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

FORM 10-Q

Quarterly Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

For the Quarterly Period Ended September 30, 2023

or

Transition Report Pursuant To Section 13 or 15(d) of the Securities Exchange Act of 1934

For the Transition Period From _____ to _____

Commission file number 1-5581

watsco

WATSCO, INC.

(Exact name of registrant as specified in its charter)

FLORIDA
(State or other jurisdiction of
incorporation or organization)

59-0778222
(I.R.S. Employer
Identification No.)

2665 South Bayshore Drive, Suite 901
Miami, FL 33133
(Address of principal executive offices, including zip code)

(305) 714-4100
(Registrant's telephone number, including area code)

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

<u>Title of each class</u>	<u>Trading Symbol(s)</u>	<u>Name of each exchange on which registered</u>
Common stock, \$0.50 par value	WSO	New York Stock Exchange
Class B common stock, \$0.50 par value	WSOB	New York Stock Exchange

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

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

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

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

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

The registrant's common stock outstanding as of October 30, 2023 comprised (i) 33,866,284 shares of Common stock, \$0.50 par value per share, excluding 4,778,988 treasury shares and (ii) 5,527,941 shares of Class B common stock, \$0.50 par value per share, excluding 48,263 treasury shares.

WATSCO, INC. AND SUBSIDIARIES

QUARTERLY REPORT ON FORM 10-Q

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EXHIBITS

PART I. FINANCIAL INFORMATION**ITEM 1. CONDENSED CONSOLIDATED UNAUDITED FINANCIAL STATEMENTS**

WATSCO, INC. AND SUBSIDIARIES
CONDENSED CONSOLIDATED UNAUDITED STATEMENTS OF INCOME
(In thousands, except per share data)

	Quarter Ended September 30,		Nine Months Ended September 30,	
	2023	2022	2023	2022
Revenues	\$2,126,845	\$2,035,796	\$5,680,570	\$5,693,121
Cost of sales	1,559,900	1,484,948	4,102,846	4,096,382
Gross profit	566,945	550,848	1,577,724	1,596,739
Selling, general and administrative expenses	319,834	321,522	911,046	919,629
Other income	9,506	6,927	20,384	17,289
Operating income	256,617	236,253	687,062	694,399
Interest expense, net	1,890	483	5,920	2,151
Income before income taxes	254,727	235,770	681,142	692,248
Income taxes	54,103	49,600	144,744	145,682
Net income	200,624	186,170	536,398	546,566
Less: net income attributable to non-controlling interest	29,671	28,529	82,608	83,070
Net income attributable to Watsco, Inc.	\$ 170,953	\$ 157,641	\$ 453,790	\$ 463,496
Earnings per share for Common and Class B common stock:				
Basic	\$ 4.36	\$ 4.04	\$ 11.64	\$ 11.90
Diluted	\$ 4.35	\$ 4.03	\$ 11.60	\$ 11.86

See accompanying notes to condensed consolidated unaudited financial statements.

WATSCO, INC. AND SUBSIDIARIES
CONDENSED CONSOLIDATED UNAUDITED STATEMENTS OF COMPREHENSIVE INCOME
(In thousands)

	Quarter Ended September 30,		Nine Months Ended September 30,	
	2023	2022	2023	2022
Net income	\$200,624	\$186,170	\$536,398	\$546,566
Other comprehensive (loss) income, net of tax Foreign currency translation adjustment	(6,966)	(19,091)	409	(24,091)
Other comprehensive (loss) income	(6,966)	(19,091)	409	(24,091)
Comprehensive income	193,658	167,079	536,807	522,475
Less: comprehensive income attributable to non-controlling interest	27,350	22,040	82,712	74,911
Comprehensive income attributable to Watsco, Inc.	<u>\$166,308</u>	<u>\$145,039</u>	<u>\$454,095</u>	<u>\$447,564</u>

See accompanying notes to condensed consolidated unaudited financial statements.

WATSCO, INC. AND SUBSIDIARIES
CONDENSED CONSOLIDATED UNAUDITED BALANCE SHEETS
(In thousands, except per share data)

	September 30, 2023	December 31, 2022
ASSETS		
Current assets:		
Cash and cash equivalents	\$ 175,022	\$ 147,505
Accounts receivable, net	949,317	747,110
Inventories, net	1,549,740	1,370,173
Other current assets	56,493	33,951
Total current assets	2,730,572	2,298,739
Property and equipment, net	134,076	125,424
Operating lease right-of-use assets	362,901	317,314
Goodwill	491,522	430,711
Intangible assets, net	172,473	175,191
Investment in unconsolidated entity	137,596	132,802
Other assets	9,927	8,033
	<u>\$ 4,039,067</u>	<u>\$ 3,488,214</u>
LIABILITIES AND SHAREHOLDERS' EQUITY		
Current liabilities:		
Current portion of lease liabilities	\$ 98,507	\$ 90,597
Borrowings under revolving credit agreement	—	56,400
Accounts payable	509,308	456,128
Accrued expenses and other current liabilities	279,813	303,397
Total current liabilities	887,628	906,522
Long-term obligations:		
Borrowings under revolving credit agreement	105,600	—
Operating lease liabilities, net of current portion	272,154	232,144
Finance lease liabilities, net of current portion	12,585	11,388
Total long-term obligations	390,339	243,532
Deferred income taxes and other liabilities	95,338	89,882
Commitments and contingencies		
Watsco, Inc. shareholders' equity:		
Common stock, \$0.50 par value	19,323	19,054
Class B common stock, \$0.50 par value	2,788	2,757
Preferred stock, \$0.50 par value	—	—
Paid-in capital	1,138,749	973,060
Accumulated other comprehensive loss, net of tax	(47,405)	(47,710)
Retained earnings	1,197,184	1,029,516
Treasury stock, at cost	(86,630)	(87,440)
Total Watsco, Inc. shareholders' equity	2,224,009	1,889,237
Non-controlling interest	441,753	359,041
Total shareholders' equity	<u>2,665,762</u>	<u>2,248,278</u>
	<u>\$ 4,039,067</u>	<u>\$ 3,488,214</u>

See accompanying notes to condensed consolidated unaudited financial statements.

WATSCO, INC. AND SUBSIDIARIES
CONDENSED CONSOLIDATED UNAUDITED STATEMENTS OF SHAREHOLDERS' EQUITY

<i>(In thousands, except share and per share data)</i>	Common Stock, Class B Common Stock and Preferred Stock Shares	Common Stock, Class B Common Stock and Preferred Stock Amount	Paid-In Capital	Accumulated Other Comprehensive Loss	Retained Earnings	Treasury Stock	Non-controlling Interest	Total
Balance at December 31, 2022	38,749,887	\$ 21,811	\$ 973,060	\$ (47,710)	\$1,029,516	\$ (87,440)	\$ 359,041	\$2,248,278
Net income					110,073		20,298	130,371
Other comprehensive income				170			90	260
Issuances of restricted shares of common stock	116,510	58	(58)					—
Forfeitures of restricted shares of common stock	(2,000)	(1)	1					—
Common stock contribution to 401(k) plan	35,533	18	8,844					8,862
Stock issuances from exercise of stock options and employee stock purchase plan	75,186	38	12,947					12,985
Issuance of Class B common stock	632	—	200					200
Retirement of common stock	(21,702)	(11)	(6,441)					(6,452)
Share-based compensation			8,763					8,763
Cash dividends declared and paid on Common and Class B common stock, \$2.45 per share					(94,970)			(94,970)
Balance at March 31, 2023	38,954,046	21,913	997,316	(47,540)	1,044,619	(87,440)	379,429	2,308,297
Net income					172,764		32,639	205,403
Other comprehensive income				4,780			2,335	7,115
Issuances of restricted shares of common stock	38,000	19	(19)					—
Forfeitures of restricted shares of common stock	(467)	—	—					—
Stock issuances from exercise of stock options and employee stock purchase plan	30,794	15	5,622					5,637
Retirement of common stock	(1,737)	(1)	(594)					(595)
Share-based compensation			6,828					6,828
Net proceeds from the sale of Common stock	45,000		13,994			810		14,804
Cash dividends declared and paid on Common and Class B common stock, \$2.45 per share					(95,439)			(95,439)
Balance at June 30, 2023	39,065,636	21,946	1,023,147	(42,760)	1,121,944	(86,630)	414,403	2,452,050
Net income					170,953		29,671	200,624
Other comprehensive (loss)				(4,645)			(2,321)	(6,966)
Issuances of restricted shares of common stock	13,607	7	(7)					—
Forfeitures of restricted shares of common stock	(1,000)	(1)	1					—
Stock issuances from exercise of stock options and employee stock purchase plan	37,399	19	6,610					6,629
Retirement of common stock	(1,328)	—	(467)					(467)
Share-based compensation			7,262					7,262
Common stock issued for Gateway Supply Company, Inc.	280,215	140	102,203					102,343
Cash dividends declared and paid on Common and Class B common stock, \$2.45 per share					(95,713)			(95,713)
Balance at September 30, 2023	39,394,529	\$ 22,111	\$1,138,749	\$ (47,405)	\$1,197,184	\$ (86,630)	\$ 441,753	\$2,665,762

Continued on next page.

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<i>(In thousands, except share and per share data)</i>	Common Stock, Class B Common Stock and Preferred Stock Shares	Common Stock, Class B Common Stock and Preferred Stock Amount	Paid-In Capital	Accumulated Other Comprehensive Loss	Retained Earnings	Treasury Stock	Non-controlling Interest	Total
Balance at December 31, 2021	38,799,632	\$ 21,836	\$ 1,003,932	\$ (34,176)	\$ 760,796	\$ (87,440)	\$ 332,467	\$ 1,997,415
Net income					113,298		21,592	134,890
Other comprehensive income				2,935			1,446	4,381
Issuances of restricted shares of common stock	105,882	53	(53)					—
Common stock contribution to 401(k) plan	21,532	11	6,726					6,737
Stock issuances from exercise of stock options and employee stock purchase plan	24,850	12	4,408					4,420
Share-based compensation			8,667					8,667
Cash dividends declared and paid on Common and Class B common stock, \$1.95 per share					(75,795)			(75,795)
Balance at March 31, 2022	38,951,896	21,912	1,023,680	(31,241)	798,299	(87,440)	355,505	2,080,715
Net income					192,557		32,949	225,506
Other comprehensive (loss)				(6,265)			(3,116)	(9,381)
Issuances of restricted shares of common stock	21,177	11	(11)					—
Forfeitures of restricted shares of common stock	(10,000)	(5)	5					—
Common stock contribution to 401(k) plan	28	—	9					9
Stock issuances from exercise of stock options and employee stock purchase plan	21,939	11	3,796					3,807
Retirement of common stock	(8,181)	(4)	(2,175)					(2,179)
Share-based compensation			6,987					6,987
Cash dividends declared and paid on Common and Class B common stock, \$2.20 per share					(85,689)			(85,689)
Balance at June 30, 2022	38,976,859	21,925	1,032,291	(37,506)	905,167	(87,440)	385,338	2,219,775
Net income					157,641		28,529	186,170
Other comprehensive (loss)				(12,602)			(6,489)	(19,091)
Issuances of restricted shares of common stock	13,000	7	(7)					—
Stock issuances from exercise of stock options and employee stock purchase plan	51,407	25	8,639					8,664
Retirement of common stock	(1,932)	(1)	(548)					(549)
Share-based compensation			6,942					6,942
Cash dividends declared and paid on Common and Class B common stock, \$2.20 per share					(85,758)			(85,758)
Balance at September 30, 2022	39,039,334	\$ 21,956	\$ 1,047,317	\$ (50,108)	\$ 977,050	\$ (87,440)	\$ 407,378	\$ 2,316,153

See accompanying notes to condensed consolidated unaudited financial statements.

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WATSCO, INC. AND SUBSIDIARIES
CONDENSED CONSOLIDATED UNAUDITED STATEMENTS OF CASH FLOWS
(In thousands)

	Nine Months Ended September 30,	
	2023	2022
Cash flows from operating activities:		
Net income	\$ 536,398	\$ 546,566
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation and amortization	25,406	23,440
Share-based compensation	20,791	22,017
Non-cash contribution to 401(k) plan	8,862	6,746
Deferred income tax provision	5,892	6,311
Other income from investment in unconsolidated entity	(20,384)	(17,289)
Other, net	2,841	5,672
Changes in operating assets and liabilities, net of effects of acquisitions:		
Accounts receivable, net	(184,106)	(170,746)
Inventories, net	(143,746)	(276,653)
Accounts payable and other liabilities	17,608	212,829
Other, net	(6,222)	(13)
Net cash provided by operating activities	263,340	358,880
Cash flows from investing activities:		
Capital expenditures	(25,500)	(26,526)
Business acquisitions, net of cash acquired	(3,827)	(47)
Proceeds from sale of property and equipment	1,277	167
Net cash used in investing activities	(28,050)	(26,406)
Cash flows from financing activities:		
Net proceeds under current revolving credit agreement	105,600	—
Net proceeds from issuances of Common stock under employee-related plans	20,373	16,635
Net proceeds from the sale of Common stock	15,179	—
Payment of fees related to revolving credit agreement	(837)	—
Repurchases of common stock to satisfy employee withholding tax obligations	(2,639)	(2,471)
Net repayments of finance lease liabilities	(2,794)	(2,206)
Net repayments under prior revolving credit agreement	(56,400)	(80,200)
Dividends on Common and Class B common stock	(286,122)	(247,242)
Net cash used in financing activities	(207,640)	(315,484)
Effect of foreign exchange rate changes on cash and cash equivalents	(133)	(5,030)
Net increase in cash and cash equivalents	27,517	11,960
Cash and cash equivalents at beginning of period	147,505	118,268
Cash and cash equivalents at end of period	\$ 175,022	\$ 130,228
Supplemental cash flow information:		
Common stock issued for Gateway Supply Company, Inc.	\$ 102,343	—

See accompanying notes to condensed consolidated unaudited financial statements.

WATSCO, INC. AND SUBSIDIARIES
NOTES TO CONDENSED CONSOLIDATED UNAUDITED FINANCIAL STATEMENTS
September 30, 2023
(In thousands, except share and per share data)

1. BASIS OF PRESENTATION

Basis of Consolidation

Watsco, Inc. (collectively with its subsidiaries, “Watsco,” the Company”, “we,” “us,” or “our”) was incorporated in Florida in 1956 and is the largest distributor of air conditioning, heating and refrigeration equipment and related parts and supplies (“HVAC/R”) in the HVAC/R distribution industry in North America. The accompanying September 30, 2023 interim condensed consolidated unaudited financial statements have been prepared pursuant to the rules and regulations of the Securities and Exchange Commission. Certain information and note disclosures normally included in the annual financial statements prepared in accordance with U.S. generally accepted accounting principles (“GAAP”) have been condensed or omitted pursuant to those rules and regulations, but we believe the disclosures made are adequate to make the information presented not misleading. In the opinion of management, all adjustments, consisting of normal and recurring adjustments, necessary for a fair presentation have been included in the condensed consolidated unaudited financial statements included herein. These statements should be read in conjunction with the audited consolidated financial statements and notes thereto included in our 2022 Annual Report on Form 10-K.

The condensed consolidated unaudited financial statements include the accounts of Watsco, all of its wholly owned subsidiaries, the accounts of four joint ventures with Carrier Global Corporation, which we refer to as Carrier, in which we have a controlling interest, the accounts of Carrier InterAmerica Corporation, in which we have an 80% controlling interest, and Carrier has a 20% non-controlling interest, and our 38.1% investment in Russell Sigler, Inc., which is accounted for under the equity method of accounting. All significant intercompany balances and transactions have been eliminated in consolidation.

The results of operations for the quarter and nine months ended September 30, 2023 are not necessarily indicative of the results to be expected for the year ending December 31, 2023. Sales of residential central air conditioners, heating equipment, and parts and supplies are seasonal. Furthermore, profitability can be impacted favorably or unfavorably based on weather patterns, particularly during the Summer and Winter selling seasons. Demand related to the residential central air conditioning replacement market is typically highest in the second and third quarters, and demand for heating equipment is usually highest in the first and fourth quarters. Demand related to the new construction sectors throughout most of the markets we serve tends to be fairly evenly distributed throughout the year and depends largely on housing completions and related weather and economic conditions.

Equity Method Investments

Investments in which we have the ability to exercise significant influence, but do not control, are accounted for under the equity method of accounting and are included in investment in unconsolidated entity in our condensed consolidated unaudited balance sheets. Under this method of accounting, our proportionate share of the net income or loss of the investee is included in other income in our condensed consolidated unaudited statements of income. The excess, if any, of the carrying amount of our investment over our ownership percentage in the underlying net assets of the investee is attributed to certain fair value adjustments with the remaining portion recognized as goodwill.

Use of Estimates

The preparation of condensed consolidated unaudited financial statements in conformity with U.S. 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 condensed consolidated unaudited financial statements and the reported amounts of revenues and expenses for the reporting period. Significant estimates include valuation reserves for accounts receivable, net realizable value adjustments to inventories, income taxes, reserves related to loss contingencies and the valuation of goodwill, indefinite-lived intangible assets, and long-lived assets. While we believe that these estimates are reasonable, actual results could differ from such estimates.

