

EXHIBIT 10.1

CREDIT AGREEMENT

between

PRO-DEX, INC.

and

MINNESOTA BANK & TRUST

dated as of

September 6, 2018

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CREDIT AGREEMENT

This Credit Agreement (this “**Agreement**”), dated as of September 6, 2018, is entered into between **Pro-Dex, Inc.**, a Colorado corporation (together with its successors and assigns, the “**Borrower**”), and **Minnesota Bank & Trust**, a Minnesota state banking corporation (together with its successors and assigns, the “**Lender**”).

RECITALS

The Lender has agreed to make available to the Borrower a term loan and a revolving credit facility upon the terms and conditions set forth herein.

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

ARTICLE I

DEFINITIONS AND INTERPRETATION

Section 1.01 Definitions. As used in this Agreement, the following terms shall have the meanings set forth below:

“**Affiliate**” as to any Person, means any other Person that, directly or indirectly through one or more intermediaries, is in control of, is controlled by, or is under common control with, such Person. For purposes of this definition, “control” of a Person means the power, directly or indirectly, either to (a) vote 10% or more of the securities having ordinary voting power for the election of directors (or persons performing similar functions) of such Person, or (b) direct or cause the direction of the management and policies of such Person, whether by contract or otherwise. For the purpose of this Agreement, Air T Inc. is not considered an affiliate.

“**Anti-terrorism Law**” means any Requirement of Law related to money laundering or financing terrorism including the PATRIOT Act, The Currency and Foreign Transactions Reporting Act (31 U.S.C. §§ 5311-5330 and 12 U.S.C. §§ 1818(s), 1820(b) and 1951-1959) (also known as the “**Bank Secrecy Act**”), the Trading With the Enemy Act (50 U.S.C. § 1 et seq.) and Executive Order 13224 (effective September 24, 2001).

“**Asset Coverage Ratio**” means, at any Measurement Date, the ratio, calculated on a consolidated basis in accordance with GAAP for the Borrower and the other Loan Parties, of: (a) the sum of (i) Total Assets minus (ii) Intangible Assets; minus (iii) Current Liabilities (other than the Revolving Credit Loan and current maturities of long term debt); divided by (b) the sum of (i) the outstanding principal balance of the Loans; plus (ii) Letter of Credit Obligations.

“Asset Sale” means any Disposition of Property or series of related Dispositions of Property (excluding any such Disposition permitted by Section 7.05 that yields gross proceeds to any Loan Party (valued at the principal amount thereof in the case of non-cash proceeds consisting of notes or other debt securities and valued at fair market value in the case of other non-cash proceeds) in excess of \$500,000.00.

“Banking Services” means each and any of the following bank services provided to Borrower by Lender or any of its Affiliates: (a) commercial credit cards, (b) stored value cards, and (c) treasury management services (including, without limitation, controlled disbursement, automated clearinghouse transactions, return items, overdrafts and interstate depository network services).

“Banking Services Liabilities” means any and all obligations of the Borrower, whether absolute or contingent and howsoever and whensoever created, arising, evidenced or acquired (including all renewals, extensions and modifications thereof and substitutions therefor) in connection with Banking Services.

“Bankruptcy Code” means Title 11 of the United States Code, as amended from time to time, or any similar federal or state law for the relief of debtors.

“Blocked Person” means any Person that (a) is publicly identified on the most current list of “Specially Designated Nationals and Blocked Persons” published by the Office of Foreign Assets Control of the US Department of the Treasury (“OFAC”) or resides, is organized or chartered, or has a place of business in a country or territory subject to OFAC sanctions or embargo programs, or (b) is publicly identified as prohibited from doing business with the United States under the International Emergency Economic Powers Act, the Trading With the Enemy Act, or any other Requirement of Law.

“Board” means the Board of Governors of the Federal Reserve System of the United States (or any successor thereto).

“Borrower” has the meaning set forth in the preamble.

