sponsors defined benefit plans and defined contribution profit sharing plans that provide retirement income and death benefits for eligible employees and retirees of the Company. For periods prior to the Separation, the participation of employees of the Company in defined benefit plans sponsored by Trinity is reflected in the combined financial statements as though the Company participated in a multiemployer plan with Trinity. The assets and liabilities of the defined benefit plans were retained by Trinity.

Prior to the Separation, the expenses of these benefit plans were allocated to Arcosa based on a review of personnel and personnel costs by business unit. A proportionate share of the cost is reflected in the combined financial statements.

In connection with the Separation, certain defined contribution profit sharing plans were separated into standalone plans for Arcosa and Trinity.

Total employee retirement plan expense, which includes related administrative expenses, was $10.4 million, $9.0 million, and $9.8 million for the years ended December 31, 2018, 2017, and 2016, respectively. Prior to the Separation, these costs were funded through intercompany transactions with Trinity which are reflected within the Former Parent's Net Investment balance on the accompanying combined balance sheet.

Multiemployer plan

The Company contributes to a multiemployer defined benefit pension plan under the terms of a collective-bargaining agreement that covers certain union-represented employees at one of the facilities of Meyer Utility Structures, a subsidiary of Arcosa. The risks of participating in a multiemployer plan are different from a single-employer plan in the following aspects:

- Assets contributed to a multiemployer plan by one employer may be used to provide benefits to employees of other participating employers.
- If a participating employer stops contributing to a multiemployer plan, the unfunded obligations of the plan may be borne by the remaining participating employers.
- If the Company chooses to stop participating in the multiemployer plan, the Company may be required to pay the plan an amount based on the underfunded status of the plan, referred to as a withdrawal liability.

Our participation in the multiemployer plan for the year ended December 31, 2018 is outlined in the table below. The Pension Protection Act ("PPA") zone status at December 31, 2018 and 2017 is as of the plan years ended December 31, 2017 and 2016, respectively, and is obtained from the multiemployer plan's regulatory filings available in the public domain and certified by the plan's actuary. Among other factors, plans in the yellow zone are less than 80% funded while plans in the red zone are less than 65% funded. Federal law requires that plans classified in the yellow or red zones adopt a funding improvement plan in order to improve the financial health of the plan. The plan utilized an amortization extension and the funding relief provided under the Internal Revenue Code and under the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act in determining the zone status. The Company's contributions to the multiemployer plan were less than 5% of total contributions to the plan. The last column in the table lists the expiration date of the collective bargaining agreement to which the plan is subject.

		PPA Zone Status			Contributions for Year Ended December 31,				
Pension Fund	Employer Identification Number	2018	2017	Financial improvement plan status	2018	2017	2016	Surcharge imposed	Expiration date of collective bargaining agreement
					(in millions)				
Boilermaker-Blacksmith National Pension Trust	48-6168020	Yellow	Yellow	Implemented	$ 2.1	$ 1.9	$ 2.3	No	June 30, 2019

ACG Pension Plan

In connection with the acquisition of ACG in December 2018, the Company assumed the assets and liabilities related to a defined benefit pension plan. As of December 31, 2018, the plan assets totaled $2.6 million and the projected benefit obligation totaled $2.3 million, for a net over funded status of $0.3 million, which is included in other assets on the Consolidated Balance Sheet. The net pension expense for the year ended December 31, 2018 was not significant. Employer contributions for the year ending December 31, 2019 for the pension plan are not expected to be significant.

Cash flows

Employer contributions to the 401(k) plan and the Supplemental Profit Sharing Plan for the year ending December 31, 2019 are expected to be $6.8 million, of which $1.2 million will be funded by Arcosa. The remainder will be funded by our Former Parent. Employer contributions for the year ending December 31, 2019 are expected to be $2.1 million for the multiemployer plan compared to $2.1 million contributed during 2018. Employer contributions for the ACG pension plan for the year ending December 31, 2019 are not expected to be significant.

Participants in the 401(k) plan are eligible to receive future retirement benefits through a company-funded annual retirement contribution provided through the Arcosa, Inc. Profit Sharing Plan. The contribution ranges from one to three percent of eligible compensation based on service. Both the annual retirement contribution and the company matching contribution are discretionary, requiring board approval, and are made annually with the investment of the funds directed by the participants.

Note 11. Accumulated Other Comprehensive Loss

Changes in accumulated other comprehensive loss for the twelve months ended December 31, 2018, 2017, and 2016 are as follows:

	Currency translation adjustments	Unrealized loss on derivative financial instruments	Accumulated Other Comprehensive Loss
		(in millions)	
Balances at December 31, 2015	$ (18.3)	$ —	$ (18.3)
Other comprehensive loss, net of tax, before reclassifications	(0.1)	—	(0.1)
Other comprehensive loss	(0.1)	—	(0.1)
Balances at December 31, 2016	(18.4)	—	(18.4)
Other comprehensive loss, net of tax, before reclassifications	(1.4)	—	(1.4)
Other comprehensive loss	(1.4)	—	(1.4)
Balances at December 31, 2017	(19.8)	—	(19.8)
Other comprehensive income (loss), net of tax, before reclassifications	—	(0.9)	(0.9)
Amounts reclassified from accumulated other comprehensive loss, net of tax benefit of $0.0, $0.0, and $0.0	3.0	—	3.0
Other comprehensive income	3.0	(0.9)	2.1
Balances at December 31, 2018	$ (16.8)	$ (0.9)	$ (17.7)

Reclassifications of unrealized before-tax losses on derivative financial instruments are included in interest expense in the Consolidated and Combined Statements of Operations. The reclassifications of unrealized before-tax losses on currency translation adjustments for the year ended December 31, 2018 relates to the divestiture of certain Canadian operations and is included in the impairment charge recorded on these businesses in the Consolidated and Combined Statement of Operations.

Note 12. Stock-Based Compensation

Prior to the Separation, Arcosa employees participated in Trinity's equity incentive plans, including equity awards of restricted stock, restricted stock units, and performance-based restricted stock units in respect of Trinity common shares. Arcosa's Consolidated and Combined Financial Statements reflect compensation expense for these stock-based plans associated with the portion of the Trinity's equity incentive plans in which Arcosa employees participated.

Following the Separation, outstanding awards granted to Arcosa employees under Trinity's equity incentive plans were converted based on either the shareholder method or the concentration method. The shares or units converted using the shareholder method resulted in employees retaining their restricted shares or units in Trinity common stock and receiving one restricted Arcosa share or unit for every three restricted Trinity shares or units. The units converted using the concentration method were fully converted into Arcosa units using a conversion ratio based on the Volume Weighted Average Prices ("VWAP") of Trinity common stock for the 5 days prior to the Separation divided by the VWAP of Arcosa common stock for the 5 days following the Separation. The Arcosa units continue to vest in accordance with their original vesting schedules. There was no significant incremental stock-based compensation expense recorded as a result of the equity award conversions.

In connection with the Separation, effective November 1, 2018, the Board of Directors of Arcosa, Inc. (the "Board") adopted and Trinity, in its capacity as sole shareholder of Arcosa prior to the Separation, approved, the Arcosa Inc. 2018 Stock Option and Incentive Plan (the "Plan"). The Plan provides for the grant of equity awards, including stock options, restricted stock, restricted stock units, performance shares, and other performance-based awards, to our directors, officers, and employees. The maximum number of shares of Arcosa common stock that may be issued under the Plan is 4.8 million shares, which includes the shares granted under the Trinity equity incentive plans that were converted and assumed by Arcosa as a result of the Separation.

At December 31, 2018 we had 2.8 million shares available for grant. Any equity awards that have been granted under the Plan that are subsequently forfeited, canceled, or tendered to satisfy tax withholding obligations are added back to the shares available for grant.

The cost of employee services received in exchange for awards of equity instruments is referred to as share-based payments and is based on the grant date fair-value of those awards. Stock-based compensation includes compensation expense, recognized over the applicable vesting periods, for share-based awards. The Company recognizes compensation expense for both the Arcosa awards and Trinity awards held by our employees. Stock-based compensation totaled $9.9 million, $9.0 million, and $10.5 million for the years ended December 31, 2018, 2017, and 2016, respectively.

The income tax benefit related to stock-based compensation expense was $2.6 million, $4.6 million, and $3.4 million for the years ended December 31, 2018, 2017, and 2016, respectively.

Equity Awards

Equity awards outstanding as of December 31, 2018 consist of restricted stock, restricted stock units, and performance units and generally vest for periods ranging from one to fifteen years from the date of grant. Certain equity awards vest in their entirety upon the employee's retirement from the Company and may take into consideration the employee's age and years of service to the Company, as defined more specifically in the Company's award agreements. Equity awards granted to non-employee directors under the Plan generally vest one year from the grant date and are released at that time, in the case of restricted stock, or upon completion of the directors' service to the Company, in the case of restricted stock units. Expense related to equity awards issued to eligible employees and directors under the Plan is recognized ratably over the vesting period or to the date on which retirement eligibility is achieved, if shorter. Performance units vest and settle in shares of our common stock following the end of a three-year performance period contingent upon the achievement of specific performance goals during the performance period and certification by the Human Resources Committee of the Board of Directors of the achievement of the performance goals. Performance units are granted to employees based upon a target level of performance; however, depending upon the achievement of the performance goals during the performance period, performance units may be issued at an amount between 0% and 200% of the target level. Expense related to performance units is recognized ratably from their award date to the end of the performance period. Forfeitures are recognized as reduction to expense in the period in which they occur.

The activity for equity awards held by Arcosa employees from November 1, 2018 to December 31, 2018 was as follows:

	Trinity Equity Awards Held by Arcosa Employees	Arcosa Equity Awards Held by Arcosa Employees	Weighted Average Grant-Date Fair Value per Award
Equity awards outstanding at November 1, 2018	**1,162,734**	**907,333**	**$ 20.34**
Granted	**—**	**163,053**	**28.92**
Vested	**(3,000)**	**(1,000)**	**35.65**
Forfeited	**(5,299)**	**(4,363)**	**25.93**
Equity awards outstanding at December 31, 2018	**1,154,435**	**1,065,023**	**$ 21.04**

At December 31, 2018, unrecognized compensation expense related to equity awards totaled $25.6 million which will be recognized over a weighted average period of 5.2 years. The total vesting-date fair value of shares vested and released during the year ended December 31, 2018 was not significant.

Note 13. Earnings Per Common Share

Basic earnings per common share is computed by dividing net income remaining after allocation to unvested restricted shares, which includes unvested restricted shares of Arcosa stock held by employees of the Former Parent, by the weighted average number of basic common shares outstanding for the period. Except when the effect would be antidilutive, the calculation of diluted earnings per common share includes the weighted average net impact of nonparticipating unvested restricted shares. For periods prior to the Separation, the denominator for basic and diluted net income per share was calculated using the 48.8 million shares of common stock outstanding immediately following the Separation. Total weighted average restricted shares and antidilutive stock options were 0.3 million shares, 0.0 million shares, and 0.0 million shares, for the years ended December 31, 2018, 2017, and 2016, respectively.

The computation of basic and diluted earnings per share follows.

	Year Ended December 31, 2018		
	(in millions, except per share amounts)		
	Income (Loss)	Average Shares	EPS
Net income	$ 75.7		
Unvested restricted share participation	(0.2)		
Net income – basic	75.5	48.8	$ 1.55
Effect of dilutive securities:			
Nonparticipating unvested restricted shares	—	0.1	
Net income – diluted	$ 75.5	48.9	$ 1.54

	Year Ended December 31, 2017		
	(in millions, except per share amounts)		
	Income (Loss)	Average Shares	EPS
Net income	$ 89.7		
Unvested restricted share participation	—		
Net income – basic	89.7	48.8	$ 1.84
Effect of dilutive securities:			
Nonparticipating unvested restricted shares	—	—	
Net income – diluted	$ 89.7	48.8	$ 1.84

	Year Ended December 31, 2016		
	(in millions, except per share amounts)		
	Income (Loss)	Average Shares	EPS
Net income	$ 123.0		
Unvested restricted share participation	—		
Net income – basic	123.0	48.8	$ 2.52
Effect of dilutive securities:			
Nonparticipating unvested restricted shares	—	—	
Net income – diluted	$ 123.0	48.8	$ 2.52

Note 14. Commitments and Contingencies

The Company is involved in claims and lawsuits incidental to our business arising from various matters including commercial disputes, alleged product defect and/or warranty claims, intellectual property matters, personal injury claims, environmental issues, employment and/or workplace-related matters, and various governmental regulations. The Company evaluates its exposure to such claims and suits periodically and establishes accruals for these contingencies when a range of loss can be reasonably estimated. The range of reasonably possible losses for such matters, taking into consideration our rights in indemnity and recourse to third parties, is $1.3 million to $11.3 million. At December 31, 2018, total accruals of $5.1 million, including environmental and workplace matters described below, are included in accrued liabilities in the accompanying Consolidated Balance Sheet. The Company believes any additional liability would not be material to its financial position or results of operations.

Arcosa is subject to remedial orders and federal, state, local, and foreign laws and regulations relating to the environment. The Company has reserved $1.1 million, included in our total accruals of $5.1 million discussed above, to cover our probable and estimable liabilities with respect to the investigations, assessments, and remedial responses to such matters, taking into account currently available information and our contractual rights to indemnification and recourse to third parties. However, estimates of liability arising from future proceedings, assessments, or remediation are inherently imprecise. Accordingly, there can be no assurance that we will not become involved in future litigation or other proceedings involving the environment or, if we are found to be responsible or liable in any such litigation or proceeding, that such costs would not be material to the Company.

Other commitments

Non-cancelable purchase obligations amounted to $188.4 million as of December 31, 2018, of which $100.8 million is for the purchase of raw materials and components, primarily by the Energy Equipment and Transportation Products Groups.

Note 15. Selected Quarterly Financial Data (Unaudited)

	Three Months Ended			
	March 31, 2018	**June 30, 2018**	**September 30, 2018**	**December 31, 2018**
	(in millions except per share data)			
Revenues	$ 354.4	$ 353.0	$ 378.6	$ 374.4
Operating costs:				
Cost of revenues	285.6	283.0	308.9	310.9
Selling, engineering, and administrative expenses	37.6	39.4	40.1	36.8
Impairment charge	—	—	23.2	—
Operating profit	31.2	30.6	6.4	26.7
Income before income taxes	30.2	29.4	6.6	28.8
Provision (benefit) for income taxes	8.0	6.8	3.4	1.1
Net income	$ 22.2	$ 22.6	$ 3.2	$ 27.7
Net income per common share[(1)]:				
Basic	$ 0.45	$ 0.46	$ 0.07	$ 0.56
Diluted	$ 0.45	$ 0.46	$ 0.07	$ 0.56

	Three Months Ended			
	March 31, 2017	June 30, 2017	September 30, 2017	December 31, 2017
	(in millions except per share data)			
Revenues	$ 396.3	$ 352.7	$ 365.9	$ 347.5
Operating costs:				
Costs of revenues	319.8	275.5	290.4	282.0
Selling, engineering, and administrative expenses	36.9	41.8	41.9	42.4
Impairment charge	—	—	—	—
Operating profit	39.6	35.4	33.6	23.1
Income before income taxes	38.4	36.4	33.8	21.5
Provision (benefit) for income taxes	14.8	14.5	13.2	(2.1)
Net income	$ 23.6	$ 21.9	$ 20.6	$ 23.6
Net income per common share[1]:				
Basic	$ 0.48	$ 0.45	$ 0.42	$ 0.48
Diluted	$ 0.48	$ 0.45	$ 0.42	$ 0.48

[1] For periods prior to the Separation, the denominator for basic and diluted net income per common share was calculated using the 48.8 million shares of common stock outstanding immediately following the Separation.

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

None.

Item 9A. ***Controls and Procedures.***

Disclosure Controls and Procedures.

The Company maintains disclosure controls and procedures designed to ensure that it is able to collect and record the information it is required to disclose in the reports it files with the SEC, and to process, summarize, and disclose this information within the time periods specified in the rules of the SEC. The Company's Chief Executive and Chief Financial Officers are responsible for establishing and maintaining these procedures and, as required by the rules of the SEC, evaluating their effectiveness. Based on their evaluation of the Company's disclosure controls and procedures that took place as of the end of the period covered by this report, the Chief Executive and Chief Financial Officers believe that these procedures are effective to 1) ensure that the Company is able to collect, process, and disclose the information it is required to disclose in the reports it files with the SEC within the required time periods and 2) accumulate and communicate this information to the Company's management, including its Chief Executive and Chief Financial Officers, to allow timely decisions regarding this disclosure.

Management's Report on Internal Control over Financial Reporting.

This Annual Report on Form 10-K does not include a report of management’s assessment regarding internal control over financial reporting or an attestation of the Company’s registered public accounting firm due to a transition period established by rules of the SEC for newly-public companies.

Changes in Internal Control over Financial Reporting

During the three months ended December 31, 2018, there have been no changes in the Company’s internal control over financial reporting that have materially affected or are reasonably likely to materially affect the Company’s internal control over financial reporting.

Item 9B. ***Other Information.***

None.

PART III

Item 10. *Directors, Executive Officers and Corporate Governance.*

Information regarding the directors of the Company is incorporated by reference to the information set forth under the caption “Proposal 1 - Election of Class I Directors” in the Company's Proxy Statement to be filed for the 2019 Annual Meeting of Stockholders (the “2019 Proxy Statement”). Information relating to the executive officers of the Company is set forth in Part I of this report under the caption “Executive Officers and Other Corporate Officers of the Company.” Information relating to the Board of Directors' determinations concerning whether at least one of the members of the Audit Committee is an “audit committee financial expert” as that term is defined under Item 407 (d)(5) of Regulation S-K is incorporated by reference to the information set forth under the caption “Corporate Governance - Board Meeting and Committees - Audit Committee” in the Company's 2019 Proxy Statement. Information regarding the Company's Audit Committee is incorporated by reference to the information set forth under the caption “Corporate Governance - Board Meetings and Committees - Audit Committee” in the Company's 2019 Proxy Statement. Information regarding compliance with Section 16(a) of the Securities and Exchange Act of 1934 is incorporated by reference to the information set forth under the caption “Additional Information - Section 16(a) Beneficial Ownership Reporting Compliance” in the Company's 2019 Proxy Statement.

The Company has adopted a Code of Business Conduct and Ethics that applies to all of its directors, officers, and employees. The Code of Business Conduct and Ethics is on the Company's website at www.arcosa.com under “Governance Documents” within the “Investors-Governance” tab of our website. The Company intends to post any amendments or waivers for its Code of Business Conduct and Ethics to the Company's website at www.arcosa.com to the extent applicable to an executive officer, principal accounting officer, controller, or director of the Company.

Item 11. *Executive Compensation.*

Information regarding compensation of executive officers and directors is incorporated by reference to the information set forth under the caption “Executive Compensation” in the Company's 2019 Proxy Statement. Information concerning compensation committee interlocks and insider participation is incorporated by reference to the information set forth under the caption “Corporate Governance - Compensation Committee Interlocks and Insider Participation” in the Company's 2019 Proxy Statement. Information about the compensation committee report is incorporated by reference to the information set forth under the caption “Executive Compensation - Human Resources Committee Report” in the Company's 2019 Proxy Statement.

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

Information concerning security ownership of certain beneficial owners and management is incorporated herein by reference from the Company's 2019 Proxy Statement, under the caption “Security Ownership - Security Ownership of Certain Beneficial Owners and Management.”

The following table sets forth information about Arcosa common stock that may be issued under Arcosa's equity compensation plan as of December 31, 2018.

Equity Compensation Plan Information

	(a)	(b)	(c)
	Number of Securities to be Issued Upon Exercise of Outstanding Options, Warrants and Rights	Weighted-Average Exercise Price of Outstanding Options, Warrants and Rights	Number of Securities Remaining Available for Future Issuance under Equity Compensation Plans (Excluding Securities Reflected in Column (a))
Plan Category:			
Equity compensation plans approved by security holders:			
Restricted stock units and performance units	1,049,537 [(1)]	$ —	2,771,814 [(2)]
Equity compensation plans not approved by security holders	—		—
Total	1,049,537		2,771,814

____

(1) Represents shares underlying awards that have been granted under the 2018 Stock Option and Incentive Plan (the "Incentive Plan") (including Arcosa equity awards issued in respect of outstanding Trinity equity awards in connection with the Separation). Amounts are comprised of (a) 938,384 shares of common stock issuable upon the vesting and conversion of restricted stock units and (b) 111,153 shares of common stock issuable upon the vesting and conversion of performance units, assuming payout at target performance. The restricted stock units and performance units do not have an exercise price. The performance units are granted to employees based upon a target level; however, depending upon the achievement of certain specified goals during the performance period, performance units may be issued at an amount between 0% and 200% of the target level.

(2) For purposes of calculating the number of shares remaining available for issuance under the Incentive Plan, this calculation reserves for issuance the potential maximum payout (200% of target) of the outstanding performance units. Upon certification of actual performance, reserved shares that are not issued will again be available for issuance under the Incentive Plan.

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

Information regarding certain relationships and related person transactions is incorporated by reference to the information set forth under the caption “Transactions with Related Persons” in the Company's 2019 Proxy Statement. Information regarding the independence of directors is incorporated by reference to the information set forth under the caption “Corporate Governance-Independence of Directors” in the Company's 2019 Proxy Statement.

Item 14. ***Principal Accountant Fees and Services.***

Information regarding principal accountant fees and services is incorporated by reference to the information set forth under the caption “Fees of Independent Registered Public Accounting Firm for Fiscal Year 2018” in the Company's 2019 Proxy Statement.

PART IV

Item 15. ***Exhibits and Financial Statement Schedules.***

(a) (1) *Financial Statements.*

See Item 8.

(2) *Financial Statement Schedule.*

All schedules are omitted because they are not required, not significant, not applicable, or the information is shown in the financial statements or the notes to consolidated financial statements.

(3) *Exhibits.*

NO.	DESCRIPTION
2.1	Separation and Distribution Agreement, dated as of October 31, 2018, by and between Trinity Industries, Inc. and Arcosa, Inc. (incorporated by reference to Exhibit 2.1 to the Company's Current Report on Form 8-K, filed November 1, 2018, File No. 001-38494)
2.2	Purchase Agreement and Plan of Merger, dated November 14, 2018, by and among Arcosa Materials, Inc., Arcosa MS1, LLC, Harrison Gypsum Holdings, LLC, H.I.G. - HGC, LLC, and H.I.G. - HGC, LLC, not individually but solely in its capacity as the Representative. (The schedules and certain exhibits have been omitted pursuant to Item 601(b)(2) of Regulation S-K. A list of the schedules and exhibits is contained in the Purchase Agreement and will be furnished to the Securities and Exchange Commission upon request) (filed herewith)
3.1	Restated Certificate of Incorporation of Arcosa, Inc. (incorporated by reference to Exhibit 3.1 to the Company's Registration Statement on FormS-8, filed on October 31, 2018, File No. 333-228098)
3.2	Amended and Restated Bylaws of Arcosa, Inc. (incorporated by reference to Exhibit 3.2 to the Company's Registration Statement on Form S-8, filed on October 31, 2018, File No. 333-228098)
10.1	Transition Services Agreement, dated as of October 31, 2018, by and between Trinity Industries, Inc. and Arcosa, Inc. (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K, filed November 1, 2018, File No. 001-38494)
10.2	Tax Matters Agreement, dated as of October 31, 2018, by and between Trinity Industries, Inc. and Arcosa, Inc. (incorporated by reference to Exhibit 10.2 to the Company's Current Report on Form 8-K, filed November 1, 2018, File No. 001-38494)
10.3	Employee Matters Agreement, dated as of October 31, 2018, by and between Trinity Industries, Inc. and Arcosa, Inc. (incorporated by reference to Exhibit 10.3 to the Company's Current Report on Form 8-K, filed November 1, 2018, File No. 001-38494)
10.4	Intellectual Property Matters Agreement, dated as of October 31, 2018, by and between Trinity Industries, Inc. and Arcosa, Inc. (incorporated by reference to Exhibit 10.4 to the Company's Current Report on Form 8-K, filed November 1, 2018, File No. 001-38494)
10.5	Credit Agreement, dated as of November 1, 2018, by and among Arcosa, Inc. as borrower, the lenders party thereto, JPMorgan Chase Bank, National Association, as administration agent, Bank of America, N.A., as syndication agent and Branch Banking & Trust Company, SunTrust Bank and Wells Fargo Bank, National Association, as co-documentation agents (incorporated by reference to Exhibit 10.5 to the Company's Current Report on Form 8-K, filed November 1, 2018, File No. 001-38494)
10.6	Amendment No. 1 to Credit Agreement, dated as of December 18, 2018, by and among Arcosa, Inc. as borrower, the lenders party thereto, and JPMorgan Chase Bank, National Association, as administration agent (filed herewith)
*10.7	Arcosa, Inc. 2018 Stock Option and Incentive Plan (incorporated by reference to Exhibit 99.1 to the Company's Registration Statement on Form S-8, filed on October 31, 2018, File No. 333-228098)
*10.8	Arcosa, Inc. Annual Incentive Plan (incorporated by reference to Exhibit 10.7 to the Company's Current Report on Form 8-K, filed November 1, 2018, File No. 001-38494)
*10.9	Arcosa, Inc. 2018 Deferred Plan for Director Fees (incorporated by reference to Exhibit 10.8 to the Company's Current Report on Form 8-K, filed November 1, 2018, File No. 001-38494)
*10.10	Arcosa, Inc. Supplemental Profit Sharing Plan (incorporated by reference to Exhibit 10.9 to the Company's Current Report on Form 8-K, filed November 1, 2018, File No. 001-38494)
*10.11	Form of Non-Employee Director Restricted Stock Grant Agreement (filed herewith)
*10.12	Form of Restricted Stock Unit Grant Agreement (filed herewith)
*10.13	Arcosa, Inc. Change in Control Severance Plan (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K, filed December 12, 2018, File No. 001-38494)

*10.14	Form of Former Parent Restricted Stock Grant Agreement for grants issued prior to 2008 (incorporated by reference to Exhibit 10.7.1 to Trinity Industries, Inc. Annual Report on Form 10-K for the annual period ended December 31, 2018).
*10.15	Form of Former Parent Restricted Stock Grant Agreement for grants issued commencing 2008 (incorporated by reference to Exhibit 10.7.1.1 to Trinity Industries, Inc. Annual Report on Form 10-K for the annual period ended December 31, 2018).
*10.16	Form of Former Parent Restricted Stock Unit Agreement for Non-Employee Directors for grants issued prior to 2008 (incorporated by reference to Exhibit 10.7.2 to Trinity Industries, Inc. Annual Report on Form 10-K for the annual period ended December 31, 2018).
*10.17	Form of Former Parent Restricted Stock Unit Agreement for Non-Employee Directors for grants issued commencing 2008 (incorporated by reference to Exhibit 10.7.2.1 to Trinity Industries, Inc. Annual Report on Form 10-K for the annual period ended December 31, 2018).
*10.18	Form of Former Parent Performance Restricted Stock Unit Grant Agreement for grants issued commencing 2011 through 2016 (incorporated by reference to Exhibit 10.10.6 to Trinity Industries, Inc. Annual Report on Form 10-K for the annual period ended December 31, 2016).
*10.19	Form of Former Parent Restricted Stock Unit Agreement for grants issued commencing 2017 (incorporated by reference to Exhibit 10.2 to Trinity Industries, Inc. Form 8-K filed on May 3, 2017).
*10.20	Form of Former Parent Performance-Based Restricted Stock Unit Grant Agreement for grants issued commencing 2017 (incorporated by reference to Exhibit 10.3 to Trinity Industries, Inc. Form 8-K filed on May 3, 2017).
*10.21	Form of Former Parent Non-Employee Director Restricted Stock Grant Agreement for grants issued commencing 2017 (incorporate by reference to Exhibit 10.5 to Trinity Industries, Inc. Quarterly Report on Form 10-Q for the quarterly period ended June 30, 2017).
*10.22	Form of Former Parent Non-Employee Director Restricted Stock Unit Agreement for grants issued commencing 2017 (incorporate by reference to Exhibit 10.6 to Trinity Industries, Inc. Quarterly Report on Form 10-Q for the quarterly period ended June 30, 2017).
21.0	Listing of subsidiaries of Arcosa, Inc. (filed herewith)
23.0	Consent of Ernst & Young LLP (filed herewith)
31.1	Rule 13a-15(e) and 15d-15(e) Certification of the Chief Executive Officer (filed herewith)
31.2	Rule 13a-15(e) and 15d-15(e) Certification of the Chief Financial Officer (filed herewith)
32.1	Certification pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (filed herewith)
32.2	Certification pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (filed herewith)
95.0	Mine Safety Disclosure Exhibit (filed herewith)
101.INS	XBRL Instance Document (filed electronically herewith)
101.SCH	XBRL Taxonomy Extension Schema Document (filed electronically herewith)
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document (filed electronically herewith)
101.LAB	XBRL Taxonomy Extension Label Linkbase Document (filed electronically herewith)
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document (filed electronically herewith)
101.DEF	XBRL Taxonomy Extension Definition Linkbase Document (filed electronically herewith)

* Management contracts and compensatory plan arrangements

Item 16. ***Form 10-K Summary.***

None

SIGNATURES

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

ARCOSA, INC.	By /s/ Scott C. Beasley
Registrant	
	Scott C. Beasley
	Chief Financial Officer
	February 28, 2019

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

Signature	Title	Date
/s/ Antonio Carrillo	President and Chief Executive Officer and Director	February 28, 2019
Antonio Carrillo	(Principal Executive Officer)	
/s/ Scott C. Beasley	Chief Financial Officer	February 28, 2019
Scott C. Beasley	(Principal Financial Officer)	
/s/ Mary E. Henderson	Chief Accounting Officer	February 28, 2019
Mary E. Henderson	(Principal Accounting Officer)	
/s/ Rhys J. Best	Non-Executive Chairman	February 28, 2019
Rhys J. Best		
/s/ Joseph Alvarado	Director	February 28, 2019
Joseph Alvarado		
/s/ David W. Biegler	Director	February 28, 2019
David W. Biegler		
/s/ Jeffrey A. Craig	Director	February 28, 2019
Jeffrey A. Craig		
/s/ Ronald J. Gafford	Director	February 28, 2019
Ronald J. Gafford		
/s/ John W. Lindsay	Director	February 28, 2019
John W. Lindsay		
/s/ Douglas L. Rock	Director	February 28, 2019
Douglas L. Rock		
/s/ Melanie Trent	Director	February 28, 2019
Melanie Trent		

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Section 2: EX-10.6 (EXHIBIT 10.6)

Exhibit 10.6
Execution Version

ACTIVE 238035260v.6

THIS AMENDMENT NO. 1 TO CREDIT AGREEMENT (this "Amendment") is made as of December 18, 2018, by and among ARCOSA, INC., a Delaware corporation (the "Borrower"), the lenders listed on the signature pages hereof (the "Lenders"), and JPMORGAN CHASE BANK, NATIONAL ASSOCIATION, as Administrative Agent (in such capacity, the "Administrative Agent"), under that certain Credit Agreement, dated as of November 1, 2018, by and among the Borrower, the lenders from time to time party thereto and the Administrative Agent (as amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement"). Capitalized terms used but not otherwise defined herein shall have the meaning given to them in the Credit Agreement.

WITNESSETH

WHEREAS, the Borrower, the Lenders and the Administrative Agent are parties to the Credit Agreement;

WHEREAS, the Borrower has requested that the Administrative Agent and the Lenders amend the Credit Agreement on the terms and conditions set forth herein; and

WHEREAS, the Borrower, the Administrative Agent and the requisite number of Lenders have agreed to amend the Credit Agreement on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the premises set forth above, the terms and conditions contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto have agreed to the following:

Section 1. Amendments to the Credit Agreement. Subject to the satisfaction of the conditions precedent set forth in Section 2 below, on the Amendment Effective Date (as defined below), the Credit Agreement is hereby amended as follows:

(a) The definition of "Permitted Encumbrances" is hereby amended to delete clause (k) thereof and replace such clause with the following:

"(k) Liens arising from precautionary Uniform Commercial Code financing statement or similar filings made in respect of (i) operating leases entered into by the Borrower or any Subsidiary and (ii) Dispositions permitted under Section 6.04(l), provided that such Liens are only with respect to the accounts receivable and proceeds thereof that are the subject of such Disposition;"

(b) Section 6.04(j) of the Credit Agreement is hereby amended by deleting the word "and" appearing at the end thereof;

(c) Section 6.04(k) of the Credit Agreement is hereby amended by (i) deleting the period appearing therein and (ii) inserting the phrase "; and" in lieu thereof;

(d) Section 6.04 of the Credit Agreement is hereby further amended by inserting a new clause (l) as follows:

"(l) the sale on a non-recourse basis by the Borrower and its Subsidiaries in the ordinary course of business of accounts receivable owing from an account debtor pursuant to a supply chain or similar finance program established by such account debtor with a third party provider."

Section 2. Amendment Effective Date; Conditions Precedent. This Amendment shall become effective on the date on which the following conditions have been satisfied or waived (the "Amendment Effective Date"):

(a) the Administrative Agent shall have received a counterpart of this Amendment executed by the Borrower, the Administrative Agent and each of the Required Lenders;

(b) the representations and warranties contained in Section 3 hereof shall be true and correct; and

(c) the Administrative Agent shall have received such other documents, instruments and agreements as the Administrative Agent shall reasonably request.

Section 3. Representations and Warranties and Reaffirmations of the Borrower.

(a) The Borrower hereby represents and warrants that (i) this Amendment and the Credit Agreement as previously executed and as modified hereby constitute legal, valid and binding obligations of the Borrower and are enforceable against the Borrower in accordance with their terms (except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally), and (ii) at the time of and immediately after giving effect to this Amendment on the Amendment Effective Date, no Default or Event of Default has occurred and is continuing.

(b) The Borrower hereby represents and warrants that the representations and warranties of the Borrower set forth in the Loan Documents are true and correct in all material respects (without duplication of any materiality qualifiers set forth therein) on and as of the Amendment Effective Date, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they are true and correct in all material respects (or, in the case of any representation or warranty already qualified by materially, in any respect) as of such earlier date, and except that the representations and warranties contained in Sections 3.04(a)(i) and (a)(ii) of the Credit Agreement shall be deemed to refer to the most recent statements furnished pursuant to Sections 5.01(a) and (b) of the Credit Agreement, respectively.

(c) Upon the effectiveness of this Amendment and after giving effect hereto, the Borrower hereby reaffirms all covenants, representations and warranties made in the Credit Agreement as modified hereby, and agrees that all such covenants, representations and warranties shall be deemed to have been remade as of the Amendment Effective Date, except that any such covenant, representation, or warranty that was made as of a specific date shall be considered reaffirmed only as of such date.

Section 4. Reference to the Effect on the Credit Agreement.

(a) Upon the effectiveness of Section 1 hereof, on and after the date hereof, each reference in the Credit Agreement (including any reference therein to "this Credit Agreement," "this Agreement," "hereunder," "hereof," "herein" or words of like import referring thereto) or in any other Loan Document shall mean and be a reference to the Credit Agreement as modified hereby.

(b) Except as specifically modified above, the Credit Agreement and all other documents, instruments and agreements executed and/or delivered in connection therewith shall remain in full force and effect, and are hereby ratified and confirmed.

(c) The execution, delivery and effectiveness of this Amendment shall not operate as a waiver of any right, power or remedy of the Administrative Agent or the Lenders, nor constitute a waiver of any provision of the Credit Agreement or any other documents, instruments and agreements executed and/or delivered in connection therewith.

(d) Upon satisfaction of the conditions set forth in Section 2 hereof and the execution hereof by the Borrower, the Lenders and the Administrative Agent, this Amendment shall be binding upon all parties to the Credit Agreement.

(e) This Amendment shall constitute a Loan Document.

Section 5. GOVERNING LAW. THIS AMENDMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

Section 6. Headings. Section 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.

Section 7. Counterparts. This Amendment may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. Delivery of an executed counterpart of a signature page of this Amendment by telecopy, e-mailed .pdf or any other electronic means that reproduces an image of the actual executed signature page shall be effective as delivery of a manually executed counterpart of this Amendment.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, this Amendment has been duly executed as of the day and year first above written.

ARCOSA, INC.,
as the Borrower

By /s/ Gail Peck
Name: Gail Peck
Title: SVP, Finance & Treasurer

Signature Page to Amendment No. 1 to Credit Agreement
Arcosa, Inc.

JPMORGAN CHASE BANK, N.A., individually as a Lender, as the Swingline Lender, as an Issuing Bank and as Administrative Agent

By: /s/ Gregory T. Martin
Name: Gregory T. Martin
Title: Executive Director

BANK OF AMERICA, N.A.,
as a Lender, as an Issuing Bank and as Syndication Agent

By: /s/ Allison W. Connally
Name: Allison W. Connally
Title: Senior Vice President

BRANCH BANKING & TRUST COMPANY,
as a Lender and as Co-Documentation Agent

By: /s/ Allen King
Name: Allen King
Title: Senior Vice President

SUNTRUST BANK,
as a Lender and as Co-Documentation Agent

By: /s/ Justin Lien
Name: Justin Lien
Title: Director

WELLS FARGO BANK, NATIONAL ASSOCIATION,
as a Lender and as Co-Documentation Agent

By: /s/ Ben Wright
Name: Ben Wright
Title: Managing Director

AMEGY BANK NATIONAL ASSOCIATION,
as a Lender

By: /s/ Kathy V. Magee
Name: Kathy V. Magee
Title: Senior Vice President

BOKF, NA DBA BANK OF TEXAS,
as a Lender

By: /s/ Mike Meredith
Name: Mike Meredith
Title: SVP

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Section 3: EX-10.11 (EXHIBIT 10.11)

Exhibit 10.11

ARCOSA, INC.