2. REVENUES

Disaggregation of Revenues

The following table presents our revenues disaggregated by primary geographical regions and major product lines within our single reporting segment:

	Quarter Ended September 30,		Nine Months Ended September 30,	
	2023	2022	2023	2022
Primary Geographical Regions:				
United States	\$1,924,556	\$1,851,071	\$5,118,591	\$5,156,846
Canada	100,030	100,567	288,653	303,149
Latin America and the Caribbean	102,259	84,158	273,326	233,126
	<u>\$2,126,845</u>	<u>\$2,035,796</u>	<u>\$5,680,570</u>	<u>\$5,693,121</u>
Major Product Lines:				
HVAC equipment	70%	69%	69%	69%
Other HVAC products	26%	27%	27%	27%
Commercial refrigeration products	4%	4%	4%	4%
	<u>100%</u>	<u>100%</u>	<u>100%</u>	<u>100%</u>

3. EARNINGS PER SHARE

The following table presents the calculation of basic and diluted earnings per share for our Common and Class B common stock:

	Quarter Ended September 30,		Nine Months Ended September 30,	
	2023	2022	2023	2022
Basic Earnings per Share:				
Net income attributable to Watsco, Inc. shareholders	\$ 170,953	\$ 157,641	\$ 453,790	\$ 463,496
Less: distributed and undistributed earnings allocated to restricted common stock	11,921	14,387	31,248	42,293
Earnings allocated to Watsco, Inc. shareholders	<u>\$ 159,032</u>	<u>\$ 143,254</u>	<u>\$ 422,542</u>	<u>\$ 421,203</u>
Weighted-average common shares outstanding—Basic	36,446,825	35,450,277	36,315,680	35,401,179
Basic earnings per share for Common and Class B common stock	\$ 4.36	\$ 4.04	\$ 11.64	\$ 11.90
Allocation of earnings for Basic:				
Common stock	\$ 144,942	\$ 132,846	\$ 384,970	\$ 390,557
Class B common stock	14,090	10,408	37,572	30,646
	<u>\$ 159,032</u>	<u>\$ 143,254</u>	<u>\$ 422,542</u>	<u>\$ 421,203</u>
Diluted Earnings per Share:				
Net income attributable to Watsco, Inc. shareholders	\$ 170,953	\$ 157,641	\$ 453,790	\$ 463,496
Less: distributed and undistributed earnings allocated to restricted common stock	11,903	14,368	31,211	42,228
Earnings allocated to Watsco, Inc. shareholders	<u>\$ 159,050</u>	<u>\$ 143,273</u>	<u>\$ 422,579</u>	<u>\$ 421,268</u>
Weighted-average common shares outstanding—Basic	36,446,825	35,450,277	36,315,680	35,401,179
Effect of dilutive stock options	132,583	112,008	122,395	128,309
Weighted-average common shares outstanding—Diluted	<u>36,579,408</u>	<u>35,562,285</u>	<u>36,438,075</u>	<u>35,529,488</u>
Diluted earnings per share for Common and Class B common stock	\$ 4.35	\$ 4.03	\$ 11.60	\$ 11.86
Anti-dilutive stock options not included above	24,988	208,610	37,533	181,115

Diluted earnings per share for our Common stock assumes the conversion of all of our Class B common stock into Common stock as of the beginning of the fiscal year; therefore, no allocation of earnings to Class B common stock is required. At September 30, 2023 and 2022, our outstanding Class B common stock was convertible into 3,229,118 and 2,575,725 shares of our Common stock, respectively.

4. OTHER COMPREHENSIVE INCOME (LOSS)

Other comprehensive income (loss) consists of the foreign currency translation adjustment associated with our Canadian operations' use of the Canadian dollar as their functional currency.

The change in accumulated other comprehensive loss, net of tax, was as follows:

<i>Nine Months Ended September 30,</i>	2023	2022
Foreign currency translation adjustment:		
Beginning balance	\$ (47,710)	\$ (34,176)
Current period other comprehensive income (loss)	305	(15,932)
Ending balance	<u>\$ (47,405)</u>	<u>\$ (50,108)</u>

5. ACQUISITIONS

Gateway Supply Company, Inc.

On September 1, 2023, we acquired substantially all the assets and assumed certain of the liabilities of Gateway Supply Company, Inc. ("GWS"), a plumbing and HVAC distributor operating from 15 locations in South Carolina and one location in Charlotte, North Carolina. We formed a new, wholly owned subsidiary, Gateway Supply LLC, that operates this business. Consideration for the net purchase price consisted of \$4,000 in cash, net of cash acquired of \$3,097, and 280,215 shares of Common stock having a fair value of \$102,343. Of the 280,215 shares of Common stock issued, 21,228 shares are subject to a contractual restriction that generally prohibits the sale or other transfer of such shares by GWS and its permitted transferees for a period of one year following the closing date with respect to half of such shares, and two years following the closing date with respect to the other half of such shares. The preliminary purchase price resulted in the initial estimated recognition of \$59,698 in goodwill. The tax basis of the acquired goodwill recognized is not deductible for income tax purposes.

Capitol District Supply Co., Inc.

On March 3, 2023, one of our wholly owned subsidiaries acquired Capitol District Supply Co., Inc., a distributor of air conditioning and heating products with annual sales of approximately \$13,000, operating from three locations in New York. Consideration for the purchase consisted of \$1,217 in cash, net of cash acquired of \$144, and \$1,851 for repayment of indebtedness. The preliminary purchase price resulted in the initial estimated recognition of \$1,033 in goodwill. The tax basis of such goodwill is deductible for income tax purposes over 15 years.

The results of operations of these acquisitions have been included in the condensed consolidated unaudited financial statements from their respective dates of acquisition. The pro forma effect of the acquisitions was not deemed significant to the condensed consolidated unaudited financial statements.

6. DEBT

On March 16, 2023, we entered into an unsecured, five-year \$600,000 syndicated multicurrency revolving credit agreement, which replaced in its entirety our prior five-year \$560,000 unsecured revolving credit agreement that was nearing maturity. Proceeds from the new facility were used to repay the \$235,500 outstanding under the prior facility. Additional proceeds may be used for, among other things, funding seasonal working capital needs and other general corporate purposes, including acquisitions, dividends (if and as declared by our Board of Directors), capital expenditures, stock repurchases, and issuances of letters of credit. The revolving credit facility has a seasonal component from October 1 to March 31, during which the borrowing capacity may be reduced to \$500,000 at our discretion (which effectively reduces fees payable in respect of the unused portion of the commitment), and we effected this reduction on October 1, 2023. Included in the revolving credit facility are a \$125,000 swingline loan sublimit, a \$10,000 letter of credit sublimit, a \$75,000 alternative currency borrowing sublimit, and an \$10,000 Mexican borrowing subfacility. The credit agreement matures on March 16, 2028.

Borrowings under the revolving credit facility bear interest at either Term Secured Overnight Financing Rate ("SOFR") or Daily Simple SOFR-based rates plus 0.10%, plus a spread which ranges from 100.0 to 137.5 basis-points (Term SOFR and Daily Simple SOFR plus 100.0 basis-points at September 30, 2023), depending on our ratio of total debt to EBITDA, or on rates based on the highest of the Federal Funds Effective Rate plus 0.5%, the Prime Rate or Term SOFR plus 1.0%, in each case plus a spread which ranges from 0 to 50.0 basis-points (0 basis-points at September 30, 2023), depending on our ratio of total debt to EBITDA. We pay a variable commitment fee on the unused portion of the commitment under the revolving credit agreement, ranging from 12.5 to 27.5 basis-points (12.5 basis-points at September 30, 2023). We paid fees of \$837 in connection with entering into the revolving credit agreement, which are being amortized ratably through the maturity of the facility in March 2028.

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At September 30, 2023, \$105,600 was outstanding under the revolving credit agreement. The revolving credit agreement contains customary affirmative and negative covenants, including financial covenants with respect to consolidated leverage and interest coverage ratios, and other customary restrictions. We believe we were in compliance with all covenants at September 30, 2023.

7. DERIVATIVES

We enter into foreign currency forward and option contracts to offset the earnings impact that foreign exchange rate fluctuations would otherwise have on certain monetary liabilities that are denominated in nonfunctional currencies.

Derivatives Not Designated as Hedging Instruments

We have entered into foreign currency forward and option contracts that are either not designated as hedges or did not qualify for hedge accounting. These derivative instruments were effective economic hedges for all of the periods presented. The fair value gains and losses on these contracts are recognized in earnings as a component of selling, general and administrative expenses. The total notional value of our foreign currency exchange contracts not designated as hedging instruments at September 30, 2023 was \$6,600, and such contracts expired in October 2023.

We recognized losses of \$371 and \$149 from foreign currency forward and option contracts not designated as hedging instruments in our condensed consolidated unaudited statements of income for the quarters ended September 30, 2023 and 2022, respectively. We recognized losses of \$2,423 and \$524 from foreign currency forward and option contracts not designated as hedging instruments in our condensed consolidated unaudited statements of income for the nine months ended September 30, 2023 and 2022, respectively.

8. FAIR VALUE MEASUREMENTS

The following tables present our assets and liabilities carried at fair value that are measured on a recurring basis:

	Balance Sheet Location	Total	Fair Value Measurements at September 30, 2023 Using		
			Level 1	Level 2	Level 3
Assets:					
Derivative financial instruments	Other current assets	\$ 9	—	\$ 9	—
Equity securities	Other assets	\$ 773	\$ 773	—	—
Private equities	Other assets	\$1,500	—	—	\$1,500

	Balance Sheet Location	Total	Fair Value Measurements at December 31, 2022 Using		
			Level 1	Level 2	Level 3
Assets:					
Equity securities	Other assets	\$ 678	\$ 678	—	—
Private equities	Other assets	\$1,000	—	—	\$1,000

The following is a description of the valuation techniques used for these assets and liabilities, as well as the level of input used to measure fair value:

Derivative financial instruments – these derivatives are foreign currency forward and option contracts. See Note 7. Fair value is based on observable market inputs, such as forward rates in active markets; therefore, we classify these derivatives within Level 2 of the valuation hierarchy.

Equity securities – these investments are exchange-traded equity securities. Fair values for these investments are based on closing stock prices from active markets and are therefore classified within Level 1 of the fair value hierarchy.

Private equities – other investments in which fair value inputs are unobservable and are therefore classified within Level 3 of the fair value hierarchy.

9. SHAREHOLDERS' EQUITY

At-the-Market Offering Program

On February 25, 2022, we entered into an amended and restated sales agreement with Robert W. Baird & Co. Inc. ("Baird") and Goldman Sachs & Co. LLC ("GS"), which enables the Company to issue and sell shares of Common stock in one or more negotiated transactions or transactions that are deemed to be "at the market" offerings as defined in Rule 415 under the Securities Act of 1933, as amended (the "Securities Act"), for a maximum aggregate offering amount of up to \$300,000 (the "ATM Program"). The offer and sale of our Common stock pursuant to the ATM Program has been registered under the Securities Act pursuant to our automatically effective shelf registration statement on Form S-3 (File No. 333-260758).

During the nine months ended September 30, 2023, we issued and sold 45,000 shares of Common stock under the ATM Program for net proceeds of \$15,179. Direct costs of \$375 incurred in connection with the offering were charged against the proceeds from the sale of Common stock and reflected as a reduction of paid-in capital. At September 30, 2023, \$284,745 remained available for sale under the ATM Program.

On November 3, 2023, we entered into a second amended and restated sales agreement with Baird, which removed GS as a sales agent under the ATM Program.

Common Stock Dividends

We paid cash dividends of \$2.45, \$2.20, \$7.35, and \$6.35 per share on both Common and Class B common stock during the quarters and nine months ended September 30, 2023 and 2022, respectively.

Restricted Stock

During the quarter and nine months ended September 30, 2023, a total of 1,033 shares of Common and Class B common stock with an aggregate fair market value of \$362, and a total of 7,080 shares of Common and Class B common stock with an aggregate fair market value of \$2,026, respectively, were withheld as payment in lieu of cash to satisfy tax withholding obligations in connection with the vesting of restricted stock. These shares were retired upon delivery. During the quarter and nine months ended September 30, 2022, a total of 879 shares of Class B common stock with an aggregate fair market value of \$252, and a total of 9,060 shares of Class B common stock with an aggregate fair market value of \$2,431, respectively, were withheld as payment in lieu of cash to satisfy tax withholding obligations in connection with the vesting of restricted stock. These shares were retired upon delivery.

Exercise of Stock Options

Cash received from Common stock issued as a result of stock options exercised during the quarters and nine months ended September 30, 2023 and 2022, was \$5,983, \$7,929, \$18,677, and \$15,151, respectively.

During the quarter and nine months ended September 30, 2023, a total of 295 shares of Common stock with an aggregate fair market value of \$106, and a total of 17,687 shares of Common stock with an aggregate fair market value of \$5,489, respectively, were withheld as payment in lieu of cash for stock option exercises. These shares were retired upon delivery. During both the quarter and nine months ended September 30, 2022, a total of 1,053 shares of Common stock with an aggregate fair market value of \$298 were withheld as payment in lieu of cash for stock option exercises. These shares were retired upon delivery.

Employee Stock Purchase Plan

During the quarters ended September 30, 2023 and 2022, we received net proceeds of \$563 and \$478, respectively, for shares of our Common stock purchased under our employee stock purchase plan. During the nine months ended September 30, 2023 and 2022, we received net proceeds of \$1,696 and \$1,484, respectively, for shares of our Common stock purchased under our employee stock purchase plan.

10. COMMITMENTS AND CONTINGENCIES

Litigation, Claims, and Assessments

We are involved in litigation incidental to the operation of our business. We vigorously defend all matters in which we or our subsidiaries are named defendants and, for insurable losses, maintain significant levels of insurance to protect against adverse judgments, claims or assessments that may affect us. Although the adequacy of existing insurance coverage and the outcome of any legal proceedings cannot be predicted with certainty, based on the current information available, we do not believe the ultimate liability associated with any known claims or litigation will have a material adverse effect on our financial condition or results of operations.

Self-Insurance

Self-insurance reserves are maintained relative to company-wide casualty insurance and health benefit programs. The level of exposure from catastrophic events is limited by the purchase of stop-loss and aggregate liability reinsurance coverage. When estimating the self-insurance liabilities and related reserves, management considers several factors, which include historical claims experience, demographic factors, severity factors, and valuations provided by independent third-party actuaries. Management reviews its assumptions with its independent third-party actuaries to evaluate whether the self-insurance reserves are adequate. If actual claims or adverse development of loss reserves occur and exceed these estimates, additional reserves may be required. Reserves in the amounts of \$10,066 and \$12,256 at September 30, 2023 and December 31, 2022, respectively, were established related to such programs and are included in accrued expenses and other current liabilities in our condensed consolidated unaudited balance sheets.

11. RELATED PARTY TRANSACTIONS

Purchases from Carrier and its affiliates comprised 67% and 63% of all inventory purchases made during the quarters ended September 30, 2023 and 2022, respectively. Purchases from Carrier and its affiliates comprised 65% and 60% of all inventory purchases made during the nine months ended September 30, 2023 and 2022, respectively. At September 30, 2023 and December 31, 2022, approximately \$178,000 and \$88,000, respectively, was payable to Carrier and its affiliates, net of receivables. We also sell HVAC products to Carrier and its affiliates. Revenues in our condensed consolidated unaudited statements of income for the quarters and nine months ended September 30, 2023 and 2022 included approximately \$34,000, \$26,000, \$88,000, and \$76,000, respectively, of sales to Carrier and its affiliates. We believe these transactions are conducted on terms equivalent to an arm's-length basis in the ordinary course of business.

A member of our Board of Directors is the Senior Chairman of Greenberg Traurig, P.A., which serves as our principal outside counsel for compliance and acquisition-related legal services. During the quarters and nine months ended September 30, 2023 and 2022, fees for services performed were \$60, \$40, \$131, and \$169, respectively, and \$50 and \$1 was payable at September 30, 2023 and December 31, 2022, respectively.

ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

Forward-Looking Statements

This Quarterly Report on Form 10-Q contains or incorporates by reference statements that are not historical in nature and that are intended to be, and are hereby identified as, "forward-looking statements" as defined in the Private Securities Litigation Reform Act of 1995. Statements which are not historical in nature, including the words "anticipate," "estimate," "could," "should," "may," "plan," "seek," "expect," "believe," "intend," "target," "will," "project," "focused," "outlook," "goal," "designed," and variations of these words and negatives thereof and similar expressions are intended to identify forward-looking statements, including statements regarding, among others, (i) economic conditions, (ii) business and acquisition strategies, (iii) potential acquisitions and/or joint ventures and investments in unconsolidated entities, (iv) financing plans, and (v) industry, demographic and other trends affecting our financial condition or results of operations. These forward-looking statements are based on management's current expectations, are not guarantees of future performance and are subject to a number of risks, uncertainties, and changes in circumstances, certain of which are beyond our control. Actual results could differ materially from these forward-looking statements as a result of several factors, including, but not limited to:

- general economic conditions, both in the United States and in the international markets we serve;
- competitive factors within the HVAC/R industry;
- effects of supplier concentration, including conditions that impact the supply chain;
- fluctuations in certain commodity costs;
- consumer spending;
- consumer debt levels;
- the resurgence of the COVID-19 pandemic;
- new housing starts and completions;
- capital spending in the commercial construction market;
- access to liquidity needed for operations;
- seasonal nature of product sales;
- weather patterns and conditions;
- insurance coverage risks;

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- federal, state, and local regulations impacting our industry and products;
- prevailing interest rates;
- the effect of inflation;
- foreign currency exchange rate fluctuations;
- international risk;
- cybersecurity risk; and
- the continued viability of our business strategy.

We believe these forward-looking statements are reasonable; however, you should not place undue reliance on any forward-looking statements, which are based on current expectations. For additional information regarding important factors that may affect our operations and could cause actual results to vary materially from those anticipated in the forward-looking statements, please see “Economic and Marketplace Dynamics” in the discussion below, Item 1A “Risk Factors” of our Annual Report on Form 10-K for the year ended December 31, 2022, as well as the other documents and reports that we file with the SEC. Forward-looking statements speak only as of the date the statements were made. We assume no obligation to update forward-looking information or the discussion of such risks and uncertainties to reflect actual results, changes in assumptions, or changes in other factors affecting forward-looking information, except as required by applicable law. We qualify any and all of our forward-looking statements by these cautionary factors.

The following information should be read in conjunction with the condensed consolidated unaudited financial statements, including the notes thereto, included under Part I, Item 1 of this Quarterly Report on Form 10-Q. In addition, reference should be made to our audited consolidated financial statements and notes thereto, and related Management’s Discussion and Analysis of Financial Condition and Results of Operations included in our Annual Report on Form 10-K for the year ended December 31, 2022.

Company Overview

Watsco, Inc. was incorporated in Florida in 1956, and, together with its subsidiaries (collectively, “Watsco,” the “Company,” or “we,” “us,” or “our”) is the largest distributor of air conditioning, heating, and refrigeration equipment, and related parts and supplies (“HVAC/R”) in the HVAC/R distribution industry in North America. At September 30, 2023, we operated from 691 locations in 42 U.S. States, Canada, Mexico, and Puerto Rico with additional market coverage on an export basis to portions of Latin America and the Caribbean.

Revenues primarily consist of sales of air conditioning, heating, and refrigeration equipment, and related parts and supplies. Selling, general and administrative expenses primarily consist of selling expenses, the largest components of which are salaries, commissions, and marketing expenses that are variable and correlate to changes in sales. Other significant selling, general and administrative expenses relate to the operation of warehouse facilities, including a fleet of trucks and forklifts, and facility rent, a majority of which we operate under non-cancelable operating leases.

Sales of residential central air conditioners, heating equipment, and parts and supplies are seasonal. Furthermore, profitability can be impacted favorably or unfavorably based on weather patterns, particularly during the Summer and Winter selling seasons. Demand related to the residential central air conditioning replacement market is typically highest in the second and third quarters, and demand for heating equipment is usually highest in the first and fourth quarters. Demand related to the new construction sectors throughout most of the markets we serve tends to be fairly evenly distributed throughout the year and depends largely on housing completions and related weather and economic conditions.

Climate Change and Reductions in CO₂e Emissions

We believe that our business plays an important and significant role in the drive to lower CO₂e emissions. According to the United States Department of Energy, heating and air conditioning accounts for roughly half of household energy consumption in the United States. As such, replacing older, less efficient HVAC systems with higher efficiency systems is one of the most meaningful steps homeowners can take to reduce their electricity costs and carbon footprints.