“Borrowing Base” means, at any date of determination, the sum of: (a) 75% of Eligible Accounts; plus (b) 50% of Eligible Inventory; plus (c) 85% of the market value of Eligible Investment Securities; provided, however, that the Lender reserves the right, in its sole discretion, to adjust such borrowing base percentages and components based on its periodic evaluation of the Collateral. The amount of the Borrowing Base shall be determined periodically from the most recent Borrowing Base Certificate and supporting reports delivered to the Lender.

“Borrowing Date” means any Business Day specified by the Borrower in a Borrowing Notice as a date on which the Borrower requests the Lender to make a Loan hereunder.

“Borrowing Notice” means any request for a borrowing of Loans hereunder by Borrower, which may be submitted in writing or in electronic form.

“Business Day” means, a day other than a Saturday, Sunday or other day on which commercial banks in Minneapolis, Minnesota are authorized or required by law to close.

“Capital Expenditures” with respect to any Person, means the aggregate of all expenditures by such Person for the acquisition or leasing (pursuant to a capital lease) of fixed or capital assets, software or additions to Equipment (including replacements, capitalized repairs and improvements) which are required to be capitalized under GAAP on the balance sheet of such Person.

“Capital Lease Obligations” with respect to any Person, means the obligations of such Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as capital leases under GAAP on the balance sheet of such Person and the amount of such obligations shall be the capitalized amount thereof determined in accordance with GAAP.

“Cash Equivalents” as to any Person, means (a) securities issued or directly and fully guaranteed or insured by the United States or any agency or instrumentality thereof (provided that the full faith and credit of the United States is pledged in support thereof) having maturities of not more than one year from the date of acquisition by such Person, (b) time deposits and certificates of deposit of any commercial bank having, or which is the principal banking subsidiary of a bank holding company organized under the laws of the United States or any State thereof, having maturities of not more than one year from the date of acquisition by such Person, (c) repurchase obligations with a term of not more than 90 days for underlying securities of the types described in clause (a) above entered into with any bank meeting the qualifications specified in clause (b) above, (d) commercial paper issued by any issuer rated at least A-1 by Standard & Poor’s Ratings Services, or at least P-1 by Moody’s Investors Service, Inc. (or carrying an equivalent rating by a nationally recognized rating agency if both of the two named rating agencies cease publishing ratings of commercial paper issuers generally), and in each case maturing not more than one year after the date of acquisition by such Person or (e) investments in money market funds substantially all of whose assets are comprised of securities of the types described in clauses (a) through (d) above.

“Change in Law” means the occurrence after the date of this Agreement of (a) the adoption or effectiveness of any law, rule, regulation, judicial ruling, judgment or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation, implementation or application by any Governmental Authority of any law, rule, regulation or treaty, or (c) the making or issuance by any Governmental Authority of any request, rule, guideline or directive, whether or not having the force of law; *provided*

that, notwithstanding anything herein to the contrary (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, as amended and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (y) all requests, rules, guidelines or directives concerning capital adequacy promulgated by the Lender for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities shall, in each case, be deemed to be a “Change in Law,” regardless of the date enacted, adopted or issued.

“**Change of Control**” means (a) any Person or group of persons within the meaning of §13(d)(3) of the Securities Exchange Act of 1934 (other than one or more Continuing Directors or Affiliates of Continuing Directors) becomes the beneficial owner, directly or indirectly, of 50% or more of the outstanding Equity Interests of the Borrower, or (b) individuals who constitute the Continuing Directors cease for any reason to constitute at least a majority of the board of directors of the Borrower.

“**Closing Date**” means the date on which the conditions precedent set forth in Section 4.01 are satisfied or waived.

“**Code**” means the Internal Revenue Code of 1986, as amended.

“**Collateral**” has the meaning for such term set forth in the Security Agreement.

“**Commitment(s)**” means individually or collectively, as the case may be, the Revolving Credit Commitment and the Term Loan A Commitment.

“**Continuing Directors**” means the directors of the Borrower on the Closing Date, and each other director, if in each case, such other director’s nomination for election to the board of directors of the Borrower is recommended by at least a majority of the Continuing Directors.

“**Contractual Obligation**” of any Person, means any provision of any security issued by such Person or of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound, other than the Obligations.