NON-EMPLOYEE DIRECTOR
RESTRICTED STOCK GRANT AGREEMENT

THIS NON-EMPLOYEE DIRECTOR RESTRICTED STOCK GRANT AGREEMENT (the "Agreement"), by and between ARCOSA, INC. (hereinafter called, the "Company") and ________ (hereinafter called, the "Director"), is made as of ______ (the "Date of Grant");

WITNESSETH:

WHEREAS, the Company has established the Arcosa, Inc. 2018 Stock Option and Incentive Plan ("Plan"), and which Plan is made a part hereof; and

WHEREAS, the Board of Directors of the Company (the "Board") has determined that the Director be granted an award of Restricted Stock subject to the term of the Plan and the terms stated below, as hereinafter set forth;

NOW, THEREFORE, in consideration of the premises and the covenants and agreements herein contained, the parties hereto agree as follows:

1. Grant of Restricted Shares.

Subject to the terms and conditions of the Plan, this Agreement and the restrictions set forth below, the Company hereby grants to the Director (this "Restricted Stock Grant") ________ Shares of the Company (the "Restricted Shares"). The Restricted Shares may be issued in certificated or book-entry form as the Company may determine.

2. Restrictions; Vesting Schedule; Forfeiture.

The Restricted Shares may not be sold, assigned, transferred, pledged or otherwise disposed of or encumbered (the "Restrictions on Transferability") until the Restrictions on Transferability shall lapse. The Restrictions on Transferability shall lapse upon the first to occur of the following: the Restrictions on Transferability shall lapse on the first anniversary of the Date of Grant, or if earlier (i) upon death of the Director, (ii) upon the termination of the Director's service for Disability (as defined in the Plan), or (iii) with the consent of the Board, in its sole discretion. Subject to Section 18 of the Plan, upon a Change in Control (as defined in the Plan), the Restrictions on Transferability with respect to the Restricted Shares shall not lapse, but rather shall continue until they lapse in accordance with the schedule set forth above.

Any unvested Restricted Shares shall be forfeited by the Director to the Company if prior to the lapse of the Restrictions on Transferability, the Director ceases to be a director of the Company

(or otherwise terminates service) with the Company for any reason, which termination shall be evidenced by written notice from the Company or from the Director. Upon forfeiture, the Company shall have all right, title and interest in the Restricted Shares and the Director shall have no further right, title or interest therein. Until the Restrictions on Transferability shall lapse, any certificates representing the Restricted Shares shall bear a legend giving notice of such restrictions as follows:

> **THE SHARES REPRESENTED BY THIS CERTIFICATE ARE RESTRICTED PURSUANT TO A NON-EMPLOYEE DIRECTOR RESTRICTED STOCK GRANT AGREEMENT DATED AS OF _____________ AND MAY NOT BE SOLD, ASSIGNED, TRANSFERRED, PLEDGED OR OTHERWISE DISPOSED OF OR ENCUMBERED AT ANYTIME WITHOUT THE PRIOR WRITTEN APPROVAL OF THE COMPANY.**

Upon the lapse of the Restrictions on Transferability with respect to any of the Restricted Shares, such shares without the restrictive legend noted above shall be delivered to the Director or the Director's personal representative.

3. <u>Stockholder Status.</u>

Effective upon satisfaction of the conditions set forth in Section 12, the Director will become the holder of record of the Restricted Shares and have all rights of a stockholder with respect to the Restricted Shares, including the right to vote the Restricted Shares and the right to receive all dividends earned with respect to the Restricted Shares, subject to the terms and conditions set forth in this Agreement. With respect to any dividends declared with respect to the Restricted Shares, such dividends shall be accrued by the Company for the Director's account, and shall be distributed to the Director in cash or, in the sole discretion of the Board, in Shares having a Fair Market Value equal to the amount of such dividends, if applicable, upon the lapse of the Restrictions on Transferability (as defined below) with respect to the applicable Restricted Shares to which such dividends are attributable. No dividends shall be accrued or paid with respect to Restricted Shares that are forfeited in accordance with Section 2 above, and any right to such dividends shall be forfeited at the time the underlying Restricted Shares are forfeited.

4. <u>Subject to Plan.</u>

The Restricted Shares are granted subject to the terms and provisions of the Plan of the Company, which Plan is incorporated herein by reference. In case of any conflict between this Agreement and the Plan, the terms and provisions of the Plan shall be controlling. Capitalized terms used herein, if not defined herein, shall be as defined in the Plan.

5. <u>Tax Requirements; Tax Election.</u>

The Director shall be liable for any and all taxes, arising out of this Restricted Stock Grant, the vesting of the Restricted Shares or otherwise hereunder. The Director is hereby advised to consult immediately with his own tax advisor regarding the tax consequences of this Agreement, the method and timing for filing an election to include this Agreement in income under Section 83(b) of the Code, and the tax consequences of such election. By execution of this Agreement, the Director agrees that if the Director makes such an election, the Director shall provide the Company with written notice of such election in accordance with the regulations promulgated under Section 83(b) of the Code.

6. No Rights of Continued Service.

Neither the Plan nor this Agreement nor any provisions under either shall be construed to confer upon the Director any right to remain a director of the Company, and nothing herein shall be construed in any manner to interfere in any way with the right of the Company to terminate the Director's service at any time.

7. Adjustment of Number of Restricted Shares.

The number of Restricted Shares awarded pursuant to this Agreement shall be subject to adjustment in accordance with Section 20 of the Plan.

8. Entire Agreement.

This Agreement together with the Plan supersede any and all other prior understandings, negotiations and agreements, either oral or in writing, between the parties with respect to the subject matter hereof and constitute the sole and only agreements between the parties with respect to the said subject matter. The Director acknowledges that the Director is relying solely on the Director's own judgment in entering into this Agreement, and not on any communications, promises, or representations of the Company or its agent, except as expressly contained in this Agreement. The Committee may amend this Agreement without the Director's consent provided that it concludes that such amendment is not materially adverse to the Director, or is permitted under Section 20 of the Plan. Except as provided by the immediately preceding sentence, no change or modification of this Agreement shall be valid or binding upon the parties unless the change or modification is in writing and signed by the parties.

9. Interpretation of this Agreement.

The administration of the Plan has been vested in the Human Resources Committee (the "Committee"), and all questions of interpretation and application of this Restricted Stock Grant shall be subject to determination by a majority of the members of the Committee, which determination shall be final and binding on the Director.

10. Law Governing.

This Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Texas (excluding any conflict of laws rule or principle of Texas law that might refer the governance, construction, or interpretation of this Agreement to the laws of another state).

11. Notice.

Any notice required or permitted to be delivered hereunder shall be in writing and shall be deemed to be delivered only when actually received by the Company or the Director, as the case may be, at the addresses set forth below (or at such other addresses as they have theretofore specified by written notice delivered in accordance herewith):

(i) Notice to the Company shall be sent electronically to _____ or in hard copy addressed and delivered as follows: Arcosa, Inc., ________, Attention: Corporate Benefits Department.

(ii) Notice to the Director shall be sent electronically to the Director's Company e-mail address or, in hard copy addressed and delivered to the Director's address then on file with the Company.

12. Acceptance and Stock Power.

This Restricted Stock Grant is subject to and conditioned upon: (i) the Director's electronic acceptance of the terms hereof, and (ii) the delivery of an electronically executed stock power in the form attached as Exhibit A.

* * * * * * * *

IN WITNESS WHEREOF, the Company has caused this Agreement to be executed by its duly authorized officer, and the Director, to evidence his or her consent and approval of all the terms hereof, has duly executed this Agreement, as of the Date of Grant.

ARCOSA, INC.

By: _____________
Name: _____________
Title: _____________

GRANTEE

____
Name:

Signature Page to
Non-Employee Director Restricted Stock Grant Agreement

Exhibit A

IRREVOCABLE STOCK POWER

FOR VALUE RECEIVED, the undersigned does hereby sell, assign and transfer, to Arcosa, Inc., _______________ ( ) shares of the common stock of Arcosa, Inc. awarded to the undersigned and for which restrictions have not lapsed pursuant to a Non-Employee Director Restricted Stock Grant Agreement dated as of _________ for _______ shares standing in the name of the undersigned on the books of said Company.

_____________________________ ____

DATE NAME:

Exhibit A to
Non-Employee Director Restricted Stock Grant Agreement

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Section 4: EX-10.12 (EXHIBIT 10.12)

Exhibit 10.12

ARCOSA, INC.

RESTRICTED STOCK UNIT AGREEMENT

THIS RESTRICTED STOCK UNIT AGREEMENT (the “Agreement”), by and between ARCOSA, INC. (hereinafter called the “Company”) and _________ (hereinafter called, the “Grantee”), is made as of __________ (the “Date of Grant”);

WITNESSETH:

WHEREAS, the Grantee complies with the requirements of eligibility for the award of Restricted Stock Units under the Arcosa, Inc. 2018 Stock Option and Incentive Plan (the “Plan”); and

WHEREAS, the Company has determined to award to the Grantee __________ Restricted Stock Units (the “Units”), subject to the terms of the Plan and conditions hereinafter set forth, as a retention incentive, to encourage a sense of proprietorship by the Grantee and to stimulate the active interest of the Grantee in promoting the development, growth, performance and financial success of the Company by affording the Grantee an opportunity to obtain an increased proprietary interest in the Company so as to assure a closer identification between the Grantee’s interest and the interest of the Company;

NOW, THEREFORE, in consideration of the premises and the covenants and agreements herein contained, the parties hereto agree as follows:

1. Grant of Restricted Stock Units.

Subject to the terms and conditions of the Plan, this Agreement and the restrictions set forth below, the Company hereby grants to the Grantee the total number of Units set forth above and hereby credits such Units to a separate account maintained on the books of the Company. Each Unit shall be subject to conversion into one Share, as herein provided.

2. Stockholder Status.

The Grantee will have no rights as a stockholder (including, without limitation, the right to vote and to receive dividends) with respect to the Units covered by this Agreement until the issuance of Shares to the Grantee (in certificated or book-entry form) upon the conversion of the Units into Shares. The Grantee, by his or her execution of this Agreement, agrees to execute any documents requested by the Company in connection with the conversion of the Units. Except as otherwise provided in Sections 4 and 9 hereof, no adjustment shall be made for dividends or other rights for which the record date is prior to the issuance of such Shares.

3. Vesting; Forfeiture.

The Units will become vested in accordance with the schedule set forth below, if, as of the date(s) specified in the schedule, the Grantee is employed by the Company on such date:

Date	Units

In addition, the Units will become 100% vested on the earliest to occur of the following events, if the Grantee is employed by the Company on the date of such event:

(i) death of the Grantee;

(ii) termination of the Grantee's employment for Disability (as defined in the Plan); or

(iii) the consent of the Human Resources Committee (the "Committee"), in its sole discretion, to vest the remaining unvested Units, at any time after three years from the Date of Grant.

The date on which any Units become vested in accordance with this Section 3 is the "Vesting Date" for such Units, and such vested Units are referred to herein as, the "Vested Units."

Subject to Section 18 of the Plan, and except as expressly provided otherwise by a "Change in Control Agreement" by and between the Grantee and the Company that is in effect at the time of a Change in Control (as defined in the Plan), upon a Change in Control, the vesting of the unvested Units shall not be accelerated, but rather the Units shall continue to vest in accordance with the schedule set forth above. All of the unvested Units shall be forfeited by the Grantee to the Company if, prior to vesting in accordance with this Section 3, the Grantee's employment with the Company terminates for any reason, other than death or Disability. Upon forfeiture, all of the Grantee's rights with respect to the forfeited Units shall cease and terminate, without any further obligations on the part of the Company.

4. Divided Equivalents.

The Company also grants to the Grantee a Dividend Equivalent Right with respect to the Units, whereby if on any date the Company shall pay any dividend or other distribution on Shares (other than a dividend in Shares), then with respect to each Unit, an amount equal to the amount of the dividend or distribution per Share shall be credited to the account of the Grantee maintained on the books of the Company (the "Dividend Equivalents"), and shall be paid to the Grantee (in cash or Shares, in the discretion of the Committee) at the time the Vested Units related to such dividend or other distribution are converted in accordance with Section 5 below. If the underlying Units are forfeited, the Grantee shall have no right to the Dividend Equivalents related to such forfeited Units and shall forfeit such Dividend Equivalents as well.

5. Form and Timing of Payment.

Subject to the conditions hereinafter set forth, upon the vesting of the Units, or as soon as practicable following vesting, but in no event later than sixty (60) days after the Vesting Date of such Units, the Company shall convert the Vested Units into the number of whole Shares equal to the number of Vested Units, and shall deliver such Shares to the Grantee or the Grantee's personal representative. Shares shall only be delivered under this Section 5 if the Grantee or the Grantee's personal representative has made appropriate arrangements with the Company in accordance with Section 27 of the Plan for applicable taxes which are required to be withheld under federal, state or local law or the tax withholding requirement has otherwise been satisfied.

6. No Rights of Continued Service.

Nothing herein shall confer upon the Grantee any right to remain an officer or employee of the Company or one of its Subsidiaries, and nothing herein shall be construed in any manner to interfere in any way with the right of the Company or its Subsidiaries to terminate the Grantee's service at any time.

7. Interpretation of this Agreement.

The administration of the Plan has been vested in the Committee, and all questions of interpretation and application of this Agreement shall be subject to determination by a majority of the members of the Committee, which determination shall be final and binding on Grantee.

8. Subject to Plan.

The Units are granted subject to the terms and provisions of the Plan, which Plan is incorporated herein by reference. In case of any conflict between this Agreement and the Plan, the terms and provisions of the Plan shall be controlling. Capitalized terms used herein, if not defined herein, shall be as defined in the Plan.

9. Adjustment of Number of Units.

The number of Units awarded pursuant to this Agreement and the Shares to be delivered with respect to the Units shall be subject to adjustment in accordance with Section 20 of the Plan.

10. Repayment on Restatement.

Vested and unvested Units (and any Shares delivered upon conversion of the Vested Units) are subject to forfeiture in order to satisfy amounts recoverable by the Company that the Committee determines pursuant to the Policy for Repayment on Restatement of Financial Statements as may be in effect at the time of the determination, which policy is incorporated herein by reference.

11. Entire Agreement.

This Agreement together with the Plan supersede any and all other prior understandings, negotiations and agreements, either oral or in writing, between the parties with respect to the subject matter hereof and constitute the sole and only agreements between the parties with respect to the said subject matter. The Grantee acknowledges that the Grantee is relying solely on the Grantee's own judgment in entering into this Agreement, and not on any communications, promises, or representations of the Company or its agent, except as expressly contained in this Agreement. The Committee may amend this Agreement without the Grantee's consent provided that it concludes that such amendment is not materially adverse to the Grantee, or is permitted under Section 20 of the Plan. Except as provided by the immediately preceding sentence, no change or modification of this Agreement shall be valid or binding upon the parties unless the change or modification is in writing and signed by the parties.

12. Law Governing.

This Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Texas (excluding any conflict of laws rule or principle of Texas law that might refer the governance, construction, or interpretation of this Agreement to the laws of another state).

13. Notice.

Any notice required or permitted to be delivered hereunder shall be in writing and shall be deemed to be delivered only when actually received by the Company or the Grantee, as the case may be, at the addresses set forth below (or at such other addresses as they have theretofore specified by written notice delivered in accordance herewith):

(i) Notice to the Company shall be sent electronically to ______ or in hard copy addressed and delivered as follows: Arcosa, Inc., _______, Attention: Corporate Benefits Department.

(ii) Notice to the Grantee shall be sent electronically to the Grantee's Company e-mail address or, in hard copy addressed and delivered to the Grantee's address then on file with the Company.

14. Code Section 409A.

The parties intend this Agreement to be exempt from or compliant with the requirements of Section 409A of the Code and agree to interpret this Agreement at all times in accordance with such intent. Notwithstanding the foregoing, the Company makes no representations, warranties, or guarantees regarding the tax treatment of this Agreement under Section 409A of the Code or otherwise, and has advised the Grantee to obtain his or her own tax advisor regarding this Agreement.

15. Acceptance.

The grant of the Units under this Agreement is subject to and conditioned upon the Grantee’s electronic acceptance of the terms hereof.

* * * * * * * *

Exhibit 10.12

IN WITNESS WHEREOF, the Company has caused this Agreement to be executed by its duly authorized officer, and the Grantee, to evidence his or her consent and approval of all the terms hereof, has duly executed this Agreement, as of the Date of Grant.

ARCOSA, INC.

By: _____________

Name: _____________
Title: _____________

GRANTEE

____

Name:

Signature Page to Restricted Stock Unit Agreement

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Section 5: EX-21 (EXHIBIT 21)

Exhibit 21

Arcosa, Inc.
Active Subsidiaries as of February 28, 2019

Name of Subsidiary	Jurisdiction of Incorporation
Administradora Especializada, S. de R.L. de C.V.	Mexico
Arcosa ACG, Inc.	Delaware
Arcosa Aggregates, Inc.	Delaware
Arcosa Canada Distribution, Inc.	Alberta, Canada
Arcosa Canada ULC	Alberta, Canada
Arcosa Composites, LLC	Delaware
Arcosa Cryogenics, LLC	Delaware
Arcosa EPI, LLC	Delaware
Arcosa Industries de LatinoAmerica S.A.C.	Peru
Arcosa Industries de México, S. de R.L. de C.V.	Mexico
Arcosa Lafayette, LLC	Delaware
Arcosa LaPorte, LLC	Delaware
Arcosa LWB, LLC	Delaware
Arcosa LW BR, LLC	Delaware
Arcosa LWFP, LLC	Delaware
Arcosa LW HPB, LLC	Delaware
Arcosa LW KY, LLC	Delaware
Arcosa LW, LLC	Delaware
Arcosa LWS, LLC	Delaware
Arcosa Marine Leasing, Inc.	Delaware
Arcosa Marine Products, Inc.	Delaware

Arcosa Materials, Inc.	Delaware
Arcosa Mining and Construction Equipment, Inc.	Delaware
Arcosa Shoring Products, Inc.	Delaware
Arcosa Tank, LLC	Delaware
Arcosa Traffic and Lighting Structures, LLC	Delaware
Arcosa Wind Towers, Inc.	Delaware
Art Wilson Co.	Nevada
Asistencia Profesional Corporativa, S. de R.L. de C.V.	Mexico
CEMC Services, LLC	Delaware
Diamond Gypsum, LLC	Delaware
The Gravel Company LLC	Texas
Harrison Gypsum Holdings, LLC	Delaware
Harrison Gypsum LLC	Oklahoma
HG Eagle, LLC	Delaware
Imperial Limestone Company Limited	British Columbia
Inland Marine Equipment LLC	Delaware
Jack Acquisitions, Inc.	Delaware
J.A. Jack & Sons, Inc.	Washington
McConway & Torley, LLC	Delaware
Meyer Utility Structures, LLC	Delaware
North Florida Rock, LLC	Delaware
OFE, S. de R.L. de C.V.	Mexico
POB Exploration, LLC	Delaware
Servicios Corporativos Tatsa, S. de R.L. de C.V.	Mexico
Standard Forged Products, LLC	Delaware
Trinity Industries International Holdings AG	Swiss
Washita Valley Logistics, LLC	Oklahoma
Western Oklahoma Development Group LLC	Oklahoma
Western States Gypsum	Nevada

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Section 6: EX-22 (EXHIBIT 22)

Exhibit 2.2
Execution Version

PURCHASE AGREEMENT

AND

PLAN OF MERGER

BY AND AMONG

ARCOSA MATERIALS, INC.,

ARCOSA MS1, LLC,

HARRISON GYPSUM HOLDINGS, LLC

H.I.G. – HGC, LLC, AS HIG SELLER

AND

H.I.G. – HGC, LLC, IN ITS CAPACITY AS THE REPRESENTATIVE

November 14, 2018

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EXHIBITS

SCHEDULES

PURCHASE AGREEMENT AND PLAN OF MERGER

This PURCHASE AGREEMENT AND PLAN OF MERGER (this "Agreement") is entered into as of November 14, 2018, by and among Arcosa Materials, Inc., a Delaware corporation ("Buyer"), Arcosa MS1, LLC, a Delaware limited liability company ("Merger Sub"), Harrison Gypsum Holdings, LLC, a Delaware limited liability company (the "Company"), H.I.G. – HGC, LLC, a Delaware limited liability company ("HIG Seller"), and H.I.G. – HGC, LLC, not individually but solely in its capacity as the Representative (as hereinafter defined). Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in Section 12.01 of this Agreement. Buyer, Merger Sub, the Company, and HIG Seller are sometimes referred to herein collectively as the "Parties" and, each individually, as a "Party."

RECITALS

WHEREAS, HIG Seller is the record and beneficial owner of 100% of the issued and outstanding shares of capital stock (the "HIG Holdco Shares") of H.I.G.-HGC Holdings, Inc., a Delaware corporation ("HIG Holdco");

WHEREAS, HIG Holdco is the record and beneficial owner of 698,049 Class A Units and 100 Class H Units of the Company (the "HIG Holdco Company Units");

WHEREAS, HIG Seller desires to sell to Buyer, and Buyer desires to purchase from HIG Seller, 100% of the HIG Holdco Shares, on the terms and subject to the conditions set forth in this Agreement (the "HIG Holdco Purchase");

WHEREAS, immediately following the closing of the HIG Holdco Purchase, the Parties desire to merge Merger Sub with and into the Company, with the Company as the surviving company (the "Merger");

WHEREAS, the board of directors or board of managers (or the equivalent governing body) of each of the Parties have approved the HIG Holdco Purchase and/or the Merger, as applicable;

WHEREAS, the requisite equity holders of Buyer, Merger Sub, and HIG Seller have all approved, to the extent necessary, the HIG Holdco Purchase and/or the Merger, as applicable; and

WHEREAS, the unitholders of the Company holding, in the aggregate, not less than the minimum number of votes required to approve the Merger in accordance with the Delaware Limited Liability Company Act (the "DLLCA") and the Company's Limited Liability Company Agreement have approved this Agreement and the transactions contemplated hereby pursuant to a written consent, a copy of which is attached hereto as Exhibit A (the "Unitholder Consent").

AGREEMENT

NOW, THEREFORE, in consideration of the premises and the mutual promises herein made, and in consideration of the representations, warranties, covenants and agreements herein contained, the Parties, intending to be legally bound, hereby agree as follows:

Article I
THE HIG HOLDCO PURCHASE

1.01 Sale of HIG Holdco Shares. Subject to and upon the terms and conditions of this Agreement, immediately prior to the Effective Time, HIG Seller shall sell to Buyer, and Buyer shall purchase from HIG Seller, all right, title and interest in and to the HIG Holdco Shares, free and clear of all Liens and Restrictions.

1.02 Consideration. In consideration for the HIG Holdco Shares, Buyer shall pay HIG Seller (collectively, the "Holdco Purchase Price"):

(a) at the Closing, the sum of (x) $5,000,000, plus (y) the Per Unit Portion of the Estimated Closing Cash Payment attributable to the Class A Units multiplied by the number of Class A Units owned by HIG Holdco immediately prior to the Holdco Closing, plus

(b) the Per Unit Portion of any Future Distribution Amount attributable to the Class A Units multiplied by the number of Class A Units owned by HIG Holdco immediately prior to the Holdco Closing.

1.03 Closing. The closing of the HIG Holdco Purchase shall take place on the Closing Date immediately prior to the Effective Time (the "Holdco Closing").

ARTICLE II
THE MERGER

2.01 Merger. Subject to and upon the terms and conditions of this Agreement and the DLLCA, at the Effective Time, Merger Sub shall be merged with and into the Company, whereupon the separate existence of Merger Sub shall cease and the Company shall continue as the surviving limited liability company. The Company, as the surviving limited liability company in the Merger, is hereinafter sometimes referred to as the "Surviving Company."

2.02 Effective Time; Closing. At the Closing, the Company and Buyer and Merger Sub shall cause a certificate of merger, in form and substance substantially the same as Exhibit B attached hereto (the "Certificate of Merger"), to be executed, acknowledged and filed with the Secretary of State of the State of Delaware, and shall make all other filings or recordings required by the DLLCA to complete the Merger. The Merger shall become effective at such time as the Certificate of Merger is duly filed with the Secretary of State of the State of Delaware or at such other time as Buyer and the Company shall agree and shall specify in the Certificate of Merger (the "Effective Time").

2.03 Effect of the Merger. At the Effective Time, the effect of the Merger shall be as provided in this Agreement and the applicable provisions of DLLCA. Without limiting the generality of the foregoing, and subject thereto, from and after the Effective Time, all of the assets, property, rights, privileges, powers and franchises of the Company and Merger Sub shall vest in the Surviving Company, and all debts, liabilities and duties of the Company and Merger Sub shall become the debts, liabilities and duties of the Surviving Company.

2.04 Certificate of Formation. The certificate of formation of Merger Sub in effect at the Effective Time shall be the certificate of formation of the Surviving Company until amended in accordance with applicable Law.

2.05 Limited Liability Company Agreement. The limited liability company agreement of Merger Sub in effect at the Effective Time shall be the limited liability company agreement of the Surviving Company until amended in accordance with applicable Law.

2.06 Managers and Officers. From and after the Effective Time, until successors are duly elected or appointed in accordance with applicable Law, the manager, members of the board of managers and officers of Merger Sub at the Effective Time shall be the manager, members of the board of managers and officers, as applicable, of the Surviving Company.

2.07 Conversion of Company Units. On the terms and subject to the conditions of this Agreement, at the Effective Time, by virtue of the Merger and without any action on the part of the Parties or any of the Unitholders, the following shall occur:

(a) Class A Units. Each Class A Unit outstanding immediately prior to the Effective Time (other than Class A Units owned by HIG Holdco and Class A Units to be cancelled pursuant to Section 2.07(d), if any) shall be cancelled and extinguished and shall be converted into the right to receive an amount in cash, without interest, equal to:

(i) the Per Unit Portion of the Estimated Closing Cash Payment with respect to such Class A Unit, plus

(ii) the Per Unit Portion of any Future Distribution Amount with respect to such Class A Unit.

(b) Class P Units. Each Class P Unit outstanding immediately prior to the Effective Time (other than Class P Units to be cancelled pursuant to Section 2.07(d), if any) shall be cancelled and extinguished and shall be converted into the right to receive an amount in cash, without interest, equal to:

(i) the Per Unit Portion of the Estimated Closing Cash Payment with respect to such Class P Unit, plus

(ii) the Per Unit Portion of any Future Distribution Amount with respect to such Class P Unit.

(c) Class H Units. Each Class H Unit outstanding immediately prior to the Effective Time shall be cancelled and extinguished and no cash or other consideration shall be paid with respect thereto.

(d) Cancellation of Treasury Units. Each Company Unit held immediately prior to the Effective Time by the Company in treasury, if any, or held by Buyer or any of its Subsidiaries (excluding the HIG Holdco Company Units) shall be cancelled and no cash or other consideration shall be paid with respect thereto.

(e) HIG Holdco Company Units. The HIG Holdco Company Units (other than the Class H Units cancelled pursuant to Section 2.07(c)) shall remain outstanding after the Effective Time. For greater certainty, there shall be no payments made to Buyer or HIG Holdco in respect of the HIG Holdco Company Units and each of Buyer and HIG Holdco hereby waives any and all rights to receive any payments of Merger Consideration under this Agreement in respect of the HIG Holdco Company Units after giving effect to the HIG Holdco Purchase (including payment in full of the Holdco Purchase Price to HIG Seller).

(f) Merger Sub Units. Each unit or membership interest of Merger Sub issued and outstanding immediately prior to the Effective Time shall be converted into and exchanged for one validly issued Class A Unit of the Surviving Company.

2.08 Designated Unitholders Payments; Letters of Transmittal.

(a) The Representative shall act as paying agent in effecting payments to Designated Unitholders and the exchange of cash for Company Units owned by Designated Unitholders.

(b) Within five (5) Business Days following the date hereof, to the extent not delivered prior to the date hereof, the Company shall deliver to each Designated Unitholder a letter of transmittal in form and substance substantially similar to Exhibit C attached hereto (the "Letter of Transmittal"). The Letter of Transmittal shall approve the execution and performance of this Agreement and the Escrow Agreement and approve the appointment of the Representative.

(c) The instructions to the Letter of Transmittal shall direct each Designated Unitholder to deliver to the Representative a duly completed and validly executed Letter of Transmittal in accordance with such instructions. If a Designated Unitholder delivers its Letter of Transmittal to the Representative at least two (2) Business Days prior to the Closing Date, then at the Closing the Representative shall deliver to such Designated Unitholder the portion of the consideration payable to such Designated Unitholder described in Section 3.02(c)(ii), subject to any applicable withholding Tax requirements. If a Designated Unitholder delivers its Letter of Transmittal to the Representative on or after the second (2^{nd}) Business Day prior to the Closing Date, then promptly after such delivery, the Representative shall deliver to such Designated Unitholder the portion of the consideration described in Section 3.02(d) payable to such Designated Unitholder, and, if applicable, any Future Distribution Amount that such Designated Unitholder is entitled to receive at that time, subject to any applicable withholding Tax requirements. Until a Letter of Transmittal is validly delivered by a Designated Unitholder, each Company Unit held by such Designated Unitholder immediately prior to the Effective Time shall represent solely the right to receive the portion of the Merger Consideration into which such Company Unit shall have been converted pursuant to Section 2.07, without interest. Representative shall deliver to Buyer all executed Letters of Transmittal that it receives from the Designated Unitholders.

(d) Notwithstanding anything to the contrary contained in this Agreement, neither Buyer, the Surviving Company, nor any of their respective Subsidiaries or Affiliates will have any liability for funds delivered to the Representative in accordance with the terms of this Agreement.

2.09 Required Withholding. Each of Buyer, the Escrow Agent and the Surviving Company shall be entitled, after consultation with the Representative, to deduct and withhold from any consideration payable or otherwise deliverable pursuant to this Agreement or the Escrow Agreement to any Unitholder such amounts as may be required to be deducted or withheld therefrom under the Code or any Law. To the extent such amounts are so deducted or withheld and remitted to the proper Taxing Authority (with copies of the appropriate receipts for such payments to be provided to the Representative), the amount of such consideration shall be treated for all purposes under this Agreement as having been paid to the Person to whom such consideration would otherwise have been paid.

2.10 Indemnity Escrow Amount; Adjustment Escrow Amount; Earn-Out Escrow Amount. At the Closing, Buyer shall deposit, or shall cause to be deposited, with the Escrow Agent cash in an amount equal to the Indemnity Escrow Amount, the Adjustment Escrow Amount, and the Earn-Out Escrow Amount. The Indemnity Escrow Amount, the Adjustment Escrow Amount, and the Earn-Out Escrow Amount will be held and disbursed by the Escrow Agent solely for the purposes and in accordance with the terms of this Agreement and the Escrow Agreement. The Indemnity Escrow Amount, Adjustment Escrow Amount, and Earn-Out Escrow Amount shall be held as a trust fund and will not be subject to any Lien, attachment, trustee process or any other judicial process of any creditor of any Party.

2.11 Surety Bond Deposits and Collateral. Buyer agrees to use reasonable best efforts to promptly, and in any event within 30 days after the Closing, (a) replace all of the surety bonds issued by or on behalf or account of the Company and its subsidiaries listed in Section 5.19 of the Disclosure Schedule with replacement bonds that do not require any deposits, cash collateral or other security, and (b) obtain the release of any liens related to, and the return of, any deposits, cash collateral or other security held as of the Closing (the "Existing Collateral") by or for the benefit of companies that have issued surety bonds on behalf of the Company or any of its Subsidiaries. Buyer will promptly, and in any event within five (5) Business Days, after receipt by the Buyer or any of its Subsidiaries of any Existing Collateral deliver such Existing Collateral to the Representative (for the benefit of the Unitholders) even if such Existing Collateral is received by Buyer after the 30 day period referred to above.

ARTICLE III
CLOSING, MERGER CONSIDERATION ADJUSTMENT

3.01 The Closing. The closing of the transactions contemplated by this Agreement (the "Closing") shall take place at the offices of McDermott Will & Emery LLP located in Dallas, Texas at (a) 10:00 a.m. on the second (2^{nd}) Business Day following satisfaction or waiver of all of the closing conditions set forth in Article IX and Article X hereof (other than those to be satisfied at the Closing), or (b) on such other date as is mutually agreed to in writing by Buyer and the Company. The date on which the Closing actually occurs is referred to herein as the "Closing Date." If the Closing occurs, all transactions contemplated herein to occur on or as of the Closing Date shall be deemed to have occurred simultaneously and to be effective as of 12:02 a.m. (Chicago time) on the Closing Date, other than the Holdco Closing which shall be deemed to have occurred and to be effective as of 12:01 a.m. (Chicago time) on the Closing Date.

3.02 Closing Transactions. On the Closing Date:

(a) the Company and Merger Sub shall cause the Certificate of Merger to be executed, acknowledged and filed with the Secretary of State of the State of Delaware;

(b) the Representative shall deliver to Buyer all of the Letters of Transmittal delivered to the Representative by the Designated Unitholders prior to the Closing;

(c) Buyer shall deliver:

(i) to HIG Seller the amount payable pursuant to Section 1.02(a); and

(ii) to the Representative, for the benefit of the Designated Unitholders who have delivered their Letters of Transmittal to the Representative at least two (2) Business Days prior to Closing, the portion of the Estimated Closing Cash Payment payable to such Designated Unitholders pursuant to Sections 2.07(a)(i) and 2.07(b)(i), subject to Section 2.09, as applicable.

(d) Buyer shall deliver to the Representative, for the benefit of the Designated Unitholders who failed to deliver their Letters of Transmittal to the Representative at least two (2) Business Days prior to Closing, the portion of the Estimated Closing Cash Payment payable to such Designated Unitholders pursuant to Sections 2.07(a)(i) and 2.07(b)(i), subject to Section 2.09, as applicable;

(e) Buyer shall deliver the Indemnity Escrow Amount, the Adjustment Escrow Amount, and the Earn-Out Escrow Amount to the Escrow Agent pursuant to Section 2.10 hereof;

(f) To the extent not previously paid, Buyer shall pay, on behalf of the Company and its Subsidiaries, the outstanding balance of all Funded Debt listed on Schedule 3.02(f), which in the case of items (1) and (2) on Schedule 3.02(f) shall be pursuant to the Payoff Letters;

(g) Buyer shall pay on behalf of the Company the Transaction Expenses Amount, in the amounts and to the Persons identified by the Representative prior to Closing;

(h) Buyer shall pay to the Representative, on behalf of the Unitholders, $250,000 to be held in the Representative Expense Fund (such amount, the "Representative Expense Fund Amount"); and

(i) The Parties and the Representative (on behalf of the Designated Unitholders) shall make such other deliveries as are required by Section 3.03 hereof.

Unless otherwise specified, all payments pursuant to this Section 3.02 shall be by wire transfer of immediately available U.S. dollars to the account or accounts specified in a writing (which may be email) by the recipient(s).

3.03 Closing Deliveries.

(a) At the Closing, the Company, HIG Seller, and the Representative (as applicable) shall deliver to Buyer each of the following:

(i) Stock certificates representing the HIG Holdco Shares and executed stock powers transferring the HIG Holdco Shares to Buyer;

(ii) a certificate of the Company dated as of the Closing Date in the form attached hereto as Exhibit D, stating that the conditions specified in Sections 9.01 and 9.02, with respect to the Company, have been satisfied (the "Company Closing Certificate");

(iii) a certificate of HIG Seller dated as of the Closing Date in the form attached hereto as Exhibit E, stating that the conditions specified in Sections 9.01 and 9.02, with respect to HIG Seller, have been satisfied (the "HIG Seller Closing Certificate");

(iv) certificates from HIG Holdco stating that such entity is not a "United States real property holding corporation" within the meaning of Section 897(c)(2) of the Code and from the Company stating that such entity is not an entity described in Treasury Regulation Section 1.1445-11T(b);

(v) a copy of the certificates of formation (or other similar charter documents) of HIG Holdco, the Company, and all of its Subsidiaries, certified by the Secretary of State of Delaware (or other jurisdiction of formation) and a certificate of good standing of the Company from Delaware (or other jurisdiction of formation) dated within ten (10) days of the Closing Date;

(vi) certified copies of the resolutions or written consent duly adopted by the Company's board of managers and equity holders of HIG Seller, HIG Holdco and the Company authorizing the execution, delivery and performance of this Agreement and the other agreements contemplated hereby, and the consummation of all transactions contemplated hereby and thereby;

(vii) certified copies of the Operating Agreement and all other organization documents of HIG Holdco and the Company;

(viii) the Escrow Agreement, duly executed by the Representative and the Escrow Agent;

(ix) the Payoff Letters;

(x) Letters of Transmittal that have been executed by Designated Unitholders that, when combined with the HIG Holdco Company Units, represent in the aggregate at least ninety-four and one-half percent (94.5%) of the outstanding Class A Units in the aggregate;

(xi) the HIG Termination Agreement, duly executed by each of the parties thereto;

(xii) written evidence terminating, in each case, as a contribution to the capital of Jack Acquisition, Inc. (A) that certain Subordinated Intercompany Promissory Note, dated February 24, 2015, payable by Jack Acquisitions, Inc., a Delaware corporation to Harrison Gypsum, LLC, an Oklahoma limited liability company (including all obligations and rights thereunder), and (B) that certain Subordinated Intercompany Promissory Note, dated August 5, 2015, payable by Jack Acquisitions, Inc., a Delaware corporation to Harrison Gypsum, LLC, an Oklahoma limited liability company (including all obligations and rights thereunder);

(xiii) resignations from the Persons listed on Schedule 3.03(a)(xiii) as a manager, member of the board of managers, director or officer, as applicable, of HIG Holdco, the Company and its Subsidiaries, each in the form attached hereto as Exhibit F; and

(xiv) an invoice or other written statement from each of the Persons to whom Transaction Expenses are owed (but only with respect to the Persons contemplated by clauses (a) and (b) of the definition Transaction Expenses) setting forth the total amounts owed to such Persons as of the Closing.