The overwhelming majority of new HVAC systems that we sell replace systems that likely operate below current minimum efficiency standards in the United States and may use more harmful refrigerants that have been, or are being, phased-out. As consumers replace HVAC systems with new, higher-efficiency systems, homeowners will consume less energy, save costs, and reduce their carbon footprints.

The sale of high-efficiency systems has long been a focus of ours, and we have invested in tools and technology intended to capture an increasingly richer sales mix over time. In addition, regulatory mandates will likely periodically increase the required minimum Seasonal Energy Efficiency Ratio rating, referred to as SEER, thus providing a catalyst for greater sales of higher-efficiency systems.

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Recently enacted regulations increased the current minimum SEER beginning in 2023 (generally, to 14 SEER from 13 SEER in the Northern U.S. and to 15 SEER from 14 SEER for the Southern U.S.).

We offer a broad variety of systems that operate above the minimum SEER standards, ranging from base-level efficiency to systems that exceed 20 SEER. Based on estimates validated by independent sources, we averted an estimated 18.3 million metric tons of CO₂e emissions from January 1, 2020 to September 30, 2023 through the sale of replacement residential HVAC systems at higher-efficiency standards.

Federal Tax Credits and State Incentives

Demand for higher-efficiency products, such as variable-speed systems and heat pumps, is expected to increase due to the passage of the U.S. Inflation Reduction Act of 2022 (the “IRA”) in August 2022. This legislation is intended, in part, to promote the replacement of existing systems in favor of high-efficiency heat pump systems that reduce greenhouse gas emissions, as compared to older systems, and thereby combat climate change. Programs under the IRA include enhanced tax credits for homeowners who install qualifying HVAC equipment and tax deductions for owners of commercial buildings that are upgraded to achieve defined energy savings. The IRA also sets aside \$4.3 billion for state-administered consumer rebate programs designed to promote energy savings for low and medium-income households, including HVAC systems. Final details, including qualifying products, specific programs, states participating, and other regulatory requirements contemplated by the IRA are still being finalized.

Economic and Marketplace Dynamics

The global economic recovery from the COVID-19 pandemic has included challenges such as inflationary pressure and supply chain disruptions. Certain of our manufacturers and suppliers continue to experience some level of supply chain disruptions caused by reduced component availability, labor shortages, transportation delays, and other logistical challenges, resulting in longer lead times and constrained availability of HVAC/R products. These challenges were exacerbated by the regulatory transition to higher SEER products that became effective in 2023. Revenues for the first nine months of 2023 reflected temporary production and availability delays by one of our primary OEM partners. We estimate that revenues were negatively impacted by approximately 1% and 3% during the quarter and nine months ended September 30, 2023, respectively, in each case due to constrained availability of inventory. Our OEMs are working to improve their supply chains and product availability in order to help us meet our customers’ needs.

We cannot estimate the future impact of supply chain disruptions to the extent that these disruptions become more pronounced than current conditions. We continue to take proactive steps to limit the impact of these disruptions and are working closely with our suppliers to ensure the availability of products. Also, we continue to actively monitor the situation and may take further actions that alter our business.

Critical Accounting Estimates

Management’s discussion and analysis of financial condition and results of operations is based upon the condensed consolidated unaudited financial statements included in this Quarterly Report on Form 10-Q, which have been prepared in accordance with U.S. generally accepted accounting principles. The preparation of these condensed consolidated unaudited financial statements requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, disclosure of contingent assets and liabilities at the date of the condensed consolidated unaudited financial statements, and the reported amount of revenues and expenses during the reporting period. Actual results may differ from these estimates under different assumptions or conditions. At least quarterly, management reevaluates its judgments and estimates, which are based on historical experience, current trends, and various other assumptions that are believed to be reasonable under the circumstances.

Our critical accounting estimates are included in our Annual Report on Form 10-K for the year ended December 31, 2022, as filed with the SEC on February 24, 2023. We believe that there have been no significant changes during the quarter ended September 30, 2023 to the critical accounting estimates disclosed in our Annual Report on Form 10-K for the year ended December 31, 2022.

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Results of Operations

The following table summarizes information derived from our condensed consolidated unaudited statements of income, expressed as a percentage of revenues, for the quarters and nine months ended September 30, 2023 and 2022:

	Quarter Ended September 30,		Nine Months Ended September 30,	
	2023	2022	2023	2022
Revenues	100.0%	100.0%	100.0%	100.0%
Cost of sales	73.3	72.9	72.2	72.0
Gross profit	26.7	27.1	27.8	28.0
Selling, general and administrative expenses	15.0	15.8	16.0	16.2
Other income	0.4	0.3	0.4	0.3
Operating income	12.1	11.6	12.1	12.2
Interest expense, net	0.1	0.0	0.1	0.0
Income before income taxes	12.0	11.6	12.0	12.2
Income taxes	2.5	2.4	2.5	2.6
Net income	9.4	9.1	9.4	9.6
Less: net income attributable to non-controlling interest	1.4	1.4	1.5	1.5
Net income attributable to Watsco, Inc.	8.0%	7.7%	8.0%	8.1%

Note: Due to rounding, percentages may not total 100.

The following narratives reflect our acquisition of Capitol District Supply Co., Inc. (“Capitol”) in March 2023 and Gateway Supply Company, Inc. (“GWS”) in September 2023. We did not acquire any businesses during the quarter or nine months ended September 30, 2022.

In the following narratives, computations and other information referring to “same-store basis” exclude the effects of locations closed, acquired, or locations opened, in each case during the immediately preceding 12 months, unless such locations are within close geographical proximity to existing locations. At September 30, 2023 and 2022, three and eleven locations, respectively, that we opened during the immediately preceding 12 months were near existing locations and were therefore included in “same-store basis” information.

The table below summarizes the changes in our locations for the 12 months ended September 30, 2023:

	Number of Locations
September 30, 2022	675
Opened	1
Closed	(3)
December 31, 2022	673
Opened	5
Acquired	19
Closed	(6)
September 30, 2023	691

Third Quarter of 2023 Compared to Third Quarter of 2022

Revenues

(in millions)	Quarters Ended September 30,		Change	
	2023	2022		
Revenues	\$ 2,126.8	\$ 2,035.8	\$91.0	4%

The increase in revenues for the third quarter of 2023 included \$17.9 million attributable to new locations acquired and \$1.7 million from other locations opened during the preceding 12 months, offset by \$2.5 million from locations closed.

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(in millions)	Quarters Ended September 30,		Change	
	2023	2022		
Same-store sales	\$ 2,107.2	\$ 2,033.3	\$73.9	4%

The following table presents our revenues, as a percentage of sales, by major product lines and the related percentage change in revenues from the prior period:

	% of Sales		% Change	
	2023	2022	2023	2022
HVAC equipment	70%	69%	6%	13%
Other HVAC products	26%	27%	(3%)	15%
Commercial refrigeration products	4%	4%	9%	18%

HVAC equipment sales (excluding acquisitions) reflect a 4% increase in residential products, which is composed of unitary compressor-bearing systems, furnaces, and other indoor components, (3% increase in U.S. markets and a 15% increase in international markets) and a 14% increase in sales of commercial HVAC equipment (12% increase in U.S. markets and a 19% increase in international markets). Domestic sales of unitary compressor-bearing systems increased 4%, reflecting an 8% increase in average selling price and a 4% decrease in units.

Gross Profit

(in millions)	Quarters Ended September 30,		Change	
	2023	2022		
Gross profit	\$ 566.9	\$ 550.8	\$16.1	3%
Gross margin	26.7%	27.1%		

Gross profit margin declined 40 basis-points primarily due to product mix, reflecting a stronger 6% sales growth rate of HVAC equipment (70% of sales) versus a 3% decline in sales of other HVAC products (26% of sales) in 2023 as compared to the same period in 2022. Generally, HVAC equipment drives lower gross profit margins than other HVAC products.

Selling, General and Administrative Expenses

(in millions)	Quarters Ended September 30,		Change	
	2023	2022		
Selling, general and administrative expenses	\$ 319.8	\$ 321.5	\$(1.7)	(1%)
Selling, general and administrative expenses as a percentage of revenues	15.0%	15.8%		

Selling, general and administrative expenses decreased 1% for the third quarter of 2023. On a same-store basis, selling, general and administrative expenses decreased 2% as compared to 2022, primarily due to improved operating efficiencies.

Other Income

Other income of \$9.5 million and \$6.9 million for the third quarters of 2023 and 2022, respectively, represents our share of the net income of Russell Sigler, Inc. ("RSI"), in which we have a 38.1% equity interest.

Interest Expense, Net

Interest expense, net for the third quarter of 2023 increased \$1.4 million, or 291%, primarily due to a higher effective interest rate and higher average borrowings under our revolving credit facility for the 2023 period as compared to the same period in 2022.

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Income Taxes

(in millions)	Quarters Ended September 30,		Change	
	2023	2022		
Income taxes	\$ 54.1	\$ 49.6	\$4.5	9%
Effective income tax rate	23.8%	23.8%		

Income taxes represent a composite of the income taxes attributable to our wholly owned operations and income taxes attributable to our joint ventures with Carrier Global Corporation (“Carrier”), which are primarily taxed as partnerships for income tax purposes; therefore, Carrier is responsible for its proportionate share of income taxes attributable to its share of earnings from these joint ventures.

Net Income Attributable to Watsco, Inc.

Net income attributable to Watsco, Inc. for the quarter ended September 30, 2023 increased \$13.3 million, or 8%, compared to the same period in 2022. The increase was primarily driven by higher revenues, gross profit and higher other income, lower selling, general and administrative expenses, partially offset by higher interest expense, net, and higher income taxes.

Nine Months Ended September 30, 2023 Compared to Nine Months Ended September 30, 2022

Revenues

(in millions)	Nine Months Ended September 30,		Change	
	2023	2022		
Revenues	\$ 5,680.6	\$ 5,693.1	\$(12.5)	0%

The decrease in revenues for the nine months ended September 30, 2023 included \$6.5 million from locations closed, offset by \$22.6 million attributable to new locations acquired and \$8.0 million from other locations opened during the preceding 12 months.

(in millions)	Nine Months Ended September 30,		Change	
	2023	2022		
Same-store sales	\$ 5,650.0	\$ 5,686.6	\$(36.6)	(1%)

The following table presents our revenues, as a percentage of sales, by major product lines and the related percentage change in revenues from the prior period:

	% of Sales		% Change	
	2023	2022	2023	2022
HVAC equipment	69%	69%	—	18%
Other HVAC products	27%	27%	(4%)	20%
Commercial refrigeration products	4%	4%	7%	25%

HVAC equipment sales (excluding acquisitions) reflect a 4% decrease in residential products, which is composed of unitary compressor-bearing systems, furnaces, and other indoor components, (5% decrease in U.S. markets and a 2% increase in international markets) and a 17% increase in sales of commercial HVAC equipment (17% increase in U.S. markets and a 19% increase in international markets). Domestic sales of unitary compressor-bearing systems declined 3%, reflecting a 12% decrease in units and a 9% increase in average selling price.

Gross Profit

(in millions)	Nine Months Ended September 30,		Change	
	2023	2022		
Gross profit	\$ 1,577.7	\$ 1,596.7	\$(19.0)	(1%)
Gross margin	27.8%	28.0%		

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Gross profit margin declined 20 basis-points primarily due to less beneficial pricing actions taken by our HVAC equipment suppliers in 2023 as compared to the same period in 2022.

Selling, General and Administrative Expenses

<i>(in millions)</i>	Nine Months Ended September 30,		Change	
	2023	2022		
Selling, general and administrative expenses	\$ 911.0	\$ 919.6	\$(8.6)	(1%)
Selling, general and administrative expenses as a percentage of revenues	16.0%	16.2%		

Selling, general and administrative expenses for the nine months ended September 30, 2023 decreased primarily due to lower revenues. On a same-store basis, selling, general and administrative expenses decreased 2% as compared to the same period in 2022, primarily due to decreased variable costs commensurate with decreased revenues and improved operating efficiencies.

Other Income

Other income of \$20.4 million and \$17.3 million for the nine months ended September 30, 2023 and 2022, respectively, represents our share of the net income of RSI, in which we have a 38.1% equity interest.

Interest Expense, Net

Interest expense, net for the nine months ended September 30, 2023 increased \$3.8 million, or 175%, for the 2023 period as compared to the same period in 2022, primarily due to a higher effective interest rate and higher average outstanding borrowings under our revolving credit facility.

Income Taxes

<i>(in millions)</i>	Nine Months Ended September 30,		Change	
	2023	2022		
Income taxes	\$ 144.7	\$ 145.7	\$(1.0)	(1%)
Effective income tax rate	24.0%	23.8%		

Income taxes represent a composite of the income taxes attributable to our wholly owned operations and income taxes attributable to our joint ventures with Carrier, which are primarily taxed as partnerships for income tax purposes; therefore, Carrier is responsible for its proportionate share of income taxes attributable to its share of earnings from these joint ventures. The increase in the effective income tax rate was primarily due to higher state income taxes partially offset by higher share-based compensation deductions and tax credits in 2023 as compared to the same period in 2022.

Net Income Attributable to Watsco, Inc.

Net income attributable to Watsco, Inc. for the nine months ended September 30, 2023 decreased \$9.7 million, or 2%, compared to the same period in 2022. The decrease was primarily driven by lower revenues and gross profit and higher interest expense, net, partially offset by lower selling, general and administrative expenses, higher other income, and lower income taxes.

Liquidity and Capital Resources

We assess our liquidity in terms of our ability to generate cash to execute our business strategy and fund operating and investing activities, taking into consideration the seasonal demand for HVAC/R products, which peaks in the months of May through August. Significant factors that could affect our liquidity include the following:

- cash needed to fund our business (primarily working capital requirements);
- borrowing capacity under our revolving credit facility;
- the ability to attract long-term capital with satisfactory terms;
- acquisitions, including joint ventures and investments in unconsolidated entities;
- dividend payments;
- capital expenditures; and
- the timing and extent of common stock repurchases.

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Sources and Uses of Cash

We rely on cash flows from operations and borrowing capacity under our revolving credit agreement to fund seasonal working capital needs and for other general corporate purposes in the short-term and the long-term, including dividend payments (if and as declared by our Board of Directors), capital expenditures, business acquisitions, and development of our long-term operating and technology strategies. Additionally, we may also generate cash through the issuance and sale of our Common stock.

As of September 30, 2023, we had \$175.0 million of cash and cash equivalents, of which \$152.6 million was held by foreign subsidiaries. The repatriation of cash balances from our foreign subsidiaries could have adverse tax impacts or be subject to capital controls; however, these balances are generally available to fund the ordinary business operations of our foreign subsidiaries without legal restrictions.

We believe that our operating cash flows, cash on hand, funds available for borrowing under our revolving credit agreement, and funds available from sales of our Common stock under our ATM Program (as defined below), each of which is described below, will be sufficient to meet our liquidity needs for the foreseeable future. However, there can be no assurance that our current sources of available funds will be sufficient to meet our cash requirements.

Our access to funds under our revolving credit agreement depends on the ability of the syndicate banks to meet their respective funding commitments. Disruptions in the credit and capital markets could adversely affect our ability to draw on our revolving credit agreement and may also adversely affect the determination of interest rates, particularly rates based on the Secured Overnight Financing Rate (“SOFR”), which is one of the base rates under our revolving credit agreement. SOFR has limited historical data and is a secured lending rate, which could give rise to uncertainties and volatility in the benchmark rates. Additionally, disruptions in the credit and capital markets could also result in increased borrowing costs or reduced borrowing capacity under our revolving credit agreement.

Working Capital

Working capital increased to \$1,842.9 million at September 30, 2023 from \$1,392.2 million at December 31, 2022, due to: (i) a customary increase in inventory concurrent with our selling season, new inventory requirements pertaining to the transition to higher minimum efficiency levels for residential HVAC systems that went into effect on January 1, 2023, and an increase of safety stock as a consequence of supply chain disruptions; (ii) higher accounts receivable consistent with the seasonality of our business; and (iii) the classification of borrowings under our revolving credit agreement as a long-term liability at September 30, 2023, which were offset by an increase in accounts payable consistent with the change in inventory.

Cash Flows

The following table summarizes our cash flow activity for the nine months ended September 30, 2023 and 2022 (in millions):

	2023	2022	Change
Cash flows provided by operating activities	\$ 263.3	\$ 358.9	\$ (95.6)
Cash flows used in investing activities	\$ (28.1)	\$ (26.4)	\$ (1.7)
Cash flows used in financing activities	\$ (207.6)	\$ (315.5)	\$ 107.9

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

Operating Activities

The decrease in net cash provided by operating activities was primarily due to the timing of vendor payments and lower net income in 2023 as compared to 2022, partially offset by the changes in working capital discussed above.

Investing Activities

Net cash used in investing activities was higher primarily due to cash consideration paid for our acquisitions of Capitol and GWS in 2023.

Financing Activities

Net cash used in financing activities decreased primarily due to higher borrowings under our revolving credit agreement and proceeds from the sale of Common stock used for repayments under our revolving credit agreement, partially offset by an increase in dividends paid in 2023.

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Revolving Credit Agreement

On March 16, 2023, we entered into an unsecured, five-year \$600.0 million syndicated multicurrency revolving credit agreement, which replaced in its entirety our prior five-year \$560.0 million unsecured revolving credit agreement that was nearing maturity. Proceeds from the new facility were used to repay the \$235.5 million outstanding under the prior facility. Additional proceeds may be used for, among other things, funding seasonal working capital needs and for other general corporate purposes, including acquisitions, dividends (if and as declared by our Board of Directors), capital expenditures, stock repurchases, and issuances of letters of credit. The revolving credit facility has a seasonal component from October 1 to March 31, during which the borrowing capacity may be reduced to \$500.0 million at our discretion (which effectively reduces fees payable in respect of the unused portion of the commitment), and we effected this reduction on October 1, 2023. Included in the revolving credit facility are a \$125.0 million swingline loan sublimit, a \$10.0 million letter of credit sublimit, a \$75.0 million alternative currency borrowing sublimit, and an \$10.0 million Mexican borrowing subfacility. The credit agreement matures on March 16, 2028.

Borrowings under the revolving credit facility bear interest at either Term SOFR or Daily Simple SOFR-based rates plus 0.10%, plus a spread which ranges from 100.0 to 137.5 basis-points (Term SOFR and Daily Simple SOFR plus 100.0 basis-points at September 30, 2023), depending on our ratio of total debt to EBITDA, or on rates based on the highest of the Federal Funds Effective Rate plus 0.5%, the Prime Rate or Term SOFR plus 1.0%, in each case plus a spread which ranges from 0 to 50.0 basis-points (0 basis-points at September 30, 2023), depending on our ratio of total debt to EBITDA. We pay a variable commitment fee on the unused portion of the commitment under the revolving credit agreement, ranging from 12.5 to 27.5 basis-points (12.5 basis-points at September 30, 2023). We paid fees of \$0.8 million in connection with entering into the revolving credit agreement, which are being amortized ratably through the maturity of the facility in March 2028.