“**Control Agreement**” The Control Agreement dated as of even date herewith executed by the Securities Intermediary providing Lender with control over the Pledged Account, as originally executed and as it may be amended, modified, supplemented, restated or replaced from time to time.

“**Current Liabilities**” means, at any date of determination, the aggregate amount of all liabilities of the Borrower and its Subsidiaries, on a consolidated basis, that are classified as current liabilities in accordance with GAAP.

“Debt” of any Person at any date, without duplication, means (a) all indebtedness of such Person for borrowed money; (b) all obligations of such Person for the deferred purchase price of property or services (other than (i) trade payables and accrued expenses incurred in the ordinary course of business and not past due for more than 61 days after the date on which each such trade payable or account payable was created and (ii) any earn-out, purchase price adjustment or similar obligation until such obligation appears in the liabilities section of the balance sheet of such Person; (c) all obligations of such Person evidenced by notes, bonds, debentures or other similar instruments; (d) all indebtedness created or arising under any conditional sale or other title retention agreement with respect to property acquired by such Person (even though the rights and remedies of the seller or lender under such agreement in the event of default are limited to repossession or sale of such property); (e) all obligations of such Person to purchase, redeem, retire, defease or otherwise make any payment in respect of any Equity Interests in such Person or any other Person or any warrants, rights or options to acquire such Equity Interests, valued, in the case of redeemable preferred interests, at the greater of its voluntary or involuntary liquidation preference plus accrued and unpaid dividends; (f) all obligations of such Person, contingent or otherwise, as an account party or applicant under acceptance, letter of credit or similar facilities in respect of obligations of the kind referred to in subsections (a) through (e) of this definition; (g) all Guaranty Obligations of such Person in respect of obligations of the kind referred to in subsections (a) through (f) above; and (h) all obligations of the kind referred to in subsections (a) through (g) above secured by (or which the holder of such obligation has an existing right, contingent or otherwise, to be secured by) any Lien on property (including accounts and contract rights) owned by such Person, whether or not such Person has assumed or become liable for the payment of such obligation.

“Debtor Relief Law” means the Bankruptcy Code and all other liquidation, bankruptcy, assignment for the benefit of creditors, conservatorship, moratorium, receivership, insolvency, rearrangement, reorganization or similar debtor relief laws of the US or other applicable jurisdictions in effect from time to time.

“Debt Service Coverage Ratio” means, at any Measurement Date, the ratio, calculated on a consolidated basis for the Borrower and the other Loan Parties for the Measurement Period ending on such Measurement Date, of: (a) the sum of (i) EBITDA, minus (ii) dividends and other distributions paid in cash to shareholders of the Borrower; divided by (b) the aggregate amount of scheduled annual principal payments and interest expense on the Loans and other Debt for borrowed money.

“Default” means any of the events specified in Section 8.01 which constitutes an Event of Default or which, upon the giving of notice, the lapse of time, or both pursuant to Section 8.01 would, unless cured or waived, become an Event of Default.

“Disposition” or **“Dispose”** means the sale, transfer, license, lease or other disposition (whether in one transaction or in a series of transactions, and including any

sale and leaseback transaction) of any property (including, without limitation, any Equity Interests) by any Person (or the granting of any option or other right to do any of the foregoing), including any sale, assignment, transfer or other disposal, with or without recourse, of any notes or accounts receivable or any rights and claims associated therewith.

“Dollars” means the lawful currency of the United States.

“Domestic Subsidiary” means a Subsidiary of the Borrower incorporated or organized under the laws of the United States of America, any state thereof or the District of Columbia.

“EBITDA” means, for any Measurement Period, the sum, calculated on a consolidated basis in accordance with GAAP for the Borrower and the other Loan Parties, of: (a) net income for such Measurement Period determined in accordance with GAAP (but excluding therefrom all non-operating income (including, without limitation, extra-ordinary, non-recurring or unusual gains) and all non-operating losses (including, without limitation, extra-ordinary, non-recurring or unusual losses)); plus (b) the sum of the following amounts deducted in arriving at net income (but without duplication for any item): (i) interest expense; (ii) depreciation, amortization and other non-cash charges; and (iii) federal, state, and local income taxes.