(b) At the Closing, Buyer and Merger Sub shall each deliver to the Representative each of the following:

(i) certified copies of the resolutions or written consent duly adopted by the manager or board of managers or directors (or its equivalent governing body) and equity holders (if necessary for approval) of Buyer and Merger Sub authorizing the execution, delivery, and performance of this Agreement and the other agreements contemplated hereby, and the consummation of all transactions contemplated hereby and thereby;

(ii) a certificate dated as of the Closing Date in substantially the form attached hereto as Exhibit G stating that the conditions specified in Section 10.01 and 10.02 have been satisfied (the "Buyer Closing Certificate"); and

(iii) the Escrow Agreement duly executed by Buyer.

3.04 Net Working Capital and Cash Payment Adjustment.

(a) Estimated Closing Cash Payment. Not less than two (2) Business Days prior to the Closing Date, the Company shall prepare and deliver to Buyer a statement, in the form attached hereto as Exhibit H (the "Estimated Closing Statement"), executed and certified by the Chief Executive Officer and Chief Financial Officer of the Company that sets forth the Company's good faith estimate of the Cash Amount, the outstanding amount of all Funded Debt as of immediately prior to the Closing, the Transaction Expenses Amount, the Working Capital Surplus, if any, and the Working Capital Deficit, if any, and, based on such estimates, an estimate of the Closing Cash Payment (the "Estimated Closing Cash Payment"). In addition, the Representative shall deliver to Buyer a statement, executed and certified by the Chief Executive Officer and Chief Financial Officer of the Company, that sets forth a calculation, based on the Estimated Closing Statement calculation delivered by the Company, of the amounts payable to each of the Unitholders at the Closing pursuant to Section 3.02(c) and 3.02(d).

(b) Final Calculations.

(i) Within sixty (60) days after the Closing Date, Buyer shall prepare and deliver to the Representative (a) a statement setting forth Buyer's good faith calculation of (1) the Working Capital (and the Working Capital Surplus or Working Capital Deficit, if any), (2) the Cash Amount, (3) the outstanding amount of all Funded Debt immediately prior to the Closing, (4) the Transaction Expenses Amount, and (5) based on the amounts set forth in clauses (1) through (4), the Closing Cash Payment (the "Closing Statement") and (b) make available to the Representative all reasonably requested records and work papers necessary to compute and verify the information set forth in the Closing Statement. If Buyer does not deliver the Closing Statement to the Representative within sixty (60) days after the Closing Date, then, at the election of the Representative (acting in its sole discretion), either (x) the Representative may prepare and present the Closing Statement within an additional thirty (30) days thereafter or (y) the Estimated Closing Statement will be deemed to be the final Closing Statement in accordance with this Section 3.04(b). If the Representative elects to prepare the Closing Statement in accordance with the immediately preceding sentence, then Representative shall deliver written notice to Buyer of such election and all subsequent references in this Section 3.04(b)(i) to Buyer, on the one hand, and the Representative, on the other hand, will be deemed to be references to the Representative, on the one hand, and Buyer, on the other hand, respectively. After delivery of the Closing Statement, the Representative and its accountants shall be permitted to make reasonable inquiries of Buyer and the Company and their accountants regarding questions concerning or disagreements with the Closing Statement arising in the course of their review thereof. If the Representative has any objections to the Closing Statement, then the Representative shall deliver to Buyer a statement (an "Objection Statement") setting forth its disputes or objections (the "Objection Disputes") to the Closing Statement and, to the extent practical, the Representative's proposed resolution of each such Objection Dispute. If an Objection Statement is not delivered to Buyer within thirty (30) days after receipt of the Closing Statement by the Representative, then the Closing Statement as originally received by the Representative shall be final, binding and non-appealable by the Parties. If an Objection Statement is timely delivered, then Buyer and the Representative shall negotiate in good faith to resolve any Objection Disputes, but if they do not reach a final resolution within thirty (30) days after the delivery of the Objection Statement, the Representative and Buyer shall submit each unresolved Objection Dispute to the New York, New York office of Grant Thornton LLP (the "Independent Auditor") to resolve such Objection Disputes. If Grant Thornton LLP refuses or is otherwise unable to act as the Independent Auditor, then Buyer and the Representative shall cooperate in good faith to appoint a nationally recognized independent accounting firm mutually agreeable to Buyer and the Representative, in which event "Independent Auditor" shall mean such firm. The Independent Auditor shall be instructed to set forth a procedure to provide for prompt resolution of any unresolved Objection Disputes and, in any event, to make its determination in respect of such Objection Disputes within thirty (30) days following its retention. The Independent Auditor's determination of such Objection Disputes shall be final and binding upon the Parties and not subject to review by a court or other tribunal; provided, however, that no such determination with respect to any item reflected in the Objection Statement shall be any more favorable to Buyer than is set forth in the Closing Statement or any more favorable to the Representative than is proposed in the Objection

Statement. If any unresolved Objection Disputes are submitted to the Independent Auditor, then, for purposes of this Section 3.04(b), Buyer shall be the prevailing party in such proceeding if a majority of the dollar amount of the unresolved Objection Disputes are decided by the Independent Auditor in favor of Buyer, and the Representative shall be the prevailing party if a majority of the dollar amount of the unresolved Objection Disputes are decided by the Independent Auditor in favor of the Representative (e.g., if there are $200,000 of disputed items to be determined by the Independent Auditor and the Independent Auditor determines that Buyer's claims prevail with respect to $125,000 and the Representative's claims prevail with respect to $75,000, then Buyer would be the prevailing party). The Party that is not the prevailing party shall pay all of the fees, costs and expenses of the Independent Auditor. The final Closing Statement, however determined pursuant to this Section 3.04(b), will produce the Working Capital Surplus or Working Capital Deficit, if any, and the Cash Amount, the outstanding amount of all Funded Debt immediately prior to the Closing, and the Transaction Expenses Amount, in each case to be used to determine the final Closing Cash Payment. The process set forth in this Section 3.04(b) shall be the exclusive remedy of the Parties for any disputes related to items required to be reflected on the Closing Statement or included in the calculation of the Working Capital, the Cash Amount, the outstanding amount of all Funded Debt and the Transaction Expenses Amount, provided that this sentence shall not prohibit Buyer from subsequently bringing a claim for a misrepresentation, breach or inaccuracy of any representations or warranties in accordance with Article XI.

(ii) If after the final determination pursuant to clause (i) above, the final Closing Cash Payment is greater than the Estimated Closing Cash Payment, then (a) Buyer shall promptly (but in any event within five (5) Business Days of the final determination thereof) pay to the Representative (on behalf of the Unitholders) such difference by wire transfer of immediately available funds to an account or accounts designated by the Representative (which amount shall be distributed pro rata to the Designated Unitholders based upon each such Designated Unitholder's Per Unit Portion and to HIG Seller based upon the Per Unit Portion for the Class A Units owned by HIG Holdco immediately prior to the Holdco Closing) and (b) within such five (5) Business Day period the Buyer and the Representative (on behalf of the Unitholders) shall instruct the Escrow Agent to release the entire Adjustment Escrow Amount to the Representative.

(iii) If after the final determination pursuant to clause (i) above, the Estimated Closing Cash Payment is greater than the final Closing Cash Payment, then the Representative (on behalf of the Unitholders) and Buyer shall promptly (but in any event within five (5) Business Days of the final determination thereof) instruct the Escrow Agent to pay such amount from the Adjustment Escrow Amount to Buyer by wire transfer of immediately available funds to an account or accounts designated by Buyer. If the amount of the Adjustment Escrow Amount is greater than the amount owed to Buyer pursuant to this Section 3.04, then within such five (5) Business Day period the Buyer and the Representative (on behalf of the Unitholders) shall instruct the Escrow Agent to release the remaining portion of the Adjustment Escrow Amount to the Representative (on behalf of the Unitholders). If the amount of the Adjustment Escrow Amount is less than the amount owed to Buyer pursuant to this Section 3.04, then the Representative (on behalf of the Unitholders) and Buyer shall promptly instruct the Escrow Agent to release an amount from the Indemnity Escrow Fund equal to the amount of such shortfall. The Escrow Agent shall not release the Adjustment Escrow Amount until the Closing Cash Payment is finally determined in accordance with Section 3.04(b)(i) and any resultant payment from the Adjustment Escrow Amount is requested by the Representative and Buyer in accordance with Section 3.04(b)(ii) or this Section 3.04(b)(iii). Notwithstanding any other term of this Agreement, the Adjustment Escrow Amount and the Indemnity Escrow Amount shall be Buyer's sole source of recovery for any adjustments to the Estimated Closing Cash Payment, even if the Estimated Closing Cash Payment exceeds the final Closing Cash Payment by an amount that is greater than the amount of the Adjustment Escrow Amount and the Indemnity Escrow Amount, provided that this sentence shall not prohibit Buyer from subsequently bringing a claim for a misrepresentation, breach or inaccuracy of any representations or warranties in accordance with Article XI.

3.05 Preparation of Closing Statement; Cooperation.

(a) Preparation of Closing Statement. The Closing Statement (and all calculations of Working Capital and the Cash Amount) shall be prepared and calculated in accordance with GAAP and, to the extent consistent with GAAP, the same accounting methodologies, principles and procedures used in, and on a basis consistent with, those applied in preparing the Latest Balance Sheet (including calculating reserves in accordance with the same methodology used to calculate such reserves in preparation of the Latest Balance Sheet) and the policies and procedures set forth on Schedule 3.05(a) (the "Working Capital Schedule") and except that the Closing Statement (and all calculations of Working Capital and the Cash Amount) shall: (i) not include any purchase accounting or other adjustment arising out of the consummation of the transactions contemplated by this Agreement; (ii) be based on facts and circumstances as they exist prior to the Closing and shall exclude the effect of any act, decision or event occurring on or after the Closing; and (iii) not reflect, directly or indirectly, any additional category of reserve or accrual that is not reflected on the Latest Balance Sheet, except those that (A) result from material developments occurring after the date of the Latest Balance Sheet that are not listed on Section 5.08 of the Disclosure Schedule and (B) would be required to be reflected on the face of a balance sheet prepared in accordance with the accounting methodologies, principles and procedures used in, and on a basis consistent with, those applied in preparing the Latest Balance Sheet or, in the event there was no applicable methodology, principle or procedure used in the preparation of the Latest Balance Sheet, would be required to be reflected on the face of a balance sheet prepared in accordance with GAAP.

(b) Cooperation. Following the Closing, each Party shall, and Buyer shall cause the Surviving Company, its Subsidiaries and their respective officers, employees, consultants, accountants and agents to (i) cooperate fully with the other Parties and their respective accountants in connection with their review or preparation (as applicable) of the Closing Statement and the Objection Statement (including by providing the applicable Party reasonable access to the employees of the Surviving Company and its Subsidiaries who are knowledgeable about the information contained in, and the preparation of, the Closing Statement) and (ii) provide any books, records and other information reasonably requested by the applicable Party and its accountants in connection therewith or in connection with resolving any Objection Dispute, including during the period while any unresolved Objection Disputes are being reviewed by the Independent Auditor and until a final determination has been issued by the Independent Auditor.

ARTICLE IV
REPRESENTATIONS AND WARRANTIES OF BUYER AND HIG SELLER

4.01 Representations and Warranties of Buyer and Merger Sub. Buyer and Merger Sub jointly and severally represent and warrant to the Company that, as of the date hereof and as of the Closing Date:

(a) Status. Buyer is a corporation duly organized, validly existing and in good standing under the Laws of the State of Delaware, with all requisite power and authority to enter into this Agreement, to perform its obligations hereunder and to consummate the transactions contemplated hereby. Merger Sub is a limited liability company duly formed, validly existing and in good standing under the Laws of the State of Delaware, with all requisite limited liability company power and authority to enter into this Agreement, to perform its obligations hereunder and to consummate the transactions contemplated hereby.

(b) Power and Authority. Each of Buyer and Merger Sub has all requisite corporate or limited liability company, as appropriate, power and authority to execute and deliver this Agreement, to perform its obligations hereunder, and to consummate the transactions contemplated hereby. All acts or proceedings required to be taken by Buyer or Merger Sub, as applicable, to authorize the execution and delivery of this Agreement and the performance of Buyer's and Merger Sub's obligations hereunder have been properly taken.

(c) Enforceability. This Agreement has been duly authorized, executed and delivered by each of Buyer and Merger Sub and, assuming the due and valid authorization, execution and delivery of this Agreement by HIG Seller and the Company, this Agreement constitutes the legal, valid and binding obligation of each of Buyer and Merger Sub, enforceable against each in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar Laws affecting or relating to creditors' rights generally and general equitable principles (the "Bankruptcy and Equity Exceptions").

(d) No Violations; Consents and Approvals. The execution and delivery of this Agreement by Buyer and Merger Sub and the consummation by it of the transactions contemplated hereby will not (a) violate any provision of the organizational documents of Buyer or Merger Sub, (b) violate any material Law applicable to, binding upon or enforceable against the Buyer or Merger Sub, (c) result in any breach of, or constitute a default (or an event which would, with the passage of time or the giving of notice or both, constitute a default) under, or give rise to a right of payment under or the right to terminate, any Contract to which either Buyer or Merger Sub is a party or bound, or (d) result in the creation or imposition of any Lien upon any of the property or assets of Buyer or Merger Sub. Assuming expiration or termination of all applicable waiting periods under the Hart-Scott-Rodino Act, and except for the filing of the Certificate of Merger, no approval, consent, waiver, authorization or other order of, and no declaration, filing, registration, qualification, recording, notice, or other action or filing with, any Governmental Authority or any other Person is required to be obtained or made by or on behalf of Buyer or Merger Sub in connection with the execution, delivery or performance of this Agreement and the consummation of the transactions contemplated hereunder in accordance with the terms and conditions of this Agreement.

(e) No Brokers. Neither Buyer nor Merger Sub has incurred any obligation for any finder's or broker's or agent's fees or commissions or similar compensation in connection with the transactions contemplated hereby for which the Company or any Unitholder may be liable.

(f) Financing. Buyer has immediately available funds sufficient to consummate the transactions contemplated by this Agreement, including the payment of the Merger Consideration and all fees and expenses payable by Buyer or Merger Sub in connection with the transactions contemplated by this Agreement. Buyer expressly acknowledges and agrees that its obligation to consummate the transactions contemplated by this Agreement is not subject to any condition or contingency with respect to any financing or funding by any third party.

(g) Investment Representation. Buyer is acquiring HIG Holdco and the Company for its own account with the present intention of holding the securities of HIG Holdco and the Company for investment purposes and not with a view to or for sale in connection with any public distribution of such securities in violation of any federal or state securities Laws. Each of Buyer and Merger Sub is an "accredited investor" as defined in Regulation D promulgated by the Securities and Exchange Commission under the Securities Act.

(h) Solvency. Assuming (i) the accuracy of the representations and warranties set forth in Section 4.02 and Article V, (ii) HIG Seller, HIG Holdco, the Representative, the Unitholders, the Company, and the Company's Subsidiaries have all complied with their respective covenants and other obligations under this Agreement, and (iii) any estimates, projections or forecasts made available to Buyer by HIG Seller, HIG Holdco, the Representative, the Unitholders, the Company, or any of the Company's Subsidiaries have been prepared in good faith based upon reasonable assumptions, immediately after giving effect to the transactions contemplated by this Agreement, each of Buyer and the Surviving Company and its Subsidiaries shall (x) be able to pay their respective debts as they become due, (y) own property which has a fair market value greater than the amounts required to pay their respective debts as and when they become due (including a reasonable estimate of the amount of all contingent liabilities), and (z) have capital that is not unreasonably small in relation to its business as contemplated on such date. No transfer of property is being made and no obligation is being incurred in connection with the transactions contemplated by this Agreement with the intent to hinder, delay or defraud either present or future creditors of Buyer, Merger Sub or the Surviving Company or its Subsidiaries.

(i) Litigation. There is no Proceeding pending (or, to Buyer's knowledge, threatened) against Buyer or Merger Sub that may affect (i) the legality, validity or enforceability of this Agreement or (ii) the ability of Buyer or Merger Sub to consummate the transactions contemplated by this Agreement.

4.02 Representations and Warranties Regarding HIG Holdco and HIG Seller. Except as set forth in the Disclosure Schedule, HIG Seller only, and not any other Unitholder, hereby represents and warrants to Buyer that, as of the date hereof and as of the Closing Date:

(a) Status. HIG Holdco is a Delaware corporation duly organized, validly existing and in good standing under the Laws of the State of Delaware. There is no pending or to HIG Seller's Knowledge or the Company's Knowledge, threatened Proceeding for the merger, consolidation, dissolution, liquidation, insolvency or rehabilitation of HIG Holdco. HIG Seller is a Delaware limited liability company duly formed, validly existing and in good standing under the Laws of the State of Delaware. There is no pending or to HIG Seller's Knowledge or the Company's Knowledge, threatened Proceeding for the merger, consolidation, dissolution, liquidation, insolvency or rehabilitation of HIG Seller.

(b) Power and Authority. Each of HIG Seller and HIG Holdco has all requisite corporate or limited liability company, as applicable, power and authority to own or lease its properties and assets and to carry on its business as such business has been conducted since December 31, 2017. HIG Seller has all requisite limited liability company power and authority to execute and deliver this Agreement, to perform its obligations hereunder and to consummate the transactions contemplated hereby.

(c) Enforceability. This Agreement has been duly authorized, executed and delivered by HIG Seller and, assuming the due and valid authorization, execution and delivery of this Agreement by Buyer and Merger Sub, this Agreement constitutes the legal, valid and binding obligation of HIG Seller, enforceable against HIG Seller in accordance with its terms, except as enforceability may be limited by the Bankruptcy and Equity Exceptions.

(d) No Violations; Consents and Approvals. The execution and delivery of this Agreement by HIG Seller and the consummation by it of the transactions contemplated hereby will not (a) violate any provision of the organizational documents of HIG Seller or HIG Holdco, (b) violate any material Law applicable to, binding upon or enforceable against HIG Seller or HIG Holdco, (c) result in any material breach of, or constitute a material default (or an event which would, with the passage of time or the giving of notice or both, constitute a material default) under, or give rise to a right of payment under or the right to terminate, any Material Contract to which either HIG Seller or HIG Holdco is a party or bound, or (d) result in the creation or imposition of any Lien upon any of the property or assets of HIG Seller or HIG Holdco or any Restriction against the HIG Holdco Shares or the HIG Holdco Company Units. No approval, consent, waiver, authorization or other order of, and no declaration, filing, registration, qualification, recording, notice, or other action or filing with, any Governmental Authority or any other Person is required to be obtained or made by or on behalf of HIG Seller or HIG Holdco in connection with the execution, delivery or performance of this Agreement and the consummation of the transactions contemplated hereunder in accordance with the terms and conditions of this Agreement.

(e) Capitalization; Ownership. All of the HIG Holdco Company Units are owned of record and beneficially by HIG Holdco and are free and clear of all Liens and Restrictions. All of the HIG Holdco Shares are owned of record and beneficially by HIG Seller and are free and clear of all Liens and Restrictions. HIG Holdco has good and valid title to the HIG Holdco Company Units free and clear of all Liens and Restrictions. HIG Seller has good and valid title to the HIG Holdco Shares. The HIG Holdco Shares and the HIG Holdco Company Units have been duly authorized and validly issued and are fully paid and non-assessable, and were issued in compliance with all applicable state and federal securities Laws. Other than the HIG Holdco Shares, there are no authorized or outstanding equity, voting, or ownership interests or securities of HIG Holdco. There are no outstanding rights, options, warrants, convertible securities, subscription rights, conversion rights, exchange rights or other agreements that require HIG Holdco to issue or sell any of its equity, voting, or ownership interests (or securities convertible into or exchangeable for its equity, voting, or ownership interests). HIG Holdco is not obligated to repurchase, redeem or otherwise acquire any of its outstanding equity, voting, or ownership interests.

(f) Subsidiaries. HIG Holdco owns no equity, voting, or ownership interests in any other Person other than the HIG Holdco Company Units, and has no direct or indirect Subsidiaries other than the Company and its Subsidiaries.

(g) Tax Matters. HIG Holdco has filed all Tax Returns that are required to be filed by it prior to the date hereof and the Closing Date, in each instance, taking into account any extensions of time to file that have been duly perfected and all such Tax Returns are true and correct in all material respects. All Taxes owed by HIG Holdco, regardless of whether shown on such Tax Returns, have been fully paid or properly accrued. All required estimated Tax payments sufficient to avoid any underpayment penalties or interest have been timely made by or on behalf of HIG Holdco. HIG Holdco is not, and has not been, party to any Tax allocation, Tax sharing, Tax indemnity, Tax reimbursement agreement or arrangement (other than the Operating Agreement). HIG Holdco is not, and has not been, a member of an affiliated group filing a consolidated federal income tax return and has no liability for the Taxes of any Person under Treasury Regulations Section 1.1502-6, as a transferee or successor, by contract or otherwise. HIG Holdco has not been the subject of any audit or other examination of Taxes by the Taxing Authorities and no such audit or other examination is pending or, to HIG Seller's knowledge or the Company's Knowledge, contemplated. HIG Holdco has not waived any statute of limitations in respect of Taxes payable by it, which waiver is currently in effect, and HIG Holdco has not agreed to any extension of time with respect to a Tax assessment or deficiency, which extension is currently in effect. There are no Liens for Taxes (other than Permitted Liens for Taxes not yet due and payable) upon any of the assets of HIG Holdco. HIG Holdco will not be required to include any item of income in, or exclude any item of deduction from, taxable income for any taxable period (or portion thereof) ending after the Closing Date as a result of any (a) change in method of accounting for a taxable period ending on or prior to the Closing Date, (b) "closing agreement" as described in Section 7121 of the Code (or any corresponding or similar provision of state, local or foreign income Tax Law) executed on or prior to the Closing Date, (c) intercompany transaction or excess loss amount described in Treasury Regulations under Section 1502 of the Code (or any corresponding or similar provision of state, local or foreign income Tax Law), (d) installment sale or open transaction disposition made on or prior to the Closing Date, (e) election under Section 108(i) of the Code or (f) election made pursuant to Section 965 of the Code. HIG Holdco has never been required to disclose on its federal income Tax Returns any position that could give rise to a substantial understatement of federal income tax within the meaning of Section 6662 of the Code. HIG Holdco has never participated in any reportable transaction or a transaction that is substantially similar to a listed transaction as defined under Section 6707A(c)(2) of the Code and Treasury Regulations Section 1.6011-4. There is no material property or obligation of HIG Holdco, including uncashed checks to vendors, customers, or employees, non-refunded overpayments, or unclaimed subscription balances, that is escheatable or reportable as unclaimed property to any state or municipality under any applicable escheatment or unclaimed property Laws. All material property of HIG Holdco that is subject to property Tax has been properly listed and described on the property tax rolls of the appropriate Taxing Authority.

(h) Holding Company. HIG Holdco has no operations and no significant assets, and does not engage in, and has never engaged in, any business activities, other than (i) its ownership of the HIG Holdco Company Units, (ii) activities in connection with this Agreement and the transactions contemplated hereby and (iii) engaging in transactions related to its capital stock (including the issuance of the HIG Holdco Shares to HIG Seller), in each case including any activities related or incidental thereto. Without limiting the generality of the foregoing, HIG Holdco (a) has no, and has never had any, employees or any benefit plans that were covered by ERISA, (b) does not own, hold, lease or license, and has never owned, held, leased or licensed, any real property, personal property, Intellectual Property, or Permits, (c) is not a party to, and has never entered into or been a party to, any Contract or Proceeding (or, to HIG Seller's Knowledge, governmental investigation), and (d) has no, and has never had any, Funded Debt, material liabilities or obligations (other than its liabilities and obligations under the Operating Agreement, all of which will terminate and be of no further force and effect as of the Effective Time), or Liens against its assets, other than Permitted Liens.

(i) Litigation. There are no Proceedings (or, to HIG Seller's Knowledge, governmental investigations) pending or, to HIG Seller's Knowledge, threatened against HIG Seller, HIG Holdco or the Representative, which would reasonably be expected to affect (i) the legality, validity or enforceability of this Agreement or (ii) the ability of HIG Seller or HIG Holdco to consummate the transactions contemplated by this Agreement.

ARTICLE V
REPRESENTATIONS AND WARRANTIES OF THE COMPANY

Except as set forth in the Disclosure Schedule, the Company hereby represents and warrants to Buyer and Merger Sub that, as of the date hereof and as of the Closing Date:

5.01 Corporate Status. The Company is a limited liability company duly formed, validly existing and in good standing under the Laws of the State of Delaware. The Company has all requisite limited liability company power and authority to own or lease its properties and assets and to carry on its business as such business has been conducted since January 1, 2018. The Company is legally qualified to transact business as a foreign company, and in good standing, in all jurisdictions where the nature of its properties and the conduct of its business require such qualification.

5.02 Power and Authority. The Company has all requisite limited liability company power and authority to execute and deliver this Agreement and each other agreement, document, instrument or certificate to be executed by the Company at the Closing (the "Company Documents"), to perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution, delivery and performance of this Agreement and each of the Company Documents, and the consummation of the transactions contemplated hereby and thereby, have been duly authorized and approved by all requisite action on the part of the Company and each of its Subsidiaries, except for the delivery of notice to the Unitholders who did not execute the Unitholder Consent in accordance with the DLLCA. The Company's board of managers has adopted a resolution approving the execution of this Agreement and the Company Documents and has directed that this Agreement be submitted to HIG Holdco and the Designated Unitholders for approval, and the Company's unitholders owning a majority of the outstanding Class A Units have approved this Agreement pursuant to the Unitholder Consent, and, except for the delivery of notice to the Unitholders who did not execute the Unitholder Consent in accordance with the DLLCA, no other limited liability company proceedings on the part of the Company are necessary to authorize the execution, delivery and performance of this Agreement and the Company Documents by the Company or to consummate the transactions contemplated hereby and thereby.

5.03 Enforceability. This Agreement and the Company Documents have (or, in the case of any Company Documents to be entered into at the Closing, will be when executed and delivered) been duly authorized, executed and delivered by the Company and, assuming the due and valid authorization, execution and delivery of this Agreement and the Company Documents (as applicable) by Buyer and Merger Sub, this Agreement and the Company Documents constitute (or, in the case of any Company Documents to be entered into at the Closing, will constitute when executed and delivered) the legal, valid and binding obligations of the Company, enforceable against it in accordance with their respective terms, except as the same may be limited by the Bankruptcy and Equity Exceptions.

5.04 Capitalization; Ownership.

(a) Section 5.04 of the Disclosure Schedule sets forth the number of issued and outstanding units of each class of the Company Units and the holder of record of each outstanding Company Unit. There are no Company Units outstanding other than the Company Units listed on Section 5.04 of the Disclosure Schedule. All of the Company Units have been duly authorized and validly issued and are fully paid and non-assessable, and were issued in compliance with all applicable state and federal securities Laws and not in violation of any purchase or call option, right of first refusal, subscription right, preemptive right or any similar rights. There are no outstanding rights, options, warrants, convertible securities, subscription rights, conversion rights, exchange rights or other agreements that require the Company to issue or sell any Company Units or other equity, voting or ownership interests (or securities convertible into or exchangeable for Company Units or other equity, voting or ownership interests). The Company is not obligated to repurchase, redeem or otherwise acquire any of its outstanding Company Units or other equity, voting or ownership interests. Pursuant to Section 3.4 of the Operating Agreement, all of the Class N Common Units of the Company have been cancelled and the prior holders thereof have no further rights pursuant to the Operating Agreement with respect to such Class N Common Units and have no rights in, or claims against, the Company or its assets.

(b) Other than the Class P Units, there are no outstanding or authorized stock appreciation, phantom stock, profit participation or similar rights obligating the Company to issue, transfer, or sell any Company Units or other equity interests of the Company. The Company has no authorized or outstanding bonds, debentures, notes or other indebtedness the holders of which have the right to vote (or convertible into, exchangeable for, or evidencing the right to subscribe for or acquire securities having the right to vote) with the holders of Company Units on any matter. The Company is not, and to the Company's Knowledge no Unitholder is, a party to any voting agreements with respect to any Company Units. There are no outstanding obligations of the Company or any of its Subsidiaries to provide funds to, or make any investment in, any other Person (in either case, in the form of a loan, capital contribution, purchase of an interest (whether from the issuer or another Person) or otherwise).

5.05 Subsidiaries.

(a) Section 5.05(a) of the Disclosure Schedule lists (i) each Subsidiary of the Company, (ii) the entire authorized stock or other equity, voting or ownership interests of each such Subsidiary, and (iii) the record and beneficial owner of all issued and outstanding shares of such stock or other equity, voting or ownership interests, all of which are owned by the Persons set forth on Section 5.05(a) of the Disclosure Schedule free and clear of all Liens and Restrictions. Neither the Company nor its Subsidiaries owns, holds, or has the right to acquire, any stock, partnership interest, joint venture interest or other equity, voting or ownership interest in any other Person other than as shown on Section 5.05(a) of the Disclosure Schedule. All of the capital stock or equity interests of the Company's Subsidiaries has been duly authorized and validly issued and are fully paid and non-assessable, and were issued in compliance with all applicable state and federal securities Laws. Except as set forth on Section 5.05(a) of the Disclosure Schedule, there are no outstanding rights, options, warrants, convertible securities, subscription rights, conversion rights, exchange rights or other agreements that require the Company's Subsidiaries to issue or sell any of its equity, voting or ownership interests (or securities convertible into or exchangeable for shares of its equity, voting or ownership interests).

(b) There are no outstanding or authorized stock appreciation, phantom stock, profit participation or similar rights with respect to the capital stock or other equity, voting or ownership interests of any of the Company's Subsidiaries. None of the Company's Subsidiaries has any authorized or outstanding bonds, debentures, notes or other indebtedness the holders of which have the right to vote (or convertible into, exchangeable for, or evidencing the right to subscribe for or acquire securities having the right to vote) with the holders of any capital stock or other equity, voting or ownership interests of any of the Company's Subsidiaries on any matter. There are no irrevocable proxies and no voting agreements with respect to any capital stock or other equity, voting, or ownership interests of any of the Company's Subsidiaries.

(c) The Company's Subsidiaries are each validly existing and in good standing under the laws of their jurisdiction of formation or organization, as applicable. The Company's Subsidiaries have all requisite corporate or limited liability company, as applicable, power and authority to own or lease their properties and assets and to carry on their business as such business has been conducted since January 1, 2018. The Company's Subsidiaries are legally qualified to transact business as a foreign corporation or company, as applicable, in all jurisdictions where the nature of their properties and the conduct of their business as now conducted require such qualification.

5.06 No Violation; Consents and Approvals.

(a) Except as set forth on Section 5.06(a) of the Disclosure Schedule, the execution and delivery of this Agreement and the Company Documents by the Company and the consummation by it of the transactions contemplated hereby and thereby will not (a) violate or conflict with any provision of the organizational documents of the Company or its Subsidiaries, (b) violate any material

Law applicable to, binding upon or enforceable against the Company or its Subsidiaries, (c) result in any material breach or violation of, or constitute a material default (or an event which would, with or without the passage of time or the giving of notice or both, constitute a material default) under, or give rise to a right of payment or acceleration of rights under or the right to terminate or cancel any Material Contract, or (d) result in the creation or imposition of any Lien upon any of the property or assets of the Company and its Subsidiaries or any Company Unit. Assuming expiration or termination of all applicable waiting periods under the Hart-Scott-Rodino Act, and except for the filing of the Certificate of Merger, no approval, consent, waiver, authorization or other order of, and no declaration, filing, registration, qualification, recording, notice, or other action or filing with, any Governmental Authority or any other Person is required to be obtained or made by or on behalf of the Company or any of its Subsidiaries in connection with the execution, delivery or performance of this Agreement and the consummation of the transactions contemplated hereunder in accordance with the terms and conditions of this Agreement, except where failure to obtain such approval, consent, waiver, authorization or other order, or to make such declaration, filing, registration, qualification, recording or other action would not be material to the Company and its Subsidiaries taken as whole.

(b) Except as otherwise set forth in Section 5.06(b) of the Disclosure Schedule, no material authorization or approval or other action by, and no material notice to or filing with, any Governmental Authority or other Person will be required to be obtained or made by the Representative or the Company, or any of its Subsidiaries in connection with the due execution, delivery and performance by HIG Seller, the Representative, or the Company of this Agreement and the consummation of the transactions contemplated hereby.

5.07 Financial Statements.

(a) Attached as Section 5.07(a) of the Disclosure Schedule are copies of (a) the audited consolidated balance sheets, statements of comprehensive loss, statements of members' equity and statements of cash flows of the Company and its Subsidiaries as of and for the fiscal years ended December 31, 2016 and December 31, 2017 (the "Year-End Financial Statements") and (b) the unaudited consolidated balance sheet as of September 30, 2018 (the "Latest Balance Sheet") and related consolidated statements of income and statements of cash flows of the Company and its Subsidiaries for the nine-month month period ended September 30, 2018 (collectively, with the Latest Balance Sheet, the "Interim Financial Statements" and collectively with the Year-End Financial Statements, the "Financial Statements"). The Financial Statements (i) fairly present, in all material respects, the cash flows and combined financial position of the Company and its Subsidiaries at each of the statement of financial positions dates and the results of operations for each of the periods covered thereby, in each case in accordance with GAAP and (ii) have been prepared in accordance with GAAP, consistently applied by the Company without material modification of the accounting principles used in the preparation thereof throughout the periods presented, except (x) as expressly set forth in the notes thereto and (y) that the Interim Financial Statements do not reflect year-end adjustments and do not contain footnote disclosures and other presentation items.

(b) Except (i) as set forth in Section 5.07(b) of the Disclosure Schedule or as reflected and accrued for or fully reserved against in the Financial Statements, (ii) for liabilities incurred since the date of the Latest Balance Sheet in the ordinary course of the Company's and its Subsidiaries' business, consistent with past practice, (iii) for executory obligations arising under any Contract which arose in the ordinary course of business and did not result from any default, tort or breach of such Contract and (iv) for Transaction Expenses and Transfer Taxes, the Company and the Company's Subsidiaries do not have any material liabilities, indebtedness, debts, or obligations of any nature (whether or not of the type required by GAAP to be disclosed on the face of a balance sheet).

(c) All books, records and accounts of the Company and each of its Subsidiaries are maintained in all material respects in accordance with all applicable Laws and transactions are recorded as necessary to permit the preparation of financial statements in conformity with GAAP.

5.08 Absence of Certain Developments. Except as contemplated or permitted by this Agreement or as set forth on Section 5.08 of the Disclosure Schedule, since December 31, 2017:

(a) the business of the Company and its Subsidiaries has been conducted in all material respects in the ordinary course of business;

(b) there has not occurred any change, event, circumstance, occurrence or development that has resulted in, or could reasonably be expected to result in, individually or in the aggregate, a Material Adverse Effect;

(c) the Company and its Subsidiaries have not sold, transferred, leased, licensed, mortgaged, pledged or otherwise subjected to any Lien (other than Permitted Liens) any material portion of their assets or property (tangible or intangible), taken as a whole, or entered into a Contract to do any of the foregoing;

(d) the Company and its Subsidiaries have not acquired, or entered into any Contract to make an acquisition (whether by merger, acquisition of stock or assets, or otherwise) of any business or line of business;

(e) there has not been any change in, or amendment to, the organizational documents of the Company or any of its Subsidiaries;

(f) no election has been made or action taken to change the status of the Company or any of its Subsidiaries (as a corporation, partnership or disregarded entity) for federal, state or local income Tax purposes;

(g) there has not been any damage, destruction or loss (other than ordinary course repair and maintenance), whether or not covered by insurance, with respect to the property and assets of the Company and its Subsidiaries having aggregate replacement costs in excess of $500,000;

(h) neither the Company nor any of its Subsidiaries has materially increased the compensation payable or to become payable by it to any of the Company's or its Subsidiaries' employees whose base salary is in excess of $100,000, or increased the coverage or benefits available under any severance pay, termination pay, deferred compensation, bonus or other incentive compensation plan or arrangement, or any Plan, except for the payment of bonuses payable to certain officers and employees of the Company or any of its Subsidiaries in connection with the consummation of the transactions contemplated by this Agreement (which will be included as part of the Transaction Expenses);

(i) other than in the ordinary course of business, there has not been any change by the Company or any of its Subsidiaries in its accounting or Tax reporting methods, principles or policies;

(j) neither the Company nor any of its Subsidiaries has issued, transferred, pledged, encumbered, or sold (or authorized any of the foregoing), any notes, bonds, securities, voting or ownership interests (or securities convertible into or exchangeable for shares of its equity, voting or ownership interests);

(k) neither the Company nor any of its Subsidiaries has redeemed, purchased or acquired, directly or indirectly, any of its equity securities, voting or ownership interests (or securities convertible into or exchangeable for shares of its equity, voting or ownership interests);

(l) neither the Company nor any of its Subsidiaries has incurred, assumed or guaranteed any indebtedness or debt of any nature, except unsecured current obligations incurred in the ordinary course of business;

(m) neither the Company nor any of its Subsidiaries has discharged or satisfied any material Lien, paid any material liability or obligation or waived or released any material right other than liabilities or obligations paid or settled in the ordinary course of business;

(n) there has not been any acceleration, termination, material modification or cancellation of any Material Contract;

(o) neither the Company nor any of its Subsidiaries has adopted, modified or terminated any: (i) employment, severance, retention or other agreement with any current or former employee, officer, director, (ii) independent contractor or consultant agreement other than in the ordinary course of business, or (iii) Plan, other than as required by applicable Law;

(p) the Company has not declared, paid or distributed cash or other property to its equity holders with respect to their equity ownership interests;

(q) neither the Company nor any of its Subsidiaries has made any single capital expenditure in excess of $250,000 or capital expenditures that, in the aggregate, exceed of $500,000;

(r) neither the Company nor any of its Subsidiaries has settled or compromised any pending or threatened Proceeding or governmental investigation (other than immaterial ordinary course inspections or inquiries) or any claim or claims for, or that would result in a loss of annual revenue of, an amount that could, individually or in the aggregate, reasonably be expected to be greater than $200,000;

(s) neither the Company nor any of its Subsidiaries has materially changed or modified its credit, collection, or payment policies, procedures or practices, including any acceleration of collections or receivables (whether or not past due) or failure to pay or delay in payment of payables or other liabilities or obligations; and

(t) none of the Company or any of its Subsidiaries has committed or agreed to do any of the foregoing.