At September 30, 2023, \$105.6 million was outstanding under the revolving credit agreement. The revolving credit agreement contains customary affirmative and negative covenants, including financial covenants with respect to consolidated leverage and interest coverage ratios, and other customary restrictions. We believe we were in compliance with all covenants at September 30, 2023.

At-the-Market Offering Program

On February 25, 2022, we entered into an amended and restated sales agreement with Robert W. Baird & Co. Inc. (“Baird”) and Goldman Sachs & Co. LLC (“GS”), which enables the Company to issue and sell shares of Common stock in one or more negotiated transactions or transactions that are deemed to be “at the market” offerings as defined in Rule 415 under the Securities Act of 1933, as amended (the “Securities Act”), for a maximum aggregate offering amount of up to \$300.0 million (the “ATM Program”). The offer and sale of our Common stock pursuant to the ATM Program has been registered under the Securities Act pursuant to our automatically effective shelf registration statement on Form S-3 (File No. 333-260758).

During the nine months ended September 30, 2023, we issued and sold 45,000 shares of Common stock under the ATM Program for net proceeds of \$15.2 million. Direct costs of \$0.4 million incurred in connection with the offering were charged against the proceeds from the sale of Common stock and reflected as a reduction of paid-in capital. At September 30, 2023, \$284.7 million remained available for sale under the ATM Program.

On November 3, 2023, we entered into a second amended and restated sales agreement with Baird, which removed GS as a sales agent under the ATM Program. See Item 5 of this Quarterly Report on Form 10-Q for additional information.

Investment in Unconsolidated Entity

Carrier Enterprise I, one of our joint ventures with Carrier, in which we have an 80% controlling interest, has a 38.1% ownership interest in RSI, an HVAC distributor operating from 34 locations in the Western U.S. Our proportionate share of the net income of RSI is included in other income in our condensed consolidated unaudited statements of income.

Carrier Enterprise I is a party to a shareholders’ agreement (the “Shareholders’ Agreement”) with RSI and its shareholders, consisting of five Sigler second generation family siblings and their affiliates, who collectively own 55.8% of RSI (the “RSI Majority Holders”) and certain next-generation Sigler family members and an employee, who collectively own 3.1% of RSI (the “RSI Minority Holders”) and, together with the RSI Majority Holders, the “RSI Shareholders”). Pursuant to the Shareholders’ Agreement, the RSI Shareholders have the right to sell, and Carrier Enterprise I has the obligation to purchase, their respective shares of RSI for a purchase price determined based on the higher of book value or a multiple of EBIT, the latter of which Carrier Enterprise I used to calculate the price for its 38.1% investment held in RSI. The RSI Shareholders may transfer their respective shares of RSI common stock only to members of the Sigler family or to Carrier Enterprise I, and, at any time from and after the date on which Carrier Enterprise I owns 85% or more of RSI’s outstanding common stock, it has the right, but not the obligation, to purchase from the RSI Shareholders the remaining outstanding shares of RSI common stock. At September 30, 2023, using the criteria set forth in the Shareholders’ Agreement, the valuation of the RSI Shareholders’ RSI common stock was approximately \$426.0 million. We believe that our operating cash flows, cash on hand, funds available for borrowing under our revolving credit agreement, or use of the ATM Program would be sufficient to purchase any additional ownership interests in RSI.

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On July 28, 2023, Watsco, Carrier Enterprise I, and the RSI Majority Holders entered into an agreement that (1) provides Carrier Enterprise I the discretion, but not the obligation, to fund up to 80% of any purchase from the RSI Majority Holders of their RSI common stock, as required under the Shareholders' Agreement, using Watsco Common stock (the "Offered Shares"), (2) provides that any Offered Shares actually issued would be valued based on the average volume-weighted average price of Watsco's Common stock for the ten trading days immediately preceding the payment date for the applicable RSI shares, and (3) limits the amount of RSI shares that may be collectively sold by the RSI Majority Holders to Carrier Enterprise I under the Shareholders' Agreement to \$125.0 million during any rolling 12-month period. We have not issued or sold any Offered Shares, and there is no assurance that we will issue and sell any Offered Shares, nor is the number of Offered Shares that may be issued and sold currently determinable.

Acquisitions

On September 1, 2023, we acquired substantially all the assets and assumed certain of the liabilities of Gateway Supply Company, Inc., a plumbing and HVAC distributor operating from 16 locations in South Carolina and North Carolina. Consideration for the net purchase price consisted of \$4.0 million in cash and 280,215 shares of Common stock having a fair value of \$102.3 million, net of cash acquired of \$3.1 million.

On March 3, 2023, one of our wholly owned subsidiaries acquired Capitol, a distributor of air conditioning and heating products with annual sales of approximately \$13.0 million, operating from three locations in New York. Consideration for the purchase consisted of \$1.2 million in cash, net of cash acquired of \$0.1 million, and \$1.9 million for repayment of indebtedness.

We continually evaluate potential acquisitions and/or joint ventures and investments in unconsolidated entities. We routinely hold discussions with several acquisition candidates. Should suitable acquisition opportunities arise that would require additional financing, we believe our financial position and earnings history provide a sufficient basis for us to either obtain additional debt financing at competitive rates and on reasonable terms or raise capital through the issuance of equity securities.

Common Stock Dividends

We paid cash dividends of \$7.35 and \$6.35 per share on both Common and Class B common stock during the nine months ended September 30, 2023 and 2022, respectively. On October 2, 2023, our Board of Directors declared a regular quarterly cash dividend of \$2.45 per share on both Common and Class B common stock that was paid on October 31, 2023 to shareholders of record as of October 17, 2023. Future dividends and changes in dividend rates are at the sole discretion of the Board of Directors and depend upon factors including, but not limited to, cash flow generated by operations, profitability, financial condition, cash requirements, and future prospects.

Company Share Repurchase Program

In September 1999, our Board of Directors authorized the repurchase, at management's discretion, of up to 7,500,000 shares of common stock in the open market or via private transactions. Shares repurchased under the program are accounted for using the cost method and result in a reduction of shareholders' equity. We last repurchased shares under this plan in 2008. In aggregate, 6,370,913 shares of Common and Class B common stock have been repurchased at a cost of \$114.4 million since the inception of the program. At September 30, 2023, there were 1,129,087 shares remaining authorized for repurchase under the program. The IRA includes, among other provisions, a 1% excise tax on stock repurchases effective January 1, 2023. In considering any further stock repurchases under our repurchase program, we intend to evaluate the impact of the IRA's 1% excise tax.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

There have been no material changes to the information regarding market risk provided in Item 7A, Quantitative and Qualitative Disclosures about Market Risk, of our Annual Report on Form 10-K for the year ended December 31, 2022.

ITEM 4. CONTROLS AND PROCEDURES

Evaluation of Disclosure Controls and Procedures

We maintain disclosure controls and procedures (as defined in Rule 13a-15(e) under the Securities Exchange Act of 1934, as amended (the "Exchange Act")) that are, among other things, designed to ensure that information required to be disclosed by us under the Exchange Act is accumulated and communicated to management, including our Chief Executive Officer ("CEO"), Executive Vice President ("EVP") and Chief Financial Officer ("CFO"), to allow for timely decisions regarding required disclosure and appropriate SEC filings.

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Our management, with the participation of our CEO, EVP and CFO, evaluated the effectiveness of our disclosure controls and procedures as of the end of the period covered by this report, and, based on that evaluation, our CEO, EVP and CFO concluded that our disclosure controls and procedures were effective, at a reasonable assurance level, at and as of such date.

Changes in Internal Control over Financial Reporting

We are continuously seeking to improve the efficiency and effectiveness of our operations and of our internal controls. This results in refinements to processes throughout the Company. However, there were no changes in internal controls over financial reporting (as such term is defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) during the quarter ended September 30, 2023 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

In accordance with the rules and regulations of the SEC, we have not yet assessed the internal control over financial reporting of GWS, which represented approximately 3% of our total consolidated assets at September 30, 2023 and approximately 0.3% of our consolidated revenues for the quarter ended September 30, 2023. From the acquisition date of September 1, 2023 to September 30, 2023, the processes and systems of GWS did not impact the internal controls over financial reporting for our other consolidated subsidiaries.

PART II. OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS

Information with respect to this item may be found in Note 10 to our condensed consolidated unaudited financial statements contained in this Quarterly Report on Form 10-Q under the caption “Litigation, Claims and Assessments,” which information is incorporated by reference in this Item 1 of Part II of this Quarterly Report on Form 10-Q.

ITEM 1A. RISK FACTORS

Information about risk factors for the quarter ended September 30, 2023 does not differ materially from that set forth in Part I, Item 1A of our Annual Report on Form 10-K for the year ended December 31, 2022.

ITEM 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS

Issuer Purchases of Equity Securities

Period	Total Number of Shares Purchased ⁽¹⁾	Average Price Paid per Share	Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs	Maximum Dollar Value that May Yet Be Purchased Under the Plans or Programs
July 1, 2023 to July 31, 2023	—	\$ —	—	\$ —
August 1, 2023 to August 31, 2023	1,033	349.99	—	—
September 1, 2023 to September 30, 2023	—	—	—	—
Total	<u>1,033</u>	<u>\$ 349.99</u>	<u>—</u>	<u>\$ —</u>

- (1) During the quarter ended September 30, 2023, we purchased an aggregate of 1,033 shares of our common stock to satisfy the tax withholding obligations in connection with the vesting of restricted stock.

ITEM 5. OTHER INFORMATION

During the quarter ended September 30, 2023, none of our officers or directors adopted or terminated any contract, instruction or written plan for the purchase or sale of our securities that was intended to satisfy the affirmative defense conditions of Rule 10b5-1(c) under the Exchange Act or any “non-Rule 10b5-1 trading arrangement”, as defined in Item 408 of Regulation S-K.

As previously reported, on August 6, 2021, the Company entered into a Sales Agreement (the “Original Sales Agreement”) with Robert W. Baird & Co. Incorporated (“Baird”), relating to the Company’s issuance and sale, from time to time, of up to \$300.0 million of its Common stock in a registered offering pursuant to the Company’s effective Registration Statement on Form S-3. The Sales Agreement provided for the sale of shares in negotiated transactions or transactions that are deemed to be “at the market” offerings as defined in Rule 415 under the Securities Act, including sales made directly on the New York Stock Exchange, or sales made to or through a market maker other than on an exchange (the “ATM Program”). On February 25, 2022, the Company entered into an amended and restated Sales Agreement together with Baird and Goldman Sachs & Co. LLC (“GS”) for the purpose of adding GS as an additional sales agent thereunder and making necessary conforming changes. On November 3, 2023, the Company entered into a second amended and restated Sales Agreement (the “SA&R Sales Agreement”) with Baird for the purpose of removing GS as a sales agent under the ATM Program and making necessary conforming changes. The SA&R Sales Agreement otherwise retains all material terms of the Original Sales Agreement.

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The foregoing description of the SA&R Sales Agreement is only a summary and is qualified in its entirety by reference to the full text of the SA&R Sales Agreement, which is filed as Exhibit 10.1 to this Quarterly Report on Form 10-Q and incorporated by reference in this Item 5.

ITEM 6. EXHIBITS

10.1 #	<u>Second Amended and Restated Sales Agreement dated November 3, 2023, by and between Watsco, Inc. and Robert W. Baird & Co. Incorporated.</u>
31.1 #	<u>Certification of Chief Executive Officer pursuant to Securities Exchange Act Rules 13a- 15(e) and 15d-15(e) as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.</u>
31.2 #	<u>Certification of Executive Vice President pursuant to Securities Exchange Act Rules 13a-15(e) and 15d-15(e) as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.</u>
31.3 #	<u>Certification of Chief Financial Officer pursuant to Securities Exchange Act Rules 13a- 15(e) and 15d-15(e) as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.</u>
32.1 +	<u>Certification of Chief Executive Officer, Executive Vice President and Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.</u>
101.INS #	Inline XBRL Instance Document—the instance document does not appear in the Interactive Data File because its XBRL tags are embedded within the Inline XBRL document.
101.SCH #	Inline XBRL Taxonomy Extension Schema Document.
101.CAL #	Inline XBRL Taxonomy Extension Calculation Linkbase Document.
101.DEF #	Inline XBRL Taxonomy Extension Definition Linkbase Document.
101.LAB #	Inline XBRL Taxonomy Extension Label Linkbase Document.
101.PRE #	Inline XBRL Taxonomy Extension Presentation Linkbase Document.
104	The cover page from the Company’s Quarterly Report on Form 10-Q for the quarter ended September 30, 2023, formatted in Inline XBRL.

filed herewith.

+ furnished herewith.

SIGNATURE

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

WATSCO, INC.
(Registrant)

Date: November 3, 2023

By: /s/ Ana M. Menendez
Ana M. Menendez
Chief Financial Officer (on behalf of the Registrant and as Principal
Financial Officer)

WATSCO, INC.
Common Stock
(\$0.50 par value per share)
Second Amended and Restated Sales Agreement

November 3, 2023

Robert W. Baird & Co. Incorporated
777 East Wisconsin Avenue
Milwaukee, Wisconsin 53202

Ladies and Gentlemen:

Watsco, Inc., a Florida corporation (the “**Company**”), confirms its agreement (this “**Agreement**”) with Robert W. Baird & Co. Incorporated (the “**Agent**”), as follows. This Agreement amends and restates in its entirety that certain Amended and Restated Sales Agreement, dated as of February 25, 2022 (the “**Prior Agreement**”), by and among the Company and Robert W. Baird & Co. Incorporated and Goldman Sachs & Co. LLC.

1. Issuance and Sale of Placement Shares.

The Company agrees that, from time to time during the term of this Agreement, on the terms and subject to the conditions set forth herein, it may issue and sell through the Agent, acting as agent and/or principal, shares (the “**Placement Shares**”) of the Company’s common stock, \$0.50 par value per share (the “**Common Stock**”), having a maximum aggregate offering price of up to \$300,000,000 (the “**Maximum Amount**”). Notwithstanding anything to the contrary contained herein, the parties hereto agree that compliance with the limitation set forth in this Section 1 relating to the issuance and sale of Placement Shares not in excess of the Maximum Amount pursuant to this Agreement shall be the sole responsibility of the Company, and the Agent shall have no obligation in connection with such compliance, provided that the Agent strictly follows the trading instructions provided by the Company pursuant to each Placement Notice. The issuance and sale of Placement Shares through the Agent shall be effected pursuant to the Registration Statement (as defined below).

The Company agrees that whenever it determines to sell Placement Shares directly to the Agent as principal it will enter into a separate written Terms Agreement (each, a “**Terms Agreement**”), in substantially the form of Annex I hereto, relating to such sale in accordance with Section 6(e) hereof. References herein to “this Agreement” or to matters contained “herein” or “hereunder,” or words of similar import, mean this Agreement and any applicable Terms Agreement.

The Company has filed with the Securities and Exchange Commission (the “**Commission**”), in accordance with the provisions of the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder (collectively, the “**Securities Act**”), a registration statement on Form S-3 (File No. 333-260758), including a base prospectus, relating to certain securities, including the Common Stock, to be offered from time to time by the Company (as amended or supplemented from time to time, the “**Base Prospectus**”), and incorporating by reference documents that the Company has filed or will file in accordance with the provisions of the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder (collectively, the “**Exchange Act**”). The Company has prepared and filed with the Commission a prospectus supplement to the Base Prospectus specifically relating to the Placement Shares (as amended or supplemented from time to time, the “**Prospectus Supplement**”). Promptly after execution and delivery of this Agreement, the Company will file a supplement to the Prospectus Supplement in accordance with the provisions of Rule 424(b) under the Securities Act (“**Rule 424(b)**”). The Company will furnish to the Agent, for use by the Agent, copies (which may be in electronic form) of the Base Prospectus, as supplemented by the Prospectus Supplement. Except where the context otherwise requires, such registration statement, as amended by any post-effective amendments thereto, including all documents filed as part thereof or incorporated by reference therein, and including any information contained in a Prospectus (as defined below) subsequently filed with the Commission pursuant to Rule 424(b) or deemed to be a part of such registration statement pursuant to Rule 430B under the Securities Act, as well as any comparable successor registration statement filed by the Company for the sale of shares of the Placement Shares, collectively are herein called the “**Registration Statement**.” The Base Prospectus, as supplemented by the Prospectus Supplement, including the documents incorporated by reference therein, in the form in which such Base Prospectus and such Prospectus Supplement have most recently been filed by the Company with the Commission pursuant to Rule 424(b) is herein called the “**Prospectus**.” Any then issued “issuer free writing prospectus” as defined in Rule 433 under the Securities Act (“**Rule 433**”) relating to the Placement Shares is herein called an “**Issuer Free Writing Prospectus**.”

For purposes of this Agreement, all references to the Registration Statement, the Prospectus or to any amendment or supplement thereto shall be deemed to include any copy filed with the Commission pursuant to its Electronic Data Gathering Analysis and Retrieval System or, if applicable, the Interactive Data Electronic Applications (collectively, “**EDGAR**”).