“Eligible Accounts” means, at any date of determination, the United States dollar value (net of deposits, finance charges and/or service charges) of only such accounts of the Borrower arising from the rendering of services in the ordinary course of business in which the Lender holds a first priority security interest and as to which the Lender, in its reasonable business judgment, shall from time to time determine to be collectible in a timely manner in the ordinary course of business without dispute or set-off. Without limiting the Lender’s right, in its reasonable business judgment, to consider any account not to be an Eligible Account, and by way of example only of types of accounts that the Lender will consider not to be Eligible Accounts, the Lender, notwithstanding any earlier classification of eligibility, may consider any account not to be an Eligible Account if:

(a) any warranty is breached as to the account or the account debtor disputes liability or makes any claim with respect to the account;

(b) the account is not paid by the account debtor within 120 days after the date of the original invoice relating thereto; or (ii) the account is owed by any account debtor who has not paid 10% or more of such account debtor’s accounts within the relevant time period specified in subsection (b)(i) above;

(c) a petition in bankruptcy or other application for relief under any insolvency law is filed with respect to the account debtor owing the account, or the account debtor owing the account assigns for the benefit of creditors, becomes insolvent, fails, suspends, or goes out of business, or the Lender, in its reasonable

business judgment, shall become dissatisfied with the creditworthiness of an account debtor owing an account;

(d) the account arises from a sale to an account debtor that is outside the United States unless the sale is on letter of credit, acceptance or other terms acceptable to the Lender;

(e) the account debtor is an Affiliate, supplier or creditor of a Loan Party;

(f) the account debtor with respect thereto is the United States of America or any department, agency or instrumentality thereof (a "Federal Governmental Authority"), or any state, county or local governmental authority, or any department, agency or instrumentality thereof, unless the Borrower has assigned its right to payment of such account to the Lender pursuant to the Assignment of Claims Act of 1940 as amended in the case of the a Federal Governmental Authority, or pursuant to applicable state law, if any, in all other instances, and such assignment has been accepted and acknowledged by the appropriate government officers;

(g) if the Lender, in its reasonable business judgment, has established a credit limit for the account debtor with respect thereto, the aggregate dollar amount of accounts due from such account debtor, including such account, exceeds such credit limit;

(h) such Account is evidenced by chattel paper or instruments unless the original of such chattel paper or instruments is delivered to the Lender;

(i) such account arises from a transaction for which surety or performance bonds are posted; or

(j) any account for a customer deposit.

The amount of Eligible Accounts shall be computed from the Borrowing Base Certificate and other information required to be delivered by the Borrower to the Lender pursuant to Section 6.02.

"Eligible Assignee" has the meaning set forth in Section 9.04.

"Eligible Inventory" shall mean the book United States dollar value of the Borrower's raw materials and finished goods inventory, in which only the Lender holds a first priority security interest and as to which the Lender, in its reasonable business judgment, shall elect from time to time to constitute Eligible Inventory. Without limiting the Lender's right, in its reasonable business judgment, to consider any inventory not to be Eligible Inventory, and by way of example only of types of inventory that the Lender will consider not to be Eligible Inventory, the Lender, notwithstanding any earlier classification of eligibility, may consider any inventory not to be Eligible Inventory if: (a) such inventory is discontinued inventory; (b) such inventory (i) is not either located

on premises owned, leased or rented by Borrower or (ii) stored with a bailee or warehouseman, unless a fully-executed landlord waiver has been delivered to the Lender in form reasonably satisfactory to the Lender, (c) such inventory is consigned to a Loan Party, or (d) such inventory is consigned by a Loan Party, unless such Loan Party has complied with all of the Consigned Inventory Eligibility Requirements. The value of Eligible Inventory shall be the lower of the cost or net realizable value of the Eligible Inventory computed in accordance with GAAP.