5.09 Litigation. Except as set forth on Section 5.09 of the Disclosure Schedule, there is no Proceeding (or, to the Company's Knowledge, governmental investigations (other than immaterial ordinary course governmental inspections or inquiries)) pending (or, to the Company's Knowledge, threatened) against the Company or any of its Subsidiaries (including any of their respective officers, managers, directors, or employees with respect to their business activities on behalf of the Company or a Subsidiary), or to which the Company or any of its Subsidiaries is otherwise a party, and no such Proceedings or governmental investigation (other than immaterial ordinary course governmental inspections or inquiries) have been threatened in writing against the Company or any of its Subsidiaries since January 1, 2016. None of the Company or any of its Subsidiaries is subject to any outstanding judgment, order, decree or directive of any Governmental Authority that relates specifically to the Company or any of its Subsidiaries. Since January 1, 2016, as of the date hereof, none of the Company or any of its Subsidiaries has received any responsible party notices or informational requests from any Governmental Authority.

5.10 Environmental Matters. Except as described on Section 5.10 of the Disclosure Schedule:

(a) The Company and its Subsidiaries are in material compliance with all Environmental Laws. The Company and its Subsidiaries have obtained and are in material compliance with all material Permits that are required pursuant to Environmental Laws for the operation of the business of the Company and its Subsidiaries and each such Permit is in full force and effect and there is no action pending to revoke, terminate, suspend, or cancel any such Permits. No action or consents are required with respect to such Permits as a result of the transactions contemplated by this Agreement. Neither the Company nor any of its Subsidiaries has received any written, or to the Company's Knowledge other, notice (either the subject matter of the notice remains unresolved or which notice was received in the past five (5) years) of a material violation of Environmental Laws, any material liability arising under Environmental Laws, requesting information under Section 104(e) of the Comprehensive Environmental Response, Compensation or Liability Act (or under analogous Law addressing contaminated properties), or any investigation, remediation or corrective obligation, relating to the Company, its Subsidiaries or their facilities. There is no Proceeding (or, to the Company's Knowledge, governmental investigation (other than immaterial ordinary course governmental inspections or inquiries)) ongoing or pending (or, to the Company's Knowledge, threatened) against the Company or its Subsidiaries related to an actual or alleged violation of Environmental Laws or a liability arising under Environmental Laws. Hazardous Material have not been treated, stored, disposed, generated, or released at, on or under the Owned Real Property, Leased Real Property or, during the time of Company ownership or operation, any property formerly owned, leased, or operated by the Company or any of its Subsidiaries, or by or on behalf of the Company or any of its Subsidiaries, in each case, in material violation of Environmental Laws or in a manner that could reasonably be expected to result in any material liability to the Company or its Subsidiaries under any applicable Environmental Law.

(b) The Company and its Subsidiaries have made available to Buyer (i) copies of all material environmental reports and audits and all material correspondence since January 1, 2018 relating to environmental matters pertaining to the Leased Real Property and the Owned Real Property, and (ii) copies of all material correspondence since January 1, 2018 relating to environmental matters pertaining to any real property formerly owned, leased, or operated by the Company or any of its Subsidiaries, in each case that are or were within the Company's and its Subsidiaries' possession or control and copies of all material permits issued to the Company and its Subsidiaries pursuant to any Environmental Law.

(c) All mining, processing, storage, transportation, production or other facilities located in or on the Real Property of the Company or any of its Subsidiaries, or lands pooled or unitized therewith, that have been abandoned by the Company or any of its Subsidiaries, or any of their predecessors in interest for which the Company or any of its Subsidiaries may have continuing responsibility, have been abandoned in accordance with any lease provisions from the land owner, and in compliance with all applicable Laws. The Company and its Subsidiaries have fully performed all of their Abandonment and Reclamation Obligations required to be performed on or before the Closing Date. All Abandonment and Reclamation Obligations currently pending, in process or to the Company's Knowledge, to be performed in the future have been described on Section 5.10 of the Disclosure Schedule.

(d) Neither the Company nor any of its Subsidiaries have assumed or provided an indemnity for, either contractually or by operations of Law, any liabilities or obligations arising under Environmental Law (including Abandonment and Reclamation Obligations) of a third party that would reasonably be expected to form the basis of a claim against the Company or any Subsidiary.

(e) There is no asbestos or asbestos-containing material that must be removed, abated or encapsulated to comply with applicable Environmental Laws located at or on any Real Property or other property currently owned, operated or leased by the Company or any Subsidiary. There is not currently nor has there been during the time of Company ownership or operation, any leaking underground storage tanks in which Hazardous Materials are being or have been treated, storage or disposed of on any Real Property or any other property owned or operated by the Company or its Subsidiaries.

5.11 Title to Properties.

(a) The Company or one of its Subsidiaries has valid title to or the right to use all personal property used by the Company or any of its Subsidiaries in connection with the business conducted by the Company and the Company's Subsidiaries (the "Personal Property"), free and clear of all Liens, except for Permitted Liens. The Personal Property constitutes all of the tangible personal property reasonably necessary for the continued ownership, use and operation of the business conducted by the Company and its Subsidiaries consistent in all material respects with the practices of the Company and its Subsidiaries as of the date of this Agreement. Section 5.11(a) of the Disclosure Schedule lists each lease of the Company or any of its Subsidiaries that is treated as a capital lease under GAAP, and the principal amount outstanding, as of June 30, 2018, under the terms of each such capital lease. The Personal Property, when taken as a whole, is (i) in good working order and repair (ordinary wear and tear excepted) and (ii) in suitable and adequate condition for continued use by the

Company and its Subsidiaries in the ordinary course of business consistent with its past practices, subject in each case to ordinary course maintenance and replacement. Neither the Company nor any of its Subsidiaries have deferred outside of the ordinary course of business any material maintenance of any item of Personal Property. Other than inventory in transit or on consignment in the ordinary course of business, the Personal Property is located on the Real Property.

(b) The real property leased by the Company or its Subsidiaries pursuant to the leases (including any ground leases), subleases, licenses, and other occupancy agreements, including without limitation, any modification, amendment, extension, renewal, guaranty, and other agreements described on Section 5.11(b) of the Disclosure Schedule (as amended, the "Real Property Leases") constitutes all of the real property leased by the Company and its Subsidiaries (the "Leased Real Property"). True and complete copies of each Real Property Lease have been provided to the Buyer. As of the date of this Agreement: (i) all rents, additional rents, and other sums, expenses, and charges due and payable by the Company or any of its Subsidiaries pursuant to the Real Property Leases have been paid; (ii) there is no breach, default, or event of default by the Company or any of its Subsidiaries under the Real Property Leases, and to the Company's Knowledge, there is no occurrence, condition, or act which, the giving of notice, passage of time, or happening of a further event or condition would become a default or event of default by the Company or any of its Subsidiaries under the Real Property Leases; and (iii) there are no material disputes with the lessor with respect to the Real Property Leases; and (iv) neither the Company nor any of its Subsidiaries owes any unpaid brokerage commission with respect to any of the Real Property Leases.

(c) Section 5.11(c) of the Disclosure Schedule lists all real property owned by the Company or any of its Subsidiaries (the "Owned Real Property" and, together with the Leased Real Property, the "Real Property"). The Company or one of its Subsidiaries has good and marketable fee simple title to the Owned Real Property free and clear of all Liens, in each case other than Permitted Liens. There are no subleases, licenses, occupancy agreements or other Contracts that grant any Person the right of use or occupancy of any Real Property or the right to purchase any Real Property or any portion thereof or interest therein, and there is no Person in possession of any Real Property other than the Company and its Subsidiaries. Neither the Company nor any of its Subsidiaries are a party to any Contract or option to purchase any real property or an interest therein. The Real Property is all of the real property utilized in the business conducted by, and the operations of, the Company and its Subsidiaries consistent in all material respects with the past practices of the Company and its Subsidiaries since December 31, 2017.

(d) The Company and its Subsidiaries have made available to Buyer copies of all existing surveys, title policies, property reports, and zoning reports pertaining to the Leased Real Property and the Owned Real Property that are within the Company's and its Subsidiaries' possession or control.

(e) The Company and its Subsidiaries have the right and authority to use and operate all of the improvements located on the Real Property, subject to applicable Laws and Permitted Liens, and with respect to the Leased Real Property, subject to the terms of the Real Property Leases. Such improvements are being used, occupied, and maintained in all material respects by the Company and its Subsidiaries in accordance with all applicable Contracts, Permits, Laws, insurance requirements, and easements, restrictions, building setback lines, covenants and reservations of record. Certificates of occupancy and all other material Permits, authorizations, and approvals required by any Governmental Authority having jurisdiction over the Real Property, if any, have been issued for the Company's or its Subsidiaries' occupancy of each of such improvements and all such Permits, authorizations and approvals, if any, have been paid for and are in full force and effect. As of the date hereof, no material casualty has occurred with respect to the improvements located on any of the Real Property which remains unremedied. As of the date hereof, there is no pending or, to the Company's Knowledge, threatened condemnation, eminent domain or similar Proceeding or special assessment affecting any of the Real Property, nor as of the date hereof has the Company, or any of the Company's Subsidiaries received notification that any such Proceeding or special assessment is contemplated.

(f) Other than the Material Contracts, or immaterial Contracts that may be terminated by the Company or its Subsidiaries without penalty upon thirty (30) days' notice or less, there is no property management agreement or other Contract concerning the operations of the Real Property or the improvements located thereon that will be binding on the Company or any of its Subsidiaries, the Real Property, or the improvements located thereon following the Closing.

5.12 Compliance with Laws. Except as set forth on Section 5.12 of the Disclosure Schedule, the Company and its Subsidiaries are, and since January 1, 2015 have been, in compliance in all material respects with all applicable Laws. Since January 1, 2017 through the date hereof, neither the Company nor any of its Subsidiaries nor any of their respective officers, directors or managers, has received any written notice of violation of any Laws or received any written inquiry from any Governmental Authority regarding whether its operations comply with Law. Since January 1, 2017 through the date hereof, neither the Company nor any of its Subsidiaries (i) has been charged with any violation of any Laws; (ii) is, to the Company's Knowledge, under investigation with respect to any alleged violation of any Laws (and to the Company's Knowledge, there are no facts or circumstances which could form the basis for any such violation); or (iii) has violated any Law concerning the export or re-export of any products or services or the prohibited boycott of any country.

5.13 Labor and Employment Matters.

(a) Section 5.13(a)(1) of the Disclosure Schedule lists all employees of the Company or its Subsidiaries by name, position, employing entity, full-time or part-time status, date of hire, location of employment, seniority or service credit date if different from initial date of hire, exempt or non-exempt status, employment status (whether active or on leave of absence), compensation, bonuses or commissions for 2017, and accrued but unused vacation, sick or other paid leave as of October 31, 2018. Section 5.13(a)(2) of the Disclosure Schedule lists (i) independent contractors of the Company or its Subsidiaries that were paid in excess of $50,000 in 2017, any contract expiration date, and the length of any notice period to terminate such contractual relationship, (ii) independent contractors of the Company or its Subsidiaries that were paid in excess of $10,000 in 2017, and (iii) independent contractors of the Company or its Subsidiaries that were paid in excess of $10,000 for the ten (10) month period ended October 31, 2018. Except as set out on Section 5.13(a)(1) of the Disclosure Schedule, as of October 31, 2018 no employee is on long-term disability leave or otherwise an inactive employee, all employees are employees at-will, and no former employee of the Company or any of its Subsidiaries has any right to recall or reemployment. To the Company's

Knowledge, as of the date hereof, no executive or key employee or group of employees has provided written notice (or, to the Company's Knowledge, oral notice) of an intent to terminate employment with the Company or one of its Subsidiaries or not to become employed by the Buyer.

(b) Except as set forth on Section 5.13(b) of the Disclosure Schedule, neither the Company nor any of its Subsidiaries is a party to or bound by any collective bargaining agreement. To the Company's Knowledge, as of the date hereof, there is currently no organized effort by any labor union to organize any employees of the Company or its Subsidiaries into one (1) or more collective bargaining units, nor have there been any such labor union organization efforts during the previous five (5) years. Neither the Company nor any of its Subsidiaries has experienced any labor strike, work stoppage, slowdown, or other material labor dispute during the past five (5) years.

(c) The Company and each of its Subsidiaries is in material compliance with all Laws governing and related to the employer-employee relationship, including all Laws related to anti-discrimination, anti-harassment, anti-retaliation, wages and hours, overtime compensation, break periods, seating, collective bargaining, pay equity, use of credit reports, payday laws, whistleblower protections, employee classifications, employee leave, disability accommodations, workers' compensation, child labor, immigration and E-Verify, employee health and safety, and required employment taxes and withholdings ("Employment Laws"). There is no pending Proceeding (or, to the Company's Knowledge, governmental investigation) relating to any alleged violation of breach by the Company or its Subsidiaries of any Employment Laws. Neither the Company nor any of its Subsidiaries has taken any action that would trigger any obligations to issues notices under the Worker Adjustment and Retraining Notification Act during the past three (3) years. None of the Company or any of its Subsidiaries is subject to any order, settlement or consent decree with any present or former employee, employee representative or other Person, including any Governmental Authority, relating to claims of discrimination or other claims in respect of employment or labor practices and policies. No Governmental Authority has issued a judgment, order, decree or finding with respect to the labor and employment practices (including practices relating to discrimination, wage payments, employee classification and immigration) of the Company or any of its Subsidiaries which remains outstanding or unsatisfied.

(d) With respect to any Contract with a Governmental Authority, the Company and each of its Subsidiaries is and has been in material compliance with Executive Order No. 11246 of 1965 ("E.O. 11246"), Section 503 of the Rehabilitation Act of 1973 ("Section 503") and the Vietnam Era Veterans' Readjustment Assistance Act of 1974 ("VEVRAA"), including all implementing regulations. To the Company's Knowledge, neither the Company nor any of its Subsidiaries is, and has been during the past three (3) years, the subject of any audit, investigation or enforcement action by any Governmental Authority in connection with any Contract with a Governmental Authority or related compliance with E.O. 11246, Section 503 or VEVRAA. The Company has not been debarred, suspended or otherwise made ineligible from doing business with the United States government or any government contractor.

(e) Except to the extent included as a current liability in the calculation of Working Capital, all wages, bonuses and other compensation, if any, due and payable as of the Closing Date to all employees of the Company and its Subsidiaries have been paid in full to such employees prior to Closing.

(f) Except as set forth on Section 5.13(f) of the Disclosure Schedule, neither the Company nor any of its Subsidiaries has paid nor will it be required to pay any bonus, fee, remuneration, or other compensation to any employee (other than salaries, wages or bonuses paid or payable in the ordinary course of business in accordance with current compensation levels as set forth on Section 5.13(a)(1) of the Disclosure Schedule with adjustments permitted by Section 6.04) as a result of the transactions contemplated by this Agreement or any contractual right triggered by any of the transactions contemplated by this Agreement.

(g) Each independent contractor of the Company or any of its Subsidiaries has been properly characterized as such

5.14 Employee Benefit Plans.

(a) Section 5.14 of the Disclosure Schedule sets forth a list of all material employee benefit, welfare, supplemental unemployment benefit, bonus, pension, profit sharing, executive compensation, deferred compensation, incentive compensation, stock compensation, stock purchase, stock option, stock appreciation, phantom stock option, health or other medical, dental, life, disability or other insurance plan, program, agreement or arrangement, other than those established pursuant to statute, sponsored, maintained or contributed to or required to be contributed to by the Company and its Subsidiaries for the benefit of their employees or former employees, directors, managers, and independent contractors, and their dependents or beneficiaries, or for which the Company or its Subsidiaries has any liability, contingent or otherwise (collectively the "Plans").

(b) The Plans comply in all material respects in form and in operation with the requirements of the Code, ERISA and all applicable Laws and, where applicable, the terms of the collective bargaining agreement.

(c) Each of the Plans that is intended to be qualified under Section 401(a) of the Code ("Qualified Plan") either has received a favorable determination letter from the Internal Revenue Service or is a prototype plan that has received an opinion letter from the Internal Revenue Service reflecting its qualified status upon which the Company is permitted to rely and, to the Company's Knowledge, nothing has occurred that could reasonably be expected to adversely affect the qualified status of any such Plan.

(d) With respect to the Plans, all required contributions have been made or properly accrued in accordance with applicable Law, and the terms of the Plan documents. All premiums or other payments for all periods ending on or before the Closing Date have been paid with respect to each Plan that is an "employee welfare benefit plan" (as such term is defined under Section 3(1) of ERISA).

(e) The Company has made available to Buyer true and correct copies of (i) plan documents and amendments thereto (or where no written Plan documents exist, a written summary of the Plan's material terms), (ii) related trust agreements, insurance contracts or other funding arrangements, (iii) the three most recent Form 5500-series annual reports with schedules, if any, (iv) the financial statements for the Plans for the past three (3) years, along with the summary annual reports for such periods, (v) the most recent summary plan descriptions for the Plans, (vi) the most recent determination letter or opinion letter received from the Internal Revenue Service with respect to any Qualified Plan, and (vii) all non-routine correspondence with any Governmental Authority with respect to any Plan for the past three (3) years.

(f) The Company and its ERISA Affiliates (i) do not currently maintain and, within the past six (6) years, have not maintained, and are not required currently and, within the past six (6) years, have not been required to contribute to or otherwise participate in, any defined benefit pension plan or any plan, program or arrangement subject to Title IV of ERISA or Section 412 of the Code; (ii) do not currently participate in and, since January 1, 2015, have not participated in, or been required to contribute to, any Multiemployer Plan (collectively "Pension Plans"). Neither the Company nor any ERISA Affiliate has incurred any liability to the Pension Benefit Guaranty Corporation ("PBGC") (other than the timely payment of premiums) in connection with any Pension Plan. Neither the Company nor any ERISA Affiliate has incurred or is contingently liable for any withdrawal liability to any Multiemployer Plan under Section 4201 of ERISA. Neither the Company nor any ERISA Affiliate has incurred any liability pursuant to Title IV of ERISA or Section 412 of the Code or incurred any liability with respect to any Pension Plan or Multiemployer Plan by reason of being a single employer with any entity pursuant to Section 414 of the Code or Section 4001 of ERISA.

(g) All required reports and descriptions (including Form 5500 Annual Reports, Summary Annual Reports, and Summary Plan Descriptions) have been filed or distributed in material compliance with the applicable requirements of ERISA and the Code with respect to each Plan.

(h) There have been no "prohibited transactions" (within the meaning of Section 406 of ERISA or Section 4975 of the Code) with respect to any Plan for which an exemption is not available or that could reasonably be expected to result in a material liability. No fiduciary of a Plan has any liability for breach of fiduciary duty or any other failure to act or comply in connection with the administration or investment of the assets of any Plan. No Proceeding or investigation with respect to the administration or the investment of the assets of any such Plan (other than routine claims for benefits) is pending or, to the Company's Knowledge, threatened.

(i) Each arrangement that constitutes a "nonqualified deferred compensation plan" (as defined in Section 409A(d)(1) of the Code and applicable regulations) complies with the requirements Section 409A of the Code in both form and operation in all material respects.

(j) The requirements of the Patient Protection and Affordable Care Act, as amended by the Health Care and Education Reconciliation Act, and regulations and guidance promulgated thereunder, have been met with respect to each Plan that is a group health plan subject thereto in all material respects.

(k) The Company does not maintain, contribute to or have an obligation to contribute to, or have any liability with respect to, post-termination benefits under, any employee welfare benefit plan providing medical, health or life insurance or other welfare-type benefits for current or future retired or terminated directors, officers or employees of the Company (or any spouse of other dependent thereof) other than in accordance with COBRA.

(l) Neither the Company nor any ERISA Affiliate participates in any "multiple employer welfare arrangement" (as defined in Section 3(40) of ERISA).

(m) Except as set forth on Section 5.14 of the Disclosure Schedule, the consummation of the transactions contemplated by this Agreement will not (i) entitle any current or former employee, officer or director of the Company or an of its Subsidiaries to severance pay, or any other payment under a Plan, or (ii) accelerate the time of payment or vesting or increase the amount of compensation otherwise due any such individual, except for bonuses payable to certain officers and employees of the Company or any of its Subsidiaries in connection with the consummation of the transactions contemplated by this Agreement (which will be included as part of the Transaction Expenses).

(n) Neither the Company nor any of its Subsidiaries has liability, including any obligations under any Plan with respect to any employees "leased" form another entity. No Person (including any leased employees (as defined in Section 414(n) of the Code) or independent contractors of the Company or any of its Subsidiaries) other than employees of the Company or any its Subsidiaries (or, if applicable, their beneficiaries) is permitted to participate or participates in the Plans.

(o) Any Plan that has been terminated by the Company or any ERISA Affiliate, and for which the Company or any ERISA Affiliate could have any liability, has been terminated in compliance with all applicable Laws, and the Company has provided notice to all affected persons and Governmental Authorities in accordance with applicable Laws. Further, there are no liabilities, obligations, or claims pending or anticipated relating to any such terminated Plan.

(p) No Person (including any leased employees (as defined in Section 414(n) of the Code) or independent contractors of the Company or any of its Subsidiaries) other than employees of the Company or any of its Subsidiaries (or, if applicable, their beneficiaries) is permitted to participate or participates in the Plans.

(q) The Company is not a party to any agreement, Contract, arrangement or Plan that has resulted or could result, separately or in the aggregate, in the payment of any "excess parachute payment" within the meaning of Section 280G of the Code (or any corresponding provision of state, local or foreign Tax Law).

5.15 Tax Matters. The Company and its Subsidiaries have filed all Tax Returns that are required to be filed by them (taking into account any extensions of time to file that have been duly perfected) and all such Tax Returns are true, complete and correct in all material respects. All Taxes shown as owing by the Company and its Subsidiaries have been fully paid or properly accrued, regardless of whether shown on any such Tax Return. The provision for Taxes on the Interim Financial Statements is sufficient for all accrued and unpaid Taxes of the Company and its Subsidiaries as of the date thereof and all Taxes that the Company or any of its Subsidiaries is obligated to withhold from amounts owing to any employee, creditor or third party have been fully paid or properly accrued. Neither the Company nor any of its Subsidiaries is currently or has been a party to any Tax allocation, Tax sharing, Tax indemnity, Tax reimbursement agreement or arrangement (other than the Operating Agreement and credit agreements, lease agreements or other commercial agreements entered into in the ordinary course of business containing customary Tax allocation or gross-up provisions). Neither the Company nor any of its Subsidiaries has any liability for the Taxes of any Person as a transferee or successor, by contract or otherwise. During the period from January 1, 2015 to the date of this Agreement, neither the Company nor its Subsidiaries have been the subject of any audit or other examination of Taxes by the Taxing Authorities of any nation, state or locality with respect to any open Tax years and, to the Company's Knowledge, no such audit or other examination is contemplated or pending. Neither the Company nor any of its Subsidiaries has waived in writing any statute of limitations in respect of Taxes payable by any of them, which waiver is currently in effect, and neither the Company nor any of its Subsidiaries has agreed to any extension of time with respect to a Tax assessment or deficiency, which extension is currently in effect. There are no Liens for Taxes (other than Permitted Liens) upon any of the assets of the Company or any of its Subsidiaries. Neither the Company nor any of its Subsidiaries will be required to include any item of income in, or exclude an item of deduction from, taxable income for any taxable period (or portion thereof) ending after the Closing Date as a result of any (a) change in method of accounting for a taxable period ending on or prior to the Closing Date, (b) "closing agreement" as described in Section 7121 of the Code (or any corresponding or similar provision of state, local or foreign income Tax Law) executed on or prior to the Closing Date, (c) intercompany transaction or excess loss amount described in Treasury Regulations under Section 1502 of the Code (or any corresponding or similar provision of state, local or foreign income Tax Law), (d) installment sale or open transaction disposition made on or prior to the Closing Date; (e) election under Section 108(i) of the Code; or (f) election made pursuant to Section 965 of the Code. Neither the Company nor any of its Subsidiaries has ever been required to disclose on its federal income Tax Returns any position that could give rise to a substantial understatement of federal income tax within the meaning of Section 6662 of the Code. Neither the Company nor any of its Subsidiaries has ever participated in any reportable transaction or a transaction that is substantially similar to a listed transaction as defined under Section 6707A(c)(2) of the Code and Treasury Regulations Section 1.6011-4. The Company has made an election under Section 754 of the Code, which election has not been revoked. Each of the Company and its Subsidiaries has, and is properly treated as having, the federal Income Tax status indicated opposite its name on Section 5.15 of the Disclosure Schedule. There is no material property or obligation of the Company or any of its Subsidiaries, including uncashed checks to vendors, customers, or employees, non-refunded overpayments, or unclaimed subscription balances that is escheatable or reportable as unclaimed property to any state or municipality under any applicable escheatment or unclaimed property Laws. All material property of the Company and its Subsidiaries that is subject to property Tax has been properly listed and described on the property tax rolls of the appropriate Taxing Authority.

5.16 Insurance. Section 5.16 of the Disclosure Schedule lists each insurance policy currently in effect that is maintained by the Company and its Subsidiaries, including the name of the insurer and policy number (the "Insurance Policies"). The Insurance Policies are in full force and effect, all premiums due thereon has been paid, and each of the Company and its Subsidiaries is in material compliance with the terms and provisions of such policies. The Company has made available to the Buyer a complete and correct list of the claims made by the Company and its Subsidiaries during the past five (5) years (including with respect to insurance obtained but not currently maintained). Neither the Company nor any of its Subsidiaries has received written notice of cancellation or non-renewal of any Insurance Policy. The Company or one of its Subsidiaries is a named insured or loss payee, as applicable, under each Insurance Policy, and the Insurance Policies will continue to be in full force and effect after Closing under their ordinary expiration date. There is no claim by the Company or any of its Subsidiaries pending under any of such policies as to which coverage has been questioned, denied or disputed by the underwriters of such policies. True and complete copies of each Insurance Policy have been provided to the Buyer.

5.17 Licenses and Permits. The Company and its Subsidiaries possess all licenses, permits, registrations and approvals issued by a Governmental Authority that are necessary for the operation of the business of the Company and its Subsidiaries as currently conducted (collectively, the "Permits"), and all Permits are in full force and effect. None of the Company or any of its Subsidiaries is in material default under or violation of any of the Permits, and no event has occurred which, with or without notice or the lapse of time or both, would constitute a default under or violation of, in any material respect, any term, condition or provision of any Permit and, to the Company's Knowledge, there are no facts or circumstances which could form the basis for any such default or violation. There are no Proceedings (or, to the Company's Knowledge, governmental investigations) pending or, to the Company's Knowledge, threatened relating to the suspension, revocation, withdrawal, abandonment, cancelation, non-renewal, or modification of any of the Permits. None of the Permits will be impaired or in any way affected by the consummation of the transactions contemplated by this Agreement and each Permit will remain in full force and effect following the consummation of the transactions contemplated by this Agreement. True and correct copies of each Permit have been made available to Buyer.

5.18 Affiliated Transactions. Except for the HIG Services Agreements and as otherwise set forth on Section 5.18 of the Disclosure Schedule, (a) none of (i) HIG Seller, (ii) any Unitholder, (iii) any officer, manager, director, stockholder, member, or owner of HIG Seller, the Company, any Unitholder, or their respective Affiliates, or (iv) to the Company's Knowledge, any individual in such officer's, manager's, director's, stockholder's, member's, or owner's immediate family is a party to any Contract with the Company, or any of its Subsidiaries or has any financial interest in any property (tangible or intangible) used by the Company or any of its Subsidiaries and (b) to the Company's Knowledge, no officer, manager, director, stockholder, member, or owner of HIG Holdco, the Company, any of its Subsidiaries, or any of their respective Affiliates, or any individual in such officer's, manager's, director's, stockholder's, member's, or owner's immediate family is a party to any Contract with the Company, or any of its Subsidiaries (other than the Operating Agreement, any employment Contract or equity incentive, or restricted unit agreement listed in the Disclosure Schedules) or has any interest in any property (tangible or intangible) used by the Company or any of its Subsidiaries.

5.19 Material Contracts

(a) Section 5.19 of the Disclosure Schedule sets forth a list of all Contracts in effect as of the date hereof, including all amendments and supplements thereto, to which the Company or any of its Subsidiaries is a party or by which the Company or any of its Subsidiaries is bound, meeting any of the descriptions set forth below (collectively referred to herein as the "Material Contracts"):

(i) all Contracts relating to any completed stock, business or material asset acquisition, disposition, exchange, or restructuring by the Company or any of its Subsidiaries within the last five (5) years;

(ii) all collective bargaining agreements or other Contracts with any labor union;

(iii) all Contracts for the employment of any current officer, individual employee or other person on a full-time, part-time, or consulting basis, except for employment or consulting Contracts which are terminable at will and without penalty and consulting Contracts that are terminable without penalty on less than sixty (60) days' notice;

(iv) all Contracts pursuant to which any severance, change of control, termination or similar payment may be owed to any employee or independent contractor;

(v) all Contracts pursuant to which the Company or any of its Subsidiaries are or may become obligated to make any bonus, sales compensation, or similar payment to any employee or independent contractor;

(vi) all Contracts relating to indebtedness (including all Funded Debt), including surety bonds, performance bonds and letters of credit;

(vii) all Contracts under which the Company, or any of its Subsidiaries is lessee of, or holds or operates, any leased Personal Property owned by any other party, for which the annual rental exceeds $50,000 and has a contractual commitment of over twelve (12) months;

(viii) all Contracts under which the Company, or any of its Subsidiaries is lessor of or permits any third party to hold or operate any Personal Property for which the total annual rental payments exceed $20,000;

(ix) all Software licenses of the Company and its Subsidiaries (other than "off the shelf" Software), that require the Company, or any of its Subsidiaries to make total annual payments in excess of $50,000;

(x) all Contracts that prohibit the Company, or any of its Subsidiaries from freely engaging in business anywhere in the world (other than standard non-solicitation provisions entered into in the ordinary course of business contained in customer Contracts or non-disclosure Contracts which do not materially impair the ability of the Company or any of its Subsidiaries to operate their respective businesses) or that contain exclusivity or non-competition provisions restricting the Company, or any of its Subsidiaries;

(xi) all Contracts with take or pay purchase obligations;

(xii) all Contracts settling, resolving, or disposing with of Proceedings or governmental investigations (other than immaterial ordinary course governmental inspections or inquiries) or threatened Proceedings or governmental investigations (other than immaterial ordinary course governmental inspections or inquiries) since January 1, 2017, including any order, decree, decision, directive, determination, or ruling of any Governmental Authority that relates specifically to the Company or any of its Subsidiaries;

(xiii) all Contracts that contain any Abandonment and Reclamation Obligations that have not been satisfied other than future obligations under any leases pertaining to the Leased Real Property or that contain any continuing agreements, duties, undertakings or obligations (including warranty, contribution or indemnity obligations) related to abandoned, terminated, sold, or transferred mines, sites, operations, products, or business lines;

(xiv) all Contracts related to mineral interests, surface rights, surface access, air rights, water rights, ground water access or usage that are material to the operation of the business of the Company and its Subsidiaries when taken as a whole;

(xv) (A) all Contracts that grant to the Company, or any of its Subsidiaries a right of first refusal, first offer or first negotiation or that contain a grant by the Company, or any of its Subsidiaries of any purchase right, option, right of first refusal, first offer, or first negotiation, and (B) any marketing, sales, representative, agency, referral, franchising, consignment, bailment, or distribution Contracts, or Contracts that contain preferential pricing or terms, “most favored nations” or exclusivity rights, rebates, long-term purchase or supply rights, and/or other price protections to any third party;

(xvi) all Contracts containing confidentiality, indemnification, surety, or guaranty provisions, other than Contracts containing customary confidentiality or indemnification obligations set forth in any letter of intent or similar document entered into in the ordinary course of business;

(xvii) all Contracts that are executory purchase orders dated on or prior to October 31, 2018 by or to the Company or any Subsidiary of the Company with outstanding amounts in excess of $500,000;

(xviii) all Contracts that relate to the payment of any Tax or the filing of Tax Returns (other than the Operating Agreement and credit agreements, lease agreements or other commercial agreements entered into in the ordinary course of business containing customary Tax allocation or gross-up provisions);

(xix) all Contracts pursuant to which the Company or any of its Subsidiaries has made an advance or loan to any other Person;

(xx) all Contracts that create a Lien or Restriction on any assets of, or equity interests in, HIG Holdco, the Company, or any of its Subsidiaries;

(xxi) all material Contracts that are with any Governmental Authority;

(xxii) joint venture, development, partnership, licensing, sharing of profits or strategic alliance Contracts or Contracts evidencing an equity ownership interest in another Person;

(xxiii) all Contracts currently in effect (including any executory purchase orders) with the ten (10) largest customers (by dollar volume) of the Company and its Subsidiaries, taken as a whole, during any of fiscal year 2017 and 2018; and

(xxiv) all Contracts currently in effect (including any executory purchase orders) with the ten (10) largest suppliers (by dollar volume) of the Company and its Subsidiaries, taken as a whole, during any of fiscal year 2017 and 2018.

(b) The Company has made available to Buyer a true, complete, and correct copy of all written Material Contracts and an accurate description of the material terms of any oral Material Contracts. No material term, condition, right, responsibility, duty or obligation under any Material Contract has been terminated, waived, or amended in any respect, except to the extent that such termination or amendment is described in the Disclosure Schedules and disclosed in the copies of the Material Contracts made available to Buyer. Each Material Contract constitutes the valid and binding obligation of the Company or any of the Company's Subsidiaries party thereto, enforceable in accordance with its terms and, upon consummation of the transactions contemplated by this Agreement, shall continue in full force and effect without penalty or other adverse consequence as a result of the Closing. The Company is not in material breach, default or violation of any Material Contract, and to the Company's Knowledge, no other party to any Material Contract is in material breach, default or violation of any Material Contract, and to the Company's Knowledge, no event or circumstance exists that will result in or constitute such a breach, default or violation (with or without due notice or lapse of time or both). The execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby does not and will not (i) result in or give to any Person any right of termination, non-renewal, cancellation, withdrawal or acceleration under any Material Contract; (ii) result in or give to any Person any additional rights or entitlement to increased, additional, accelerated or guaranteed payments under any Material Contract; (iii) result in the creation or imposition of any obligation and liability or any Liens upon any of the assets of the Company or its Subsidiaries under the terms of any Material Contract; or (iv) result in any restriction on any of the Company's or its Subsidiaries' respective rights under any Material Contract. No party to any of the Material Contracts has exercised any termination rights with respect thereto, and to the Company's Knowledge since January 1, 2016, no party has given written notice of any significant dispute with respect to any Material Contract.

5.20 Intellectual Property.

(a) Section 5.20 of the Disclosure Schedule sets forth a true and complete listing of the following:

(i) a true and complete list of the following Company Owned Intellectual Property:

(A) with respect to all Patents, (1) issued patents and for each, its number, jurisdiction, issue date and title; and (2) patent applications (including provisional applications, divisional applications, continuation applications, continuation-in-part applications, re-examination applications and reissue applications) and for each, the application number, date of filing, jurisdiction, and title;

(B) with respect to all Trademarks, all registrations and pending applications for Trademarks, (1) if registered, the mark, jurisdiction, registration number and registration date thereof; and (2) if pending, the mark, jurisdiction, and application serial number thereof (if any) and the date of filing;

(C) with respect to all Copyrights, all copyright registrations and pending applications for registration thereof, including, (1) if registered, the title, number and date of registration thereof; and (2) if pending, the title, applications for registration of Copyrights and the date such application was filed, if applicable; and

(D) with respect to all Domain Names, all registrations and accounts thereof, listing the domain name, the registrant name and the registrars with whom the Domain Names have been registered.

(ii) (A) all material licenses, sublicenses, consents and agreements as to which the Company or any of its Subsidiaries is a party and pursuant to which any Person is authorized to use any Company Owned Intellectual Property by the Company or any of its Subsidiaries; and (B) all material licenses, sublicenses, consents, agreements and other instruments as to which the Company or any of its Subsidiaries is a party and pursuant to which the Company or any of its Subsidiaries is authorized to use any Third Party Intellectual Property by any Person (excluding licenses implied by the sale of goods, shrink-wrap and click-wrap software licenses, end-user licenses and licenses to software generally commercially available).

(b) The Company owns, is licensed, or otherwise possesses legally sufficient rights in and to the Company Intellectual Property to carry out the business of the Company or any of its Subsidiaries as currently conducted by the Company or any of its Subsidiaries and to sell, offer for sale and provide all Company Products. All Company Owned Intellectual Property is owned exclusively by the Company and each Subsidiary free and clear of all Liens, other than Permitted Liens.

(c) The operation of the businesses of the Company and its Subsidiaries have not infringed, diluted, misappropriated or otherwise violated the Intellectual Property of any third person.

(d) All registered, granted or issued Patents, Trademarks, Domain Names and Copyrights comprising Company Owned Intellectual Property are valid and subsisting, have not been canceled, abandoned or otherwise terminated and, if applicable, has been duly issued or filed, and none have been or currently are involved in any interference, reissue, reexamination, nullification, opposition, concurrent use, cancellation or similar Proceeding, and to the Company's Knowledge, since January 1, 2015 there has been no written threat or other written indication that any such Proceeding will hereafter be commenced. The Company or its Subsidiaries are listed in the records of the appropriate U.S., state or foreign registry as the sole current owner or owners of record for each listed application or registration, and no third party has any ownership interest, or right to claim any ownership interest in any listed application or registration.