2. Placements.

On each Trading Day that the Company wishes to issue and sell Placement Shares hereunder (each, a “**Placement**”), it will notify the Agent by email notice or by telephone notice followed by email confirmation (or other method mutually agreed to in writing by the parties) (a “**Placement Notice**”) containing the parameters in accordance with which it desires the Placement Shares to be sold, which shall at a minimum include the number of Placement Shares to be issued and sold on such day and any minimum price below which sales shall not be made. A form of Placement Notice, which contains such minimum required sales parameters, is attached hereto as Exhibit A. A Placement Notice shall originate from any of the individuals from the Company set forth on Schedule 2 (with a copy to each of the other individuals from the Company listed on such schedule), as amended in writing by the Company from time to time, and shall be addressed to each of the individuals from the Agent set forth on Schedule 2, as amended in writing from time to time by the Agent. Each Placement Notice shall be effective upon receipt by the Agent unless and until (i) in accordance with the notice requirements set

forth in Section 4, the Agent declines to accept the terms contained therein for any reason in its sole discretion (which notice shall be effective upon transmission), (ii) the entire amount of the Placement Shares to be sold pursuant to such Placement Notice have been sold, (iii) in accordance with the notice requirements set forth in Section 4, the Company or the Agent suspends or terminates such Placement Notice, (iv) the Company issues a subsequent Placement Notice with parameters superseding those set forth in such Placement Notice, or (v) this Agreement has been terminated under the provisions of Section 11. The amount of any discount, commission or other compensation to be paid by the Company to the Agent in connection with the sale of the Placement Shares shall be calculated in accordance with the terms set forth in Schedule 1 and shall not exceed 2.0% of the gross sales price for such Placement Shares. It is expressly acknowledged and agreed that neither the Company nor the Agent will have any obligation whatsoever with respect to a Placement Notice or any Placement Shares unless and until the Company delivers a Placement Notice to the Agent and the Agent does not decline such Placement Notice pursuant to the terms set forth above, and then only upon the terms specified therein and herein. Notwithstanding anything to the contrary contained herein, no Placement Notice shall be delivered by the Company and, by notice to the Agent given by telephone (confirmed promptly by email), the Company shall cancel any previously delivered Placement Notice, and the Agent shall not be obligated to offer or sell any Placement Shares (a) at any such time as the Company's directors and officers would not then be permitted to buy or sell securities of the Company in the open market under the Company's insider trading policy, (b) at such time when the Company is in possession of material nonpublic information, or (c) at any time from and including the date that is five (5) Business Days before the end of each fiscal quarter through and including the time that the Company files (each, a "**Filing Time**") (1) in the case of the Company's first three fiscal quarters, a Quarterly Report on Form 10-Q that includes the Company's consolidated financial statements for that fiscal quarter or (2) in the case of the Company's last fiscal quarter, an Annual Report on Form 10-K that includes the Company's consolidated financial statements for the prior fiscal year, provided, that, in the event the Company has not issued a press release containing, or otherwise publicly announced, its earnings, revenues or other results of operations for that fiscal quarter at least 24 hours prior to the applicable Filing Time, the restricted period in this clause (c) shall continue through and including the time that is 24 hours after the applicable Filing Time. In the event of a conflict between the terms of this Agreement and the terms of any Placement Notice, the terms of such Placement Notice will control (unless such Placement Notice is declined, suspended or otherwise terminated in accordance with the terms of this Agreement).

3. Sale of Placement Shares by the Agent.

On the basis of the representations and warranties herein contained and subject to the terms and conditions herein set forth, upon the Agent's acceptance of the terms of a Placement Notice, and unless the sale of the Placement Shares described therein has been declined, suspended, or otherwise terminated in accordance with the terms of this Agreement, the Agent, for the period specified in the Placement Notice, will use its commercially reasonable efforts consistent with its customary trading and sales practices to sell such Placement Shares up to the amount specified in such Placement Notice, and otherwise in accordance with the terms of such Placement Notice. The Agent acting under a Placement Notice will provide written confirmation to the Company (which may be sent by email correspondence to the persons identified on Schedule 2), no later than the opening of the Trading Day immediately following the Trading

Day on which sales of Placement Shares have been made hereunder, setting forth the number of Placement Shares sold on such day, the compensation payable by the Company to the Agent pursuant to Section 2 with respect to such sales, and the Net Proceeds (as defined below) payable to the Company. The Agent may sell Placement Shares in ordinary brokers' transactions (whether or not solicited), to or through a market maker, directly on or through any national securities exchange or facility thereof, a trading facility of a national securities association, an alternative trading system or any other market venue where the securities may be traded, in the over-the-counter market, in privately negotiated transactions, in transactions that are deemed to be "at the market offerings" as defined in Rule 415 under the Securities Act or through a combination of any such methods of sale. During the term of this Agreement and notwithstanding anything to the contrary herein, the Agent agrees that in no event will it or any affiliate of the Agent engage in any market making, bidding, stabilization or other trading activity with regard to the Common Stock if such activity would be prohibited under Regulation M under the Exchange Act ("**Regulation M**") or other anti-manipulation rules under the Securities Act. For purposes of this Agreement, "**Trading Day**" means any day on which shares of the Common Stock may be purchased and sold on the New York Stock Exchange ("**NYSE**").

4. Suspension or Termination of Sales.

The Company or the Agent may, upon notice to the other party in writing (including by email correspondence to each of the individuals of the other party set forth on Schedule 2, as amended from time to time, if receipt of such correspondence is actually acknowledged by any of the individuals to whom the notice is sent, other than via auto-reply) or by telephone (confirmed immediately by verifiable facsimile transmission or email correspondence to each of the individuals of the other party set forth on Schedule 2, as amended in writing from time to time by the applicable party), suspend or terminate any sale of Placement Shares; *provided, however*, that such suspension or termination shall not affect or impair the other party's obligations with respect to any Placement Shares sold hereunder prior to the receipt of such notice. Each of the parties agrees that no such notice under this Section 4 shall be effective against the other unless it is made to one of the individuals named on Schedule 2, as amended in writing from time to time.

5. Representations and Warranties of the Company

The Company represents and warrants to the Agent that as of the date hereof, each Representation Date (as defined below), the time of delivery of each Placement Notice, the time of each sale of any Placement Shares pursuant to this Agreement and each Settlement Date:

(a) The Registration Statement is an "automatic shelf registration statement" as defined under Rule 405 under the Securities Act, and was filed not earlier than three years prior to the date hereof; the Registration Statement became effective on filing; and no stop order suspending the effectiveness of the Registration Statement or any part thereof has been issued and no proceeding for that purpose has been initiated or, to the Company's knowledge, threatened by the Commission, and no notice of objection of the Commission to the use of the Registration Statement pursuant to Rule 401(g)(2) under the Securities Act has been received by the Company.

(b) No order preventing or suspending the use of the Prospectus or any Issuer Free Writing Prospectus has been issued by the Commission.

(c) For the purposes of this Agreement, the “**Applicable Time**” means, with respect to any Placement Shares, the time of sale of such Placement Shares pursuant to this Agreement; the Prospectus, as of each Applicable Time, did not include any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; and each Issuer Free Writing Prospectus does not conflict with the information contained in the Registration Statement or the Prospectus, and each such Issuer Free Writing Prospectus, as supplemented by and taken together with the Prospectus, as of each Applicable Time, did not include any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided, however, that this representation and warranty shall not apply to statements or omissions made in an Issuer Free Writing Prospectus in reliance upon and in conformity with the Agent Information (as defined below).

(d) The documents incorporated by reference in the Prospectus, when they became effective or were filed with the Commission, as the case may be, conformed in all material respects to the requirements of the Securities Act or the Exchange Act, as applicable, and at such time none of such documents contained an untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary to make the statements therein not misleading; any further documents so filed and incorporated by reference in the Prospectus or any further amendment or supplement thereto, when such documents become effective or are filed by the Company with the Commission, as the case may be, will conform in all material respects to the requirements of the Securities Act or the Exchange Act, as applicable, and will not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading; provided, however, that this representation and warranty shall not apply to any statements or omissions made in reliance upon and in conformity with the Agent Information; and no such documents were filed by the Company with the Commission since the Commission’s close of business on the Business Day immediately prior to the date of this Agreement and prior to the execution of this Agreement.

(e) The Registration Statement conforms, and conformed as of the time of its effectiveness, and the Prospectus and any further amendments or supplements to the Registration Statement and the Prospectus will conform, in all material respects to the requirements of the Securities Act and do not and will not, as of (i) the applicable effective date as to each part of the Registration Statement and as of the applicable filing date as to the Prospectus and any amendment or supplement thereto and (ii) each Settlement Date, contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading; provided, however, that this representation and warranty shall not apply to any statements or omissions made in reliance upon and in conformity with the Agent Information.

(f) Neither the Company nor any of its subsidiaries has sustained since the date of the latest audited financial statements included or incorporated by reference in the Prospectus any loss or interference with its business from fire, explosion, flood or other calamity, whether or not covered by insurance, or from any labor dispute or court or governmental action, order or decree, otherwise than as set forth or contemplated in the Prospectus or, which, taken as a whole, would be reasonably expected to have a Material Adverse Effect (as defined below); and, since the respective dates as of which information is given in the Registration Statement and the Prospectus, there has not been any material change in the capital stock or long-term debt of the Company or any of its subsidiaries or any material adverse change, or any development involving a prospective material adverse change, in or affecting the general affairs, management, financial position, shareholders' equity or results of operations of the Company and its subsidiaries, taken as a whole, otherwise than as set forth or contemplated in the Prospectus.

(g) The Company and its subsidiaries have good and marketable title in fee simple or have valid rights to lease or otherwise use all real property, and good and marketable title to, or valid rights to lease or otherwise use, all personal property, in each case free and clear of all liens, encumbrances and defects except such as are described in the Prospectus or such as do not materially affect the value of such property and do not interfere with the use made of such property by the Company and its subsidiaries, in each case, except as would not reasonably be expected to have a Material Adverse Effect.

(h) The Company has been duly incorporated and is validly existing as a corporation in good standing under the laws of Florida, with corporate power and authority to own its properties and conduct its business as described in the Prospectus, and has been duly qualified as a foreign corporation for the transaction of business and is in good standing under the laws of each other jurisdiction in which it owns or leases properties or conducts any business so as to require such qualification, other than any failure to be so qualified and in good standing as a foreign corporation that would reasonably be expected to have a Material Adverse Effect; and each "significant subsidiary" (as such term is defined in Rule 1-02 of Regulation S-X promulgated by the Commission) of the Company has been duly organized and is validly existing as a corporation, limited liability company or other entity in good standing under the laws of its jurisdiction of organization and each has been duly qualified as a foreign entity for the transaction of business and is in good standing under the laws of each other jurisdiction in which it owns or leases properties, or conducts any business so as to require such qualification, other than any failure to be so qualified and in good standing as a foreign entity that would reasonably be expected to have a Material Adverse Effect.

(i) The Company has an authorized capitalization as set forth in the Prospectus and all of the issued shares of capital stock of the Company have been duly and validly authorized and issued and are fully paid and non-assessable and conform to the description contained in the Prospectus; and all of the issued shares of capital stock or other equity interests of each significant subsidiary of the Company have been duly and validly authorized and issued, are fully paid and non-assessable (except for directors' qualifying shares and except as otherwise set forth in the Prospectus) and, except as set forth in the Prospectus, are owned directly or indirectly by the Company, free and clear of all liens, encumbrances, equities or claims and there are no holders of the securities of the Company or any of its significant subsidiaries having rights to registration thereof that have not been fully exercised or waived (except as otherwise described in the Prospectus) or pre-emptive rights to purchase capital stock of the Company.

(j) The Placement Shares to be issued and sold by the Company have been duly authorized and, when issued and delivered against payment therefore in accordance with the terms of this Agreement, will be validly issued, fully paid and non-assessable, and conform to the description thereof contained in the Prospectus.

(k) The compliance by the Company with this Agreement and the consummation of the transactions herein contemplated will not (i) conflict with or result in a breach or violation of any of the terms or provisions of, or constitute a default under, any indenture, mortgage, deed of trust, loan agreement or other agreement or instrument to which the Company or any of its significant subsidiaries is a party or by which the Company or any of its significant subsidiaries is bound or to which any of the property or assets of the Company or any of its significant subsidiaries is subject, (ii) result in any violation of the provisions of the Articles of Incorporation or By-laws of the Company, or (iii) result in any violation of any statute or any order, rule or regulation of any court or governmental agency or body having jurisdiction over the Company or any of its significant subsidiaries, except in the case of clauses (i) and (iii) as would not reasonably be expected to have a Material Adverse Effect; and no consent, approval, authorization, order, registration or qualification of or with any such court or governmental agency or body is required for the consummation by the Company of the transactions contemplated by this Agreement, except such as have been obtained under the Securities Act and such consents, approvals, authorizations, orders, registrations or qualifications as may be required under state securities or Blue Sky laws in connection with the sale of the Placement Shares by the Agent.

(l) Neither the Company nor any of its significant subsidiaries is (a) in violation of its Articles of Incorporation, By-laws or similar organizational documents or (b) in default in the performance or observance of any material obligation, agreement, covenant or condition contained in any indenture, mortgage, deed of trust, loan agreement, lease or other agreement or instrument to which it is a party or by which it or any of its properties may be bound, which, in the case of this clause (b) would reasonably be expected to have a Material Adverse Effect.

(m) The statements set forth in the Prospectus under the caption "Description of Capital Stock," insofar as they purport to constitute a summary of the terms of the Placement Shares, and under the caption "Plan of Distribution," insofar as they purport to describe the provisions of the laws and documents referred to therein, are accurate, complete and fair.

(n) Other than as set forth in the Prospectus, there are no legal or governmental proceedings pending to which the Company or any of its subsidiaries is a party or of which any property of the Company or any of its subsidiaries is the subject which, if determined adversely to the Company or any of its subsidiaries, would individually or in the aggregate have a material adverse effect on the general affairs, management, shareholders' equity, current or future consolidated financial position or results of operations of the Company and its subsidiaries, taken as a whole (a "**Material Adverse Effect**"); and, to the best of the Company's knowledge, no such proceedings are threatened or, to the knowledge of the Company, contemplated by governmental authorities or by others.

(o) The Company is not and, after giving effect to the offering and sale of the Placement Shares and the application of proceeds thereof as described in the Prospectus, will not be an "investment company," as such term is defined in the Investment Company Act of 1940, as amended (the "**Investment Company Act**").

(p) (A) (i) At the time of filing the Registration Statement, (ii) at the time of the most recent amendment thereto for the purposes of complying with Section 10(a)(3) of the Securities Act (whether such amendment was by post-effective amendment, incorporated report filed pursuant to Section 13 or 15(d) of the Exchange Act or form of prospectus), (iii) at the time the Company or any person acting on its behalf (within the meaning, for this clause only, of Rule 163(c) under the Securities Act) made any offer relating to the Placement Shares in reliance on the exemption of Rule 163 under the Securities Act and (iv) as of the date hereof, the Company was a “well-known seasoned issuer” as defined in Rule 405 under the Securities Act; and (B) at the earliest time after the filing of the Registration Statement that the Company or another offering participant made a bona fide offer (within the meaning of Rule 164(h)(2) under the Securities Act) of the Placement Shares, the Company was not an “ineligible issuer” as defined in Rule 405 under the Securities Act.

(q) Deloitte & Touche LLP, who have certified certain financial statements of the Company and its subsidiaries, are independent public accountants as required by the Securities Act.

(r) The Company maintains a system of internal control over financial reporting (as such term is defined in Rule 13a-15(f) under the Exchange Act) that complies with the requirements of the Exchange Act and has been designed by the Company’s principal executive officer and principal financial officer, or under their supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. The Company’s internal control over financial reporting was effective as of the most recent evaluation by the Company’s management pursuant to Rule 13(a)-15(c), and, except as set forth in the Prospectus, as of the date of the Company’s management’s most recent evaluation pursuant to Rule 13(a)-15(d), there had been no changes in the Company’s internal control over financial reporting in the quarter to which such evaluation related that had materially affected, or were reasonably likely to materially affect, the Company’s internal control over financial reporting. The Company is not aware of any material weaknesses in its internal control over financial reporting.

(s) Since the date of the latest audited financial statements included or incorporated by reference in the Prospectus, there has been no change in the Company’s internal control over financial reporting that has materially affected, or is reasonably likely to materially affect, the Company’s internal control over financial reporting.

(t) The Company maintains disclosure controls and procedures (as such term is defined in Rule 13a-15(e) under the Exchange Act) that comply with the requirements of the Exchange Act; such disclosure controls and procedures have been designed to ensure that material information relating to the Company and its subsidiaries is made known to the Company’s principal executive officer and principal financial officer by others within those entities; and such disclosure controls and procedures were effective as the most recent evaluation by the Company’s management pursuant to Rule 13a-15(b).

(u) Since the date of the latest audited financial statements included or incorporated by reference in the Prospectus, there has been no change in the Company's disclosure controls and procedures that has materially affected, or is reasonably likely to materially affect, the Company's disclosure controls and procedures.

(v) This Agreement has been duly authorized, executed and delivered by the Company.

(w) Neither the Company nor any of its subsidiaries nor, to the knowledge of the Company, any director, director nominee, officer, agent, employee, affiliate or other person acting on behalf of the Company or any of its subsidiaries, has taken any action, directly or indirectly, that would result in a violation by such persons of (i) the Foreign Corrupt Practices Act of 1977, as amended, and the rules and regulations thereunder (the "**FCPA**"), including, without limitation, making use of the mails or any means or instrumentality of interstate commerce corruptly in furtherance of an offer, payment, promise to pay or authorization of the payment of any money, or other property, gift, promise to give, or authorization of the giving of anything of value to any "foreign official" (as such term is defined in the FCPA) or any foreign political party or official thereof or any candidate for foreign political office, in contravention of the FCPA, or (ii) the Bribery Act 2010 of the United Kingdom; and the Company, its subsidiaries and, to the knowledge of the Company, its affiliates have conducted their businesses in compliance with the FCPA and have instituted and maintain policies and procedures designed to ensure, and which are reasonably expected to continue to ensure, continued compliance therewith.

(x) The operations of the Company and its subsidiaries are and have been conducted at all times in compliance with the requirements of applicable anti-money laundering laws, including, but not limited to, the Bank Secrecy Act of 1970, as amended by the USA PATRIOT Act of 2001, and the rules and regulations promulgated thereunder, and the anti-money laundering laws of the various jurisdictions in which the Company and its subsidiaries conduct business (collectively, the "**Money Laundering Laws**") and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any of its subsidiaries with respect to the Money Laundering Laws is pending or, to the knowledge of the Company, threatened.

(y) None of the Company, any of its subsidiaries or, to the knowledge of the Company, any director, officer, agent, employee or affiliate of the Company or any of its subsidiaries is currently the subject or the target of any sanctions administered or enforced by the U.S. Government, including, without limitation, the Office of Foreign Assets Control of the U.S. Department of the Treasury ("**OFAC**"), the United Nations Security Council, the European Union, Her Majesty's Treasury, or other relevant sanctions authority (collectively, "**Sanctions**"), and the Company will not directly or indirectly use the proceeds of the offering of the Placement Shares hereunder, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other person or entity (i) to fund or facilitate any activities of or business with any person, or in any country or territory, that, at the time of such funding, is the subject or the target of Sanctions or (ii) in any other manner that will result in a violation by any person (including any person participating in the transaction, whether as agent, advisor, investor or otherwise) of Sanctions.

(z) Except as would not reasonably be expected to have a Material Adverse Effect or except as described in the Prospectus, each of the Company and its subsidiaries owns or possesses, or can acquire on reasonable terms, all material patents, patent applications, trademarks, service marks, trade names, licenses, copyrights and proprietary or other confidential information currently employed by it in connection with its business and neither the Company nor any such subsidiary has received written notice of or conflict with asserted rights of any third party with respect to any of the foregoing.

(aa) Except as described in the Prospectus, neither the Company nor any of its subsidiaries is in violation of any federal or state law or regulation relating to occupational safety and health or to the storage, handling or transportation of hazardous or toxic material and the Company and its subsidiaries have received all permits, licenses or other approvals required of them under applicable federal and state occupational safety and health and environmental laws and regulations to conduct their respective businesses, and the Company and each such subsidiary is in compliance with all terms and conditions of any such permit, license or approval, except any such violation of law or regulation, failure to receive required permits, licenses or other approvals or failure to comply with the terms and conditions of such permits, licenses or approvals that would not reasonably be expected to have a Material Adverse Effect.