“Eligible Investment Securities” means the following categories of Pledged Securities held in the Pledged Account: Commercial Paper, Government Securities, Municipal Bonds, Listed Corporate Bonds and/or any other securities regularly traded on the NASDAQ or the New York Stock Exchange which the Lender, in its sole discretion, determines to be of sufficient quality to accept as Collateral and in which only the Lender has a Lien.

“Environmental Action” means any action, suit, demand, demand letter, claim, notice of violation or non-compliance, notice of liability or potential liability, investigation, proceeding, consent order or consent agreement relating in any way to any Environmental Law, any permit issued under any Environmental Law, or any Hazardous Material, or arising from alleged injury or threat to health, safety or the environment including (a) by any Governmental Authority for enforcement, clean-up, removal, response, remedial or other actions or damages and (b) any Governmental Authority or third party for damages, contribution, indemnification, cost recovery, compensation or injunctive relief.

“Environmental Law” means any and all Federal, state, foreign, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, decrees, requirements of any Governmental Authority or other Requirements of Law (including common law) as now or may at any time hereafter be in effect, and any binding judicial or administrative interpretation thereof, including any binding judicial or administrative order, consent decree or judgment, regulating, relating to or imposing liability or standards of conduct concerning protection of the environment or, to the extent relating to exposure to substances that are harmful or detrimental to the environment, or human health or safety.

“Equipment” has the meaning for such term set forth in the Security Agreement.

“Equity Interests” means any and all shares, interests, participations or other equivalents (however designated) of capital stock of a corporation, any and all equivalent ownership (or profit) interests in a Person (other than a corporation), securities convertible into or exchangeable for shares of capital stock of (or other ownership or profit interests in) such Person, and any and all warrants, rights or options to purchase any of the foregoing, whether voting or nonvoting, and whether or not such shares,

warrants, options, rights or other interests are authorized or otherwise existing on any date of determination.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended from time to time.

“ERISA Affiliate” means an entity, whether or not incorporated, that is under common control with the Borrower within the meaning of §4001 of ERISA or is part of a group that includes the Borrower and that is treated as a single employer under §414 of the Code.

“Eurodollar Rate Loan” means a Loan that accrues interest at the LIBOR Rate, as specified in the Note evidencing such Loan.

“Excess Capital” means, as of any date of determination, calculated on a consolidated basis for the Borrower and the other Loan Parties, the aggregate amount by which the Loan Parties’ actual Tangible Assets exceeds the amount of Tangible Assets necessary to show proforma compliance with all financial covenants calculated as of such date, where the analysis supporting such proforma analysis is performed based on the consolidated balance sheet for the Borrower and the other Loan Parties then most-recently delivered to the Lender pursuant to Section 6.01(a) or (b).

“Excess Capital Certificate” means, a certificate in form and substance acceptable to the Lender and executed by a Responsible Officer of the Borrower, providing a detailed calculation of Excess Capital as of the date of a proposed Other Investment pursuant to Section 7.04(f) or of a Restricted Payment pursuant to Section 7.07.

“Excluded Foreign Subsidiary” means any Subsidiary that is not organized and existing under the laws of the United States or any state or commonwealth thereof or under the laws of the District of Columbia, and in respect of which either (a) the pledge of all the Equity Interests of such Subsidiary as Collateral or (b) a guarantee by such Subsidiary of the Obligations, would, in the good faith judgment of the Borrower, result in the adverse tax consequences to the Borrower.

“Event of Default” has the meaning set forth in Section 8.01.

“Excluded Taxes” means any of the following Taxes, imposed on or with respect to the Lender (a) Taxes imposed on or measured by net income (however denominated), and franchise Taxes, (b) any branch profits Taxes imposed by the United States or any similar Tax imposed by any other jurisdiction.

“GAAP” means generally accepted accounting principles in the United States set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements

of the Financial Accounting Standards Board or such other principles as may be approved by a significant segment of the accounting profession in the United States, that are applicable to the circumstances as of the date of determination, consistently applied.

“Governmental Authority” means the government of any nation or any political subdivision thereof, whether at the national, state, territorial, provincial, municipal or any other level, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of, or pertaining to, government.