(e) There are no claims pending or, to the Company's Knowledge, alleged or threatened, by any Person nor does the Company or any of its Subsidiaries know of any valid grounds for any bona fide claims: (i) to the effect that the development, import, export, marketing, manufacture, sale, licensing, disclosure, distribution or use of any Company Products as now offered, used, sold or licensed or proposed for use, sale or license by the Company or any of its Subsidiaries misappropriates, infringes or violates a third party's Intellectual Property; (ii) against the use by the Company or any of its Subsidiaries of any Company Intellectual Property in the business of the Company or any of its Subsidiaries as currently conducted by the Company or any of its Subsidiaries; (iii) challenging the ownership, validity or effectiveness of any Company Intellectual Property; or (iv) challenging the Company's or any of its Subsidiaries' license or legally enforceable right to use of the Company Intellectual Property in the business of the Company or any of its Subsidiaries as currently conducted by the Company or any of its Subsidiaries. To the Company's Knowledge, no Person claims the right to use any trademark or service mark that is identical or confusingly similar to any of the Trademarks comprising Company Intellectual Property. Except as set forth on Section 5.20 of the Disclosure Schedule, to the Company's Knowledge, there is no unauthorized use, disclosure, dissemination, infringement or misappropriation of any of Company Intellectual Property by any third party, including any employee or former employee of the Company or any of its Subsidiaries.

(f) All current and former third parties engaged by Company or any of its Subsidiaries to participate in the development or creation of any Company Owned Intellectual Property have executed appropriate written agreements or other instruments of assignment in favor of the Company or a Subsidiary as assignee that have conveyed to the Company or a Subsidiary effective and exclusive ownership of all Company Owned Intellectual Property thereby arising, or that have conveyed legally sufficient rights in any Third Party Intellectual Property provided by such consultant, contractor or agent for use in the business of the Company or any of its Subsidiaries as currently conducted (or as currently contemplated to be conducted) by the Company or any of its Subsidiaries. No current or former partner, director, officer, or employee of the Company or any of its Subsidiaries will, after giving effect to the transactions contemplated herein, own or retain any rights in or to any of the Company Intellectual Property. To the Company's Knowledge, no such employee, consultant, contractor or agent of the Company and each Subsidiary is in breach of any agreement with any former employer or other third party concerning the Company Intellectual Property.

(g) Except as set forth on Section 5.20 of the Disclosure Schedule, there are no royalties, fees, honoraria or other payments payable by the Company or any of its Subsidiaries to any Person or by reason of the ownership, development, use, license, sale or disposition of any Company Owned Intellectual Property

(h) The IT Systems, and all components thereof, are in satisfactory working order, and to the Company's Knowledge, have been designed or configured and maintained to meet industry standard security, backups, disaster recovery arrangements and hardware and software support and maintenance.

(i) The Company and its Subsidiaries have taken all commercially reasonable steps to protect and preserve the confidentiality of all material Trade Secrets used in the business of the Company comprising Company Intellectual Property to the extent not otherwise protected by Patents. All use, disclosure or appropriation by the Company or any of its Subsidiaries of Trade Secrets not owned by §the Company or any of its Subsidiaries has been pursuant to the terms of a written agreement between the Company or any of its Subsidiaries and the owner of such confidential information, or is otherwise lawful.

(j) In connection with any collection of personally identifiable information or non-public data, since January 1, 2015, the Company and its Subsidiaries have complied in all material respects with all applicable laws in all relevant jurisdictions and their privacy, network security and business policies and procedures relating to the collection, use, storage and processing of any personally identifiable information or non-public data collected or processed by the Company and its Subsidiaries or by third parties having authorized access to the IT Systems or records of the Company and its Subsidiaries. The Company and its Subsidiaries have not suffered a breach of security that has permitted any unauthorized access to the personally identifiable information or non-public data under their control or possession.

(k) All of the Domain Names identified on Section 5.20 of the Disclosure Schedule are registered in the name of, or in an account used for the benefit of the Company and its Subsidiaries. Except as set forth in Section 5.20 of the Disclosure Schedule, the Company and its Subsidiaries are currently in material compliance with all Contracts with the companies with whom the Domain Names are registered and there have been no complaints, disputes or Proceedings (including any UDRP proceedings) filed by or on behalf of or against the Company or any of its Subsidiaries with respect to such Domain Names.

5.21 Products Liability and Warranty.

(a) Each Company Product produced, manufactured, sold, delivered, distributed or provided by, or on behalf of the Company or any of its Subsidiaries in the last five (5) years has, in all material respects, been produced, delivered and distributed in conformity with all applicable contractual commitments and all Laws relating to product safety and related matters, and all express and implied warranties with respect thereto. Except as set forth on Section 5.21(a) of the Disclosure Schedule, in the last five (5) years, there have been no recalls (whether voluntary or compulsory) of any of the Company Products produced, manufactured, sold, delivered, distributed or provided by, or on behalf of the Company or any of its Subsidiaries. Except as set forth on Section 5.21(a) of the Disclosure Schedule, none of the Company or any of its Subsidiaries is currently subject to any product liability lawsuits or related Proceedings (or, to the Company's Knowledge, governmental investigations). Section 5.21(a) of the Disclosure Schedule sets forth an accurate, correct and complete list and summary description of all Proceedings (and, to the Company's Knowledge, all governmental investigations (other than immaterial ordinary course governmental inspections or inquiries)) and liabilities arising from or alleged to arise from any injury to person or property as a result of any Company Product produced, manufactured, sold, delivered, distributed or provided by, or on behalf of the Company and its Subsidiaries during the last five (5) years. None of the Company or any of its Subsidiaries has any liability (and to the Company's Knowledge there is no reasonable basis for any present or future Proceeding or governmental investigation (other than immaterial ordinary course governmental inspections or inquiries) against the Company or any of its Subsidiaries giving rise to any liability) arising out of any injury to individuals or property as a result of any Company Product produced, manufactured, sold, delivered, distributed or provided by, or on behalf of the Company or any of its Subsidiaries.

(b) Except as set forth on Section 5.21(b) of the Disclosure Schedule, none of the Company or any of its Subsidiaries makes any guaranty, warranty, right of return, right of credit or other indemnity as to any Company Products (a "Warranty"), and there is no pending or, to the Company's Knowledge, threatened claim alleging any breach of any Warranty. Except as set forth on Section 5.21(b) of the Disclosure Schedule (attached to which are copies of all Warranties), none of the Company or any of its Subsidiaries has any exposure to, or liability under, any Warranty beyond that which is typically assumed in the ordinary course of business by Persons engaged in businesses

comparable in size and scope of the Company and its Subsidiaries. Each Company Product produced, manufactured, sold, delivered, distributed or provided by or on behalf of the Company or its Subsidiaries has been produced, manufactured, sold, delivered, distributed or provided in conformity in all material respects with all Warranties set forth on Section 5.21(b) of the Disclosure Schedule and other contractual commitments.

(c) Except as set forth on Section 5.21(c) of the Disclosure Schedule, adequate reserves for any expense to be incurred by HIG Holdco, the Company or any of its Subsidiaries as a result of any Warranty are reflected in the Financial Statements.

5.22 Mining Claims. Section 5.22 of the Disclosure Schedule contains a list of all Mining Claims held by the Company and its Subsidiaries. With respect to each Mining Claim, (i) such Mining Claim was properly located and monumented; (ii) to the Company's Knowledge all required location and validation work for such Mining Claim was properly performed; (iii) all location fees, mining claim rental fees, mining claim maintenance payments and similar payments required by Law to locate and hold such Mining Claims (collectively, the "Governmental Mine Fees") have been paid in compliance with all applicable Laws through the assessment year ending September 30, 2018; (iv) all filings required to maintain such Mining Claim in good standing, have been properly and timely recorded or filed with the appropriate Governmental Authority; (v) each such Mining Claim is free and clear of all Liens and defects in title other than Permitted Liens; and (vi) to the Company's Knowledge there are no claims that would materially conflict with or overlap such any such Mining Claim.

5.23 No Brokers. Except with respect to the broker representing the Company in this transaction, Piper Jaffray LLC, neither the Company nor any of its Subsidiaries has incurred any obligation for any finder's or broker's or agent's fees or commissions or similar compensation in connection with the transactions contemplated hereby.

5.24 Accounts Receivable and Payable.

(a) Except as disclosed on Section 5.24 of the Disclosure Schedule, all accounts and notes receivable of the Company and its Subsidiaries represent obligations to the Company or its Subsidiaries arising from bona fide sale transactions in the ordinary course of business, are legal, valid and binding claims against the respective debtors as to which full performance has been rendered, to the extent the Company or any of its Subsidiaries are obligated to so perform as of the Effective Time, and are payable on ordinary trade terms. All accounts and notes receivable of the Companies reflected on the Interim Financial Statements are good and collectible at the aggregate recorded amounts thereof, net of any applicable reserve for returns or doubtful accounts reflected thereon, which reserves are adequate and were calculated in a manner consistent with past practice and in accordance with GAAP consistently applied. All accounts and notes receivable arising after the date of the Interim Financial Statements are good and collectible at the aggregate recorded amounts thereof in the ordinary course of business, net of any applicable reserve for returns or doubtful accounts, which reserves are adequate and were calculated in a manner consistent with past practice and in accordance with GAAP consistently applied. Except as set forth on Section 5.24 of the Disclosure Schedule, none of the accounts or the notes receivable of the Company or any of its Subsidiaries (i) are subject to any setoffs or counterclaims other than to the extent of reserves or accruals appropriately reflected on the Latest Balance Sheet in accordance with GAAP, or (ii) represent obligations for goods sold on consignment, on approval or on sale or return basis or subject to any other repurchase or return arrangement.

(b) All accounts payable of the Company and its Subsidiaries reflected in the Interim Financial Statement or arising after the latest date of the Interim Financial Statements are the result of bona fide transactions in the ordinary course of business and have been paid or are not yet due and payable.

5.25 FCPA; Anti-Corruption and Anti-Bribery Laws; Trade Regulation.

(a) The Company and its Subsidiaries, and each of their respective officers, directors, employees and any other Person acting on their behalf, in the course of their actions for, or on behalf of, the Company or any of its Subsidiaries, have not (i) violated any provision of the Foreign Corrupt Practices Act of 1977, as amended (the "FCPA"), the Laws promulgated, monitored or enforced by U.S. Office of Foreign Assets, or any other applicable anti-bribery, anti-money laundering, anti-bribery or anti-corruption Laws; (ii) violated any applicable customs, export control, trade sanctions, anti-terrorism and anti-boycott Laws; (iii) offered, paid, promised to pay, or authorized the payment of any money, or offered, given, promised to give, or authorized the giving of anything of value, to (A) any individual holding a legislative, administrative or judicial position of any kind, (B) any officer, employee or any other individual acting in an official capacity for any Governmental Authority, (C) any political party or official thereof or any candidate for political office (individually and collectively, a "Government Official"), (D) any employee or agent of a private entity with which any Company does or seeks to do business (a "Private Sector Counterparty") or (E) any individual while knowing that all or a portion of such money or thing of value would be offered, given or promised to any Government Official or Private Sector Counterparty, in each case described in this Section 5.25 in each case in violation of Law and for the purpose of assisting the Company or any of its Subsidiaries in obtaining or retaining business or a business advantage for or with, directing business to the Company or any of its Subsidiaries, or securing any improper advantage for the Company or any of its Subsidiaries; or (iv) established or maintained any fund or asset with respect to the Company or any of its Subsidiaries that has not been recorded on their respective books and records.

5.26 Customers and Suppliers. Section 5.26 of the Disclosure Schedule lists the ten (10) largest customers and the ten (10) largest suppliers (measured by dollar volume of purchases or sales in each case) of the Company and its Subsidiaries during the periods beginning (a) January 1, 2017 and ending on December 31, 2017 and (b) January 1, 2018 and ending on September 30, 2018, and the approximate percentage of the Company's and its Subsidiaries' business and dollar amount which each such customer or supplier represented during the respective periods. Neither the Company nor any of its Subsidiaries is engaged in any material dispute with any current customer or supplier listed on Section 5.26 of the Disclosure Schedule, no such customer or supplier has notified any Company in writing or, to the Company's Knowledge, verbally, that it intends to terminate or materially reduce its business relations with the Company or any of its Subsidiaries.

5.27 Inventory. Except as set forth on Section 5.27 of the Disclosure Schedule, all inventory of the Company and its Subsidiaries, whether or not reflected in the Financial Statements, (i) consists of a quality and quantity usable and salable in ordinary course of the Company's and its Subsidiaries' business consistent with past practice and to fill customer orders, (ii) is fit for the purpose for which it was procured, manufactured or produced, (iii) is of a quantity sufficient to enable the Surviving Company and its Subsidiaries to carry on the business of the Company and its Subsidiaries as presently conducted, and (iv) is in good operating and working condition (ordinary wear and tear excepted) and not obsolete, damaged, defective, or slow-moving, except in each case for obsolete, damaged, defective or slow-moving items that have been properly written off or written down or for which adequate reserves have been appropriately established as reflected on the Latest Balance Sheet in accordance with GAAP. All such inventory is owned by the Company or its Subsidiaries free and clear of all Liens (other than Permitted Liens and Liens set forth on Section 5.27 of the Disclosure Schedule), and all inventory is held at the Real Property and no inventory is held on a consignment basis. Since January 1, 2017, the Company's and its Subsidiaries' inventory has been purchased, mined, marketed and sold in the ordinary course of their business consistent with past practice and is maintained in quantities consistent with past practice.

5.28 Directors, Managers, Officers. Section 5.28 of the Disclosure Schedule sets forth the names and titles (as applicable) of the directors, managers, and officers of the Company and each of its Subsidiaries.

5.29 Funded Debt, Transaction Expenses, Cash Amount. The Estimated Closing Statement sets forth the total amount of (i) the outstanding amount of all Funded Debt as of the Closing, (ii) the Transaction Expenses Amount, and (iii) the Cash Amount.

EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES SET FORTH IN SECTION 4.02, THIS ARTICLE V, EACH LETTER OF TRANSMITTAL, THE HIG SELLER CLOSING

CERTIFICATE, AND THE COMPANY CLOSING CERTIFICATE, NEITHER THE COMPANY, ITS SUBSIDIARIES, THE REPRESENTATIVE, HIG SELLER, THE UNITHOLDERS NOR ANY OTHER PERSON MAKES ANY REPRESENTATIONS OR WARRANTIES, WRITTEN OR ORAL, STATUTORY, EXPRESS OR IMPLIED, WITH RESPECT TO HIG HOLDCO, THE COMPANY, ANY OF THEIR SUBSIDIARIES OR THEIR RESPECTIVE BUSINESS, OPERATIONS, ASSETS, STOCK OR OWNERSHIP INTERESTS, LIABILITIES, CONDITION (FINANCIAL OR OTHERWISE) OR PROSPECTS. EACH OF BUYER AND MERGER SUB HEREBY EXPRESSLY WAIVES ANY CLAIMS AND CAUSES OF ACTION AND ANY OTHER REPRESENTATIONS OR WARRANTIES, EXPRESS, IMPLIED, AT COMMON LAW, BY STATUTE OR OTHERWISE IN EACH CASE RELATING TO THE ACCURACY, COMPLETENESS OR MATERIALITY OF ANY INFORMATION, DATA OR OTHER MATERIALS (WRITTEN OR ORAL) HERETOFORE FURNISHED TO BUYER OR MERGER SUB AND THEIR RESPECTIVE REPRESENTATIVES BY OR ON BEHALF OF HIG HOLDCO, HIG SELLER, THE COMPANY, THEIR SUBSIDIARIES, THE REPRESENTATIVE OR THE UNITHOLDERS. WITHOUT LIMITING THE FOREGOING, NEITHER THE COMPANY, ITS SUBSIDIARIES, THE REPRESENTATIVE, HIG SELLER, THE UNITHOLDERS NOR ANY OTHER PERSON IS MAKING ANY REPRESENTATION OR WARRANTY TO BUYER OR MERGER SUB WITH RESPECT TO ANY FINANCIAL PROJECTION OR FORECAST RELATING TO THE BUSINESS, OPERATIONS, ASSETS, LIABILITIES, CONDITION (FINANCIAL OR OTHERWISE) OR PROSPECTS OF THE COMPANY, ITS SUBSIDIARIES AND HIG HOLDCO.

ARTICLE VI
PRE-CLOSING COVENANTS

The Parties agree as follows with respect to the period between the date of this Agreement and the Closing:

6.01 Further Assurances; Closing Conditions. Prior to Closing, each Party shall, as promptly as practicable, (a) execute and deliver, or cause to be executed and delivered, such additional instruments and other documents and shall take such further actions as may be reasonably requested by the other Party as necessary or appropriate to effectuate, carry out and comply with all of the terms of this Agreement and the transactions contemplated hereby and (b) use their reasonable best efforts to cause the conditions set forth in Article IX and Article X to be satisfied and to consummate the transactions contemplated herein as promptly as practicable; provided, that, notwithstanding anything to the contrary in this Agreement, other than with respect to the filing fee under the Hart-Scott Rodino Act, which will be paid by Buyer, neither the Buyer, Merger Sub, the Company, the Company's Subsidiaries, the Representative, HIG Seller nor any Unitholder shall be required to pay any consent or similar fee to obtain any third party or governmental consents.

6.02 Notices and Consents. Without limiting the generality of Section 6.01, prior to Closing, (a) the Company will deliver the notices set forth on Schedule 6.02 to the third parties set forth on Schedule 6.02 and will use its reasonable best efforts (which shall not include the payment of a consent or similar fee) to obtain the third party consents set forth on Schedule 6.02, and (b) Buyer will cooperate with the Company and use its reasonable best efforts to obtain all such consents.

6.03 Regulatory Filings.

(a) General. Each of Buyer and Merger Sub, on one hand, and the Company, HIG Holdco and HIG Seller, on the other hand, shall, and shall cause their Affiliates to, use their commercially reasonable efforts to (i) as promptly as practicable, obtain from any Governmental Authority any consent, approval, authorization, declaration, waiver, license, franchise, permit, certificate or order required to be obtained or made by a Party to this Agreement, and to avoid any Proceeding by any Governmental Authority, in each case in connection with the authorization, execution and delivery of this Agreement and the consummation of the transactions contemplated herein and (ii) as promptly as practicable make all necessary filings, and thereafter make any other required submissions, with respect to this Agreement required under any applicable Law, including the Hart-Scott-Rodino Act and any other applicable antitrust Laws. The Parties shall, and shall cause their respective Affiliates to, cooperate with each other in connection with obtaining all such consents, approvals, authorizations, declarations, waivers, licenses, franchises, permits or orders and the making of all such filings, including providing copies of all such non-proprietary documents to the non-filing Party and its advisors prior to filing and, if requested, to accept all reasonable additions, deletions or changes suggested in connection therewith. The Parties shall, and shall cause their respective Affiliates to, promptly furnish to each other all information required for any application or other filing to be made by the other in connection with the transactions contemplated by this Agreement. Buyer will not, and will not permit its Affiliates to, consent or agree to any voluntary delay of the consummation of the transactions contemplated by this Agreement without the prior written consent of the Company, which consent shall not be unreasonably withheld. The Company, HIG Holdco and HIG Seller will not, and will not permit their Affiliates to, consent or agree to any voluntary delay of the consummation of the transactions contemplated by this Agreement without the prior written consent of Buyer, which consent shall not be unreasonably withheld.

(b) Antitrust Laws.

(i) The Parties agree to make, and to cause their respective Affiliates to make, any necessary filings under the Hart-Scott-Rodino Act and any other applicable antitrust Laws no later than three (3) Business Days after execution of this Agreement, which filings shall include a request for early termination of the applicable waiting period under, and shall be in substantial compliance with, the Hart-Scott-Rodino Act. The Parties shall, and shall cause their respective Affiliates to, comply at the earliest practicable date with any request under the Hart-Scott-Rodino Act or any other applicable antitrust Laws to provide information, documents or other materials requested by any Governmental Authority.

(ii) The Parties shall, and shall cause their respective Affiliates to, (A) use their reasonable best efforts to resolve as soon as practicable objections, if any, asserted by any Governmental Authority with respect to this Agreement or the transactions contemplated by this Agreement and (B) take all actions necessary to obtain promptly all consents, approvals, authorizations, declarations, waivers, licenses, franchises, permits, certificates or orders from any Governmental Authority necessary in connection with the consummation of the transactions contemplated by this Agreement, including to secure the termination or expiration of the applicable waiting period and all requisite clearances and approvals under the Hart-Scott-Rodino Act and any other antitrust Laws (collectively, the "Antitrust Conditions") as promptly as practicable and in any event on or prior to January 15, 2019 (the "End Date"), without challenge by any Governmental Authority, and otherwise resolve any objections, if any, asserted by any Governmental Authority with respect to this Agreement or the transactions contemplated by this Agreement, including by (x) seeking to prevent the initiation of, and defending any Proceeding challenging this Agreement or the consummation of the transactions contemplated hereby, and (y) avoiding the entry of, or causing to be lifted or rescinded any injunction, judgment, order or ruling entered by any Governmental Authority adversely affecting the ability of the Parties to consummate the transactions contemplated by this Agreement.

(iii) The Parties may, by mutual agreement, extend the End Date so as to permit the Parties to satisfy the Antitrust Conditions. Further, the Parties shall, and shall cause their Affiliates to, coordinate and cooperate with each other in connection with their respective efforts to obtain all consents, approvals, authorizations, declarations, waivers, licenses, franchises, permits, certificates or orders from any Governmental Authority necessary in connection with the consummation of the transactions contemplated by this Agreement, including satisfying the Antitrust Conditions which shall include (A) cooperating in all respects in connection with any investigation or other inquiry, (B) keeping each other promptly informed of any material communication received by a Party or any of its Affiliates from any Governmental Authority, including the Federal Trade Commission or U.S. Department of Justice or similar foreign Governmental Authority regarding any of the transactions contemplated hereby, (C) providing the other Parties and their advisors with a reasonable opportunity to (1) review any proposed communication with any Governmental Authority relating to this Agreement or the transactions contemplated thereby, (2) consult the other Parties prior to any meeting or conference with any Governmental Authority, and (3) to the extent permitted by such Governmental Authority, attend and participate in such meetings or conferences, and (D) providing such other information and assistance as such Party may reasonably request in connection with the foregoing.

(iv) Notwithstanding the foregoing or any other provision of this Agreement, the Parties understand and agree that the commercially reasonable efforts of any Party shall not obligate the Buyer, the Surviving Company, or any of their respective Affiliates to divest or otherwise hold separate (including by establishing a trust or otherwise), or take any similar action (or otherwise agreeing to do any of the foregoing) with respect to any business, asset or property that was owned by the Company, any of its Subsidiaries, the Buyer or any of their respective Affiliates prior to the date hereof.

(v) Buyer shall be responsible for the payment of all filing fees under the Hart-Scott Rodino Act and any other applicable antitrust Laws.

(c) Other Actions. Except as specifically required by this Agreement or Law, Buyer and the Company shall not, and Buyer shall cause its Affiliates not to, knowingly take any action, the effect of which would be to delay or impede the ability of the Parties to consummate the transactions contemplated by this Agreement. Without limiting the generality of the forgoing, Buyer shall not, and shall not permit any of its Affiliates to, acquire or enter into any agreement to acquire (by merging or consolidating with, or by purchasing a substantial portion of the assets of or equity in, or by any other manner), any Person or portion thereof, or otherwise acquire or enter into any agreement to acquire any assets, if the entering into of a definitive agreement relating to, or the consummation of, such acquisition, merger or consolidation would reasonably be expected to (i) impose any delay in the obtaining of, or increase the risk of not obtaining, any authorizations, consents, orders, declarations or approvals of any Governmental Authority necessary to consummate the transactions contemplated by this Agreement or the expiration or termination of any applicable waiting period, or (ii) increase the risk of any Governmental Authority entering an order prohibiting or delaying the consummation of the transactions contemplated by this Agreement or (iii) delay the consummation of the transactions contemplated by this Agreement.

(d) Obligations Cumulative. The Parties' obligations in this Section 6.03 are cumulative, and a Party's obligations in any specific clause of this Section 6.03 shall not be interpreted to limit in any way the Parties' obligations in any other clause.

6.04 Conduct of the Business.

(a) From the date hereof until the Closing Date, except (i) as set forth on Schedule 6.04, (ii) as otherwise specifically required by this Agreement, (iii) as required by Law, (iv) as consented to in writing by Buyer (which consent will not be unreasonably withheld, delayed or conditioned), or (v) for the use of available cash to repay any Funded Debt and pay Transaction Expenses prior to the Closing, the Company and HIG Holdco shall (x) use its commercially reasonable efforts to carry on the business of HIG Holdco, the Company and its Subsidiaries in the ordinary course of business and substantially in the same manner as previously conducted and (y) shall not, and shall cause its Subsidiaries not to:

(i) sell, transfer, lease, license, mortgage, pledge or otherwise subject to any Lien (other than Permitted Liens) any material portion of the assets or property (tangible or intangible) of the Company and its Subsidiaries, or enter into a Contract to do any of the foregoing;

(ii) amend, terminate, modify, extend, renew, or suspend any Material Contract or exercise or waive any material options or rights under any Material Contract unless (A) done in the ordinary course of business, and (B) such Material Contract is a purchase order for greater than $500,000 or a Contract with one of the ten (10) largest customers (by dollar volume) of the Company and its Subsidiaries, taken as a whole, during fiscal year 2018, provided that if any of Paul Harrington, Robert Monaghan, Scott Alexander, John Todd or Jim Hill has knowledge of such amendment, termination, modification, extension, renewal, suspension, exercise, or waiver, the Company will give notice of such matter to Buyer;

(iii) acquire, or enter into any Contract to make an acquisition (whether by merger, acquisition of stock or assets, or otherwise) of any business or line of business;

(iv) modify or amend the organizational documents of the Company or any of its Subsidiaries;

(v) make an election or take any action to change the status of the Company or any of its Subsidiaries (as a corporation, partnership or disregarded entity) for federal, state or local income Tax purposes;

(vi) (x) increase the compensation payable by it to any of the Company's or its Subsidiaries' employees whose annual base salary is $100,000 or more, (y) except in the ordinary course of business consistent with past practice, increase the compensation payable by it to any of the Company's or its Subsidiaries' employees whose annual base salary is less than $100,000, or (z) increase the coverage or benefits available under any severance pay, termination pay, deferred compensation, bonus or other incentive compensation plan or arrangement, or any Plan, except for the payment of bonuses payable to certain officers and employees of the Company or any of its Subsidiaries in connection with the consummation of the transactions contemplated by this Agreement (which will be included as part of the Transaction Expenses);

(vii) make any change in its accounting or Tax reporting methods, principles or policies other than as required by Law;

(viii) make any changes to the management personnel set forth on Schedule 6.04(a)(viii) or implement any operational decisions outside of the ordinary course of a material nature;

(ix) fail to continue in full force and effect the insurance coverage under the Insurance Policies;

(x) fail to maintain all books and records of the Company and its Subsidiaries in the ordinary course of business consistent with past practice;

(xi) fail to pay the Company's or any of its Subsidiaries' debts, Taxes or other similar obligations in the ordinary course of business consistent with past practices;

(xii) fail to collect Accounts Receivable in a manner consistent with past practice;

(xiii) fail to maintain the properties and assets owned, operated or used by the Company and its Subsidiaries consistent with past practices;

(xiv) fail to comply in all material respects with any applicable Laws; or

(xv) authorize, agree, resolve or consent to any of the foregoing.

(b) Nothing in this Section 6.04 is intended to result in HIG Seller, the Unitholders, the Company or any of its Subsidiaries ceding control to Buyer of the Company's or any of its Subsidiaries' basic ordinary course of business and commercial decisions prior to the Closing Date.

6.05 Access to Information. From the date hereof until the Closing Date, the Company shall provide Buyer and Buyer's authorized agents and representatives reasonable access at reasonable times, and upon reasonable notice, to (a) the Chief Executive Officer and Chief Financial Officer of the Company, and (b) to the books and records of the Company and its Subsidiaries; provided, that (i) all such access shall be coordinated through Piper Jaffray LLC, (ii) such access does not unreasonably interfere with the operation of the Company's and its Subsidiaries' business and shall be subject to the Company's reasonable security measures and insurance requirements, (iii) Buyer and its authorized agents and representatives shall not contact or otherwise communicate with the employees, customers or suppliers of the Company and its Subsidiaries unless, in each instance, approved in writing in advance by the Company and (iv) nothing herein shall require the Company or any of its Subsidiaries to furnish to Buyer or any of Buyer's authorized agents or representatives or provide Buyer or any of Buyer's authorized agents or representatives with access to information that legal counsel for the Company or any of its Subsidiaries reasonably concludes may give rise to antitrust or competition Law issues or that is subject to attorney-client privilege or is the subject of any applicable information privacy or security Laws.

6.06 Exclusivity. During the period from the date of this Agreement through the Closing or the earlier termination of this Agreement pursuant to Section 13.01, each of HIG Seller, HIG Holdco, the Company and their respective Affiliates shall not, and shall direct its owners, directors, managers, officers, employees, investment bankers and other representatives not to, directly or indirectly (a) solicit, initiate, encourage, participate in, or engage in discussions regarding, any Acquisition Proposal or (b) participate in any activities, discussions or negotiations with any Person regarding, or furnish to any Person any information in connection with, any Acquisition Proposal. Each of HIG Seller, HIG Holdco, the Company and their respective Affiliates will immediately cease, and will direct their respective Affiliates and equity owners to immediately cease, any existing activities, discussions or negotiations with any Persons conducted heretofore with respect to any Acquisition Proposal, and upon receipt of any Acquisition Proposal after the date hereof each will take the steps necessary to inform the Persons submitting such Acquisition Proposal of the obligations undertaken in this Section 6.06.

6.07 Confidentiality Agreements. The Parties acknowledge and agree that as of the date hereof, and continuing through the Closing Date, the Parties and each of their respective Affiliates, employees and advisors are and remain bound to (a) the confidentiality agreement executed on August 31, 2017 by the Parties (or on their behalf) and (b) the confidentiality agreement executed on November 9, 2018 by the Parties (or on their behalf) (collectively, the "Confidentiality Agreements").

6.08 Certain Capital Lease Payoff Efforts. Prior to Closing, the Company and the Representative will use their reasonable best efforts to (a) pay all Funded Debt outstanding as of the Closing owed under the leases set forth on Schedule 6.08, and (b) provide Buyer with a payoff letter from the holder of such Funded Debt that reflects the amount required in order to pay in full all such Funded Debt outstanding.

ARTICLE VII
POST-CLOSING COVENANTS

The Parties agree as follows with respect to the period following the Closing:

7.01 Further Assurances. From and after the Closing, upon the reasonable request of the other Party and at such requesting Party's expense, each of the Parties, HIG Holdco, the Surviving Company and the Unitholders shall execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, all such further documents and instruments and shall take, or cause to be taken, all such further actions as the requesting Party may reasonably deem necessary or desirable to evidence and effectuate the transactions contemplated by this Agreement.

7.02 Director and Officer Liability and Indemnification; R&W Policy.

(a) Unless required by Law, for a period of six (6) years after the Closing, Buyer shall not, and shall not permit the Surviving Company or any of its Subsidiaries to, amend, repeal or modify the provisions in the Surviving Company's or any of its Subsidiaries' organizational documents relating to the exculpation or indemnification of any officers, directors or managers in a manner that adversely impacts such officers', directors' or managers' rights related to exculpation or indemnification as set forth in such organizational documents on the date hereof.

(b) Prior to the Closing, the Company may purchase an extended reporting period endorsement under the Company's existing directors' and officers' liability insurance coverage to provide directors and officers of the Company prior to the Closing with coverage for a period of up to six (6) years after the Closing (the "D&O Tail"). Neither Buyer nor the Surviving Company will cancel, terminate prior to the end of its term, amend or otherwise modify the D&O Tail without the written consent of the Representative (which may be given or withheld in its sole discretion). The cost of the D&O Tail shall be paid by Buyer; provided, that the cost of the D&O Tail shall not exceed $52,000.

(c) At no time shall Buyer or the Surviving Company or any of their respective Subsidiaries cancel, terminate prior to the end of its term, amend, waive or otherwise modify any provision of the R&W Policy in a manner that would reasonably be expected to adversely impact HIG Seller or any of the Unitholders or any of their officers, directors, employees or Affiliates, without the Representative's prior written consent (including, without limitation, any amendment, waiver or modification to Section VIII(A) or Section VIII(B) of the R&W Policy).

(d) Buyer shall take all reasonable actions (at the Representative's sole cost and expense) to enforce the proviso in the first sentence of Section VIII(B)(i) of the R&W Policy as it applies to HIG Seller and any Unitholder and each Exempt Party (as defined in the R&W Policy).

7.03 Access to Books and Records. From and after the Closing, Buyer shall, and shall cause the Surviving Company and its Subsidiaries to, provide the Representative and its respective authorized representatives with reasonable access (for the purpose of examining and copying), at reasonable times upon reasonable notice, to the books and records of the Surviving Company and its Subsidiaries with respect to periods prior to the Closing Date solely for purposes of (i) preparing or reviewing any Tax Return, defending any audit by any Taxing Authority or taking any other action contemplated by Article VIII, or (ii) asserting or defending any claims for indemnification under this Agreement. The Surviving Company and its Subsidiaries will maintain their respective books and records as required by Law.

7.04 Transfer Taxes. Buyer shall pay, or cause to be paid, any and all real property transfer or gain tax, stamp tax, stock transfer tax, or other similar Tax imposed on HIG Holdco, the Company and its Subsidiaries or one or more of the Unitholders as a result of the transactions contemplated by this Agreement (collectively, "Transfer Taxes"). The Representative (on behalf of the Unitholders) agrees to cooperate with the Surviving Company and its Subsidiaries in the filing of any Tax Returns with respect to the Transfer Taxes, including promptly supplying any information in its possession that is reasonably necessary for the Surviving Company and its Subsidiaries to complete such returns and pay such Transfer Taxes when due.

7.05 Employees; Benefits.

(a) All persons who were lawfully employed by the Company and its Subsidiaries immediately preceding the Closing Date, including those on vacation, approved leave of absence or short-term disability (the "Company Employees") shall continue employment with the Surviving Company or another Person designated by Buyer in a comparable position as of the Closing Date, at not less than the same base rate of pay in effect immediately preceding the Closing Date. Nothing in this Agreement shall be deemed to limit the right of the Buyer, the Surviving Company, or any other Person to terminate the employment of any Company Employee or change the terms and conditions of employment (including, without limitation, positions and base rates of pay) of any Company Employee at any time following the Closing Date.

(b) Buyer acknowledges that consummation of the transactions contemplated by this Agreement may constitute a change in control of the Company and its Subsidiaries (to the extent such concept is applicable) for purposes of the Plans. From and after the Closing, Buyer and the Surviving Company and its Subsidiaries will honor in accordance with their terms all cash bonus plans, employment agreements, consulting agreements, change-of-control agreements, and severance agreements or plans between the Company and its Subsidiaries, on the one hand, and any Company Employee or any officer or director of the Company or its Subsidiaries, on the other hand, in effect prior to the Closing Date, provided, however, that nothing in this Agreement shall be deemed to limit the right of the Buyer, the Surviving Company, or any other Person to amend, modify or terminate any such plans or agreements in accordance with their terms at any time following the Closing Date.

(c) For all purposes under any employee benefit plans of Buyer providing benefits to Company Employees after the Closing Date, each Company Employee shall be credited with his or her years of service with the Company or its Subsidiaries, as applicable, before the Closing Date, to the same extent as such Company Employee was entitled, before the Closing Date, to credit for such service under any similar Plans, except to the extent such credit would result in a duplication of benefits. In addition, and without limiting the generality of the foregoing: % 3. each Company Employee shall continue to be eligible to participate in any Plans such Company Employee participated in immediately before the Closing Date (such Plans, collectively, the "Old Plans") or, if such Old Plans are no longer in effect immediately after the Closing Date, be immediately eligible to participate, without any waiting time, in any and all employee benefit plans sponsored by Buyer and its Affiliates for the benefit of employees (such plans, collectively, the "New Plans") to the extent coverage under such New Plan replaces coverage under a comparable terminated Old Plan, and %3. for purposes of any New Plan providing medical, dental, pharmaceutical or vision benefits to any Company Employee, Buyer shall use commercially reasonable efforts to (A) cause all pre-existing condition exclusions and actively-at-work requirements of such New Plan, to the extent applicable, to be waived for such Company Employee and his or her covered dependents, and (B) cause any eligible expenses incurred by such Company Employee and his or her covered dependents during the portion of the plan year of the Old Plan ending on the date such Company Employee's participation in the corresponding New Plan begins to be taken into account under such New Plan for purposes of satisfying all deductible, coinsurance and maximum out-of-pocket requirements applicable to such Company Employee and his or her covered dependents for the applicable plan year as if such amounts had been paid in accordance with such New Plan. Such New Plans shall contain benefits substantially similar to the benefits provided in the Old Plans; provided, however, that nothing in this Agreement shall limit the right of Buyer to change, modify or terminate any New Plan or other arrangement in accordance with its terms following the Closing Date.

(d) Effective as of or prior to the Closing, HIG Holdco, the Company and their Subsidiaries shall cancel, terminate and cash-out all outstanding equity and equity-based compensation plans, agreements and arrangements (the "Terminated Equity Plans"), and, no later than the Closing Date, shall provide to Buyer a copy of the resolutions duly approved and executed by the members of the board of directors or managers, as applicable, of such entity of the termination of such Terminated Equity Plans.