(bb) Except as described in the Prospectus, there is no claim or environmental remediation project pending or, to the knowledge of the Company, threatened under any Environmental Law (as defined below) against the Company or its subsidiaries that would reasonably be expected to have a Material Adverse Effect. The term “**Environmental Law**” means any federal, state, local or foreign law, statute, regulation, binding ordinance, order, judgment, decree or rule (including rule of common law) now in effect concerning or governing pollution, or actual or alleged exposure to, hazardous or toxic materials, substances or wastes, including but not limited to, asbestos or asbestos-containing materials.

(cc) Except as described in the Prospectus, no material labor dispute with the employees of the Company or any of its subsidiaries exists, or, to the knowledge of the Company, is imminent.

(dd) Except as described in the Prospectus, the Company and its subsidiaries possess all certificates, authorizations and permits issued by the appropriate federal, state or foreign regulatory authorities necessary to conduct their respective businesses, and neither the Company nor any of its subsidiaries has received any notice of proceedings relating to the revocation or modification of any such certificate, authorization or permit which, singly or in the aggregate, if the subject of an unfavorable decision, ruling or finding would reasonably be expected to have a Material Adverse Effect.

(ee) Except as described in the Prospectus, the Company and each of its subsidiaries have filed all material federal, state, local and foreign tax returns required to be filed through the date of this Agreement or have requested extensions thereof and have paid all taxes required to be paid (except for taxes currently being contested in good faith by appropriate proceedings and for which adequate reserves have been established in accordance with U.S. GAAP in the financial statements of the Company), and there is no tax deficiency that has been, or would reasonably be expected to be, asserted against the Company or any of its subsidiaries or any of their properties or assets which would reasonably be expected to have a Material Adverse Effect.

(ff) Nothing has come to the attention of the Company that has caused the Company to believe that the statistical and market-related data included in each of the Registration Statement and the Prospectus is not based on or derived from sources that are reliable and accurate in all material respects.

(gg) Except in each case for any such matter as would not reasonably be expected to have a Material Adverse Effect, (i) each employee benefit plan (“**Plan**”), within the meaning of Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended (“**ERISA**”) (other than a “multiemployer plan” as defined in Section 4001(a)(3) of ERISA (a “**Multiemployer Plan**”)), for which the Company or its subsidiaries would have any liability has been maintained in compliance with its terms and the requirements of any applicable statutes, orders, rules and regulations, including but not limited to, ERISA and the Internal Revenue Code of 1986, as amended (the “**Code**”); (ii) no prohibited transaction, within the meaning of Section 406 of ERISA or Section 4975 of the Code, has occurred with respect to any Plan excluding transactions effected pursuant to a statutory or administrative exemption; (iii) for each Plan that is subject to the funding rules of Section 412 of the Code or Section 302 of ERISA, the minimum funding standard of Section 412 of the Code or Section 302 of ERISA, as applicable, has been satisfied (without taking into account any waiver thereof or extension of any amortization period) (iv) no “reportable event” (within the meaning of Section 4043(c) of ERISA) has occurred or is reasonably expected to occur with respect to a Plan; (v) neither the Company nor any member of its “**Controlled Group**” (defined as any organization which is a member of a controlled group of corporations within the meaning of Section 414 of the Code) has incurred, nor reasonably expects to incur, any liability under Title IV of ERISA (other than contributions to the Plan or premiums to the Pension Benefit Guaranty Corporation (the “**PBGC**”), in the ordinary course and without default) in respect of a Plan (including a Multiemployer Plan); and (vi) there is no pending audit or, to the Company’s knowledge, investigation by the Internal Revenue Service, the U.S. Department of Labor, the PBGC or any other governmental agency or any foreign regulatory agency with respect to any Plan.

(hh) Except as described in the Prospectus or as would not have a Material Adverse Effect, the Company and its subsidiaries collectively carry insurance (including self-insurance, if any) in such amounts and covering such risks as in the Company’s reasonable determination is adequate for the conduct of its business and the value of its properties.

(ii) The interactive data in eXtensible Business Reporting Language included in the Prospectus fairly presents the information called for in all material respects and has been prepared in accordance with the Commission’s rules and guidelines applicable thereto.

(jj) The Common Stock is an “actively-traded security” exempted from the requirements of Rule 101 of Regulation M by subsection (c)(1) of such rule.

(kk) The Company and its subsidiaries' information technology assets and equipment, computers, systems, networks, hardware, software, websites, applications, and databases (collectively, "IT Systems") are adequate for, and operate and perform in all material respects as required in connection with the operation of the business of the Company and its subsidiaries as currently conducted, and, to the Company's knowledge, are free and clear of all material bugs, errors, defects, Trojan horses, time bombs, malware and other corruptants. The Company and its subsidiaries have implemented and maintained commercially reasonable controls, policies, procedures, and safeguards to maintain and protect their material confidential information and the integrity, continuous operation, redundancy and security of all IT Systems and data, including "Personal Data," used in connection with their businesses (to the extent such Personal Data is required to be kept in confidence under applicable law). "Personal Data" means (i) a natural person's name, street address, telephone number, e-mail address, photograph, social security number or tax identification number, driver's license number, passport number, credit card number, bank information, or customer or account number; (ii) any information which would qualify as "personally identifying information" under the Federal Trade Commission Act, as amended; and (iii) any information which would qualify as "protected health information" under the Health Insurance Portability and Accountability Act of 1996, as amended by the Health Information Technology for Economic and Clinical Health Act. To the Company's knowledge there have been no material breaches, violations, outages or unauthorized uses of the IT Systems or Personal Data or accesses to the same. The Company and its subsidiaries are presently in compliance in all material respects with all applicable laws or statutes and all applicable judgments, orders, rules and regulations of any court or arbitrator or governmental or regulatory authority, internal policies and contractual obligations relating to the privacy and security of IT Systems and Personal Data and to the protection of such IT Systems and Personal Data from unauthorized use, access, misappropriation or modification.

Any certificate signed by any officer of the Company delivered to the Agent or to counsel for the Agent pursuant to or in connection with this Agreement shall be deemed a representation and warranty by the Company to the Agent as to the matters covered thereby as of the date or dates indicated in such certificate.

6. Sale and Delivery; Settlement.

(a) *Sale of Placement Shares.* On the basis of the representations and warranties herein contained and subject to the terms and conditions herein set forth, upon the Agent's acceptance of the terms of a Placement Notice, and unless the sale of the Placement Shares described therein has been declined, suspended, or otherwise terminated in accordance with the terms of this Agreement, the Agent, for the period specified in the Placement Notice, will use its commercially reasonable efforts consistent with its normal trading and sales practices to sell such Placement Shares up to the amount specified, and otherwise in accordance with the terms of such Placement Notice. The Company acknowledges and agrees that (i) there can be no assurance that the Agent will be successful in selling Placement Shares, (ii) the Agent will not incur any liability or obligation to the Company or any other person or entity if it does not sell Placement Shares for any reason other than a failure by the Agent to use its commercially reasonable efforts consistent with its normal trading and sales practices to sell such Placement Shares as required under this Agreement and (iii) the Agent shall not be under any obligation to purchase Placement Shares on a principal basis pursuant to this Agreement, except as otherwise agreed by the Agent in a Terms Agreement.

(b) *Settlement of Placement Shares.* Unless otherwise specified in the applicable Placement Notice, settlement for sales of Placement Shares will occur on the second (2nd) Trading Day (or such earlier day as is then industry practice for regular-way trading) following the date on which such sales are made (each, a “**Settlement Date**”). The amount of proceeds to be delivered to the Company on a Settlement Date against receipt of the Placement Shares sold (the “**Net Proceeds**”) will be equal to the aggregate sales price received by the Agent at which such Placement Shares were sold, after deduction of (i) the Agent’s commission, discount or other compensation for such sale payable by the Company pursuant to Section 2 hereof and (ii) any transaction fees imposed by any governmental or self-regulatory organization in respect of such sales.

(c) *Delivery of Placement Shares.* On or before each Settlement Date, the Company will, or will cause its transfer agent to, electronically transfer the Placement Shares being sold, which will be in book-entry form, by crediting, or causing to be credited, the Agent’s or its designee’s account at the Depository Trust Company through its Deposit and Withdrawal at Custodian System or by such other means of delivery as may be mutually agreed upon by the parties hereto which Placement Shares in all cases shall be freely tradable, transferable, registered shares in good deliverable form. On each Settlement Date, the Agent acting under the applicable Placement Notice will deliver the related Net Proceeds in same-day funds to an account designated by the Company on, or prior to, the Settlement Date. The Company agrees that if the Company, or its transfer agent (if applicable), defaults in its obligation to deliver Placement Shares on a Settlement Date, the Company will, in addition to, and in no way limiting, the rights and obligations set forth in Section 9(a) (Indemnification and Contribution), (i) hold the Agent harmless against any loss, claim, damage, or expense (including reasonable legal fees and expenses), as incurred, arising out of or in connection with such default by the Company and (ii) pay to the Agent any commission, discount, or other compensation to which it would otherwise have been entitled absent such default.

(d) *Limitations on Offering Size.* Under no circumstances shall the Company cause or request the offer or sale of any Placement Shares if, after giving effect to the sale of such Placement Shares, the number of Placement Shares sold pursuant to this Agreement or any Terms Agreement would exceed the lesser of (A) together with all sales of Placement Shares under this Agreement and any Terms Agreement, the Maximum Amount, (B) the dollar amount of securities available for offer and sale under the currently effective Registration Statement and (C) the number of shares of Common Stock authorized by the Company’s board of directors to be issued and sold from time to time under this Agreement (if different than the Maximum Amount, the Company will notify the Agent in writing of the number of shares of Common Stock so authorized). Under no circumstances shall the Company cause or request the offer or sale of any Placement Shares at a price lower than the minimum price authorized from time to time by the Company’s board of directors, duly authorized committee thereof or a duly authorized executive committee, and notified to the Agent in writing.

(e) *No Obligation to Purchase Placement Shares as Principal.* The Agent shall not have any obligation to purchase Placement Shares as principal, whether from the Company or otherwise, unless the Company and the Agent agree as set forth in a Terms Agreement. The Agent's commitment to purchase Placement Shares from the Company as principal shall be deemed to have been made on the basis of the accuracy of the representations and warranties of the Company and performance by the Company of its covenants and other obligations herein contained, and shall be subject to the applicable terms and conditions herein set forth. With respect to a Terms Agreement, the Agent shall specify the requirements, if any, for the officers' certificate, opinions and letters of counsel and accountants' letter pursuant to Section 7(l), (m) and (n), respectively, hereof in respect of such Terms Agreement. In the event of a conflict between the terms of this Agreement and a Terms Agreement, the terms of such Terms Agreement shall control. For the avoidance of doubt, nothing contained in this Section 6(e) shall limit or modify the Agent's obligations under Section 6(a).

7. Covenants of the Company.

The Company covenants and agrees with the Agent as follows:

(a) *Filings, Amendments and Notices.* To prepare a supplement to the Prospectus in a form approved by the Agent, acting reasonably, and to file such supplement pursuant to Rule 424(b) not later than the Commission's close of business on the date of the execution and delivery of this Agreement. During any period when the delivery of a prospectus (or in lieu thereof, the notice referred to in Rule 173(a) under the Securities Act) is required in connection with the offering or sale of the Placement Shares (the "**Prospectus Delivery Period**"), to make no amendment or any supplement to the Registration Statement or the Prospectus (other than a prospectus supplement relating solely to an offering of securities other than the Placement Shares) prior to any Settlement Date, which amendment or supplement shall be disapproved by the Agent, acting reasonably, promptly after reasonable notice thereof; provided, that ordinary course filings of the Company under the Exchange Act shall not require provision to the Agent prior to filing, and to advise the Agent, promptly after it receives notice thereof, of the time when any amendment to the Registration Statement has been filed or becomes effective or any amendment or supplement to the Prospectus has been filed; to file promptly all other material required to be filed by the Company with the Commission pursuant to Rule 433(d) under the Securities Act; to file promptly all reports and any definitive proxy or information statements required to be filed by the Company with the Commission pursuant to Section 13(a), 13(c), 14 or 15(d) of the Exchange Act during the Prospectus Delivery Period; during the Prospectus Delivery Period, to advise the Agent, promptly after it receives notice thereof, of the issuance by the Commission of any stop order or of any order preventing or suspending the use of the Prospectus, of any notice of objection of the Commission to the use of the Registration Statement pursuant to Rule 401(g)(2) under the Securities Act, of the suspension of the qualification of the Placement Shares for offering or sale in any jurisdiction, of the initiation or threatening of any proceeding for any such purpose, or of any request by the Commission for the amending or supplementing of the Registration Statement or the Prospectus or for additional information; and, in the event of the issuance of any stop order or of any order preventing or suspending the use of the Prospectus or suspending any such qualification, subject to the Company's right to terminate this Agreement pursuant to Section 11, to promptly use its reasonable best efforts to obtain the withdrawal of such order; and in the event of any

such issuance of a notice of objection, promptly to take such reasonable steps as may be necessary to permit offers and sales of the Placement Shares by the Agent, which may include, without limitation, amending the Registration Statement or filing a new registration statement, at the Company's expense (references herein to the Registration Statement shall include any such amendment or new registration statement).

(b) *Delivery of Registration Statement and Subsequent Changes.* During the Prospectus Delivery Period, the Company will make available to the Agent, as soon as practicable after the execution of this Agreement, and thereafter from time to time furnish to the Agent, copies of the Prospectus as then amended or supplemented in such quantities and at such locations as the Agent may reasonably request for the purposes contemplated by the Securities Act. During the Prospectus Delivery Period, if (i) any event shall have occurred as a result of which the Prospectus as then amended or supplemented would include an untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made when such Prospectus (or in lieu thereof, the notice referred to in Rule 173(a) under the Securities Act) is delivered, not misleading, or, (ii) for any other reason it shall be necessary during such same period to amend or supplement the Prospectus, to file any post-effective amendment to the Registration Statement or to file under the Exchange Act any document incorporated by reference in the Prospectus in order to comply with the Securities Act or the Exchange Act, the Company will promptly notify the Agent to suspend the offering of Placement Shares during such period, and the Company will promptly amend or supplement the Registration Statement or Prospectus (at the expense of the Company) so as to correct such statement or omission or effect such compliance and to prepare and furnish without charge to the Agent and to any dealer in securities as many written and electronic copies as the Agent may from time to time reasonably request of an amended Prospectus or a supplement to the Prospectus which will correct such statement or omission or effect such compliance. Notwithstanding the foregoing, the Company will not be required to furnish any document (other than the Prospectus) if such document is available on EDGAR.

(c) *Blue Sky.* The Company will promptly furnish such information or to take such action as the Agent may reasonably request and otherwise to qualify the Placement Shares for offer and sale under the securities or "blue sky" laws of such jurisdictions (domestic and foreign) as the Agent shall reasonably request, and to comply with such laws so as to permit the continuance of sales and dealings therein in such jurisdictions for as long as may be necessary to complete the distribution of the Placement Shares; provided, however, that the Company shall not be required to qualify as a foreign corporation or to file a consent to service of process in any jurisdiction in which it is not so qualified or to subject itself to taxation in respect of doing business in any jurisdiction in which it is not otherwise so subject; and to promptly advise the Agent of the receipt by the Company of any notification with respect to the suspension of the qualification of the Placement Shares for offer or sale in any jurisdiction or the initiation or threatening of any proceeding for such purpose.

(d) *Earnings Statement.* The Company will make generally available to its security holders as soon as practicable, but in any event not later than 16 months after the effective date of the Registration Statement (as defined in Rule 158(c) under the Securities Act), an earnings statement of the Company and its subsidiaries (which need not be audited) complying with Section 11(a) of the Securities Act (including, at the option of the Company, under Rule 158). For the avoidance of doubt, the Company's compliance with the reporting requirements of the Exchange Act shall be deemed to satisfy the requirements of this Section 7(d).

(e) *Expenses.* Whether or not the transactions contemplated in this Agreement are consummated or this Agreement is terminated, the Company agrees to pay or cause to be paid all expenses incident to the performance of its obligations under this Agreement, including: (i) the fees, disbursements and expenses of the Company's counsel, accountants and other advisors in connection with the registration and delivery of the Placement Shares under the Securities Act and all other fees or expenses in connection with the preparation and filing of the Registration Statement, the Prospectus, and amendments, supplements and exhibits to any of the foregoing, including all printing costs associated therewith, and the mailing and delivering of copies thereof to the Agent and dealers, in the quantities hereinabove specified; (ii) all costs and expenses related to the transfer and delivery of the Placement Shares to the Agent, including any transfer or other taxes payable thereon; (iii) the cost of printing and producing any securities or blue sky memorandum in connection with the offer and sale of the Placement Shares under the securities laws of the jurisdictions in which the Placement Shares may be offered or sold and all expenses in connection with the qualification of the Placement Shares for offer and sale under such securities laws as provided in Section 7(c) hereof, including filing fees and the reasonable fees and disbursements of counsel for the Agent in connection with such qualification and in connection with the securities or blue sky memorandum; (iv) all filing fees and the reasonable fees and disbursements of counsel to the Agent in connection with the review and qualification of the offering of the Placement Shares by FINRA; (v) all costs and expenses incident to listing the Placement Shares on the NYSE; (vi) the costs and charges of any transfer agent, registrar or depository; (vii) the document production charges and expenses associated with preparing, printing and delivering to the Agent this Agreement; (viii) all expenses in connection with any offer and sale of the Placement Shares outside of the United States, including filing fees and the reasonable fees and disbursements of counsel for the Agent in connection with such offers and sales outside of the United States; and (ix) all other costs and expenses incident to the performance of the obligations of the Company hereunder for which provision is not otherwise made in this Section 7(e); *provided, however,* that the liability of the Company for fees and disbursements of counsel for the Agent pursuant to clauses (iii), (iv) and (viii) shall not exceed \$10,000 in the aggregate; *provided, further, however,* that the Company shall have no obligation in respect of such reimbursement to the Agent following any termination date, if the Agent shall have terminated this Agreement pursuant to clause (ii) of Section 11(a). Such expenses shall be due and payable by the Company within five (5) Business Days following the date on which the Agent provides documentation of such fees.

(f) *Filing Fees.* The Company agrees to pay the required Commission filing fees relating to the Placement Shares within the time required by Rule 456(b)(1) under the Securities Act without regard to the proviso therein and otherwise in accordance with Rules 456(b) and 457(r) under the Securities Act;

(g) *Use of Proceeds.* The Company will use the Net Proceeds as described in the Prospectus in the section entitled “Use of Proceeds.”