“Government Securities” means U.S. Treasury Securities and U.S. Government Agency Securities which are quoted daily in The Wall Street Journal.

“Guarantor(s)” means, individually or collectively, as the case may be, any Subsidiary of the Borrower that becomes a Loan Party by executing a Guaranty, or a joinder thereto, and their respective successors and assigns.

“Guaranty(ies)” means, individually or collectively, as the case may be, the Guaranty executed by the Guarantors, in favor of the Lender, dated as of the Closing Date, as the same may be amended, amended and restated, supplemented or otherwise modified from time to time to the extent permitted under the Loan Documents.

“Guaranty Obligation” as to any Person, means any (a) obligation, contingent or otherwise, of such Person guaranteeing or having the effect of guaranteeing any Debt or other obligation payable or performable by another Person (the “primary obligor”) in any manner, whether directly or indirectly, and including any obligation of such Person, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Debt or other obligation, (ii) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Debt or other obligation of the payment or performance of such Debt or other obligation, (iii) to maintain working capital, equity capital, net worth or solvency or liquidity or any level of income or cash flow of the primary obligor so as to enable the primary obligor to pay such Debt or other obligation, or (iv) entered into for the purpose of assuring in any other manner the obligee in respect of such Debt or other obligation of the payment or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part), or (b) Lien on any assets of such Person securing any Debt or other obligation of any other Person, whether or not such Debt or other obligation is assumed by such Person (or any right, contingent or otherwise, of any holder of such Debt to obtain any such Lien). The amount of any Guaranty Obligation shall be deemed to be an amount equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guaranty Obligation is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by the guaranteeing Person in good faith.

“Hazardous Materials” means (a) any gasoline, petroleum or petroleum products or by-products, radioactive materials, friable asbestos or asbestos-containing materials, urea-formaldehyde insulation, polychlorinated biphenyls and radon gas, and (b) any other chemicals, materials or substances designated, classified or regulated as hazardous or toxic or as a pollutant or contaminant under any Environmental Law.

“Heartland” means Heartland Financial USA, Inc., a Delaware corporation.

“Indemnified Taxes” means (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by any Loan Party under any Loan Document, and (b) to the extent not otherwise described in (a), Other Taxes.

“Insolvency” with respect to any Multiemployer Plan, means such Plan is insolvent within the meaning of §4245 of ERISA.

“Intangible Assets” means, at any date of determination, the sum, calculated on a consolidated basis in accordance with GAAP for the Borrower and the other Loan Parties, of (i) goodwill, organizational expenses, research and development expenses, trademarks, trade names, copyrights, patents, patent applications, licenses and rights in any thereof, covenants not to compete, training costs and other similar intangibles; (ii) deferred charges or unamortized debt discount and expense other than deferred income taxes; (iii) Investments which are not readily marketable; (iv) any write-up in the book value of any assets resulting from a reevaluation thereof subsequent to the date of the Borrower’s consolidated annual financial statement described in Section 5.04(a); (v) accounts receivable, notes receivable or other receivables or amounts owed by officers, shareholders or Affiliates; and (vii) any asset acquired subsequent to the date of this Agreement which the Lender, in its reasonable business judgment, determines to be an intangible asset.

“Intellectual Property” means any and all intellectual property, including copyrights, copyright licenses, patents, patent licenses, trademarks, trademark licenses, technology, know-how and processes, all rights therein, and all rights to sue at law or in equity for any past, present, or future infringement, violation, misuse, misappropriation or other impairment thereof, whether arising under United States, multinational or foreign laws or otherwise, including the right to receive injunctive relief and all proceeds and damages therefrom.

“Investment(s)” has the meaning set forth in Section 7.04.

“Lender” has the meaning set forth in the preamble.

“Letter(s) of Credit”: As provided in Section 2.12(a).

“Letter of Credit Application”: As provided in Section 2.12(c)

“Letter of Credit Commission”: As provided in Section 2.12(e)(i).

“Letter of Credit Commitment” shall mean, at any date, the maximum amount of Letter of Credit Obligations which may from time to time be outstanding hereunder, being initially \$500,000.00 and, as the context may require, the agreement of the Lender to issue the Letters of Credit for the account of the Borrower.