(e) This Section 7.05 shall be binding upon and inure solely to the benefit of each of the Parties, and nothing in this Section 7.05, express or implied, shall confer upon any employee, or any legal representative or beneficiary thereof, any rights or remedies, including any right to employment or continued employment for any specified period, or compensation or benefits of any nature or kind whatsoever under this Agreement. Nothing in this Section 7.05, express or implied, shall be deemed an amendment of any Plan providing benefits to any employee or as altering the at-will nature of any Company Employee's employment.

7.06 Name Change. Within seven (7) days after Closing, Buyer shall cause HIG Holdco to amend its organizational documents and file such documents as are necessary to change its name to eliminate any reference to "HIG" or any derivation thereof from its name.

7.07 Distribution of Closing Cash Payment. The Representative shall distribute to each Unitholder the correct amount of the Closing Cash Payment and any Future Distribution Amount (as the case may be) to which each such Unitholder is entitled under the terms of this Agreement and the organizational documents of HIG Holdco and the Company.

7.08 Kitsap Earn-Out Obligation. For a period of eighteen (18) months following the Closing Date (the "Earn-Out Escrow Period"), Buyer (or any of its Affiliates) shall have the right to recover, solely from the Earn-Out Escrow Amount, fifty percent (50%) of any portion of the Kitsap Permit Earnout Amount (as defined in the Kitsap SPA) actually incurred and required to be paid by J.A. Jack & Sons, Inc. (including any of its Affiliates) pursuant to Section 1.5(a)(1) of that certain Stock Purchase Agreement, dated as of May 21, 2018, by and among J.A. Jack & Sons, Inc., a Washington corporation, Patrick M. Lockhart and Cheryl A. Lockhart (the "Kitsap SPA"). Within three (3) Business Days following Representative's receipt of any written request by Buyer (together with reasonable supporting documentation), Representative shall deliver an executed Joint Release Certificate (as defined in the Escrow Agreement) to Buyer and the Escrow Agent instructing the Escrow Agent to release the portion of the Earn-Out Escrow Amount to which Buyer (or any of its Affiliates) is entitled pursuant to this Section 7.08, and Buyer (and its Affiliates, as the case may be) shall use any such portion of the Earn-Out Escrow Amount only to satisfy the obligation to pay the Kitsap Permit Earnout Amount pursuant to the Kitsap SPA. Within three (3) Business Days following the expiration of the Earn-Out Escrow Period, the Representative and Buyer will instruct the Escrow Agent to release to the Representative (on behalf of the Unitholders) any remaining, undisputed portion of the Earn-Out Escrow Amount.

7.09 Release. Effective for all purposes as of the Closing, HIG Seller hereby completely and irrevocably releases and forever discharges HIG Holdco, the Company, Merger Sub, the Surviving Company, Buyer and their respective subsidiaries, directors, officers, managers, members, partners, unitholders, principals, employees, agents, representatives, predecessors, successors and assigns (each, a "Released Party" and collectively, the "Released Parties") from any and all claims, damages, losses, demands, actions, causes of action, promises and/or liabilities whatsoever existing as of, or at any time prior to, the Closing, whether known or unknown, suspected or unsuspected, accrued or unaccrued, including, but not limited to, any claims arising out of or in any way related, directly or indirectly, with HIG Seller having been an equityholder of HIG Holdco, the Company or any their respective subsidiaries or Affiliates or any other matter, cause or thing whatsoever (each, a "Claim" and collectively, "Claims"). Such released Claims include, without limitation, claims or with respect to facts that could give rise to or support a claim, known or unknown, which could or have been asserted by any HIG Seller against any of the Released Parties, at law or in equity, sounding in contract (express or implied); provided, however, that such release shall not extend to Claims enforcing the rights of HIG Seller under this Agreement or any other agreements required to be delivered pursuant to the terms of this Agreement.

ARTICLE VIII
TAX COVENANTS

8.01 Pre-Closing Taxes. From and after the Closing, subject to the terms, conditions and limitations provided in this Article VIII and in Article XI (including Section 11.02), Buyer shall be reimbursed, solely from the Indemnity Escrow Fund, for all Taxes of HIG Holdco, the Company and its Subsidiaries attributable to any Pre-Closing Tax Period, but for purposes of reimbursement for Taxes other than Income Taxes, only to the extent such other Taxes exceed $100,000 in the aggregate (and, for the avoidance of doubt, not for the first $100,000 of such other Taxes); provided, that the Unitholders shall not be required to reimburse Buyer for any such Taxes to the extent reflected as a liability in the calculation of Working Capital on the Closing Statement, included in Transaction Expenses or to the extent attributable to actions taken by Buyer or any of its Affiliates outside of the ordinary course of business and not contemplated by this Agreement on the Closing Date after the Closing; provided, further, that for purposes of this Section 8.01 and Sections 8.02 and 8.06, any liability for, or refund of, Income Taxes attributable to a Pre-Closing Tax Period shall be determined by taking into account all Transaction Tax Deductions (assuming, for this purpose, that the safe harbor election provided for in IRS Revenue Procedure 2011-29 is made with respect to any Transaction Tax Deduction that constitutes a "success-based fee", that the "next-day rule" contained in Treasury Regulation Section 1.1502-76(b)(1)(ii)(B) is not applicable to any Transaction Tax Deduction, and that any net operating loss attributable to a Transaction Tax Deduction will be carried back to the maximum extent permitted by Law).

8.02 Straddle Period. In the case of any taxable period that includes (but does not end on) the Closing Date (a "Straddle Period"), the amount of any Taxes attributable to the Pre-Closing Tax Period shall be determined as follows: (i) in the case of Taxes that are either (x) based upon or related to income or receipts, or (y) imposed in connection with any sale, transfer or assignment or any deemed sale, transfer or assignment of property (real or personal, tangible or intangible), be deemed equal to the amount that would be payable if the Tax year or period ended on the Closing Date, and (ii) in the case of Taxes (other than those described in clause (i) above) that are imposed on a periodic basis with respect to the business or assets of the Company or its Subsidiaries or otherwise measured by the level of any item, be deemed to be the amount of such Taxes for the entire Straddle Period (or, in the case of such Taxes determined on an arrears basis, the amount of such Taxes for the immediately preceding Tax period) multiplied by a fraction, the numerator of which is the number of calendar days in the portion of the Straddle Period ending on the Closing Date and the denominator of which is the number of calendar days in the entire Straddle Period. For purposes of clause (i) of the preceding sentence, any exemption, deduction, credit or other item (including the effect of any graduated rates of Tax) that is calculated on an annual basis shall be allocated to the portion of the Straddle Period ending on the Closing Date on a pro rata basis determined by multiplying the total amount of such item allocated to the Straddle Period times a fraction, the numerator of which is the number of calendar days in the portion of the Straddle Period ending on the Closing Date and the denominator of which is the number of calendar days in the entire Straddle Period. In the case of any Tax based upon or measured by capital (including net worth or long-term debt) or intangibles, any amount thereof required to be allocated under this Section 8.02 shall be computed by reference to the level of such items on the Closing Date. The Parties hereto will, to the extent permitted by applicable Law, elect with the relevant Taxing Authority to treat a portion of any Straddle Period as a short taxable period ending as of the close of business on the Closing Date.

8.03 Responsibility for Filing Tax Returns.

(a) Buyer shall prepare and file or cause to be prepared and filed all Tax Returns for HIG Holdco, the Surviving Company and its Subsidiaries that are filed on or after the Closing Date, including all Tax Returns for taxable periods ending on or before the Closing Date that are filed after the Closing Date. Any such Tax Return described in the preceding sentence that relates to any Pre-Closing Tax Period or Straddle Period shall be prepared, and all elections with respect to such Tax Returns shall be made, in a manner consistent with the prior practice of the Company and its Subsidiaries, in each case except to the extent required by applicable Law. Buyer shall provide the Representative with completed drafts of such Tax Returns for the Representative's review and comment at least thirty (30) days prior to the due date for filing thereof in the case of Income Tax Returns and as soon as reasonably practicable in the case of all other Tax Returns, and shall make such revisions to such Tax Returns as are reasonably requested by the Representative, provided, that the Representative's requests (i) are consistent with the prior practice of HIG Holdco, the Company and its Subsidiaries, and (ii) comply with applicable Law.

(b) The Parties shall, to the extent permitted or required by applicable Law, treat the Closing Date as the last day of the taxable period of HIG Holdco, the Company and its Subsidiaries for all Income Tax purposes, and Buyer shall cause HIG Holdco to join the "consolidated group" (as defined in Treasury Regulations Section 1.1502-1(h)) which includes Buyer effective on the day after the Closing Date.

8.04 Amendments, Elections, Etc. Without the consent of the Representative, which consent shall not be unreasonably withheld, conditioned or delayed, Buyer shall not file any Tax Return or amended Tax Return for HIG Holdco, the Company or its Subsidiaries with respect to any Pre-Closing Tax Period or Straddle Period, voluntarily initiate any discussions with a Taxing Authority with respect to Taxes or Tax Returns for HIG Holdco, the Company and its Subsidiaries with respect to any Pre-Closing Tax Period or Straddle Period, or make any Tax election with respect to a Pre-Closing Tax Period or Straddle Period, which would increase the amount of Taxes for which the Representative is responsible pursuant to Section 8.01 or reduce any refunds of Taxes to which the Representative is entitled pursuant to Section 8.06.

8.05 Cooperation on Tax Matters; Tax Audits. Buyer shall provide to the Representative, and the Representative shall provide to Buyer, such material documents and other relevant information, without charge and in a timely fashion, as each may reasonably request of the other, in connection with the preparation, review and filing of Tax Returns pursuant to Section 8.03(a) and any audit, litigation or other Proceeding or governmental investigation with respect to Taxes imposed on HIG Holdco, the Company or any of its Subsidiaries. Such cooperation shall include the retention and, upon the other Party's request, the provision of records and information that are reasonably relevant to any such audit, litigation or other Proceeding or governmental investigation and making employees available on a mutually convenient basis to provide additional information and explanation of any material provided hereunder. Buyer agrees to retain all books and records with respect to Tax matters pertinent to HIG Holdco, the Company and its Subsidiaries relating to any Pre-Closing Tax Period in accordance with its normal document retention policies, and to abide by all record retention arrangements entered into with any Taxing Authority with respect thereto. If notice of any legal Proceeding or governmental investigation with respect to Taxes of the HIG Holdco, the Company or any of the Subsidiaries (a "Tax Claim") shall be received by either party for which the Unitholders may reasonably be expected to be liable pursuant to Section 11.02 (a), the notified party shall notify such other party in writing of such Tax Claim; provided, that the failure of the notified party to give the other party notice as provided herein shall not relieve such failing party of its obligations under Section 11.02 except to the extent that the other party is materially prejudiced thereby. Subject to the next sentence, Buyer shall have the right, at the expense of the Unitholders to the extent such Tax Claim is subject to indemnification by the Unitholders pursuant to Section 11.02(a), to represent the interests of HIG Holdco, the Company and the Subsidiaries in any Tax Claim; provided, that with respect to a Tax Claim relating to taxable periods ending on or before (or including) the Closing Date, the Representative shall have the right to participate, at its own expense, in the defense of such Tax Claim and Buyer shall not settle such Tax Claim without the consent of the Representative, which consent shall not be unreasonably withheld, conditioned or delayed. The Representative shall have the right to represent HIG Holdco, the Company and the Subsidiaries with respect to any Tax Claim that relates exclusively to a Pre-Closing Tax Period; provided, that Buyer shall have the right to participate, at its own expense, in the defense of any such Tax Claim, and the Representative shall not settle such Tax Claim without the consent of Buyer, which consent shall not be unreasonably withheld, conditioned or delayed. To the extent there is a conflict between this Section 8.05 and any other provision in this Agreement, this Section 8.05 shall control.

8.06 Tax Refunds and Credits. Except to the extent reflected as an asset in the calculation of Working Capital on the Closing Statement, all refunds of Taxes (including amounts credited against

Taxes otherwise payable) attributable to HIG Holdco, the Company and its Subsidiaries for any Pre-Closing Tax Period (including any refunds resulting from the carryforward or carryback of a net operating loss or other Tax attribute from one Pre-Closing Tax Period to another) that are received by HIG Holdco, the Company or its Subsidiaries shall be for the account of the Unitholders and the amount of such refunds or credits shall be paid to the Representative (on behalf of HIG Seller as to any such refunds attributable to HIG Holdco and on behalf of the Unitholders as to any such refunds attributable to the Company and its Subsidiaries) within fifteen (15) days after receipt or entitlement thereto.

8.07 Allocation of Purchase Price. The Parties agree that the amounts paid pursuant to Section 2.07 (as increased by the amounts treated as assumed liabilities of the Company for federal Income Tax purposes and other amounts treated as taxable sale consideration for federal Income Tax purposes) shall be allocated among the assets of the Company for purposes of Sections 743, 751, 755 and 1060 of the Code in a manner consistent with the methodology set forth on Schedule 8.07 (the "Purchase Price Allocation Schedule"). None of the Buyer, the Company, nor the Unitholders shall take a position for federal and all applicable state Income Tax purposes on any Tax Return, before any Taxing Authority or in any judicial proceeding that is inconsistent with the Purchase Price Allocation Schedule unless specifically required pursuant to a determination by an applicable Taxing Authority.

8.08 Partnership Audit Rules. If, in any taxable year involving a taxable period (or portion thereof) prior to the Closing Date in which the Company or any Subsidiary does not elect out under Section 6221(b) of the Code, the IRS makes an adjustment to an item of income, gain, loss, deduction, or credit of the Company or such Subsidiary (or any partner's or member's distributive share thereof) that would result in an "imputed underpayment" within the meaning of Section 6225 of the Code (such imputed underpayment, together with any associated interest and penalties, an "Imputed Underpayment"), the Company or its Subsidiaries, as the case may be, shall, if permitted under Section 6226 of the Code, timely and properly make the election to "push out" any adjustments to the partners, such that the Company or such Subsidiary, as the case may be, shall not be liable for any Imputed Underpayment resulting from such adjustments.

ARTICLE IX
CONDITIONS TO THE OBLIGATIONS OF BUYER AND MERGER SUB

The obligations of Buyer and Merger Sub to consummate the transactions contemplated by this Agreement are subject to the satisfaction of the following conditions as of the Closing Date, any or all of which may be waived in whole or in part by Buyer:

9.01 Accuracy of Representations and Warranties. The representations and warranties of HIG Seller and the Company set forth in Section 4.02 and Article V, respectively, shall be true and correct as of the date hereof and as of the Closing Date as though made on and as of the Closing Date (without giving effect to any limitations as to "materiality" or "Material Adverse Effect" set forth therein), except for (a) changes expressly permitted by this Agreement, (b) those representations and warranties that address matters only as of a particular date need only be true and correct as of such date, and (c) those instances (including in (a) and (b)) in which the failure of the representations and warranties to be true and correct would not in the aggregate reasonably be expected to have a Material Adverse Effect.

9.02 Compliance with Obligations. Each of the Company and HIG Seller shall have performed in all material respects all of its obligations required to be performed under this Agreement at or prior to the Closing.

9.03 No Adverse Proceeding. No Proceeding or governmental investigation by any Governmental Authority shall be pending wherein an unfavorable judgment, decree or order would prevent the performance of this Agreement or the consummation of any of the transactions contemplated hereby, declare unlawful the transactions contemplated by this Agreement, or cause such transactions to be rescinded.

9.04 No Material Adverse Effect. No Material Adverse Effect shall have occurred.

9.05 Termination of Hart-Scott Rodino Waiting Period. The waiting period under the Hart-Scott-Rodino Act shall have expired or been terminated.

9.06 Payoff Letters. Unless such Funded Debt has been paid prior to the Closing, the Company shall have received payoff letters from the holders of all Funded Debt listed on Schedule 3.02(f) (the "Payoff Letters") that (i) reflect the amounts required in order to pay in full all such Funded Debt outstanding as of the Closing and (ii) in the case of items (1) and (2) set forth on Schedule 3.02(f), provide that, upon payment in full of the amounts indicated, all Liens with respect to the assets of the Company and its Subsidiaries shall be terminated, released of record, and of no further force and effect.

9.07 Closing Deliveries. The Company, HIG Seller and the Representative (as applicable) shall have delivered to Buyer each item required to be delivered pursuant to Section 3.02 and Section 3.03(a).

If the Closing occurs, all closing conditions set forth in this Article IX that have not been fully satisfied as of the Closing shall be deemed to have been fully waived (as a condition to Closing only) by Buyer and Merger Sub.

ARTICLE X
CONDITIONS TO THE OBLIGATIONS OF THE COMPANY

The obligation of the Company to consummate the transactions contemplated by this Agreement is subject to the satisfaction of the following conditions as of the Closing Date, any or all of which may be waived in whole or in part by the Company and the Representative:

10.01 Accuracy of Representations and Warranties. The representations and warranties of Buyer and Merger Sub contained in Section 4.01 shall be true and correct as of the date hereof and as of the Closing Date as though made on and as of the Closing Date (without giving effect to any limitations as to "materiality" or "Material Adverse Effect" set forth therein), except for (a) changes expressly permitted by this Agreement, (b) those representations and warranties that address matters only as of a particular date need only be true and correct as of such date, and (c) those instances (including in (a) and (b)) in which the failure of the representations and warranties to be true and correct would not in the aggregate reasonably be expected to have a material adverse effect on the ability of Buyer to consummate the transactions contemplated by this Agreement.

10.02 Compliance with Obligations. Each of Buyer and Merger Sub shall have performed in all material respects all of its obligations required to be performed under this Agreement at or prior to the Closing.

10.03 R&W Policy. The R&W Policy shall have been finalized and bound by the applicable insurer.

10.04 No Adverse Proceeding. No Proceeding or governmental investigation by any Governmental Authority shall be pending wherein an unfavorable judgment, decree or order would prevent, the performance of this Agreement or the consummation of any of the transactions contemplated hereby, declare unlawful the transactions contemplated by this Agreement, or cause such transactions to be rescinded.

10.05 Termination of Hart-Scott Rodino Waiting Period. The waiting period under the Hart-Scott-Rodino Act shall have expired or been terminated.

10.06 Closing Deliveries. Buyer shall have delivered to HIG Seller and Representative (as applicable) each item required to be delivered by Buyer pursuant to Section 3.02 and Section 3.03(b).

If the Closing occurs, all closing conditions set forth in this Article X that have not been fully satisfied as of the Closing shall be deemed to have been fully waived (as a condition to Closing only) by the Company and the Representative.

ARTICLE XI
SURVIVAL; INDEMNIFICATION

11.01 Survival of Representations, Warranties and Covenants. The representations, warranties and covenants contained in this Agreement shall survive the Closing as follows:

(a) all covenants contained in this Agreement shall survive the Closing until fully performed;

(b) the representations and warranties of (i) Buyer and Merger Sub contained in Section 4.01(a) (*Status*), Section 4.01(b) (*Power and Authority*), Section 4.01(c) (*Enforceability*), Section 4.01(e) (*No Brokers*), and Section 4.01(g) (*Investment Representations*) (collectively, the "Buyer Fundamental Representations"), (ii) HIG Seller contained in Section 4.02(a) (*Status*), Section 4.02(b) (*Power and Authority*), Section 4.02(c) (*Enforceability*), Section 4.02(e) (*Capitalization; Ownership*), and Section 4.02(f) (*Subsidiaries*) (collectively, the "HIG Seller Fundamental Representations") and (iii) the Company contained in the first two sentences of Section 5.01 (*Corporate Status*), Section 5.02 (*Power and Authority*), Section 5.03 (*Enforceability*), Section 5.04 (*Capitalization; Ownership*), Section 5.05(a) and (b) (*Subsidiaries*), the first two sentences of Section 5.05(c) (*Subsidiaries*), and Section 5.23 (*No Brokers*) (collectively, the "Company Fundamental Representations") shall terminate and be of no further force and effect on the date that is six (6) years after the Closing Date; and

(c) all other representations and warranties contained in this Agreement shall terminate and be of no further force and effect on the date that is twelve (12) months after the Closing Date.

No claim may be made for indemnification hereunder for breach of any representations or warranties or covenants after the expiration of the survival period applicable to such representation, warranty and covenant set forth above; provided, that if Buyer or the Representative, as applicable, delivers written notice to the other Party of an indemnification claim for a breach of any representation, warranty, or covenant within the applicable time periods set forth above, such claim shall survive until resolved or judicially determined. Such written notice of indemnification shall include, in reasonable detail, the nature of, and factual and legal basis for, any such claim for indemnification and, if then known, an estimate and calculation of the amount of Losses resulting therefrom; provided, however, that the failure to timely provide all such information shall not affect any indemnity obligations under this Agreement, except to the extent the Indemnifying Party is materially prejudiced by such failure.

11.02 Indemnification Provisions for Benefit of Buyer.

(a) Subject to the terms and conditions of this Article XI, from and after the Closing, the Unitholders, severally and not jointly, will, indemnify and hold harmless Buyer, Merger Sub, the Surviving Company, each of their respective Subsidiaries, each of their respective Affiliates, their respective successors and assigns, and their respective officers, directors, managers, partners, equityholders, employees and agents (the "Buyer Indemnitees") from and against any Losses that any Buyer Indemnitee suffers, sustains, or incurs (provided that an indemnification claim with respect to such Losses is made pursuant to this Article XI prior to the end of any applicable survival period set forth in Section 11.01(a) through (c)), resulting from, arising out of or caused by (i) any misrepresentation, breach or inaccuracy of any representation or warranty contained in Article V or in the Company Closing Certificate, or (ii) any breach of any covenant or agreement of the Representative in this Agreement or of the Company in this Agreement to be performed prior to Closing.

(b) Subject to the terms and conditions of this Article XI, from and after the Closing, HIG Seller, and no other Unitholder, will indemnify and hold harmless the Buyer Indemnitees from and against any and all Losses that any Buyer Indemnitee suffers, sustains or incurs (provided that an indemnification claim with respect to such Losses is made pursuant to this Article XI prior to the end of any applicable survival period set forth in Section 11.01(a) through (c)), resulting from, arising out of or caused by (i) any misrepresentation, breach or inaccuracy of any representation or warranty made by HIG Seller in Section 4.02 or in the HIG Seller Closing Certificate, or (ii) any breach of any covenant or agreement by HIG Seller contained in this Agreement.

(c) With respect to the matters described in Section 11.02(a)(i), no Unitholder will have, and with respect to matters described in Section 11.02(b)(i), HIG Seller will not have, any liability with respect to such matters until the Buyer Indemnitees have suffered, sustained, or incurred aggregate indemnifiable Losses by reason of all such misrepresentations, breaches and inaccuracies in excess of $1,575,000 (the "Deductible"), after which point the Unitholders or HIG Seller, as applicable, will only be obligated to indemnify Buyer Indemnitees from and against all indemnifiable Losses in excess of the Deductible; provided, that the foregoing limitation shall not apply to any indemnifiable Losses resulting from (i) any misrepresentation, breach or inaccuracy of a Company Fundamental Representation, (ii) any misrepresentation, breach or inaccuracy of an HIG Seller Fundamental Representation, or (iii) Fraud.

(d) With respect to the matters described in Sections 11.02(a)(i) and 11.02(b)(i), and any amounts payable under Section 8.01, the aggregate maximum amount of Losses recoverable by the Buyer Indemnitees from the Unitholders or HIG Seller shall in no event exceed the Indemnity Escrow Amount; provided, that the foregoing limitation shall not apply to any indemnifiable Losses resulting from (i) any misrepresentation, breach or inaccuracy of a Company Fundamental Representation, (ii) any misrepresentation, breach or inaccuracy of an HIG Seller Fundamental Representation, or (iii) Fraud.

(e) Notwithstanding anything to the contrary in this Agreement, (i) no Unitholder shall have any liability in excess of its Unitholder Percentage of any Loss recoverable under Section 11.02(a), (ii) other than HIG Seller, no other Unitholder shall have any liability for any breach or inaccuracy of any representation or warranty made by HIG Seller in Section 4.02, (iii) the Buyer Indemnitees shall not be entitled to recover any Losses to the extent such Losses were reflected as liabilities in, or specifically reserved for on, the Latest Balance Sheet or to the extent a Loss was included as a liability in the calculation of any component of the Closing Cash Payment, and (iv) each Unitholder's aggregate liability under or arising out of this Agreement or the transactions contemplated hereby shall in no event exceed the portion of the Merger Consideration actually paid to, or on behalf of, such Unitholder pursuant to Section 2.07 or in the case of HIG Seller, the Holdco Purchase Price actually paid to HIG Seller pursuant to Section 1.02.

(f) IT SHALL NOT BE A DEFENSE TO ANY CLAIM FOR MISREPRESENTATION, BREACH OR INACCURACY OF ANY REPRESENTATION OR WARRANTY CONTAINED IN ARTICLE V OF THIS AGREEMENT THAT ANY BUYER INDEMNITEE IS OR WAS NEGLIGENT OR ALLEGED TO BE NEGLIGENT OR STRICTLY LIABLE OR ALLEGED TO BE STRICTLY LIABLE (INCLUDING UNDER ENVIRONMENTAL LAWS AND INCLUDING THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT).

11.03 Indemnification Provisions for Benefit of the Unitholders.

(a) Subject to the terms and conditions of this Article XI, from and after the Closing, Buyer will indemnify and hold harmless the Unitholders, their respective Affiliates, their respective successors and assigns, and their respective officers, directors, managers, partners, equity holders, employees, and agents (the "Unitholder Indemnitees") from and against any Losses that any Unitholder Indemnitee suffers, sustains, or incurs (provided that an indemnification claim with respect to such Losses is made pursuant to this Article XI prior to the end of any applicable survival period set forth in Section 11.01(a) through (c)), resulting from, arising out of or caused by %3. any breach or inaccuracy of any representation or warranty set forth in Section 4.01 or %3. any breach of any covenant or agreement of Buyer or Merger Sub in this Agreement.

(b) With respect to the matters described in Section 11.03(a)(i), Buyer will have no liability with respect to such matters until the Unitholder Indemnitees have suffered, sustained, or incurred aggregate indemnifiable Losses by reason of all such breaches in excess of the Deductible, after which point Buyer will only be obligated to indemnify Unitholder Indemnitees from and against all indemnifiable Losses in excess of the Deductible; provided, that the foregoing limitations shall not apply to any indemnifiable Losses resulting from (i) any breach of a Buyer Fundamental Representation or (ii) Fraud.

(c) With respect to the matters described in Section 11.03(a)(i), the aggregate maximum liability of Buyer shall be $1,575,000; provided, that the foregoing limitation shall not apply to any indemnifiable Losses resulting from (i) any breach of a Buyer Fundamental Representation or (ii) Fraud; provided, further, that the aggregate maximum liability of Buyer for indemnifiable Losses resulting from breaches of Buyer Fundamental Representations shall be an amount equal to the Base Amount.

(d) Prior to the Closing, notwithstanding anything to the contrary contained in this Agreement, none of the foregoing limitations set forth in Section 11.02 or this Section 11.03 shall apply or reduce (i) the Company's and the Unitholder's right to recover from Buyer if Buyer fails to consummate the transactions contemplated by this Agreement in breach of its obligations hereunder, or (ii) Buyer's right to recover from the Company and the Unitholders if the Company or the Unitholders fail to consummate the transactions contemplated by this Agreement in breach of their obligations hereunder.

11.04 Matters Involving Third Parties.

(a) If any Party (the "Indemnified Party") receives any claim or demand asserted by a third party (a "Third Party Claim") that may give rise to a claim for indemnification against any other Party (the "Indemnifying Party") under this Article XI, then the Indemnified Party shall promptly (and in any event within ten (10) Business Days after receiving notice of the Third Party Claim) notify the Indemnifying Party thereof in writing, describing the claim, the amount thereof (if known and quantifiable) and the basis of the claim; provided, that the failure to so notify the Indemnifying Party shall not limit the indemnification obligations under this Agreement except to the extent that the Indemnifying Party is materially prejudiced by such failure.

(b) Any Indemnifying Party shall be entitled to participate in the defense of such Third Party Claim at such Indemnifying Party's sole expense, and at its option will have the right to assume and thereafter conduct the defense of the Third Party Claim (at its sole expense) with counsel of its choice reasonably satisfactory to the Indemnified Party; provided, however, that the Indemnifying Party will not consent to the entry of any judgment or enter into any settlement with respect to the Third Party Claim without the prior written consent of the Indemnified Party (not to be unreasonably withheld, delayed or conditioned) unless the judgment or proposed settlement involves only the payment of money damages in an amount that is less than any remaining portion of the Deductible and the Indemnity Escrow Fund and any amounts then recoverable under the R&W Policy in respect of such Third Party Claim and does not impose an injunction or other equitable relief upon the Indemnified Party, in which case no consent will be required; provided, further, that, if the Indemnifying Party assumes the defense of any Third Party Claim, (i) the Indemnified Party may retain separate co-counsel at its sole cost and expense and participate in the defense of the Third Party Claim (it being understood, however, that the Indemnifying Party shall control such defense and shall be liable solely for the costs and expenses of counsel of its choice reasonably satisfactory to the Indemnified Party), (ii) such assumption shall not prejudice the Indemnifying Party's right to thereafter contest the Indemnified Party's right to indemnification for the claims asserted therein, and (iii) an Indemnified

Party shall not settle, compromise or consent to the entry of any judgment or admit any liability with respect to any Third Party Claim without the prior written consent of the Indemnifying Party (not to be unreasonably withheld, delayed or conditioned). Notwithstanding the foregoing, the Indemnifying Party shall not be entitled to assume or continue control of the defense of any Third Party Claim if (and after such time as) (1) the Third Party Claim seeks an injunction or equitable relief against any Indemnified Party, (2) the Indemnified Party shall have been advised in writing by counsel that the interests of the Indemnifying Party and the Indemnified Party with respect to such claim are in conflict with one another and, as a result, in the reasonable judgment of such counsel to the Indemnified Party, the Indemnifying Party could not adequately represent the interests of the Indemnified Party in such claim, (3) if the Indemnifying Party fails to give written notice that the Indemnifying Party shall assume the defense of such Third Party Claim within thirty (30) days after receiving the Indemnified Party's notice of the Third Party Claim pursuant to Section 11.04(a), (4) the Third Party Claim is a criminal Proceeding or governmental investigation or a Proceeding or governmental investigation initiated by a Governmental Authority (other than a Taxing Authority), (5) the Third Party Claim has or would reasonably be expected to result in Losses in excess of the sum of any then remaining portion of the Indemnity Escrow Amount against which the Buyer Indemnitees shall not have already made indemnity claims and any amounts then recoverable under the R&W Policy in respect of such Third Party Claim, (6) the Third Party Claim, if decided adversely against the Indemnified Party, would reasonably be expected to have a Material Adverse Effect, (7) the Third Party Claim seeks or would reasonably be expected to result in debarment of Buyer, its Affiliates, HIG Holdco, the Company or any of its Subsidiaries from current or future Contracts with any Governmental Authority, (8) the Indemnifying Party has failed or is failing to diligently and actively defend in good faith the Third Party Claim (after written notice from Buyer and a reasonable opportunity to cure), (9) the Indemnifying Party has not acknowledged in writing that such Third Party Claim is subject to, and the Indemnified Party is entitled to, indemnification pursuant to this Article XI, (10) the Indemnifying Party has not provided the Indemnified Party with evidence reasonably acceptable to the Indemnified Party that the Indemnifying Party will have adequate financial resources to defend against such Third Party Claim and fulfill its indemnification obligations under this Article XI, (11) the assumption of such defense would cause Buyer to lose coverage under the R&W Policy or (12) Buyer or any insurer under the R&W Policy is required to assume the defense of such Third Party Claim pursuant to the terms of the R&W Policy.

(c) The Indemnified Party (i) will not, without the prior written consent of the Indemnifying Party (which consent shall not be unreasonably withheld, conditioned or delayed), cause or agree to the waiver of the attorney-client privilege, attorney work-product immunity or any other privilege or protection in respect of confidential legal memoranda and other privileged materials drafted by, or otherwise reflecting the legal advice of, internal or outside counsel of an Indemnified Party (the "Subject Materials") relating to such Third Party Claim and (ii) at the cost of the Indemnifying Party, will cooperate reasonably with the Indemnifying Party and its counsel in the review, investigation and defense of any such claim or any related claim or counterclaim, make available its personnel, and provide such testimony and access to its books and records as is reasonably requested by the Indemnifying Party in connection therewith. In furtherance of the foregoing, each Party mutually acknowledges and agrees, on behalf of itself and its Affiliates, that (1) each shares a common legal interest in preparing for the defense of legal Proceedings, or potential legal Proceedings, arising out of, relating to or in respect of any actual or threatened Third-Party Claim or any related claim or counterclaim, (2) the sharing of Subject Materials will further such common legal interest, and (3) by disclosing any Subject Materials to and/or sharing any Subject Materials with the other Party, no Party shall be deemed to have waived the attorney-client privilege, attorney work-product immunity or any other privilege or protection. The Indemnified Party shall not be required to make available to the Indemnifying Party any information that is subject to an attorney-client or other applicable legal privilege that, based on the advice of outside counsel, would be impaired by such disclosure or any confidentiality restriction under applicable Law; provided, however, that each Party shall use its commercially reasonable efforts to make arrangements which protect such legal privilege but allow the Indemnifying Party access to such information.

(d) Notwithstanding anything in this Agreement to the contrary, as promptly as reasonably practicable following receipt by Buyer of (i) notice of a Third Party Claim, Buyer shall, and shall cause the Company to, retain documents that are then within Buyer's or the Company's possession or control and reasonably related to such Third Party Claim for a period of time that the Representative reasonably determines, in consultation with Buyer, after taking into account all relevant facts and circumstances related to the Third Party Claim that is the subject of such notice, or (ii) a written notice by the Representative of a demand or inquiry by a Governmental Authority, or subpoena or other legal process served by any Person, relating to the Company, Buyer shall, and shall cause the Company to, retain documents that are then within Buyer's or the Company's possession or control and reasonably related to such information, demand or inquiry or such subpoena or other legal process for the time period that the Representative reasonably determines, in consultation with Buyer, after taking into account all relevant facts and circumstances related to such information, demand or inquiry.

(e) If the Indemnifying Party assumes the defense of a Third Party Claim and the indemnifiable Losses previously suffered, sustained, or incurred by the Indemnified Party do not, in the aggregate, exceed the Deductible, then the Indemnified Party shall promptly, and in any event within five (5) Business Days of receipt of a written request from the Indemnifying Party, reimburse the Indemnifying Party for the reasonable out-of-pocket expenses suffered, sustained, or incurred by the Indemnifying Party in connection with the defense of such Third Party Claim up to the difference between the indemnifiable Losses previously suffered, sustained, or incurred by the Indemnified Party and the Deductible; provided, however, that any such amounts that are reimbursed pursuant to this sentence shall constitute Losses of the Indemnified Party and shall thereafter count against the Deductible for all purposes.

11.05 Determination of Losses.

(a) The amount of any Loss subject to indemnification under Article VIII and this Article XI (i) shall be calculated net of any insurance proceeds received (including the proceeds of the R&W Policy) and any Tax benefits actually realized by the Indemnified Party on account of such Loss, and (ii) without limitation to Section 14.03, shall not include any costs and expenses of investigation, assertion, dispute or defense, including attorneys', accountants' and other professionals' fees, disbursements and expenses, to the extent incurred in connection with any claim or dispute among the Parties as to whether a Unitholder Indemnitee, on the one hand, or a Buyer Indemnitee, on the other hand, is entitled to indemnification under Article VIII and this Article XI for any particular Loss or Losses or to specific enforcement under Section 14.10 (for the avoidance of doubt, the limitations in this subsection (ii) shall not apply with respect to out-of-pocket costs and expenses incurred in connection with the investigation, assertion, dispute, enforcement, defense or resolution of any indemnifiable Third Party Claim, including reasonable attorneys', accountants' and other professionals' fees, disbursements and expenses).

(b) The Indemnified Party shall seek full recovery under all insurance policies covering any Loss to the same extent as they would if such Loss were not subject to indemnification hereunder; provided, that no Indemnified Party shall be under any obligation to initiate any legal action against any insurer or other Person in connection with seeking such recovery. In the event that an insurance or other recovery is received by any Indemnified Party or a Tax benefit is actually realized by an Indemnified Party, in each case with respect to any Loss for which any such Person has been indemnified hereunder, then a refund equal to the amount of the recovery or Tax benefit (less any Loss that was suffered by the Indemnified Party and was not subject to indemnification by the Indemnifying Party due to any limitations or other provisions set forth in this Article XI) shall be made promptly to the Indemnifying Party that made or directed such indemnification payments to such Indemnified Party. If any indemnification payment under this Article XI is determined to be taxable to the Indemnified Party receiving such payment by any Taxing Authority, the Indemnifying Party shall, subject to the limitations set forth herein, also indemnify the Indemnified Party receiving such payment for any Taxes incurred by reason of the receipt of such payment and any Losses incurred by the Indemnified Party receiving such payment in connection with such Taxes (or any asserted deficiency, claim, demand, action, suit, proceeding, judgment or assessment, including the defense or settlement thereof, relating to such Taxes).

(c) With respect to all indemnification obligations under this Agreement, for purposes of determining (i) whether any breach, misrepresentation or inaccuracy of any representation or warranty has occurred or exists and (ii) the amount of Losses suffered, sustained or incurred in connection with, as a result of, or caused by any such breach, misrepresentation or inaccuracy, such determination shall be made without regard to the words "material," "materiality," "materially," "material respects," and "Material Adverse Effect," contained in such representation or warranty; provided, however, that this Section 11.05(c) shall not apply to any of the representations or warranties set forth in any of Sections 5.07(a), 5.08(b), 5.14(a), 5.19(a) or 5.20(a).