(h) *Notice of Other Sales.* During the pendency of any Placement Notice given hereunder, the Company shall provide the Agent with one day’s prior written notice, or, in the event that the average daily trading volume (as defined under Regulation M) of the Common Stock falls below \$100,000, five days’ written notice, before it offers to sell, contracts to sell, sells, grants any option to sell or otherwise disposes of any shares of Common Stock (other than Placement Shares offered pursuant to the provisions of this Agreement) or securities convertible into or exchangeable for Common Stock, warrants or any rights to purchase or acquire Common Stock; *provided* that such notice shall not be required in connection with the (i) issuance, grant or sale of Common Stock, options to purchase shares of Common Stock or Common Stock issuable upon the exercise of options or other equity awards pursuant to any employee or director stock option or benefits plan or stock purchase plan, (ii) the issuance or sale of shares of Common Stock or pursuant to any dividend reinvestment plan that the Company may adopt from time to time, or (iii) the issuance of shares of Common Stock upon the exercise of any outstanding warrants, options or other rights in effect or outstanding as of the date of such Placement Notice as disclosed in filings by the Company available on EDGAR on such date.

(i) *Change of Circumstances.* The Company will, at any time during the pendency of a Placement Notice, advise the Agent promptly after it shall have received notice or obtained knowledge thereof, of any information or fact that would alter or affect in any material respect any certificate, letter or other document required to be provided to the Agent pursuant to this Agreement.

(j) *Due Diligence Cooperation.* At each Representation Date, and at such other times as may be reasonably requested by the Agent in connection with an offering of Placement Shares, the Company will cooperate with any reasonable due diligence review conducted by the Agent or its representatives or agents in connection with the transactions contemplated hereby, including, without limitation, providing information and making available documents and senior corporate officers, during regular business hours and at the Company’s principal offices, as the Agent may reasonably request.

(k) *Required Filings Relating to Placement of Placement Shares.* The Company will disclose in its quarterly reports on Form 10-Q, in its annual report on Form 10-K and/or, in the discretion of the Company, in a current report on Form 8-K the amount of Placement Shares, if any, sold through the Agent during the applicable period, together with any other information that the Company reasonably believes is required to comply with the Securities Act and the Exchange Act.

(l) *Representation Dates; Certificate.* Each time the Company: (i) files the Prospectus relating to the Placement Shares or amends or supplements (other than a prospectus supplement relating solely to an offering of securities other than the Placement Shares) the Registration Statement or the Prospectus relating to the Placement Shares by means of a post-effective amendment, sticker, or supplement but not by means of incorporation of documents by reference into the Registration Statement or the Prospectus relating to the Placement Shares; (ii) files an annual report on Form 10-K under the Exchange Act (including any Form 10-K/A containing amended financial information or a material amendment to the previously filed Form 10-K); (iii) files a quarterly report on Form 10-Q under the Exchange Act or (iv) files a current report on Form 8-K containing amended financial information (other than information “furnished” pursuant to Items 2.02, 7.01 or 9.01 of Form 8-K under the Exchange Act) (each date of filing of one or more of the documents referred to in clauses (i) through (iv) shall be a “**Representation Date**”); the Company shall furnish the Agent with a certificate, in the form attached hereto as Exhibit B within three (3) Trading Days following any Representation Date, unless waived. The requirement to provide a certificate under this Section 7(l) shall be waived for any Representation Date occurring at a time at which no Placement Notice is pending or a suspension is in effect in accordance with Section 4, which waiver shall continue until the earlier to occur of the date the Company delivers a Placement Notice hereunder (which for such calendar quarter shall be considered a Representation Date) and the next occurring Representation Date. Notwithstanding the foregoing, if the Company subsequently decides to sell Placement Shares following a Representation Date when the Company relied on such waiver and did not provide the Agent with a certificate under this Section 7(l), then at such time as the Company delivers the Placement Notice, and in any event prior to the Agent’s sale of any Placement Shares, the Company shall provide the Agent with a certificate, in the form attached hereto as Exhibit B, dated the date of the Placement Notice.

(m) *Legal Opinion.* On the date of this Agreement, within three (3) Trading Days after each Representation Date with respect to which the Company is obligated to deliver a certificate in the form attached hereto as Exhibit B for which no waiver is applicable, and the date of the Placement Notice if such Placement Notice is delivered during a period for which the waiver described in Section 7(l) was in effect, unless the Agent agrees otherwise, the Company shall cause to be furnished to the Agent a written opinion and customary negative assurance letter of Greenberg Traurig P.A., counsel for the Company (“**Company Counsel**”), dated the date such opinion letter and negative assurance letter are required to be delivered, in form and substance reasonably satisfactory to the Agent, modified, as necessary, to relate to the Registration Statement and the Prospectus as then amended or supplemented. In lieu of the opinion and negative assurance letter of Company Counsel required to be furnished to the Agent pursuant to this Section 7(m) on subsequent Representation Dates, Company Counsel may furnish the Agent with a letter (a “**Reliance Letter**”) to the effect that the Agent may rely on a prior opinion delivered under this Section 7(m) to the same extent as if it were dated the date of such Reliance Letter (except that statements in such prior opinion and negative assurance letter shall be deemed to relate to the Registration Statement and the Prospectus as then amended or supplemented).

(n) *Comfort Letters*. On the date of this Agreement, the Company shall cause its independent accountants (and/or any other independent accountants whose report is included in the Registration Statement or the Prospectus), to furnish the Agent with a letter (the “**Initial Comfort Letter**”) in form and substance reasonably satisfactory to the Agent (i) confirming that they are an independent registered public accounting firm within the meaning of the Securities Act, the Exchange Act, and the PCAOB, and (ii) stating, as of such date, the conclusions and findings of such firm with respect to the financial information and other matters ordinarily covered by accountants’ “comfort letters” to underwriters in connection with registered public offerings. Within three (3) Trading Days after each Representation Date with respect to which the Company is obligated to deliver a certificate in the form attached hereto as Exhibit B for which no waiver is applicable, the Company shall cause such independent accountants to provide a supplemental comfort letter (a “**Supplemental Comfort Letter**”) to the Agent which shall state that such auditors have followed such procedures as they deemed necessary to determine that no changes or modifications to the Initial Comfort Letter are necessary except as set forth in such Supplemental Comfort Letter, together with a customary “circle up” of the relevant sections of any Form 10-Q, Form 10-K or other documents filed by the Company with the Commission since the Initial Comfort Letter and not covered by a prior Supplemental Comfort Letter and incorporated or deemed to be incorporated by reference in the Registration Statement; *provided, however*, that such circle up will not be required for any Form 10-Q not otherwise covered if the Company has filed a Form 10-K subsequent to the filing of such Form 10-Q.

(o) *Market Activities*. The Company will not, directly or indirectly, (i) take any action designed to cause or result in, or that constitutes or might reasonably be expected to constitute, the stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of the Placement Shares or (ii) sell, bid for, or purchase the Placement Shares to be issued and sold pursuant to this Agreement, or pay anyone any compensation for soliciting purchases of the Placement Shares to be issued and sold pursuant to this Agreement other than the Agent; *provided, however*, the Company may bid for and purchase Common Stock in accordance with Rule 10b-18 under the Exchange Act to the extent permissible under Regulation M.

(p) *Filings with the NYSE*. The Company will timely file with the NYSE (and/or the Company’s then principal trading market for its Common Stock) all material documents and notices required by the NYSE (or such other principal trading market) of companies that have or will issue securities that are traded on the NYSE (or such other principal trading market).

(q) *Securities Act and Exchange Act*. The Company will use its commercially reasonable efforts to comply with all requirements imposed upon it by the Securities Act and the Exchange Act as from time to time in force, so far as necessary to permit the continuance of sales of, or dealings in, the Placement Shares as contemplated by the provisions hereof and the Prospectus.

(r) *No Offer to Sell*. The Company represents and agrees that it has not made and, without the prior consent of the Agent, will not make any offer relating to the Placement Shares that would constitute a “free writing prospectus” as defined in Rule 405 under the Securities Act, and the Company has complied and will comply with the requirements of Rule 433 applicable to any Issuer Free Writing Prospectus, including timely filing with the Commission or retention where required and legending.

(s) *No Other Prospectuses*. The Company will not, at any time at or after the execution of this Agreement, offer or sell any Placement Shares by means of any “prospectus” (within the meaning of the Securities Act) or use any “prospectus” (within the meaning of the Securities Act) in connection with the offer or sale of the Placement Shares, except in each case other than the Prospectus.

(t) *Sarbanes-Oxley Act*. The Company will maintain and keep accurate books and records reflecting its assets and maintain internal accounting controls in a manner designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles and including those policies and procedures that (i) pertain to the maintenance of records that in reasonable detail accurately and fairly reflect the transactions and dispositions of the assets of the Company, (ii) provide reasonable assurance that transactions are recorded as necessary to permit the preparation of the Company’s consolidated financial statements in accordance with generally accepted accounting principles, (iii) receipts and expenditures of the Company are being made only in accordance with management’s and the Company’s directors’ authorization, and (iv) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of the Company’s assets that could have a material effect on its financial statements. The Company will maintain such controls and other procedures, including, without limitation, those required by Sections 302 and 906 of the Sarbanes-Oxley Act, and the applicable regulations thereunder that are designed to ensure that information required to be disclosed by the Company in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the Commission’s rules and forms, including, without limitation, controls and procedures designed to ensure that information required to be disclosed by the Company in the reports that it files or submits under the Exchange Act is accumulated and communicated to the Company’s management, including its principal executive officer and principal financial officer, or persons performing similar functions, as appropriate to allow timely decisions regarding required disclosure and to ensure that material information relating to the Company is made known to them, particularly during the period in which such periodic reports are being prepared.

(u) *Transfer Agent*. The Company shall maintain, at its expense, a registrar and transfer agent for the Common Stock.

(v) *Listing*. The Company will use its best efforts to cause the Placement Shares to be listed on the NYSE and any other principal trading market for the Common Stock.

(w) *Available Shares*. The Company will ensure that there are at all times sufficient shares of Common Stock to provide for the issuance, free of any preemptive rights, out its authorized but unissued shares of Common Stock, of the Maximum Amount.

8. Conditions to the Agent's Obligations.

The obligations of the Agent hereunder with respect to a Placement Notice will be subject to the continuing accuracy and completeness of the representations and warranties made by the Company herein, to the due performance by the Company of its obligations hereunder and to the continuing satisfaction (or waiver by the Agent in its sole discretion) of the following additional conditions:

(a) *Registration Statement Effective, Filings Made*. The Registration Statement shall have become effective and shall be available for the sale of all Placement Shares contemplated to be issued by any Placement Notice; all filings with the Commission required by Rule 424(b) to have been filed prior to the issuance of any Placement Notice hereunder shall have been made within the applicable time period prescribed for such filing by the Securities Act and all material required to be filed by the Company pursuant to Rule 433(d) under the Securities Act shall have been filed with the Commission within the applicable time period prescribed for such filings by Rule 433.

(b) *No Material Notices or Events*. No stop order suspending the effectiveness of the Registration Statement or any part thereof shall have been issued and no proceeding for that purpose shall have been initiated or, threatened by the Commission and no notice of objection of the Commission to the use of the Registration Statement or any post-effective amendment thereto pursuant to Rule 401(g)(2) under the Securities Act shall have been received; no stop order suspending or preventing the use of the Base Prospectus, the Prospectus Supplement or any Issuer Free Writing Prospectus shall have been initiated or, threatened by the Commission; all requests for additional information on the part of the Commission or any other federal or state governmental authority shall have been complied with to the Agent's reasonable satisfaction; there shall have been no receipt by the Company of any notification with respect to the suspension of the qualification or exemption from qualification of any of the Placement Shares for sale in any jurisdiction or the initiation or threatening of any proceeding for such purpose; and there shall have been no occurrence of any event that makes any statement of material fact made in the Registration Statement or the Prospectus or any document incorporated or deemed to be incorporated therein by reference untrue or that requires the making of any changes in the Registration Statement, the Prospectus or any document incorporated or deemed to be incorporated therein by reference so that, in the case of the Registration Statement, it will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading and that, in the case of the Prospectus, it will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(c) *Material Changes*. Neither the Company nor any of its subsidiaries shall have sustained since the date of the latest audited financial statements included or incorporated by reference in the Prospectus any change, or any development involving a prospective change, which, taken as a whole, would be reasonably expected to have a Material Adverse Effect.

(d) *Opinion of Company Counsel*. The Agent shall have received the opinion and negative assurance letter of Company Counsel required to be delivered pursuant to Section 7(m) on or before the date on which such delivery of such opinion and letter are required pursuant to Section 7(m).

(e) *Comfort Letters*. The Agent shall have received the Initial Comfort Letter and any update letters required to be delivered pursuant to Section 7(n) on or before the date on which such delivery of such letters is required pursuant to Section 7(n).

(f) *Representation Certificate*. The Agent shall have received the certificate required to be delivered pursuant to Section 7(l) on or before the date on which delivery of such certificate is required pursuant to Section 7(l).

(g) *Opinion of Counsel for Agent*. The Agent shall have received from Morrison & Foerster LLP, counsel for the Agent, such opinion or opinions, with respect to such matters as the Agent may reasonably require, and a customary negative assurance letter on or before the date hereof.

(h) *No Suspension*. Trading in the Common Stock shall not have been suspended on the NYSE.

(i) *Approval for Listing*. The Placement Shares shall either have been (i) approved for listing on the NYSE, subject only to notice of issuance, or (ii) the Company shall have filed an application for listing of the Placement Shares on the NYSE at, or prior to, the issuance of any Placement Notice.

(j) *Termination of Agreement*. If any condition specified in this Section 8, shall not have been fulfilled when and as required to be fulfilled this Agreement may be terminated by the Agent by notice to the Company, and such termination shall be without liability of any party to any other party except as provided in Section 7(e). Notice of such cancellation shall be given in writing and addressed to each of the individuals of the Company set forth on Schedule 2.

(k) *No Termination Event*. This Agreement shall not have been terminated, and no notice of termination shall have been delivered, pursuant to Section 11.

9. Indemnification and Contribution.

(a) *Company Indemnification*. The Company will indemnify and hold harmless the Agent, each officer and director of the Agent, each person, if any, who controls the Agent within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act and each broker-dealer affiliate of the Agent, against any losses,

claims, damages or liabilities, joint or several, to which the Agent may become subject, under the Securities Act or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon an untrue statement or alleged untrue statement of a material fact contained in the Registration Statement, the Base Prospectus, the Prospectus Supplement, the Prospectus, or any amendment or supplement thereto, any Issuer Free Writing Prospectus or any “issuer information” filed or required to be filed pursuant to Rule 433(d) under the Securities Act or arise out of or based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, and will reimburse the Agent for documented legal or other expenses reasonably incurred by the Agent in connection with investigating or defending any such action or claim as such expenses are incurred; provided, however, that the Company shall not be liable in any such case to the extent that any such loss, claim, damage or liability arises out of or is based upon an untrue statement or alleged untrue statement or omission or alleged omission made in the Registration Statement, the Base Prospectus, the Prospectus Supplement, the Prospectus, or any amendment or supplement thereto or any Issuer Free Writing Prospectus in reliance upon and in conformity with written information furnished to the Company by the Agent expressly for use therein, it being understood and agreed that the only such information furnished by the Agent as aforesaid consists of the third paragraph of the Plan of Distribution section of the Prospectus Supplement (collectively, the “**Agent Information**”).

(b) *Agent Indemnification.* The Agent will indemnify and hold harmless the Company and the directors and officers of the Company, and each person who controls the Company within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act against any losses, claims, damages or liabilities to which the Company may become subject, under the Securities Act or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon an untrue statement or alleged untrue statement of a material fact contained in Registration Statement, the Base Prospectus, the Prospectus Supplement, the Prospectus, or any amendment or supplement thereto or any Issuer Free Writing Prospectus, or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, in each case to the extent, but only to the extent, that such untrue statement or alleged untrue statement or omission or alleged omission was made in Registration Statement, the Base Prospectus, the Prospectus Supplement, the Prospectus, or any amendment or supplement thereto or any Issuer Free Writing Prospectus, in reliance upon and in conformity with the Agent Information; and will reimburse the Company for documented legal or other expenses reasonably incurred by the Company in connection with investigating or defending any such action or claim as such expenses are incurred.

(c) *Procedure.* Promptly after receipt by an indemnified party under subsection (a), or (b) of this Section 9 of notice of the commencement of any action, such indemnified party shall, if a claim in respect thereof is to be made against the indemnifying party under such subsection, notify the indemnifying party in writing of the commencement thereof; but the failure so to notify the indemnifying party shall not relieve it from any liability which it may have to any indemnified party otherwise than

under such subsection, except to the extent such indemnifying party is prejudiced by such failure. In case any such action shall be brought against any indemnified party and it shall notify the indemnifying party of the commencement thereof, the indemnifying party shall be entitled to participate therein and, to the extent that it shall wish, jointly with any other indemnifying party similarly notified, to assume the defense thereof, with counsel reasonably satisfactory to such indemnified party (who shall not except with the consent of the indemnified party, be counsel to the indemnifying party), and, after notice from the indemnifying party to such indemnified party of its election so to assume the defense thereof, the indemnifying party shall not be liable to such indemnified party under such subsection for any legal expenses of other counsel or any other expenses, in each case subsequently incurred by such indemnified party, in connection with the defense thereof other than reasonable costs of investigation. The indemnifying party shall not be liable for any settlement of any proceeding effected without its written consent, but if settled with such consent or if there be a final judgment for the plaintiff, the indemnifying party agrees to indemnify the indemnified party from and against any loss or liability by reason of such settlement or judgment. No indemnifying party shall, without the written consent of the indemnified party, effect the settlement or compromise of, or consent to the entry of any judgment with respect to, any pending or threatened action or claim in respect of which indemnification or contribution may be sought hereunder (whether or not the indemnified party is an actual or potential party to such action or claim) unless such settlement, compromise or judgment (i) includes an unconditional release of the indemnified party from all liability arising out of such action or claim and (ii) does not include a statement as to or an admission of fault, culpability or a failure to act, by or on behalf of any indemnified party.