“Letter of Credit Commitment Termination Date”: The earlier of: (a) the Revolving Credit Termination Date; or (b) the date upon which the obligation of the Lender to issue Letters of Credit is terminated pursuant to Section 2.12(b).

“Letter of Credit Obligations”: At any date, the sum of: (a) the aggregate amount available to be drawn on the Letters of Credit on such date; plus (b) the aggregate amount owed by the Borrower to the Lender on such date as a result of draws on the Letters of Credit for which the Borrower has not reimbursed the Lender.

“Liabilities” means, at any Measurement Date, the aggregate amount of liabilities appearing on the Borrower’s consolidated balance sheet at such date prepared in accordance with GAAP.

“Lien” means any mortgage, pledge, hypothecation, assignment (as security), deposit arrangement, encumbrance, lien (statutory or other), charge or other security interest, or any preference, priority or other security agreement or preferential arrangement of any kind or nature whatsoever having substantially the same economic effect as any of the foregoing (including any conditional sale or other title retention agreement and any capital lease).

“Listed Corporate Bonds” means corporate bonds quoted on a recognized domestic U.S. bond exchange and rated better than BBB+/Baa1.

“Loan” means any Revolving Credit Loan or any Term Loan, as the context may require, and **“Loans”** means either Revolving Credit Loans or Term Loans, as the context may require.

“Loan Documents” means, collectively, this Agreement, the Control Agreement, the Security Agreement, the Revolving Credit Note, the Term Note A, and all other agreements, documents, certificates and instruments executed and delivered to the Lender by any Loan Party in connection therewith.

“Loan Parties” means the Borrower and each Subsidiary of the Borrower that at any time hereafter becomes party to a Guaranty and the Security Agreement.

“Loan Year” means the 12-month period commencing on the date of this Agreement (or the anniversary date thereof in any subsequent year) and ending on the day preceding the immediately following anniversary date of this Agreement.

“Margin Stock” has the meaning specified in Regulation U of the Board as in effect from time to time.

“Material Adverse Effect” means a material adverse effect on (a) the business, assets, properties, liabilities (actual or contingent), operations, condition (financial or otherwise) or prospects of the Borrower, individually, or the Borrower and its Subsidiaries taken as a whole, (b) the validity or enforceability of any Loan Document, (c) the perfection or priority of any Lien purported to be created by any Loan Document, (d) the rights or remedies of the Lender under any Loan Document or (e) the ability of any Loan Party to perform any of its payment obligations under any Loan Document to which it is a party.

“Material Contracts” with respect to any Person, means each contract to which such Person is a party involving aggregate consideration payable by or to such Person equal to at least \$1,000,000 annually or otherwise material to the business, condition (financial or otherwise), operations, performance, properties or prospects of such Person. As of the Closing Date, the Borrower is party to a single Material Contract (such Material Contract, as it may be amended, modified, replaced, restated or extended from time to time being referred to herein as the **“Initial Material Contract”**).

“Maturity Date”: The earlier of: (a) the date on which the Loans become due and payable under Section 8.02 upon the occurrence of an Event of Default; or (b) (i) the Revolving Credit Termination Date for the Revolving Credit Loans; or (ii) October 1, 2025 for Term Loan A.

“Measurement Date” means the last day of each fiscal year of the Borrower, commencing with the fiscal year ending June 30, 2019.

“Measurement Period” means the period of twelve (12) consecutive fiscal months ending on a Measurement Date.

“Multiemployer Plan” means a Plan which is a multiemployer plan as defined in § 4001(a)(3) of ERISA to which the Borrower or any ERISA Affiliate makes or is obligated to make contributions.

“Municipal Bonds” means bonds issued by municipalities of the United States and rated by Moody's as Baa or better.

“Net Cash Proceeds” means (a) in connection with any Asset Sale or any Recovery Event, the proceeds thereof in the form of cash and Cash Equivalents in an amount for any Asset Sale or Recovery Event in excess of \$500,000 and in the aggregate