11.06 Exclusive Remedy.

(a) The Parties acknowledge and agree that, except as provided in Sections 3.04(b) and 14.10, and other than claims for Fraud and any claims under any Letter of Transmittal, after the Closing, the indemnification provisions in this Article XI shall be the sole and exclusive remedy of the Parties and their Affiliates with respect to any claim related to or arising from this Agreement, the negotiation and execution of this Agreement, the performance by the Parties of their respective obligations hereunder, and the transactions contemplated by this Agreement.

(b) Buyer agrees that the only source of recovery and recourse for any claims that any Buyer Indemnitee may have against any Unitholder or any of their Affiliates pursuant to Section 11.02(a)(i), Section 11.02(b)(i) or Section 8.01 shall be from the recovery of the Indemnity Escrow Amount under the Escrow Agreement (subject to the terms of the Escrow Agreement) and the R&W Policy (subject to the terms of the R&W Policy), except with respect to (i) any misrepresentation, breach or inaccuracy of a Company Fundamental Representation, (ii) any misrepresentation, breach or inaccuracy of an HIG Seller Fundamental Representation, or (iii) Fraud.

(c) The Parties may not avoid the limitations on liability, recovery and recourse set forth in this Article XI by seeking damages for breach of contract, tort or pursuant to any other theory or liability. Notwithstanding anything to the contrary in this Agreement, each Unitholder's aggregate liability under, or related to, this Agreement shall in no event exceed the portion of the Merger Consideration paid to, or on behalf of, such Unitholder pursuant to Section 2.07, or in the case of HIG Seller, the Holdco Purchase Price paid to HIG Seller pursuant to Section 1.02. Nothing in this Section 11.06 shall prevent or prohibit a Party from seeking and/or obtaining specific performance in accordance with Section 14.10.

11.07 No Duplication. The Parties acknowledge and agree that the same Loss may be subject to indemnification under more than one provision under this Agreement; provided, however, that, in no event shall the Unitholder Indemnitees, on the one hand, or the Buyer Indemnitees, on the other hand, be entitled to duplicative recoveries for the same underlying Loss.

11.08 Other Indemnification Matters.

(a) All indemnification payments under this Article XI will be deemed adjustments to the Closing Cash Payment.

(b) The Parties agree that if Buyer or any other Buyer Indemnitee has indemnification claims for Losses under Section 11.02(a)(i) or 11.02(b)(i), Buyer or such other Buyer Indemnitee shall seek recovery with respect to such claims as follows:

(i) First, if any portion of the Indemnity Escrow Fund is remaining, then Buyer Indemnitee shall pursue recovery from the remaining portion of the Indemnity Escrow Fund;

(ii) Second, if no portion of the Indemnity Escrow Fund is remaining, then Buyer Indemnitee shall pursue recovery by making and pursuing a claim under the R&W Policy; and

(iii) Third, if (A) the claim is for misrepresentation, breach or inaccuracy of a Company Fundamental Representation, misrepresentation, breach or inaccuracy of a HIG Seller Fundamental Representation or Fraud, and (B) no portion of the Indemnity Escrow Fund is remaining and (C) Buyer has made a claim under the R&W Policy in compliance with the terms of the R&W Policy, and the insurer providing coverage under the R&W Policy has indicated to Buyer in writing (after reasonable pursuit by Buyer of such claim under the R&W Policy) that the claim or any portion of the claim is denied or otherwise will not be paid (which shall include, for the avoidance of doubt, any portion of the claim that will not be paid because it was applied against the retention amount under the R&W Policy) for any reason other than Buyer's breach of the terms of the R&W Policy as finally determined, after investigation, by the Independent Auditor, then Buyer Indemnitee shall be entitled to pursue recovery of any remaining Losses pursuant to such claim directly from the applicable Unitholder(s), subject to the provisions and limitations set forth in this Agreement; provided, however, that to the extent such claim was not paid due to Buyer's breach of the terms of the R&W Policy as finally determined, after investigation, by the Independent Auditor (and not because coverage is otherwise not available under the R&W Policy for any other reason), then Buyer Indemnitee shall be entitled to pursue recovery of such Losses pursuant to such claim directly from the applicable Unitholder(s) to the extent such Losses exceed the R&W Policy limit.

(c) The Parties agree that if Buyer or any other Buyer Indemnitee has indemnification claims for Losses under Section 11.02(a)(ii), Section 11.02(b)(ii) or Section 8.01, Buyer or such other Buyer Indemnitee shall seek recovery with respect to such claims as follows:

(i) First, if any portion of the Indemnity Escrow Fund is remaining, then Buyer Indemnitee shall pursue recovery from the remaining portion of the Indemnity Escrow Fund;

(ii) Second, if Buyer has made a claim under the R&W Policy and the insurer providing coverage under the R&W Policy has indicated to Buyer in writing (after reasonable pursuit by Buyer of such claim under the R&W Policy) that the claim or any portion of the claim is denied or otherwise will not be paid (which shall include, for the avoidance of doubt, any portion of the claim that will not be paid because it was applied against the retention amount under the R&W Policy) for any reason other than Buyer's breach of the terms of the R&W Policy as finally determined, after investigation, by the Independent Auditor, then Buyer Indemnitee shall be entitled to pursue recovery of any remaining Losses pursuant to such claim directly from the applicable Unitholder(s), subject to the provisions and limitations set forth in this Agreement; provided, however, that to the extent such claim was not paid due to Buyer's breach of the terms of the R&W Policy as finally determined, after investigation, by the Independent Auditor (and not because coverage is otherwise not available under the R&W Policy for any other reason), then Buyer Indemnitee shall be entitled to pursue recovery of such Losses pursuant to such claim directly from the applicable Unitholder(s) to the extent such Losses exceed the R&W Policy limit. Notwithstanding anything to the contrary contained in this Agreement, no claims for Fraud or indemnification claims for Losses under Section 11.02(a)(ii) or Section 11.02(b)(ii) shall be subject to limitation by any survival periods (other than applicable statutes of limitations under Law) or the Deductible.

11.09 Effect of Investigation. The representations, warranties, covenants, agreements, undertakings and obligations of an Indemnifying Party contained in this Agreement and the other documents executed or delivered in connection with Closing, and an Indemnified Party's right to indemnification or any other remedy with respect thereto, shall not be affected or deemed waived by reason of any investigation made at any time prior to Closing by or on behalf of the Indemnified Party (including by any of its representatives) or any knowledge acquired (or capable of being acquired) by or on behalf of the Indemnified Party (including by any of its representatives) at any time prior to Closing, whether before or after the execution and delivery of this Agreement, with respect to the accuracy of, compliance with or performance of, any such representation, warranty, covenant, agreement, undertaking or obligation.

ARTICLE XII
DEFINITIONS

12.01 Defined Terms. As used herein, the following terms shall have the following meanings:

"Abandonment and Reclamation Obligations" means all past, present and future legally binding obligations to (i) abandon, shut-down, close, decommission, dismantle and remove any and all fixtures, improvements, tangible personal property, structures, foundations, buildings, pipelines, equipment and other physical facilities located on any Real Property, or lands pooled or unitized therewith, used or previously used by the Company or its Subsidiaries in respect of any mining, processing, storage, transportation or other activities; and (ii) investigate, monitor, restore, remediate and reclaim the surface and subsurface locations, if any, of such Real Property, and lands pooled or unitized therewith, and any lands used to gain access thereto, including such obligations relating to any mining, processing, storage, transportation, production or other facilities that were abandoned or decommissioned, in whole or in part, prior to the Closing Date, and including the investigation, monitoring, remediation, restoration and reclamation of any other surface and subsurface lands affected by any environmental damage, contamination or other environmental issues emanating from or relating to such mining, processing, storage, transportation, production or other facilities; in each case that are required pursuant to all in accordance with generally accepted industry practices, any lease provisions from any lessor or landowner or Laws.

"Accounts Receivable" means the Company's and its Subsidiaries' (a) trade accounts receivable and other rights to payment from customers and the full benefit of all security for such accounts or rights to payment, including all trade accounts receivable representing amounts receivable in respect of goods shipped or products sold or services rendered to customers, (b) other accounts or notes receivable and the full benefit of all security for such accounts or notes, and (c) claims, remedies or other rights related to any of the foregoing.

"Acquisition Proposal" means any inquiry, proposal or offer from any Person (other than Buyer or Merger Sub) relating to any (a) direct or indirect acquisition (whether in a single transaction or a series of related transactions) of any material assets of HIG Holdco, the Company or its Subsidiaries (excluding sales of assets in the ordinary course of business), (b) tender offer for, or direct or indirect acquisition (whether in a single transaction or a series of related transactions) of any equity securities of HIG Holdco, the Company or any of its Subsidiaries, or (c) merger, consolidation, share exchange, business combination, recapitalization, liquidation, dissolution or similar transaction involving HIG Holdco, the Company or any of its Subsidiaries or involving the material assets of HIG Holdco, the Company or any of its Subsidiaries; in each case, other than the transactions contemplated by this Agreement.

"Adjustment Escrow Amount" means $1,000,000.

"Affiliate" of any particular Person means any other Person controlling, controlled by or under common control with such particular Person. For the purposes of this definition, "control" means the possession, directly or indirectly, of the power to direct the management and policies of a Person whether through the ownership of voting securities, contract or otherwise. Notwithstanding the foregoing, H.I.G. Capital, L.L.C. and portfolio companies (other than HIG Holdco, the Company, and the Company's Subsidiaries) of H.I.G. Capital, L.L.C. and/or its respective Affiliates shall not be considered Affiliates of HIG Holdco, the Company or any of its Subsidiaries after Closing.

"Agreement" has the meaning forth in the Preamble.

"Antitrust Conditions" has the meaning set forth in Section 6.03(b)(ii).

"Authorized Action" has the meaning set forth in Section 14.15(d).

"Bankruptcy and Equity Exceptions" has the meaning set forth in Section 4.01(c).

"Base Amount" means $315,000,000.

"Business Day" means any day, excluding Saturday, Sunday and any other day on which commercial banks in Chicago, Illinois are authorized or required by Law to close.

"Buyer" has the meaning set forth in the Preamble.

"Buyer Closing Certificate" has the meaning set forth in Section 3.03(b)(ii).

"Buyer Fundamental Representations" has the meaning set forth in Section 11.01(b).

"Buyer Indemnitees" has the meaning set forth in Section 11.02(a).

"Cash Amount" means, as of 12:02 a.m. (Chicago time) on the Closing Date, all unrestricted cash, cash equivalents, and marketable securities of HIG Holdco, the Company, and the Company's Subsidiaries. Cash Amount shall be calculated net of (i) cash or bank account overdrafts, and (ii) all uncleared checks issued by HIG Holdco, the Company, and the Company's Subsidiaries then outstanding so long as in determining Working Capital such checks have reduced payables.

"Certificate of Merger" has the meaning set forth in Section 2.02.

"Claim" or "Claims" has the meaning set forth in Section 7.09.

"Class A Unit" means a Class A Unit of the Company.

"Class H Unit" means a Class H Unit of the Company.

"Class N Common Unit" means a Class N Common Unit of the Company.

"Class P Unit" means a Class P Unit of the Company.

"Closing" has the meaning set forth in Section 3.01.

"Closing Cash Payment" means the amount equal to (a) the Base Amount, plus (b) the Cash Amount, if the Cash Amount is a positive number, minus (c) the absolute value of the Cash Amount, if the Cash Amount is a negative number, minus (d) the outstanding amount of all Funded Debt as of the Closing, minus (e) the Transaction Expenses Amount, minus (f) the Indemnity Escrow Amount, minus (g) the Adjustment Escrow Amount, minus (h) the Earn-Out Escrow Amount, minus (i) the Representative Expense Fund Amount, minus (j) the Working Capital Deficit, if any, plus (k) the Working Capital Surplus, if any, minus (l) $5,000,000 (payable to HIG Seller pursuant to Section 1.02(a)), minus (m) $1,830,000.

"Closing Date" has the meaning set forth in Section 3.01.

"Closing Statement" has the meaning set forth in Section 3.04(b)(i).

"COBRA" means the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended.

"Code" means the Internal Revenue Code of 1986, as amended.

"Company" has the meaning set forth in the Preamble.

"Company Documents" has the meaning set forth in Section 5.02.

"Company Closing Certificate" has the meaning set forth in Section 3.03(a)(ii).

"Company Employees" has the meaning set forth in Section 7.05(a).

"Company Fundamental Representations" has the meaning set forth in Section 11.01(b).

"Company Intellectual Property" means, collectively, all Company Owned Intellectual Property and Third Party Intellectual Property.

"Company's Knowledge" means the actual knowledge of Paul Harrington, Robert Monaghan, Scott Alexander, John Todd and Jim Hill, and the knowledge that each such Person would have reasonably obtained in the performance of such Person's duties and responsibilities with the Company and its Subsidiaries.

"Company Owned Intellectual Property" means any Intellectual Property that is used in or necessary to the business of the Company or any of its Subsidiaries as currently conducted by the Company or any of its Subsidiaries and that is owned by the Company or any of its Subsidiaries.

"Company Products" means all products and services that currently are or previously were sold, published, or offered for sale by HIG Holdco, the Company or any of its Subsidiaries.

"Company Units" means all issued and outstanding equity or ownership interests of the Company (including the Class A Units, Class H Units and Class P Units).

"Confidentiality Agreements" has the meaning set forth in Section 6.07.

"Contract" means any contract or other legally binding agreement (whether written or oral).

"Deductible" has the meaning set forth in Section 11.02(c).

"Designated Courts" has the meaning set forth in Section 14.09(a).

"Designated Unitholder" means each Unitholder other than HIG Seller.

"Disclosure Schedule" means the disclosure schedule delivered by HIG Seller and the Company to Buyer on the date hereof regarding certain exceptions to the representations and warranties in Section 4.02, and Article V hereof.

"Distribution" has the meaning set forth in the Operating Agreement.

"DLLCA" has the meaning set forth in the Recitals.

"D&O Tail" has the meaning set forth in Section 7.02(b).

"Earn-Out Escrow Amount" means an amount equal to $1,000,000.

"Earn-Out Escrow Period" has the meaning set forth in Section 7.08.

"Effective Time" has the meaning set forth in Section 2.02.

"Employment Laws" has the meaning set forth in Section 5.13(c).

"End Date" has the meaning set forth in Section 6.03(b)(ii).

"Environmental Laws" means all Laws (including common law) enacted and in effect on or prior to the Closing Date concerning pollution or protection of the environment or of human health (from exposure to materials in the environment) including all those relating to the preservation, restoration or reclamation of natural resources and mines, mine safety, the protection of environmentally sensitive areas or protected or endangered species, or the presence, use, production, generation, handling, transportation, treatment, storage, disposal, distribution, labeling, testing, processing, discharge, release, investigation, control, or cleanup of any Hazardous Material, including the Comprehensive Environmental Response, Compensation, and Liability Act, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. §9601 et seq., the Resource Conservation and Recovery Act, 42 U.S.C. §6901 et seq., the Federal Water Pollution Control Act, as amended by the Clean Water Act, 33 U.S.C. §1251 et seq., the Clean Air Act, 42 U.S.C. §7401 et seq., the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. §11001 et seq., the Hazardous Materials Transportation Act, 49 U.S.C. §5101 et seq., the Toxic Substances Control Act, 15 U.S.C. §2601 et seq., the Oil Pollution Act of 1990, 33 U.S.C. §2701 et seq., the Safe Drinking Water Act, 42 U.S.C. §300f et seq., the Occupational Safety and Health Act, 29 U.S.C. §651 et seq., the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §136 et seq., the Endangered Species Act, U.S.C. §1531 et seq., the National Environmental Policy Act, 42 U.S.C. §4321 et seq., the Rivers and Harbors Appropriation Act of 1899, 33 U.S.C. §407, all similar state Laws, and all regulations promulgated under any of those statutes, and all administrative and judicial actions respecting such matters, all as amended from time to time.

"E.O. 11246" has the meaning set forth in Section 5.13(d).

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended.

"ERISA Affiliate" means each entity that is treated as a single employer with the Company for purposes of Section 414 of the Code or Section 4001 of ERISA.

“Escrow Account” has the meaning set forth in the Escrow Agreement.

“Escrow Agent” means Citibank, N.A., a national banking association.

“Escrow Agreement” means that certain Escrow Agreement by and among the Escrow Agent, Representative and Buyer substantially in the form of Exhibit I hereof.

“Estimated Closing Cash Payment” has the meaning set forth in Section 3.04(a).

“Estimated Closing Statement” has the meaning set forth in Section 3.04(a).

“Existing Collateral” has the meaning set forth in Section 2.11.

“FCPA” has the meaning set forth in Section 5.25(a).

“Financial Statements” has the meaning set forth in Section 5.07(a).

“Fraud” means, with respect to any Party, an actual and intentional fraud with respect to the making of any representations and warranties contained in this Agreement; provided, that such actual and intentional fraud of such Party shall only be deemed to exist with respect to such Person if (i) such Person had actual knowledge that the representations and warranties made by such Person were false when made, (ii) that such representations and warranties were made with the intent to induce another Person to rely thereon, and (iii) such reliance by such other Person was justifiable. For purposes of clause (i) of the immediately preceding sentence, “actual knowledge” with respect to HIG Seller shall mean the actual knowledge of Keval Patel and Ryan Kaplan.

“Funded Debt” means, without duplication, all obligations of HIG Holdco, the Company and its Subsidiaries for (i) indebtedness for borrowed money (including any seller notes or other similar instruments issued in connection with any acquisitions and the face amount of any letter of credit (but only to the extent actually drawn) supporting the repayment of indebtedness for borrowed money issued for the account of HIG Holdco, the Company or any of its Subsidiaries and obligations under letters of credit and agreements relating to the issuance of letters of credit or acceptance financing (but only to the extent actually drawn)), (ii) non-contingent obligations to pay the deferred purchase price of property or services (including such obligations that are non-recourse to the credit of such Person but are secured by the assets of such Person, but excluding trade accounts payable), (iii) the principal amount of leases required to be capitalized pursuant to the accounting policies and procedures used in, and applied in a consistent manner as, those used in the preparation of the Interim Financial Statements, including the capital leases set forth on Section 5.11(a) of the Disclosure Schedule, and any accrued interest or prepayment premiums or penalties related thereto, (iv) obligations under any hedging arrangement; (v) 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 of, indebtedness or obligations of others of the kinds referred to in clauses (i) through (iv) above; and (vi) indebtedness or obligations of others of the kinds referred to in clauses (i) through (v) secured by any Lien on or in respect of any property of HIG Holdco, the Company or any of its Subsidiaries; provided, however, that Funded Debt shall not include intercompany indebtedness solely among HIG Holdco, the Company, or its Subsidiaries. Notwithstanding the foregoing, Funded Debt shall not include $1,000,000 of any amounts due or payable by Jack Acquisitions, Inc. under the Promissory Note issued by Jack Acquisitions, Inc. in favor of Sharon Jack (as representative of the sellers listed on Exhibit A thereto) pursuant to that certain Stock Purchase Agreement dated February 3, 2015, by and among Jack Acquisitions, Inc., the persons listed on Schedule 1.1 attached thereto, and Sharon Jack.

"Future Distribution Amount" means any consideration or other amounts payable or otherwise deliverable to the Representative or the Unitholders pursuant to the Escrow Agreement, Section 3.04(b), ARTICLE VIII, Article XI or Section 14.15.

"GAAP" means United States generally accepted accounting principles applied in a manner consistent with that used in preparing the Year-End Financial Statements.

"Governmental Authority" means any United States or foreign, federal, state, provincial, municipal, tribal, or local governmental, quasi-governmental, or regulatory commission, board, bureau, agency, nation, tribunal, council, court or regulatory, administrative body or political subdivision, including tribal governments, Indian nations, First Nations, and other self-governing groups or communities of indigenous people, Native Americans, or Aboriginal Peoples.

"Governmental Mine Fees" has the meaning set forth in Section 5.22.

"Government Official" has the meaning set forth in Section 5.25(a).

"Hart-Scott-Rodino Act" means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and the rules and regulations promulgated thereunder, and any successor to such statute, rules or regulations.

"Hazardous Material" means any toxic or hazardous material, substance or waste, or any pollutant or contaminant, including petroleum, in each case as defined in and regulated under any applicable Law relating to the protection of the environment or human health (with respect to exposure to materials in the environment), including any hazardous or toxic substance, material or waste or any chemical, element, compound or mixture which is: (i) asbestos and asbestos-containing materials; (ii) designated as a "pollutant" or "toxic pollutant" pursuant to the Federal Water Pollution Control Act (33 U.S.C. Paragraph 1251 et seq.); (iii) defined as a "solid or hazardous waste" pursuant to the Federal Resource Conservation and Recovery Act (42 U.S.C. Paragraph 6901 et seq.); (iv) defined as "hazardous substances" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Paragraph 9601 et seq.); (v) listed in the United States Department of Transportation Table (49 CFR 172.101) or by the Environmental Protection Agency as hazardous substances (40 CFR part 302); (vi) chemicals, elements, compounds, mixtures, substances, materials or wastes otherwise regulated under any applicable federal, state or local Laws relating to the protection of the environment or human health (with respect to exposure to materials in the environment); (vii) polychlorinated biphenyls; (viii) "pesticides" as defined in the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §§ 136 et seq.; (ix) "contaminant" as defined in the Safe Drinking Water Act, 42 U.S.C. §§ 300f et seq.; (x) "extremely hazardous substances" as defined in the Emergency Planning and Community Right to Know Act, 42 U.S.C. §§ 11001 et seq.; (xi) "hazardous materials" as defined in the Hazardous Materials Transportation Act, 49 U.S.C. §§ 5101 et seq.; (xii) "hazardous air pollutants" as defined in the Clean Air Act, 42 U.S.C. §§ 7401 et seq.; and (xiii) "oil" as defined in the Oil Pollution Act of 1990, 33 U.S.C. §§ 2701 et seq.

"HIG Entities" has the meaning set forth in Section 14.14.

"HIG Holdco" has the meaning set forth in the Recitals.

"HIG Holdco Company Units" has the meaning set forth in the Recitals.

"HIG Holdco Purchase" has the meaning set forth in the Recitals.

"HIG Holdco Shares" has the meaning set forth in the Recitals.

"HIG Seller" has the meaning set forth in the Preamble.

"HIG Seller Closing Certificate" has the meaning set forth in Section 3.03(a)(iii).

"HIG Seller Fundamental Representations" has the meaning set forth in Section 11.01(b).

"HIG Seller's Knowledge" means the actual knowledge of Kevel Patel, Ryan Kaplan, and Matt Kever, and the knowledge that each such Person would have reasonably obtained in the performance of each such Person's duties and responsibilities with HIG Seller.

"HIG Services Agreements" means (a) that certain Professional Services Agreement between the Company and H.I.G. Capital, L.L.C. dated as of December 21, 2012, and (b) that certain Transaction Services Agreement effective as of December 21, 2012 by and between the Company and H.I.G. Capital, L.L.C. dated as of December 21, 2012.

"HIG Termination Agreement" means that certain HIG Services Agreement Termination Agreement substantially in the form of Exhibit J hereto.

"Holdco Closing" has the meaning set forth in Section 1.03.

"Holdco Purchase Price" has the meaning set forth in Section 1.02.

"Imputed Underpayment" has the meaning set forth in Section 8.08.

"Income Taxes" means Taxes imposed on, or determined by reference to, net income.

"Income Tax Return" means all Tax Returns filed or required to be filed with any Taxing Authority with respect to Income Taxes.

"Indemnified Party" has the meaning set forth in Section 11.04(a).

"Indemnifying Party" has the meaning set forth in Section 11.04(a).

"Indemnity Escrow Amount" means an amount equal to $1,575,000.

"Indemnity Escrow Fund" means, as of any date, the amount of funds then held by the Escrow Agent in the Escrow Account pursuant to the Escrow Agreement.

"Independent Auditor" has the meaning set forth in Section 3.04(b)(i).

"Insurance Policies" has the meaning set forth in Section 5.16.

"Intellectual Property" means:

(i) all inventions, issued patents, patent applications, industrial designs, and any continuations, divisionals, continuations-in-part, renewals, reissues, and patents issuing upon reexamination ("Patents");

(ii) trademarks, trade names, trade dress, service marks, designs, logos, slogans, assumed names, corporate names, brand names, and indicia of source, together with all goodwill, all variations, derivations, combinations, registrations and applications related to the foregoing ("Trademarks");

(iii) works of authorship, copyrights, mask works, together with all registrations and applications relating to the foregoing ("Copyrights");

(iv) trade secrets, proprietary or other confidential information, know-how, proprietary processes, formulae, algorithms, models, data, ideas, concepts, discoveries, databases, technical and engineering data, technology, confidential business information including ideas, concepts, research and development, formulas, compositions, methodologies, operation or manufacturing and production processes and techniques, technical and engineering data, privacy data and non-public personal information, designs, drawings, specifications, customer and supplier lists, pricing and cost information, business and marketing plans ("Trade Secrets");

(v) device and/or computer software programs or applications (in both source code and object code form and including firmware), and including all related technical documentation, user or operator manuals, software libraries, compliers, configurations, databases, schematics, diagrams, tools, operating devices, flowcharts and methodologies related to any of the foregoing in any programming language and format ("Software");

(vi) all computer systems, Software, computer hardware, communications systems, network infrastructure and related equipment ("IT Systems");

(vii) all moral rights including any rights of paternity or integrity, and right of restraint, any right to claim authorship of any of the foregoing, to object to any distortion, mutilation or other modification of, or other derogatory action in relation to, any of the foregoing, whether or not such would be prejudicial to honor or reputation, and any similar right, existing under judicial or statutory law of any country in the world, or under any treaty, regardless whether or not such right is denominated or generally referred to as a "moral" right ("Moral Rights");

(viii) all rights of publicity and privacy related to the use of the names, likenesses, voices, signatures and biographical information of real persons; licenses, immunities, covenants not to sue relating to any of the foregoing;

(ix) all social media accounts, domain names and Internet-related identifiers ("Domain Names");

(x) any and all other intellectual property or other proprietary rights protectable as a matter of law; and

(xi) any claims or causes of action arising out of related to any infringement, misuse or misappropriation of any of the foregoing.

"Interim Financial Statements" has the meaning set forth in Section 5.07(a).

"Kitsap SPA" has the meaning set forth in Section 7.08.

"Latest Balance Sheet" has the meaning set forth in Section 5.07(a).

"Law" means any United States and non-U.S. federal, state, county, local, tribal, provincial, municipal, or foreign order, constitution, law, ordinance, rule, ruling, code, regulation, directive, published policy interpretation, common law, consent, decree, statute or treaty issued by any Governmental Authority having the force of law.

"Leased Real Property" has the meaning set forth in Section 5.11(b).

"Letter of Transmittal" has the meaning set forth in Section 2.08(b).

"Lien" means any lien, charge, mortgage, pledge, security interest, option, hypothecation, easement, right-of-way or encroachment of any nature whatsoever, whether voluntarily incurred or arising by operation of Law, or other encumbrance (other than restrictions on transfer generally arising under federal and state securities Laws).

"Losses" means all damages, liabilities, demands, claims, suits, actions, causes of action, assessments, deficiencies, penalties, interest, fines, losses, costs and expenses (including reasonable fees of attorneys, accountants and other experts), whether or not arising out of a third party claim; provided, that the Parties agree that "Losses" shall not include any punitive damages, except to the extent paid in connection with a Third Party Claim.

"Material Adverse Effect" means any change, event, occurrence or development that, individually or in the aggregate, has, or would reasonably be expected to have, a materially adverse effect on the business, results of operations or financial condition of the Company and its Subsidiaries taken as a whole, provided, that any adverse change, event, occurrence or development attributable to any of the following shall not constitute, and shall not be taken into account in determining whether there has been or will be, a Material Adverse Effect (except in the case of (c), (f), (g), (h), or (i), to the extent that such change, event, occurrence, or development has a disproportionate and adverse effect on the Company and its Subsidiaries relative to other participants in the industry in which they conduct their business generally): (a) the execution, delivery, announcement or pendency of this Agreement or the transactions contemplated by this Agreement; (b) the identity of, or the effects of any facts or circumstances relating to, Buyer; (c) economic or political conditions generally affecting the industry or segments therein in which the Company and its Subsidiaries participate, the U.S. economy as a whole or the capital, credit or financial markets in general or the markets in which the Company and its Subsidiaries operate; (d) any action taken or statement made by Buyer or its Affiliates or their respective representatives; (e) compliance with the terms of, or the taking of any action required by, this Agreement or approved by Buyer in writing; (f) any change in accounting requirements or principles or any change in applicable Laws or the interpretation or enforcement thereof by a Governmental Authority; (g) actions required to be taken under applicable Laws or Contracts; (h) any action taken in connection with obtaining regulatory or third party approvals, licenses or consents or any event, change or effect resulting therefrom; (i) any acts of war (whether or not declared), armed hostilities, sabotage or terrorism occurring after the date of this Agreement or the continuation, escalation or worsening of any such acts of war, armed hostilities, sabotage or terrorism threatened or underway as of the date of this Agreement; (j) any earthquakes, hurricanes, floods or other natural disasters, acts of God or force majeure events (but only to the extent that any such force majeure events are not caused, in whole or in part, by HIG Seller, the Company, or any of the Company's Subsidiaries); or (k) any failure by the Company and its Subsidiaries to meet any projections, estimates or budgets for any period prior to, on or after the date of this Agreement (provided, that the underlying cause of such failure shall not be excluded hereby).

"Material Contracts" has the meaning set forth in Section 5.19(a).

"Merger" has the meaning set forth in the Recitals.

"Merger Consideration" means an amount equal to Estimated Closing Cash Payment, plus the aggregate amount of any Future Distribution Amounts actually paid to Unitholders.

"Merger Sub" has the meaning set forth in the Preamble.

"Mining Claims" means all unpatented mining claims and mill site claims held by the Company or any of its Subsidiaries.

"New Plans" has the meaning set forth in Section 7.05(c).

"Objection Disputes" has the meaning set forth in Section 3.04(b)(i).

"Objection Statement" has the meaning set forth in Section 3.04(b)(i).

"Old Plans" has the meaning set forth in Section 7.05(c).

"Operating Agreement" means that certain Amended and Restated Limited Liability Company Agreement of Harrison Gypsum Holdings, LLC dated as of December 21, 2012, as amended.

"Owned Real Property" has the meaning set forth in Section 5.11(c).

"Party" or "Parties" has the meaning set forth in the Preamble.

“Payoff Letters” has the meaning set forth in Section 9.06.

“PBGC” has the meaning set forth in Section 5.14(f).

“Pension Plans” has the meaning set forth in Section 5.14(f).

“Per Unit Portion” means, with respect to a Class A Unit or Class P Unit (as the case may be) outstanding immediately prior to the Holdco Closing, the amount of the Estimated Closing Cash Payment or any Future Distribution Amount (as the case may be) payable to a holder of such Unit pursuant to Section 9.1 of the Operating Agreement (as applicable), if such Estimated Closing Cash Payment or such Future Distribution Amount (as the case may be) was a Distribution made pursuant to Section 9.1 of the Operating Agreement immediately prior to the Holdco Closing.

“Permits” has the meaning set forth in Section 5.17.

“Permitted Liens” means (a) statutory liens for current Taxes or other governmental charges not yet due and payable or the amount or validity of which is being contested in good faith by appropriate proceedings by the Company and its Subsidiaries and for which appropriate reserves have been established in accordance with GAAP; (b) mechanics’, carriers’, workers’, repairers’ and similar statutory liens arising or incurred in the ordinary course of business, in each case for sums not yet due and payable or which are being contested in good faith and for which appropriate reserves have been established in accordance with GAAP; (c) zoning, entitlement, building and other land use regulations imposed by any Governmental Authority having jurisdiction over Owned Real Property or Leased Real Property which are not materially violated by the current use and operation of the Owned Real Property or Leased Real Property, as applicable; (d) covenants, conditions, restrictions, easements and other similar matters of record affecting title to the Owned Real Property or Leased Real Property which do not materially impair the occupancy or use of the Owned Real Property or Leased Real Property, as applicable, for the purposes for which each such property is currently used in connection with the business of the Company and its Subsidiaries; (e) liens arising under worker’s compensation, unemployment insurance, social security, retirement and similar legislation; (f) liens on goods in transit incurred pursuant to documentary letters of credit; and (g) purchase money liens and liens securing rental payments under capital lease arrangements set forth on Section 5.11(a) of the Disclosure Schedule.

“Person” means an individual, partnership, corporation, limited liability company, business trust, joint stock corporation, estate, trust, unincorporated association, joint venture, Governmental Authority or other entity, of whatever nature.

“Personal Property” has the meaning set forth in Section 5.11(a).

“Plans” has the meaning set forth in Section 5.14(a).

“Pre-Closing Tax Period” means any taxable period ending on or before the Closing Date and the portion through the end of the Closing Date for any taxable period that includes (but does not end on) the Closing Date.

"Private Sector Counterparty" has the meaning set forth in Section 5.25(a).

"Proceeding" means any litigation, suit, claim, mediation, arbitration, action, hearing, charge, complaint, or other legal or governmental proceeding.

"Purchase Price Allocation Schedule" has the meaning set forth in Section 8.07.

"Qualified Plan" has the meaning set forth in Section 5.14(c).

"R&W Policy" means a representations and warranties insurance policy issued in the name of Buyer, substantially in the policy form attached hereto as Exhibit K, the cost of which shall be paid entirely by Buyer.

"Real Property" has the meaning set forth in Section 5.11(c).

"Real Property Leases" has the meaning set forth in Section 5.11(b).

"Released Party" or "Released Parties" has the meaning set forth in Section 7.09.

"Representative" has the meaning set forth in Section 14.15(a).

"Representative Expense Fund" has the meaning set forth in Section 14.15(c).

"Representative Expense Fund Amount" has the meaning set forth in Section 3.02(h).

"Restrictions" means any restriction on the exercise of any rights related to any security, including proxies, voting agreements, voting or transfer restrictions, agreements to sell or purchase, rights of first refusal, rights of first offer, call rights, repurchase or redemption rights, options, vesting restrictions, clawback rights, and similar items, but excluding restrictions on transfer generally arising under federal and state securities Laws.

"Section 503" has the meaning set forth in Section 5.13(d).

"Securities Act" means the Securities and Exchange Act of 1933, as amended.

"Straddle Period" has the meaning set forth in Section 8.02.

"Subject Materials" has the meaning set forth in Section 11.04(c).

"Subsidiary" or "Subsidiaries" of any Person means any corporation, partnership, limited liability company or other legal entity in which such Person (either alone or through or together with any other Subsidiary), owns, directly or indirectly, fifty percent (50%) or more of the stock or other equity, voting, or ownership interests, the holder of which is generally entitled to elect a majority of the board of directors or other governing body of such legal entity.

"Surviving Company" has the meaning set forth in Section 2.01.

"Tax Claim" has the meaning set forth in Section 8.05.

"Tax Return" means any declaration, estimate, return, report, information statement, schedule or other document (including any related or supporting information) with respect to Taxes that is required to be filed with any Taxing Authority, including any amendment thereof.

"Taxes" means all federal, provincial, territorial, state, municipal, local, domestic, foreign or other taxes, imposts, and assessments, including ad valorem, capital, capital stock, customs and import duties, disability, documentary stamp, employment, excise, franchise, gains, goods and services, gross income, gross receipts, income, intangible, inventory, license, mortgage recording, net income, occupation, payroll, personal property, production, profits, property, real property, recording, rent, sales, social security, stamp, transfer, transfer gains, unemployment, use, value added, windfall profits, and withholding, together with any interest, additions, fines or penalties with respect thereto or in respect of any failure to comply with any requirement regarding Tax Returns and any interest in respect of such additions, fines or penalties and shall include any transferee liability in respect of any and all of the above.

"Taxing Authority" means the Internal Revenue Service and any other Governmental Authority that has the right to impose Taxes on the Company or any of its Subsidiaries.

"Terminated Equity Plans" has the meaning set forth in Section 7.05(d).

"Third Party Claim" has the meaning set forth in Section 11.04(a).

"Third Party Intellectual Property" means any Intellectual Property that is used in or necessary to the business of the Company or any of its Subsidiaries as currently conducted by the Company or any of its Subsidiaries pursuant to a license, consent to use or other agreement and that is owned by a third party.

"Transaction Expenses" means, to the extent not paid by HIG Holdco, the Company, or any of the Company's Subsidiaries prior to the preparation of the Estimated Closing Statement or included as a liability in the calculation of Working Capital, (a) all fees and expenses payable by HIG Holdco, the Company, or any of the Company's Subsidiaries to Piper Jaffray, McDermott Will & Emery LLP, and other professional advisors, accountants, consultants or other service providers retained in connection with the transactions contemplated by this Agreement, (b) any fees and expenses payable by HIG Holdco, the Company, or any of the Company's Subsidiaries to H.I.G. Capital, L.L.C. or any of its Affiliates pursuant to the HIG Professional Services Agreement or otherwise, (c) all bonuses and other compensation, if any, payable to managers, directors, officers or employees of HIG Holdco, the Company, or any of the Company's Subsidiaries in connection with the consummation of the transactions contemplated by this Agreement. For the avoidance of doubt, neither the costs of the R&W Policy, nor the costs of the D&O Tail nor any Transfer Taxes shall be Transaction Expenses.

"Transaction Expenses Amount" means an amount equal to all Transaction Expenses that have not been paid prior to Closing, whether or not the Company or any of its Subsidiaries has been billed for such expenses.

"Transaction Tax Deductions" means the deductions arising in connection with the transactions contemplated by this Agreement, to the extent properly deductible for federal Income Tax purposes in a Pre-Closing Tax Period, which are set forth on Schedule 12.01(i).

"Transfer Taxes" has the meaning set forth in Section 7.04.

"Treasury Regulations" mean the Treasury regulations promulgated under the Code.

"Unitholder" means HIG Seller and each holder of record of Company Units (other than HIG Holdco).

"Unitholder Consent" has the meaning set forth in the Recitals.