(d) *Contribution.* If the indemnification provided for in this Section 9 is unavailable to or insufficient to hold harmless an indemnified party under subsection (a) or (b) above in respect of any losses, claims, damages or liabilities (or actions in respect thereof) referred to therein, then each indemnifying party shall contribute to the amount paid or payable by such indemnified party as a result of such losses, claims, damages or liabilities (or actions in respect thereof) in such proportion as is appropriate to reflect the relative benefits received by the Company on the one hand and the Agent on the other from the offering of the Placement Shares. If, however, the allocation provided by the immediately preceding sentence is not permitted by applicable law or if the indemnified party failed to give the notice required under subsection (c) above, then each indemnifying party shall contribute to such amount paid or payable by such indemnified party in such proportion as is appropriate to reflect not only such relative benefits but also the relative fault of the Company on the one hand and the Agent on the other in connection with the statements or omissions which resulted in such losses, claims, damages or liabilities (or actions in respect thereof), as well as any other relevant equitable considerations. The relative benefits received by the parties hereto shall be deemed to be in the same proportion as the total net proceeds from the sale of the Placement Shares (before deducting expenses) received by the Company bear to the total compensation received by the Agent from the sale of Placement Shares on behalf of the Company. The relative fault shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Company

on the one hand or the Agent on the other and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission. The Company and the Agent agree that it would not be just and equitable if contribution pursuant to this subsection (d) were determined by pro rata allocation or by any other method of allocation which does not take account of the equitable considerations referred to above in this subsection (d). The amount paid or payable by an indemnified party as a result of the losses, claims, damages or liabilities (or actions in respect thereof) referred to above in this subsection (d) shall be deemed to include any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending any such action or claim. Notwithstanding the provisions of this Section 9, the Agent shall not be required to contribute any amount in excess of the amount of the aggregate commissions received by the Agent under this Agreement. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation.

(e) The obligations under this Section 9 are not exclusive and shall not limit any rights or remedies which may otherwise be available to any indemnified person at law or in equity.

10. Representations and Agreements to Survive Delivery.

All representations and warranties of the Company herein or in certificates delivered pursuant hereto shall survive, as of their respective dates, regardless of (i) any investigation made by or on behalf of the Agent, any controlling persons, or the Company (or any of their respective officers who sign the Registration Statement or any directors or controlling persons), (ii) delivery and acceptance of the Placement Shares and payment therefore or (iii) any termination of this Agreement.

11. Termination.

(a) *Termination; General.* The Agent may terminate this Agreement, by notice to the Company, as hereinafter specified at any time (i) upon the occurrence of the events described in Section 8(c) or (ii) should there have occurred (1) a suspension or material limitation in trading in securities generally on the NYSE; (2) a suspension or material limitation in trading in the Company's securities on the NYSE; (3) a general moratorium on commercial banking activities declared by either Federal or New York State authorities or a material disruption in commercial banking or securities settlement or clearance services in the United States; (4) the outbreak or escalation of hostilities involving the United States or the declaration by the United States of a national emergency or war or (5) the occurrence of any other calamity or crisis or any change in financial, political or economic conditions in the United States or elsewhere, if the effect of any such event specified in clause (4) or (5) in the sole judgment of the Agent, makes it impractical or inadvisable to market the Placement Shares or to enforce contracts for the sale of the Placement Shares.

(b) *Termination by the Company.* The Company shall have the right to terminate this Agreement by giving notice as specified herein to the Agent.

(c) *Termination by the Agent.* In addition to the rights set forth in Section 11(a), the Agent shall have the right to terminate this Agreement by giving three (3) days' notice to the Company.

(d) *Automatic Termination.* Unless earlier terminated pursuant to this Section 11, this Agreement shall automatically terminate upon the issuance and sale of the Maximum Amount of Placement Shares through the Agent pursuant to this Agreement and any Terms Agreement.

(e) *Effectiveness of Termination.* Any termination of this Agreement shall be effective on the date specified in such notice of termination; *provided, however,* that such termination shall not be effective until the close of business on the date specified in such notice by the Agent or the Company, as the case may be. If such termination shall occur prior to the Settlement Date for any sale of Placement Shares, such Placement Shares shall settle in accordance with the provisions of this Agreement.

(f) *Survival.* The provisions of Sections 5, 7(e), 9, 10, 12(a), 12(e), 12(f) and 12(g) hereof and this Section 11(f) and the obligation herein to pay any discount, commission or other compensation accrued, but unpaid, shall survive any expiration or termination of this Agreement.

12. Miscellaneous.

(a) *Notices.* Except as otherwise set forth in this Agreement, all notices or other communications required or permitted to be given by any party to any other party pursuant to the terms of this Agreement shall be in writing and effective only on receipt, unless otherwise specified in this Agreement, and, if to the Agent, such notice shall be delivered, mailed or sent to the Agent at Robert W. Baird & Co. Incorporated, 777 E. Wisconsin Avenue, Milwaukee, Wisconsin 53202, Attention: Syndicate Department (facsimile: (414) 298-7474), with a copy to the Legal Department and if to the Company, such notice shall be delivered, mailed or sent to the Company at to the address of the Company set forth on the cover of the Registration Statement, Attention: Ana Menendez, Chief Financial Officer and Barry S. Logan, Executive Vice President.

Each party to this Agreement may change such address for notices by sending to the parties to this Agreement written notice of a new address for such purpose. Each such notice or other communication shall be deemed given (i) when delivered personally or by verifiable facsimile transmission (with an original to follow) on or before 4:30 p.m., Eastern time, on a Business Day (as hereinafter defined) or, if such day is not a Business Day, on the next succeeding Business Day, (ii) on the next Business Day after timely delivery to a nationally-recognized overnight courier and (iii) on the Business Day actually received if deposited in the U.S. mail (certified or registered mail, return receipt requested, postage prepaid). For purposes of this Agreement, "**Business Day**" shall mean any day on which the NYSE and commercial banks in the City of New York are open for business.

(b) *Successors and Assigns.* This Agreement shall inure to the benefit of and be binding upon the Company and the Agent and their respective successors and, to the extent provided by Section 9, the affiliates, controlling persons, officers and directors referred to in Section 9 hereof. References to any of the parties contained in this Agreement shall be deemed to include the successors and permitted assigns of such party. Nothing in this Agreement, express or implied, is intended to confer upon any person or entity, other than the parties hereto and their respective successors and permitted assigns, any rights, remedies, obligations or liabilities under or by reason of this Agreement, except as expressly provided in Section 9. No party may assign its rights or obligations under this Agreement without the prior written consent of the other party.

(c) *Adjustments for Stock Splits.* The parties acknowledge and agree that all share-related numbers contained in this Agreement shall be adjusted to take into account any stock split, stock dividend or similar event effected with respect to the Common Stock.

(d) *Entire Agreement; Amendment; Severability.* This Agreement (including all schedules and exhibits attached hereto and Placement Notices issued pursuant hereto) constitutes the entire agreement and supersedes all other prior and contemporaneous agreements and undertakings, both written and oral, among the parties hereto with regard to the subject matter hereof, including the Prior Agreement. Neither this Agreement nor any term hereof may be amended except pursuant to a written instrument executed by the Company and the Agent. In the event that any one or more of the provisions contained herein, or the application thereof in any circumstance, is held invalid, illegal or unenforceable as written by a court of competent jurisdiction, then such provision shall be given full force and effect to the fullest possible extent that it is valid, legal and enforceable, and the remainder of the terms and provisions herein shall be construed as if such invalid, illegal or unenforceable term or provision was not contained herein, but only to the extent that giving effect to such provision and the remainder of the terms and provisions hereof shall be in accordance with the intent of the parties as reflected in this Agreement.

(e) *Applicable Law; Process.* This Agreement shall be governed by, and construed in accordance with, the internal laws of the State of New York without regard to the principles of conflicts of laws of any jurisdiction that would cause the application of the laws of any jurisdiction other than the laws of the State of New York. Nothing contained herein shall be deemed to limit in any way any right to serve process in any manner permitted by law.

(f) *Waiver of Jury Trial.* EACH OF THE COMPANY AND THE AGENT HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY CLAIM BASED UPON OR ARISING OUT OF THIS AGREEMENT OR ANY TRANSACTION CONTEMPLATED HEREBY.

(g) *Specified Courts*. Any legal suit, action or proceeding arising out of or based upon this Agreement or the transactions contemplated hereby shall be instituted in (i) the federal courts of the United States of America located in the City and County of New York, Borough of Manhattan or (ii) the courts of the State of New York located in the City and County of New York, Borough of Manhattan (collectively, the “**Specified Courts**”), and each party irrevocably submits to the exclusive jurisdiction (except for proceedings instituted in regard to the enforcement of a judgment of any such court, as to which such jurisdiction is non-exclusive) of such courts in any such suit, action or proceeding. The parties irrevocably and unconditionally waive any objection to the laying of venue of any suit, action or other proceeding in the Specified Courts and irrevocably and unconditionally waive and agree not to plead or claim in any such court that any such suit, action or other proceeding brought in any such court has been brought in an inconvenient forum.

(h) *Patriot Act*. In accordance with the requirements of the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)), the Agent is required to obtain, verify and record information that identifies its clients, including the Company, which information may include the name and address of its clients, as well as other information that will allow the Agent to properly identify its clients.

(i) *Counterparts*. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Delivery of an executed Agreement by one party to the other may be made by facsimile or other electronic transmission, including by email attachment.

13. Absence of Fiduciary Relationship.

The Company acknowledges and agrees that:

(a) the Company is a sophisticated business enterprise that has retained the Agent for the limited purposes set forth in this Agreement, and the Agent’s and the Company’s respective rights and obligations are contractual in nature;

(b) the Company is capable of evaluating and understanding and understands and accepts the terms, risks and conditions of the transactions contemplated by this Agreement;

(c) the Company has been advised that the Agent and its affiliates are engaged in a broad range of transactions which may involve interests that differ from those of the Company and that the Agent has no obligation to disclose such interests and transactions to the Company by virtue of any fiduciary, advisory or agency relationship;

(d) the Company disclaims any intention to impose fiduciary obligations on the Agent by virtue of the engagement contemplated by this Agreement;

(e) the Agent has not provided any legal, accounting, regulatory or tax advice with respect to the transactions contemplated by this Agreement and the Company has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate;

(f) the Agent is a full service securities firm and as such from time to time, subject to applicable securities laws, may effect transactions for its own account or the account of its customers and hold long or short positions in the Common Stock; and

(g) the Company waives, to the fullest extent permitted by law, any claims it may have against the Agent for breach of fiduciary duty or alleged breach of fiduciary duty and agrees that the Agent shall have no liability (whether direct or indirect) to the Company in respect to such fiduciary claim or to any person asserting a fiduciary duty claim on behalf of or in right of the Company, including shareholders, partners, employees or creditors of the Company.

[Remainder of Page Intentionally Blank]

If the foregoing correctly sets forth the understanding between the Company and the Agent, please so indicate in the space provided below for that purpose, whereupon this letter shall constitute a binding agreement between the parties.

Very truly yours,

WATSCO, INC.

By: /s/ Barry S. Logan

Name: Barry S. Logan

Title: Executive Vice President

CONFIRMED AND ACCEPTED,

as of the date first above written

ROBERT W. BAIRD & CO. INCORPORATED

By: /s/ Sandy Walter

Name: Sandy Walter

Title: Managing Director

[Signature Page to Sales Agreement]

SCHEDULE 1

The Agent shall be paid compensation equal to up to 2.0% of the gross proceeds from the sale of Placement Shares pursuant to the terms of this Agreement.

SCHEDULE 2

Placement Notice Authorized Personnel

Company:

<u>Name</u>	<u>Title</u>	<u>Email Address</u>
Albert H. Nahmad	Chairman & CEO	anahmad@watsco.com

With a Copy to:

<u>Name</u>	<u>Title</u>	<u>Email Address</u>
Barry Logan	Executive Vice President	blogan@watsco.com
Ana Menendez	Chief Financial Officer	amenendez@watsco.com
Shannon Savage	Vice President, External Reporting	ssavage@watsco.com

Agent:

<u>Name</u>	<u>Title</u>	<u>Email Address</u>
Sandy Walter	Managing Director	swalter@rwbaird.com
Barbara Nelson	Senior Vice President	banelson@rwbaird.com
Matt Gailey	Vice President	mgailey@rwbaird.com

EXHIBIT A

FORM OF PLACEMENT NOTICE

From: Watsco, Inc.

To: Robert W. Baird & Co. Incorporated

Cc:

Subject: Placement Notice

Ladies and Gentlemen:

Pursuant to the terms and subject to the conditions contained in the Second Amended and Restated Sales Agreement by and between Watsco, Inc. (the "**Company**") and Robert W. Baird & Co. Incorporated (the "**Agent**") dated November 3, 2023 (the "**Agreement**"), I hereby request on behalf of the Company that the Agent sell up to [] shares of the Company's common stock, \$0.50 par value per share, at a market price per share of not less than \$[].

[ADDITIONAL SALES PARAMETERS MAY BE ADDED, SUCH AS THE MAXIMUM AGGREGATE OFFERING PRICE AND THE MANNER IN WHICH SALES ARE TO BE MADE BY THE AGENT.]

EXHIBIT B

FORM OF OFFICERS' CERTIFICATE

Date: _____

Pursuant to Section 7(l) of the Second Amended and Restated Sales Agreement (the "**Agreement**"), dated as of November 3, 2023, by and between Watsco, Inc. (the "**Company**") and Robert W. Baird & Co. Incorporated (the "**Agent**"), the undersigned [], [] of the Company, hereby represents and warrants, on behalf of the Company and not individually, to the Agent that, as of the date first set forth above:

1. The representations and warranties of the Company in the Agreement, are true and correct as if made at and as of such date, except that representations and warranties of the Company in the Agreement that refer to specific dates are true and correct at and as of such respective dates.
2. The Company has complied with all the agreements and satisfied all the conditions on its part to be performed or satisfied at or prior to such date.

Name:
Title:
Date:

Annex I
Watsco, Inc.
Common Stock
(\$0.50 par value per share)

TERMS AGREEMENT

Robert W. Baird & Co. Incorporated
777 East Wisconsin Avenue
Milwaukee, WI 53202

Ladies and Gentlemen:

Watsco, Inc., a Florida corporation (the “**Company**”), proposes, on the basis of the representations and warranties, and subject to the terms and conditions, stated herein and in the Second Amended and Restated Sales Agreement, dated November 3, 2023 (the “**Sales Agreement**”), between the Company and Robert W. Baird & Co. Incorporated (the “**Agent**”), to issue and sell to the Agent as principal for resale (the “**Underwriter**”), and the Underwriter agrees to purchase from the Company the shares of Common Stock specified in the Schedule A (the “**[Initial]* Securities**”), on the terms specified in Schedule A. Capitalized terms used but not defined herein have the respective meanings ascribed thereto in the Sales Agreement.

[The Company grants an option to the Underwriter to purchase up to an additional [•] shares of Common Stock specified in Schedule A (the “**Option Securities**,” and together with the Initial Securities, the “**Securities**”) at the price per share set forth in Schedule A, less an amount per share equal to any dividends or distributions declared by the Company and payable on the Initial Securities but not payable on the Option Securities. The option hereby granted may be exercised for [30] days after the date hereof and may be exercised in whole or in part at any time from time to time upon notice by the Underwriter to the Company setting forth the number of Option Securities as to which the Underwriter is then exercising the option and the time and date of payment and delivery for such Option Securities. Any such time and date of delivery (a “**Date of Delivery**”) shall be determined by the Underwriter, but shall not be later than seven full Business Days after the exercise of said option, nor in any event prior to the Settlement Date (as defined below). For purposes of clarity, the parties hereto agree that the officers’ certificate, opinions and letter of counsel and accountants’ letter referred to in Section 7(l), (m) and (n), respectively, of the Sales Agreement are required to be delivered by or on behalf of the Company on the Settlement Date.]*

Payment of the purchase price for, and delivery of certificates for, the [Initial]* Securities shall be made at the offices of [], [], or at such other place as shall be agreed upon by the Underwriter and the Company, at [] A.M./P.M. (Eastern time) on the [second][third] (or [third][fourth], if the pricing occurs after 4:30 P.M. (Eastern time) on any given day) Business Day after the date hereof**, or such other time not later than ten Business Days after such date as shall be agreed upon by the Underwriter and the Company (such time and date of payment and delivery being herein called “**Settlement Date**”).

[In addition, in the event that any or all of the Option Securities are purchased by the Underwriter, payment of the purchase price for, and delivery of certificates for, such Option Securities shall be made at the above-mentioned offices, or at such other place as shall be agreed upon by the Underwriter and the Company, on each Date of Delivery as specified in the notice from the Underwriter to the Company.]

Payment shall be made to the Company by wire transfer of immediately available funds to a bank account designated by the Company against delivery of the Securities to the Underwriter.

Each of the provisions of the Sales Agreement not related solely to the Agent, as agent of the Company, is incorporated herein by reference in its entirety, and shall be deemed to be part of this Terms Agreement to the same extent as if each such provision had been set forth in full herein. Each of the representations and warranties set forth in the Sales Agreement shall be deemed to have been made at and as of the date of this Terms Agreement [and] [,]* the Applicable Time [and any Date of Delivery].*

If the foregoing is in accordance with your understanding of our agreement, please sign and return to the Company a counterpart hereof, whereupon this instrument, along with all counterparts, will become a binding agreement between the Underwriter and the Company in accordance with its terms.

THIS TERMS AGREEMENT AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS TERMS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO ITS CHOICE OF LAW PROVISIONS.

Very truly yours,

Watsco, Inc.

By: _____
Name:
Title:

Accepted as of the date hereof:

Robert W. Baird & Co. Incorporated

By: _____
Name:
Title:

- * Include only if the Underwriter has an option to purchase additional shares of Common Stock from the Company.
- ** If executed following a change in industry practice for regular-way trading, adjust accordingly.

CERTIFICATION PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Albert H. Nahmad, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Watsco, 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 officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officers 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: November 3, 2023

/s/ Albert H. Nahmad

Albert H. Nahmad
Chief Executive Officer

CERTIFICATION PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Barry S. Logan, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Watsco, 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 officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officers 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: November 3, 2023

/s/ Barry S. Logan

Barry S. Logan

Executive Vice President

CERTIFICATION PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Ana M. Menendez, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Watsco, 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 officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officers 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: November 3, 2023

/s/ Ana M. Menendez

Ana M. Menendez
Chief Financial Officer

CERTIFICATION PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Quarterly Report on Form 10-Q of Watsco, Inc. (“Watsco”) for the quarter and nine months ended September 30, 2023, as filed with the Securities and Exchange Commission on the date hereof (the “Report”), Albert H. Nahmad, as Chief Executive Officer of Watsco, Barry S. Logan, as Executive Vice President of Watsco and Ana M. Menendez, as Chief Financial Officer of Watsco, each hereby certifies, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that, to our knowledge:

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

/s/ Albert H. Nahmad

Albert H. Nahmad
Chief Executive Officer
November 3, 2023

/s/ Barry S. Logan

Barry S. Logan
Executive Vice President
November 3, 2023

/s/ Ana M. Menendez

Ana M. Menendez
Chief Financial Officer
November 3, 2023

A signed original of this written statement required by Section 906 has been provided to Watsco and will be retained by Watsco and furnished to the Securities and Exchange Commission or its staff upon request.

This certification accompanies the Report pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 and shall not, except to the extent required by the Sarbanes-Oxley Act of 2002, be deemed filed by Watsco for purposes of Section 18 of the Securities Exchange Act of 1934, as amended.