"Unitholder Group" has the meaning set forth Section 14.16.

"Unitholder Indemnitees" has the meaning set forth Section 11.03(a).

"Unitholder Percentage" means, with respect to each Unitholder, a percentage equal to the aggregate dollar amount of Merger Consideration (or, in the case of HIG Seller, the aggregate dollar amount of the Holdco Purchase Price) actually received by such Unitholder, divided by the aggregate amount of Merger Consideration and Holdco Purchase Price actually paid to all Unitholders.

"VEVRAA" has the meaning set forth in Section 5.13(d).

"Warranty" has the meaning set forth in Section 5.21(b).

"Working Capital" means as of 12:02 a.m. on the Closing Date (a) those current assets of HIG Holdco, the Company and its Subsidiaries listed on the Working Capital Schedule, minus (b) those current liabilities of HIG Holdco, the Company and its Subsidiaries listed on the Working Capital Schedule, in each case calculated on a consolidated basis in accordance with Section 3.05(a).

"Working Capital Deficit" means the lesser of $1,000,000 and the amount by which the Working Capital is less than the Working Capital Target.

"Working Capital Schedule" has the meaning set forth in Section 3.05(a).

"Working Capital Surplus" means the lesser of $1,000,000 and the amount by which the Working Capital is greater than the Working Capital Target

"Working Capital Target" means $28,700,000.

"Year-End Financial Statements" has the meaning set forth in Section 5.07(a).

12.02 Other Definitional Provisions.

(a) All terms defined in this Agreement shall have the defined meanings when used in any certificates, reports or other documents made or delivered pursuant hereto or thereto, unless the context otherwise requires.

(b) Terms defined in the singular shall have a comparable meaning when used in the plural, and vice versa.

(c) All references to “$” in this Agreement shall be deemed references to United States dollars.

(d) All references to “writing” in this Agreement shall include emails, facsimiles, and other similar electronic transmissions.

(e) Accounting terms which are not otherwise defined in this Agreement have the meanings given to them under GAAP. To the extent that the definition of an accounting term defined in this Agreement is inconsistent with the meaning of such term under GAAP, the definition set forth in this Agreement will control.

ARTICLE XIII
TERMINATION

13.01 Termination. This Agreement may be terminated at any time prior to the Closing Date:

(a) by mutual written consent of Buyer and the Company;

(b) by Buyer, if:

(i) there has been a violation or breach by the Company, the Representative or HIG Seller of any covenant, representation or warranty contained in this Agreement that has prevented or would prevent the satisfaction of any condition set forth in Article IX and (A) such violation or breach has not been waived in writing by Buyer; (B) Buyer has provided written notice to the Company and the Representative of such violation or breach and its intent to terminate this Agreement pursuant to this Section 13.01(b); and (C) the Company, the Representative or HIG Seller, as applicable, has not cured such violation or breach within ten (10) Business Days (or by the End Date, if sooner) after receiving written notice thereof from Buyer; provided, however, that Buyer shall not be entitled to terminate this Agreement pursuant to this Section 13.01(b)(i) if there has been a violation or breach by Buyer of this Agreement that has prevented or would prevent satisfaction of any condition set forth in Article X;

(ii) a Material Adverse Effect has occurred and (A) such Material Adverse Effect has not been waived in writing by Buyer; (B) Buyer has provided written notice to the Company and the Representative of such Material Adverse Effect and its intent to terminate this Agreement pursuant to this Section 13.01(b); and (C) the Company has not cured such Material Adverse Effect within ten (10) Business Days (or by the End Date, if sooner) after receiving written notice thereof from Buyer; or

(iii) the transactions contemplated hereby have not been consummated by the End Date; provided, however, Buyer shall not be entitled to terminate this Agreement pursuant to this Section 13.01(b)(iii) if Buyer’s or Merger Sub’s breach of this Agreement has substantially contributed to the failure of, or has prevented, the consummation of the transactions contemplated hereby to occur by the End Date;

(c) by the Company, if:

(i) there has been a violation or breach by Buyer or Merger Sub of any covenant, representation or warranty contained in this Agreement that has prevented or would prevent the satisfaction of any condition set forth in Article X and (A) such violation or breach has not been waived in writing by the Company; (B) the Company or the Representative has provided written notice to Buyer of such violation or breach and its intent to terminate this Agreement pursuant to this Section 13.01(c); and (C) Buyer or Merger Sub has not cured such violation or breach within ten (10) Business Days (or by the End Date, if sooner) after receiving written notice thereof from the Company or the Representative (provided, however, that the failure of Buyer to make any payment required by Section 3.02, shall only be subject to a one (1) Business Day cure period unless otherwise agreed to in writing by the Representative); provided, however, that the Company shall not be entitled to terminate this Agreement pursuant to this Section 13.01(c)(i) if there has been a violation or breach by the Company or HIG Seller of this Agreement that has prevented or would prevent satisfaction of any condition set forth in Article IX; or

(ii) the transactions contemplated hereby have not been consummated by the End Date; provided, however, the Company shall not be entitled to terminate this Agreement pursuant to this Section 13.01(c)(ii) if HIG Seller's, the Representative's, or the Company's breach of this Agreement has substantially contributed to the failure of, or has prevented, the consummation of the transactions contemplated hereby to occur by the End Date; or

(d) by either Buyer or the Company, if any Governmental Authority shall have enacted, promulgated, issued, entered or enforced any injunction, judgment, order or ruling permanently enjoining, restraining or prohibiting the transactions contemplated by this Agreement, which shall have become final and nonappealable; provided, however, that the right to terminate this Agreement under this Section 13.01(d) shall not be available to any Party whose violation or breach of this Agreement was the cause of, or resulted in, such injunction, judgment, order or ruling.

13.02 Effect of Termination. If any Party validly terminates this Agreement pursuant to Section 13.01, all rights and obligations of the Parties hereunder shall terminate without any liability of any Party to any other Party, except for this Article XIII, Article XIV and the Confidentiality Agreements, which shall each survive the termination of this Agreement in accordance with their terms. Notwithstanding anything in this Agreement to the contrary, the termination of this Agreement (including, but not limited to, any termination pursuant to Sections 13.01(b)(iii) or 13.01(c)(ii)) shall in no way limit any claim by a Party that another Party breached the terms of this Agreement prior to or in connection with such termination, including by failing to consummate the transactions contemplated by this Agreement, nor shall such termination limit the right of such non-breaching Party to seek specific performance and all other remedies available at Law or equity.

ARTICLE XIV
GENERAL PROVISIONS

14.01 Notices. All notices, demands and other communications to be given or delivered under or by reason of the provisions of this Agreement shall be in writing and shall be deemed to have been given when personally delivered, one (1) Business Day after deposit with Federal Express or similar nationally recognized overnight courier service, upon transmission by facsimile or e-mail of .pdf document, in each case if a customary confirmation of transmission is received during normal business hours and, if not, the next Business Day after transmission or three (3) Business Days after being mailed by first class mail, return receipt requested. Notices, demands and communications to Buyer and the Company shall, unless another address is specified in writing, be sent to the addresses indicated below:

(a) if to Buyer or Merger Sub (or to the Company after Closing) to:

Arcosa Materials, Inc.
2525 N. Stemmons Freeway
Dallas, TX 75207
Attention: Reid Essl
E-mail: Reid.Essl@Arcosa.com
Phone: (817) 635-8525

and

Arcosa, Inc.
2525 N. Stemmons Freeway
Dallas, TX 75207
Attention: Mark J. Elmore
E-mail: Mark.Elmore@Arcosa.com
Phone: (972) 942-6549

with a copy to (which notice shall not constitute notice):

Haynes and Boone, LLP
2323 Victory Ave., Suite 700
Dallas, TX 75219
Attention: Eric S. Williams
Phone: (214) 651-5537
E-mail: Eric.Williams@haynesboone.com

(b) if to the Company (before Closing), HIG Seller, or the Representative (on behalf of the Unitholders) to:

H.I.G. – HGC, LLC
c/o H.I.G. Capital, L.L.C.
1450 Brickell Avenue, 31st Floor
Miami, Florida 33131

Attention: Keval Patel
Facsimile: (305) 381-4319
Email: kpatel@higcapital.com

with a copy to (which notice shall not constitute notice):

McDermott Will & Emery LLP
444 West Lake Street
Suite 4000
Chicago, Illinois 60606
Attention: Brooks Gruemmer
Facsimile: (312) 277-7638
Email: bgruemmer@mwe.com

14.02 Entire Agreement. This Agreement (including the Exhibits and Schedules attached hereto) and other documents delivered at the Closing pursuant hereto or thereto, contain the entire understanding of the Parties in respect of their subject matter and supersede all prior agreements and understandings (oral or written) between the Parties with respect to such subject matter, other than the Confidentiality Agreements. The Disclosure Schedule, Exhibits and Schedules constitute a part hereof as though set forth in full above.

14.03 Expenses. Except as otherwise provided herein, the Parties shall pay their own fees and expenses, including their own counsel fees, incurred in connection with this Agreement. Notwithstanding the foregoing, in the event of litigation with respect to this Agreement, the non-prevailing party shall reimburse the prevailing party for all costs and expenses, including reasonable and documented out-of-pocket attorneys' fees and expenses, incurred by the prevailing party in connection with any such litigation, including any appeal therefrom.

14.04 Amendment; Waiver. This Agreement may not be modified, amended, supplemented, canceled or discharged, except by written instrument executed by Buyer and the Company and the Representative. No failure to exercise, and no delay in exercising, any right, power or privilege under this Agreement shall operate as a waiver, nor shall any single or partial exercise of any right, power or privilege hereunder preclude the exercise of any other right, power or privilege. No waiver of any breach of any provision shall be deemed to be a waiver of any preceding or succeeding breach of the same or any other provision, nor shall any waiver be implied from any course of dealing between the Parties. No extension of time for performance of any obligations or other acts hereunder or under any other agreement shall be deemed to be an extension of the time for performance of any other obligations or any other acts.

14.05 Binding Effect; Assignment. The rights and obligations of this Agreement shall bind and inure to the benefit of the Parties and their respective successors and assigns. Nothing expressed or implied herein or therein shall be construed to give any other Person any legal or equitable rights hereunder. Except as expressly provided herein, the rights and obligations of this Agreement may not be assigned by the Parties hereto without the prior written consent of the other Parties; provided, that Buyer and Merger Sub may, without the consent of any other Party, assign their rights hereunder for collateral security purposes to any lender providing financing to Buyer.

14.06 Counterparts. This Agreement may be executed in any number of counterparts (including by means of facsimile and electronically transmitted portable document format (.pdf) signature pages), each of which shall be an original but all of which together shall constitute one and the same instrument.

14.07 Interpretation; Schedules. When a reference is made in this Agreement to an article, section, paragraph, clause, schedule or exhibit, such reference shall be deemed to be to this Agreement unless otherwise indicated. Whenever the words "include," "includes" or "including" are used in this Agreement, they shall be deemed to be followed by the words "without limitation." Words of one gender shall be held to include the other gender as the context requires. The word "or" shall not be exclusive. The words "herein," "hereof," "hereunder" or "hereby" and similar terms are to be deemed to refer to this Agreement as a whole and not to any specific section. The headings contained herein and on the Schedules are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement or the Schedules. Unless otherwise specified herein, references to any statute, listing rule, rule, standard, regulation or other Law include a reference to the corresponding rules and regulations and each of them as amended, modified, supplemented, consolidated, replaced or rewritten from time to time. References to any section of any statute, listing rule, rule, standard, regulation or other Law include any successor to such section. Any information set forth in one section of the Disclosure Schedule will be deemed to apply to other sections of the Disclosure Schedule only to the extent such disclosure is made in a way so as to make its relevance to such other section readily apparent from the face of such disclosure (notwithstanding the omission of a reference or cross-reference thereto). The specification of any dollar amount in the representations and warranties contained in this Agreement or the inclusion of any specific item in the Schedules hereto is not intended to imply that such amounts, or higher or lower amounts, or the items so included, are or are not required to be disclosed, and neither Party shall use the fact of the setting of such amounts or the fact of the inclusion of any such item in the Schedules in any dispute or controversy with any Party as to whether any obligation, item or matter not described herein or included in a Schedule hereto is or is not required to be disclosed (including, without limitation, whether such amounts or items are required to be disclosed as material). The information contained in the Schedules hereto is disclosed solely for the purposes of this Agreement, and no information contained therein shall be deemed to be an admission by any Party to any third party of any matter whatsoever, including of any violation of Law or breach of any agreement.

14.08 Governing Law; Interpretation. This Agreement shall be construed in accordance with and governed for all purposes by the internal substantive Laws of Delaware applicable to contracts executed and to be wholly performed within Delaware.

14.09 Forum Selection; Consent to Jurisdiction; Waiver of Jury Trial.

(a) Any Proceeding against the Parties, the Surviving Company, the Representative, or any of the Unitholders or arising out of, or with respect to, this Agreement or the subject matter of this Agreement or any judgment entered by any court in respect thereof shall be brought exclusively in the state or federal courts located in New Castle County in the State of Delaware (the "Designated Courts"), and the Parties hereto accept the exclusive jurisdiction of the Designated Courts for the purpose of any Proceeding. Each Party agrees that service of any process, summons, notice or document by U.S. registered mail addressed to such Party in accordance with Section 14.01 shall be effective service of process for any action, suit or Proceeding brought against such Party in any such court. Buyer and Merger Sub hereby designate the individual listed in Section 14.01(a) to whom notice may be given on behalf of Buyer and Merger Sub as their true and lawful agent upon whom may be served any lawful process in any action, suit or Proceeding instituted by or on behalf of the Company, the Representative or any of the Unitholders. The Company, HIG Seller, and the Representative (on behalf of the Unitholders) hereby designate the individual listed in Section 14.01(b) to whom notice may be given on behalf of the Company, HIG Seller, and the Representative (on behalf of the Unitholders) as their true and lawful agent upon whom may be served any lawful process in any action, suit or Proceeding instituted by or on behalf of Buyer, Merger Sub or the Surviving Company.

(b) In addition, each Party hereto hereby irrevocably waives, to the fullest extent permitted by Law, any objection which it may now or hereafter have to the laying of venue of any Proceeding arising out of or relating to this Agreement in any Designated Court or any judgment entered by any of the Designated Courts and hereby further irrevocably waives any claim that any Proceedings brought in the Designated Courts has been brought in an inconvenient forum.

(c) EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY THAT MAY ARISE OUT OF, OR WITH RESPECT TO, THIS AGREEMENT OR THE SUBJECT MATTER OF THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE EACH SUCH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES TO THE FULLEST EXTENT PERMITTED BY LAW ANY RIGHT SUCH PARTY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY ACTION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT. EACH PARTY CERTIFIES AND ACKNOWLEDGES THAT (I) NO REPRESENTATIVE, AGENT OR ATTORNEY OR ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER, (II) EACH PARTY UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (III) EACH PARTY MAKES THIS WAIVER VOLUNTARILY AND (IV) EACH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS OF THIS SECTION 14.09. EITHER PARTY MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS AGREEMENT WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY.

14.10 Specific Performance. Each of the Parties agrees that this Agreement is intended to be legally binding and specifically enforceable pursuant to its terms and that Buyer, the Company and the Unitholders would be irreparably harmed if any of the provisions of this Agreement are not performed in accordance with their specific terms and that monetary damages would not provide adequate remedy in such event. Accordingly, in addition to any other remedy to which any non-breaching Party may be entitled at Law, a non-breaching Party shall be entitled to injunctive relief without the posting of any bond or other undertaking to prevent breaches of this Agreement and to specifically enforce the terms and provisions hereof. Each Party further waives any defense that a remedy at Law would be adequate in any action or Proceeding for specific performance or injunctive relief hereunder.

14.11 Arm's Length Negotiations; Drafting. Each Party herein expressly represents and warrants to the other Parties that before executing this Agreement, said Party has fully informed itself of the terms, contents, conditions and effects of this Agreement; said Party has relied solely and completely upon its own judgment in executing this Agreement; said Party has had the opportunity to seek and has obtained the advice of counsel before executing this Agreement, which is the result of arm's length negotiations conducted by and among the Parties and their respective counsel. This Agreement shall be deemed drafted jointly by the Parties and nothing shall be construed against one Party or another as the drafting Party.

14.12 Time. With regard to all dates and time periods set forth or referred to in this Agreement, time is of the essence.

14.13 Made Available. The phrase "made available to Buyer" or similar phrases as used in this Agreement shall mean that the subject documents were posted to the "Project Thunderbird" data room at Intralinks.com at least two (2) Business Days prior to the date hereof.

14.14 Confidentiality; Publicity. Except as may be required by Law or the rules of any stock exchange, or as otherwise permitted or expressly contemplated herein, no Party or its respective Affiliates, employees, agents and representatives shall disclose to any third party the existence of this Agreement or the subject matter or terms hereof without the prior consent of the other Party hereto; provided, however, that the Parties and their Affiliates shall be permitted to (a) disclose such information to their attorneys, advisors, representatives, directors, members, or investors (and, after Closing, the existence of this Agreement to their employees) and (b) disclose and use such information in connection with enforcing their rights and fulfilling their obligations under this Agreement or any other agreement entered into in connection with this Agreement. Buyer and its Affiliates may issue one or more press releases or other public announcements in connection with the execution of this Agreement; provided, that any such press release will be made available to H.I.G. Capital, L.L.C. for review and comment, and will be subject to the reasonable approval of H.I.G. Capital, L.L.C. prior to the issuance, distribution or publication of such press release or other public announcement. No other press release or public announcement related to this Agreement or the transactions contemplated herein, or prior to the Closing, any other announcement or communication to the employees, customer or suppliers of the Company and its Subsidiaries, shall be issued or made by any Party without the approval of the other Party, unless required by Law (in the reasonable opinion of counsel) in which case the other Party shall have the right to review such press release, announcement or communication prior to its issuance, distribution or publication. Notwithstanding the foregoing, nothing in this Agreement shall restrict the ability of any of H.I.G. Capital, L.L.C. or any of its Affiliates (the "HIG Entities") from providing (i) the financial results achieved by any of the HIG Entities with respect to their beneficial interest in the Company and its Subsidiaries, (ii) a description of the Company and its Subsidiaries (including their financial performance, and the HIG Entities' investment and role therein), or (iii) such other information as the HIG Entities provide to such third parties in the ordinary course of its business to the current or prospective limited partners, financing sources or other business associates of the HIG Entities and their respective advisors in the ordinary course of business.

14.15 Designation of the Representative.

(a) Designation. HIG Seller (the "Representative") is hereby designated to serve as the representative of the Unitholders with respect to the matters expressly set forth in this Agreement and the Escrow Agreement to be performed by the Representative.

(b) Authority. The Representative is hereby irrevocably appointed as the agent, proxy and attorney-in-fact for each of the Unitholders for all purposes of this Agreement, the Escrow Agreement and any other agreement entered into in connection herewith, including the full power and authority on such Unitholder's behalf (i) to execute the Escrow Agreement and otherwise to consummate the transactions contemplated herein and therein, (ii) to pay expenses incurred by such Unitholder or the Representative in connection with the marketing of the Company, the evaluation of the transactions contemplated by this Agreement and the negotiation and performance of this Agreement, the Escrow Agreement and any other agreement entered into in connection herewith (whether incurred on or after the date hereof), (iii) to calculate the Per Unit Portion for each Unitholder and any other amounts payable to each Unitholder pursuant to this Agreement and disburse any funds received hereunder or under the Escrow Agreement to each other Unitholder, (iv) to endorse and deliver any certificates or instruments representing any Unitholder's Company Units and execute such further agreements or instruments of assignment as Buyer shall reasonably request or which the Representative shall consider necessary or proper to effectuate the transactions contemplated by this Agreement, all of which shall have the effect of binding the Unitholders as if such Unitholder had personally executed such agreement or instrument, (v) to resolve any adjustments or issues relating to any component of the Closing Cash Payment, (vi) to receive notices and other deliverables hereunder on behalf of such Unitholder, (vii) to execute and deliver on behalf of such Unitholder any amendment or waiver hereto or to any other agreement contemplated hereunder, (viii) to take all other actions to be taken by or on behalf of such Unitholder in connection herewith including under the Escrow Agreement, (ix) to dispute, compromise, settle and pay any claims made in connection with this Agreement, the transactions contemplated hereunder or under the Escrow Agreement, (x) to retain legal and other professional advisors on behalf of, and at the expense of the Unitholders in connection with its actions hereunder or under the Escrow Agreement, (xi) to dispense funds from the Indemnity Escrow Fund (or direct the Escrow Agent to do so) on behalf of the Unitholders pursuant to the terms of this Agreement and to retain from such funds an amount sufficient to satisfy the reasonable out-of-pocket expenses or other amounts incurred or payable by the Representative in fulfilling its obligations hereunder, (xii) to make any calculations required under this Agreement (including calculations with respect to the distribution of the Merger Consideration or each Unitholder's Unitholder Percentage of any indemnification obligation), and (xiii) to do each and every act and exercise any and all rights which such Unitholder is permitted or required to do or exercise under this Agreement or the Escrow Agreement. Such agency, proxy and attorney-in-fact and all authority granted hereunder are coupled with an interest, are therefore irrevocable without the consent of the Representative and shall survive the death, incapacity, bankruptcy, dissolution or liquidation of any Unitholder. If, after the execution of this Agreement, any Unitholder dies, dissolves or liquidates or becomes incapacitated or incompetent, then the Representative is nevertheless authorized, empowered and directed to act in accordance with this Agreement as if that death, dissolution, liquidation, incapacity or incompetency had not occurred and regardless of notice thereof. All decisions and actions by the Representative shall be binding upon all of the Unitholders, and no Unitholder shall have the right to object, dissent, protest or otherwise contest the same.

(c) Representative Expense Fund. The Representative Expense Fund Amount shall be withheld and paid directly to an account maintained by the Representative (or a financial institution selected by the Representative) as a fund for the fees and expenses (including any legal fees and expenses) incurred by the Representative or HIG Seller in connection with the marketing of the Company, the negotiation and execution of this Agreement and the Escrow Agreement and the completion of the transactions contemplated hereby and thereby, and the payment of other obligations of the Representative and the Unitholders related thereto (the "Representative Expense Fund"), and finally with any balance of the Representative Expense Fund not utilized for such purposes to be returned to the Designated Unitholders based upon each such Designated Unitholder's Per Unit Portion and to HIG Seller based on the Per Unit Portion for the Company Units owned by HIG Holdco immediately prior to the Holdco Closing. In the event that the Representative Expense Fund Amount shall be insufficient to satisfy the fees and expenses of, and other amounts payable by, the Representative, and in the event there are any remaining funds in the Indemnity Escrow Fund to which the Representative is entitled to distribution pursuant to the terms of this Agreement and the Escrow Agreement on behalf of the Unitholders, then immediately prior to the final distribution from the Indemnity Escrow Fund to the Representative on behalf of the Unitholders pursuant to this Agreement and the Escrow Agreement, the Representative shall be entitled to recover any such expenses from the Indemnity Escrow Fund to the extent of such funds prior to the distribution of funds to the Unitholders. The Representative shall also be entitled to recover any remaining expenses directly from the Unitholders, and the Representative shall not have any obligation to personally advance funds in connection with the performance of any duties as the Representative under this Agreement.

(d) Authority; Indemnification. Buyer shall be entitled to rely on any action taken by the Representative, on behalf of the Unitholders, pursuant to Section 14.15(b) (each, an "Authorized Action"), and each Authorized Action shall be binding on each Unitholder as fully as if such Unitholder had taken such Authorized Action. Buyer agrees that the Representative, solely in its capacity as the Representative, shall have no liability to Buyer for any Authorized Action, except as set forth in the Agreement or to the extent that such Authorized Action is found by a final order of a court of competent jurisdiction to have constituted fraud or bad faith. Each Unitholder severally, for itself only and not jointly, will indemnify and hold harmless the Representative against all expenses (including reasonable attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by the Representative in connection with any action, suit or Proceeding to which the Representative is made a party by reason of the fact it is or was acting as the Representative pursuant to the terms of this Agreement.

(e) Duties of the Representative. The Representative hereby accepts its obligations under this Agreement. The Representative shall have only the duties expressly stated in this Agreement and the Escrow Agreement, and shall have no other duty, express or implied. The Representative is not, by virtue of serving as Representative, a fiduciary of the Unitholders or any other Person. The Representative, in its capacity as such, has no personal responsibility or liability for any representation, warranty or covenant of the Company

(f) Exculpation. The Representative shall not be liable to any Unitholder for any action taken or omitted by it or any agent employed by it hereunder or under any other document entered into in connection herewith, except that the Representative shall not be relieved of any liability imposed by Law for fraud or bad faith. The Representative shall not be liable to the Unitholders for any apportionment or distribution of payments made by the Representative in good faith, and, if any such apportionment or distribution is subsequently determined to have been made in error, the sole recourse of any Unitholder to whom payment was due, but not made, shall be to recover from other Unitholders any payment in excess of the amount to which they are determined to have been entitled. The Representative shall not be required to make any inquiry concerning either the performance or observance of any of the terms, provisions or conditions of this Agreement. Neither the Representative nor any agent employed by it shall incur any liability to any Unitholder by virtue of the failure or refusal of the Representative for any reason to consummate the transactions contemplated hereby or relating to the performance of its other duties hereunder, except for actions or omissions constituting fraud or bad faith.

(g) Letter of Transmittal. Any Unitholder that executes and delivers a Letter of Transmittal pursuant to Section 2.08 will become a Party to this Agreement and shall be subject to all of the terms and conditions of this Agreement.

(h) No Fees to or Compensation of the Representative. The Representative shall not be entitled to and shall not charge or collect from the Unitholders or any other Person any fees or other compensation for its services as the Representative under this Agreement. The Representative, however, shall be entitled to reimbursement from the Unitholders (based on their Unitholder Percentage of such expenses) for its reasonable out-of-pocket expenses incurred in connection with its services as the Representative under this Agreement.

(i) Replacement of the Representative. If the Representative resigns or is otherwise unable or unwilling to serve in such capacity, then the Unitholders that held a majority of the Class A Units outstanding on the date hereof, voting as a single class, will appoint a new Person to serve as the Representative and will provide prompt written notice thereof to Buyer. Until such notice is received, Buyer will be entitled to rely on the actions and statements of the previous Representative.

14.16 Company Representation. Each of the Parties hereby agrees, on its own behalf and on behalf of its directors, members, partners, officers, employees and Affiliates, that McDermott Will & Emery LLP may serve as counsel to each and any of the Unitholders and their respective Affiliates (individually and collectively, the "Unitholder Group"), on the one hand, and the Company and its Subsidiaries, on the other hand, in connection with the negotiation, preparation, execution and delivery of this Agreement and the consummation of the transactions contemplated hereby, and that, following consummation of the transactions contemplated hereby, McDermott Will & Emery LLP (or any successor) may serve as counsel to the Representative, the Unitholder Group (or any member of the Unitholder Group) or any director, member, partner, officer, employee or Affiliate of the Representative, the Company or the Unitholder Group (or any member of the Unitholder Group) in connection with any litigation, claim or obligation arising out of or relating to this Agreement or the transactions contemplated by this Agreement notwithstanding such representation or any continued representation of the Company and/or any of its Subsidiaries, and each of the Parties consents thereto and waives any conflict of interest arising therefrom, and each of such Parties shall cause its Affiliates to consent to and waive any conflict of interest arising from such representation. Buyer and Merger Sub further agree that, as to all communications among McDermott Will & Emery LLP, the Representative, the Company and/or any Unitholder in connection with this Agreement or the transactions contemplated by this Agreement, the attorney-client privilege and the expectation of client confidence (and the right to waive or assert such privilege) belongs to the Representative and, if applicable, the Unitholders and may be controlled by the Representative and shall not pass to or be claimed by Buyer, Merger Sub, the Surviving Company or any of its Subsidiaries. The Parties agree that McDermott Will & Emery LLP shall not, without the consent of the Representative, be required to disclose to Buyer or the Surviving Company or any of its Subsidiaries, any advice given in connection with this Agreement and the transactions contemplated hereby. Notwithstanding anything in this section to the contrary, from and after Closing and except in connection with any dispute or Proceeding involving the Parties related to the subject matter of this Agreement, none of McDermott Will & Emery LLP, the Representative, HIG Seller, the Company, or any Unitholder will waive any attorney-client privilege on behalf of HIG Holdco, the Surviving Company, or any of its Subsidiaries, including in connection with any Third Party Claim, without the prior written consent of Buyer and the Surviving Company.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed and delivered as of the day and year first above written.

BUYER:

ARCOSA MATERIALS, INC.

By: /s/ Reid S. Essl
Name: Reid S. Essl
Title: President

MERGER SUB:

ARCOSA MS1, LLC

By: /s/ Scott Beasley
Name: Scott Beasley
Title: Vice President

COMPANY:

HARRISON GYPSUM HOLDINGS, LLC

By: /s/ Paul Harrington
Name: Paul Harrington
Title: President and Chief Executive Officer

HIG SELLER:

H.I.G. – HGC, LLC
By: H.I.G.-GPII, Inc., its Manager

By: /s/ Richard Siegel
Name: Richard Siegel
Title: Authorized Signatory

REPRESENTATIVE:

H.I.G. – HGC, LLC
By: H.I.G.-GPII, Inc., its Manager

By: /s/ Richard Siegel
Name: Richard Siegel
Title: Authorized Signatory

[SIGNATURE PAGE TO PURCHASE AGREEMENT AND PLAN OF MERGER]

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Section 7: EX-23 (EXHIBIT 23)

EXHIBIT 23

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in the Registration Statement (Form S-8, No. 333-228098) pertaining to the 2018 Stock Option and Incentive Plan of Arcosa, Inc. of our report dated February 28, 2019, with respect to the consolidated and combined financial statements of Arcosa, Inc. included in this Annual Report (Form 10-K) for the year ended December 31, 2018.

/s/ ERNST & YOUNG LLP

Dallas, Texas
February 28, 2019

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Section 8: EX-31.1 (EXHIBIT 31.1)

Exhibit 31.1

CERTIFICATION

I, Antonio Carrillo, certify that:

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

Date: February 28, 2019

/s/ Antonio Carrillo

Antonio Carrillo
President and Chief Executive Officer

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Section 9: EX-31.2 (EXHIBIT 31.2)

Exhibit 31.2

CERTIFICATION

I, Scott Beasley, certify that:

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

Date: February 28, 2019

/s/ Scott Beasley

Scott Beasley
Chief Financial Officer

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Section 10: EX-32.1 (EXHIBIT 32.1)

Exhibit 32.1

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

In connection with the Annual Report of Arcosa, Inc. (the "Company") on Form 10-K for the period ended December 31, 2018 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Antonio Carrillo, Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

(1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and result of operations of the Company, as of, and for, the periods presented in the Report.

/s/ Antonio Carrillo

Antonio Carrillo
President and Chief Executive Officer
February 28, 2019

A signed original of this written statement required by Section 906 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.

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Section 11: EX-32.2 (EXHIBIT 32.2)

Exhibit 32.2

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

In connection with the Annual Report of Arcosa, Inc. (the “Company”) on Form 10-K for the period ended December 31, 2018 as filed with the Securities and Exchange Commission on the date hereof (the “Report”), I, Scott Beasley, Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

(1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and result of operations of the Company, as of, and for, the periods presented in the Report.

/s/ Scott Beasley

Scott Beasley
Chief Financial Officer
February 28, 2019

A signed original of this written statement required by Section 906 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.

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Section 12: EX-95 (EXHIBIT 95)

Exhibit 95

Mine Safety Disclosures

The Company owned or operated sand, gravel, shale, clay, and aggregate quarries during the year ended December 31, 2018. The Financial Reform Act ("Dodd-Frank") requires us to disclose in our periodic reports filed with the SEC, specific information about each of our quarries comprised of notices, violations, and orders[1] made by the Federal Mine Safety and Health Administration pursuant to the Federal Mine Safety and Health Act of 1977.

The following table is a summary of the reportable information required for our quarries that operated during the year ended December 31, 2018:

Mine or Operating Name/MSHA Identification Number	Section 104 S&S Citations (#)	Section 104 (b) Orders (#)	Section 104 (d) Citations and Orders (#)	Section 110(b) (2) Violations (#)	Section 107 (a) Orders (#)	Total Dollar Value of MSHA Assessments Proposed ($)	Total Number of Mining Related Fatalities (#)	Received Notice of Pattern of Violation Under Section 104(e) (yes/no)	Received Notice of Potential to Have Pattern under Section 104(e) (yes/no)	Legal Actions Pending as of Last Day of Period (#)	Legal Actions Initiated During Period (#)	Legal Actions Resolved During Period (#)
Rye (4102547)	1	—	—	—	—	$ 912	—	No	No	—	—	—
Belton (4101043)	—	—	—	—	—	$ 118	—	No	No	—	—	—
Malloy Bridge (4102946)	—	—	—	—	—	$ 354	—	No	No	—	—	—
Cottonwood (4104553)	—	—	—	—	—	$ 236	—	No	No	—	—	—
Wills Point (4104113)	—	—	—	—	—	$ —	—	No	No	—	—	—
Indian Village (1600348)	—	—	—	—	—	$ 354	—	No	No	—	—	—
Kopperl (4104450)	1	—	—	—	—	$ 374 [2]	—	No	No	—	—	—
Wills Point II (4104071)	—	—	—	—	—	$ 118	—	No	No	—	—	—
Asa (4104399)	—	—	—	—	—	$ 128 [3]	—	No	No	—	—	—

Paradise (4103253)	—	—	—	—	—	$ 118	—	No	No	—	—	—
Anacoco (1600543)	—	—	—	—	—	$ 826	—	No	No	—	—	—
Curry (4105307)	—	—	—	—	—	$ 354	—	No	No	—	—	—
Streetman (4101628)	—	—	—	—	—	$ 236	—	No	No	—	—	—
Boulder (0504415)	1	—	—	—	—	$ 2,039	—	No	No	—	—	—
Frazier Park (0400555)	—	—	—	—	—	$ 573	—	No	No	—	—	—
Livingston (0100034)	—	—	—	—	—	$ 118	—	No	No	—	—	—
Erwinville (1600033)	4	—	—	—	—	$ 6,956	—	No	No	—	—	—
Brooks (1500187)	—	—	—	—	—	$ —	—	No	No	—	—	—
Brooklyn (1200254)	2	—	—	—	—	$ 652	—	No	No	—	—	—

[1] Significant and Substantial (S&S) citations are reported on this form. Non-S&S citations are not reported on this form but any assessments resulting from non-S&S citations are reported.

[2] One S&S citation and one non-S&S citation were issued. Proposed penalty amounts still pending.

[3] One non-S&S citation was issued. Proposed penalty amount still pending.

Mine or Operating Name/MSHA Identification Number	Section 104 S&S Citations (#)	Section 104 (b) Orders (#)	Section 104 (d) Citations and Orders (#)	Section 110(b) (2) Violations (#)	Section 107 (a) Orders (#)	Total Dollar Value of MSHA Assessments Proposed ($)	Total Number of Mining Related Fatalities (#)	Received Notice of Pattern of Violation Under Section 104(e) (yes/no)	Received Notice of Potential to Have Pattern under Section 104(e) (yes/no)	Legal Actions Pending as of Last Day of Period (#)	Legal Actions Initiated During Period (#)	Legal Actions Resolved During Period (#)
ACG Materials Acquired Operations [4]												
Harrison Gypsum #5 (3401964)	2	1	—	—	—	$ 1,429 [5]	—	No	No	—	—	—
Harrison Gypsum #2 (3401364)	—	—	—	—	—	$ 118	—	No	No	—	—	—
ACG Materials-Diamond (3401660)	1	—	—	—	—	$ 374	—	No	No	—	—	—
ACG Materials Diamond North (3401977)	—	—	—	—	—	$ 118	—	No	No	—	—	—
ACG Materials-Bouse Junction (3401828)	—	—	—	—	—	$ 1,038	—	No	No	—	—	—
ACG Materials-Newkirk (3401781)	—	—	—	—	—	$ 472	—	No	No	—	—	—
ACG Materials Ark City (1401743)	—	—	—	—	—	$ 354	—	No	No	—	—	—
ACG Materials-Shamrock (4104758)	4	—	—	—	—	$ 1,694	—	No	No	—	—	—
Adams Claim (2600668)	6	—	—	—	—	$ 11,442	—	No	No	—	—	—
Ludwig (2602775)	—	—	—	—	—	$ —	—	No	No	—	—	—
J A Jack & Sons (4503239)	8	—	—	—	—	$ 4,528 [6]	—	No	No	—	—	—
KRMI Quarry (4503363)	5	1	1	—	—	$ 8,784 [7]	—	No	No	—	—	—
Dilley Pit (4104879)	2	—	—	—	—	$ 630	—	No	No	—	—	—
ACG Material Orla LLC (4104958)	—	—	—	—	—	$ 472	—	No	No	—	—	—
ACG Stanton (4105067)	—	—	—	—	—	$ 472	—	No	No	—	—	—
Marianna Quarry (0801267)	—	—	—	—	—	$ 118	—	No	No	—	—	—
ACG Deiringer (4104878)	—	—	—	—	—	$ — [8]	—	No	No	—	—	—
ACG Ft Stockton (4104943)	—	—	—	—	—	$ 472	—	No	No	—	—	—

4 A subsidiary of the Company acquired ACG Materials on December 5th, 2018. Pursuant to Dodd-Frank requirements, the statement includes the disclosure of notifications, violations, and orders that occurred in 2018, including those that occurred prior to the Company subsidiary's ownership of the operations.

5 Two non-S&S citations were issued. Proposed penalty amounts still pending.

6 One S&S citation and five non-S&S citations were issued. Proposed penalty amounts still pending.

7 Three S&S citations and six non-S&S citations were issued. Proposed penalty amounts still pending.

8 One non-S&S citation was issued. Proposed penalty amount still pending.

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